

UNITED STATES



OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS
SECOND SESSION

VOLUME 128—PART 15

AUG. 9, 1982 TO AUG. 13, 1982

(PAGES 19897 TO 21157)



UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1985

89-059 O-86-1 (Pl. 15)



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—Monday, August 9, 1982

(Legislative day of Monday, July 12, 1982)

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

All power is given unto me in Heaven and in Earth . . . and, lo, I am with you always, even unto the end of the world.—Matt. 8:18, 20.

Heavenly Father, here we are in the place of power—greater power than any other legislative body on Earth. Yet we are essentially powerless. Law after law is passed—nothing changes. We wield our great power, and probably more often than we like to think, impress only ourselves. We wield our power forgetting that we are always only a heartbeat away from total powerlessness.

Great God, help us to understand that Thou art the source of all power, and that only as Thy power works through us do things really change. Deliver us from human pride that deceives and seduces and corrupts mankind. Grant us grace to acknowledge our weakness and submit to Thy sovereign rule in our lives. Let Thy power and love reign in us. In the name of the One whose power was supremely manifested on a cross. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that following the recognition of the two leaders under the standing order there be a period for the transaction of routine morning business to extend not past the hour of 1 p.m. today in which Senators may speak for not more than 5 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, the supplemental appropriations bill, H.R. 6863, is now pending. It is anticipated that the debate on that measure and the amendment thereto cannot be completed today. It is hoped, however, that it can be disposed of tomorrow or Wednesday at the latest.

I remind Senators that time is growing short and that if we are to gain our objective of trying to make the Senate recess for the Labor Day break coincide with that of the House of Representatives that is to begin on August 20, we have a fairly busy schedule ahead of us.

This week we must do the supplemental appropriations bill and the immigration bill.

Next week we need to do the debt limit bill as well as any other conference reports that may be presented to the Senate or urgent matters which may come before us.

Senators are reminded that the recess date for the Senate is still August 27 and, according to the memorandum which I circulated to Members on this side and of which I supplied a copy to the minority leader, I expressed the hope that we could go out on August 20 if we could complete the must list of legislation.

The Senate has done very, very well so far in trying to dispatch the items on that must list. But I remind Members not to take for granted that we

will go out on August 20 for there are still important and controversial items that must be dealt with.

Mr. President, I regret to say that Senators should be on notice of the possibility of late sessions any evening this week or next week in order to improve the possibilities that we can complete our must legislation before August 20.

Senators should be on notice, and I say this with all sincerity and seriousness, of the possibility of a session on this Saturday and perhaps the following Saturday if that is necessary in order to complete action on the must list of legislation to which we have referred on many occasions.

I hope that it is not necessary to ask the Senate to remain late unduly and I hope it is not necessary to be in on this Saturday or the following Saturday. But Senators should note that for the sake of their own planning and convenience.

GLEN TROOP, JR.

Mr. BAKER. Mr. President, I express my sorrow and disbelief at the death of Glen Troop, Jr. Glen died suddenly last Wednesday night, and for those of us who knew and respected him, the shock of this tragedy has not worn off.

As the chief lobbyist of the savings and loan business, Glen dedicated himself to educating and counseling Members of Congress on a variety of issues that were important to the savings and loan industry. For over three decades, he was in constant contact with Senators, Congressmen, and their staffs, particularly those serving the various banking, tax writing, and finance committees. He also worked closely with the leadership of the Federal Home Loan Bank Board and other Government agencies regulating the savings and loan business.

A Senate staffer, when asked if her boss had been good friends with Glen said, "Yes, he was, but you know, everybody that knew Glen felt close to

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

him and liked him." Mr. President, Glen Troop was that type of individual, and it is that type of friendship that we will all miss very much.

Mr. President, I ask unanimous consent to have printed in the RECORD this week's poem, which I have lately done beginning on Mondays of each week, "World Breaking Apart," by Louise Gluck, in respect to Glen Troop.

There being no objection, the poem was ordered to be printed in the RECORD, as follows:

WORLD BREAKING APART

I look out over the sterile snow.
Under the white birch tree, a wheelbarrow.
The fence behind it mended. On the picnic table, mounded snow, like the inverted contents of a bowl whose dome the wind shapes. The wind, with its impulse to build. And under my fingers, the square white keys, each stamped with its single character. I believed a mind's shattering released the objects of its scrutiny: trees, blue plums in a bowl, a man reaching for his wife's hand across a slatted table, and quietly covering it, as though his will enclosed it in that gesture.

I saw them come apart, the glazed clay begin dividing endlessly, dispersing incoherent particles that went on shining forever. I dreamed of watching that the way we watched the stars on summer evenings, my hand on your chest, the wine holding the chill of the river. There is no such light.

And pain, the free hand, changes almost nothing.

Like the winter wind, it leaves settled forms in the snow. Known, identifiable—except there are no uses for them.

ELECTION VICTORY

Mr. BAKER. Mr. President, on another matter and sounding a personal note, I cannot remember a time when I have gone to the polling place on election day and enjoyed it so much. So many times in the past, in almost every election I can think of, I have been a candidate or I have been campaigning hard for someone else. Those election days were almost always filled with apprehension, tension, and even tedium as we waited for the polls to close and the first results to trickle in.

But this past Thursday was an exception to that rule. I was not a candidate. I was not campaigning for any other candidate. While it is true that my daughter was a candidate for the Republican nomination for Congress from the Fourth District of Tennessee, she forbade me to campaign for her.

So I found that my sole and total responsibility, even my only opportunity on that day, was to go to the polling place, to stand in line patiently for about an hour, present my voter's certificate, be granted the privilege of voting, to enter the booth, to cast my ballot, and to do so with a smile.

I wish to report as well, if I may, to my colleagues that she was nominated.

That will come with mixed reaction no doubt depending on the persuasion of Members of this Chamber as Republicans and Democrats, but as an unalloyed pleasure for me to announce that she won that election, her first. She is 26 years old, my youngest child and still the apple of my eye. And I have not yet become accustomed to the idea that she is the Republican nominee for Congress from the Fourth District of Tennessee. But she is.

A wise man once said that becoming a father is, and I say thank God for wise men. You never know how much to do or how much not to do. You never know when to talk and when to try to advise and when to sit down and when to shut up. You just try to be there supportively and let your little girl, turned political prodigy, run her own campaign.

Her victory would have been just as glorious had I not gone to Tennessee to vote on last Thursday, but it was eminently more satisfying to me that I did.

I apologize to the Senate for missing votes on last Thursday, but I am sure most Members will understand, and I am sure every father will understand why I was absent on that day.

Mr. President, I have no further need for my time under the standing order.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield.

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, Cornelia lived several hundred years before Christ. She was the mother of Gracchi. She had 12 sons and daughters. She lost all of her children except three.

One day a neighbor came by and proudly displayed her jewelry, according to Cornelia. Whereupon, she haughtily turned to Cornelia and asked if she had any jewelry. Cornelia, the great Roman woman that she was, turned to her three remaining children and said, "These are my jewels."

I share the pride that the majority leader has just expressed in the success of his daughter.

Being a father of two daughters, I think I have empathy and a kinship with the majority leader in this respect.

I congratulate him. I congratulate his daughter, and I know she is proud of her proud father likewise, and she has every right to be.

Mr. BAKER. Mr. President, if the Senator will yield to me, I think he must know how much I appreciate his kind remarks just now, how much they mean to me, and how much they mean to my daughter.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. BAKER. Mr. President, I reserve the remainder of my time.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. HAYAKAWA). The minority leader is recognized.

THE PASSING OF A GOOD FRIEND

Mr. ROBERT C. BYRD. Mr. President, many Senators were saddened last week to learn of the Wednesday night passing of Mr. Glenwood S. Troop, Jr. Glen Troop was the chief lobbyist for the savings and loan industry. He was also a personal friend to many of our colleagues. In addition, over the years Mr. Troop earned for himself an exceptional reputation for his excellent work, his commitment to high ideals, and his integrity. One person has remarked that, as applied to Glen Troop, the word "lobbyist" was a badge of honor.

Glen Troop served as a Marine Corps sergeant in the Pacific during World War II. Following graduation from the University of Maryland in 1952, he became an assistant with the U.S. League of Savings Associations. Through his expertise and initiative, he rose to the league's posts of legislative director and staff vice president.

The savings and loan business involves millions of Americans, and Glen Troop could always be depended on to supply Congress with accurate, reliable, and valuable information on the impact of legislation on savings and loan associations and their members. His love of the Senate and House of Representatives was always evident, and he became one of Washington's best known and best liked association representatives.

We will miss Glen Troop. And I am sure that our colleagues join me in extending to Glen Troop's family our sincere sympathies, and our appreciation for the many services that Glen rendered to Congress and to America.

THE CALENDAR

Mr. BAKER. Mr. President, before I yield back my time, there are certain items in my folder that can be dealt with by unanimous consent according to the notations I have here. I want to inquire of the minority leader if he is in position to proceed to the consideration of S. 1193 and S. 901.

Mr. ROBERT C. BYRD. Mr. President, I answer in the affirmative. This side is ready to proceed.

Mr. BAKER. I thank the minority leader.

GEORGETOWN WATERFRONT USE

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate Calendar Order No. 457, S. 901.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 901) to preserve and protect the Georgetown Waterfront for the recreational use of the public.

The Senate proceeded to consider the bill.

Mr. McCURE. Mr. President, S. 901 would authorize the Secretary of the Interior to acquire by donation, exchange, or transfer certain specified lands in the area generally known as the Georgetown Waterfront along the Potomac River shoreline. I have no objection at this time to Senate passage of this legislation, since it involves only a purely voluntary acquisition.

Mr. President, I continue to endorse the concept and principles of the July 13, 1979, memorandum of agreement relating to the Georgetown Waterfront in the District of Columbia entered into by the Department of the Interior, the Mayor of the District of Columbia, the National Capital Planning Commission, and Georgetown Harbour Associates providing for the joint public redevelopment and use of the Georgetown Waterfront property. With the able leadership of our distinguished colleague from Maryland, Senator MATHIAS, this agreement was negotiated to transform the waterfront from an unkept eyesore into a well-maintained recreational and commercial area. It is my hope that the private owners of this property, CSX Corp., and the other participants under the agreement will continue to insure the best public and private use of this land.

Mr. President, I am pleased to note that S. 901 is purely a voluntary exchange with the owner of the waterfront property and does not involve a mandatory taking. I should state for the record that I could not support any legislative initiative on this bill or another bill involving any legislative taking or other involuntary transfer of the private Georgetown Waterfront property.

Mr. President, I ask unanimous consent that a letter of July 14, 1982, which I received from John W. Snow, senior vice president of CSX Corp. discussing this legislation and the Georgetown Waterfront be printed in the RECORD:

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

Hon. JAMES A. McCURE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR McCURE: I am writing to express my concern about Senate Bill S. 901 which has been reported from the Senate Committee on Energy and Natural Resources. The purpose of the bill is to authorize the Secretary of the Interior to acquire certain lands along the Georgetown Waterfront by donation exchange or transfer only.

The land in question is owned by the CSX Corporation, which has begun a major development on the site. An integral part of this development is the provision of 13 acres for a public park along the waterfront. In addition, the development will provide 1400 jobs and bring an additional \$8.6 million in needed tax revenues to the District of Columbia. CSX and its partners have worked long and hard, and at considerable expense, to achieve a design for the project compatible with the existing development of Georgetown and beneficial to the public. The project now underway will turn an industrial eyesore into a revenue-producing development along with a new waterfront park accessible to all.

I have attached a memorandum which explains in detail the history of this project. I should point out that the mixed-use development which we are now constructing grew out of the efforts of Senator Mathias in 1978 to find a workable compromise between private development and public use of the site. We believe our development represents a good use of the property and clearly show that the efforts of private enterprise can be of public benefit. It is certain that without our development, there would be no park development along the waterfront in Georgetown.

The purpose of this letter is to make unequivocally clear that CSX and its partners should not undertake the voluntary transfer of the Georgetown site, even if S. 901 were enacted into law. We have already invested more than \$20 million for land acquisition and architectural and design fees and construction has begun. We believe the project is soundly designed and of public benefit and we do not intend to abandon it. Our desire is to proceed with the development as soon as possible in a way which will complement and enhance the proposed riverfront park adjacent to our properties and end the present condition of blight and decay in that area.

CSX and its partners have no interest in any speculative land exchange which would require us to give up the effort and investment made to date on the Georgetown Waterfront. Substantial sums have already been expended for the development and additional money will be required to create the proposed park. We have offered to provide the sum of \$1 million to pay for the initial landscaping of the proposed park as part of the development.

Since we are about to realize a long-time objective of CSX by developing its holdings on the Georgetown Waterfront in a socially-responsible manner, you will understand our concern that the proposed legislation may serve to delay that event and add to the cost of the development without accomplishing the desired result. We confess to a great deal of frustration because of the many delays in the public planning process for the Georgetown Waterfront. That process has involved the executive and legislative branches of the Federal and District Governments as well as the courts.

The process reached finality only a few months ago with a finding by the Mayor's Agent, after exhaustive hearings, that the architecture of the proposed project was compatible with the Georgetown Historic District. On the strength of that finding, the District of Columbia issued a building permit to Georgetown Harbour Associates on November 18, 1981. Georgetown Harbour is the name of the partnership doing the development, CSX and Western Development Corporation of Washington, D.C. The find-

ing of the Mayor's Agent and the permit issued under it are now being reviewed for, what we hope is, one last time by the District of Columbia Court of Appeals. Meanwhile, demolition work and construction are underway.

We believe that the Georgetown project is a good example of private enterprise acting in a socially responsible manner. As the history of the project shows, we have made every effort to cooperate with the appropriate authorities to make the project compatible with the community. The Interior Department has repeatedly stated that it does not have the funds, or the wish, to develop the Georgetown site as a park. It is safe to say that without CSX's development, which will make possible a 13 acre public park, there would be no park open to the public on the Georgetown waterfront.

It is difficult for us to understand the purpose of S. 901, since that bill is premised on a voluntary exchange of CSX's property for some unspecified Federal land. CSX hopes to expeditiously complete its development in Georgetown and would not at this date, when construction has begun, voluntarily exchange its property on the Georgetown waterfront. It is our hope that the Senate will not take up this bill, but rather let the development project proceed without further impediment.

Sincerely,

JOHN SNOW.

Enclosure.

CSX and its predecessor, the Baltimore and Ohio Railroad, have owned properties on the Georgetown Waterfront since the turn of the century. Those properties supported the transportation, industrial, and storage uses which were dominant on the waterfront until the early Nineteen Sixties. The waterfront was rezoned from predominantly industrial to a new mixed-use waterfront category in 1974, an action which was finally upheld by the D.C. Court of Appeals in 1978. Our proposed development is entirely in keeping with that enactment, but at densities and heights well below the maximums permitted by that zoning. We have voluntarily relinquished these development rights to carry out the objective of building a compatible development which would have ample open spaces and vistas and blend suitably with the proposed adjacent park.

The development which we are constructing grew out of a 1978 effort spearheaded by Senator Charles McC. Mathias, Jr. to find a suitable compromise of widely differing views about the future of the Georgetown Waterfront while assuring construction of waterfront park and providing for public access to the entire shoreline of the Potomac River. Senator Mathias called together officials of the Federal and District Governments responsible for public planning of this area and persuaded them to constitute themselves as a task force to resolve the matter once and for all.

The product of that task force was a July, 1979, recommendation that the six acres of privately held waterfront properties be developed in a unified manner with shoreline access assured which we readily agreed to provide. On the basis of that recommendation, we arranged with the Inland Steel Corporation to acquire their adjacent holdings.

To achieve a design which responded to expressed architectural concerns of the U.S. Commission of Fine Arts, we modified our original proposal to reduce its height and density. Ultimately, Fine Arts gave approval to the architecture which was proposed, a

superb design prepared for us by an outstanding Georgetown architect, Arthur Cotton Moore. Fine Arts withheld formal approval of the requested permit, however, in hopes that public funds would be forthcoming to purchase the privately held lands for inclusion in the proposed park. That has not occurred so, accordingly, the Mayor's Agent authorized issuance of the permit, with a finding of architectural compatibility.

The extensive records of the hearings before Fine Arts showed that as long ago as its April 8, 1980 meeting, the Commission gave conceptual approval to the development. In an April 22, 1980 letter, J. Carter Brown, Chairman of the Fine Arts Commission, directed us to proceed with architectural designs for the Commission's review before proceeding with working drawings. We followed the Commission's direction and presented these designs at the October 7, 1980 meeting of Fine Arts. Following that review, the Commission adopted its Board of Architectural Consultants' report that:

"The preliminary designs submitted for review are in conformance with earlier designs approved under O.G. 80-52. The Board recommends that development of working drawings and construction details closely follow the preliminary design. The Board also gives preliminary approval to a number of brick samples proposed for various elements of the development and recommends construction of sample wall panels showing mortar color and jointing for final inspection prior to ordering materials."

As noted, the partnership has spent in excess of \$20 million in architectural and other fees to achieve an acceptable development meeting the extensive public approval requirements of this site. As developers, we are committed to the creation of the proposed riverfront park as well as uninterrupted shoreline access for the public. We have made the following commitments to the District and Federal Governments with respect to access, open spaces and park development as follows:

Under the arrangements acceptable to the National Park Service, we will assure public access in perpetuity to the shorefronts of both the Potomac River and Rock Creek alongside our waterfront holdings.

The project design which has received a building permit specifically provides for this access and appropriate landscaping along both shores.

The developer will maintain all these spaces at its expense under arrangements agreeable to the National Park Service and the District of Columbia Government.

The so-called "mole" will be returned to the Federal Government in accordance with the existing easement from the Federal Government once railroad use of that parcel has been discontinued for two years.

The developer will provide the sum of \$1 million to landscape the "mole" and the park areas to be created west of 31st Street on the waterfront.

Virginia Avenue and Thomas Jefferson Street will be extended through the project on private lands as new public ways which will be maintained by the developer.

In summary, in addition to its commitment of funds for park landscaping, the developer is providing a total of 2.75 acres of its own land holdings for park, open spaces and public ways, including the shorefront access areas referred to above. It is also accepting perpetual maintenance responsibility for all these public areas. This acreage is in addition to the half acre of the "mole"

and the District of Columbia holdings of about 12 acres which will become part of the proposed park.

As stated, these commitments were affirmed in the permit package submitted to Fine Arts and the District Government and in testimony before the U.S. Commission of Fine Arts. These commitments are made as a matter of public service and enlightened self-interest. They will be carried out as outlined to make sure that the project properly serves all persons who choose to work, live or visit this remarkable location.

It is noteworthy that two successive Secretaries of the Interior have given support to the concept of mixed-use development of the privately held lands along the Georgetown Waterfront in harmony with the proposed park. On November 24, 1980, outgoing Secretary Cecil D. Andrus, writing to Mr. Sidney Howe of the National Committee for Urban Recreation, pointed out the lack of Federal funds for park development in Georgetown and affirmed the department's support of the joint development of the site in accordance with the spirit of the task force agreement. His successor, James G. Watt, the present Secretary, on April 3, 1981 wrote to the Fine Arts Chairman Brown to state that expenditure of Federal funds to acquire the waterfront holdings was not a "viable alternative" to the development proposal.

Beyond the desire to assure public access to the entire Potomac River shoreline and to see the city's waterfront holdings finally converted into the long-promised public park, the District of Columbia has a strong interest to end the condition of blight which has persisted along the waterfront for two decades and restore the private holdings to productive use. A study which we commissioned showed that the completed development will generate \$8.6 million a year in tax revenues and provide 1,400 jobs. These are additional considerations which suggest that the development should be allowed to go ahead at this time without forcing us to incur the costs of further delay and thereby posing the likelihood that existing conditions of blight will continue indefinitely.

Mr. MATHIAS. Mr. President, I have more than a passing interest in this bill, having worked with all of the affected parties on the Georgetown waterfront from February of 1978 to July of 1979 to reach a reasonable compromise of the many goals sought for the waterfront. If I might, I would like to recount for my colleagues, the history of my involvement in a bill similar to the one before us today, the task force which that bill generated, and the ultimate memorandum of agreement which resulted from that task force effort. That memorandum of agreement was signed by the Secretary of Interior, the District of Columbia Assistant City Administrator for Planning and Development, the Chairman of the National Capital Planning Commission, and Georgetown Harbour Associates, the private landowner on July 13, 1979.

It committed each of those parties to take certain steps to assure that 14 of the 20 acres on the waterfront became a public park, that the 6 privately held acres were developed in consonance with the park and reflect-

ed exemplary urban design respectful of existing Georgetown development.

The Georgetown waterfront, a relatively small area between the C. & O. Canal and the Potomac from Key Bridge to Rock Creek has had a stormy history of zoning litigation and citizen suits. The area was comprehensively rezoned from its traditional industrial uses to a new waterfront district in 1974.

Since then, rehabilitation of vacant warehouses and other industrial buildings has accompanied new residential, retail, and office construction. This former wasteland in Georgetown has become a vibrant part of the city in the past few years.

The legislation before us today involves only that part of the Georgetown waterfront which fronts directly on the river. It is relatively small in size—20 acres, in all—located between the Whitehurst Freeway and the river from Key Bridge to Rock Creek. Fourteen of those acres are publicly owned. Six are privately owned.

In February of 1978, I was approached by the Georgetown Advisory Neighborhood Commission 3A for help in protecting the Georgetown waterfront. The ANC had adopted a resolution expressing concern that the vistas to the Potomac be protected, that redevelopment be in keeping with the scale, texture, and historic character of Georgetown, and in harmony with the C. & O. Canal.

The resolution called on the Congress to do something to protect these important features. I subsequently introduced a bill in the Senate, the effect of which was to freeze further development on the waterfront.

Little did I anticipate the brouhaha my bill would create. I was immediately besieged with contending views on the legislation from affected property owners, developers, and citizens, not only from Georgetown, but from Maryland and Virginia, and even from one foreign country. I was suddenly catapulted into the middle of the fray and quickly learned that no one is neutral about the Georgetown waterfront—everyone has an opinion, passionately held.

Obviously, something had to be done to bring these many points of view into consensus. So I convened a meeting of the developers affected and listened to their ideas about the waterfront. Most of those developers already had projects underway with the necessary permits and approvals. Several were involved in recycling old industrial buildings to mixed residential and service commercial uses. So the basic texture, fabric, and scale of the waterfront was being respected by retaining those red brick buildings.

Having played a part in getting the C. & O. Canal designated an historic landmark and in protecting the Poto-

mac shoreline northwest of Washington, I wanted also to see the Georgetown waterfront restored and refurbished. I hated it to blight the largely green area that extends all the way from Cumberland, Md.; to West Potomac Park, in the city; Mount Vernon on the Virginia side, and Fort Washington on the Maryland side.

So, I convened another meeting, this time with the public officials who had a role to play on the waterfront. Together we began to sort out the actions each would need to take to create an urban waterfront park. The challenge of bringing such a park to life was taken up by the Chairman of the National Capital Planning Commission.

Under his skillful leadership, a task force of public officials, citizens, private landowners and affected developers was set up in May 1978. It met regularly throughout the summer and fall, molding and honing a consensus of what uses should and should not exist on the waterfront.

It was no small feat to achieve a consensus among such a diverse group, which in the past had not been on the best of terms, to say the least.

The task force made several findings, including these:

It would confine its efforts to the immediate waterfront, that is, the area from K Street to the river. That area involved only three property owners: The District Government with land originally purchased for the Three Sisters Bridge approach; the Chessie Railroad System (now the CSX Corporation) and the Inland Steel Company.

The National Park Service holds height and setback easements related to Rock Creek on the Chessie property.

The District Government holds title to so-called "paper streets" which also bisect the Chessie property, effectively restricting its development.

The Inland Steel property could be better designed and developed if a small triangle of DC-held property were part of Inland's holdings.

The National Park Service was willing to take title to the immediate waterfront and operate it as a park, rebuilding the sea wall along the water frontage in the process.

The District Government could find alternative sites for its trash trucks and car impoundment lot which at present deface the waterfront.

The U.S. Department of Transportation (DOT) was willing to forgive repayment to the Highway Trust Fund by the District Government, if an alternative public purpose were found for the waterfront land.

Various design proposals and development envelopes demonstrated the feasibility of limited waterfront construction set back from the River and Rock Creek to K Street.

The group agreed that some mixed use development south of K Street would complement a waterfront park. Properly designed and located, such development could give life to the otherwise dead space which stretches from the shadows of the Whitehurst Freeway to the water. The development, of course, would have to be in harmony with Georgetown's architec-

tural style, texture and scale. They would contribute pedestrian traffic, some limited ground floor retail outlets to serve residents and visitors, and provide some eyes on the park for security.

In addition, a promenade on the waterfront, a bicycle path, a waterfront quay and a boat docking facility perhaps with a river view restaurant, all have been mentioned as activities which would enhance the park without overwhelming it.

What became clear in this process was that all parties could agree on some common goals for the waterfront. Both the private landowners and the District Government hold several potential trading chips. And the development potential of the two private sites was actually enhanced by a park and setback. The marketability of homes on the waterfront, to use the developers' idiom, is increased by publicly provided amenities such as I have described.

In exchange for such amenities, however, the developer or developers of the privately held property had to be willing to build something less than the permitted zoning envelope and in keeping with the Georgetown character. One of the complaints Government officials frequently hear from developers is that the rules of the game are constantly changed on them in mid-play.

All of this effort resulted in the signing of the Memorandum of Understanding of July 13, 1979. Mr. President, I ask unanimous consent that the text of that agreement appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. MATHIAS. What is remarkable about this document is that it represents a public-private partnership to create a public park on the waterfront while respecting the private property rights of the landowners. It is not everyday that the Secretary of Interior, a representative of the District of Columbia Government, the National Capital Planning Commission, and private landowners agree in writing to do something for the common good. Part of the attractiveness of the agreement was that no money had to change hands. Rather, each of the parties bartered certain things it wanted for certain things another could deliver.

It is therefore somewhat surprising to see this bill before us fail to recognize that good faith effort and the agreement that it produced.

It would undo that agreement of 1979 and might well result in another brouhaha and task force scenario similar to the one which I have just recounted for my colleagues.

It would abruptly halt the private development now about to proceed. This development has received all the

necessary approvals and has involved the expenditure by the developer of more than \$20 million for land, architectural design, and construction.

The developer has unequivocally stated to the chairman and ranking minority member of the Committee on Energy and Natural Resources as well as to the sponsor of this bill that they are not interested in, nor would they agree to a land exchange.

Given this history and the facts I have presented here, I would hope my colleague, the sponsor of this legislation, would agree to withdraw his bill or modify it to, at least, give the memorandum of understanding a chance to be implemented.

As the chairman of the Subcommittee on Governmental Efficiency and the District of Columbia, I am mindful of the 1,400 jobs and \$8.6 million annual tax revenue which this development will yield to the District of Columbia.

Mr. President, I ask unanimous consent that the text of a recent letter from the District of Columbia Assistant City Administrator for planning and Development be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

GOVERNMENT OF THE
DISTRICT OF COLUMBIA,
Washington, D.C.

Mayor Barry has asked me to respond to your letter concerning the Georgetown Waterfront.

On September 11, 1981, the Mayor's Agent for Historic Preservation, Ms. Carol Thompson, issued her decision in the Western Development case. Her decision states that the proposed development's design is not incompatible with the character of the historic district of Georgetown and orders the issuance of a permit for new construction. The Mayor has requested that I provide you with the background information involved in the proposals, procedures and decision criteria in this case.

Mayor Barry, as you know, has been personally supportive of the citizens' desires for park along the Waterfront. He is also aware of the additional economic and social benefits that can accrue to the City from tasteful mixed-use development in combination with a park. The Mayor's Agent, Ms. Thompson, acts independently, basing decisions on the explicit provisions of the District of Columbia Historic Landmark and Historic District Protection Act of 1978, D.C. Law 2-144. The September 11th decision was based on the record resulting from six days of public hearing at which fifty-three witnesses were heard and seventy-four exhibits admitted into the record. Twenty-five additional exhibits were entered in the record before it officially closed. Although issues such as park use, historical waterfront uses, traffic environment, etc. were discussed at the hearing and addressed in the Mayor's Agent's findings of facts, the legally mandated focus of the decision was the design's compatibility with the historic district. On all relevant design features, the Mayor's Agent found the project was not incompatible.

I want to share with you the historical land use, planning and procedural context which led to the present case.

The Georgetown Waterfront consists of approximately 18 acres of land along the Potomac River from Rock Creek to beyond Key Bridge. The District of Columbia owns approximately 12 acres in this area, some of which is in public rights of way. (Approximately 3 acres). Most of the D.C. land is in temporary use for municipal storage purposes such as: an automobile impoundment lot, trash truck parking, and storage of a salt pile. The Mayor is committed to transferring as much public land as is feasible to the National Park Service for inclusion in a National Park to be created and maintained by the Park Service. The remaining Waterfront land consists of approximately 6.5 acres and is privately owned by Western Development Corporation. This land is currently occupied by a cement plant and used for industrial purposes. At present, there is no park, nor has there ever been a park on this stretch of Waterfront.

A couple of years ago through the leadership of Senator Charles McC. Mathias, Jr., the National Capital Planning Commission sponsored a task force effort including District government representation, the Department of Interior (Park Service), owners of the private land, and local citizens to attempt to work out an acceptable plan for the Georgetown Waterfront. I believe it is fair to say that everyone agreed it was desirable.

1. To remove the present industrial and municipal storage uses; and

To create some amount of public park.

Agreement broke down on the:

1. Amount of park; and

2. Amount of development on the private land.

Some citizens opposed any development and began an effort to galvanize support for a total park on the Waterfront. This would, of course, necessitate public acquisition of 6.5 acres of private land. The City has been consistent in stating that no local funds are available for such acquisition. (The cost has been estimated at between 30 and 60 million dollars or approximately 5 to 10 million dollars per acre.) The federal government, through two Secretaries of Interior (Andrus and Watt) has similarly indicated lack of funds. Senator Mark Hatfield introduced a bill to authorize a swap of federally-owned land elsewhere for the private holdings on the Waterfront. Western Development Corporation, the owners of the 6.5 acres, declined. The District is still willing to transfer its acreage suitable for park purposes. No funds have been committed by any other group or government body to acquire the private land for park purposes, nor do we anticipate any in the foreseeable future.

Over the past 20 years many public and private plans and policies have been formulated for the Georgetown Waterfront. There have been rezonings and Court Cases. The existing zoning on the private land is W2 and W3 and was upheld in Court. The "W" (Waterfront) zoning category would permit as a matter of right approximately 1,400,000 square feet of mixed-use development, with a maximum height of 90 feet, and up to 80% of the development in commercial use. Since Georgetown is an Historic District, there are restrictions other than zoning on the use of land. The Old Georgetown Act and the District of Columbia Historic Preservation Act, D.C. Law 2-144 provide that the Commission on Fine Arts and the Mayor's Agent for Historic Preservation

(if requested) can review compatibility of proposed building design with the historic district.

The Western Development Corporation has indicated it intends to exercise its property rights and develop a portion of its land. The proposal they have presented contains considerably less development than is permitted under existing zoning. Their development plans call for a mixed-use project of retail, residential and office space on 3.5 of their 6.5 acres. The overall square footage would be approximately half that permitted under the zoning, or approximately 740,000 square feet. The height would be limited to 67 feet at its highest point, instead of the 90 feet allowed in the W3 zone. Their design includes a boat basin on the Waterfront. The remaining private land, 2.75 acres would be landscaped and contributed as open space to the Waterfront Park. A continuous, 50 foot wide, public walkway would be provided on the private land along the River. Thomas Jefferson Street, which now terminates at K Street, would be continued as a 60 foot wide street from K Street to the Potomac River.

This proposal when combined with the City's intended transfer of its Waterfront land could produce a sizable park with a mixed-use development on 3.5 private areas. With this combination of public and private actions, no public funds would be needed for park land acquisition.

Under the Old Georgetown Act, the Western Development Corporation was required to present the project design to the Commission on Fine Arts. The owners made several modifications and resubmissions at the request of the Commission. The Commission recommended that the City not grant a building permit, stating that the Commission preferred a total park. The owners exercising their rights under D.C. Law 2-144, the District of Columbia Historic Landmark and Historic District Preservation Law, sought review by the Mayor's Agent for Historic Preservation. Review centered on the issue of the compatibility of the building design with the character of the Historic District of Georgetown. Under the Law, there seems no basis for the City to deny a building permit unless the design is deemed "incompatible." (see (f) below).

The Mayor's Agent for Historic Preservation is Mr. Robert Moore, Director of the Department of Housing and Community Development and State Historic Preservation Officer. Mr. Moore has delegated the authority to Carol Thompson, the Acting Director of the Department of Licenses, Inspections, and Investigations. The sections of the D.C. Law 2-144 affecting the decision state:

"Section 5-827 New Construction:

(e) In any case where the Mayor deems appropriate, or in which the applicant so requests, the Mayor shall hold a public hearing on the permit application.

(f) The permit shall be issued unless the Mayor, after due consideration of the zoning laws and regulations of the District of Columbia, finds that the design of the building and the character of the historic district or historic landmark are incompatible. . . ."

The public hearing in this case began on June 29, 1981 and concluded on July 8, 1981. Proponents and opponents presented their positions, experts and supporters. Based on the public record of the case and requirements of D.C. Law 2-144, the Mayor's Agent decided on September 11th that the project was not incompatible.

Irrespective of the Mayor's Agent's decision in this case, Mayor Barry continued to direct his agencies to seek a long range plan for a Waterfront park and to solve traffic, parking and circulation problems with which Georgetown is faced. An overall program is being devised to find alternatives for commuter traffic and to enhance pedestrian access. As part of this overall program, the Department of Transportation has recently announced a proposed feasibility study of lowering the Whitehurst Freeway to K Street grade. The purpose would be to divert commuter thru-traffic from M Street. Other initiatives are being considered to improve the parking situation.

An interagency task force was established by Mayor Barry some time ago to plan the relocation of existing Waterfront uses. This Task Force is at work on alternative site identification and the logistical and budgetary needs for relocation. Other sites in Ward 3 must be located for some Department of Environmental Services uses—such as a trash truck parking and a snow-emergency salt pile because of the decentralized nature of operations. City-wide consolidated sites can be sought for others. The City will utilize whatever public (local or federal) and/or private initiatives are available to create an interesting and lively area of Waterfront park. The Mayor is planning to form a committee to advise him on the development of a park, including related amenities such as streetscape improvements and the S.S. Williamsburg.

I hope this information will bring you up to date on all the complexities of the Georgetown Waterfront situation. Mayor Barry and I are confident that reasonable solutions can be found with the cooperation of the private sector, local citizens and the government. We appreciate your interest and hope you will be willing to assist the City as we move forward.

Sincerely,

JAMES O. GIBSON,
Assistant City Administrator
for Planning and Development.

EXHIBIT 1

MEMORANDUM OF AGREEMENT RELATING TO THE GEORGETOWN WATERFRONT IN THE DISTRICT OF COLUMBIA

This memorandum of agreement dated July 13, 1979 is entered into by and between the Secretary of the Interior (hereinafter called "Secretary"), the Mayor of the District of Columbia (hereinafter called "Mayor"), the Chairman of the National Capital Planning Commission (hereinafter called "Chairman"), and GEORGETOWN HARBOUR ASSOCIATES, a general partnership, with principal offices at 1204 Wisconsin Avenue, N.W., Washington, D.C. 20007, and its successors and assigns (hereinafter called "Developer"), for the purpose of initiating and insuring coordinated public and private planning and development of the area in the District of Columbia along the Potomac River between the Francis Scott Key Bridge and Rock Creek extending from the shoreline of the River to K Street, N.W. (hereinafter called "Georgetown Waterfront").

Such joint public-private redevelopment of the Georgetown Waterfront is deemed necessary by the parties hereto for several reasons. First, the Georgetown Waterfront consists of land owned by various public agencies and private parties. Second, exemplary redevelopment of such a large area under multiple ownership requires a coordi-

nated planning effort by the concerned public agencies and private interests. Third, it is in the public interest to achieve a lesser intensity of development than that permitted under existing zoning regulations. Fourth, implementation of a coordinated plan requires mutual assurances that the plan would receive continued support by the public and private redevelopers. In short, the complexity involved in producing exemplary urban design on the Georgetown Waterfront requires a joint effort. Accordingly, the Secretary, the Mayor, the Chairman, and the Developer agree as follows:

I. GEORGETOWN WATERFRONT PARK

1. The Secretary shall request, and the Chairman shall recommend, that the National Capital Planning Commission (hereinafter called "Commission") establish, as an addition to the park, parkway, and playground system of the National Capital, and acquire, by purchase, gift, condemnation, or otherwise, within the limits of appropriations made for such purposes, lands necessary therefor, pursuant to the Act of June 6, 1924 (43 Stat. 463), as amended, the Georgetown Waterfront Park (hereinafter called "Park") generally as shown on Map No. 1, Georgetown Waterfront Park and Development Area, NCPC Map File No. 71.10 (78.00)-28656, annexed hereto and made a part hereof.

2. In order to establish the Park, the Mayor shall, subject to the conditions set forth in this Memorandum of Agreement, initiate the procedures necessary to effect the conveyances, transfers, and uses of land which are described below. Such conveyances and transfers are shown generally on Map No. 2, Georgetown Waterfront-Proposed Land Transfers, NCPC Map File No. 71.10 (78.00)-28657, annexed hereto and made a part hereof. All required surveys, appraisals, and legal descriptions shall be prepared before any transfer or conveyance is executed.

A. The Mayor shall, pursuant to the provisions of Title 23 CFR, Part 480 ("Use and Disposition of Property Acquired by States for Modified or Terminated Highway Projects", 43 Federal Register 54074, November 17, 1978), seek the approval of the Federal Highway Administrator for the use and disposition, without the District's being required to make a credit to Federal funds, as such credit is defined in Part 480, of property acquired by the District for highway purposes. The use and disposition for which the Mayor will seek such approval are (1) transfer of jurisdiction to the National Park Service, pursuant to the Act of May 20, 1932, 47 Stat. 161, ch. 197, as amended (40 U.S.C. 122; Sec. 8-115, D.C. Code); and (2) conveyance to the Developer, pursuant to the Act of August 1, 1951, 65 Stat. 150, ch. 283, as amended (Sec. 9-401 through Sec. 9-404, D.C. Code), in exchange for a portion of land owned by the Developer which fronts on the Potomac River.

B. In the event that the Federal Highway Administrator determines that any proposed use or disposition of land acquired by the District for highway purposes requires a credit to Federal funds, the Mayor explicitly reserves the exclusive authority to determine whether he will proceed in accordance with this Memorandum of Agreement, pursue alternatives with the parties, or terminate all of his obligations under this Memorandum of Agreement, and in the event of such termination all parties' obligations hereunder shall terminate.

C. The Mayor shall request the Council of the District of Columbia (hereinafter called

"Council") to approve, pursuant to the aforementioned Act of August 1, 1951, the exchange of land owned by the District for land owned by the Developer. Such exchange shall conform to all procedural and substantive requirements of said Act.

D. The Mayor shall, pursuant to the aforementioned Act of May 20, 1932, initiate the transfer to the National Park Service of jurisdiction over (1) land acquired by the District for highway purposes and approved by the Federal Highway Administrator for use as a park and (2) the land transferred to the District from the Developer in exchange for District land, provided the Council approves the exchange of land described in paragraph C. above.

E. The Mayor shall request the Council to close streets and alleys, pursuant to the Street Readjustment Act of the District of Columbia, 47 Stat. 747, as amended (Sec. 7-401 through Sec. 7-410, D.C. Code) and vest title to such closed streets and alleys in the United States for such portions thereof as are to be included in the Park and in the Developer for such portions thereof as are to be included in the Development Area, all as shown on Maps Nos. 1 and 2.

F. The Mayor shall designate an official or officials of the District of Columbia to review any application of the Developer for a construction permit for compliance with the Development Area objectives and controls set forth in Part II of this Memorandum of Agreement and to review any application of the Developer for a certificate of occupancy for compliance with Paragraph 2.I. of Part II of this Memorandum of Agreement. If the application does not demonstrate such compliance, the construction permit or certificate of occupancy shall not be issued. If the application does demonstrate such compliance and compliance with all applicable laws and regulations, the construction permit or certificate of occupancy shall be issued.

G. It is specifically agreed to and understood by the parties hereto that the Mayor agrees only to take such actions as are specifically set forth in this Memorandum of Agreement, that the District of Columbia, through all its entities, will exercise all lawful discretion and authority in the review of and ultimate decision on all requests for permits and other required District of Columbia approvals or governmental actions, and that this Memorandum of Agreement represents only the approval in principle by the Executive Branch of the Government of the District of Columbia of the development concept expressed herein. It is further specifically agreed and understood by the parties hereto that the terms of this Memorandum of Agreement are in all respects subject to the procedures and restrictions of all applicable provisions of Federal and District of Columbia law. Nothing herein contained shall constitute a waiver of the rights of the Developer under law if the conditions of Paragraph 4.A. of Part I are not or cannot be satisfied within a reasonable period of time.

3. The Chairman shall request that the Commission (1) recommend favorably on all such proposed street and alley closings and (2) approve all such transfers of jurisdiction.

4.A. The performance by the Developer of its obligations under Paragraph 4.B. of Part I, and the compliance by the Developer with the Development Area objectives and controls set forth in Part II and the conditions in Paragraph 2.F. of Part I of this Memorandum of Agreement, are subject to the

satisfaction of all of the following conditions:

(1) the streets and alleys referred to in Paragraph 2.E. have been closed;

(2) the transfers of jurisdiction provided for in Paragraph 2.D. have taken place;

(3) the building height restriction easement referred to in Paragraph 1 of Part II has been terminated;

(4) the existing easement under the Whitehurst Freeway has been revised in such manner as to permit development to proceed; and

(5) a building permit has been issued to the Developer in accordance with Paragraph 2.F. of Part I.

4.B. The Developer shall, subject to the requirements of Paragraph 4.A. of Part I:

(1) convey any lands shown on Maps Nos. 1 and 2 titled in the Developer and necessary for the establishment of the Park to the United States, acting through the Commission, without consideration. Such lands shall be conveyed with all improvements removed to existing grade;

(2) erect a structure with a gross floor area of approximately 10,000 square feet, at the specifications of, and on a site approved by the National Park Service, and convey the structure to the United States for park purposes at no cost to the District of Columbia or United States of America; provided that the Developer shall have the right of reasonable approval of the specifications and location; provided further that the Developer and the National Park Service shall jointly agree upon a use thereof that is consistent with the nature of the adjacent development; and

(3) release to the United States, acting through the Commission, the perpetual use of a parcel known as "The Mole", part of lot 801 in Square 1172, containing approximately 20,000 square feet.

5. The Secretary shall (1) accept any transfers of jurisdiction from the District of Columbia to the United States of lands for inclusion in the Park, (2) accept jurisdiction of closed streets and alleys and lands titled in the United States and acquired by the Commission for the Park, (3) prepare a master plan for the Park, and (4) develop and maintain the Park within the limits of appropriations made for such purposes, it being the intention of the parties that the Park be so designed as to integrate the Park and the adjacent development in terms of the access between them.

6. The parties hereby mutually agree that, consistent with the terms hereof, the parties shall take such further actions as may be reasonably required, including joint District of Columbia and Developer submission of subdivision and building permit applications, if legally possible, to further the objectives of this Memorandum of Agreement and to expedite all governmental approvals and actions as are contemplated hereby.

7. The Secretary, the Chairman, and the Mayor (hereinafter collectively called the "governmental agencies") believe that the value to the governmental agencies of the various elements of the consideration being paid by the Developer is greater than the value of the elements of the consideration being paid by the governmental agencies to the Developer (the "Additional Consideration"). The governmental agencies acknowledge that the development objectives and controls in Part II of this Memorandum of Agreement could not be achieved unless the Developer, voluntarily and admittedly without receiving consideration of equivalent value, gave the governmental agencies

more than received. Being aware of this and relying upon the acknowledgement by the governmental agencies as set forth in the preceding sentence, the Developer is willing to make a voluntary contribution of all such additional properties and rights comprising the Additional Consideration to the appropriate governmental agency or to such other organization which qualifies at the time of the contribution as an organization exempt under Section 501(c)(3) of the Internal Revenue Code of 1954 (or any successor provision) and upon which the parties hereto shall agree, at such a time and in such a way as to permit the orderly development of the Georgetown Waterfront.

II. GEORGETOWN WATERFRONT DEVELOPMENT AREA

1. After the Developer has conveyed the lands as required in Paragraph 4 of Part I and the Secretary has accepted the transfers of lands and of closed streets and alleys pursuant to Paragraph 5 of Part I, the Secretary shall terminate the building height restriction easement which the National Park Service holds on lands within the Development Area.

2. Subject to the provisions of Paragraph 4.A. of Part I, the Developer shall develop the Development Area in accordance with the following development objectives and controls:

A. The heights of all buildings, except buildings under the Whitehurst Freeway, shall be measured from a point 19 feet above mean sea level datum ("19 foot datum") as determined by the U.S. Army Corps of Engineers. (This is equivalent to the 50-year flood plain datum for this area.) All habitable space shall be above the 19 foot datum; parking and storage are permitted below that point. The heights of buildings under the Whitehurst Freeway shall be measured from the curb line of K Street.

B. Building heights shall not exceed those specified on Map No. 3, Georgetown Waterfront—Development Area Building Height Zones, NCPD Map File No. 71.10(78.00)-28658, annexed hereto and made a part hereof; provided, that in the interests of flexibility and variety, the heights of buildings may be increased by 10 feet, to provide architectural interest and articulation of the roofscape, on (1) no more than 35 percent of the land areas within the 30 foot building height zone, and (2) no more than 40 percent of the land area within each of the 40 foot and 50 foot building height zones, provided, that all such building heights shall be inclusive of all rooftop structures except that penthouses over elevator shafts may be constructed to a height of three feet over the maximum height permitted in each building height zone.

C. Building height zones are intended to screen the Whitehurst Freeway from the Potomac River and the Virginia shoreline and create a stepped building complex which would reach its greatest height adjacent to the Whitehurst Freeway and step down to the east and west and toward the Potomac River in order to achieve a varied skyline with views of the river from Georgetown above K and M Streets, N.W.

D. A unified design of the Development Area is essential to preserve the ambience and character of Georgetown and to insure visual and architectural harmony and should be sensitive to the site, its riverfront location, and adjacent park and development.

E. Facades fronting on Rock Creek and the Potomac River should be articulated in plan and height to provide visual interest as

well as maximize river views for the residences.

F. Boundaries between building height zones are shown on Map No. 3 as straight lines; however, these lines are intended as averages. Reasonable variations within the Development Area; that maintain these averages, are permissible if the variations allow architectural enhancement and the development of such amenities as courts, gardens, walkways, terraces, and steps.

G. The massing of buildings within the Development Area, including the area under and adjoining the Whitehurst Freeway, should provide for vistas (including, but not limited to, the visual easements specifically required pursuant to Paragraph H), light, air, amenities, pathways, and landscaping.

H. Visual easements thirty feet wide at the 19 foot datum shall be established along Thomas Jefferson Street extended, 30th Street extended, and 31st Street extended. The visual easement along 31st Street and not more than 25 percent of the horizontal area of each of the visual easements along 30th Street and Thomas Jefferson Street may be covered by buildings, the lowest elevation of which shall be approximately the bottom of the Whitehurst Freeway deck and the highest elevation of which shall be approximately 40 feet above the 19 foot datum. The width of such visual easements shall be measured from the center lines of 30th and 31st Streets and the center line of Thomas Jefferson Street projected south of K Street. Within the visual easements, public pedestrian ways shall be provided. Additional pedestrian ways, accessible to the public, may be provided compatible with Georgetown's historic orthogonal grid development.

I. Not less than 60 percent of the floor area in all buildings in the Development Area shall be for residential uses and not more than 40 percent of the floor area in all buildings in the Development Area shall be for commercial and office uses except that no more than 15 percent of the floor area in all buildings in the Development Area shall be for retail sales and service uses.

J. The building massing in the Development Area shall be designed so as to integrate residential and commercial uses within the complex.

K. All vehicular access for parking, loading and service to buildings in the Development Area shall be designed and controlled to minimize conflict with pedestrian movements and to reduce impacts on adjacent public streets serving the Georgetown Waterfront area.

CECIL D. ANDRUS, *Secretary of the Interior*; MARION S. BARRY, JR., *Mayor of the District of Columbia*; JAMES O. GIBSON, *Assistant City Administrator for Planning and Development*; DAVID M. CHILDS, *Chairman, National Capital Planning Commission*; GEORGETOWN HARBOUR ASSOCIATES, a general partnership, Chessie Resources, Inc., Georgetown, Partner, ROBERT C. MCGOWAN, President; MDK Associates, Partner; HERBERT S. MILLER, Partner; RICHARD L. KRAMER, Partner.

Mr. HATFIELD. Mr. President, I am extremely pleased that today the Senate is considering S. 901, legislation which I introduced earlier last year in an effort to preserve the last remaining portion of the Potomac Riverbank within the District of Co-

lumbia that has not been set aside for the use of all the public.

Only a few years ago central cities were deteriorating at alarming rates with people and businesses fleeing to more suburban settings. Many of us watched with distress as the Nation's Capital City, one of the most beautiful and carefully planned in the world, suffered the same fate and once-beautifully kept residential and public areas became blighted and unkempt.

Among the effects of the 1973 world oil crisis and the resulting recognition of the limitations on world resources, the flight from inner cities were stemmed. Since then increasing attention has been paid to the potential that our cities hold for lively and ecologically healthy existences. Energy and imagination have been directed at our urban cores and out of them are arising exciting, people-oriented environments.

One of the long-neglected features of many east coast cities was their waterfront properties and harbors. In the 1970's, these blighted areas were transformed and became coveted locations for the products of the imaginations of increasingly creative architects and city planners. Understandably, local officials have welcomed these developments with open arms. But, unfortunately, these trends have had their negative side as well. First and foremost, a sad displacement of the poor has occurred and, as always, they have been forced to move to the least desirable areas rather than being accommodated among new residents. A second problem that has developed was created by the appeal of the almighty dollar. While many of the urban changes improved the cities, some have only produced a different set of problems because of the fact that the motive behind their creation was profit alone, with no consideration given to their impact upon people.

This is the situation we are facing at the site of the Potomac River waterfront south of the Georgetown area in Washington, D.C. This site is one of the most beautiful along the entire expanse of the river. It provides vistas of natural and manmade beauty both upriver and downriver. It is an ideal location for a public park to be enjoyed by residents and out-of-town visitors alike. It could provide the site for a future national memorial, as well.

Yet we have been slow to realize its importance. Slower, in fact, than private developers. Motivated by the potential profit to be earned by turning the area into a commercial and luxury residential complex, both private and public officials have fallen under the spell of well-financed and executed efforts to sell a plan for building on this site.

It has been my hope that Federal officials in charge of national parks will

develop a sense of the importance of protecting the Georgetown waterfront from development. To that end, I introduced legislation in the 96th Congress authorizing the purchase of the privately owned land at the site. Naturally, economic realities made passage of that bill unlikely. S. 901, on the other hand, has a much more narrow and achievable goal: To authorize the Secretary of the Interior to exchange land that is already owned by the Federal Government for the waterfront land, or to accept donation or transfer of the land by the current owners. It has been a constant source of concern for me that Interior Department officials, by their inaction, have encouraged rather than discouraged the unfortunate development that would create unbelievable congestion at an already overburdened part of the Nation's Capital. S. 901 would require simply that alternatives be explored before we "throw in the towel" and give up efforts to preserve that with which nature has blessed us.

Let me quote from section (a) of the proposed legislation:

The Secretary of the Interior, in cooperation with other public agencies is authorized to acquire by donation, exchange, or transfer the . . . lands and improvements comprising that area within the District of Columbia which is generally bounded on the north by K Street, on the east by Rock Creek, on the south by the Potomac River, and on the west by . . . Key Bridge . . .

In other words, I am not proposing the expenditure of any Federal dollars to acquire this important waterfront land.

Section (b) states that once acquired the land will be administered by the Secretary of the Interior in a manner that preserves and protects it for recreational uses as a national park.

The Mayor of the Nation's Capital has expressed his support for this goal. In hearings held on S. 1495, the Mayor's representative stated the Mayor's support this way,

Let me say unequivocally, Mr. Chairman, that Mayor Barry strongly prefers a total park on the waterfront. It would satisfy strong citizen interest and present a dramatic river entrance to Washington from the west. (Senate hearings 96-108, page 9.)

The U.S. Fine Arts Commission also has voiced strong official support for the maintenance of the waterfront land as a park. After careful and repeated review, the Commission rejected the proposed construction plans and voted last year to withhold a building permit for the project.

In the report which accompanies S. 901, the Secretary of the Interior is on record with the administration's position favoring preservation and protection of the Georgetown waterfront for the recreational use of the public. He states in a letter to Chairman McCURE that, "We would support enactment of S. 901." The Office of Management and Budget concurs in this

support. Let me review the reasons for the need to pass this legislation. First, since the 1930's the National Park Service has planned for inclusion of the Georgetown waterfront in the National Capital Park System.

Second, the Georgetown waterfront is the only portion of the Capital's main Potomac River shoreline not protected by inclusion in that system.

Third, the entire area of the Georgetown waterfront is needed as a public waterfront park that would provide energy-efficient, close-to-home, water-oriented recreation for residents of the National Capital area, and would serve visitors from across the country.

Fourth, the entire waterfront is located within a high-hazard floodplain where construction of buildings would go against both prudent land management and sound public policy.

Fifth, the waterfront could be an appropriate location for a future memorial—I trust our Nation will continue to be blessed with men, women, and acts of providence worth memorializing.

Sixth, the District of Columbia, which owns a portion of the waterfront, has expressed willingness to convey its land free of charge to the National Park Service.

Seventh, the use of the waterfront for public park purposes is being threatened by the proposed construction of a large commercial/residential complex on privately owned land within the waterfront.

Lastly, on two occasions the U.S. Commission on Fine Arts disapproved plans for the proposed development.

I thank the leadership for agreeing to take up this matter and welcome the consideration of the issues surrounding it by my colleagues. Finally, I hope that the Department of the Interior will be moved to perform its proper function in regard to the waterfront and assist the public in efforts to maintain the city of Washington for the enjoyment of all the people of the Nation.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on engrossment of the bill and third reading.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior (hereinafter referred to as the "Secretary"), in cooperation with other public agencies, is authorized to acquire by donation, exchange, or transfer the following described lands and improvements comprising that area within the District of Columbia which is generally bounded on the north by K Street, on the east by Rock Creek, on the south by the Potomac River, and on the west by a line four hundred feet west of Key Bridge, and is generally depicted on the map entitled "Potomac River Shoreline" dated September 1980; and numbered 80,000.

(b) Upon completion of the acquisitions authorized in subsection (a), such area shall be administered by the Secretary in accordance with the provisions of the Act of August 25, 1916 (29 Stat. 535), as amended and supplemented (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467), as part of the park system of the National Capital, in a manner so as to assure the preservation and protection of the Potomac River shoreline and for recreational and other compatible purposes. The Secretary shall promulgate such regulations as may be necessary to carry out the provisions of this Act.

(c) Exchanges shall be on the basis of equal value, and either party to the exchange may pay or accept cash in order to equalize the value of the property exchange, except that if the Secretary determines it is in the public interest, such exchanges may be made other than equal values.

SEC. 2. Effective October 1, 1982, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

DEPARTMENT OF STATE AND RELATED AGENCIES AUTHORIZATION—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 1193 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of Aug. 3, 1982, p. H4999.)

Mr. PERCY. Mr. President, I urge my colleagues to support the conference report on S. 1193, a bill authorizing appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting.

For fiscal year 1982, the conference substitute authorizes appropriations totaling \$2,873,760,000, which is \$250 million less than the bill which passed the Senate and only \$4.5 million more than the executive branch request.

For fiscal year 1983, the conference substitute authorizes appropriations

totaling \$2,923,244,000, which is \$86 million more than the bill which passed the Senate, but \$80.5 million less than the executive branch request.

The decrease in the fiscal year 1983 executive branch request contained in the conference substitute is due largely to the reluctance of the conferees to fund a construction program for the International Communication Agency, the costs of which will not be obligated until fiscal year 1984 and fiscal year 1985.

The total amount authorized in this conference report for fiscal year 1983 is essentially within the guidelines set for this purpose in the first concurrent resolution on the budget for fiscal year 1983.

I ask unanimous consent that two tables setting forth the amounts authorized by the conference substitute be printed in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—BUDGET ISSUES: FISCAL YEAR 1982

(In thousands of dollars)

	Executive branch request	Senate bill	House amendment	Conference
Department of State:				
Administration of foreign affairs	1,245,637	1,318,754	1,245,637	1,245,637
International organizations and conferences	503,462	523,806	503,462	503,462
International commissions	19,808	22,508	19,808	19,808
U.S. bilateral science and technology agreements	3,700	3,700	3,700	3,700
Asia Foundation		4,500		4,500
Migration and refugee assistance	504,100	560,850	504,100	504,100
Subtotal, Department of State	2,276,707	2,434,118	2,276,707	2,281,207
International Communication Agency	494,034	561,402	494,034	494,034
Board for International Broadcasting	86,519	98,317	86,519	86,519
Inter-American Foundation	12,000	12,000	10,560	12,000
Arms Control and Disarmament Agency	16,768	18,268		
Total	2,886,028	3,124,105	2,867,820	2,873,760

¹ In providing a separate authorization for the Asia Foundation for fiscal years 1982 and 1983, the conferees expect the executive branch to request separate authorizations for this purpose in succeeding fiscal year.

² Includes an earmarking of \$12,500,000 for Soviet and Eastern European refugees resettling in Israel, and an earmarking of \$1,500,000 for the "political detainee" program of the International Committee for the Red Cross (ICRC).

TABLE II.—BUDGET ISSUES: FISCAL YEAR 1983

(In thousands of dollars)

	Executive branch request	Senate bill	House amendment	Conference
Department of State:				
Administration of foreign affairs	1,248,059	1,248,059	1,248,059	1,248,059
International organizations and conferences	514,436	514,436	514,436	514,436
International commissions	22,432	22,432	22,432	22,432
U.S. bilateral science and technology agreements	3,700	3,700	3,700	3,700
Asia Foundation				4,500
Migration and refugee assistance	460,000	467,750	460,000	460,000
Subtotal, Department of State	2,248,627	2,256,377	2,248,627	2,252,127
International Communication Agency	644,000	482,340	482,340	559,000
Board for International Broadcasting	98,317	98,317	98,317	98,317
Inter-American Foundation	12,800		12,800	

TABLE II.—BUDGET ISSUES: FISCAL YEAR 1983—Continued

(In thousands of dollars)

	Executive branch request	Senate bill	House amendment	Conference
Arms Control and Disarmament Agency	19,942	(*)		
Total	3,023,686	2,837,034	2,842,084	2,923,244

¹ Includes an earmarking of \$16,875,000 for Soviet and Eastern European refugees resettling in Israel, and an earmarking of \$1,500,000 for the "political detainee" program of the International Committee of the Red Cross.

² The executive branch request, including supplemental, totals \$644,000,000. The Senate bill and the House amendment recommended \$482,340,000. However, since both the Senate Foreign Relations Committee and the House Foreign Affairs Committee subsequently reported supplemental authorization legislation (H.R. 5998 and S. 2581), the conferees agreed to the lower Senate combined level of \$559,000,000. This amount includes earmarkings of \$84,256,000 for grants for the Fulbright Academic Exchange Program and the International Visitor Program, \$3,248,000 for grants for the Humphrey Fellowship Program, \$8,906,000 for grants to certain private nonprofit organizations.

³ The Senate bill authorized "such sums as may be necessary" for fiscal year 1983.

Mr. PERCY. Mr. President, in addition to the authorization of appropriations, the conference substitute retains various identical or modified policy and administrative provisions which were contained in either the Senate or House version of the bill. I urge my colleagues to review the Statement of Managers which explains in great detail all of these issues.

One of these issues of particular concern to both the House and Senate conferees was the title dealing with the Foreign Missions Act. After many days of debate, the conferees finally adopted a compromise which I believe adequately protects both Federal and local interests. I ask unanimous consent that the following excerpt from the Statement of Managers be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

FOREIGN MISSIONS ACT

The House amendment (the "Foreign Missions Act") established a new "Office of Foreign Missions" within the Department of State and authorized the Secretary of State to review and control the operations of foreign missions in the United States and the benefits available to them. "Benefit" was broadly defined to include any type of service or supply, including real property transactions, available from the public or private sources. It empowered the Secretary to set terms and conditions upon which benefits may be provided; set forth the mechanism and criteria under which issues relating to the location of foreign missions in the District of Columbia are to be decided; provided for the preemptive effect of the exercise of Federal jurisdiction regarding the conferral or denial of benefits under this legislation; provided administrative authorities to enable the Office of Foreign Missions to operate under the direction of the Secretary of State, but not subject to control by the bureaus responsible for the day-to-day operations of the Department; granted authority to the Secretary to apply the foreign missions provisions to international organizations or official missions thereto; and limited to two persons per foreign mission any certification for purposes of issuance of diplomatic license plates.

The Senate bill contained no comparable provision. S. 854, passed by the Senate, is similar to the House amendment, but contained no provision on the location of foreign missions in the District of Columbia.

The conference substitute is similar to the House amendment with the following changes which were drawn primarily from provisions in S. 854: It adds language preserving the authority of the Secret Service to provide protective services; requires the Secretary of State to advise those proposing to enter into transactions with foreign missions whether the proposed transaction is prohibited by any regulation or determination of the Secretary under this legislation; broadens the definition of "international organization" to include those in which the United States does not participate; clarifies that the authorities of the bill shall be exercised in accordance with procedures and guidelines approved by the President; sets forth procedures and criteria under which issues relating to the location of foreign missions in the District of Columbia are to be decided; clarifies the preemptive effect of the exercise of Federal jurisdiction regarding the conferral or denial of benefits under this legislation; and provides that only amounts transferred or credited to the working capital fund of the Department of State may be used in carrying out the functions under the Foreign Missions Act.

Among those House provisions deleted by the conference substitute were the provision granting authority to the National Capital Planning Commission to settle chancery issues and the provision establishing the Foreign Missions Act as the exclusive law governing foreign missions in the District of Columbia. The original preemption provision was replaced with more limited language, which does not require State or local authorities to take any affirmative action.

The conference substitute also deletes the House provision concerning diplomatic license plates. The committee of conference took careful note of past abuses by foreign diplomatic personnel stemming from their special status and immunity. Such abuse was especially prominent in the area of diplomatic license plate issuance. Careful note was also taken of an exchange of letters between Representative William S. Broomfield and Under Secretary of State Richard T. Kennedy on this matter. The committee of conference is reassured by the Department's forthright response and its commitment to pursue this matter in the future. Specifically, the Department has indicated its intent to scrutinize the issuance of diplomatic license plates; assist local jurisdictions, as appropriate, with their collection of parking fines and the pursuit of other motor vehicle violations; and to monitor generally the number of diplomatic license plates issued. The committee of conference notes that these matters come within the purview of the new Foreign Missions Act and that the Department therefore will be able to remove this problem from the Office of Protocol and turn it over to the Office of Foreign Missions for handling.

With respect to the location of chanceries in the District of Columbia, the conference substitute contains a provision replacing that contained in section 206 of the House amendment. This new section retains the existing D.C. zoning structure composed of the National Capital Planning Commission, the D.C. Zoning Commission, and the D.C. Board of Zoning Adjustment. For purposes of considering chancery issues, the substitute provides that the President may design-

nate the Secretary of Defense, the Secretary of the Interior, or the Administrator of General Services to serve as the Federal representative on the Zoning Commission in lieu of the Director of the National Park Service, and that the individual so designated will also serve on the Board of Zoning Adjustment, as the Zoning Commission representative when the Board considers chancery matters. The substitute also provides for chanceries to be treated similarly to, and no less favorably than, office and institutional uses, and sets forth criteria for use in determining the chancery issues which take into consideration international obligations and the need to balance municipal and Federal interests.

ANALYSIS OF CERTAIN FOREIGN MISSIONS PROVISIONS

Chanceries in the District of Columbia

Section 206 affects chancery locations only in the Nation's Capital and, therefore, is set apart from other sections of the Foreign Missions Act which are of general application. Section 206(a) states that the location, replacement, or expansion of chanceries in the District of Columbia shall be subject to this section.

Section 206(b)(1) permits chanceries to locate as a matter of right in any area zoned commercial, industrial, waterfront, or mixed-use, but not in medium-high or high-density residential zones. This means that a chancery wishing, for example, to locate in a mixed-use (commercial-residential) zone, may do so if it meets the same standards as to building height, bulk, et cetera, and acquires the necessary permits, as do other property users within that zone. Additional administrative steps would not be required. The principal change from the current situation is the inclusion of lower density commercial areas as a matter of right. These areas are often desirable for chancery uses, as they are for certain office and institutional uses. Indeed, the majority of chancery uses are small scale and lower density and therefore suitable for such areas, or in some cases require placement in such areas for security reasons. This subsection also includes the commercial-residential mixed-use areas and waterfront areas, which is not a change from current law, and adds industrial areas. The section does not authorize the location of chanceries as a matter of right in areas zoned residential.

Section 206(b)(2) permits chanceries, upon application, to locate, as at present, in areas zoned medium-high or high-density residential, as well as in other areas which include office and institutional uses, including mixed-use diplomatic and special purpose districts. All locations within these areas are subject to disapproval under the District of Columbia zoning process as provided in this section. This subsection will not permit chanceries to be located in any area which is essentially a residential use area.

Section 206(b)(3) precludes the imposition of limitations or conditions on chanceries greater than those placed on other office or institutional uses. This insures treatment for chancery uses equal to that accorded comparable uses in the same area.

Section 206(c)(1) provides for filing with the D.C. Board of Zoning Adjustment and public notice of all applications for chancery use or appeals by chancery applicants from adverse zoning determinations. This is consistent with current law.

Section 206(c)(2) provides for appropriate public participation in proceedings under this section. The D.C. Zoning Commission

will have the responsibility for issuing the regulations governing public participation.

Section 206(c)(3) provides a limitation of 6 months for proceedings involving chanceries under this section. This is intended to insure an expeditious process which will avoid the extensive and overlapping proceedings which are required under existing law and regulations. A time limit of 6 months should, in most cases, be more than sufficient to complete the decisionmaking process. It is expected, however, that final decisions will, to the extent possible, be made in a shorter period.

Section 206(d) sets forth the criteria to be applied in the determination of chancery issues, which are intended to balance the municipal and Federal interests. In brief, these criteria include: (1) Recognition of the international obligation of the United States concerning the location of chancery facilities in the Nation's Capital; (2) historic preservation; (3) adequacy of parking and public transportation; (4) availability of Federal security; (5) the municipal interest, as determined by the Mayor of the District of Columbia, which includes matters such as traffic, height, bulk, area impact, among others; and (6) the Federal interest, as determined by the Secretary of State, which includes matters such as national security, foreign relations concerns, and the reciprocal impact on U.S. missions abroad.

Section 206(e)(1) provides that regulations, proceedings, and other actions of the National Capital Planning Commission (NCPC), the D.C. Zoning Commission, and the Board of Zoning Adjustment of the District of Columbia, shall be consistent with the provisions of this section, including the criteria described above, in order to assure consistency among actions of the several bodies administering this section.

Section 206(e)(2) provides for referral to NCPC for review and comment of proposed actions of the Zoning Commission, as is required under existing law.

Section 206(f) provides that proceedings concerning chanceries under this section would be conducted under a rulemaking and not an adjudicatory procedure. This will provide a process compatible with the conduct of diplomatic relations between the sovereign nations involved, and the participation of their diplomatic representatives in these proceedings. Such rulemaking procedures are currently employed by the Zoning Commission of the District of Columbia in some of its proceedings.

Section 206(g) directs the Secretary of State to require substantial compliance with building and related codes by foreign missions, which is stricter than current practice under which these codes are not enforced with respect to foreign missions because of diplomatic immunity. This subsection permits the Secretary of State to accommodate special building requirements, generally involving security, communications, and related needs, which are often required to be adjusted in a similar manner for U.S. missions abroad.

Section 206(h) provides grandfather rights for existing chancery locations and uses, so that such issues need not be reopened.

Section 206(i)(1) authorizes the President to adjust Federal representation on the D.C. Zoning Commission for purposes of proceedings under this section, in order to reflect, as appropriate, national security and foreign policy concerns. Under existing law, one Federal agency representative is now a member of the Zoning Commission. The Zoning Commission of the District of Co-

lumbia is composed of three representatives appointed by the Mayor of the District, one Federal agency representative (currently the National Park Service), and the Architect of the Capitol. This authority neither increases the Federal representation nor affects the District majority thereon appointed to the Commission by the Mayor of the District of Columbia.

Section 206(i)(2) provides that for purposes of chancery issues, the Federal agency representative (who may be the existing official or one designated under the preceding subsection (i)(1)) shall also be the Zoning Commission representative on the Board of Zoning Adjustment. The Board of Zoning Adjustment of the District of Columbia is composed of three persons appointed by the Mayor of the District, one representative of the Zoning Commission, and one representative of the National Capital Planning Commission. Under existing law and practice, one member of the Commission currently serves on the Board on a rotating basis. This provision therefore assures that the Federal interest will always be appropriately reflected in the performance of the Board's functions under this section. It does not affect the District majority appointed to the Board by the Mayor of the District of Columbia. This subsection also provides that in chancery proceedings, the NCPC representative serving on the Board shall be the Executive Director of the Commission, which conforms to the existing NCPC practice of appointing a staff member for such purposes.

Section 206(j) provides that other provisions of law shall apply to chanceries in the District of Columbia only to the extent they are consistent with this section. This is in lieu of the House provision which made the Foreign Missions Act the exclusive law governing foreign missions in the District.

Preemption

Section 207 expresses the preemptive effect of the right of the Federal Government, through the Secretary of State, to preclude the acquisition of any benefits by a foreign mission within the United States. A denial by the Secretary, for example, of a right of a particular foreign government to open or maintain a mission within the United States, or a condition limiting the number of their personnel or other factors relating to the mission, would be controlling. This is consistent with current practice and reflects the policy of Federal preemption in foreign relations. This subsection does not otherwise affect State or local law or regulations. Nothing in this section would require any State or local authority to take any affirmative action. The principal impact of its terms is to preclude reliance on local law, regulation, or practice by a foreign mission in an effort to secure benefits contrary to limitations imposed by the Secretary. This limited preemption is necessary in order to assure that the purposes of the Foreign Missions Act are carried out.

Of course, State and local governments are obliged to respect the rights of foreign missions to be granted certain benefits under international law and international agreements in force. The views of the Secretary of State on the requirements of international law are authoritative in this regard. Should a State or local governmental entity wish to deny benefits which it is not obliged to grant, contrary to a determination by the Secretary of State that such benefits should be granted, the matter would, as under present practice, be subject

to resolution through discussions between the Department of State and the State or local governmental entity. The committee of conference notes that the interests of the Department in promoting foreign policy and national security interests and the interests of State and local governments in protecting local citizen interests are not necessarily incompatible and therefore looks forward to a productive working relationship between the Department of State and State and local authorities.

This section also requires coordination among Federal agencies, under the leadership of the Secretary of State, in order to achieve an effective policy of reciprocity so as to fulfill the purposes of this legislation by precluding any Federal agency from taking any action inconsistent with the Foreign Missions Act. The provision has the effect of rendering unenforceable any rules or regulations of any Federal agency, to the extent that such rules or regulations would confer or deny benefits contrary to this title.

The committee of conference notes that the Foreign Missions Act is a new and unique piece of legislation which grants the Secretary of State significant authority over the activities and operations of foreign missions in the United States—authority which is long overdue. In order to carry out this authority effectively, the Office of Foreign Missions will need adequate numbers of trained personnel, as well as sufficient resources for the job. The committee of conference expects the Department of State to establish an effective and aggressive operation with a useful working relationship with the bureaus and offices of the Department, as well as with other interested agencies, but which maintains its distance from the day-to-day operations of the Department. In addition, the committee of conference cautions that a clear distinction must be made and maintained between the Office of Foreign Missions and the Office of Protocol, since their responsibilities may often be conflicting. The committee of conference expects, in particular, that certain responsibilities will be moved from the Office of Protocol to the Office of Foreign Missions, including such matters as: (1) the determination of eligibility and issuance of credentials of diplomatic, consular, and other foreign government officers and employees with respect to rights, privileges, and immunities; (2) advising and acting as liaison to State and local government authorities on diplomatic privileges and immunities and related matters; (3) providing certifications of the immunity status of individuals for use in court cases; (4) requesting waiver of immunity in appropriate cases; (5) assisting in the negotiations of consular conventions and other treaties and agreements involving rights, privileges, and immunities of foreign government missions and personnel; and (6) providing advice and assistance to diplomatic missions.

In certain areas, the Secretary may find it appropriate to permit sharing of responsibilities between the two offices, but the committee expects the new office to resolve the inherent conflict between protocol duties and those duties involving regulation of foreign mission activities. Appropriate liaison between the officer should assure that conflicts are minimized.

Mr. PERCY. Mr. President, in conclusion, the Foreign Relations Authorization Act is by its nature a long and complex bill. The committee of conference resolved more than 40 differences

between the two Houses. The managers on the part of the Senate were diligent in their efforts to uphold the Senate position and were, I believe, rather successful in that effort. It is the belief of the Senate conferees that the compromises in the conference substitute were reasonable solutions to some very difficult issues. Therefore, I urge the adoption of the conference report.

Mr. PELL. Mr. President, passage of the conference report on S. 1193 will provide authorization for fiscal years 1982 and 1983 for the State Department, the International Communication Agency—redesignated by the bill as the U.S. Information Agency—and the Board for International Broadcasting. Although the total funding authorized for these three agencies is relatively modest as compared to the Department of Defense budget—\$2,873,760 for fiscal year 1982 and \$2,923,244 for fiscal year 1983—these agencies have an absolutely vital national security role. Diplomacy, be it the government-to-government representation of the State Department or the public diplomacy of USIA and BIB, is the most cost-effective way, in terms of money and lives to protect and promote U.S. national interests.

S. 1193 includes several important provisions to strengthen our representation abroad. The conference substitute mandates the reopening of seven closed consulates and earmarks funds for that purpose. This will enhance our visible presence overseas. The bill also includes a provision, initiated by Senator GLENN, to exempt the inter-American organizations—OAS, PAHO, IICA—from the debilitating effects of the administration's deferral plan.

S. 1193 also incorporates two provisions, of which I am proud to have been the author, to strengthen our public diplomacy. The first provision mandates a doubling of exchange-of-persons programs in real terms over the next 4 years and specifically earmarks increases in fiscal year 1983 of 37 percent to 46 percent over the fiscal year 1982 levels in the Fulbright academic exchange program, the international visitor program, the Humphrey fellowship program, and the private sector program, all programs with a proven record of effectiveness. This provision reverses a long-term decline in U.S. exchange programs which has left us outspent by the Soviet Union in this area by more than 10 to 1.

Second, this bill strengthens the Federal oversight over Radio Free Europe and Radio Liberty by requiring that the Directors of the RFE/RL Board be the same as the Presidential appointed Directors of the Board for International Broadcasting. This provision, which in no sense federalizes the radios, will insure more effective use of the U.S. tax dollars in providing a source of reliable information

on Eastern Europe and the Soviet Union to the people of those countries.

Passage of the conference report on S. 1193 will lead to strengthening of the diplomatic arm of our Government. This strengthening is being accomplished, I would note, with slightly less than the amounts requested in the President's budget for fiscal year 1982 and fiscal year 1983.

In the long run, however, the Congress must address itself to the problems caused by the real decline in resources devoted to our foreign affairs agencies. I note that since 1960 the number of State Department Foreign Service Officers has declined from 3,717 to 3,564 while the number of missions overseas has increased from 165 to 224. In the same period, consular loads have increased 900 percent and Washington's demand for reporting cables has increased 400 percent. A comparable situation exists at USIA, which the mandated increase in exchanges will only partially correct. Again let me emphasize that the failure to provide adequate resources to these vital tasks will over time undermine our national security.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

ORDERS FOR TUESDAY

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF VARIOUS SENATORS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent after the recognition of the two leaders under the standing order, that the following Senators be recognized on special order for not to exceed 15 minutes each: Senators CHILES, HEFLIN, LEVIN, and HUMPHREY.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Finally, Mr. President, I ask unanimous consent that after the execution of the special orders there be a brief period for the transaction of routine morning business to extend not past the hour of 11:30 a.m. in which Senators may speak for not more than 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there is provision for a period for the transaction of routine morning business, is there not?

The PRESIDING OFFICER. There is.

Mr. BAKER. I yield back my time, Mr. President, so that the Chair may put the Senate in morning business.

The PRESIDING OFFICER. There will now be a period for the transaction of routine morning business.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE FEDERAL ELECTION COMMISSION

Mr. FORD. Mr. President, the Federal Election Commission is so often the subject of criticism that it is far too easy to overlook and slight the valuable services performed by that agency.

It is refreshing to receive favorable comment regarding the FEC from an organization as involved in the conduct of Federal elections as the International Institute of Municipal Clerks, many members of which are regularly involved in the administration of Federal elections.

Recently I received a letter from that organization in support of full funding of the FEC. In particular, the institute praised the assistance and information provided by the programs of the clearinghouse to State and local election officials—services which are not available from any other agency.

In both its letter and a resolution adopted by IIMC, the institute makes note of the savings to the local officials as a result of the information provided by the FEC's clearinghouse, and its State and local workshops for local election administrators. It should be noted that the clearinghouse functions of the FEC have had very little funding during the past year, and that the present budget for next year will provide for very little as well—less than \$175,000, in fact. That this agency can continue to function with so little, and still provide services that cut costs for those local agencies that administer our Federal elections is a remarkable feat, and deserves commendation.

The clearinghouse, however, cannot continue to provide so many support services to the States in the future without adequate funding. It would be shortsighted and a false economy on our part to continue to restrict the

funding of this agency in view of the savings it has been able to make possible for local election officials in the administration of Federal elections throughout the country.

Mr. President, I ask unanimous consent that the letter and resolution of the IIMC be included in the RECORD in full immediately following this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE INTERNATIONAL INSTITUTE
OF MUNICIPAL CLERKS,
Pasadena, Calif., July 20, 1982.

Hon. WENDELL H. FORD,
Member, Senate Rules Committee,
Washington, D.C.

DEAR SENATOR FORD: Please find attached a copy of a resolution that was adopted, unanimously, by the International Institute of Municipal Clerks at our recent annual meeting. The 6,400 membership body of municipal clerks, three-quarters of whom serve as their government's election officer, pointed out that the Federal Election Commission guarantees "The integrity of our nation's electoral system by providing information and assistance on Federal election matters."

The IIMC listed as valuable contributions to the election process the Commission's many reports and research surveys on voting systems, registration, training of poll workers, proposed legislation, and judicial systems. It praised its successful regional and state workshops and cited its National Clearinghouse on Election Administration as contributing to implementation of substantial cost savings to state, county and municipal election operation.

I also observe that Congress is now considering legislation to eliminate the Clearinghouse. Specifically, Sections 11 and 16 of H.R. 6479 would, as I understand it, eliminate both the Clearinghouse and the Voting Systems Standards study.

The IIMC and its 6,400 members are strongly opposed to eliminating the Clearinghouse and the Voting Systems study. Clearinghouse services are deemed important by our membership and, as I noted above, have resulted in substantial cost savings to state, county and municipal election operations. In our view, such services will be even more valuable in the future as state and local government will have even fewer resources to successfully administer Federal Elections.

Sincerely,

JOHN J. HUNNEWELL, CAE,
Executive Director.

RESOLUTION No. 2

Whereas, the Federal Election Commission has worked closely with both the International Institute of Municipal Clerks and individual clerks in guaranteeing the integrity of our nation's electoral system by providing information and assistance on Federal election matters; and

Whereas, many municipal clerks administer Federal Elections and the Federal Election Commission has provided invaluable reports and information on Voting Systems and Equipment, Voter Registration, Training of Poll Workers, Proposed Federal Legislation Relative to Elections, and Federal and State Election Laws and Case Decisions; and

Whereas, the Federal Election Commission has sponsored informative and success-

ful regional and state workshops attended by municipal clerks; and

Whereas, the International Institute of Municipal Clerks has been strongly represented on the Federal Election Commission's Clearinghouse Advisory Panel and regional and state panels; and

Whereas, the foregoing activities of the Federal Election Commission have resulted in substantial cost savings to state, county, and municipal election administrators and clerks; and

Whereas, the need for accurate and unbiased information and assistance on Federal elections and election administration becomes more critical each year: Now, therefore, be it

Resolved, That the International Institute of Municipal Clerks urges Congress to approve full funding for Fiscal Year 1983 as requested by the Reagan Administration and the Federal Election Commission, so that the Commission can continue its services to municipal clerks, and the President is hereby directed to send copies of this resolution to appropriate Congressional Leaders.

THE BALANCED BUDGET AMENDMENT

Mr. DIXON. Mr. President, we have spent much time in the past several weeks debating the balanced budget amendment and, of course the measure was approved by the Senate on August 4, 1982.

My friend and colleague of many years, Representative PAUL SIMON of Illinois, has recently written a newspaper column detailing his views on the subject, and I think they are well worth reading.

I hope all my colleagues in this body, as well as Representative SIMON's colleagues in the House, will take the time to examine his remarks.

I ask unanimous consent that the text of the column be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

BACKBONE IN BUDGETING

While I consider myself to be independent-minded and avoid tagging labels on myself, sometimes I am identified by newspapers as a liberal Democrat.

Though my fiscal impulses are conservative, I favor more government involvement in certain areas than some of my friends do. It is an honest disagreement.

But where we should not disagree is that whatever we spend we pay for. That is why the tax cut voted last year was so irresponsible—in essence we decided to borrow money to give ourselves a tax cut.

Back in 1960 the people of Illinois voted on a \$345 million bond issue for mental institutions and universities. As one who strongly supported a better mental health program and an improved university system for our state, I startled some of my friends when I opposed that bond issue.

Now I am startling some people by favoring a constitutional amendment to require a balanced budget, a position I have held since my first days in Congress.

There are some interesting parallels between Illinois' experience with indebtedness

and the current situation with federal deficit spending.

Every organization I know, with the lone exception of the Farm Bureau, backed the state referendum on the bond issue. So did every newspaper I know of.

In opposing it I made two points: First, that we would be much better off increasing our taxes slightly and meeting the need on a pay-as-you-go basis; that the money would not be spent in one or two years as claimed. Second, that such a bond issue would only be the beginning and the net result ultimately would be costly to the taxpayers in both tax dollars and reduced services.

The measure passed, and the money ended up being spent over seven years, not one or two. And now the State of Illinois has a bonded indebtedness of more than \$18 billion, according to a recent Chicago Tribune series, and is spending well over \$100 million each year on interest alone.

Illinois took the easy way out and we are paying for it.

At the federal level we also are spending an increasing percentage of our tax dollar on interest rather than on goods and services because no matter what the economic situation, we spend more than we take in.

The federal government's number one expenditure is Social Security, the number two is defense, and the number three is interest. Everything else is far behind. Our interest expenditure for fiscal year 1983 will be at least \$113 billion—just about what the total budget of the federal government was in 1964 when Lyndon Johnson was President.

Is it wise to endlessly go deeper and deeper into debt? Is it wise to each year spend an increasing percentage of money on interest payments which might go to help meet the needs of people? Is it wise for the federal government to compete with the private sector so mightily for borrowed money, sending interest rates up?

Then you get to the bottom line question: Can a Congress and an administration show enough backbone to balance the budget without having a constitutional amendment to force it? I have reluctantly reached the conclusion from some years of observing government that it is not possible.

Some charge that it is totally inconsistent for the same President and Congress who have voted record-breaking deficits to call for a constitutional amendment. And of course the charge rings true. Just as it is true that our year-after-year budgets of more spending than income are inconsistent.

The real question, however, is not whether the proposal is inconsistent (which it is) but whether it is in the national interest. I believe that it is.

I will argue for full employment programs with my friends who oppose them; I will argue for more adequate medical care for those who are just getting by in our society with those who somehow do not see the need; but I believe in paying for these initiatives as we go.

If we who serve in high office—and you who put us there—ask for an added service of government, then let us have the courage to tax ourselves for that service. If we do not have the courage to ask for the taxes, we should not ask for the services.

It is that simple.

Yes, there will be years in which there must be deficits, and Congress will have the ability to do that. But that should not happen regularly.

The national dialogue ought to be about the needs of this nation and how we effec-

tively meet those needs, but it should involve a realistic assessment of costs.

I am tired of the nation slipping into the quicksand of deeper and deeper debt. And somehow out there in the American public is a streak of common sense which agrees.

EXTENDED UNEMPLOYMENT BENEFITS TRIGGER OFF IN ILLINOIS TODAY

Mr. DIXON. Mr. President, I have been informed by the Governor of Illinois, James R. Thompson, that Illinois will trigger off extended unemployment benefits today.

This is a disgrace. It further points to the need for immediate action on the part of the Congress and the President to address this urgent problem.

Illinois has a total unemployment rate of 12.3 percent. This translates into nearly 700,000 people who are out of work and are receiving some unemployment benefits—either the first 26 weeks of regular benefits or the additional 13 weeks of extended benefits; 50,000 people will lose their benefits today, Mr. President.

I was gratified by the accord reached between Senator METZENBAUM, Senator DOLE, Senator PERCY, myself, and others regarding the sense of the Senate resolution which overwhelmingly passed this body last Thursday. A copy of unprinted amendment No. 1186 is included at the end of my statement.

In addition, the entire Illinois congressional delegation signed a letter which was sent to President Reagan last Thursday. In that letter, we explained the impending emergency in Illinois and asked for special consideration to this problem and to specific suggestions as they were developed. Every member of the Illinois delegation signed that letter. The problem, which has already affected many other States, is now before us in Illinois. We agreed, in a meeting of the delegation, to work together with other States similarly affected. A copy of the letter we sent to the President is included at the end of my statement.

As I said last Thursday, this problem will not go away. As long as there are millions of people who are out of work and unable to find jobs, there will be people whose basic needs must be met.

With the added discouraging news that the national unemployment rate is now at a staggering 9.8 percent, there is certainly a necessity for addressing this issue directly, constructively, and immediately.

It makes no sense to have the highest rate of unemployment in 40 years, and have States such as Illinois ineligible to receive funds, based on a change in Federal law last year which penalizes the very States who need help most.

I introduced S. 2802 last week, which addresses the fundamental problem of the way that States count the number of unemployed in determining eligibility for extended benefits. Those States which have had the longest period of high unemployment are facing the dilemma of having many people on extended benefits, and fewer people on the regular 26 weeks of benefits. Those who have endured the longest period out of work are not even counted in determining eligibility.

I urge the President to act immediately, in concert with the Congress. We cannot delay.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UP AMENDMENT No. 1186

The Senator from Ohio (Mr. Metzger), for himself and Mr. Schmitt, Mr. Dixon, Mr. Lugar, Mr. Robert C. Byrd, Mr. Chafee, Mr. Kennedy, Mr. Heinz, Mr. Riegle, Mr. Packwood, Mr. Levin, Mr. Durenberger, Mr. DeConcini, Mr. Specter, Mr. Cannon, Mr. Percy, Mr. Matsunaga, Mr. Sarbanes, Mr. Danforth, Mr. Domenici, Mr. Randolph, Mr. Dole, Mr. Baker, Mr. Pell, Mr. Huddleston, Mr. Sasser, Mr. Moynihan, and Mr. Boschwitz, proposes an unprinted amendment numbered 1186.

Sec. —. It is the Sense of the Senate that Senate conferees on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, shall include the following provisions in the Conference Report on H.R. 4961:

(1) legislation establishing a Federal Supplemental Benefits program, which shall become effective in calendar year 1982 and which shall be appropriately coordinated with Federal job training and employment programs, under which Federal payments are to be made to provide, or to reimburse States for the costs of, not less than 10 weeks, and not more than 13 weeks of eligibility for unemployment compensation for workers who have exhausted their rights to any extended unemployment compensation under the Federal-State Extended Compensation Act of 1970; and

(2) legislation providing that States that are currently eligible or have been eligible since at least June 1, 1982, for the Federal-State extended benefit program will continue to be eligible to participate in the extended benefit program, notwithstanding any other criteria under Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 which makes those States ineligible for extended benefit participation.

U.S. CONGRESS,

THE ILLINOIS DELEGATION,

Washington, D.C., August 4, 1982.

HON. RONALD W. REAGAN,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: We are writing to call to your attention an urgent problem in our State with respect to Unemployment Insurance Extended Benefits (EB) and to ask for your understanding and support.

Approximately 50,000 Illinois jobless receiving EB are in immediate danger of losing this critical financial support within the next three weeks when the program "triggers off" in our State. Changes in federal law made last year have precipitated

this unfortunate situation, even though our State unemployment rate stands at an intolerable 11.3%. In particular, we are affected by amendments made by the Omnibus Budget Reconciliation Act of 1981 to the computation of the Insured Unemployment Rate (IUR), which now excludes EB recipients from the count, and to the level of the state trigger, which will rise to 6% next month.

At an emergency meeting of the Illinois Congressional delegation on Monday, August 2, we agreed to work together, with our governor, and with other states similarly affected, to develop a solution to our common problem. As the extent of the hardship caused by this situation in many parts of the country becomes more widely known, we believe a consensus will emerge as to the fastest and most effective remedy. We urge you to give special consideration to this problem and we hope you will remain open to specific suggestions as they are developed.

Sincerely yours,

Charles H. Percy, Allan J. Dixon, Melvin Price, Paul Findley, Frank Annunzio, Tom Railsback, George O'Brien, Sidney R. Yates, Tom Corcoran, John G. Fary, Lynn Martin, Henry Hyde, Gus Savage, Phil Crane, Paul Simon, Robert McClory, Edward Madigan, Cardiss Collins, Marty Russo, Ed Derwinski, Harold Washington, John Porter, Robert Michel, John N. Erlenborn, Daniel B. Crane, Dan Rostenkowski.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The PRESIDING OFFICER. The Senate will resume consideration of the pending business, which will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

Mr. HATFIELD. Mr. President, H.R. 6863, the regular supplemental appropriations bill for fiscal year 1982 as reported by the Committee on Appropriations on Tuesday, August 3, provides a total of \$8,982,292,099 in budget authority. Of that total, \$6,107,184,460 is for pay and \$2,875,107,459 is for fiscal year 1982 program supplementals in a number of agencies Government wide. The bill also provides \$5,000,000,000 in borrow-

ing authority for the Commodity Credit Corporation, the same as the House bill. This amount is not scored as budget authority by the score-keeping conventions of the Senate.

The total recommended by the committee is \$2,073,878,901 below the President's request. Although the committee made reductions in several programs below the levels provided in the House-passed bill, our final product is still over the House bill by \$225,572,175. It should be pointed out, however, that the overage is in large part attributable to the committee's recommendation of \$426,531,000 in foreign assistance, including \$355,000,000 for the President's Caribbean Basin Initiative. The House bill provides a sum total of \$1,031,000 in the foreign operations chapter. I ask that a summary table listing total pay and program supplementals, by chapter, be printed at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered. (See exhibit 1).

Mr. HATFIELD. Mr. President, I believe this is a good, sound, signable bill. Even if we have to make some concessions in conference with the House on items where we disagree, I think our final product will demonstrate remarkable restraint and fiscal prudence, and I sincerely thank my colleagues for their cooperation in this regard.

However, I also warn the Senate that any amendments which may be adopted providing more spending for the remainder of fiscal year 1982 and beyond will certainly jeopardize the prospects for a successful conference with the House and Presidential approval. My predisposition will be to oppose any add-on amendments unless they provide for some truly urgent, extraordinary, unforeseen matter. I think we have pretty well taken care of such items in the committee, but something may have been overlooked.

Mr. President, I believe the chairman of the Defense Subcommittee, Mr. STEVENS, is to be specially congratulated on his efforts to hold down spending in the fiscal year 1982 supplemental bill, despite great pressure to the contrary. Senator STEVENS was careful to admonish the committee in its markup session that supplementals should only be used to meet unforeseen requirements, and most certainly not be used to recapture funds denied to an agency by congressional action on a regular appropriations bill for a particular fiscal year, or to initiate new programs that should more properly be addressed in a regular appropriations bill for the next fiscal year. Let me quote from page 46 of the committee report to emphasize this point:

Generally, the committee has recommended full funding, by new appropriation or transfer, of the "must pay" items submitted

by the Department. These included such uncontrollable cost increases as unfunded pay entitlements, inflation adjustments, and unanticipated shortfalls in funding.

With few exceptions, however, the committee has rejected proposals to initiate or expand programs in the absence of urgent requirements or other unusual circumstances that are the basic criteria for supplemental appropriations. Many of the supplemental proposals can and should be considered in the normal appropriations process, many of them in the fiscal year 1983 defense appropriations bill.

Using these criteria, the committee has recommended a reduction of \$2,132,724,000 in the President's request for defense.

Of course, I am aware that this is of some concern to the administration, or at least certain agencies within the administration. There have been rumbles from some quarters reminiscent of last year's upheaval over the continuing resolution. Some would measure these bills on a defense versus nondefense basis, and seize on any reduction in the defense request as a cut made simply to add money to a nondefense program. I categorically reject that analysis. True enough, this bill recommends reductions in the President's request for defense, and some increases over the President's request for nondefense programs. But the Committee did not rob Peter to pay Paul. Separate, independent judgments were made as to the funding requirements of various programs, and whether those requirements warranted provision of funds in this bill. On that basis the committee has recommended reductions in the President's request for defense. I am confident we would have made those recommendations irrespective of the funding requirements of nondefense programs.

In making these comments I am echoing the sentiments of the ranking minority members of the House Committee on Appropriations, Mr. CONTE, in his remarks to the other body during its consideration of this measure. I congratulate him on those remarks, and support him completely. And, like him, I believe this is a good bill, and I will urge the President to sign it should he need any urging. If the President vetoes this bill, I will vote to override that veto and urge my colleagues to do likewise.

I also draw the attention of my colleagues to the remarks made by the ranking minority member of our Committee, Senator PROXMIRE, when this bill was laid down last Thursday. Of particular interest is the Senator's pertinent observation that 82 percent of the budget authority provided in this bill will outlay between now and September 30. Not that 82 percent will be obligated, but that 82 percent will actually be spent in the next 6 weeks. That demonstrates the necessity of this legislation.

Finally, Mr. President, I again express my appreciation to all the members of the committee for their usual display of unfailing courtesy and coop-

eration during our markup. At the request of the majority leader, it was advanced from Wednesday morning to Tuesday afternoon on very short

notice, and yet we had excellent attendance without complaint about disruption of schedules.

EXHIBIT 1

SUMMARY OF FISCAL YEAR 1982 SUPPLEMENTAL—H.R. 6863

	Supplemental request	House	Senate	Senate bill compared with estimates	Senate bill compared with House bill
Agriculture:					
Program					
Pay	36,320,000	38,720,000	38,720,000	+ 2,400,000	
Total, Agriculture	36,320,000	38,720,000	38,720,000	+ 2,400,000	
Defense:					
Program	2,422,350,000	367,560,000	492,754,000	- 1,929,596,000	+ 125,194,000
Pay	5,379,274,000	5,229,746,000	5,176,146,000	- 203,128,000	- 53,600,000
Total, Defense	7,801,624,000	5,597,306,000	5,668,900,000	- 2,132,724,000	+ 71,594,000
District of Columbia:					
Program					
Pay	(60,500,400)	(60,500,400)	(60,500,400)		
Total, District of Columbia					
Energy and Water Development:					
Program	97,400,000	92,700,000	56,200,000	- 41,200,000	- 36,500,000
Pay	3,344,000	35,000,000	35,000,000	+ 31,656,000	
Total, Energy and Water Development	100,744,000	127,700,000	91,200,000	- 9,544,000	- 36,500,000
Foreign Operations:					
Program					
Pay	516,531,000	1,031,000	426,531,000	- 90,000,000	+ 425,500,000
Total, Foreign Operations	516,531,000	1,031,000	426,531,000	- 90,000,000	+ 425,500,000
Housing and Urban Development:					
Program	3,775,000		304,000	- 3,471,000	+ 304,000
Pay	160,155,000	258,138,000	257,060,000	+ 96,905,000	- 1,078,000
Total, Housing and Urban Development	163,930,000	258,138,000	257,364,000	+ 93,434,000	- 774,000
Interior:					
Program	178,150,000	217,382,000	199,553,500	+ 21,403,500	- 17,828,500
Pay	60,980,000	77,563,000	72,401,000	+ 11,421,000	- 5,162,000
Total, Interior	239,130,000	294,945,000	271,954,500	+ 32,824,500	- 22,990,500
Labor, HHS, and Education:					
Program	561,046,000	800,154,000	704,648,000	+ 143,602,000	- 95,506,000
Pay	56,864,000	56,864,000	56,864,000		
Total, Labor, HHS, and Education	617,910,000	857,018,000	761,512,000	+ 143,602,000	- 95,506,000
Legislative:					
Program	35,629,000	7,359,325	2,489,000	- 33,140,000	- 4,870,325
Pay	40,243,000	24,092,000	24,536,000	- 15,707,000	+ 444,000
Total, Legislative	75,872,000	31,451,325	27,025,000	- 48,847,000	- 4,426,325
Military Construction:					
Program	198,700,000	45,000,000	45,000,000	- 153,700,000	
Pay	15,743,000	9,800,000	9,800,000	- 5,943,000	
Total, Military Construction	214,443,000	54,800,000	54,800,000	- 159,643,000	
State-Justice:					
Program	131,384,000	107,538,000	151,086,000	+ 19,702,000	+ 43,548,000
Pay	133,619,000	139,678,000	133,733,000	+ 114,000	- 5,945,000
Total, State-Justice	265,003,000	247,216,000	284,819,000	+ 19,816,000	+ 37,603,000
Transportation:					
Program	176,645,000	383,645,000	210,720,000	+ 34,075,000	- 172,925,000
Pay	167,821,000	167,475,000	152,775,000	- 15,046,000	- 14,700,000
Total, Transportation	344,466,000	551,120,000	363,495,000	+ 19,029,000	- 187,625,000
Treasury-Postal:					
Program	529,688,000	547,124,959	585,821,959	+ 56,133,959	+ 38,697,000
Pay	150,510,000	150,149,640	150,149,640	- 360,360	
Total, Treasury-Postal	680,198,000	697,274,599	735,971,599	+ 55,773,599	+ 38,697,000
Supplemental totals:					
Program	4,851,298,000	2,569,494,284	2,875,107,459	- 1,976,190,541	+ 305,613,175
Pay	6,204,873,000	6,187,225,640	6,107,184,640	- 97,688,360	- 80,041,000
Grand total	11,056,171,000	8,756,719,924	8,982,292,099	- 2,073,878,901	+ 225,572,175

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I am going to make a series of unanimous-consent requests.

COMMITTEE AMENDMENTS

Mr. President, I ask unanimous consent to modify the committee amendments by eliminating the amendment to strike the matter on page 64, lines 3 through 10. This has to do with payments for the widows of two Members of the House of Representatives and has been agreed to on the minority side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD, Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc for the purposes of further amendment.

Mr. EAGLETON. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. HATFIELD. We may be able to reach a compromise on this request a little later on this afternoon to adopt the committee amendments with certain exceptions en bloc. So I just want to put the Senate on notice that we are going to attempt to achieve that a little bit later.

Mr. President, the bill I believe now is open to amendment, is that correct?

The PRESIDING OFFICER. The question will be on agreeing to the first committee amendment.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that we temporarily set aside the committee amendments so that we may take up a non-controversial amendment to be offered by the Senator from Washington.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield to the Senator from Washington to offer an amendment.

UP AMENDMENT NO. 1192

(Purpose: To ensure that funds appropriated for flood control measures on the Toutle and Cowlitz Rivers in the State of Washington are obligated or expended)

Mr. GORTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington (Mr. GORTON), for himself and Mr. JACKSON, proposes an unprinted amendment numbered 1192.

Mr. GORTON. Mr. President, I ask unanimous consent that further read-

ing of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title III, on page 108, after line 19, insert the following:

"FLOOD CONTROL

"SEC. 304. Funds appropriated by Ch. VII of the Urgent Supplemental Appropriations Act of 1982, Public Law 97-216, in the amount of \$18,000,000 earmarked for use for flood control and related measures on the Cowlitz and Toutle Rivers shall be obligated or expended as expeditiously as practicable due to a declared state of emergency in the State of Washington as a result of a serious threat of catastrophic flooding."

Mr. GORTON. Mr. President, this amendment that I offer on behalf of myself and Mr. JACKSON does not affect the money balance of this bill at all. It deals with \$18 million which was appropriated by chapter 7 of the Urgent Supplemental Appropriations Act of earlier this year for flood control and related measures on the Cowlitz and Toutle Rivers in the State of Washington, the rivers impacted by the continued eruptions of Mount St. Helens.

It simply directs the Corps of Engineers to expend that money as expeditiously as practicable. The reason for the amendment is the very serious threat to additional flooding on the Toutle and Cowlitz Rivers and due to the fact that the various retaining structures from the eruption are now for all practical purposes filled. Such major flooding would have a very significant and very adverse impact on the valleys of those rivers which include relatively large inhabited towns and cities.

The chairman of the committee, the distinguished Senator from Oregon (Mr. HATFIELD) is, of course, personally as well as professionally familiar with not only the need for this work but for its importance both to my State and indirectly to his own.

I ask that the amendment be adopted.

Mr. HATFIELD. Mr. President, the Senator from Washington is correct regarding this amendment. Having been very close to this matter for a period of years, since the eruption of Mount St. Helens, I am fully aware of this particular problem.

As the Senator knows, unless this dredging proceeds on schedule, and, in fact, if we could beat the schedule it would be all to the better, it is conceivable that heavy winter rains could build up and bring forth a kind of additional silt and spoilage from the damage which has already occurred. It could actually threaten railroad bridges and five interstate highway bridges downriver, as well as build up in the Columbia River itself the residue from the ash and the other debris that resulted from the eruption of Mount St. Helens.

This has, of course, very important regional consequences or significance, far beyond the State of Washington. I am fully sympathetic with his proposal.

This amendment will have no budgetary impact because these are moneys that have already been appropriated. If they are not expended during this fiscal year they will carry over. I understand the purpose of the Senator is to expedite as much as practicable the handling of these moneys through the dredging programs that have been outlined by the corps and which have been approved by the committee's past actions. With that in mind, I would be happy to accept the amendment. It has been cleared on the minority side as well.

So, Mr. President, I will accept the amendment.

Will the Senator ask unanimous consent to merely modify the heading in the amendment to strike the term "flood control"? That is a technical term.

Mr. GORTON. That is correct. I ask unanimous consent that that be done. This Senator thanks the distinguished chairman of the Appropriations Committee for his understanding.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment will be so modified. The amendment as modified, is as follows:

At the end of Title III, on page 108, after line 19, insert the following:

"Sec. 304. Funds appropriated by Ch. VII of the Urgent Supplemental Appropriations Act of 1982, Public Law 97-216, in the amount of \$18,000,000 earmarked for use for flood control and related measures on the Cowlitz and Toutle Rivers shall be obligated or expended as expeditiously as practicable due to a declared state of emergency in the State of Washington as a result of a serious threat of catastrophic flooding."

Mr. EAGLETON. Mr. President, there is no objection on this side of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1192), as modified, was agreed to.

Mr. GORTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the first committee amendment.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENTS

Mr. HATFIELD. Mr. President, I believe we have now worked out a compromise on the matter relating to the committee amendments to be adopted en bloc and let me read the unanimous-consent request and see if this is in accordance with the understanding with the minority.

Mr. President, I ask unanimous consent that the committee amendments, with the exception of the amendments starting on page 30, line 23, through page 34, line 2, and the amendment beginning on page 104, line 16, through page 107, line 2, be considered and agreed to en bloc and that the bill as amended be considered as original text for the purpose of further amendment, with the understanding that no points of order be considered as having been waived by reason thereof, and that excepted amendments dealing with foreign aid be temporarily set aside until called up by the floor managers, with the concurrence of the chairman and ranking minority member of the Foreign Relations Committee.

The PRESIDING OFFICER. Is there objection?

Mr. EAGLETON. Mr. President, I reserve the right to object.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I rise to speak about the importance of a provision in the supplemental appropriations bill which relates to the committee's direction that uncommitted discretionary bridge funds should be allocated to five bridges, including specifically the Monongahela Bridge and the Charleroi-Monessen Bridge, both of which are located in the Monongahela Valley in Pennsylvania.

Earlier today, I visited these two bridges and am in a position to attest to the decrepit state of those bridges and the urgent need for their renovation or repair or reconditioning, whichever is most appropriate after the design and engineering studies have been completed.

The Charleroi-Monessen Bridge is over 75 years old and services 11,850 travelers a day in a population area numbering some 138,000 people. It has a posted 12-ton weight limit requiring detours in excess of 4 miles and subjecting the people in that area to enormous inconvenience.

The Charleroi-Monessen Bridge is a danger to those who travel on it either in vehicle or on foot. I walked across the span today on a rickety wooden sidewalk by the side of the bridge, taking care as to where I placed one foot after another because of spaces

between the boards and because of the appearance of weaknesses in the boards. As a pedestrian, I was able to observe with greater care than a motorist who could have looked out his window and seen through the rusted grate the river below but probably would not have noticed the deep rust and disrepair of the bridge. This bridge is part of the infrastructure of western Pennsylvania, much of which is in need of repair.

The Monongahela City Bridge bears a plaque which shows its construction to have been in 1909, some 73 years ago. It is designed to accommodate some 7,500 vehicles a day, again serving the entire Monongahela Valley with a population of approximately 138,000 people. It is posted for a limitation of 20 tons and it has resulted in detours of some 15 miles for heavy duty vehicles, including fire trucks, causing delays for those who wish to travel to a number of places, in some cases under emergency conditions.

The efforts to apply discretionary funds to these two bridges have met with a spirit of cooperation from the Honorable Drew Lewis, Secretary of Transportation, who has met with me and my staff and has committed himself to do whatever is possible on this subject. This item is a high priority for my colleague from Pennsylvania, Senator JOHN HEINZ, who has labored long and hard for some remedial action on these two bridges.

I do want to say for my colleagues who will be considering this supplemental appropriations bill that these two bridges are urgently in need of repair and that an allocation of discretionary bridge funds for design and engineering purposes will be an important step forward for badly needed repairs.

I thank the Chair, and I yield the floor.

Mr. BAKER. Mr. President, I have had discussion now with the distinguished manager of the bill, the chairman of the committee, Senator HATFIELD, and the distinguished manager on behalf of the minority. It appears to me that the best interests of all Senators on both sides of the aisle will be served now if we leave this bill and wait until the morning to resume consideration of it.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routing morning business to extend not past 3:30 p.m. in which Senators may speak for not more than 10 minutes each.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

THE STRATEGIC PETROLEUM RESERVE

Mr. MURKOWSKI. Mr. President, on June 20, 1982, the ABC television network broadcast an ABC News Close-Up entitled "The Oil Game." This hour-long broadcast raised some relevant points related to oil pricing and the collection of royalties for oil and gas produced on Federal lands. However, this broadcast also dealt with the strategic petroleum reserve, citing it as a case where "the Government and taxpayers may have been defrauded of millions of dollars and our national security may have been compromised."

Mr. President, since I came to Washington a little more than a year and a half ago, I have taken a special interest in the strategic petroleum reserve, (SPR). In my view, the filling of the SPR is one of the best ways we can act to protect ourselves against the possibility of a crude oil supply disruption, so you can understand why I sat up and took notice when ABC alleged that we may have fallen victim to a multi-million dollar fraud involving SPR.

According to ABC, it seems that an investigator for the State of Louisiana uncovered evidence that the Bayou Choctaw SPR facility just outside of Baton Rouge, La. was being filled with waste oil instead of the unrefined crude that was purchased by the U.S. Government to fill the SPR. The ABC correspondent interviewed an unidentified man wearing a hood—presumably to hide his identity for fear of retaliation. ABC told us the unidentified man had worked on the barge dock during the time the crude oil to fill the Bayou Choctaw SPR facility was being unloaded. The unidentified man said the oil had a "rotten egg smell," and that it did not look or smell like a sweet virgin crude should.

Instead, he said, the oil destined for SPR storage looked more like used motor oil. ABC, based upon the interview with the unidentified dock worker and the allegations made by the Louisiana State investigator, concluded its discussion of the SPR by stating that:

As many as 9,000,000 barrels of slop, tank bottoms and wastes may have been pumped into our Strategic Petroleum Reserve at a cost of more than \$100,000,000. Worse yet, an important component of our national security, a hedge against a future oil embargo, may have been undermined.

Mr. President, this particular segment of this broadcast was extremely misleading and incomplete, and I would like to take this opportunity to help set the record straight.

The allegations of theft of oil bound for the strategic petroleum reserve are being fully investigated by the U.S. Attorney's office for the middle district of Louisiana, the Department of Ener-

gy's Inspector General and other Federal agencies. Initial laboratory tests of the crude oil in storage at the Bayou Choctaw facility indicate that the crude oil meets purchase specifications. Unfortunately, while this information was available before the broadcast, ABC did not mention this on their program.

As I mentioned earlier, ABC produced an unidentified dock worker who said the oil smelled like rotten eggs, not sweet virgin crude. The reason for that is the Bayou Choctaw SPR facility stores "sour" crude—which, by the way, has a high sulfur content making it smell something like rotten eggs. The dock worker was not smelling waste oil—he was smelling "sour" crude which met the particular purchase specifications DOE had set for this oil. Again, ABC did not attempt to mention the fact that this might be the case.

Finally, the unidentified dockworker appearing on the program mentioned that, to his knowledge, he had never seen anybody testing the crude oil as it came off the barges. The fact is, Mr. President, the first thing the Department of Energy did when these allegations were first made was to recheck the quality assurance testing procedures that were underway in the previous administration at the time the oil substitutions were supposed to have been made. That review revealed that the testing procedures were prudent, complete, and rigorous. Just because a dockworker did not see the testing did not mean they did not occur.

Mr. President, ABC News did raise some relevant points about energy policy in this country. However, the program's segment on the strategic petroleum reserve was not representative of the highest standards of responsible journalism that I expect from ABC. Despite some early problems in the SPR program, the Reagan administration is making substantial progress in filling the reserve. While there may be some well-publicized disagreements over how quickly the reserve should be filled, the Reagan administration is, in my view, filling the reserve at a prudent rate. I believe we need to continue to move ahead with this program of great importance to our national security at the most ambitious rate possible given the budget constraints that we are faced with.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMPSON). Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING THE RECESS

Under the authority of the order of the Senate of August 5, 1982, the Secretary of the Senate, on August 6, 1982, received a message from the President of the United States submitting sundry nominations; which were referred to the appropriate committees.

(The nominations received on August 6, 1982, are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2036. An act to provide for a job training program and for other purposes.

The message also announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 756. An act to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes;

H.R. 5235. An act to amend the Sherman Act, the Clayton Act, and the Federal Trade Commission Act to exclude from the application of such acts certain conduct involving trade with foreign nations;

H.R. 601. An act to designate certain lands in Alabama as wilderness; and

H.J. Res. 521. Joint resolution to express the support of Congress for the United States and the Soviet Union to engage in substantial, verifiable, equitable, and militarily significant reductions of their nuclear weapons resulting in equal and sharply reduced force levels which would contribute to peace and stability.

The message also announced that the House has agreed to the following concurrent resolution; in which it requests the concurrence of the Senate:

H. Con. Res. 385. A concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate.

At 1:18 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed

the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 6812. An act to facilitate the collection of insurance premiums under title II of the National Housing Act and to authorize the expenses of the Bureau of the Mint for fiscal year 1983;

H.J. Res. 510. Joint resolution to designate the week of April 17, 1983, as "National Architecture Week"; and

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week."

ENROLLED JOINT RESOLUTIONS SIGNED

At 2:10 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bill, without amendment:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 756. An act to amend title 5 of the United States Code to provide death benefits to survivors of Federal law enforcement officers and firefighters, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 5235. An act to amend the Sherman Act, the Clayton Act, and the Federal Trade Commission Act to exclude from the application of such acts certain conduct involving trade with foreign nations; to the Committee on the Judiciary.

H.R. 601. An act to designate certain lands in Alabama as wilderness; to the Committee on Energy and Natural Resources.

H.R. 6812. An act to facilitate the collection of insurance premiums under title II of the National Housing Act and to authorize the expenses of the Bureau of the Mint for fiscal year 1983; to the Committee on Banking, Housing, and Urban Affairs.

H.J. Res. 510. Joint resolution to designate the week of April 17, 1983, as "National Architecture Week"; to the Committee on the Judiciary.

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week"; to the Committee on the Judiciary.

H.J. Res. 521. Joint resolution to express the support of Congress for the United States and the Soviet Union to engage in substantial, verifiable, equitable, and militarily significant reductions of their nuclear weapons resulting in equal and sharply reduced force levels which would contribute to peace and stability; to the Committee on Foreign Relations.

HOUSE CONCURRENT RESOLUTION REFERRED

The following concurrent resolution was read, and referred to the Committee on Foreign Relations:

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate.

COMMITTEE ON THE JUDICIARY DISCHARGED FROM FURTHER CONSIDERATION OF S. 349

Under the authority of the order of the Senate of June 4, 1981, the Committee on the Judiciary was discharged from the further consideration of the following bill, to which it had been referred on June 22, 1982:

S. 349. A bill to amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to provide for judicial review of certain final decisions of the Administrator of Veterans' Affairs; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ:

S. 2820. A bill to amend the Truth-in-Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SPECTER:

S. 2821. A bill to protect the public interest and to clarify the application of anti-trust laws with respect to the location of professional football teams; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DANFORTH (for himself, Mr. COHEN, Mr. BRADLEY, Mr. DURENBERGER, Mr. GORTON, Mr. PRYOR, Mr. ANDREWS, Mr. CHAFEE, Mr. DIXON, Mr. GLENN, Mr. HATFIELD, Mr. HEINZ, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LEVIN, Mr. MOYNIHAN, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. SARBANES, and Mr. STAFFORD):

S. Res. 444. Resolution expressing the sense of the Senate that President Reagan should submit to the U.S. Senate a clear and comprehensive report on the administration's policy for minimizing the risk of nuclear war; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ:

S. 2820. A bill to amend the Truth-in-Lending Act; to the Committee on Banking, Housing, and Urban Affairs.

STUDENT LOAN PROVISIONS OF THE TRUTH-IN-LENDING ACT

● Mr. HEINZ. Mr. President, today, I am introducing a bill to exempt higher education loan programs from the requirements of the Truth-in-Lending Act. The purpose of the bill is to remove a superfluous and costly paperwork burden on lenders, which slows the process of providing loans to needy postsecondary students. While the act would simplify the disbursement of loans, disclosure protections for student consumers would remain in effect.

Currently, higher education loan programs, including the guaranteed student loan program (GSL), the auxiliary loans to assist students programs (PLUS), and the national direct student loan program (NDSL), are subject to requirements of the Truth-in-Lending Act (Public Law 90-321 as amended). Revised regulation Z, the implementing regulation for the Truth-in-Lending Act, requires lenders—financial institutions as well as educational institutions that originate GSLP, PLUS and NDSL loans—to perform cumbersome and unnecessary paperwork. The student loan programs contained in the Higher Education Act of 1965, as amended are already subject to statutory provisions and regulations that provide comparable disclosures and explicit controls over the issuance of loan proceeds to student consumers. These make the truth-in-lending provisions in regulation Z duplicative and unnecessary. Loan programs authorized under part B, which include the GSL, and PLUS programs, and part E, which includes the NDSL program, have specific statutes which govern the interest rates—finance charge or annual interest rate; minimum repayments—payment schedule; accelerated payment conditions—prepayment disclosure; late charges—other charges; grace periods, deferments, cancellations—free-ride period; and endorsement provisions—security interests. Additionally, institutions and lenders that make loans under parts B and E are also subject to statutory disclosure requirements outlined in section 433A and section 463A, governing student loan information.

A full complement of regulations governing the student loan programs have also been issued by the Secretary

of Education and are governed by the Administrative Procedures Act, which requires publication changes or modifications that are subject to public comment and congressional review and approval. Internal operating procedures within the Department of Education, also require approval of the wording and formula of promissory notes used by the lender to make an educational loan. Approval is also required on the information contained on other forms and disclosure statements. Schools must also give students a statement of their rights and responsibilities under the student loan programs as required under section 485 of the Higher Education Act. Consequently, all disclosures required under regulation Z are currently being provided to students who are receiving loans under part B or E of the Higher Education Act and are required either through statute or regulations currently employed by the Department of Education.

Therefore, by exempting these student loans from regulation Z, institutions and lenders will be freed from unnecessary and duplicative paperwork. Overall estimates of savings to lenders range as high as \$25 million in administrative costs. Also they will no longer be subjects to possible financial liabilities due to regulation Z. This bill precludes the prospect of the Federal Trade Commission—which is the monitoring agency for regulation Z and truth in lending—being involved in programs administered by the Education Department. However, this exemption will not in any way reduce the protection afforded to students who receive education loans. All the disclosures and provisions required by regulation Z for other forms of credit are covered under the current educational statutes.

Some 23 States have enacted their own truth-in-lending provisions. As is true with respect to the Federal Truth-in-Lending Act, State disclosure laws serve no useful purpose in connection with loans made under title IV of the Higher Education Act of 1965. It is therefore appropriate that the proposed exemption apply as well to State laws. Moreover, the multiplicity of often differing State laws create additional problems for national lenders and secondary markets. The need to set aside State disclosure requirements when the requirements of the Federal Truth-in-Lending Act are suspended has been recognized in the Omnibus Budget Reconciliation Act of 1981. Under section 536 of that act, the Congress set aside the disclosure requirements of both State and Federal law when it established an origination fee on guaranteed student loans.

Since the proposed exemption is remedial in nature, it should be given wide application. With respect to loans

already made, continuing disclosure responsibilities, which also serve no useful purpose, would remain if these loans are not included in the coverage of the exemption. Lenders, guarantors, secondary markets and State and Federal regulatory agencies should no longer have to concern themselves with these disclosure requirements of Federal or State law. Therefore, the proposed exemption should apply to loans made both before and after its enactment.

In short, all parties to student loan transactions will gain from this legislative change. Processing of the loans will be expedited and the reduction in administrative costs will make it more attractive for commercial institution to provide a greater volume of loans to needy students. The entire higher education community, including the U.S. Student Association (USSA) and the Council of Private University Students (COPUS), has endorsed this proposal. The U.S. Department of Education (ED) and the Office of Management and Budget (OMB) included language to exempt higher education loan programs from the truth-in-lending requirements in the administration's omnibus budget proposal for 1981. The administration recognizes that the students are already protected by existing education statutes, and also anticipates notable administrative savings for Federal and State agencies.

The student loan programs in the Higher Education Act, including GSL, PLUS, and NDSL, are all noncompetitive, carefully regulated programs with the same terms required for all lenders.

This bill does nothing to compromise these protections for students. In addition, my distinguished colleague and cosponsor, Senator STAFFORD, intends to amend the Higher Education Act, to guarantee further the continued protection of student borrowers in the future. It is with these safeguards in mind that I urge my Senate colleagues to support this legislation to exempt higher education loan programs from the Truth-in-Lending Act. ●

By Mr. SPECTER:

S. 2821. A bill to protect the public interest and to clarify the application of antitrust laws with respect to the location of professional football teams; to the Committee on the Judiciary.

PROFESSIONAL FOOTBALL STABILIZATION ACT OF 1982

Mr. SPECTER. Mr. President, after studying the issue at length, I am introducing the Professional Football Stabilization Act because I believe it is appropriate for the Senate to consider legislation which would prevent a professional football team from leaving a city where it has established ties unless it cannot survive as a profitable business. This legislation deals only with the issue raised by the plan to

move the Oakland Raiders to Los Angeles, and is more limited than S. 2784, the bill introduced by the distinguished Senator from Arizona, Mr. DECONCINI.

This legislation is premised on the judgment that sports fans in a city have a form of a "proprietary interest" in their team which should preclude the owners from moving the franchise unless it is a failing business. In my judgment, a sports team is "affected with the public interest."

I believe a sports team is different from a regular business entity. If an ordinary business moves away, another such business will take its place if a reasonable profit can be made. That is customarily not so with a sports team.

It is my sense that two generations of sports fans still resent the movement of the Brooklyn Dodgers and the New York Giants baseball franchises. Conversely, people understood the necessity for the relocation of the St. Louis Browns and the Philadelphia and later Kansas City Athletics.

It should be noted that this legislation is not a limitation on private property rights. It is instead an exception to the antitrust laws which restrict private action. From a free enterprise perspective, the 28 owners of NFL football teams should be free to contract away their rights to move without the consent of 21 of the owners. The antitrust laws have been interpreted to invalidate that expression of freedom of contract. This bill would create an exception to that limitation and give effect to their bargain so long as their joint agreement gave proper weight to loyal fan interest and restricted opportunities to relocate to situations in which such support was lacking and the team was, consequently, in true financial peril.

Professional football teams should not be moved at an owner's whim or simply to increase profits from enormous to astronomical. Nor should justifiable relocations be prevented by personal vendetta or caprice. This bill stakes a course of providing standards by which fans and local investments can be protected and by which teams can join by agreement to govern their respective home game locations.

I want to stress that the bill I am introducing today does not grant blanket antitrust immunity to professional sports leagues, nor is it intended to affect adversely the players' labor concerns. Instead, this bill provides, in recognition of the legitimate interests our cities and fans share in their "hometown" teams, that professional football teams may relocate only where such relocation is necessary for their continued commercial viability.

While I am concerned about legislation which would apply to a pending case, this issue is fundamentally different, for example, from applying

contribution to pending antitrust cases. On the contribution controversy, sophisticated litigants chose not to settle but instead to take their chances by litigating through to verdict. Unlike the antitrust damage actions, the Raiders case was not realistically settleable.

While the bill in its present form would be applicable to the Raiders controversy, it may be that hearings will be persuasive to make such legislation applicable only to future cases.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Professional Football Stabilization Act of 1982".

SEC. 2. (a) The Congress finds that—

(1) professional football teams achieve a strong local identity with the people of the cities and regions in which they are located, providing a source of pride to their supporters;

(2) professional football teams provide a valuable form of entertainment in the cities and regions in which they are located;

(3) substantial tax revenues and employment opportunities derive from the operation of professional football teams to the cities and regions in which they are located;

(4) the public, through a municipal stadium authority (which may be a city or county agency, or a municipal corporation) generally authorizes capital construction bonds to build a stadium, while the team's lease or use agreement generally sets rent to cover only operating costs of the stadium, without reimbursing the public for construction costs; and

(5) professional football teams are invested with a strong public interest.

(b) The Congress, therefore, finds and declares that professional football teams are affected with a strong public interest and that it is the national policy to discourage the relocation of professional football teams receiving local support.

SEC. 3. The Act of September 30, 1961 (75 Stat. 732; 15 U.S.C. 1291-1295) is amended—

(1) by redesignating section 4 as section 7 and striking out all after section 7, as redesignated;

(2) by inserting after section 3 the following:

"SEC. 4. No professional football team which has played its home games in a metropolitan area for six continuous years or more shall relocate unless—

"(1) one or more of the other parties to the stadium lease agreement fails to comply with a provision of material significance to the agreement, and such noncompliance cannot be remedied within a reasonable period of time;

"(2) the stadium in which the team wishing to move presently plays is inadequate for the purposes of properly and competitively operating the team, and the stadium authority demonstrates no intent to remedy such inadequacies; or

"(3) the team has incurred an annual net loss for at least three consecutive years immediately preceding the relocation, or has

incurred losses in a shorter period that endanger the continued financial viability of the team.

"Sec. 5. The antitrust laws, as defined in section 1 of the Clayton Act, and the Federal Trade Commission Act, shall not apply to any joint agreement by or among persons engaging in or conducting the organized professional sport of football which restricts the movement of any member team in accordance with the criteria provided in section 4.

"Sec. 6. Any government authority in a metropolitan area from which a professional football team relocates may bring a civil action for damages and equitable relief if such relocation does not comply with the criteria provided in section 4."

(3) by inserting after "section 1" in section 7, as redesignated, "and section 5";

(4) by inserting after section 7, as redesignated, the following:

"Sec. 8. For purposes of this Act:

"(1) The term 'persons' means any individual partnership, corporation or unincorporated association or combination or association thereof.

"(2) The term 'relocate' means to change the location in which a team plays its home games from one metropolitan area to another.

"(3) The term 'government authority' means any unit of general local government or other government agency or authority which exercises regulatory authority with respect to a professional sports team.

"(4) The term 'metropolitan area' means a standard metropolitan statistical area."

ADDITIONAL COSPONSORS

S. 2061

At the request of Mr. MOYNIHAN, the name of the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2061, a bill to provide for the conservation, rehabilitation, and improvement of natural and cultural resources located on public and Indian lands, and for other purposes.

S. 2267

At the request of Mr. HEINZ, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of S. 2267, a bill to amend the Internal Revenue Code of 1954 to allow the Secretary of the Treasury to waive the interest penalty for failure to pay estimated income tax, for elderly and retired persons, in certain situations.

S. 2270

At the request of Mr. LUGAR, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of S. 2270, a bill to amend section II of the Social Security Act to provide generally that benefits thereunder may be paid to aliens only after they have been lawfully admitted to the United States for permanent residence, and to impose further restriction on the right of any alien in a foreign country to receive such benefits.

S. 2702

At the request of Mr. ANDREWS, the name of the Senator from South Dakota (Mr. ABDNOR) was added as a cosponsor of S. 2702, a bill to amend section 8(a) of the Small Business Act

to treat businesses owned by Indian tribes as socially and economically disadvantaged small business concerns.

S. 2720

At the request of Mr. QUAYLE, the names of the Senator from Minnesota (Mr. DURENBERGER), and the Senator from Hawaii (Mr. INOUE) were added as cosponsors of S. 2720, a bill to provide transitional funding for the de-regulation of health planning.

S. 2803

At the request of Mr. SASSER, the name of the Senator from Mississippi (Mr. STENNIS) was added as a cosponsor of S. 2803, a bill to create a Federal, State, and local drug forfeiture fund.

S. 2811

At the request of Mr. HAYAKAWA, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2811, a bill to extend the restriction of water resource project construction for 1 year on the Tuolumne River, Calif.

SENATE RESOLUTION 444—RESOLUTION RELATING TO THE RISK OF NUCLEAR WAR

Mr. DANFORTH (for himself, Mr. COHEN, Mr. BRADLEY, Mr. DURENBERGER, Mr. GORTON, Mr. PRYOR, Mr. ANDREWS, Mr. CHAFEE, Mr. DIXON, Mr. GLENN, Mr. HATFIELD, Mr. HEINZ, Mrs. KASSEBAUM, Mr. LEAHY, Mr. LEVIN, Mr. MOYNIHAN, Mr. PELL, Mr. PROXMIRE, Mr. RANDOLPH, Mr. SARBANES, and Mr. STAFFORD) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 444

Whereas, the growing threat of nuclear annihilation poses the most important moral issue in human history;

Whereas, nearly half of President Reagan's term in office has expired, and considerable time has elapsed since the President proposed the prohibition of U.S. and Soviet theater nuclear forces in Europe and the substantial reduction of U.S. and Soviet strategic force levels;

Whereas, ten years have elapsed since the SALT I agreements, including the ABM Treaty, went into effect, eight years since the signing of the Threshold Test Ban Treaty, six years since the signing of the Peaceful Nuclear Explosion Treaty, and three years since the signing of SALT II, the last three having never been ratified;

Whereas, the change in leadership at the Department of State presents a highly appropriate occasion for the Administration to clarify its nuclear weapons policies in light of recent actions which have caused anxiety at home and abroad, including:

(1) The relaxation of export restrictions affecting nuclear fuel cycles and reprocessing technology;

(2) The characterization of SALT I and II as "fundamentally flawed" and the suggested development of ballistic missile defenses in violation of the ABM Treaty;

(3) The proposal to renegotiate the Threshold Test Ban Treaty and the Peaceful Nuclear Explosion Treaty;

(4) The indefinite suspension of negotiations on a comprehensive test ban treaty;

(5) The formulation of a defense guidance paper which has raised questions whether United States nuclear policy contemplates limited or protracted nuclear war and whether any circumstances justify the first use of nuclear weapons; and

(6) The reported intention of the Department of Defense to seek "preclearance" for the use of tactical nuclear weapons; and

Whereas the promulgation of a coherent nuclear weapons policy should be the highest responsibility of government: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President of the United States should submit to Congress, at the earliest possible date, but no later than December 1, 1982, a comprehensive review of our nuclear weapons policies including where we stand, where we intend to go, and how we intend to treat the agreements that have been signed but not ratified.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

Mr. DANFORTH. Mr. President, during the last 6 months the American people and people throughout the world have developed an active concern that their respective governments are not doing enough to reduce the risk of nuclear war. It is not difficult to understand why this concern has created a wave of political activism. Governments now have the power to destroy—in a matter of a few hours—the entire creation. For modern civilization, the possibility that a nuclear holocaust could occur has become the most important moral issue in human history.

There is a recognition that the growth of nuclear weapons, in both numbers and destructive capacity, is unabated. And there is a recognition that the spread of nuclear know-how and capability also is unabated. So many nuclear weapons have been accumulated that it would take more than 9 years to explode them at the rate of one an hour. And by the end of this decade several dozen additional nations may accumulate even more nuclear weapons. This growth is exactly like a cancer. If allowed to spread unabated it will produce death.

In response to this progressively more perilous world situation, people no longer are willing to accept mere pronouncements and promises about reducing the risk of nuclear war. A higher standard of performance is demanded of Government—specific accomplishments to reduce both the numbers and the spread of nuclear weapons. It is an altogether reasonable demand.

The inexcusable fact is that it has been more than 10 years since the United States and the Soviet Union have been able to ratify a nuclear arms control agreement. The Government of the United States must get off the dime. We must assume the initiative. We must pick up the gauntlet laid down by world opinion and by the insistent demands of our own people.

We must produce some specific and tangible progress in the struggle to reduce the risk of nuclear war. Our own people have grown distrustful that their leadership is truly and urgently committed to this end. We must allay those fears. As new leadership is assuming responsibility at the Department of State, there could not be a more appropriate time for the Senate at ask the President to clarify the administration's nuclear weapons policy.

It is not my intention to suggest that President Reagan has been completely inattentive or silent on the nuclear issue. In two significant policy statements—the zero option proposal for intermediate range nuclear forces issued on November 18, 1981, and the Strategic Arms Reduction Talks (START) proposal unveiled at Eureka College on May 9, 1982—the President has offered to go well beyond a freeze on nuclear arsenals. He has advocated the prohibition of United States and Soviet intermediate-range nuclear forces in Europe and significant reductions in United States and Soviet strategic force levels. My deep regret is that half of the President's term in office has elapsed and there is virtually no useful negotiation behind us on those two proposals. I support the President's efforts to create a zero option in Europe and a breakthrough in START. But—in my judgement—the pace and intensity of these efforts is disappointing. Indeed, there are rumors that this administration does not anticipate completion of negotiations on either proposal before 1985. It is my hope that the President can provide a clarification of his timetable and that his expectations are more ambitious than rumor would have it.

The administration has taken other actions which have created grave uncertainty about U.S. weapons policy.

U.S. nonproliferation efforts have changed with the relaxation of export restrictions affecting nuclear fuel cycle and reprocessing technology. Europe, Japan, Australia, and perhaps other countries will enjoy special exemptions from inspection standards which would otherwise be required under the 1978 Nuclear Non-Proliferation Act. They will also be permitted to utilize—under long-term contracts with the United States—plutonium manufactured from reprocessed fuel. Uranium enrichment technology may also be exported by the United States to non-nuclear-weapons states. Further, the United States appears ready to loosen its insistence on full international inspection safeguards for such countries as India, Brazil, Argentina, and South Africa. And it appears ready to relax pressure on nuclear exporting countries such as France, Germany, and Italy to require their customers to comply with the international inspection standards.

If the administration believes that these policies enhance the potential for nonproliferation then I believe that it should make its case more forthrightly than it has to date. I am not unaware of the arguments which are made in favor of a more active U.S. involvement in nuclear exports. It is argued that our increased leverage would permit us to implement more effective safeguards as the commercial nuclear power industry develops worldwide. It is argued that the United States is the only nation that has demonstrated a strong intent for the improvement of such safeguards. It is argued—by none other than the General Accounting Office—that the United States should keep up its activities in reprocessing and fuel enrichment so that it can develop the currently nonexistent technology for precise fuel cycle inventory control of such dangerous materials as plutonium. The administration should share its views on these important subjects in some detail. Its credibility as a leader in the struggle for nonproliferation is at stake. We must not be seen as giving up. If our intention is to develop better international safeguards by remaining a major player then our strategy for accomplishing this goal should be spelled out.

Mr. President, I am especially puzzled as to why a nation of laws like the United States should forgo opportunities to bring the principles of international law to bear on the arms control process. The United States has signed three major arms control agreements which remain unratified. Britain, the United States, and the U.S.S.R. signed the Threshold Test Ban Treaty (TTBT) in 1974. This agreement limits the size of underground nuclear bomb tests to 150 kilotons. In 1976, the same countries signed the Peaceful Nuclear Explosion Treaty (PNET), restricting also the size of bombs used for commercial purposes to 150 kilotons. In 1979, SALT II was signed. The President has not asked for ratification of any of these treaties, and he has decided to suspend negotiations which had been underway for some time toward a Comprehensive Test Ban Treaty (CTBT). I do not understand how there can ever be any hope for the arms control process when we throw years of useful negotiations into the wastebasket. While it is true that the United States has abided by the terms of the TTBT, the PNET, and SALT II to date, I can see no long-term advantage to the United States and the U.S.S.R. winking at one another over what ought to be a matter of law governing the behavior of our nations. Ratification of the two test ban treaties is long overdue. Negotiated under Nixon and Ford, observed by Carter, and establishing reasonable verification techniques including the possibility of on-site inspections, each treaty

requires equitable and mutual concessions. I also am convinced that a verifiable comprehensive test ban treaty could and should be negotiated and that such a treaty would also have a major positive impact on the arms control process. It is inconsistent to support START while opposing a ban on testing. Surely it is easier to verify a test ban treaty where a violation would produce a tell-tale seismic evidence than to verify a force reduction where the mere presence of MIRVed warheads on a missile in a silo could constitute a violation. Moreover, the CTBT would make a substantial contribution toward limiting the destabilization which comes from the deployment of new weapons systems.

Our continued compliance with SALT I and SALT II has been called into question. Indeed, both agreements have been characterized as fundamentally flawed. In addition, U.S. proposals for development of a ballistic missile defense capability, in violation of the ABM Treaty, are increasingly visible. A review of this entire area is needed.

Finally, Mr. President, the administration has formulated a defense guidance paper which has raised questions whether U.S. nuclear policy contemplates limited or protracted nuclear war and whether any circumstances justify the first use of nuclear weapons. It is my opinion that the outbreak of nuclear war cannot be limited because it would escalate in short order to an all-out exchange. To presume that disciplined communications and decisionmaking can prevail for any length of time in a nuclear holocaust is incredible, but I think the administration owes the American people an explanation.

The question of first use is more complex because it involves the credibility of NATO's nuclear deterrent against the possibility of Soviet aggression in Europe. It is too important a question to be left languishing in ambiguity. We should confront the issue head on so that both allies and potential adversaries know exactly what our policy is.

A most chilling development recently emerged from reported testimony of Defense Department personnel who have suggested that the use of tactical nuclear weapons ought to proceed under some kind of preclearance agreement. Such a suggestion makes my blood run cold. Surely we are entitled to have this misbegotten suggestion rejected out of hand or explained in some detail. My fervent hope is that the administration will repudiate it—period.

Mr. President, the United States has a solemn duty to exercise leadership in the struggle to reduce the risk of nuclear war. But we cannot do so in a sea of ambiguity about our policies and

our intentions. Nor can we inspire confidence if the pace of our activity is lackluster. Today I have introduced a resolution expressing the sense of the Senate that the President should submit to the Senate, at the earliest possible date, a comprehensive report on U.S. nuclear weapons policy. The American people and the world community deserve to know where we stand, where we intend to go, and how we intend to treat the agreements that have been signed but not ratified. The vague promises and pronouncements of the past must give way to a specific agenda aimed at tangible results implemented with a strong sense of urgency.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

AMENDMENT NO. 2016

(Ordered to be printed and to lie on the table.)

Mr. QUAYLE (for himself, Mr. TSONGAS, Mr. ROTH, Mr. PROXMIER, Mr. CHAFFEE, Mr. SPECTER, Mr. GORTON, and Mr. MATTINGLY) submitted an amendment intended to be proposed by them to the joint resolution—House Joint Resolution 520—to provide for a temporary increase in the public debt limit.

PRICE SUPPORT PROGRAM FOR SUGAR

● Mr. QUAYLE. Mr. President, today Mr. TSONGAS and I are submitting and amendment to reduce the sugar price support program. Senators ROTH, PROXMIER, CHAFFEE, SPECTER, GORTON, and MATTINGLY have joined us as original cosponsors of this amendment. We intend to offer this proposal as an amendment to House Joint Resolution 520, the fiscal year 1983 debt ceiling bill.

Mr. President, there are a number of compelling reasons for reducing the sugar price support level as soon as possible. Our amendment would reduce the price support from 17 to 14 cents per pound as of October 1, 1982. October 1, 1982, is the date that the new 17-cent loan program goes into effect. Additionally, the USDA must announce new sugar import quotas by September 15, 1982. Since our amendment greatly facilitates the removal of these counterproductive and protectionist quotas, I believe that any change in the sugar program should be in place before this date.

More importantly, however, I believe the costs of this program on American consumers and the American food industry have gotten completely out of line and must be reduced immediately. The Congress has already recognized the urgency of reforming the tobacco and milk programs and has acted to moderate their spiraling costs. The

sugar program too has proven much more costly and inflationary than even its severest critics had anticipated. Just as with tobacco and milk, I believe the Congress should act responsibly to correct its mistakes.

Because of the way the sugar program has been administered, the price of domestic sugar now exceeds that of sugar purchased in the world market by 14.5 cents per pound. This means that American consumers, American bakers, American soft drink manufacturers, and American food processors are forced to pay more than \$3 billion in additional sugar costs per year. Since quotas were imposed on imported sugar in May, the price of domestic sugar has risen by 5 cents per pound.

Since the new sugar program was enacted last fall, the price of sugar in the United States has been driven up by over 50 percent. The inflationary impact of this program cannot be underestimated. At a time when the general rate of inflation has declined, the price of one of the most widely used foodstuffs has risen by one-half. The retail price of sugar is now higher in the United States than in any other countries except Japan and Denmark. How can we be serious about controlling inflation when we legislate price increases of this magnitude?

Some have argued that there are compelling economic and national security considerations which justify this inflationary price support program. Such arguments place a great strain on the credibility of those desperate enough to advance them. Mr. President, I would argue without hesitation that there is no justifiable economic rationale for protecting sugar growers in this country.

The United States has absolutely no comparative advantage in the production of sugar. Cane sugar growers in Colombia, Peru, Kenya, South Africa, Indonesia, Australia, and Honduras achieve much higher yields than those in the mainland United States. Hawaiian growers have higher yields than all these countries except Peru and Colombia, but must extend their harvest cycle to 2 years to achieve this advantage. Beet growers on three continents achieve as much as a 50-percent yield advantage over U.S. beet growers. In terms of cost, the United States is rated a high-cost producer, as growers in the Caribbean, South America, Australia, and Southeast Asia enjoy cost advantages of up to 40 percent over U.S. sugar.

I see no real reason why we should spend billions of dollars to protect an industry which has no real comparative advantage in world markets. Sugar is obviously not related to our national defense. Furthermore, our protectionist policy on sugar only serves to increase trade tensions with our major trading partners. A brief chronology of events following the im-

position of import quotas bears out the prospect that such protectionism will encourage other nations to retaliate against U.S. exports. I do not need to remind my colleagues that U.S. agricultural exports will be the first to suffer from a new wave of protectionism. Following are a few of the results of the imposition of sugar import quotas:

April 26, 1982: Trade Representative Bill Brock warns that sugar import quotas will "make it more difficult" to argue against trade barriers in Japan and the EEC.

May 5, 1982: President imposes restrictive import quotas.

May 14, 1982: EEC officials say sugar quotas will "help dispel the myth that our agriculture is more subsidized than in the U.S."

May 18, 1982: Japanese Foreign Minister Sakaruchi tells U.S. that Japan has virtually ruled out any immediate removal of import quotas on agricultural products, and says Japan would be quick to "point out Washington's recent imposition of sugar import quotas to counter any pressure by the U.S."

May 20, 1982: OAS Secretary General Orfila writes to President Reagan, projects a \$90 million revenue loss for OAS nations due to sugar quotas, and says quotas could "conceivably undermine some of the ambitious and innovative proposals you have so courageously outlined for the well-being of all citizens of the Americas."

May 21, 1982: Exporting members of the International Sugar Agreement issue proclamation stating that U.S. import quotas and "the Sugar Title Provisions of the U.S. Agriculture and Food Act of 1981 are inconsistent with objectives of the International Sugar Agreement . . ."

June 30, 1982: EEC raises possibility of import restrictions on corn gluten feed and cites indirect U.S. subsidy to gluten feed through U.S. sugar program's protection of corn wet milling industry.

July 14, 1982: EEC takes first step toward lodging a GATT case against the U.S. because of imposition of U.S. sugar import quotas. EEC complaint is that import quotas disrupt the world sugar market and contribute to depressed prices by restricting access to the U.S. market.

Although it is difficult to project the economic consequences if further restrictions on U.S. Exports are imposed, it is also difficult to escape the conclusion that U.S. agricultural exports are likely to be hit hardest. Last year we had a trade surplus in agricultural commodities of \$6.9 billion with Japan and almost \$6 billion with Europe. We sold over 2.5 billion dollars' worth of wheat and corn alone to the 10 leading sugar exporting nations of Latin America and Southeast Asia. Why should we allow sugar import quotas to imperil these valuable and well-established markets?

Mr. President, the time has come to reform this program before even more damage is done to both American consumers and American exporters. I believe my amendment is a step toward reducing the heavy burden placed on consumers and exporters by the generous sugar price supports. I fully intend

to offer this amendment as soon as the debt ceiling bill reaches the Senate floor, and urge my colleagues to support this modest but much needed reform.

Mr. President, I ask unanimous consent that my amendment be printed in full in the *RECORD*. I further ask unanimous consent that an explanation of this amendment and several recent newspaper articles discussing the sugar program also be printed in the *RECORD* in full.

There being no objection, the material was ordered to be printed in the *RECORD*, as follows:

AMENDMENT No. 2016

At the appropriate place in the bill insert the following new section:

Sec. . Paragraph (2) of section 201(h) of the Agriculture Act of 1949 (7 U.S.C. 1446(h)(2)) is amended to read as follows:

"(2) The Secretary shall support the 1982 crop of domestically grown sugarcane through nonrecourse loans at 14 cents per pound for raw sugarcane.

"(3)(A) Effective October 1, 1983, the Secretary shall support the price of domestically grown sugarcane through nonrecourse loans at such level as the Secretary determines appropriate, but not less than 14 cents per pound for raw cane sugar.

"(B) Notwithstanding subparagraph (A), the Secretary shall support the price of domestically grown sugarcane at a level not less than 17.5 cents per pound for raw cane sugar for the 1983 crop, at not less than 17.75 cents per pound for the 1984 crop, and at not less than 18 cents per pound for the 1985 crop, if the Secretary finds that by the exercise of his full authority to impose duties and import fees such support level for such crop would not likely result in the acquisition of significant quantities of sugar by the Commodity Credit Corporation.

"(4) Effective October 1, 1982, the Secretary shall support the price of domestically grown sugar beets through nonrecourse loans at such level as the Secretary determines to be fair and reasonable in relation to the level of loans for sugarcane.

"(5) The Secretary shall announce the loan rate to be applicable during any fiscal year as far in advance of the beginning of that fiscal year as practicable consistent with the purposes of this subsection. Loans during any such fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature before the end of that fiscal year."

EXPLANATION OF SUGAR AMENDMENT

This Amendment is designed as a temporary, limited adjustment in the sugar program during the current period of abnormally low world sugar prices. It would establish a loan rate of 14 cents per pound for the 1982 crop year only. This will enable the Secretary to administer the program without a significant risk of budget outlays, through imposition of import fees and duties, but without having to resort to import quotas. For the 1983 crop year and succeeding years, the Amendment gives the Secretary limited discretion to establish a temporary loan rate below the levels specified in the Agriculture and Food Act of 1981—but no lower than 14 cents per pound. If the Secretary exercises his discretion to establish such a reduced loan rate, he is required by the Amendment to reinstate the higher loan rates specified in the 1981 Act

(a minimum of 17.5 cents per pound for the 1983 crop, 17.75 cents per pound for the 1984 crop, and 18 cents per pound for the 1985 crop) as soon as world prices return to a more normal level. Thus, the Amendment requires the Secretary to reestablish the higher loan rate whenever he can operate the loan program at that higher rate—supported by import fees and duties, but not quotas—without a significant risk that the higher support level will result in the acquisition of significant amounts of sugar by the Commodity Credit Corporation.

[From the New York Times, June 22, 1982]

THE SOUR POLITICS OF SUGAR

Congress has long been sweet on the sugar lobby, protecting domestic growers at the expense of consumers and foreign producers. In recent months, however, this incredibly wasteful program has become an embarrassment to all but the most diehard. Senators Quayle and Tsongas hope to take advantage of this change in mood, by cutting back on price supports and reducing the damage to United States trade partners in the Caribbean.

The best places to grow sugar are in the tropics, where labor is cheap and the weather amenable to cane. But such economic realities have never carried much weight with America's few thousand sugar growers or their friends in Congress. In normal times, a combination of fees and tariffs hold down imports and maintain the domestic price far above the world price.

Yet these are not normal times. Good crops have driven the world price so low that the maximum fee and tariff permitted by law is insufficient to keep the American price above the minimum set by Congress. And rather than add to the budget deficit by supporting the price with direct Government purchases, President Reagan decided in May to set quotas on imports.

The quotas promise to make a bad program terrible. They allow the Government to keep the domestic sugar price at triple the world price, adding some \$4 billion to America's sweetener bill. Equally important, they threaten the economy of the politically troubled Caribbean.

Panama and Guatemala—as well as Brazil—stand to lose hundreds of millions of dollars in sugar export earnings when world markets for their other exports are weak. And the Dominican Republic's sugar sales to the United States will fall by a third.

That figure actually understates the potential damage to an economy almost totally dependent on sugar for export earnings. By cutting the amount of foreign sugar purchased by the United States, the quotas force sugar exporters to scramble for other customers. In the two months since the quotas were announced, the price the Dominicans get for the three-fourths of their crop not sold in America has fallen 15 percent.

Senators Quayle and Tsongas would roll back the sugar price support level from 17.5 cents a pound to 14 cents for one year. We would rather see price supports eliminated entirely; there is no place in a healthy economy for a program that costs so much and benefits so few. But Quayle-Tsongas is a beginning, saving consumers over a billion dollars and eliminating the need to use quotas to support the domestic price.

[From the Indianapolis News, June 13, 1982]

SOME SWEET DEAL

Gliding over the polished floors at Versailles, expounding on the necessity for free trade, President Reagan had mud on his shoes.

His decision to impose quotas on sugar imports the month before leaving for the recent economic summit clung to him and left tracks of hypocrisy across his pleas against protectionism.

The President's decision was understandable, at least in terms of domestic politics. Sugar is the sand of international commodity markets: Plentiful and cheap. That's so, in part, because governments such as France subsidize production. To protect domestic sugar producers, America has slapped a countervailing duty on imports. And in his budget battle with Congress last year, Mr. Reagan won key votes by agreeing to sugar price supports.

Now that the price of sugar has plummeted, the bill for that horsetrading would cost the Treasury almost \$1 billion. So Mr. Reagan decided to bill the consumer instead by slapping on a quota. Sugar growers' joy will be costly to consumers: Estimates range from \$1 billion to \$3 billion a year.

Questions such as whether America should bother producing sugar—rather than other commodities buyers might want—don't seem to get asked. And Congress clearly hasn't the guts to rely upon the free market to which it theoretically pays homage. Lawmakers would prefer to gut the proposed Caribbean Basin plan, which had aimed at promoting economic growth through trade.

The President has said Caribbean sugar producers will receive special treatment under the quota program, but nations such as the Dominican Republic still are nervous. Sugar is the Dominicans' leading export, and it now will be subject to quotas as well as fees and duties.

At Versailles, of course, it was easier to point at the Japanese in self-righteous indignation over their trading practices. Mr. Reagan certainly did not come armed with what should have been a pledge to scuttle sugar supports entirely. The official summit communique didn't mention sugar, but we can't help hoping that behind closed doors, at least somebody did.

[From the Miami Herald, July 2, 1982]

SWEET AND SOUR

Sugar prices have tumbled on the world market, but don't expect to pay less at your neighborhood market. That's because the Reagan Administration unwisely has decided to play sugar daddy to domestic producers of sugar.

The United States is imposing an import quota of three million tons to keep domestic prices up. Consequently, consumers will pay an estimated \$1 billion more than they would if market prices prevailed.

The impact will be inflationary—and not just on coffee lovers who prefer two lumps instead of none. Sugar is present in such a wide variety of beverages and processed foods that it's inescapable.

Higher food prices are only the beginning of the problems that the Administration's sugar policies will cause. Taxpayers may be saddled with the cost of propping up prices as well. The Commodity Credit Corp. must pay if prices dip as expected.

Nor will that necessarily be the end of the Federal Government's outlays in further-

ance of its sugar policies. Outlays for foreign aid may have to be increased to make up for cutbacks in imports.

As pointed out by Secretary General Alejandro Orfila of the Organization of American States (OAS) in a letter to President Reagan, "Some 20 OAS countries ship sugar to the U.S. Market." American sugar policies, Mr. Orfila notes, can be expected to "have a profoundly negative impact on the smaller countries of the Caribbean Basin, precisely those most to be aided by the trade, investment, and financing initiatives previously announced by the Reagan Administration."

Why would the Administration adopt a policy so at odds with its stated economic goal of whipping inflation and its foreign-policy goal of helping the Caribbean and Central America? Is the decision just more evidence of the Administration's disarray?

Probably not. More likely it is evidence of the degree to which agricultural policy is shaped by interests adept at lobbying. Thus it happens that domestic producers of sugar and the commodity most injurious to Americans' health, tobacco, have fared well.

Meanwhile, producers of such beneficial products as corn, wheat, and soybeans have been staggering under the double whammy of prolonged high interest rates and a steep decline in prices. Now they're apt to suffer yet another blow: Many sugar-producing nations will be forced to reduce imports of American grains.

There is no sound economic reason for the United States to be a major producer of sugar. It can import all it needs cheaper. If the domestic industry can't compete on the world market, it should use its land for other crops or quit. It should not be sustained by artifices such as subsidies.

To help ameliorate the immediate problem, meanwhile, Congress ought to give sugar prompt attention when the session resumes July 12. Senators Paul Tsongas and Dan Quayle propose reducing price supports for sugar. Their proposal would be sweet relief for consumers and taxpayers.

[From the Wall Street Journal, July 20, 1982]

SUGAR-IMPORT QUOTA CONTROVERSY GROWS OVER BENEFITS TO BIG COMPANIES, GROWERS (By S. Karene Witcher)

Last May, in a twist to the government's already controversial sugar policy, President Reagan signed a proclamation to impose quotas on sugar imports.

That stroke of the pen touched off turmoil in the international sugar industry and marred the administration's much-vaunted free trade stance. It also ignited charges that a few big companies, large farmers and wealthy businessmen, such as the silver-trading Hunt brothers of Dallas, are benefiting from higher sugar prices at the expense of recession-battered American consumers. Many of those companies are publicly owned and some are controlled by foreign shareholders.

"The big benefactors are the big corporations," contends Nicholas Kominus, president of the U.S. Cane Sugar Refiners' Association, a Washington-based trade group of so-called independent refiners, or those without producing operations. The group depends heavily on imports and, not surprisingly, it opposes the sugar price support program, particularly quotas.

The quotas are supposed to raise the price of domestically produced sugar by limiting cheaper imports. That, in turn, should encourage U.S. growers and concerns that

process sugar to sell the sugar to commercial users rather than to the government, which has promised to buy it later this year at a guaranteed price of about 17 cents a pound. A world-wide sugar oversupply has depressed prices to about eight cents a pound, the lowest price in roughly two and a half years.

The administration agreed to purchase sugar as part of a price-support program enacted in December, but now it is balking at spending the hundreds of millions of dollars that could be needed to fulfill that obligation.

DOMINANT COMPANIES

According to the Agriculture Department, big companies, most of them publicly held or units of public companies, dominate sugar production in the U.S. They include such names as Gulf & Western Industries Inc., which has interests ranging from movie making to zinc production, and U.S. Sugar Corp., the biggest cane-sugar producer. Both companies have operations in Florida.

And in Hawaii, a group of companies known as the "Big Five" produce about 96 percent of the state's annual production. One of those companies is Theo. H. Davies & Co., a unit of Jardine Matheson & Co., a Hong Kong-based conglomerate. Only about 4 percent of the state's sugar is produced by individual farmers, Agriculture Department officials say.

In the beet-processing sector, industry sources say the Hunt brothers' Great Western Sugar Co. in Denver usually is at the top of the list as the biggest. While the Hunts don't grow any sugar, their companies process and refine sugar and higher sugar prices mean more income to split with growers who contract with such processor to supply sugar.

The Hunts acquired Great Western in 1975 and usually contract with about 2,500 growers in five states to produce beets, says Jack Fulton, the company's director of government relations and communications. He declined to say whether the company is profitable, saying "we don't release" financial information. But he did note that the quotas will "definitely be a plus" for Great Western in the longer term. Analysts, however, say the quotas means millions of dollars extra a year that Great Western will have to split with its growers. Contracts vary but usually about 60 percent of the proceeds from sugar sales go to beet growers.

And the sugar industry is attracting other big companies to its ranks. In March, C. G. Smith, Ltd., part of Barlow Rand Ltd., a large South African industrial concern, acquired Monitor Sugar Co., a closely held Bay City, Mich., beet processor. One source familiar with the transaction said Monitor is "profitable and the South Africans are coming in trying to make it more profitable." He added that the price-support program, which effectively puts a floor under sugar prices, was an added incentive.

ADDED REVENUE

Industry estimates of how much domestic sugar growers and processors stand to gain in added revenue from the quotas differ. Kim Badenhop, a sugar economist and partner of New York's sugar brokerage B. W. Dyer & Co., estimates that extra revenue to the domestic sugar industry conservatively at just over \$100 million a year. Others say the quotas mean hundreds of millions of dollars a year in extra revenue to growers and processors, based on current sugar

prices and expected production. Most analysts believe the quotas will be in effect for at least two years and prices will be maintained at the current levels at least.

Although the quotas and their higher prices are helping boost profits for some concerns, analysts note that other less-efficient producers, the added income probably will just moderate losses. For example, despite higher prices, sugar analysts expect continued losses from most Hawaiian sugar companies because of high production costs. And some sugar companies, Amstar Corp. for instance, are trimming operations. They blame lack of profitability. New York-based Amstar has closed a beet-processing plant and a cane sugar refinery in the past few days and plans to close another beet plant.

Meanwhile, consumer groups are protesting the quotas and some politicians are trying to introduce legislation to lower sugar price supports and eliminate quotas.

"In a period of rising unemployment and stagnating income it is unconscionable that the administration has imposed quotas," charges Stephen Brobeck, executive director of the Consumer Federation of America in Washington.

Some in the sugar industry argue that Mr. Brobeck's estimates are high, but he reckons the quotas (which have so far raised the price of a pound of sugar by about three cents) will add \$1 billion to the annual total sweetener bill of American consumers. As a rule of thumb, every one-cent increase a pound translates into a \$300 million a year rise in sweetener costs because higher sugar prices trigger increases in alternative sweeteners such as high fructose corn syrup. American consumers currently pay about double the world price of sugar.

Although analysts differ over how much money consumers will pay in added sweetener costs and how much additional income the domestic industry will receive because of the quotas, they do agree on one point: The main beneficiaries of higher sugar prices in the longer term are corn sweetener manufacturers. And they will gain millions of dollars in sales. Corn syrup usually sells at 10 percent to 20 percent discount to sugar and has been increasing its share of the sweetener market in recent years. It currently holds about 30 percent and analysts project that percentage will widen further as users turn to the less expensive corn syrup. As Nauman Batrakat, a sugar analyst at Smith Barney, Harris Upham & Co. puts it: Corn sweetener makers are "rubbing their hands in glee."

[From the New York Times, July 18, 1982]

YES, IT COSTS TOO MUCH

(By Nicholas Kominus)

H. L. Mencken may have had the sugar producer in mind when in an essay entitled "The Husbandman" he wrote: "When the going is good for him he robs the rest of us up to the extreme limit of our endurance; when the going is bad he comes bawling for help out of the public till."

In 1980, when the world price of sugar shot up, the nation's sugar producers did not hesitate to increase their own prices. As a result, they enjoyed record profits. But, as much as the producers enjoy riding the world market up, they hate riding it down. So last year they came to Washington, lobbying for help. Unfortunately, they got help—much help. The sugar program that emerged is dreadful.

The producers got the program, in part, by resorting to scare tactics. They argued that the program was needed to protect con-

sumers from a so-called "sugar OPEC." This was nonsense. Sugar, unlike petroleum, is produced in practically every nation of the world, and substitutes are available. At the time, some were impressed by the argument. But the recent drop in the world price of sugar from 44 to 8 cents a pound has put the "sugar OPEC" argument to rest.

Meanwhile, consumers are stuck with a program that is artificially forcing up the price of sugar, and thereby contributing to the disturbing reappearance of inflation. As the price of sugar goes up, it inflates the price of many processed foods and beverages.

When President Reagan implemented the current sugar price support program, he said, "I personally regret the necessity for signing these proclamations. The sugar program enacted by Congress to protect higher-cost domestic producers will result in higher costs for all American sugar consumers."

The program is, indeed, forcing American consumers to pay more for sugar than consumers in most of the other nations of the world.

Today, the price of raw sugar on the world market is around 8 cents a pound, a result of overproduction in the United States and other parts of the world. Despite producer attempts to discredit it, the world sugar market is not a dumping ground. It is a viable and important market, which accounts for as large a percent of total sugar trade as do the world markets for wheat, feed grains and soybeans.

The United States price, which is forced up by import quotas, duties and fees, is around 22 cents, or nearly three times higher than the world price. By artificially maintaining the United States price that high the program is costing consumers an estimated \$3 billion a year in higher sweetener costs.

That price tag becomes even more significant when it is measured against the small number of sugar producers. There are, in fact, fewer than 14,000 sugar producers. Thus, the cost of the \$3 billion program is an astounding \$215,000 per producer.

By comparison, the annual cost of the dairy program, in which 324,000 producers participate, is estimated to be \$11,250 per producer. The wheat program, in which 870,000 producers participate, is estimated to cost \$475 per producer. It is also interesting to note that the school lunch program costs \$113 a year per child, and that the food stamp program costs \$622 per participant.

The sugar producers enjoy these lopsided Government benefits without any strings attached. Unlike the other crop programs, they can produce all they want. In addition, huge sugar producers get to "play" with the taxpayers' money. Under the program, they can offer sugar to the Government as collateral for loans and these loans are expected to total around \$1 billion in the coming crop year. Producers can reinvest the loan money in money markets, as some have in the past, reaping windfalls from the spread between the low interest rates charged by the Government and the currently high market rates. Moreover, if producers decide to default, they pay no interest.

The sugar program is also proving to be a total embarrassment to the Reagan Administration, which has been forced to impose restrictive import quotas in order to avoid the possibility of the Government having to buy domestically produced sugar. The quotas have been a cause of no small irritation in the developing sugar nations, most

of which are in the Caribbean and Latin America. And the quotas have all but decimated the Administration's Caribbean Basin initiative.

More important, the quota problem transcends the sugar trade. It could have a serious impact upon our foreign trade generally. Sugar quotas will, as special trade representative William E. Brock said, "make it more difficult" to argue against trade barriers in the European Economic Community and Japan. As long as the quotas remain in force, every nation we have a trade problem with will gleefully point to them as an example of our transgressions.

It is ludicrous to jeopardize our \$42 billion agricultural export trade to overprotect a minor industry. The sugar beet and cane crops are produced on less than 1 percent of the nation's farms, and they account for less than 1 percent of crop acreage.

Ironically, the sugar program is pricing sugar out of the sweetener market. High sugar price supports are permitting the corn sweeteners to capture more of sugar's traditional markets. As a result, some sugar refineries and factories are closing.

In recent months, all Government programs have been re-examined, and Government benefits to millions of Americans have been reduced. Sugar and its producers should be no exception.

[From the New York Times, July 28, 1982]

BITTER PILL: PRICE SUPPORT FOR SUGAR

(By Dan Quayle)

WASHINGTON.—Sugar, how sweet it is. So sweet, in fact, that Americans consume an average of 125.6 pounds a year. Yet it is sweeter still for those who produce it, for they are ultimately responsible for pernicious legislation that is protectionist, inflationary and economically inefficient.

I am referring to the sugar support program and recently imposed quotas on sugar imports. These are programs that serve no useful purpose in an Administration committed to the promotion of free trade and the reduction of Government distortion of the marketplace.

Last fall, Congress sent President Reagan a four-year farm bill that he signed into law. This law guarantees domestic sugar growers a minimum market price by requiring the Government either to buy their sugar if it cannot be sold on the open market at the minimum level or to raise prices by other means.

Since the price of corn sweeteners is tied to that of sugar, over 99 percent of the sweetener market now has a minimum price set by the Government. In effect, the Government is punishing the American public for its sweet tooth by making the consumers pay higher prices than necessary.

At present, the Government is required to keep sugar prices above 19.88 cents a pound, yet the world price has now dropped to less than 7 cents a pound. Who pays for this 13-cent difference? Why who else? The American consumer.

The beneficiaries of this program are the 12,847 sugar producers, while 227 million American sugar consumers are left with an acerbic taste in their mouths and a hole in their pocketbooks.

Based on per capita consumption, each 1-cent-a-pound increase in the price of sugar adds at least \$300 million to the national sweetener bill. The present 13-cent difference between world prices and American prices means the sugar program could raise the American sweetener cost by almost \$4 billion annually.

In the past, Uncle Sam has been able to raise the price of sugar in American markets by imposing duties and fees on imported sugar, which has accounted for about 42 percent of our total consumption. When world prices drop below 10 cents a pound, even these duties and fees are unable to make up the difference between the support price and market price because Federal statutes limit the amount to be collected by such measures.

This spring the Government faced the predicament of either having to buy \$400 million to \$800 million in domestically grown sugar or having to find a way to keep American market prices artificially high, as the world market price of sugar was dropping below the necessary level of 10 cents.

On May 4, 1982, President Reagan signed a proclamation imposing quotas on imported sugar with the ostensible purpose of fattening domestic sugar prices enough to avoid having to make enormous purchases. In layman's language, import quotas simply spread the cost of the sugar-price support program to consumers and to foreign sugar producers.

At a time when this country is advocating free trade and badgering other countries to lower their trade barriers, the installment of quotas on imported sugar undercuts the basic free-trade stance and makes it harder to win greater access to foreign markets for American exports. Even William E. Brock, the American trade representative, said the quotas would "make it more difficult" to argue against trade barriers in Japan and the European Economic Community.

A return to protectionism will only encourage the Europeans, the Japanese and other trading partners to limit the access of American products to their markets. Such limitations would be especially costly to American agricultural exports.

The imposition of sugar quotas also threatens to sink the already listing Caribbean basin initiative. In the Dominican Republic, for example, about 10 percent of the population is employed in the sugar industry and its subsidiaries, and 95 percent of its sugar is sold to the United States. This accounts for over a third of its export earnings. Under the present quota system the country stands to lose more than \$136 million in 1982. Other countries that will be severely affected are Guatemala, Panama, Barbados, Colombia, Brazil, Thailand and the Philippines.

I do not believe that America's love for sugar should be punished by an inflationary and protectionist price support program. This program is costly to consumers, harmful to our efforts to preserve and expand free international trade and counterproductive to our programs of helping developing nations. It is a transparent contradiction of the commitment of this Administration to reduce Government distortion of the economy. It must be rescinded now before it does more damage to our economy and to the free-trade system this country stands by.

[From the Journal of Commerce, May 12, 1982]

SOURING ON SUGAR

U.S. trade officials will find it harder than ever to negotiate for greater access to international agricultural markets as a result of the decision taken last week to impose quotas on sugar imports.

The decision was made on perfectly practical grounds. Under the present—ill-considered—price support program, the Commodity

ty Credit Corp. was in danger of being forced to purchase as much as a billion dollars worth of U.S. sugar. The administration could hardly condone that with the present sorry state of the U.S. budget.

In a proclamation, which became effective Tuesday, President Reagan imposed country-by-country import quotas, allowing 220,000 short tons of sugar to be entered into the United States between May 11 and June 30. The quotas are based on exports to the United States over a seven-year period, dropping the highest and lowest years for each country and averaging the remaining five.

Under this calculation, the Dominican Republic gets a quota of 17.6 percent of U.S. sugar imports, Brazil gets 14.5 percent, the Philippines, 13.5 percent and Australia, 8.3 percent.

U.S. Trade Representative William Brock conceded recently that it will be more difficult for the United States to dismantle trade barriers in the European Community and Japan as a result of the move. The quota could prove a heaven-sent bargaining tool in their negotiations with the United States.

U.S. officials, although they are sheepish enough about the quotas, blame the heavily subsidized European Community beet sugar swamping world markets for the collapse of sugar prices, which has put the United States in this unfortunate quandary.

F. O. Licht estimates that beet sugar production in the European Community in the 1981-82 crop year should reach almost 16 million metric tons, up from 13 million in the previous year. This is almost half of the world's beet sugar output in a bumper crop year.

The introduction of quotas also threatens to make a mockery of the administration's Caribbean Initiative, which was designed to give preferential treatment to Caribbean exporters and encourage investment in the countries targeted for U.S. help.

The administration concluded that it had no choice but to apply the quotas as equitably as possible. That leaves such countries as Guatemala with a 4.8 percent quota, Panama with 2.9 percent and Costa Rica with 1.5 percent.

Agricultural Secretary John Block contends that the Caribbean nations will have a 1 percent larger share of the U.S. market with the quotas than they have without them and that they will be getting a higher price for their sugar.

Perhaps, but as the Caribbean Initiative begins the legislative process, the problems are likely to multiply. A House Ways and Means subcommittee last week tightened criteria for products eligible to be entered duty free and excluded a number of items, including footwear, luggage, handbags, work gloves, leather and belts. It also made provisions for a reduction in the free duty treatment on sugar from the Dominican Republic, Guatemala and Panama should that become necessary.

The administration has only itself to blame if it gets into tighter and tighter knots on the sugar question. It shouldn't have fallen for the support program in the first place.

Even the most free market-oriented administration loses its nerve when it comes to agriculture. We can understand why. But that loss of nerve, as events now prove, can be costly. Everyone will pay—the consumer as well as the exporter of other agricultural products. But above all, this country's trade relations—and its probity—will suffer.

[From the Wall Street Journal, July 20, 1982]

REAGAN'S CARIBBEAN PLAN IS COATED WITH SUGAR QUOTAS

(By Alejandro Orfila)

The present is an extremely difficult moment for the inter-American system. Political developments have seriously tested regional peacekeeping and our collective security mechanisms. And the severe economic decline of the past year casts a pall over the development process of this region, whose rates of growth were previously among the highest in the world.

Moreover, many of the problems on the regional agenda admit of no easy solution. It is evident that in the economic sphere the U.S., with its philosophy of free trade, has sought to provide creative and comprehensive responses to the dilemmas the members of the Organization of American States face in common. The Reagan administration's Caribbean Basin initiative is one proposal that demonstrated practical U.S. determination to help accelerate the development of smaller OAS nations through concrete trade and financial arrangements.

However, extraneous conditions are threatening to undermine the progressive development measures being proposed under the U.S. initiative for the Caribbean and Central America. In particular, one can cite those conditions that recently pressed the Reagan administration to impose quotas on imports of sugar.

Even while Latin America has sought to expand its trade horizons, world prices for commodities, such as sugar, coffee, bananas, meat and cotton—its principal exports—have gone down. As a result, the region is not earning the income it requires to offset high energy and debt-servicing costs.

With the imposition of U.S. quotas and the maintenance of high duty rates and import fees on sugar, however forced by unforeseeable or uncontrollable conditions, the short-term economic outlook for many Latin American countries has become more negative. Estimates indicate that under these new U.S. measures, Latin American exporters stand to lose about \$90 million over the rest of this year.

One specific feature of this new quota system is the extreme hardship it places specifically on smaller exporters. Normally, sugar is shipped in vessels of 10,000 to 12,000 tons; U.S. quotas for some countries are substantially smaller than a normal ship's cargo. In effect this results in a practical exclusion from the market, plus higher interest costs for exporters forced to leave sugar in warehouses until the next quarter.

It is important to underscore that some 20 OAS countries ship sugar to the U.S.; in 1980, a year of relatively high prices, this amounted to \$1.3 billion. In a normal year this total is reduced, as will be the case in 1982. This suggests that the nearly \$90 million loss in revenue to Latin America projected from mid-May 1982 through the end of this year may have a profoundly negative impact on the smaller countries of the Caribbean Basin, precisely those most likely to be aided by the trade, investment and financing initiatives previously announced by the Reagan administration. As an avowed and committed free trader, the U.S. finds itself in a difficult and untenable situation, at least in the eyes of Latin America and the Caribbean.

U.S. consumers and foreign exporters alike are being adversely hit by these new quotas imposed on imported sugar.

In addition, the sugar industry in Latin America is reeling from the steady and vast expansion of high fructose corn syrup into the world sweetener market (particularly in the U.S.), an expansion that has not yet been appreciably offset by the potential use of sugar cane for fuel alcohol.

This is the first time since 1974, moreover, that the U.S. import quotas on sugar have been reestablished. Whatever its weaknesses and failures, it should be noted that the spirit of the pre-1974 act did not entail making such quotas primarily a revenue mechanism for the U.S. Treasury, the situation that prevails now under the newly imposed quotas and with the maintenance of high duties and import fees.

It is true, of course, that the solution to the region's sugar crisis does not lie only in the hands of the importing countries. Within the producing countries, a more diversified use of sugar cane is essential for national economic well-being.

Most countries that export sugar are also net importers of oil. An integral use of sugar cane in a modern agro-industry energy system could help reduce this dependence on oil. A more efficient use of bagasse to co-generate electricity and alcohol would provide both liquid fuel and building blocks for sacro-chemical production. This diversified use could help stabilize world prices while not interfering with sugar's use as a food crop.

Yet even if long-range diversification of the sugar industry is essential for its future, the fact is that the recent imposition of quotas by the U.S. is having a disastrous effect on many OAS states. As matters now stand, the sole beneficiaries of these new quotas are U.S. growers. In the interest of hemispheric amity and of regional growth, objectives to which the U.S. has forcefully committed itself, means must be found to extend the benefits of this new U.S. system to Latin American exporters.

Given the overwhelmingly negative attitude in Latin America and the Caribbean toward these new U.S. measures, reconsideration of alternative policies is urgently required. Otherwise the prospects both for an economic turnaround in the region and for a near-term improvement in relations among OAS states can hardly be bright.

[From the Journal of Commerce, July 27, 1982]

CORN SWEETENER DEMAND EXPECTED TO INCREASE

(By Michelle Bolar)

Demand for corn sweeteners—high fructose corn syrup, in particular—is expected to increase during the remainder of this year and in 1983 as the price of domestic sugar rises.

The escalating price of domestic sugar was cited in a recent Drexel Burnham Lambert report as a major factor in making less expensive corn sweeteners a more attractive alternative to industrial users of sugar. The outlook for corn sweeteners was researched by the firm's new tropical commodities and consulting group, headed by Dennis Koutras, with input from food industry analyst Alan Greditor.

Domestic sugar prices have been climbing due to the imposition of sugar import quotas by President Reagan on May 11, after world sugar prices dropped to 8.48 cents per pound.

The quotas were imposed to limit imports of world raw sugar, create a greater demand for domestic sugar, and lift U.S. sugar to a

minimum support price—currently 19.88 cents per pound.

Monday, the spot price of refined cane sugar in 100-pound sacks was 33.60 cents per pound.

Conversely, Monday's spot price of 55 percent high fructose corn syrup was 13.82 cents per pound. (The 55 percent figure refers to the concentration of fructose. Considerably sweeter than the other grain derivatives—dextrose and corn syrup—HFCS is the most widely used corn sweetener in the food and beverage industry.)

With HFCS so much cheaper than refined sugar, the Drexel Burnham report argued, industries that predominantly use sugar will turn increasingly toward HFCS in a cost cutting effort.

In addition to the jump in domestic sugar prices, there are other variables in the anticipated industry crossover to corn sweeteners.

The Drexel Burnham study pointed out that forward coverage of sugar, purchased at depressed prices, was already expected to diminish as 1982 progressed. (Forward coverage refers to the physical inventories of a commodity allocated for future use.)

But with the current restriction on imports, Drexel Burnham warned, industrial users that relied on lower-priced world sugar to establish their forward requirements will be forced to dish out more cash for domestic sugar, unless they switch to a cheaper alternative.

The volume of world sugar on the futures market also has declined because of the import quotas, creating further headaches for commercial users of sugar, according to the report.

Industries frequently traded the world sugar contract in the futures market to hedge against possible purchases of sugar from sugar operators.

Yet "the use of the world sugar market for forward coverage of sugar requirements," the report explained, "will likely be considerably reduced since variable import quotas suggest that no assurance exists that forward purchased raws can actually be imported."

The Drexel Burnham study concluded that these factors have significant favorable ramifications for the corn sweetener outlook:

First, the price limit of HFCS, which is dictated by refined sugar quotations, will be increased. HFCS producers will be able to raise their prices and still be viable contenders against sugar producers.

Second, prices that industrial users pay for refined sugar over the near-term will likely exceed their previous expectations.

Third, the ability of industrial users to protect against subsequent cost increases is being curtailed as a result of reduced access to the world market.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the Subcommittee on Public Lands and Reserved Water to consider S. 2818, to authorize the adjustment of the termination date of certain contracts for the sale of timber from national forest system lands and public lands; and S. 2805, to provide for the

orderly termination, extension, or modification of certain contracts for the sale of Federal timber, and for other purposes.

The hearings will be held on Monday, August 16, beginning at 9 a.m. and on Tuesday, August 17, beginning at 2 p.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, room 3104 Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding these hearings you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

ADDITIONAL STATEMENTS

SOCIETAL PROPERTY RIGHTS

● Mr. EAST. Mr. President, should we open our borders to the millions of people desiring to immigrate to the United States? Some of my libertarian and conservative friends think we should. A lot of elected officials, judging from congressional inactivity over the last decade, apparently agree.

A thought-provoking contribution to the immigration debate was offered by Robert W. Whitaker in an essay entitled "Societal Property Rights," published in the New Right Papers. I hope my colleagues will read this essay and reflect on this problem before we take up S. 2222, the Immigration Reform and Control Act of 1982.

I submit for the RECORD this essay by Robert W. Whitaker.

The essay follows:

SOCIETAL PROPERTY RIGHTS

(By Robert W. Whitaker)

Why is it that labor is worth so much more on one side of a border than on the other? This is a question basic to immigration policy. Is it merely the irrational greed of American workers which keeps our borders closed to the tens of millions of people from poor countries who would be willing to come here and work for less?

As a matter of fact, liberals, libertarians, and big businesses are in implicit agreement on this point. Liberals are generally opposed to enforcement of our immigration laws. Big business sees a great prospect for profit as represented by large-scale immigration of cheap labor. Libertarians believe in equal pay for equal work everywhere on earth. They believe that all labor of the same quality should be paid the same, so restricting the movement of labor between nations is immoral.

This reasoning can go pretty far. Some time back, a conservative magazine contained an article protesting the lax enforcement of U.S. immigration laws on the Rio Grande. A flood of letters poured in, most of them with a single theme: A border to keep people out of the United States is as immoral as the Berlin Wall, which keeps people in East Germany.

To equate the Berlin Wall with American immigration laws is to say that the rest of

the world has as much right to settle in the United States as East Germans have to emigrate. The point libertarians lose sight of is that immigration laws mean that we have something other people want. There are things in America, the product of Americans, which others would like to share. Some of these things are noneconomic, such as freedom. But we cannot share freedom by letting everybody on earth come here. Few free market economists would disagree with that statement. Yet our economic benefits are also the product of Americans, and free market economists quite seriously maintain that we have no right to keep them to ourselves.

Libertarians and free market economists generally believe that one obtains the highest level of production by following, insofar as possible, two principles. The first is that distribution of goods and services should be done by the market place, through supply and demand. Production, on the other side, is maximized by paying each person according to his contribution to production. But they restrict the definition of "contribution to production" to the three classical factors of production: land (including resources), labor (including skilled labor and management), and capital. If labor of the same quality is paid more in one place than in another, it represents an economic distortion.

According to pure free market economics, if wages for the same work are low in Calcutta, true economic theory requires that labor should be allowed to go elsewhere, until there is everywhere equal pay for equal work. Therefore, if Japanese workers are receiving more than Indian workers, they are getting the extra pay because they are exploiting somebody.

But whom? Whom is the Japanese worker exploiting? Is it capital? If Japan's investors were paid too little, the immense flow of capital into Japan from all over the world—including India—would stop. Is the Japanese worker exploiting management? There are firms all over the world who would like to have some Japanese managerial talent, and that managerial talent is perfectly free to leave. If it is exploited, why doesn't it go elsewhere? The reason is that, far from being exploited, managers in Japan do extremely well. Is it resources, then? Is Japan so rich in resources that the extra pay for workers there exploits vast mineral wealth for its benefits? Hardly. Japan does not have a tenth the resources per capita that India does.

Japanese workers receive more for their work because Japan is a productive society. Those who advocate unlimited immigration assume that all societies are equally productive, so the fact that Japan has a high living standard is a happenstance. If we assume the higher wage in a productive society is coincidental, then certainly an Indian has as much right to it as does a Japanese.

Free market economics, in other words, does not take into account contributions of the members of a society, not only as workers and savers, but as citizens.

Societal productivity requires, among other things, a resistance to demagoguery. There is real economic value in having a population in which those unemployed do not try to seize all property. But docility is not necessarily more desirable than constant rebelliousness. The enforced docility of the Franco government for its first two decades in Spain was almost as anti-Capitalist as it was anti-Communist, producing a suffocating system which resisted economic change and growth. Saudi Arabia, even if it

were perfectly safe from a Communist takeover, would not be a place for the building of an industrial society, despite popular docility. Popular docility breeds stagnation, and an industrial society requires steady change. The balance of change and political stability, an accomplishment of tremendous size, is something Western market economists take for granted. They assign productivity to what they call the factors of production, and see the environment for such productivity as a given.

Libertarians say that capital produces wealth, and therefore the capitalist has the right to the rewards. They say that labor produces wealth, and therefore labor has a right to the rewards. The Japanese society and body politic produce wealth, but libertarians insist that that wealth belongs to the world. Otherwise, they would have to admit that immigration restrictions are not mere "economic distortions," but a means of protecting a property right as valid as that of Mitsubishi stockholders.

The difference between wages paid in Calcutta and those paid in Tokyo is the result of something as real as interest rates, and as palpable as a blast furnace. Higher wages are not produced by a people as a result of their performance as laborers only or as investors only, but by their performance as voters and citizens. The societal performance of the people of Japan produces wealth, and the right to that wealth therefore accrues to the people of Japan.

If oil is discovered in Mexico, free market economists will differ with Marxists and liberals about which Mexicans have a right to that oil. Marxists will say that the oil belongs to the people of Mexico, free market economists will say it belongs to the owners of the land on which it was found, and liberals will say it belongs partly to the land owners, and partly to the Mexican people. But all agree on one point: Oil found in Mexico belongs to somebody in Mexico.

One may argue whether the productivity of Japan belongs more to the capitalists of Japan or to the Japanese workers. But by argument analogous to that on oil, it should belong to somebody in Japan. Yet free immigration libertarians are in the ridiculous position of saying that a people has a right to oil which happens to be discovered beneath their soil, but not to the productive environment they produce.

If an Indian laborer is able to make more money moving to Japan, it is because he is able to share the productivity of Japanese society and Japanese politics. By the same token, Mexicans can make more money in America because they are able to share the productivity provided by American society and American politics. Immigration restrictions reward a people for their performance as voters and citizens, a reward which is not only moral, but which makes good economic sense.

The reason for rewarding members of a productive society is the same as for rewarding any other productive activity. Workers acquire skills because skilled labor is paid more than unskilled. Rich people are rewarded for saving instead of spending, not because they deserve the rewards on some abstract moral plane, but because their savings buy capital with which we produce more wealth. For the same reason, the welfare check of a citizen of Dallas, Texas allows him to buy more than a full-time laborer in Tijuana, Mexico can earn. He is being paid for being a part of a productive society. A full-time laborer in Dallas earns several times what a full-time laborer, doing

the same work, in Tijuana earns. He is benefiting by what his society has accomplished, while his Mexican counterpart is paying for the fact that his society has a record of three centuries of demagogues and instability.

This disparity is often unfair. But the conservative economist has little to complain about. It is not fair for many wealthy people to receive the benefit of the fact that their ancestors saved money and worked hard. But every conservative economist will tell you very quickly how essential it is that we pay the dividends of those who inherited stock. He will explain that we must respect property rights, because, even if a particular person doesn't deserve them, it is dangerous to society to deprive him of those benefits. The present generation would see no need to save for their children if property rights are likely to be violated. Further, the expropriation of inherited property implies a threat to the security of all property.

But these same conservative economists never even consider that citizens of a productive body politic should be similarly rewarded.

The cost of ignoring societal property rights is the same as the cost of ignoring any other real property rights. To leave any factor of production out of economic theory is to court disaster. By preaching that only labor produces value, and therefore that interest on investments was evil, the London School of Economics (LSE) guaranteed poverty for most of the Third World for generations to come. India, desperately in need of capital, had leaders who, taught by LSE, refused to bring in that capital by simply allowing it to make money in India, instead devoting themselves to various socialist schemes to provide capital through the state. If societal property rights are left out of economic theory, underdeveloped countries miss a vital point: If they wish to succeed, they must copy not only the technical, but the societal and political methods of successful countries.

A refusal to recognize societal property rights can be equally destructive for a developed economy. If one wishes to stop all investment, one outlaws interest payments. If one wishes to destroy productive societal attitudes, one removes all the benefits provided by societal property rights. It is no accident that even the poorest Americans refuse to vote Communist or Socialist. Part of the reason is that every American shares to some extent in the benefits of American capitalism. These are not the terms in which such votes think. Rather, they are aware that even poor Americans are better off than they would be in other countries, and therefore choose to resist the appeal of radicals.

Clearly, politics is part of economics; society a factor of production. Workers in richer countries are being paid for the politics their country chooses to follow. Economists then have two alternatives. First, they can follow their present course, and wish away this uncomfortable fact of life. Second, they may simply consider politics, and the societal attitudes which produce those politics, another real factor of production, which must be paid for like any other factor of production.

If one considers politics to be something to be wished away by economic theory, all welfare payments are inexcusable. But if one believes that real-world economics must face real-world facts, one must notice that productive societies all make welfare payments to the poor. Such minimum public as-

sistance and relatively high wages are simply part of the price of maintaining a stable body politic today. Given this reality, the completely anti-welfare libertarian degenerates to the level of a liberal moralist: It is a fact, he admits, but it shouldn't be. Anyone who considers himself a realist, and who insists welfare is unnecessary in today's world, must first find a wealthy country where this payment is not required.

I wish, along with libertarians, that the political systems where I am willing to invest my money would stop making me pay taxes for welfare to some of the people who make up those countries. I wish, again with libertarians, that I could have the profits of Indian cheap labor and the safety for my investment provided by a Swiss political system. I wish, with liberals, that oil companies would give me oil free, and that new sources of oil would find and develop themselves while I am enjoying free oil. I wish I had a herd of shmoos. As bases for logical economic thought, all these wishes are precisely equal.

A free market economist I know was very impatient with an Indian socialist, and for good reason. The socialist was saying that, if he believed in the profit motive, he was justifying price-fixers and monopolist exploiters. To justify profits, the socialist said loudly, was to say that those who worked and exploited children in nineteenth century sweatshops were right to do so. My free market acquaintance tried to explain to the shouting ideologue that free market economics only justified some profits, and condemned outright price-fixers as completely as did any socialist. But the socialist ideologue was shouting, and would not listen.

A few days later, this same free market economist was shouting. He said, in effect, that my argument about social property rights would justify the British welfare state. He said I was trying to stop the free movement of labor all over the world, and, in effect, blamed my kind of thinking for the Berlin Wall. I tried to explain to him that the concept of societal property rights only justifies some welfare, and some immigration restrictions, and that it condemns a runaway welfare state as completely as does any other free market approach. But he was shouting, and would not listen.

The free market will take care of the British welfare state. Britain is in desperate straits because its political system is simply asking a higher price than the market will bear. Many people would like to invest money in Britain, but the cost, in taxes and economic restrictions, is too high, so they are going elsewhere. British talent is leaving the United Kingdom to go where their talents receive a due reward. The result is an increasing poverty, which results in the British electorate moving away from the stagnant policies of the past. The British political system, in short, is being forced, by competition, to become more competitive.

If Britain had the only society in the world, it could raise its taxes even higher, just as the only steel company in the world could charge almost anything it chose. The British Labour Party acts as if this were the case, and that taxes can be high as Britons choose without driving talent and capital away and leaving the country impoverished. This is not true, and Britons are being forced to lower taxes and economic restrictions because there are other societies competing for the same talent and resources.

But there are British libertarians who apply an equally illogical assumption: that Britain should have no taxes, and no wel-

fare. They are saying, in other words, that the United Kingdom should provide its productive environment free of charge. Germans, through taxes and high wages, charge money for investment in Germany. France charges money for investment there. Americans will not be surprised to learn that the Internal Revenue Service is still in action. But, say libertarians, Britain should ignore its competitors, and give investors a free lunch. Yet libertarians are also the people who wear buttons saying TANSTAAFL—"There ain't no such thing as a free lunch."

A steel mill can charge only what the market will bear. If there were an infinite number of steel mills, and an infinite number of users of steel, the price of the metal would be almost zero, because every mill would rather get something, however little, than nothing. Likewise, the United Kingdom cannot name its own price, because it is not the only productive location on earth. But it is equally absurd to ask that it charge nothing, because its competition is not infinite.

As a result, the principle of equal work for equal pay everywhere makes no sense at all, because work is not all there is to the person who produces it. However matter-of-fact it may be for a skilled worker in Italy to belong to a union dominated by Communists, that fact drives out investors and lowers the value of his work. If he were made aware of this fact, he would take a new look at this matter, and whether it should continue to be a fact. But so long as even conservative economists insist that politics has nothing to do with economics, and join with Marxists in insisting that unequal pay for equal work is the result of a plot, poor countries will concentrate, not on becoming productive, but on looking for the plot.

It might be added that no libertarian will put his money where his mouth is. I once asked a libertarian who was upset at the idea that labor should be worth more in El Paso than in Tijuana about where he would put his money. Not surprisingly, it turned out that he would never consider investing his money in Tijuana at the same rate of interest he would receive in El Paso. Capital, it turns out, is very different if it is invested in Mexico than when it is invested in Texas. There is nothing artificial about a national border when a libertarian's own capital crosses it.

Libertarian and "free market" theories imply the ideal of a single, free market world, in which the artificial restrictions imposed by separate political units are removed. I see such a unitary body politic as a monopoly demanding what its captive market will bear. Every libertarian expects the exclusive owner of any product to demand as much as he can for his product, without regard to the fact that, in the long run, his greed may reduce everybody's standard of living, including his own. A world state could set taxes at ninety percent or more, because the only choice any firm might have would be to pay the taxes or go out of business. But the libertarian/old rightist assumes that his world state would not act like the monopoly it is.

Marxists ignored competition. They therefore concluded that a single state-owned company would be the most productive, since it would provide the maximum economy of scale. Libertarian economics is based on a similar error. Ignoring competition between states, he concludes that a world state will provide minimum taxation and maximum competition. He scorns the social-

ist, who says that competition is not necessary to force companies to do their best, but he assumes that a single, world-wide electorate would not, sooner or later, behave like the societal monopoly it is.

In the real world, political separation limits the power of any one state over the free market within its borders. If taxes or wages rise too high, investors may choose to go elsewhere. Each society thereby receives the rewards its performance earns.

Against this competitive function, there is the argument that political separation leads to war. That is the thesis behind the United Nations. But the fact is that, throughout the twentieth century, no two democratic states have been at war with each other, though the League of Nations and the United Nations both presided over a world in which war was commonplace. It is not in artificial political unity, but in a movement against totalitarianism and authoritarianism, that the road to peace lies. In such a movement, neither the League nor the UN has ever pretended to take part. Popular rule and national sovereignty are the directions in which the world must move, in order to secure peace to the full extent that the limitations of human nature make it possible.

The New Right, therefore, is not only politically practical, but economically sound, in demanding the enforcement of immigration restrictions. By the same token, we do not advocate an end to welfare, though we do feel, as witness the competitive economic condition of the United States, that it has gone too far. We have no use for the United Nations as the way to peace, because it quite clearly has nothing to do with addressing the causes of war. All these policies dovetail into a rational, and a truly free market, political economy. ●

VOLUNTEER FIREFIGHTERS

● **Mr. SARBANES.** Mr. President, thousands of communities throughout the Nation enjoy the many benefits of necessary fire protection services because of the selfless efforts of volunteer firefighters.

On the Eastern Shore of my own State of Maryland the spirit of volunteerism is very strong, as men and women daily endanger their lives to protect the public safety. These public-spirited citizens provide essential services to protect lives and property that many local communities would otherwise be unable to offer.

Mr. President, I ask my colleagues to join me in recognizing the outstanding work performed by volunteer firefighters, and I ask that the editorial from the Easton Star-Democrat be inserted in the RECORD.

[From the Star-Democrat, July 16, 1982]

THANKING THE VOLUNTEERS

Fire companies throughout the Eastern Shore use the summer months to hold carnivals, flea markets and other fundraisers to complement government funds and private donations allocated to them.

The operation of Mid-Shore fire companies and ambulance squads through history is among the examples of volunteerism at its best. Members of the community, who work in other capacities to earn a living for themselves and their families, dedicate themselves to the community's safety by re-

sponding at a moment's notice to situations which often pose an immediate threat to their own safety. The service they provide is immeasurable. Their efforts are irreplaceable.

The activities staged by the fire companies are the perfect opportunity for the public to say thanks simply by participating. Small donations are required, but the return in recreational value is great. And it is a startlingly small price to pay to aid in the protection of the entire community.

Figure, for instance, that Talbot County provided the Easton Fire Company \$21,600 last year. Figure, for instance, that Talbot County provided all county fire companies a total of less than \$130,000 last year.

Talbot's fire companies and ambulance crews made a total of 2,356 calls last year. That comes to about \$55 dollars per call.

Now, figure that in Salisbury, where they have been paying firemen for some 30 years, the fire company and ambulance crew salaries came to \$888,000 last year. That's exclusive of operational costs.

Though particular situations, such as debt retirement and building upkeep, vary from company to company on the Mid-Shore, the debt of gratitude merely for the time volunteered by these individuals is immense.

Anything the public can do to help repay that debt is money well spent, and that goes for all communities on the Mid-Shore, not just in those where firemen and ambulance crewmen are especially busy. The actual cost of responding to a call is minor compared with that of maintaining fire and ambulance operations. The initial cost for equipment must be paid, and the equipment must be kept up-to-date and in good repair.

The volunteers spend additional hours keeping themselves in good tune and up-to-date on modern firefighting and rescue techniques.

So when you hear of activities sponsored by your local fire department, don't think it is just someone else trying to reach into your pocket. Think of it as cheap insurance that provides some family fun as well.

In the most literal sense, it is the least you can do. ●

SALISBURY, MD. CELEBRATES SESQUICENTENNIAL

● **Mr. SARBANES.** Mr. President, it is a great pleasure to recognize the 250th anniversary of the city of Salisbury. As a native of this great city, I fully share the pride of its citizens in witnessing this milestone event.

For 250 years the city of Salisbury has served as a remarkable example of a community working together for the common good. It has created an outstanding environment in which hard-working citizens raise their families.

I can remember as a young man working in my family's restaurant and attending Wicomico County Senior High School the values that my parents sought to teach their children—values fundamental to our democracy. These values are shared by the proud people of Salisbury.

I am confident that the next 250 years will prove to be years of further great achievement for the city of Salisbury.

Mr. President, I ask my colleagues to join us in saluting the city of Salisbury during its sesquicentennial celebration, and I ask that the article from the Baltimore Sun, as well as the 50-year-old articles from the Baltimore News published during the city's bicentennial celebration, be inserted in the RECORD as a tribute to the citizens of this jewel on Maryland's Eastern Shore.

[From the Baltimore (Md.) Sun, Aug. 8, 1982]

SALISBURY'S ANNIVERSARY IS CAUSE FOR CELEBRATION

(By Mary Corddry)

SALISBURY.—Salisbury's nine-day celebration of its 250th anniversary began with a flourish Friday when 34 visitors from Salisbury, Wiltshire, England, flew in from Baltimore.

The landing of the Northern Irish-built Shorts 330 commuter airplane, based here, with its British passengers was, in a sense, representative of what the Eastern Shore city has to celebrate.

Like surrounding towns that may look more Colonial, Salisbury has a deep sense of its Eighteenth Century roots, and the delegation from England was a personal affirmation of historic ties.

But unlike adjacent towns, Salisbury is no longer a quaint, bucolic village. It is a bustling and growing economic center that supports a busy airport and commuter airline that can accommodate guests from faraway places in a distinctly Twentieth Century way.

The connection to Salisbury, England, dates to the 1600s when the original owner of land at the head of the Wicomico River noted its similarity to the English city on the Avon River.

About 50 years later, in 1732, a small group of businessmen with surnames still common here recalled the association and got the General Assembly in Annapolis to pass, on August 8, a bill designating 15 acres to be blocked off in lots for a town. It is the 250th anniversary of that event that the British Salisburyans were invited to help commemorate.

The visitors will stay at local homes and be guests of honor at parades, a historical pageant, sports events, a crab feast and a dizzying schedule of dinners, luncheons, teas and other entertainment. They will also get to see just how far Salisbury has come in the last 250 years.

Salisbury, situated at the Shore's geographic center, is also its commercial center, with a burst of development in the last decade that led some experts to call it "the hottest place in the state."

From the time of Salisbury's founding, ambition rather than the good life seems to have been the driving force of the community's business and civic leaders.

There is little sign here of the early Americana, waterfowl, workboats or country estate life that "Eastern Shore" has come to mean. Salisbury is more likely to be represented by the steel skeleton of a multi-family housing project or shopping complex, or the innovative architecture of the \$28 million Peninsula General Hospital and its recently added oncology unit, which dominate the center of town.

In Salisbury, community pride is based more on progress than heritage, and progress is demonstrated no more dramatically anywhere than in the rapid growth of its air traffic in the last decade.

Richard A. Henson, of Hagerstown, who developed one of the first—and today, one of the biggest—commuter airlines in the nation, began his Allegheny Commuter service here in 1968 and contracts with what is now USAir. There are now 28 flights a day between Salisbury-Wicomico County Regional Airport and the Baltimore-Washington International and Washington National airports. It was Mr. Henson's commuter line that flew in the visitors from Salisbury, England.

The entire Henson line is based and maintained in expanded facilities at the Salisbury airport, so that in Maryland Salisbury is second only to BWI in air traffic. Salisbury has been described in aviation publications as "the model commuter city in the United States."

Salisbury's bicentennial celebration 50 years ago came during the heart of the Great Depression after a decade of the greatest growth in the town's history.

In a similar pattern, next week's celebration follows a boom in the 1970s during which, at one point, over 10 percent of the nonresidential construction in the state was under way in Salisbury.

"Building permits are behind this year," Robert L. Kiley, executive director of the Salisbury-Wicomico Economic Development Corporation, said last week. "The economic slowdown in the construction and real estate fields here are affected by the national slowdown. But retail sales are ahead of last year."

An all-out effort is in progress to bring new life into one of the town's weakest areas, its central business district.

The money in Salisbury is not brought in from elsewhere. It is "generated here and spent here," as Mr. Kiley put it, by doctors, lawyers, business and industry ranging from electronics to canning.

Most of the firms here are "as homegrown as the farm produce," Mr. Kiley said. "Economically this is still one of the healthiest spots in the state of Maryland."

Salisbury is healthy enough to have budgeted \$100,000 for this week's Sesqui-Bi-Centennial celebration. It was planned for over a year by an incorporated committee with "seed money" put up by the town, said David F. Rodgers, a local banker and chairman of the Sesqui-Bi-Centennial.

The celebration of Salisbury's founding in 1732 will be straight from the Americana of Norman Rockwell.

Yellow banners reading "City of Salisbury Sesqui-Bi-Centennial, 1732-1982" bedeck Salisbury like tinsel in December, and along Main Street some townspeople are growing beards to full thickness in the summer humidity for the first time since the nation's bicentennial six years ago.

About 280 people are rehearsing daily for a historical pageant to run nightly through next week before a 250-foot backdrop at the Wicomico Senior High School football stadium.

Among other things, the pageant will show how agriculture made a transition from general produce to the big broiler industry, the growth of Perdue Farms, Inc., which is headquartered in the town, and the dominance of corn and soybeans grown for the company's feed mills.

While the Perdue name is known to both the Pittsburgh pageant producers and members of the British delegation, Salisbury is not by a long shot a company town.

"This town has a totally diversified economy," Mr. Kiley said.

The small-town atmosphere of this week's celebration and the rural image conjured up

by the poultry industry are in sharp contrast to some of the more sophisticated ambitions of its business community.

Many of these ambitions emanate from the Greater Salisbury Committee which a few years ago launched an intensive effort to promote this town as the administrative headquarters for offshore oil exploration and development, a concept now dormant.

Another idea, to develop the airport into a training center for commuter pilots and maintenance personnel from all over the country, has been scaled down. A flight simulator for the Shorts 330, the first in the United States for training commuter airline pilots, was acquired with the help of the Maryland Department of Economic and Community Development. It is used mainly to train Henson pilots.

Many of the ideas of the Greater Salisbury Committee are tossed out like "trial balloons to see if they will catch the imagination here and beyond," said Frank H. Morris, a former Salisbury mayor and the new president of the Greater Salisbury Committee.

The committee is limited to 55 business and professional men who head their own firms. The committee "keeps good lines of communication open" with the Wicomico County Council and Salisbury mayor and Council "to make things happen," Mr. Morris said.

The British Salisburyans were invited last April by Mr. Rodgers during a five-day visit to the Wiltshire Salisbury.

The delegation from England includes Salisbury Mayor Beverley Head who, Mr. Rodgers said with some awe, wears in the full regalia of her office a gold medal bearing the founding date of her city—1264.

One of the visitor's dinner hostesses will be Bertha Adkins, a nationally prominent Republican during the Eisenhower years and Salisbury native who went to Salisbury, England, in 1932 to invite a delegation to the Shore town's bicentennial celebration that year. Mayors and civic leaders of the two cities have exchanged visits and hospitality ever since.

[From the Baltimore News, Aug. 9, 1932]

15,000 ON HAND AS SALISBURY OPENS BICENTENNIAL

SALISBURY, MD., Aug. 8.—Salisbury is 200 years old today. Ushered in last night by a religious and civic festival, witnessed by 15,000 of its own people and its neighbors, the city's six-day birthday party went into full swing today with the official welcoming of its most distinguished guest, Councilor J. Sidney Rambridge, Mayor of Salisbury, England.

In a garlanded court of honor set up along the main street of the town, State Comptroller William S. Gordy, Jr., chairman of the Bicentennial Commission, this afternoon was to declare the week of celebration open.

Governor Albert C. Ritchie will make the first address, bringing to the people of Salisbury the greeting of the entire State. At the same time he will officially greet Mayor Rambridge in the name of the Commonwealth.

The address of welcome will come from Mayor Wade H. Insley before Mayor Rambridge brings his greetings from the mother city.

OFFER SILVER TROPHY

He will offer a silver trophy sent by the citizens of the 700-year-old English township—and read greetings from Lord Arun-

dell of Wardour, head of an ancient Wilshire family with which Lord Baltimore, founder of Maryland, was connected.

Salisbury on its part will present the Councilor with the key to the city, encased in a sterling casket of symbolic design. The key and casket are to become the property of the people of Salisbury, England, but to the Mayor himself will be offered a rose pattern fruit bowl, personal trophy from the citizens of the Eastern Shore city.

TENNIS TOURNAMENT ON

Through the day the tennis tournament, inaugurated yesterday, will continue and in the evening the Bicentennial Band will give another of its concerts in the municipal park.

Tomorrow afternoon will see the arrival of the Maryland National Guard Air Squadron and at night a great historic and symphonic pageant will be staged in the vast natural amphitheatre of the park.

Success and significance of the carefully planned festival was augured last night when thousands thronged into gaily bedecked Salisbury to join in outdoor religious services and see the dedication of a spectacular new illuminated fountain.

CROWD AROUND LAKE

The great crowd lined the slopes above the park lake. Floodlights swept an improved stage and amplifiers carried music and words to the massed listeners. After a stirring concert from the Bicentennial Band, a joint choir from all the churches moved into place.

The Rev. J. N. Stewart of the Allen Memorial Baptist Church offered the invocation. Dr. Justin Wood of the Asbury Methodist Church conducted the anthems.

The evening sermon was delivered by Dr. Lewis S. Mudge, leader of the Presbyterian Church. The minister speaking on "The Church and the Nation," warned America against lawlessness, but said that those who speak of a present "wave of law-breaking" don't know what they're talking about.

He continued.

"The truth is that our fathers ate sour grapes and their children's teeth are set on edge. Many of those who assisted in the organization of the 13 original colonies selected what laws they would obey and what they would disobey.

"As their successors in wave after wave of immigration swept westward over the mountains, establishing new frontier after frontier they, too, frequently took with them such of our laws as they preferred and left the others behind.

"We have forgotten that the moral law must be at the heart of any stable social order."

LIGHT FOUNTAIN

At the conclusion of the service listeners turned their attention to where the great new fountain waited under its canvas, across the lake from the stage. All lights were abruptly darkened.

Miss Betty Springs Dryden cut a ribbon. Her father, F. H. Dryden, City Engineer, switched on fountain lights and, water simultaneously. Suddenly there shot up 30 feet into the air a great geyser of flame colored water.

The crowd cheered. Myriad smaller jets, rainbow-hued played beneath the geyser and between them tinted mists suffused the air.

For a long time the crowd stood cheering while the engineer made brilliant colored pictures with the fountain and the lights, the whole said to be one of the finest and

most spectacular in three States. During each three-minute cycle 14 changing color combinations transformed the playing waters, moving in intricate designs.

Guarded by a State trooper and escorted by his hostess, Mrs. A. J. Vander Bogart and her son, Hugh Vander Bogart, who arrived from New York yesterday, Mayor Rambridge joined in both religious and civic ceremonies. Though he made no formal public appearance, he was quietly welcomed by long lines of residents of Salisbury.

Mrs. Vander Bogart is the daughter of the late Governor E. E. Jackson and her home at Tony Tank is one of the traditional landmarks of the Eastern Shore.

There were two hard-fought tennis matches played in the second round of the tournament which is a feature of the celebration.

Charles T. Smith, Princess Anne, Md., defeated Levin L. Waters, also of Princess Anne, 7-5, 9-7.

In the other match Daniel Ellis of Lewes, Del., defeated J. W. Lewis of Chestertown, 8-6, 8-6.

HISTORICAL EPISODE FEATURE CELEBRATION AT SALISBURY

SALISBURY, Md. Aug. 9.—Two centuries of a community's development, from the conquest of primitive territory to visions of yet greater achievements to come, will be re-enacted here tonight as two-hundred-year-old Salisbury reviews its own history in symbolic pageantry.

Ten dramatic episodes of the pageant of growth, touching highlights of Salisbury history, will be unfolded in the natural amphitheatre of Municipal Park on the evening of the second day of the city's bicentennial fete.

The celebration was officially inaugurated yesterday afternoon with the welcoming of Councilor J. Sidney Rambridge, Mayor of Salisbury, England, who crossed an ocean to join in the ceremonies.

RITCHIE PARTICIPATES

Governor Ritchie, State Comptroller William S. Gordy, Jr., and Mayor Wade H. Insley participated.

Ms. Margaret Black Ross, pageant director, working with Dr. William J. Holloway, chairman, has woven past and future into a spectacle which 330 lineal descendants of the founders of Salisbury will portray tonight.

Thousands of visitors, first welcomed for preliminary services Sunday night and again present at the rites yesterday, and expected to crowd the banks of Park Lake tonight as the historic pageant moves into view.

Flood lights will illumine the stage, amplifiers will broadcast words, and stirring music will quicken the march of events.

COSTUMED DANCERS

Costumed dancers will offer a prologue to the first episode, the settlement of a new town. In this scene Indians will be seen at the first news of the white man's coming.

Capture and execution of "Ben" Allen, Tory, robber and pirate, will be the climax of the second episode.

In the interlude, the familiar tunes of the Civil War era will be played again in preparation for episode three, showing how Salisbury was made queen of Wicomico, formed of parts of the counties of Worcester and Somerset.

A piquant picture of an older time will be revived as "Jim" Jeams, the last town crier, relates the news of the day during the second interlude.

HONOR FOR JACKSON

Episode four will show the townspeople in a demonstration for Elihu E. Jackson at the time of his nomination as Governor of Maryland.

Drama of the World War area will make the fifth episode, reaching its climax when veterans return as a guard of honor for a gold star mother.

Progress, vision, courage and faith will attend Queen Salisbury, depicted by Miss Carolyn Waller, as she takes her place in the triumphal procession which will open the second half of the pageant.

Growth of agriculture, transportation, building and industry will be shown in the succeeding four sections.

In the dramatic finale, Salisbury, knowing the past, is to receive with Maryland and promise of the future.

Among the thousands of spectators who will observe the historic procession will be Mayor Rambridge and his party from England, city officials and other honored guests.

BOYS' DAY PLANNED

Salisbury is to be governed by youths tomorrow as a feature of "Boys' Day," a "Mayor" as well as "Magistrates" and "Firemen" having been appointed. In presenting a beautifully bound copy of the History of Salisbury to Governor Ritchie today the boys informed the Governor they would enforce a 100-year-old statute forbidding sale of cigars to minors, which they claim to have discovered, warning prospective purchasers and sellers they would be liable to jail sentences of "at least 10 minutes."

At noon today the Chamber of Commerce gave a luncheon in honor of Alfred Batt, president of the Chamber of Commerce of Salisbury, England, and the city's other British guests.

PRESENTS PAINTING

Mr. Batt presented the local chamber with an oil painting of Salisbury Cathedral, one of the most beautiful in England, and was the recipient of a desk set, the gift of the Salisbury, Md., body.

Among those at the luncheon were Mayor J. Sidney Rambridge of Salisbury, England, and his brother; the County Commissioners of Wicomico county and Mayor Insley.

The National Guard air squadron is scheduled to arrive for spectacular maneuvers during the afternoon. At the same time the tennis tournament, started Sunday afternoon, will continue.

Hundreds of former Salisburyans have made the bicentennial celebration the occasion for reunion with family and friends. The officials bear addresses as widely separated as Belfast, Ireland; Glasgow, Scotland, and Hollywood, California.

The streets are filled with music by day and by night, as great amplifiers, affixed to Main street lights, pour forth their festive airs.●

MEXICAN RESOURCES SHOULD BE USED TO EDUCATE ITS CHILDREN

● Mr. EAST. Mr. President, while the U.S. Supreme Court rules that illegal aliens are entitled to a free education in this country, the Mexican Government takes the more sensible position that Mexican resources should be used to educate Mexican children, according to a story entitled "Mexico Tightens Educational Restrictions," pub-

lished in the Laredo, Tex., Morning Times of July 11, 1982. I ask that this article be printed in the RECORD.

The article follows:

MEXICO TIGHTENS EDUCATION RESTRICTIONS
(By Becky Cavazos)

At a time when the U.S. Supreme Court has placed this nation in the position of responsibility over the education of all children, whether of U.S. or foreign birth, the government of Mexico has chosen to tighten its liberal spending on public education.

The government has taken an adverse position against Mexico residents who claim to have dual citizenship and has restricted the right to a public education to undisputed citizens of that republic. The change in policy in effect terminates previous sanctions on dual citizenship for educational purposes.

An order from the federal office of education in Mexico City has established new rules for the national school system to force children with dual citizenship to give up their claim to citizenship by foreign birth certificates or lose their right to a free public education in Mexico.

In the form of a federal mandate, the educational policies handed down to take immediate effect on all levels of the free public school system in Mexico, touches perhaps on every border community.

"The government of Mexico cannot be held responsible for educating children of foreign origin," said Dr. Ismael Villarreal de Pena, head of the first office of civil registry in Nuevo Laredo.

Villarreal said thousands of children in border communities claim citizenship in both the United States and Mexico, attested by certificates of birth in the U.S. and the rights of citizenship in Mexico by virtue of their parent's nationality.

According to the constitution of Mexico, all children of Mexico-born citizens have the rights of citizens in that country. The new ruling contradicts that constitutional right.

"The government of Mexico does not have the resources to educate children that are not Mexican citizens," Villarreal stated.

He said that with the country's current economic crisis, it would be unreasonable to allow U.S. citizens to occupy the classroom seats of Mexico citizens.

"Many don't want to be citizens . . . and under a free educational system they may be trained to be engineers, technologists and even doctors . . . and there's nothing we can do to keep them from leaving Mexico and going to the United States where they were born."

"The government does not have the money to educate foreigners," he reiterated.

Villarreal noted that it is a common practice for children with dual citizenship to receive a free public education in Mexico and return to the United States to continue their careers.

The official's concern echoes the government's sentiments towards the loss of benefits from educating a group of highly trained profesionistas, who as adults chose to take residence in the United States.

The director of the civil registry noted that it is illegal to file birth certificates in both countries, as the common practice when parents sign false affidavits in Mexico claiming that their U.S.-born children were born in the Republic of Mexico.

Although the new policy is now strictly enforced throughout the school system, its effects are felt only in the levels of transition.

A secondary level school professor and federal school inspector in Nuevo Laredo, Roberto Munoz, explained that certification of Mexican citizenship is required at the junction between the sixth grade level and the junior high or secundaria. This is also true when students complete the high school grades and wish to attend the preparatoria and later, the facultad or university level.

A check of the federal registry into dual citizenship is made and the student is forced to decide on which citizenship he prefers.

Under the new regulation, students without a certification of birth in Mexico do not receive certified accreditation of their studies and their course work is not transferable to the succeeding educational level.

When contacted this week at the Mexican Consulate here, Consul Miguel Najera Diaz was unaware of a change on the Mexico dual citizenship policy as it relates to education.

PROGRAM

Mr. BAKER. Mr. President, it appears that there is nothing else that can be done today. Members should know and will recall, I am sure, that I had hoped we could dispose of a number of amendments, at least to the extent of completing debate and stacking the votes until tomorrow. We have not done that. We have dispatched one amendment that was accepted. The committee amendments have been adopted en bloc, which is more than 100 committee amendments, with the exception of three, which have been specifically reserved. I regret that we could not go further with the bill today, but we simply could not. There was nothing else that could be done.

I reiterate the remark I made this morning during the opening, Mr. President: Members should be aware that this week on our agenda we have to finish the supplemental appropriations bill and the immigration bill in order to get to the debt limit bill next week—all in order to realize our desire to make the Senate recess schedule conform with that of the House.

I remind Senators once again that the recess schedule for the Senate is still August 27. It has not been changed to August 20. The memorandum that I sent around sometime ago, which the minority leader and I have discussed at some length on more than one occasion, was that if we could finish the "must" list of legislation between now and August 20, we would go out on the 20th, as will the House of Representatives.

That means we have to finish the supplemental. It means we have to do the immigration bill and the debt limit and any conference reports that are

available to the Senate prior to that time. That is a tall order.

Mr. President, Senators should be on notice that any night this week could be a late night. They should be on notice that this Saturday and next Saturday are potential days of business for the Senate. I do not say these things in any way to intimidate, which I could not if I wanted to—witness the fact that there are so many absentees today who paid absolutely no attention to my admonition. The only reason for reiterating these remarks at this time is to let Members know that either we do these things or we stay until the 27th or beyond to finish them. That is simply our responsibility and we shall do these things.

Once again, Mr. President, Senators should not set their plans in concrete for the week between the 20th and 27th of August. Members should be aware that this will be a tough 2 weeks ahead of us as we try to dispatch the balance of measures on the "must" list of legislation.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 4:30 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the RECORD remain open this afternoon until the hour of 4:30 p.m. for the introduction of bills and resolutions, and insertion of statements by Members.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. BAKER. Mr. President, I see no other Member seeking recognition. Therefore, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to and, at 3:10 p.m., the Senate recessed until tomorrow, August 10, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate August 6, 1982, under authority of the order of the Senate of August 5, 1982:

THE JUDICIARY

Ross T. Roberts, of Missouri, to be U.S. district judge for the Western district of Missouri, vice John R. Gibson, elevated.

DEPARTMENT OF JUSTICE

Edward R. Camacho, of Guam, to be U.S. Marshal for the district of Guam for a term of 4 years vice Juan G. Blas, term expired.

MERIT SYSTEMS PROTECTION BOARD

Dennis M. Devaney, of Maryland, to be a Member of the Merit Systems Protection Board for a term expiring March 1, 1988, vice Ronald P. Wertheim, resigned.

HOUSE OF REPRESENTATIVES—Monday, August 9, 1982

The House met at 12 o'clock noon. The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, with all the uncertainties of life about us, we come before You and place our innermost needs. We ask that Your spirit will sustain those whose lives know anxiety or worry, and give comfort and strength to those who look to You for meaning in daily lives. Give us all the blessings of faith, hope, and love that we will approach our tasks mindful of our opportunities to be stewards of Your good purpose and witnesses to Your peace. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill and a joint resolution of the House of the following titles:

H.R. 1526. An act to amend the Accounting and Auditing Act of 1950 to require ongoing evaluations and reports on the adequacy of the systems of internal accounting and administrative control of each executive agency, and for other purposes; and

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2363. An act to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

UNEMPLOYMENT COMPENSATION PROGRAM NEEDS TO BE MORE RESPONSIVE AND FLEXIBLE

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, it is no surprise to any of us that unemployment is on the upswing. But it will probably shock many people to learn that it is hitting—and hitting hard—

not only in the Detroit of America, but also in places like Wichita, Kans. Places like Wichita are usually not thought of as having high unemployment rates, but they do today and their people are hurting because of it.

In fact, because of the way our extended unemployment benefits program works, many of them are hurting more than people in similar situations in high unemployment States. In my home State of Kansas, the insured unemployment rate just recently crossed the 4-percent level which triggered "on" the extended benefits program, but in the city of Wichita unemployment has been at levels that would have triggered eligibility for nearly 5 months. Just because the city happens to be located in a State that has lower unemployment than needed to set off the trigger, is no reason that these people who are out of work should not be able to get badly needed benefits during prolonged periods of unemployment.

To straighten this out, I am today introducing legislation that would do two things. First, it would freeze the extended benefits program trigger percentage at 4 percent instead of increasing to 5 percent which is now scheduled in the next few weeks. Second, the bill would allow States, by enacting legislation of their own, to trigger in high unemployment "labor market areas" within the State when unemployment exceeds 5 percent within that area even when the State generally does not meet the criteria for extended benefits eligibility.

People are suffering in places like Wichita, and the suffering becomes worse and worse as more jobs are lost and being out of work drags on and on. Enactment of this legislation would at least give them the assurance of access to badly needed extended unemployment benefits.

TAX CUTS AND THE SCALES OF JUSTICE

(Mr. WRIGHT asked and was given permission to address the House for 1 minute.)

Mr. WRIGHT. Mr. Speaker, yesterday Secretary Baldrige acknowledged what many of us have known for the past year, and that is that last year's tax cut for the wealthy was grossly excessive. It is bleeding the Treasury, causing the highest deficits in history.

Something must be done to plug the gap. What does the administration propose? The largest tax increase in history. And whom do they propose to

tax? The wealthy beneficiaries of last year's tax cut? Well, hardly.

They want to get more taxes from people who have to pay big hospital bills. They want to reduce medicare and Medicaid payments and cut back further on retirement benefits for America's elderly.

They have learned that the arithmetic of last year's experiment was grossly out of balance; but so were the scales of elemental justice. And they have not yet seemed able to learn that.

WORLD BANK LOAN TO HURT IRON ORE INDUSTRY IN MINNESOTA

(Mr. OBERSTAR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBERSTAR. Mr. Speaker, tomorrow the Loan Board of the World Bank will make one of the most important loans in that institution's 37-year history. The Board will decide whether to approve an application from Brazil for a \$300 million loan at an 11-percent interest rate.

That loan will leverage an investment of \$6 billion to develop what is probably the world's largest iron ore deposit, some 35 billion tons of iron ore.

Brazil and a consortium of international lenders plan to sell that ore at 25 percent less on the world market than we can produce it in Minnesota and sell it at lower lake ports, in the Lake Erie steel-producing district.

At a time when mining in Minnesota and the Upper Peninsula of Michigan is at an all-time low, shut down tight, 90 percent of the iron ore miners are out of a job, the United States should not participate in the development of more surplus ore on the world market.

On behalf of the unemployed miners in northeastern Minnesota and the Upper Peninsula of Michigan, I have urged Treasury Secretary Regan to instruct the U.S. delegate to the World Bank to vote no on that loan.

NUCLEAR AGREEMENT WITH THE SOVIETS—A STEP TOWARD SANITY

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, one morning in October 1945 I borrowed a

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

jeep from our 72d Seabee compound at Sasebo, Japan, and drove to nearby Nagasaki, where a few weeks before the U.S. Air Force had dropped the second atomic bomb.

My fellow Seabee and I put aside warnings about radiation contamination and rode throughout what was once a large city. Large steel beams were twisted like wet spaghetti. Except for a few gaunt structures at least a mile from the center of the blast, the rubble consisted of small chunks of masonry the size of a brick. Maybe I am the only Congressman to visit Nagasaki shortly after the blast.

As I have reflected on that desolate scene over the years, I mix gratitude to President Truman for ordering the bombing with a conviction that such instruments of destruction now have little military value.

I am grateful to Truman, because my Seabee unit was poised for what would have been a bloody invasion of Japan. His decision caused a lot of deaths, but it probably saved my life.

The bomb that leveled Nagasaki was a firecracker contrasted with even the smaller nuclear weapons of today.

But if Harry Truman could have seen firsthand what happened at Hiroshima, he probably would not have ordered the second bomb. He would have known that the impact of that one and only atomic blast was enough to end the war—and end the use of nuclear weapons.

What is needed now is a step toward sanity. We need a verifiable agreement with the Soviet Union to reduce the dangerous stockpile of nuclear weapons that now threatens the survival of civilization.

All we need, and all the Soviets need, is a sufficient inventory of nuclear weapons to give the other side pause—that is, to deter any nation from using these terrible instruments.

Both the United States and the Soviet Union have many times the inventory needed to establish that deterrence.

REDUCING THE DEFICIT—LET'S GET ON WITH IT

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, I regret the divisiveness and confusion that surrounds our efforts to formulate an effective policy at this critical time in our economic life. I cannot believe it a good political strategy for either party to work for anything but the necessary steps to improve the economy. A consensus about what is wrong should lead to corrective action, however heroic, not to ways to avoid responsibility or to affix the blame on someone else.

I personally believe the size of the potential deficit and the probable pre-

emption of available capital resources by the Government are at the center of the problem. I have heard of no course better designed to reduce these difficulties than the course we embarked on last year—direct action to reduce Government spending and the general level of taxation. Does anyone have a better suggestion than the outline contained in this year's budget? Why should we panic when we have a balanced plan and obviously have the capacity to carry it out?

The tax increases by whatever name you call them, do not reverse the thrust of last year's general tax reduction, but enhance compliance with existing law, and adjust taxation on a narrow base of businesses, some of which have had some forms of tax sanctuary. I hope the House will review the Senate bill carefully this week and attack tax avoidance while eliminating those changes which would have a more general impact. Twenty billion dollars is not too much to raise in this way when we are cutting programs by \$60 billion, and the two elements of deficit reduction should go forward in reassuring tandem. But they should go forward, or there will be plenty of blame to go around when our credibility as trustees of the Government's economic responsibility is being assessed by the electorate and future generations. It is not the time to squirm, cavil, retreat, or blame somebody else; it is time to act.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, August 11, 1982.

REVISION OF TITLE 31, UNITED STATES CODE, "MONEY AND FINANCE"

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6128) to revise, codify, and enact without substantive change certain general and permanent laws related to money and finance as title 31, United States Code, "Money and Finance," as amended.

The Clerk read as follows:

H.R. 6128

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE 31, UNITED STATES CODE

SECTION 1. Certain general and permanent laws of the United States, related to money and finance, are revised, codified, and en-

acted as title 31, United States Code, "Money and Finance", as follows:

TITLE 31—MONEY AND FINANCE

SUBTITLE	Sec.
I. GENERAL.....	101
II. THE BUDGET PROCESS.....	1101
III. FINANCIAL MANAGEMENT.....	3101
IV. MONEY.....	5101
V. GENERAL ASSISTANCE ADMINISTRATION.....	6101
VI. MISCELLANEOUS.....	9101

SUBTITLE I—GENERAL

CHAPTER	Sec.
1. DEFINITIONS.....	101
3. DEPARTMENT OF THE TREASURY.....	301
5. OFFICE OF MANAGEMENT AND BUDGET.....	501
7. GENERAL ACCOUNTING OFFICE.....	701

CHAPTER 1—DEFINITIONS

Sec.
101. Agency.
102. Executive agency.
103. United States.
§ 101. Agency
In this title, "agency" means a department, agency, or instrumentality of the United States Government.
§ 102. Executive agency
In this title, "executive agency" means a department, agency, or instrumentality in the executive branch of the United States Government.
§ 103. United States
In this title, "United States", when used in a geographic sense, means the States of the United States and the District of Columbia.

CHAPTER 3—DEPARTMENT OF THE TREASURY

SUBCHAPTER I—ORGANIZATION

Sec.
301. Department of the Treasury.
302. Treasury of the United States.
303. Bureau of Engraving and Printing.
304. Bureau of the Mint.
305. Federal Financing Bank.
306. Fiscal Service.
307. Office of the Comptroller of the Currency.
308. United States Customs Service.
309. Continuing in office.

SUBCHAPTER II—ADMINISTRATIVE

321. General authority of the Secretary.
322. Working capital fund.
323. Investment of operating cash.
324. Disposing and extending the maturity of obligations.
325. International affairs authorization.
326. Availability of appropriations for certain expenses.
327. Advancements and reimbursements for services.
328. Accounts and payments of former disbursing officials.
329. Limitations on outside activities.
330. Practice before the Department.
331. Reports.

SUBCHAPTER I—ORGANIZATION

§ 301. Department of the Treasury
(a) The Department of the Treasury is an executive department of the United States Government at the seat of the Government.
(b) The head of the Department is the Secretary of the Treasury. The Secretary is appointed by the President, by and with the advice and consent of the Senate.
(c) The Department has a Deputy Secretary of the Treasury appointed by the President, by and with the advice and consent of

the Senate. The Deputy Secretary shall carry out—

(1) duties and powers prescribed by the Secretary; and

(2) the duties and powers of the Secretary when the Secretary is absent or unable to serve or when the office of Secretary is vacant.

(d) The Department has an Under Secretary, an Under Secretary for Monetary Affairs, 2 Deputy Under Secretaries, and a Treasurer of the United States, appointed by the President, by and with the advice and consent of the Senate. The Department also has a Fiscal Assistant Secretary appointed by the Secretary. They shall carry out duties and powers prescribed by the Secretary. When appointing the Under Secretary, the President may designate the Under Secretary as Counselor. When appointing each Deputy Under Secretary, the President may designate the Deputy Under Secretary as an Assistant Secretary.

(e) The Department has 5 Assistant Secretaries appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretaries shall carry out duties and powers prescribed by the Secretary. The Assistant Secretaries appointed under this subsection are in addition to the Assistant Secretaries appointed under subsection (d) of this section.

(f)(1) The Department has a General Counsel appointed by the President, by and with the advice and consent of the Senate. The General Counsel is the chief law officer of the Department. Without regard to those provisions of title 5 governing appointment in the competitive service, the Secretary may appoint not more than 5 Assistant General Counsels. The Secretary may designate one of the Assistant General Counsels to act as the General Counsel when the General Counsel is absent or unable to serve or when the office of General Counsel is vacant. The General Counsel and Assistant General Counsels shall carry out duties and powers prescribed by the Secretary.

(2) The President may appoint, by and with the advice and consent of the Senate, an Assistant General Counsel who shall be the Chief Counsel for the Internal Revenue Service. The Chief Counsel is the chief law officer for the Service and shall carry out duties and powers prescribed by the Secretary.

(g) The Department shall have a seal.

§302. Treasury of the United States

The United States Government has a Treasury of the United States. The Treasury is in the Department of the Treasury.

§303. Bureau of Engraving and Printing

(a) The Bureau of Engraving and Printing is a bureau in the Department of the Treasury.

(b) The head of the Bureau is the Director of the Bureau of Engraving and Printing appointed by the Secretary of the Treasury. The Director—

(1) shall carry out duties and powers prescribed by the Secretary; and

(2) reports directly to the Secretary.

§304. Bureau of the Mint

(a) The Bureau of the Mint is a bureau in the Department of the Treasury.

(b)(1) The head of the Bureau is the Director of the Mint. The Director is appointed by the President, by and with the advice and consent of the Senate. The term of the Director is 5 years. The President may remove the Director from office. On removal, the President shall send a message to the Senate giving the reasons for removal.

(2) The Director shall carry out duties and powers prescribed by the Secretary of the Treasury.

§305. Federal Financing Bank

The Federal Financing Bank, established under section 4 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2283), is subject to the direction and supervision of the Secretary of the Treasury.

§306. Fiscal Service

(a) The Fiscal Service is a service in the Department of the Treasury.

(b) The head of the Fiscal Service is the Fiscal Assistant Secretary appointed under section 301(d) of this title.

(c) The Fiscal Service has a—

(1) Bureau of Government Financial Operations, having as its head a Commissioner of Government Financial Operations; and

(2) Bureau of the Public Debt, having as its head a Commissioner of the Public Debt.

(d) The Secretary of the Treasury may designate another officer of the Department to act as the Fiscal Assistant Secretary when the Fiscal Assistant Secretary is absent or unable to serve or when the office of Fiscal Assistant Secretary is vacant.

§307. Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency, established under section 324 of the Revised Statutes (12 U.S.C. 1), is an office in the Department of the Treasury.

§308. United States Customs Service

The United States Customs Service, established under section 1 of the Act of March 3, 1927 (19 U.S.C. 2071), is a service in the Department of the Treasury.

§309. Continuing in office

When the term of office of an officer of the Department of the Treasury ends, the officer may continue to serve until a successor is appointed and qualified.

SUBCHAPTER II—ADMINISTRATIVE

§321. General authority of the Secretary

(a) The Secretary of the Treasury shall—

(1) prepare plans for improving and managing receipts of the United States Government and managing the public debt;

(2) carry out services related to finances that the Secretary is required to perform;

(3) issue warrants for money drawn on the Treasury consistent with appropriations;

(4) mint coins, engrave and print currency and security documents, and refine and assay bullion, and may strike medals;

(5) prescribe regulations that the Secretary considers best calculated to promote the public convenience and security, and to protect the Government and individuals from fraud and loss, that apply to anyone who may—

(A) receive for the Government, Treasury notes, United States notes, or other Government securities; or

(B) be engaged or employed in preparing and issuing those notes or securities;

(6) collect receipts;

(7) with a view to prosecuting persons, take steps to discover fraud and attempted fraud involving receipts and decide on ways to prevent and detect fraud; and

(8) maintain separate accounts of taxes received in each State, territory, and possession of the United States, and collection district, with each account listing—

(A) each kind of tax;

(B) the amount of each tax; and

(C) the money paid as pay and allowances to officers and employees of the Department collecting taxes in that State, territory, possession, or district.

(b) The Secretary may—

(1) prescribe regulations to carry out the duties and powers of the Secretary;

(2) delegate duties and powers of the Secretary to another officer or employee of the Department of the Treasury;

(3) transfer within the Department the records, property, officers, employees, and unexpended balances of appropriations, allocations, and amounts of the Department that the Secretary considers necessary to carry out a delegation made under clause (2) of this subsection;

(4) detail, in addition to details authorized under another law, not more than 6 officers and employees of the Department at any one time to enforce the laws related to the Department, except that of those 6 officers and employees not more than 4 officers and employees—

(A) paid from the appropriations for the collection of customs may be so detailed;

(B) paid from the appropriations for internal revenue may be so detailed; and

(C) paid from the appropriations for suppressing counterfeiting and other crimes may be so detailed;

(5) authorize, at rates and under conditions prescribed by the Secretary, the private use of telephone lines controlled by the Department when the use does not interfere with Department business; and

(6) buy arms and ammunition required by officers and employees of the Department in carrying out their duties and powers.

(c) Duties and powers of officers and employees of the Department are vested in the Secretary except duties and powers—

(1) vested by subchapter II of chapter 5 of title 5 in administrative law judges employed by the Secretary; and

(2) of the Comptroller of the Currency.

§322. Working capital fund

(a) The Department of the Treasury has a working capital fund. Amounts in the fund are available for expenses of operating and maintaining common administrative services of the Department that the Secretary of the Treasury, with the approval of the Director of the Office of Management and Budget, decides may be carried out more advantageously and more economically as central services. Amounts in the fund may total not more than \$1,000,000 at any time.

(b) Amounts in the fund remain available until expended. Amounts may be appropriated to the fund.

(c) The fund consists of—

(1) amounts appropriated to the fund;

(2) to the extent transferred to the fund by the Secretary, the reasonable value of supply inventories, equipment, and other assets and inventories on order for providing services out of amounts in the fund, less related liabilities and unpaid obligations;

(3) amounts received from the sale or exchange of property; and

(4) payments received for loss or damage to property of the fund.

(d) The fund shall be reimbursed, or credited with advance payments, from amounts available to the Department or from other sources, for supplies and services at rates that will equal the expenses of operation, including accrual of annual leave and the depreciation of plant and equipment. Amounts the Secretary decides are in excess of the needs of the fund shall be deposited at the end of each fiscal year in the Treasury as miscellaneous receipts.

§323. Investment of operating cash

(a) To manage United States cash, the Secretary of the Treasury may invest any

part of the operating cash of the Treasury for not more than 90 days. Investments may be made in obligations of—

- (1) depositaries maintaining Treasury tax and loan accounts secured by pledged collateral acceptable to the Secretary; and
 - (2) the United States Government.
- (b) Subsection (a) of this section does not—

- (1) require the Secretary to invest a cash balance held in a particular account; or
- (2) permit the Secretary to require the sale of obligations by a particular person, dealer, or financial institution.

(c) The Secretary shall consider the prevailing market in prescribing rates of interest for investments under subsection (a)(1) of this section.

§324. Disposing and extending the maturity of obligations

- (a) The Secretary of the Treasury may—
 - (1) dispose of obligations—
 - (A) acquired by the Secretary for the United States Government; or
 - (B) delivered by an executive agency; and
 - (2) make arrangements to extend the maturity of those obligations.

(b) The Secretary may dispose or extend the maturity of obligations under subsection (a) of this section in the way, in amounts, at prices (for cash, obligations, property, or a combination of cash, obligations, or property), and on conditions the Secretary considers advisable and in the public interest. However, the Secretary may not dispose of obligations of one issuer, held by the Secretary at one time, having on the date of disposal a total face or par value of more than \$1,000,000 or, if no-par obligations, a stated or book value of more than \$1,000,000.

(c) The authority under this section is in addition to authority under another law.

§325. International affairs authorization

(a) Under regulations prescribed by the Secretary of the Treasury, the Secretary may provide officers and employees of the Department of the Treasury carrying out international affairs duties and powers of the Department with allowances and benefits comparable to those provided under chapter 9 of title I of the Foreign Service Act of 1980 (22 U.S.C. 4081 et seq.).

(b) The following amounts may be appropriated to the Secretary for the fiscal year ending September 30, 1982:

- (1) not more than \$22,896,000 to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses).

(2) not more than \$1,000,000 for increases in—

- (A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except section 5303), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

- (C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

(c) Necessary amounts may be appropriated to the Secretary for each fiscal year beginning after September 30, 1982—

- (1) to carry out the international affairs duties and powers of the Department (including amounts for official functions and reception and representation expenses);

(2) for increases in—

- (A) pay, under section 5382(c) and subchapter I of chapter 53 of title 5 (except sec-

tion 5303), of officers and employees carrying out the duties and powers referred to in clause (1) of this subsection;

(B) departmental contributions attributable to those pay increases; and

- (C) allowances and benefits, because of cost of living increases, provided under subsection (a) of this section.

§326. Availability of appropriations for certain expenses

(a) Under regulations prescribed by the Secretary of the Treasury, an appropriation for the Department of the Treasury available to pay travel expenses also is available to pay expenses to attend meetings of organizations related to the function or activity for which the appropriation

(b) The Secretary may approve reimbursement to agents on protective missions for subsistence expenses authorized by law without regard to rates established under section 5702 of title 5.

§327. Advancements and reimbursements for services

(a) In this section, "service" includes service provided in—

- (1) disbursing and receiving amounts.
- (2) servicing bonds.
- (3) making accounts.
- (4) maintaining bank accounts.

(b) When the Secretary of the Treasury provides a service for an agency (except the Department of the Treasury) for which amounts have not been appropriated to the Department, the agency may advance for credit or reimburse the Department the amounts necessary to provide the service. Notwithstanding section 3302 of this title, amounts advanced or reimbursed may be credited to the appropriation of the Department that is current when the service is provided.

§328. Accounts and payments of former disbursing officials

(a) If a chief disbursing official or a director of a disbursing center of the Department of the Treasury dies, resigns, or leaves office, the deputy chief disbursing official or the deputy director of the disbursing center designated by the Secretary of the Treasury may continue the accounts and payments in the name of the former disbursing official or director through the last day of the 2d month after the month in which the death, resignation, or separation occurs. The accounts and payments shall be allowed, audited, and settled as provided by law. The Secretary shall honor checks signed in the name of the former disbursing official or director in the same way as if the former disbursing official or director had continued in office.

(b) Only the deputy chief or deputy director designated under subsection (a) of this section is liable for actions taken in the name of the former disbursing official under subsection (a).

§329. Limitations on outside activities

(a)(1) The Secretary of the Treasury and the Treasurer may not—

- (A) be involved in trade or commerce;
- (B) own any part of a vessel (except a pleasure vessel);
- (C) buy or hold as a beneficiary in trust public property;

(D) be involved in buying or disposing of obligations of a State or the United States Government; and

(E) personally take or use a benefit gained from conducting business of the Depart-

ment of the Treasury except as authorized by law.

(2) An officer violating this subsection shall be fined \$3,000, removed from office, and thereafter may not hold an office of the Government.

(3) An individual (except prosecutors) giving information leading to the prosecution and conviction of an individual violating this subsection shall receive \$1,500 of the fine when paid.

(b)(1) An officer or employee of the Department (except the Secretary or Treasurer) may not—

(A) carry on a trade or business in the funds, debts, or property of a State or the Government; and

(B) personally use a benefit gained from conducting business of the Department.

(2) An officer or employee violating this subsection shall be fined \$500 and removed from office.

§330. Practice before the Department

(a) Subject to section 500 of title 5, the Secretary of the Treasury may—

(1) regulate the practice of representatives of persons before the Department of the Treasury; and

(2) before admitting a representative to practice, require that the representative demonstrate—

- (A) good character;
- (B) good reputation;
- (C) necessary qualifications to enable the representative to provide to persons valuable service; and
- (D) competency to advise and assist persons in presenting their cases.

(b) After notice and opportunity for a proceeding, the Secretary may suspend or disbar from practice before the Department a representative who—

- (1) is incompetent;
- (2) is disreputable;
- (3) violates regulations prescribed under this section; or

(4) with intent to defraud, willfully and knowingly misleads or threatens the person being represented or a prospective person to be represented.

§331. Reports

(a) The Secretary of the Treasury shall submit to Congress each year an annual report. The report shall include—

- (1) a statement of the public receipts and public expenditures for the prior fiscal year;
- (2) estimates of public receipts and public expenditures for the current and next fiscal years;

(3) plans for improving and increasing public receipts to provide Congress with information on ways to raise amounts necessary to meet public expenditures;

(4) a statement of all contracts for supplies or services made by the Secretary during the prior fiscal year;

(5) a statement of appropriations expended to pay for miscellaneous claims not otherwise provided for;

(6) a statement on all payments made from the fund under section 3126 of this title for the prior fiscal year; and

(7) estimates of amounts for payment under section 1322(b) of this title.

(b)(1) On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on—

(A) the total and individual amounts of contingent liabilities and unfunded liabilities of the United States Government;

(B) as far as practicable, trust fund liabilities, liabilities of Government corporations,

indirect liabilities not included as a part of the public debt, and liabilities of insurance and annuity programs (including their actuarial status);

(C) collateral pledged and assets available (or to be realized) as security for the liabilities (separately noting Government obligations) and other assets specifically available to liquidate the liabilities of the Government; and

(D) the total amount in each category under clauses (A)-(C) of this paragraph for each agency.

(2) The report shall present the information required under paragraph (1) of this subsection in a concise way, with explanatory material (including an analysis of the significance of liabilities based on past experience and probable risk) the Secretary considers desirable.

(c) On the first day of each regular session of Congress, the Secretary shall submit to Congress a report for the prior fiscal year on the total amount of public receipts and public expenditures listing receipts, when practicable, by ports, districts, and States and the expenditures by each appropriation.

(d) The Secretary shall report to either House of Congress in person or in writing, as required, on matters referred to the Secretary by that House of Congress.

CHAPTER 5—OFFICE OF MANAGEMENT AND BUDGET SUBCHAPTER I—ORGANIZATION

- Sec.
501. Office of Management and Budget.
502. Officers.
503. Office of Information and Regulatory Affairs.

SUBCHAPTER II—ADMINISTRATIVE

521. Employees.
522. Necessary expenditures.

SUBCHAPTER I—ORGANIZATION §501. Office of Management and Budget

The Office of Management and Budget is an office in the Executive Office of the President.

§502. Officers

(a) The head of the Office of Management and Budget is the Director of the Office of Management and Budget. The Director is appointed by the President, by and with the advice and consent of the Senate. Under the direction of the President, the Director shall administer the Office.

(b) The Office has a Deputy Director of the Office of Management and Budget, appointed by the President, by and with the advice and consent of the Senate. The Deputy Director—

(1) shall carry out the duties and powers prescribed by the Director; and

(2) acts as the Director when the Director is absent or unable to serve or when the office of Director is vacant.

(c) The Office has 3 Assistant Directors who shall carry out the duties and powers prescribed by the Director.

(d) The Office may have not more than 6 additional officers, each of whom is appointed in the competitive service by the Director, with the approval of the President. Each additional officer shall carry out the duties and powers prescribed by the Director. The Director shall specify the title of each additional officer.

(e) When the Director and Deputy Director are absent or unable to serve or when the offices of Director and Deputy Director are vacant, the President may designate an officer of the Office to act as Director.

§503. Office of Information and Regulatory Affairs

The Office of Information and Regulatory Affairs, established under section 3503 of title 44, is an office in the Office of Management and Budget.

SUBCHAPTER II—ADMINISTRATIVE

§521. Employees

The Director of the Office of Management and Budget shall appoint and fix the pay of employees of the Office under regulations prescribed by the President.

§522. Necessary expenditures

The Director of the Office of Management and Budget may make necessary expenditures for the Office under regulations prescribed by the President.

CHAPTER 7—GENERAL ACCOUNTING OFFICE

SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION

- Sec.
701. Definitions.
702. General Accounting Office.
703. Comptroller General and Deputy Comptroller General.
704. Relationship to other laws.

SUBCHAPTER II—GENERAL DUTIES AND POWERS

711. General authority.
712. Investigating the use of public money.
713. Audit of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms.
714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency.
715. Audit of accounts and operations of the District of Columbia government.
716. Availability of information and inspection of records.
717. Evaluating programs and activities of the United States Government.
718. Availability of draft reports.
719. Comptroller General reports.
720. Agency reports.

SUBCHAPTER III—PERSONNEL

731. General.
732. Personnel management system.
733. Senior Executive Service.
734. Assignments and details to Congress.
735. Relationship to other laws.
736. Authorization of appropriations.

SUBCHAPTER IV—PERSONNEL APPEALS BOARD

751. Organization.
752. Chairman and General Counsel.
753. Duties and powers.
754. Action by the Comptroller General.
755. Judicial review.

SUBCHAPTER V—ANNUITIES

771. Definitions.
772. Annuity of the Comptroller General.
773. Election of survivor benefits.
774. Survivor annuities.
775. Refunds.
776. Payment of survivor benefits.
777. Annuity increases.
778. Dependency and disability decisions.
779. Use of appropriations.

SUBCHAPTER I—DEFINITIONS AND GENERAL ORGANIZATION

§701. Definitions

In this chapter—

(1) "agency" includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) "appropriations" means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

§702. General Accounting Office

(a) The General Accounting Office is an instrumentality of the United States Government independent of the executive departments.

(b) The head of the Office is the Comptroller General of the United States. The Office has a Deputy Comptroller General of the United States.

(c) The Administrator of General Services shall provide the Comptroller General with space in the General Accounting Office Building that the Comptroller General considers necessary for use by the Comptroller General.

(d) The Comptroller General may adopt a seal for the Office.

§703. Comptroller General and Deputy Comptroller General

(a)(1) The Comptroller General and Deputy Comptroller General are appointed by the President, by and with the advice and consent of the Senate.

(2) When a vacancy occurs in the office of Comptroller General or Deputy Comptroller General, a commission is established to recommend individuals to the President for appointment to the vacant office. The commission shall be composed of—

(A) the Speaker of the House of Representatives;

(B) the President pro tempore of the Senate;

(C) the majority and minority leaders of the House of Representatives and the Senate;

(D) the chairmen and ranking minority members of the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House; and

(E) when the office of Deputy Comptroller General is vacant, the Comptroller General.

(3) A commission established because of a vacancy in the office of the Comptroller General shall recommend at least 3 individuals. The President may ask the commission to recommend additional individuals.

(b) Except as provided in subsection (e) of this section, the term of the Comptroller General is 15 years. The Comptroller General may not be reappointed. The term of the Deputy Comptroller General expires on the date an individual is appointed Comptroller General. The Deputy Comptroller General may continue to serve until a successor is appointed.

(c) The Deputy Comptroller General—

(1) carries out duties and powers prescribed by the Comptroller General; and

(2) acts for the Comptroller General when the Comptroller General is absent or unable to serve or when the office of Comptroller General is vacant.

(d) The Comptroller General shall designate an officer or employee of the General Accounting Office to act as Comptroller General when the Comptroller General and Deputy Comptroller General are absent or unable to serve or when the offices of

Comptroller General and Deputy Comptroller General are vacant.

(e)(1) A Comptroller General or Deputy Comptroller General retires on becoming 70 years of age. Either may be removed at any time by—

(A) impeachment; or
(B) joint resolution of Congress, after notice and an opportunity for a hearing, only for—

(i) permanent disability;
(ii) inefficiency;
(iii) neglect of duty;
(iv) malfeasance; or
(v) a felony or conduct involving moral turpitude.

(2) A Comptroller General or Deputy Comptroller General removed from office under paragraph (1) of this subsection may not be reappointed to the office.

(f) The annual rate of basic pay of the—
(1) Comptroller General is equal to the rate for level II of the Executive Schedule; and

(2) Deputy Comptroller General is equal to the rate for level III of the Executive Schedule.

§704. Relationship to other laws

(a) To the extent applicable, all laws generally related to administering an agency apply to the Comptroller General.

(b) A copy of a record and a transcript from a record or proceeding of the Comptroller General, that the Comptroller General or Deputy Comptroller General certifies under seal, shall be admitted as evidence with the same effect as a copy or transcript referred to in section 1733 of title 28.

SUBCHAPTER II—GENERAL DUTIES AND POWERS

§711. General authority

The Comptroller General may—

(1) prescribe regulations to carry out the duties and powers of the Comptroller General;

(2) delegate the duties and powers of the Comptroller General to officers and employees of the General Accounting Office as the Comptroller General decides is necessary to carry out those duties and powers;

(3) regulate the practice of representatives of persons before the Office; and

(4) administer oaths to witnesses when auditing and settling accounts.

§712. Investigating the use of public money

The Comptroller General shall—

(1) investigate all matters related to the receipt, disbursement, and use of public money;

(2) estimate the cost to the United States Government of complying with each restriction on expenditures of a specific appropriation in a general appropriation law and report each estimate to Congress with recommendations the Comptroller General considers desirable;

(3) analyze expenditures of each executive agency the Comptroller General believes will help Congress decide whether public money has been used and expended economically and efficiently;

(4) make an investigation and report ordered by either House of Congress or a committee of Congress having jurisdiction over revenue, appropriations, or expenditures; and

(5) give a committee of Congress having jurisdiction over revenue, appropriations, or expenditures the help and information the committee requests.

§713. Audit of Internal Revenue Service and Bureau of Alcohol, Tobacco, and Firearms

(a) Under regulations of the Comptroller General, the Comptroller General shall audit the Internal Revenue Service and the Bureau of Alcohol, Tobacco, and Firearms, of the Department of the Treasury. An audit under this section does not affect a final decision of the Secretary of the Treasury under section 6406 of the Internal Revenue Code of 1954 (26 U.S.C. 6406).

(b)(1) To carry out this section and to the extent provided by and only subject to section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103)—

(A) returns and return information (as defined in section 6103(b) of the Internal Revenue Code of 1954 (26 U.S.C. 6103(b))) shall be made available to the Comptroller General; and

(B) records and property of, or used by, the Service or the Bureau, shall be made available to the Comptroller General.

(2) At least once every 6 months, the Comptroller General shall designate each officer and employee of the General Accounting Office by name and title to whom returns, return information, or records or property of the Service or the Bureau that can identify a particular taxpayer may be made available. Each designation or a certified copy of the designation shall be sent to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House, the Joint Committee on Taxation, the Commissioner of Internal Revenue, and the Director of the Bureau.

(3) Except as expressly provided by law, an officer or employee of the Office may make known information derived from a record or property of, or in use by, the Service or the Bureau that can identify a particular taxpayer only to another officer or employee of the Office whose duties or powers require that the record or property be made known.

§714. Audit of Financial Institutions Examination Council, Federal Reserve Board, Federal reserve banks, Federal Deposit Insurance Corporation, and Office of Comptroller of the Currency

(a) In this section, "agency" means the Financial Institutions Examination Council, the Federal Reserve Board, Federal reserve banks, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency.

(b) Under regulations of the Comptroller General, the Comptroller General shall audit an agency, but may carry out an onsite examination of an open insured bank or bank holding company only if the appropriate agency has consented in writing. Audits of the Federal Reserve Board and Federal reserve banks may not include—

(1) transactions for or with a foreign central bank, government of a foreign country, or nonprivate international financing organization;

(2) deliberations, decisions, or actions on monetary policy matters, including discount window operations, reserves of member banks, securities credit, interest on deposits, and open market operations;

(3) transactions made under the direction of the Federal Open Market Committee; or

(4) a part of a discussion or communication among or between members of the Board of Governors and officers and employees of the Federal Reserve System related to clauses (1)–(3) of this subsection.

(c)(1) Except as provided in this subsection, an officer or employee of the General Accounting Office may not disclose information identifying an open bank, an open bank holding company, or a customer of an open or closed bank or bank holding company. The Comptroller General may disclose information related to the affairs of a closed bank or closed bank holding company identifying a customer of the closed bank or closed bank holding company only if the Comptroller General believes the customer had a controlling influence in the management of the closed bank or closed bank holding company or was related to or affiliated with a person or group having a controlling influence.

(2) An officer or employee of the Office may discuss a customer, bank, or bank holding company with an official of an agency and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(3) This subsection does not authorize an officer or employee of an agency to withhold information from a committee of Congress authorized to have the information.

(d)(1) To carry out this section, all records and property of or used by an agency, including samples of reports of examinations of a bank or bank holding company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller General. The Comptroller General shall give an agency a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit. An agency shall give the Comptroller General suitable and lockable offices and furniture, telephones, and access to copying facilities.

(2) Except for the temporary removal of workpapers of the Comptroller General that do not identify a customer of an open or closed bank or bank holding company, an open bank, or an open bank holding company, all workpapers of the Comptroller General and records and property of or used by an agency that the Comptroller General possesses during an audit, shall remain in the agency. The Comptroller General shall prevent unauthorized access to records or property.

§715. Audit of accounts and operations of the District of Columbia government

(a) In addition to the audit carried out under section 455 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, 87 Stat. 803; D.C. Code, §47-117), the Comptroller General each year shall audit the accounts and operations of the District of Columbia government. An audit shall be carried out according to principles, under regulations, and in a way the Comptroller General prescribes. When prescribing the procedures to follow and the extent of the inspection of records, the Comptroller General shall consider generally accepted principles of auditing, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices.

(b) The Comptroller General shall submit each audit report to Congress and the Mayor and Council of the District of Columbia. The report shall include the scope of an audit, information the Comptroller General considers necessary to keep Congress, the

Mayor, and the Council informed of operations audited, and recommendations the Comptroller General considers advisable.

(c)(1) By the 90th day after receiving an audit report from the Comptroller General, the Mayor shall state in writing to the Council measures the District of Columbia government is taking to comply with the recommendations of the Comptroller General. A copy of the statement shall be sent to Congress.

(2) After the Council receives the statement of the Mayor, the Council may make available for public inspection the report of the Comptroller General and other material the Council considers pertinent.

(d) To carry out this section, records and property of or used by the District of Columbia government necessary to make an audit easier shall be made available to the Comptroller General. The Mayor shall provide facilities to carry out an audit.

§716. Availability of information and inspection of records

(a) Each agency shall give the Comptroller General information the Comptroller General requires about the duties, powers, activities, organization, and financial transactions of the agency. The Comptroller General may inspect an agency record to get the information. This subsection does not apply to expenditures made under section 3524 or 3526(e) of this title.

(b)(1) When an agency record is not made available to the Comptroller General within a reasonable time, the Comptroller General may make a written request to the head of the agency. The request shall state the authority for inspecting the records and the reason for the inspection. The head of the agency has 20 days after receiving the request to respond. The response shall describe the record withheld and the reason the record is being withheld. If the Comptroller General is not given an opportunity to inspect the record within the 20-day period, the Comptroller General may file a report with the President, the Director of the Office of Management and Budget, the Attorney General, the head of the agency, and Congress.

(2) Through an attorney the Comptroller General designates in writing, the Comptroller General may bring a civil action in the district court of the United States for the District of Columbia to require the head of the agency to produce a record—

(A) after 20 days after a report is filed under paragraph (1) of this subsection; and

(B) subject to subsection (d) of this section.

(3) The Attorney General may represent the head of the agency. The court may punish a failure to obey an order of the court under this subsection as a contempt of court.

(c)(1) Subject to subsection (d) of this section, the Comptroller General may subpoena a record of a person not in the United States Government when the record is not made available to the Comptroller General to which the Comptroller General has access by law or by agreement of that person from whom access is sought. A subpoena shall identify the record and the authority for the inspection and may be issued by the Comptroller General. The Comptroller General may have an individual serve a subpoena under this subsection by delivering a copy to the person named in the subpoena or by mailing a copy of the subpoena by certified or registered mail, return receipt requested, to the residence or principal place of business of the person. Proof of service is

shown by a verified return by the individual serving the subpoena that states how the subpoena was served or by the return receipt signed by the person served.

(2) If a person residing, found, or doing business in a judicial district refuses to comply with a subpoena issued under paragraph (1) of this subsection, the Comptroller General, through an attorney the Comptroller General designates in writing, may bring a civil action in that district court to require the person to produce the record. The court has jurisdiction of the action and may punish a failure to obey an order of the court under this subsection as a contempt of court.

(d)(1) The Comptroller General may not bring a civil action for a record withheld under subsection (b) of this section or issue a subpoena under subsection (c) of this section if—

(A) the record related to activities the President designates as foreign intelligence or counterintelligence activities;

(B) the record is specifically exempted from disclosure to the Comptroller General by a statute that—

(i) without discretion requires that the record be withheld from the Comptroller General;

(ii) establishes particular criteria for withholding the record from the Comptroller General; or

(iii) refers to particular types of records to be withheld from the Comptroller General; or

(C) by the 20th day after a report is filed under subsection (b)(1) of this section, the President or the Director certifies to the Comptroller General and Congress that a record could be withheld under section 552(b)(5) or (7) of title 5 and disclosure reasonably could be expected to impair substantially the operations of the Government.

(2) The President or the Director may not delegate certification under paragraph (1)(C) of this subsection. A certification shall include a complete explanation of the reasons for the certification.

(e)(1) The Comptroller General shall maintain the same level of confidentiality for a record made available under this section as is required of the head of the agency from which it is obtained. Officers and employees of the General Accounting Office are subject to the same statutory penalties for unauthorized disclosure or use as officers or employees of the agency.

(2) The Comptroller General shall keep information described in section 552(b)(6) of title 5 that the Comptroller General obtains in a way that prevents unwarranted invasions of personal privacy.

(3) This section does not authorize information to be withheld from Congress.

§717. Evaluating programs and activities of the United States Government

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) The Comptroller General shall evaluate the results of a program or activity the Government carries out under existing law—

(1) on the initiative of the Comptroller General;

(2) when either House of Congress orders an evaluation; or

(3) when a committee of Congress with jurisdiction over the program or activity requests the evaluation.

(c) The Comptroller General shall develop and recommend to Congress ways to evaluate a program or activity the Government carries out under existing law.

(d)(1) On request of a committee of Congress, the Comptroller General shall help the committee to—

(A) develop a statement of legislative goals and ways to assess and report program performance related to the goals, including recommended ways to assess performance, information to be reported, responsibility for reporting, frequency of reports, and feasibility of pilot testing; and

(B) assess program evaluations prepared by and for an agency.

(2) On request of a member of Congress, the Comptroller General shall give the member a copy of the material the Comptroller General compiles in carrying out this subsection that has been released by the committee for which the material was compiled.

§718. Availability of draft reports

(a) A draft report of an audit under section 714 of this title shall be submitted to the Financial Institutions Examination Council, the Federal Reserve Board, the Federal Deposit Insurance Corporation, or the Office of the Comptroller of the Currency for comment for 30 days.

(b)(1) The Comptroller General may submit a part of a draft report to an agency for comment for more than 30 days only if the Comptroller General decides, after a showing by the agency, that a longer period is necessary and likely to result in a more accurate report. The report may not be delayed because the agency does not comment within the comment period.

(2) When a draft report is submitted to an agency for comment, the Comptroller General shall make the draft report available on request to—

(A) either House of Congress, a committee of Congress, or a member of Congress if the report was begun because of a request of the House, committee, or member; or

(B) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives if the report was not begun because of a request of either House of Congress, a committee of Congress, or a member of Congress.

(3) This subsection is subject to statutory and executive order guidelines for handling and storing classified information and material.

(c) A final report of the Comptroller General shall include—

(1) a statement of significant changes of a finding, conclusion, or recommendation in an earlier draft report because of comments on the draft by an agency;

(2) a statement of the reasons the changes were made; and

(3) for a draft report submitted under subsection (a) of this section, written comments of the agency submitted during the comment period.

§719. Comptroller General reports

(a) At the beginning of each regular session of Congress, the Comptroller General shall report to Congress (and to the President when requested by the President) on the work of the Comptroller General. A report shall include recommendations on—

(1) legislation the Comptroller General considers necessary to make easier the prompt and accurate making and settlement of accounts; and

(2) other matters related to the receipt, disbursement, and use of public money the Comptroller General considers advisable.

(b)(1) The Comptroller General shall include in the report to Congress under subsection (a) of this section—

(A) a review of activities under sections 717(b)-(d) and 731(e)(2) of this title, including recommendations under section 717(c) of this title;

(B) information on carrying out duties and powers of the Comptroller General under clauses (A) and (C) of this paragraph, subsections (g) and (h) of this section, and sections 717, 731(e)(2), 734, 1112, and 1113 of this title; and

(C) the name of each officer and employee of the General Accounting Office assigned or detailed to a committee of Congress, the committee to which the officer or employee is assigned or detailed, the length of the period of assignment or detail, a statement on whether the assignment or detail is finished or continuing, and compensation paid out of appropriations available to the Comptroller General for the period of the assignment or detail that has been completed.

(2) In a report under subsection (a) of this section or in a special report to Congress when Congress is in session, the Comptroller General shall include recommendations on greater economy and efficiency in public expenditures.

(c) The Comptroller General shall report to Congress—

(1) specially on expenditures and contracts an agency makes in violation of law;

(2) on the adequacy and effectiveness of—

(A) administrative audits of accounts and claims in an agency; and

(B) inspections by an agency of offices and accounts of fiscal officials; and

(3) as frequently as practicable on audits carried out under sections 713 and 714 of this title.

(d) The Comptroller General shall report each year to the Committees on Finance and Governmental Affairs of the Senate, the Committees on Ways and Means and Government Operations of the House of Representatives, and the Joint Committee on Taxation. Each report shall include—

(1) procedures and requirements the Comptroller General, the Commissioner of Internal Revenue, and the Director of the Bureau of Alcohol, Tobacco, and Firearms, prescribe to protect the confidentiality of returns and return information made available to the Comptroller General under section 713(b)(1) of this title;

(2) the scope and subject matter of audits under section 713 of this title; and

(3) findings, conclusions, or recommendations the Comptroller General develops as a result of an audit under section 713 of this title, including significant evidence of inefficiency or mismanagement.

(e) The Comptroller General shall report on analyses carried out under section 712(3) of this title to the Committees on Governmental Affairs and Appropriations of the Senate, the Committees on Government Operations and Appropriations of the House, and the committees with jurisdiction over legislation related to the operation of each executive agency.

(f) The Comptroller General shall give the President information on expenditures and accounting the President requests.

(g) When the Comptroller General submits a report to Congress, the Comptroller General shall deliver copies of the report to—

(1) the Committees on Governmental Affairs and Appropriations of the Senate;

(2) the Committees on Government Operations and Appropriations of the House;

(3) a committee of Congress that requested information on any part of a program or activity of a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government that is the subject of any part of a report; and

(4) any other committee of Congress requesting a copy.

(h)(1) The Comptroller General shall prepare—

(A) each month a list of reports issued during the prior month; and

(B) at least once each year a list of reports issued during the prior 12 months.

(2) A copy of each list shall be sent to each committee of Congress and each member of Congress. On request, the Comptroller General promptly shall provide a copy of a report to a committee or member.

(i) On request of a committee of Congress, the Comptroller General shall explain to and discuss with the committee or committee staff a report the Comptroller General makes that would help the committee—

(1) evaluate a program or activity of an agency within the jurisdiction of the committee; or

(2) in its consideration of proposed legislation.

§720. Agency reports

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government (except a mixed-ownership Government corporation) or the District of Columbia government.

(b) When the Comptroller General makes a report that includes a recommendation to the head of an agency, the head of the agency shall submit a written statement on action taken on the recommendation by the head of the agency. The statement shall be submitted to—

(1) the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives before the 61st day after the date of the report; and

(2) the Committees on Appropriations of both Houses of Congress in the first request for appropriations submitted more than 60 days after the date of the report.

SUBCHAPTER III—PERSONNEL

§731. General

(a) The Comptroller General may appoint, pay, assign, and remove officers (except the Deputy Comptroller General) and employees the Comptroller General decides are necessary to carry out the duties and powers of the General Accounting Office.

(b) The Comptroller General may establish for appropriate officers and employees a merit pay system consistent with section 5401(a) of title 5.

(c) The annual rate of basic pay of the General Counsel of the General Accounting Office is equal to the rate for level IV of the Executive Schedule.

(d) When a change in organization, management responsibility, or workload makes it necessary, the Comptroller General may fix the rate of basic pay of 5 positions at rates not more than the rate for level IV of the Executive Schedule.

(e) The Comptroller General may procure the services of experts and consultants under section 3109 of title 5, except that the services of not more than—

(1) 10 experts and consultants may be procured for not more than 3 years; and

(2) 10 experts and consultants may be procured permanently, temporarily, or intermittently to carry out sections 717(b)-(d) and 719(b)(1)(A) of this title at rates that are not more than the rate for level V of the Executive Schedule.

§732. Personnel management system

(a) The Comptroller General shall maintain a personnel management system. The Comptroller General may prescribe a regulation about the system only after notice and opportunity for public comment. A reprisal or threat of reprisal may not be made against an officer or employee of the General Accounting Office because of comments on a proposed regulation about the system.

(b) The personnel management system shall—

(1) include the principles of section 2301(b) of title 5;

(2) prohibit personnel practices prohibited under section 2302(b) of title 5;

(3) prohibit political activities prohibited under subchapter III of chapter 73 of title 5;

(4) ensure that officers and employees of the Office are appointed, promoted, and assigned only on the basis of merit and fitness, but without regard to those provisions of title 5 governing appointments and other personnel actions in the competitive service;

(5) give a preference to an individual eligible for a preference in the executive branch of the United States Government in a way and to an extent consistent with a preference given an individual in the executive branch; and

(6) provide that the Comptroller General shall fix the basic pay of officers and employees of the Office not fixed by law, consistent with section 5301(a) of title 5.

(c) Under the personnel management system—

(1) the Comptroller General shall publish a schedule of basic pay rates for officers and employees of the Office;

(2) except as provided in clause (4) of this subsection and section 733(a)(3)(A) of this title, the highest basic pay rate under the pay schedule may not be more than the highest basic rate for GS-15;

(3) except as provided in section 733(a)(3)(B) of this title, basic pay rates of officers and employees of the Office shall be adjusted at the same time and to the same extent as basic pay rates of the General Accounting Office are adjusted;

(4) the pay schedule for officers and employees of the Office may provide that the basic pay rates for not more than 100 positions may be at rates not more than the highest rate for GS-18, less the number of positions in the General Accounting Office Senior Executive Service under section 733 of this title (except positions included in the Service under section 733(c) of this title); and

(5) officers and employees of the Office are entitled to grade and basic pay retention consistent with subchapter VI of chapter 53 of title 5.

(d) The personnel management system shall provide—

(1) for a system to appraise the performance of officers and employees of the General Accounting Office that meets the requirements of section 4302 of title 5;

(2) that the Comptroller General has the same responsibility for performance appraisals under this subsection as the Director of the Office of Personnel Management has under section 4302 of title 5;

(3) for a reduction in grade or removal of an officer or employee because of unacceptable performance consistent with section 4303 of title 5;

(4) for other personnel actions consistent with chapter 75 of title 5; and

(5) a procedure for processing complaints and grievances not otherwise provided for under clauses (3) and (4) of this subsection or subsection (e) or (f)(1) of this section.

(e) The personnel management system shall provide—

(1) a procedure that ensures that each officer and employee of the General Accounting Office may form, join, or assist, or not form, join, or assist, an employee organization freely and without fear of penalty or reprisal; and

(2) for a labor-management relations program consistent with chapter 71 of title 5.

(f)(1) The personnel management system shall—

(A) provide that all personnel actions affecting an officer, employee, or applicant for employment be taken without regard to race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition; and

(B) include a minority recruitment program consistent with section 7201 of title 5.

(2) This subchapter and subchapter IV of this chapter do not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicapping condition. However, for officers, employees, or applicants in the General Accounting Office—

(A) the General Accounting Office Personnel Appeals Board has the same authority over oversight and appeals matters as an executive agency has over oversight and appeals matters; and

(B) the Comptroller General has the same authority over matters (except oversight and appeals) as an executive agency has over matters (except oversight and appeals).

(3) This section does not affect a lawful effort to achieve equal employment opportunity through affirmative action.

(g) An officer or employee of the General Accounting Office completing at least one year of continuous service under a nontemporary appointment under the personnel management system acquires a competitive status for appointment to a position in the competitive service for which the officer or employee is qualified.

§733. Senior Executive Service

(a) The Comptroller General may establish a General Accounting Office Senior Executive Service—

(1) meeting the requirements of section 3131 of title 5;

(2) providing requirements for positions consistent with section 3132(a)(2) of title 5;

(3) providing rates of basic pay—

(A) not more than the maximum rate or less than the minimum rate for the Senior Executive Service under section 5382 of title 5; and

(B) adjusted at the same time and to the same extent as rates in the Senior Executive Service under section 5382 of title 5 are adjusted;

(4) providing a performance appraisal system consistent with subchapter II of chapter 43 of title 5;

(5) allowing the Comptroller General to award ranks to officers and employees in the Office Senior Executive Service consistent with section 4507 of title 5;

(6) providing for removal consistent with section 3592 of title 5, and for removal or suspension consistent with section 7543 of title 5; and

(7) allowing the Comptroller General to pay performance awards to officers and employees of the Office Senior Executive Service consistent with section 5384 of title 5.

(b) Except as provided in subsection (a), the Comptroller General may apply any part of title 5 that applies to an applicant for or officer or employee in the Senior Executive Service under title 5 to the Office Senior Executive Service.

(c) The Office Senior Executive Service may include positions referred to in section 731(c), (d), or (e)(2) of this title.

(d) Section 732(b)(6), (c), (d)(1)–(4), and (e) of this title does not apply to the Office Senior Executive Service.

§734. Assignments and details to Congress

(a) The Comptroller General may assign or detail an officer or employee of the General Accounting Office to full-time continuous duty with a committee of Congress for not more than one year.

(b) A committee of the Senate or a joint committee of Congress for which the Secretary of the Senate disburses amounts shall reimburse the Comptroller General for the pay of each officer or employee of the Office for the time the officer or employee is assigned or detailed to the committee or joint committee.

§735. Relationship to other laws

(a) Except as provided in section 733(c) of this title, this subchapter and subchapter IV of this chapter do not affect sections 702(b), 703, 731(c)–(e), 772, 775(a) and (d) of this title.

(b) Except as specifically provided in this subchapter and subchapter IV of this chapter, those subchapters do not change the application of a law applicable to officers and employees of the General Accounting Office.

§736. Authorization of appropriations

Amounts necessary to carry out this subchapter and subchapter IV of this chapter may be appropriated to the Comptroller General.

SUBCHAPTER IV—PERSONNEL APPEALS BOARD

§751. Organization

(a) The General Accounting Office has a General Accounting Office Personnel Appeals Board. The Board is composed of 5 members appointed by the Comptroller General. An individual may be appointed only if the individual—

(1) has 3 years full-time or part-time experience in adjudicating or arbitrating personnel matters;

(2) is not a current or former officer or employee of the Office;

(3) has the demonstrated ability, background, training, and experience necessary to be qualified specially to serve on the Board; and

(4) demonstrates a capacity and willingness to devote sufficient time to dispose of cases in a timely way.

(b) The Comptroller General shall appoint members only—

(1) from a written list of candidates, submitted to the Comptroller General in a way and at the time the Comptroller General requires, by any organization the Comptroller General believes is composed primarily of individuals experienced in adjudicating or arbitrating personnel matters; and

(2) after the Comptroller General consults with organizations representing employees

of the Office and with any member of each committee of Congress, having legislative jurisdiction over the personnel management system maintained under section 732 of this title, whom the chairman of the committee designates.

(c) The term of a member of the Board is 3 years. A member may not be reappointed. An individual appointed to fill a vacancy occurring before the expiration of a term of office is appointed for the remainder of the term. However, if the unexpired part of a term is less than one year, the Comptroller General may appoint an individual for a 3-year term plus the unexpired part of the term. When the term of a member ends, the member may continue to serve until a successor takes office or for 6 months after the term expires, whichever is earlier.

(d) A member may be removed by a majority of the Board (except the member subject to removal) only for inefficiency, neglect of duty, or malfeasance in office. A member subject to removal shall be given notice and an opportunity for a hearing before the Board unless the member waives the opportunity in writing.

(e) While carrying out a member's duties (including travel), a member who is not an officer or employee of the United States Government is entitled to pay at a rate equal to the daily rate for GS-18. Each member is entitled to travel expenses and per diem allowances under section 5703 of title 5.

§752. Chairman and General Counsel

(a) The General Accounting Office Personnel Appeals Board shall select one of its members as Chairman. The Chairman is the chief executive and administrative officer of the Board.

(b)(1) The Comptroller General shall appoint as General Counsel of the Board an individual the Chairman selects. The General Counsel serves at the pleasure of the Chairman.

(2) The Chairman shall fix the pay of the General Counsel. The annual rate of basic pay of the General Counsel may be not more than the maximum rate for GS-15.

(3) The General Counsel shall—

(A) investigate an allegation about a prohibited personnel practice under section 732(b)(2) of this title to decide if there are reasonable grounds to believe the practice has occurred, exists, or will be taken by an officer or an employee of the General Accounting Office;

(B) investigate an allegation about a prohibited political activity under section 732(b)(3) of this title;

(C) investigate a matter under the jurisdiction of the Board if the Board or a member of the Board requests; and

(D) help the Board carry out its duties and powers.

§753. Duties and powers

(a) The General Accounting Office Personnel Appeals Board may consider and order corrective or disciplinary action in a case arising from—

(1) an officer or employee appeal about a removal, suspension for more than 14 days, reduction in grade or pay, or furlough of not more than 30 days;

(2) a prohibited personnel practice under section 732(b)(2) of this title;

(3) a prohibited political activity under section 732(b)(3) of this title;

(4) a decision of an appropriate unit of employees for collective bargaining;

(5) an election or certification of a collective bargaining representative;

(6) a matter appealable to the Board under the labor-management relations program under section 732(e)(2) of this title, including a labor practice prohibited under section 732(e)(1) of this title;

(7) an action involving discrimination prohibited under section 732(f)(1) of this title; and

(8) an issue about Office personnel the Comptroller General by regulation decides the Board shall resolve.

(b) The Board may delegate to a member or a panel of members the authority to act under subsection (a) of this section. A decision of a member or panel under subsection (a) is deemed to be a final decision of the Board unless the Board reconsiders the decision under subsection (c) of this section.

(c) On motion of a party or on its own initiative, the Board may reconsider a decision under subsection (a) of this section by the 30th day after the decision is made.

(d) The Board shall prescribe regulations—

(1) providing for officer and employee appeals consistent with sections 7701 and 7702 of title 5; and

(2) on the operating procedure of the Board.

§754. Action by the Comptroller General

When the Comptroller General has authority, the Comptroller General promptly shall carry out action the General Accounting Office Personnel Appeals Board orders under section 753 of this title.

§755. Judicial review

A person may apply for review of a final decision under section 753(a)(1)–(3), (6), or (7) of this title by filing a petition for review with the United States Court of Appeals for the District of Columbia Circuit or with the court of appeals of the United States for the circuit in which the person resides. Chapter 158 of title 28 applies to a review under this subchapter, except the petition for review shall be filed by the 30th day after the petitioner receives notice of the decision. The court shall set aside a final decision the court decides is—

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

SUBCHAPTER V—ANNUITIES

§771. Definitions

In this subchapter—

(1) “dependent child” means an unmarried dependent child (including a stepchild or adopted child) who is—

(A) under 18 years of age; or

(B) incapable of self-support because of physical or mental disability.

(2) “surviving spouse” means a surviving spouse of an individual who was a Comptroller General or retired Comptroller General and the spouse—

(A) was married to the individual for at least 2 years immediately before the individual died; or

(B) has not remarried and is the parent of issue by the marriage.

(3) service as a Comptroller General equals the number of years and complete months an individual is Comptroller General.

§772. Annuity of the Comptroller General

(a) Except as provided in subsection (c) of this section, a Comptroller General serving a complete term as Comptroller General or who is retired for age under section

703(e)(1) of this title after serving at least 10 years is entitled to receive an annuity for life equal to the pay the Comptroller General is receiving on completion of the term or at the time of retirement. An annuity of a Comptroller General who completes a term before becoming 65 years of age is reduced by .25 percent for each complete month the Comptroller General is under 65 years of age.

(b) Except as provided in subsection (c) of this section, a Comptroller General becoming permanently disabled shall be retired and is entitled to receive an annuity for life equal to—

(1) the pay of the Comptroller General at the time of retirement if the Comptroller General served at least 10 years; or

(2) 50 percent of the pay if the Comptroller General served less than 10 years.

(c) A Comptroller General who, when appointed, is or has been subject to subchapter III of chapter 83 of title 5 remains subject to subchapter III unless the Comptroller General elects in writing to receive an annuity under this section. An election is irrevocable and must be made within 10 years and 60 days after the start of service as Comptroller General. A Comptroller General electing to receive an annuity under this section is entitled to a refund of the lump-sum credit to the account of the Comptroller General in the Civil Service Retirement and Disability Fund.

(d) A Comptroller General (except a Comptroller General remaining subject to subchapter III of chapter 83 of title 5) shall—

(1) deposit with the General Accounting Office for redeposit in the Treasury as miscellaneous receipts as a contribution to the annuity—

(A) 3.5 percent of the pay received as Comptroller General before deductions are made under clause (2)(A) of this subsection plus 3 percent interest compounded every December 31 on the amount to be deposited, if electing survivor benefits under this subchapter; or

(B) 8 percent of the pay received as Comptroller General before deductions are made under clause (2)(B) of this subsection plus 3 percent interest compounded every December 31 on the amount to be deposited, if not electing survivor benefits under this subchapter; and

(2) have—

(A) 3.5 percent of the pay received as Comptroller General deducted as a contribution to the annuity if electing survivor benefits under this subchapter; or

(B) 8 percent of the pay received as Comptroller General deducted as a contribution to the annuity if not electing survivor benefits under this subchapter.

(e) A Comptroller General receiving benefits under this section may not receive retirement or disability benefits under another law of the United States.

§773. Election of survivor benefits

(a) To provide survivor benefits, a Comptroller General may elect in writing to reduce the pay and annuity of the Comptroller General. An election shall be made within 6 months of taking office or, if an election is made under section 772(c) of this title, by the 60th day after making an election under section 772(c).

(b) A Comptroller General electing to provide survivor benefits shall—

(1) have 4.5 percent of the pay received as Comptroller General and annuity of the Comptroller General deducted; and

(2) deposit with the General Accounting Office for redeposit in the Treasury as miscellaneous receipts—

(A) 4.5 percent of the pay and annuity received as Comptroller General before the deductions begin;

(B) 4.5 percent of basic pay received as a member of Congress or for other civilian service on which a surviving spouse's annuity is computed under section 774(d) of this title; and

(C) 4 percent interest before January 1, 1948, and 4.5 percent interest after December 31, 1947, compounded every December 31, on amounts deposited.

(c) This subchapter does not prevent a surviving spouse or dependent child from receiving another annuity while receiving an annuity under section 774 of this title. However, service used in computing an annuity under section 774 may not be used in computing the other annuity.

§774. Survivor annuities

(a) In this section—

(1) “allowable military service” means honorable active service of not more than 5 years in an armed force (including service in the National Guard when ordered to active duty for the United States Government), when the service is not creditable in computing another annuity.

(2) “other prior allowable service” means civilian service as an officer or employee of the Government or District of Columbia government not covered by subsection (d)(1) of this section.

(3) “congressional employee” has the same meaning given that term in section 2107 of title 5.

(b) A survivor annuity shall be paid under this subchapter when a Comptroller General—

(1) makes an election under section 773 of this title;

(2) dies in office or while receiving an annuity under section 772 of this title;

(3) had at least 5 years of civilian service at death computed under subsections (a) and (d) of this section; and

(4) had deductions or deposits under section 773 of this title made for the last 5 years of civilian service.

(c) If the Comptroller General or retired Comptroller General is survived—

(1) only by a spouse, the surviving spouse shall receive an annuity computed under subsection (d) of this section beginning on the death of the Comptroller General or retired Comptroller General or when the spouse is 50 years of age, whichever is later;

(2) by a spouse and a dependent child, the surviving spouse shall receive an immediate annuity under subsection (d) of this section and each dependent child shall receive an immediate annuity equal to the smaller of—

(A) \$1,548; or

(B) \$4,644 divided by the number of dependent children; or

(3) only by a dependent child, each dependent child shall receive an immediate annuity equal to the smaller of—

(A) the annuity a surviving spouse would be entitled to receive under clause (2) of this subsection divided by the number of dependent children;

(B) \$1,860; or

(C) \$5,580 divided by the number of dependent children.

(d) The annuity of a surviving spouse is equal to—

(1) 1.25 percent of the average annual pay (based on the 3 years of highest pay re-

ceived as Comptroller General and other prior allowable service) times—

- (A) the number of years of—
 - (i) service as Comptroller General or a member of Congress; and
 - (ii) prior allowable military service; and
- (B) not more than 15 years of prior allowable service as a congressional employee; plus

(2) .75 percent of the average pay computed under clause (1) of this subsection times the number of years of other allowable service.

(e) A surviving spouse's annuity may not be more than 40 percent of the average annual pay computed under subsection (d)(1) of this section. If a Comptroller General does not make the deposit under section 773(b) of this title, a surviving spouse's annuity shall be credited with the service during which a deposit was not made, unless the spouse elects not to have the service credited. However, the annuity shall be reduced by 10 percent of the amount of the unpaid deposit, computed on the date the Comptroller General or retired Comptroller General dies.

§775. Refunds

(a) A Comptroller General separated from office before becoming entitled to receive an annuity under section 772 of this title is entitled to a lump-sum refund of the amount deducted from pay or deposited as a contribution under section 772, plus 3 percent interest on the amount compounded every December 31.

(b) A Comptroller General making an election under section 773 of this title who is separated from office before becoming entitled to an annuity under section 772 of this title is entitled to a lump-sum refund of the amount deducted under section 773 of this title, plus 4 percent interest before January 1, 1948, and 3 percent interest after December 31, 1947, compounded every December 31 until the separation date.

(c) A lump-sum refund of the amounts deducted under sections 772 and 773 of this title, plus interest of 4 percent before January 1, 1948, and 3 percent after December 31, 1947, compounded every December 31 until the date of death, shall be paid under subsection (d) of this section if—

(1) a Comptroller General dies in office before completing 5 years of civilian service under section 774 of this title or after completing 5 years of civilian service but without a survivor entitled to an annuity under section 774(b) and (c) of this title; or

(2) if a retired Comptroller General dies without a survivor entitled to an annuity under section 774(b) and (c) of this title.

(d) If a Comptroller General or retired Comptroller General dies before a refund is made under this section, the refund shall be paid in the following order of precedence:

(1) to a beneficiary the Comptroller General or retired Comptroller General designated in writing if the designation was received by the General Accounting Office before the death of the Comptroller General or retired Comptroller General.

(2) to a surviving spouse.

(3) to the children and to a descendant of a deceased child by representation.

(4) to the parents equally or, if only one surviving parent, to that survivor.

(5) to the executor or administrator of the estate of the Comptroller General or retired Comptroller General.

(6) to the next of kin that the General Counsel of the General Accounting Office decides is entitled to the refund under the laws of the domicile of the Comptroller

General or retired Comptroller General at the time of death.

(e) The General Counsel is not subject to section 771 (1) and (2) of this title when making a decision about a surviving spouse or child under subsection (c) or (d) of this section.

(f) If the annuities of all individuals entitled to survivor annuities under this subchapter end before the amount of annuities paid equals the amount deducted under sections 772 and 773 of this title, plus interest of 4 percent before January 1, 1948, and 3 percent after December 31, 1947, compounded every December 31 until the date of death, the remainder shall be paid under subsection (d) of this section.

§776. Payment of survivor benefits

(a) An annuity under section 774 of this title accrues monthly and is paid monthly on the first business day of the month after the month in which an annuity accrues.

(b)(1) A surviving spouse's annuity ends when the spouse remarries or dies.

(2) A dependent child's annuity ends when the child becomes 18 years of age, marries, or dies, whichever is earliest. However, if a child is not self-supporting because of a physical or mental disability, an annuity ends when the child recovers, marries, or dies.

(3) If a surviving spouse dies and a dependent child survives, the child's annuity is recomputed under section 774(c)(3) of this title.

(4) When a dependent child's annuity ends, the annuity of another dependent child is recomputed as if the child whose annuity has ended did not survive a Comptroller General or retired Comptroller General.

(c) An accrued annuity unpaid when the annuity of a survivor ends—

(1) for a reason except death, shall be paid to the survivor; and

(2) when a survivor dies, shall be paid in the following order of precedence:

(A) to the executor or administrator of the estate of the individual.

(B) if there is no executor or administrator, then after 30 days after the date of death, to an individual the General Counsel of the General Accounting Office decides is legally entitled to the payment.

(d)(1) A payment under subsection (c)(2)(B) of this section or section 775(d) of this title is a bar to recovery by another individual.

(2) A benefit under this section and sections 773-775 of this title is not assignable or subject to legal process.

§777. Annuity increases

(a) The Comptroller General shall compute—

(1) on January 1 of each year, or within a reasonable time after January 1, the percent change in the Consumer Price Index between June and December of the prior year; and

(2) on July 1 of each year, or within a reasonable time after July 1, the percent change in the Index between June of the same year and December of the prior year.

(b) If a percent change computed under subsection (a)(1) of this section indicates a rise in the Index, an annuity payable under this subchapter and beginning before March 2 shall increase on March 1 by the percent change computed under subsection (a)(1), adjusted to the nearest .1 percent. If a percent change computed under subsection (a)(2) of this section indicates a rise in the Index, an annuity payable under this subchapter and beginning before September 2

shall increase on September 1 by the percent change computed under subsection (a)(2), adjusted to the nearest .1 percent.

(c)(1) An increase under this section may not be more than an increase prescribed under section 8340(b) of title 5.

(2) An annuity under section 772 of this title may not be more than the basic pay of the Comptroller General.

§778. Dependency and disability decisions

The General Counsel of the General Accounting Office shall decide a question of dependency, disability, or dependency and disability under sections 773-776 of this title. A decision under this section is final.

§779. Use of appropriations

Annuities and refunds under this subchapter shall be paid by the Comptroller General from appropriations of the General Accounting Office.

SUBTITLE II—THE BUDGET PROCESS

CHAPTER	Sec.
11. THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION.....	1101
13. APPROPRIATIONS.....	1301
15. APPROPRIATION ACCOUNTING.....	1501
CHAPTER 11—THE BUDGET AND FISCAL, BUDGET, AND PROGRAM INFORMATION	

Sec.	
1101.	Definitions.
1102.	Fiscal year.
1103.	Budget ceiling.
1104.	Budget and appropriations authority of the President.
1105.	Budget contents and submission to Congress.
1106.	Supplemental budget estimates and changes.
1107.	Deficiency and supplemental appropriations.
1108.	Preparation and submission of appropriations requests to the President.
1109.	Current programs and activities estimates.
1110.	Year-ahead requests for authorizing legislation.
1111.	Improving economy and efficiency.
1112.	Fiscal, budget, and program information.
1113.	Congressional information.
1114.	Budget information on consulting services.

§1101. Definitions

In this chapter—

(1) "agency" includes the District of Columbia government but does not include the legislative branch or the Supreme Court.

(2) "appropriations" means appropriated amounts and includes, in appropriate context—

(A) funds;

(B) authority to make obligations by contract before appropriations; and

(C) other authority making amounts available for obligation or expenditure.

§1102. Fiscal year

The fiscal year of the Treasury begins on October 1 of each year and ends on September 30 of the following year. Accounts of receipts and expenditures required under law to be published each year shall be published for the fiscal year.

§1103. Budget ceiling

Congress reaffirms its commitment that budget outlays of the United States Government for a fiscal year may be not more than the receipts of the Government for that year.

§1104. Budget and appropriations authority of the President

(a) The President shall prepare budgets of the United States Government under section 1105 of this title and proposed deficiency and supplemental appropriations under section 1107 of this title. To the extent practicable, the President shall use uniform terms in stating the purposes and conditions of appropriations.

(b) Except as provided in this chapter, the President shall prescribe the contents and order of statements in the budget on expenditures and estimated expenditures and statements on proposed appropriations and information submitted with the budget and proposed appropriations. The President shall include with the budget and proposed appropriations information on personnel and other objects of expenditure in the way that information was included in the budget for fiscal year 1950. However, the requirement that information be included in the budget in that way may be waived or changed by joint action of the Committees on Appropriations of both Houses of Congress. This subsection does not limit the authority of a committee of Congress to request information in a form it prescribes.

(c) When the President makes a basic change in the form of the budget, the President shall submit with the budget information showing where items in the budget for the prior fiscal year are contained in the present budget. However, the President may change the functional categories in the budget only in consultation with the Committees on Appropriations and on the Budget of both Houses of Congress.

(d) The President shall develop programs and prescribe regulations to improve the compilation, analysis, publication, and dissemination of statistical information by executive agencies. The President shall carry out this subsection through the Administrator for the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(e) Under regulations prescribed by the President, each agency shall provide information required by the President in carrying out this chapter. The President has access to, and may inspect, records of an agency to obtain information.

§1105. Budget contents and submission to Congress

(a) During the first 15 days of each regular session of Congress, the President shall submit a budget of the United States Government for the following fiscal year. Each budget shall include a budget message and summary and supporting information. The President shall include in each budget the following:

(1) information on activities and functions of the Government.

(2) when practicable, information on costs and achievements of Government programs.

(3) other desirable classifications of information.

(4) a reconciliation of the summary information on expenditures with proposed appropriations.

(5) except as provided in subsection (b) of this section, estimated expenditures and proposed appropriations the President decides are necessary to support the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year.

(6) estimated receipts of the Government in the fiscal year for which the budget is submitted and the 4 fiscal years after that year under—

(A) laws in effect when the budget is submitted; and

(B) proposals in the budget to increase revenues.

(7) appropriations, expenditures, and receipts of the Government in the prior fiscal year.

(8) estimated expenditures and receipts, and appropriations and proposed appropriations, of the Government for the current fiscal year.

(9) balanced statements of the—

(A) condition of the Treasury at the end of the prior fiscal year;

(B) estimated condition of the Treasury at the end of the current fiscal year; and

(C) estimated condition of the Treasury at the end of the fiscal year for which the budget is submitted if financial proposals in the budget are adopted.

(10) essential information about the debt of the Government.

(11) other financial information the President decides is desirable to explain in practicable detail the financial condition of the Government.

(12) for each proposal in the budget for legislation that would establish or expand a Government activity or function, a table showing—

(A) the amount proposed in the budget for appropriation and for expenditure because of the proposal in the fiscal year for which the budget is submitted; and

(B) the estimated appropriation required because of the proposal for each of the 4 fiscal years after that year that the proposal will be in effect.

(13) an allowance for additional estimated expenditures and proposed appropriations for the fiscal year for which the budget is submitted.

(14) an allowance for unanticipated uncontrollable expenditures for that year.

(15) a separate statement on each of the items referred to in section 301(a)(1)-(5) of the Congressional Budget Act of 1974 (2 U.S.C. 632(a)(1)-(5)).

(16) the level of tax expenditures under existing law in the tax expenditures budget (as defined in section 3(a)(3) of the Congressional Budget Act of 1974 (2 U.S.C. 622(a)(3))) for the fiscal year for which the budget is submitted, considering projected economic factors and changes in the existing levels based on proposals in the budget.

(17) information on estimates of appropriations for the fiscal year following the fiscal year for which the budget is submitted for grants, contracts, and other payments under each program for which there is an authorization of appropriations for that following fiscal year when the appropriations are authorized to be included in an appropriation law for the fiscal year before the fiscal year in which the appropriation is to be available for obligation.

(18) a comparison of the total amount of budget outlays for the prior fiscal year, estimated in the budget submitted for that year, for each major program having relatively uncontrollable outlays with the total amount of outlays for that program in that year.

(19) a comparison of the total amount of receipts for the prior fiscal year, estimated in the budget submitted for that year, with receipts received in that year, and for each major source of receipts, a comparison of the amount of receipts estimated in that budget with the amount of receipts from that source in that year.

(20) an analysis and explanation of the differences between each amount compared

under clauses (18) and (19) of this subsection.

(21) a horizontal budget showing—

(A) the programs for meteorology and of the National Climate Program established under section 5 of the National Climate Program Act (15 U.S.C. 2904);

(B) specific aspects of the program of, and appropriations for, each agency; and

(C) estimated goals and financial requirements.

(22) a statement of budget authority, proposed budget authority, budget outlays, and proposed budget outlays, and descriptive information in terms of—

(A) a detailed structure of national needs that refers to the missions and programs of agencies (as defined in section 101 of this title); and

(B) the missions and basic programs.

(23) separate appropriation accounts for appropriations under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) and the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.).

(24) recommendations on the return of Government capital to the Treasury by a mixed-ownership corporation (as defined in section 9101(2) of this title) that the President decides are desirable.

(b) Estimated expenditures and proposed appropriations for the legislative branch and the judicial branch to be included in each budget under subsection (a)(5) of this section shall be submitted to the President before October 16 of each year and included in the budget by the President without change.

(c) The President shall recommend in the budget appropriate action to meet an estimated deficiency when the estimated receipts for the fiscal year for which the budget is submitted (under laws in effect when the budget is submitted) and the estimated amounts in the Treasury at the end of the current fiscal year available for expenditure in the fiscal year for which the budget is submitted, are less than the estimated expenditures for that year. The President shall make recommendations required by the public interest when the estimated receipts and estimated amounts in the Treasury are more than the estimated expenditures.

(d) When the President submits a budget or supporting information about a budget, the President shall include a statement on all changes about the current fiscal year that were made before the budget or information was submitted.

§1106. Supplemental budget estimates and changes

(a) Before July 16 of each year, the President shall submit to Congress a supplemental summary of the budget for the fiscal year for which the budget is submitted under section 1105(a) of this title. The summary shall include—

(1) for that fiscal year—

(A) substantial changes in or reappraisals of estimates of expenditures and receipts;

(B) substantial obligations imposed on the budget after its submission;

(C) current information on matters referred to in section 1105(a)(8) and (9)(B) and (C) of this title; and

(D) additional information the President decides is advisable to provide Congress with complete and current information about the budget and current estimates of the functions, obligations, requirements,

and financial condition of the United States Government;

(2) for the 4 fiscal years following the fiscal year for which the budget is submitted, information on estimated expenditures for programs authorized to continue in future years, or that are considered mandatory, under law; and

(3) for future fiscal years, information on estimated expenditures of balances carried over from the fiscal year for which the budget is submitted.

(b) Before April 11 and July 16 of each year, the President shall submit to Congress a statement of changes in budget authority requested, estimated budget outlays, and estimated receipts for the fiscal year for which the budget is submitted (including prior changes proposed for the executive branch of the Government) that the President decides are necessary and appropriate based on current information. The statement shall include the effect of those changes on the information submitted under section 1105(a)(1)-(14) and (b) of this title and shall include supporting information as practicable. The statement submitted before July 16 may be included in the information submitted under subsection (a)(1) of this section.

§1107. Deficiency and supplemental appropriations

The President may submit to Congress proposed deficiency and supplemental appropriations the President decides are necessary because of laws enacted after the submission of the budget or that are in the public interest. The President shall include the reasons for the submission of the proposed appropriations and the reasons the proposed appropriations were not included in the budget. When the total proposed appropriations would have required the President to make a recommendation under section 1105(c) of this title if they had been included in the budget, the President shall make a recommendation under that section.

§1108. Preparation and submission of appropriations requests to the President

(a) In this section (except subsections (b)(1) and (e)), "agency" means a department, agency, or instrumentality of the United States Government.

(b)(1) The head of each agency shall prepare and submit to the President each appropriation request for the agency. The request shall be prepared and submitted in the form prescribed by the President under this chapter and by the date established by the President. When the head of an agency does not submit a request by that date, the President shall prepare the request for the agency to be included in the budget or changes in the budget or as deficiency and supplemental appropriations. The President may change agency appropriation requests. Agency appropriation requests shall be developed from cost-based budgets in the way and at times prescribed by the President. The head of the agency shall use the cost-based budget to administer the agency and to divide appropriations or amounts.

(2) An officer or employee of an agency in the executive branch may submit to the President or Congress a request for legislation authorizing deficiency or supplemental appropriations for the agency only with the approval of the head of the agency.

(c) The head of an agency shall include with an appropriation request submitted to the President a report that the statement of obligations submitted with the request contains obligations consistent with section

1501 of this title. The head of the agency shall support the report with a certification of the consistency and shall support the certification with records showing that the amounts have been obligated. The head of the agency shall designate officials to make the certifications, and those officials may not delegate the duty to make the certifications. The certifications and records shall be kept in the agency—

(1) in a form that makes audits and reconciliations easy; and

(2) for a period necessary to carry out audits and reconciliations.

(d) To the extent practicable, the head of an agency shall—

(1) provide information supporting the agency's budget request for its missions by function and subfunction (including the mission of each organizational unit of the agency); and

(2) relate the agency's programs to its missions.

(e) Except as provided in subsection (f) of this section, an officer or employee of an agency (as defined in section 1101 of this title) may submit to Congress or a committee of Congress an appropriations estimate or request, a request for an increase in that estimate or request, or a recommendation on meeting the financial needs of the Government only when requested by either House of Congress.

(f) The Interstate Commerce Commission shall submit to Congress copies of budget estimates, requests, and information (including personnel needs), legislative recommendations, prepared testimony for congressional hearings, and comments on legislation at the same time they are sent to the President or the Office of Management and Budget. An officer of an agency may not impose conditions on or impair communication by the Commission with Congress, or a committee or member of Congress, about the information.

(g) Amounts available under law are available for field examinations of appropriation estimates. The use of the amounts is subject only to regulations prescribed by the appropriate standing committees of Congress.

§1109. Current programs and activities estimates

(a) Before November 11 of each year, the President shall submit to both Houses of Congress the estimated budget outlays and proposed budget authority that would be included in the budget for the following fiscal year if programs and activities of the United States Government were carried on during that year at the same level as the current fiscal year without a change in policy. The President shall state the estimated budget outlays and proposed budget authority by function and subfunction under the classifications in the budget summary table under the heading "Budget Authority and Outlays by Function and Agency", by major programs in each function, and by agency. The President also shall include a statement of the economic and program assumptions on which those budget outlays and budget authority are based, including inflation, real economic growth, and unemployment rates, program caseloads, and pay increases.

(b) The Joint Economic Committee shall review the estimated budget outlays and proposed budget authority and submit an economic evaluation of the budget outlays and budget authority to the Committees on the Budget of both Houses before January 1 of each year.

§1110. Year-ahead requests for authorizing legislation

A request to enact legislation authorizing new budget authority to continue a program or activity for a fiscal year shall be submitted to Congress before May 16 of the year before the year in which the fiscal year begins. If a new program or activity will continue for more than one year, the request must be submitted for at least the 1st and 2d fiscal years.

§1111. Improving economy and efficiency

To improve economy and efficiency in the United States Government, the President shall—

(1) make a study of each agency to decide, and may send Congress recommendations, on changes that should be made in—

(A) the organization, activities, and business methods of agencies;

(B) agency appropriations;

(C) the assignment of particular activities to particular services; and

(D) regrouping of services; and

(2) evaluate and develop improved plans for the organization, coordination, and management of the executive branch of the Government.

§1112. Fiscal, budget, and program information

(a) In this section, "agency" means a department, agency, or instrumentality of the United States Government except a mixed-ownership Government corporation.

(b) In cooperation with the Comptroller General, the Secretary of the Treasury and the Director of the Office of Management and Budget shall establish and maintain standard data processing and information systems for fiscal, budget, and program information for use by agencies to meet the needs of the Government, and to the extent practicable, of State and local governments.

(c) The Comptroller General—

(1) in cooperation with the Secretary, the Director of the Office of Management and Budget, and the Director of the Congressional Budget Office, shall establish, maintain, and publish standard terms and classifications for fiscal, budget, and program information of the Government, including information on fiscal policy, receipts, expenditures, programs, projects, activities, and functions;

(2) when advisable, shall report to Congress on those terms and classifications, and recommend legislation necessary to promote the establishment, maintenance, and use of standard terms and classifications by the executive branch of the Government; and

(3) in carrying out this subsection, shall give particular consideration to the needs of the Committees on Appropriations and on the Budget of both Houses of Congress; the Committee on Ways and Means of the House, the Committee on Finance of the Senate, and the Congressional Budget Office.

(d) Agencies shall use the standard terms and classifications published under subsection (c)(1) of this section in providing fiscal, budget, and program information to Congress.

(e) In consultation with the President, the head of each executive agency shall take actions necessary to achieve to the extent possible—

(1) consistency in budget and accounting classifications;

(2) synchronization between those classifications and organizational structure; and

(3) information by organizational unit on performance and program costs to support budget justifications.

(f) In cooperation with the Director of the Congressional Budget Office, the Comptroller General, and appropriate representatives of State and local governments, the Director of the Office of Management and Budget (to the extent practicable) shall provide State and local governments with fiscal, budget, and program information necessary for accurate and timely determination by those governments of the impact on their budgets of assistance of the United States Government.

§1113. Congressional information

(a) When requested by a committee of Congress having jurisdiction over receipts or appropriations, the President shall provide the committee with assistance and information.

(b) When requested by a committee of Congress, by the Comptroller General, or by the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the head of each executive agency shall—

(1) provide information on the location and kind of available fiscal, budget, and program information;

(2) to the extent practicable, prepare summary tables of that fiscal, budget, and program information and related information the committee, the Comptroller General, or the Director of the Congressional Budget Office considers necessary; and

(3) provide a program evaluation carried out or commissioned by an executive agency.

(c) In cooperation with the Director of the Congressional Budget Office, the Secretary, and the Director of the Office of Management and Budget, the Comptroller General shall—

(1) establish and maintain a current directory of sources of, and information systems for, fiscal, budget, and program information and a brief description of the contents of each source and system;

(2) when requested, provide assistance to committees of Congress and members of Congress in obtaining information from the sources in the directory; and

(3) when requested, provide assistance to committees and, to the extent practicable, to members of Congress in evaluating the information obtained from the sources in the directory.

(d) To the extent they consider necessary, the Comptroller General and the Director of the Congressional Budget Office individually or jointly shall establish and maintain a file of information to meet recurring needs of Congress for fiscal, budget, and program information to carry out this section and sections 717 and 1112 of this title. The file shall include information on budget requests, congressional authorizations to obligate and expend, apportionment and reserve actions, and obligations and expenditures. The Comptroller General and the Director shall maintain the file and an index to the file so that it is easier for the committees and agencies of Congress to use the file and index through data processing and communications techniques.

(e)(1) The Comptroller General shall—

(A) carry out a continuing program to identify the needs of committees and members of Congress for fiscal, budget, and program information to carry out this section and section 1112 of this title;

(B) assist committees of Congress in developing their information needs;

(C) monitor recurring reporting requirements of Congress and committees; and

(D) make recommendations to Congress and committees for changes and improvements in those reporting requirements to meet information needs identified by the Comptroller General, to improve their usefulness to congressional users, and to eliminate unnecessary reporting.

(2) Before September 2 of each year, the Comptroller General shall report to Congress on—

(A) the needs identified under paragraph (1)(A) of this subsection;

(B) the relationship of those needs to existing reporting requirements;

(C) the extent to which reporting by the executive branch of the United States Government currently meets the identified needs;

(D) the changes to standard classifications necessary to meet congressional needs;

(E) activities, progress, and results of the program of the Comptroller General under paragraph (1)(B)-(D) of this subsection; and

(F) progress of the executive branch in the prior year.

(3) Before March 2 of each year, the Director of the Office of Management and Budget and the Secretary shall report to Congress on plans for meeting the needs identified under paragraph (1)(A) of this subsection, including—

(A) plans for carrying out changes to classifications to meet information needs of Congress;

(B) the status of information systems in the prior year; and

(C) the use of standard classifications.

§1114. Budget information on consulting services

(a) The head of each agency shall include in the budget justification for the agency submitted each year to the Committees on Appropriations of both Houses of Congress—

(1) amounts requested for consulting services;

(2) the appropriation accounts from which the amounts are to be paid; and

(3) a description of the need for the consulting services, including a list of the major programs requiring those services.

(b) The Inspector General or comparable official of each agency shall submit to Congress each year, with the budget justification for the agency, an evaluation of the progress of the agency in establishing effective management controls and improving the accuracy and completeness of the information provided to the Federal Procurement Data System on contracts for consulting services. If the agency does not have an Inspector General or comparable official, the head of the agency or officer or employee designated by the head of the agency shall submit the evaluation.

CHAPTER 13—APPROPRIATIONS

SUBCHAPTER I—GENERAL

Sec.

1301. Application.

1302. Determining amounts appropriated.

1303. Effect of changes in titles of appropriations.

1304. Judgments, awards, and compromise settlements.

1305. Miscellaneous permanent appropriations.

1306. Use of foreign credits.

1307. Public building construction.

1308. Telephone and metered services.

1309. Social security tax.

1310. Appropriations for private organizations.

SUBCHAPTER II—TRUST FUNDS AND REFUNDS

1321. Trust funds.

1322. Payments of unclaimed trust fund amounts and refund of amounts erroneously deposited.

1323. Trust funds for certain fees, donations, quasi-public amounts, and unearned amounts.

1324. Refund of internal revenue collections.

SUBCHAPTER III—LIMITATIONS, EXCEPTIONS, AND PENALTIES

1341. Limitations on expending and obligating amounts.

1342. Limitation on voluntary services.

1343. Buying and leasing passenger motor vehicles and aircraft.

1344. Passenger motor vehicle and aircraft use.

1345. Expenses of meetings.

1346. Commissions, councils, boards, and interagency and similar groups.

1347. Appropriations or authorizations required for agencies in existence for more than one year.

1348. Telephone installation and charges.

1349. Adverse personnel actions.

1350. Criminal penalty.

1351. Reports on violations.

SUBCHAPTER I—GENERAL

§1301. Application

(a) Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

(b) The reappropriation and diversion of the unexpended balance of an appropriation for a purpose other than that for which the appropriation originally was made shall be construed and accounted for as a new appropriation. The unexpended balance shall be reduced by the amount to be diverted.

(c) An appropriation in a regular, annual appropriation law may be construed to be permanent or available continuously only if the appropriation—

(1) is for rivers and harbors, lighthouses, public buildings, or the pay of the Navy and Marine Corps; or

(2) expressly provides that it is available after the fiscal year covered by the law in which it appears.

(d) A law may be construed to make an appropriation out of the Treasury or to authorize making a contract for the payment of money in excess of an appropriation only if the law specifically states that an appropriation is made or that such a contract may be made.

§1302. Determining amounts appropriated

Except as specifically provided by law, the total amount appropriated in an appropriation law is determined by adding up the specific amounts or rates appropriated in each paragraph of the law.

§1303. Effect of changes in titles of appropriations

Expenditures for a particular object or purpose authorized by a law (and referred to in that law by the specific title previously used for the appropriation item in the appropriation law concerned) may be made from a corresponding appropriation item when the specific title is changed or eliminated from a later appropriation law.

§1304. Judgments, awards, and compromise settlements

(a) Necessary amounts are appropriated to pay final judgments, awards, compromise settlements, and interest and costs specified in the judgments or otherwise authorized by law when—

(1) payment is not otherwise provided for;

(2) payment is certified by the Comptroller General; and

(3) the judgment, award, or settlement is payable—

(A) under section 2414, 2517, 2672, or 2677 of title 28;

(B) under section 3723 of this title;

(C) under a decision of a board of contract appeals; or

(D) in excess of an amount payable from the appropriations of an agency for a meritorious claim under section 2733 or 2734 of title 10, section 715 of title 32, or section 203 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473).

(b)(1) Interest may be paid from the appropriation made by this section—

(A) on a judgment of a district court under section 2411(b) of title 28, only when the judgment becomes final after review on appeal or petition by the United States Government, and then only from the date of filing of the transcript of the judgment with the Comptroller General through the day before the date of the mandate of affirmance; or

(B) on a judgment of the Court of Claims under section 2516(b) of title 28, only from the date of filing of the transcript of the judgment with the Comptroller General through the day before the date of the mandate of affirmance.

(2) Interest payable under this subsection in a proceeding reviewed by the Supreme Court is not allowed after the end of the term in which the judgment is affirmed.

(c)(1) A judgment or compromise settlement against the Government shall be paid under this section and sections 2414, 2517, and 2518 of title 28 when the judgment or settlement arises out of an express or implied contract made by—

(A) the Army and Air Force Exchange Service;

(B) the Navy Exchanges;

(C) the Marine Corps Exchanges;

(D) the Coast Guard Exchanges; or

(E) the Exchange Councils of the National Aeronautics and Space Administration.

(2) The Exchange making the contract shall reimburse the Government for the amount paid by the Government.

§1305. Miscellaneous permanent appropriations

Necessary amounts are appropriated for the following:

(1) to pay the proceeds of the personal estate of a United States citizen dying abroad to the legal representative of the deceased on proper demand and proof.

(2) to pay interest on the public debt under laws authorizing payment.

(3) to pay proceeds from derelict and salvage cases adjudged by the courts of the United States to salvors.

(4) to make payments required under contracts made under section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) for the payment of interest on obligations guaranteed by the Secretary of Housing and Urban Development under section 108.

(5) to make payments required under contracts made under section 103(b) of the Housing Act of 1949 (42 U.S.C. 1453(b)) for projects or programs for which amounts

had been committed before January 1, 1975, and for which amounts have not been appropriated.

(6) to pay for the construction of buildings and expenses of the Smithsonian Institution, at 6 percent on the fund derived from the bequest of James Smithson.

§1306. Use of foreign credits

Foreign credits owed to or owned by the Treasury are not available for expenditure by agencies except as provided annually in general appropriation laws.

§1307. Public building construction

Amounts appropriated to construct public buildings remain available until completion of the work. When a building is completed and outstanding liabilities for the construction are paid, balances remaining shall revert immediately to the Treasury.

§1308. Telephone and metered services

Charges for telephone and metered services (such as gas, electricity, water, and steam) for a time period beginning in one fiscal year or allotment period and ending in another fiscal year or allotment period may be charged against the appropriation or allotment current at the end of the time period covered by the service.

§1309. Social security tax

Amounts made available for the compensation of officers and employees of the United States Government may be used to pay taxes imposed on an agency as an employer under chapter 21 of the Internal Revenue Code of 1954 (26 U.S.C. 3101 et seq.).

§1310. Appropriations for private organizations

(a) The Secretary of the Treasury shall credit an appropriation for a private organization to the appropriate fiscal official of the organization. The credit shall be carried on the accounts of—

(1) the Treasury; or

(2) a designated depository of the United States Government (except a national bank).

(b) The fiscal official may pay an amount out of the appropriation only on a check of the fiscal official—

(1) payable to the order of the person to whom payment is to be made; and

(2) that states the specific purpose for which the amount is to be applied.

(c)(1) The fiscal official may pay an amount of less than \$20 out of the appropriation on a check—

(A) payable to the order of the fiscal official; and

(B) that states the amount is to be applied to small claims.

(2) The fiscal official shall provide the Secretary or the designated depository on which the check is drawn with a certified list of the claims. The list shall state the kind and amount of each claim and the name of each claimant.

SUBCHAPTER II—TRUST FUNDS AND REFUNDS

§1321. Trust funds

(a) The following are classified as trust funds:

(1) Philippine special fund (customs duties).

(2) Philippine special fund (internal revenue).

(3) Unclaimed condemnation awards, Department of the Treasury.

(4) Naval reservation, Olango civil fund.

(5) Personal funds of deceased inmates, Naval Home.

(6) Return to deported aliens of passage money collected from steamship companies.

(7) Vocational rehabilitation, special fund.

(8) Library of Congress gift fund.

(9) Library of Congress trust fund, investment account.

(10) Library of Congress trust fund, income from investment account.

(11) Library of Congress trust fund, permanent loan.

(12) Relief and rehabilitation, Longshoremen's and Harbor Workers' Compensation Act.

(13) Cooperative work, Forest Service.

(14) Wages and effects of American seamen, Department of Commerce.

(15) Pension money, Saint Elizabeths Hospital.

(16) Personal funds of patients, Saint Elizabeths Hospital.

(17) National Park Service, donations.

(18) Purchase of lands, national parks, donations.

(19) Extension of winter-feed facilities of game animals of Yellowstone National Park, donations.

(20) Indian moneys, proceeds of labor, agencies, schools, and so forth.

(21) Funds of Federal prisoners.

(22) Commissary funds, Federal prisons.

(23) Pay of the Navy, deposit funds.

(24) Pay of Marine Corps, deposit funds.

(25) Pay of the Army, deposit fund.

(26) Preservation birthplace of Abraham Lincoln.

(27) Funds contributed for flood control, Mississippi River, its outlets and tributaries.

(28) Funds contributed for flood control, Sacramento River, California.

(29) Effects of deceased employees, Department of the Treasury.

(30) Money and effects of deceased patients, Public Health Service.

(31) Effects of deceased employees, Department of Commerce.

(32) Topographic survey of the United States, contributions.

(33) National Institutes of Health, gift fund.

(34) National Institutes of Health, conditional gift fund.

(35) Patients' deposits, United States Marine Hospital, Carville, Louisiana.

(36) Estates of deceased personnel, Department of the Army.

(37) Effects of deceased employees, Department of Interior.

(38) Fredericksburg and Spotsylvania County Battlefields memorial fund.

(39) Petersburg National Military Park fund.

(40) Gorgas memorial laboratory quotas.

(41) Contributions to International Boundary Commission, United States and Mexico.

(42) Salvage proceeds, American vessels.

(43) Wages due American seamen.

(44) Federal Industrial Institution for Women, contributions for chapel.

(45) General post fund, National Homes, Veterans' Administration.

(46) Repatriation of American seamen.

(47) Expenses, public survey work, general.

(48) Expenses, public survey work, Alaska.

(49) Funds contributed for improvement of roads, bridges, and trails, Alaska.

(50) Protective works and measures, Lake of the Woods and Rainy River, Minnesota.

(51) Washington redemption fund.

(52) Permit fund, District of Columbia.

(53) Unclaimed condemnation awards, National Capital Park and Planning Commission, District of Columbia.

(54) Unclaimed condemnation awards, Rock Creek and Potomac Parkway Commission, District of Columbia.

(55) Miscellaneous trust fund deposits, District of Columbia.

(56) Surplus fund, District of Columbia.

(57) Relief and rehabilitation, District of Columbia Workmen's Compensation Act.

(58) Inmates' fund, workhouse and reformatory, District of Columbia.

(59) Soldiers' Home, permanent fund.

(60) Chamber Music Auditorium, Library of Congress.

(61) Bequest of Gertrude Hubbard.

(62) Puerto Rico special fund (Internal Revenue).

(63) Miscellaneous trust funds, Department of State.

(64) Funds contributed for improvement of (name of river or harbor).

(65) Funds advanced for improvement of (name of river or harbor).

(66) Funds contributed for Indian projects.

(67) Miscellaneous trust funds of Indian tribes.

(68) Ship's stores profits, Navy.

(69) Completing Surveys within Railroad Land Grants.

(70) Memorial to Women of World War, contributions.

(71) Funds contributed for Memorial to John Ericsson.

(72) American National Red Cross Building, contributions.

(73) Estate of decedents, Department of State, Trust Fund.

(74) Funds due Incompetent Beneficiaries, Veterans' Administration.

(75) To promote the Education of the Blind (principal).

(76) Paving Government Road across Fort Sill Military Reservation, Okla.

(77) Bequest of William F. Edgar, Museum and Library, office of Surgeon General of the Army.

(78) Funds Contributed for Flood Control (name of river, harbor, or project).

(79) Matured obligations of the District of Columbia.

(80) To promote the education of the blind (interest).

(81) Soldiers' Home, interest account.

(82) Post-Vietnam Era Veterans Education Account, Veterans' Administration.

(83) United States Government life insurance fund, Veterans' Administration.

(84) Estates of deceased soldiers, United States Army.

(85) Teachers Retirement Fund Deductions, District of Columbia.

(86) Teachers Retirement Fund, Government Reserves, District of Columbia.

(87) Expenses of Smithsonian Institution Trust Fund (principal).

(88) Civil Service Retirement and Disability Fund.

(89) Canal Zone Retirement and Disability Fund.

(90) Foreign Service Retirement and Disability Fund.

(b) Amounts (except amounts received by the Comptroller of the Currency and the Federal Deposit Insurance Corporation) that are analogous to the funds named in subsection (a) of this section and are received by the United States Government as trustee shall be deposited in an appropriate trust fund account in the Treasury. Amounts accruing to these funds (except to the trust fund "Soldiers' Home, Permanent Fund") are appropriated to be disbursed in compliance with the terms of the trust. Expenditures from the trust fund "Soldiers'

Home, Permanent Fund" shall be made only under annual appropriations. Those appropriations are authorized to be made.

§1322. Payments of unclaimed trust fund amounts and refund of amounts erroneously deposited

(a) On September 30 of each year, the Secretary of the Treasury shall transfer to the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown" that part of the balance of a trust fund account named in section 1321(a)(1)-(82) of this title or an analogous trust fund established under section 1321(b) of this title that has been in the fund for more than one year and represents money belonging to individuals whose whereabouts are unknown. Subsequent claims to the transferred funds shall be paid from the account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown".

(b) Except as provided in subsection (c) of this section, necessary amounts are appropriated to the Secretary of the Treasury to make payments from—

(1) the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown"; and

(2) the United States Government account "Refund of Moneys Erroneously Received and Covered" and other collections erroneously deposited that are not properly chargeable to another appropriation.

(c)(1) The Secretary of the Treasury shall hold in perpetuity in the Treasury trust fund receipt account "Unclaimed Moneys of Individuals Whose Whereabouts are Unknown" the balance remaining after the final distribution of unclaimed Postal Savings System deposits under section 1(a) of the Act of August 13, 1971 (Public Law 92-117, 85 Stat. 337). The Secretary shall use the balance to pay claims for Postal Savings System deposits without regard to the State law or the law of other jurisdictions of deposit about the disposition of unclaimed or abandoned property.

(2) Necessary amounts may be appropriated without fiscal year limitation to the trust fund receipt account to pay claims for deposits when the balance in the account is not sufficient to pay the claims because of payments made under paragraph (1) of this subsection.

§1323. Trust funds for certain fees, donations, quasi-public amounts, and unearned amounts

(a) Amounts from the following sources held in checking accounts of disbursing officials shall be deposited in the Treasury to the appropriate trust fund receipt accounts:

(1) unearned money, lands (Department of the Interior).

(2) reentry permit fees (Department of Justice).

(3) naturalization fees (Department of Justice).

(4) registry fees (Department of Justice).

(b) Amounts deposited under subsection (a) of this section are appropriated for refunds. Earned parts of those amounts shall be transferred and credited to the appropriate receipt fund accounts.

(c) Donations, quasi-public amounts, and unearned amounts shall be deposited in the Treasury as trust funds and are appropriated for disbursement under the terms of the trusts when the donation or amount is—

(1) administered by officers and employees of the United States Government; and

(2) carried in checking accounts of disbursing officials or others required to ac-

count to the Comptroller General (except clerks and marshals of the United States district courts).

§1324. Refund of internal revenue collections

(a) Necessary amounts are appropriated to the Secretary of the Treasury for refunding internal revenue collections as provided by law, including payment of—

(1) claims for prior fiscal years; and

(2) accounts arising under—

(A) "Allowance or drawback (Internal Revenue)";

(B) "Redemption of stamps (Internal Revenue)";

(C) "Refunding legacy taxes, Act of March 30, 1928";

(D) "Repayment of taxes on distilled spirits destroyed by casualty"; and

(E) "Refunds and payments of processing and related taxes".

(b) Disbursements may be made from the appropriation made by this section only for—

(1) refunds to the limit of liability of an individual tax account; and

(2) refunds due from credit provisions of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) enacted before January 1, 1978.

SUBCHAPTER III—LIMITATIONS, EXCEPTIONS, AND PENALTIES

§1341. Limitations on expending and obligating amounts

(a)(1) An officer or employee of the United States Government or of the District of Columbia government may not—

(A) make or authorize an expenditure or obligation exceeding an amount available in an appropriation or fund for the expenditure or obligation; or

(B) involve either government in a contract or obligation for the payment of money before an appropriation is made unless authorized by law.

(2) This subsection does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

(b) An article to be used by an executive department in the District of Columbia that could be bought out of an appropriation made to a regular contingent fund of the department may not be bought out of another amount available for obligation.

§1342. Limitation on voluntary services

An officer or employee of the United States Government or of the District of Columbia government may not accept voluntary services for either government or employ personal services exceeding that authorized by law except for emergencies involving the safety of human life or the protection of property. This section does not apply to a corporation getting amounts to make loans (except paid in capital amounts) without legal liability of the United States Government.

§1343. Buying and leasing passenger motor vehicles and aircraft

(a) In this section, buying a passenger motor vehicle or aircraft includes a transfer of the vehicle or aircraft between agencies.

(b) An appropriation may be expended to buy or lease passenger motor vehicles only—

(1) for the use of—

(A) the President;

(B) the secretaries to the President; or

(C) the heads of executive departments listed in section 101 of title 5; or

(2) as specifically provided by law.

(c)(1) Except as specifically provided by law, an agency may use an appropriation to buy a passenger motor vehicle (except a bus or ambulance) only at a total cost (except costs required only for transportation) that—

(A) includes the price of systems and equipment the Administrator of General Services decides is incorporated customarily in standard passenger motor vehicles completely equipped for ordinary operation;

(B) includes the value of a vehicle used in exchange;

(C) is not more than the maximum price established by the agency having authority under law to establish a maximum price; and

(D) is not more than the amount specified in a law.

(2) Additional systems and equipment may be bought for a passenger motor vehicle if the Administrator decides the purchase is appropriate. The price of additional systems or equipment is not included in deciding whether the cost of the vehicle is within a maximum price specified in a law.

(d) An appropriation (except an appropriation for the armed forces) is available to buy, maintain, or operate an aircraft only if the appropriation specifically authorizes the purchase, maintenance, or operation.

(e) This section does not apply to—

(1) buying, maintaining, and repairing passenger motor vehicles by the United States Capitol Police;

(2) buying, maintaining, and repairing vehicles necessary to carry out projects to improve, preserve, and protect rivers and harbors; or

(3) leasing, maintaining, repairing, or operating motor passenger vehicles necessary in the field work of the Department of Agriculture.

§1344. Passenger motor vehicle and aircraft use

(a) Except as specifically provided by law, an appropriation may be expended to maintain, operate, and repair passenger motor vehicles or aircraft of the United States Government that are used only for an official purpose. An official purpose does not include transporting officers or employees of the Government between their domiciles and places of employment except—

(1) medical officers on out-patient medical service; and

(2) officers or employees performing field work requiring transportation between their domiciles and places of employment when the transportation is approved by the head of the agency.

(b) This section does not apply to a motor vehicle or aircraft for the official use of—

(1) the President;

(2) the heads of executive departments listed in section 101 of title 5; or

(3) principal diplomatic and consular officials.

§1345. Expenses of meetings

Except as specifically provided by law, an appropriation may not be used for travel, transportation, and subsistence expenses for a meeting. This section does not prohibit—

(1) an agency from paying the expenses of an officer or employee of the United States Government carrying out an official duty; and

(2) the Secretary of Agriculture from paying necessary expenses for a meeting called by the Secretary for 4-H Boys and Girls Clubs as part of the cooperative extension work of the Department of Agriculture.

§1346. Commissions, councils, boards, and interagency and similar groups

(a) Except as provided in this section—

(1) public money and appropriations are not available to pay—

(A) the pay or expenses of a commission, council, board, or similar group, or a member of that group;

(B) expenses related to the work or the results of work or action of that group; or

(C) for the detail or cost of personal services of an officer or employee from an executive agency in connection with that group; and

(2) an accounting or disbursing official, absent a special appropriation to pay the account or charge, may not allow or pay an account or charge related to that group.

(b) Appropriations of an executive agency are available for the expenses of an interagency group conducting activities of interest common to executive agencies when the group includes a representative of the agency. The representatives receive no additional pay because of membership in the group. An officer or employee of an executive agency not a representative of the group may not receive additional pay for providing services for the group.

(c) Subject to section 1347 of this title, this section does not apply to—

(1) commissions, councils, boards, or similar groups authorized by law;

(2) courts-martial or courts of inquiry of the armed forces; or

(3) the contingent fund related to foreign relations at the disposal of the President.

§1347. Appropriations or authorizations required for agencies in existence for more than one year

(a) An agency in existence for more than one year may not use amounts otherwise available for obligation to pay its expenses without a specific appropriation or specific authorization by law. If the principal duties and powers of the agency are substantially the same as or similar to the duties and powers of an agency established by executive order, the agency established later is deemed to have been in existence from the date the agency established by the order came into existence.

(b) Except as specifically authorized by law, another agency may not use amounts available for obligation to pay expenses to carry out duties and powers substantially the same as or similar to the principal duties and powers of an agency that is prohibited from using amounts under this section.

§1348. Telephone installation and charges

(a)(1) Except as provided in this section, appropriations are not available to install telephones in private residences or for tolls or other charges for telephone service from private residences.

(2) Under regulations of the Secretary of State, appropriations may be used to install and pay for the use of telephones in residences owned or leased by the United States Government in foreign countries for the use of the Foreign Service. Subsection (b) of this section applies to long-distance calls made on those telephones.

(b) Appropriations of an agency are available to pay charges for a long-distance call if required for official business and the voucher to pay for the call is sworn to by the head of the agency. Appropriations of an executive agency are available only if the head of the agency also certifies that the call is necessary in the interest of the Government.

(c) Under regulations prescribed by the Secretary of the Army on recommendation of the Chief of Engineers, not more than \$30,000 may be expended each fiscal year to install and use in private residences telephones required for official business in constructing and operating locks and dams for navigation, flood control, and related water uses.

§1349. Adverse personnel actions

(a) An officer or employee of the United States Government or of the District of Columbia government violating section 1341(a) or 1342 of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

(b) An officer or employee who willfully uses or authorizes the use of a passenger motor vehicle or aircraft owned or leased by the United States Government (except for an official purpose authorized by section 1344 of this title) or otherwise violates section 1344 shall be suspended without pay by the head of the agency. The officer or employee shall be suspended for at least one month, and when circumstances warrant, for a longer period or summarily removed from office.

§1350. Criminal penalty

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1341(a) or 1342 of this title shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

§1351. Reports on violations

If an officer or employee of an executive agency or an officer or employee of the District of Columbia government violates section 1341(a) or 1342 of this title, the head of the agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken.

CHAPTER 15—APPROPRIATION ACCOUNTING SUBCHAPTER I—GENERAL

Sec.

1501. Documentary evidence requirement for Government obligations.

1502. Balances available.

1503. Comptroller General reports of amounts for which no accounting is made.

SUBCHAPTER II—APPORTIONMENT

1511. Definition and application.

1512. Apportionment and reserves.

1513. Officials controlling apportionments.

1514. Administrative division of apportionments.

1515. Authorized apportionments necessitating deficiency or supplemental appropriations.

1516. Exemptions.

1517. Prohibited obligations and expenditures.

1518. Adverse personnel actions.

1519. Criminal penalty.

SUBCHAPTER III—TRANSFERS AND REIMBURSEMENTS

1531. Transfers of functions and activities.

1532. Withdrawal and credit.

1533. Transfers of appropriations for salaries and expenses to carry out national defense responsibilities.

1534. Adjustments between appropriations.

- 1535. Agency agreements.
- 1536. Crediting payments from purchases between executive agencies.
- 1537. Services between the United States Government and the District of Columbia government.

SUBCHAPTER IV—CLOSING ACCOUNTS

- 1551. Definitions and application.
- 1552. Procedure for appropriation accounts available for definite periods.
- 1553. Availability of appropriation accounts to pay obligations.
- 1554. Review of appropriation accounts.
- 1555. Withdrawal of unobligated balances of appropriations for indefinite periods.
- 1556. Comptroller General reports on appropriation accounts.
- 1557. Authorization to exempt.

SUBCHAPTER I—GENERAL

- §1501. Documentary evidence requirement for Government obligations

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of—

(1) a binding agreement between an agency and another person (including an agency) that is—

(A) in writing, in a way and form, and for a purpose authorized by law; and

(B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided;

(2) a loan agreement showing the amount and terms of repayment;

(3) an order required by law to be placed with an agency;

(4) an order issued under a law authorizing purchases without advertising—

(A) when necessary because of a public emergency;

(B) for perishable subsistence supplies; or

(C) within specific monetary limits;

(5) a grant or subsidy payable—

(A) from appropriations made for payment of, or contributions to, amounts required to be paid in specific amounts fixed by law or under formulas prescribed by law;

(B) under an agreement authorized by law; or

(C) under plans approved consistent with and authorized by law;

(6) a liability that may result from pending litigation;

(7) employment or services of persons or expenses of travel under law;

(8) services provided by public utilities; or

(9) other legal liability of the Government against an available appropriation or fund.

(b) A statement of obligations provided to Congress or a committee of Congress by an agency shall include only those amounts that are obligations consistent with subsection (a) of this section.

§1502. Balances available

(a) The balance of an appropriation or fund limited for obligation to a definite period is available only for payment of expenses properly incurred during the period of availability or to complete contracts properly made within that period of availability and obligated consistent with section 1501 of this title. However, the appropriation or fund is not available for expenditure for a period beyond the period otherwise authorized by law.

(b) A provision of law requiring that the balance of an appropriation or fund be returned to the general fund of the Treasury at the end of a definite period does not

affect the status of lawsuits or rights of action involving the right to an amount payable from the balance.

§1503. Comptroller General reports of amounts for which no accounting is made

The Comptroller General shall make a special report each year to Congress on recommendations for changes in laws, that the Comptroller General believes may be in the public interest, about amounts—

(1) for which no accounting is made to the Comptroller General; and

(2) that are in—

(A) accounts of the United States Government; or

(B) the custody of an officer or employee of the Government if the Government is financially concerned.

SUBCHAPTER II—APPORTIONMENT

§1511. Definition and application

(a) In this subchapter, "appropriations" means—

(1) appropriated amounts;

(2) funds; and

(3) authority to make obligations by contract before appropriations.

(b) This subchapter does not apply to—

(1) amounts (except amounts for administrative expenses) available—

(A) for price support and surplus removal of agricultural commodities; and

(B) under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c);

(2) a corporation getting amounts to make loans (except paid in capital amounts) without legal liability on the part of the United States Government; and

(3) the Senate, the House of Representatives, a committee of Congress, a member, officer, employee, or office of either House of Congress, or the Office of the Architect of the Capitol or an officer or employee of that Office.

§1512. Apportionment and reserves

(a) Except as provided in this subchapter, an appropriation available for obligation for a definite period shall be apportioned to prevent obligation or expenditure at a rate that would indicate a necessity for a deficiency or supplemental appropriation for the period. An appropriation for an indefinite period and authority to make obligations by contract before appropriations shall be apportioned to achieve the most effective and economical use. An apportionment may be reapportioned under this section.

(b)(1) An appropriation subject to apportionment is apportioned by—

(A) months, calendar quarters, operating seasons, or other time periods;

(B) activities, functions, projects, or objects; or

(C) a combination of the ways referred to in clauses (A) and (B) of this paragraph.

(2) The official designated in section 1513 of this title to make apportionments shall apportion an appropriation under paragraph (1) of this subsection as the official considers appropriate. Except as specified by the official, an amount apportioned is available for obligation under the terms of the appropriation on a cumulative basis unless reapportioned.

(c)(1) In apportioning or reapportioning an appropriation, a reserve may be established only—

(A) to provide for contingencies;

(B) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

(C) as specifically provided by law.

(2) A reserve established under this subsection may be changed as necessary to

carry out the scope and objectives of the appropriation concerned. When an official designated in section 1513 of this title to make apportionments decides that an amount reserved will not be required to carry out the objectives and scope of the appropriation concerned, the official shall recommend the rescission of the amount in the way provided in chapter 11 of this title for appropriation requests. Reserves established under this section shall be reported to Congress as provided in the Impoundment Control Act of 1974 (2 U.S.C. 681 et seq.).

(d) An apportionment or a reapportionment shall be reviewed at least 4 times a year by the official designated in section 1513 of this title to make apportionments.

§1513. Officials controlling apportionments

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government that is required to be apportioned under section 1512 of this title shall apportion the appropriation in writing. An appropriation shall be apportioned not later than the later of the following:

(1) 30 days before the beginning of the fiscal year for which the appropriation is available; or

(2) 30 days after the date of enactment of the law by which the appropriation is made available.

(b)(1) The President shall apportion in writing an appropriation available to an executive agency (except the Commission) that is required to be apportioned under section 1512 of this title. The head of each executive agency to which the appropriation is available shall submit to the President information required for the apportionment in the form and the way and at the time specified by the President. The information shall be submitted not later than the later of the following:

(A) 40 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 15 days after the date of enactment of the law by which the appropriation is made available.

(2) The President shall notify the head of the executive agency of the action taken in apportioning the appropriation under paragraph (1) of this subsection not later than the later of the following:

(A) 20 days before the beginning of the fiscal year for which the appropriation is available; or

(B) 30 days after the date of enactment of the law by which the appropriation is made available.

(c) By the first day of each fiscal year, the head of each executive department of the United States Government shall apportion among the major organizational units of the department the maximum amount to be expended by each unit during the fiscal year out of each contingent fund appropriated for the entire year for the department. Each amount may be changed during the fiscal year only by written direction of the head of the department. The direction shall state the reasons for the change.

(d) An appropriation apportioned under this subchapter may be divided and subdivided administratively within the limits of the apportionment.

(e) This section does not affect the initiation and operation of agricultural price support programs.

§1514. Administrative division of apportionments

(a) The official having administrative control of an appropriation available to the legislative branch, the judicial branch, the United States International Trade Commission, or the District of Columbia government, and, subject to the approval of the President, the head of each executive agency (except the Commission) shall prescribe by regulation a system of administrative control not inconsistent with accounting procedures prescribed under law. The system shall be designed to—

(1) restrict obligations or expenditures from each appropriation to the amount of apportionments or reapportionments of the appropriation; and

(2) enable the official or the head of the executive agency to fix responsibility for an obligation or expenditure exceeding an apportionment or reapportionment.

(b) To have a simplified system for administratively dividing appropriations, the head of each executive agency (except the Commission) shall work toward the objective of financing each operating unit, at the highest practical level, from not more than one administrative division for each appropriation affecting the unit.

§1515. Authorized apportionments necessitating deficiency or supplemental appropriations

(a) An appropriation required to be apportioned under section 1512 of this title may be apportioned on a basis that indicates a necessity for a deficiency or supplemental appropriation to the extent necessary to permit payment of pay increases for prevailing rate employees whose pay is fixed and adjusted under subchapter IV of chapter 53 of title 5.

(b)(1) Except as provided in subsection (a) of this section, an official may make, and the head of an executive agency may request, an apportionment under section 1512 of this title that would indicate a necessity for a deficiency or supplemental appropriation only when the official or agency head decides that the action is required because of—

(A) a law enacted after submission to Congress of the estimates for an appropriation that requires an expenditure beyond administrative control; or

(B) an emergency involving the safety of human life, the protection of property, or the immediate welfare of individuals when an appropriation that would allow the United States Government to pay, or contribute to, amounts required to be paid to individuals in specific amounts fixed by law or under formulas prescribed by law, is insufficient.

(2) If an official making an apportionment decides that an apportionment would indicate a necessity for a deficiency or supplemental appropriation, the official shall submit immediately a detailed report of the facts to Congress. The report shall be referred to in submitting a proposed deficiency or supplemental appropriation.

§1516. Exemptions

An official designated in section 1513 of this title to make apportionments may exempt from apportionment—

(1) a trust fund or working fund if an expenditure from the fund has no significant effect on the financial operations of the United States Government;

(2) a working capital fund or a revolving fund established for intragovernmental operations;

(3) receipts from industrial and power operations available under law; and

(4) appropriations made specifically for—
(A) interest on, or retirement of, the public debt;

(B) payment of claims, judgments, refunds, and drawbacks;

(C) items the President decides are of a confidential nature;

(D) payment under a law requiring payment of the total amount of the appropriation to a designated payee; and

(E) grants to the States under the Social Security Act (42 U.S.C. 301 et seq.).

§1517. Prohibited obligations and expenditures

(a) An officer or employee of the United States Government or of the District of Columbia government may not make or authorize an expenditure or obligation exceeding—

(1) an apportionment; or

(2) the amount permitted by regulations prescribed under section 1514(a) of this title.

(b) If an officer or employee of an executive agency or of the District of Columbia government violates subsection (a) of this section, the head of the executive agency or the Mayor of the District of Columbia, as the case may be, shall report immediately to the President and Congress all relevant facts and a statement of actions taken.

§1518. Adverse personnel actions

An officer or employee of the United States Government or of the District of Columbia government violating section 1517(a) of this title shall be subject to appropriate administrative discipline including, when circumstances warrant, suspension from duty without pay or removal from office.

§1519. Criminal penalty

An officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating section 1517(a) of this title shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both.

SUBCHAPTER III—TRANSFERS AND REIMBURSEMENTS

§1531. Transfers of functions and activities

(a) The balance of an appropriation available and necessary to finance or discharge a function or activity transferred or assigned under law within an executive agency or from one executive agency to another may be transferred to and used—

(1) by the organizational unit or agency to which the function or activity was transferred or assigned; and

(2) for a purpose for which the appropriation was originally available.

(b) The head of the executive agency determines the amount that, with the approval of the President, is necessary to be transferred when the transfer or assignment of the function or activity is within the agency. The President determines the amount necessary to be transferred when the transfer or assignment of the function or activity is from one executive agency to another.

(c) A balance transferred under this section is—

(1) credited to an applicable existing or new appropriation account;

(2) merged with the amount in an account to which the balance is credited; and

(3) with the amount with which the balance is merged, accounted for as one amount.

(d) New appropriation accounts may be established to carry out subsection (c)(1) of this section.

§1532. Withdrawal and credit

An amount available under law may be withdrawn from one appropriation account and credited to another or to a working fund only when authorized by law. Except as specifically provided by law, an amount authorized to be withdrawn and credited is available for the same purpose and subject to the same limitations provided by the law appropriating the amount. A withdrawal and credit is made by check and without a warrant.

§1533. Transfers of appropriations for salaries and expenses to carry out national defense responsibilities

An appropriation of an executive agency for salaries and expenses is available to carry out national defense responsibilities assigned to the agency under law. A transfer necessary to carry out this section may be made between appropriations or allocations within the executive agency. An allocation may not be made to an executive agency that can carry out with its regular personnel a defense activity assigned to it by using the authority of this section to realign its regular programs.

§1534. Adjustments between appropriations

(a) An appropriation available to an agency may be charged at any time during a fiscal year for the benefit of another appropriation available to the agency to pay costs—

(1) when amounts are available in both the appropriation to be charged and the appropriation to be benefited; and

(2) subject to limitations applicable to the appropriations.

(b) Amounts paid under this section are charged on a final basis during, or as of the close of, the fiscal year to the appropriation benefited. The appropriation charged under subsection (a) of this section shall be appropriately credited.

§1535. Agency agreements

(a) The head of an agency or major organizational unit within an agency may place an order with a major organizational unit within the same agency or another agency for goods or services if—

(1) amounts are available;

(2) the head of the ordering agency or unit decides the order is in the best interest of the United States Government;

(3) the agency or unit to fill the order is able to provide the ordered goods or services; and

(4) the head of the agency decides ordered goods or services cannot be provided as conveniently or cheaply by a commercial enterprise.

(b) Notwithstanding subsection (a)(3) of this section, the Secretary of Defense, the Secretary of a military department of the Department of Defense, the Secretary of Transportation in carrying out duties and powers related to aviation and the Coast Guard, the Secretary of the Treasury, the Administrator of General Services, and the Administrator of the Maritime Administration may place orders under this section for goods and services that an agency or unit filling the order may be able to provide or procure by contract.

(c) Payment shall be made promptly by check on the written request of the agency or unit filling the order. Payment may be in advance or on providing the goods or services ordered and shall be for any part of the

estimated or actual cost as determined by the agency or unit filling the order. A bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided.

(d) An order placed or agreement made under this section obligates an appropriation of the ordering agency or unit. The amount obligated is debited to the extent that the agency or unit filling the order has not incurred obligations, before the end of the period of availability of the appropriation, in—

(1) providing goods or services; or
(2) making an authorized contract with another person to provide the requested goods or services.

(e) This section does not—

(1) authorize orders to be placed for goods or services to be provided by convict labor; or

(2) affect other laws about working funds.

§1536. Crediting payments from purchases between executive agencies

(a) An advance payment made on an order under section 1535 of this title is credited to a special working fund that the Secretary of the Treasury considers necessary to be established. Except as provided in this section, any other payment is credited to the appropriation or fund against which charges were made to fill the order.

(b) An amount paid under section 1535 of this title may be expended in providing goods or services or for a purpose specified for the appropriation or fund credited. Where goods are provided from stocks on hand, the amount received in payment is credited so as to be available to replace the goods unless—

(1) another law authorizes the amount to be credited to some other appropriation or fund; or

(2) the head of the executive agency filling the order decides that replacement is not necessary, in which case, the amount received is deposited in the Treasury as miscellaneous receipts.

(c) This section does not affect other laws about working funds.

§1537. Services between the United States Government and the District of Columbia government

(a) To prevent duplication and to promote efficiency and economy, an officer or employee of—

(1) the United States Government may provide services to the District of Columbia government; and

(2) the District of Columbia government may provide services to the United States Government.

(b)(1) Services under this section shall be provided under an agreement—

(A) negotiated by officers and employees of the 2 governments; and

(B) approved by the Director of the Office of Management and Budget and the Mayor of the District of Columbia.

(2) Each agreement shall provide that the cost of providing the services shall be borne in the way provided in subsection (c) of this section by the government to which the services are provided at rates or charges based on the actual cost of providing the services.

(3) To carry out an agreement made under this subsection, the agreement may provide for the delegation of duties and powers of officers and employees of—

(A) the District of Columbia government to officers and employees of the United States Government; and

(B) the United States Government to officers and employees of the District of Columbia government.

(c) In providing services under an agreement made under subsection (b) of this section—

(1) costs incurred by the United States Government may be paid from appropriations available to the District of Columbia government officer or employee to whom the services were provided; and

(2) costs incurred by the District of Columbia government may be paid from amounts available to the United States Government officer or employee to whom the services were provided.

(d) When requested by the Director of the United States Secret Service, the Chief of the Metropolitan Police shall assist the Secret Service and the Executive Protective Service on a non-reimbursable basis in carrying out their protective duties under section 302 of title 3 and section 3056 of title 18.

SUBCHAPTER IV—CLOSING ACCOUNTS

§1551. Definitions and application

(a) In this subchapter—

(1) an obligated balance of an appropriation account as of the end of a fiscal year is the amount of unliquidated obligations applicable to the appropriation less amounts collectible as repayments to the appropriation.

(2) an unobligated balance is the difference between the obligated balance and the total unexpended balance.

(b) This subchapter does not apply to—

(1) appropriations for the District of Columbia government; or

(2) appropriations to be disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

§1552. Procedure for appropriation accounts available for definite periods

(a) Each appropriation account available for obligation for a definite period is closed as follows:

(1) The obligated balance is transferred on September 30th of the 2d fiscal year after the period of availability ends to an appropriation account of the agency responsible for paying the obligation. Amounts transferred from all appropriation accounts for the same general purpose are merged in the account for paying obligations.

(2) The unobligated balance is withdrawn at the end of the period of availability for obligation and reverts to the Treasury or, if derived only from a special or trust fund and not otherwise provided, reverts to the fund from which derived. The withdrawal shall be made not later than the November 15 occurring after the period of availability ends. When the head of the agency decides that part of a withdrawn unobligated balance is required to pay obligations and make adjustments, that part may be restored to the appropriate account.

(b) Collections authorized to be credited to an appropriation, but not received before the transfer of the obligated balance under subsection (a)(1) of this section, are credited to the account into which the obligated balance was transferred. However, collections made by the Comptroller General for other agencies may be deposited in the Treasury as miscellaneous receipts.

(c) A withdrawal made under subsection (a)(2) of this section is accounted for and reported as of the fiscal year in which the ap-

propriation concerned expires for obligation.

(d) The obligated balance of an appropriation made available for obligation for a definite period under a discontinued appropriation heading may be merged at the end of the 2d complete fiscal year after the fiscal year for which an appropriation is available for obligation—

(1) in the appropriation accounts provided under subsection (a) of this section; or

(2) in other accounts established under this subchapter for discontinued appropriations of the agency responsible for paying the obligations.

§1553. Availability of appropriation accounts to pay obligations

(a) Each appropriation account established under section 1552 of this title is accounted for separately and remains available until expended to pay obligations chargeable against any appropriation from which the account is derived.

(b) Under regulations prescribed by the Comptroller General, obligations under subsection (a) of this section may be paid without prior action of the Comptroller General. However, this subchapter does not—

(1) relieve the Comptroller General of the duty to make decisions requested under law; or

(2) affect the authority of the Comptroller General to settle claims and accounts.

§1554. Review of appropriation accounts

(a) The head of each agency shall review at least once a fiscal year each appropriation account established for the agency under section 1552 of this title. If the undisbursed balance is more than the obligated balance in the account, the excess shall be withdrawn in the way provided in section 1552(a)(2) of this title. If the obligated balance is more than the undisbursed balance, the excess may be restored to the account in an amount that is not more than the remaining unobligated balances of the appropriations available for the same general purposes. Before restoring an amount, the head of the agency shall make a report on the restoration as may be required by the President.

(b) The review required under subsection (a) of this section shall be made as of the end of each fiscal year. A withdrawal or restoration under this section shall be made not later than December 31 of the following fiscal year. However, a withdrawal or restoration is accounted for and reported as of the close of the fiscal year to which the review relates. A review made as of any other date for which a withdrawal or restoration is made after December 31 shall be accounted for and reported as transactions of the fiscal year in which made.

§1555. Withdrawal of unobligated balances of appropriations for indefinite periods

(a) An unobligated balance of an appropriation for an indefinite period shall be withdrawn in the way provided in section 1552(a)(2) of this title when the head of the agency concerned decides that the purposes for which the appropriation was made have been carried out or when no disbursement is made against the appropriation for 2 consecutive fiscal years.

(b) An amount of an appropriation withdrawn under this section may be restored to the applicable appropriation account to pay obligations and to settle accounts.

§1556. Comptroller General reports on appropriation accounts

(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

- (1) the head of the agency concerned;
- (2) the Secretary of the Treasury; and
- (3) the President.

(b) A report under this section shall include an appraisal of unpaid obligations under appropriation accounts established under section 1552 of this title. By the 30th day after receiving a report, the head of the agency concerned shall carry out actions required by section 1554 of this title that the report shows is necessary.

§1557. Authorization to exempt

A provision of an appropriation law may exempt an appropriation from this subchapter and fix the period for which the appropriation remains available for expenditure.

SUBTITLE III—FINANCIAL MANAGEMENT

CHAPTER	Sec.
31. PUBLIC DEBT	3101
33. DEPOSITING, KEEPING, AND PAYING MONEY	3301
35. ACCOUNTING AND COLLECTION	3501
37. CLAIMS	3701

CHAPTER 31—PUBLIC DEBT SUBCHAPTER I—BORROWING AUTHORITY

Sec.	
3101.	Public debt limit.
3102.	Bonds.
3103.	Notes.
3104.	Certificates of indebtedness and Treasury bills.
3105.	Savings bonds and savings certificates.
3106.	Retirement and savings bonds.
3107.	Increasing interest rates and investment yields on retirement bonds.
3108.	Prohibition against circulation privilege.
3109.	Tax and loss bonds.
3110.	Sale of obligations of governments of foreign countries.
3111.	New issue used to buy, redeem, or refund outstanding obligations.
3112.	Sinking fund for retiring and canceling bonds and notes.
3113.	Accepting gifts.

SUBCHAPTER II—ADMINISTRATIVE

3121.	Procedure.
3122.	Banks and trust companies as depositaries.
3123.	Payment of obligations and interest on the public debt.
3124.	Exemption from taxation.
3125.	Relief for lost, stolen, destroyed, mutilated, or defaced obligations.
3126.	Losses and relief from liability related to redeeming savings bonds and notes.
3127.	Credit to officers, employees, and agents for stolen Treasury notes.
3128.	Proof of death to support payment.
3129.	Appropriation to pay expenses.

SUBCHAPTER I—BORROWING AUTHORITY

§3101. Public debt limit

(a) In this section, the current redemption value of an obligation issued on a discount basis and redeemable before maturity at the option of its holder is deemed to be the face amount of the obligation.

(b) The face amount of obligations issued under this chapter and the face amount of obligations whose principal and interest are

guaranteed by the United States Government (except guaranteed obligations held by the Secretary of the Treasury) may not be more than \$400,000,000,000 outstanding at one time, subject to changes periodically made in that amount as provided by law through the congressional budget process described in Rule XLIX of the Rules of the House of Representatives or otherwise.

(c) The face amount of beneficial interests and participations (except those held by their issuer) issued under section 302(c) of the National Housing Act (12 U.S.C. 1717(c)) from July 1, 1967, through June 30, 1968, and outstanding at any time shall be included in the amount taken into account in deciding whether the face amount requirement of subsection (b) of this section has been exceeded. This subsection does not require a change in the budgetary accounting for beneficial interests and participations.

§3102. Bonds

(a) With the approval of the President, the Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue bonds of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may issue bonds authorized by this section to the public and to Government accounts at any annual interest rate and prescribe conditions under section 3121 of this title. However, the face amount of bonds issued under this section and held by the public with interest rates of more than 4.25 percent a year may not be more than \$70,000,000,000.

(b) The Secretary shall offer the bonds authorized under this section first as a popular loan under regulations of the Secretary that allow the people of the United States as nearly as possible an equal opportunity to participate in subscribing to the offered bonds. However, the bonds may be offered in a way other than as a popular loan when the Secretary decides the other way is in the public interest.

(c)(1) When the Secretary decides it is in the public interest in making a bond offering under this section, the Secretary may—

(A) make full allotments on receiving applications for smaller amounts of bonds to subscribers applying before the closing date the Secretary sets for filing applications;

(B) reject or reduce allotments on receiving applications filed after the closing date or for larger amounts;

(C) reject or reduce allotments on receiving applications from incorporated banks and trust companies for their own account and make full allotments or increase allotments to other subscribers; and

(D) prescribe a graduated scale of allotments.

(2) The Secretary shall prescribe regulations applying to all popular loan subscribers similarly situated governing a reduction or increase of an allotment under paragraph (1) of this subsection.

(d) The Secretary may make special arrangements for subscriptions from members of the armed forces. However, bonds issued to those members must be the same as other bonds of the same issue.

(e) The Secretary may dispose of any part of a bond offering not taken and may prescribe the price and way of disposition.

§3103. Notes

(a) With the approval of the President, the Secretary of the Treasury may borrow

on the credit of the United States Government amounts necessary for expenditures authorized by law and may issue notes of the Government for the amounts borrowed and may buy, redeem, and make refunds under section 3111 of this title. The Secretary may prescribe conditions under section 3121 of this title. Notwithstanding section 3121(a)(5) of this title, the payment date of each series of notes issued shall be at least one year but not more than 10 years from the date of issue.

(b) The Government may redeem any part of a series of notes before maturity by giving at least 4 months' notice but not more than one year's notice.

(c) The holder of a note of one series issued under this section with the same issue date as another series of notes issued under this section may convert, at par value, a note of the holder for a note of the other series.

§3104. Certificates of indebtedness and Treasury bills

(a) The Secretary of the Treasury may borrow on the credit of the United States Government amounts necessary for expenditures authorized by law and may buy, redeem, and make refunds under section 3111 of this title. For amounts borrowed, the Secretary may issue—

(1) certificates of indebtedness of the Government; and

(2) Treasury bills of the Government.

(b) The Secretary may prescribe conditions for issuing certificates of indebtedness and Treasury bills under section 3121 of this title and conditions under which the certificates and bills may be redeemed before maturity. Notwithstanding section 3121(a)(5) of this title, the payment date of certificates of indebtedness and Treasury bills may not be more than one year after the date of issue.

(c) Treasury bills issued under this section may not be accepted before maturity to pay principal or interest on obligations of governments of foreign countries that are held by the United States Government.

§3105. Savings bonds and savings certificates

(a) With the approval of the President, the Secretary of the Treasury may issue savings bonds and savings certificates of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. Proceeds from the bonds and certificates shall be used for expenditures authorized by law. Savings bonds and certificates may be issued on an interest-bearing basis, on a discount basis, or on an interest-bearing and discount basis. Savings bonds shall mature not more than 20 years from the date of issue. Savings certificates shall mature not more than 10 years from the date of issue. The difference between the price paid and the amount received on redeeming a savings bond or certificate is interest under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b)(1) Except as provided in paragraph (2) of this subsection, the interest rate on, and the issue price of, savings bonds and savings certificates and the conditions under which they may be redeemed may not give an investment yield of more than 5.5 percent a year compounded semiannually. The investment yield on a series E savings bond shall be at least 4 percent a year compounded semiannually beginning on the first day of the month beginning after the date of issuance of the bond and ending on the last day of the month before the date of redemption.

(2) With the approval of the President, the Secretary may fix the investment yield for savings bonds at any percent a year compounded semiannually. However, the total of the increases in the yield that are effective for a 6-month period may not be more than one percent a year compounded semiannually.

(3) With the approval of the President, the Secretary may prescribe regulations providing that owners of series E and H savings bonds may keep the bonds after maturity or after a period beyond maturity during which the bonds have earned interest and continue to earn interest at rates consistent with paragraph (1) of this subsection. However, series E and H savings bonds earning a higher rate of interest before the regulations are prescribed shall continue to earn a higher rate of interest consistent with paragraph (1).

(c) The Secretary may prescribe for savings bonds and savings certificates issued under this section—

(1) the form and amount of an issue and series;

(2) the way in which they will be issued;

(3) the conditions, including restrictions on transfer, to which they will be subject;

(4) conditions governing their redemption;

(5) their sales price and denominations (expressed in terms of the maturity value);

(6) a way to evidence payments for or on account of them and to provide for the exchange of savings certificates for savings bonds; and

(7) the maximum amount issued in a year that may be held by one person.

(d) The Secretary may authorize financial institutions to make payments to redeem savings bonds and savings notes. A financial institution may be a paying agent only if the institution—

(1) is incorporated under the laws of the United States, a State, the District of Columbia, or a territory or possession of the United States;

(2) in the usual course of business accepts, subject to withdrawal, money for deposit or the purchase of shares;

(3) is under the supervision of a banking authority of the jurisdiction in which it is incorporated;

(4) has a regular office to do business; and

(5) is qualified under regulations prescribed by the Secretary in carrying out this subsection.

(e)(1) The Secretary may prescribe a way in which a check issued to an individual (except a trust or estate) as a refund for taxes imposed under subtitle A of the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) may become a series E savings bond. However, a check may become a bond only if the claim for a refund is filed by the last day prescribed by law for filing the return (determined without any extensions) for the taxable year for which the refund is made. The Secretary may prescribe the time and way in which the check becomes a bond.

(2) A bond issued under this subsection is deemed to be a series E bond issued under this section, except that the bond shall bear an issue date of the first day of the first month beginning after the close of the taxable year for which the bond is issued. The Secretary also may provide that a bond issued to joint payees may be redeemed by either payee alone.

§3106. Retirement and savings bonds

(a) With the approval of the President, the Secretary of the Treasury may issue retirement and savings bonds of the United States Government and may buy, redeem,

and make refunds under section 3111 of this title. The proceeds from the bonds shall be used for expenditures authorized by law. Retirement and savings bonds may be issued only on a discount basis. The maturity period of the bonds shall be at least 10 years from the date of issue but not more than 30 years from the date of issue. The difference between the price paid and the amount received on redeeming a bond is interest under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.).

(b) The issue price of retirement and savings bonds and the conditions under which they may be redeemed may give an investment yield of not more than 5 percent a year compounded semiannually. With the approval of the President, the Secretary may allow owners of retirement and savings bonds to keep the bonds after maturity and continue to earn interest on them at rates that are consistent with the rate of investment yield provided by retirement and savings bonds.

(c) Section 3105(c)(1)–(5) of this title applies to this section. Sections 3105(c)(6) and (d) and 3126 of this title apply to this section to the extent consistent with this section. The Secretary may prescribe the maximum amount of retirement and savings bonds issued under this section in a year that may be held by one person. However, the maximum amount shall be at least \$3,000.

§3107. Increasing interest rates and investment yields on retirement bonds

With the approval of the President, the Secretary of the Treasury may increase by regulation the interest rate or investment yield on an offering of bonds issued under this chapter that are described in sections 405(b) and 409(a) of the Internal Revenue Code of 1954 (26 U.S.C. 405(b), 409(a)). The increased yield shall be for interest accrual periods specified in the regulations so that the interest rate or investment yield on the bonds for those periods is consistent with the interest rate or investment yield on a new offering of those bonds.

§3108. Prohibition against circulation privilege

An obligation issued under sections 3102–3104(a)(1) and 3105–3107 of this title may not bear the circulation privilege.

§3109. Tax and loss bonds

(a) The Secretary of the Treasury may issue tax and loss bonds of the United States Government and may buy, redeem, and make refunds under section 3111 of this title. The proceeds of the tax and loss bonds shall be used for expenditures authorized by law. Tax and loss bonds are nontransferable except as provided by the Secretary, bear no interest, and shall be issued in amounts needed to allow persons to comply with section 832(e) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)). The Secretary may prescribe the amount of tax and loss bonds and the conditions under which the bonds will be issued as required by section 832(e).

(b) For a taxable year in which amounts are deducted from the mortgage guaranty account referred to in section 832(e)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)(3)), an amount of tax and loss bonds bought under section 832(e)(2) of the Internal Revenue Code of 1954 (26 U.S.C. 832(e)(2)) shall be redeemed for the amount deducted from the account. The amount redeemed shall be applied as necessary to pay taxes due because of the inclusion under section 832(b)(1)(E) of the Internal Revenue

Code of 1954 (26 U.S.C. 832(b)(1)(E)) of amounts in gross income. The Secretary also may prescribe additional ways to redeem the bonds.

§3110. Sale of obligations of governments of foreign countries

(a) With the approval of the President, the Secretary of the Treasury may sell obligations of the government of a foreign country when the obligations were acquired under—

(1) the First Liberty Bond Act and matured before June 16, 1947;

(2) the Second Liberty Bond Act and matured before October 16, 1938; or

(3) section 7(a) of the Victory Liberty Loan Act.

(b) The Secretary may prescribe the conditions and frequency for receiving payment under obligations of a government of a foreign country acquired under the laws referred to in subsection (a) of this section. A sale of an obligation acquired under those Acts shall at least equal the purchase price and accrued interest. The proceeds of obligations sold under this section and payments received from governments on the principal of their obligations shall be used to redeem or buy (for not more than par value and accrued interest) bonds of the United States Government issued under this chapter. If those bonds cannot be redeemed or bought, the Secretary shall redeem or buy other outstanding interest-bearing obligations of the Government that are subject to redemption or which can be bought at not more than par value and accrued interest.

§3111. New issue used to buy, redeem, or refund outstanding obligations

An obligation may be issued under this chapter to buy, redeem, or refund, at or before maturity, outstanding bonds, notes, certificates of indebtedness, Treasury bills, or savings certificates of the United States Government. Under regulations of the Secretary of the Treasury, money received from the sale of an obligation and other money in the general fund of the Treasury may be used in making the purchases, redemptions, or refunds.

§3112. Sinking fund for retiring and canceling bonds and notes

(a) The Department of the Treasury has a sinking fund for retiring bonds and notes issued under this chapter. Amounts in the fund are appropriated for payment of bonds and notes at maturity or for their redemption or purchase before maturity by the Secretary of the Treasury. The fund is available until all the bonds and notes are retired.

(b) For each fiscal year, an amount is appropriated equal to—

(1) the interest that would have been payable during the fiscal year for which the appropriation is made on the bonds and notes bought, redeemed, or paid out of the fund during that or prior years;

(2) 2.5 percent of the total amount of bonds and notes issued under the First Liberty Bond Act, the Second Liberty Bond Act, the Third Liberty Bond Act, the Fourth Liberty Bond Act, and the Victory Liberty Loan Act and outstanding on July 1, 1920, less an amount equal to the par amount of obligations of governments of foreign countries that the United States Government held on July 1, 1920; and

(3) 2.5 percent of the total amount expended after June 29, 1933, from appropriations made or authorized in sections 301 and

302 of the Emergency Relief and Construction Act of 1932.

(c) The Secretary may prescribe the price and conditions for paying, redeeming, and buying bonds and notes under this section. The average cost of bonds and notes bought under this section may not be more than par value and accrued interest. Bonds and notes bought, redeemed, or paid out of the sinking fund must be canceled and retired and may not be reissued.

§3113. Accepting gifts

(a) To provide the people of the United States with an opportunity to make gifts to the United States Government to be used to reduce the public debt—

(1) the Secretary of the Treasury may accept for the Government a gift of—

(A) money made only on the condition that it be used to reduce the public debt;

(B) an obligation of the Government included in the public debt made only on the condition that the obligation be canceled and retired and not reissued; and

(C) other intangible personal property made only on the condition that the property is sold and the proceeds from the sale used to reduce the public debt; and

(2) the Administrator of General Services may accept for the Government a gift of tangible property made only on the condition that it be sold and the proceeds from the sale be used to reduce the public debt.

(b) The Secretary and the Administrator each may reject a gift under this section when the rejection is in the interest of the Government.

(c) The Secretary and the Administrator shall convert a gift either of them accepts under subsection (a)(1)(C) or (2) of this section to money on the best terms available. If a gift accepted under subsection (a) of this section is subject to a gift or inheritance tax, the Secretary or the Administrator may pay the tax out of the proceeds of the gift or the proceeds of the redemption or sale of the gift.

(d) The Treasury has an account into which money received as gifts and proceeds from the sale or redemption of gifts under this section shall be deposited. The Secretary shall use the money in the account to pay at maturity, or to redeem or buy before maturity, an obligation of the Government included in the public debt. An obligation of the Government that is paid, redeemed, or bought with money from the account shall be canceled and retired and may not be reissued. Money deposited in the account is appropriated and may be expended to carry out this section.

(e)(1) The Secretary shall redeem a direct obligation of the Government bearing interest or sold on a discount basis on receiving it when the obligation—

(A) is given to the Government;

(B) becomes the property of the Government under the conditions of a trust; or

(C) is payable on the death of the owner to the Government (or to an officer of the Government in the officer's official capacity).

(2) If the gift or transfer to the Government is subject to a gift or inheritance tax, the Secretary shall pay the tax out of the proceeds of redemption.

SUBCHAPTER II—ADMINISTRATIVE

§3121. Procedure

(a) In issuing obligations under sections 3102-3104 of this title, the Secretary of the Treasury may prescribe—

(1) whether an obligation is to be issued on an interest-bearing basis, a discount

basis, or an interest-bearing and discount basis;

(2) regulations on the conditions under which the obligation will be offered for sale, including whether it will be offered for sale on a competitive or other basis;

(3) the offering price and interest rate;

(4) the method of computing the interest rate;

(5) the dates for paying principal and interest;

(6) the form and denominations of the obligations; and

(7) other conditions.

(b)(1) Under conditions prescribed by the Secretary, an obligation issued under this chapter and redeemable on demand of the owner or holder may be used to pay the United States Government for taxes imposed by it.

(2) An obligation of the Government issued after March 3, 1971, under law may not be redeemed before its maturity to pay a tax imposed by the Government in an amount more than the fair market value of the obligation at the time of its redemption. This paragraph does not apply to a Treasury bill issued under section 3104 of this title.

(c) Under conditions prescribed by the Secretary, an obligation authorized by this chapter may be issued in exchange for an obligation of an agency whose principal and interest are unconditionally guaranteed by the Government at or before maturity.

(d) Under conditions prescribed by the Secretary, the Secretary may issue registered bonds in exchange for and instead of coupon bonds that have been or may be issued. The registered bonds shall be similar in all respects to the registered bonds issued under a law authorizing the issue of coupon bonds offered for exchange.

(e) A decision of the Secretary about an issue of obligations under sections 3102-3104 of this title is final.

(f) The Secretary may accept voluntary services in carrying out the sale of public debt obligations.

§3122. Banks and trust companies as depositaries

(a) The Secretary of the Treasury may designate incorporated banks and trust companies as depositaries for any part of proceeds of an obligation issued under this chapter. The Secretary may prescribe the conditions under which deposits may be made under this section, including the interest rate on amounts deposited and security requirements.

(b) The Secretary may designate a bank or trust company that is a depositary under subsection (a) of this section as a fiscal agent of the United States Government in selling and delivering bonds and certificates of indebtedness issued by the Government.

§3123. Payment of obligations and interest on the public debt

(a) The faith of the United States Government is pledged to pay, in legal tender, principal and interest on the obligations of the Government issued under this chapter.

(b) The Secretary of the Treasury shall pay interest due or accrued on the public debt. As the Secretary considers expedient, the Secretary may pay in advance interest on the public debt by a period of not more than one year, with or without a rebate of interest on the coupons.

(c)(1) The Secretary may issue a bond, note, or certificate of indebtedness authorized under this chapter whose principal and interest are payable in a foreign currency

stated in the bond, note, or certificate. The Secretary may dispose of the bonds, notes, and certificates at a price that is at least par value without complying with section 3102(b)-(d) of this title.

(2) In determining the dollar amount of bonds, notes, and certificates of indebtedness that may be issued under this chapter, the dollar equivalent of the amount of bonds, notes, and certificates payable in a foreign currency is determined by the par of the exchange value on the date of issue of the bonds, notes, or certificates as published by the Secretary under section 5151 of this title.

(3) The Secretary may designate depositaries in foreign countries in which any part of the proceeds of bonds, notes, or certificates of indebtedness payable in the foreign currency may be deposited.

§3124. Exemption from taxation

(a) Stocks and obligations of the United States Government are exempt from taxation by a State or political subdivision of a State. The exemption applies to each form of taxation that would require the obligation, the interest on the obligation, or both, to be considered in computing a tax, except—

(1) a nondiscriminatory franchise tax or another nonproperty tax instead of a franchise tax, imposed on a corporation; and

(2) an estate or inheritance tax.

(b) The tax status of interest on obligations and dividends, earnings, or other income from evidences of ownership issued by the Government or an agency and the tax treatment of gain and loss from the disposition of those obligations and evidences of ownership is decided under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.). An obligation that the Federal Housing Administration had agreed, under a contract made before March 1, 1941, to issue at a future date, has the tax exemption privileges provided by the authorizing law at the time of the contract. This subsection does not apply to obligations and evidences of ownership issued by the District of Columbia, a territory or possession of the United States, or a department, agency, instrumentality, or political subdivision of the District, territory, or possession.

§3125. Relief for lost, stolen, destroyed, mutilated, or defaced obligations

(a) In this section, "obligation" means a direct obligation of the United States Government issued under law for valuable consideration, including bonds, notes, certificates of indebtedness, Treasury bills, and interim certificates issued for an obligation.

(b) The Secretary of the Treasury may provide relief for the loss, theft, destruction, mutilation, or defacement of an obligation identified by number and description.

(c)(1) An indemnity bond is required as a condition of relief if the obligation is payable to bearer or assigned so as to become payable to bearer and is not proven clearly to have been destroyed. The Secretary may prescribe for the indemnity bond the form, amount, and surety or security requirements.

(2) Relief for interest coupons claimed to have been attached to an obligation may be provided only if the Secretary is satisfied that the coupons have not been paid and are destroyed or will not become the basis of a valid claim against the Government.

§3126. Losses and relief from liability related to redeeming savings bonds and notes

(a) Under regulations prescribed by the Secretary of the Treasury, a loss resulting from a payment related to redeeming a savings bond or savings note shall be replaced out of the fund established by section 2 of the Government Losses in Shipment Act (40 U.S.C. 722). A Federal reserve bank, a paying agent allowed to make payments in redeeming a bond or note, or an officer or employee of the Department of the Treasury is relieved from liability to the United States Government for the loss when the Secretary decides that the loss did not result from the fault or negligence of the bank, paying agent, officer, or employee. The Secretary shall relieve the bank, agent, officer, or employee from liability when the Secretary decides that written notice of liability or potential liability has not been given to the bank, agent, officer, or employee by the Government within 10 years from the date of the erroneous payment. However, the Secretary may not relieve a paying agent of an assumed unconditional liability to the Government.

(b) Section 3 of the Government Losses in Shipment Act (40 U.S.C. 723) (related to finality of decisions of the Secretary) applies to a decision of the Secretary made under this section. A recovery or repayment of a loss for which replacement is made out of the fund shall be credited to the fund and is available for the purposes for which the fund was established.

§3127. Credit to officers, employees, and agents for stolen Treasury notes

When an officer, employee, or agent of the United States Government authorized to receive, redeem, or cancel Treasury notes receives or pays a note that was stolen and put in circulation after it had been received or redeemed by an officer, employee, or agent authorized to receive or redeem the note, the Secretary of the Treasury may allow the officer, employee, or agent receiving or paying the stolen note a credit for the amount of the note. The Secretary may allow the credit only if the Secretary is satisfied that the note was received or paid in good faith and in exercising ordinary prudence.

§3128. Proof of death to support payment

A finding of death made by an officer or employee of the United States Government authorized by law to make the finding is sufficient proof of death to allow credit in the accounts of a Federal reserve bank or accountable official of the Department of the Treasury in a case involving the transfer, exchange, reissue, redemption, or payment of obligations of the Government, including obligations guaranteed by the Government for which the Secretary of the Treasury acts as transfer agent.

§3129. Appropriation to pay expenses

(a) Amounts to pay necessary expenses (including rent) for an issue of obligations authorized under this chapter are appropriated to the Secretary of the Treasury. However, the amount appropriated under this section may not be more than—

(1) .2 percent of the amount of bonds and notes authorized under this chapter;

(2) .1 percent of the amount of certificates of indebtedness authorized under section 3104 of this title; and

(3) .1 percent of the amount of certificates of indebtedness authorized under the First Liberty Bond Act.

(b) An appropriation under this section is available for obligation only through the

end of the fiscal year after the fiscal year in which the issue was made. During a period for which an appropriation for a specified amount is made for expenses for which this section makes an appropriation for an unspecified amount, only the appropriation for the specified amount is available for obligation.

CHAPTER 33—DEPOSITING, KEEPING, AND PAYING MONEY

SUBCHAPTER I—DEPOSITS AND DEPOSITARIES

- Sec.
3301. General duties of the Secretary of the Treasury.
3302. Custodians of money.
3303. Designation of depositaries.
3304. Transfers of public money from depositaries.
3305. Audits of depositaries.

SUBCHAPTER II—PAYMENTS

3321. Disbursing authority in the executive branch.
3322. Disbursing officials.
3323. Warrants.
3324. Advances.
3325. Vouchers.
3326. Waiver of requirements for warrants and advances.
3327. General authority to issue checks and other drafts.
3328. Paying checks and drafts.
3329. Withholding checks to be sent to foreign countries.
3330. Payment of Veterans' Administration checks for the benefit of individuals in foreign countries.
3331. Substitute checks.
3332. Checks payable to financial organizations designated by Government officers and employees.
3333. Relief for payments made without negligence.

SUBCHAPTER III—MISCELLANEOUS

3341. Sale of Government warrants, checks, drafts, and obligations.
3342. Check cashing and exchange transactions.
3343. Check forgery insurance fund.

SUBCHAPTER I—DEPOSITS AND DEPOSITARIES

§3301. General duties of the Secretary of the Treasury

(a) The Secretary of the Treasury shall—
(1) receive and keep public money;
(2) take receipts for money paid out by the Secretary;

(3) give receipts for money deposited in the Treasury;

(4) endorse warrants for receipts for money deposited in the Treasury;

(5) submit the accounts of the Secretary to the Comptroller General every 3 months, or more often if required by the Comptroller General; and

(6) submit to inspection at any time by the Comptroller General of money in the possession of the Secretary.

(b) Except as provided in section 3326 of this title, an acknowledgment for money deposited in the Treasury is not valid if the Secretary does not endorse a warrant as required by subsection (a)(4) of this section.

§3302. Custodians of money

(a) Except as provided by another law, an official or agent of the United States Government having custody or possession of public money shall keep the money safe without—

- (1) lending the money;
(2) using the money;

(3) depositing the money in a bank; and

(4) exchanging the money for other amounts.

(b) An official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.

(c) A person having custody or possession of public money, including a disbursing official having public money not for current expenditure, shall deposit the money without delay, but not later than the 30th day after the custodian receives the money, in the Treasury or with a depositary designated by the Secretary of the Treasury under law. The Secretary or a depositary receiving a deposit shall issue duplicate receipts for the money deposited. The original receipt is for the Secretary and the duplicate is for the custodian.

(d) An official or agent not complying with subsection (b) of this section may be removed from office. The official or agent may be required to forfeit to the Government any part of the money held by the official or agent and to which the official or agent may be entitled.

(e) An official or agent of the Government having custody or possession of public money shall keep an accurate entry of each amount of public money received, transferred, and paid.

(f) When authorized by the Secretary, an official or agent of the Government having custody or possession of public money, or performing other fiscal agent services, may be allowed necessary expenses to collect, keep, transfer, and pay out public money and to perform those services. However, money appropriated for those expenses may not be used to employ or pay officers and employees of the Government.

§3303. Designation of depositaries

(a) The Secretary of the Treasury designates depositaries of money as provided in this section and under other law.

(b) When necessary to carry out the business of the United States Government and under conditions the Secretary decides are necessary, the Secretary may designate depositaries in foreign countries and in territories and possessions of the United States to receive deposits of public money. The Secretary shall give preference to United States financial institutions the Secretary decides are safe and able to give the service required.

§3304. Transfers of public money from depositaries

The Secretary of the Treasury may transfer public money in the possession of a depositary—

- (1) to the Treasury; and
(2) if the Secretary believes the safety of the public money and convenience require it, to another depositary.

§3305. Audits of depositaries

The Secretary of the Treasury, or an officer, employee, or agent designated by the Secretary, may audit a depositary of public money. For uniformity and accuracy in accounts and safety of public money, an individual conducting an audit shall audit a depositary's—

- (1) books;
(2) accounts;
(3) returns; and
(4) public money on hand and the way the money is kept.

SUBCHAPTER II—PAYMENTS

§3321. Disbursing authority in the executive branch

(a) Except as provided in this section or another law, only officers and employees of the Department of the Treasury designated by the Secretary of the Treasury as disbursing officials may disburse public money available for expenditure by an executive agency.

(b) For economy and efficiency, the Secretary may delegate the authority to disburse public money to officers and employees of other executive agencies.

(c) The head of each of the following executive agencies shall designate personnel of the agency as disbursing officials to disburse public money available for expenditure by the agency:

(1) United States Marshal's Office.
(2) military departments of the Department of Defense (except for disbursements for departmental pay and expenses in the District of Columbia).

(d) On request of the Secretary and with the approval of the head of an executive agency referred to in subsection (c) of this section, facilities of the agency may be used to assist in disbursing public money available for expenditure by another executive agency.

§3322. Disbursing officials

(a) The Secretary of the Treasury shall transfer public money to a disbursing official only by draft or warrant written on the Treasury. A disbursing official shall—

(1) deposit public money as required by section 3302 of this title; and
(2) draw public money from the Treasury or a depository only—

(A) as necessary to make payments; and
(B) payable to persons to whom payment is to be made.

(b) A disbursing official is not liable for an overpayment provided under a United States Government bill of lading or transportation request when the overpayment is caused by the—

(1) use of improper transportation rates or classifications; or
(2) failure to deduct the proper amount under—

(A) a land grant law; or
(B) an equalization or other agreement.

§3323. Warrants

(a) Except as provided in section 3326 of this title, the Secretary of the Treasury may pay out money only against a warrant. A warrant shall be—

(1) authorized by law;
(2) signed by the Secretary; and
(3) countersigned by the Comptroller General.

(b)(1) A disbursing official shall send to the Secretary with a warrant a certificate under section 3526 of this title, or a requisition for an advance. The certificate or requisition shall state the appropriation to which the payment is to be charged.

(2) The Secretary shall return the certificate or requisition to the Comptroller General with the date and amount endorsed on the certificate or requisition.

(c) A requisition for the payment of money on an audited account or for depositing money in the Treasury is not required.

(d) The Secretary and the Comptroller General shall charge to the appropriate appropriation in their books any money paid by a warrant.

§3324. Advances

(a) Except as provided in this section, a payment under a contract to provide a serv-

ice or deliver an article for the United States Government may not be more than the value of the service already provided or the article already delivered.

(b) An advance of public money may be made only if it is authorized by—

(1) a specific appropriation or other law; or

(2) the President to be made to—
(A) a disbursing official if the President decides the advance is necessary to carry out—

(i) the duties of the official promptly and faithfully; and

(ii) an obligation of the Government; or
(B) an individual serving in the armed forces at a distant station if the President decides the advance is necessary to disburse regularly pay and allowances.

(c) Before the Secretary of the Treasury acts on a requisition for an advance, the Comptroller General shall act on the requisition under section 3522 of this title. The Comptroller General does not countersign a requisition for an advance.

(d) The head of an agency may pay in advance from appropriations available for the purpose—

(1) to the Secretary of the Army, charges for messages sent by the Secretary of the Army for the head of the agency, including charges for—

(A) payment of tolls of commercial carriers;

(B) leasing facilities for sending messages; and

(C) installing and maintaining facilities for sending messages; and

(2) charges for a publication printed or recorded in any way for the auditory or visual use of the agency.

§3325. Vouchers

(a) A disbursing official in the executive branch of the United States Government shall—

(1) disburse money only as provided by a voucher certified by—

(A) the head of the executive agency concerned; or

(B) an officer or employee of the executive agency having written authorization from the head of the agency to certify vouchers;

(2) examine a voucher if necessary to decide if it is—

(A) in proper form;

(B) certified and approved; and

(C) computed correctly on the facts certified; and

(3) except for the correctness of computations on a voucher, be held accountable for carrying out clauses (1) and (2) of this subsection.

(b) Subsection (a) of this section does not apply to disbursements of a military department of the Department of Defense, except for disbursements for departmental pay and expenses in the District of Columbia.

(c) On request, the Secretary of the Treasury may provide to the appropriate officer or employee of the United States Government a list of persons receiving periodic payments from the Government. When certified and in proper form, the list may be used as a voucher on which the Secretary may disburse money.

§3326. Waiver of requirements for warrants and advances

(a) When the Secretary of the Treasury and the Comptroller General decide that, with sufficient safeguards, existing procedures may be changed to simplify, improve, and economize the control and accounting

of public money, they may prescribe joint regulations for waiving any part of the requirements in effect on September 12, 1950, that—

(1) warrants be issued and countersigned for the receipt, retention, and disbursement of public money and trust funds; and

(2) amounts be requisitioned and advanced to accountable officials.

(b) Regulations of the Secretary and the Comptroller General may provide for the payment of vouchers by authorized disbursing officials by checks drawn on the general fund of the Treasury. However, the regulations shall provide for appropriate action (including suspension or withdrawal of authority to make payments) against a delinquent disbursing official for any reason related to the official's accounts.

§3327. General authority to issue checks and other drafts

The Secretary of the Treasury may issue a check or other draft on public money in the Treasury to pay an obligation of the United States Government. When the Secretary decides it is convenient to a public creditor and in the public interest, the Secretary may designate a depository to issue a check or other draft on public money held by the depository to pay an obligation of the Government. As directed by the Secretary, each depository shall report to the Secretary on public money paid and received by the depository.

§3328. Paying checks and drafts

(a)(1) Except as provided in sections 3329 and 3330 of this title, a check drawn on the Treasury may be paid at any time. However, if the Secretary of the Treasury is on notice of a question of law or fact about the check when the check is presented, the Secretary shall defer payment until the Comptroller General settles the question.

(2) When the Secretary decides it is appropriate, the Secretary may transfer—

(A) the amount of an unpaid check drawn on the Treasury from the account on which it was drawn to a consolidated account of the Treasury available for paying checks; and

(B) an amount available, but not required, for paying checks drawn on the Treasury to the appropriate receipt account.

(b)(1) If a check issued by a disbursing official and drawn on a designated depository is not paid by the last day of the fiscal year after the fiscal year in which the check was issued, the amount of the check is—

(A) withdrawn from the account with the depository; and

(B) deposited in the Treasury for credit to a consolidated account of the Treasury.

(2) A claim for the proceeds of an unpaid check under this subsection may be paid from a consolidated account by a check drawn on the Treasury on settlement by the Comptroller General.

(c) A limitation imposed on a claim against the United States Government under section 3702 of this title does not apply to an unpaid check drawn on the Treasury or a designated depository.

(d) With the approval of the Comptroller General, the Secretary may prescribe regulations the Secretary decides are necessary to carry out subsections (a)-(c) of this section.

(e)(1) The Secretary shall prescribe regulations on—

(A) enforcing the speedy presentation of Government drafts;

(B) paying drafts, including the place of payment; and

(C) paying drafts if presentment is not made as required.

(2) Regulations prescribed under paragraph (1) of this subsection shall prevent, as far as may be practicable, Government drafts from being used or placed in circulation as paper currency or a medium of exchange.

§3329. Withholding checks to be sent to foreign countries

(a) The Secretary of the Treasury shall prohibit a check or warrant drawn on public money from being sent to a foreign country from the United States or from a territory or possession of the United States when the Secretary decides that postal, transportation, or banking facilities generally, or local conditions in the foreign country, do not reasonably ensure that the payee—

- (1) will receive the check or warrant; and
- (2) will be able to negotiate it for full value.

(b)(1) If a check or warrant is prohibited from being sent to a foreign country under subsection (a) of this section, the drawer shall hold the check or warrant until the end of the calendar quarter after the date of the check or warrant.

(2) The Secretary may release the check or warrant for delivery during the calendar quarter after the date of the check or warrant if the Secretary decides that conditions have changed to ensure reasonably that the payee—

- (A) will receive the check or warrant; and
- (B) will be able to negotiate it for full value.

(3) Unless the Secretary otherwise directs, the drawer shall send at the end of the calendar quarter after the date of the check or warrant the—

- (A) withheld check or warrant to the drawee; and
- (B) report to the Secretary on—
 - (i) the name and address of the payee;
 - (ii) the date, number, and amount of the check or warrant; and
 - (iii) the account on which the check or warrant was drawn.

(4) The drawee shall transfer the amount of a withheld check or warrant from the account of the drawer to the special deposit account "Secretary of the Treasury, Proceeds of Withheld Foreign Checks". The check or warrant shall be marked "Paid into Withheld Foreign Check Account". After that time, the drawee shall send all withheld checks and warrants to the Comptroller General. The Comptroller General shall credit the accounts of the drawer and drawee.

(c) The Secretary may pay an amount deposited in the special account under subsection (b)(4) of this section with a check drawn on the account when—

- (1) a person claiming payment satisfies the Secretary of the right to the amount of the check or warrant (or satisfies the Administrator of Veterans' Affairs if the claim represents a payment under laws carried out by the Administrator); and

(2) the Secretary is reasonably ensured that the person—

- (A) will receive the check or warrant; and
- (B) will be able to negotiate it for full value.

(d) This section and section 3330 of this title—

- (1) apply to a check or warrant whose delivery may be withheld under Executive Order 8389;

(2) do not affect a requirement for a license for delivering and paying a check in payment of a claim under subsection (c) of

this section when a license is required by law to authorize delivery and payment; and

(3) do not affect a check or warrant issued for the payment of pay or goods bought by the United States Government in a foreign country.

§3330. Payment of Veterans' Administration checks for the benefit of individuals in foreign countries

(a)(1) A check is deemed to be issued for sending to a foreign country and subject to this section and section 3329 of this title if the check is—

- (A) drawn on public money;
- (B) for benefits under laws carried out by the Administrator of Veterans' Affairs; and
- (C) to be sent to a person in the United States or a territory or possession of the United States, and the person is legally responsible for the care of an individual in a foreign country.

(2) The Administrator shall notify the Secretary of the Treasury of each check described under paragraph (1) of this subsection.

(3) The Administrator may exempt a check from paragraph (1) of this subsection if the application of paragraph (1) would reduce, discontinue, or deny benefits for the care of a dependent of an individual in a foreign country.

(b) When the amount of checks (representing payments to an individual under laws carried out by the Administrator) transferred under section 3329(b)(4) of this title equals \$1,000, the amounts of additional checks (except checks under contracts of insurance) payable to the individual under those laws shall be deposited in the Treasury as miscellaneous receipts. An amount transferred under section 3329(b)(4) or deposited as miscellaneous receipts is deemed to be payment for all purposes to the individual entitled to payment.

(c) If the payee of a check for pension, compensation, or emergency officers' retirement pay under laws carried out by the Administrator dies while the amount of the check is in the special deposit account, the amount is payable (subject to section 3329 of this title and this section) as follows:

(1) after the death of the veteran, to the surviving spouse, or, if there is no surviving spouse, to children of the veteran under 18 years of age at the time of the veteran's death.

(2) after the death of the surviving spouse, to children of the spouse under 18 years of age at the time of the spouse's death.

(3) after the death of an apportionee of a part of the veteran's pension, compensation, or emergency officers' retirement pay but before all of the apportioned amount is paid to the veteran, the apportioned amount not paid.

(4) in any other case, only to the extent necessary to reimburse a person for burial expenses.

(d)(1) A payment may be made under subsection (c) of this section only if a claim for payment is—

(A) filed with the Administrator by the end of the first year after the date of the death of the individual entitled to payment; and

(B) completed by submitting the necessary evidence by the 6th month after the date the Administrator requests the evidence.

(2) Payment shall include only amounts due at the time of death under ratings or decisions existing at the time of the death.

§3331. Substitute checks

(a) In this section, "original check"—

- (1) means an order for the payment of money—

- (A) payable on demand;
- (B) that does not bear interest;
- (C) drawn by an authorized disbursing official or agent of the United States Government; and

(D) the amount of which is deposited with the Treasury or another account available for payment; and

(2) does not include coins and currency of the Government.

(b) When the Secretary of the Treasury is satisfied that an original check is lost, stolen, destroyed in any part, or is so defaced that the value to the owner or holder is impaired, the Secretary may issue a substitute check to the owner or holder of the original check. Except as provided in subsection (c) of this section, the substitute check is payable from the amount available to pay the original check.

(c) When the Secretary is satisfied that an original check drawn on a depository in a foreign country or a territory or possession of the United States is lost, stolen, destroyed in part, or is so defaced that its value to the owner or holder is impaired, the drawer of the original check (or another official designated by the Secretary with the approval of the head of the agency on whose behalf the original check was issued) may issue to the owner or holder of the check a substitute check. The drawer or official shall issue the substitute check by the last day of the fiscal year after the fiscal year in which the original check was issued—

- (1) using the current date; and
- (2) drawn on the account of the drawer of the original check or another account available for payment of the substitute.

(d) A substitute check issued under this section—

(1) may be paid only if the original check has not been paid;

(2) shall include information necessary to identify the original check;

(3) that is drawn on the Treasury—

- (A) is deemed to be an original check; and
- (B) is paid under the same conditions as the original check; and

(4) does not relieve a disbursing or certifying official from liability to the Government for payment resulting from erroneously issuing the original check.

(e) Before issuing a substitute check under this section, the Secretary may require the owner or holder of the original check to agree to indemnify the Government with security in the form and amount the Secretary decides is necessary.

§3332. Checks payable to financial organizations designated by Government officers and employees

(a) In this section, "financial organization" means a bank, savings and loan association or similar institution, or a credit union chartered by the United States Government or a State.

(b) An officer or employee of an agency may designate in writing not more than 3 financial organizations to which a payment of pay of the officer or employee shall be sent and the amount to be sent to each organization. The head of the agency shall authorize a disbursing official to issue a check payable to each of the organizations in the amount designated for—

- (1) credit to the checking account of the officer or employee;

(2) deposit of savings for the officer or employee; or

(3) buying shares for the officer or employee.

(c) An agency is not reimbursed for the cost of issuing one check requested by an officer or employee under subsection (b) of this section. However, a financial organization (except a financial organization designated by an officer or employee of either House of Congress) shall reimburse the agency for the cost of each additional check issued. The check for which the agency is not reimbursed is the check in the largest amount.

(d) If more than one officer or employee making a designation under this section designates the same financial organization, the head of the agency may authorize a disbursing official to issue a check payable to the organization for the total amount designated by the officers and employees, accompanied by a schedule stating the amount to be credited to the account of each officer and employee.

(e) Payment by the Government by more than one check, issued under this section and properly endorsed, is complete payment of the amount due to the officer or employee requesting payment.

(f) On the written request of a person to whom payment is to be made, this section may be applied to any class of recurring payments.

(g) The Secretary of the Senate shall prescribe regulations for the Senate in carrying out this section. With the approval of the Committee on House Administration of the House of Representatives, the Clerk of the House shall prescribe regulations for the House in carrying out this section. The Secretary of the Treasury shall prescribe regulations for all other agencies in carrying out this section.

§3333. Relief for payments made without negligence

(a)(1) The Secretary of the Treasury is not liable for a payment made by the Secretary or depositary in due course and without negligence, of a—

(A) check, draft, or warrant drawn on the Treasury or the depositary; and

(B) debt obligation guaranteed or assumed by the United States Government.

(2) The Comptroller General shall credit the accounts of the Treasury or the depositary for the payment.

(b) This section does not relieve another individual from civil or criminal liability for a check, draft, warrant, or debt obligation of the Government.

SUBCHAPTER III—MISCELLANEOUS

§3341. Sale of Government warrants, checks, drafts, and obligations

(a) A disbursing official of the United States Government may sell a Government warrant, check, draft, or obligation not the property of the official at a premium, or dispose of the proceeds of the warrant, check, draft, or obligation, only if the official deposits the premium and the proceeds in the Treasury or with a depositary for the credit of the Government.

(b) A disbursing official violating subsection (a) of this section shall be dismissed immediately.

§3342. Check cashing and exchange transactions

(a) A disbursing official of the United States Government may—

(1) cash and negotiate negotiable instruments payable in United States currency or currency of a foreign country;

(2) exchange United States currency, coins, and negotiable instruments and currency, coins, and negotiable instruments of foreign countries; and

(3) cash checks drawn on the Treasury to accommodate United States citizens in a foreign country, but only if—

(A) satisfactory banking facilities are not available in the foreign country; and

(B) a check is presented by the payee who is a United States citizen.

(b) A disbursing official may act under subsection (a)(1) and (2) of this section only for—

(1) an official purpose;

(2) personnel of the Government;

(3) a veteran hospitalized or living in an institution operated by an agency;

(4) a contractor, or personnel of a contractor, carrying out a Government project; and

(5) personnel of an authorized agency not part of the Government that operates with an agency of the Government.

(c)(1) An amount held by the disbursing official that is available for expenditure may be used to carry out subsection (a) of this section with the approval of the head of the agency having jurisdiction over the amount.

(2) The head of an agency having jurisdiction over a disbursing official may offset, within the same fiscal year, a deficiency resulting from a transaction under subsection (a) of this section with a gain from a transaction under subsection (a). A gain in the account of a disbursing official not used to offset deficiencies under subsection (a) shall be deposited in the Treasury as miscellaneous receipts.

(3) Amounts necessary to adjust for deficiencies in the account of a disbursing official because of transactions under subsection (a) of this section are authorized to be appropriated.

(d) The Secretary of the Treasury and, with the approval of the Secretary, the head of an agency having jurisdiction over a disbursing official, may issue regulations to carry out this section. However, under conditions the Secretary decides are necessary, the Secretary may delegate to the head of an agency the authority to issue regulations applying to a disbursing official that is an officer or employee of the agency.

§3343. Check forgery insurance fund

(a) The Department of the Treasury has a special deposit revolving fund, the "Check Forgery Insurance Fund". Amounts may be appropriated to the Fund. The Fund consists of amounts—

(1) appropriated to the Fund; and

(2) received under subsection (d) of this section.

(b) The Secretary of the Treasury shall pay from the Fund to a payee or special endorsee of a check drawn on the Treasury or a depositary designated by the Secretary the amount of the check without interest if—

(1) the check was lost or stolen without the fault of the payee or a holder that is a special endorsee and whose endorsement is necessary for further negotiation;

(2) the check was negotiated later and paid by the Secretary or a depositary on a forged endorsement of the payee's or special endorsee's name;

(3) the payee or special endorsee has not participated in any part of the proceeds of the negotiation or payment; and

(4) recovery from the forger, a transferee, or a party on the check after the forgery has been or may be delayed or unsuccessful.

(c) Notwithstanding section 1306 of this title, a check drawn on a designated depositary may be paid in the currency of a foreign country when the appropriate accountable official authorizes payment in that currency.

(d) The Secretary shall deposit immediately to the credit of the Fund an amount recovered from a forger or a transferee or party on the check. However, currency of a foreign country recovered because of a forged check drawn on a designated depositary shall be credited to the Fund or to the foreign currency fund that was charged when payment was made under subsection (b) of this section to the payee or special endorsee.

(e) This section does not relieve—

(1) a forger from civil or criminal liability; or

(2) a transferee or party on a check after the forgery from liability—

(A) on the express or implied warranty of prior endorsements of the transferee or party; or

(B) to refund amounts to the Secretary.

CHAPTER 35—ACCOUNTING AND COLLECTION

SUBCHAPTER I—GENERAL

Sec.

3501. Definition.

SUBCHAPTER II—ACCOUNTING REQUIREMENTS, SYSTEMS, AND INFORMATION

3511. Prescribing accounting requirements and developing accounting systems.

3512. Executive agency accounting systems.

3513. Financial reporting and accounting system.

3514. Discontinuing certain accounts maintained by the Comptroller General.

SUBCHAPTER III—AUDITING AND SETTLING ACCOUNTS

3521. Audits by agencies.

3522. Making and submitting accounts.

3523. General audit authority of the Comptroller General.

3524. Auditing expenditures approved without vouchers.

3525. Auditing nonappropriated fund activities.

3526. Settlement of accounts.

3527. General authority to relieve accountable officials and agents from liability.

3528. Responsibilities and relief from liability of certifying officials.

3529. Requests for decisions of the Comptroller General.

3530. Adjusting accounts.

3531. Property returns.

3532. Notification of account deficiencies.

SUBCHAPTER IV—COLLECTION

3541. Distress warrants.

3542. Carrying out distress warrants.

3543. Postponing a distress warrant proceeding.

3544. Rights and remedies of the United States Government reserved.

3545. Civil action to recover money.

SUBCHAPTER I—GENERAL

§3501. Definition

In this chapter, "executive agency" does not include (except in section 3513 of this title) a corporation, agency, or instrumentality subject to chapter 91 of this title.

SUBCHAPTER II—ACCOUNTING REQUIREMENTS, SYSTEMS, AND INFORMATION

§3511. Prescribing accounting requirements and developing accounting systems

(a) The Comptroller General shall prescribe the accounting principles, standards, and requirements that the head of each executive agency shall observe. Before prescribing the principles, standards, and requirements, the Comptroller General shall consult with the Secretary of the Treasury and the President on their accounting, financial reporting, and budgetary needs, and shall consider the needs of the heads of the other executive agencies.

(b) Requirements prescribed under subsection (a) of this section shall—

(1) provide for suitable integration between the accounting process of each executive agency and the accounting of the Department of the Treasury;

(2) allow the head of each agency to carry out section 3512 of this title; and

(3) provide a method of—

(A) integrated accounting for the United States Government;

(B) complete disclosure of the results of the financial operations of each agency and the Government; and

(C) financial information and control the President and Congress require to carry out their responsibilities.

(c) Consistent with subsections (a) and (b) of this section—

(1) the authority of the Comptroller General continues under section 205(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(b)); and

(2) the Comptroller General may prescribe the forms, systems, and procedures that the judicial branch of the Government (except the Supreme Court) shall observe.

(d) The Comptroller General, the Secretary, and the President shall conduct a continuous program for improving accounting and financial reporting in the Government.

§3512. Executive agency accounting systems

(a) The head of each executive agency shall establish and maintain systems of accounting and internal controls that provide—

(1) complete disclosure of the financial results of the activities of the agency;

(2) adequate financial information the agency needs for management purposes;

(3) effective control over, and accountability for, assets for which the agency is responsible, including internal audit;

(4) reliable accounting results that will be the basis for—

(A) preparing and supporting the budget requests of the agency;

(B) controlling the carrying out of the agency budget; and

(C) providing financial information the President requires under section 1104(e) of this title; and

(5) suitable integration of the accounting of the agency with the central accounting and reporting responsibilities of the Secretary of the Treasury under section 3513 of this title.

(b) To assist in preparing a cost-based budget under section 1108(b) of this title and consistent with principles and standards the Comptroller General prescribes, the head of each executive agency shall maintain the accounts of the agency on an accrual basis to show the resources, liabilities, and costs of operations of the agency. An accounting system under this subsection shall include monetary property accounting records.

(c) The Comptroller General shall—

(1) cooperate with the head of each executive agency in developing an accounting system for the agency; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

(d) The Comptroller General shall review the accounting systems of each executive agency. The results of a review shall be available to the head of the executive agency, the Secretary, and the President. The Comptroller General shall report to Congress on a review when the Comptroller General considers it proper.

§3513. Financial reporting and accounting system

(a) The Secretary of the Treasury shall prepare reports that will inform the President, Congress, and the public on the financial operations of the United States Government. The reports shall include financial information the President requires. The head of each executive agency shall give the Secretary reports and information on the financial conditions and operations of the agency the Secretary requires to prepare the reports.

(b) The Secretary may—

(1) establish facilities necessary to prepare the reports; and

(2) reorganize the accounting functions and procedures and financial reports of the Department of the Treasury to develop an effective and coordinated system of accounting and financial reporting in the Department that will integrate the accounting results for the Department and be the operating center for consolidating accounting results of other executive agencies with accounting results of the Department.

(c) The Comptroller General shall—

(1) cooperate with the Secretary in developing and establishing the reporting and accounting system under this section; and

(2) approve the system when the Comptroller General considers it to be adequate and in conformity with the principles, standards, and requirements prescribed under section 3511 of this title.

§3514. Discontinuing certain accounts maintained by the Comptroller General

The Comptroller General may discontinue an agency appropriation, expenditure, limitation, receipt, or personal ledger account maintained by the Comptroller General when the Comptroller General believes that the accounting system and internal controls of the agency will allow the Comptroller General to carry out the functions related to the account.

SUBCHAPTER III—AUDITING AND SETTLING ACCOUNTS

§3521. Audits by agencies

(a) Each account of an agency shall be audited administratively before being submitted to the Comptroller General. The head of each agency shall prescribe regulations for conducting the audit and designate a place at which the audit is to be conducted. However, a disbursing official of an executive agency may not administratively audit vouchers for which the official is responsible. With the consent of the Comptroller General, the head of the agency may waive any part of an audit.

(b) The head of an agency may prescribe a statistical sampling procedure to audit vouchers of the agency when the head of the agency decides economies will result from using the procedure. The Comptroller General—

(1) may prescribe the maximum amount of a voucher that may be audited under this subsection; and

(2) in reviewing the accounting system of the agency, shall evaluate the adequacy and effectiveness of the procedure.

(c) A disbursing or certifying official acting in good faith under subsection (b) of this section is not liable for a payment or certification of a voucher not audited specifically because of the procedure prescribed under subsection (b) if the official and the head of the agency carry out diligently collection action the Comptroller General prescribes.

(d) Subsections (b) and (c) of this section do not—

(1) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(2) relieve a disbursing or certifying official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

§3522. Making and submitting accounts

(a)(1) Unless the Comptroller General decides the public interest requires that an account be made more frequently, each disbursing official shall make a quarterly account. An official or agent of the United States Government receiving public money not authorized to be kept as pay of the official or agent shall make a monthly account of the money.

(2) An official or agent of the Government receiving public money shall make an account of public money received by the official or agent according to the appropriation from which the money was advanced.

(b)(1) A monthly account shall be submitted to the appropriate official in the District of Columbia by the 10th day after the end of the month covered by the account. The official shall submit the account to the Comptroller General by the 20th day after receiving the account.

(2) An account (except a monthly account) shall be submitted to the appropriate official in the District of Columbia by the 20th day after the end of the period covered by the account. The official shall submit the account to the Comptroller General by the 60th day after receiving the account.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, an account of the armed forces shall be submitted to the Comptroller General by the 60th day after the account is received. However, during a war or national emergency and for 18 months after the war or emergency ends, an account shall be submitted to the Comptroller General by the 90th day after the account is received.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, an account of a disbursing official of the Department of Justice shall be submitted to the Comptroller General by the 80th day after the account is received.

(c) An official shall give evidence of compliance with subsection (b) of this section if an account is not received within a reasonable time after the time required by subsection (b).

(d) The head of an agency may require other returns or reports about the agency that the public interest requires.

(e)(1) The Comptroller General shall disapprove a requisition for an advance of money if an account from which the advance is to be made is not submitted to the

Comptroller General within the time required by subsection (b) of this section. The Comptroller General may disapprove the request for another reason related to the condition of an account of the official for whom the advance is requested. However, the Secretary of the Treasury may overrule the decision of the Comptroller General on the sufficiency of the other reasons.

(2) The Secretary may extend the time requirements of subsection (b) (1) and (2) of this section for submitting an account to the proper official in the District of Columbia or waive a condition of delinquency only when there is, or is likely to be, a manifest physical difficulty in complying with those requirements. If an account is not submitted to the Comptroller General on time under subsection (b), an order of the President or, if the President is ill or not in the District of Columbia, the Secretary is required to authorize an advance.

§3523. General audit authority of the Comptroller General

(a) Except as specifically provided by law, the Comptroller General shall audit the financial transactions of each agency. In deciding on auditing procedures and the extent to which records are to be inspected, the Comptroller General shall consider generally accepted auditing principles, including the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of each agency.

(b) The Comptroller General shall audit the Architect of the Capitol at times the Comptroller General considers appropriate. Section 716 of this title applies to the Architect in conducting the audit. The Comptroller General shall report the results of the audit to Congress. Each report shall be printed as a Senate document.

(c)(1) When the Comptroller General decides an audit shall be conducted at a place at which the records of an executive agency or the Architect of the Capitol are usually kept, the Comptroller General may require the head of the agency or the Architect to keep any part of an account of an accountable official or of a record required to be submitted to the Comptroller General. The Comptroller General may require records be kept under conditions and for a period of not more than 10 years specified by the Comptroller General. However, the Comptroller General and the head of the agency or the Architect may agree on a longer period.

(2) The Comptroller General and the head of an agency in the legislative or judicial branch of the United States Government (except the Architect) may agree to apply this subsection to the agency.

§3524. Auditing expenditures approved without vouchers

(a)(1) The Comptroller General may audit expenditures, accounted for only on the approval, authorization, or certificate of the President or an official of an executive agency, to decide if the expenditure was authorized by law and made. Records and related information shall be made available to the Comptroller General in conducting the audit.

(2) The Comptroller General may release the results of the audit or disclose related information only to the President or head of the agency, or, if there is an unresolved discrepancy, to the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the committees of

Congress having legislative or appropriation oversight of the expenditure.

(b) Before December 1 of each year, the Director of the Office of Management and Budget shall submit a report listing each account that may be subject to this section to the Committees on the Budget and Appropriations of both Houses of Congress, the Committee on Governmental Affairs, and to the Committee on Government Operations, and to the Comptroller General.

(c) The President may exempt from this section a financial transaction about sensitive foreign intelligence or foreign counterintelligence activities or sensitive law enforcement investigations if an audit would expose the identifying details of an active investigation or endanger investigative or domestic intelligence sources involved in the investigation. The exemption may apply to a class or category of financial transactions.

(d) This section does not—

(1) apply to expenditures under section 102, 103, 105(d) (1), (3), or (5), or 106(b) (2) or (3) of title 3; or

(2) affect authority under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)).

(e) Information about a financial transaction exempt under subsection (c) of this section or a financial transaction under section 8(b) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403j(b)) may be reviewed by the Permanent Select Committee on Intelligence of the House and the Select Committee on Intelligence of the Senate.

(f) Subsections (a)(1) and (d)(1) of this section may be superseded only by a law enacted after April 3, 1980, specifically repealing or amending this section.

§3525. Auditing nonappropriated fund activities

(a) The Comptroller General may audit—

(1) the operations and accounts of each nonappropriated fund and related activities authorized or operated by the head of an executive agency to sell goods or services to United States Government personnel and their dependents;

(2) accounting systems and internal controls of the fund and related activities; and

(3) internal or independent audits or reviews of the fund and related activities.

(b) The head of each executive agency promptly shall provide the Comptroller General with—

(1) a copy of the annual report of a nonappropriated fund and related activities subject to this section when the Comptroller General—

(A) requires a report for a designated class of each fund and related activities having gross sales receipts of more than \$100,000 a year; or

(B) specifically requests a report for another fund and related activities; and

(2) a statement on the yearly financial operations, financial condition, and cash flow and other yearly information about the fund and related activities that the head of the agency and the Comptroller General agree on if the information is not included in the annual report.

(c) Records and property of a fund and related activities subject to this section shall be made available to the Comptroller General to the extent the Comptroller General considers necessary.

§3526. Settlement of accounts

(a) The Comptroller General shall settle all accounts of the United States Government and supervise the recovery of all debts finally certified by the Comptroller General as due the Government.

(b) A decision of the Comptroller General under section 3529 of this title is conclusive on the Comptroller General when settling the account containing the payment.

(c)(1) The Comptroller General shall settle an account of an accountable official within 3 years after the date the Comptroller General receives the account. A copy of the certificate of settlement shall be provided the official.

(2) The settlement of an account is conclusive on the Comptroller General after 3 years after the account is received by the Comptroller General. However, an amount may be charged against the account after the 3-year period when the Government has or may have lost money because the official acted fraudulently or criminally.

(3) A 3-year period under this subsection is suspended during a war.

(4) This subsection does not prohibit—

(A) recovery of public money illegally or erroneously paid;

(B) recovery from an official of a balance due the Government under a settlement within the 3-year period; or

(C) an official from clearing an account of questioned items as prescribed by law.

(d) On settling an account of the Government, the balance certified by the Comptroller General is conclusive on the executive branch of the Government. On the initiative of the Comptroller General or on request of an individual whose accounts are settled or the head of the agency to which the account relates, the Comptroller General may change the account within a year after settlement. The decision of the Comptroller General to change the account is conclusive on the executive branch.

(e) When an amount of money is expended under law for a treaty or relations with a foreign country, the President may—

(1) authorize the amount to be accounted for each year specifically by settlement of the Comptroller General when the President decides the amount expended may be made public; or

(2) make, or have the Secretary of State make, a certificate of the amount expended if the President decides the amount is not to be accounted for specifically. The certificate is a sufficient voucher for the amount stated in the certificate.

(f) The Comptroller General shall keep all settled accounts, vouchers, certificates, and related papers until they are disposed of as prescribed by law.

(g) This subchapter does not prohibit the Comptroller General from suspending an item in an account to get additional evidence or explanations needed to settle an account.

§3527. General authority to relieve accountable officials and agents from liability

(a) Except as provided in subsection (b) of this section, the Comptroller General may relieve a present or former accountable official or agent of an agency responsible for the physical loss or deficiency of public money, vouchers, checks, securities, or records, or may authorize reimbursement from an appropriation or fund available for the activity in which the loss or deficiency occurred for the amount of the loss or deficiency paid by the official or agent as restitution, when—

(1) the head of the agency decides that—

(A) the official or agent was carrying out official duties when the loss or deficiency occurred, or the loss or deficiency occurred because of an act or failure to act by a subordinate of the official or agent; and

(B) the loss or deficiency was not the result of fault or negligence by the official or agent;

(2) the loss or deficiency was not the result of an illegal or incorrect payment; and

(3) the Comptroller General agrees with the decision of the head of the agency.

(b)(1) The Comptroller General shall relieve a disbursing official of the armed forces responsible for the physical loss or deficiency of public money, vouchers, or records, or shall authorize reimbursement, from an appropriation or fund available for reimbursement, of the amount of the loss or deficiency paid by or for the official as restitution, when—

(A) the Secretary of Defense or the appropriate Secretary of the military department of the Department of Defense decides that the official was carrying out official duties when the loss or deficiency occurred;

(B) the loss or deficiency was not the result of an illegal or incorrect payment; and

(C) the loss or deficiency was not the result of fault or negligence by the official.

(2) The finding of the Secretary involved is conclusive on the Comptroller General.

(c) On the initiative of the Comptroller General or written recommendation of the head of an agency, the Comptroller General may relieve a present or former disbursing official of the agency responsible for a deficiency in an account because of an illegal, improper, or incorrect payment, and credit the account for the deficiency, when the Comptroller General decides that the payment was not the result of bad faith or lack of reasonable care by the official. However, the Comptroller General may deny relief when the Comptroller General decides the head of the agency did not carry out diligently collection action under procedures prescribed by the Comptroller General.

(d)(1) When the Comptroller General decides it is necessary to adjust the account of an official or agent granted relief under subsection (a) or (c) of this section, the amount of the relief shall be charged—

(A) to an appropriation specifically provided to be charged; or

(B) if no specific appropriation, to the appropriation or fund available for the expense of the accountable function when the adjustment is carried out.

(2) Subsection (c) of this section does not—

(A) affect the liability, or authorize the relief, of a payee, beneficiary, or recipient of an illegal, improper, or incorrect payment; or

(B) relieve an accountable official, the head of an agency, or the Comptroller General of responsibility in carrying out collection action against a payee, beneficiary, or recipient.

(e) Relief provided under this section is in addition to relief provided under another law.

§3528. Responsibilities and relief from liability of certifying officials

(a) A certifying official certifying a voucher is responsible for—

(1) information stated in the certificate, voucher, and supporting records;

(2) the computation of a certified voucher under this section and section 3325 of this title;

(3) the legality of a proposed payment under the appropriation or fund involved; and

(4) repaying a payment—

(A) illegal, improper, or incorrect because of an inaccurate or misleading certificate;

(B) prohibited by law; or

(C) that does not represent a legal obligation under the appropriation or fund involved.

(b) The Comptroller General may relieve a certifying official from liability when the Comptroller General decides that—

(1) the certification was based on official records and the official did not know, and by reasonable diligence and inquiry could not have discovered, the correct information; or

(2)(A) the obligation was incurred in good faith;

(B) no law specifically prohibited the payment; and

(C) the United States Government received value for payment.

(c) The Comptroller General shall relieve a certifying official from liability for an overpayment—

(1) to a common carrier under section 3726 of this title when the Comptroller General decides the overpayment occurred only because the administrative audit before payment did not verify transportation rates, freight classifications, or land-grant deductions; or

(2) provided under a Government bill of lading or transportation request when the overpayment was the result of using improper transportation rates or classifications or the failure to deduct the proper amount under a land-grant law or agreement.

(d) This section does not apply to disbursements of a military department of the Department of Defense, except disbursements for departmental pay and expenses in the District of Columbia.

§3529. Requests for decisions of the Comptroller General

(a) A disbursing or certifying official or the head of an agency may request a decision from the Comptroller General on a question involving—

(1) a payment the disbursing official or head of the agency will make; or

(2) a voucher presented to a certifying official for certification.

(b) The Comptroller General shall issue a decision requested under this section.

§3530. Adjusting accounts

(a) An appropriation or fund currently available for the expense of an accountable function shall be charged with an amount necessary to adjust an account of an accountable official or agent when—

(1) necessary to adjust the account for a loss to the United States Government resulting from the fault or negligence of the official or agent; and

(2) the head of the agency decides the loss is uncollectable.

(b) An adjustment does not affect the personal financial liability of an official or agent for the loss.

(c) The Comptroller General shall prescribe regulations to carry out subsection (a) of this section.

(d) Under procedures prescribed by the Comptroller General, the head of an agency may charge the net amount of unpaid and overpaid balances in individual pay accounts against the appropriation for the fiscal year in which the balances occurred and from which the accounts were payable. The net amount shall be credited to and paid from the corresponding appropriation for the next fiscal year.

§3531. Property returns

(a) The head of an executive department—

(1) shall certify to the Comptroller General a charge against an official or agent entrusted with public property for the department resulting from a loss to the United States Government from the property because of fault of the official or agent; and

(2) may not forward the property to the Comptroller General.

(b)(1) A certificate under subsection (a) of this section shall state—

(A) the condition of the property;

(B) that the official or agent has had a reasonable opportunity to be heard but has not been relieved of liability; and

(C) that the certificate includes all charges not certified previously.

(2) The effect of information in the certificate is the same as if the Comptroller General had discovered the information when auditing the account. The Comptroller General shall charge the appropriate account for the amount of the loss.

(c) Except as provided in subsection (a) of this section, this section does not affect the way a property return is made or liability for property is decided.

§3532. Notification of account deficiencies

An accounting official discovering a deficiency in an account of an official of the United States Government having custody of public money shall notify the head of the agency having jurisdiction of the official of the kind and amount of the deficiency.

SUBCHAPTER IV—COLLECTION

§3541. Distress warrants

(a) When an official receiving public money before it is paid to the Treasury or a disbursing or certifying official of the United States Government does not submit an account or pay the money as prescribed by law, the Comptroller General shall make the account for the official and certify to the Secretary of the Treasury the amount due the Government.

(b) The Secretary shall issue a distress warrant against the official stating the amount due from the official and any amount paid. The warrant shall be directed to the marshal of the district in which the official resides. If the Secretary intends to take and sell the property of an official that is located in a district other than where the official resides, the warrant shall be directed to the marshal of the district in which the official resides and the marshal of the district in which the property is located.

§3542. Carrying out distress warrants

(a) A marshal carrying out a distress warrant issued under section 3541 of this title shall seize the personal property of the official and sell the property after giving 10 days notice of the sale. Notice shall be given by posting an advertisement of the property to be sold in at least 2 public places in the town and county in which the property was taken or the town and county in which the owner of the property resides. If the property does not satisfy the amount due under the warrant, the official may be sent to prison until discharged by law.

(b)(1) The amount due under a warrant is a lien on the real property of the official from the date the distress warrant is issued. The lien shall be recorded in the office of the clerk of the appropriate district court until discharged under law.

(2) If the personal property of the official is not enough to satisfy a distress warrant, the marshal shall sell real property of the official after advertising the property for at least 3 weeks in at least 3 public places in the county or district where the property is

located. A buyer of the real property has valid title against all persons claiming under the official.

(c) The official shall receive that part of the proceeds of a sale remaining after the distress warrant is satisfied and the reasonable costs and charges of the sale are paid.

§3543. Postponing a distress warrant proceeding

(a) A distress warrant proceeding may be postponed for a reasonable time if the Secretary of the Treasury believes the public interest will not be harmed by the postponement.

(b)(1) A person adversely affected by a distress warrant issued under section 3541 of this title may bring a civil action in a district court of the United States. The complaint shall state the kind and extent of the harm. The court may grant an injunction to stay any part of a distress warrant proceeding required by the action after the person applying for the injunction gives a bond in an amount the court prescribes for carrying out a judgment.

(2) An injunction under this subsection does not affect a lien under section 3542(b)(1) of this title. The United States Government is not required to answer in a civil action brought under this subsection.

(3) If the court dissolves the injunction on a finding that the civil action for the injunction was brought only for delay, the court may increase the interest rate imposed on amounts found due against the complainant to not more than 10 percent a year. The judge may grant or dissolve an injunction under this subsection either in or out of court.

(c) A person adversely affected by a refusal to grant an injunction or by dissolving an injunction under subsection (b) of this section may petition a judge of a circuit court of appeals in which the district is located or the Supreme Court justice allotted to that circuit by giving the judge or justice a copy of the proceeding held before the district judge. The judge or justice may grant an injunction or allow an appeal if the judge or justice finds the case requires it.

§3544. Rights and remedies of the United States Government reserved

This subchapter does not affect a right or remedy the United States Government has by law to recover a tax, debt, or demand.

§3545. Civil action to recover money

The Attorney General shall bring a civil action to recover an amount due to the United States Government on settlement of the account of a person accountable for public money when the person neglects or refuses to pay the amount to the Treasury. Any commission of that person and interest of 6 percent a year from the time the money is received by the person until repaid to the Treasury shall be added to the amount due on the account. The commission is forfeited when judgment is obtained.

CHAPTER 37—CLAIMS

SUBCHAPTER I—GENERAL

Sec.
3701. Definitions.

3702. Authority of the Comptroller General to settle claims.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

3711. Collection and compromise.

3712. Time limitations for presenting certain claims of the Government.

3713. Priority of Government claims.

3714. Keeping money due States in default.

3715. Buying real property of a debtor.

SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss.

3722. Claims of officers and employees at Government penal and correctional institutions.

3723. Small claims for privately owned property damage or loss.

3724. Claims for damages caused by the Federal Bureau of Investigation.

3725. Claims of non-nationals for personal injury or death in a foreign country.

3726. Payment for transportation.

3727. Assignments of claims.

3728. Setoff against judgment.

3729. False claims.

3730. Civil actions for false claims.

3731. False claims procedure.

SUBCHAPTER I—GENERAL

§3701. Definitions

In this chapter—

(1) "executive or legislative agency" means a department, agency, or instrumentality in the executive or legislative branch of the United States Government.

(2) "military department" means the Departments of the Army, Navy, and Air Force.

(3) "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, the Commissioned Corps of the National Oceanic and Atmospheric Administration, and the Commissioned Corps of the Public Health Service.

§3702. Authority of the Comptroller General to settle claims

(a) Except as provided in this chapter or another law, the Comptroller General shall settle all claims of or against the United States Government. A claim that was not administratively examined before submission to the Comptroller General shall be examined by 2 officers or employees of the General Accounting Office independently of each other.

(b)(1) A claim against the Government presented under this section must contain the signature and address of the claimant or an authorized representative. The claim must be received by the Comptroller General within 6 years after the claim accrues except—

(A) as provided in this chapter or another law; or

(B) a claim of a State, the District of Columbia, or a territory or possession of the United States.

(2) When the claim of a member of the armed forces accrues during war or within 5 years before war begins, the claim must be presented to the Comptroller General within 5 years after peace is established or within the period provided in clause (1) of subsection, whichever is later.

(3) The Comptroller General shall return a claim not received in the time required under this subsection with a copy of this subsection and no further communication is required.

(c) A claim on a check or warrant that the records of the Comptroller General or the Secretary of the Treasury show as being paid must be presented to the Comptroller General or the Secretary within 6 years after the check or warrant was issued.

(d) The Comptroller General shall report to Congress on a claim against the Government that is timely presented under this

section that may not be adjusted by using an existing appropriation, and that the Comptroller General believes Congress should consider for legal or equitable reasons. The report shall include recommendations of the Comptroller General.

SUBCHAPTER II—CLAIMS OF THE UNITED STATES GOVERNMENT

§3711. Collection and compromise

(a) The head of an executive or legislative agency—

(1) shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency;

(2) may compromise a claim of the Government of not more than \$20,000 (excluding interest) that has not been referred to another executive or legislative agency for further collection action; and

(3) may suspend or end collection action on a claim referred to in clause (2) of this subsection when it appears that no person liable on the claim has the present or prospective ability to pay a significant amount of the claim or the cost of collecting the claim is likely to be more than the amount recovered.

(b) The Comptroller General has the same authority that the head of the agency has under subsection (a) of this section when the claim is referred to the Comptroller General for further collection action. Only the Comptroller General may compromise a claim arising out of an exception the Comptroller General makes in the account of an accountable official.

(c)(1) The head of an executive or legislative agency may not act under subsection (a)(2) or (3) of this section on a claim that appears to be fraudulent, false, or misrepresented by a party with an interest in the claim, or that is based on conduct in violation of the antitrust laws.

(2) The Secretary of Transportation may not compromise for less than \$250 a penalty under section 6 of the Act of March 2, 1893 (45 U.S.C. 6), section 4 of the Act of April 14, 1910 (45 U.S.C. 13), section 9 of the Act of February 17, 1911 (45 U.S.C. 34), and section 25(h) of the Interstate Commerce Act (49 U.S.C. 26(h)).

(d) A compromise under this section is final and conclusive unless gotten by fraud, misrepresentation, presenting a false claim, or mutual mistake of fact. An accountable official is not liable for an amount paid or for the value of property lost or damaged if the amount or value is not recovered because of a compromise under this section.

(e) The head of an executive or legislative agency acts under—

(1) regulations prescribed by the head of the agency; and

(2) standards that the Attorney General and the Comptroller General may prescribe jointly.

§3712. Time limitations for presenting certain claims of the Government

(a) Except as provided in this subsection, the United States Government must bring a civil action to enforce the liability of an endorser, transferor, depository, or fiscal agent on a forged or unauthorized signature or endorsement on, or a change in, a check or warrant issued by the Secretary of the Treasury, the United States Postal Service, or a disbursing official or agent within 6 years after the check or warrant is presented to the drawee of the check or warrant for payment unless, within that period, written notice of the claim is given to the endorser,

transferor, depository, or fiscal agent. The period for bringing a civil action or giving notice is extended for 180 days if a claim is received under section 3702(c) of this title.

(b) Notwithstanding subsection (a) of this section, a civil action may be brought within 2 years after the claim is discovered when an endorser, transferor, depository, or fiscal agent fraudulently conceals the claim from an officer or employee of the Government entitled to bring the civil action.

(c) The Comptroller General shall credit the appropriate account of the Treasury for the amount of a check or warrant for which a civil action cannot be brought because notice was not given within the time required under subsection (a) of this section if the failure to give notice was not the result of negligence of the Secretary.

(d) The Government waives all claims against a person arising from dual pay from the Government if the dual pay is not reported to the Comptroller General for collection within 6 years from the last date of a period of dual pay.

§3713. Priority of Government claims

(a)(1) A claim of the United States Government shall be paid first when—

(A) a person indebted to the Government is insolvent and—

(i) the debtor without enough property to pay all debts makes a voluntary assignment of property;

(ii) property of the debtor, if absent, is attached; or

(iii) an act of bankruptcy is committed; or

(B) the estate of a deceased debtor, in the custody of the executor or administrator, is not enough to pay all debts of the debtor.

(2) This subsection does not apply to a case under title 11.

(b) A representative of a person or an estate (except a trustee acting under title 11) paying any part of a debt of the person or estate before paying a claim of the Government is liable to the extent of the payment for unpaid claims of the Government.

§3714. Keeping money due States in default

The Secretary of the Treasury shall keep the necessary amount of money the United States Government owes a State when the State defaults in paying principal or interest on investments in stocks or bonds the State issues or guarantees and that the Government holds in trust. The money shall be used to pay the principal or interest or reimburse, with interest, money the Government advanced for interest due on the stocks or bonds.

§3715. Buying real property of a debtor

The head of an agency for whom a civil action is brought against a debtor of the United States Government may buy real property of the debtor at a sale on execution of the real property of the debtor resulting from the action. The head of the agency may not bid more for the property than the amount of the judgment for which the property is being sold, and costs. The marshal of the district in which the sale is held shall transfer the property to the Government.

SUBCHAPTER III—CLAIMS AGAINST THE UNITED STATES GOVERNMENT

§3721. Claims of personnel of agencies and the District of Columbia government for personal property damage or loss

(a) In this section—

(1) "agency" does not include a nonappropriated fund activity or a contractor with the United States Government.

(2) "head of an agency" means—

(A) for a military department, the Secretary of the military department;

(B) for the Department of Defense (except the military departments), the Secretary of Defense; and

(C) for another agency, the head of the agency.

(3) "settle" means consider, determine, adjust, and dispose of a claim by disallowance or by complete or partial allowance.

(b) The head of an agency may settle and pay not more than \$15,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property incident to service. A claim allowed under this subsection may be paid in money or the personal property replaced in kind.

(c)(1) The head of an agency may settle and pay not more than \$40,000 for a claim against the Government made by a member of the uniformed services under the jurisdiction of the agency or by an officer or employee of the agency for damage to, or loss of, personal property in a foreign country that was incurred after December 30, 1978, incident to service, and—

(A)(i) the member, officer, or employee was evacuated from the country after December 30, 1978, on a recommendation or order of the Secretary of State or other competent authority that was made in responding to an incident of political unrest or hostile act by people in that country; and

(ii) the damage or loss resulted from the evacuation, incident, or hostile act; or

(B) the damage or loss resulted from a hostile act directed against the Government or its members, officers, or employees.

(2) On paying a claim under this subsection, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against the foreign country for the damage or loss for which the Government made the payment.

(3) Amounts may be obligated or expended for claims under this subsection only to the extent provided in advance in appropriation laws.

(d) The Mayor of the District of Columbia may settle and pay a claim against the District of Columbia government made by an officer or employee of the District of Columbia government to the same extent the head of an agency may settle and pay a claim under this section.

(e) A claim may not be allowed under this section if the personal property damage or loss occurred at quarters occupied by the claimant in a State or the District of Columbia that were not assigned or provided in kind by the United States Government or the District of Columbia government.

(f) A claim may be allowed under this section only if—

(1) the claim is substantiated;

(2) the head of the agency decides that possession of the property was reasonable or useful under the circumstances; and

(3) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant.

(g) A claim may be allowed under this section only if it is presented in writing within 2 years after the claim accrues. However, if a claim under subsection (b) of this section accrues during war or an armed conflict in which an armed force of the United States is involved, or has accrued within 2 years before war or an armed conflict begins, and for cause shown, the claim must be presented within 2 years after the cause no longer

exists or after the war or armed conflict ends, whichever is earlier. An armed conflict begins and ends as stated in a concurrent resolution of Congress or a decision of the President.

(h) The head of the agency—

(1) may settle and pay a claim made by the surviving spouse, child, parent, or brother or sister of a dead member, officer, or employee if the claim is otherwise payable under this section; and

(2) may settle and pay the claims by the survivors only in the following order:

(A) the spouse's claim.

(B) a child's claim.

(C) a parent's claim.

(D) a brother's or sister's claim.

(i) Notwithstanding a contract, the representative of a claimant may not receive more than 10 percent of a payment of a claim made under this section for services related to the claim. A person violating this subsection shall be fined not more than \$1,000.

(j) The President may prescribe policies to carry out this section (except subsection (b)) to the extent that subsection (b) applies to the military departments, the Department of Defense, and the Coast Guard. Subject to those policies, the head of each agency shall prescribe regulations to carry out this section.

(k) Settlement of a claim under this section is final and conclusive.

§3722. Claims of officers and employees at Government penal and correctional institutions

(a) The Attorney General may settle and pay not more than \$1,000 in any one case for a claim made by an officer or employee at a United States Government penal or correctional institution for damage to, or loss of, personal property incident to employment.

(b) A claim may not be allowed under this section if the loss occurred at quarters occupied by the claimant that were not assigned or provided in kind by the Government.

(c) A claim may be allowed only if—

(1) no part of the loss was caused by any negligent or wrongful act of the claimant or an agent or employee of the claimant;

(2) the Attorney General decides that possession of the property was reasonable or useful under the circumstances; and

(3) it is presented in writing within one year after it accrues.

(d) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim.

(e) Necessary amounts are authorized to be appropriated to carry out this section.

§3723. Small claims for privately owned property damage or loss

(a) The head of an agency (except a military department of the Department of Defense or the Coast Guard) may settle a claim for not more than \$1,000 for damage to, or loss of, privately owned property that—

(1) is caused by the negligence of an officer or employee of the United States Government acting within the scope of employment; and

(2) may not be settled under chapter 171 of title 28.

(b) A claim under this section may be allowed only if it is presented to the head of the agency within one year after it accrues.

(c) A claim under this section may be paid as provided in section 1304 of this title only if the claimant accepts the amount of the

settlement in complete satisfaction of the claim against the Government.

§3724. Claims for damages caused by the Federal Bureau of Investigation

(a) The Attorney General may settle, for not more than \$500 in any one case, a claim for personal injury, death, or damage to, or loss of, privately owned property, caused by the Director or an Assistant Director, inspector, or special agent of the Federal Bureau of Investigation acting within the scope of employment that may not be settled under chapter 171 of title 28. An officer or employee of the United States Government may not present a claim arising during the scope of employment. A claim may be allowed only if it is presented to the Attorney General within one year after it accrues.

(b) The Attorney General shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Attorney General shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

§3725. Claims of non-nationals for personal injury or death in a foreign country

(a) The Secretary of State may settle, for not more than \$1,500 in any one case, a claim for personal injury or death of an individual not a national of the United States in a foreign country in which the United States exercises privileges of extraterritoriality when the injury or death is caused by an officer, employee, or agent of the United States Government (except of a military department of the Department of Defense or the Coast Guard). An officer or employee of the Government may not present a claim. A claim under this section may be allowed only if it is presented to the Secretary within one year after it accrues.

(b) The Secretary shall certify to Congress a settlement under this section for payment out of an appropriation that may be made to pay the settlement. The Secretary shall include a brief statement on the type of the claim, the amount claimed, and the amount of the settlement.

(c) A claim may be paid under this section only if the claimant accepts the amount of the settlement in complete satisfaction of the claim against the Government.

§3726. Payment for transportation

(a) A carrier or freight forwarder presenting a bill for transporting an individual or property for the United States Government shall be paid before the Administrator of General Services conducts an audit. A claim under this section shall be allowed only if it is received by the Administrator not later than 3 years (excluding time of war) after the later of the following dates:

(1) accrual of the claim;

(2) payment for the transportation is made;

(3) refund for an overpayment for the transportation is made; or

(4) a deduction under subsection (b) of this section is made.

(b) Not later than 3 years (excluding time of war) after the time a bill is paid, the Government may deduct from an amount subsequently due a carrier or freight forwarder an amount paid on the bill that was greater than the rate allowed under—

(1) a lawful tariff on file with the Interstate Commerce Commission, the Civil Aer-

onautics Board, the Federal Maritime Commission, or a State transportation authority; or

(2) sections 10721-10724 of title 49 or an equivalent arrangement or an exemption.

(c) Under regulations the head of an agency prescribes that conform with standards the Secretary of the Treasury and the Comptroller General prescribe jointly, a bill under this section may be paid before the transportation is completed notwithstanding section 3324 of this title when a carrier or freight forwarder issues the usual document for the transportation. Payment for transportation ordered but not provided may be recovered by deduction or other means.

(d)(1) A carrier or freight forwarder may request the Comptroller General to review the action of the Administrator if the request is received not later than 6 months (excluding time of war) after the Administrator acts or within the time stated in subsection (a) of this section, whichever is later.

(2) This section does not prevent the Comptroller General from conducting an audit under chapter 35 of this title.

§3727. Assignments of claims

(a) In this section, "assignment" means—

(1) a transfer or assignment of any part of a claim against the United States Government or of an interest in the claim; or

(2) the authorization to receive payment for any part of the claim.

(b) An assignment may be made only after a claim is allowed, the amount of the claim is decided, and a warrant for payment of the claim has been issued. The assignment shall specify the warrant, must be made freely, and must be attested to by 2 witnesses. The person making the assignment shall acknowledge it before an official who may acknowledge a deed, and the official shall certify the assignment. The certificate shall state that the official completely explained the assignment when it was acknowledged. An assignment under this subsection is valid for any purpose.

(c) Subsection (b) of this section does not apply to an assignment to a financing institution of money due or to become due under a contract providing for payments totaling at least \$1,000 when—

(1) the contract does not forbid an assignment;

(2) unless the contract expressly provides otherwise, the assignment—

(A) is for the entire amount not already paid;

(B) is made to only one party, except that it may be made to a party as agent or trustee for more than one party participating in the financing; and

(C) may not be reassigned; and

(3) the assignee files a written notice of the assignment and a copy of the assignment with the contracting official or the head of the agency, the surety on a bond on the contract, and any disbursing official for the contract.

(d) During a war or national emergency proclaimed by the President or declared by law and ended by proclamation or law, a contract with the Department of Defense, the General Services Administration, the Department of Energy (when carrying out duties and powers formerly carried out by the Atomic Energy Commission), or other agency the President designates may provide, or may be changed without consideration to provide, that a future payment under the contract to an assignee is not subject to reduction or setoff. A payment subse-

quently due under the contract (even after the war or emergency is ended) shall be paid to the assignee without a reduction or setoff for liability of the assignor—

(1) to the Government independent of the contract; or

(2) because of renegotiation, fine, penalty (except an amount that may be collected or withheld under, or because the assignor does not comply with, the contract), taxes, social security contributions, or withholding or failing to withhold taxes or social security contributions, arising from, or independent of, the contract.

(e)(1) An assignee under this section does not have to make restitution of, refund, or repay the amount received because of the liability of the assignor to the Government that arises from or is independent of the contract.

(2) The Government may not collect or reclaim money paid to a person receiving an amount under an assignment or allotment of pay or allowances authorized by law when liability may exist because of the death of the person making the assignment or allotment.

§3728. Setoff against judgment

(a) The Comptroller General shall withhold paying that part of a judgment against the United States Government presented to the Comptroller General that is equal to a debt the plaintiff owes the Government.

(b) The Comptroller General shall—

(1) discharge the debt if the plaintiff agrees to the setoff and discharges a part of the judgment equal to the debt; or

(2)(A) withhold payment of an additional amount the Comptroller General decides will cover legal costs of bringing a civil action for the debt if the plaintiff denies the debt or does not agree to the setoff; and

(B) have a civil action brought if one has not already been brought.

(c) If the Government loses a civil action to recover a debt or recovers less than the amount the Comptroller General withholds under this section, the Comptroller General shall pay the plaintiff the balance and interest of 6 percent for the time the money is withheld.

§3729. False claims

A person not a member of an armed force of the United States is liable to the United States Government for a civil penalty of \$2,000, an amount equal to 2 times the amount of damages the Government sustains, because of the act of that person and costs of the civil action, if the person—

(1) knowingly presents, or causes to be presented, to an officer or employee of the Government or a member of an armed force a false or fraudulent claim for payment or approval;

(2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved;

(3) conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;

(4) has possession, custody, or control of public property or money used, or to be used, in an armed force and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

(5) authorized to make or deliver a document certifying receipt of property used, or to be used, in an armed force and, intending to defraud the Government, makes or deliv-

ers the receipt without completely knowing that the information on the receipt is true; or

(6) knowingly buys, or receives as a pledge of an obligation or debt, public property from a member of an armed force who lawfully may not sell or pledge the property.

§3730. Civil actions for false claims

(a) The Attorney General diligently shall investigate a violation under section 3729 of this title. If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person. The person may be arrested and bail set for an amount of not more than \$2,000 and 2 times the amount of damages sworn to in an affidavit of the Attorney General.

(b)(1) A person may bring a civil action for a violation of section 3729 of this title for the person and for the United States Government. The action shall be brought in the name of the Government. The district courts of the United States have jurisdiction of the action. Trial is in the judicial district within whose jurisdictional limits the person charged with a violation is found or the violation occurs. An action may be dismissed only if the court and the Attorney General give written consent and their reasons for consenting.

(2) A copy of the complaint and written disclosure of substantially all material evidence and information the person possesses shall be served on the Government under rule 4 of the Federal Rules of Civil Procedure (28 App. U.S.C.). The Government may proceed with the action by entering an appearance by the 60th day after being notified. The person bringing the action may proceed with the action if the Government—

(A) by the end of the 60-day period does not enter, or gives written notice to the court of intent not to enter, the action; or

(B) does not proceed with the action with reasonable diligence within 6 months after entering an appearance, or within additional time the court allows after notice.

(3) If the Government proceeds with the action, the action is conducted only by the Government. The Government is not bound by an act of the person bringing the action.

(4) Unless the Government proceeds with the action, the court shall dismiss an action brought by the person on discovering the action is based on evidence or information the Government had when the action was brought.

(c)(1) If the Government proceeds with an action, the person bringing the action may receive an amount the court decides is reasonable for disclosing evidence or information the Government did not have when the action was brought. The amount may not be more than 10 percent of the proceeds of the action or settlement of a claim and shall be paid out of those proceeds.

(2) If the Government does not proceed with an action, the person bringing the action or settling the claim may receive an amount the court decides is reasonable for collecting the civil penalty and damages. The amount may not be more than 25 percent of the proceeds of the action or settlement and shall be paid out of those proceeds. The person may also receive an amount for reasonable expenses the court finds to have been necessarily incurred and costs awarded against the defendant.

(d) The Government is not liable for expenses a person incurs in bringing an action under this section.

§3731. False claims procedure

(a) A subpoena requiring the attendance of a witness at a trial or hearing conducted under section 3730 of this title may be served at any place in the United States.

(b) A civil action under section 3730 of this title must be brought within 6 years from the date the violation is committed.

SUBTITLE IV—MONEY

CHAPTER	Sec.
51. COINS AND CURRENCY.....	5101
53. MONETARY TRANSACTIONS.....	5301

CHAPTER 51—COINS AND CURRENCY

SUBCHAPTER I—MONETARY SYSTEM

Sec.
5101. Decimal system.
5102. Standard weight.
5103. Legal tender.

SUBCHAPTER II—GENERAL AUTHORITY

5111. Minting and issuing coins, medals, and numismatic items.
5112. Denominations, specifications, and design of coins.
5113. Tolerances and testing of coins.
5114. Engraving and printing currency and security documents.
5115. United States currency notes.
5116. Buying and selling gold and silver.
5117. Transferring gold and gold certificates.
5118. Gold clauses and consent to sue.
5119. Redemption and cancellation of currency.
5120. Obsolete, mutilated, and worn coins and currency.
5121. Refining, assaying, and valuation of bullion.
5122. Payment to depositors.

SUBCHAPTER III—BUREAU OF THE MINT

5131. Organization.
5132. Administrative.
5133. Settlement of accounts.

SUBCHAPTER IV—BUREAU OF ENGRAVING AND PRINTING

5141. Operation of the Bureau.
5142. Bureau of Engraving and Printing Fund.
5143. Payment for services.
5144. Providing impressions of portraits and vignettes.

SUBCHAPTER V—MISCELLANEOUS

5151. Conversion of currency of foreign countries.
5152. Value of United States money holdings in international institutions.
5153. Counterfeit currency.
5154. State taxation.
5155. Providing engraved plates of portraits of deceased members of Congress.

SUBCHAPTER I—MONETARY SYSTEM

§5101. Decimal system

United States money is expressed in dollars, dimes or tenths, cents or hundredths, and mills or thousandths. A dime is a tenth of a dollar, a cent is a hundredth of a dollar, and a mill is a thousandth of a dollar.

§5102. Standard weight

The standard troy pound of the National Bureau of Standards of the Department of Commerce shall be the standard used to ensure that the weight of United States coins conforms to specifications in section 5112 of this title.

§5103. Legal tender

United States coins and currency (including Federal reserve notes and circulating

notes of Federal reserve banks and national banks) are legal tender for all debts. Foreign gold or silver coins are not legal tender for debts.

SUBCHAPTER II—GENERAL AUTHORITY

§5111. Minting and issuing coins, medals, and numismatic items

(a) The Secretary of the Treasury—

- (1) shall mint and issue coins described in section 5112 of this title in amounts the Secretary decides are necessary to meet the needs of the United States;

- (2) may prepare national medal dies and strike national and other medals if it does not interfere with regular minting operations but may not prepare private medal dies;

- (3) may prepare and distribute numismatic items; and

- (4) may mint coins for a foreign country if the minting does not interfere with regular minting operations, and shall prescribe a charge for minting the foreign coins equal to the cost of the minting (including labor, materials, and the use of machinery).

(b) The Department of the Treasury has a coinage metal fund and a coinage profit fund. The Secretary may use the coinage metal fund to buy metal to mint coins. The Secretary shall credit the coinage profit fund with the amount by which the nominal value of the coins minted from the metal exceeds the cost of the metal. The Secretary shall charge the coinage profit fund with waste incurred in minting coins and the cost of distributing the coins. The Secretary shall deposit in the Treasury as miscellaneous receipts excess amounts in the coinage profit fund.

(c) The Secretary may make contracts on conditions the Secretary decides are appropriate and in the public interest to acquire equipment, manufacturing facilities, patents, patent rights, technical knowledge and assistance, and materials necessary to produce rapidly an adequate supply of coins referred to in section 5112(a)(1)-(4) of this title.

(d)(1) The Secretary may prohibit or limit the exportation, melting, or treatment of United States coins when the Secretary decides the prohibition or limitation is necessary to protect the coinage of the United States.

(2) A person knowingly violating an order or license issued or regulation prescribed under paragraph (1) of this subsection, shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.

(3) Coins exported, melted, or treated in violation of an order or license issued or regulation prescribed, and metal resulting from the melting or treatment, shall be forfeited to the United States Government. The powers of the Secretary and the remedies available to enforce forfeitures are those provided in part II of subchapter C of chapter 75 of the Internal Revenue Code of 1954 (26 U.S.C. 7321 et seq.).

§5112. Denominations, specifications, and design of coins

(a) The Secretary of the Treasury may mint and issue only the following coins:

- (1) a dollar coin that is 1.043 inches in diameter and weighs 8.1 grams.

- (2) a half dollar coin that is 1.205 inches in diameter and weighs 11.34 grams.

- (3) a quarter dollar coin that is 0.955 inch in diameter and weighs 5.67 grams.

- (4) a dime coin that is 0.705 inch in diameter and weighs 2.268 grams.

(5) a 5-cent coin that is 0.835 inch in diameter and weighs 5 grams.

(6) except as provided under subsection (c) of this section, a one-cent coin that is 0.75 inch in diameter and weighs 3.11 grams.

(b) The dollar, half dollar, quarter dollar, and dime coins are clad coins with 3 layers of metal. The 2 identical outer layers are an alloy of 75 percent copper and 25 percent nickel. The inner layer is copper. The outer layers are metallurgically bonded to the inner layer and weigh at least 30 percent of the weight of the coin. The 5-cent coin is an alloy of 75 percent copper and 25 percent nickel. In minting 5-cent coins, the Secretary shall use bars that vary not more than 2.5 percent from the percent of nickel required. Except as provided under subsection (c) of this section, the one-cent coin is an alloy of 95 percent copper and 5 percent zinc. The specifications for alloys are by weight.

(c) The Secretary may prescribe the weight and the composition of copper and zinc in the alloy of the one-cent coin that the Secretary decides are appropriate when the Secretary decides that a different weight and alloy of copper and zinc are necessary to ensure an adequate supply of one-cent coins to meet the needs of the United States.

(d)(1) United States coins have the inscription "In God We Trust". The obverse side of each coin has the inscription "Liberty". The reverse side of each coin has the inscriptions "United States of America" and "E Pluribus Unum" and a designation of the value of the coin. The design on the reverse side of the dollar, half dollar, and quarter dollar is an eagle. The eagle on the reverse side of the dollar is the symbolic eagle of Apollo 11 landing on the moon. The obverse side of the dollar has the likeness of Susan B. Anthony. The coins have an inscription of the year of minting or issuance. However, to prevent or alleviate a shortage of a denomination, the Secretary may inscribe coins of the denomination with the year that was last inscribed on coins of the denomination.

(2) The Secretary shall prepare the devices, models, hubs, and dies for coins, emblems, devices, inscriptions, and designs authorized under this chapter. The Secretary may adopt and prepare new designs or models of emblems or devices that are authorized in the same way as when new coins or devices are authorized. The Secretary may change the design or die of a coin only once within 25 years of the first adoption of the design, model, hub, or die for that coin. The Secretary may procure services under section 3109 of title 5 in carrying out this paragraph.

(e) Notwithstanding section 5111(a)(1) of this title and subsections (a) and (b) of this section, the Secretary may mint and issue not more than 150,000,000 dollar coins that—

(1) are 1.5 inches in diameter and weigh 24.592 grams;

(2) have 2 identical outer layers of an alloy of 80 percent silver and 20 percent copper that are metallurgically bonded to an inner layer of an alloy of silver and copper;

(3) contain 9.837 grams of silver and 14.755 grams of copper;

(4) have the likeness of Dwight David Eisenhower on the obverse side;

(5) have the inscription of a year decided by the Secretary; and

(6) except as provided in this paragraph, have the inscriptions and designs provided

for the dollar in subsection (d)(1) of this section.

(f)(1) Notwithstanding this section and section 5111(a)(1) of this title, the Secretary shall mint and issue, in quantities the Secretary decides are necessary to meet public demand (but not more than 10,000,000) half dollar coins that—

(A) are 30.61 millimeters in diameter and weigh 12.5 grams;

(B) are an alloy of 90 percent silver and 10 percent copper;

(C) have a design on each side of the coin, decided by the Secretary, symbolizing the two hundred and fiftieth anniversary of the birth of George Washington; and

(D) have a designation of the value of the coin and an inscription of the year "1982" and the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) The Secretary shall sell the coins minted under this subsection to the public at a price equal to the cost of minting and distributing the coins (including labor, materials, dies, use of machinery, promotion, and overhead expenses) plus a surcharge of not more than 20 percent of the cost. The Secretary shall deposit an amount equal to the surcharge received under this paragraph in the Treasury to be used only to reduce the national debt.

(3) The Secretary may not mint coins under this subsection after December 31, 1983.

(4) Amounts necessary to carry out this subsection may be appropriated.

§5113. Tolerances and testing of coins

(a) The Secretary of the Treasury may prescribe reasonable manufacturing tolerances for specifications in section 5112 of this title (except for specifications that are limits) for the dollar, half dollar, quarter dollar, and dime coins. The weight of the 5-cent coin may vary not more than 0.194 gram. The weight of the one-cent coin may vary not more than 0.13 gram.

(b) The Secretary shall keep a record of the kind, number, and weight of each group of coins minted and test a number of the coins separately to determine if the coins conform to the weight specified in section 5112(a) of this title. If the coins tested do not conform, the Secretary—

(1) shall weigh each coin of the group separately and deface the coins that do not conform and cast them into bars for reminting; or

(2) may remelt the group of coins.

§5114. Engraving and printing currency and security documents

(a) The Secretary of the Treasury shall engrave and print United States currency and bonds of the United States Government and currency and bonds of United States territories and possessions from intaglio plates on plate printing presses the Secretary selects. However, other security documents and checks may be printed by any process the Secretary selects. Engraving and printing shall be carried out within the Department of the Treasury if the Secretary decides the engraving and printing can be carried out as cheaply, perfectly, and safely as outside the Department.

(b) United States currency has the inscription "In God We Trust" in a place the Secretary decides is appropriate. Only the portrait of a deceased individual may appear on United States currency and securities. The name of the individual shall be inscribed below the portrait.

(c) The Secretary may make a contract for a period of not more than 4 years to manu-

facture distinctive paper for United States currency and securities. To promote competition among manufacturers of the distinctive paper, the Secretary may split the award for the manufacture of the paper between the 2 bidders with the lowest prices a pound. When the Secretary decides that it is necessary to operate more than one mill to manufacture distinctive paper, the Secretary may—

(1) employ individuals temporarily at rates of pay equivalent to the rates of pay of regular employees; and

(2) charge the pay of the temporary employees to the appropriation available for manufacturing distinctive paper.

§5115. United States currency notes

(a) The Secretary of the Treasury may issue United States currency notes. The notes—

(1) are payable to bearer; and

(2) shall be in a form and in denominations of at least one dollar that the Secretary prescribes.

(b) The amount of United States currency notes outstanding and in circulation—

(1) may not be more than \$300,000,000; and

(2) may not be held or used for a reserve.

§5116. Buying and selling gold and silver

(a)(1) With the approval of the President, the Secretary of the Treasury may—

(A) buy and sell gold in the way, in amounts, at rates, and on conditions the Secretary considers most advantageous to the public interest; and

(B) buy the gold with any direct obligations of the United States Government or United States coins and currency authorized by law, or with amounts in the Treasury not otherwise appropriated.

(2) Amounts received from the purchase of gold are an asset of the general fund of the Treasury. Amounts received from the sale of gold shall be deposited in the general fund of the Treasury.

(b)(1) The Secretary shall buy silver mined from natural deposits in the United States, or in a territory or possession of the United States, that is brought to a United States mint or assay office within one year after the month in which the ore from which it is derived was mined. The Secretary shall pay \$1.25 a fine troy ounce for the silver. The Secretary may use the coinage metal fund under section 5111(b) of this title to buy silver under this subsection.

(2) The Secretary may sell or use Government silver to mint coins, except silver transferred to stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.). The Secretary shall sell silver under conditions the Secretary considers appropriate for at least \$1.292929292 a fine troy ounce.

§5117. Transferring gold and gold certificates

(a) All right, title, and interest, and every claim of the Board of Governors of the Federal Reserve System, a Federal reserve bank, and a Federal reserve agent, in and to gold is transferred to and vests in the United States Government to be held in the Treasury. Payment for the transferred gold is made by crediting equivalent amounts in dollars in accounts established in the Treasury under the 15th paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 467). Gold not in the possession of the Government shall be held in custody for the Government and delivered on the order of the Secretary of the Treasury. The Board of

Governors, Federal reserve banks, and Federal reserve agents shall give instructions and take action necessary to ensure that the gold is so held and delivered.

(b) The Secretary shall issue gold certificates against gold transferred under subsection (a) of this section. The Secretary may issue gold certificates against other gold held in the Treasury. The Secretary may prescribe the form and denominations of the certificates. The amount of outstanding certificates may be not more than the value (for the purpose of issuing those certificates, of 42 and two-ninths dollars a fine troy ounce) of the gold held against gold certificates. The Secretary shall hold gold in the Treasury equal to the required dollar amount as security for gold certificates issued after January 29, 1934.

(c) With the approval of the President, the Secretary may prescribe regulations the Secretary considers necessary to carry out this section.

§5118. Gold clauses and consent to sue

(a) In this section—

(1) "gold clause" means a provision in or related to an obligation alleging to give the obligee a right to require payment in—

(A) gold;

(B) a particular United States coin or currency; or

(C) United States money measured in gold or a particular United States coin or currency.

(2) "public debt obligation" means a domestic obligation issued or guaranteed by the United States Government to repay money or interest.

(b) The United States Government may not pay out or deliver any gold coin. A person lawfully holding United States coins and currency may present the coins and currency to the Secretary of the Treasury for exchange (dollar for dollar) for other United States coins and currency that may be lawfully held. The Secretary shall make the exchange under regulations prescribed by the Secretary.

(c)(1) The Government withdraws its consent given to anyone to assert against the Government, its agencies, or its officers, employees, or agents, a claim—

(A) on a gold clause public debt obligation or interest on the obligation;

(B) for United States coins or currency; or

(C) arising out of the surrender, requisition, seizure, or acquisition of United States coins or currency, gold, or silver involving the effect or validity of a change in the metallic content of the dollar or in a regulation about the value of money.

(2) Paragraph (1) of this subsection does not apply to a proceeding in which no claim is made for payment or credit in an amount greater than the face or nominal value in dollars of public debt obligations or United States coins or currency involved in the proceeding.

(3) Except when consent is not withdrawn under this subsection, an amount appropriated for payment on public debt obligations and for United States coins and currency may be expended only dollar for dollar.

(d)(1) In this subsection, "obligation" means any obligation (except United States currency) payable in United States money.

(2) An obligation issued containing a gold clause or governed by a gold clause is discharged on payment (dollar for dollar) in United States coin or currency that is legal tender at the time of payment. This paragraph does not apply to an obligation issued after October 27, 1977.

§5119. Redemption and cancellation of currency

(a) Except to the extent authorized in regulations the Secretary of the Treasury prescribes with the approval of the President, the Secretary may not redeem United States currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) in gold. However, the Secretary shall redeem gold certificates owned by the Federal reserve banks at times and in amounts the Secretary decides are necessary to maintain the equal purchasing power of each kind of United States currency. When redemption in gold is authorized, the redemption may be made only in gold bullion bearing the stamp of a United States mint or assay office in an amount equal at the time of redemption to the currency presented for redemption.

(b)(1) Except as provided in subsection (c)(1) of this section, the following are public debts bearing no interest:

(A) gold certificates issued before January 30, 1934.

(B) silver certificates.

(C) notes issued under the Act of July 14, 1890 (ch. 708, 26 Stat. 289).

(D) Federal Reserve notes for which payment was made under section 4 of the Old Series Currency Adjustment Act.

(E) United States currency notes, including those issued under section 1 of the Act of February 25, 1862 (ch. 33, 12 Stat. 345), the Act of July 11, 1862 (ch. 142, 12 Stat. 532), the resolution of January 17, 1863 (P.R. 9; 12 Stat. 822), section 2 of the Act of March 3, 1863 (ch. 73, 12 Stat. 710), or section 5115 of this title.

(2) The Secretary shall redeem from the general fund of the Treasury and cancel and destroy currency referred to in paragraph (1) of this subsection when the currency is presented to the Secretary.

(c)(1) The Secretary may determine the amount of the following United States currency that will not be presented for redemption because the currency has been destroyed or irretrievably lost:

(A) circulating notes of Federal reserve banks and national banks issued before July 1, 1929, for which the United States Government has assumed liability.

(B) outstanding currency referred to in subsection (b)(1) of this section.

(2) When the Secretary makes a determination under this subsection, the Secretary shall reduce the amount of that currency outstanding by the amount the Secretary determines will not be redeemed and credit the appropriate receipt account.

(d) To provide a historical collection of United States currency, the Secretary may withhold from cancellation and destruction and transfer to a special account one piece of each design, issue, or series of each denomination of each kind of currency (including circulating notes of Federal reserve banks and national banks) after redemption. The Secretary may make appropriate entries in Treasury accounts because of the transfers.

§5120. Obsolete, mutilated, and worn coins and currency

(a)(1) The Secretary of the Treasury shall melt obsolete and worn United States coins withdrawn from circulation. The Secretary may use the metal from melting the coins for reminting or may sell the metal. The Secretary shall account for the following in the coinage metal fund under section 5111(b) of this title:

(A) obsolete and worn coins and the metal from melting the coins.

(B) proceeds from the sale of the metal.

(C) losses incurred in the sale of the metal.

(D) losses incurred because of the difference between the face value of the coins melted and the coins minted from the metal.

(2) The Secretary shall reimburse the coinage metal fund for losses under paragraph (1)(C) and (D) of this subsection out of amounts in the coinage profit fund under section 5111(b) of this title.

(b) The Secretary shall—

(1) cancel and destroy (by a secure process) obsolete, mutilated, and worn United States currency withdrawn from circulation; and

(2) dispose of the residue of the currency and notes.

(c) The Comptroller General shall audit the cancellation and destruction of United States currency and the accounting of the cancellation and destruction. Records the Comptroller General considers necessary to make an effective audit easier shall be made available to the Comptroller General.

§5121. Refining, assaying, and valuation of bullion

(a) The Secretary of the Treasury shall—

(1) melt and refine bullion;

(2) as required, assay coins, metal, and bullion;

(3) cast gold and silver bullion deposits into bars; and

(4) cast alloys into bars for minting coins.

(b) A person owning gold or silver bullion may deposit the bullion with the Secretary to be cast into fine, standard fineness, or unrefined bars weighing at least 5 troy ounces. When practicable, the Secretary shall weigh the bullion in front of the depositor. The Secretary shall give the depositor a receipt for the bullion stating the description and weight of the bullion. When the Secretary has to melt the bullion or remove base metals before the value of the bullion can be determined, the weight is the weight after the melting or removal of the metals. The Secretary may refuse a deposit of gold bullion if the deposit is less than \$100 in value or the bullion is so base that it is unsuitable for the operations of the Bureau of the Mint.

(c) When the gold and silver are combined in bullion that is deposited and either the gold or silver is so little that it cannot be separated economically, the Secretary may not pay the depositor for the gold or silver that cannot be separated.

(d)(1) Under conditions prescribed by the Secretary, a person may exchange unrefined bullion for fine bars when—

(A) gold and silver are combined in the bullion in proportions that cannot be economically refined; or

(B) necessary supplies of acids cannot be procured at reasonable rates.

(2) The charge for refining in an exchange under this subsection may be not more than the charge imposed in an exchange of unrefined bullion for refined bullion.

(e) The Secretary shall prepare bars for payment of deposits. The Secretary shall stamp each bar with a designation of the weight and fineness of the bar and a symbol the Secretary considers suitable to prevent fraudulent imitation of the bar.

§5122. Payment to depositors

(a) The Secretary of the Treasury shall determine the fineness, weight, and value of each deposit and bar under section 5121 of

this title. The value and the amount of charges under subsection (b) of this section shall be based on the fineness and weight of the bullion. The Secretary shall give the depositor a statement of the charges and the net amount of the deposit to be paid in money or bars of the same species of bullion as that deposited.

(b) The Secretary shall impose a charge equal to the average cost of material, labor, waste, and use of machinery of a United States mint or assay office for—

- (1) melting and refining bullion;
- (2) using copper as an alloy when bullion deposited is above standard;
- (3) separating gold and silver combined in the bullion; and
- (4) preparing bars.

(c) The Secretary shall pay to the depositor or to a person designated by the depositor money or bars equivalent to the bullion deposited as soon as practicable after the value of the deposit is determined. If demanded, the Secretary shall pay depositors in the order in which the bullion is deposited with the Secretary. However, when there is an unavoidable delay in determining the value of a deposit, the Secretary shall pay subsequent depositors. When practicable and convenient, the Secretary shall pay depositors in the denominations requested by the depositor. After the depositor is paid, the bullion is the property of the United States Government.

(d) To allow the Secretary to pay depositors with as little delay as possible, the Secretary shall keep in the mints and assay offices, when possible, money and bullion the Secretary decides are convenient and necessary.

SUBCHAPTER III—BUREAU OF THE MINT

§5131. Organization

(a) The Bureau of the Mint has—

- (1) a United States mint at Philadelphia, Pennsylvania.
- (2) a United States mint at Denver, Colorado.
- (3) a United States assay office at New York, New York.
- (4) a United States assay office at San Francisco, California.

(b) The Secretary of the Treasury shall carry out duties and powers related to refining and assaying bullion, minting coins, striking medals, and numismatic items at the mints and assay offices, except that only bars may be made at the assay offices. However, until the Secretary decides that the mints are adequate for minting and striking an ample supply of coins and medals, the Secretary may use any facility of the Bureau to mint coins and strike medals and to store coins and medals.

(c) Each mint and the assay office at New York have a superintendent and an assayer appointed by the President, by and with the advice and consent of the Senate. The mint at Philadelphia has an engraver appointed by the President, by and with the advice and consent of the Senate.

(d) Laws on mints, officers and employees of mints, and punishment of offenses related to mints and minting coins apply to assay offices, as applicable.

(e) The Secretary shall operate, maintain, and have custody of, the mint at Philadelphia. However, the Administrator of General Services shall make repairs and improvements to the mint.

§5132. Administrative

(a)(1) Except as provided in this chapter, the Secretary of the Treasury shall deposit

in the Treasury as miscellaneous receipts amounts the Secretary receives from the operations of the Bureau of the Mint. However, amounts from numismatic items shall be reimbursed to the current appropriation used to pay the cost of preparing and selling the items. The Secretary may not use amounts the Secretary receives from profits on minting coins or from charges on gold or silver bullion under section 5122 of this title to pay officers and employees. The Secretary shall pay the costs of the mints and assay offices not provided for in this subsection out of appropriations.

(2) Not more than \$54,706,000 may be appropriated to the Secretary for the fiscal year ending September 30, 1982, to pay costs of the mints and assay offices.

(b) To the extent the Secretary decides is necessary, the Secretary may use amounts received from depositors for refining bullion and the proceeds from the sale of byproducts (including spent acids from surplus bullion recovered in refining processes) to pay the costs of refining the bullion (including labor, material, waste, and loss on the sale of sweeps). The Secretary may not use amounts appropriated for the mints and assay offices to pay those costs.

(c) The Secretary shall make an annual report at the end of each fiscal year on the operation of the Bureau.

§5133. Settlement of accounts

(a) The Secretary of the Treasury shall—

- (1) charge the superintendent of each mint and the assay office at New York and the officer in charge of the assay office at San Francisco with the amount in weight of standard metal of bullion the superintendent or officer receives from the Secretary;
- (2) credit each superintendent and the officer with the amount in weight of coins, clippings, and other bullion the superintendent or officer returns to the Secretary; and
- (3) charge separately to each superintendent and the officer, who shall account for, copper to be used in the alloy of gold and silver bullion.

(b) At least once a year, the Secretary shall settle the accounts of the superintendents and the officer in charge. At settlement, each superintendent and the officer shall return to the Secretary coins, clippings, and other bullion in their possession with a statement of bullion received and returned since the last settlement (including bullion returned for settlement). The Secretary shall—

- (1) audit the accounts and statements of each superintendent and the officer;
- (2) allow each superintendent the waste of precious metals, within limitations prescribed by the Secretary, that the Secretary decides is necessary for refining and minting; and
- (3) allow the officer the waste, within the limitations prescribed for refining, that the Secretary decides is necessary in casting fine gold and silver bars, except that the waste allowance may not apply to deposit operations.

(c) After settlement, the Secretary shall compare the amount of gold and silver bullion and coins on hand with the total liabilities of the mints and assay offices. The Secretary also shall make a statement of the ordinary expense account.

(d) The Secretary shall procure for each mint and assay office a series of standard weights corresponding to the standard troy pound of the National Bureau of Standards of the Department of Commerce. The series shall include a one pound weight and multi-

ples and subdivisions of one pound from .01 grain to 25 pounds. At least once a year, the Secretary shall test the weights normally used in transactions at the mints and assay offices against the standard weights.

SUBCHAPTER IV—BUREAU OF ENGRAVING AND PRINTING

§5141. Operation of the Bureau

(a) The Secretary of the Treasury shall prepare and submit to the President an annual business-type budget for the Bureau of Engraving and Printing.

(b)(1) The Secretary shall maintain in the Bureau an integrated accounting system with internal controls that—

(A) ensures adequate control over assets and liabilities of the Bureau of Engraving and Printing Fund described in section 5142 of this title;

(B) develops accurate production costs to enable the Bureau to recover those costs on the basis of the work requisitioned;

(C) provides for replacement of capitalized equipment and other fixed assets by maintaining adequate depreciation reserves based on original cost or appraised values;

(D) discloses the financial condition and operations of the Fund on an accrual basis of accounting; and

(E) provides information for the prior fiscal year on the annual budget of the Bureau.

(2) The accounting system shall conform to principles and standards prescribed by the Comptroller General to carry out this subsection. The Comptroller General may review the system to ensure conformity to the principles and standards and its effectiveness of operation.

(c) An officer or employee in the clerical-mechanical service of the Bureau assigned to an established shift or tour of duty at least half of which occurs between 6 p.m. and 6 a.m. is entitled to pay for the regular 40-hour week (except when on leave) at a rate of pay 15 percent higher than the day rate for the same work.

§5142. Bureau of Engraving and Printing Fund

(a) The Department of the Treasury has a Bureau of Engraving and Printing Fund. Amounts—

(1) in the Fund are available to operate the Bureau of Engraving and Printing;

(2) in the Fund remain available until expended; and

(3) may be appropriated to the Fund.

(b) The Fund consists of—

(1) property and physical assets (except buildings and land) acquired by the Bureau;

(2) all amounts received by the Bureau; and

(3) proceeds from the disposition of property and assets acquired by the Fund.

(c) The capital of the Fund consists of—

(1) amounts appropriated to the Fund;

(2) physical assets of the Bureau (except buildings and land) as of the close of business June 30, 1951; and

(3) all payments made after June 30, 1974, under section 5143 of this title at prices adjusted to permit buying capital equipment and to provide future working capital.

(d) The Secretary shall deposit each fiscal year, in the Treasury as miscellaneous receipts, amounts accruing to the Fund in the prior fiscal year that the Secretary decides are in excess of the needs of the Fund. However, the Secretary may use the excess amounts to restore capital of the Fund reduced by the difference between the

charges for services of the Bureau and the cost of providing those services.

(e) The Secretary shall maintain a special deposit account in the Treasury for the Fund. The Secretary shall credit the account with amounts appropriated to the Fund and receipts of the Bureau without depositing the receipts in the Treasury as miscellaneous receipts.

§5143. Payment for services

The Secretary of the Treasury shall impose charges for Bureau of Engraving and Printing services the Secretary provides to an agency. The charges shall be in amounts the Secretary considers adequate to cover the costs of the services (including administrative costs related to providing the services). The agency shall pay promptly bills submitted by the Secretary.

§5144. Providing impressions of portraits and vignettes

The Secretary of the Treasury may provide impressions from an engraved portrait or vignette in the possession of the Bureau of Engraving and Printing. An impression shall be provided—

- (1) at the request of—
 - (A) a member of Congress;
 - (B) a head of an agency;
 - (C) an art association; or
 - (D) a library; and
- (2) for a charge and under conditions the Secretary decides are necessary to protect the public interest.

SUBCHAPTER V—MISCELLANEOUS

§5151. Conversion of currency of foreign countries

(a) In this section—

- (1) "buying rate" means the buying rate in the market in New York, New York, for cable transfers payable in the currency of a foreign country to be converted.

(2) when merchandise is exported on a day that banks are generally closed in New York, the buying rate at noon on the last prior business day is deemed to be the buying rate at noon on the day the merchandise is exported.

(b) The value of coins of a foreign country expressed in United States money is the value of the pure metal of the standard coin of the foreign country. The Secretary of the Treasury shall estimate the values of standard coins of the country quarterly and publish the values on the first day of January, April, July, and October of each year.

(c) Except as provided in this section, conversion of currency of a foreign country into United States currency for assessment and collection of duties on merchandise imported into the United States shall be made at values published by the Secretary under subsection (b) of this section for the quarter in which the merchandise is exported.

(d) If the Secretary has not published a value for the quarter in which the merchandise is exported, or if the value published by the Secretary varies by at least 5 percent from a value measured by the buying rate at noon on the day the merchandise is exported, the conversion of the currency of the foreign country shall be made at a value—

- (1) equal to the buying rate at noon on the day the merchandise is exported; or
- (2) prescribed by regulation of the Secretary for the currency that is equal to the first buying rate certified for that currency by the Federal Reserve Bank of New York under subsection (e) of this section in the quarter in which the merchandise is exported, but only if the buying rate at noon on the day the merchandise is exported varies less than 5 percent from the buying rate first certified.

(e) The Federal Reserve Bank of New York shall decide the buying rate and certify the rate to the Secretary. The Secretary shall publish the rate at times and to the extent the Secretary considers necessary. In deciding the buying rate, the Bank may—

- (1) consider the last ascertainable transactions and quotations (direct or through exchange of other currencies); and
- (2) if there is no buying rate, calculate the rate from—

(A) actual transactions and quotations in demand or time bills of exchange; or

(B) the last ascertainable transactions and quotations outside the United States in or for exchange payable in United States currency or foreign currency.

§5152. Value of United States money holdings in international institutions

The Secretary of the Treasury shall maintain the value in terms of gold of the holdings of United States money of the International Bank for Reconstruction and Development, the Inter-American Development Bank, the International Development Association, and the Asian Development Bank to the extent provided in the articles of agreement of those institutions. Amounts necessary to maintain the value may be appropriated. Amounts appropriated under this section remain available until expended.

§5153. Counterfeit currency

Disbursing officials of the United States Government and officers of national banks shall stamp or mark the word "counterfeit", "altered", or "worthless" on counterfeit notes intended to circulate as currency that are presented to them. An official or officer wrongfully stamping or marking an item of genuine United States currency (including a Federal reserve note or a circulating note of Federal reserve banks and national banks) shall redeem the currency at face value when presented.

§5154. State taxation

A State or a territory or possession of the United States may tax United States coins and currency (including Federal reserve notes and circulating notes of Federal reserve banks and national banks) as money on hand or on deposit in the same way and at the same rate that the State, territory, or possession taxes United States coins and currency circulating within its jurisdiction. This section does not affect a law taxing national banks.

§5155. Providing engraved plates of portraits of deceased members of Congress

On conditions the Secretary of the Treasury decides, the Secretary may send an engraved plate of a portrait of a deceased Senator or Representative to an heir or legal representative of such a Senator or Representative.

CHAPTER 53—MONETARY TRANSACTIONS

SUBCHAPTER I—CREDIT AND MONETARY EXPANSION

Sec. 5301. Buying obligations of the United States Government.

5302. Stabilizing exchange rates and arrangements.

5303. Reserved coins and currencies of foreign countries.

5304. Regulations.

SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

5311. Declaration of purpose.

5312. Definitions and application.

5313. Reports on domestic coins and currency transactions.

5314. Records and reports on foreign financial agency transactions.

5315. Reports on foreign currency transactions.

5316. Reports on exporting and importing monetary instruments.

5317. Search and forfeiture of monetary instruments.

5318. Compliance and exemptions.

5319. Availability of reports.

5320. Injunctions.

5321. Civil penalties.

5322. Criminal penalties.

SUBCHAPTER I—CREDIT AND MONETARY EXPANSION

§5301. Buying obligations of the United States Government

(a) The President may direct the Secretary of the Treasury to make an agreement with the Federal reserve banks and the Board of Governors of the Federal Reserve System when the President decides that the foreign commerce of the United States is affected adversely because—

(1) the value of coins and currency of a foreign country compared to the present standard value of gold is depreciating;

(2) action is necessary to regulate and maintain the parity of United States coins and currency;

(3) an economic emergency requires an expansion of credit; or

(4) an expansion of credit is necessary so that the United States Government and the governments of other countries can stabilize the value of coins and currencies of a country.

(b) Under an agreement under subsection (a) of this section, the Board shall permit the banks (and the Board is authorized to permit the banks notwithstanding another law) to agree that the banks will—

(1) conduct through each entire specified period open market operations in obligations of the United States Government or corporations in which the Government is the majority stockholder; and

(2) buy directly and hold an additional \$3,000,000,000 of obligations of the Government for each agreed period, unless the Secretary consents to the sale of the obligations before the end of the period.

(c) With the approval of the Secretary, the Board may require Federal reserve banks to take action the Secretary and Board consider necessary to prevent unreasonable credit expansion.

§5302. Stabilizing exchange rates and arrangements

(a)(1) The Department of the Treasury has a stabilization fund. The fund is available to carry out this section, section 18 of the Bretton Woods Agreement Act (22 U.S.C. 286e-3), and section 3 of the Special Drawing Rights Act (22 U.S.C. 286o), and for investing in obligations of the United States Government those amounts in the fund the Secretary of the Treasury, with the approval of the President, decides are not required at the time to carry out this section. Proceeds of sales and investments, earnings, and interest shall be paid into the fund and are available to carry out this section. However, the fund is not available to pay administrative expenses.

(2) Subject to approval by the President, the fund is under the exclusive control of the Secretary, and may not be used in a way that direct control and custody pass from the President and the Secretary. Decisions

of the Secretary are final and may not be reviewed by another officer or employee of the Government.

(b) Consistent with the obligations of the Government in the International Monetary Fund on orderly exchange arrangements and a stable system of exchange rates, the Secretary or an agency designated by the Secretary, with the approval of the President, may deal in gold, foreign exchange, and other instruments of credit and securities the Secretary considers necessary. However, a loan or credit to a foreign entity or government of a foreign country may be made for more than 6 months in any 12-month period only if the President gives Congress a written statement that unique or emergency circumstances require the loan or credit be for more than 6 months.

(c)(1) By the 30th day after the end of each month, the Secretary shall give the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a detailed financial statement on the stabilization fund showing all agreements made or renewed, all transactions occurring during the month, and all projected liabilities.

(2) The Secretary shall report each year to the President and Congress on the operation of the fund.

(d) A repayment of any part of the first subscription payment of the Government to the International Monetary Fund, previously paid from the stabilization fund, shall be deposited in the Treasury as a miscellaneous receipt.

§ 5303. Reserved coins and currencies of foreign countries

An agency may use coins and currencies of a foreign country the United States Government holds that are or may be reserved for a specific program or activity of an agency. The agency shall reimburse the Treasury from appropriations and shall replace the coins and currencies when they are needed for the program or activity for which they were reserved originally.

§ 5304. Regulations

With the approval of the President, the Secretary of the Treasury may prescribe regulations—

(1) to carry out section 5301 of this title; and

(2) the Secretary considers necessary to carry out section 5302 of this title.

SUBCHAPTER II—RECORDS AND REPORTS ON MONETARY INSTRUMENTS TRANSACTIONS

§ 5311. Declaration of purpose

It is the purpose of this subchapter (except section 5315) to require certain reports or records where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

§ 5312. Definitions and application

(a) In this subchapter—

(1) "financial agency" means a person acting for a person (except for a country, a monetary or financial authority acting as a monetary or financial authority, or an international financial institution of which the United States Government is a member) as a financial institution, bailee, depository trustee, or agent, or acting in a similar way related to money, credit, securities, gold, or a transaction in money, credit, securities, or gold.

(2) "financial institution" means—

(A) an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)));

(B) a commercial bank or trust company;

(C) a private banker;

(D) an agency or branch of a foreign bank in the United States;

(E) an insured institution (as defined in section 401(a) of the National Housing Act (12 U.S.C. 1724(a)));

(F) a thrift institution;

(G) a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.);

(H) a broker or dealer in securities or commodities;

(I) an investment banker or investment company;

(J) a currency exchange;

(K) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(L) an operator of a credit card system;

(M) an insurance company;

(N) a dealer in precious metals, stones, or jewels;

(O) a pawnbroker;

(P) a loan or finance company;

(Q) a travel agency;

(R) a licensed sender of money;

(S) a telegraph company;

(T) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this clause (2); or

(U) another business or agency carrying out a similar, related, or substitute duty or power the Secretary of the Treasury prescribes.

(3) "monetary instruments" means—

(A) United States coins and currency; and

(B) as the Secretary may prescribe by regulation, coins and currency of a foreign country, travelers' checks, bearer negotiable instruments, bearer investment securities, bearer securities, stock on which title is passed on delivery, and similar material.

(4) "person", in addition to its meaning under section 1 of title 1, includes a trustee, a representative of an estate and, when the Secretary prescribes, a governmental entity.

(5) "United States" means the States of the United States, the District of Columbia, and, when the Secretary prescribes by regulation, the Commonwealth of Puerto Rico, a territory or possession of the United States, or a military or diplomatic establishment.

(b) In this subchapter—

(1) "domestic financial agency" and "domestic financial institution" apply to an action in the United States of a financial agency or institution.

(2) "foreign financial agency" and "foreign financial institution" apply to an action outside the United States of a financial agency or institution.

§ 5313. Reports on domestic coins and currency transactions

(a) When a domestic financial institution is involved in a transaction for the payment, receipt, or transfer of United States coins or currency (or other monetary instruments the Secretary of the Treasury prescribes), in an amount, denomination, or amount and denomination, or under circumstances the Secretary prescribes by regulation, the institution and any other participant in the transaction the Secretary may prescribe shall file a report on the transaction at the time and in the way the Secretary prescribes. A participant acting for another person shall make the report as the agent or bailee of the person and identify the person for whom the transaction is being made.

(b) The Secretary may designate a domestic financial institution as an agent of the

United States Government to receive a report under this section. However, the Secretary may designate a domestic financial institution that is not insured, chartered, examined, or registered as a domestic financial institution only if the institution consents. The Secretary may suspend or revoke a designation for a violation of this subchapter or a regulation under this subchapter (except a violation of section 5315 of this title or a regulation prescribed under section 5315), section 411 of the National Housing Act (12 U.S.C. 1730d), or section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b).

(c)(1) A person (except a domestic financial institution designated under subsection (b) of this section) required to file a report under this section shall file the report—

(A) with the institution involved in the transaction if the institution was designated;

(B) in the way the Secretary prescribes when the institution was not designated; or

(C) with the Secretary.

(2) The Secretary shall prescribe—

(A) the filing procedure for a domestic financial institution designated under subsection (b) of this section; and

(B) the way the institution shall submit reports filed with it.

§ 5314. Records and reports on foreign financial agency transactions

(a) Considering the need to avoid impeding or controlling the export or import of monetary instruments and the need to avoid burdening unreasonably a person making a transaction with a foreign financial agency, the Secretary of the Treasury shall require a resident or citizen of the United States or a person in, and doing business in, the United States, to keep records, file reports, or keep records and file reports, when the resident, citizen, or person makes a transaction or maintains a relation for any person with a foreign financial agency. The records and reports shall contain the following information in the way and to the extent the Secretary prescribes:

(1) the identity and address of participants in a transaction or relationship.

(2) the legal capacity in which a participant is acting.

(3) the identity of real parties in interest.

(4) a description of the transaction.

(b) The Secretary may prescribe—

(1) a reasonable classification of persons subject to or exempt from a requirement under this section or a regulation under this section;

(2) a foreign country to which a requirement or a regulation under this section applies if the Secretary decides applying the requirement or regulation to all foreign countries is unnecessary or undesirable;

(3) the magnitude of transactions subject to a requirement or a regulation under this section;

(4) the kind of transaction subject to or exempt from a requirement or a regulation under this section; and

(5) other matters the Secretary considers necessary to carry out this section or a regulation under this section.

(c) A person shall be required to disclose a record required to be kept under this section or under a regulation under this section only as required by law.

§ 5315. Reports on foreign currency transactions

(a) Congress finds that—

(1) moving mobile capital can have a significant impact on the proper functioning of the international monetary system;

(2) it is important to have the most feasible current and complete information on the kind and source of capital flows, including transactions by large United States businesses and their foreign affiliates; and

(3) additional authority should be provided to collect information on capital flows under section 5(b) of the Trading With the Enemy Act (50 App. U.S.C. 5(b)) and section 8 of the Bretton Woods Agreement Act (22 U.S.C. 286f).

(b) In this section, "United States person" and "foreign person controlled by a United States person" have the same meanings given those terms in section 7(f)(2) (A) and (C), respectively, of the Securities and Exchange Act of 1934 (15 U.S.C. 78g(f)(2)(A), (C)).

(c) The Secretary of the Treasury shall prescribe regulations consistent with subsection (a) of this section requiring reports on foreign currency transactions conducted by a United States person or a foreign person controlled by a United States person. The regulations shall require that a report contain information and be submitted at the time and in the way, with reasonable exceptions and classifications, necessary to carry out this section.

§ 5316. Reports on exporting and importing monetary instruments

(a) Except as provided in subsection (c) of this section, a person or an agent or bailee of the person shall file a report under subsection (b) of this section when the person, agent, or bailee knowingly—

(1) transports or has transported monetary instruments of more than \$5,000 at one time—

(A) from a place in the United States to or through a place outside the United States; or

(B) to a place in the United States from or through a place outside the United States; or

(2) receives monetary instruments of more than \$5,000 at one time transported into the United States from or through a place outside the United States.

(b) A report under this section shall be filed at the time and place the Secretary of the Treasury prescribes. The report shall contain the following information to the extent the Secretary prescribes:

(1) the legal capacity in which the person filing the report is acting.

(2) the origin, destination, and route of the monetary instruments.

(3) when the monetary instruments are not legally and beneficially owned by the person transporting the instruments, or if the person transporting the instruments personally is not going to use them, the identity of the person that gave the instruments to the person transporting them, the identity of the person who is to receive them, or both.

(4) the amount and kind of monetary instruments transported.

(5) additional information.

(c) This section or a regulation under this section does not apply to a common carrier of passengers when a passenger possesses a monetary instrument, or to a common carrier of goods if the shipper does not declare the instrument.

§ 5317. Search and forfeiture of monetary instruments

(a) The Secretary of the Treasury may apply to a court of competent jurisdiction

for a search warrant when the Secretary reasonably believes a monetary instrument is being transported and a report on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement. The Secretary shall include a statement of information in support of the warrant. On a showing of probable cause, the court may issue a search warrant for a designated person or a designated or described place or physical object. This subsection does not affect the authority of the Secretary under another law.

(b) A monetary instrument being transported may be seized and forfeited to the United States Government when a report on the instrument under section 5316 of this title has not been filed or contains a material omission or misstatement. A monetary instrument transported by mail or a common carrier, messenger, or bailee is being transported under this subsection from the time the instrument is delivered to the United States Postal Service, common carrier, messenger, or bailee through the time it is delivered to the addressee, intended recipient, or agent of the addressee or intended recipient without being transported further in, or taken out of, the United States.

§ 5318. Compliance and exemptions

The Secretary of the Treasury may (except under section 5315 of this title and regulations prescribed under section 5315)—

(1) delegate duties and powers under this subchapter to an appropriate supervising agency;

(2) require a class of domestic financial institutions to maintain appropriate procedures to ensure compliance with this subchapter and regulations prescribed under this subchapter; and

(3) prescribe an appropriate exemption from a requirement under this subchapter and regulations prescribed under this subchapter. The Secretary may revoke an exemption by actually or constructively notifying the parties affected. A revocation is effective during judicial review.

§ 5319. Availability of reports

The Secretary of the Treasury shall make information in a report filed under section 5313, 5314, or 5316 of this title available to an agency on request of the head of the agency. The report shall be available for a purpose consistent with those sections or a regulation prescribed under those sections. However, a report and records of reports are exempt from disclosure under section 552 of title 5.

§ 5320. Injunctions

When the Secretary of the Treasury believes a person has violated, is violating, or will violate this subchapter or a regulation prescribed or order issued under this subchapter, the Secretary may bring a civil action in the appropriate district court of the United States or appropriate United States court of a territory or possession of the United States to enjoin the violation or to enforce compliance with the subchapter, regulation, or order. An injunction or temporary restraining order shall be issued without bond.

§ 5321. Civil penalties

(a)(1) A domestic financial institution, and a partner, director, officer, or employee of a domestic financial institution, willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315) is liable to the United States Government for a civil penal-

ty of not more than \$1,000. For a violation of section 5318(2) of this title or a regulation prescribed under section 5318(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

(2) The Secretary of the Treasury may impose an additional civil penalty on a person not filing a report, or filing a report containing a material omission or misstatement, under section 5316 of this title or a regulation prescribed under section 5316. A civil penalty under this paragraph may not be more than the amount of the monetary instrument for which the report was required. A civil penalty under this paragraph is reduced by an amount forfeited under section 5317(b) of this title.

(3) A person not filing a report under a regulation prescribed under section 5315 of this title or not complying with an injunction under section 5320 of this title enjoining a violation of, or enforcing compliance with, section 5315 or a regulation prescribed under section 5315, is liable to the Government for a civil penalty of not more than \$10,000.

(b) The Secretary may bring a civil action to recover a civil penalty under subsection (a)(1) or (2) of this section that has not been paid.

(c) The Secretary may remit any part of a forfeiture under section 5317(b) of this title or civil penalty under subsection (a)(2) of this section.

§ 5322. Criminal penalties

(a) A person willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315) shall be fined not more than \$1,000, imprisoned for not more than one year, or both.

(b) A person willfully violating this subchapter or a regulation prescribed under this subchapter (except section 5315 of this title or a regulation prescribed under section 5315), while violating another law of the United States or as part of a pattern of illegal activity involving transactions of more than \$100,000 in a 12-month period, shall be fined not more than \$500,000, imprisoned for not more than 5 years, or both.

(c) For a violation of section 5318(2) of this title or a regulation prescribed under section 5318(2), a separate violation occurs for each day the violation continues and at each office, branch, or place of business at which a violation occurs or continues.

SUBTITLE V—GENERAL ASSISTANCE ADMINISTRATION

CHAPTER	Sec.
61. PROGRAM INFORMATION.....	6101
63. USING PROCUREMENT CONTRACTS AND GRANT AND CO-OPERATIVE AGREEMENTS.....	6301
65. INTERGOVERNMENTAL COOPERATION.....	6501
67. REVENUE SHARING.....	6701
69. PAYMENT FOR ENTITLEMENT LAND.....	6901
71. JOINT FUNDING SIMPLIFICATION.....	7101
73. ADMINISTERING BLOCK GRANTS.....	7301

CHAPTER 61—PROGRAM INFORMATION

Sec.	
6101.	Definitions.
6102.	Program information requirements.
6103.	Access to computer information system.
6104.	Catalog of Federal domestic assistance programs.

6105. Authorization of appropriations.

§ 6101. Definitions

In this chapter—

(1) "administering office" means the lowest unit of an agency responsible for managing a domestic assistance program.

(2) "agency" has the same meaning given that term in section 551(1) of title 5.

(3) "assistance"—

(A) means the transfer of anything of value for a public purpose of support or stimulation authorized by a law of the United States, including—

(i) financial assistance;

(ii) United States Government facilities, services, and property; and

(iii) expert and technical information; and

(B) does not include conventional public information services or procurement of property or services for the direct benefit or use of the Government.

(4) "domestic assistance program"—

(A) means assistance from an agency for—

(i) a State;

(ii) the District of Columbia;

(iii) a territory or possession of the United States;

(iv) a county;

(v) a city;

(vi) a political subdivision or instrumentality of a governmental authority listed in subclauses (i)–(v) of this clause (A);

(vii) a domestic corporation;

(viii) a domestic institution; and

(ix) an individual of the United States; and

(B) does not include a department, agency, or instrumentality of the Government.

§ 6102. Program information requirements

(a) The Director of the Office of Management and Budget shall prepare and maintain information on domestic assistance programs. The information on each domestic assistance program shall include the following:

(1) identification of the program by—

(A) title;

(B) authorizing law;

(C) administering office; and

(D) an identifying number assigned by the Director.

(2) a description of the—

(A) program;

(B) objectives of the program;

(C) types of activities financed under the program;

(D) eligibility requirements;

(E) formulas governing distribution of amounts;

(F) types of assistance;

(G) uses, and restrictions on the use, of assistance; and

(H) duties of recipients under the program.

(3) financial information, including the—

(A) amounts appropriated for the current fiscal year or, if unavailable, the amounts requested by the President and the amounts obligated; and

(B) average amounts of awards made in past years.

(4) identification of information contacts, including the administering office and regional and local offices with their addresses and telephone numbers.

(5) a general description of—

(A) the application requirements and procedures; and

(B) to the extent practical, an estimate of the time required to process the application.

(b) On request of the Director, an agency shall give to the Director current informa-

tion on all domestic assistance programs administered by the agency. The Director shall incorporate on a regular basis all relevant information received.

(c) The Director—

(1) shall ensure that information and catalogs under this chapter are made available to the public at reasonable prices; and

(2) may develop information services to assist State and local governments in identifying and obtaining sources of assistance.

§ 6103. Access to computer information system

(a) The Director of the Office of Management and Budget shall maintain a computerized information system providing access to the information described in section 6102 of this title.

(b) To the greatest extent practicable, the Director shall provide for the widespread availability of the information by available computer terminals.

(c) When the Director decides the efficiency of the information system under subsection (a) of this section requires it, the Director may make contracts with private organizations to obtain computer time-sharing services, including—

(1) computer telecommunications networks;

(2) computer software; and

(3) associated services.

§ 6104. Catalog of Federal domestic assistance programs

(a) The Director of the Office of Management and Budget shall prepare and publish each year a catalog of domestic assistance programs.

(b) In a form selected by the Director, the catalog shall contain—

(1) all substantive information on domestic assistance programs that is in the system under section 6102(a) of this title at the time the catalog is prepared;

(2) information the Director decides may be helpful to a potential applicant for or beneficiary of assistance; and

(3) a detailed index.

(c) When the Director decides it is necessary, the Director shall prepare and publish—

(1) supplements to the catalog; and

(2) specialized compilations by function of information in the catalog.

(d) The Director may distribute a catalog without cost to each—

(1) Member of Congress;

(2) department, agency, and instrumentality of the United States Government;

(3) State;

(4) general purpose unit of a local government;

(5) Indian tribe recognized by the United States Government;

(6) depository library of Government publications; and

(7) depository designated by the Director.

§ 6105. Authorization of appropriations

Not more than \$—, —, — may be appropriated for the fiscal year ending September 30, 19—, to carry out this chapter.

CHAPTER 63—USING PROCUREMENT CONTRACTS AND GRANT AND COOPERATIVE AGREEMENTS

Sec.

6301. Purposes.

6302. Definitions.

6303. Using procurement contracts.

6304. Using grant agreements.

6305. Using cooperative agreements.

6306. Authority to vest title in tangible personal property for research.

6307. Interpretative guidelines and exemptions.

6308. Use of multiple relationships for different parts of jointly financed projects.

§ 6301. Purposes

The purposes of this chapter are to—

(1) promote a better understanding of United States Government expenditures and help eliminate unnecessary administrative requirements on recipients of Government awards by characterizing the relationship between executive agencies and contractors, States, local governments, and other recipients in acquiring property and services and in providing United States Government assistance;

(2) prescribe criteria for executive agencies in selecting appropriate legal instruments to achieve—

(A) uniformity in their use by executive agencies;

(B) a clear definition of the relationships they reflect; and

(C) a better understanding of the responsibilities of the parties to them; and

(3) promote increased discipline in selecting and using procurement contracts, grant agreements, and cooperative agreements, maximize competition in making procurement contracts, and encourage competition in making grants and cooperative agreements.

§ 6302. Definitions

In this chapter—

(1) "executive agency" does not include a mixed-ownership Government corporation.

(2) "grant agreement" and "cooperative agreement" do not include an agreement under which is provided only—

(A) direct United States Government cash assistance to an individual;

(B) a subsidy;

(C) a loan;

(D) a loan guarantee; or

(E) insurance.

(3) "local government" means a unit of government in a State, a local public authority, a special district, an intrastate district, a council of governments, a sponsor group representative organization, an interstate entity, or another instrumentality of a local government.

(4) "other recipient" means a person or recipient (except a State or local government) authorized to receive United States Government assistance or procurement contracts and includes a charitable or educational institution.

(5) "State" means a State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State, regional, or interstate entity having governmental duties and powers.

§ 6303. Using procurement contracts

An executive agency shall use a procurement contract as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the instrument is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; or

(2) the agency decides in a specific instance that the use of a procurement contract is appropriate.

§ 6304. Using grant agreements

An executive agency shall use a grant agreement as the legal instrument reflect-

ing a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the relationship is to transfer a thing of value to the State or local government or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

(2) substantial involvement is not expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

§ 6305. Using cooperative agreements

An executive agency shall use a cooperative agreement as the legal instrument reflecting a relationship between the United States Government and a State, a local government, or other recipient when—

(1) the principal purpose of the relationship is to transfer a thing of value to the State, local government, or other recipient to carry out a public purpose of support or stimulation authorized by a law of the United States instead of acquiring (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government; and

(2) substantial involvement is expected between the executive agency and the State, local government, or other recipient when carrying out the activity contemplated in the agreement.

§ 6306. Authority to vest title in tangible personal property for research

The head of an executive agency may vest title in tangible personal property in a nonprofit institution of higher education or in a nonprofit organization whose primary purpose is conducting scientific research—

(1) when the property is bought with amounts provided under a procurement contract, grant agreement, or cooperative agreement with the institution or organization to conduct basic or applied scientific research;

(2) when the head of the agency decides the vesting furthers the objectives of the agency;

(3) without further obligation to the United States Government; and

(4) under conditions the head of the agency considers appropriate.

§ 6307. Interpretative guidelines and exemptions

The Director of the Office of Management and Budget may—

(1) issue supplementary interpretative guidelines to promote consistent and efficient use of procurement contracts, grant agreements, and cooperative agreements; and

(2) exempt a transaction or program of an executive agency from this chapter.

§ 6308. Use of multiple relationships for different parts of jointly financed projects

This chapter does not require an executive agency to establish only one relationship between the United States Government and a State, a local government, or other recipient on a jointly financed project involving amounts from more than one program or appropriation when different relationships would otherwise be appropriate for different parts of the project.

CHAPTER 65—INTERGOVERNMENTAL COOPERATION

Sec.

6501. Definitions.

6502. Information on grants received.

6503. Transfer and deposit requirements.

6504. Use of existing State or multimember agency to administer grant programs.

6505. Authority to provide specialized or technical services.

6506. Development assistance.

6507. Congressional review of grant programs.

6508. Studies and reports.

§ 6501. Definitions

In this chapter—

(1) "assistance" means the transfer of anything of value for a public purpose of support or stimulation that is—

(A) authorized by a law of the United States;

(B) provided by the law of the United States Government through grant or contractual arrangements (including technical assistance programs providing assistance by loan, loan guarantee, or insurance); and

(C) not an annual payment by the United States Government to the District of Columbia government under section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (Public Law 93-198, 87 Stat. 813, D.C. Code, § 47-3406).

(2) "comprehensive planning" includes, to the extent directly related to area needs or needs of a unit of general local government—

(A) preparation, as a guide for governmental policies and action, of general plans on—

(i) the pattern and intensity of land use;

(ii) providing public facilities (including transportation facilities) and other governmental services; and

(iii) the effective development and use of human and natural resources;

(B) long-range physical and fiscal plans for an action referred to in subclause (A) of this clause (2);

(C) a program for capital improvements and other major expenditures based on their relative urgency, and definitive financing plans for the expenditures in the earlier years of the program;

(D) coordination of related plans and activities of States and local governments and agencies concerned; and

(E) preparation of regulatory and administrative measures to support the items referred to in subclauses (A)-(D) of this clause (2).

(3) "executive agency" does not include a mixed-ownership Government corporation.

(4)(A) "grant" (except as provided in subclause (C) of this clause (4)) means money, or property provided instead of money, that is paid or provided by the United States Government under a fixed annual or total authorization, to a State, to a local government, or to a beneficiary under a plan or program administered by a State or a local government that is subject to approval by an executive agency, if the authorization—

(i) requires the State or local government to expend non-Government money as a condition of receiving money or property from the United States Government; or

(ii) specifies directly, or establishes by means of a formula, the amount that may be provided to the State or local government, or the amount to be allotted for use in each State by the State, local government, and beneficiaries.

(B) "grant" (except as provided in subclause (C) of this clause (4)) also means money, or property provided instead of money, that is paid or provided by the United States Government to a private, nonprofit community organization eligible

to receive amounts under the Community Services Block Grant Act (42 U.S.C. 9901 et seq.).

(C) "grant" does not include—

(i) shared revenue;

(ii) payment of taxes;

(iii) payment instead of taxes;

(iv) a loan or repayable advance;

(v) surplus property or surplus agricultural commodities provided as surplus property;

(vi) a payment under a research and development procurement contract or grant awarded directly and on similar terms to all qualifying organizations; or

(vii) a payment to a State or local government as complete reimbursement for costs incurred in paying benefits or providing services to persons entitled to them under a law of the United States.

(5) "head of a State agency" includes the designated delegate of the head of the agency.

(6) "local government" means a unit of general local government, a school district, or other special district established under State law.

(7) "special-purpose unit of local government" means a special district, public-purpose local government of a State except a school district.

(8) "State" means a State of the United States, the District of Columbia, a territory or possession of the United States, and an agency or instrumentality of a State but does not mean a local government of a State.

(9) "unit of general local government" means a county, city, town, village, or other general purpose political subdivision of a State.

§ 6502. Information on grants received

On request of a chief executive officer of a State, a State legislature, or an official designated by either of them, an executive agency carrying out a grant program to States and local governments shall provide the requesting officer or legislature with written information on the purpose and amounts of grants provided to the State or local government.

§ 6503. Transfer and deposit requirements

(a) Consistent with program purposes and regulations of the Secretary of the Treasury, the head of an executive agency carrying out a grant program shall schedule the transfer of grant money to minimize the time elapsing between transfer of the money from the Treasury and the disbursement by a State, whether disbursement occurs before or after the transfer. A State is not accountable for interest earned on grant money pending its disbursement for program purposes.

(b) A State may not be required by a law or regulation of the United States to deposit grant money received by it in a separate bank account. However, a State shall account for grant money made available to the State as United States Government grant money in the accounts of the State. The head of the State agency concerned shall make periodic authenticated reports to the head of the appropriate executive agency on the status and the application of the money, the liabilities and obligations on hand, and other information required by the head of the executive agency. Records related to the grant received by the State shall be made available to the head of the

executive agency and the Comptroller General for auditing.

§ 6504. Use of existing State or multi-member agency to administer grant programs

Notwithstanding a law of the United States providing that one State agency or multi-member agency must be established or designated to carry out or supervise the administration of a grant program, the head of the executive agency carrying out the program may, when requested by the executive or legislative authority of the State responsible for the organizational structure of a State government—

(1) waive the one State agency or multi-member agency provision on an adequate showing that the provision prevents the establishment of the most effective and efficient organizational arrangement within the State government; and

(2) approve another State administrative structure or arrangement after deciding that the objectives of the law authorizing the grant program will not be endangered by using another State structure or arrangement.

§ 6505. Authority to provide specialized or technical services

(a) The President may prescribe statistical and other studies and compilations, development projects, technical tests and evaluations, technical information, training activities, surveys, reports, documents, and other similar services that an executive agency is especially competent and authorized by law to provide. The services prescribed must be consistent with and further the policy of the United States Government of relying on the private enterprise system to provide services reasonably and quickly available through ordinary business channels.

(b) The head of an executive agency may provide services prescribed by the President under this section to a State or local government when—

(1) written request is made by the State or local government; and

(2) payment of pay and all other identifiable costs of providing the services is made to the executive agency by the State or local government making the request.

(c) Payment received by an executive agency for providing services under this section shall be deposited to the credit of the principal appropriation from which the cost of providing the services has been paid or will be charged.

(d) The authority under this section is in addition to authority under another law in effect on October 16, 1968.

§ 6506. Development assistance

(a) The economic and social development of the United States and the achievement of satisfactory levels of living depend on the sound and orderly development of urban and rural areas. When urbanization proceeds rapidly, the sound and orderly development of urban communities depends to a large degree on the social and economic health and the sound development of smaller communities and rural areas.

(b) The President shall prescribe regulations governing the formulation, evaluation, and review of United States Government programs and projects having a significant impact on area and community development (including programs and projects providing assistance to States and localities) to serve most effectively the basic objectives of subsection (a) of this section. The regulations shall provide for the consideration of concurrently achieving the following specific

objectives and, to the extent authorized by law, reasoned choices shall be made between the objectives when they conflict:

(1) appropriate land uses for housing, commercial, industrial, governmental, institutional, and other purposes.

(2) wise development and conservation of all natural resources.

(3) balanced transportation systems, including highway, air, water, pedestrian, mass transit, and other means to move people and goods.

(4) adequate outdoor recreation and open space.

(5) protection of areas of unique natural beauty and historic and scientific interest.

(6) properly planned community facilities (including utilities for supplying power, water, and communications) for safely disposing of wastes, and for other purposes.

(7) concern for high standards of design.

(c) To the extent possible, all national, regional, State, and local viewpoints shall be considered in planning development programs and projects of the United States Government or assisted by the Government. State and local government objectives and the objectives of regional organizations shall be considered within a framework of national public objectives expressed in laws of the United States. Available projections of future conditions in the United States and needs of regions, States, and localities shall be considered in plan formulation, evaluation, and review.

(d) To the maximum extent possible and consistent with national objectives, assistance for development purposes shall be consistent with and further the objectives of State, regional, and local comprehensive planning. Consideration shall be given to all developmental aspects of our total national community, including housing, transportation, economic development, natural and human resources development, community facilities, and the general improvement of living environments.

(e) To the maximum extent practicable, each executive agency carrying out a development assistance program shall consult with and seek advice from all other significantly affected executive agencies in an effort to ensure completely coordinated programs. To the extent possible, systematic planning required by individual United States Government programs (such as highway construction, urban renewal, and open space) shall be coordinated with and, to the extent authorized by law, made part of comprehensive local and areawide development planning.

(f) When a law of the United States provides that both a special-purpose unit of local government and a unit of general local government are eligible to receive a loan or grant, the head of an executive agency shall make the loan or grant to the unit of general local government instead of the special-purpose unit of local government in the absence of substantial reasons to the contrary.

(g) The President may designate an executive agency to prescribe regulations to carry out this section.

§ 6507. Congressional review of grant programs

(a) The committees of Congress having jurisdiction over a grant program authorized by a law of the United States without a specified expiration date for the program shall study the program. The committees may conduct studies separately or jointly and shall report the results of their findings to their respective Houses of Congress not later than the end of each period specified

in subsection (b) of this section. The committees shall give special attention to—

(1) the extent to which the purposes of the grants have been met;

(2) the extent to which the objective of the program can be carried on without further assistance;

(3) whether a change in the purpose, direction, or administration of the original program, or in procedures and requirements applicable to the program, should be made; and

(4) the extent to which the program is adequate to meet the growing and changing needs that it was designed to support.

(b)(1) A study under subsection (a) of this section of a grant program authorized by a law of the United States enacted before October 16, 1968, shall be conducted before the end of each 4th calendar year after the year during which a study of the program was last conducted under this section.

(2) A study under subsection (a) of this section of a grant program authorized by a law of the United States enacted after October 16, 1968, shall be conducted before the end of the 4th calendar year after the year of enactment of the law and before the end of each 4th calendar year thereafter.

§ 6508. Studies and reports

(a)(1) When requested by a committee of Congress having jurisdiction over a grant program, the Comptroller General shall study the program. The study shall include a review of—

(A) the extent to which—

(i) the program conflicts with or duplicates other grant programs; and

(ii) more effective, efficient, economical, and uniform administration of the program may be achieved by changing the requirements and procedures applicable to it; and

(B) budgetary, accounting, reporting, and administrative procedures of the program.

(2) The Comptroller General shall submit to Congress a report on a study made under this subsection and any recommendations. To the extent practicable, a report on an expiring program shall be submitted in the year before the year in which a program ends.

(b)(1) When requested by a committee of Congress having jurisdiction over a grant program, the Advisory Commission on Intergovernmental Relations shall study the intergovernmental relations aspects of the program, including—

(A) the impact of the program on the structural organization of States and local governments and on Federal-State-local fiscal relations; and

(B) the coordination of administration of the program by the United States Government and State and local governments.

(2) The Commission shall submit to the committee requesting the study and to Congress a report and any recommendations.

CHAPTER 67—REVENUE SHARING

Sec.

6701. Definitions and application.

6702. Payments to governments.

6703. State and Local Government Fiscal Assistance Trust Fund.

6704. Qualifications.

6705. State government allocations.

6706. Reductions in State government allocations.

6707. State allocations for units of general local government.

6708. County area and county government allocations.

6709. Other local government allocations.

- 6710. Separate law enforcement officer allocations for Louisiana.
- 6711. State variation of local government allocations.
- 6712. Adjustments of local government allocations.
- 6713. Information used in allocation formulas.
- 6714. Public hearings.
- 6715. Prohibition on using payments to influence legislation.
- 6716. Prohibited discrimination.
- 6717. Discrimination proceedings.
- 6718. Suspension and termination of payments in discrimination proceedings.
- 6719. Compliance agreements.
- 6720. Enforcement by the Attorney General of prohibitions on discrimination.
- 6721. Civil action by a person adversely affected.
- 6722. Judicial review.
- 6723. Audits, investigations, and reviews.
- 6724. Reports.

§ 6701. Definitions and application

(a) In this chapter—

(1) "entitlement period" means each one-year period beginning on October 1, 1981, and October 1, 1982.

(2) "finding of discrimination" means a decision by the Secretary of the Treasury about a complaint described in section 6721(b) of this title, a decision by a State or local administrative agency, or other information (under regulations prescribed by the Secretary) that it is more likely than not that a State government or unit of general local government has not complied with section 6716(a) or (b) of this title.

(3) "holding of discrimination" means a holding by a United States court, a State court, or an administrative law judge appointed under section 3105 of title 5, that a State government or unit of general local government expending amounts received under this chapter has—

(A) excluded a person in the United States from participating in, denied the person the benefits of, or subjected the person to discrimination under, a program or activity because of race, color, national origin, or sex; or

(B) violated a prohibition against discrimination described in section 6716(b) of this title.

(4) "income" means the total money income received from all sources as determined by the Secretary of Commerce for general statistical purposes.

(5) "unit of general local government" means—

(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of general local government as determined by the Secretary of Commerce for general statistical purposes;

(B) except under sections 6708(b), 6709, 6711, and 6712(a) (2) and (3) of this title, the recognized governing body of an Indian tribe or Alaskan native village that carries out substantial governmental duties and powers; and

(C) except under this section and sections 6702, 6703, and 6705-6713(c) (1) of this title, the office of the separate law enforcement officer under section 6710 of this title.

(6) "State and local taxes" means taxes imposed by a State government or unit of general local government or other political subdivision of the State government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for cap-

ital outlay) as determined by the Secretary of Commerce for general statistical purposes.

(7) "township" includes an equivalent political subdivision having different designations as determined on the same basis used by the Secretary of Commerce for general statistical purposes.

(b) In a State in which a unit of general local government (except a county government) is the next level of government below the State government, the geographic area of the unit of general local government is deemed to be a county area in the State, and the unit of general local government is deemed to be a county government. However, this subsection does not apply to a county area of a State not governed by a county government that has at least 2 units of general local government.

(c) When the entire geographic area of a unit of general local government is located in a larger entity, the unit of general local government is deemed to be located in the larger entity. When only part of the geographic area of a unit is located in a larger entity, each part is deemed to be located in the larger entity and to be a separate unit of general local government in determining allocations under this chapter. Except as provided in regulations of the Secretary of the Treasury, the Secretary shall allocate amounts based on the ratio of the estimated population of the part to the population of the unit of general local government.

(d) When a boundary line change, a State statutory or constitutional change, a governmental reorganization, or other circumstance results in the application of subsections (a) (5) and (7), (b), and (c) of this section and sections 6708-6712 of this title in a way that does not carry out the purposes of this section and sections 6702, 6703, and 6705-6713(c) (1) of this title, the Secretary shall apply subsections (a) (5) and (7), (b), and (c) and sections 6708-6712 under regulations of the Secretary in a way that is consistent with those purposes.

(e) In this chapter, the District of Columbia is deemed to be—

- (1) a State; and
- (2) a county area having one unit of general local government.

§ 6702. Payments to governments

(a) Each unit of general local government is entitled to an amount equal to any amount allocated to the government under this chapter for each entitlement period. Each State government shall be paid an amount equal to any allocation made for each entitlement period. The Secretary of the Treasury shall pay each amount out of the State and Local Government Fiscal Assistance Trust Fund under section 6703 of this title.

(b) Except as provided under regulations of the Secretary, the Secretary shall determine allocations under this chapter for an entitlement period by the first day of the 3d month before the beginning of the period. The Secretary shall pay each amount under this section in installments. An installment shall be paid at least once a quarter by the 5th day after the end of the quarter. The Secretary initially may estimate the amount of each installment.

(c) The Secretary shall adjust a payment under this chapter to a State government or unit of general local government to the extent that a prior payment to the government was more or less than the amount required to be paid. However, the Secretary may increase or decrease a payment to the government only when the Secretary or the

government demands the increase or decrease within one year after the end of the entitlement period for which the payment was made.

(d) The Secretary may reserve a percentage (of not more than 0.5 percent) of the amount under this section for an entitlement period for a State government and all units of general local government in the State when the Secretary considers the reserve is necessary to ensure the availability of sufficient amounts to pay adjustments after the final allocation of amounts among the units of general local government in the State.

§ 6703. State and Local Government Fiscal Assistance Trust Fund

(a) The Department of the Treasury has a State and Local Government Fiscal Assistance Trust Fund. The Secretary of the Treasury personally is the trustee of the Trust Fund. Amounts in the Trust Fund—

(1) except as provided in this chapter, may be used only for payments to State governments and units of general local government under this chapter; and

(2) remain available until expended.

(b) The Trust Fund consists of amounts appropriated to the Trust Fund. The following amounts may be appropriated to the Trust Fund:

(1) \$2,300,000,000 for each entitlement period to pay amounts allocated to State governments for that period under section 6705 of this title.

(2) \$4,566,700,000 for each entitlement period to pay entitlement amounts allocated to units of general local government for that period under sections 6708-6710 of this title.

(c) The Secretary shall transfer to the general fund of the Treasury amounts in the Trust Fund the Secretary decides are not necessary for payments to State governments and units of general local government under this chapter.

§ 6704. Qualifications

(a) Under regulations of the Secretary of the Treasury, a State government or unit of general local government qualifies for payment under this chapter for an entitlement period only after establishing to the satisfaction of the Secretary that—

(1) the government will establish a trust fund in which the government will deposit all payments received;

(2) the government will use amounts in the trust fund (including interest) during a reasonable period provided in the regulations of the Secretary;

(3) the government will expend the payments received under laws and procedures applicable to the expenditure of revenues of the government;

(4) if at least 25 percent of the pay of individuals employed by the government in a public employee occupation is paid out of the trust fund, individuals in the occupation any part of whose pay is paid out of the trust fund will receive pay at least equal to the prevailing rate of pay for individuals employed in similar public employee occupations by the government;

(5) if at least 25 percent of the costs of a construction project are paid out of the trust fund, laborers and mechanics employed by contractors or subcontractors on the project will receive pay at least equal to the prevailing rate of pay for similar construction in the locality as determined by the Secretary of Labor under the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.), and the Secre-

tary of Labor shall act on labor standards under this clause in a way that is consistent with Reorganization Plan No. 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

(6) the government will use accounting, audit, and fiscal procedures conforming to guidelines prescribed by the Secretary of the Treasury (after the Secretary consults with the Comptroller General);

(7) after reasonable notice to the government, the government will make available to the Secretary of the Treasury and the Comptroller General, with the right to inspect, records the Secretary reasonably requires to review compliance with this chapter or the Comptroller General reasonably requires to review compliance and operations under section 6723(b) of this title; and

(8) the government will make reports the Secretary of the Treasury reasonably requires, in addition to the annual reports required under section 6724(b) of this title.

(b) A unit of general local government shall give the chief executive officer of the State in which the government is located an opportunity for review and comment before establishing compliance with subsection (a) of this section.

(c)(1) When the Secretary of the Treasury decides that a State government or unit of general local government has not complied substantially with subsection (a) of this section or regulations prescribed under subsection (a), the Secretary shall notify the government. The notice shall state that if the government does not take corrective action by the 60th day after the date the government receives the notice, the Secretary will withhold additional payments to the government for the current entitlement period and later entitlement periods until the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) of this section and regulations prescribed under subsection (a).

(2) Before giving notice under paragraph (1) of this subsection, the Secretary shall give the chief executive officer of the State or unit of general local government reasonable notice and an opportunity for a proceeding.

(3) The Secretary may make a payment to the government notified under paragraph (1) of this subsection only when the Secretary is satisfied that the government—

(A) has taken the appropriate corrective action; and

(B) will comply with subsection (a) of this section and regulations prescribed under subsection (a).

§ 6705. State government allocations

For each entitlement period for which an amount is appropriated under section 6703(b)(1) of this title, the Secretary of the Treasury shall allocate to each State government out of the amount appropriated an amount bearing the same ratio to the amount appropriated as the amount allocated to the State under section 6707 of this title bears to the total amount allocated to States under section 6707. However, the Secretary may pay the amount allocated to the State government only when the Secretary determines (under regulations prescribed by the Secretary) that the State government has declined to receive or has refunded to the United States Government an amount available to the State government under any United States Government categorical grant program identified under the regula-

tions that is equal to the amount allocated. The Secretary shall transfer from the State and Local Government Fiscal Assistance Trust Fund to the general fund of the Treasury an amount allocated to a State government but not paid under this section.

§ 6706. Reductions in State government allocations

(a)(1) Except as provided in this section, the Secretary of the Treasury shall reduce the amount allocated to a State government under section 6705 of this title for an entitlement period by the amount by which—

(A) 50 percent of the total amount the State government transfers from its own sources to units of general local government in the State during the 24-month period ending on the last day of the last fiscal year of the State for which relevant information is available on the first day of the entitlement period to which the allocation applies; is less than

(B) 50 percent of the similar total amount for the 24-month period ending the day before the beginning of the 24-month period described in clause (A) of this paragraph.

(2) In applying this subsection, the amount by which the Secretary reduces an amount allocated to a State government for an entitlement period is, in a later entitlement period, an amount transferred by the State government from its own sources to units of general local government during the period to which the reduction applies.

(b) When a State government satisfies the Secretary that after June 29, 1972, the State government assumed responsibility for a category of expenditures that before July 1, 1972, was the responsibility of local governments in the State, the Secretary shall reduce the total amount under subsection (a)(1)(B) of this section to the extent that increased State government expenditures from its own sources for the category have replaced corresponding amounts that the State government transferred to units of general local government during the 24-month period under subsection (a)(1)(B).

(c)(1) When a State government satisfies the Secretary that after June 29, 1972, at least one unit of general local government in the State was given new taxing authority, the Secretary shall reduce the total amount under subsection (a)(1)(B) of this section to the extent of the larger of an amount equal to the—

(A) taxes collected by the units of general local government under the new taxing authority; or

(B) loss of revenue to the State government because of the new taxing authority.

(2) The Secretary may consider under paragraph (1)(A) of this subsection an amount collected because of new taxing authority that is an increase in the tax rate under a previously authorized kind of tax only when the State government has decreased a related State tax.

(d) When the State government satisfies the Secretary that during a part of the 24-month period under subsection (a)(1)(A) of this section the United States Government has assumed responsibility for a category of expenditures for which the State government transferred amounts that (but for this subsection) would be included in the total amount taken into account under subsection (a)(1)(B) of this section, the Secretary shall reduce the total amount under subsection (a)(1)(B) to the extent that increased Government expenditures have replaced corresponding amounts that the State government had transferred to units of general local government during the period under subsection (a)(1)(B).

(e) When the Secretary believes that a reduction of an amount allocated to a State government is required under this section, the Secretary shall give the State government reasonable notice and opportunity for a proceeding. If the Secretary decides that a reduction is required, the Secretary shall—

(1) determine the amount of the reduction;

(2) notify the chief executive officer of the State of the determination; and

(3) withhold the amount of the reduction from payments to the State government under this chapter.

(f) On the day a reduction under this section in an amount allocated to a State government is final, the Secretary shall transfer an amount equal to the reduction from the State and Local Government Fiscal Assistance Trust Fund to the general fund of the Treasury.

(g) The Secretary shall prescribe regulations to carry out this section.

§ 6707. State allocations for units of general local government

(a) For each entitlement period, the Secretary of the Treasury shall allocate to each State out of the amount authorized for the period under section 6703(b)(2) of this title an amount bearing the same ratio to the amount authorized as the amount allocated to the State under this section bears to the total amount allocated to all States under this section. The Secretary shall—

(1) determine the amount allocated to the State under subsection (b) or (c) of this section and allocate the larger amount to the State; and

(2) allocate the amount allocated to the State to units of general local government in the State under sections 6708-6710 of this title.

(b)(1) The amount allocated to a State under this subsection for an entitlement period is the amount bearing the same ratio to \$5,300,000,000 as—

(A) the population of the State, multiplied by the general tax effort factor of the State (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the State (determined under paragraph (3) of this subsection); bears to

(B) the sum of the products determined under subclause (A) of this paragraph for all States.

(2) The general tax effort factor of a State for an entitlement period is—

(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the entitlement period; divided by

(B) the total income of individuals, as determined by the Secretary of Commerce for national income accounts purposes, attributed to the State for the same years.

(3) The relative income factor of a State is a fraction in which—

(A) the numerator is the per capita income of the United States; and

(B) the denominator is the per capita income of the State.

(c) The amount allocated to a State under this subsection for an entitlement period is the amount the State would receive if—

(1) \$1,166,666,667 were allocated among the States on the basis of population by allocating to each State an amount bearing the same ratio to the total amount to be al-

located as the population of the State bears to the population of all States;

(2) \$1,166,666,667 were allocated among the States on the basis of population inversely weighted for per capita income, by allocating to each State an amount bearing the same ratio to the total amount to be allocated as—

(A) the population of the State, multiplied by a fraction in which—

(i) the numerator is the per capita income of all States; and

(ii) the denominator is the per capita income of the State; bears to

(B) the sum of the products determined under subclause (A) of this clause (2) for all States;

(3) \$900,000,000 were allocated among the States on the basis of income tax collections by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the income tax amount of the State (determined under subsection (d)(1) of this section) bears to the total amount of the income tax amounts of all States;

(4) \$900,000,000 were allocated among the States on the basis of general tax effort by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the general tax effort amount of the State (determined under subsection (d)(2) of this section) bears to the total amount of the general tax effort amounts of all States; and

(5) \$1,166,666,667 were allocated among the States on the basis of urbanized population by allocating to each State an amount bearing the same ratio to the total amount to be allocated as the urbanized population of the State bears to the urbanized population of all States. In this clause, "urbanized population" means the population of an area consisting of a central city or cities of at least 50,000 inhabitants and the surrounding closely settled area for the city or cities considered as an urbanized area by the Secretary of Commerce for general statistical purposes.

(d)(1) The income tax amount of a State for an entitlement period is 15 percent of the net amount collected during the calendar year ending before the beginning of the entitlement period from the tax imposed on the income of individuals by the State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 164(a)(3)). The income tax amount for an entitlement period shall be at least one percent but not more than 6 percent of the United States Government individual income tax liability attributed to the State for the taxable years ending during the last calendar year ending before the beginning of the entitlement period. The Secretary of the Treasury shall determine the Government income tax liability attributed to the State on the same basis as the Secretary determines that liability for general statistical purposes.

(2) The general tax effort amount of a State for an entitlement period is the amount determined by multiplying—

(A) the net amount of State and local taxes of the State collected during the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of the entitlement period; by

(B) the general tax effort factor of the State determined under subsection (b)(2) of this section.

§ 6708. County area and county government allocations

(a)(1) The Secretary of the Treasury first shall allocate among the county areas in the State the amount allocated to the State for an entitlement period under section 6707 of this title. Each county area shall receive an amount bearing the same ratio to the amount allocated to the State as—

(A) the population of the county area, multiplied by the general tax effort factor of the county area (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the county area (determined under paragraph (3) of this subsection); bears to

(B) the sum of the products determined under clause (A) of this paragraph for all county areas in the State.

(2) The general tax effort factor of a county area for an entitlement period is—

(A) the amount of the adjusted taxes of the county government and units of general local government in the county area; divided by

(B) the total income attributed to the county area.

(3) The relative income factor of a county area is a fraction in which—

(A) the numerator is the per capita income of the State in which the area is located; and

(B) the denominator is the per capita income of the county area.

(b) The Secretary shall allocate to the county government an amount out of the amount allocated to the county area under subsection (a) of this section bearing the same ratio to the amount allocated to the county area as the adjusted taxes of the county government bears to the adjusted taxes of the county government and all other units of general local government in the county area.

(c) When a county area includes an Indian tribe or Alaskan native village having a recognized governing body carrying out substantial governmental duties and powers, the Secretary shall allocate to the tribe or village an amount out of the amount allocated to the county area under subsection (a) of this section bearing the same ratio to the amount allocated to the county area as the population of the tribe or village bears to the population of the county area. The Secretary shall allocate an amount to the tribe or village before allocating an amount to the county government under subsection (b) of this section. The Secretary shall reduce the amount to be allocated to the county government under subsection (b) by an amount allocated under this subsection.

§ 6709. Other local government allocations

(a)(1) After allocating an amount to a county government under section 6708 of this title, the Secretary of the Treasury shall allocate the amount remaining for allocation in a county area among the units of general local government (except the county government and township governments) in the county area. Each of those units of general local government shall receive an amount bearing the same ratio to the total amount to be allocated to the units of general local government as—

(A) the population of the unit of general local government, multiplied by the general tax effort factor of the unit of general local government (determined under paragraph (2) of this subsection), multiplied by the relative income factor of the unit of general local government (determined under paragraph (4) of this subsection); bears to

(B) the sum of the products determined under clause (A) of this paragraph for all units of the general local government.

(2) The general tax effort factor of a unit of general local government for an entitlement period is—

(A) the taxes imposed by the unit of general local government for public purposes (except employee and employer assessments and contributions to finance retirement and social insurance systems and other special assessments for capital outlay) determined by the Secretary of Commerce for general statistical purposes and adjusted (under regulations of the Secretary of the Treasury) to exclude amounts properly allocated to education expenses; divided by

(B) the total income attributed to the unit of general local government.

(3) The Secretary of the Treasury shall include that part of sales taxes transferred to a unit of general local government that are imposed by a county government in a geographic area of a unit of general local government as taxes of the unit of general local government under paragraph (2) of this subsection when—

(A) the county government transfers any part of the revenue from the taxes to the unit of general local government without specifying the purpose for which the unit of general local government may expend the revenue; and

(B) the chief executive officer of the State notifies the Secretary that the taxes satisfy the requirements of this paragraph.

(4) The relative income factor of a unit of general local government is a fraction in which—

(A) the numerator is the per capita income of the county area in which the unit of general local government is located; and

(B) the denominator is the per capita income of the geographic area of the unit of general local government.

(b) When a county area includes at least one township government, the Secretary of the Treasury shall set aside for allocation to township governments in the county area an amount out of the amount allocated to the county area under section 6708(a) of this title bearing the same ratio to the amount allocated to the county area as the total adjusted taxes of all township governments in the county area bears to the total adjusted taxes of the county government, the township governments, and other units of general local government in the county area. The amount for allocation to a township government is set aside before an amount is allocated to a unit of general local government under subsection (a) of this section. The Secretary shall allocate an amount to the township government on the same basis as the Secretary allocates an amount to a unit of general local government under subsection (a). The Secretary shall reduce the amount of the allocation to other units of general local government under subsection (a) by the amount set aside for allocation under this subsection.

(c) When the Secretary of the Treasury decides that information available for a county area for an entitlement period is inadequate in allocating an amount under subsection (a) or (b) of this section for a unit of general local government (except a county government) with a population below a number (of not more than 500) prescribed for the county area by the Secretary, the Secretary may apply subsection (a) or (b) by allocating to the unit of general local government an amount bearing the same ratio to the total amount to be allocated

ed under subsection (a) or (b) for the entitlement period as the population of the unit of general local government in the county area receiving an amount allocated under subsection (a) or (b). When the Secretary allocates an amount under this subsection, the Secretary shall reduce the total amount to be allocated under subsection (a) or (b) to other units of general local government in the county area for the entitlement period by the amount allocated under this subsection.

§ 6710. Separate law enforcement officer allocations for Louisiana

(a) Except as provided in subsection (d) of this section—

(1) the office of the separate law enforcement officer for—

(A) a county area in Louisiana (except the parishes of East Baton Rouge and Orleans) shall receive for each entitlement period an amount equal to 15 percent of the amount the county area government would receive for the period but for this section; and

(B) the parish of East Baton Rouge shall receive for each entitlement period an amount equal to 7.5 percent of the total amount of the amounts the governments of Baton Rouge, Baker, and Zachary, Louisiana, would receive for the period but for this section; and

(2) the parish of Orleans, Louisiana, shall receive for each entitlement period an additional amount equal to 7.5 percent of the amount the parish otherwise would receive.

(b) Except as provided in subsection (d) of this section, the Secretary of the Treasury shall reduce—

(1) the amount allocated to a county area government in Louisiana for an entitlement period by an amount equal to 50 percent of the amount allocated to the office of the separate law officer for the county area for the period; and

(2) in applying clause (1) of this subsection to the parish of East Baton Rouge, the amounts allocated to the governments of Baton Rouge, Baker, and Zachary, Louisiana, for an entitlement period by an amount equal to 3.75 percent of the amount each government would receive for the period but for this subsection.

(c) For each entitlement period for which an amount is appropriated under section 6703(b)(1) of this title, the Secretary shall reduce the amount allocated to the Louisiana government under section 6705 of this title by an amount equal to the total reductions under subsection (b) of this section of amounts allocated to county area governments in Louisiana for the period. In this subsection—

(1) reductions in the amounts allocated to the governments of Baton Rouge, Baker, and Zachary, Louisiana, under subsection (b) are deemed reductions in the amounts allocated to county area governments; and

(2) the amount allocated to the parish of Orleans, Louisiana, is deemed to have been reduced by the additional amount received under subsection (a)(2) of this section.

(d) For an entitlement period for which an amount under section 6703(b)(1) of this title is not appropriated—

(1) the percentage under subsection (a)(1)(A) of this section is 13.5 percent;

(2) the percentages under subsections (a)(1)(B) and (b)(2) of this section are 6.75 percent;

(3) the Secretary shall disregard the percentage under subsection (b)(1) of this section; and

(4) subsections (a)(2) and (c) of this section do not apply.

§ 6711. State variation of local government allocations

(a) A State government may provide by law for the allocation of amounts among county areas or units of general local government (except county governments) in the State on the basis of population multiplied by the general tax effort factors or relative income factors of the county areas or units of general local government (determined under sections 6708(a) and 6709(a) and (b) of this title), or a combination of those factors. A State government providing for a variation on an allocation formula provided under section 6708(a) or 6709(a) or (b) shall notify the Secretary of the Treasury of the variation by the 30th day before the beginning of the first entitlement period in which the variation applies. A variation shall—

(1) provide for allocating the total amount allocated under section 6708(a) or 6709(a) or (b) of this title;

(2) apply uniformly in the State; and

(3) apply only to entitlement periods beginning before October 1, 1983.

(b) A variation by a State government under this section may apply only when the Secretary certifies that the variation complies with this section. The Secretary may certify a variation only when the Secretary is notified of the variation at least 30 days before the first entitlement period in which the variation applies.

§ 6712. Adjustments of local government allocations

(a)(1) Subject to paragraphs (2) and (3) of this subsection, the per capita amount allocated to a county area or unit of general local government (except a county government) in a State for an entitlement period shall be at least 20 percent but not more than 145 percent of the amount allocated to the State under section 6707 of this title, divided by the State population.

(2) The amount allocated to a unit of general local government for an entitlement period may be not more than 50 percent of the amount of the—

(A) adjusted taxes of the unit of general local government; and

(B) transfers (except transfers under this chapter) of revenue to the unit of general local government from another government as a share in financing, or a reimbursement for, the carrying out of governmental duties and powers, as determined by the Secretary of Commerce for general statistical purposes.

(3) When the amount allocated to a unit of general local government (except a county government, an Indian tribe, or an Alaskan native village) for an entitlement period would be less than \$200 but for this paragraph or is waived by the governing authority of the unit of general local government, the Secretary of the Treasury shall add the amount for that period to the amount allocated to the county government in the county area in which the unit of general local government is located, instead of paying the amount allocated to the unit of general local government. The Secretary shall add the amount of allocation waived by a governing body of an Indian tribe or an Alaskan native village to the amount allocated to the county government in the county area in which the tribe or village is located.

(b) When the Secretary makes an adjustment in an amount allocated to a county area or unit of general local government, the Secretary shall make adjustments in the following order:

(1) under subsection (a)(1) of this section.

(2) under subsection (a)(2) of this section.

(3) under subsection (a)(3) of this section.

(4) under section 6710 of this title.

(c) The Secretary shall adjust the amounts allocated to county areas and units of general local government to bring the amounts into compliance with subsection (a)(1) of this section. The Secretary shall make adjustments in the amounts allocated to county areas before adjusting amounts allocated to units of general local government.

(d)(1) When the Secretary makes a reduction under subsection (a)(2) of this section in the amount allocated to a unit of general local government, the amount of the reduction—

(A) if a unit of general local government (except a county government), shall be added to the amount allocated to the county government in which the unit of general local government is located; and

(B) if a county government, shall be reallocated under subsection (e) of this section.

(2) When a county government may not receive an additional amount under paragraph (1)(A) of this subsection because of subsection (a) of this section, the Secretary shall reallocate the amount of the reduction under subsection (e) of this section.

(e) The Secretary shall reallocate an amount referred to in subsection (d)(1)(B) or (2) of this section—

(1) by adding the amount to the amounts allocated to units of general local government in the State to the extent the units of general local government may receive the additional amount after adjustments under subsection (a) of this section; and

(2) if a unit of general local government may not receive the reallocated amount because of subsection (a) of this section, by allocating the amount among units of general local government in the State on a prorated basis.

§ 6713. Information used in allocation formulas

(a) Except as provided in this section, the Secretary of the Treasury shall use the most recent available information provided by the Secretary of Commerce to determine an allocation under this chapter. When the Secretary of the Treasury decides that the information is not current or complete enough to provide for a fair allocation, the Secretary of the Treasury may use additional information (including information based on estimates) as provided under regulations of the Secretary of the Treasury.

(b) The Secretary of the Treasury shall determine population on the same basis that the Secretary of Commerce determines resident population for general statistical purposes. The Secretary of the Treasury shall request the Secretary of Commerce to adjust the population information provided to the Secretary of the Treasury as soon as practicable to include a reasonable estimate of the number of resident individuals not counted in the 1980 census or revisions of the census. The Secretary of the Treasury shall use the estimates in determining allocations for the entitlement period beginning after the Secretary of the Treasury receives the estimates. The Secretary of the Treasury shall adjust population information to reflect adjustments made under section 118 of the Act of October 1, 1980 (Public Law 96-369, 94 Stat. 1357).

(c) The Secretary of the Treasury may not—

(1) in determining an allocation for an entitlement period, use information on tax collections for years more recent than the years used by the Secretary of Commerce in the most recent Bureau of the Census general determination of State and local taxes made before the beginning of that period; and

(2) consider a change in information used to determine an allocation for a period of 60 months when the change—

(A) results from a major disaster declared by the President under section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141); and

(B) reduces the amount of an allocation.

§ 6714. Public hearings

(a)(1) A State government or unit of general local government expending payments received under this chapter shall hold at least one public hearing for each fiscal period of the government at which persons are given an opportunity to present written and oral views on the possible uses of the payments. The government shall give adequate notice of the hearing and hold the hearing at least 7 calendar days before presenting its budget to the governmental authority responsible for enacting the budget.

(2) A State government or unit of general local government expending payments under this chapter shall hold at least one public hearing on the proposed use of the payment in relation to its entire budget. At the hearing, persons shall be given an opportunity to provide written and oral views to the governmental authority responsible for enacting the budget and to ask questions about the entire budget and the relation of the payment to the entire budget. The government shall hold the hearing at a time and a place that allows and encourages public attendance and participation.

(3) A State government or unit of general local government holding a hearing required under this subsection or by the budget process of the government shall try to provide senior citizens and senior citizen organizations with an opportunity to present views at the hearing before the government makes a final decision on the use of the payment.

(b)(1) By the 10th day before a hearing required under subsection (a)(2) of this section is held, a State government or unit of general local government shall—

(A) make available for inspection by the public at the principal office of the government a statement of the proposed use of the payment and a summary of the proposed budget of the government; and

(B) publish in at least one newspaper of general circulation the proposed use of the payment with the summary of the proposed budget and a notice of the time and place of the hearing.

(2) By the 30th day after adoption of the budget under State or local law, the government shall—

(A) make available for inspection by the public at the principal office of the government a summary of the adopted budget, including the proposed use of the payment; and

(B) publish in at least one newspaper of general circulation a notice that the information referred to in clause (A) of this paragraph is available for inspection.

(c) Under regulations of the Secretary of the Treasury, a requirement—

(1) under subsection (a)(1) of this section may be waived when the cost of the requirement would be unreasonably burdensome in relation to the amount allocated to the

State government or unit of general local government to amounts available for payment under this chapter;

(2) under subsection (a)(2) of this section may be waived if the budget process required under the applicable State or local law or charter provisions—

(A) ensures the opportunity for public attendance and participation contemplated by subsection (a) of this section; and

(B) includes a hearing on the proposed use of a payment received under this chapter in relation to the entire budget of the government; and

(3) under subsections (b) (1)(B) and (2)(B) of this section may be waived if the cost of publishing the information would be unreasonably burdensome in relation to the amount allocated to the government to amounts available for payment under this chapter, or when publication is otherwise impracticable.

(d) When the Secretary is satisfied that the State government or unit of general local government will provide adequate notice of the proposed use of a payment received under this chapter, the 10-day period under subsection (b)(1) of this section may be changed to the greatest extent necessary to comply with applicable State or local law.

(e) The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

§ 6715. Prohibition on using payments to influence legislation

A State government or unit of general local government may not use a part of a payment received under this chapter for activities intended to influence legislation about this chapter. Dues paid by a government to a national or State association are deemed not to have been paid from payments received under this chapter.

§ 6716. Prohibited discrimination

(a) No person in the United States shall be excluded from participating in, be denied the benefits of, or be subject to discrimination under, a program or activity of a State government or unit of general local government because of race, color, national origin, or sex when the government receives a payment under this chapter.

(b) The following prohibitions and exemptions also apply to a program or activity of a State government or unit of general local government when the government receives a payment under this chapter:

(1) a prohibition against discrimination because of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.).

(2) a prohibition against discrimination against an otherwise qualified handicapped individual under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

(3) a prohibition against discrimination because of religion, or an exemption from that prohibition, under the Civil Rights Act of 1964 (42 U.S.C. 2000a et seq.) or title VIII of the Act of April 11, 1968 (known as the Civil Rights Act of 1968) (42 U.S.C. 3601 et seq.).

(c)(1) Subsection (a) and (b) of this section do not apply when the government shows, by clear and convincing evidence, that a payment received under this chapter is not used to pay for any part of the program or activity.

(2) Subsection (b)(2) of this section does not apply to construction projects begun before January 1, 1977.

(d) The Secretary of the Treasury shall try to make agreements with heads of agen-

cies of the United States Government and State agencies to investigate noncompliance with this section. An agreement shall—

(1) describe the cooperative efforts to be taken (including sharing civil rights enforcement personnel and resources) to obtain compliance with this section; and

(2) provide for notifying immediately the Secretary of actions brought by the United States Government or State agencies against a State government or unit of general local government alleging a violation of a civil rights law or a regulation prescribed under a civil rights law.

§ 6717. Discrimination proceedings

(a) By the 10th day after the Secretary of the Treasury makes a finding of discrimination or receives a holding of discrimination about a State government or unit of general local government, the Secretary shall submit a notice of noncompliance to the government. The notice shall state the basis of the finding or holding.

(b) The State government or unit of general local government may present evidence informally to the Secretary within 30 days after the Secretary submits a notice of noncompliance to the government. Except as provided in subsection (e) of this section, the government may present evidence on whether—

(1) a person in the United States has been excluded or denied benefits of, or discriminated against under, the program or activity of the government, in violation of section 6716(a) of this title;

(2) the program or activity of the government violated a prohibition described in section 6716(b) of this title; and

(3) a part of that program or activity has been paid for with a payment received under this chapter.

(c) By the end of the 30-day period under subsection (b) of this section, the Secretary shall decide whether the State government or unit of general local government has not complied with section 6716(a) or (b) of this title, except when the government has made a compliance agreement under section 6719 of this title. When the Secretary decides that the government has not complied, the Secretary shall suspend payments to the government under this chapter unless by the 10th day after the decision the government—

(1) makes a compliance agreement under section 6719 of this title; or

(2) requests a proceeding under subsection (d)(1) of this section.

(d)(1) A proceeding requested under subsection (c)(2) of this section shall begin by the 30th day after the Secretary receives a request for the proceeding. The hearing shall be before an administrative law judge appointed under section 3105 of title 5. By the 30th day after the beginning of the proceeding, the judge shall issue a preliminary decision based on the record at the time on whether the State government or unit of general local government is likely to prevail in showing compliance with section 6716(a) or (b) of this title.

(2) When the administrative law judge decides at the end of a proceeding under paragraph (1) of this subsection that the State government or unit of general local government has—

(A) not complied with section 6716(a) or (b) of this title, the judge may order payments to the government under this chapter terminated; or

(B) complied with section 6716(a) or (b) of this title, a suspension under section

6718(a)(1)(A) of this title shall be discontinued promptly.

(3) An administrative law judge may not issue a preliminary decision that the government is not likely to prevail when the judge has issued a decision described in paragraph (2)(A) of this subsection.

(e) In a proceeding under subsections (b)-(d) of this section on a program or activity of a State government or unit of general local government about which a holding of discrimination has been made, the Secretary or administrative law judge may consider only whether a payment under this chapter was used to pay for any part of the program or activity. The holding is conclusive. If the holding is reversed by an appellate court, the Secretary or judge shall end the proceeding.

§ 6718. Suspension and termination of payments in discrimination proceedings

(a)(1) The Secretary of the Treasury shall suspend payment under this chapter to a State government or unit of general local government—

(A) if an administrative law judge appointed under section 3105 of title 5 issues a preliminary decision in a proceeding under section 6717(d)(1) of this title that the government is not likely to prevail in showing compliance with section 6716(a) and (b) of this title;

(B) except as provided in section 6717(d)(2)(B) of this title, when the administrative law judge decides at the end of the proceeding that the government has not complied with section 6716(a) or (b) of this title, unless the government makes a compliance agreement under section 6719 of this title by the 30th day after the decision; or

(C) when required under section 6717(c) of this title.

(2) Except as provided in section 6717(d)(2) of this title, a suspension already ordered under paragraph (1)(A) of this subsection continues in effect when the administrative law judge makes a decision under paragraph (1)(B) of this subsection.

(b) When a holding of discrimination is reversed by an appellate court, a suspension or termination of payments in a proceeding about the holding shall be discontinued.

(c) The Secretary may resume payment to a State government or unit of general local government of payments suspended by the Secretary only—

(1) at the time and under the conditions stated in—

(A) the approval by the Secretary of a compliance agreement under section 6719(a)(1) of this title; or

(B) a compliance agreement under section 6719(a) of this title;

(2) when the government complies completely with an order of a United States court, a State court, or administrative law judge that covers all matters raised in a notice of noncompliance submitted by the Secretary under section 6717(a) of this title;

(3) when a United States court, a State court, or an administrative law judge decides (including a judge in a proceeding under section 6717(d)(1) of this title), that the government has complied with section 6716(a) and (b) of this title; or

(4) when a suspension is discontinued under subsection (b) of this section.

(d) Compliance by the government under subsection (c) of this section may include paying restitution to the person injured because the government did not comply with section 6716(a) or (b) of this title.

(e) The Secretary may resume payment to a State government or unit of general local

government of payments terminated under section 6717(d)(2) of this title only when the decision resulting in the termination is reversed by an appellate court.

§ 6719. Compliance agreements

(a) A compliance agreement is an agreement—

(1) approved by the Secretary of the Treasury between the governmental authority responsible for prosecuting a claim or complaint that is the basis of a holding of discrimination and the chief executive officer of the State government or unit of general local government that has not complied with section 6716(a) or (b) of this title; or

(2) between the Secretary and the chief executive officer.

(b) A compliance agreement—

(1) shall state the conditions the State government or unit of general local government has agreed to comply with that would satisfy the obligations of the government under section 6716(a) and (b) of this title;

(2) shall cover each matter that has been found not to comply, or would not comply, with section 6716(a) or (b) of this title; and

(3) may be a series of agreements that dispose of those matters.

(c) The Secretary shall submit a copy of the compliance agreement to each person who filed a complaint referred to in section 6721(b) of this title, or, if an agreement under subsection (a)(1) of this section, each person who filed a complaint with a governmental authority, about a failure to comply with section 6716(a) or (b) of this title. The Secretary shall submit the copy by the 15th day after an agreement is made. However, when the Secretary approves an agreement under subsection (a)(1) of this section after the agreement is made, the Secretary may submit the copy by the 15th day after approval of the agreement.

§ 6720. Enforcement by the Attorney General of prohibitions on discrimination

The Attorney General may bring a civil action in an appropriate district court of the United States against a State government or unit of general local government that the Attorney General has reason to believe has engaged or is engaging in a pattern or practice in violation of section 6716(a) or (b) of this title. The court may grant—

(1) a temporary restraining order;

(2) an injunction; or

(3) an appropriate order to ensure enjoyment of rights under section 6716(a) or (b) of this title, including an order suspending, terminating, or requiring repayment of, payments under this chapter or placing additional payments under this chapter in escrow pending the outcome of the action.

§ 6721. Civil action by a person adversely affected

(a) When a State government, a unit of general local government, or an officer or employee of a State government or unit of general local government acting in an official capacity, engages in a practice prohibited by this chapter, a person adversely affected by the practice may bring a civil action in an appropriate district court of the United States or a State court of general jurisdiction. Before bringing an action under this section, the person must exhaust administrative remedies under subsection (b) of this section.

(b) A person adversely affected must file an administrative complaint with the Secretary of the Treasury or the head of another agency of the United States Government or the State agency with which the Secretary has an agreement under section 6718(d) of

this title. Administrative remedies are deemed to be exhausted after the 90th day after the complaint was filed if the Secretary, the head of the Government agency, or the State agency—

(1) issues a decision that the government has not failed to comply with this chapter; or

(2) does not issue a decision on the complaint.

(c) In an action under this section, the court—

(1) may grant—

(A) a temporary restraining order;

(B) an injunction; or

(C) another order, including suspension, termination, or repayment of, payments under this chapter or placement of additional payments under this chapter in escrow pending the outcome of the action; and

(2) to enforce compliance with section 6716(a) or (b) of this title, may allow a prevailing party (except the United States Government) a reasonable attorney's fee.

(d) In an action under this section to enforce compliance with section 6716(a) or (b) of this title, the Attorney General may intervene in the action when the Attorney General certifies that the action is of general public importance. The United States Government is entitled to the same relief as if the Government had brought the action and is liable for the same fees and costs as a private person.

§ 6722. Judicial review

(a) A State government or unit of general local government receiving notice from the Secretary of the Treasury about withholding payments under section 6704(c) of this title, suspending payments under section 6718(a)(1)(B) of this title, or terminating payments under section 6717(d)(2)(A) of this title, may apply for review of the action of the Secretary by filing a petition for review with the court of appeals of the United States for the circuit in which the government is located. The petition must be filed by the 60th day after the notice is received. The clerk of the court immediately shall send a copy of the petition to the Secretary and the Attorney General.

(b) The Secretary shall file with the court a record of the proceeding on which the Secretary based the action. The court may consider only objections to the action of the Secretary that were presented before the Secretary.

(c) The court may affirm, change, or set aside any part of the action of the Secretary. The findings of fact by the Secretary are conclusive if supported by substantial evidence in the record. When a finding is not supported by substantial evidence in the record, the court may remand the case to the Secretary to take additional evidence. The Secretary may make new or modified findings and shall certify additional proceedings to the court.

(d) A judgment of the court under this section may be reviewed only by the Supreme Court under section 1254 of title 28.

§ 6723. Audits, investigations, and reviews

(a)(1) Except as provided in this section, a State government or unit of general local government expecting to receive a payment under this chapter shall have an independent audit made of the financial statements of the government at least once every 3 years to determine compliance with this chapter. The audit shall be carried out under generally accepted auditing standards.

(2) Paragraph (1) of this subsection does not apply to a government for a fiscal year in which the government receives less than \$25,000 under this chapter. However, an audit of the financial statements of the government for that fiscal year that is required under State or local law is deemed to be compliance with paragraph (1).

(3) An audit of financial statements of a government carried out under another law of the United States for a fiscal year is deemed to be compliance with paragraph (1) for that year when the audit substantially complies with the requirements of paragraph (1).

(b)(1) A State government or unit of general local government may elect to waive application of subsection (a)(1) of this section when—

(A) the financial statements of the government are audited by independent auditors under State or local law at least once every 3 years;

(B) the government certifies that the audit is carried out under generally accepted auditing standards; and

(C) the auditing provisions of the State or local law are applicable to the entitlement period to which the waiver applies.

(2) The election by the government shall include a brief description of the auditing standards used under the State or local law and specify the entitlement period to which the waiver applies.

(c) Under regulations of the Secretary of the Treasury, the Secretary may waive a requirement of subsections (a)(1) and (b) of this section for a State government or unit of general local government for a fiscal year when the Secretary decides that the financial statements of the government for the year—

(1) cannot be audited, and the government shows substantial progress in making the statements auditable; or

(2) have been audited by a State agency that does not follow generally accepted auditing standards or that is not independent, and the State agency shows progress in meeting generally accepted auditing standards or in becoming independent.

(d) A series of audits carried out over a period of not more than 3 years covering the total amount in the financial accounts of a State government or unit of general local government is deemed to be a single audit under subsections (a)(1) and (b) of this section.

(e) An opinion on an audit carried out under this section shall be provided to the Secretary in the form and at times required by the Secretary.

(f)(1) The Secretary shall maintain regulations providing reasonable and specific time limits for the Secretary to—

(A) carry out an investigation and make a finding after receiving a complaint referred to in section 6721(b) of this title, a determination by a State or local administrative agency, or other information about a possible violation of this chapter;

(B) carry out audits and reviews (including investigations of allegations) about possible violations of this chapter; and

(C) advise a complainant of the status of an audit, investigation, or review of an allegation by the complainant of a violation of section 6716(a) or (b) of this title or other provision of this chapter.

(2) The maximum time limit under paragraph (1)(A) of this subsection is 90 days.

(g) The Comptroller General shall carry out reviews of the activities of the Secretary, State governments, and units of gener-

al local government necessary for Congress to evaluate compliance and operations under this chapter.

§ 6724. Reports

(a) Before June 2 of each year, the Secretary of the Treasury personally shall report to Congress on—

(1) the status and operation of the State and Local Government Fiscal Assistance Trust Fund during the prior fiscal year; and
(2) the administration of this chapter, including a complete and detailed analysis of—

(A) actions taken to comply with sections 6716–6720 of this title, including a description of the kind and extent of noncompliance and the status of pending complaints;

(B) the extent to which State governments and units of general local government receiving payments under this chapter have complied with sections 6704, 6715, and 6723(a)–(e) and (g) of this title, including a description of the kind and extent of noncompliance and actions taken to ensure the independence of audits conducted under section 6723(a)–(e) and (g);

(C) the way in which payments under this chapter have been distributed in the jurisdictions receiving payments; and

(D) significant problems in carrying out this chapter and recommendations for legislation to remedy the problems.

(b)(1) At the end of each fiscal year, each State government and each unit of general local government receiving a payment under this chapter shall submit a report to the Secretary. The report shall be submitted in the form and at a time prescribed by the Secretary and shall be available to the public for inspection. The report shall state—

(A) the amounts and purposes for which the payment has been appropriated, expended, or obligated during the fiscal year;

(B) the relationship of the payment to the relevant functional items in the budget of the government; and

(C) the differences between the actual and proposed use of the payment.

(2) The Secretary shall provide a copy of a report submitted under paragraph (1) of this subsection by a unit of general local government to the chief executive officer of the State in which the government is located. The Secretary shall provide the report in the way and form prescribed by the Secretary.

(c) The Secretary shall prescribe regulations for applying this section to State governments and units of general local government that do not adopt budgets.

CHAPTER 69—PAYMENT FOR ENTITLEMENT LAND

Sec.

6901. Definitions.

6902. Authority and eligibility.

6903. Payments.

6904. Additional payments.

6905. Redwood National Park and the Lake Tahoe Basin.

6906. Authorization of appropriations.

§ 6901. Definitions

In this chapter—

(1) "entitlement land" means land owned by the United States Government—

(A) that is in the National Park System or the National Forest System, including wilderness areas and lands described in section 2 of the Act of June 22, 1948 (16 U.S.C. 577d), and section 1 of the Act of June 22, 1956 (16 U.S.C. 577d-1);

(B) the Secretary of the Interior administers through the Bureau of Land Management;

(C) dedicated to the use of the Government for water resource development projects;

(D) on which are located semi-active or inactive installations (except industrial installations) that the Secretary of the Army keeps for mobilization and for reserve component training;

(E) that is a dredge disposal area under the jurisdiction of the Secretary of the Army;

(F) that is located in the vicinity of Purgatory River Canyon and Pinon Canyon, Colorado, and acquired after December 23, 1981, by the United States Government to expand the Fort Carson military installation; or

(G) that is a reserve area (as defined in section 401(g)(3) of the Act of June 15, 1935 (16 U.S.C. 715s(g)(3))).

(2) "unit of general local government" means—

(A) a county, city, township, borough existing in Alaska on October 20, 1976, or other political subdivision of a State that the Secretary of the Interior, on the same basis that the Secretary of Commerce uses for general statistical purposes, decides is a general purpose political subdivision of a State;

(B) the Commonwealth of Puerto Rico;

(C) Guam;

(D) the Commonwealth of the Northern Mariana Islands; and

(E) the Virgin Islands.

§ 6902. Authority and eligibility

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which entitlement land is located. A unit may use the payment for any governmental purpose.

(b) A unit of general local government may not receive a payment for land for which payment under this chapter otherwise may be received if the land was owned or administered by a State or unit and was exempt from real estate taxes when the land was conveyed to the United States Government. This subsection does not apply to payments for land a State or unit acquires from a private party to donate to the Government within 8 years of acquisition.

(c) A unit of general local government receiving payment for a fiscal year for land under the Act of August 28, 1937 (43 U.S.C. 1181a et seq.), or the Act of May 24, 1939 (ch. 144, 53 Stat. 753), may not receive a payment under this chapter for the land for that fiscal year. This chapter does not apply to either Act.

(d) If the total payment to a unit of general local government for a fiscal year would be less than \$100, the Secretary may not make the payment.

§ 6903. Payments

(a) In this section—

(1) "payment law" means—

(A) the Act of June 20, 1910 (ch. 310, 36 Stat. 557);

(B) section 33 of the Bankhead-Jones Farm Tenant Act (7 U.S.C. 1012);

(C) the Act of May 23, 1908 (16 U.S.C. 500);

(D) section 5 of the Act of June 22, 1948 (16 U.S.C. 577g, 577g-1);

(E) section 401(c)(2) of the Act of June 15, 1935 (16 U.S.C. 715s(c)(2));

(F) section 17 of the Federal Power Act (16 U.S.C. 810);

(G) section 35 of the Act of February 25, 1920 (30 U.S.C. 191);

(H) section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355);

(I) section 3 of the Act of July 31, 1947 (30 U.S.C. 603); and

(J) section 10 of the Act of June 28, 1934 (known as the Taylor Grazing Act) (43 U.S.C. 315i).

(2) population shall be determined on the same basis that the Secretary of Commerce determines resident population for general statistical purposes.

(3) a unit of general local government may not be credited with a population of more than 50,000.

(4) if any part of a smaller unit is located within another unit, entitlement land within both units is deemed to be located within the smaller unit.

(b)(1) A payment under section 6902 of this title is equal to the greater of—

(A) 75 cents for each acre of entitlement land located within a unit of general local government (but not more than the limitation determined under subsection (c) of this section) reduced (but not below 0) by amounts the unit received in the prior fiscal year under a payment law; or

(B) 10 cents for each acre of entitlement land located in the unit (but not more than the limitation determined under subsection (c) of this section).

(2) The chief executive officer of a State shall submit to the Secretary of the Interior a statement on the amounts of payments the State transfers to each unit of general local government in the State out of amounts received under a payment law.

(c)(1) The limitation for a unit of general local government with a population of not more than 4,999 is \$50 times the population.

(2) The limitation for a unit of general local government with a population of at least 5,000 is the following amount (rounding the population off to the nearest thousand):

If population equals—	the limitation is equal to the population times—
5,000.....	\$50.00
6,000.....	47.00
7,000.....	44.00
8,000.....	41.00
9,000.....	38.00
10,000.....	35.00
11,000.....	34.00
12,000.....	33.00
13,000.....	32.00
14,000.....	31.00
15,000.....	30.00
16,000.....	29.50
17,000.....	29.00
18,000.....	28.50
19,000.....	28.00
20,000.....	27.50
21,000.....	27.20
22,000.....	26.90
23,000.....	26.60
24,000.....	26.30
25,000.....	26.00
26,000.....	25.80
27,000.....	25.60
28,000.....	25.40
29,000.....	25.20
30,000.....	25.00
31,000.....	24.75
32,000.....	24.50
33,000.....	24.25
34,000.....	24.00
35,000.....	23.75
36,000.....	23.50
37,000.....	23.25
38,000.....	23.00
39,000.....	22.75
40,000.....	22.50
41,000.....	22.25
42,000.....	22.00
43,000.....	21.75
44,000.....	21.50
45,000.....	21.25
46,000.....	21.00
47,000.....	20.75

If population equals—	the limitation is equal to the population times—
48,000.....	20.50
49,000.....	20.25
50,000.....	20.00

§ 6904. Additional payments

(a) In addition to payments the Secretary of the Interior makes under section 6902 of this title, the Secretary shall make a payment for each fiscal year to a unit of general local government collecting and distributing real property taxes (including a unit in Alaska outside the boundaries of an organized borough) in which is located an interest in land that—

(1) the United States Government acquires for—

(A) the National Park System; or
(B) the National Forest Wilderness Areas; and

(2) was subject to local real property taxes within the 5-year period before the interest is acquired.

(b) The Secretary shall make payments only for the 5 fiscal years after the fiscal year in which the interest in land is acquired. Under guidelines the Secretary prescribes, the unit of general local government receiving the payment from the Secretary shall distribute payments proportionally to units and school districts that lost real property taxes because of the acquisition of the interest. A unit receiving a distribution may use a payment for any governmental purpose.

(c) Each yearly payment by the Secretary under this section is equal to one percent of the fair market value of the interest in land on the date the Government acquires the interest. However, a payment may not be more than the amount of real property taxes levied on the property during the last fiscal year before the fiscal year in which the interest is acquired. A decision on fair market value under this section may not include an increase in the value of an interest because the land is rezoned when the rezoning causes the increase after the date of enactment of a law authorizing the acquisition of an interest under subsection (a) of this section.

(d) The Secretary may prescribe regulations under which payments may be made to units of general local government when subsections (a) and (b) of this section will not carry out the purpose of subsections (a) and (b).

§ 6905. Redwood National Park and the Lake Tahoe Basin

(a) The Secretary of the Interior shall make a payment for each fiscal year to each unit of general local government in which an interest in land owned by the United States Government in the Redwood National Park is located. A unit may use the payment for any governmental purpose. The payment shall be made as provided in section 6903 of this title and shall include an amount payable under section 6903.

(b)(1) In addition to payments the Secretary makes under subsection (a) of this section, the Secretary shall make a payment for each fiscal year to each unit of general local government in which is located an interest in land—

(A) owned by the Government in the Redwood National Park; or

(B) acquired in the Lake Tahoe Basin under the Act of December 23, 1980 (Public Law 96-586, 94 Stat. 3383).

(2) The payment shall be made as provided in section 6904 of this title and shall include an amount payable under section

6904. However, an amount computed but not paid because of the first sentence of subsection (b) and the 2d sentence of subsection (c) of section 6904 shall be carried forward and applied to future years in which the payment would not otherwise equal the amount of real property taxes assessed and levied on the land during the last fiscal year before the fiscal year in which the interest was acquired until the amount is applied completely.

(3) The unit of general local government may use the payment for any governmental purpose.

(4) The Redwoods Community College District is a school district under section 6904(b) of this title.

§ 6906. Authorization of appropriations

Necessary amounts may be appropriated to the Secretary of the Interior to carry out this chapter. Amounts are available only as provided in appropriation laws.

CHAPTER 71—JOINT FUNDING SIMPLIFICATION

- Sec.
7101. Purposes.
7102. Definitions.
7103. Authority of the President and heads of executive agencies.
7104. Processing project requests to be financed by at least 2 assistance programs.
7105. Prescribing uniform technical and administrative provisions.
7106. Delegation of supervision of assistance.
7107. Joint management funds.
7108. Limitation on authority under sections 7105-7107.
7109. Appropriations available for joint financing.
7110. Use of joint financing provisions for Federal-State assisted projects.
7111. Report to Congress.
7112. Expiration date.

§ 7101. Purposes

The purposes of this chapter are to—

(1) enable States, local governments, and private nonprofit organizations to use assistance of the United States Government more effectively and efficiently;

(2) adapt the assistance more readily to particular needs through wider use of projects that are supported by more than one executive agency, assistance program, or appropriation of the United States Government; and

(3) encourage Federal-State arrangements under which local governments and private nonprofit organizations may more effectively and efficiently combine Federal and State resources to support projects of common interest to those local governments and those organizations.

§ 7102. Definitions

In this chapter—

(1) "applicant" means a State, local government, or private nonprofit organization applying for assistance for one project.

(2) "assistance program" means a program of the United States Government providing assistance through a grant or contract but does not include revenue sharing, a loan, a loan guarantee, or insurance.

(3) "local government" means a county, city, political subdivision of a county or city, or other general purpose political subdivision of a State, a school district, a council of governments, or other instrumentality of a local government.

(4) "project" means an undertaking that includes components that contribute mate-

rially to carrying out one purpose or closely related purposes and are proposed or approved for assistance under—

(A) more than one United States Government program; or

(B) at least one Government program and at least one State program.

(5) "State" means a State of the United States, the District of Columbia, a territory or possession of the United States, an agency or instrumentality of a State, and a tribe as defined in section 3(c) of the Indian Financing Act of 1974 (25 U.S.C. 1452(c)).

§ 7103. Authority of the President and heads of executive agencies

(a) The President shall prescribe necessary regulations to carry out section 7101 of this title and to ensure that this chapter is applied by all executive agencies consistently. The regulations may require executive agencies to adopt or prescribe procedures requiring applicants for assistance for a project to be jointly financed under this chapter to take steps to—

(1) get the views and recommendations of States and local governments that may be significantly affected by the project; and

(2) resolve questions of common interest to those States and local governments before making application.

(b) Subject to regulations prescribed under subsection (a) of this section and other law, the head of an executive agency may do the following by an order of the agency head or by agreement with another executive agency:

(1) identify related programs likely to be particularly suitable in providing joint financing for specific kinds of projects.

(2) to assist in planning and developing a project financed from different programs, develop and prescribe—

- (A) guidelines;
- (B) model or illustrative projects;
- (C) joint or common application forms; and
- (D) other materials or guidance.

(3) review administrative program requirements to identify requirements that may impede joint financing of a project and modify the requirements when appropriate.

(4) establish common technical or administrative regulations for related programs to assist in providing joint financing to support a specific project or class of projects.

(5) establish joint or common application processing and project supervision procedures, including procedures for designating—

(A) a lead agency responsible for processing applications; and

(B) a managing agency responsible for project supervision.

(c) The head of an executive agency shall—

(1) take maximum action to carry out section 7101 of this title in conducting an assistance program of the agency; and

(2) consult and cooperate with the heads of other executive agencies to carry out section 7101 of this title in conducting assistance programs of different executive agencies that may be used jointly to finance projects undertaken by States, local governments, or private nonprofit organizations.

§ 7104. Processing project requests to be financed by at least 2 assistance programs

In processing an application or request for assistance for a project to be financed by at least 2 assistance programs, the head of an executive agency shall take action that will ensure that—

(1) required reviews and approvals are handled expeditiously;

(2) complete account is taken of special considerations of timing that are made known by the applicant that would affect the feasibility of a jointly financed project;

(3) an applicant is required to deal with a minimum number of representatives of the United States Government;

(4) an applicant is promptly informed of a decision or special problem that could affect the feasibility of providing joint assistance under the application; and

(5) an applicant is not required to get information or assurances from one executive agency for a requesting executive agency when the requesting agency may get the information or assurances directly.

§ 7105. Prescribing uniform technical and administrative provisions

(a) To make participation in a project easier than would be possible because of varying or conflicting technical or administrative regulations and procedures not required by law, the head of an executive agency may prescribe uniform provisions about inconsistent or conflicting requirements on—

(1) financial administration of the project (including accounting, reporting and auditing, and maintaining a separate bank account), to the extent consistent with section 7108 of this title;

(2) the timing of payments by the United States Government for the project when one schedule or a combined schedule is to be established for the project;

(3) providing assistance by grant rather than procurement contract or by procurement contract rather than by grant; and

(4) accountability for, or the disposition of, records, property, or structures acquired or constructed with assistance from the Government when common regulations are established for the project.

(b) To make easier the processing of applications for assistance, the head of an executive agency may provide for review of proposals for a project by one panel, board, or committee where reviews by separate panels, boards, or committees are not specifically required by law.

(c) Notwithstanding a requirement that one public agency or a specific public agency be established or designated to carry out or supervise that part of the assistance from the Government under an assistance program for a jointly financed project, the head of the executive agency carrying out the program may waive the requirement when—

(1) administration by another public agency is consistent with State or local law and the objectives of the assistance program; and

(2)(A) the waiver is requested by the head of a unit of general government certifying jurisdiction over the public agencies concerned; or

(B) the State or local public agencies concerned agree to the waiver.

§ 7106. Delegation of supervision of assistance

With the approval of the President, the head of an executive agency may delegate or otherwise arrange to have another executive agency carry out or supervise a project or class of projects jointly financed under this chapter. A delegation—

(1) shall be made under conditions ensuring that duties and powers delegated are exercised consistent with law; and

(2) may not relieve the head of an executive agency of responsibility for the proper and efficient management of a project for which the agency provides assistance.

§ 7107. Joint management funds

(a) In supporting a project, a joint management fund may be established to administer more effectively amounts received from more than one assistance program or appropriation. A proportional share of the amount required to pay a grantee shall be transferred periodically to the fund from each program or appropriation. When a project is completed, the grantee shall return to the fund an amount not expended.

(b) An account in a joint management fund is subject to an agreement made by the heads of the executive agencies providing assistance for the project about the responsibilities of each agency. An agreement shall—

(1) ensure the availability of necessary information to the executive agencies and Congress;

(2) provide that the agency administering a fund is responsible and accountable by program and appropriation for the amounts provided for the purposes of each account in the fund; and

(3) include procedures for returning, subject to fiscal year limitations, an excess amount to participating executive agencies under the applicable appropriation. An excess amount of an expired appropriation lapses from the fund.

(c) For each project financed through an account in a joint management fund, a recipient of an amount from the fund shall keep records prescribed by the head of the executive agency responsible for administering the fund. The records shall include—

(1) the amount and disposition by the recipient of assistance received under each program and appropriation;

(2) the total cost of the project for which assistance was given or used;

(3) that part of the cost of the project provided from other sources; and

(4) other records that will make it easier to carry out an audit.

(d) Records of a recipient related to an amount received from a joint management fund shall be made available to the head of the executive agency responsible for administering the fund and the Comptroller General for inspection and audit.

(e) For a project subject to a joint management fund, one non-Government share may be established conforming to—

(1) the proportional shares applicable to the assistance programs involved; and

(2) the proportional shares of an amount transferred to the project account from each of the programs.

§ 7108. Limitation on authority under sections 7105-7107

Under regulations prescribed by the President, the head of an executive agency may act under sections 7105-7107 of this title for a project assisted under at least 2 assistance programs. The regulations shall ensure that the head of an executive agency acts under those sections only—

(1) when a problem cannot be adequately solved through other action under this chapter or other law;

(2) when necessary to promote expeditious processing of applications or effective and efficient administration of the project; and

(3) in a way consistent with protecting the interest of the United States Government and with the program purposes and requirements of law.

§ 7109. Appropriations available for joint financing

An appropriation available for technical assistance or personnel training under an assistance program is available for technical assistance and training for a project proposed or approved for joint financing involving the program and another assistance program.

§ 7110. Use of joint financing provisions for Federal-State assisted projects

Under regulations prescribed by the President, the head of an executive agency may make an agreement with a State to extend the benefits of this chapter to a project involving assistance from at least one executive agency and at least one State agency. The agreement may include arrangements to process requests or administer assistance on a joint basis.

§ 7111. Report to Congress

By February 3, 1984, the President shall submit to Congress a report on actions taken under this chapter and make recommendations for its continuation, amendment, or termination. The report shall include a detailed evaluation of the operation of the chapter, including information on the benefits and costs of jointly financed projects that accrue to participating States, local governments, private nonprofit organizations, and the United States Government.

§ 7112. Expiration date

This chapter expires on February 3, 1985.

CHAPTER 73—ADMINISTERING BLOCK GRANTS

Sec.

7301. Purpose.

7302. Definitions.

7303. Reports and public hearings on proposed uses of amounts.

7304. Availability of records.

7305. State auditing requirements.

§ 7301. Purpose

It is the purpose of this chapter to ensure that—

(1) block grant amounts are allocated for programs of special importance to meet the needs of local governments, residents of local governments, and other eligible entities; and

(2) all eligible local governments, residents of local governments, and other eligible entities are treated fairly in distributing block grant amounts.

§ 7302. Definitions

In this chapter—

(1) "block grant amounts" means amounts received for a program that—

(A) directly allocates amounts to States only, except for amounts allocated for use by the agency administering the program; and

(B) provides that the State may use any part of the amounts at its discretion to continue to support activities financed on August 12, 1981, under programs whose authorizations were discontinued by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357) and that were financed on August 12, 1981, by allocations by the United States Government to local governments or other eligible entities, or both local governments and other eligible entities.

(2) "State" includes the District of Columbia and territories and possessions of the United States.

§ 7303. Reports and public hearings on proposed uses of amounts

(a)(1) The chief executive officer of each State shall prepare for each fiscal year a

report on the proposed use during the fiscal year of block grant amounts received by the State. The report shall include—

(A) a statement of goals and objectives;

(B) information on the types of activities to be supported, geographic areas to be served, and categories or characteristics of individuals to be served; and

(C) the criteria for, and way of, distributing the amounts, including details on the way amounts will be distributed on the basis of need to carry out the purposes of the block grant amounts.

(2) Beginning with the fiscal year ending September 30, 1983, each report shall describe how the State met the goals, objectives, and needs in using the amounts described in the report for the prior fiscal year.

(b) A State may not receive block grant amounts for a fiscal year until the State conducts a public hearing, after adequate public notice, on the proposed use and distribution of the amounts set out in the report prepared under subsection (a) of this section for the fiscal year.

(c) Each report prepared under subsection (a) of this section and changes to the report shall be made public in the State on a timely basis and in a way that encourages comments from interested local government and persons.

§ 7304. Availability of records

To evaluate and review the use of block grant amounts, consolidated assistance, and other grant programs established or provided for in the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357), records related to the amounts, assistance, or programs that are in the possession, custody, or control of a State, a political subdivision of a State, or a grantee of a State or political subdivision of a State shall be made available to the Comptroller General.

§ 7305. State auditing requirements

(a) The chief executive officer of each State shall conduct financial and compliance audits of block grant amounts received under the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357) and amounts received under a consolidated assistance program established or provided for in the Act. An audit shall be conducted for the 2-year period beginning on October 1, 1981, and for each 2-year period thereafter. As far as practicable, the audit shall be conducted consistent with standards the Comptroller General prescribes for the audit of governmental entities, programs, activities, and functions.

(b) An audit under subsection (a) of this section is in place of other financial and compliance audits of those amounts that the chief executive officer of the State is required to conduct under another provision of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 357) unless the other provision, by explicit reference to this section, provides otherwise.

SUBTITLE VI—MISCELLANEOUS

CHAPTER	Sec.
91. GOVERNMENT CORPORATIONS...	9101
93. SURETIES AND SURETY BONDS...	9301
95. GOVERNMENT PENSION PLAN PROTECTION.....	9501
97. MISCELLANEOUS.....	9701

CHAPTER 91—GOVERNMENT CORPORATIONS

Sec.

9101. Definitions.

9102. Establishing and acquiring corporations.

9103. Budgets of wholly owned Government corporations.

9104. Congressional action on budgets of wholly owned Government corporations.

9105. Audits.

9106. Audit reports.

9107. Accounts.

9108. Obligations.

9109. Exclusion of a wholly owned Government corporation from this chapter.

§ 9101. Definitions

In this chapter—

(1) "Government corporation" means a mixed-ownership Government corporation and a wholly owned Government corporation.

(2) "mixed-ownership Government corporation" means—

(A) Amtrak.

(B) the Central Bank for Cooperatives.

(C) the Federal Deposit Insurance Corporation.

(D) the Federal Home Loan Banks.

(E) the Federal Intermediate Credit Banks.

(F) the Federal Land Banks.

(G) the National Credit Union Administration Central Liquidity Facility.

(H) the Regional Banks for Cooperatives.

(I) the Rural Telephone Bank when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(J) the United States Railway Association.

(K) the National Consumer Cooperative Bank.

(3) "wholly owned Government corporation" means—

(A) the Commodity Credit Corporation.

(B) the Export-Import Bank of the United States.

(C) the Federal Crop Insurance Corporation.

(D) Federal Prison Industries, Incorporated.

(E) the Federal Savings and Loan Insurance Corporation.

(F) the Government National Mortgage Association.

(G) the Overseas Private Investment Corporation.

(H) the Pennsylvania Avenue Development Corporation.

(I) the Pension Benefit Guaranty Corporation.

(J) the Rural Telephone Bank until the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a)).

(K) the Saint Lawrence Seaway Development Corporation.

(L) the Secretary of Housing and Urban Development when carrying out duties and powers related to the Federal Housing Administration Fund.

(M) the Tennessee Valley Authority.

§ 9102. Establishing and acquiring corporations

An agency may establish or acquire a corporation to act as an agency only by or under a law of the United States specifically authorizing the action.

§ 9103. Budgets of wholly owned Government corporations

(a) Each wholly owned Government corporation shall prepare and submit each year to the President a business-type budget in a way, and before a date, the President pre-

scribes by regulation for the budget program.

(b) The budget program for each wholly owned Government corporation shall—

(1) contain estimates of the financial condition and operations of the corporation for the current and following fiscal years and the condition and results of operations in the last fiscal year;

(2) contain statements of financial condition, income and expense, and sources and use of money, an analysis of surplus or deficit, and additional statements and information to make known the financial condition and operations of the corporation, including estimates of operations by major activities, administrative expenses, borrowings, the amount of United States Government capital that will be returned to the Treasury during the fiscal year, and appropriations needed to restore capital impairments; and

(3) provide for emergencies and contingencies and otherwise be flexible so that the corporation may carry out its activities.

(c) The President shall submit the budget programs submitted by wholly owned Government corporations (as changed by the President) as part of the budget submitted to Congress under section 1105 of this title. The President thereafter may submit changes in a budget program of a corporation at any time.

§9104. Congressional action on budgets of wholly owned Government corporations

(a) Congress shall—

(1) consider budget programs for wholly owned Government corporations the President submits;

(2) make necessary appropriations authorized by law;

(3) make corporate financial resources available for operating and administrative expenses; and

(4) provide for repaying capital and the payment of dividends.

(b) This section does not—

(1) prevent a wholly owned Government corporation from carrying out or financing its activities as authorized under another law;

(2) affect section 26 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831y); or

(3) affect the authority of a wholly owned Government corporation to make a commitment without fiscal year limitation.

§9105. Audits

(a)(1) Under regulations of the Comptroller General, the Comptroller General shall audit financial transactions of—

(A) wholly owned Government corporations; and

(B) mixed-ownership Government corporations during periods in which capital of the United States Government is invested in a mixed-ownership Government corporation.

(2) The Comptroller General shall audit each Government corporation at least once every 3 years. The Comptroller General shall audit the Federal Savings and Loan Insurance Corporation and Federal home loan banks on a calendar year basis.

(b) In conducting an audit under subsection (a) of this section, the Comptroller General—

(1) to the greatest extent the Comptroller General considers practicable, shall use reports of examinations of a Government corporation that a supervising administrative agency makes; and

(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), may make a

contract for professional services with a firm or organization for a temporary period or special purpose.

(c) An audit under subsection (a) of this section shall be conducted consistent with principles and procedures applicable to commercial corporate transactions where the accounts of a Government corporation usually are kept. A Government corporation shall—

(1) make available to the Comptroller General for audit all records and property of, or used by, the corporation that are necessary for the audit; and

(2) provide the Comptroller General with facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, or custodians.

(d) Regulations prescribed under subsection (a) of this section may provide that any part of an account of an accountable official about a financial transaction of a wholly owned Government corporation sent to the Comptroller General for settlement may be kept at the office of the corporation and that the Comptroller General may settle any part of the account on the basis of an examination during an audit. This subsection does not affect the authority of the Tennessee Valley Authority under section 9(b) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831h(b)).

(e) The Comptroller General shall pay the cost of an audit under this section. A Government corporation shall reimburse the Comptroller General for the cost of the audit as determined by the Comptroller General. The Comptroller General shall deposit the reimbursement in the Treasury as miscellaneous receipts. Except as expressly provided by law, a Government corporation may not pay the cost of a private audit of the financial records of the corporation.

(f) An audit under subsection (a) of this section is in place of an audit of the financial transactions of a Government corporation the Comptroller General is required to make in reporting to Congress or the President under another law.

(g) Necessary amounts are authorized to be appropriated to the Comptroller General to carry out this section.

§9106. Audit reports

(a) The Comptroller General shall submit to Congress a report on each audit of a Government corporation under section 9105 of this title not later than 6.5 months after the end of the last year covered by the audit. The report shall state the scope of the audit and include—

(1) a statement (showing intercorporate relations) of assets, liabilities, capital, and surplus or deficit;

(2) a statement of surplus or deficit analysis;

(3) a statement of income and expenditures;

(4) a statement of sources and the use of money;

(5) specifically each financial transaction or undertaking the Comptroller General believes was carried out or made without authority of law;

(6) comments and information the Comptroller General considers necessary to keep Congress informed about the operations and financial condition of the Government corporation, including a statement of impaired capital noticed and recommendations for the return of capital of the United States Government or the payment of dividends the Comptroller General believes should be made; and

(7) other recommendations the Comptroller General considers advisable.

(b) The Comptroller General shall give the President, the Secretary of the Treasury, and the Government corporation a copy of the report when it is submitted to Congress.

§9107. Accounts

(a) With the approval of the Comptroller General, a Government corporation may consolidate its cash into an account if the cash will be expended as provided by law.

(b) The Secretary of the Treasury shall keep the accounts of a Government corporation. If the Secretary approves, a Federal reserve bank or a bank designated as a depository or fiscal agent of the United States Government may keep the accounts. The Secretary may waive the requirements of this subsection.

(c)(1) Subsection (b) of this section does not apply to maintaining a temporary account of not more than \$50,000 in one bank.

(2) Subsection (b) of this section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(3) Subsection (b) of this section does not apply to the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, the National Consumer Cooperative Bank, or the Federal Land Banks. However, the head of each of those banks shall report each year to the Secretary the names of depositories where accounts are kept. If the Secretary considers it advisable when an annual report is received, the Secretary may make a written report to the corporation, the President, and Congress.

§9108. Obligations

(a) Before a Government corporation issues obligations and offers obligations to the public, the Secretary of the Treasury shall prescribe—

(1) the form, denomination, maturity, interest rate, and conditions to which the obligations will be subject;

(2) the way and time the obligations are issued; and

(3) the price for which the obligations will be sold.

(b) A Government corporation may buy or sell a direct obligation of the United States Government, or an obligation on which the principal, interest, or both, is guaranteed, of more than \$100,000 only when the Secretary approves the purchase or sale. The Secretary may waive the requirement of this subsection under conditions the Secretary may decide.

(c) The Secretary may designate an officer or employee of an agency to carry out this section if the head of the agency agrees.

(d)(1) This section does not apply to a mixed-ownership Government corporation when the corporation has no capital of the Government.

(2) Subsections (a) and (b) of this section do not apply to the Rural Telephone Bank (when the ownership, control, and operation of the Bank are converted under section 410(a) of the Rural Electrification Act of 1936 (7 U.S.C. 950(a))), the Federal Intermediate Credit Banks, the Central Bank for Cooperatives, the Regional Banks for Cooperatives, the National Consumer Cooperative Bank, and the Federal Land Banks. However, the head of each of those banks shall consult with the Secretary before taking action of the kind described in subsection (a) or (b). If agreement is not reached, the Secretary may make a written report to the corporation, the President,

and Congress on the reasons for the Secretary's disagreement.

§ 9109. Exclusion of a wholly owned Government corporation from this chapter

When the President considers it practicable and in the public interest, the President shall include in the budget submitted to Congress under section 1105 of this title a recommendation that a wholly owned Government corporation be deemed to be an agency (except a corporation) under chapter II of this title and for fiscal matters. If Congress approves the recommendation, the corporation is deemed to be an agency (except a corporation) under chapter II and for fiscal matters for fiscal years beginning after the fiscal year of approval and is not subject to this chapter. The corporate entity is not affected by this section.

CHAPTER 93—SURETIES AND SURETY BONDS

Sec.

9301. Definitions.

9302. Prohibition against surety bonds for United States Government personnel.

9303. Use of Government obligations instead of surety bonds.

9304. Surety corporations.

9305. Authority and revocation of authority of surety corporations.

9306. Surety corporations acting outside area of incorporation and place of principal office.

9307. Civil actions and judgments against surety corporations.

9308. Civil penalty.

9309. Priority of sureties.

§ 9301. Definitions

In this chapter—

(1) "person" means an individual, a trust, an estate, a partnership, and a corporation.

(2) "Government obligation" means a public debt obligation of the United States Government and an obligation whose principal and interest is unconditionally guaranteed by the Government.

§ 9302. Prohibition against surety bonds for United States Government personnel

An agency (except a mixed-ownership Government corporation) may not require or obtain a surety bond for a member of the uniformed services or an officer or employee of the United States Government in carrying out official duties. This section does not affect the personal financial liability of the member, officer, or employee.

§ 9303. Use of Government obligations instead of surety bonds

(a) If a person is required under a law of the United States to give a surety bond, the person may give a Government obligation as security instead of a surety bond. The obligation shall—

(1) be given to the official having authority to approve the surety bond;

(2) be in an amount equal at par value to the amount of the required surety bond; and

(3) authorize the official receiving the obligation to collect or sell the obligation if the person defaults on a required condition.

(b)(1) An official receiving a Government obligation under subsection (a) of this section may deposit it with—

(A) the Secretary of the Treasury;

(B) a Federal reserve bank; or

(C) a depository designated by the Secretary.

(2) The Secretary, bank, or depository shall issue a receipt that describes the obligation deposited.

(c) Using a Government obligation instead of a surety bond for security is the same as using—

(1) a personal or corporate surety bond;

(2) a certified check;

(3) a bank draft;

(4) a post office money order; or

(5) cash.

(d) When security is no longer required, a Government obligation given instead of a surety bond shall be returned to the person giving the obligation. If a person, supplying labor or material to a contractor defaulting under the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d), files with the United States Government the application and affidavit provided under section 3 of the Act (40 U.S.C. 270c), the Government—

(1) may return to the contractor the Government obligation given as security (or proceeds of the Government obligation given) under the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d), only after the 90-day period for bringing a civil action under section 2 of the Act (40 U.S.C. 270b); and

(2) if a civil action is brought in the 90-day period, shall hold the Government obligation or the proceeds subject to the order of the court having jurisdiction of the action.

(e) This section does not affect the—

(1) priority of a claim of the Government against a Government obligation given under this section;

(2) right or remedy of the Government for default on an obligation provided under—

(A) the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a-270d); or

(B) this section;

(3) authority of a court over a Government obligation given as security in a civil action; and

(4) authority of an official of the Government authorized by another law to receive a Government obligation as security.

(f) To avoid frequent substitution of Government obligations, the Secretary may prescribe regulations limiting the effect of this section to a Government obligation maturing more than one year after the date the obligation is given as security.

§ 9304. Surety corporations

(a) When a law of the United States Government requires or permits a person to give a surety bond through a surety, the person satisfies the law if the surety bond is provided for the person by a corporation—

(1) incorporated under the laws of—

(A) the United States; or

(B) a State, the District of Columbia, or a territory or possession of the United States;

(2) that may under those laws guarantee—

(A) the fidelity of persons holding positions of trust; and

(B) bonds and undertakings in judicial proceedings; and

(3) complying with sections 9305 and 9306 of this title.

(b) Each surety bond shall be approved by the official of the Government required to approve or accept the bond. The official may not require that the surety bond be given through a guaranty corporation or through any particular guaranty corporation.

§ 9305. Authority and revocation of authority of surety corporations

(a) Before becoming a surety under section 9304 of this title, a surety corporation must file with the Secretary of the Treasury—

(1) a copy of the articles of incorporation of the corporation; and

(2) a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(b) The Secretary may authorize in writing a surety corporation to provide surety bonds under section 9304 of this title if the Secretary decides that—

(1) the articles of incorporation of the corporation authorize the corporation to do business described in section 9304(a)(2) of this title;

(2) the corporation has paid-up capital of at least \$250,000 in cash or its equivalent; and

(3) the corporation is able to carry out its contracts.

(c) A surety corporation authorized under subsection (b) of this section to provide surety bonds shall file with the Secretary each January, April, July, and October a statement of the assets and liabilities of the corporation signed and sworn to by the president and secretary of the corporation.

(d) The Secretary—

(1) shall revoke the authority of a surety corporation to do new business if the Secretary decides the corporation is insolvent or is in violation of this section or section 9304 or 9306 of this title;

(2) may investigate the solvency of a surety corporation at any time; and

(3) may require additional security from the person required to provide a surety bond if the Secretary decides that a surety corporation no longer is sufficient security.

(e) A surety corporation providing a surety bond under section 9304 of this title may not provide any additional bond under that section if—

(1) the corporation does not pay a final judgment or order against it on the bond; and

(2) no appeal or stay of the judgment or order is pending 30 days after the judgment or order is entered.

§ 9306. Surety corporations acting outside area of incorporation and place of principal office

(a) A surety corporation may provide a surety bond under section 9304 of this title in a judicial district outside the State, the District of Columbia, or a territory or possession of the United States under whose laws it was incorporated and in which its principal office is located only if the corporation designates a person by written power of attorney to be the resident agent of the corporation for that district. The designated person—

(1) may appear for the surety corporation;

(2) may receive service of process for the corporation;

(3) must reside in the jurisdiction of the district court for the district in which a surety bond is to be provided; and

(4) must be a domiciliary of the State, the District of Columbia, territory, or possession in which the court sits.

(b) The surety corporation shall file a certified copy of the power of attorney with the clerk of the district court for the district in which a surety bond is to be given at each place the court sits. A copy of the power of attorney may be used as evidence in a civil action under section 9307 of this title.

(c)(1) If a resident agent is removed, resigns, dies, or becomes disabled, the surety corporation shall appoint another agent as described in this section.

(2) Until an appointment is made under paragraph (1) of this subsection or during an absence of an agent from the district in

which the surety bond is given, service of process may be made on the clerk of the court in which a civil action against the corporation is brought. The official serving process on the clerk of the court—

(A) immediately shall mail a copy of the process to the corporation; and

(B) shall state in the official's return that the official served the process on the clerk of the court.

(3) A judgment or order of a court entered or made after service of process under this section is as valid as if the corporation were served in the judicial district of the court.

§ 9307. Civil actions and judgments against surety corporations

(a)(1) A surety corporation providing a surety bond under section 9304 of this title may be sued in a court of the United States having jurisdiction of civil actions on surety bonds in—

(A) the judicial district in which the surety bond was provided; or

(B) the district in which the principal office of the corporation is located.

(2) Under sections 9304-9308 of this title, a surety bond is deemed to be provided in the district—

(A) in which the principal office of the surety corporation is located;

(B) to which the surety bond is returnable;

(C) in which the surety bond is filed; and

(D) in which the person required to provide a surety bond resided when the bond was provided.

(b) In a proceeding against a surety corporation providing a surety bond under section 9304 of this title, the corporation may not deny its power to provide a surety bond or to assume liability.

§ 9308. Civil penalty

A surety corporation is liable to the United States Government for a civil penalty of at least \$500 but not more than \$5,000 for violating sections 9304, 9305, or 9306 of this title. A civil action under this section may be brought in a judicial district in which a civil action may be brought against the corporation under section 9307 of this title. A penalty imposed under this section does not affect the validity of a contract made by the surety corporation.

§ 9309. Priority of sureties

When a person required to provide a surety bond given to the United States Government is insolvent or dies having assets insufficient to pay debts, the surety, or the executor, administrator, or assignee of the surety paying the Government the amount due under the bond—

(1) has the same priority to amounts from the assets and estate of the person as are secured for the Government; and

(2) personally may bring a civil action under the bond to recover amounts paid under the bond.

CHAPTER 95—GOVERNMENT PENSION PLAN PROTECTION

Sec.

9501. Purpose.

9502. Definitions.

9503. Reports about Government pension plans.

9504. Review and recommendations.

§ 9501. Purpose

The purpose of this chapter is to protect the interests of the United States and of the participants and their beneficiaries in Government pension plans by requiring complete disclosure of the financial condition of those plans.

§ 9502. Definitions

In this chapter—

(1) "Government pension plan"—

(A) means a pension, annuity, retirement, or similar plan (except a plan covered under the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) or a plan or program financed by contributions required under chapter 21 or 22 of the Internal Revenue Code of 1954 (26 U.S.C. 3101 et seq., 3201 et seq.)) established or maintained by an agency, for any of its officers or employees, regardless of the number of participants covered by the plan; and

(B) includes—

(i) the Civil Service Retirement System.

(ii) the Coast Guard Retirement System.

(iii) the Commissioned Corps of the Public Health Service Retirement System.

(iv) the Farm Credit District Retirement Plans.

(v) the Federal Home Loan Bank Board Retirement Systems.

(vi) the Federal Home Loan Mortgage Corporation Plan.

(vii) the Federal Reserve Employees Retirement Plans.

(viii) the Foreign Service Retirement and Disability System.

(ix) judicial plans.

(x) the Military Retirement System.

(xi) the National Oceanic and Atmospheric Administration Retirement System.

(xii) nonappropriated fund plans.

(xiii) the Tennessee Valley Authority Retirement System.

(2) "plan year" means the calendar, policy, or fiscal year chosen by the Government pension plan on which the records of the plan are kept.

§ 9503. Reports about Government pension plans

(a) A Government pension plan is subject to section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) in the same way that an employee pension benefit plan is subject to section 103. However, section 103 applies to a Government pension plan for officers or employees of the Central Intelligence Agency only if the President specifically approves application of the requirements of section 103 in writing. In applying section 103 to a Government pension plan—

(1) the annual report shall be—

(A) in the form and include information the President, in consultation with the Comptroller General, prescribes or, if the pension plan is referred to in section 9502(1)(B) (iv)-(vii) or (ix) of this title, the Comptroller General prescribes; and

(B) submitted to Congress and to the Comptroller General by the end of the 210-day period beginning on the day after the last day of the plan year involved;

(2) a provision providing for waiver of, relief from, or exception to a requirement otherwise applicable to an employee pension benefit plan applies to a Government pension plan only if specifically authorized by the Comptroller General;

(3) section 104(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024(b)) does not apply;

(4) the report required by this chapter is in addition to other reports or projections required by law; and

(5) except for a Government pension plan referred to in section 9502(1)(B)(iv)-(vii) of this title, the Comptroller General shall conduct audits when appropriate instead of complying with the requirements for the independent qualified public accountant.

(b) This chapter does not prevent a Government pension plan from using the serv-

ices of an enrolled actuary employed by an agency administering the plan.

§ 9504. Review and recommendations

When necessary or when requested by either House of Congress or a committee of Congress, the Comptroller General shall—

(1) review financial and actuarial statements provided under section 9503 of this title to decide whether the reporting requirements of section 9503 are adequate to carry out section 9501 of this title; and

(2) submit to Congress recommendations for legislation necessary to carry out section 9501 of this title.

CHAPTER 97—MISCELLANEOUS

Sec.

9701. Fees and charges for Government services and things of value.

9702. Investment of trust funds.

§ 9701. Fees and charges for Government services and things of value

(a) It is the sense of Congress that each service or thing of value provided by an agency (except a mixed-ownership Government corporation) to a person (except a person on official business of the United States Government) is to be self-sustaining to the extent possible.

(b) The head of each agency (except a mixed-ownership Government corporation) may prescribe regulations establishing the charge for a service or thing of value provided by the agency. Regulations prescribed by the heads of executive agencies are subject to policies prescribed by the President and shall be as uniform as practicable. Each charge shall be—

(1) fair; and

(2) based on—

(A) the costs to the Government;

(B) the value of the service or thing to the recipient;

(C) public policy or interest served; and

(D) other relevant facts.

(c) This section does not affect a law of the United States—

(1) prohibiting the determination and collection of charges and the disposition of those charges; and

(2) prescribing bases for determining charges, but a charge may be redetermined under this section consistent with the prescribed bases.

§ 9702. Investment of trust funds

Except as required by a treaty of the United States, amounts held in trust by the United States Government (including annual interest earned on the amounts)—

(1) shall be invested in Government obligations; and

(2) shall earn interest at an annual rate of at least 5 percent.

CONFORMING PROVISIONS

SEC. 2. (a) Section 5316 of title 5, United States Code, is amended by adding at the end the following:

"Additional officers, Office of Management and Budget (6)."

(b) Title 10, United States Code, is amended as follows:

(1)(A) In sections 1479(2), 2206, 4592, and 5992, strike out "officer" and substitute "official".

(B) In section 2309(b), strike out "disbursing officer" and substitute "disbursing official".

(2)(A) Add immediately below item 1041 in the analysis of chapter 53 the following new item:

"1042. Copy of certificate of service."

(B) Add at the end of chapter 53 the following new section:

"§ 1042. Copy of certificate of service

"A fee for a copy of a certificate showing service in the armed forces may not be charged to—

"(1) a person discharged or released from the armed forces honorably or under honorable conditions;

"(2) the next of kin of the person; or

"(3) a legal representative of the person."

(3)(A) Add immediately below item 2360 in the analysis of chapter 139 the following new item:

"2361. Availability of appropriations."

(B) Add at the end of chapter 139 the following new section:

"§ 2361. Availability of appropriations

"Funds appropriated to the Department of Defense for research and development remain available for obligation for a period of two consecutive years."

(4)(A) Add immediately below item 2393 in the analysis of chapter 141 the following new items:

"2394. Availability of appropriations for military equipment and supplies and construction of military public works.

"2395. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries."

(B) Add at the end of chapter 141 the following new sections:

"§ 2394. Availability of appropriations for procurement of technical military equipment and supplies and construction of military public works

"Funds appropriated to the Department of Defense for the procurement of technical military equipment and supplies and the construction of military public works remain available until spent.

"§ 2395. Advances for payments for compliance with foreign laws, rent in foreign countries, tuition, and pay and supplies of armed forces of friendly foreign countries

"(a) An advance under an appropriation to the Department of Defense may be made to pay for—

"(1) compliance with laws and ministerial regulations of a foreign country;

"(2) rent in a foreign country for periods of time determined by local custom; and

"(3) tuition.

"(b)(1) Under regulations prescribed by the Secretary of Defense, or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy, an officer of an armed force of the United States accountable for public money may advance amounts to a disbursing official of a friendly foreign country or members of an armed force of a friendly foreign country for—

"(A) pay and allowances to members of the armed force of that country; and

"(B) necessary supplies and services.

"(2) An advance may be made under this subsection only if the President has made an agreement with the foreign country—

"(A) requiring reimbursement to the United States for amounts advanced;

"(B) requiring the appropriate authority of the country to advance amounts reciprocally to members of the armed forces of the United States; and

"(C) containing another provision the President considers necessary to carry out

this subsection and to safeguard the interests of the United States."

(5)(A) Add immediately below item 2635 in the analysis of chapter 157 the following new item:

"2636. Deductions from carriers because of loss or damage to material in transit."

(B) Add at the end of chapter 157 the following new section:

"§ 2636. Deductions from carriers because of loss or damage to material in transit

"An amount deducted from an amount due a carrier because of loss of or damage to material in transit for a military department shall be credited to the proper appropriation, account, or fund from which the same or similar material may be replaced."

(6)(A) Insert between items 2661 and 2662 in the analysis of chapter 159 the following new item:

"2661a. Appropriations for advance planning of military public works."

(B) Insert between sections 2661 and 2662 the following new section:

"§ 2661a. Appropriations for advance planning of military public works

"(a) There are authorized to be appropriated to the Department of Defense, to remain available until spent, funds for advance planning, construction design, and architectural services for—

"(1) military public works projects not otherwise authorized; and

"(2) construction management of projects funded by governments of foreign countries directly or through international organizations for which the armed forces of the United States are the sole or primary user.

"(b) The Secretary of Defense may not enter into a transaction for a military public works project for which estimated advance planning, construction design, and architectural services costs of at least \$225,000 will be funded under this section until after the expiration of 30 days from the date on which a report of the project and the estimated costs is submitted to the Committees on Armed Services of the Senate and the House of Representatives."

(7)(A) Amend item 2773 in the analysis of chapter 165 to read as follows:

"2773. Designation, powers, and accountability of deputy disbursing officials."

(B) Amend section 2773 to read as follows:

"§ 2773. Designation, powers, and accountability of deputy disbursing officials

"(a)(1) With the approval of a Secretary of a military department when the Secretary considers it necessary, a disbursing official of the military department may designate a deputy disbursing official—

"(A) to make payments as the agent of the disbursing official;

"(B) to sign checks drawn on disbursing accounts of the Secretary of the Treasury; and

"(C) to carry out other duties required under law.

"(2) The penalties for misconduct that apply to a disbursing official apply to a deputy disbursing official designated under this subsection.

"(b)(1) If a disbursing official of any military department dies, becomes disabled, or is separated from office, a deputy disbursing official may continue the accounts and payments in the name of the former disbursing official until the last day of the 2d month after the month in which the death, disability, or separation occurs. The accounts and

payments shall be allowed, audited, and settled as provided by law. The Secretary of the Treasury shall honor checks signed in the name of the former disbursing official in the same way as if the former disbursing official had continued in office.

"(2) The deputy disbursing official, and not the former disbursing official or the estate of the former disbursing official, is liable for the actions of the deputy disbursing official under this subsection."

(8)(A) Add immediately below item 2775 in the analysis of chapter 165 the following new items:

"2776. Use of receipts of public money for current expenditures.

"2777. Requisitions for advances and removal of charges outstanding in accounts of advances.

"2778. Accounts of the military departments.

"2779. Use of funds because of fluctuations in currency exchange rates of foreign countries."

(B) Add at the end of chapter 165 the following new sections:

"§ 2776. Use of receipts of public money for current expenditures

"Without deposit to the credit of the Secretary of the Treasury and without withdrawal on money requisitions, a disbursing official of the Department of Defense may use receipts of public money charged in the disbursing official's accounts (except receipts to be credited to river, harbor, and flood control appropriations) for current expenditures, with necessary bookkeeping adjustments being made.

"§ 2777. Requisitions for advances and removal of charges outstanding in accounts of advances

"(a) The Secretary of a military department may issue to a disbursing official or agent of the department a requisition for an advance of not more than the total appropriation for the department. The amount advanced shall be—

"(1) under an 'account of advances' for the department;

"(2) on a proper voucher;

"(3) only for obligations payable under specific appropriations;

"(4) charged to, and within the limits of, each specific appropriation; and

"(5) returned to the account of advances.

"(b) A charge outstanding in an account of advances of a military department shall be removed by crediting the account of advances of the department and deducting the amount of the charge from an appropriation made available for advances to the department when—

"(1) relief has been granted or may be granted later to a disbursing official or agent of the department operating under an account of advances and under a law having no provision for removing charges outstanding in an account of advances; or

"(2) the charge has been—

"(A) outstanding in the account of advances of the department for 2 complete fiscal years; and

"(B) certified by the head of the department to the Comptroller General as uncollectable.

"(c) Subsection (b) of this section does not affect the financial liability of a disbursing official or agent.

"§ 2778. Accounts of the military departments

"The Comptroller General shall—

"(1) maintain all accounts of—

"(A) receipts and expenditures of public money in the military departments; and

"(B) debts due the United States on moneys advanced for the department;

"(2) preserve settled accounts, vouchers, and certificates;

"(3) record all requisitions drawn by the Secretary of the department;

"(4) each year on the first Monday in November, report to the Secretary of the Treasury on the application of money appropriated for the military departments; and

"(5) report on the accounts of the military departments as the Secretary of the department requires.

"§ 2779. Use of funds because of fluctuations in currency exchange rates of foreign countries

"(a)(1) Funds transferred from the appropriation 'Foreign Currency Fluctuations, Defense' may be transferred back to the appropriation—

"(A) when the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; and

"(B) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay the obligations.

"(2) A transfer back to the Foreign Currency Fluctuations, Defense appropriation may not be made after the end of the 2d fiscal year after the fiscal year that the appropriation to which the funds were originally transferred is available for obligation.

"(b)(1) One hundred million dollars, plus \$25,000,000 from Family Housing, Defense, are appropriated to the Secretary of Defense, to remain available until spent. The appropriation is available only to provide funds to eliminate losses in military construction or expenses of family housing for the Department of Defense caused by fluctuations in currency exchange rates of foreign countries that changed after a budget request was submitted to Congress.

"(2) Funds provided under this subsection are merged with and are available for the same purpose and for the same time period as the appropriation to which they are applied. An authorization or limitation limiting the amount that may be obligated or spent is increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(3) An obligation payable in the currency of a foreign country may be recorded as an obligation based on exchange rates used in preparing a budget submission. A change reflecting fluctuations in the exchange rate may be recorded as a disbursement is made.

"(4) The Secretary each year shall report to Congress on funds made available under this subsection."

(9)(A) Add immediately below item 4540 in the analysis of chapter 433 the following new item:

"4541. Gratuitous services of officers of the Army Reserve."

(B) Add at the end of chapter 433 the following new section:

"§ 4541. Gratuitous services of officers of the Army Reserve

"The Secretary of the Army may accept the gratuitous services of officers of the Army Reserve in enrolling, organizing, and training members of the Army Reserve or the Reserve Officers' Training Corps, or in consulting on matters related to the armed forces."

(10)(A) Add immediately below item 4840 in the analysis of chapter 453 the following new items:

"4841. Payment of small amounts to public creditors.

"4842. Settlement of accounts of line officers."

(B) Add at the end of chapter 453 the following new sections:

"§ 4841. Payment of small amounts to public creditors

"When authorized by the Secretary of the Army, a disbursing official of Army subsistence funds may keep a limited amount of those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

"§ 4842. Settlement of accounts of line officers

"The Comptroller General shall settle the account of a line officer of the Army for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war."

(11)(A) Add immediately below item 7230 in the analysis of chapter 631 the following new item:

"7231. Accounting for expenditures for obtaining information."

(B) Add at the end of chapter 631 the following new section:

"§ 7231. Accounting for expenditures for obtaining information

"When the Secretary of the Navy decides that an expenditure by the Department of the Navy from an appropriation for obtaining information from anywhere in the world may be made public, the expenditure shall be accounted for specifically. When the Secretary decides that an expenditure should not be made public, the Secretary shall make a certificate on the amount of the expenditure. The certificate is a sufficient voucher for the amount stated to have been spent."

(12)(A) Add immediately below item 659 in the analysis of subtitle C the following new item:

"661. Accountability and responsibility..... 7861"

(B) Add at the end of subtitle C the following new chapter:

"CHAPTER 661—ACCOUNTABILITY AND RESPONSIBILITY

"Sec.

"7861. Accounts of paymasters of lost or captured public vessels.

"7862. Disbursements by order of commanding officer.

"§ 7861. Accounts of paymasters of lost or captured public vessels

"When settling the account of a paymaster of a lost or captured naval vessel, the Comptroller General in settling money accounts, and the Secretary of the Navy in settling property accounts, shall credit the account of the paymaster for the amount of provisions, clothing, small stores, and money for which the paymaster is charged that the Comptroller General or Secretary believes was lost inevitably because of the loss or capture. The paymaster is then free of liability for the provisions, clothing, small stores, and money.

"§ 7862. Disbursements by order of commanding officer

"When settling an account of a disbursing official, the Comptroller General shall allow disbursements of public moneys or disposal of public stores the disbursing official made under an order of a commanding officer when presented with satisfactory evidence that the order was made and that the money was paid or the stores disposed of as the order provided. The commanding officer is accountable for the disbursement or disposal."

(13)(A) Add immediately below item 9540 in the analysis of chapter 933 the following new item:

"9541. Gratuitous services of officers of the Air Force Reserve."

(B) Add at the end of chapter 933 the following new section:

"§ 9541. Gratuitous services of officers of the Air Force Reserve

"The Secretary of the Air Force may accept the gratuitous services of officers of the Air Force Reserve in enrolling, organizing, and training members of the Air Force Reserve or the Reserve Officers' Training Corps, or in consulting on matters related to the armed forces."

(14)(A) Add immediately below item 9840 in the analysis of chapter 953 the following new items:

"9841. Payment of small amounts to public creditors.

"9842. Settlement of accounts of line officers."

(B) Add at the end of chapter 953 the following new sections:

"§ 9841. Payment of small amounts to public creditors

"When authorized by the Secretary of the Air Force, a disbursing official of Air Force subsistence funds may keep a limited amount of those funds in the personal possession and at the risk of the disbursing official to pay small amounts to public creditors.

"§ 9842. Settlement of accounts of line officers

"The Comptroller General shall settle the account of a line officer of the Air Force for pay due the officer even if the officer cannot account for property entrusted to the officer or cannot make a monthly report or return, when the Comptroller General is satisfied that the inability to account for property or make a report or return was the result of the officer having been a prisoner, or of an accident or casualty of war."

(c) The first section of the Federal Reserve Act (12 U.S.C. 221) is amended by adding at the end the following new paragraph:

"The terms 'bonds and notes of the United States', 'bonds and notes of the Government of the United States', and 'bonds or notes of the United States' used in this Act shall be held to include certificates of indebtedness and Treasury bills issued under section 3104 of title 31."

(d) Title 18, United States Code, is amended as follows:

(1)(A) In the analysis of chapter 33, strike out item 714.

(B) Strike out section 714.

(2)(A) Insert at the beginning of section 3059 the designation "(a)(1)".

(B) Insert before the word "If" the designation "(2)".

(C) Add at the end of the section the following new subsection:

"(b) The Attorney General each year may spend not more than \$10,000 for services or information looking toward the apprehension of narcotic law violators who are fugitives from justice."

(3)(A) Insert between items 3150 and 3151 in the analysis of chapter 207 the following new item:

"3150a. Refund of forfeited bail."

(B) Insert between sections 3150 and 3151 the following new section:

"§ 3150a. Refund of forfeited bail

"Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the general fund of the Treasury and ordered remitted under the Federal Rules of Criminal Procedure."

(4)(A) Add immediately below item 4042 in the analysis of chapter 303 the following new item:

"4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons."

(B) Add at the end of chapter 303 the following new section:

"§ 4043. Acceptance of gifts and bequests to the Commissary Funds, Federal Prisons

"The Attorney General may accept gifts or bequests of money for credit to the 'Commissary Funds, Federal Prisons'. A gift or bequest under this section is a gift or bequest to or for the use of the United States under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.)."

(e) The Act of April 25, 1940 (22 U.S.C. 2668), is amended—

(1) by inserting at the beginning of the text of the Act the subsection designation "(a)"; and

(2) by adding at the end of the Act the following new subsections:

"(b) A charge outstanding in the 'State account of advances' shall be removed by crediting the account of advances and deducting the amount of the charge from an appropriation made available for advances to the Department of State when—

"(1) relief has been granted or may be granted later to a disbursing official or agent of the Department operating under the account of advances and under a law having no provision for removing charges outstanding in the account of advances; or

"(2) the charge has been—

"(A) outstanding in the account of advances for 2 complete fiscal years; and

"(B) certified by the Secretary of State to the Comptroller General as uncollectable.

"(c) Subsection (b) of this section does not affect the financial liability of a disbursing official or agent."

(f) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 7801(c), insert immediately after "in this section" the following: "or section 301(f) of title 31".

(2) In section 7802(b)—

(A) insert immediately before "There" the following:

"(1) Establishment of Office.—"

(B) Add at the end of section 7802(b) the following new paragraph:

"(2) Authorization of appropriations.—There is authorized to be appropriated to the Department of the Treasury to carry out the functions of the Office an amount equal to the sum of—

"(A) so much of the collections from taxes imposed under section 4940 (relating to excise tax based on investment income) as

would have been collected if the rate of tax under such section was 2 percent during the second preceding fiscal year; and

"(B) the greater of—

"(i) an amount equal to the amount described in paragraph (A); or

"(ii) \$30,000,000."

(g) Title 28, United States Code, is amended as follows:

(1)(A) In the analysis of chapter 31, strike out—

"524. Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs."

and substitute—

"524. Availability of appropriations."

(B) In the catchline of section 524, strike out—

"Appropriations for administrative expenses; notarial fees; meals and lodging of bailiffs"

and substitute—

"Availability of appropriations."

(C) Insert at the beginning of the text of section 524 the subsection designation "(a)".

(D) Add at the end of section 524 the following new subsection:

"(b) Except as provided in subsection (a) of this section, a claim of not more than \$500 for expenses related to litigation that is beyond the control of the Department may be paid out of appropriations currently available to the Department for expenses related to litigation when the Comptroller General settles the payment."

(2) Add at the end of section 571 the following new subsection:

"(d) Appropriations for salaries, expenses, and fees of marshals are available for advances with the approval of the Attorney General."

(3)(A) Insert between items 572 and 573 in the analysis of chapter 37 the following new item:

"572a. Depositing public moneys."

(B) Insert between sections 572 and 573 the following new section:

"§ 572a. Depositing public moneys

"Except for public moneys deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into a checking account in the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts."

(4)(A) In the analysis of chapter 129, strike out—

"2041. Deposit."

and substitute—

"2041. Deposit of moneys in pending or adjudicated cases."

(B) Add immediately below item 2042 in the analysis of the chapter the following new item:

"2043. Deposit of other moneys."

(C) In the catchline of section 2041, strike out—

"Deposit"

and substitute—

"Deposit of moneys in pending or adjudicated cases."

(D) In section 2042, insert the words—

(1) "under section 2041 of this title" immediately after "No money deposited" in the first paragraph; and

(ii) "under section 2041" immediately after "deposited in court" in the last paragraph.

(E) Add at the end of chapter 129 the following new section:

"§ 2043. Deposit of other moneys

"Except for public moneys deposited under section 2041 of this title, each clerk of the United States courts shall deposit public moneys that the clerk collects into a checking account in the Treasury, subject to disbursement by the clerk. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts."

(5) Effective on the later of October 1, 1982, or the date of enactment of this Act, amend section 2516(b) to read as follows:

"(b) Interest on a judgment against the United States affirmed by the Supreme Court after review on petition of the United States is paid at a rate equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for the last auction of fifty-two week United States Treasury bills settled immediately before the date of the judgment."

(h) Section 107 of title 32, United States Code, is amended by adding at the end the following new subsection:

"(c) The pay and allowances for the Chief of the National Guard Bureau and officers of the Army National Guard of the United States or the Air National Guard of the United States called to active duty under section 3496 or 8496 of title 10 shall be paid from appropriations for the pay of the Army National Guard or Air National Guard."

(i) Title 37, United States Code, is amended as follows:

(1) Add at the end of section 406 the following new subsection:

"(j) A member traveling under orders who is relieved from a duty station is entitled to transportation for his dependents, baggage, and household effects, regardless of the time the dependents, baggage, or household effects arrive at their destination. Appropriations of the Department of Defense available for travel or transportation that are current when the member is relieved may be used to pay for the transportation."

(2)(A) Add immediately below item 1011 in the analysis of chapter 19 the following new item:

"1012. Disbursement and accounting."

(B) Add at the end of chapter 19 the following new section:

"§ 1012. Disbursement and accounting

"Amounts appropriated under sections 206(a), (b), and (d), 301(f), 309, 402(b) (last sentence), and 1002 of this title for pay of enlisted members of the Army National Guard of the United States or the Air National Guard of the United States for attending regular periods of duty and instruction shall be disbursed and accounted for by the Secretary concerned. Disbursements shall be made for 3-month periods for units of the Army National Guard or Air National Guard under regulations prescribed by the Secretary concerned, and on payrolls prepared and authenticated under the regulations."

(j) Section 203 of title 38, United States Code, is amended—

(1) by inserting at the beginning of the text of the section the subsection designation "(a)"; and

(2) by adding at the end of the section the following new subsection:

"(b) An appropriation may be used for a settlement of more than \$1,000,000 on a construction contract only if the settlement is audited independently for reasonableness and appropriateness of expenditures and the settlement is not provided for specifically in an appropriation law."

(k) Section 409 of title 39, United States Code, is amended by adding at the end the following new subsection:

"(e) A judgment against the Government of the United States arising out of activities of the Postal Service shall be paid by the Postal Service out of any funds available to the Postal Service."

(l) Effective on the date prescribed by section 396(i) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 95 Stat. 441), the following sections of title 31 (enacted by section 1 of this Act), United States Code, are amended as follows:

(1) In section 9101(2), strike out—

"(K) the National Consumer Cooperative Bank."

(2) In sections 9107(c)(3) and 9108(d)(2), strike out "the National Consumer Cooperative Bank."

(m) Effective on the later of October 1, 1982, or the date of enactment of this Act—

(1) section 1961(b) of title 28, United States Code, as added by section 302(a)(3) of the Federal Courts Improvement Act of 1982 (Public Law 97-164; 96 Stat. 56), is amended by striking out "title 28, United States Code, and section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a)" and substituting "this title and section 1304(b)(1) of title 31";

(2) section 1304 of title 31 (as enacted by section 1 of this Act), United States Code, is amended—

(A) in subsection (b)(1)(A), by striking out the words "under section 2411(b) of title 28"; and

(B) in subsection (b)(1)(B), by striking out the words "Court of Claims" and substituting "Court of Appeals for the Federal Circuit or the United States Claims Court"; and

(3) sections 155, 160(11), and 302(c) and (d) of the Federal Courts Improvement Act of 1982 (Public Law 97-164, 96 Stat. 47, 48, 56) are repealed.

CONFORMING CROSS-REFERENCES

SEC. 3. (a) Title 5, United States Code, is amended as follows:

(1) In section 575(c)(13), strike out "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and substitute "section 1342 of title 31".

(2) In section 1205(j), strike out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substitute "section 1105 of title 31".

(3) In section 3102(b)(1)(C), strike out "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and substitute "section 1342 of title 31".

(4) In section 3109(a)(2), strike out "section 849 of title 31" and substitute "section 9104 of title 31".

(5) In section 3111(b), strike out "section 3679(b) of the Revised Statutes (31 U.S.C. 665(b))" and substitute "section 1342 of title 31".

(6) In section 3374(c)(2), strike out "section 638a of title 31" and substitute "sections 1343, 1344, and 1349(b) of title 31".

(7) In section 3381(d), strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(8) In section 4101(1)(C), strike out "sections 846-852 or 856-859 of title 31" and substitute "chapter 91 of title 31".

(9) In section 4109(a)(2), strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(10) In section 5307(a), strike out "section 665 of title 31" and substitute "sections 1341, 1342, and 1349-1351 and subchapter II of chapter 15 of title 31".

(11) In section 5349(b), strike out "section 180 of title 31" and substitute "section 5141 of title 31".

(12) In section 5514(b), strike out "section 581d of title 31" and substitute "section 3530(d) of title 31".

(13) In section 5545(a), strike out "section 180 of title 31" and substitute "section 5141 of title 31".

(14) In section 5721(5), strike out "section 849 of title 31" and substitute "section 9104 of title 31".

(15) In sections 5923(2) and 5924(4)(A), strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(16) In section 7903, strike out "section 849 of title 31" and substitute "section 9104 of title 31".

(17) In section 8147(c), strike out "section 856 of title 31" and "sections 841-869 of title 31" and substitute "section 9101(2) of title 31" and "chapter 91 of title 31", respectively.

(b) Title 10, United States Code, is amended as follows:

(1) In section 139(a), strike out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substitute "section 1105 of title 31".

(2) Strike out the last sentence of section 140a.

(3) In section 2127(b), strike out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substitute "section 3324(a) and (b) of title 31".

(4) In section 2205, strike out "the Act of March 4, 1915 (31 U.S.C. 686)" and substitute "sections 1535 and 1536 of title 31".

(5) In section 2212, strike out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substitute "section 1105 of title 31".

(6) In section 2388(c), strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(7) In section 2633(a), strike out "section 3678 of the Revised Statutes (31 U.S.C. 628)" and substitute "section 1301(a) of title 31".

(8) In section 6154, strike out "section 529 of title 31" and substitute "section 3324(a) and (b) of title 31".

(9) In section 7522(b), strike out "Section 3648 of the Revised Statutes (31 U.S.C. 529)" and substitute "Section 3324(a) and (b) of title 31".

(10) In section 7605, strike out "sections 3639 and 3651 of the Revised Statutes (31 U.S.C. 521 and 543)" and substitute "section 3302(a) of title 31".

(c) Sections 345 and 15345 of title 11, United States Code, are each amended by striking out "section 15 of title 6" and substituting "section 9303 of title 31".

(d) Section 659 of title 14, United States Code, is amended by striking out "section 1 of the Act of July 25, 1956, as amended (31 U.S.C. 701)" and substituting "section 1352(a) of title 31".

(e) Title 18, United States Code, is amended as follows:

(1) In section 1906, strike out "section 117(e) of the Accounting and Auditing Act of 1950" wherever it appears and substitute "section 714 of title 31".

(2) In section 4109(2), strike out "section 3648 of the revised statutes as amended (31 U.S.C. 529)" and substitute "section 3324(a) and (b) of title 31".

(3) In section 4204(b)(1), strike out "section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)" and substitute "section 3324(a) and (b) of title 31".

(4) In section 4204(b)(2), strike out "section 3679 of the Revised Statutes of the United States (31 U.S.C. 665(b))" and substitute "section 1342 of title 31".

(5) In section 4284(a), strike out "(31 U.S.C. 725s(22))" and substitute "in section 1321(a)(22) of title 31".

(f) The Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In sections 170(k)(7) and 2055(f)(6), strike out "section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)" and substitute "section 4043 of title 18, United States Code".

(2) In section 2055(f)(7), strike out "section 24 of the Second Liberty Bond Act (31 U.S.C. 757e)" and substitute "section 3113(e) of title 31, United States Code".

(3) In sections 5177(b)(1) and 5403(3), strike out "6 U.S.C. 15" and substitute "section 9303 of title 31, United States Code".

(4) In section 6103(i)(6)(A)(i), strike out "section 117 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 67)" and substitute "section 713 of title 31, United States Code".

(5) In section 6103(l)(4)(A)(ii), strike out "section 3 of the Act of July 7, 1884 (23 Stat. 258; 31 U.S.C. 1026)" and substitute "section 330 of title 31, United States Code".

(6) In section 6103(m)(2), strike out "section 3 of the Federal Claims Collection Act of 1966" and substitute "section 3711 of title 31, United States Code".

(7) In section 6326(6), strike out "R.S. 3466 (31 U.S.C. 191)" and substitute "section 3713(a) of title 31, United States Code".

(8) In section 6422(10), strike out "R.S. 3477 (31 U.S.C. 203)" and substitute "section 3727 of title 31, United States Code".

(9) In section 6422(11), strike out "the act of March 3, 1875, as amended by section 13 of the act of March 3, 1933 (31 U.S.C. 227)" and substitute "section 3728 of title 31, United States Code".

(10) In section 6901(a)(1)(B), strike out "section 3467 of the Revised Statutes (31 U.S.C. 192)" and substitute "section 3713(b) of title 31, United States Code".

(11) In section 7101(2), strike out "6 U.S.C. 15" and substitute "section 9303 of title 31, United States Code".

(12) In section 7123—
(A) strike out of subsection (a) the following:

"(a) Criminal penalties"; and

(B) strike out subsection (b).

(13) In section 7421(b)(2), strike out "section 3467 of the Revised Statutes (31 U.S.C. 192)" and substitute "section 3713(b) of title 31, United States Code".

(14) In section 7430(6), strike out "R.S. 3466 (31 U.S.C. 191)" and substitute "section 3713(a) of title 31, United States Code".

(15) In section 7485(b)(2), strike out "6 U.S.C. 15" and substitute "section 9303 of title 31, United States Code".

(g) Section 1828(b) of title 28, United States Code, is amended by striking out "section 501 of the Act of August 31, 1951 (ch. 376, title 5, 65 Stat. 290; 31 U.S.C. 483a)" and substituting "section 9701 of title 31".

(h) Title 32, United States Code, is amended as follows:

(1) In section 334(a), strike out "section 1302 of the Act of July 27, 1956 (31 U.S.C. 724a)" and substitute "section 1304 of title 31".

(2) In section 710(d), strike out "(31 U.S.C. 725(c)(22))".

(i) Section 42(b) of title 35, United States Code, is amended by striking out "the provisions of section 725e of title 31, United States Code, notwithstanding".

(j) Section 1006(h) of title 37, United States Code, is amended by striking out "section 3648 of the Revised Statutes (31 U.S.C. 529)" and substituting "section 3324(a) and (b) of title 31".

(k) Title 38, United States Code, is amended as follows:

(1) In section 620A(d)(1), strike out "the Act of March 4, 1915 (31 U.S.C. 686)" and substitute "sections 1535 and 1536 of title 31".

(2) In section 1632, strike out—

(A) "subsection (a) of section 725s of title 31" and substitute "section 1322(a) of title 31"; and

(B) "the last proviso of that subsection" and substitute "section 1322(a)".

(3) In section 1820(a)(6), strike out "section 3617, Revised Statutes (31 U.S.C. 484)" and substitute "section 3302(b) of title 31".

(4) In sections 3021(a) and 3109(a), strike out "sections 123-128 of title 31" and substitute "sections 3329 and 3330 of title 31".

(5) In section 3204, strike out "the last proviso of subsection (a) of section 725s of title 31" and substitute "section 1322(a) of title 31".

(6) In section 4118(g)(3), strike out "section 201 of the Budget and Accounting Act, 1921 (31 U.S.C. 11)" and substitute "section 1105 of title 31".

(7) In section 4142(f)(2), strike out "section 3648 of the Revised Statutes of the United States (31 U.S.C. 529)" and substitute "section 3324(a) and (b) of title 31".

(8) In the first sentence of section 4206, strike out "corporations by sections 841-869 of title 31," and substitute "corporations by chapter 91 of title 31".

(9) In sections 5202(d) and 5220(a), strike out "section 725s(a)(45) of title 31" and substitute "section 1321(a)(45) of title 31".

(1) Title 39, United States Code, is amended as follows:

(1) In section 2003(e)(1), strike out "section 665 of title 31" and substitute "subchapter II of chapter 15 of title 31".

(2) In section 2009, strike out "section 11 of title 31" and substitute "section 1105 of title 31".

(m) Title 44, United States Code, is amended as follows:

(1) In section 308(c)(1), strike out "section 244 of title 31" and substitute "section 3726 of title 31".

(2) In section 309(d), strike out "section 849 of title 31" and substitute "section 9104 of title 31".

(3) In section 3519, strike out "section 313 of the Budget and Accounting Act of 1921, as amended" and substitute "section 716 of title 31".

(n) Section 11706(f) of title 49, United States Code, is amended by striking out "section 244 of title 31" and substituting "section 3726 of title 31".

(o)(1) Rule XLIX of the Rules of the House of Representatives is amended as follows:

(A) In clause 2—

(i) strike out "the first sentence of section 21 of the Second Liberty Bond Act (31 U.S.C. 757b)" and substitute "section 3101(b) of title 31, United States Code"; and

(ii) strike out "section 21 of the Second Liberty Bond Act" and substitute "section 3101(b) of title 31".

(B) In clause (5)—

(i) strike out "the Second Liberty Bond Act" and substitute "chapter 31 of title 31, United States Code";

(ii) strike out "section 21 of such Act" and substitute "section 3101(b) of title 31"; and

(iii) strike out "the second sentence thereof" and substitute "section 3101(a) of title 31".

(2) This subsection—

(A) is enacted as an exercise of the rule-making power of the House of Representatives; and

(B) may be changed by the House at any time, in the same way, and to the same extent as any other rule of the House,

under the constitutional right of the House to change its rules.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 4. (a) Sections 1-3 of this Act restate, without substantive change, laws enacted before April 16, 1982, that were replaced by those sections. Those sections may not be construed as making a substantive change in the laws replaced. Laws enacted after April 15, 1982, that are inconsistent with this Act supersede this Act to the extent of the inconsistency.

(b) A reference to a law replaced by sections 1-3 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(c) An order, rule, or regulation in effect under a law replaced by sections 1-3 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(d) An action taken or an offense committed under a law replaced by sections 1-3 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline of the provision.

(f) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

SEC. 5. (a) The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1874				
Jan. 29	19		18	6
May 12	168		18	45
June 20	328	1 (4th par. under heading "Mint at Denver, Colorado"), 4, 5	18	97, 109
	343	6	18	124
June 22	419		18	202
June 23	455	1 (3d par. under heading "National Currency", par. immediately before heading "Smithsonian Institution")	18	206, 216
	476		18	275
1875				
Jan. 14	15		18	296
Feb. 18	80	1 (3d, 4th complete pars. on p. 317, 11th par. on p. 319)	18	317, 319
Mar. 3	129	1 (6th par. 3d sentence under heading "War Department")	18	359
	130	2 (pars. for the offices of the Auditors)	18	397
	149		18	481
1876				
June 30	156	5	19	64
July 22	P.R. 17	1 (words after last semicolon)	19	215
1877				
Feb. 27	69	(3d-9th, 11th, 13th complete pars. on p. 249)	19	249
Mar. 3	105	(provisos in par. under heading "Bureau of Engraving and Printing")	19	353
1878				
Feb. 28	20		20	25
May 31	146		20	87
June 8	170		20	102
June 19	312		20	167
	329	1 (1st, 2d sentences on p. 191, last par. under heading "Mint at Denver, Colorado", par. immediately before heading "Office of the Attorney-General")	20	191, 205

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1879				
Feb. 14	68	(2d par. words after 1st semicolon under heading "Bureau of Provisions and Clothing")	20	288
June 9	12		21	7
June 21	34	3 (last sentence words after semicolon)	21	30
Dec. 22	2		21	59
1881				
Feb. 1	33		21	322
Mar. 1	95		21	374
Mar. 3	133	2	21	457
1882				
May 26	190		22	97
June 22	236		22	108
July 12	290	12	22	165
Aug. 5	389	5	22	256
Aug. 7	433	1 (2d, 6th complete pars. on p. 312)	22	312
1883				
Mar. 3	143	(2d proviso on p. 616)	22	616
1884				
July 5	217	(last par.)	23	113
July 7	334	3 (proviso and sentence immediately after proviso under heading "War Department")	23	258
1885				
Feb. 16	123		23	306
1886				
Mar. 31	41		24	9
1887				
Mar. 3	362	(last par. under heading "Engraving and Printing")	24	515
	396	3	24	635
1889				
Mar. 2	411	1 (5th proviso under heading "Engraving and Printing", par. under heading "Vaults for Storage of Silver")	25	945, 955
1890				
June 30	640	(1st par. last sentence under heading "Bureau of Provisions and Clothing")	26	197
July 11	667	1 (1st par. under heading "Treasury Department")	26	236
July 14	708		26	289
Aug. 30	837	1 (3d proviso under heading "Pay"), 4	26	399, 413
Sept. 26	944		26	484
	945		26	485
Oct. 1	1256	9	26	646
1891				
Feb. 24	284	(par. under heading "Military Telegraph Lines")	26	779
Mar. 3	541	1 (1st par. words between 1st and 2d semicolons under heading "Auditor of the Treasury for the Post Office Department"), 3	26	920, 948
1892				
July 16	196	1 (par. immediately before heading "Third Auditor")	27	194
1893				
Feb. 27	168	(2d proviso on p. 479)	27	479
Nov. 1	8		28	4
1894				
Mar. 29	49		28	47
July 31	174	4, 5 (1st par.), 6, 7 (less par. amending § 456), 8-16, 19-27	28	205, 206, 207, 210
Aug. 13	281		28	278
Aug. 27	349	25	28	552
1895				
Mar. 2	177	4	28	807
	187	(1st par. under heading "Treasury Department")	28	844
1896				
May 28	252	1 (par. immediately before heading "Treasury Department"), 5	29	148, 179
June 8	373	(last par. under heading "Engraving and Printing")	29	275
June 11	420	1 (6th par. on p. 414)	29	414
1897				
Feb. 19	265	1 (2d par. under heading "Office of Comptroller of the Treasury")	29	550
Mar. 3	376		29	624
June 4	2	1 (4th proviso on p. 18, 1st par. under heading "Recoinage, Reissue, and Transportation of Minor Coins")	30	18, 27
1898				
Mar. 11	57		30	274
May 21	348		30	420
June 13	448	32, 34	30	466, 467
July 7	571	(7th par. under heading "Mints and Assay Offices")	30	661
1900				
Mar. 14	41	1, 3-8, 11, 14	31	45, 46, 48, 49
June 6	791	1 (proviso in par. under heading "Back Pay and Bounty")	31	637
1901				
Mar. 2	800		31	877
	803	(3d par. on p. 910)	31	910
Mar. 3	867		31	1446
1902				
May 27	887	(1st par. under heading "State Claims")	32	235
June 3	985	(last par.)	32	303
June 28	1301	1 (8th par. related to supplies for U.S. courts and judicial officers)	32	476
	1302	8 (words between 6th comma and proviso)	32	484

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1903				
Feb. 14	552	2	32	826
Mar. 3	1010	(par. under heading "Clothing and Small-Stores Fund")	32	1191
1904				
Mar. 18	716	1 (proviso on p. 109)	33	109
Apr. 13	1253	6	33	178
Apr. 28	1762	1 (proviso immediately before heading "Revenue-Cutter Service")	33	460
1905				
Mar. 3	1484	4	33	1257
Dec. 21	3	1	34	5
1906				
Feb. 27	510	3	34	48
Mar. 23	1129		34	84
Apr. 24	1861		34	132
May 26	2558		34	202
June 12	3078	(4th par. under heading "National Trophy and Medals for Rifle Contests")	34	258
June 19	3434		34	301
June 30	3914	3, 7-10	34	762, 763
1907				
Feb. 26	1635	1 (2d par. under heading "Treasury Department")	34	949
Mar. 2	2507	(par. immediately before heading "Board of Ordnance and Fortification")	34	1062
	2511	(proviso on p. 1166, proviso words before 1st semicolon under heading "Incidental Expenses")	34	1166, 1167
Mar. 4	2913	1, 2	34	1289
	2918	1 (1st par. under heading "Back Pay and Bounty", 3d par. under heading "United States Courts")	34	1356, 1360
1908				
May 18	173		35	164
May 26	198	1 (last par. on p. 295)	35	295
May 27	206	(last par. on p. 411, par. beginning on p. 415 amending 88 3646, 3647)	35	411, 415
May 30	223		35	474
1909				
Feb. 23	174		35	643
Mar. 3	252	(last par. beginning on p. 750)	35	750
	269	10	35	842
Mar. 4	297	1 (proviso on p. 866)	35	866
	299	7-9	35	1027
	314		35	1065
Aug. 5	6	39, 40	36	117
1910				
Feb. 4	25		36	192
Mar. 2	71		36	231
June 17	297	1 (par. immediately before heading "Office of the Supervising Architect")	36	487
June 25	384	7, 8	36	773
	385	(last par. on p. 776, 1st-3d pars. immediately before heading "Bureau of Navigation")	36	776, 792
1911				
Mar. 2	190		36	964
	195		36	1013
Mar. 3	209	(par. immediately before heading "Ordnance Department")	36	1056
Mar. 4	237	1 (last par. under heading "Office of Comptroller of the Treasury")	36	1190
	239	(2d proviso, 3d proviso 1st-24th words under heading "Contingent, Navy", last par. on p. 1279)	36	1267, 1279
	242	(par. immediately before heading "Board of Ordnance and Fortification")	36	1344
	267		36	1354
	268		36	1354
	285	1 (par. immediately before heading "Life-Saving Service")	36	1387
1912				
Aug. 23	350	1 (last par. under heading "Office of the Comptroller of the Treasury", last par. under heading "Assay Office at Salt Lake City, Utah", 2d par. under heading "Department of Justice"), 6, 7, 9	37	375, 384, 404, 414, 415
Aug. 24	355	1 (4th par. under heading "Engraving and Printing"), 7	37	430, 487
Aug. 26	408	1 (2d par. words before 1st proviso under heading "Treasury Department")	37	595
1913				
Mar. 2	93	(1st, 2d provisos on p. 710)	37	710
Mar. 4	141	2 (last sentence)	37	737
	142	4	37	790
June 23	3	3	38	75
Dec. 23	6	11(n), 26	38	251, 274
1914				
Apr. 27	72	(last proviso beginning on p. 363, par. immediately before heading "Ordnance Department")	38	363, 369
June 30	130	(par. immediately before heading "Bureau of Construction and Repair", 5th par. under heading "Increase of the Navy")	38	405, 413
July 6	136		38	454
July 16	141	1 (12th complete par. on p. 471), 5	38	471, 508
1915				
Mar. 4	142	10	38	1054
	143	1 (last proviso beginning on p. 1078, 3d proviso on p. 1080, 3d proviso on p. 1084)	38	1078, 1080, 1084
	147	4	38	1161
1916				
Mar. 21	52		39	37
June 3	134	124 (proviso)	39	216
June 12	142		39	225
July 1	209	1 (3d par. on p. 275, 2d par. on p. 277)	39	275, 277
Aug. 11	313	(last proviso on p. 491)	39	491
	314	(1st proviso on p. 504)	39	504
Aug. 29	417	(2d proviso under heading "Pay, Miscellaneous")	39	557
	418	1 (5th proviso on p. 622, 1st proviso on p. 635)	39	622, 635
Sept. 7	451	13 (proviso)	39	733
Sept. 8	464	1 (pars. under heading "United States Employees' Compensation Commission")	39	821

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Volume	Page
1917				
Mar. 3	159	400 (last proviso), 401	39	1003
	163	1 (1st par. under heading "Treasury Department")	39	1083
Apr. 24	4		40	35
May 12	12	(3d proviso on p. 72)	40	72
June 12	27	1 (4th par. under heading "Miscellaneous Objects, Treasury Department")	40	118
July 9	36		40	242
Sept. 24	56		40	288
Oct. 6	79	1 (1st par. under heading "Office of the Secretary")	40	347
1918				
Apr. 4	44		40	502
Apr. 23	63		40	535
June 1	91		40	594
July 1	114	(2d proviso under heading "Bureau of Ordnance")	40	721
July 9	142		40	844
	143	ch. III (1st par.), ch. XVIII (last par.)	40	878, 892
Sept. 24	176	2, 7	40	966, 967
Nov. 4	201	1 (last par. under heading "Post Office Department")	40	1035
Dec. 2	1		40	1051
1919				
Mar. 3	99	6	40	1309
	100		40	1309
Dec. 24	15		41	370
1920				
May 10	176		41	595
	177		41	595
May 12	182		41	597
May 21	194	7	41	613
May 29	214	1 (last par. under heading "Office of Comptroller of the Treasury", 1st-4th pars. under heading "Independent Treasury")	41	647, 654
June 5	240	(pars. under heading "Advances to Disbursing Officers")	41	975
1921				
Feb. 22	70	7	41	1144
Mar. 1	89	1 (2d par. under heading "Bureau of Supplies and Accounts", 2d par. on p. 1170)	41	1169, 1170
Mar. 3	124	1 (words after last semicolon under heading "Bureau of Engraving and Printing")	41	1271
Mar. 4	153		41	1363
	161	1 (1st par. under heading "Miscellaneous Objects, Treasury Department")	41	1374
May 27	14	403	42	17
June 10	18		42	20
June 16	23	1 (last par. last sentence under heading "Office of the Secretary")	42	36
July 12	44	1 (last par. words after 1st proviso under heading "Contingent, Bureau of Ordnance"), 3	42	128, 139
Nov. 23	136	1401, 1402	42	321
1922				
Feb. 2	45		42	362
Feb. 17	55	(related to appointment and duties of Deputy and Under Secretaries, vacancy in office of Secretary of the Treasury, 2d proviso and sentence after proviso on p. 388).	42	366, 367, 388
June 19	228		42	662
Sept. 22	427	7	42	1042
Dec. 28	17		42	1066
1923				
Jan. 3	22	(related to appointment and duties of Deputy and Under Secretaries, vacancy in office of Secretary of the Treasury, 2d par. under heading "Bureau of Engraving and Printing", 2d proviso and sentence after proviso on p. 1109).	42	1087, 1099, 1109
Jan. 24	38		42	1172
Feb. 13	71		42	1226
	72	(last par. under heading "General Accounting Office")	42	1231
Feb. 26	113		42	1287
Feb. 28	146		42	1325
Mar. 2	178	(1st complete par. on p. 1391)	42	1391
	179		42	1427
1924				
Mar. 17	58		43	23
Apr. 4	84	(related to appointment and duties of Deputy and Under Secretaries, vacancy in office of Secretary of the Treasury, 1st par. on p. 69, 2d proviso and sentence after proviso on p. 83).	43	64, 69, 83
May 28	203	(2d par. under heading "Fuel and Transportation")	43	195
Dec. 5	4	1 (5th par. under heading "Marshals, District Attorneys, Clerks, and Other Expenses of United States Courts")	43	687
1925				
Jan. 14	79	5, 6	43	749
Jan. 21	86		43	763
Jan. 22	87	(words before 1st proviso under heading "Office of the Secretary", 2d par. under heading "Division of Bookkeeping and Warrants", last proviso beginning on p. 781 and sentence after proviso).	43	764, 767, 781
Feb. 24	302		43	965
Mar. 3	482		43	1253
1926				
Feb. 26	27	1125, 1200	44	122, 125
Mar. 2	43	1 (last proviso and sentence after proviso on p. 154)	44	154
Apr. 15	146	101 (proviso on p. 267)	44	267
May 17	307		44	559
May 21	355	(1st, 2d complete pars. on p. 605)	44	605
June 22	650		44	761
July 3	775		44	888
1927				
Jan. 26	58	1 (last proviso and sentence after proviso on p. 1045)	44	1045
1928				
Mar. 7	135		45	198
Apr. 10	334		45	413
May 29	901	1(1), (6), (7), (10), (11), (17), (20), (21), (23), (58), (89), (106)	45	986, 987, 990, 992, 994
1929				
Feb. 20	274		45	1249
Mar. 2	483	(last proviso under heading "Maintenance, Bureau of Supplies and Accounts")	45	1461
June 17	26		46	19

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1930				
Apr. 11	131		46	154
June 12	470		46	580
June 17	497	522	46	739
1931				
Mar. 3	433		46	1506
1932				
June 30	314	501, 601, 602	47	415, 417
July 21	520	308	47	724
1933				
Mar. 3	212	1 (last par. on p. 1492), 13	47	1492, 1516
Mar. 9	1	3	48	2
May 12	25	43-45	48	51
June 5	48		48	113
June 15	82		48	149
1934				
Jan. 30	6	(less 2(b))	48	337
Mar. 15	70	1 (2d complete par. on p. 428)	48	428
May 9	265		48	679
May 10	277	512, 518	48	758, 760
May 14	286		48	776
May 26	355		48	807
June 21	695		48	1200
June 26	756	1, 6, 8, 11, 15-20, 22-27	48	1224, 1228, 1229, 1230, 1236
1935				
Feb. 2	4		49	19
Feb. 4	5		49	20
May 2	88		49	165
May 3	90		49	174
June 5	176		49	324
June 15	261	401(h)	49	378
June 17	271		49	387
Aug. 27	780		49	938
1936				
Feb. 13	67		49	1138
Mar. 18	149		49	1165
Mar. 20	159		49	1184
Mar. 31	164		49	1187
Apr. 13	212		49	1205
Apr. 24	245		49	1237
May 5	300		49	1257
	304		49	1259
May 6	331		49	1262
May 15	395		49	1274
	396		49	1275
	399		49	1276
	402		49	1277
	406		49	1352
May 28	466		49	1387
June 16	583		49	1522
	584		49	1523
	586		49	1524
June 24	760		49	1911
June 26	835		49	1972
	837		49	1973
1937				
Jan. 23	5		50	4
Apr. 27	140	1 (par. under heading "Clothing, Naval Reserve")	50	107
	143		50	119
May 14	180	1 (2d par. last proviso on p. 140)	50	140
June 24	377		50	306
June 28	384		50	322
July 8	444	8, 9	50	481
Aug. 14	631		50	647
1938				
Apr. 26	175	1 (par. under heading "Clothing, Naval Reserve")	52	235
May 26	285		52	447
1939				
Apr. 3	36	201	53	565
Apr. 26	103		53	624
May 10	119	4	53	738
May 25	149	1 (par. under heading "Clothing, Naval Reserve")	53	769
July 6	260		53	998
July 20	336		53	1071
Aug. 5	442		53	1209
Aug. 7	566	"Sec. 6"	53	1263
Aug. 10	665	4-7	53	1359
1940				
Mar. 25	71	101 (1st proviso on p. 59)	54	59
Apr. 30	175		54	175
June 25	419	302	54	526
Sept. 18	722	322	54	955
Oct. 9	779	(less 1 (related to § 3737))	54	1029
	788		54	1061
	796		54	1086
Oct. 14	875	4	54	1136

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1941				
Feb. 19	7		55	7
May 31	156	101 (last par. under heading "Bureau of the Public Debt")	55	216
June 21	213		55	255
June 30	265		55	395
Nov. 21	489		55	777
	499		55	781
Dec. 17	591	301 (next-to-last sentence before heading "Independent Agencies")	55	819
Dec. 26	629		55	862
Dec. 29	641		55	875
1942				
Feb. 20	95		56	94
Mar. 28	205		56	189
Apr. 28	247	301 (par. under heading "Executive Office of the President", 1st par. proviso under heading "Bureau of Accounts")	56	234, 244
June 1	320		56	306
July 2	472	505	56	506
July 20	507		56	661
July 25	524	101 (par. 2 under heading "Office for Emergency Management", par. under heading "Bureau of the Public Debt")	56	707, 720
Dec. 2	659		56	1028
Dec. 18	767		56	1064
Dec. 24	821		56	1086
1943				
Mar. 18	17	101 (last part. under heading "Bureau of the Mint")	57	32
Apr. 11	52		57	63
Apr. 29	76		57	68
June 15	125	(less 1(c), 3 (1st proviso))	57	152
June 26	150		57	219
July 1	185	1 (4th complete par. on p. 352, words after last semicolon in par. immediately before heading "Medical Department")	57	352, 357
July 3	189		57	372
July 12	223		57	520
	228	1 (last proviso on p. 530)	57	530
Dec. 23	377		57	608
1944				
June 9	240		58	272
June 27	286	101 (last par. on p. 371), 213	58	371, 387
June 28	301	1 (last proviso immediately before heading "Office of War Information")	58	539
	304	303	58	623
July 1	357		58	648
Dec. 13	552		58	800
Dec. 21	631		58	844
Dec. 23	716		58	921
	720		58	923
1945				
Apr. 3	51		59	47
May 3	106	214	59	134
May 29	135		59	225
June 12	186	4	59	238
July 17	319	1 (last proviso immediately before heading "Office of Inter-American Affairs")	59	476
July 31	339	7(a), 9	59	514, 516
Nov. 8	453	153	59	574
Dec. 3	515		59	592
Dec. 6	557		59	597
Dec. 28	597		59	662
1946				
Mar. 6	48		60	31
June 26	501		60	316
July 1	530	101 (par. immediately before heading "House of Representatives")	60	393
July 23	591	101 (proviso under heading "Office of Scientific Research and Development")	60	606
Aug. 2	744	11, 16, 17	60	809, 810
	753	205, 206, 424(a) (last par. on p. 846, 2d par. on p. 847), (b) (related to 2d par. of (a) on p. 847)	60	837, 846, 847
	756	25	60	856
Aug. 7	770	1(47), (48)	60	870
1947				
May 19	78		61	101
June 5	98		61	129
June 14	104		61	132
June 25	147		61	180
July 9	211	101 (4th par. on p. 282)	61	282
July 11	222		61	308
July 26	338		61	493
July 30	358	307	61	584
Aug. 1	438		61	717
	441		61	720
Aug. 4	455	3	61	730
1948				
June 3	400	101 (par. immediately before heading "International Activities")	62	308
June 19	510		62	488
	558	101 (words before proviso in par. under heading "Bureau of Internal Revenue"), 302 (last par.)	62	561
June 25	646	7	62	986
Aug. 10	832	501(b)	62	1283
1949				
June 10	187		63	167
June 30	285	13	63	356
	286	101 (pars. under headings "Refund of Moneys Erroneously Received and Covered", "Payments of Unclaimed Moneys")	63	358, 359
July 6	299		63	407
July 20	354	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	63	449
Aug. 24	506	309	63	662
Aug. 27	517	7(b)	63	668
Oct. 10	662	101 (par. under heading "General Provision—Department of Justice")	63	746

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Volume	Page	Statutes at Large
1950					
Feb. 9	6		64	5	
May 10	172		64	157	
	173		64	157	
May 17	188	203	64	170	
June 14	233		64	212	
	234		64	212	
June 28	383	402(m)	64	273	
Aug. 4	558		64	408	
Aug. 14	705		64	440	
Aug. 17	735	10(a)	64	462	
Sept. 6	896	101 (par. under heading "Emergencies in the Diplomatic and Consular Service"), 1210, 1211	64	610, 765	
Sept. 12	946		64	832	
Sept. 23	1010	6	64	986	
1951					
Mar. 26	19	1	65	26	
Apr. 24	35		65	32	
May 15	75	1 (related to § 1 related to § 3477)	65	41	
June 2	121	ch. XI (proviso immediately before heading "Independent Offices")	65	61	
Aug. 11	301	101 (proviso under heading "Bureau of Engraving and Printing")	65	184	
Aug. 31	376	501	65	290	
Sept. 28	434	504	65	364	
Oct. 22	533	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	65	577	
Oct. 25	562	1(17), 3(1)	65	638, 639	
Oct. 27	591		65	658	
Oct. 31	654	1(55), 2(19), 4(3)	65	703, 707, 709	
	655	56(g)	65	729	
Nov. 1	664	1307	65	756	
1952					
May 15	289	2	66	73	
June 27	477	403(a)(9)	66	279	
July 3	548		66	321	
July 5	578	101 (last par. under heading "General Accounting Office")	66	399	
July 9	600		66	479	
July 10	651	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	66	550	
July 15	758	1407, 1410, 1415	66	660, 661, 662	
1953					
June 16	115		67	61	
July 28	256		67	229	
July 31	300		67	296	
	302	101 (par. under heading "Bureau of the Budget")	67	299	
Aug. 1	303		67	317	
	305	604, 611, 621	67	349, 350, 353	
Aug. 5	328	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	67	368	
Aug. 7	340	1314	67	438	
1954					
Mar. 17	99		68	29	
May 13	201	6	68	95	
June 4	264	1	68	175	
June 24	359	101 (proviso under heading "General Accounting Office")	68	280	
June 30	427		68	336	
July 2	456	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	68	414	
July 15	509		68	482	
July 22	557		68	496	
Aug. 16	736	7801(b)	68A	915	
Aug. 23	840		68	774	
Aug. 26	935	1311	68	830	
Aug. 28	1035		68	890	
	1037		68	895	
Aug. 30	1076	1(18), (31)	68	967, 968	
1955					
June 1	113	101 (last proviso under heading "Bureau of the Public Debt"), 102	69	72, 76	
	119		69	82	
June 8	134		69	87	
June 28	189	12(c)(4), (c)(10)	69	180	
	198		69	188	
June 30	256		69	241	
July 7	279	101 (par. under heading "Emergencies in the Diplomatic and Consular Service")	69	265	
July 11	303		69	290	
July 13	358	602	69	314	
July 15	368	512	69	352	
Aug. 9	694		69	626	
Aug. 11	803		69	687	
1956					
June 7	376		70	255	
June 19	409		70	297	
June 20	414	101 (last complete par. on p. 300)	70	300	
June 25	442		70	336	
July 9	535		70	518	
	536		70	519	
July 25	727		70	647	
July 26	741	201(a)	70	667	
July 27	748	1302	70	694	
July 28	769		70	703	
Aug. 1	814		70	782	
	838		70	887	
Aug. 2	887	3, 4(a)(31), (33)	70	946, 948	
Aug. 10	1041	30, 31, 40, 45	70A	632, 636, 638	
1957					
Apr. 20	85-17		71	15	
June 5	85-48	210	71	55	
June 17	85-56	2202(38), (40)	71	163	
Aug. 28	85-170	1401	71	440	
	85-183		71	464	

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Volume	Page	Statutes at Large
1958					
Feb. 26	85-336		72	27	
May 27	85-426	213	72	143	
June 30	85-477	502(c)	72	272	
Aug. 23	85-726	1407	72	808	
Aug. 25	85-759		72	852	
Aug. 26	85-762		72	859	
Sept. 2	85-857	14(11)	72	1269	
	85-912		72	1758	
1959					
June 25	86-70	25, 26	73	147	
June 30	86-74		73	156	
July 8	86-79	210	73	167	
July 13	86-87		73	197	
Sept. 9	86-249	17(6)	73	484	
Sept. 22	86-346	101, 103, 105, 202	73	621, 622, 624	
	86-368	1 "Sec. 7801(b)"	73	648	
1960					
June 11	86-507	1(28), (29)	74	202	
June 29	86-533	1(25)	74	249	
June 30	86-564	1, 101	74	290	
1961					
June 27	87-58		75	119	
June 30	87-66	(less 8)	75	146	
	87-69		75	148	
July 20	87-91		75	211	
Aug. 30	87-187	3	75	416	
Oct. 4	87-353	3(u)	75	774	
1962					
Mar. 13	87-414		76	23	
July 1	87-512		76	124	
July 11	87-534		76	155	
Sept. 5	87-643		76	440	
Oct. 9	87-774		76	775	
Oct. 18	87-843	304 (1st par.)	76	1097	
1963					
May 29	88-30		77	50	
June 4	88-36	1, 2	77	54	
July 8	88-58		77	76	
Aug. 20	88-102		77	129	
Aug. 27	88-106		77	131	
Nov. 26	88-187		77	342	
1964					
June 29	88-327		78	225	
Aug. 14	88-426	203(a)-(c) (5th-14th words), (i), 305(39)	78	415, 427	
Aug. 20	88-454	105(a) (last par.)	78	551	
Aug. 30	88-518		78	688	
	88-521		78	700	
Aug. 31	88-558		78	767	
1965					
June 2	89-30	5	79	119	
June 24	89-49		79	172	
July 23	89-81	(less 211, 212)	79	254	
Aug. 28	89-145		79	582	
Sept. 9	89-175		79	672	
Sept. 15	89-185		79	789	
Oct. 19	89-265		79	989	
Oct. 21	89-283	601	79	1026	
1966					
May 20	89-427	5	80	161	
June 24	89-472		80	221	
June 29	89-473		80	221	
July 18	89-506	6	80	307	
July 19	89-508	(less 4)	80	308	
July 26	89-520		80	329	
Sept. 12	89-568	612	80	756	
Sept. 20	89-593	4	80	819	
Sept. 21	89-597	2(d)	80	824	
Oct. 15	89-677		80	955	
Nov. 8	89-800	5	80	1514	
Nov. 13	89-809	401, 402	80	1590	
1967					
Mar. 2	90-3		81	4	
May 25	90-19	4	81	20	
June 24	90-29		81	77	
June 30	90-39		81	99	
Aug. 9	90-62		81	165	
Dec. 16	90-206	219(1), (2)	81	639	
1968					
Jan. 2	90-240	5(f)	81	778	
Mar. 18	90-269	8-12	82	50	
June 28	90-364	202-205	82	271	
June 29	90-365		82	274	
Aug. 1	90-448	807(e), 1719(d)	82	544, 610	
Oct. 12	90-561		82	998	
Oct. 16	90-577	(less 501)	82	1098	
Oct. 17	90-595		82	1155	

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Statutes at Large	
			Volume	Page
1969				
Apr. 7	91-8		83	7
Sept. 29	91-74	102 (1st par.)	83	118
Dec. 1	91-130		83	272
Dec. 29	91-170	111 (1st par.)	83	469
Dec. 30	91-175	501	83	825
1970				
June 30	91-301		84	368
July 8	91-311		84	412
July 23	91-350	1(c)	84	449
Aug. 12	91-375	6(f)	84	782
Aug. 24	91-388	3	84	830
Sept. 25	91-419		84	870
Sept. 26	91-423		84	879
Oct. 26	91-508	201-242	84	1118
	91-510	201-236	84	1167
Oct. 27	91-513	1101(a)(3), (6), 1102(n)(1)	84	1291, 1292, 1293
Oct. 30	91-518	804	84	1340
Dec. 30	91-599	41, 42	84	1659
Dec. 31	91-607	201-209	84	1768
	91-614	401	84	1846
1971				
Jan. 5	91-650	102	84	1930
Mar. 17	92-5	1-4	85	5
May 7	92-12	4, 5	85	37
May 27	92-19		85	74
Aug. 13	92-117		85	337
Oct. 11	92-136	4, 8	85	377, 378
Nov. 17	92-156	201(b)	85	424
Dec. 10	92-178	802(b)(1)	85	573
Dec. 15	92-190		85	646
1972				
Mar. 15	92-250		86	63
Mar. 31	92-268		86	116
May 18	92-302	1, 3	86	148, 149
June 6	92-310	101-104, 231(a)-(u), (w)-(y), (bb)-(gg), 250, 260	86	201, 202, 209, 211, 212, 215
July 1	92-336	1	86	406
July 13	92-352	106	86	491
Aug. 7	92-366		86	506
Oct. 18	92-500	12(p)	86	902
Oct. 20	92-512	101-143, 145	86	919
Oct. 25	92-550		86	1163
Oct. 27	92-578	15	86	1274
	92-599		86	1324
1973				
Mar. 8	93-9		87	7
July 1	93-52	111	87	134
	93-53	1-3	87	134
Sept. 21	93-110		87	352
Oct. 18	93-127		87	455
Dec. 3	93-173		87	691
Dec. 24	93-198	731, 735, 736	87	822, 823
1974				
Jan. 2	93-236	202(g)(1), 301(f) (last sentence)	87	992, 1005
Jan. 3	93-245	301	87	1072
Mar. 2	93-250		88	11
May 22	93-288	414(c)	88	158
June 30	93-325		88	285
July 12	93-344	501-504, 601-605, 607, 702, 801, 802, 1002, 1003	88	321, 323, 325, 326, 327, 332
Aug. 14	93-373	2	88	445
Aug. 22	93-383	108(i), 117(a)	88	649, 653
Sept. 2	93-406	1052, 4002(g)(3)	88	952, 1005
Oct. 11	93-441		88	1261
Oct. 18	93-455		88	1381
Dec. 5	93-510		88	1604
Dec. 22	93-534		88	1731
	93-539		88	1738
Dec. 26	93-541	4, 5	88	1739
Dec. 27	93-552	607	88	1763
1975				
Jan. 2	93-604	1-601, 703, 801, 802	88	1959, 1964, 1965
Jan. 3	93-618	175(a)(2)	88	2011
Feb. 19	94-3		89	5
June 30	94-47		89	246
July 19	94-57		89	265
July 25	94-59	1108	89	300
Aug. 9	94-82	204(b) "Sec. 203(a), (b), (c) (5th-14th words)"	89	421
Nov. 14	94-132		89	693
Dec. 9	94-143		89	797
Dec. 18	94-157	109	89	831
1976				
Feb. 5	94-210	311, 612(b)	90	60, 108
Mar. 15	94-232		90	217
Apr. 21	94-273	1, 2(16), (17), 5(4), 8(1), 12(2), 45	90	375, 377, 378, 382
	94-274	206	90	395
June 1	94-303	118(b)(2)	90	616
June 30	94-334		90	793
July 8	94-348	3(e)	90	818
Oct. 4	94-455	1906(b)(13)(B) "Sec. 7801(b)"	90	1834
Oct. 13	94-488		90	2341
Oct. 15	94-502	407	90	2397
Oct. 19	94-564	6, 7, 8	90	2661
Oct. 20	94-565		90	2662

Schedule of Laws Repealed—Continued

Date	Chapter or Public Law	Section	Volume	Page
1977				
May 4	95-26	101 (proviso under heading "Office of Management and Budget"). (2d par. under heading "Claims and Judgments")	91	94, 96
July 31	95-81	100 (par. under heading "Bureau of Engraving and Printing")	91	342
Oct. 4	95-120		91	1090
Oct. 7	95-125		91	1104
Oct. 28	95-147	1, 4(b), (c)	91	1227, 1229
Nov. 9	95-164	305	91	1322
Dec. 28	95-220		91	1615
1978				
Feb. 3	95-224		92	3
Mar. 7	95-240	201	92	116
Mar. 27	95-250	106	92	171
July 21	95-320	1, 2	92	391
Aug. 3	95-333		92	419
Aug. 20	95-351	301	92	513
Sept. 8	95-355	303	92	563
Sept. 17	95-367	5(g)(2)	92	603
Sept. 22	95-380		92	725
Oct. 10	95-435	7	92	1053
	95-447		92	1072
Oct. 13	95-454	901	92	1223
Oct. 17	95-469	1(a)(4), 3	92	1321
Oct. 25	95-512		92	1799
Nov. 1	95-563	14(c)	92	2390
Nov. 2	95-582	1	92	2479
Nov. 4	95-595		92	2541
Nov. 6	95-598	322(a)-(f)	92	2678
Nov. 8	95-612	(less 4)	92	3091
Nov. 10	95-630	1010, 1805	92	3696, 3724
1979				
Apr. 2	96-5		93	8
July 25	96-38	100 (last par. under heading "General Provisions")	93	100
Aug. 8	96-47		93	344
Sept. 29	96-78	(less 201)	93	589
Nov. 30	96-130	100 (par. under heading "Foreign Currency Fluctuation, Construction, Defense")	93	1019
1980				
Feb. 15	96-191	(less 8(a), (b), (c)(2)-(e)(2), (g))	94	27
Apr. 3	96-226	101-104	94	311
June 6	96-264	1	94	439
June 28	96-286		94	598
July 8	96-304	307	94	928
Oct. 3	96-377		94	1512
Oct. 7	96-389	3	94	1553
Oct. 9	96-400	323(b), (c)	94	1699
Oct. 13	96-436	126	94	1869
Oct. 17	96-465	2206(f)	94	2163
Dec. 11	96-511	3(a)	94	2825
Dec. 12	96-514	309(b), (c)	94	2984
	96-519		94	3031
Dec. 15	96-528	616	94	3117
Dec. 16	96-534		94	3164
Dec. 19	96-556		94	3261
Dec. 23	96-586	2(i)	94	3383
Dec. 24	96-595	2	94	3465
Dec. 28	96-604		94	3516
1981				
Feb. 7	97-2		95	4
Aug. 6	97-31	12(11)	95	154
Aug. 13	97-35	382, 396(h)(1)-(3), 1741-1745	95	432, 440, 762
Sept. 30	97-48		95	955
Dec. 23	97-99	902, 912(a)	95	1381, 1387
	97-102	318	95	1461
	97-104		95	1491
Dec. 29	97-136	11	95	1707
1982				
Apr. 1	97-162		96	23

Revised Statutes

Revised Statutes—Continued

Revised Statutes—Continued

Section	Section	Section
176	312	3585
193	318	3587-3591
233	343	3593
234	345	3613
236	372	3615-3627
237	376	3629-3646
239-241	1776	3648
243-246	3466-3468	3649
248	3470-3472	3651-3653
251 (words after "Treasury" and before "shall prescribe forms of entries")	3475-3481	3659
254	3490-3492	3670
257	3494-3496	3672
261	3503	3673
266	3505-3512	3675
267	3514-3549	3676
274	3551-3555	3678
277	3558	3679
278	3562	3681
280-285	3563	3685
291	3566-3568	3689
295-298	3571	3692
301	3576-3578	3693
304	3580	3698-3701
305	3581	3706
	3584	3707

United States Code

Title	Section
6.....	
28.....	605 (last par.)

Reorganization Plans

Year	Plan No.	Section	Statutes at Large	
			Volume	Page
1939.....	1	1-3.....	53	1423
	2	2.....	53	1432
1940.....	3	1, 2.....	54	1231
	4	3, 4.....	54	1234
1947.....	1	201.....	61	951
1950.....	26	64	1280
1952.....	1	2(b).....	66	823
1970.....	2	102, 103.....	84	2085

Executive Orders

Date	Order No.	Section
June 10.....	1933	6166 4
May 29.....	1934	6728

The SPEAKER. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered. There was no objection.

The SPEAKER. The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6128, as amended, restates certain money and finance laws without substantive change and enacts those laws as title 31 of the United States Code. The bill is a part of the legislative requirement of the Office of the Law Revision Counsel under section 285b of title 2, United States Code, to prepare a proposed codification of those titles of the United States Code that have not been enacted into positive law.

Earlier drafts of H.R. 6128, as amended, and of a proposed report to accompany the bill were circulated to obtain comments from interested Government agencies and members of the public.

Amendments are made to the bill of a further technical and clarifying nature. The Law Revision Counsel is satisfied that H.R. 6128, as amended, is an accurate restatement of existing law without substantive change.

In explanation of the clarifying and technical amendments, the following are offered as substitutions in House Report No. 97-651:

The explanation for section 701 should read as follows:

In clause (1), "agency" (which is defined for purposes of this title in section 101 to mean a department, agency, or instrumentality of the United States) is coextensive with and substituted for the term "department or establishment" which was defined in 31:11 as in part meaning "any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including any independent regulatory commission or board". This definition merely restates and continues, and does not in any way change or expand, the definition in 31:11. Under that definition, entities such as the Tennessee Valley Authority that have been interpreted to be outside the purview of the definition will continue to be outside the purview in the same manner and to the same extent that they were under 31:11. The word "includes the District of Columbia government" are used because of existing law but the inclusion of these words is not to be interpreted as construing the extent to which the District of Columbia Self-Government and Governmental Reorganizational Act (Pub. L. 93-198, 87 Stat. 774) supersedes the provisions codified in this title. The words "of the United States" are omitted as surplus. The text of 31:2 (2d-4th pars.) is omitted as unnecessary because of the restatement. The text of section 2 (3d par.) of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 20), is omitted as obsolete because of section 501 of the revised title.

The seventh paragraph in explanation of section 716 should read as follows:

In subsection (c)(1), the words "require by . . . the production of" are omitted as surplus. The words "person not in the United States Government" are substituted for "contractors, subcontractors, or other non-Federal persons" for consistency and to eliminate unnecessary words. The words "from whom access is sought", "in the case of service by certified or registered mail", and "post office" are omitted as surplus.

The explanation for section 1101 should read as follows:

In the section, a reference to 31:71 and 471 is omitted because the definitions in the section are not used in 31:71 and 471.

In clause (1), "agency" (which is defined for purposes of this title in section 101 to mean a department, agency, or instrumentality of the United States) is coextensive with and substituted for the term "department or establishment" which was defined in 31:11 as in part meaning "any executive department, independent commission, board, bureau, office, agency, or other establishment of the Government, including any independent regulatory commission or board". This definition merely restates and continues, and does not in any way change or expand, the definition in 31:11. Under that definition, entities such as the Tennessee Valley Authority that have been interpreted to be outside the purview of the definition will continue to be outside the purview in the same manner and to the same extent that they were under 31:11. The words "includes the District of Columbia government" are used because of existing law but the inclusion of these words is not to be interpreted as construing the extent to which the District of Columbia Self-Government and Governmental Reorganizational Act (Pub. L. 93-198, 87 Stat. 774) supersedes the provisions codified in this title. The words "of the United States" are omitted as surplus. The text of 31:2 (2d-4th pars.) is

omitted as unnecessary because of the restatement. The text of section 2 (3d par.) of the Budget and Accounting Act, 1921 (ch. 18, 42 Stat. 20), is omitted as obsolete because of section 501 of the revised title.

The second and third paragraphs in explanation of section 1108 should read as follows:

In subsection (b)(1), the word "President" is substituted for "Office" in 31:16 (last sentence) and "Office of Management and Budget" in 31:23 and 24(a) because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1979, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The word "prepare" is substituted for "prepare or cause to be prepared" in 31:22 to eliminate unnecessary words. The word "appropriations" is substituted for "regular, supplementary, or deficiency appropriations" in 31:22 and 24(a) to eliminate unnecessary words. The words "in each year" are omitted as surplus. The words "in the form prescribed by the President under this chapter and by the date established by the President" are substituted for "on or before a date which the President shall determine" in 31:23, and "as the President may determine in accordance with the provisions of section 11 of this title" and "in such manner and at such times as may be determined by the President" in 31:24, to eliminate unnecessary words and to provide a cross-reference to the authority of the President to prepare and submit budgets and appropriations request. The words "prepare the request for the executive agency to be included in the budget or changes in the budget or as deficiency or supplemental appropriations" are substituted for "cause such requests to be prepared as are necessary to enable him to include such requests with the Budget in respect to the work of such department or establishment" in 31:23 for clarity and because of the restatement. The word "change" is substituted for "assemble, correlate, revise, reduce, or increase" in 31:16 (last sentence) to eliminate unnecessary words. The words "The head of the executive agency shall use" are substituted for "shall be used by all departments and establishments and their subordinate units" and "shall be made on the basis of" in 31:24 as being more precise. The word "operation" is omitted as being included in "administer". The word "amounts" is substituted for "funds" for consistency in the revised title. The word "divide" is substituted for "administrative subdivisions" because of the restatement.

In subsection (b)(2), the words "deficiency or supplemental appropriations" are substituted for "subsequent appropriations" for consistency. The words "the Office of Management and Budget" are omitted because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words "the executive agency" are substituted for "by such department or establishment, or by any organization unit thereof" to eliminate unnecessary words.

The first paragraph in explanation of section 1511 should read as follows:

In subsection (a)(1), the words "appropriated amounts" are substituted for "appropriations" for clarity. In clause (3), the word "make" is substituted for "create" as

being more precise. The text of 31:665(d)(2) (5th sentence) is omitted as unnecessary because of section 102 of the revised title.

The second paragraph in explanation of section 3713 should read as follows:

In subsection (a)(1), before clause (A), the word "paid" is substituted for "satisfied" for consistency. In clause (A)(i), the words "and the priority established shall extend as well to cases in which" are omitted because of the restatement. In clause (A)(ii), the word "property" is substituted for "estate and effects" to eliminate unnecessary words. The words "absconding, concealed, or" and "by process of law" are omitted as surplus.

The explanation for section 3729 should read as follows:

In the section, before clause (1), the words "a member of an armed force of the United States" are substituted for "in the military or naval forces of the United States, or in the militia called into or actually employed in the service of the United States" and "military or naval service" for consistency with title 10. The words "is liable" are substituted for "shall forfeit and pay" for consistency. The words "civil action" are substituted for "suit" for consistency in the revised title and with other titles of the United States Code. The words "and such forfeiture and damages shall be sued for in the same suit" are omitted as unnecessary because of rules 8 and 10 of the Federal Rules of Civil Procedure (28 App. U.S.C.). In clauses (1)-(3), the words "false or fraudulent" are substituted for "false, fictitious, or fraudulent" and "Fraudulent or fictitious" to eliminate unnecessary words and for consistency. In clause (1), the words "presents, or causes to be presented" are substituted for "shall make or cause to be made, or present or cause to be presented" for clarity and consistency and to eliminate unnecessary words. The words "officer or employee of the Government or a member of an armed force" are substituted for "officer in the civil, military, or naval service of the United States" for consistency in the revised title and with other titles of the Code. The words "upon or against the Government of the United States, or any department or officer thereof" are omitted as surplus. In clause (2), the word "knowingly" is substituted for "knowing the same to contain any fraudulent or fictitious statement or entry" to eliminate unnecessary words. The words "record or statement" are substituted for "bill receipt, voucher, roll, account, claim, certificate, affidavit, or deposition" for consistency in the revised title and with other titles of the Code. In clause (3), the words "conspires to" are substituted for "enters into any agreement, combination, or conspiracy" to eliminate unnecessary words. The words "of the United States, or any department or officer thereof" are omitted as surplus. In clause (4), the words "charge", "or other", and "to any other person having authority to receive the same" are omitted as surplus. In clause (5), the words "document certifying receipt" are substituted for "certificate, voucher, receipt, or other paper certifying the receipt" to eliminate unnecessary words. The words "arms, ammunition, provisions clothing, or other", "to any other person", and "the truth of" are omitted as surplus. In clause (6), the words "arms, equipments, ammunition, clothes, military stores, or other" are omitted as surplus. The words "member of an armed force" are substituted for "soldier, officer, sailor, or other person called into or employed in the mili-

tary or naval service" for consistency with title 10. The words "such soldier, sailor, officer, or other person" are omitted as surplus.

The second and third paragraphs in explanation of section 3730 should read as follows:

In subsection (a) the words "Attorney General" are substituted for "several district attorneys of the United States [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646 62 Stat. 909)] for the respective districts, for the District of Columbia, and for the several Territories" because of 28:509. The words "by persons liable to such suit" are omitted as surplus. The words "and found within their respective districts or Territories" are omitted because of the restatement. The words "If the Attorney General finds that a person has violated or is violating section 3729, the Attorney General may bring a civil action under this section against the person" are substituted for "and to cause them to be proceeded against in due form of law for the recovery of such forfeiture and damages" for clarity and consistency. The words "as the district judge may order" are omitted as surplus. The words "of the Attorney General" are substituted for "the person bringing the suit" for consistency in the section.

In subsection (b)(1), the words "Except as hereinafter provided" are omitted as unnecessary. The words "for a violation of section 3729 of this title" are added because of the restatement. The words "and carried on", "several" and "full power and" are omitted as surplus. The words "of the action" are substituted for "to hear, try, and determine such suit" to eliminate unnecessary words. The words "Trial is in the judicial district within whose jurisdictional limits the person charged with a violation is found or the violation occurs" are substituted for "within whose jurisdictional limits the person doing or committing such act shall be found, shall wheresoever such act may have been done or committed" for consistency in the revised title and with other titles of the Code. The words "withdrawn or" and "Judge of the" are omitted as surplus. The words "Attorney General" are substituted for "district attorney [subsequently changed to 'United States attorneys' because of section 1 of the Act of June 25, 1948 (ch. 646, 62 Stat. 909)], first filed in the case" because of 28:509.

The explanation for section 6307 should read as follows:

In clause (2), the word "exempt" is substituted for "except" for consistency.

The explanation for section 9103 should read as follows.

In subsection (a), the word "President" is substituted for "Office of Management and Budget" because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words "in a way, and before a date, the President prescribes by regulation for the budget program" are substituted for "under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented" to eliminate unnecessary words.

In subsection (b), before clause (1), the words "budget program" are substituted for

"budget program shall be a business-type budget, or plan of operation" for consistency and to eliminate unnecessary words. In clause (1), the words "actual" and "completed" are omitted as surplus. In clause (2), the words "as are necessary or desirable", "types of", "together with", and "funds" are omitted as surplus. In clause (3), the words "as authorized by law" are omitted as surplus.

In subsection (c), the words "as changed" are substituted for "as modified, amended, or revised" to eliminate unnecessary words. The word "submit" is substituted for "transmitted" for consistency. The word "annual" is omitted as surplus. The word "thereafter" is added for clarity. The text of 31:848 (last par.) is omitted as unnecessary.

The first paragraph in explanation of section 9104 should read as follows:

In subsection (a), the words "budget programs for wholly owned Government corporations" are substituted for "Budget programs" for clarity and consistency. The words "legislation . . . be enacted, as may be", "for expenditure", "corporate funds or other", "or limiting the use thereof", "as the Congress may determine", and "funds" are omitted as surplus.

The second paragraph in explanation of section 9108 should read as follows:

In subsection (a), before clause (1), the word "Before" is substituted for "which are" for clarity. The words "bonds, notes, debentures, and other similar" are omitted as surplus. The words "as have been" are omitted as executed. In clause (1), the words "terms and" are omitted as surplus. The restatement of the source provisions does not affect other existing laws.

The explanation for section 9109 should read as follows:

The word "President" is substituted for "Director of the Office of Management and Budget" because sections 101 and 102(a) of Reorganization Plan No. 2 of 1970 (eff. July 1, 1970, 84 Stat. 2085) designated the Bureau of the Budget as the Office of Management and Budget and transferred all functions of the Bureau to the President. The words "with the approval of the President" are omitted because of the restatement. The word "considers" is substituted for "deemed" for consistency. The words "in connection with the budget program of such corporation" are omitted as surplus. The words "submitted to Congress under section 1105 of this title" are added for clarity. The words "deemed to be" are substituted for "treated . . . as if it were" for consistency. The word "agency" is substituted for "Government agency" and "establishment" because of section 101 of the revised title and for consistency. The words "if it were", appropriations, expenditures, receipts, accounts, and other", and "in connection with the budget program for any fiscal year" are omitted as surplus. The words "deemed to be" are substituted for "regarded as" for consistency.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my colleague in supporting enactment of H.R. 6128, as amended, a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to money, finance, as title 31,

United States Code, "Money and Finance."

As the distinguished gentleman from Texas (Mr. SAM B. HALL, JR.) stated, this bill was prepared by the Office of the Law Revision Counsel of the House of Representatives. The Law Revision Counsel is required by law to restate in comprehensive form all statutes at large which have not yet formally been enacted as titles of the United States Code. Those requirements were imposed on the office in 1974 when the office was established by the House as an independent non-partisan office under the Speaker.

In H.R. 6128, all laws related to money and finance have been restated by replacing obsolete and awkward terms with simple language, and eliminating superseded, executed, and obsolete laws.

A number of earlier drafts of the bill were circulated and reviewed by interested Government agencies and members of the public. The Law Revision Counsel, the Department of the Treasury, the Office of Management and Budget, and the Comptroller General are satisfied the bill is an accurate restatement of existing law without substantive change. The Congressional Budget Office finds no additional cost will be incurred as a result of enactment.

I urge my colleagues to support H.R. 6128, as amended.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 6128, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, H.R. 6128, as amended, was passed.

A motion to reconsider was laid on the table.

SHY FLAT TABERNACLE CEMETERY, CHRISTIAN COUNTY, KY.

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6195) to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

The Clerk read as follows:

H.R. 6195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with respect to 1.52 acres of land in Christian

County, Kentucky, described in section 2 of this Act, the Secretary of Agriculture, on behalf of the United States, shall release the Commonwealth of Kentucky, without consideration, from the condition contained in a deed dated July 9, 1954, between the United States and the Commonwealth of Kentucky granting certain lands in Christian County, Kentucky, of which the described lands are a part, that requires that the lands so granted be used for public purposes and provides for a reversion of such land to the United States if at any time it ceases to be so used: *Provided*, That such release shall in no way affect the interests of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in the described lands: *Provided further*, That such release shall be applicable so long as the described lands are used exclusively for cemetery purposes.

SEC. 2. The 1.52 acre tract described in section 1 lies on the west side of Kentucky Highway numbered 109, touching the Tabernacle church and Cemetery on the west side, and is more particularly described as follows: Beginning at an iron pipe on the west side of an old road the same being the north east corner of the Tabernacle Cemetery property; thence, north 76 degrees and 30 minutes east, and in line with the north side of the above mentioned cemetery 237.90 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, in line with the right-of-way line of the highway south 54 degrees 45 minutes east 292.80 feet to an iron pipe in the right-of-way line in Kentucky Highway numbered 109; thence, south 78 degrees 00 minutes west and in line with the south side of the Tabernacle Cemetery property 384.60 feet to a concrete monument the same being the south east corner of the cemetery property; thence, north 25 degrees 30 minutes west and in line with the east side of said cemetery 211.03 feet to an iron pipe, the same being the place of the beginning.

The SPEAKER. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas (Mr. DE LA GARZA) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. FINDLEY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 6195 involves what may seem a small matter in comparison with most bills that come before the House. But it is a significant matter to members of a small church in Kentucky who need about 1½ acres of land to expand their church cemetery.

The 1.52 acres in question are part of larger conveyance granted to the Commonwealth of Kentucky by the United States in 1954 and which is now the Pennyroyal State Forest. The lands were granted under authority of section 32(c) of the Bankhead-Jones Farm Tenant Act of 1937. That section provides that lands acquired by the Federal Government under the act may be conveyed to public authorities

and agencies, but with the condition that they be used for public purposes, and that if they are not so used, they revert to the United States. The 1954 deed contains this "public purpose reversionary clause" and thus would prevent the State from conveying any land in the project to the cemetery corporation. The bill releases this clause for the 1.52-acre tract, but retains to the United States 75 percent of the mineral interests.

The Senate has passed identical legislation. Our committee ordered the bill reported by a recorded vote of 25 ayes to no nays. Adoption by the House will remove a rather technical obstacle and permit the Shy Flat Tabernacle Church to expand its cemetery.

□ 1215

Mr. FINDLEY. Mr. Speaker, there is no controversy whatsoever on this bill. It went through by unanimous vote in committee.

I urge support of my colleagues for the bill, and I have no further requests for time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FINDLEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA) that the House suspend the rules and pass the bill, H.R. 6195.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the Committee on Agriculture be discharged from further consideration of the Senate bill (S. 2154). To direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, with respect to 1.52 acres of land in Christian County, Kentucky, described in section 2 of this Act, the Secretary of Agriculture, on behalf of the United States, shall release the Commonwealth of Kentucky, without consideration, from the condition contained

in a deed dated July 9, 1954, between the United States and the Commonwealth of Kentucky granting certain lands in Christian County, Kentucky, of which the described lands so granted be used for public purposes and provides for a reversion of such land to the United States if at any time it ceases to be so used: *Provided*, That such release shall in no way affect the interests of the United States in coal, oil, gas, and other minerals (not outstanding or reserved in third parties) reserved by the United States in the described lands: *Provided further*, That such release shall be applicable so long as the described lands are used exclusively for cemetery purposes.

SEC. 2. The 1.52 acre tract described in section 1 lies on the west side of Kentucky Highway numbered 109, touching the Tabernacle Church and Cemetery on the west side, and is more particularly described as follows: Beginning at an iron pipe on the west side of an old road the same being the north east corner of the Tabernacle Cemetery property; thence, north 76 degrees and 30 minutes east, and in line with the north side of the above mentioned cemetery 237.90 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, in line with the right-of-way line of the highway south 54 degrees 45 minutes east 292.80 feet to an iron pipe in the right-of-way line of Kentucky Highway numbered 109; thence, south 78 degrees 00 minutes west and in line with the south side of the Tabernacle Cemetery property 384.60 feet to a concrete monument the same being the south east corner of the cemetery property; thence, north 25 degrees 30 minutes west and in line with the east side of said cemetery 211.03 feet to an iron pipe, the same being the place of the beginning.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6195) was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Georgia (Mr. BRINKLEY).

The motion was agreed to.

The SPEAKER. The Chair designates the gentleman from Kansas (Mr. GLICKMAN) as Chairman of the Committee of the Whole and requests the

gentleman from Texas (Mr. DE LA GARZA) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6214, with Mr. DE LA GARZA, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Georgia (Mr. BRINKLEY) will be recognized for 1 hour, and the gentleman from Virginia (Mr. WHITEHURST) will be recognized for 1 hour.

The Chair recognizes the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure to bring the military construction bill to the floor because it is a positive measure attuned to the needs of people. It is oriented to the human needs of our military population—where they live, where they work, and where they play.

Of the \$7.8 billion sought to be authorized, over \$1 billion is required for operations under the housing program. Of course, this includes utilities.

Another billion dollars plus is provided for maintenance. The total housing program accounts for over one-third of the total bill and deals with 363,498 units and contemplates 2,915 new units of housing.

Our subcommittee held 10 sessions on this one bill, and dealt with such innovative initiatives as joint or dual use of facilities; flexible barrier technology more commonly known as air bubble construction; and photovoltaics.

The following response was made to my inquiry about dual use functions in a single facility:

Each DOD dependents school has an important dual use. These American schools could almost be appropriately termed American Community Centers. They are the gathering place for the military and the families of the military. The facilities are frequently used not only for dependents school purposes but also for other activities. Examples are: military off-duty and dependents education classes, club and other activity meetings, gym activities and leagues, chapel services, Sunday school, choir practice, dancing, boy and girl scouts meetings, and movies. The DOD dependents schools are heavily used during the day and the evening.

Potential use of flexible barrier technology led to the deferral of several projects in anticipation of possible cost savings. The air bubble concept is chiefly used for warehouses, recreational and other group facilities. In Turkey where needs are more urgent than elsewhere, no deferrals were made.

An important provision in our bill, authored by Representative NICK MAVROULES, is intended to promote the use of photovoltaics and other renewable energy sources. This is a genuinely exciting area and I am glad to be part of this key undertaking.

Now for some details.

On May 4, by a 35 to 0 vote, the Committee on Armed Services approved H.R. 6214, a clean bill totaling \$7,508,014,000. This amount is \$355,251,000 below the requested amounts.

The Department of Defense originally requested new authority in the amount of \$7,811,164,000 for fiscal year 1983. Also, DOD submitted a fiscal year 1982 supplemental request in the amount of \$52,101,000. Combined the two requests total \$7,863,265,000. Rather than reporting the supplemental request as a separate bill, the committee considered it with the fiscal year 1983 request.

Because of severe budgetary constraints, a number of reductions were made and some projects were deleted that would otherwise be considered valid requirements. However, based upon overall priorities, the projects were deferred. At the same time, projects were added when it was determined by either testimony or supporting material that priority was great enough to warrant their inclusion in the bill.

Before turning to a discussion of some of the major items in the bill, I want to comment on two committee amendments. These amendments are technical in nature and are designed to clarify the committee's intention of conforming with the requirements of section 402(a) of the Budget Act. The two amendments simply make clear that section 606 and section 804 of the bill become effective October 1, 1982, the beginning of the new fiscal year. Further, section 804 is amended by making it subject to the availability of appropriations.

This section 804 is different from the Senate bill which carries that same section number. The Senate provision contains general authority to sell or exchange Defense real property. Our bill has no such provision and I am personally opposed to the Senate provision.

Briefly, some of the major items in the bill are: \$365.6 million for the rapid deployment force construction; \$977.2 million for European construction, including \$375 million for the NATO Infrastructure program; \$18.3 million of a binary munitions facility at Pine Bluff Arsenal, Ark.; \$103 million for the MX program; and \$2.9 billion for the military family housing program including \$200 million for the construction of 2,915 new units of housing, \$2.1 billion for the operation and upkeep of 363,498 units of housing

and \$169 million for the leasing of approximately 28,252 units.

Turning to the individual titles of the bill, the Department of the Army's requests in title I totaled some \$2.09 billion. The committee reduced the request by \$61.2 million; therefore, the new total is \$2.03 billion.

Included in the Army program is \$555.5 million for construction inside the United States.

For overseas Army construction, primarily in Europe, Korea, and in support of the Rapid Deployment Force (RDP), the committee approved \$320 million.

For title II, the Navy portion of the bill, the original request amounted to \$1.91 billion. Following committee consideration, the amount was raised to \$1.97 billion, an increase of some \$64 million.

Included in the Navy program is \$900.7 million for overseas construction inside the United States and \$220.8 million for overseas construction.

For title III, the Air Forces section of the bill, the Air Force requests totaled \$2.9 billion. The committee reduced the program by \$280.8 million; therefore, the new total is \$2.6 billion.

This authorization will provide \$1 billion for construction inside the United States and \$498.3 million for overseas construction.

Contained in the recommendation is \$103 million for the MX program. The committee reduced the original authorization request of \$207 million by \$104 million. The \$103 million authorization permits work to proceed on those facilities that would be basic to any basing mode and that reflect the current production schedule of the missile.

For title IV, Defense agencies, the total request was \$405,396,000. The committee is recommending \$297,466,000, a decrease of \$107,930,000 in the request amount.

Title V includes \$375 million for the NATO infrastructure program. The committee recommends the requested amount.

In title VI, administrative provisions, the committee extended cost variation authorities and certain project authorizations for items not yet executed.

In title VII, Guard and Reserve facilities, the committee approved \$232,858,000 which is \$30,658,000 above the requested authorization of \$202.2 million. The increased authorization will permit the Guard and Reserve forces to proceed with the program at the original request, and to build additional armories and undertake other projects which contribute to their readiness.

In title VIII, general provisions, the committee approved three fair market value land exchanges; approved a provision sponsored by Representative DAN DANIEL designed to provide for a

more effective programing and construction schedule of commissaries; and approved the Marvroules initiative on photovoltaics.

Mr. Chairman, this concludes my statement on H.R. 6214. Mr. TRIBLE, the ranking Republican member, and each and every member of the subcommittee gave yeomanship service and I commend them most warmly. I strongly urge my colleagues to support passage of this bill.

□ 1230

Mr. WHITEHURST. Mr. Chairman, I yield myself such time as I may expend.

Mr. Chairman, just let me make some general observations first. As all of us in this Chamber know, this is the last year of the congressional service of our distinguished leader, the gentleman from Georgia (Mr. JACK BRINKLEY). We view his leaving with great misgivings because he has always given splendid service in the Committee on Armed Services, and moreover, he has been particularly effective as the chairman of the Subcommittee on Military Installations and Facilities.

I have served with a number of colleagues of mine who have been chairmen of this subcommittee, and all have been most competent, but I must say that this year and the last year, with the gentleman from Georgia (Mr. BRINKLEY), have been particularly rewarding. We wish the gentleman Godspeed as he returns to his native State. We are certainly going to miss him as our leader on this subcommittee.

Mr. Chairman, I wish to join my good friend, the distinguished gentleman from Georgia (JACK BRINKLEY), in support of H.R. 6214, the Military Construction Authorization Act for fiscal year 1983. This is a very complex and important bill which touches every facet of our defense effort. It includes facilities to support our strategic weapons systems, contingency facilities for our Rapid Deployment Joint Task Force (RDJTF), and projects to upgrade the living and working conditions of our service personnel.

The Committee on Armed Services, faced with severe budget constraints, spent long hours in hearings searching for economies that would bring about savings without reducing readiness. Our task was to insure that all of the projects approved in the fiscal year 1983 program were essential to readiness of our strategic and conventional forces and would improve the poor living and working conditions of our military personnel not only at home but in Europe where many facilities are outmoded and beyond economic repair.

Tough choices had to be made. Therefore, I want to emphasize that the legislation before you today is \$335 million below the budget request submitted by the Department of De-

fense. It reflects the committee's belief that reduction in the Federal budget, defence included, must be implemented to lessen the budget deficit facing our country. Let me briefly comment on some of the painful reductions we were forced to make.

CONSTRUCTION IN EUROPE

Construction in Europe continues to constitute a major portion of the military construction program. The Defense Department requested \$1.165 billion to improve the readiness of U.S. and allied forces for fiscal year 1983. The request included \$375 million for the U.S. contribution to the NATO infrastructure program, representing a 27.4-percent share of this common funded effort by alliance members.

While the committee approved the amount requested for the U.S. contribution to the NATO Infrastructure Fund, it deferred some \$188 million in projects proposed in Europe. These included schools and family housing at two sites selected for initial deployment of the ground-launched cruise missile (GLCM). These funds were deferred pending the outcome of United States-Soviet negotiations on mutual reduction of intermediate range nuclear forces. We attempted to defer any expenditures on construction that might have to be abandoned because of possible policy changes by the United States or its allies. An additional \$44.3 million was deferred for construction of support facilities at a third GLCM site pending verification of approval by the host nation.

The committee further deferred \$56 million in projects at sites designated by the Army as part of its master re-stationing plan (MRP) until ongoing negotiations on cost-sharing with the Federal Republic of Germany (FRG) are complete. MRP would relocate three U.S. Army brigades into new facilities nearer the East German border thereby improving living and working conditions for our service personnel. The committee fully supports MRP but believes that the FRG as the host nation should fund the entire cost of the plan. The Department of Defense and the State Department have been urged to vigorously pursue complete negotiations that would result in a bilateral agreement providing for German participation in a satisfactory cost-sharing arrangement.

Despite the increase in construction expenditures, the backlog of requirements for construction in Europe continue to grow. These growing requirements cannot continue to be addressed solely through unilateral U.S. funding. We must aggressively seek alternative funding sources which rely more heavily on allied burden-sharing. In the light of the large commitment of United States resources to protect our interests and those of our European allies in Southwest Asia, the NATO

allies and particularly the German Government must expand their support of our mutual efforts in the defense of Europe.

RAPID DEPLOYMENT JOINT TASK FORCE

The committee cut \$131.8 million from the \$497.4 million requested for construction to support operations of the Rapid Deployment Joint Task Force (RDJTF) near the Persian Gulf and in the Indian Ocean. Included was a \$51.1 million reduction in the \$60.4 million request for construction on Oman pending Omani Government siting approval for projects previously authorized in fiscal year 1982. The \$64.9 million request for new facilities at Lajes Air Force Base in the Portuguese-owned Azores Islands was also denied because bilateral negotiations with Lisbon over U.S. rights to use the base have not been completed.

These actions by the committee do not represent a lack of support for the RDJTF. Rather, they reflect the judgment that the RDJTF construction program should be properly scoped and planned before authorization is requested.

Mr. Chairman, the committee is further concerned that the United States is bearing the total cost of the RDJTF construction program despite the fact that we are less dependent upon Persian Gulf oil than Western Europe or Japan. For this reason, we must continue to press for increased burden-sharing by our allies. The United States can no longer afford to foot the entire bill. Our allies must pay their fair share of the costs for our mutual defense.

MX CONSTRUCTION

As my colleague, Mr. BRINKLEY, has explained, the Air Force requested \$207 million to begin construction of various logistics, flight test, training, and support facilities which are required for the MX weapon system.

The committee, which supports the MX missile program and the expeditious selection of a permanent basing mode, reduction of a permanent basing mode, reduced the Air Force request by \$104 million. The \$103 million authorization approved will permit construction to go forward on those facilities that would be required regardless of the basing mode eventually selected.

COST-SAVING INITIATIVES

Mr. Chairman, given the state of the economy and the tight budget constraints facing us, I would like to touch briefly on some economic initiatives undertaken by the Armed Services Committee in the area of military construction and military family housing.

With the ever escalating costs in the military construction and family housing programs, the committee has been increasingly concerned with the lack of initiative on the part of the defense

establishment toward investigating modern construction technologies that may prove less costly than current practices.

In the fiscal year 1982 military construction act, the committee successfully initiated the use of manufactured housing in a 200-unit test project at the Army's National Training Center at Fort Irwin, Calif. As a result of opening the military family housing market to less costly alternatives to conventional construction, the bidding competition at Fort Irwin has been intense. The Army was able to realize a \$3.3 million savings on the site-built portion of the program and as a result has been able to program an additional 30 units of conventionally constructed housing at no additional cost to the Government.

In conjunction with the bill before you today, a number of selected overseas construction projects were deferred and the military services were authorized to undertake a comprehensive study of the possible use of flexible barrier technology, more commonly known as air bubble construction. This type of construction is being used by universities, elementary and secondary schools, and other public agencies throughout the United States. Based upon available information, it is less costly than permanent construction and offers the advantage of being relocatable. The triservice study should be completed and the finding submitted to the Armed Services Committee before the fiscal year 1984 military construction request is submitted to the Congress.

Again, we are hopeful that savings to the taxpayer will be generated by these committee initiatives.

Finally, Mr. Chairman, the military construction program for fiscal year 1983 is more reflective of the needs of the Department of Defense than has been the case in recent years. Due to a series of contributing factors, the Department of Defense physical plant is in an accelerating state of decline, often impairing our defense capability. Much of it is of World War II vintage which means that many facilities still in use are obsolete and have far exceeded their planned economic life. This condition, coupled with inconsistent funding support during the past several years, has produced a large backlog in both new construction and maintenance of existing structures. As a result, it has precluded optimum training, created lower morale, and has severely inhibited reenlistment efforts.

This situation must be turned around. I believe this bill will help do that. I, therefore, urge my colleagues to vote in favor of H.R. 6214 which meets the military services' needs and at the same time is fiscally responsible in that the total amount authorized is well below the administration's budget

request and also meets the requirements of the Budget Committee.

Mr. BRINKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, as a member of the Committee on Armed Services, I would also like to commend our colleague, the gentleman from Georgia (Mr. BRINKLEY), a member of the committee, for the tremendous work that he has done, and I would note simply that his responsibility as chairman of the Subcommittee on Military Installations and Facilities is extremely important to the defense of this Nation and to our allies.

I have been very much impressed with the gentleman's intellectual approach to his job and his deliberative way of doing things, and I wish my colleague the best. The leadership he has shown in the Committee on Armed Services is an example for all of us in our own careers. I would like to say, "Thanks a lot, JACK, for your service to America."

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman from California (Mr. HUNTER), very kindly for his remarks, and also I thank the gentleman from Virginia (Mr. WHITEHURST) very kindly for his remarks.

Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I rise in strong support of this bill.

Mr. Chairman, it is my intention to introduce an amendment to H.R. 6214, the Military Construction Authorization Act of 1983, that would permit the Air Force to begin a promising new pilot program in the area of military family housing.

This amendment would allow the Secretary of the Air Force to enter into contracts for the leasing of housing facilities for periods of up to 30 years and at no more than five separate locations. No more than 300 units could be leased at each location.

This would represent a novel, although certainly not radical, approach to providing military family housing and would explore the possibility of meeting our military family housing needs with greater speed, efficiency, and flexibility.

Most importantly, there is a great need for this kind of approach and there is a great need to move quickly, in view of severe shortages in housing for military families that we are now seeing occur.

For example, in the 17th District of Texas, at Dyess Air Force Base, the waiting list for military family housing runs as long as a year. The demand for family housing included, in May of

this year, the needs of 407 families with personnel of the ranks above E-4 and 448 of the ranks E-4 and below for a total shortfall of 855. Yet the occupancy rate of off-base apartments and mobile homes is 98 percent.

Out of adversity, however, ingenuity is often born. The officers at Dyess Air Force Base, along with officials from the city of Abilene and members of the Abilene Chamber of Commerce have worked together to form a planning committee and to propose that this badly needed family housing, 300 units in all, would be privately financed and would be leased, and later acquired, by the Air Force.

This is not an isolated situation and not an isolated suggestion. A similar situation exists at Eielson Air Force Base in Alaska and a proposal is being generated regarding that base, also, for the private financing of military family housing construction. This is an approach to providing housing in which the Department of the Air Force and the Department of Defense are acutely interested. DOD has commissioned a study of the private financing of military family housing in general and the Air Force is providing analysis and assistance in preparing these specific base proposals.

Generally, then, this amendment contemplates entering into an agreement with a developer to build housing units and to lease them to the Air Force over a number of years. Existing housing could be acquired on the same basis. Such leasing authority would be a novel approach, but not a radical one. Right now, for example, the military can enter into such long-term leasing arrangements overseas that last up to 10 years. This provision is very similar to the current law allowing overseas long-term housing leases, with longer terms allowed to obtain favorable financing.

I know there will be concern that a proposal such as this will add to off-budget spending in future years. I believe my views on off-budget spending are well-known: We are suffering today because of spending programs that were written into law that were open-ended, and provided for unpredictable levels of spending for indefinite periods of time. But there is a difference between writing a blank check and entering into a leasing contract where you know in advance exactly what your outlays will be. A long-term leasing proposal such as this one will not compromise our ability to plan future budgets. It will recognize, however, the immediate need to lower our deficits while still providing needed family housing that otherwise would not be built for several years down the line.

Moreover, this gives us a chance to encourage the interest and involvement of local communities in Federal programs. I know personally that

there is a close relationship between the city of Abilene and Dyess Air Force Base. Each is deeply interested in the future of the other and both are anxious to form the type of partnership this amendment would allow. To encourage this type of mutually beneficial working relationship between a local community and the Federal Government is to promote the New Federalism at its best.

I know there is concern that no hearings have been held on this topic, and that enacting this amendment now might be considered putting the cart before the horse. In response, I would emphasize: First, there is a great need to move as quickly as possible to provide the family housing our military personnel need; in some areas this is a crisis situation; second, this is only a pilot program, limited to five locations; this will give us the opportunity to have practical, empirical data on hand when we consider whether to make such a method of financing more widely available; third, there will be adequate mechanisms for review, that are already in place, when the Air Force considers specific proposals, when these are reported to appropriate congressional committees, and when appropriations for such specific programs are considered; this is, after all, only authorizing legislation; and fourth, possible legal barriers that would relate much more specifically to an individual project, such as the proposal to use tax-exempt bonds for the Dyess housing, can be dealt with better separately from this legislation and, in fact, are currently being pursued.

This amendment proposes a pilot program that first, answers an immediate need for new military family housing in some areas; second, allows us to test a flexible new approach to providing this housing in a prudent, limited manner; and third, is fiscally responsible.

● Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 6214, the Military Construction Authorization Act for fiscal year 1983. I want to commend the chairman and the committee for their work on this bill. At a time of competing national priorities, when we need to simultaneously limit spending while strengthening our national defense, the committee has done an outstanding job. This bill provides needed facilities for our national defense while carefully insuring fuller participation by our allies and the most efficient and cost effective methods of construction. The \$7.5 billion authorized in this bill, while below the amount requested by the administration, nonetheless represents a substantial sum of money, and it behooves us to insure that it is spent carefully. I think the committee has done an excellent job in that respect. As currently before us, the bill authorizes funds

for several important projects at bases associated with the 19th Congressional District of California, which I have the honor to represent. In particular, it includes needed funds for Space Shuttle facilities at Vandenberg Air Force Base, which will help keep that very successful program on track toward a needed Western launch facility a few years from now. Other items in the bill are equally vital to our national interest, and I urge my colleagues to support the committee and its work and pass this bill. ●

Mr. BRINKLEY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill shall be read under the 5-minute rule by title and each title shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

H.R. 6214

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Military Construction Authorization Act, 1983".

Mr. BRINKLEY. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. BRINKLEY), having assumed the chair, Mr. DE LA GARZA, Chairman pro tempore of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, had come to no resolution thereon.

RECONCILIATION LEGISLATION FROM AGRICULTURE COMMITTEE SCHEDULED FOR TOMORROW

(Mr. DE LA GARZA asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DE LA GARZA. Mr. Speaker, I take this time to advise the Members of the House that tomorrow morning, as the House convenes or shortly thereafter, the Committee on Agriculture will bring before the House reconciliation legislation. I am very happy to inform the Members that the Committee on Agriculture had been directed by the Committee on the Budget and by the action of the House to reduce by some \$779 million.

The committee has done an exceedingly good job, and we will come with a package which will save over \$1 billion of taxpayers' money. I do hope that the Members of the House will support the activities of the Committee on Agriculture.

We have endeavored very diligently, not only to carry out the direction of the House in its budget resolution, but to see at the same time that we do not destroy programs within the jurisdiction of the Department of Agriculture and the Committee on Agriculture. We have tried in a responsible way to maintain the programs, but yet, knowing of the need to reduce our expenditures, we have tried to do so in a way that would hurt the least number of people for the largest amount of savings and to reduce services to the least number of people for the largest amount of savings. We will be bringing that legislation up tomorrow shortly after the House convenes.

WILDERNESS PROTECTION ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Minnesota (Mr. OBERSTAR) as Chairman of the Committee of the Whole and requests the gentleman from Texas (Mr. DE LA GARZA) to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6542, with Mr. DE LA GARZA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Ohio (Mr. SEIBERLING) will be recognized for 30 minutes, and the gentleman from Alaska (Mr. YOUNG) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 6542, the Wilderness Protection Act of 1982. H.R. 6542 is a response to the threat posed to wilderness and wilderness candidate areas by other 1,000 applications for oil and gas and other mineral leases in existing wilderness areas, and an additional untold number of lease applications in areas that are under review for possible addition to the National Wilderness Preservation System. The bill protects existing wilderness by perma-

nently withdrawing it from mineral leasing and affords temporary protection to wilderness candidate areas. Time is of the essence in enacting this legislation because an existing moratorium on leasing in wilderness expires at the end of this current session of Congress. However, prior to discussing the merits of the legislation in detail, I believe it would be helpful to briefly describe the events which led us to the point we are at today.

When Congress passed the Wilderness Act in 1964, it did so with the intention of securing "for the American people of present and future generations the benefits of an enduring resource of wilderness." At the same time, a political compromise was reached in section 4(d)(3) of the Wilderness Act which allowed discretionary mineral leasing in wilderness until 1984 "to the same extent as applicable prior to the effective date of this act." At that time and prior to enactment of the Wilderness Act, it was Forest Service policy not to recommend approval of mineral lease applications in wilderness, wild and primitive areas except in the rarest of circumstances where directional drilling or other nonsurface-disturbing methods could be used to avoid "any invasion of the surface" of such areas. This policy remained in the Forest Service manual and was followed by every administration until this one.

On May 14, 1981, the longstanding policy against leasing was revised and both the Departments of Agriculture and the Interior now indicate that they interpret the law to deny them discretion to reject mineral lease applications solely on wilderness grounds. In addition, the Government has been considering applications to allow explosive seismic prospecting in wilderness. Interior Secretary James Watt has stated that this new interpretation of the law is likely to continue and has suggested that Congress amend the law if it wishes to clearly enunciate a policy against leasing in wilderness and wilderness candidate areas.

Just prior to and after the May 1981 policy change, a series of events gradually aroused public concern over the wilderness/leasing issue:

In early 1981 the Forest Service considered allowing seismic exploration involving the use of explosives in the Bob Marshall Wilderness complex in Montana. The public also learned that over 340 oil and gas lease applications were pending in the Bob Marshall complex.

On September 1, 1981, the Bureau of Land Management issued three leases in the Capitan Mountains Wilderness Area in New Mexico without completing an environmental impact statement, and without notice to the public or the Congress.

On October 5, 1981, the forest supervisor for the Ouachita National Forest

in Arkansas recommended leasing in a portion of the Caney Creek Wilderness without opportunity for public comment prior to making his decision. Interior Committee members subsequently received a letter from Senator BUMPERS requesting that we assist him in obtaining an emergency withdrawal of the area to prevent any leasing. The Senator also wrote Forest Service Chief Max Peterson to express his opposition to leasing.

On October 22, 1981, the Forest Service issued a draft environmental assessment recommending oil and gas leasing within the Ventana Wilderness on California's Big Sur coast, the Santa Lucia Wilderness, and the proposed Dick Smith Wilderness. This leasing was roundly condemned by numerous Members of the California congressional delegation, and the Big Sur area's Congressman, LEON PANETTA.

On November 13, 1981, the Forest Service issued a draft environmental impact statement recommending the leasing of 89,000 acres of Wyoming's Washakie Wilderness, despite concern expressed by the Wyoming Congressional delegation, and as I understand it, opposition from roughly 98 percent of the public that commented on the leasing proposal.

In January 1982 the existence of lease applications covering some 49,000 acres of the Alpine Lakes Wilderness in Washington State became public knowledge. Both the Governor of Washington and the entire congressional delegation responded to the overwhelming public sentiment against leasing by indicating their opposition to any leasing in the Alpine Lakes area.

Just 2 weeks ago the public became aware of oil and gas lease applications covering some 31,260 acres of the well-known and often photographed Maroon Bells-Snowmass Wilderness, which spans the extraordinarily spectacular high country between Aspen and Crested Butte, Colo. Oil and gas development in this area could have severe adverse impacts on the resident elk herd and on the existing heavy use of the area for hunting, fishing, and other primitive recreation.

Information supplied by the Forest Service reveals that there are currently over 1,000 applications pending for oil and gas leases covering more than 3 million acres of existing wilderness, and also numerous applications for geothermal and other minerals leasing. It appears that the 1981 policy change has sparked interest in leasing in wilderness, with new lease applications being filed constantly. Unless Congress acts to ban leasing, it seems likely that lease issuance could begin on a nationwide basis shortly after the expiration of the current moratorium at the end of this year. Indeed, the

Forest Service estimates that absent a leasing ban, \$1 million will be spent just to process lease applications in wilderness areas in fiscal year 1983 alone.

In response to this threat, and in order to give Congress time to examine the issue in detail, in November 1981 the House Interior Committee voted 41 to 1 to request Secretary Watt to refrain from issuing leases in wilderness until June 1982. In late January, the Secretary extended the moratorium until the end of the current session of the 97th Congress. However, the moratorium applies only to the actual issuance of leases, and not necessarily to the preparation of environmental impact statements or other actions administratively or legally required prior to leasing. Thus, even as the moratorium is in place, work preparatory to leasing and the processing of lease applications is continuing in many instances. It is possible, therefore, that many lease applications will be deemed procedurally ready for approval when the moratorium expires and that leases could be issued rapidly after that date absent legislation or other congressional action. For example, in a May 1982 draft environmental impact statement on the land management plan for the San Juan National Forest in Colorado, leasing was tentatively recommended in portions of the South San Juan, Lizard Head, and Weminuche wilderness areas.

In recognition of this situation, on December 16, 1981, Congressman PHILLIP BURTON introduced the Wilderness Protection Act (H.R. 5282) to permanently withdraw all wilderness and wilderness candidate areas from mineral leasing and hardrock mining. Then, in late February 1982, Secretary Watt responded with his own version of a wilderness protection bill (H.R. 5603) which afforded some temporary protection for wilderness and wilderness candidate areas, but at the same time contained other provisions to open wilderness candidate areas for timber harvest, road construction, water projects, ski area construction, and other development. The Watt bill would also have allowed the President to open wilderness areas to mineral leasing and development without the concurrence of Congress.

With bills thus introduced representing two widely divergent concepts of wilderness protection, and with the moratorium due to expire in late 1982, the Subcommittee on Public Lands and National Parks, which had already held 2 days of hearings on the subject, held an additional 7 days of hearings in March and April. As is generally the case with the subcommittee's hearings, the hearings were open to anyone who wished to testify, and all those who called in to sign up were given time to speak. By the end of

April, testimony had been received from some 516 witnesses at hearings in Washington, D.C.; Cody, Wyo.; Grand Junction, Colo.; Santa Ana, Calif.; San Francisco, Calif.; Seattle, Wash., and St. Paul, Minn. Of the 516 witnesses who testified, some 490 opposed mineral leasing and development in wilderness and roundly condemned the concepts of the Watt bill. The Burton bill, on the other hand, received strong support. Based on testimony at the hearing and other public input, Mr. LUJAN, the ranking Republican on the Interior Committee, and I consulted with other members and determined that it would be advisable to fashion a compromise bill which reflected the basic wilderness protection goals of the popular Burton bill but moderated certain provisions. Accordingly, a compromise bill was prepared during May 1982, and was introduced as H.R. 6542 on June 8. The bill was reported by the Subcommittee on Public Lands and National Parks on June 18 and by the Interior Committee on June 24 on a rollcall vote of 34 to 7.

As the preceding summary of recent events indicates, H.R. 6542 is a necessary response to documented threats to the National Wilderness Preservation System as well as a bipartisan effort to avoid the controversy which will ensue if Secretary Watt's moratorium expires prior to the enactment of legislation. And above all, the bill addresses the public's desire to see wilderness and wilderness candidate areas placed off limits to leasing. This desire stems from the belief that wilderness and mineral development are simply incompatible, and that a small percentage of the federally owned lands should be off limits to development, even if they appear to have some mineral potential. The statistics and other evidence support this belief.

At the outset, it should be remembered that the withdrawals of H.R. 6542 are limited to existing wilderness and national forest wilderness candidate areas, and as such cover roughly 2 percent of the land in the Lower 48 States. The withdrawals do not cover BLM wilderness study areas, but even if those were to be added, the Department of Energy's contractors at the Oak Ridge National Laboratory estimate that wilderness and wilderness candidate areas contain only on the order of 3 percent of the Nation's undiscovered oil resources and 2 percent of the Nation's undiscovered gas resources. Interestingly, a study conducted for the wilderness society by Mr. Leonard Fischman of Economic Associates, Inc., independently confirms the Oak Ridge National Laboratory estimates to within one-half of 1 percent. Moreover, the Oak Ridge experts testified that they saw little justification for allowing mineral activities in existing wilderness areas and believed that the existing review proc-

ess prior to wilderness designation adequately insures that wilderness candidate areas with truly meaningful mineral potential are not included in wilderness.

Thus, it is clear that H.R. 6542's withdrawal of roughly 33 million acres of wilderness and wilderness candidate areas not already statutorily closed to leasing will have minimal impacts on energy supplies or the availability of new areas for exploration. Further, the negligible potential impact of H.R. 6542 on energy supplies is highlighted by the fact that there are already some 137 million acres of largely unexplored Federal land outside wilderness and wilderness candidate areas in the lower 48 States under existing oil and gas lease. This is over four times the amount of land withdrawn by H.R. 6542. The Department of the Interior estimates, and the General Accounting Office confirms, that up to 80 percent of these existing leases will expire without exploratory drilling, mostly because, as GAO found, "many lease applicants seek leases for speculation only". In addition, some 100 million acres of Federal lands classified as "prospectively valuable" for oil and gas, but not yet leased and lying outside wilderness are available for possible future leasing.

Given these statistics, I share the public's opinion that wilderness and wilderness candidate areas should not be leased now, and certainly should not be leased unless and until all the existing leases and other prospectively valuable leasing areas outside wilderness have been fully explored and developed. In short wilderness and wilderness candidate areas should be the last areas to be leased so that other public values such as wildlife, fisheries, natural plant communities, watershed, scenery, and primitive recreation can be protected and preserved for future generations with minimal disturbance.

In this regard, I believe a few words about the potential impacts of mineral leasing and development in wilderness and wilderness candidate areas are in order, because it is the fear of such impacts that has rightfully aroused public concern. Although certain elements in the mineral industry have alleged that mineral leasing and development in wilderness and wilderness candidate areas can occur without significant adverse impacts on wilderness values, the public thinks otherwise, and I believe the facts indicate that industry is wrong. In the first place, it must be acknowledged that the issuance of a mineral lease confers certain absolute rights on the lessee. This is a matter of commonsense, unless leases are to be regarded as little more than worthless pieces of paper. Certainly few individuals or companies would pay lease application fees and annual

rentals of \$1 per acre for oil and gas leases which afforded no exploration and development rights whatsoever. This fact was recognized in a 1980 U.S. district court decision in the case of Rocky Mountain Oil and Gas Association against Andrus, in which the judge indicated that "a lease without developmental rights is a mockery of the term 'lease'".

If one accepts the basic contention that a Federal land lease affords certain inviolable rights, the next question is what rights are afforded, and to what degree they can be regulated by the Government. For example, does a lease guarantee the lessee the right to explore? Can dynamite, helicopters, and other noisy or disruptive methods be used in exploration? Does the lessee have the right to construct a road into the lease in order to bring in exploratory drilling equipment? If oil and gas is discovered, can a road be built, or an exploration road be upgraded, to bring in heavier equipment for production drilling? Can buildings necessary for drilling or other production efforts be constructed on the lease? Can pipelines, storage tanks, or other oil and gas gathering and storage devices be constructed on the lease, or into the lease? Can power transmission, water, and telephone lines be run into the lease area through surrounding lands?

Many of these questions are currently under review in the courts. However, the questions on their face indicate the types of disturbance and impacts that the public views as incompatible with the preservation of wildlife, scenery, primitive recreation, and other wilderness values. Such impacts are acknowledged by the Federal agencies which administer the land. For example, in its report to the House Interior Committee on the 1981 emergency withdrawal of the Bob Marshall wilderness complex in Montana from mineral leasing, the Department of the Interior indicated the following potential impacts:

Because of the nature of oil and gas development . . . disturbance to the recreation user would extend a great deal beyond the physically disturbed areas. Entire drainages may become unsuitable for primitive recreational use for 50 to 100 years.

The Bob Marshall Area and adjacent non-wilderness lands are one of the most productive and unique big game habitats in the contiguous United States. The leasing of lands in the Bob Marshall Area and subsequent oil and gas activities could affect the wildlife resource in four ways: (1) direct habitat loss through land disturbance activities; (2) disturbance from oil and gas activities or human presence causing a displacement from or preclusion of use of key habitat; (3) direct mortality from possible toxic wastes or collision hazards; (4) human/animal conflict resulting in harassment or mortality of the animal.

Roads would be required for exploratory drilling which could increase the access to currently remote areas, thereby increasing the zone of disturbance associated with the activity.

Increased mortality of grizzly bears could occur because of control actions resulting from human conflicts.

The Flathead River drainage supports one of the largest native fisheries for westslope cutthroat trout and bull trout in the United States. . . . Oil and gas activities could affect fish or their habitat in five basic ways: (1) decrease in aquatic habitat quality because of increased sediment loading; (2) decrease in aquatic habitat quality because of toxic wastes or oil spills; (3) direct loss of riparian habitat through land disturbance activities; (4) overexploitation of fish resource because of increased access (emphasis added); and (5) blockage of fish passage.

Since natural appearance is an important attribute of wilderness, the construction of roads, drill pads, and pipelines will effectively decrease the wilderness resource for 50-100 years in some areas.

The accidental escape of highly toxic hydrogen sulfide gases represents the biggest threat to air quality. Frequent temperature inversions in the valleys of the Bob Marshall Area could trap these gases and threaten wilderness workers, recreationists, and wildlife.

Oil and gas activity will likely affect the basic suitability of the Bob Marshall Area from primitive recreation uses. This is because most recreation use, including private and commercial outfitter camps, and located in drainage bottoms that are the most suitable terrain for oil and gas development (roads, pipelines, drill sites, etc.).

A quick review of these potential impacts indicates why the public is so concerned over the wilderness/leasing issue. While the adverse impacts may not occur in each and every case where a lease is issued, the public believes that the risk of adverse impacts is not worth taking on such a small percentage of the federally owned lands, especially lands which have been, or may be, selected as wilderness in order to permanently protect their paramount wildlife, fisheries, watershed, esthetic, and recreational values. This risk takes on added significance when one recognizes that in addition to such intangible values as scenery, recreational opportunities, and the mere satisfaction of knowing that wilderness exists somewhere in our modern environment, wilderness also has ascertainable dollars-and-cents value as a producer of wildlife populations, high quality and quantity water flows, and as the source of thousands of jobs in the outfitting, licensed guide, and other recreation industries. In this regard, I would note that I have personally visited several commercial outfitter operations that would be forced to shut down if the wilderness quality lands on which they depend for their living were opened to mineral or other development.

My point in discussing these impacts is to illustrate in the clearest possible terms that H.R. 6542 is not a politically motivated or hysterical reaction to some imagined threat posed to wilderness by the policies of Secretary Watt. Rather, it is a carefully reasoned response, based on voluninous public input, to the basic incompatibility be-

tween wilderness values and mineral development, and to the wilderness/leasing policy change that was implemented by the Departments of Interior and Agriculture in 1981. As such, H.R. 6542 does the following:

WILDERNESS AREAS

Existing and future wilderness areas, except in Alaska, are permanently and immediately withdrawn from oil and gas, geothermal and other mineral leasing. In essence, this closes the 1-year window that will exist for possible leasing between the end of 1982, when Secretary Watt's leasing moratorium expires, and January 1, 1984, when all wilderness areas will be permanently withdrawn from leasing and hardrock mining by the Wilderness Act. H.R. 6542 also closes wilderness to seismic exploration involving the use of explosives. The withdrawal of H.R. 6542 covers approximately 18 million acres of existing national forest wilderness and 12,000 acres of existing BLM wilderness that are not already statutorily or administratively withdrawn. In addition, the withdrawal includes some 3 million acres of existing national park wilderness areas and about 650,000 acres of existing national wildlife refuge wilderness areas. These latter withdrawals are largely redundant, however, as national parks are statutorily closed to leasing and wildlife refuges have been generally subject to a no-leasing policy, although that policy is currently being reviewed by the Department of the Interior. As new components of the wilderness system are designated by Congress, they will also fall under the withdrawals of H.R. 6542, and on January 1, 1984, under the more sweeping withdrawal of the Wilderness Act.

WILDERNESS CANDIDATE AREAS

The so-called wilderness candidate areas are areas of national forest land which have either: First, been recommended to Congress for wilderness designation; second, been statutorily designated by Congress as wilderness study areas; or third, are being reviewed independently by the Forest Service under the National Forest Management Act for possible wilderness designation and are known as further planning areas.

One of the important decisions reached in formulating H.R. 6542 was that areas under consideration by either Congress or the Forest Service for wilderness designations should not be leased until a wilderness/nonwilderness allocation or decision has been made. This commonsense approach recognizes that it would constitute both poor public policy and land management folly to grant leases and associated development rights prior to Congress making a decision as to whether to designate an area as wilderness; or prior to the completion of Forest Service wilderness studies and

land management planning. In short, if leasing is to be banned in wilderness on the grounds of incompatibility with the wilderness concept, it should also be banned in areas which have been recommended for wilderness, or are being studied for wilderness—at least until Congress either rejects the wilderness recommendation or the Forest Service study and planning process is completed.

To do otherwise would be to allow possible development of a lease and the destruction of an area's wilderness character before Congress or the Forest Service can act on the area.

RECOMMENDED WILDERNESS

In accordance with the above philosophy, H.R. 6542 temporarily withdraws some 7 million acres of national forest lands which have been recommended to Congress by the President for wilderness designation, but on which Congress has yet to reach a decision. In this regard, I would note that the bulk of this 7-million acre backlog may be acted on by Congress in the very near future. Indeed, of the total of 7 million acres, the House has already sent bills to the Senate covering 1.4 million acres, and the Subcommittee on Public Lands and National Parks has conducted field inspections or held hearings on an additional 3.1 million acres.

The proposed Dick Smith Wilderness in the Los Padres National Forest in California provides an excellent example of why recommended wilderness should be withdrawn from mineral leasing until Congress can make a decision on the area. The Dick Smith area (RARE II No. A5124) was recommended for wilderness by the Forest Service in RARE II and receives heavy primitive recreational use by virtue of its close proximity to Santa Barbara. It is the home for numerous wildlife species including cougar and the endangered California condor. Wilderness designation would protect a large portion of the Santa Ynez River watershed, which is one of the major sources of water for the Santa Barbara south coast region. The area also embraces numerous sites of archeological significance, including several undisturbed Chumash cave paintings.

The proposed wilderness is strongly supported by the local congressman, our distinguished colleague Bob LAGOMARSINO, and has been introduced in bills by both of California's Senators. The proposal passed the House in the 96th Congress and again in the 97th Congress, and is currently awaiting Senate hearings and consideration.

Despite these clear indications that Congress is likely to designate the area as wilderness, last fall the Forest Service issued a draft environmental assessment recommending issuance of nine oil and gas leases within the boundaries of the proposed wilderness. Since last fall additional applications

have been filed covering 15,000 acres of the proposed wilderness. If leases are issued and ultimately developed with drill pads, roads, pipelines, and the like, the area could lose its existing wild character and opportunity for primitive recreation for 50 to 100 years. Certainly this should not be allowed to happen in an area where Congress has already indicated the strong possibility of wilderness designation.

CONGRESSIONALLY-DESIGNATED WILDERNESS STUDY AREAS

This category of lands comprises some 1.8 million acres of national forest land which essentially are already off limits to mineral leasing. To wit, the Forest Service is required by law to manage such areas for varying specified periods "so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System." H.R. 6542 merely emphasizes this language insofar as mineral leasing is concerned, and insures that such areas will not be leased and possibly jeopardized by no-surface-occupancy clauses or other conditional leasing devices which may or may not protect the surface of the areas.

FURTHER PLANNING AREAS

Further planning areas consist of some 5.8 million acres of national forest areas which the Forest Service is reviewing for possible recommendation to Congress for designation as wilderness. This review is being conducted in the context of the initial forest management plans for each national forest which are currently being prepared pursuant to section 6 of the National Forest Management Act. Recommendations can be expected within the next 1 to 3 years.

H.R. 6542 withdraws further planning areas for one of two periods. If a further planning area is recommended for wilderness in the initial forest management plan it will be withdrawn until Congress reaches a decision on the recommendation. If it is recommended for nonwilderness, it will be withdrawn until 1 year after the date of final approval and implementation of the initial forest management plan covering the further planning area concerned. The 1-year waiting period is intended to give Congress time to review any nonwilderness recommendations.

In theory, Forest Service policy provides that the wilderness values of further planning areas will not be jeopardized by mineral leasing during the planning period. However, some further planning areas are actually being leased with so-called no surface occupancy (NSO) or similar clauses. Such clauses ostensibly protect the areas because they permit no occupancy of the land surface without permission from the Government. However, in practice, no-surface-occupancy clauses have

their problems. First, they can be revoked or modified by the Government, at which point to the protection they afford either decreases or ceases to exist.

Second, and equally troubling, the courts have cast doubts on their validity and enforceability. As I mentioned earlier, in 1980 a U.S. District Court decision in Wyoming, Rocky Mountain Oil and Gas Association against Andrus, stated that "a lease without developmental rights is a mockery of the term 'lease.'" Further, the judge indicated that lease provisions similar to "no surface occupancy" clauses may constitute "a system of issuing 'shell' leases with no developmental rights" which is "clearly an unconstitutional taking and is blatantly unfair to lessees". The ruling is currently under appeal in the 10th circuit. More recently, on March 31, 1982, a U.S. District Court for the District of Columbia decision in Sierra Club versus Peterson appeared to uphold the validity of no-surface-occupancy clauses and stated that the Wyoming decision was "of questionable validity."

Thus, about all that can be concluded at this point is that the validity and enforceability of no surface occupancy or similar provisions is in a state of flux. It is possible that such provisions will be invalidated by the courts, in which case the lessees might gain full development rights, including the right to build roads. On the other hand, the leases might be deemed to have been illegally issued in the first place and the lessees would thereby have to forfeit the leases with back rentals and other moneys returned.

Given this uncertain situation, we felt the wisest policy would be to simply place further planning areas off limits to leasing, but not to seismic prospecting, until the Forest Service plans are completed and recommendations developed. As already indicated, the planning process will be completed in the next several years, and even with the additional 1-year congressional review period provided by the bill, most further planning areas recommended for nonwilderness will be available for leasing in the near future. In the interim, we agreed to allow, and the bill permits, seismic prospecting involving the use of explosives and other inventorying in further planning areas.

The soundness of prohibiting leasing in further planning areas on an interim basis is borne out if one examines the case of the Deep Creek further planning area in Montana. This area, which lies immediately adjacent to the Bob Marshall Wilderness, received the highest wilderness rating score in the entire Nation during the Forest Service's RARE II wilderness review, yet was allocated to further planning in order to allow time for additional min-

erals assessment such as seismic prospecting. However, earlier this year oil and gas leases containing no surface occupancy clauses were issued, thus raising the possibility that roadbuilding or other development could occur in Deep Creek if the NSO clauses are modified or lifted by the Government or declared invalid by the courts. If this were to happen the highest rated potential wilderness area in the Nation could be developed and its wilderness character destroyed before the Forest Service even completes its wilderness study of the area, and long before Congress gets a chance to review the area for possible wilderness designation. I submit such a result would be intolerable, especially since I personally know of at least one outfitter/dude ranch operation that could be forced out of business if roads are built into Deep Creek. Fortunately, there is hope for Deep Creek because the leases were issued without preparation of an environmental impact statement and may therefore be invalid. But important areas like Deep Creek should not be administered in such a shoddy and haphazard manner, and I believe the temporary withdrawal of H.R. 6542 represents the commonsense approach to the matter.

In withdrawing areas from mineral leasing in H.R. 6542, the sponsors were mindful that certain wilderness and wilderness candidate areas may contain leasable mineral resources which are in further need of mineral evaluation. In particular, Congress or the Forest Service could benefit from additional minerals information in certain wilderness candidate areas prior to making a wilderness/non-wilderness decision. To this end, section 4 of H.R. 6542 permits continued seismic prospecting involving the use of explosives in all wilderness candidate areas and additionally provides for other prospecting conducted in a manner compatible with the preservation of the wilderness environment. However, with respect to lands that have been finally designated as wilderness, the Interior Committee voted 28-11 to ban such prospecting as incompatible with the wilderness concept. Such a ban was strongly endorsed by the public at the Subcommittee's hearings. While we recognize that some methods of explosive testing do little damage to the land surface, all methods can cause significant impacts, including forest fires, the disruption of wildlife, and interference with the calm and serenity expected in wilderness by recreational users. Further, the attendant helicopter flights to shuttle equipment and personnel can also be extremely disruptive.

It may be that at some future date the pressure of dwindling energy supplies or other shortages may dictate the opening of wilderness to seismic testing and/or energy development and extraction. If such a need occurs, section 5 of H.R. 6542 allows the President, with the concurrence of Congress, to open specified areas to seismic testing, mineral leasing or other activities prohibited by the bill. For the present, however, I would only reiterate the earlier cited statistics that wilderness and wilderness candidate areas are estimated to contain but 2-3 percent of the nation's undiscovered oil and gas resource, and that the 137 million

acres of Federal land in the lower 48 states already under oil and gas lease should be fully explored and developed before wilderness areas are entered.

I would also note that H.R. 6542 fully protects all valid existing rights, including all existing and validly issued mineral leases, and further allows the subsurface of national forest and public land wilderness areas to be leased, as long as mineral development and extraction occurs from outside the wilderness boundary, by directional drilling or other methods which cause no disturbance to the surface of lands within wilderness.

Mr. Chairman, before concluding this statement I should add a few words about what this bill does not do, as I am fully aware that H.R. 6542 does not tackle all the problems that certain interest groups would like to see addressed. In particular, in drafting and moving H.R. 6542 to the House floor, we have resisted proposals to: immediately close all wilderness and wilderness candidate areas to "hardrock" mining under the mining laws; to withdraw 24 million acres of BLM wilderness study areas from mineral leasing and hardrock mining; to "release" certain roadless lands to timber harvest and other development and amend the National Forest Management Act to prohibit further wilderness studies; to amend the Clean Air Act concerning wilderness; and to allow disabled persons to use motor vehicles in wilderness.

Although certain of these provisions may have merit as separate legislation, we determined that their inclusion in H.R. 6542 could raise considerable controversy and thereby diminish the chance of the bill's passage in this session. And, as I have already mentioned, time is of the essence in this bill, because the current moratorium on leasing imposed by Secretary Watt will expire at the end of this session of Congress. A brief description of our specific reasons for rejecting the above mentioned proposals follows:

MINING LAW WITHDRAWAL

Although the subcommittee's hearings revealed considerable public support for a mining law withdrawal, many Members of Congress are concerned about the availability of domestic supplies of so-called strategic and critical minerals such as cobalt, chromium, nickel, manganese and tungsten. Unlike oil, gas, coal and other leasable minerals withdrawn by H.R. 6542, the strategic and critical minerals are not found in relative abundance in the United States and there are therefore fewer opportunities for their discovery. As such, it was decided that exploration for, and development of, these "hardrock" minerals should continue to be governed by existing law, including the 1872 mining law and the Wilderness Act. I would note, however, that the Wilderness Act will withdraw existing wilderness areas from "hardrock" mining as of January 1, 1984, and I would strongly oppose

any proposals to extend that deadline. Wilderness candidate areas will continue to be available under the 1872 mining law unless and until they are designated as wilderness.

BLM WILDERNESS STUDY AREAS

H.R. 6542 does not withdraw the 24 million acres of BLM wilderness study areas which have been identified and are currently being reviewed by the Bureau of Land Management for possible recommendation for wilderness designation. Many of these areas possess outstanding wilderness values and could contribute significantly to the diversity and quality of the National Wilderness Preservation System.

Despite a preponderance of testimony at the subcommittee's hearings for withdrawing these areas, I believe they should continue to be administered under the nonimpairment standards of section 603 of the Federal Land Policy and Management Act of 1976. In this regard, I must confess that I have been distressed by some of the recent actions of the Department of the Interior in interpreting and enforcing the nonimpairment standards. Indeed, I have received reports of actions which may result in the destruction of the existing wilderness character of certain areas. I intend to explore this issue in oversight hearings and will consider legislative action if the facts so warrant. However, I do not believe it behooves us to change the law in this bill. The interim nonimpairment standards have been labored over for some 6 years now and have been the subject of repeated revisions, refinements and legal opinions. Statutory revision prior to further congressional oversight would only create new uncertainties.

CLEAN AIR ACT AMENDMENTS

This amendment would prevent States from upgrading wilderness areas from class II to class I under the Clean Air Act, and was quite properly ruled nongermane during full committee markup. Not only does the amendment infringe on States rights, but it also lies primarily within the jurisdiction of the Committee on Energy and Commerce, and is currently being debated in that committee. Further, it is totally unrelated to the issue of mineral leasing in wilderness and was mentioned by not even a single witness in the subcommittee's hearings on the mineral leasing question.

DISABLED PERSONS

During full committee markup an amendment was offered to allow disabled or "handicapped" persons to use motor vehicles in certain wilderness and wilderness candidate areas. Like the Clean Air Act amendment, it was ruled nongermane to H.R. 6542 because it is totally unrelated to the issue of mineral leasing in wilderness. It is conceivable that the amendment, if introduced as separate legislation

and subjected to full public hearings, might be found to have some merit. However, the general issue and the proposed language have had no hearings or other formal opportunity for public comment, and I have had communications from several handicapped individuals strongly opposing the amendment's concept of special treatment for the handicapped in wilderness.

On the merits, I would note that wilderness is not off limits to the handicapped. Many "handicapped" or disabled individuals can, and do, travel in wilderness using crutches, canes, horses, wheelchairs and the like. For example, just 2 weeks ago a 1-legged man climbed Mt. Rainier, and a party of paraplegics ascended the highest peak in Texas in wheelchairs. Last summer, a party explored the High Uintas Primitive Area in Utah in wheelchairs. I would certainly want to hear more from such individuals before considering any proposal to allow motor vehicles in wilderness.

RELEASE LANGUAGE

Last, but most importantly, we have strongly resisted attempts to include so-called "release" language in the bill. Of all the issues involved in H.R. 6542, the public appears to feel the most strongly about keeping the release and mineral leasing issues separate. Indeed, the overwhelming majority of the 516 witnesses who testified at the subcommittee's hearings opposed attaching release language to any bill dealing with mineral leasing in wilderness. Rather than elaborate further on this issue, I would merely cite the excellent discussion of the matter contained in Congressman LUJAN's remarks on H.R. 6542 when he and I and eight other Interior Committee members introduced the bill on June 8.

The bill does not contain so-called "release" language. In rejecting release language in the bill not only are we responding to overwhelming public testimony opposing linkage of the release and wilderness/leasing issues, but we are also recognizing that release is nongermane to the wilderness/leasing question. For one thing, the wilderness/leasing debate centers around the issue of whether mineral leasing for oil, gas, coal, geothermal and other mineral potential should be allowed in wilderness or wilderness candidate areas on which a wilderness/nonwilderness decision has not yet been made. The release issue, however, goes far beyond this relatively simple question, and speaks to the opening of lands determined unsuitable as wilderness for timber, harvest, road construction, water project development, intensive grazing development, and other development uses. Further, because release only speaks to the development side of the wilderness equation, we believe it necessarily must be incorporated only in legisla-

tion which at the same time designates wilderness * * * and the leasing moratorium imposed by Secretary Watt does not allow time to develop consensus wilderness designation/wilderness release bills on a State-by-State or regional basis.

Finally, we have noted that the release issue has become so controversial, particularly as it relates to the question of whether Forest Service planners can reconsider and study wilderness as a possible land use in the future, that its inclusion in a bill dealing with mineral leasing in wilderness could fatally impair chances of the bill's passage prior to the expiration of Secretary Watt's leasing moratorium. This would leave the Secretary without the official guidance he has requested from Congress, and would raise the possibility that Congress might have to resort to use of its emergency withdrawal authority under section 204(e) of FLPMA, or other measures, to block any undesired leasing. We feel legislative resolution of the problem is far preferable, and do not wish to see legislation to implement the public consensus against leasing fail over the unrelated issues of timber harvest and future forest planning procedures. The release controversy can, and should be resolved separately in the context of statewide or regional RARE II bills, as is was in the last Congress in Alaska, Colorado, and New Mexico.

For further discussion I would also refer my colleagues to the additional views of our distinguished colleague PHILLIP BURTON which appear on pages 14-23 of the committee report on H.R. 6542 (Report No. 97-638). I particularly share his view that the efforts to include release language in H.R. 6542 are little more than a transparent attempt to revive the timber industry's immensely unpopular and totally discredited "hard" release language by attaching it through a nongermane amendment to a consensus bill which legislates the overwhelming public sentiment against mineral leasing in wilderness and wilderness candidate areas. This effort not only violates the rules of the House on germaneness, but clearly flaunts the will of the public.

In conclusion Mr. Chairman, I strongly commend H.R. 6542 to my colleagues as an excellent example of how a commonsense and bipartisan compromise can be reached on a difficult issue. Besides having 60 cosponsors in the House, the bill is also supported by: the Oil, Chemical and Atomic Workers International Union, AFL-CIO; the United Auto Workers; the Industrial Chemical Workers Union; the Industrial Union Department, AFL-CIO; the International Association of Machinists and Aerospace Workers; the United Steelworkers of America; the Wilderness Society; the

Sierra Club; The National Wildlife Federation; the National Audubon Society; the World Wildlife Fund; the Izaak Walton League; the National Parks and Conservation Association; the Environmental Policy Center; the Environmental Defense Fund; Defenders of Wildlife; the National Resources Defense Council; Friends of the Earth; the American Forestry Association and numerous other conservation organizations. In addition, some 220 newspapers have run editorials opposing leasing in wilderness and supporting a ban on leasing.

The American public is deeply concerned about the possible impacts of mineral development in wilderness and wilderness candidate areas and has come to its elected representatives for help. H.R. 6542 is that help, and deserves swift passage before Secretary Watt's moratorium expires.

□ 1300

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I rise in support of H.R. 6542, the proposed Wilderness Protection Act of 1982. When Secretary of the Interior Watt issued his moratorium on oil and gas leasing in wilderness areas, he, in effect, asked Congress: First, to decide exactly which lands should be withdrawn from leasing; second, to decide which mineral development statutes those lands should be excluded from; and third, to decide how long that withdrawal should last. H.R. 6542 makes those decisions.

HOW MUCH LAND

First, let me explain which lands are withdrawn. The Federal Government owns mineral interests in approximately 798 million acres of land throughout the Nation.

H.R. 6542 withdraws from mineral leasing those designated components of the wilderness preservation system which are located in the lower 48 States, a body of land adding up to about 19.7 million acres out of the total 798 million acre mineral estate.

Also withdrawn are about 7 million acres of Forest Service lands recommended by the Forest Service to Congress for wilderness designation which we have not acted upon yet. Some of that wilderness candidate land will be designated as wilderness areas and the rest will either be released for other uses or designated for further study.

In addition, about 1.8 million acres are withdrawn because Congress has designated those lands for further study.

Finally, about 5.9 million acres are withdrawn because those lands have been identified by the Forest Service for further planning pending completion of their respective forest plans.

In total, H.R. 6542 withdraws 34.4 million acres out of the 798 million acre Federal mineral estate. It should be noted that H.R. 6542 does not affect any of the 400 million acres of BLM land and it does not affect any land whatsoever in Alaska.

WHAT MINERALS

Second, let me explain which mineral development statutes H.R. 6542 affects. This bill would only withdraw the lands I have mentioned earlier from the leasing, under the 1920 Mineral Leasing Act, of oil, gas, oil shale, coal, phosphate, potassium, sulfur and gilsonite and the leasing, under the Geothermal Steam Act of 1970, of geothermal formations. H.R. 6542 would not affect the development of any of our strategic minerals. It would have nothing, to do with the leasing of lead or copper or zinc. I hasten to add that H.R. 6542 also has nothing to do with the 1872 mining law which provides for prospecting, claim filing, and the development of hard rock minerals.

LENGTH OF WITHDRAWAL

Third, let me explain the length of the withdrawal for each of the four categories of land affected.

The 19.7 million acres of congressionally designated wilderness area would be withdrawn permanently unless opened up under the special urgent national need provision included as section 5.

The 7 million acres of wilderness-candidate land would be withdrawn only for the term of the forest land management plans applicable to each respective area. These forest plans last for 10 years and began, for most areas, in the late 1970's. Thus, a wilderness candidate area could either be designated by Congress as a wilderness area and thus be withdrawn permanently, or included as a wilderness-candidate area in a second-generation forest management plan, and thus be withdrawn for another 10 years, or be released from this withdrawal if it is not designated as a wilderness area and is not included as a wilderness-candidate area in a second-generation forest land management plan.

The 1.8 million acres of study areas would be withdrawn for so long as Congress has designated that they should be studied. Some areas have been designated for study until Congress determines otherwise while others have been designated for a set number of years.

The 5.9 million acres of further planning areas would be withdrawn while the initial forest management plans are being prepared and implemented. H.R. 6542 would provide a 1-year extension of this withdrawal for each area so that Congress would have an opportunity to review the plan and the wilderness recommendations therein.

URGENT NATIONAL NEED

Thus, the withdrawals in H.R. 6542 would be permanent for 19.7 million acres of designated wilderness areas and may be either permanent or temporary for the rest of the land in question. Any portion of the entire 34.4 million acres of land withdrawn from certain mineral leasing by H.R. 6542 could be opened up to mineral development under the urgent national need provision included in section 5. It authorizes the President to recommend opening up a withdrawn area where he finds that an urgent national need for minerals development exists. If Congress approves the President's recommendation, mineral development may take place. I understand that the number of oil and gas drilling rigs in operation today has dropped from about 4,600 9 months ago to less than 2,700 today. However, this decline in drilling activity should not be interpreted as a permanent change. Our Nation will need enormous amounts of oil and gas in the years to come. Just because the vast majority of oil and gas leases which now exist on public lands will not even be explored before the lease expires does not mean that we should not have the capability to open up part of a wilderness or wilderness candidate area in an emergency. The 1974 OPEC embargo taught us a lesson that we should never forget.

SEISMIC EXPLORATION

H.R. 6542 is the end result of an extensive hearing process and a prolonged period of discussion, negotiation, and compromise. One provision in this bill prohibits seismic activities involving the use of explosives in designated wilderness areas. In my opinion, this prohibition is unwarranted. Seismic activity can take place without permanently damaging a wilderness area and can be conducted at times when wildlife will not be affected. However, this is a compromise bill. While I would prefer to delete the seismic activity prohibition, I realize that others are strongly in favor of it. Some Members would even have preferred that the seismic prohibition apply to wilderness-candidate areas as well. I understand that an amendment may be offered affecting this provision and I hope we can agree upon language that is acceptable to most Members.

RELEASE LANGUAGE

Another subject of extensive debate is the question whether or not H.R. 6542 should include language which would remove all wilderness-candidate lands from being administered as wilderness areas after a date certain. This is often referred to as national release language. The Interior Committee has chosen to release wilderness-candidate lands on a State-by-State basis as Congress enacts legislation on each State, and thus, not to include such language in H.R. 6542. This is an extremely im-

portant issue and I hope we can either develop legislation to resolve the problem in the near future or come up with a timetable which would complete the consideration of all RARE II wilderness proposals on a State-by-State basis within a reasonable period of time.

In conclusion, Mr. Chairman, I strongly recommend passage of H.R. 6542. Secretary Watt has imposed a moratorium on oil and gas leasing in wilderness areas until the end of this session of Congress. If we do not act favorably on H.R. 6542, we may see hundreds of oil and gas leases issued next year in our wilderness areas. Applications have been filed on wilderness areas in 21 different States; 52 have been filed on Colorado's West Elk Wilderness Area, 270 are pending on Montana's Bob Marshall Wilderness Area, and 109 have been filed on Wyoming's Washakie Wilderness Area. As far as I have been able to determine, 54 different wilderness areas have oil and gas lease applications awaiting approval. If any major portion of those leases are granted, our entire wilderness system will be jeopardized. For these reasons I urge your support of H.R. 6542.

Mr. YOUNG of Alaska. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, and for those who are in the listening audience of this great deliberative body in which I serve, I would like the audience to know that there are only four Members of the U.S. Congress in the Hall at this time, that we are deliberating something here that affects millions of Americans in one way or the other. It is an example to welcome to "Saturday Night Live." It is unfortunate, Mr. Chairman, that this legislation represents the Congress at its worst—reacting to emotional claptrap perpetrated by the nogrowth elite in this country who wish to deny the American people access to the resources that they need to cheaply heat their homes and their schools and run their automobiles. The groups that have sought to make the Congress feel that this legislation is necessary are the same who fight development of any kind—the same people who fought construction of the Alaska pipeline, which has so far brought over 2 billion barrels of American oil to our consumers, and contributed to the pressure that is now forcing OPEC to forgo price hikes and a further economic dislocation in this Nation and around the world.

As a result of their contrived horror stories, the Wilderness Protection Act has seemed necessary. It is most certainly not, and I can only say that if the oil companies or the industries of this Nation were engaged in the same type of effort to distort the truth to the people of the United States and

their elected Representatives, they would be hung out to dry.

H.R. 6542 would immediately withdraw over 30 million acres of publicly owned lands and resources from even the most environmentally sound exploration and production processes. Though the majority of Americans have apparently been convinced by the no-growth, "I've got mine and to hell with you" crowd and their media lackeys that wilderness areas must be withdrawn or face the bulldozer and permanent destruction, this bill goes far beyond that, and closes millions of acres of wilderness study lands, many of them with high, but unknown, potential for energy.

This bill violates the wilderness study process, by ignoring the fact that the purpose of wilderness study is to study prospective wilderness areas, gather data, and insure that congressional decisions will be informed and based on all facts, about subsurface as well as surface resources. This is particularly true of further planning areas, which were identified as such, precisely because the Forest Service felt oil and gas drilling was essential before informed decisions could be made.

By closing further planning areas, study areas, and recommended wilderness areas, this bill would preempt the decisionmaking process and prevent the gathering of information essential to make a final determination. By virtually guaranteeing that energy data will be inadequate, especially when contrasted with data on surface resources, it would inevitably create a biased process tilted in favor of wilderness and all but insure a wilderness decision, even where an area has extremely high energy potential.

The bill reflects a very narrow, myopic view of what is in the public interest—a view which considers only wilderness preservation, without regard to other, equally legitimate needs. It ignores the public interests to be served by meaningful resources inventories, informed land use decisions, and an orderly, phased, and environmentally sound exploration and development program.

The inventory process in this bill is a sham. It will result in just what the national wilderness advocacy groups want—very little information on subsurface values, so that cheap, abundant energy produced at home will elude Americans, and we will all have to adhere to their "small is beautiful" theory, like it or not. Because it completely bans seismic surveys with explosives in designated wilderness areas, no meaningful oil and gas data will be available when needed to respond to "urgent national needs." With no hope of every acquiring a lease, no company or individual is ever going to survey these areas for their energy potential, and they will be lost

forever, or until a real emergency some time in the future starts an all-out search for energy, complete with bulldozers and all of the careless practices that accompany a search for energy in a time of life or death need.

H.R. 6542, in its present state, would thus guarantee that little will ever be known about the subsurface resources of the areas covered by the bill—and that Americans will be led to believe that the areas contain no energy or mineral resources.

The bill would ban all forms of seismic exploration in designated wilderness areas, even though modern seismic methods have virtually no impacts on the land. The only tried and true methods for conducting seismic activities and finding where oil and gas potential areas are, are the explosives, or "thumper trucks," which must have access on reasonably good roads. Both options are banned under this bill. In times of urgent national need, we will search irresponsibly, with no environmental safeguards because we will have to cover large areas rapidly, rather than go directly to known areas of high potential.

By prohibiting seismic surveys requiring the use of explosives, the bill ignores the Wilderness Act's clear standards for what is to be judged "compatible with the preservation of the wilderness environment." It elevates the new standard of "calm and serenity" of the most intolerant hikers to be the new standard of what will be permitted in wilderness areas. In doing so, it completely ignores the vital public interest of the vast majority of Americans who seek to know the nature, extent, and location of their oil and gas resources before an emergency occurs.

This bill ignores the numerous environmental protection laws and techniques that have been developed over the past decade and proceeds on the assumptions that the only way to protect an area is to prohibit energy and mineral activities. In so doing, it ignores the fact that the cumulative total of land affected by mining operations in the United States over the last 50 years is only 5.78 million acres—7 percent of the land now designated as wilderness.

By making wilderness candidate areas off limits to oil and gas leasing on the ground that roads would have to be constructed, H.R. 6542 ignores the fact that Congress has consistently placed lands with roads into the wilderness system, saying that if blockaded, the roads would soon disappear with no trace. The recent Cumberland Island wilderness bill is a perfect example—the Congress decided that even though the area contained well-maintained roads and buildings, they would be included within the area designated, so long as they were later removed.

In another major shortfall of this bill, the President is supposedly given an "unlock" provision in time of national need and the consensus of the Congress. By requiring him to submit an EIS along with his request to Congress, this legislation erroneously assumes that the President is going to be able to determine when a national need will occur—with the 1½-year EIS procedure, at least that long. As such, it stands as an empty gesture to Members who are legitimately and honestly concerned about the Nation's ability to respond in a short time to a national security crisis involving energy or minerals. Further, while the bill does not affect hard rock, or the strategic minerals this country is so dependent upon others for, the date for shutting off exploration for those minerals is the end of 1983—and this bill has no emergency provision for a national need for minerals.

This bill does not include any release language. It fails to address the critical questions of how long areas should remain in wilderness study or candidate areas, how and when they are to be returned to multiple-use, sustained-yield uses, under our general land laws and the environmental laws which have accumulated since the passage of the Wilderness Act of 1964.

Since we have all heard of "release," perhaps we should look at what the facts of released lands are:

Release is not the same as development;

No development can occur on any released lands until all applicable environmental study and permit requirements have been met;

Any development that could occur would probably involve only a small area, and will not foreclose the wilderness option for the other lands or, indeed, the mineralized lands after reclamation; and

Many wilderness, and wilderness candidate areas have been impacted by past energy, mineral, homesteading, road building, timber harvesting and other human activities. They are in the wilderness or candidate category today because these signs of man have been removed through environmentally sound reclamation. The same approach could be used with respect to the acreage affected by exploration or development wilderness values.

The cost estimate of this bill is somewhat amusing, since it indicates a minimal loss in potential receipts to the Federal Treasury based upon a study conducted by the Wilderness Society that has been refuted as "hogwash" by responsible resource appraisal experts and geologists who understand the methodology of the study. The studies were politically motivated, lacking adequate mineral data, and demonstrating a gross misunderstanding of even the most basic mineral as-

assessment principles. The fact is, Ms. Rivlin is unable to give us a realistic appraisal of the cost of forgone revenues in this bill, because only God knows what is under those millions of acres, and so far, he has let man's God-given talents find the resources, rather than endowing us with the divinely inspired guesses of the often talked about "studies."

This bill, in sum, is a turkey—it reverses the carefully wrought compromise that led to the passage of the Wilderness Act, when national security problems related to minerals and energy were virtually unknown, as were the proper environmental safeguards we have instituted since. In one fell swoop with this bill we put off limits more acreage than was ever intended by the original legislation. It is against the national interest, unless one's idea of the national interest is being ignorant about what resources we have in order to protect our country from shortages of energy and minerals necessary to continue our way of life. I am beginning to wonder about the motives of this Congress, and the groups that have lied about every public land issue to come before the Subcommittee on Public Lands and National Parks, on which I sit as ranking member. My only observation is that they intend to do their best to stop any development of any kind—water, energy, mineral, industrial, and agricultural. I urge the Members to think about all the issues they advocate and ask ourselves about the motivations of groups that are anti-everything. I think the Congress has more fortitude than to roll over and play dead on every issue they bring to us in the name of the environment. I need only remind you that your constituents live from the fruits of the environment in this great Nation, and that to continue to make more and more of that environment inaccessible to them for their uses means that each and every one of us will be forced to do with less. To vote for this bill as it stands not only insures that, but also insures that your constituents will be living with less because they will be denied the knowledge about their resources on the public lands. That is a shame for this Nation and a shame for the world, given our relative position in the world. I urge the Members to reject this bill and send the Interior Committee back to square one to deal with this issue in a rational, rather than emotional, manner.

□ 1315

The greatness of this Nation was created by the utilization of our resources. It is what allowed those that came to our shores from overseas to improve their lot. It gave us the capability to build the greatest and highest standard of living anywhere in the world. And yet we have only disturbed

5 million acres of that land. Only 3 percent of the land under this bill will be affected. I think my statement of 5.5 brings that out. Three percent of the areas that can have and may have those resources that we need. And all I have ever asked is for the environmental groups to start listening to what I am saying. There is nothing in this for me. And even the environmental groups will say when we need it we will go get it, but with what knowledge. That is like saying I have a pain, and there is nothing wrong. I do not want to find out what is within myself, because I hurt, but I am sure it is nothing. But then the emergency arises and you rush to the doctor, and the doctor is in a panic and he whacks out something he should not whack out because he does not have the knowledge to know what he is doing because he did not have the time to identify the problem.

We spent \$78 billion last year overseas to buy oil from those people that you are reading about in the paper today; \$15 billion to buy minerals. How can we balance the budget and put people to work when we are not developing our resources?

What moral right do we have as a Nation to take from the Third World and increase their high-inflationary rate by buying with borrowed dollars those resources? What happened to the term "management"? Man has made mistakes, but he has learned, and he can produce those resources, renewable and nonrenewable, and again to lead this world as we should as a free nation.

It is ironic to me the anti's, antinuclear, antidams, antioil, antiminerals, anti, anti anti, are also antimilitary.

My colleagues may ask why do I bring this up? There has never been a war won by military strength, never. A war is won by economic strength. And World War II, how did we win that war? Not by military strength.

When we needed a tank we got 10, because we had the economic strength. When we needed a battleship we got five, because we had the economic strength. When we needed 1 airplane, we got 50 airplanes. We had economic strength.

And yet these same anti, anti, anti—I am going to tell the Members about the antis. It is a tremendous thing. "No dams, I want to paddle my canoe; no wells because you disturb the wilderness; no mining; do not do anything, but just bye-bye, let me have what I have got because I am one of the elite."

I am talking to that listening audience out there that is out of work in Detroit. And by the way, the United Auto Workers support this legislation. I do not know where their leadership comes from. They must be with the Edsel. I cannot understand what is occurring as far as the labor movement

when it comes to this type legislation. How can we send \$78 billion last year over seas for oil, and I cannot build a gas line? I cannot build a northern tier. We cannot drill because we might disturb something.

The listening audience had better be very well aware, because there is nobody in this Chamber right now, that they are being misled by the finest organized groups in America today, under the guise of environment. Five point 7 million acres of land disturbed in the last 50 years, and you will listen to them, and they are going to destroy the whole America, the United States.

Remember the battle about the pipeline? It was a grand battle. They showed there was going to be destruction of the very tender flora and fauna. They showed that the bulldozers were going down and digging ditches. We took the same amount of land that one hare would take across this whole Chamber. And today it is one of the soundest environmental projects ever completed. But it was done. Because we needed it.

It was passed in 1973 and we had the embargo in 1973. But we knew it was there, we had engineered it, we understood where it was we identified it.

Under this bill you are taking lands and setting it aside without any knowledge.

Mr. Chairman, I cannot understand what is the fear of knowledge. Why are we so panicked and pressured-supposedly because they are against my good Secretary of the Interior, that he is a bad person, and he has let leases. He has not let any leases in any wilderness area. It is the previous administration, including the previous President, let seven in wilderness areas. Nobody said a word. It was the intent of the act that this would take place, that there was compatibility. And I would challenge those that support this legislation, let us cut out the nonsense, let us make parks out of them, let us put them out there where they really are so the American public will understand what is really happening to them.

I ask this body—unfortunately there is only again, I want to stress again, about four people on the floor—I ask this body—two—which opposes—the other one is very quite about it. I asked this body to consider looking at knowledge of the lands which we are seeking to lock up, and why is this bill necessary.

Now, I know the argument is going to be we are only talking about 7 million acres. Do my colleagues know there are 231 million acres of land in wilderness today? And we have only got 736 million acres of public lands approximately? One-third is already wilderness. And I challenge them within those borders to show me

where there is one acre that does not have other values—oil, gas, minerals, hydro, timber, agriculture—the things that this Nation was built upon. And they are saying we need it to save it for the future generations.

I am telling my colleagues that is nonsense. What we need is the knowledge of what is there so we can systematically plan and derive the benefits from those resources when it is needed, and that I will say is what is wrong with this bill, because we are dealing with ignorance and ignorance alone.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to my good chairman, the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. I thank the gentleman for yielding.

Would the gentleman care to detail where he arrives at this figure of 237 million acres? I have had staff do some research and we cannot come up with anything even approaching that figure in terms of lands that are off limits to oil exploration. And certainly not that many that are in wilderness.

Mr. YOUNG of Alaska. Well, I would suggest the gentleman study all his parks, all the potential wilderness areas, and that you come up with 237. I have the statistics. I will gladly show them to the gentleman. They are a GAO Government report.

Mr. SEIBERLING. I have them in front of me.

Mr. YOUNG of Alaska. What the gentleman sees is not what I see.

Mr. SEIBERLING. Evidently.

Mr. YOUNG of Alaska. But I have the figures; the gentleman has the figures. As to how we read the figures, the gentleman may go by the modern math. I went to the old school where 2 and 2 are 4.

Mr. SEIBERLING. The gentleman will recall that the thing that precipitated the Interior Committee's request to Secretary Watt to declare a moratorium on leasing in wilderness was the action of the Secretary last year in approving three mineral leases in the Capitan Wilderness of New Mexico.

Mr. YOUNG of Alaska. That is the type propaganda which the gentleman is strongly in support of, and I understand that, that caused this great concern, because there were no leases on the surface within that area, and the gentleman has to admit they were off surface, outside, and slant drilling. And there is nothing wrong with that under the Wilderness Act itself.

Mr. SEIBERLING. If the gentleman will yield further, the gentleman said there has been no leasing in wilderness areas by this administration, when in fact the Capitan Wilderness leases were granted for the wilderness area.

Mr. YOUNG of Alaska. They were not within the wilderness boundaries. The gentleman knows that. Has any previous President ever allowed leasing in any wilderness areas?

Mr. SEIBERLING. With rare exceptions, yes.

Mr. YOUNG of Alaska. How many has the present Secretary allowed?

Mr. SEIBERLING. The present Secretary granted three leases.

Mr. YOUNG of Alaska. Outside the boundaries of the wilderness. And second, the gentleman knows there were seven other leases allowed by the other administrations and not anyone ever raised that question.

So when this is done, this administration's position is wrong. But these are nitpicky little things.

What I am talking about, and the gentleman has to admit it, how can a man with the great intelligence that the gentleman has, a Member of Congress, who is chairman of the committee, deal in the fact that we are locking up lands without knowing what is there?

Mr. SEIBERLING. If the gentleman will continue to yield, I still want to clarify the first issue, which is the leases in the Capitan Wilderness, which contained a clause there would be no surface occupancy. But the courts have ruled that once you issue a lease you cannot deny surface occupation.

Mr. YOUNG of Alaska. The leases were let to not go within the border.

Mr. Chairman, I reserve the balance of my time.

Mr. SEIBERLING. Mr. Chairman, I yield 5 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, the Wilderness Act, passed in 1964, granted mining interests a 20-year grace period to stake and perfect claims in wilderness areas. It also allowed, but did not require, the Secretary of the Interior to issue discretionary softrock mineral leases.

Until this administration came to power, Interior Secretaries chose not to issue mineral leases at all. They weighed wilderness values, and the wishes of the people, and chose to preserve a few precious lands free of exploration and drilling.

This was wise policy—wilderness was preserved, and precious resources were left in the ground. If, at some point in the future, our reserves became so depleted, and our needs so great, then we could tap these irreplaceable resources. If, on the other hand, through wise conservation, and development of alternative energy sources, our Nation did not become so desperate, then our wilderness would have been preserved for us and for future generations.

This rational and sound policy was pursued for 17 years—until Secretary Watt began abuse of the Wilderness

Act and our Nation's wilderness areas. If this Secretary were not so determined to commit these abuses, we would not be debating this bill today, the resolution arrived at in the Wilderness Act would still be intact, and in less than 18 months our wilderness areas would be forever closed to mineral leasing. Were it not for Secretary Watt, the Lujan-Seiberling Wilderness Protection Act would not be necessary.

The only argument for this legislation is that over the next 18 months, this Secretary of the Interior, in this administration, must be curbed. This is a convincing argument. Because this Secretary's excesses must be curbed now, I will support this legislation, but not without reservations.

We must be sure that the long-term tradeoff for curbing these immediate abuses is not too great. We are considering granting the President new power to propose opening up wilderness areas at any time in the future, in exchange for protecting this wilderness for 1½ years. We must not allow the urgency of arresting this immediate threat to bring us to sacrifice sound, long-term protection.

The Wilderness Act provided such vital long-term protection. Under the Wilderness Act, opening up a wilderness area to leasing after 1984 required an act of Congress, complete with the hearings and careful examination of issues required to enact a law. In short, the same careful deliberation that is required to designate a wilderness area was required to open one for leasing.

The original H.R. 6542 proposal did not allow for such careful deliberation. It would have established an expedited process by which wilderness areas could be opened to leasing, with no public hearings, and no participation by affected States. Section 5 originally gave the President the power to recommend opening wilderness upon his own determination of an urgent national need. Congress could then be forced—without public hearings, and without adequate review—to act on this recommendation after only 60 days.

This provision gave the President too much power to open wilderness. It was unnecessary, and ripe for abuse. Because it was included, I voted against this bill in the Interior Committee.

But this substitute offered by my colleague from Ohio deletes this troublesome provision. It is a much sounder bill, and I support it. It strikes the essential balance between our Nation's future mineral and energy needs, and priceless wilderness values. It curbs the abuses of this Secretary, and provides for sound, long-term wilderness protection. The normal, orderly decisionmaking process of Congress is preserved. Wilderness protection is one

area where all the patience and caution of our legislative process serves us well, and it should be preserved.

Under the Wilderness Protection Act, Congress retains the power to determine whether mineral activity is allowed in wilderness. Congress has the freedom to move with due caution and reason. It remains the responsibility and privilege of Congress to protect our Nation's wild lands for future generations, so that future generations will have wild lands to protect.

I urge my colleagues to join me in voting for the Wilderness Protection Act.

□ 1330

Mr. SEIBERLING, Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE, Mr. Chairman, I rise in support of the bill H.R. 6542. This bill, introduced by my colleagues on the House Interior Committee, Congressmen LUJAN, and SEIBERLING is an expression of the bipartisan conviction on the committee that action must be taken to protect vital federally owned wilderness areas. By withdrawing our amount to less than 2 percent of all Federal lands, from mineral leasing and development, we are insuring that these unique areas will be preserved for the benefit of future generations. The bill was the subject of intense scrutiny and consideration by the Interior Committee which included 9 days of hearings throughout the country and the receipt of testimony from over 500 people. It is truly a compromise measure which addresses the concerns of interested and involved groups and persons.

I urge my colleagues to pass the bill without amendment.

Mr. YOUNG of Alaska, Mr. Chairman, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS, Mr. Chairman, I rise in strong support of H.R. 6542, a bill that represents a bipartisan compromise to resolve, once and for all the controversy over oil and gas leasing in the wilderness areas of this country.

As my colleagues speaking ahead of me have noted, until recently there was an informal policy of not issuing leases in wilderness areas, in spite of the authority to do so that was contained in the Wilderness Act of 1964. The public furor that has erupted over this issue indicates that the administration has miscalculated about the importance of this and many other environmental issues to the American people.

This bill is truly a bipartisan effort and I would say to my Republican colleagues that we will do the administration a favor by passing this legislation and putting to rest this divisive issue. Republicans have a tradition of being at the forefront of environmental

movements and we cannot allow that to change.

To those who claim that this bill would lock up valuable resources, I ask you to consider the importance of the resources we are attempting to protect and to look at the reasonable nature of this bill.

First, the bill provides for ongoing mineral surveys in all withdrawn lands and allows the President to open any withdrawn area in case of urgent national need if the Congress concurs. It also continues to allow mineral extraction by slant drilling from outside a wilderness area.

And what about the charge that we are locking up vast amounts of land that could otherwise be of use to Americans? Nothing could be further from the truth. Making such a charge assumes that the only use for Federal lands, including wilderness, that is desired by Americans is that of resource extraction. The fact is that wilderness and wilderness candidate areas comprise only about 2 percent of the land in the lower 48 States. Furthermore, according to estimates by the Oak Ridge National Laboratory, these areas contain only about 2 to 3 percent of the Nation's undiscovered oil and gas resources. Finally, and possibly most important, is the broad public support for the concept of wilderness for its own sake.

I urge all of my colleagues to vote for this legislation, thereby helping to defuse an issue that has cost the administration a great deal of support.

Mr. SEIBERLING, Mr. Chairman, I yield 3 minutes to the gentleman from Montana (Mr. WILLIAMS), and in so doing I want to commend the gentleman for the leading role he has played in trying to resolve this conflict, and for the initial action that we took in ordering the Secretary to withdraw the Bob Marshall wilderness from mineral leasing.

Mr. WILLIAMS of Montana, Mr. Chairman, it is with a great amount of personal fulfillment that I rise today to speak in support of the Wilderness Protection Act, H.R. 6542. To many of you, the controversy surrounding the question of mineral leasing in our Nation's wilderness areas was one that began when Secretary Watt came to head the Interior Department. In the State of Montana, this is a controversy that we wrestled with long before this administration, and long before the Congress became involved. The opening volleys in this controversy took place in Montana, and the first battleground was the Bob Marshall Wilderness.

In early 1978, a group of 200 to 300 Montanans from all walks of life gathered in Missoula, Mont., to stage a protest outside of the regional forester's office. The catalyst for this demonstration was the forthcoming issuing of leases for oil and gas exploration or

permits for seismic activity in Montana's Bob Marshall Wilderness. The Bob Marshall is considered by many to be the flagship of the wilderness fleet. Outside the Federal Courthouse in Missoula, the chants and the signs were the clear: "Do not bomb the Bob!" This expression, "bombing the Bob," was in reference to the use of explosives in seismic exploration. It was believed by many people at that time that any seismic activity using explosives would be extremely detrimental to not only those people seeking the wilderness experience; but, more importantly, to the survival of wildlife. At the time of that demonstration, there were 343 leases for oil and gas permits pending before Tom Coston, the regional forester. In that case, he was particularly ruling on a request by Consolidated Geophysics Georex, a seismic exploration company, to conduct seismic activity in the Bob.

The regional forester denied Georex's application, saying that need was not demonstrated, and that there was considerable lack of public support for any other decision. That decision was automatically appealed to Max Peterson, the head of the Forest Service, and it is at this point that the Mountain States Legal Foundation, headed by Jim Watt, entered the picture. The Washington office ruled that the regional forester had made his determination on insufficient grounds, and that the decision should be sent back to the regional level for another consideration. The decision went back to the regional office, President Reagan was elected to office, and Jim Watt became Secretary of the Interior Department. When the Secretary was appointed, there were many in Montana who feared for the Bob Marshall. On May 5, 1981, Secretary Watt in an inner-office memo directed his solicitor to work to reinterpret the law regarding mineral entry into wilderness areas, so that it opened wilderness areas. On May 21, 1981, the Forest Service changed its regulations to provide that wilderness designation could no longer be the basis for denying a mineral lease, permit, or license. Suddenly, the direction of our Government seemed clear, and it was to be inevitable that the Bob Marshall would be the first victim.

Recognizing that an emergency existed, I asked the Interior Committee, of which I am a member, to consider withdrawing the Bob Marshall under an emergency provision within the Federal Land Management Policy Act. The Interior Committee agreed with my request, and on May 21, 1981, the committee withdrew the Bob Marshall from any leasing activity. There were those people at that time who felt that the Bob Marshall was an isolated incident, and that no emergency really

existed. But, then, the Forest Service followed with proposals to lease in Wyoming's Washakie Wilderness, in California's Ventana and Santa Lucia Wildernesses, and Arkansas' Caney Creek Wilderness. Suddenly, Montana did not stand alone, and, as the late Jimmy Durante would say, "Everyone wanted to get into the act." It was that concern that ultimately culminated into today's consideration.

I only offer this brief history for two reasons: One is to show that this is not a new issue—it is a problem that has been discussed in the West for some time; and the other is to preface the importance of observations, taken from a report prepared by the Interior Department, following the withdrawal of the Bob Marshall. One of the things required under the Federal Land Management Policy Act decision was that the Interior Department prepare a report addressing the emergency that prompted withdrawal. Since this is the only report that I know of that directly discusses the outcome of oil and gas leasing in a wilderness area, I think it is important for the full House to know what its findings were. As I begin this discussion, I want you to note that this is a report that was prepared last year by this Department of Interior, and discusses the question of oil and gas leasing in the Bob Marshall. I will discuss its findings in three categories. These categories comprise the most often-asked questions about leasing in wilderness areas. The first question is: Will leasing be detrimental to the quality of a wilderness? The second question is: Will seismic activity be detrimental to a wilderness area? And the third area, most importantly, is: Will we significantly enhance our energy standing by allowing oil and gas leasing in wilderness areas?

Will leasing be detrimental to the quality of a wilderness?

The phase following exploration is actual leasing. Once a lease is given, its holder has the right to go through to production. The report by Interior is clear:

An oil and gas leasing program could have both short and long term effects on wilderness attributes. During exploration, such activities as helicopter flights, seismic explosions, vehicle traffic, and well drilling could detract from the wilderness resource. Noise pollution, visual degradation from roads and drill pads, and areas of concentrated human use would generally be confined to areas of drainages that are subject to exploration activities. Particular drainages subjected to exploration activities could have their wilderness characteristics altered substantially, particularly during periods when roads and heavy equipment are used.

During the long oil and gas production period (up to 50 years) a wilderness may be fragmented by numerous roads and development in its main valleys. While the actual area impacted by surface disturbance would be low the remaining area may be so fragmented that some of its current wilderness

value would be lost. Entire drainages may become unsuitable for primitive recreation use for 50 to 100 years.

Will seismic activity be detrimental to a wilderness area?

On page 15 of the Interior report is stated:

The lack of roads would require extensive use of helicopter portable techniques. Environmental impact during this time is primarily limited to noise pollution from helicopters and surface explosive charges.

Let me place this observation in perspective. It is estimated that, of the 800 grizzly bear left in the lower 48 States, approximately 400 live in the Bob Marshall. The lower 48's largest bighorn sheep herd, about 1,000 head, inhabit this area. Had Consolidated Georex Geophysics been allowed to explore, it would have involved 270,000 pounds of explosives along 207 miles of seismic line. This would require 5,700 separate explosions (60 pounds every 150-200 feet) at a rate of 50-100 shots a day. A crew of almost 30 people would be transported back and forth by helicopters in the wilderness area for approximately 3 months. I point out that this is only one company, and 343 lease applications were pending—all presumably needing some seismic activities.

SUMMARY

The conclusion seems clear: Both seismic and leasing activity are detrimental to any wilderness area. This price will be paid with very little, if any, gain in energy independence. I submit that the price is too dear; and the areas left to explore, other than wilderness areas, are too many for this legislation not to be enacted.

This is bipartisan legislation reported by the Interior Committee has reported to this body. This bill incorporated the concerns of many Americans who testified before the Interior Committee, not only here in Washington, but in many States across the West. A voice that began quietly in Montana has risen across this country, and its statement is concise: Do not condemn our last wild areas to development. I submit that this Congress cannot turn its back on that plea.

I conclude, my colleagues and my friends, by saying that all legislative bodies, including the U.S. Congress, often and with great dramatics and unabashed fanfare close the barn door on an empty barn. Do not let it happen this time. Our foresight should be 20-20. Let me say that Americans have no fight with the oil companies. PAT WILLIAMS has no fight with the oil companies. We all understand that theirs is a roughneck, and a dirty, and a noisy and essential business. Americans welcome the oil companies. We want them in our houses, we welcome them into our recreation rooms, we want them to come into the kitchen of our agricultural areas, into the dining rooms of our mountains,

where they can feed upon the potential oil and gas reserves below: We simply, and politely, request that they stay out of our parlor.

Mr. YOUNG of Alaska. Mr. Chairman, in my remaining 3 minutes, I am glad the gentleman from Montana said there were only a thousand bears left in the United States. We in Alaska have many times considered seceding from the Union for the way we have been treated as far as action on our lands, on 147 million acres of land, which is twice as large or three times as large as Montana, which has been set aside for the grizzly bears. In fact, if you want some, we will be glad to send you some down to these areas. You know, we will just get rid of them, and maybe a few wolves while we are at it.

But anyway, Mr. Chairman, to clarify one point, the designated wilderness area today in 80,000,902 acres. The recommended wilderness is 20,764,000 acres. Under study is 131,109,402, which comes to a total of 231,874,332 acres.

The way this Congress is acting, that is one-third of our total land mass in the United States today that is publicly owned.

The way this Congress acts, it is being misled by those groups that like to say that this is for the wilderness sake, that will lock up potentially the majority of our resources.

This is not myself speaking. This is the information we obtained from GSA, GAO, from all those military establishments, from the geologists, from the USGS, and whole groups that understand the facts, that we are, in fact, putting ourselves into jeopardy of the other countries if we have to import minerals and oil from them.

Mr. Chairman, this is not an environmental vote. This is a no-growth vote. It is not a sound management policy. It is a nonmanagement policy.

Mr. Chairman, I will urge my colleagues on Wednesday, when we vote on this, hopefully, that they will read the record and ask themselves, do they continue to want this great Nation of ours to be dependent upon foreign countries for those resources which we must have to maintain our strength, or do they want access and knowledge of where those resources are and the wise and sound development of those resources as we need them?

If you believe in no-management, if you believe in ignorance, if you believe that this Nation is no longer great, then you will vote for this legislation.

If you believe that man has the capability to manage and to understand and to develop and still maintain the environment, then you will vote against this legislation.

I am realistic enough to know that I may be a voice in the darkness, a cry in the wind; but there will be a time,

and even those supporting this bill, there will be a time when this so-called wilderness area, those resources will be needed.

Unfortunately for our future generations, because of ignorance and a lack of forethought, there will be a mass rape and destruction of those great lands.

There has to be an understanding and a middle ground and the no-growthers and the elitists and those who say it is ours only and no one else's have to understand that we need those resources, the knowledge of them today, and not tomorrow.

Mr. SEIBERLING. Mr. Chairman, I yield myself the balance of my time.

Just to correct the record, there are 410 million acres of federally owned land in the lower 48 States. Of these, 137 million acres are already under lease for oil and gas and another 100 million acres are available for lease.

Federal lands comprise only 21 percent of the land in the lower 48 and the remaining 79 percent is in private ownership.

Even if you take all the lands that are in wilderness, national parks, or military reservations and the like, you come up with only 100 million acres; so that more than twice as many acres are available for oil and gas development as would be banned by this and all other withdrawal actions.

Now, in withdrawing areas from mineral leasing in H.R. 6542. The sponsors were mindful that certain wilderness candidate areas may contain leasable mineral resources which are needed for other evaluations; so to this end, section 4 of the bill permits continued seismic prospecting involving the use of explosives in all wilderness candidate areas and additionally provides for other prospecting conducted in a manner compatible with the preservation of the wilderness and the environment; but with respect to lands that have been designated wilderness by the Congress, the committee voted 28 to 11 to ban such prospecting as incompatible with the wilderness concept and such a ban was certainly supported in the hearings that we had by the overwhelming majority of witnesses.

Now, it may well be that at some future date the pressure of dwindling energy supplies or other shortages may dictate opening wilderness areas or even the national parks for energy development and extraction, and in the meantime if such a need occurs the bill provides that the President may make a recommendation to Congress and if Congress concurs on the basis of a national need, those areas can be opened up; but I would reiterate the statistics that point out that 237 million acres of Federal land in the lower 48 are already available or under oil and gas lease today.

Mr. Chairman, this bill is a widely supported bill. It is not supported by elitists, as the gentleman from Alaska observed. It is supported by such groups as the Oil, Chemical and Atomic Workers International Union; the AFL-CIO; the United Auto Workers; the Industrial Chemical Workers Union; the Industrial Union Department of the AFL-CIO; the International Association of Machinists and Aerospace Workers; the United Steelworkers of America; as well as the Wilderness Society, the Sierra Club, the National Wildlife Federation, the National Audubon Society, the World Wildlife Fund; the Isaac Walton League; the National Parks and Conservation Association; and I could go on and on, including the American Forestry Association, I might add; so this is a widely supported bill that in my opinion is in the national interest from every aspect.

● Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 6542, the Wilderness Protection Act of 1982.

H.R. 6542 represents a bipartisan response to a critical situation now facing our wilderness areas. The 1964 Wilderness Act provided a 20-year waiting period before prohibitions against oil drilling in wilderness areas took effect. In the period since enactment of the act, successive administrations have voluntarily refrained from leasing in these areas; however, recent court decisions have removed administrative discretion in this regard, resulting in a flood of new leasing applications. In the Los Padres National Forest in my own district, hundreds of applications have been filed in an attempt to beat the 1984 filing cutoff.

These actions pose a threat to both existing and potential wilderness areas. Recognizing the seriousness of the situation, the Interior Committee—under the leadership of our chairman, Mr. UDALL, the ranking minority member, Mr. LUJAN, and the chairman of the Public Lands Subcommittee, Mr. SEIBERLING—has drafted this legislation, which is designed to protect our existing and potential wilderness areas in the interim period between the expiration at the end of the 97th session of Congress of the existing moratorium imposed by the Secretary of the Interior, and the January 1984 effective date of the leasing prohibition in the 1964 act.

As an original sponsor of this bill, along with the chairman and eight other Members, I believe it is a responsible and necessary means of protecting these valued lands. Its immediate effect will be to provide permanent protection to 18 million acres of wilderness. Another 15 million acres of lands recommended for wilderness or further planning would be withdrawn until Congress can act upon them. And unlike previous efforts to resolve the issue, H.R. 6542 would require the

concurrence of Congress, through a joint resolution, of any future administration proposals to allow leasing in the wilderness on the basis of national needs.

I urge my colleagues to vote for this important bill. ●

● Mr. WYDEN. Mr. Chairman, today I would like to express my unequivocal support for H.R. 6542, the Wilderness Protection Act of 1982. This legislation takes a major step toward insuring the protection of the irreplaceable pristine lands in our Nation.

H.R. 6542 is a rational and responsible answer to the question of whether there should be leasing of wilderness areas for mineral extraction. While withdrawing certain lands from mineral leasing, H.R. 6542 provides for the inventory of minerals in these areas and for the revocation of withdrawals should the need arise.

Also, this legislation protects the rights of companies with existing leases and allows for the leasing of the subsurface of wilderness as long as exploration and extraction are accomplished from outside the area. These provisions balance the current and potential energy needs of our Nation with the need to preserve undisturbed wilderness areas in the United States.

Only a very small quantity of energy resources exist in the areas withdrawn under H.R. 6542. The findings of a study by private consultant Leonard Fischman for the Wilderness Society typifies the results of several studies on this point. Fischman found that Federal lands as a whole contain roughly 30 percent of the U.S. onshore oil reserves and 22 percent of its onshore gas reserves.

Of those totals, the potential contribution from designated wilderness areas is only about 1.1 percent of the oil and 1.2 percent of the gas; for potential wilderness areas, it is 3.4 percent of the oil and 2.5 percent of the gas. The possible benefit of developing these resources clearly does not justify the sure decimation of fragile ecosystems.

The implicit point of H.R. 6542 is compelling. Extract minerals from nonwilderness areas. General Accounting Office and Department of the Interior studies indicate that up to 80 percent of the existing leases on nonwilderness Federal lands will expire without any exploratory drilling.

Large quantities of untapped resources exist on Federal land and are available for extraction. These resources will remain available under the provisions of this bill.

With existing Federal leases unexplored, there is no justification to risk marring our small amount of unspoiled wilderness. An area I am familiar with illustrates the danger of not passing this legislation. The Wenaha-Tucannon Wilderness Area,

which encompasses about 180,000 acres in Oregon and Washington, had 49 known applications for oil and gas leases as of January 1982. The beauty and serenity of this area would be severely damaged if these leases were granted. The building of roads and installation of equipment would shatter the delicate balance of nature that presently exists.

We must not blithely dismiss the importance of preserving America's wilderness. Too little of this country's original grandeur remains to endanger it with unnecessary industrial encroachment. Serious efforts must be undertaken to insure that for generations to come Americans will be able to see these living treasures and enjoy the natural beauty that this country affords us. H.R. 6542 is one of those serious efforts.●

□ 1345

The CHAIRMAN pro tempore. All time has expired.

Pursuant to the rule, the text of the bill, H.R. 6846, shall be considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendment in the nature of a substitute recommended by the Committee on Interior and Insular Affairs now printed in the bill.

The Clerk read as follows:

H.R. 6846

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Wilderness Protection Act of 1982".

Mr. SEIBERLING. Mr. Chairman, I move that the Committee do now rise. The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DE LA GARZA, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for other purposes, had come to no resolution thereon.

DISTRICT OF COLUMBIA
BUSINESS

The SPEAKER. This is District of Columbia day. The Chair recognizes the gentleman from California (Mr. DELLUMS), chairman of the Committee on the District of Columbia.

REQUEST FOR CONSIDERATION
OF H.R. 5595, INCREASE AUTHORIZATION FOR THE
ANNUAL FEDERAL PAYMENT
TO THE DISTRICT OF COLUMBIA

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the Dis-

trict of Columbia, I call up the bill (H.R. 5595) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

The SPEAKER. The Clerk will report the title to the bill.

The Clerk read the title of the bill.

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. PARRIS. Mr. Speaker, reserving the right to object, it is my understanding that the chairman of the committee intends to make a unanimous-consent request to have this matter considered at a later time.

Is my understanding correct in that regard?

Mr. DELLUMS. Mr. Speaker, will my distinguished colleague yield?

Mr. PARRIS. I yield to the gentleman from California.

Mr. DELLUMS. By a previous commitment, there is to be no rollcall vote taken today, and the gentleman from Virginia, as I understand it, is prepared to offer an amendment to the bill before the body calling for a vote. Since amendments cannot be delayed, they have to be acted upon at the time they are presented to the body. Therefore, the chairman would offer a motion to withdraw the resolution before us and ask unanimous consent that the bill, H.R. 5595, be considered at some later date this week.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker, would the gentleman inform the House as to whether or not his unanimous-consent request would apply just to the balance of this week?

Mr. DELLUMS. If the gentleman would yield further—

Mr. PARRIS. That is, for rescheduling. I yield to the gentleman from California.

Mr. DELLUMS. The gentleman would very much like to see the bill acted upon this week.

As I understand my distinguished colleague from Virginia has some problem with Wednesday afternoon. The chairman has no problem with scheduling. As the gentleman knows, this gentleman has no ability to schedule the matter on the floor of the Congress. We can certainly ask the Speaker to take judicial notice of the fact that the gentleman would like to be present and able to offer his amendment.

This gentleman would reassure my colleague from Virginia that we will do everything at our disposal to make certain the gentleman's rights are protected.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker, I appreci-

ate very much the gentleman's consideration in that regard. I would suggest to the gentleman that in the event, for some untoward reason, the bill cannot be scheduled after Wednesday of this week, it would certainly not be this Member's intention to object to some appropriate time next week.

With the understanding of the chairman that at such time as this matter is considered by the full House that we would have an opportunity to offer amendments which, as the gentleman is aware, are pending to this measure now, would it be the chairman's position that appropriate amendments, germane as usual, under the appropriate rules, would be in order at such time as the measure is considered?

Mr. DELLUMS. If the gentleman would yield further, I would say to the gentleman that the gentleman's right will be protected; certainly his amendments would be in order.

Mr. PARRIS. Further reserving the right to object, Mr. Speaker—and I appreciate the gentleman's comments—as I understand the parliamentary situation, if the House were to proceed on this matter at this time, under the rules, it would be appropriate for any Member to require a recorded vote and the Speaker has indicated that recorded voted will not be taken today, so that it is possible under the rules that the House might have to adjourn or send out the Sergeant at Arms to arrest the Members.

Certainly none of the Members would like to see that happen. I have no desire personally to delay this matter. The adoption of this legislation certainly is important, but I do have a sincere desire to have the House consider my amendment, which would restore \$14 million for retiree benefits to this bill.

Finally, Mr. Speaker, further reserving the right to object, if I withdraw my objection, could I have the understanding of my colleague, the gentleman from California, that he would give this Member reasonable notification of whatever time this matter may be scheduled by the House?

Mr. DELLUMS. If the gentleman would yield further, we will let the gentleman know as soon as this gentleman finds out when the matter will be scheduled before the body.

Mr. PARRIS. With that representation from the gentleman from California, I withdraw my reservation of objection.

Mr. DELLUMS. Mr. Speaker, I withdraw the bill.

The SPEAKER pro tempore (Mr. KILDEE). The gentleman from California (Mr. DELLUMS) withdraws the bills.

DISTRICT OF COLUMBIA REVENUE BONDS FOR EDUCATIONAL EXPENSES AMENDMENT

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 6276) to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans.

The Clerk read the title of the bill.

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6276

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 490(a)(1) of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-334) is amended by inserting "college and university programs which provide loans for the payment of educational expenses for or on behalf of students," after "college and university facilities."

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I am pleased to bring up for the consideration of the committee the bill, H.R. 6276. H.R. 6276 amends the revenue bond section of the Home Rule Act (section 490, as amended) to enable the District to authorize the sale of revenue bonds for financing student loan programs. Specifically, the bill authorizes the sale of revenue bonds for financing college and university programs which provide loans for the payment of educational expenses for or on behalf of students. This authority will be available to all of the universities in the District of Columbia.

H.R. 6276 is essentially a minor amendment to the bill, H.R. 4910, which was passed and signed into law last year. It simply adds to the list of permissible purposes for revenue bonds the sale of such bonds for the purpose of financing a student loan program. This legislation is required to insure that bonds could be sold for this purpose.

The committee view is that the District of Columbia should have the right to make its own decision regarding the advisability of undertaking such a program. This legislation does not imply congressional endorsement of such a bond sale; rather, it simply is a logical extension of bonding authority already held by the District.

This legislation is prompted by the possibility of a reduction in student loan funds from Federal sources. The

actual need for such loan funds, the quantity of such loan funds, and the advisability of selling revenue bonds to finance such a loan pool, was not analyzed by the committee; rather, it was the position of the committee that these issues would be determined by the District Government.

As in all cases, should District legislation be enacted to sell bonds, such legislation would lay over for congressional review. I would also like to point out that this legislation neither causes nor implies any Federal Government financing or responsibility for these bonds.

The Subcommittee on Fiscal Affairs and Health held hearings on May 26. At that time, the bill was favorably reported to the full committee. The committee, on June 23, 1982, approved H.R. 6276, by a unanimous recorded vote of 10 votes "aye" and 0 votes "nay."

Mr. PARRIS. Mr. Speaker, I move to strike the requisite number of words.

Mr. Speaker, H.R. 6276 amends the District of Columbia Self-Government and Governmental Reorganization Act to permit the District to issue revenue bonds to finance college and university programs providing student educational loans.

I think it is important for the Members to remember that any District legislation enacted to establish the revenue bond sales would be subject to the usual 30-day congressional review period. The District currently has authority to issue revenue bonds to finance housing, health, transit, utility, recreational, and university facilities, and this legislation would add guaranteed student loans under fairly carefully structured conditions secured by the endowments and the assets of institutions of higher learning.

The administration supports the adoption of the amendment. The cost will only represent the loss of revenue to the Treasury because of the tax-exempt status of the bonds.

Mr. FAUNTROY. Mr. Speaker, I rise in support of H.R. 6276, a bill which would enable the District, like all other jurisdictions, to sell revenue bonds as a means of financing student loan programs.

This bill would amend section 490 of the Home Rule Act and is part of a series of measures designed to make the District of Columbia government more effective, efficient, and responsive. As home rule for the District ages, it is my hope that we will continue to clean up and clear up the shortcomings in the original act.

H.R. 6276 enjoyed strong, bipartisan support at the committee level. We are not here mandating the use of revenue bonds for college loans. Instead, we are merely providing the District of Columbia government with the authority to enact such a program if it deems it necessary.

This authority is vital as the District, like all other places, faces the belt-tightening fiscal policy of the Federal Government, and thus, the prospect of fewer Federal dollars for higher education assistance.

During the first session of this Congress, we passed H.R. 4910, a bill which will help facilitate access to the bond market for the District. H.R. 6276 complements that action we took and will move the District closer to the bonding authority enjoyed by all other jurisdictions.

● Mr. McKINNEY. Mr. Speaker, our colleagues may recall that last year the Committee on the District of Columbia reported legislation that dealt with the ability of the city to issue bonds. That bill did not provide any new authority to the city, but rather clarified the ambiguous language contained in the original Home Rule Act. It was the opinion of bond counsel that without clarification, the original language was too vague to permit any type of bond to be successfully issued. The passage of that measure into law last December removed all technical impediments to the city's entry into the private bond market.

The bill before us today, H.R. 6276, is a logical extension of the effort to get the city into the bond market at the earliest possible time. It would, quite simply, include college and university student loan programs as an eligible purpose for the issuance of bonds. If approved, the District of Columbia would be permitted to issue tax-exempt revenue bonds on behalf of the universities and colleges located in the city. Such bonds would not be guaranteed by either the Federal Government or the District of Columbia government. The institutions wishing to participate must provide the guarantee by setting up reserves or pledging assets against the possibility of default on the loans.

I think it is important to note that with a reduction in Federal aid for student loans, efforts by the States to pick up the slack should be praised. Illinois was the first State to consider such a program when it established just 1 year ago a new agency to issue tax-exempt bonds for independent colleges. Similar measures have been passed in Iowa, Maryland, and Massachusetts. In five other States—Vermont, Rhode Island, New Hampshire, Maine, and Kentucky—the authority of existing agencies has been expanded to include the issuance of bonds for student loans or the construction of college facilities. What we hope to do today is add the District of Columbia to the growing list of States and local governments who have taken the initiative to develop alternative student loan programs. And the reason we must take this step is that the Congress must act as the legislature for

the District of Columbia in amending the Home Rule Act.

In looking at the bill itself, one may well wonder where the controls and limitations of the program appear. They do not appear, but for a very sound reason that goes to the heart of the concept of home rule. The purpose of this bill is not to spell out in great detail the specifics of the program. Rather, it is to provide the city with the basic authority without which it cannot even consider such an effort. Just as the several States will decide for themselves what costs will be eligible for loans and how the bonds will be controlled and marketed, the District of Columbia, through the action of the City Council, will make those decisions. And in fact, the city may decide not to proceed with bonds for student loans at all. We seek through this bill not to mandate any action, but rather to eliminate the impediments facing the city should they decide to follow that avenue.

Before any bonds could be offered under this new authority, the City Council would be required to enact local legislation which would get into the specific expenses which would be eligible for loans, the guarantees offered by the participating institutions, and the concerns of rating agencies, bond counsel, and the underwriters. That local legislation would not be any different from any other local legislation, and it would therefore be required to undergo the normal 30-day congressional review period. Should any part of the local legislation cause concern, the city can be prevented from going forward by a congressional resolution of disapproval.

In summary, Mr. Speaker, this bill would not lessen the authority of Congress regarding the District of Columbia in any manner, it would not pledge the full faith and credit of either the local or Federal Government against the bonds, and in fact, it would not mandate that the city actually issue such bonds. What it would do is provide the basic authority to proceed on such a course if the city finds it to be in the best interest of the residents of the District of Columbia.

I urge my colleagues to lend their support and approve the bill.●

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill. The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MAKING IN ORDER CONSIDERATION OF H.R. 5595 ON THURSDAY, AUGUST 12, 1982

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that it shall be in order that the bill (H.R. 5595) to amend the district of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, be considered on Thursday, August 12, 1982.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DESIGNATING OCTOBER 15 AS NATIONAL POETRY DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, I would like to note the introduction of House Joint Resolution 550, a bill to designate October 15 of each year as National Poetry Day.

October 15 has historically been set aside to take note of the contributions of poetry to civilization, and Dr. Frances Clarke Handler of Miami Beach has worked tirelessly and persistently to have this date recognized and celebrated around our Nation.

It is through the unflagging efforts of Dr. Handler and of State poetry societies that more than half of our States, as well as a number of cities and counties, have issued proclamations to recognize October 15 as Poetry Day.

Dr. Handler, who is national director of the National Poetry Day Committee, is well known in Florida for her dedication to the art of poetry which has been an importance form of expression and literature. Because I believe in the importance of communication in its most persuasive and critical form, I offer my support to the National Poetry Day Committee in its efforts.

If our colleagues would like to join in saluting the contributions of poetry and poets in our everyday lives and culture, I invite and urge them to contact my office and join in sponsoring House Joint Resolution 550.●

THE LATE HONORABLE WALTER B. HUBER OF OHIO

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, it is my sad duty to announce to the House the passing of a former colleague. The Honorable Walter B. Huber of Ohio succumbed to cancer yesterday in Maryland where he had lived since leaving office in 1950.

Mr. Huber and I were elected to the House in 1944, but Walter left office in 1950. He remained in Washington, however, where he had a distinguished career as an investigator for the Senate Committee on the Judiciary, as an administrative assistant with the House Subcommittee on Legislative Oversight and as a consultant to the House Committee on Un-American Activities until his retirement from public service in 1968.

We should be grateful for his service to the Nation, and I am sure my colleagues join me in conveying the sympathies of the House to Mr. Huber's son and grandchildren.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. WOLF of Virginia (at the request of Mr. MICHEL), for today and the balance of the week, on account of a death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DELLUMS) to revise and extend their remarks and include extraneous material:)

Mr. GORE, for 30 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mr. OBERSTAR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. FAUNTROY, to revise and extend his remarks on H.R. 6276 in the House today.

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. LeBOUTILLIER.

(The following Members (at the request of Mr. DELLUMS), and to include extraneous matter:)

Mr. WILLIAM J. COYNE.
Mr. MAZZOLI.
Mr. GORE.
Mr. MOLLOHAN in two instances.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following title:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

ADJOURNMENT

Mr. DELLUMS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock p.m.) under its previous order, the House adjourned until Tuesday, August 10, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4560. A letter from the Acting Director, Defense Security Assistance Agency, transmitting a report on the impact on U.S. readiness of the Army's proposed sale of certain defense equipment and services to Turkey (Transmittal No. 82-73), pursuant to section 813 of Public Law 94-106; to the Committee on Armed Services.

4561. A letter from the Chairman, Federal Home Loan Bank Board, transmitting the Board's annual report on the economic viability of depository institutions for the period April 1, 1981, to March 31, 1982, pursuant to section 206 of Public Law 96-221; to the Committee on Banking, Finance and Urban Affairs.

4562. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense equipment and services to Turkey (Transmittal No. 82-73), pursuant to section 36(b) of the Arms Export Control Act, together with certification that the sale is consistent with the principles contained in section 620B(b) of the Foreign Assistance Act of 1961, pursuant to section 620C(d) of the act; to the Committee on Foreign Affairs.

4563. A letter from the Acting Director, Office of Legislative Affairs, Agency for International Development, transmitting notice of proposed changes in an existing records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4564. A letter from the General Counsel, Occupational Safety and Health Review Commission, transmitting notice of a proposed new system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4565. A letter from the Chairman, Securities and Exchange Commission, transmitting a supplemental report to the Commission's annual report, regarding corporate reorganizations under the bankruptcy code for the fiscal year ended September 30, 1981, pursuant to Public Law; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. Supplemental report on H.R. 6666 (Rept. No. 97-684, Pt. I). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GLICKMAN:

H.R. 6953. A bill to repeal the change made by the Omnibus Budget Reconciliation Act of 1981 in the State trigger provisions of the Federal-State Extended Unemployment Compensation Act of 1870, and for other purposes; to the Committee on Ways and Means.

By Mr. MOLLOHAN:

H.J. Res. 566. Joint resolution designating the week of August 29, 1982, through September 4, 1982 as "National Railroad Week"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

453. By the SPEAKER: Memorial of the Legislature of the State of California, relative to savings and loan associations; to the Committee on Banking, Finance, and Urban Affairs.

454. Also, memorial of the Legislature of the State of Illinois, relative to H.R. 2229, furnishing outpatient medical services to "atomic veterans"; to the Committee on Veterans' Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 4070: Mr. LANTOS.

H.R. 5088: Mr. EVANS of Delaware, Mr. MAVROULES, Mr. WHITTAKER, Mr. ROYBAL, Mr. SHANNON, and Mr. WALGREN.

H.R. 5600: Mr. BENEDICT, Mr. BROWN of California, Mr. BURGNER, Mrs. COLLINS of Illinois, Mr. DWYER, Mr. EMERSON, Mr. HENDON, Mr. LEBOUTILLIER, Mr. LUJAN, Mr. McCURDY, Mr. MOLINARI, Mr. RANGEL, Mr. RATCHFORD, Mr. ROBERTS of South Dakota, Mr. ST GERMAIN, Mr. WOLFE, Mr. BROWN of Colorado, Mr. HAGEDORN, Mr. LIVINGSTON, and Ms. OAKAR.

H.R. 6938: Mr. PERKINS.

H.J. Res. 496: Mr. PAUL, Mr. CLINGER, Mr. COURTER, Mr. KILDEE, Mr. ANNUNZIO, Mr. SOLARZ, Mr. DAUB, Mr. ADDABBO, Mrs. ASHBROOK, Mr. JEFFRIES, Mr. PRICE, Mr. LANTOS, Mr. PEYSER, Mr. KRAMER, Mrs. SCHROEDER, Mr. LEBOUTILLIER, Mr. LEHMAN, Mr. DONNELLY, Mr. CONYERS, Mr. FISH, Mr. ROSENTHAL, Mr. RAILSBACK, Mrs. HOLT, Mr. LUJAN, Mr. FORD of Tennessee, Mr. GIBBONS, Mr. MOAKLEY, Mr. DOUGHERTY, Mr. AKAKA, and Mr. GRADISON.

H.J. Res. 533: Mr. McCURDY, Mr. HALL of Ohio, Mr. MARTINEZ, Mr. EVANS of Delaware, and Mr. MORRISON.

H. Con. Res. 325: Mr. DOUGHERTY, Mr. DREIER, Mr. DUNN, Mr. GINGRICH, Mr. JACOBS, Mr. KOGOVSEK, Mr. KRAMER, and Mr. LEE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

554. By the SPEAKER: Petition of the City Council, New York, N.Y., relative to H.R. 6459, transferring the National Institute of Occupational Safety and Health to the National Institutes of Health; to the Committee on Energy and Commerce.

555. Also, petition of the national apostolate of Maronites, San Antonio, Tex., relative to a peaceful solution for Lebanon; to the Committee on Foreign Affairs.

556. Also, petition of the City Council, Houston, Tex., relative to opposition to section 121 of H.R. 6211; to the Committee on Public Works and Transportation.

557. Also, petition of the City Council, East Chicago, Ind., relative to steel import limitations; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5427

By Mr. HARKIN;

(Amendment to the Leach substitute.)—Page 3, strike out line 21 through 23 and insert in lieu thereof the following:

"(d) If radio broadcasting to Cuba under this Act includes any AM frequency broadcasts, such broadcasts may only be carried out on a single AM frequency and—

(Substitute for Energy and Commerce Committee amendment.)

—Page 3, strike out line 21 and all that follows through line 8 on page 6 and insert in lieu thereof the following:

"(d) If radio broadcasting to Cuba under this Act includes any AM frequency broadcasts, such broadcasts may only be carried out under the authority provided by this subsection. For purposes of such AM frequency broadcasting, the Board is authorized to—

"(1) prepare or otherwise obtain material suitable for broadcasting; and

"(2) provide for the broadcasting of that material to Cuba by making expenditures for charges for the use of the facilities of commercial radio broadcasting stations which can be heard in Cuba."

—Page 4, line 1, strike out "the" and all that follows through "Act" in line 5 and insert in lieu thereof the following: "radio broadcasting to Cuba under this Act may only be carried out with broadcasting facilities."

ties located on Swan Island off the coast of Honduras".

—Page 7, line 23, strike out "authorized" and insert in lieu thereof "directed"; page 8, line 1, strike out "in mitigating the effects" and insert in lieu thereof "as a result" and at the end of line 3, insert the following:

"For purposes of this subsection, the term 'expenses' includes (but is not limited to) the capital costs associated with the planning and construction of new or modified antenna, arrays, transmitters, and associated equipment, lost advertising revenues and reductions in advertising rates, increased power costs, and costs of additional personnel required to monitor and operate revised radio broadcasting facilities."

—Page 8, after line 12, insert the following:

PROHIBITION ON HIRING OF ADDITIONAL PERSONNEL FOR RADIO BROADCASTING TO CUBA

Sec. 7. (a) Except as provided in subsection (b), functions relating to radio broadcasting to Cuba under this Act may only be carried out by personnel of Federal agen-

cies, and no Federal agency may employ additional personnel for purposes of carrying out any such function.

(b) Nothing in this section precludes the Board for International Broadcasting from utilizing the services of existing news reporting organizations.

Page 3, line 16, strike out "The" and all that follows through the end of line 20.

H.R. 6214

By Mr. STENHOLM:

—At the end of the bill add the following new section:

LONG-TERM LEASES FOR AIR FORCE FAMILY HOUSING

Sec. . (a) Notwithstanding any other provision of law, the Secretary of the Air Force may enter into contracts for the lease of housing facilities, existing or to be constructed, on or near military installations in the United States for assignment of such facilities, without rental charge, as public quarters to members of the Armed Forces, including enlisted members in the grade of

E-4 and below. Such contracts may be made through negotiation.

(b)(1) A contract for the lease of housing facilities under this section may be for any period not in excess of 30 years (including the period for construction of such housing facilities).

(2) Contracts under this section may not be made for the lease of housing facilities at more than five separate locations. Not more than 300 housing units may be leased under this section at any one location.

(c) Expenditures for the rental of housing facilities under a contract under this section (exclusive of any costs for utilities, maintenance, and operation) may not exceed \$1,000 per month for any unit for the first year of the contract.

(d) A contract may not be made under this section until (1) the Secretary of the Air Force submits to the Committees on Armed Services of the Senate and House of Representatives a written report of the facts concerning the proposed contract, and (2) a period of 21 days elapses after the report is received by those committees.

EXTENSIONS OF REMARKS

OUTMODED DIE CASTING FACTORIES ILLUSTRATE NEED FOR H.R. 5540, DEFENSE INDUSTRIAL BASE REVITALIZATION ACT

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. WILLIAM J. COYNE. Mr. Speaker, American industry must modernize rapidly to regain its competitive edge in world and domestic markets. And for national security reasons, this modernization is simply a must so we can maintain our ability to mobilize industrial production in the event of emergency.

The House will soon have an opportunity to help spur this upgrading of the Nation's industrial plant when it votes on H.R. 5540, the Defense Industrial Base Revitalization Act. This legislation will provide the framework under which small- and medium-size firms can catch up with their modernization needs.

The New York Times recently described the linkage between outmoded equipment in the die casting industry and the loss of business to foreign competitors and to the plastics industry. The article illustrates the problem of retraining workers along with the implementation of technological changes.

H.R. 5540 also addresses the training of critical skills for this very reason. Workers in an industrial area like my area of Pennsylvania would resist modernization programs, and understandably so, if the introduction of robots left them out in the cold. This bill gives workers a chance to become part of the modernization process.

The text of the New York Times article follows:

[From the New York Times, June 28, 1982]

DIE CASTERS ARE STRUGGLING TO ADAPT AN OLD CRAFT SEEKS WAYS TO MODERNIZE

RIVER GROVE, ILL.—A 400-pound, five-foot-long yellow arm carries a bucket of molten aluminum from a furnace and pours it into a casting machine. It swings around, refills the bucket and begins again, repeating the movements every 30 seconds.

That robotic arm is the brightest hope for salvaging one of America's bread-and-butter industries—die casting.

In the last decade, die casting, a \$6 billion-a-year, 12,000-company, family business still operating on equipment almost as old as the art itself, has fallen behind its competition from abroad and from the plastics industry. And now it is banking on high technology to assure its survival.

"The industry hasn't kept pace with the times," said Laura Conigliaro, a financial

analyst with Bache Halsey Stuart Shields Inc. in New York.

Indeed, the industry faces a \$1 billion loss this year, according to James Cannon, executive vice president of the Society of Die Casting Engineers.

EQUIPMENT LAG

Miss Conigliaro attributes the industry's problems to obsolete equipment. "The major cause for lost business is that companies are guilty of having equipment older than that of similar industries in other countries," she said.

Machine tools more than 10 years old accounted for 69 percent of this country's total inventory, compared with 41 percent in Japan, according to the 12th American Machinery Inventory of Metal Working Equipment completed in late 1978, which, Miss Conigliaro pointed out, reflects the industry today. "This obsolescence tends to breed lower profitability because your production is less," she said.

"The use of plastics and foreign competition has created several complications for our industry," said Mr. Cannon. "Seven years ago the trend toward lighter-weight equipment and auto parts caused us to lose business to the plastics industry. We finally leveled off from that impact a few years ago when we learned to produce lighter parts. But now we're losing out to foreign competition with better equipment."

Previous training methods for die casters are no longer adequate, according to Mr. Cannon. The new technology demands a more sophisticated approach, he said, one that emphasizes "hands-on experience" rather than learning from a manual.

And the Society of Die Casting Engineers, the educational arm of the industry, is beginning just such a training program in a newly constructed training center at Triton College in this Chicago suburb. Triton is one of the nation's largest two-year colleges, with nearly 47,000 students and more than 100 technical programs.

CASTING PROCESS

The training facilities, in addition to the robotic arm (or ladler), which puts metal into die casting machines, also has an extractor robot, which removes the finished product. One hundred molds an hour can be completed without the use of manual labor, a 25 percent increase in productivity.

The traditional die casting process requires a worker to stand by a machine with a dipper, scooping molten metals from a furnace in which they are heated to 1,200 degrees. The worker pours the steaming metal into a nearby molding machine, and when a mold is formed, reaches between high pressure clamps that exert 1,000 tons of pressure and removes the finished product.

"I can remember my father coming home with burns," said Brent Knight, Triton's president, who, as it happens, is the son of a die caster.

"The process is boring, hot and dangerous," said Miss Conigliaro.

Although robots are used in less than 10 percent of the industry, Mr. Cannon estimates that within the next five years they will be functioning in as much as 25 percent of it.

COST OF CHANGE OVER

Nonetheless, it will not be easy to turn the industry around. For one thing, changeover costs may be a problem in some plants.

The total cost of the ladler and extractor, per die casting machine, is \$35,000. Most plants have at least five to 10 of the machines and some, like General Motors, have more than 140. Moreover, if the robots were to be installed in a typical factory, all of the other equipment there would have to be upgraded to accommodate them.

There is also some resistance to change. "Many die casters want to stay with the old ways," said Miss Conigliaro. "There is so much that needs to be done, they are overwhelmed and confused."

Will people lose jobs to robots? "Absolutely not," said Miss Conigliaro. "Robots will 'displace,' not replace men." Humans will be used for cleaner and safer jobs like quality inspection and maintenance of the machines, she added.

LEARNING TO USE ROBOTS

"When we began changing our systems, many of the old-timers felt threatened," said Arlin Rohrer, president of the independent union at the O.M.C. Johnson Corporation in Waukegan, Ill., an outboard motor manufacturer that is about 10 percent automated. "They thought, 'I'm going to lose my job,' and other men thought the robots would be too complicated."

However, Mr. Rohrer said, he has not yet encountered anyone who could not learn how to use the new equipment or who has lost a job as a result of the automation.

Beginning in September, Triton will offer courses of from one to five days. Classes of between 25 and 30 students will receive both traditional training and hands-on education in robotics and other new devices.

Even though there are few jobs in the industry for novices, Mr. Cannon said, "We'd rather have them trained in metals than plastics, when the economy turns around." ●

U.S. RAILROADS HONORED

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. MOLLOHAN. Mr. Speaker, I today introduce a joint resolution to designate the week of August 30 through September 4 as "National Railroad Week" and September 4 as "National Railroad Day." My distinguished colleague from West Virginia in the other body, the Honorable ROBERT C. BYRD, has embarked on a similar course of action there.

There is little doubt that throughout the history of the United States, railroads have both extended our horizons and our ability to reach them. Railroads have long been a symbol of our national unity. Even as the United States was torn by the War Between

the States, track was being laid for the first transcontinental rail link, completed in 1869.

It is vital for us to remember, however, that the first great rail links were over three trunk lines from the east coast over or around the Appalachians—the Erie, completed from New York to Buffalo in 1851; the Pennsylvania, completed from Philadelphia to Pittsburgh in 1852; and the Baltimore & Ohio, completed from Baltimore to Wheeling in 1853. The B. & O. was the first line to be incorporated for the purposes of carrying passengers and freight in 1827.

We have seen major consolidations of lines and reorganizations of companies in the more than 125 years since these great lines were built. But 100 years ago, railroad men like Vanderbilt, Gould, Harriman, Hill, Morgan, and Belmont still held virtual monopoly power in some States.

Initial efforts to break this power and protect the general public were incorporated by the Congress in the Interstate Commerce Act of 1887. Not incidentally, this act also was designed to save the railroads, themselves, from the rate wars and rebate schemes that were proving to be as poor a business practice as they were irresistible.

Railroads today are more than fond memories, however. They still carry freight and passengers in a most fuel-efficient manner, including the coal that is West Virginia's contribution to America's energy future. That is why the people of Grafton, W. Va., have scheduled the First Annual West Virginia Railroad Heritage Festival beginning later this month.

This festival will be a success, not only because of our great history, but because of the still unrealized potential of America's railroads.

I urge my colleagues to give the joint resolution their full consideration in the weeks ahead. The text of the joint resolution follows:

H.J. Res. 566

Whereas railroads were vital to American territorial expansion and industrial development in the nineteenth century;

Whereas railroads have contributed a rich and colorful culture to America in the form of art, literature, song and architecture;

Whereas railroads have provided Americans with unexcelled luxury in travel;

Whereas historically, railroads have been the leaders in American freight and passenger traffic;

Whereas railroads are destined to lead the Nation in sophisticated, rapid freight and passenger transportation in the future; and

Whereas the important role of railroads in the development and future of the Nation deserves to be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of August 29, 1982, through September 4, 1982, as "National Railroad Week" and September 4, 1982, as "National Railroad Day" and call-

ing upon all Government agencies and the people of the United States to observe the week and day with appropriate programs, ceremonies, and activities.●

SALUTE TO PORT WASHINGTON'S FIRE DEPARTMENT ON ITS 75TH ANNIVERSARY

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, nowhere is the spirit of voluntarism in America more typified than in a community volunteer fire department. "Wherever Americans have lived together," R. H. Kayser wrote in the July 29, 1982, edition of the Port Washington News, "they have cooperated to control the ravages of fire." Nowhere is this better shown than through the 75-year efforts of Port Washington's volunteer Atlantic Hook and Ladder Company.

Port Washington's Atlantic Hook and Ladder Company was born out of the community spirit as well as from the strong individualism that has made America what it is. This fire company has grown with Port Washington and the changing times. The Atlantic Hook and Ladder Company has ably met the challenge of more and bigger buildings, greater population, and the potential for more lethal fires and calamities.

This 75th anniversary of the Port Washington Atlantic Hook and Ladder Company is a special occasion for all Port residents. The Port Washington Fire Department will celebrate 75 fine years of selfless dedication and highly competent work on August 7. I know that all of my colleagues here in the U.S. House of Representatives share my salutations to the Port Washington Atlantic Hook and Ladder Company.

I wish to express my sincere best wishes for another 75 years of expert and dedicated services to each and every Port resident.

Port Washington has much to be proud of in the Atlantic Hook and Ladder Company; and a recent editorial in the July 29 Port Washington News speaks for me and all of us in Congress. I wish to reprint the editorial entitled "Among the Best" below:

AMONG THE BEST

It is a joy to congratulate the Port Washington Fire Department on its 75th anniversary. All our encounters with the wonderful men and women of the department have made us proud of them and grateful to live in a community served and protected by such dedicated and fine people.

Our Fire Department volunteers give freely of their private time to protect our citizens and their property. They do their jobs in a professional and compassionate manner. The fire fighters and the medics

spend extra time to keep their skills up to date.

They do their difficult and often dangerous jobs with care and kindness, working quickly but taking time to reassure and inform.

These generous and courageous men and women are among the best in Port Washington, and our Fire Department is one of which we can all be very proud.

We urge all our neighbors to join the department in its anniversary celebration next week.●

THE NEED FOR REVISION IN THE CURRENT INSANITY LAWS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to call to the attention of my colleagues the following article that appeared in the Washington Post on August 3, 1982. The outrageous verdict in this case underscores the immediate need to change the current insanity laws.

The article follows:

[From the Washington Post, Aug. 3, 1982]

60 DAYS FOR WIFE-KILLING

The headline on the wire service story was a mind-boggler: "Educator Gets 60 Days in Wife Killing." *Sixty days?* Surely there must have been some mistake. Sixty days for accumulated parking violations, maybe, or for an especially rowdy, peace-disturbing party . . . but certainly not for "wife-killing." Wrong. The headline was not an editor's error but a true account of a Missouri court's idea of justice.

Ron J. Karraker, the defendant in this case, was chairman of the department of educational psychology at the University of Missouri-Kansas City in 1980 when he picked up a hammer one night and killed his wife. He then had the presence of mind to bundle the body into a car, drive to Lake Jocomo, east of the city, and dump the body into the lake. He was soon arrested and charged with second-degree murder. So far, so good. But Mr. Karraker pleaded not guilty on the grounds that his act had been the product of a mental disease or defect. This is the very broad rule for acquittal by reason of insanity that was abandoned in the District of Columbia 10 years ago. Missouri is one of the few states that still uses this standard.

According to Kansas City prosecutors, Mr. Karraker had no history of mental illness or violence, and no one claimed that he was mentally ill at the time he was brought to court. Nevertheless, five of the six psychiatrists and psychologists who examined him found that he was temporarily suffering from a mental disease at the very time he killed his wife. Fearing that he would be acquitted of second-degree murder on the testimony of these medical experts, the prosecutors chose to accept a plea of guilty of manslaughter instead of proceeding with the trial.

Given the broad nature of Missouri's insanity defense and the fact that manslaughter is punishable by 10 years in prison, it is difficult to question the judgment of the prosecutors at this point. What must have

astounded them, however, was the judge's sentence. Judge Gene R. Martin of the Jackson County Circuit Court suspended the entire jail term except for 60 days and ordered that the defendant then spend the next 22 months teaching inmates of the local jail. One wonders what he will teach.

Judge Martin may believe that his resolution of this case was a practical approach to sentencing. Coming so soon after the controversy over the Hinckley verdict, it is sure to add to public confusion over the standards that are applicable in our criminal courts. Rules governing the insanity defense vary widely among the states, and in some instances it appears that even a threat to raise the defense is a valuable tool in plea bargaining. And judicial discretion in sentencing is broad, so broad that there is often great disparity among sentences handed down by different judges for identical crimes.

Most criminal law experts now support legislation that Congress has been considering for some years that would set mandatory minimum and maximum sentences, within a narrow range, for federal crimes. This Missouri case, where a defendant who pleads guilty to killing his wife with a hammer and hiding her body in a lake gets 60 days in jail, will surely be used as an example of the kind of judicial discretion that confuses the public and can eventually undermine that confidence in the judicial system that is necessary for the preservation of a just and stable society.●

SUPPORT H.R. 5540

HON. ROBERT H. MOLLOHAN

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. MOLLOHAN. Mr. Speaker, I would like to call attention to a letter from Gene Bottoms, executive director of the American Vocational Association sent to Members of the House in support of H.R. 5540, the bipartisan Defense Industrial Base Revitalization Act that will soon be on the House floor for debate and vote.

As the letter points out, this important legislation authorizes a specialized skill training program to be operated at the State and local levels to train, retrain, and upgrade skills of workers in critical-shortage categories needed by defense-related industries. Dozens of skill areas are involved—tool and die makers, machinists, drill press operators, laser technicians, millwrights, machine tool operators, various types of mechanics, computer technicians, forging and casting workers, industrial machinery repairmen, et cetera. We must train hundreds of thousands of such types of workers if we are to strengthen our defense industrial base and meet our overall civilian production needs.

Mr. Speaker, other provisions of H.R. 5540 would encourage modernization of industrial plant and equipment of small- and middle-size firms in the defense subcontractor base. It would also provide loans, loan guarantees,

and purchase agreement authority to assist the domestic mining industry develop new sources of critical and strategic materials for our defense requirements. Finally, the measure would assist higher educational institutions in the acquisition of modern scientific and technical equipment that is urgently needed to increase our supply of trained engineers and other scientific and technical personnel that are vitally needed for our national defense effort.

Mr. Speaker, as a cosponsor of H.R. 5540, I urge our colleagues on both sides of the aisle to support this important legislation to amend the Defense Production Act so that critical gaps in the production, training, and materials areas may be closed in time for our defense buildup to be fully effective.

The letter from the American Vocational Association follows:

AMERICAN VOCATIONAL ASSOCIATION,

Arlington, Va., July 22, 1982.

DEAR CONGRESSMAN: H.R. 5540, the bipartisan "Defense Industrial Base Revitalization Act," will soon be on the House floor for debate and vote. This important series of amendments to the Defense Production Act of 1950, as amended, has the full and enthusiastic support of the American Vocational Association and its State and local vocational training affiliates throughout the country.

This legislation authorizes a five-year program (operated at the State and local levels) to train, retrain, and upgrade skills of workers in critical-shortage categories needed by defense-related industries. These critical skill shortages currently exist and will grow—despite record-high unemployment—unless specialized training programs can be brought to bear. Dozens of job categories are involved—tool and die makers, machinists, drill press operators, laser technicians, millwrights, machine tool operators, various types of mechanics, computer technicians, forging and casting workers, industrial machinery repairmen, etc. Hundreds of thousands of such types of workers must be trained, retrained, and their skills upgraded in order to strengthen our defense industrial base and to meet our overall civilian productivity requirements over the coming five years.

H.R. 5540's skill-training program provides a workable method of meeting these critical needs, patterned on the successful skill training programs of World War II that trained some 7.5 million persons for defense jobs in the four-year period. The \$250 million in annual skill-training funds would be distributed on the basis of State Plans including three major criteria—(1) the number of high priority industries located in the State; (2) the categories of skill shortages for which training programs must be developed; and (3) the overall quality of the State Plan to fulfill these objectives.

Some opponents of H.R. 5540 have charged that this defense industrial base skill-training program is just another "CETA program" in disguise. This allegation is totally false. It is NOT a social welfare program: it is NOT a program to replace the established apprenticeship training programs that are operating so successfully in many parts of our industrial complex; nor is it some "blank check" to an-

other big spending program. Instead, it supplements in key advanced skill shortage areas, the vocational training already conducted by private companies for their own workforce requirement, existing vocational education programs, apprenticeship programs, and private training company programs in order to fill the critical defense industrial base training gap that threatens to cripple our defense buildup.

Other provisions of this bi-partisan measure would encourage modernization of the industrial plant and equipment of small- and middle-size firms in the defense subcontractor base. H.R. 5540 would also provide loans, loan guarantees, and purchase agreement authority to assist the domestic mining industry develop new sources of critical and strategic materials for our defense requirements. Finally, the bill would assist higher educational institutions in the acquisition of modern scientific and technical equipment urgently needed to increase our supply of trained engineers and other scientific personnel vital to national defense needs.

We hope that you will support and vote for H.R. 5540 when it comes before the House.

Sincerely yours,

GENE BOTTOMS,
Executive Director.●

END WORLD HUNGER

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

● Mr. HALL of Ohio. Mr. Speaker, more people have died of hunger in the last 5 years than have been killed in all of the wars, revolutions, and murders in the past 150 years. This is deplorable considering the fact that international studies show that the resources and technology exist today to end world hunger within the next 20 years. This on-going tragedy can no longer be ignored and must be pursued by all people of the world with a great sense of faith and conviction.

Tomorrow, August 10, teams of Cyclists To End World Hunger will visit Capitol Hill to honor Members of Congress for the support they have received to promote awareness of world hunger and malnourishment. The meeting will be held on the lower terrace of the Capitol at 12:15 p.m.

The Cyclists To End World Hunger learned of recent congressional efforts to end domestic hunger and food waste through the national news coverage given to the "Hunger in the Land of Plenty" luncheon which I co-sponsored along with 14 of my colleagues.

The cyclists, who began from Atlanta, Fort Lauderdale, and Denver have converged in Washington before beginning the final leg of their trip to the United Nations in New York. They have crossed 15 States, met with State and local officials, and have brought

their message about the need to intensify an idea whose time has come.

During this year's trip, the cyclists have compiled a list of over 10,000 signatures from individuals who have aligned themselves with efforts to end hunger, both domestically and worldwide. Over the last 4 years, a total of 2.2 million signatures have been obtained in conjunction with this noble cause.

I urge my colleagues from both the Senate and the House to join me in welcoming the cyclists to Washington at tomorrow's ceremony. ●

**EXPLANATION OF WAMPLER SUBSTITUTE TO THE
FOOD AND AGRICULTURE RECONCILIATION
BILL—H.R. 6892**

HON. WILLIAM C. WAMPLER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, August 9, 1982

●**Mr. WAMPLER.** For the information of those interested in what the effect is of the Wampler substitute to the food and agriculture reconciliation bill (H.R. 6892) I am printing the following explanation:

**WAMPLER AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO H.R. 6892**

1. The Wampler Substitute adopts the Committee Bill, H.R. 6892, except that it makes the following changes or additions to title III (most of which were amendments narrowly defeated in Committee):

A. The Secretary of Agriculture is given the authority to require that applicants look for a job at the time they apply for food stamps. The Committee bill gives states an option to require job search at the time of the food stamp application.

B. Definitive guidelines are established for expedited service. Current law requires that persons who say they are in immediate need must receive food stamps within two to three days, with no verification required of the person's income or assets. This amendment sets a gross income test of \$150 (while maintaining current income rules for migrant and seasonal farmworkers); a liquid assets test of \$100; requires verification of these two items, whenever practicable; and, requires that benefits be issued to eligible persons as soon as possible but not later than 5 days after application.

C. States will be required to reduce their error rates to 9% for fiscal year 1983; to 7% for fiscal year 1984; and to 5% for fiscal year 1985 and all succeeding years. States which fail to reduce their error rates will be required to repay to the federal government the value of the benefits issued in error, over these target error rates. The Committee bill requires that a percentage of administrative costs be repaid if error rates are not reduced to specific target levels.

2. The Wampler Substitute will have the savings and corresponding reductions in the authorization "cap" as noted in the attachments as proposed by Congressman Coleman (Ranking Member of the Domestic Marketing, Consumer Relations and Nutrition Subcommittee) and adopted in the Wampler Substitute.

3. Also included in the Wampler Substitute is the amendment sought to section 130

of H.R. 6892 by Chairman Zablocki relating to the donation of dairy products. The technical Committee amendments are also included in the Substitute.

**COLEMAN RECONCILIATION SUBSTITUTE—FOOD STAMP
PROGRAM**

[Savings in millions]

	1983	1984	1985	Total
Household definition.....	\$38	\$40	\$42	\$120
Rounding down.....	68	93	93	254
Veterans provisions.....	+5	+5	+5	+15
Coordination of COLA'S.....	+19	+21	+23	+63
Adjustment of deductions.....	42	0	0	42
Standard utility allowance.....	90	93	97	280
Job search.....	15	17	18	50
Eliminate initial month benefit under \$10.....	15	15	15	45
Expedited service.....	15	15	15	45
Error rate reduction and sanction system.....	90	265	380	735
Prompt reductions.....	10	10	10	30
Total.....	359	522	642	1,523
First budget resolution.....	779	1,083	1,428	3,290

Note: Authorization for appropriations—1983, \$12.623 billion; 1984, \$12.817 billion; and 1985, \$13.570 billion.

COLEMAN RECONCILIATION SUBSTITUTE FOOD STAMP CAP

	1983	1984	1985
CBO baseline.....	\$11,967	\$12,306	\$13,174
AFDC/SSI offsets.....	+190	+208	+213
Substitute savings.....	-359	-522	-642
Puerto Rico.....	+825	+825	+825
Food stamp cap.....	12,623	12,817	13,570

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, August 10, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 11

9:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Office of Technology Assessment

The Board, to meet on pending business items.

EF-100, Capitol

9:30 a.m.

Judiciary

Constitution Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1983 for the U.S. Commission on Civil Rights.

5110 Dirksen Building

Labor and Human Resources

Labor Subcommittee

To hold hearings on S. 2634, providing for integration of handicapped persons employed in work activity centers and sheltered workshops.

4232 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings on S. 2348, providing the Department of Agriculture with greater flexibility in its inspection procedures at food processing plants.

324 Russell Building

Environment and Public Works

Business meeting, to continue consideration of proposed amendments to the Clean Air Act (Public Law 95-95).

4200 Dirksen Building

Judiciary

Security and Terrorism Subcommittee

To resume hearings to review the U.S. Attorney General's guidelines on domestic security investigations (Levi Guidelines).

2228 Dirksen Building

10:30 a.m.

Foreign Relations

Closed briefing on the degree of Soviet economic dependence on the West (United States) and Soviet policy alternatives to use of Western (United States) leverage.

S-116, Capitol

2:00 p.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To continue hearings on S. 2348, providing the Department of Agriculture with greater flexibility in its inspection procedures at food processing plants.

324 Russell Building

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on H.R. 5161, designating certain lands in the Monongahela National Forest, W.Va., as wilderness.

3110 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

AUGUST 12

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on S. 2792 and S. 2794, bills establishing a Federal fund from revenues derived from oil and gas leases on the Outer Continental Shelf to provide block grants to certain States and territories for ocean and coastal energy impact assistance and resource management.

235 Russell Building

Finance

To hear and consider the nominations of Mary Ann Cohen, of California, Lapsley W. Hamblen, Jr., of Virginia, and James H. Stamper, of Missouri, each to be a judge of the U.S. Tax Court.
2221 Dirksen Building

Judiciary

Regulatory Reform Subcommittee

To hold joint hearings with the Committee on Small Business Subcommittee on Government Regulation and Paperwork on the implementation of the Regulatory Flexibility Act (Public Law 96-354), and S. 2170, requiring a Federal agency to prepare a regulatory flexibility analysis whenever the agency publishes a general notice of proposed rulemaking or a final rule.
2228 Dirksen Building

Judiciary

Juvenile Justice Subcommittee

To hold hearings on State and local law enforcement efforts to reduce criminal case backlog.
457 Russell Building

Small Business

Government Regulation and Paperwork Subcommittee

To hold joint hearings with the Committee on the Judiciary's Subcommittee on Regulatory Reform on the implementation of the Regulatory Flexibility Act (Public Law 96-354), and S. 2170, requiring a Federal agency to prepare a regulatory flexibility analysis whenever the agency publishes a general notice of proposed rulemaking or a final rule.
2228 Dirksen Building

10:00 a.m.

Energy and Natural Resources

To hold hearings on the nominations of Milton M. Masson, Jr., of Arizona, and John B. Carter, Jr., of Texas, each to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation, and Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission.
3110 Dirksen Building

Foreign Relations

To hold hearings on U.S. economic policy toward the Soviet Union.
4221 Dirksen Building

Labor and Human Resources

Education, Arts and Humanities Subcommittee

To hold oversight hearings on the Student Loan Marketing Association (Sallie Mae).
4232 Dirksen Building

Select on Intelligence

Closed business meeting, to discuss general intelligence matters.
224 Russell Building

2:00 p.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2186, providing for the Secretary of the Interior to acquire from the State of Indiana certain lands by exchange at the Indiana Dunes National Lakeshore, and S. 2710, establishing a wilderness area in the Hoosier National Forest area, Ind.
3110 Dirksen Building

Judiciary

Security and Terrorism Subcommittee

To continue hearings to review the U.S. Attorney General's guidelines on domestic security investigations (Levi Guidelines).
2228 Dirksen Building

2:30 p.m.

Foreign Relations

To hold hearings on the nomination of Charles W. Greenleaf, Jr., of Virginia, to be an Assistant Administrator of the Agency for International Development.
4221 Dirksen Building

AUGUST 13

9:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.
3110 Dirksen Building

10:00 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume hearings to review proposed regulations implementing part B (assistance for education for all handicapped children), of the Education for All Handicapped Children Act (Public Law 94-142).
4232 Dirksen Building

10:30 a.m.

Foreign Relations

To continue hearings on U.S. economic policy toward the Soviet Union.
4221 Dirksen Building

AUGUST 16

9:00 a.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2818 and S. 2805, bills providing for an adjustment in the termination, extension, or modification of certain contracts for the sale of timber from National Forest System lands and public lands.
3110 Dirksen Building

10:30 a.m.

Judiciary

To hold hearings on S. 2784, clarifying the intent of antitrust laws relating to the relocation of member clubs of professional sports leagues.
2228 Dirksen Building

AUGUST 17

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.
3110 Dirksen Building

Governmental Affairs

To resume hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.
3302 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To continue hearings on S. 2818 and S. 2805, bills providing for an adjustment in the termination, extension, or modification of certain contracts for the sale of timber from National Forest System lands and public lands.
3110 Dirksen Building

AUGUST 18

9:30 a.m.

Labor and Human Resources

Labor Subcommittee

To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.
4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works

Transportation Subcommittee

To resume hearings on highway revenue and cost allocation issues.
4200 Dirksen Building

Governmental Affairs

To continue hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.
3302 Dirksen Building

Judiciary

To resume hearings on S.J. Res. 199, proposing a Constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building

Select on Intelligence

Closed briefing on intelligence matters.
224 Russell Building

2:00 p.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2118, designating certain lands in Wyoming as wilderness.
3110 Dirksen Building

AUGUST 19

9:30 a.m.

Labor and Human Resources

To resume consideration of proposed legislation establishing a program to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice.
4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.
3110 Dirksen Building

Governmental Affairs

To hold hearings on S. 2629, proposed Budget Reform Act, establishing a 2-year Federal budget cycle.
3302 Dirksen Building

10:30 a.m.

Veterans Affairs

Business meeting, to mark up S. 2378, amendment No. 1909 to S. 2378, S. 1956, S. 2460, S. 2461, S. 2048, S. 2381, S. 2382, S. 2709, S. 2388, measures increasing the rates of disability compensation for disabled veterans, increasing the rates of dependency and indemnity compensation for surviving spouses and children of veterans, discontinuing duplicative payments to certain veterans, increasing the level of disability required for the payment of dependent allowances, and providing for cost-saving improvements in veterans' programs, S. 2747, and amendment No. 1984 to S. 2747, measures improving certain aspects of the Veterans' Administration educational benefits programs and the Department of Labor veterans' employment programs.
412 Russell Building

August 9, 1986

EXTENSIONS OF REMARKS

20031

AUGUST 24

9:00 a.m.
Governmental Affairs
Civil Service, Post Office, and General
Services Subcommittee
To hold hearings on S. 2190, providing
for the recruitment and training of
volunteers in Federal agencies.
3302 Dirksen Building

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending
calendar business.
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcom-
mittee
To resume oversight hearings on Ameri-
ca's role in the world coal export
market.
3110 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the imple-
mentation of the Federal Mine Safety
and Health Act of 1977.
4232 Dirksen Building

10:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of
Justin Dart, of California, to be a
member of the Board of Directors of

the Communications Satellite Corpo-
ration.

235 Russell Building

SEPTEMBER 16

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcom-
mittee
To resume oversight hearings on Ameri-
ca's role in the world coal export
market.
3110 Dirksen Building

SEPTEMBER 17

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcom-
mittee
To continue oversight hearings on
America's role in the world coal export
market.
3110 Dirksen Building

SEPTEMBER 21

10:00 a.m.
Labor and Human Resources
Alcoholism and Drug Abuse Subcommit-
tee
To hold hearings on the effects of alco-
hol consumption during pregnancy.
4232 Dirksen Building

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American
Legion legislative recommendations
for fiscal year 1983.
318 Russell Building

Cancellations

AUGUST 10

9 a.m.
Energy and Natural Resources
Business meeting, to consider pending
calendar business.
3110 Dirksen Building

AUGUST 11

9:30 a.m.
Select on Indian Affairs
To hold hearings on S. 1652, restoring
certain lands in Arizona to the Colora-
do River Indian Reservation to be held
in trust by the United States, S. 2418,
permitting the Twenty-nine Palms
Band of Luisena Mission Indians to
lease certain trust lands for 99 years,
S. 1799 and H.R. 4364, bills providing
for the transfer of certain land in
Pima County, Ariz. to the Pascua
Yaqui Indian Tribe, and the substance
of H.R. 5916, providing for certain
Federal lands to be held in trust for
the Ramah Band of the Navajo Indian
Tribe.
6226 Dirksen Building

AUGUST 12

9 a.m.
Energy and Natural Resources
Business meeting, to consider pending
calendar business.
3110 Dirksen Building

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Honorable SLADE GORTON, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

There is a way which seemeth right unto a man, but the end thereof are the ways of death.—Proverbs 14: 12.

** * * wide is the gate, and broad is the way, that leadeth to destruction, * * * strait is the gate, and narrow is the way, which leadeth unto life, * * *—Matthew 7: 13, 14.*

God of truth and light and order, lead us. Thy way is the way of truth. Help us to seek Thy truth. Thy way is the way of light. Help us to seek Thy light. Thy way is the way of order. Help us to seek Thy order. Save us from the way of error, darkness and chaos.

In Thy will is reality—outside Thy will is unreality and illusion. May we choose Thy will for ourselves, our colleagues and peers, our associates and staffs, for all who serve here, and for our families.

Grant to the Senate in the closing weeks of this Congress the way that will lead the people in righteousness and justice. In His name Who is the Way, the Truth and the Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. THURMOND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., August 10, 1982.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SLADE GORTON, a Senator from the State of Washington, to perform the duties of the Chair.

STROM THURMOND,
President pro tempore.

Mr. GORTON thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, regarding the schedule of the Senate for today. I can only reiterate the statement that was made by the majority leader on yesterday that Members of the Senate should be on notice that we may have a late night any night between now until we recess on either August 20 or August 27.

The majority leader has also stated that if we are to recess at the same time as the House on August 20, we must consider priority legislation including the supplemental appropriations bill, the immigration bill, the debt ceiling bill, and available conference reports.

The majority leader later today will, make a statement as to how long he intends to keep the Senate in session tonight. It is the intention and hope of the leadership to finish the supplemental appropriations bill before recessing for the day. We will have to see whether that can be done.

On behalf of the majority, I again request that Members who have amendments to offer to this bill come to the floor as soon as possible and inform the leadership on both sides of the aisle whether such amendments will be offered today.

We are delighted with the work of the Appropriations Committee under the leadership of the chairman, the distinguished Senator from Oregon (Mr. HATFIELD). He did accelerate the work of the Appropriations Committee in getting this bill to the Senate, and we are hopeful that the Senate itself will carry on that approach and expedite the consideration of this bill today. Completions of this bill today will have a great deal to do with whether or not we can keep the schedule in an attempt to recess on August 20.

I reserve the remainder of our time.

LABOR DAY RECESS ANNOUNCEMENT

Mr. BAKER. Mr. President, yesterday, I took the opportunity to remind Senators that the dates for the upcoming Labor Day recess are from the close of business on Friday, August 27, until Wednesday, September 8. I also indicated, as I have several times before, that should the Senate dispense with its much publicized "must list" before August 20, it would then be possible for the Senate's recess to parallel that of the House of Representatives which begins on August 20.

Today, I would like to share with my colleagues one of my 18 reasons for the Senate to recess on August 20. Reason No. 7: August is a sticky, humid, miserable month. Cars overheat, tempers flare, air-conditioners break. The only way to deal with it, is to spend as much time as possible in one's home State, with one's family and friends. An extra week of legislative aggravation instead of an extra week of liberty seems almost too unnecessary; but then again, the whole schedule is in our hands, and we will not have to look too far to place the blame.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield the remainder of my time to Mr. CHILES if he should need it.

RECOGNITION OF SENATOR CHILES

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. CHILES. Mr. President, for 2½ months now, Senator NUNN and I have been coming to the floor of the Senate every day to speak out on crime, and on the need for the Senate to move promptly to pass anticrime legislation. We are encouraged by the fact that the Senate has reached a time agreement that will govern the consideration of a package of anticrime proposals, S. 2572. If we move to pass that proposal, and get it over to the House

of Representatives, we stand a chance of taking a strong step to fight crime this year.

But passage of this proposal, important as it is, will not address one of the most important shortcomings in today's criminal justice system. And it is that shortcoming, the abuse of the writ of habeas corpus, that Senator NUNN and I have focused on over the last month. It is essential, as far as I am concerned, that we eliminate from the present habeas corpus statute, those provisions which have enabled prisoners to abuse the purpose of the writ of habeas corpus. We can act to make this much needed change by passing any one of several habeas corpus proposals, S. 653, last year. Early this year, the administration sent its own version of habeas corpus reforms to the Congress, in S. 2216. Finally, this May, Senator NUNN and I included the provisions of S. 653 in title 4 of S. 2543, the anticrime proposal which we introduced. S. 2543 is currently pending on the Senate Calendar, and the Senate Judiciary Committee had held 2 days of hearings on habeas corpus reform proposals. There is no reason for us not to act on this important reform.

Mr. President, those persons who are directly involved in representing the public's interest in our criminal justice system—our police officers and our district attorneys—have come out in support of the need for habeas corpus reform. They understand all too well the frustration that occurs when a State prisoner is able to use habeas corpus to challenge State court convictions years after the original trial took place, and on the grounds that have nothing to do with guilt, innocence, or a fair trial. When habeas petitions are filed years, or even decades, after the person has been convicted, the State is invariably unfairly prejudiced in its ability to respond. Evidence may have disappeared, and key witnesses may no longer be available. Moreover, our prosecutors must spend their time trying to reconstruct events which occurred years earlier, instead of focusing on current cases. The result is even more delays and backlogs in our already overcrowded criminal justice system.

It is therefore no surprise that our law enforcement officials feel so strongly about the need for habeas reform. Just last week, I received a letter of support for our efforts to reform the habeas laws from the National District Attorneys Association. Enclosed in that letter was a resolution which the National District Attorneys Association just adopted. I would like to read that resolution:

Whereas the greatest single deterrent to crime is swift and sure punishment, and

Whereas public confidence in the criminal justice system is seriously eroded by a perception that the law allows an unnecessary

and endless stream of attacks by defendants in their conviction, and

Whereas the virtually unrestricted access of convicted persons to Federal court on the filing of writs of habeas corpus is a serious impediment to the finality of judgments and unnecessarily consumes scarce judicial resources: Now, therefore, be it

Resolved, That the National District Attorneys Association urges the Congress to act expeditiously to address the problems caused by excessive use of habeas corpus and further urges the Congress to support Senate bill 653 toward that end.

Last week, I also received a letter of support for our anticrime efforts from the International Association of Chiefs of Police. They underscored their support for crime-fighting legislation in general, and they also pointed out the need to include habeas corpus reform in any criminal justice overhaul. Their letter said, and I quote:

The habeas corpus provision of S. 2543 would be a great benefit to our judicial system. Countless writs which are often frivolous are filed throughout the United States creating much unnecessary litigation and costing millions of dollars in court costs and man-hours. Reasonable limitations such as those contained in S. 2543 would greatly ease this problem.

Mr. President, those who we ask to fight crime understand all too well the shortcomings in today's system which allow the guilty to go free, and which destroy the notion of finality in our criminal justice system. We can make the reforms which need to be made, and show our law enforcement officials that we in Congress are committed to giving them our full support in their all important fight to make our neighborhoods safe once again. We can do that, Mr. President, but only if we act soon and pass the anticrime package and to move on habeas corpus reform. Time is running short, and no issue is more important for us to deal with.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRASSLEY). Without objection, it is so ordered.

TRIBUTE TO THE BESSEMER RESERVE MARINES

Mr. HEFLIN. Mr. President, as the senior Senator from the great State of Alabama, I quite naturally feel that my State has a great deal to be proud of. In fact, from time to time I will stand here and extol the virtues of people or organizations who have been recognized for excellence in a particular field.

Today, however, my pride in my home State is doubly strong, for the people I rise in recognition of are not only from Alabama but represent a group for which, as a former member, I feel a close personal affinity—the U.S. Marine Corps.

The particular group, made up of more than 400 marines, is the Reserve Marine Unit of Bessemer, Ala. The Bessemer Marines were recently singled out by the Reserve Officers Association, in a competition with more than 170 other Reserve Marine outfits across the country. This honor brought them the prestigious Harry Schmidt Trophy as this year's outstanding Reserve Fleet Marine Force and Mobile Expedition Force.

Although many persons may not even realize that such things as Reserve Marines exist, they form an important part of our armed services. These marines always operate under the assumption that they could be called out at any moment. The Bessemer Battalion remains prepared to be airlifted to any remote corner of the world within 24 hours, should such a need arise.

In case of such situations, the Bessemer Battalion, and all Reserve Marines, are constantly training and learning and working to stay prepared. They work with tank guns, and M-16 rifles. They take classes in advanced warfare tactics, and have extensive conventional warfare training.

The Bessemer Marines have stayed well prepared, as is evidenced by the honor they recently achieved. These people are a group for all Alabamians to be proud of, and I heartily congratulate them.

Mr. President, I ask unanimous consent that an article from the Birmingham News about the Bessemer Reserve Marines be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Birmingham News, July 15, 1982]
BESSEMER MARINES CHOSEN AS BEST OUT OF 170 UNITS

(By Norman Atkins)

If enemy troops ever tried to invade Birmingham, combat-ready Reserve Marines from Bessemer would draw a line in the dirt and tell them to cross it at their own peril.

And the city could find no better Reserve battalion in America to defend it, according to the national Reserve Officers Association.

The ROA has singled out the Bessemer battalion over 170 other Reserve outfits across the country for the prestigious Harry Schmidt Trophy as this year's outstanding reserve Fleet Marine Force and Mobile Expedition Force.

"Ninety-nine percent of the people in the area don't even realize the Marines are right here in Bessemer," says Sgt. R. L. Bailey, 24.

"When somebody sees me in uniform, he'll say, 'What, are you a recruiter or something?' I tell him I'm with the Marines, and

then he wants to know, "What in the dickens are Marines doing in Bessemer?"

But there they train, at 1001 Fourth Ave. SW, in and around a two-year old center they share with the Navy.

A row of green-and-black camouflaged trucks and jeeps are lined up outside the training center. Behind them crouch four heavily armed tanks. "These pack a pretty mean wallop," Bailey jokes.

The tanks, equipped to fire conventional or nuclear warheads and so well insulated that those inside would be sheltered from atomic fall-out, "are filled with fuel and ready to roll," he adds.

"We operate under the assumption that we could be called out at any moment, and we're always preparing for it should that time come."

The Bessemer battalion can dash, via airlift, to any place in the world within 24 hours, and is prepared to stay a while if necessary, Bailey says.

"This unit is just as good or better than any I've been with in World War II or the Korean conflict," says Sgt. Major William Ballard, 54 one of the oldest in the battalion. "We're prepared to go anywhere—and I fully trust them, too."

The last time a Birmingham Reserve Marine unit had to fight was during the Korean War.

In the next two decades, the Bessemer battalion's members trained people for Vietnam and took charge of all Marine Corps funeral duty in Alabama.

Today, they train, and train. And then they train some more.

One weekend a month, they gather in Bessemer to hone skills on the big tank guns and the M-16 rifles they all carry.

They take classes in everything from the latest chemical-biological warfare tactics to alcohol and drug abuse.

"No matter what rank you are, they always have new stuff for you to learn," Bailey says.

Bailey says that every Reserve Marine in Bessemer is trained in nuclear warfare.

But their extensive conventional warfare training is crucial, he adds.

"You can make a country glow, but you have to have troops to keep the land," he explains.

This week, one of the Birmingham outfits is practicing landing tactics and field duty at the Landing Force Training Center in California.

Another unit will work on its shooting abilities at Fort Bliss, Texas in the fall.

The Reserve Marines serve six-year hitch-es.

They prepare themselves to be ready in case of war, standing ready to take the place of fallen active-duty Marines.

But now that the Bessemer outfit is known as a top-flight battalion, it could draw a tough and important assignment should a critical situation arise, Bailey says.

People join the Marine Reserve for a number of reasons:

College students have a special incentive to sign up because the Corps pays up to \$1,000 a year toward their education, Bailey explains. This is why a number of Bessemer Reserve Marines are full-time students at the University of Alabama Birmingham.

Reservists are entitled to military pensions, says Ballard, who will be drawing such a pension in six years.

"More than anything else, it's a family thing," says Ballard, whose oldest son played taps for all Marine funerals in Alabama several years ago.

After active duty, "you get a feeling you belong in the Marines," says Sgt. John Felton, 34, who heads one of the two Bessemer units. "A lot of my men were in Vietnam, and know what can happen."

"I don't like fighting, but somebody's got to be ready to defend our country in a time of war," says Bailey. "There is a matter of duty and patriotism involved for sure."

Some gun-and-war "freaks" join up, but "we don't have many crazies like that in our unit," Bailey says.

Most of the reservists are between the ages of 18 and 24.

More than half are black, although 15 or 20 years ago the unit was predominantly white.

Only one woman belongs to the Bessemer battalion, which is the headquarters for four units, one in Illinois, one in Chattanooga and the two in Bessemer.

Overall, the battalion has more than 400 Marines, making it one of the largest in the country.

"It's easy to train a unit of 25 and keep them in line," says Felton. "But with a larger one, it starts to get difficult."

"This is the best Marine battalion in the country, though, and I mean Reserve or active. We do as much in a weekend as an active unit does in a month."

When there is no war for the reservist Marines to keep their minds on, they focus in on other goals—like the Schmidt prize, Felton says.

He points out that no Marine battalion has won the prize two years in a row, "but we aim to be the first."

FRANK E. MCGOUGH, SR.

Mr. HEFLIN. Mr. President, it is with great sadness and loss that I note the death of Frank E. McGough, Sr., of Montgomery, Ala. The loss of Frank will be felt by all in the Montgomery community, and his friendship and dedication to community affairs will be missed by all.

Through his life, Frank demonstrated an active commitment to civic affairs in Montgomery and the State of Alabama. Frank graduated from Lanier High School in 1937 and subsequently attended the University of Alabama. Frank left the University of Alabama to serve our Nation in the U.S. Air Force during World War II. Subsequently, Frank played an active role in the alumni affairs of the University of Alabama. He served as vice president of the university's National Alumni Association and as president of the Montgomery County branch for this alumni association. In addition, he served in the president's cabinet of the University of Alabama with honor and distinction.

Throughout his life, Frank demonstrated an intense and active commitment to the Montgomery community through his service in civic affairs. Frank served as president of the Montgomery YMCA, the Blue Gray Association, and the Lions Club of Montgomery. In 1969, he was bestowed the YMCA's most distinctive honor when he was selected "Man of the Year." Frank was also a member

of the Men of Montgomery and he formerly served as director of the Montgomery Area Chamber of Commerce. In addition, Frank served on the board of commissioners of the Montgomery Housing Authority from 1964 to 1971. During his service with the housing authority he was selected to serve as chairman. His outstanding guidance and leadership on the Montgomery Housing Authority will serve the Montgomery community in the years ahead.

Frank enjoyed tremendous success as he served as president of a Montgomery automobile dealership. He was highly respected for his commitment to the success of the automobile industry. His dedication to this industry is evidence by his service on the Chevrolet Dealer Factory Council and the General Motors President's Dealer Advisory Council. In addition, Frank was highly respected by the automobile industry throughout Alabama for his superior service as director of the Alabama Automobile Driver's Association. In addition, the tremendous service Frank rendered to the automobile industry, he also served as chairman of the board of First Southern Savings & Loan and was a member of the board of directors of the Alabama National Bank. His outstanding service and dedication to these entities will be missed.

Frank E. McGough, Sr., was a compassionate American with an impeccable history of dedication and service to his community, to his church, to his profession, to his university, and to his family. I wish to extend my sincerest sympathies to Frank's wife, Sidney McMillan; to his mother, Mrs. Elizabeth McGough; his two sons, Frank E. McGough, Jr., and John Van McGough, and to his brother, Thomas McGough III.

JUSTICE STEVENS' SPEECH TO THE AMERICAN JUDICATURE SOCIETY

Mr. HEFLIN. Mr. President, I am sure we have all read of the remarks Justice John Paul Stevens made on August 6, 1982 on the subject of the problems of the U.S. Supreme Court.

I take this opportunity to commend Justice Stevens for drawing attention to the problems facing the Supreme Court in its efforts to meet its constitutional responsibilities. His thoughtful remarks to the American Judicature Society focus on areas that have long been my concern, and the concern of the entire judicial community. It is no secret to the courts, to Congress, or to the American people, that the continued existence of our individual liberties and right to self-government depend on the strength of our judicial system.

One hundred and ninety-three years ago, the Federal court system was established and still exists today with only a few significant structural changes. The most important change came in 1891, when nine circuits of the U.S. courts of appeals were established to assist the U.S. Supreme Court, which then had a docket of 492 cases, in its reviewing function. In 1892, the year following this relief measure, the U.S. Supreme Court decided 275 cases, and a large number of those were summarily determined. I think it is quite significant to remember that number—275 cases.

The Supreme Court was also granted the power to exercise discretion over the review of certain cases. These reforms helped to reduce the number of cases docketed in the Supreme Court and resulted in a more effective and efficient administration of justice.

From that time on, however, the number of cases on the Supreme Court's docket has increased steadily. In its 1951 term, the Supreme Court had 1,353 cases on its dockets. It decided approximately 275 cases—the same number in its 1892 term. In the 1961 term, the number of cases on the docket had increased to 2,570, and again the number of cases actually decided was approximately 275. In the 1981 term, which was completed a year ago, the figures show that the docket had swelled to 3,814. Also during the 1981 term, the Supreme Court received 4,242 petitions for writs of certiorari. It granted 289, less than 7 percent. The 289 is approximately the 275 cases that I have been speaking about since 1890. Of the 289 cases granted, 107 were summarily decided and only 182 were scheduled for oral argument. Note that almost every year the number of cases decided is approximately 275. Clearly, more than 6 or 7 percent of the cases filed deserved to be heard, but our highest Court has little choice.

There appears to be no sign of a tapering off or decline in the volume of judicial business. Thus, it is recognized that the existing judicial structure is not designed to handle this increased docket load.

The major response thus far has been the addition of personnel, but this has not solved the problem of maintaining a nationally uniform body of Federal law, or of handling the increased volume of litigation adequately. Thus, the solution lies in restructuring the judiciary at the appellate level.

During the 1970's, there were two important and influential studies conducted which recommend the creation of a National Court of Appeals in order to provide relief to the Supreme Court.

In 1971, the Chief Justice of the United States, Warren Burger, appointed a seven-member study group

on the caseload of the Supreme Court. This group, headed by Prof. Paul A. Freund of Harvard Law School studied the problems confronting the Court, explored alternatives, and in December 1972 submitted its recommendations that Congress establish a seven-member National Court of Appeals.

As conceived by the Freund study, the National Court of Appeals would screen all petitions for review filed with the Supreme Court. Several hundred of the most important cases would be certified to the Supreme Court for further screening and the Supreme Court would select from this group the cases it wished to hear.

Under the Freund plan, the National Court of Appeals could deny review and no appeal would lie from its refusal to allow review. Also, cases of real conflict between appellate tribunals on important issues would be certified to the Supreme Court, and the National Court of Appeals would hear cases of lesser importance involving conflicts between circuits.

The second study was conducted beginning in 1973 by the Commission on Revision of the Federal Court Appellate System, called the Hruska Commission after its Chairman, Senator Roman Hruska of Nebraska. This Commission was mandated by statute to study the structure and internal procedures of the U.S. circuit courts of appeals system.

In June 1975 the Hruska Commission issued its report in which it recommended the creation of a National Court of Appeals, although one substantially different from the one recommended by the Freund group.

As proposed by the Hruska Commission, the National Court of Appeals would not screen cases for the Supreme Court. Jurisdiction of the new court would extend to two classes of cases: First, those referred to it by the Supreme Court, and second, those transferred to it by one of the U.S. courts of appeals, Courts of Claims, Courts of Customs and Patent Appeals.

Under the Hruska plan, the seven judges of the new court would be appointed by the President subject to confirmation by the Senate.

During the 94th Congress, Senator Hruska introduced a revised version of his original bill for the creation of a new court. His new bill eliminated transfer jurisdiction of the National Court of Appeals and allowed a phase-in appointment of judges by the President over an 8-year period.

During my relatively short time in the Senate, I have introduced, and been a vocal supporter of, legislation to establish a National Court of Appeals. Not only Justice Stevens, but numerous other judges and judicial scholars have pointed out the crucial importance of providing badly needed

and long-overdue assistance to the Supreme Court.

I firmly believe that justice is the guardian of all liberty, and that we, here in the Senate, the greatest deliberative body in the world, have a responsibility to insure an effective, efficient system of justice.

The ever-increasing number of cases demanding attention coupled with the Supreme Court's capacity for handling cases dictates that a smaller and smaller percentage of cases can be reviewed by the Court. Something must be done if the judiciary is to continue to fulfill its constitutional duty to the citizens of this country. The very future of the effective administration of justice is uncertain unless Congress seeks resolutions and assesses alternatives now.

It was in this spirit that I offered two separate pieces of legislation to create a National Court of Appeals, S. 1529 and S. 2035.

These two bills provide for the same jurisdiction of cases referred to it by the Supreme Court, including cases which the Supreme Court, first, directs the National Court of Appeals to decide and, second, transfers to the National Court of Appeals for such court to determine whether or not to grant certiorari. Under either bill the National Court of Appeals may deny review in any case referred to it by the Supreme Court unless directed by the Supreme Court to decide the case. Unless modified or overruled by the Supreme Court the decisions of the National Court of Appeals shall be binding on all courts of the United States and with respect to questions arising under the Constitution, laws, or treaties of the United States on all other courts.

These bills have differences. S. 1529 would be a full-time court composed of a chief judge and eight associate judges. S. 2035 would have only one full-time member of the court, who would be called the Chancellor of the United States; the other judges of the court would come temporarily from the circuit courts of appeal and would serve on a percase basis. S. 2035 would also use senior circuit judges under the age of 70.

The Chancellor of the United States would assist the Chief Justice of the United States in his many time-consuming administrative matters and nonjudicial functions.

In addition the Chancellor would serve as the administrative judge of the National Court of Appeals and could sit as the presiding judge on occasions. S. 2035 would have a pool of 21 judges and members, on a case-by-case basis, would be determined by lot drawing; however, no circuit judge could sit on a case from his particular circuit.

Another pending proposal calls for the same jurisdiction of S. 1529 and

S. 2035, but would provide members from an intercourt panel of judges from the existing courts of appeals. This temporary interpanel would be composed of between 14 and 22 judges, and members would serve on a temporary case-by-case basis.

In his remarks, Justice Stevens said that he favors creation of a different type of new court—a type of entrance court, rather than the exit court which my legislation proposes. With such a creation, the Supreme Court would surrender to this new court its power to decide what cases the Supreme Court should decide on the merits. As he noted, this proposal is very similar to that made by the Freund Commission, which I discussed earlier.

Justice Stevens makes some very cogent and persuasive arguments in support of this type of new court, and I will not take the time here to repeat them, but will merely recommend them for your perusal. Mr. President, I ask unanimous consent that the remarks of Mr. Justice Stevens be inserted in the RECORD after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. HEFLIN. I do not intend to say that my proposals would be any more or any less effective or desirable than the type put forth by Justice Stevens. I will, however, most emphatically repeat my prior sentiment: the very future of effective administration of justice is uncertain unless Congress seeks resolutions and assesses alternatives now. The time to act is now.

We must study the current and future problems which face our court system. Uniformity and clarity must be restored to the Federal law and the Supreme Court must be given relief from its burdens. As caseloads multiply, as appeals increase, as legal fees mushroom, as time for resolving litigation lengthens, our inaction is unacceptable. We should heed the admonition of Learned Hand, who wrote:

If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice.

Thank you, Mr. President.

EXHIBIT 1

ANNUAL BANQUET OF THE AMERICAN JUDICATURE SOCIETY

(By Justice John Paul Stevens)

During my exceptionally long tenure as the junior justice on the Supreme Court of the United States, I was frequently asked to compare the work on that Court with the work on the Court of Appeals for the Seventh Circuit on which I sat for five years. My answer to that question always made the point that I was much more conscious of the similarities between the two courts than of their differences.

During my brief tenure as one of the eight senior justices on the Court, I have frequently been asked to compare the work on an integrated court with the work on a segregated court. My answer to that question

has usually made two points. First, my initial concern that the quality of communication during our conferences might be impaired has proved unfounded; for during the 1981 term the task of the doorkeeper was performed with the same high degree of skill and dedication that characterized that office during the preceding six Terms. Second, although every retirement and every new appointment produces a different Court than its predecessor, the similarities between the Court on which Justice Stewart sat and the Court on which Justice O'Connor sits far outweigh their differences.

My belief that the common characteristics of the work of judges in a free society are far more significant than their differences has persuaded me that it may be worthwhile to share with you some of my concerns about the way the Supreme Court is presently discharging one of its judicial responsibilities. A frank discussion of our problems may identify some pitfalls that all of us should try to avoid and may uncover some possible solutions that merit further study.

The Supreme Court is now processing more litigation than ever before. The Court is granting more petitions for certiorari; litigants whose petitions are granted next fall may have to wait a full year before their cases are argued. The Court is issuing more pages of written material; opinions for the Court are longer and more numerous and separate opinions are becoming the norm instead of the exception. The Court is deciding more cases on the merits without the benefit of full briefing and argument, using the currently fashionable technique of explaining its reasons in a "Per Curiam" opinion—a document generally written for the Court by an anonymous member of its ever increasing administrative staff. More and more frequently, after a case has been fully argued, the Court finds it appropriate to dismiss the writ of certiorari without making any decision on the merits because it belatedly learns that certiorari was improvidently granted. As is true in so many courts throughout the country, the heavy flow of litigation is having a more serious impact on the administration of justice than is generally recognized.

Some of the consequences of this increased flow are predictable and have already begun to manifest themselves. The problem of delay—which is not yet serious—in a few years will be a matter of national concern. Of even greater importance, however, is what may happen within the Court itself. For when a court is overworked, the judges inevitably will concentrate their principal attention on the most important business at hand. Matters of secondary importance tend to be put to one side for further study or to be delegated to staff assistants for special consideration. Two examples illustrate this point.

At the beginning of our last Term, after the Court had processed the list of certiorari petitions that had been filed during the summer recess—if my memory serves me correctly there were about a thousand cases on that list—we agreed that it was essential that we confront the question whether the Court should either support legislation that would increase the appellate capacity of the federal judicial system or try to develop new internal procedures that would ameliorate the impact of the case volume on our own work. As the Term developed, however, and we became more and more deeply involved in the merits of a series of difficult cases, our initial recognition of the overriding im-

portance of evaluating our own workload problems—and the desirability of scheduling conferences devoted exclusively to that subject matter—gradually dissipated and no such conference was ever held. We were too busy to decide whether there was anything we could do about the problem of being too busy.

Reviewing approximately 100 certiorari petitions each week and deciding which to grant and which to deny is important work. But it is less important work than studying and actually deciding the merits of cases that have already been accepted for review and writing opinions explaining those decisions. Because there simply is not enough time available to do the more important work with the care it requires and also to read all the certiorari petitions that are filed, I have found it necessary to delegate a great deal of responsibility in the review of certiorari petitions to my law clerks. They examine them all and select a small minority that they believe I should read myself. As a result, I do not even look at the papers in over 80 percent of the cases that are filed. I cannot describe the practice of any of my colleagues, but when I compare the quality of their collective efforts at managing the certiorari docket with the high quality of their work on argued cases, I readily conclude that they also must be treating the processing of certiorari petitions as a form of second-class work. My observation of that process during the past seven Terms has convinced me that the Court does a poor job of exercising its discretionary power over certiorari petitions. Because we are too busy to give the certiorari docket the attention it deserves, we grant many more cases than we should, thereby making our management problem even more unmanageable.

At this point I should make clear that I am expressing only my own opinion—an opinion that perhaps none of my colleagues share. Indeed, some of them believe we should be taking many more cases and that our overflow should be decided by a newly created National Court of Appeals. Under that view, the aggregate lawmaking capacity of the federal judiciary would be enlarged. There would be a significant increase in the number of federal adjudications binding on courts throughout the nation. Moreover, under that view, the management functions performed by the Supreme Court would require a relatively greater portion of the justices' total time. For the Justices would not only decide what cases are important enough to justify decision on the merits at a national level, but they would also decide which of the two courts with nationwide jurisdiction should hear those cases. In other words, they would be managing the docket of two courts instead of just one. The increased national capacity would also make it more difficult for us to resist the temptation to review every case in which we believe the court below has committed an error. Like a new four-lane highway that temporarily relieves traffic congestion, a new national court would also attract greater and greater traffic volumes and create unforeseen traffic problems. In my opinion it would be unfortunate if the function of the Supreme Court of the United States should become one of primarily—or even largely—correcting errors committed by other courts. It is far better to allow the state supreme courts and federal courts of appeals to have the final say on almost all litigation than to embark on the hopeless task of attempting to correct every judicial error that can be found.

In my opinion, the Court and the nation would be better served by reexamining the doctrine of judicial restraint and by applying its teachings to the problems that confront us. The doctrine of judicial restraint is often misunderstood. It is not a doctrine that relates to the merits of judicial decisions; it is a doctrine that focuses on the process of making judicial decisions. It is a doctrine that teaches judges to ask themselves whether, and if so when, they should decide the merits of questions that litigants press upon them. It is not a doctrine that denies the judiciary any lawmaking power—our common law heritage and the repeated need to add new stitches in the open fabric of our statutory and constitutional law forecloses the suggestion that judges never make law—but the doctrine of judicial restraint, as explained for example in Justice Brandeis' separate opinion in *Ashwander v. Tennessee Valley Authority*, teaches judges to avoid unnecessary lawmaking. When it is necessary to announce a new proposition of law in order to decide an actual case or controversy between adversary litigants, a court has a duty to exercise its lawmaking power. But when no such necessity is present, in my opinion there is an equally strong duty to avoid unnecessary lawmaking.

The fact that the Court is granting a larger number of certiorari petitions than ever before raises the question whether it is engaging in unnecessary lawmaking. The answer to that question is suggested by a few examples of the way the Court has exercised its discretionary jurisdiction in recent years. For both in deciding when to review novel questions and in deciding what questions need review, the Court often exhibits an unfortunate lack of judicial restraint. Thus, the various opinions in our recent case involving a school library plainly disclose that the Court granted certiorari at an interlocutory stage of a case in which further proceedings in the trial court would either have clarified the constitutional issue or perhaps have mooted the entire case. Similar considerations in the case involving a court clerk's claim of immunity prompted the Court to dismiss the writ as improvidently granted. The Court's timing in these cases demonstrates that patience is both a virtue and a characteristic of judgment that judges sometimes forget.

In other cases the Court has displayed a surprising unwillingness to allow other courts to make the final decision in cases that are binding in only a limited geographical area and in which no conflict exists. Thus, in *Watt v. Alaska*, apart from the possibility that error had been committed, there was no reason for our Court to involve itself in a dispute between the State of Alaska and one of its counties over the division of mineral leasing revenues that could only arise in the Ninth Circuit. In *Oregon v. Kennedy*, the Court elected to review a misapplication of double jeopardy doctrine by the Oregon Court of Appeals even though the particular facts of the case may never be duplicated in other litigation. The fact that the new double jeopardy doctrine pronounced in the opinion of five of my colleagues was totally unnecessary to decide that case adds emphasis to the lack of necessity for granting certiorari at all. Moreover, despite that pronouncement, the Oregon court remained free to reinstate its prior judgment by unambiguously relying on Oregon, rather than federal, law to support its holding. In *South Dakota v. Opperman*, the State Supreme Court followed that precise course, thereby proving that

our Court had unnecessarily taken jurisdiction of a case in which deference to the state court's judgment would have been appropriate in the first instance. The decision to review (and to reverse summarily without argument) a novel holding by a California intermediate appellate court concerning the burden of proof in an obscenity trial, or an equally novel holding by the Pennsylvania Supreme Court concerning a police officer's order commanding the driver of a vehicle to get out of his car after a traffic violation, are additional examples of the many cases in which the Court has been unwilling to allow a state court to provide one of its residents more protection than the Federal Constitution requires even though the state decision affected only a limited territory and did not create a conflict with any other decision on a question of federal law, and even though the state court had the power to reinstate its original judgment by relying on state law. A willingness to allow the decision of other courts to stand until it is necessary to review them is not a characteristic of this Court when it believes that error may have been committed.

The Court's lack of judicial restraint is perhaps best illustrated by the procedure it followed in the *Snepp* case. A former CIA agent filed a petition for certiorari seeking review of a Fourth Circuit decision holding that his publication of a book about Viet Nam violated his secrecy agreement with the CIA; he contended that his contract was unenforceable because it abridged his right to free speech. The Government opposed his petition and also filed a conditional cross-petition, praying that if the Court should grant *Snepp's* petition, it should also consider whether the remedy ordered by the lower court was adequate. The Court denied *Snepp's* petition, but nevertheless granted the cross-petition and, without hearing argument on the merits, issued a *Per Curiam* opinion ordering a constructive trust to be imposed on all of the book's earnings even though there was neither a statutory nor contractual basis for that novel remedy. Since the Government had not even asked the Court to review the remedy issue unless it granted *Snepp's* petition, it is undeniable that the Court's exercise of lawmaking power in that case was totally unnecessary. If you think the *Snepp* case is unique in the revelatory light it casts on the Court's present approach to the doctrine of judicial restraint, I suggest that you read the Court's *Per Curiam* opinion in the *McCluskey* case, decided on the last day of this Term, in which the Court exercised its majestic power to reinstate the suspension of a high school student who had consumed too much alcohol.

You may think I have wandered away from a discussion of the problems created by the mounting tide of litigation that is threatening to engulf our Court. My purpose in discussing the doctrine of judicial restraint, however, is relevant for two quite different reasons. First, it lends support to a possible solution to the problem that I favor; second, it explains why judges who do not share my respect for the doctrine will surely oppose that solution.

Instead of creating a new court to decide more cases on the merits, thereby increasing the aggregate judicial power that the Supreme Court may exercise, I favor the creation of a new court to which the Supreme Court would surrender some of its present power—specifically, the power to decide what cases the Supreme Court should decide on the merits. In essence, this is the

proposal that was made by the committee headed by Professor Paul Freund several years ago with one critical difference. I would allow that court to *decide*—not merely to recommend—that a certiorari petition should be granted or denied. Let me just briefly explain why I believe the creation of a new court with that power would significantly improve the administration of justice.

First, and of greatest importance, I believe an independent tribunal that did not have responsibility for deciding the merits of any case would do a far better job of selecting those relatively few cases that should be decided by the Supreme Court of the United States. As I have already suggested, I think the present Court does a poor job of performing that task. It grants too many cases and far too often we are guilty of voting to grant simply because we believe error has been committed rather than because the question presented is both sufficiently important for decision on a national level and also ripe for decision when action is taken on the certiorari petition. I recognize that a different court might make similar mistakes, but reflection has persuaded me that such a court would be more likely to develop a jurisprudence of its own that properly focused on the factors—other than possible error—that should determine whether or not a certiorari petition should be granted.

Second, if I am correct in my belief that such a court would grant fewer petitions, this Court would be required to decide fewer cases on the merits. Even if that assumption is not correct, if the vast flood of paper and the small army of administrative personnel associated with the processing of our certiorari docket could be entirely removed from the Supreme Court, the time available to the justices for doing their most important work would be dramatically increased. The threat to the quality of that work that is now posed by the flood of certiorari petitions would be entirely removed.

Finally, if the new court were granted the power to control our docket, I believe capable judges would regard membership on that court as worthy of their talent. When the original Freund Committee proposal was made, my initial reaction to it was the same as that of other circuit judges with whom I was serving—it seemed to offer us the opportunity to become law clerks instead of judges. But an important reason for that reaction was the fact that the proposed court was not expected to exercise any real power—it would have done no more than perform a preliminary screening function for the Supreme Court without the actual power of decision. If the Supreme Court surrendered that power to the new court, the status of that court would indeed be significant. I am firmly convinced that a proper performance of the function of selecting the cases for the Supreme Court's docket would be rewarding judicial work, requiring a scholarly understanding of new developments in the law and of our democratic institutions that only our ablest judges possess.

Those who question the wisdom of allowing the Supreme Court to relinquish control over its own docket, and who favor the creation of a new National Court of Appeals to decide cases that are referred to it by our Court, rely heavily on the perceived need to enlarge our capacity to resolve conflicts among the circuits. Let me therefore say a word about that asserted need. Again the doctrine of judicial restraint sheds light on the problem.

Putting to one side my own view that the number of unresolved conflicts is exaggerated, I would like to suggest, first, that the existence of differing rules of law in different sections of our great country is not always an intolerable evil and, second, that there are decisionmakers other than judges who could perform the task of resolving conflicts on questions of statutory construction. As Justice O'Connor noted in her eloquent dissent in the FERC case, the fact that many rules of law differ from state to state is at times one of the virtues of our federal system. It would be better, of course, if federal law could be applied uniformly in all federal courts, but experience with conflicting interpretations of federal rules may help to illuminate an issue before it is finally resolved and thus may play a constructive role in the lawmaking process. The doctrine of judicial restraint teaches us that patience in the judicial resolution of conflicts may sometimes produce the most desirable result.

The doctrine of judicial restraint also raises the question whether the conflict resolution task need always be performed by judges. If the conflict is on a question of constitutional law, it must be resolved by the Supreme Court. But if, as is more frequently the case, the conflict is over the meaning of an ambiguous statutory provision, it may be both more efficient and more appropriate to allow Congress to make the necessary choice between the alternative interpretations of the legislative intent. If the conflicts problem is—or should become—sufficiently important to justify the creation of an entirely new federal appellate court, I would suppose that the problem would also justify the creation of a standing committee of the Congress to identify conflicts that need resolution and to draft bills to resolve them one way or the other. If the source of the conflict is ambiguity resulting from an omission in a statute, it would seem to make good sense to assign Congress the task of performing the necessary corrective law-making.

At the outset of my remarks I suggested that a discussion of problems I perceive in our Court might be useful to other judges because the similarities among courts outweigh their differences. Before I close let me therefore explain why I hope my comments may be relevant to the problems that arise in other courts. First, I would urge you to identify your problems and to discuss them openly and frankly. Disagreements with other judges is a characteristic of our profession that implies no disrespect and no lack of faith in the inherent strength of our institution. We must begin to talk about our problems before we can solve them. Second, when you are considering possible changes in your procedures—as well as when you are deciding particular cases—keep in mind the teachings of the doctrine of judicial restraint. Consider whether, when and how the special talent of judges—the thoughtful application of impartial judgment—should play a role in the decisionmaking process. And finally, I must note that although my remarks have indicated that proper management of a docket requires a court to treat some cases as having a greater importance or priority than others, distinctions that are made for administrative reasons are not applicable to the decisional process itself. With regard to our primary responsibility, I would urge you to heed the advice of a truly great judge. In an interview a few weeks ago Justice Stewart was asked if there was some opinion of which he was particularly proud. This was his answer:

"I worked hard on every opinion. I think they were all satisfactory. I think it's very important for a judge—any judge, anywhere—to remember that every case is the most important case in the world for the people involved in that case, and not to think of a case as a second-class case or a third-class case or an unimportant case. It behooves the judge or justice to apply himself fully to every case and to give it conscientious consideration."

Justice Stewart's example, as well as his written word, is a great teacher.

RECOGNITION OF SENATOR LEVIN

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan (Mr. LEVIN) is recognized for not to exceed 15 minutes.

Mr. LEVIN. I thank the Chair.

NATIONAL DEFENSE STOCKPILE

Mr. LEVIN. Mr. President, many elements of our national defense program are glamorous subjects which we read and hear about every day. However, this morning, I would like to discuss an issue that is not consistently in the public eye but is still very important to this Nation's military preparedness. This issue is the national defense stockpile.

My purpose this morning is to bring to the attention of the Senate a report by the General Accounting Office which I requested in June and which I am releasing today. This report provides strong evidence that the Reagan administration is putting short-term budgetary considerations ahead of our long-term national security interest in its management of the stockpile. The General Accounting Office confirmed that the administration's plan for the stockpile will result in the accumulation of \$1.8 billion in the Treasury from the sale of excess stockpile materials over the next 5 years. By not using these funds to purchase additional needed materials for the stockpile, this plan clearly violates the expressly stated will of the Congress that "the purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes." By ignoring this statutory policy, the administration has also explicitly rejected the advice of the national security agencies within the executive branch responsible for insuring that this country has an adequate strategic stockpile.

I ask unanimous consent that the GAO report, issued to me on July 16, 1982, be printed in the *Record* at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

BACKGROUND OF THE NATIONAL DEFENSE STOCKPILE

Mr. LEVIN. Mr. President, the United States maintains a national de-

fense stockpile because we cannot produce certain strategic and critical materials in sufficient amounts to meet our military and industrial needs during periods of national emergency. The Federal Government's management of the stockpile since its creation has been far from distinguished. Too often in the last three decades, we have used the sale of stockpile materials as an easy source of revenues for the Federal Treasury, ignoring the legitimate requirements to maintain a stable source of critical materials to enable us to respond to a war or national emergency.

As a result, today the inventory of many strategic materials in the stockpile is a long way from the requirement for these materials set by the Federal Emergency Management Agency (FEMA). To illustrate these shortages, let me just mention some of the strategic materials that are required to make the Pratt and Whitney F-100 turbofan engine. This is the jet engine that powers the F-15 and F-16, the first-line tactical fighter aircraft of our Air Force.

According to FEMA officials the manufacture of one of these jet engines requires:

Five thousand three hundred and sixty six pounds of titanium. In 1981, this country imported 47 percent of its titanium consumption. The current inventory of titanium in the stockpile represents only 17 percent of what we need in that stockpile.

Five thousand two hundred and four pounds of nickel. In 1981, this country imported 73 percent of its nickel consumption. The stockpile currently has no nickel; the requirements for our stockpile is 200,000 short tons, and we have nothing in that stockpile.

Nine hundred and ten pounds of cobalt. In 1981, this country imported 93 percent of its cobalt consumption. Even with the recently announced proposal to purchase an additional 5.2 million pounds of cobalt, the current stockpile inventory will be only 54 percent of the requirement after this announced purchase.

One hundred and seventy-one pounds of columbium. In 1981, this country imported 100 percent of its columbium consumption. The stockpile inventory of the columbium commodity group is only 52 percent of the inventory objective.

Three pounds of tantalum. In 1981, this country imported 97 percent of its tantalum consumption. The stockpile currently contains only 33 percent of the inventory objective of the tantalum commodity group.

This example covers the materials needed in just one jet engine. In this example, the stockpile inventory for each of these materials is approximately one-half or less than the requirement established by the execu-

tive branch. In fact, all of these materials were on the recent list of highest priority materials slated for purchase for the stockpile. If this administration has its way, the large deficits in the stockpile inventory for these and other critical materials will not be filled anytime soon.

1979 STOCKPILING ACT

Mr. President, with the passage of the Strategic and Critical Materials Stock Piling Revision Act of 1979, Congress took a major step toward strengthening the management of the national defense stockpile. This act articulated a national policy that the stockpile inventory should be sufficient to cover the country's needs for critical materials for not less than 3 years of a national emergency. It also explicitly established the policy I just quoted that "the purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic and budgetary purposes." To insure this, Congress, in the act, set up a separate fund in the U.S. Treasury—the national defense stockpile transaction fund—where all receipts received from the sale of stockpile materials are deposited. By law, funds deposited in that fund can only be used for the acquisition of needed strategic and critical materials for the stockpile—nothing else.

Two years later, in the Omnibus Budget Reconciliation Act of 1981, Congress included an additional safeguard against the stockpile being used for economic and budgetary purposes. Because receipts going into the stockpile transaction fund are counted on the revenue side of the Federal ledger, there might be an inclination on the part of an administration anxious to generate revenues to sell off excess stockpile materials and leave the receipts in the stockpile transaction fund without using the receipts for their intended purpose—filling of the stockpile. To prevent this from happening, Congress stipulated that no disposal may be made from the stockpile after September 30, 1983, if the disposal would result in there being a balance in the stockpile transaction fund in excess of \$500,000,000.

The same amendments also require the President to submit to the Congress annually a 5-year materials plan for the operation of the stockpile. This report lays out the details of planned expenditures for acquisition and of anticipated receipts from proposed disposals of stockpile materials during the next fiscal year and the succeeding 4 fiscal years.

REAGAN ADMINISTRATION STATEMENTS ON THE NATIONAL DEFENSE STOCKPILE

Mr. President, the rhetoric of the Reagan administration suggests a strong commitment to rebuilding the stockpile. On March 31, 1981, less than 2 months after coming into office, President Reagan directed the Federal

Emergency Management Agency (FEMA) "to begin the first purchase program for the national defense stockpile of strategic and critical materials in over 20 years." President Reagan went on to say in the statement that "it is expected that larger purchases will be made as funds from sales of excess materials build up in the stockpile fund." One year later, the President's promises have fallen far short of implementation.

On April 5, 1982, in the National Materials and Minerals Program Plan and Report to Congress, the President promised that "the administration will expeditiously dispose of those stockpiled materials held in excess of goals and acquire additional materials through the appropriations process."

The President also said that "this program demonstrates a serious commitment by this administration to enhance significantly the national security." In response to this statement, I only hope that the President does not want us to measure his administration's commitment to enhancing the national security by the plan for the national defense stockpile over the next 5 years because that plan makes the President's statement sound more like a hollow promise than a serious commitment.

THE 1982-87 ANNUAL MATERIALS PLAN

The fact is that under the administration's 5-year plan, the revenues from sales of stockpile receipts would be way out of proportion to the proposed purchases of new materials. Receipts and purchases are not even close to balancing. Through fiscal year 1987, FEMA's plan anticipated receipts from stockpile disposals at more than \$2.4 billion. At the same time, FEMA's plan proposed expenditures for stockpile purchases through 1987 totaled only \$660 million. Sales would be four times purchases.

In other words, under the administration's current plan, at the end of fiscal year 1987, there would be almost \$1.8 billion of receipts from stockpiles sales sitting idle in the stockpile transaction fund. This represents over three times the \$500 million limit on the size of the balance in the stockpile transaction fund established in law just last year.

GAO REPORT

Because of the serious inconsistencies in the administration's annual materials plan for fiscal years 1982 to 1987, I asked the General Accounting Office to examine the plan to determine whether it violated the requirements of the Stock Piling Act. Mr. President, the answer from GAO could not have been clearer. The GAO concluded—and I quote—

From our examination, it appears that the administration has given priority to budgetary considerations over stockpile needs, and that the 5-year plan, if implemented, will

result in the \$500 million limitation on the stockpile transaction fund being exceeded.

GAO also reported that OMB officials had stated that before the \$500 million limitation on the balance in the stockpile transaction fund was exceeded, "appropriate amending legislation would be submitted to the Congress." In other words, the administration plans to seek repeal of the principal legislative safeguard in the Stock Piling Act that prevents the stockpile from being manipulated for economic and budgetary purposes.

CONCLUSION

Mr. President, there is more than enough blame to go around for the sorry state in which we find the stockpile today. Just last year, the Congress appropriated only \$57.6 million of the \$120 million requested by the administration for stockpile purchases. But, Mr. President, I can only conclude from this GAO report that the administration's commitment to rebuild the national defense stockpile is an illusory one. At the rate of purchases for the stockpile proposed by the administration, it will be well beyond the middle of the next century before we eliminate the current shortages of critical and strategic materials in the stockpile.

Of additional serious concern is the blatant disregard by the administration of the policy set forth in the 1979 Stock Piling Act that the stockpile not be used for economic and budgetary purposes. The administration's plan would allow the accumulation of \$1.8 billion in the stockpile transaction fund which, under the law, is not supposed to be used for any purpose except to purchase additional materials for the stockpile. The only possible explanation for this is the administration's desire to use these funds as a revenue offset to create the appearance of lowering the overall deficit.

Finally, and most basically, the administration's actions raise the question of how critical the current administration considers the national defense stockpile to our national security. The inventory goals for the stockpile are not set in Congress. They are established and ratified through a lengthy process involving all of the various national security agencies within the executive branch.

Mr. President, the fact is that for many critical commodities, our stockpile inventory today includes only a fraction of the objective. As of April 30, 1982, the stockpile goals or requirements represent materials valued at \$17.5 billion. We have materials valued at \$11 billion in the stockpile today. Of this \$11 billion, only \$7.3 billion represents materials that can be charged to stockpile goals; the remaining \$3.7 billion worth of material are excess. Thus, we need about \$10.2 billion worth of strategic and critical ma-

terials—almost 60 percent of our requirement—to meet the requirements for the stockpile developed through the collective wisdom of the national security agencies within the executive branch.

As I pointed out earlier, these shortages occur in materials such as titanium, cobalt, and nickel which would be essential to our industrial effort in a war or national emergency. We are a long way from reaching the inventory goals for some very important materials. If the administration is not willing to spend even the receipts from stockpile sales on additional critically needed materials—funds which are not supposed to be used for any other purpose—then I can only conclude that the administration does not think the stockpile inventory objectives are very critical to our national security.

This criticism does not extend to the officials of FEMA and GSA, directly responsible for day-to-day management of the stockpile, I might add. In testimony before the Preparedness Subcommittee on June 9, GSA officials indicated their original requests to OMB for fiscal year 1982 and fiscal year 1983 for new materials for the stockpile were \$908.9 million and \$862.4 million, respectively. OMB reduced these requests to \$120 million in both years, less than one-seventh of the requests made to them by the administration for the stockpiles.

Mr. President, the chairman of the Preparedness Subcommittee, Senator HUMPHREY, has been a strong supporter of our military preparedness in general and of our national defense stockpile in particular. As the Preparedness Subcommittee, under his leadership, continues its oversight hearing on the stockpile, I hope that we can call GSA, FEMA, and OMB witnesses to testify on the conclusions of the GAO report which I am releasing today.

EXHIBIT 1

U.S. GENERAL ACCOUNTING OFFICE,

Washington, D.C., July 16, 1982.

Subject: Implementation of National Defense Stockpile Plans Would Require Amending Existing Legislation (GAO/EMD-82-111).

Hon. CARL LEVIN,

Ranking Minority Member, Subcommittee on Preparedness, Committee on Armed Services, U.S. Senate.

DEAR SENATOR LEVIN: The United States cannot produce certain strategic and critical materials in sufficient amounts to support its requirements during periods of national emergency. To prevent what could be a dangerous and costly dependence on foreign supply sources during these crises, the United States maintains a National Defense Stockpile of materials to avoid military setbacks and economic damage in wartime.

On June 18, 1982, you asked us to review the Federal Emergency Management Agency's (FEMA) 5-year Annual Materials Plan for Fiscal Years 1983-1987. (See encl. I.) You asked our views on whether the plan meets the requirements in the Strategic and Critical Materials Stock Piling Act, as amended, (50 U.S.C. 98 et seq.) that—

"The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes" and

Except for rotations, disposal of excess materials that may cause a loss to the Federal Government if allowed to deteriorate, and releases required for national defense, "no disposal may be made from the stockpile * * * if the disposal would result in there being a balance in the National Defense Stockpile Transaction Fund * * * after September 30, 1983, * * * in excess of \$500,000,000."¹

From a strictly legal standpoint, the plan is not required to comply with these provisions of the act. The plan is only required to indicate proposed acquisitions and disposals. However, we attempted to determine whether the proposed actions, if implemented as planned, would meet the requirements that the stockpile not be used for economic and budgetary purposes and that the stockpile Transaction Fund not exceed \$500 million. From our examination, it appears that the administration has given priority to budgetary considerations over stockpile needs, and that the 5-year plan, if implemented, will result in the \$500 million limitation on the Transaction Fund balance being exceeded. An OMB official told us that before the limitation is exceeded, appropriate amending legislation would be submitted to the Congress.

Your office subsequently asked us to determine whether proposed stockpile acquisitions appear consistent with Presidential stockpile policy included in his April 5, 1982, program plan and report to the Congress. This plan and report were required by the National Materials and Minerals Policy, Research and Development Act of 1980, Public Law 96-479. We found no apparent attempt within the administration to correlate the budget with either the President's March 13, 1981, statement or the April 5, 1982, program plan.

BACKGROUND

The first major Federal program to stockpile strategic and critical materials was authorized and initiated under a 1939 act and amended by the Strategic and Critical Materials Stock Piling Act of 1946. Materials were procured under this act to support U.S. industrial and military needs during an emergency.

The Strategic and Critical Materials Stock Piling Revision Act of 1979, Public Law 96-41, revised and updated the 1946 act to conform to current stockpile policy and to strengthen the legislative role in stockpile matters. The 1979 act restricts the use of stockpile materials to national defense and precludes their use for economic or budgetary purposes. It also established a separate fund in the U.S. Treasury—the National Defense Stockpile Transaction Fund—where all moneys received from the sale of stockpile materials are deposited. Moneys in the Transaction Fund are only for the acquisition of strategic and critical materials.

Title II of the Omnibus Budget Reconciliation Act of 1981 made further improvements in stockpile management. It amended the Stock Piling Act to require most moneys received from the sale of stockpile materials to remain in the Transaction Fund until appropriated and provides that moneys in the Fund, when appropriated, remain available until expended, unless otherwise provided in

appropriation acts. The act limits the balance in the Fund to \$500 million after September 30, 1983.

Title II of the Omnibus Budget Reconciliation Act of 1981 also amended the Stock Piling Act to require the President to submit to the Congress a report containing an annual materials plan for the operation of the stockpile during the next fiscal year and the succeeding four fiscal years. The report, which accompanies the President's budget for the next fiscal year, includes details of planned expenditures for acquisition and of anticipated receipts from proposed disposals of stockpile materials during the 5-year period.

Stockpile planning

The annual materials plan is a list of stockpile materials proposed for acquisition and disposal developed each year through an interagency committee chaired by FEMA. The planning process begins when FEMA gives a list of goals, deficits, excesses, and priorities to the General Service Administration (GSA). The materials proposed for purchase and/or sale are ranked according to national security priorities. GSA makes an initial assessment of the market for these materials and determines the quantities that could be bought or sold without undue disruption of usual markets.

After GSA's market constraints are added, among other reviews, the revenue and cost projections of the annual materials plan proposal are examined. Upon inclusion of all approved revisions, the Director of FEMA submits the plan to the National Security Council and simultaneously provides a copy to the President's Office of Management and Budget (OMB). Any further revisions are made jointly by the National Security Council, OMB, and FEMA.

FEMA's list of goals, deficits, excesses, and priorities is prepared independent of the Federal budget process. However, the Transaction Fund is a GSA budget activity and, as such, subject to Presidential and congressional guidance and budget decisions. Thus, moneys flowing in and out of the Fund are treated as receipts and outlays, respectively, in GSA's fiscal year budget, and the annual materials plan is adjusted to conform to Presidential and congressional guidance and decisions on the desired unappropriated end-of-year balance in the Transaction Fund. For fiscal year 1983, the President's budget projects an end-of-year Transaction Fund balance of \$741 million.

GIVING PRIORITY TO BUDGETARY CONSIDERATIONS MAY REQUIRE AMENDING EXISTING LEGISLATION

Because the Transaction Fund can be used with other Treasury funds to balance the Federal budget, the Omnibus Budget Reconciliation Act of 1981, amending the Stock Piling Act, prohibits any stockpile disposal which would result in a Fund balance in excess of \$500 million. House Report 97-158, which accompanied the act, states that the \$500 million limitation was enacted because: "The Committee on Armed Services expressed particular concern that management of the stockpile be consistent with the purpose set out in the (Stock Piling) Act: 'to serve the interest of the national defense only and is not to be used for economic and budgetary purposes.'"

The \$741 million projected in the President's fiscal year 1983 budget as a Transaction Fund balance on September 30, 1983, would exceed the congressionally mandated limitation by \$241 million. FEMA's 5-year

¹ Amendment by the Omnibus Budget and Reconciliation Act of 1981, Public Law 97-35.

plan projects that at the end of fiscal year 1987, the Fund will be at \$1.8 billion—\$1.3 billion above the \$500 million limitation.

We questioned FEMA and GSA officials concerning these apparent inconsistencies and were informed that the projected balance in the Transaction Fund reflects OMB guidance and "policy decisions." FEMA's Assistant Associate Director for Resources Preparedness informed us that the annual program plan, prepared in December 1981, focused primarily on acquisitions and included a range of options—one of which would have reduced the Transaction Fund balance below the \$500 million limitation. The plan was then revised and adjusted to match the President's fiscal year 1983 budget and long-range (through fiscal year 1987) budget projections for stockpile acquisitions and disposals provided by OMB's budget examiner for GSA.²

FEMA's Assistant Associate Director stated that the annual materials plan did not, in any way, influence the President's budget. He continued that FEMA advised OMB that the President's fiscal year 1983 budget would exceed the limitation and that an alternative plan should be considered. However, he was advised by OMB to revise the annual materials plan to conform to the President's budget decisions.

GSA's Chief, Budget Formulation Branch, told us that GSA was advised by OMB to adjust its fiscal year 1983 budget to reflect \$592 million in disposal receipts and \$120 million in acquisition expenditures. However, \$402 million in receipts is contingent on congressional approval to dispose of stockpile silver.³

We approached OMB's budget examiner for GSA concerning the validity of the statements made by the FEMA and GSA officials. He stated that OMB does not support the congressionally mandated limitation on the Transaction Fund balance. He noted, however, that since the disposal of stockpile silver has been suspended, the limitation on the Transaction Fund balance may not be exceeded in fiscal year 1983. He concluded that proposed legislation to either eliminate or increase the existing limitation would be forthcoming with the President's fiscal year 1984 budget if fiscal year 1983 disposals are expected to exceed the current limitation on the Transaction Fund balance.

Finally, while FEMA is responsible for planning, programming, and reporting on the stockpile, GSA is responsible for acquiring and disposing of the materials. GSA's fiscal year 1983 congressional highlight summary identifies numerous economic benefits to be derived from disposing of excess stockpile materials, including "the reduction of dollar outflow and improvement of the overall balance of payments positions of the United States." However, the need to acquire other materials currently below stockpile goal levels in the interest of national defense is not identified as a benefit to be derived from the disposals.

² Projected expenditures for stockpile acquisitions for fiscal years 1983 through 1987 total \$660 million. Estimated receipts from stockpile disposals under existing legislation total \$902 million, while receipts for disposals under proposed legislation total \$1,533.7 million.

³ The fiscal year 1982 Defense Appropriation Act, Public Law 97-114, December 29, 1981, suspended the weekly auctions of silver from the National Defense Stockpile pending a July 1, 1982, now overdue, redetermination by the President that the over 100 million troy ounces of silver to be disposed of is excess to stockpile requirements and congressional approval of the recommended disposal method.

It appears that the administration has given priority to budgetary considerations over national defense-related needs. However, the existing stockpile legislation precludes implementation of the administration's plans by prohibiting any disposals which would result in a Transaction Fund balance in excess of \$500 million. As stated above, OMB intends to propose amending legislation to either eliminate or increase the limitation if it appears that the limitation would be exceeded.

PROPOSED STOCKPILE ACQUISITIONS APPEAR INCONSISTENT WITH PRESIDENTIAL POLICY

In a March 13, 1981, statement authorizing \$100 million for the first purchase program for the National Defense Stockpile in over 20 years, the President stated that it is now widely recognized that our Nation is vulnerable to sudden shortages in basic raw materials necessary to our defense production base. He concluded that the stockpile acquisition program is a necessary first step to decrease this vulnerability and expected that larger purchases would be made as funds from the sale of excess materials build up in the Transaction Fund.

The President's April 5, 1982, program plan and report to the Congress, required by the National Materials and Minerals Policy, Research and Development Act of 1980 states that the administration endorses "the policy that the stockpile should be sufficient to meet military, industrial, and essential civilian needs in support of the national defense in a crisis." The plan continues that the administration will seek congressional appropriations to acquire necessary stockpile materials and will provide a fiscal year annual materials plan that "matches annual budget ceilings, market conditions, immediate strategic requirements, and GSA purchase activities." It concludes that the President's acquisition and disposal program "demonstrates a serious commitment by this Administration to enhance significantly the national security."

Additionally, OMB's budget examiner for GSA told us that many of the materials currently below stockpile goals are "low priority." He implied that this is why the administration has requested only \$120 million for fiscal year 1983 stockpile acquisitions even though the Transaction Fund is projected to have a \$741 million balance at the end of fiscal year 1983. However, bauxite, chromite and chromium metal, columbium concentrates, nickel, the platinum group metals, and titanium, identified by both us⁴ and FEMA as materials for which the United States appears vulnerable to supply disruptions or sharp price increases and which may be critical to national defense, are below stockpile goal levels. Over \$450 million is needed to meet the Jamaican grade bauxite goal alone. Therefore, the OMB budget examiner's statement that many of the materials currently below stockpile goal levels are low priority appears questionable.

While the President's fiscal year 1983 budget and long-range projections reflect an intention to expeditiously dispose of stockpile materials currently held in excess of goals, we do not believe that it reflects a "serious commitment" to acquire additional materials. No apparent attempt was made to correlate the budget with either the President's March 13, 1981, statement or April 5, 1982, program plan.

⁴ U.S. General Accounting Office, "Actions Needed to Promote a Stable Supply of Strategic and Critical Minerals and Materials," GAO/EMD-82-69, June 3, 1982.

As requested by your office, we did not obtain official agency comments on this report. As arranged with your office, unless you publicly announce its contents earlier, we plan to further distribution of this report until 30 days from the date of its issuance. At that time we will send copies to interested parties and make copies available to others upon request.

Sincerely yours,

J. DEXTER PEACH, Director.

Enclosure.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., June 18, 1982.

HON. CHARLES A. BOWSER,
Comptroller General of the United States,
General Accounting Office, Washington,
D.C.

DEAR MR. BOWSER: The Preparedness Subcommittee of the Armed Services Committee has a continuing interest in issues affecting the National Defense Stockpile. On April 23, 1982, Louis O. Giuffrida, Director of the Federal Emergency Management Agency, transmitted to the Congress the Annual Materials Plan for Fiscal Years 1983-1987. This plan shows anticipated purchases for the sales from the National Defense Stockpile for Fiscal Years 1982-1987.

I would like the General Accounting Office to review the proposed 5-Year Annual Materials Plan for Fiscal Years 1983-1987 and determine whether this Plan meets all of the requirements of the 1979 Strategic and Critical Materials Stockpiling Act, as amended by the Omnibus Reconciliation Act of 1981. Specifically, I would like GAO's legal opinion as to whether the Plan meets the requirements in Section 3(b)(1) of the Act that "The purpose of the stockpile is to serve the interest of national defense only and is not to be used for economic or budgetary purposes", and in Section 5(b)(2) that no disposal may be made from the stockpile after September 30, 1983, if the disposal would result in there being a balance in the Stockpile Transaction Fund in excess of \$500,000,000.

I would appreciate your response to this question by July 15, 1982. Members of the Committee staff have been in touch with the staff of the Energy and Minerals Division of GAO. If they have any further questions, they can contact Mr. David Lyles of the Committee staff at 224-9344.

Thank you for your attention to this matter.

Sincerely,

CARL LEVIN,
Ranking Minority Member,
Subcommittee on Preparedness.

Mr. President, I thank the Chair, and I yield back the remainder of my time, if any.

The PRESIDING OFFICER. The Senate majority leader.

Mr. BAKER. Mr. President, who has the next special order?

The PRESIDING OFFICER. The next special order is for Senator HUMPHREY for a time not to exceed 15 minutes.

Mr. BAKER. Mr. President, I understand the Senator is on his way to the floor to claim his time under the special order. While he arrives, I suggest the absence of a quorum to be charged against that time.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM 12 NOON TO 2 P.M. TODAY

Mr. BAKER. Mr. President, there is not an order for the Senate to recess from 12 to 2 today yet, is there?

The PRESIDING OFFICER. There is no order yet.

Mr. BAKER. Mr. President, as has been the custom recently, I intend in a moment to ask consent of the Senate to recess between 12 o'clock noon and 2 p.m. The reason, as the distinguished occupant of the Chair knows, is that Members on both sides of the aisle will be attending caucuses of their respective parties off the floor of the Senate. Those caucuses are of a quasi-official nature. They are meetings in which many issues are discussed and occasionally decisions are made as to party positions. Therefore, they are important to the conduct of the Senate.

Mr. President, in view of that, I ask unanimous consent that the Senate today stand in recess from the hour of 12 noon until 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, under the same terms and conditions as previously requested, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR HUMPHREY

The PRESIDING OFFICER. Under the previous order, the Senator from New Hampshire (Mr. HUMPHREY) is recognized for not to exceed 15 minutes.

NATIONAL DEFENSE STOCKPILE CRISIS

Mr. HUMPHREY. Mr. President, I commend my colleague, the distinguished Senator from Michigan (Mr. LEVIN) for his diligent efforts in the matter of the strategic stockpile. He is a strong supporter of cost-efficient national defense, and has displayed a great interest in the national defense stockpile, which comes under the purview of the Subcommittee on Preparedness, which this Senator chairs,

and on which Senator LEVIN is the ranking minority member.

I have read the GAO report requested by Senator LEVIN and, frankly, find it disturbing, to say the least.

The President has declared his intentions for upgrading the national defense stockpile very clearly. The Office of Management and Budget, however, has chosen to use the stockpile transaction fund to produce the illusion of deficit reductions. The actions taken by OMB contradict the goals established by the President and his national security advisers and are detrimental to our national defense.

This is not the first time that the national defense stockpile has been the subject of criticism in this Chamber. There has, in fact, been a consistent theme of negative evaluations since the early 1960's. The issue is, and has been, to what extent should the national defense stockpile be planned and managed in the interest of national security. If it is the policy of national defense to insure that the country is prepared for effective industrial mobilization in time of emergency, then the national defense stockpile should be financed so that strategic and critical materials are available.

In simple terms, this requires that the national defense stockpile be separated from fiscal and budgetary imperatives and strategies. And it also requires that we, the Congress of the United States, remove political fiscal and budgetary counterstrategies in maintaining a national defense stockpile.

I disagree with the GAO report that argues that the President is responsible for the problems of rebuilding the stockpile. We should consider if we, the Congress, have given proper support to assist the President in fulfilling his "serious commitment . . . to enhance significantly the national security" in national defense stockpile aspects. Did we support previous administrations, as the problem is not uniquely limited to this administration? The answer is no. For fiscal year 1983, the administration requested \$635.5 million for stockpile purchases, but we, the Congress are preparing to authorize only \$157.6 million.

I would point out, as Senator LEVIN did a few moments ago, that in 1982 the administration requested \$120 million and Congress appropriated only \$57.6 million. So the blame can be widespread. It does not rest exclusively with the White House.

We must begin to revise our reliance on the stockpile transaction fund as a source of revenue to buy needed strategic and critical materials. The \$1.8 billion that my colleague from Michigan suggests would be in the transaction fund depends on the assumption that the GSA will continue to sell tin supplies. Last year the predicted fund balance numbers were larger and even

more dangerously persuasive because at that time we assumed that the transaction fund would be flowing over with revenues from a proposal to sell silver as excess material. There is today a strong probability that we will not have the money from the projected tin sale because of international consequences. Without the projected income of nearly \$2 billion from a sale of tin, there will not by any violation of the Omnibus Budget Reconciliation Act of 1981 which provides for the \$500 million cap in disposal revenue in the transaction fund. The points of the GAO study would then become academic.

We cannot provide for the national security of the United States in the area of emergency mobilization and materials availability when decisions and policies are the results of a budgetary management approach. Budget planning and policy control in national security affairs within minerals and materials policy should be supportive and consultative. Therefore, for the stockpile needs to be addressed effectively, decisions should be made independent of the budget preparation process.

That is not a new observation, Mr. President. The Congress has been making this observation and trying to insure that stockpile decisions were independent of budgetary and fiscal considerations. We passed legislation in the hope of affecting that situation, but we are still not where we want to be.

I would observe, Mr. President, that as long as the sales from the stockpile are counted as revenues, and purchases for the stockpile are counted as revenues, and purchases for the stockpile are counted as outlays, there will always be the temptation on the part of any administration to insert an element of budgetary considerations into the management of the stockpile.

Mr. President, I am encouraged that the administration is attempting to address stockpile difficulties. My correspondence with the White House in recent days indicates an awareness of the problems. The administration has completed its emergency mobilization preparedness review. According to that review, it would be the policy of the United States to restore industrial mobilization capability in both the military and civilian sectors as a matter of preparedness for significant military conflict. To achieve this objective, the administration would affirm that the national defense stockpile should become the principal source of strategic and critical materials availability.

Furthermore, the administration would recognize the National Security Council as the final authority of Emergency Mobilization Board planning. I anticipate and fully endorse national defense stockpile decisionmak-

ing under that Board and the Council. There is where it belongs. Both the rebuilding of the stockpile and the national security it is intended to support will be better served. If it is managed by such authority, the suspicion and contentiousness over the transaction fund will no doubt fade away. But we, in Congress, must be prepared through authorizations and appropriations to do our part.

I will close, Mr. President, by emphasizing that it is the administration's intent, according to my recent communications with the White House, to place in charge as final authority over emergency mobilization planning the National Security Council. I urge the White House to implement that intention forthwith.

I thank the Chair.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 11:30 a.m., with statements therein limited to 3 minutes each.

VFW OPPOSES AMNESTY FOR ILLEGAL ALIENS

Mr. HELMS. Mr. President, a deluge of calls and letters coming to me strongly oppose the granting of amnesty for aliens who have entered the United States illegally. The Immigration Reform and Control Act of 1982, S. 2222, contains provisions which would grant amnesty to millions of these lawbreakers.

Mr. President, I ask unanimous consent that a letter and enclosure from the Veterans of Foreign Wars of the United States be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
July 28, 1982.

Hon. JESSE HELMS,
U.S. Senate, Washington, D.C.

DEAR SENATOR HELMS: I have just been informed of your proposed amendment to the Simpson-Mazzoli Bill, and I both thank and applaud you for this clear restatement of first principles.

"Amnesty" by any name simply means that the Congress will have quit on the problem because it is tough and politically sensitive.

You, and your great colleague Senator East, have given us a timely reminder that we are a nation of laws.

Best personal wishes.

Most cordially,

ARTHUR J. FELLWOCK,
National Commander-in-Chief.

VETERANS OF FOREIGN
WARS OF THE UNITED STATES,
July 28, 1982.

To: Members, United States Senate.

From: Arthur J. Fellwock, National Commander-in-Chief, Veterans of Foreign Wars of the United States.

Subject: Illegal aliens.

The Veterans of Foreign Wars of the United States strongly supports the amendment to S. 2222/H. R. 6514, "The Immigration Reform and Control Act of 1982" (the Simpson-Mazzoli bill) put forward by Senators Helms and East (both of North Carolina). This amendment would strip from the bill its provisions for a wide and generous amnesty to aliens residing illegally in this country.

My reasons follow:

(a) despite disclaimers, the Simpson-Mazzoli amnesty provisions would be a magnet for aliens not already in this country to enter illegally and swell the ranks of the 5-6 million illegals already here;

(b) "amnestying" the 5-6 million illegal aliens already here would, according to Executive Branch sources, cost up to \$10 billion over the next four years in welfare payments, food stamps, etc.

A small portion of this amount could be properly applied to reinforcing the thinly-stretched Border Patrol to the end that our already generous legal immigration could be adequately policed; and, finally,

(c) the gut, bottom-line issues are: 1) do we regain control of our borders or not; and 2) do we turn a blind eye to law enforcement when it is difficult or politically sensitive.

Acceptance of S. 2222/H. R. 6514 ("Simpson-Mazzoli"), with its amnesty provisions intact, would neither see us regain control of our borders nor foster respect for equitable laws already on the books.

For this reason, I urge passage of the Helms-East Amendment to the basic legislation.

Cordially,

ARTHUR J. FELLWOCK,
National Commander-in-Chief.

RETIRED BORDER PATROL OFFICERS OPPOSE AMNESTY FOR ILLEGALS

Mr. HELMS. Mr. President, the Immigration Reform and Control Act of 1982, S. 2222, contains provisions which would grant amnesty to millions of aliens who have entered the United States illegally.

Those charged with the responsibility of patrolling our borders, and who have first-hand knowledge of the current crisis situation, advise caution concerning this legislation.

Mr. President, I ask unanimous consent that a letter from Mr. Gordon J. MacDonald, retired Deputy Assistant Commissioner of the Border Patrol, writing on behalf of the Fraternal Order of Retired Border Patrol Officers, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE FRATERNAL ORDER OF
RETIRED BORDER PATROL OFFICERS,
OFFICE OF THE SECRETARY,
Vienna, Va., July 30, 1982.

Hon. JESSE A. HELMS,
Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR HELMS: This is to express my sincere appreciation for your recent, most worthy stand on immigration reform. In my capacity as Founder and Secretary of The Fraternal Order of Retired Border Patrol Officers I am in recurrent contact with several thousand immigration enforcement officers, both on-duty officers and former Immigration Investigators and Border Patrol Agents. I can assure you, Senator, to a man, they support your proposed effort to remove the legalization (amnesty) provision from immigration reform bill S. 2222.

For nearly twenty years we have envisioned such a bill as S. 2222; a bill that would finally give INS the legislative resources to regain control of our borders and our interior illegal alien problems. We have come so close, only to have the entire program threatened by this unbelievably broad form of amnesty. Such a provision would be totally devastating to the enforcement programs of the Immigration Service, and would certainly nullify the positive benefits that would accrue as a result of this bill.

We are with you all the way on this, Senator, and we wish you every success.

Sincerely,

GORDON J. MACDONALD,
Deputy Assistant Commissioner,
Border Patrol, retired.

AMERICAN LEGION OPPOSES AMNESTY FOR ILLEGAL ALIENS

Mr. HELMS. Mr. President, there is great concern throughout the country over provisions in the Immigration Reform and Control Act of 1982, S. 2222, which would grant amnesty to millions of aliens who have entered our Nation illegally.

I ask unanimous consent that two letters from the American Legion in this connection be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE AMERICAN LEGION,
Washington, D.C., July 23, 1982.

Hon. JESSE A. HELMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HELMS: For the last several years The American Legion has taken the view that regaining control over immigration into the United States—both legal and illegal—is of vital importance to nearly every major facet of American life. This nation stands virtually alone among western nations in having failed even minimally to exercise its sovereign right to police its own borders. The consequences of too many years of too little control have created an overwhelming popular sentiment that demands reduced legal immigration and enforcement of tough new illegal immigration laws.

This year, the best efforts of both House and Senate Judiciary Subcommittees on Immigration have yielded little more than a

compromise package which may be sound from a political standpoint but in many respects is inadequate to seriously address immigration control or assuage the growing anxieties of American taxpayers. In that regard, provisions to amnesty millions of illegals within each of the two major reform measures make a mockery of serious intentions to control immigration and we invite your attention to and possible leadership in opposing these provisions. Our position against amnesty of any kind is adamant for a variety of reasons outlined in the attached documents. Assuming that you agree with us on this matter it is sufficient to point out that in the last several weeks momentum has begun to move in a direction favorable to our position. This, in light of two significant events.

First, Senator Kennedy succeeded in amending S. 2222 in Committee with a provision vastly expanding eligibility for amnesty—legalization as it is called in polite circles—to include all illegal aliens having resided in the U.S. prior to January 1, 1982. Many Senators previously willing to look the other way at a moderate legalization program are now beginning to pay more attention in the face of a wide-open amnesty which is tantamount to an open border policy.

The second factor moving things our way is the June 15, 1982 Supreme Court ruling on free public schooling for the children of illegals. In that decision the Court found that Texas had unconstitutionally denied equal protection under the 14th Amendment to the children of illegals by barring their access to free public schooling. The significance of this decision is that by using the same equal protection arguments, illegals taking advantage of amnesty will be entitled to the full range of social welfare benefits now available to Americans.

This prospect must be taken seriously in any consideration of amnesty because of the cost to taxpayers. Indeed OMB projects that if 80% of an illegal population conservatively estimated at 4.5 million stepped forward, the cost in social services and benefits would range around \$9 billion over four years. Moreover, when the Administration gave its support for legalization, in both its own proposal and the original amnesty provision in S. 2222, it did so with the understanding that most of those legalized would be ineligible for federal welfare and other benefits.

As stated already, momentum is moving in our direction. We believe that many Senators—both Democrats and Republicans—would like an opportunity to vote no on amnesty, but fear being labeled as racist or nationalist. In short, the support is there, but what is needed is leadership.

Recognizing that you are deeply involved in numerous matters of great importance, we sincerely hope that you will consider a leadership role in amending S. 2222 by deleting amnesty. Should you agree with our posture on this issue, The American Legion stands ready to support your efforts to the greatest possible extent.

Sincerely,

E. PHILIP RIGGIN,
Director, National
Legislative Commission.

THE AMERICAN LEGION,
Washington, D.C., July 28, 1982.

DEAR SENATOR: On July 22, 1982 Senators Helms and East introduced an amendment to the Immigration Reform and Control Act of 1982 which The American Legion com-

mends to your serious attention. Specifically, this amendment would strike from S. 2222 any authority to begin a program of amnesty for illegal aliens and we urge you in the strongest possible terms cosponsor and support this amendment when it is debated on the floor.

For the last several years this organization has taken the view that regaining control over immigration into the United States—both legal and illegal—is of vital importance to nearly every facet of American life. This nation stands virtually alone among western nations in having failed even minimally to exercise its sovereign right to police its own borders.

The consequences of too many years of too little control have created an overwhelming popular sentiment that counsels reduced legal immigration, enforcement of tough new illegal immigration laws and absolutely demands that those having already violated our immigration laws not be pardoned. Apart from the inherent wisdom of the American public, there are a variety of important policy considerations which if evaluated closely make amnesty very unwise.

From a public policy standpoint, The American Legion opposes amnesty because jobs held by illegals should be made available to Americans, because new waves of illegals looking toward subsequent amnesties will be encouraged, because amnesty is unfair to those having awaited their legal turns, because general disrespect of law will ensue by legitimizing the transgressions of violators, because the administrative burden on INS would be too great even if amnesty were a good idea and because the cost to taxpayers as increased numbers become eligible for social welfare programs over the first four years will amount to over \$10 billion even according to the Administration. For all of these reasons we believe, and hope you will agree, that amnesty however truncated is inappropriate. This is particularly true now at a time in which the state of the national economy has seriously jeopardized our own citizens.

With the understanding that the Immigration Reform and Control Act is scheduled for consideration imminently, we ask that you consider the matter of amnesty thoughtfully. As always, your attention to the views of The American Legion are appreciated.

Sincerely,

JACK W. FLYNT,
National Commander.

THE FALKLANDS/MALVINAS TRAGEDY: HOW QUICKLY WE FORGET

Mr. HELMS. Mr. President, 4 months ago, the big news around the world was that Argentina had occupied the islands in the South Atlantic—Islands which the Argentines call the Malvinas and which the British call the Falklands. Tension filled the days and weeks that followed as two friends of the United States prepared for war.

Now, in retrospect, does anyone doubt that the conflict which followed could have been avoided without the tragic loss of life and materiel for both sides and severe damage to the good faith and credibility of the United States?

Mr. President, as we now reflect upon the so-called "mediation" which followed, is not the intention of the State Department to take sides in this dispute all too clear? Is it not now equally clear that the United States should have demanded that both sides back up and cool off? In the tide of anti-Argentine sentiment following the decision by Secretary of State Haig to grant Britain all the aid it needed to triumph over the Argentines, Americans ignored Argentina's claims to sovereignty over those disputed islands.

In fact, Mr. President, as I have mentioned many times in this Chamber, the United States should have given calm and fair consideration to the claims of Argentina and to a peaceful resolution of their dispute with Great Britain.

Mr. President, on July 9, Argentina's Ambassador to the United States, Esteban Takacs, whose efforts in recent months have won him the respect of adherents of all sides in the dispute, stated the Argentine case for sovereignty persuasively. He did so in a communication to the editor of the Washington Times, published July 9. Since many Senators have indicated that they did not see Ambassador Takacs' letter, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed, in the RECORD, as follows:

ARGENTINA'S CASE FOR SOVEREIGNTY

Ever since the question of the Malvinas Islands became front page news, there has been much discussion of this matter in the American press.

Unfortunately, most of this discussion has accepted at face value the historic claim to these islands set forth by Great Britain. Time Magazine of April 12, for example, declares that, "The main island grouping . . . was discovered by the British in 1592 . . ." Writing in The Washington Times of June 21, Byron Farwell states, "The Falkland Islands were first seen by the British navigator, John Davis, in 1592 . . . history and justice are clearly on the side of Britain." And so it has gone.

Now that the question of the Malvinas has receded from the front page, perhaps the American people, who are unique in their open-mindedness and willingness to explore all sides of complex questions, are prepared to examine in more detail the claim set forth by Great Britain. It is my belief that, if they do, they will discover that Argentina's case for sovereignty is indisputable and that it has, in addition, been supported over the years by leading experts in the United States and elsewhere.

The British claim to have discovered the Malvinas in 1592. This is simply not true. The fact is that the Malvinas were discovered in 1520 by Esteban Gomez, a Portuguese who was part of the Magellan expedition sponsored by Spain. In Spanish maps and charts of the beginning of the 16th century, the Islands already appear. The first map is that of Pedro Reinel (1522-23) which shows an archipelago situated on the paral-

lel 53°55' latitude South. Diego Rivera, principal cartographer to Charles V of Spain inserted the islands in the Castiglione (1526-27), Salviati (1526-27) and Rivera (1527) maps and also in two charts in 1529.

Thus, it is clear that the British could not have "discovered" the Malvinas Islands in 1592 because they had already been discovered by the Magellan Expedition in 1520. The area was also sailed by Simon de Alcazaba in 1534 and Alonso de Camargo in 1540. Sarmiento de Gamboa took symbolic possession of the Straits of Magellan together with its adjacent islands, including Malvinas, and in 1584 founded a settlement.

While the British continue to claim their "discovery" of the Islands in 1592, the fact is that British maps of the period do not show the Islands, nor is there proof of any kind of any British involvement with these islands either in 1592 or during the previous century, when Spain has already discovered and claimed the area for its own. Beyond this, there is no British involvement with the islands in the next century, the 17th, either.

The British are not heard from again until 1748 when they announced preparations from an expedition to the islands. Spain became aware of this plan and formally protested to the British Government. Great Britain abandoned the plan. Instructions received from his government by the British representative in Madrid stated: "Since there is no intention of making settlement in any of the afore-mentioned islands and since His Majesty's corvettes wish neither to make nor touch any part of the Spanish coast, His Majesty falls to understand how this project can in any way cause objection from Madrid."

Thus, in this clear statement of official British policy and in the acts of consultation of 1749, addressed to the Spanish Court, we see clear proof that England recognized the rights of Spain over the islands and coasts of South America, in areas where British ships could neither sail nor trade, much less claim territory.

This, however, was nothing new. Great Britain had long acknowledged Spanish rights in South America which were originally granted to Spain by virtue of the Papal Bulls Inter Coetera and Dudum se Quidem of 1493. At this time, Great Britain was Roman Catholic and supported the jurisdiction and authority of the Pope who, in this particular case, was mediating a dispute between Spain and Portugal. Great Britain was making no claims at this time whatsoever.

Later, in the Treaty of Madrid of 1670, it was agreed that England would retain all lands, islands, colonies and dominions she possessed in America and there was a counter-recognition by England that "the subjects of Great Britain would not direct their trade to, nor sail in, ports or places which His Catholic Majesty possesses in the above-mentioned Indies nor will they trade with them." There was a provision prohibiting sailing and trading by Great Britain in areas not open to traffic at the end of the 17th century, which was ratified again in the Treaty of Utrecht in 1713.

When Britain first tried to send an expedition to the Malvinas in 1749, she could not have considered the Islands *res nullius*, and therefore open to appropriation. She had already acknowledged Spanish rights—and had done so many times.

The first actual settlement in the Malvinas came in 1764, when a French naval explorer, Bougainville, founded Port Louis on

Soledad Island (East Falkland) and named the islands the Malvinas. Spain immediately protested to the French Government and her rights of dominion were quickly recognized. King Louis XV ordered Bougainville to hand over Port Louis. By doing so, France clearly and openly recognized the legal rights of the Spanish Crown to the islands.

Only after this centuries old history of the legitimacy of Spanish right to the Malvinas, in January, 1766, did the British found Port Egmont on the small and obscure Saunders Islet, not on either of the main islands in the group, Soledad or Gran Malvina (East or West Falkland). Spain also protested to England. Since the British did not withdraw, an expedition departing from Buenos Aires, commanded by the Governor of Buenos Aires, evicted them in 1770. Each time Spanish control of the Malvinas was challenged—first by the French, then by the British—reaction was swift. When the British left Port Egmont, they left behind a metal plate reading, "Be it known to all nations that Falkland's Island with this port . . ." They referred to the island in the singular, proving that English claims were limited during their stay at Port Egmont exclusively to this small settlement, not to the entire archipelago. In the following years, 19 Spanish and 5 Argentine governors exercised control over the Malvinas.

Fifty nine years elapsed before the English returned to the Malvinas in 1833 when they took control of the islands by the use of force, expelling the Argentines and the Argentine governor who was present in the islands.

Great Britain's imperialistic aims are clear. Twice, once in 1806 and once in 1807, Britain invaded Buenos Aires itself, capturing the city. Both times the Spanish expelled them and regained control of the city. What England was seeking in Buenos Aires in 1806 and in 1807 and in the Malvinas in 1833 was simply control of the strategically important sea routes of the South Atlantic. The Strait of Magellan, after all, was the only path to India and Japan.

England's silence over the Malvinas after 1774 confirms her recognition of Spanish rights. Spanish, and then Argentine, control over the islands was steady and continuous in the intervening years. In the first British-Argentine Treaty of Friendship, Trade and Navigation, signed in 1825, Britain makes no reservations concerning any claim to the Malvinas. At this time, an Argentine Governor was already in the islands.

Spanish rights in the islands were widely accepted even in Great Britain. In his "Thoughts on the Late Transactions Respecting Falklands' Islands" (1771), Samuel Johnson explains how the Spanish Minister Grimaldi could have answered any attempt by the British government to ask for any control over the territories: "We (the Spaniards) have now for more than two centuries ruled large tracts of the American continent, by a claim which perhaps is valid only upon this consideration, that no power can produce a better one: by the right of discovery and prior settlement . . . The justice of this tenure the world has hitherto admitted, and yourselves at least tacitly allowed it, when about twenty years ago you desisted from your purposed expedition and expressly disowned any design of settling . . ."

The Nootka Sound Convention of 1790 provides additional proof of the legitimacy of the Spanish and, hence, the Argentine position. Discussing this convention as far back as 1927, the distinguished American

historian, Dr. Julius Goebel, Jr., in his classic work on this subject, "The Struggle for the Falkland Islands, a Study in Legal and Diplomatic History" (Yale University Press), writes: "The British had now (in 1790) in a solemn treaty recognized the status quo; the de facto occupation of the whole Falkland group was admitted by them to be an occupation in the legal sense . . . the British, by agreeing not to establish colonies to the South of regions already occupied by the Spanish, by implication recognized the sovereignty of Spain to all regions in fact occupied . . . The terms of the sixth article by inference forbade any landing at the Falklands as they were a place already occupied by Spain. Consequently, even if we could assume that the British had up to this time kept alive their claim to the group, it was extinguished by this instrument . . . It was only by possession that the British could transmute their claim into a right, and, the means having been formally renounced, the claim itself lapsed."

Professor Goebel makes it clear that, "The only ground on which title could be based was the de facto occupation . . . As between Spain and Britain, therefore, the equities lay with the former."

Similarly, U.S. Secretary of State Sumner Welles, writing in the Washington Post (March 2, 1948) declares:

"When the Spanish government established the viceroyalty of Buenos Aires in 1776, the Falklands were specifically included. Governors were appointed and resided in the islands. In the Nootka Sound convention . . . Britain recognized all existing Spanish occupations in South America . . . In this convention, Spain's right to the Falkland Islands would seem to have been admitted unequivocally by the British . . . Spain's right to the Falklands and their dependencies passed to the Argentine Republic."

The Republic of Argentina inherited from Spain the legitimate sovereignty and unchallenged possession of the Malvinas Islands when it achieved independence in 1810-16. Great Britain, during its era of imperial expansion, simply took the islands by force. Those Americans who believe that this hemisphere should be free of foreign control, those who oppose colonialism and those who carefully examine the historic will, I am confident, conclude that Argentina's case is both legitimate and just.

ESTERAN A. TAKACS,
Argentine Ambassador to the U.S.,
Washington, D.C.

A SMALL LIGHT OF TRUTH SHINING IN LITHUANIA

Mr. PROXMIER. Mr. President, the plight of ethnic and religious minorities in Soviet bloc countries would be almost impossible to discover without the courageous efforts of those who work for an underground newspaper. Today, I wish to pay tribute to all those Lithuanian Catholics who daily risk persecution, imprisonment, and even death to bring the truth to light from the darkness of Soviet domination through their work on a very important underground newspaper.

Nineteen hundred and eighty-two marks the 10th anniversary of The Chronicle of the Catholic Church in Lithuania. The Chronicle is a testa-

ment to the persecutions which the Catholic Church and its members are suffering at the hands of the Soviet authorities in Lithuania. Lithuania, a small, previously independent Baltic State, was forcefully occupied by the Soviet Union in 1940 when Hitler and Stalin signed a pact that divided up Poland and Eastern Europe between them. At the time, 85 percent of Lithuania's population was Roman Catholic. Since that time, the Soviets have moved to destroy the Church's influence through mass deportation, imprisonment, assassination, intimidation, disinformation, and other deplorable measures. But even though such measures continue today, the Soviets have not been able to break the spirit of these remarkable people.

Since 1972, *The Chronicle* has courageously reported hundreds of instances of anti-Catholic and antireligious activities by the Soviet authorities. On the occasion of the 10th anniversary of *The Chronicle*, the translation editor explained the paper's purpose.

In 1972, the *Chronicle*, clandestinely published in Lithuania, began to reach the free world at irregular intervals. Primarily intended to keep Catholics informed of the situation of the Church there, these Lithuanian underground newspapers also serve as a constant appeal to the free world not to forget the plight of a people struggling against overwhelming odds to defend their religious beliefs and to regain their basic human rights.

In a tribute to the *Chronicle* appearing in the Catholic *Twin Circle*, March 21, 1982, Dick Goldkamp provides insight into the newspaper's significance for persecuted religious groups:

What makes the *Chronicle* a remarkable testament to the human spirit is one thing and one thing alone: its unique stature as a human rights document. Its very survival, not to mention its continuous appearance at fairly regular intervals over the last decade, has required of its creators a degree of ingenuity and personal courage possessed by few journalists anywhere. The *Chronicle* is a running account of a people under siege for their religious beliefs. In short, it is the story of a modern Church of the Catacombs.

Mr. President, I am not suggesting that the acts of repression conducted against the Catholics in Lithuania as recorded in the *Chronicle* are specific instances of genocide. Yet, the pattern of consistent and constant violation of human rights of religious groups reveals a rather crude attempt by the Soviets to damage the stature of these groups and to dehumanize their members. The Soviets, by degrading and dehumanizing these groups, are attempting to create domestic environment where they are capable of deluding their own citizens into believing that these groups are the source of all the nation's problems. Half a century ago, Hitler similarly dehumanized the Jews and targeted national discontent against them with genocidal success. It

is just that type of occurrence that must be prevented from ever happening again.

I call on the Senate to demonstrate its support for the integrity and stature of all religious groups by giving its unwavering support for the Genocide Convention. I ask unanimous consent that Dick Goldkamp's article be printed in the *Record*.

There being no objection, the article was ordered to be printed in the *Record*, as follows:

PLIGHT OF LITHUANIA—UNDERGROUND NEWSPAPER TELLS GUTSY STORY OF THE CHURCH'S SURVIVAL

(By Dick Goldkamp)

March 19, 1982, marks a little known, but significant milestone in the annals of modern journalism. It is the 10th anniversary of the launching of the gutsy little *Chronicle of the Catholic Church in Lithuania*.

Most Americans with any knowledge of Lithuania at all can probably identify it only as the native land of Simas Kudirka, the Soviet seaman who tried to defect from a Russian fishing trawler plying the waters off the coast of Martha's Vineyard in Massachusetts in November of 1970. His famous escape attempt was later memorialized in a CBS television documentary aired in early 1978.

But there is a great deal more to be said about Kudirka's homeland, as *The Chronicle* eloquently demonstrates.

Typographically, its publication from the very beginning has been positively prosaic. It was generally typewritten on onionskin paper, in fact. It goes into print only five or six times a year. Its distribution system could charitably be described as archaic by sophisticated American standards. And in an era in which electronic innovation has become commonplace, it can claim no great technological "breakthroughs."

What makes it a remarkable testament to the human spirit is one thing and one thing alone: its unique stature as a human rights document.

Its very survival, not to mention its continuous appearance at fairly regular intervals over the last decade, has required of its creators a degree of ingenuity and personal courage possessed by few journalists anywhere. The *Chronicle—Lietuvos Kataliku Baznycios Kronika* in the mother tongue—is a running account of a people under constant siege for their religious beliefs. In short, it is the story of a modern Church of the Catacombs.

MAGAZINE'S UNVEILING

Its unveiling in early 1972 preceded by only a few days the presentation of an extraordinary petition to Kurt Waldheim, who was Secretary-General of the United Nations at the time.

Addressed to the attention of Leonid Brezhnev, General-Secretary of the Communist Party in Moscow, it was an appeal backed by the signatures of 17,054 Lithuanian Catholics, complaining of flagrant violations of their religious freedom by the Soviet Union. Specifically, it protested the treatment of Fathers Juozas Zdebskis of Prienai and Prosperas Bubnys of Girkalnys, both of whom were tried and sentenced to a year in prison. The charge against them: teaching catechism to children.

More than anything else, perhaps, those two trials in November 1971, opened a new

chapter in the history of one of the world's forgotten ethnic minorities.

For most of the period between the two great wars, the tiny country that lies on the east coast of the Baltic Sea adjacent to Poland had prospered as an independent nation, barely larger than the state of West Virginia. Though the country had been overwhelmingly Catholic for centuries, religious minorities were on the whole treated generously by the Republic of Lithuania.

Under terms of the secret protocol of 1939 between Stalinist Russia and Hitler's Germany, however, the Red Army invaded the country in 1940. Apart from a three-year Nazi occupation during World War II, the country has been under the domination of the Communists ever since.

For over a quarter of a century, little Lithuania was left to its own devices to deal with its totalitarian overload. While the United States has never officially recognized the Russian takeover, the New York Times Index very early bowed to the proletarian promise of a Marxist Utopia by quietly changing the listing in its annual reference guide from "Lithuania" to "USSR-Baltic Republics" between its 1945 and 1946 editions. Lithuania began losing its identity for the Western press, and accounts of life on the "amber coast" gradually became a matter of little interest.

GUERRILLA RESISTANCE

Only dribbles of information about guerrilla resistance leaked out of the country for some years after the war, despite the fact that an estimated 50,000 partisans were killed, and massive deportations were taking place during that time. But with the inauguration of the Vatican policy of *Ostpolitik* under Pope Paul VI in the 1960's and the advent of detente under the Nixon Administration in America, Lithuania's Catholic population gradually came to fear that Rome and the West could be misled by the Kremlin's officially laundered version of life in their homeland—viz., that Lithuanians had decided to adapt their country and their customs to the Soviet way of life as painlessly as possible.

The appearance of *The Chronicle* quickly shattered any such illusion.

Collaboration with the Soviet regime, in fact, came in for especially harsh criticism from its founders. "No one in Lithuania believes that dialogue is possible with the Soviet government," said the chroniclers in an early edition. They went on to add that "... the Catholic Church in Lithuania will lose the people if it should lose their confidence because of bootlicking the Soviet government. Something similar has already happened to the Russian Orthodox Church."

From infancy onward, *The Chronicle* began to develop a nationwide network of news gatherers dedicated to telling the truth as they saw it, not by boldly editorializing to dramatize their cause in the extreme. They were part of the *Samizdat* press: forced to work underground, outside the watchful eye of the KGB. "Staff members" couldn't afford the luxury of worrying about keeping up with the competition. They were more concerned about keeping themselves out of jail.

The *Chronicle* soon became a Baltic thorn in the side of Mother Russia.

The first of a periodic series of security sweeps by the KGB, in fact, was conducted on Nov. 19 and 20 of 1973. During succeeding months, the chroniclers began to detail the story of dozens of unannounced KGB

raids on homes, apartments, even church sanctuaries in their search for manuscripts, typewriters, prayer books or any other kind of incriminating evidence allegedly linked to publication of *The Chronicle*. Several people were arrested and sent to prison for their connection with the paper, including Petras Plumpa-Pluira for helping to duplicate the journal, and Nijole Sadunaite for typing manuscripts. The harshest sentence initially went to Sergei Kovalev, the Russian editor of *Moscow's Chronicle of Current Events*, for his complicity in reprinting information about Lithuania. But volunteers were always waiting in the wings to replace *Chronicle* personnel when they were incarcerated.

SECURITY POLICE

Over a period of time, the chroniclers detailed accounts of security police moves to recruit young seminarians as informers by the use of bribes, threats or any other means they could devise to create an espionage network within the Church. While there was no evidence of the KGB succeeding on a grand scale, *The Chronicle* faithfully recorded instances where they did win over susceptible students. What made the situation excruciating was the fact that the Church had, many years earlier, been forced to close all of its seminaries but the one in Kaunas. Thereafter, the government set annual limits on the number of young men allowed to enter it. In addition, all diocesan and parish appointments had to have the approval of the state Council for Religious Affairs.

Ironically, as Lithuanian authority V. Stanley Vardys of the University of Oklahoma points out, there was greater religious freedom allowed under Lenin's revolutionary decree on separation of Church and State in 1918 than under subsequent legal sanctions applied to Lithuania. Soviet law under Lenin allowed for the private teaching of religion. Under both the Stalin (1936) and Brezhnev (1977) constitutions, freedom to perform religious ceremonies was allowed, but the right to disseminate religious information was not. In effect, young men were permitted to become priests, but then were denied the chance to instruct children the Faith.

CHURCH INFLUENCE

It was merely another sample of a massive Soviet push to eliminate Church influence in an effort to control the population. Periodically, the *Chronicle* delved into Soviet efforts to undermine the beliefs students learned at home by means of forcible instruction in atheism in Lithuanian schools. In one ludicrous extreme drawn from a school in Kaunas, a teachers' manual for 3rd and 4th grade math classes contained detailed instructions on how to get pupils "to calculate the unnecessary expenses of people needed for maintaining churches and priests" by showing them how the money might be better used "for improving the life of the working people."

Perhaps the worst perversion of the government's officially proclaimed policy allowing freedom of religion, however, began in 1954 in the seaport city of Klaipeda. For years, the Catholic population had been allowed use of a small German church in the city, but had gradually outgrown it. During the thaw following the death of Stalin, the parish pastor was granted a permit by the government to construct a new church. Authorities even offered the use of stockpiled construction materials, despite the scarcity of such supplies in the war-torn city at the time.

While the chosen site was in a marshy area, enthusiastic volunteers pitched in after regular work hours to haul dirt in small carts and baskets with others collecting loose bricks lying in ruins throughout the city and hauling them to the work site. Over a period of six years, parishioners contributed about three million rubles to the cause as well.

Upon completion of construction, the faithful gathered at the church site on the feast of the Assumption of Mary in 1960 for a consecration ceremony, only to find the gates to the church boarded up by the government. The building was subjected to various acts of vandalism by army units in succeeding weeks; two priests were later arrested and sentenced to prison over the incident; and the church was eventually expropriated by the government and turned into a philharmonic hall.

REPEATED APPEALS

For some time, according to *The Chronicle*, neither Lithuanians nor Russians living in Klaipeda would attend scheduled concerts. On occasion, as many as 50 artists came to the hall to perform for an audience of as little as five people. Repeated appeals from the people to recover the building for use as a church were rebuffed by Soviet authorities.

In 1979, copies of a massive petition containing about 150,000 signatures were smuggled out of the country to America in an effort to enlist the support of world opinion behind the cause. Incredibly, it went by almost unnoticed by the American press. It did not even arouse the interest of the paper that prints "all the news that's fit to print" . . . purportedly because it involved a situation that was no longer "new."

"We've learned from experience, that whenever we bring anything to the attention of the New York Times after it surfaces with us, they automatically refer it to their Moscow bureau to check out," says Father Casimir Pugėvicius, a *Chronicle* translation editor for the Lithuanian Catholic Religious Aid Center in Brooklyn. "With their liberal bias, even human rights violations that are basically distasteful to them are generally relegated to conservative groups."

Despite the valiant efforts of *The Chronicle*, things apparently haven't changed much since 1972, when a copy of the smaller petition was handed out to Secretary-General Waldheim at the UN. While that appeal was ultimately aimed at Brezhnev, it was purposely routed through Waldheim with an accompanying memorandum, precisely because of the savage repression of human rights complained about in the petition itself. Queried about it at the time, Waldheim refused to comment; the appeal did not stem from an official government source, as required by normal UN procedures.

VARIOUS COMPLAINTS

Among various complaints, the 1972 petitioners stated: " . . . the children of believing parents are being taught atheism against their will in school; they are even being forced to speak, write and behave at variance with their conscience, yet no one reprimands such violators of freedom of conscience or tries to bring them to justice."

To this day, no one is certain anything was ever done about it . . . either by the Soviet Union or even by the United Nations.

THE CASE AGAINST THE MX NUCLEAR MISSILE GROWS

Mr. PROXMIRE. Mr. President, on July 21, the New York Times carried a letter by two Wyoming ranchers which makes a devastating case against at least one mode of basing for the MX missile. The case is primarily based on the failure of the Defense Department to frankly and fully explain to the citizens of the States where the missile might be based just what that missile will do to the communities they live in and love.

I ask unanimous consent that the letter be printed at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

A CALL FROM THE PLAINS: WHERE ARE WE GOING WITH THE MX MISSILE?

DEAR SECRETARY WEINBERGER: Thank you, Mr. Secretary, for taking the time to visit with us here in Cheyenne, our "Magic City of the Plains," before you make your next MX decision.

Whether you decide to concentrate the missiles in a "dense pack" in a single state or to spread them out in several different parts of the country, we hold reservations about the proposed land-basing of the MX system here in Wyoming, and we would like to share them with you.

Many of your own advisers have counseled that submarines at sea would provide the cheapest and least vulnerable basing mode. Still, however, you pursue land basing.

We feel compelled to ask you—why are you preoccupied with land basing?

We are preoccupied with a fear of it. As ranchers, let us tell you what will happen if the MX comes to Western soil.

Our vital agricultural economy will suffer irreparable damages as rangeland, farmland and valuable water resources are appropriated for MX expansion. Existing water rights in our semiarid region will become weak and tentative as requirements and demands for water increase.

A boom syndrome will arise and hundreds of millions of dollars in public works projects will fall on the backs of present Western residents. The burden of impact will be awesome, as every aspect of our Western way of life becomes affected.

Mr. Secretary, public support for this MX proposal can be sustained only if our citizens, ranchers and farmers are kept from finding out about the extensive nature of deceptively basing the missiles.

And this is exactly what is happening. We are getting no answers, no discussion of impact. Officials ignore it, and the silence they create is deafening.

Here in the West, open discussion has always been our way of making decisions. In fact, the Democratic Party of the state of Wyoming has come out against land basing after just such discussion.

We believe our concerns are legitimate and full dialogue is the best way to get meaningful answers to our questions.

How much water will each variation of the MX system take?

How much land?

How will it affect our traditional economic activities centered on the land?

How big will the system grow to be?

One of America's strengths is its ability to thrive amid controversial debate.

Mr. Secretary, the stakes of the MX debate are no less than the economic survival of the agricultural community as we know it. The proposed trade-off of our rural heritage for a questionable MX program does not make good sense.

We who live in Wyoming, Nebraska and Colorado are doing our patriotic part right now as hosts to the Minuteman silos. We have a fine relationship with the Air Force and Warren Air Force Base, and we do not wish to risk altering this beneficial relationship with a barrage of unsettling MX deployment variations of political rather than strategic origin.

The latest "trial balloon" is your suggestion of the "dense pack" basing mode. That is, placing 100 missiles within a 10-square-mile area.

This foot-in-the-door approach could use the 100 new dense-pack silos to store the first 100 missiles while military and Government officials work to buy time to surmount the political obstacles and neutralize resident opposition.

The next step could be to bring in another 100 MX missiles to beef up the original system, thereby making it more survivable. Then would come the huge, deceptive mobile-basing umbrella to give the system adequate, protection.

The end result could easily be an immense MX compound, gobbling up our resources with the swiftness of a prairie fire.

Mr. Secretary, spare us this fate. Here in the high plains-Rocky Mountain region we are eager and proud to fulfill our obligation to our nation and state.

But we would like you to know that we also are earnestly moved by the words and thoughts of the noted Wyoming historian, T. A. Larson. His words may be destined to guide each of us through this period of national decision.

He said, "Perhaps it is not yet time to grieve, but surely it is time to reflect and to ponder whether what the world wants from Wyoming is worth more than what Wyoming already offers the world."

Lest we forget, Wyoming already offers our world a very special heritage.

With warm regards,

Sincerely,

ROD KIRKBRIDE,
MAE KIRKBRIDE.

TERRORISM IN PARIS

Mr. KENNEDY. Mr. President, I strongly deplore the vicious terrorist attack yesterday against a Jewish restaurant in Paris, which killed 6 persons and wounded 22 others. Among these were four Americans—two killed and two wounded—and I join in offering my deepest condolences to all the victims of this terrible incident. From the accounts of both the French Interior Minister and the mayor of Paris, there can be little doubt that anti-Semitism was the ugly motive, and that once again innocent men, women, and children are the victims of terrorist violence which has spread through the Middle East, Europe and other parts of the world.

The outrage of this attack is worsened by the fact that three other attacks have reportedly occurred against French businesses and people with

Jewish connections in recent days, and that authorities have been unable to make any arrests following the bombing and killing of four persons at a synagogue in Paris in October 1980.

I commend the President of France, Francois Mitterrand, for his strong and forthright repudiation of this latest act of terrorism, and for undertaking to do everything possible to bring the perpetrators to justice. Swift and effective action is essential to punish the terrorists, to deter such acts in the future, and to uphold the rule of law.

ORDER OF PROCEDURE

Mr. BAKER. Madam President, as I found over the years as minority leader and now as majority leader sometimes the Senate does what it wants to do instead of what the leadership suggests. Today is one of those days, obviously.

I had hoped and expected that we could have morning business until 11:30 a.m. and then a brief time to resume debate on the supplemental appropriations bill from 11:30 a.m. until 12 noon.

Unfortunately, that does not coincide with the schedule requirement of other Senators.

We will resume consideration of the supplemental appropriations bill at 2 p.m., but I find the cupboard is bare at this moment.

RECESS UNTIL 2 P.M.

Mr. BAKER. Therefore, Madam President, I ask unanimous consent that the Senate stand in recess now, instead of at 12 o'clock, and continue in recess until 2 p.m. today.

There being no objection, the Senate at 11:38 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DANFORTH).

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The Senate resumed consideration of the bill.

Mr. STAFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. LUGAR). Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the bill H.R. 6863.

Mr. HATFIELD. Mr. President, I urge all of my colleagues who expect to offer amendments to the supplemental appropriations measure that is now pending to make those amendments known to the managers of the bill, Senator PROXMIER and myself, in order that we may be able to try to make a judgment on the time factor under which we have to operate.

I remind my colleagues that the leadership has indicated we will go at least until 9 o'clock tonight—I say at least; probably that will be the figure—the target time of 9 o'clock, hoping that we can perhaps complete all of the bill, but if not then at least to complete the bill early tomorrow because we have 140 committee amendments to this bill. It will require some time to work out the paperwork between the House and the Senate before we can go to conference. We have to go to conference by Thursday of this week and complete conference on Thursday in order to meet the time frames that we have to then complete the paperwork to get the bill back to the House floor by Wednesday of next week, to be voted on by Wednesday of next week, and then over to the Senate in order for the Senate to take action on the conference report by Thursday of next week.

Those are all within the time frames that had been agreed to as it relates to debt ceiling limitation, as it relates to other issues that may arise during the debt ceiling limitation question. So I put my colleagues on notice at this time that if we get into a situation where there are no amendments to be offered, I shall ask for third reading of the bill. We cannot tarry by having half-hour and 1-hour delays until someone decides to come to the floor to offer an amendment. We were here all day yesterday to do business and we had no business to do on this pending bill. I am very anxious to get this bill completed as much as possible, if not totally, today in order to meet that time frame.

I yield to the Senator from Vermont. Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. STAFFORD. Mr. President, I appreciate the able chairman yielding to me.

Mr. President, following discussions with the most able Senator from Florida last Thursday (Mr. CHILES), I find as chairman of the Committee on Environment and Public Works I am forced to raise a point of order with re-

spect to the committee amendment on page 67, lines 9 through 15. The point of order is that it is legislation on an appropriation bill and therefore in violation of rule XVI.

Mr. ANDREWS. Mr. President, we concede that point of order.

The PRESIDING OFFICER. The Chair sustains the point of order. The amendment specified by the Senator which begins on page 67, line 8 through line 15, is thereby stricken from the bill.

Mr. HATFIELD. Mr. President, if I understand the ruling of the Chair, the consequence of that ruling is that this amendment is now deleted that has been raised as a point of order by the Senator from Vermont. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. I thank the Chair.

Mr. DANFORTH and Mr. STAFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont still has the floor.

Mr. STAFFORD. Mr. President, I have an inquiry for the distinguished chairman of the Appropriations Transportation Subcommittee (Mr. ANDREWS). The report on the supplemental appropriations bill contains language which directs that of any uncommitted discretionary bridge funds currently and prospectively available, the highest level of attention shall be given to certain bridges which are listed.

There are now approximately 40 bridges that are under construction and that are being funded by the discretionary bridge program. In addition, approximately another 30 bridges have received legislative history as being eligible for funds from this program.

Am I correct that the language in the supplemental appropriations report listing five bridges is intended only to state that these bridges are eligible to be considered for discretionary bridge funds, and that this language is not intended to place a higher priority on these bridges than on those now under construction or those with legislative history?

Mr. ANDREWS. The distinguished Senator from Vermont is correct in his interpretation of this report language.

Mr. STAFFORD. I thank the distinguished chairman for his clarification of this language.

Mr. President, I have one additional inquiry for the distinguished chairman of the Transportation Appropriations Subcommittee (Mr. ANDREWS) and the distinguished ranking member (Mr. CHILES). The report under Federal-aid highways contains additional language concerning several high occupancy vehicle lane projects which include approaches and related parking structures. The continued eligibility for

Federal-aid interstate construction funds for these projects is discussed.

Am I to understand that it is the intention of the Appropriations Committee to direct the Department of Transportation to fund from the interstate account these parking garages?

Mr. ANDREWS. Mr. President, as the distinguished chairman of the Subcommittee on Transportation of the Committee on Environment and Public Works knows, the Highway Act of 1981, Public Law 97-134, stated that "those high occupancy vehicle lanes (including approaches and all directly related facilities) included in the interstate cost estimate for fiscal year 1981" will continue to be eligible. It has been brought to the subcommittee's attention that the Federal Highway Administration has applied a restrictive interpretation to the language which has eliminated several such projects even though their cost—including the cost of associated facilities—was included in the 1981 interstate cost estimate. We were merely attempting to add further clarity to the congressional intent on this matter because of the confusion.

Mr. STAFFORD. Mr. President, I thank the distinguished chairman for his remarks and wish to assure him and the Senator from Florida (Mr. CHILES) that the Committee on Environment and Public Works intends to review this matter when S. 2574, the Federal-Aid Highway Act of 1982, is considered by the Senate next month. Several questions regarding eligibility of parking structures associated with HOV lanes have been brought to our attention. The committee, under its jurisdiction as the authorizing committee, intends to further clarify the language contained in the 1981 Highway Act with respect to these problems and we will take action in regard to these matters at that time. Issues of this nature should be clarified by the authorizing committee since it knows what was intended by the statutory language.

Mr. ANDREWS. Since the Environment and Public Works Committee is the authorizing committee, we would welcome your review and resolution of this matter in light of the highway statute as adopted, including the appropriate legislative history made on the subject in the debate on the 1981 Highway Act.

The reason we mentioned it in the record was simply that there was confusion over where these funds would go and we wanted to make crystal clear what the intent of the Senate and the Congress was. We appreciate your colloquy and your joining us in making it beyond any type of misinterpretation.

Mr. STAFFORD. I very much appreciate, Mr. President, the cooperation of the chairman of the subcommittee and the cooperation of the chairman

of the full committee in getting this colloquy in the RECORD.

Mr. HOLLINGS. Mr. President, while we are discussing the need to repair our bridges, I am reminded of the terrible condition of some of our vital bridges in South Carolina.

We need to focus special attention on this problem in our Federal Highway System. Many of our States like my State have become dependent on the Federal Government for the construction, improvement, and replacement of bridges. Unless plans are made now, in the next 10 years we are going to find ourselves with staggering bridge replacement costs and no funds to accomplish needed projects.

In my home community of Charleston, S.C., our unique geography, and extensive rivers and marsh lands cause a severe problem in the construction of new highway facilities as well as maintaining and the replacement of existing bridges. Charleston, S.C., is a major U.S. port for general bulk and container cargo. We have extensive military facilities consisting of the U.S. naval base, U.S. naval weapons station, Polaris missile facility and U.S. Air Force base. Most military personnel are housed throughout the Greater Charleston area and are required to cross several bridges before reaching their military station. Many of our bridges are at a point that serious consideration needs to be given to their replacement. The amount of bridge replacement funds available to the State of South Carolina is nowhere sufficient to meet the needs of Charleston, along with other less known areas of South Carolina.

The continuing growth in automobile traffic, population increases in major Sun Belt urban areas and advancing age of many of the bridges on the Federal-aid highway system indicate an urgent need for Federal assistance in rehabilitation and replacement of many of our most severely deteriorating bridges.

The Grace Memorial Bridge located on U.S. Route 17 in Charleston, S.C., poses a serious health and safety problem for residents of that area. Because of its age and extreme obsolescence for today's traffic demands the Federal Government should move with Federal aid as soon as possible. The Grace Bridge traverses the Cooper River and Town Creek and connects U.S. Route 17 between Charleston and Mount Pleasant, S.C. The bridge carries two westbound lanes of traffic over a distance of 10,212 feet on a 20-foot-wide roadway.

The bridge was constructed in 1929 and has since been repaired or modified several times. Originally serving as the only connection across the Cooper River to the city of Charleston, the bridge was converted to one-way (westbound) traffic after the com-

pletion of a three-lane parallel facility (the Silas Pearman Bridge) in 1966.

The Grace Memorial Bridge is over 50 years old and repairs to correct major deficiencies in it have been necessary on five different occasions within the last 15 years, not counting over \$2 million worth of repairs currently underway. Moreover, the bridge was designed for a 15-ton, two-axle truck. A recent engineering report states that "the design capacity is deficient under present traffic as well as under current design standards for a bridge serving a primary highway. Thus repairs to damaged members will not make the bridge suitable for unrestricted traffic."

The average daily traffic on the Grace Memorial Bridge was approximately 19,000 vehicles per day in 1979. During the next 10 years, however, the population of the suburban area to the east of the bridge is expected to increase by over 32 percent. In addition, the South Carolina State Ports Authority has recently opened a new port facility east of the Cooper River, which will generate over 2,100 jobs in the Mt. Pleasant area. By 1995, the total daily traffic crossing the Cooper River (in both directions) is estimated to average 79,700.

The ramifications of a failure of the Grace Memorial Bridge would be devastating. The three primary effects would be:

First, loss of life and property. The potential immediate effects of the collapse of the bridge, or a portion of the bridge, are terrible to contemplate. Under normal flow conditions, during peak periods, as many as 131 vehicles are on the Grace Memorial Bridge at any one time. The bridge rises to a vertical clearance of 150 feet over the Cooper River and 135 feet over Town Creek.

Second, economic loss. If the Grace Memorial Bridge were impassible, the three-lane Pearman Bridge would have to carry all the traffic in both directions across the river. This would be over 42,000 vehicles per day using current figures, growing to over 79,000 vehicles per day by 1995. The traffic congestion caused by this situation would be severe enough to devastate the economy of the area east of the Cooper River and seriously damage the economy of lower South Carolina. The traffic congestion would become a detriment to residential location in the area, and commerce would likewise be deprived of anticipated growth. The Wando Terminal of the South Carolina State Ports Authority, will be generating up to 400 truck trips per day.

Third, threat to national security. Upriver from the Grace Memorial Bridge are the Charleston Naval Base and Shipyard, the Naval Weapons Station and the Polaris Missile Facility. Access to these major defense facilities could be easily be blocked should a

portion of the Cooper River Bridge collapse.

Preliminary estimates indicate that construction of a new three-lane replacement for the Grace Memorial Bridge with necessary approaches would cost over \$220 million in 10 years assuming an annual inflation rate of 7 percent. This new bridge would run parallel to the existing structure, and tie into existing streets at each end.

In either form, the project could not be funded via the Federal aid funds allocated to the Charleston area, since no more than \$31 million can be expected from existing Federal sources over the next 6 years.

The State of South Carolina receives an annual allocation of Federal bridge replacement and rehabilitation funds. However, the 1980 allocation for the whole State was only \$14 million.

The Federal Government should assist the State of South Carolina in replacing this bridge through the Federal bridge replacement program or some other appropriate funding source. Due to the high cost of replacing the structure, local officials should be allowed to pay any match of Federal funds through the use of toll revenues.

Other bridges serving the Charleston area should be replaced with the aid of additional Federal funds. These bridges include:

THE WAPPOO CUT BRIDGE ON SOUTH CAROLINA 171

This drawbridge, built in 1956, connects the primarily residential area of James Island with approximately 29,000 people to the mainland across the Intracoastal Waterway. Recent population projections place James Islands' population at approximately 43,000 by the year 2000. Frequent openings of the bridge's draw cause extended travel interruption, wasted energy, environmental pollution, and frustration on the part of the 29,000 motorists who cross it daily. Prolonged failure of the bridge is extremely hazardous in time of natural emergency such as that imposed by a hurricane or flooding. Failure of the bridge to open for waterway traffic poses dangerous conditions for commercial and pleasure water craft especially during a time of evacuation for a hurricane or other disaster.

MAYBANK HIGHWAY BRIDGE ON SOUTH CAROLINA ROUTE 700

This drawbridge, built in 1951, connects James Island with Johns Island the largest inland island in the eastern United States. Because of its advancing age and inadequate design, it is totally unsuited to today's traffic conditions which place approximately 10,000 vehicles per day on it. Additional demand is placed upon its operations by two marinas, one on each side of the bridge, which provide dockage for pleasure craft and access to

the Intracoastal Waterway and the Atlantic Ocean. Traffic loads have increased significantly in the past few years due to urban expansion and massive developments on the sea islands.

LIMEHOUSE BRIDGE ON MAIN ROAD, SOUTH CAROLINA ROUTE 20

This drawbridge connects Johns Island with the mainland. It was built in 1958 and currently carries approximately 6,900 vehicles per day. It provides vital linkage from the mainland to Johns Island, Wadmalaw Island, Klawah Island, and Seabrook Island.

BEN SAWYER BRIDGE ON SOUTH CAROLINA 703

The Ben Sawyer Bridge was built in 1945. This two-lane drawbridge over the Intracoastal Waterway connects the residential sea islands of Sullivan's Island and the Isle of Palms with the mainland.

Average weekday traffic on the bridge and causeway is about 11,000 vehicles per day. However, weekend traffic during the summer months will cause traffic volumes to exceed 28,000 vehicles per day. In the event of a natural disaster, such as with a hurricane threat, it is necessary to evacuate all 5,500 residents of the islands on short notice. Evacuation is hindered, however, because of the openings of the bridge for river traffic attempting to avoid the potential threat. The excessive traffic, age and deterioration of the draw, and high volume of river traffic on the waterway causing frequent bridge openings, requires that every consideration be given to replacing it at the earliest possible date.

COSGROVE AVENUE BRIDGE ON SOUTH CAROLINA ROUTE 7

This bridge crossing the Ashley River was originally built in 1953 and has been repaired and widened frequently since. It connects the West Ashley area of Charleston with the northernmost section of the city of Charleston and with North Charleston. This bridge is a major transportation facility for employees of the U.S. naval base and naval shipyard. Daily the approximately 57,500 vehicles per day crossing the six-lane facility create excessive peak-hour traffic congestion.

TWIN ASHLEY RIVER BRIDGES ON U.S. 17

These two drawbridges, operating as a one-way pair provide a vital link between the West Ashley area and Peninsula Charleston, as well as for through north-south movements along U.S. 17. Three lanes are provided on the southbound bridge which was built in 1926. Four lanes are provided in the northbound bridge which was built in 1961. Currently, they carry about 72,500 vehicles per day. The deterioration of these bridges, especially the southbound bridge, creates serious traffic problems for commuters traveling to and from Charleston on a daily basis.

JAMES ISLAND BRIDGE AND EXPRESSWAY

This bridge has been proposed for construction since 1968. It is designed to parallel the Ashley River bridges and to carry traffic between James Island, West Ashley, and Peninsula Charleston. The 1995 traffic assignments indicate this bridge will carry approximately 34,100 vehicles per day. Because of the serious conditions present with the existing Ashley River bridges, \$4.4 million was granted in Federal bridge replacement funds for final design and right-of-way purchase.

All of these bridges currently need replacement or will need to be replaced in the next 20 years. It currently takes over 10 years to adequately plan for bridge replacement. Therefore, it is imperative that we proceed as rapidly as possible to plan for their replacement.

UP AMENDMENT NO. 1193

(Purpose: Make amendment regarding appropriations for various railroad activities)

Mr. DANFORTH. Mr. President, on behalf of myself and Senator KASSEBAUM, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself and Mrs. KASSEBAUM, proposes an unprinted amendment numbered 1193.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, insert the following new paragraph immediately after line 9:

"Unobligated balances of appropriations under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) are hereby rescinded, and an amount equal to such balances is appropriated, to remain available until expended."

On page 69, strike line 19.

On page 70, line 6, strike "September 30, 1983," and insert in lieu thereof the following: "expended. Notwithstanding any other provision of law, the authority granted under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) and prior acts shall continue during the period in which appropriations remain available for this purpose under the following heading:

"DEPARTMENT OF THE TREASURY

"OFFICE OF THE SECRETARY

"Investment in Fund Anticipation Notes".

On page 73, strike line 4.

On page 73, line 11, strike "September 30, 1983," and insert in lieu thereof the following: "expended. Unexpended balances under this heading in the Department of Transportation and Related Agencies Appropriation Act, 1982 (Public Law 97-102; 95 Stat. 1442) and prior acts are hereby rescinded,

and an amount equal to such balances is appropriated, to remain available until expended."

Mr. DANFORTH. Mr. President, this amendment deals with appropriations for important railroad assistance programs. One of these programs is the railroad preference share program which provides low-interest loans for the rehabilitation and improvement of railroad lines and facilities. The second program is the local rail service assistance program which provides grants to States threatened with railroad abandonments. Congress has already authorized and appropriated funds for these programs. However, these funds will expire at the end of the fiscal year if not obligated by that time.

I, and other members of the Commerce Committee, believe that the expiration of these funds would have serious consequences in terms of failure to complete projects necessary to our national rail network.

The amendment I am offering on behalf of myself and Senator KASSEBAUM is one that does two things: It rescinds existing appropriations for these programs; and it provides new appropriations in equal amounts, which are to remain available until expended. This amendment has no net budgetary impact, and is one that has been agreed upon by the Appropriations, Budget, and Commerce Committees. I urge my colleagues to support the amendment.

Mrs. KASSEBAUM. Mr. President, I am pleased to join Senator DANFORTH in offering this amendment to the rail services assistance and the redeemable preference shares provisions of the supplemental appropriations bill presently before the Senate. This amendment will insure the continued availability of funds previously authorized and appropriated for the purchase and rehabilitation of railroad lines and, in particular, the lines of bankrupt carriers such as the Rock Island Railroad.

Congress established the redeemable preference program back in 1976 when the rail industry was in serious financial trouble and the rail network in need of repair and improvement. This program provides for Federal financial assistance for the rehabilitation of lines and the acquisition of lines abandoned by the bankrupt Rock Island and Milwaukee railroads. Nearly \$600 million has been appropriated under this program; \$500 million of that amount has already been obligated. These moneys have permitted some marginal but important railroads to eliminate deferred maintenance and to provide safer, more efficient rail service. The program has also helped States such as Kansas, which have been threatened with the loss of essential rail service due to railroad bankruptcies, to maintain such service.

Hearings conducted by the Senate Commerce Committee have confirmed

the success of this program. Unfortunately, because of delays, all of the appropriated funds have not been obligated. One of the primary reasons for the delay has been the difficult negotiations with the trustee of the Rock Island Railroad for the purchase of lines formerly operated by the Rock Island. These negotiations are now close to being completed. In view of this, I believe it is important that the funds which have previously been approved by Congress remain available.

The amendment which Senator DANFORTH and I offer today will permit the expenditure of these funds for those projects which have already been earmarked by Congress and are in the final stages of contract negotiations. This amendment will not have any net budgetary impact. Funds previously appropriated but not obligated by the end of this fiscal year would be rescinded and a like amount would be appropriated to remain available until expended.

Mr. President, I understand that the Budget Committee and the Appropriations Committee are in agreement with this amendment. I urge my Senate colleagues to join in support of this measure.

Mr. ANDREWS. Mr. President, as usual, the Senator from Missouri and the Senator from Kansas have come up with clarification language that would have been included by the subcommittee had it been called to our attention before the time of the markup of the bill. We are grateful to our two colleagues for calling it to our attention.

As the Senator from Missouri has pointed out, neither the Budget Committee nor the Commerce Committee has objection to this amendment.

The amendment will have no net impact on budget authority. With the included rescissions, we are assured the budget authority will be scored as offsetting in fiscal year 1982.

The committee will be pleased to accept this amendment. I thank the Senator from Missouri and the cosponsor, the Senator from Kansas, for their contribution.

Mr. PROXIMIRE. Mr. President, will the Senator from Missouri yield?

Mr. DANFORTH. I yield.

Mr. PROXIMIRE. I understand that the \$65 million number has already been authorized and appropriated. It covers railroads throughout the country. It is not any one area or one State. Is that correct?

Mr. DANFORTH. That is correct.

Mr. PROXIMIRE. I have also asked the staff the position of the Office of Management and Budget, and I understand they have no problems and that there is no objection.

Mr. ANDREWS. That is correct.

Mr. PROXMIRE. I missed the Senator's remarks, and I apologize. I have no objection.

Mr. DANFORTH. I thank the managers of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1193) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ANDREWS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MELCHER. Mr. President, on page 2 of the bill before the Senate, beginning on line 22 and extending over to line 4 of page 3, is a proposal by the Appropriations Committee that an amendment be enacted to the Child Nutrition Act of 1966. This particular act provides some guidance and some assistance to the school lunch programs in particular, to make sure that the program in each school follows good nutrition policies and provides good nutrition in the school lunches.

What Congress has done previous to today is to establish what the funding available for that particular program would be. The minimum for each State is \$75,000 under the act, and the language before us, which I have just referred to in this particular bill, would amend the bill to a minimum of only \$50,000 being available for each State.

While it is proper that Congress, through the appropriations process and through the budgetary process, establish what funds are to be available under the acts that authorize such funds, it certainly is not appropriate for the Appropriations Committee to make amendments to those acts in an appropriation bill, and certainly this language does that.

Perhaps this is considered a very small item in this total package of billions of dollars. Nevertheless, a principle is involved, and that principle is that if an authorizing act is to be amended, the authorization committee should do so. The authorization of this act is under the jurisdiction of the Senate Agriculture Committee.

I am not going to provide a great deal of additional funds for my State by the action I propose to take, but at least we will preserve a principle that should be safeguarded and should not be violated.

I propose to make a point of order against this particular section of the bill, but I will withhold doing so if the chairman should like to make some remarks.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. MELCHER. I yield.

Mr. HATFIELD. Mr. President, as the Senator may know, under the gen-

eral budgetary restrictions under which we are operating, and especially in the nondefense discretionary area of the Appropriations Committee, this program was reduced from \$26 million to \$5 million; and the amount appropriated was of such limited figure that we felt there should be some kind of minimum standard set for each State in order to make it a meaningful program.

We would have been at a \$75,000 level earlier on, so the reduction to a \$50,000 level, in effect, is trying to accommodate all the States rather than providing such a small distribution that it would be a meaningless gesture.

So what we are trying to do here, in effect, is to sustain the viability of the program. The language we have adopted here proceeds on that basis, that that limit within the total figure of the appropriation is what the limit could be for each State and is language which was requested by the administration as well.

I understand the Senator's concern, I suppose that, as in many other cases where we technically are legislating on an appropriation, it is nothing new. To deal with this matter on the basis of trying to maintain equity as between the States, we felt, was the trade off and the reason for adopting this kind of language in the appropriation measure. It is not the best way to do business, I say to the Senator from Montana, but under the exigencies of the time, it seems about the most practicable way to deal with a very difficult situation.

Mr. MELCHER. I thank the chairman for his very kind remarks, but I point out two things.

First of all, it is legislation on an appropriation bill, and I will be very delighted to carry the recommendation of the administration as well as of the Appropriations Committee to the authorizing committee.

I suggest that the authorizing committee, the Agriculture Committee, can consider those recommendations. But I repeat that violation of the principle involved here should not be allowed. Second, it is appropriate to address this particular problem on whether \$5 million is meaningful. We went all through the school lunch fiasco a few months ago when it was suggested by the Department of Agriculture that we scrap the standards, scrap the nutritional requirements, and the nutritional goals. We went all through the fiasco where catsup was supposed to be a vegetable or relish, was supposed to be a vegetable and rejected it, and we enlightened the Department not to get too fast and loose with their own regulations.

So I clearly state here I am going to object to the principles, first of all, and, second, I shall encourage the Senate in a subsequent amendment to increase this amount so that it is a

little bit more meaningful. But for the Appropriations Committee and not the Agriculture Committee to decide which should be the minimum does not seem to be appropriate to me.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. MELCHER. I am delighted to yield again.

Mr. HATFIELD. As the Senator knows, these allocations are being made at this time during this period and these are appropriate vehicles for the Agriculture Committee to act upon this. According to our information there was none. Does the Senator have a vehicle otherwise? What is the Senator's option? Increasing the amount of appropriations unless we have the vehicle to place it upon, I say to the Senator from Montana, does very little good, whether it is \$5 million or \$50 million. That is not the principle that I understand the Senator is making. What is the vehicle other than this vehicle we have before us that the Senator would use to get this program underway during this period with the allocations that are being made?

Mr. MELCHER. I reply to the very distinguished chairman and my good friend that first of all this is a proper vehicle for the amount that is available.

Mr. HATFIELD. Is it the amount or legislation on the appropriations bill?

Mr. MELCHER. It is two points. First, it is legislating on the appropriations.

Mr. HATFIELD. That is right.

Mr. MELCHER. And, second, it is the amount.

Mr. HATFIELD. All right. Then, I ask the Senator if we do not legislate on an appropriations using this vehicle, what is the other vehicle the Senator would offer in order to undertake this program which I know he supports and which I support as an individual and which the committee is trying to sustain under this rather extraordinary procedure that none of us really like?

Mr. MELCHER. My second proposal, I say to my friend, is having stricken the change in the minimum which is really the legislative part of this. Having changed that, the supplemental can have an additional amount added to it, not on the basis of a minimum, just on the basis of the total amount.

Mr. HATFIELD. If the Senator's amendment would fail in increasing the overall amount, what would then be the other option?

Mr. MELCHER. There would be no option other than the first amount, though small, which would be available and there would be an excess of \$1,250,000 over and above \$50,000 distributed to each of the 50 States that could be then prorated. While that is a

small amount of money to be prorated, I would say that that is the second problem and the amount of \$5 million should be increased.

Mr. HATFIELD. I remind the Senator that is not our understanding of the situation but rather that if the Senator's amendment to increase the funding does not pass then the rate of reduction would bring this figure back automatically where it would be a far less figure. So, consequently, what we are trying to do is establish a floor here in order to maintain some kind of reasonable, practicable program. I think the Senator and I are on the same track. I am not suggesting we are in conflict here except on the question of procedure that neither one of us really approves or enjoys doing but at the same time, under this particular timeframe within which we find ourselves, it is the only conceivable way we think we can maintain this program, especially if the Senator's amendment should fail. Then, in my opinion, we have in effect excised or we have made the program totally void.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum to allow more discussion of this subject with the distinguished chairman who I am certain desires a meaningful child nutrition program.

Mr. STEVENS. Mr. President, will the Senator withhold?

The PRESIDING OFFICER. Will the Senator withhold one moment?

Mr. MELCHER. Yes.

Mr. STEVENS. Is there a pending amendment now?

The PRESIDING OFFICER. There is no pending amendment.

Mr. STEVENS. Mr. President, while the Senator is studying that, would he mind if we did some noncontroversial items to get them out of the way?

Mr. MELCHER. No, indeed.

I shall yield the floor to attempt to solve the problem we have been discussing by further consultation with the chairman.

Mr. HATFIELD. Mr. President, let me assure the Senator from Montana that I will be very happy to work with him on this and within the restraints we are operating and try to work out some kind of a satisfactory arrangement. In the meantime I think the Senator from Missouri or the Senator from Alaska has an additional amendment.

Mr. STEVENS. I thank the Senator.

UP AMENDMENT NO. 1194

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1194.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, insert the following new section:

"COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES—SALARIES AND EXPENSES

"For necessary expenses of the Commission on Executive, Legislative, and Judicial Salaries, authorized by section 225 of the Postal Revenue and Federal Salary Act of 1967 (81 Stat. 642-645), \$160,000, to remain available until expended; *Provided*, That, in accordance with such section 225 (except as otherwise provided in this section), the Commission shall be convened, conduct appropriate reviews as prescribed by section 225(f) of such Act, and submit to the President on or before November 15, 1982, a report as described in section 225(g) of such Act, and the President shall submit to the Congress, as soon as practicable after receipt of such report, his recommendations with respect to the rates of pay which he deems advisable for the offices and positions covered by such report, which recommendations shall become effective for pay periods which begin 30 calendar days after submission to the Congress, unless Congress disapproves such recommendations by concurrent resolution."

Mr. STEVENS. Mr. President, this is an amendment that will put into effect an ad hoc 1982 Quadrennial Commission. It reconvenes and appropriates \$160,000 for the Quadrennial Commission.

The Commission is directed to make recommendations in accordance with the current Quadrennial Commission legislation, which is title 2 of the United States Code, except as provided in this amendment.

The report by the Commission would be transmitted to the President no later than November 15 of this year and the President would promptly—and there is no time limit—formulate his recommendations and submit them to Congress for review.

The pay rate recommendation would become effective 30 days after they are transmitted to the Congress by the President unless Congress, by concurrent resolution, disapproves the recommendation. The recommendation would supercede any pay rate or pay cap established by prior provisions of law.

The positions covered would include those under the executive schedule (levels I through V), the senior executive service, Federal judges, Members of Congress, and any position subject to the level V pay ceiling.

This would be a one-time, ad hoc procedure. The existing Quadrennial Commission legislation would remain intact.

It is not intended to amend the basic quadrennial commission legislation.

I do call attention to the fact that it does change the procedure, however, and provides for a specific provision

for Congress, by concurrent resolution, to disapprove the recommendation if it does not want the recommendation of the Commission to go into effect.

I have discussed this with the managers of the bill. I am hopeful that they will allow us to reconstitute this Commission and have a study of the comparability of all of the salaries of the Federal Government under the existing circumstances within this current timeframe.

Mr. HATFIELD. Mr. President, the amendment of the Senator from Alaska has been reviewed, and we agree to accept it. In fact, I compliment the Senator from Alaska on making this amendment because I think it is very important and will bear some good results down the road.

It has been checked with the minority, and the minority accepts it as well.

Mr. STEVENS. Mr. President, I ask for adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1194) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Senator from Oregon.

UP AMENDMENT NO. 1195

(Purpose: Prohibit use of appropriations for judicial review of Federal Motor Vehicle Safety Standard No. 208)

Mr. DANFORTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH) proposes unprinted amendment numbered 1195.

Mr. DANFORTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 108, insert the following immediately after line 19:

"Sec. 304. None of the funds provided to the Department of Transportation by this Act shall be used to obtain judicial review under the National Traffic and Motor Vehicle Safety Act of 1966 or any other provision of law with respect to Federal Motor Vehicle Safety Standard No. 208 (49 CFR 571.208)."

Mr. DANFORTH. Mr. President, my amendment prohibits the National Highway Traffic Safety Administration from using any funds from this supplemental appropriation for judi-

cial appeals concerning Federal motor vehicle safety standard 208.

This amendment insures that congressional funding for NHTSA be used actively in safety programs rather than for fighting in court against implementation of the passive restraint standard.

Mr. President, I happen to favor the passive restraint standard. It would save an estimated 9,000 to 12,000 lives annually, prevent over 100,000 serious injuries, and save consumers \$10 for every \$1 of cost. However, whether one supports or opposes passive restraints is not the issue here. As the distinguished Senator from Utah, Mr. HATCH, has so eloquently put it, the issue is whether a Federal agency can effectively overrule Congress by accomplishing through administrative rulemaking what Congress has refused to do legislatively. Mr. President, this is exactly what NHTSA has done, and the U.S. court of appeals has told the agency that it is out of bounds. However, instead of complying with the decision of the court, there are indications that NHTSA may stall compliance by filing continuing motions and pressing additional appeals. Mr. President, such dilatory tactics only squander public funds, waste judicial resources, and undermine people's faith in our system of government. NHTSA has its mandate from Congress and its order from the court. If Congress wants to change the passive restraint standard, then it should do so, but it should not allow an agency to expend public moneys to filibuster.

Mr. ANDREWS. Mr. President, we understand the thrust of the amendment of the Senator from Missouri.

Let me say this: It raises some constitutional questions that I am concerned about. I recognize that my good friend, the Senator from Missouri, is an able attorney, and I am a farmer from North Dakota. So what I wish to propose is that we accept the amendment and take it to conference, and in the period between now and conference we can look into what the constitutional ramifications are of a prohibition on judicial review. With that caveat, I am more than happy to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri.

The amendment (UP No. 1195) was agreed to.

Mr. DANFORTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I believe the Senator from Connecticut has an amendment to offer at this time. Does the Senator from Connecticut have an amendment to offer?

Mr. DODD. Yes, I do.

UP AMENDMENT NO. 1196

(Purpose: To increase the appropriations for Supplemental Educational Opportunity Grants by \$48,000,000.)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD), for himself, Mr. RANDOLPH, Mr. RIEGLE, Mr. WEICKER, Mr. MOYNIHAN, Mr. SASSER, Mr. BURDICK, Mr. LEAHY, Mr. HUDDLESTON, Mr. BRADLEY, Mr. EAGLETON, Mr. PELL, Mr. DURENBERGER, Mr. KENNEDY, Mr. STAFFORD, and Mr. HOLLINGS, proposes an unprinted amendment numbered 1196.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 56, line 9, strike out "\$169,000,000" and insert in lieu thereof "\$217,000,000".

On page 56, line 12, strike out "\$29,000,000" and insert in lieu thereof "\$77,000,000".

SEOG FUNDING

Mr. DODD. Mr. President, I am offering this amendment for myself and on behalf of Senators RANDOLPH, RIEGLE, WEICKER, MOYNIHAN, SASSER, BURDICK, LEAHY, HUDDLESTON, BRADLEY, EAGLETON, PELL, HOLLINGS, DURENBERGER, STAFFORD, and KENNEDY.

The amendment restores an additional \$48 million to supplemental educational opportunity grants for needy college students. The additional funding is required to allow a fair distribution of grants to eligible schools and students.

SEOG is one of three programs, including college work-study and national direct student loans, that assist postsecondary schools in educating young people who cannot afford the rising cost of a college or technical degree. Funds are allocated to schools based on the number of low-income students who have been admitted to a higher degree program and the cost of educating those students. Supplemental educational opportunity grants are given to students who truly need them after all other avenues for paying the price of a degree have been exhausted. The program serves the neediest of America's students. Without supplemental educational opportunity grants, many of these students could not go to college.

In this year's continuing education, funding for grants for these students were reduced 25 percent. But the unforeseen result of this cut is to make less than half of last year's amount accessible to many of the students that need this money most: Schools with the highest number of low-income students have, in cases, had funding cut,

not 25 percent, but 35 percent, 45 percent, even 65 percent. There are schools with high proportions of poor students who are receiving only 30 percent of the funds they received last year.

The reason for this disparity is that the size of the cut has mandated that those schools that received additional funds in the past, because they had more students in need, must subtract that amount from their new allocation. The net result is that those schools with more needy students have in fact been cut more.

This amendment is a modest one. It would not restore full funding to SEOG students. But it would reduce the disparity between those schools with many poor students and those with fewer.

The Higher Education Act provides that each school within a State receive no less than the amount that school received 2 years ago—in the 1979-80 school year. After that guarantee has been met, additional funds are distributed according to a statutory "fair share" formula including the proportion of low-income students and the cost of education. Last year, the guarantee levels were met and fair share funds were distributed to schools where the need for such funds was greatest.

The funding reduction this year—from \$370 to \$278 million—makes it impossible even for those guarantee levels to be met and mandates that last year's fair share funds be subtracted from this year's allocation.

The \$29 million already in this bill will help—but not enough. Approximately 4,000 schools administering these funds will be able to assist, on the average, fewer than a dozen additional students. Funding would still be 14 percent less than the amount needed to continue the program at 1979 levels and 6 percent below the President's revised 1982 request for SEOG.

This amendment would bring the program to its 1979 level of operation, adding a total for the bill of \$77 million for needy students.

Seventy-seven million dollars would not reinstate full funding. In fact, it still makes an absolute cut in SEOG of 4 percent—just as this year's amount for college work-study and national direct student loans is 4 percent less than last year. Nor would \$77 million reinstate fair share funds to those schools and students that benefited from fair share funds last year; \$77 million does no more than meet statutory guarantee levels for each school. It reflects a policy that a student who cannot afford college on his own should not be penalized simply because he attends school with many other needy students.

Surely meeting the funding level that we have guaranteed by law is far more equitable than penalizing those institutions with the greatest need for funds.

Finally, we have to act now. The Department of Education will be sending tentative allocations for SEOG by August 20. Students must now decide whether they can afford to attend college or technical schools this fall. Without assurance of adequate funding, they simply cannot make those plans. Particularly compelling are those students who received SEOG funds last year and may have them denied now. If we do not act, some students very near to their degrees may be unable to obtain them. A school which has suffered a 60- or 70-percent cut in these funds may well not be able to continue to assist even those whose degrees are nearing completion. There are students with only a short time left to complete their degree who need this money to continue.

It is incredibly wasteful of our investment and theirs to stop short the education of these young people.

It is wasteful of their investment to force them to drop out a few credits short of a degree after putting their time, effort, and money into preparing for their futures.

It is wasteful of the Nation's investment, not only because of our past financial commitment, but because a citizenry educated to its full potential means a stronger and more prosperous America. Surely any legitimate definition of national security must take into account the morale, skills, and education of our people.

And the jobs of the 1980's require skills and training available only in our institutions of secondary education. Does it make any sense for us to cut grants for students at Greater New Haven State Technical College 60 percent, or at Norwalk State Technical College 70 percent because they have many low-income students? Is it not more equitable and constructive to at least meet the levels we have guaranteed students at those and hundreds of other schools across the country?

Should not talent and ability, not income, be the touchstone of excellence in this society?

I hope the Senate will act favorably on this amendment.

I appreciate the consideration of the chairman of the committee, the manager of the bill, and the ranking minority member.

Mr. SCHMITT. Mr. President, the Senator from Connecticut has put his amendment finger on the dilemma that the Appropriations Committee and particularly my Subcommittee on Labor, Health and Human Services, and Education has faced in trying to balance the needed increases in funding, such as for the supplemental edu-

cational opportunity grants, with the threat of a Presidential veto.

I have been informed by the administration that the generosity of the committee to date for educational programs is in excess of the generosity that the administration requested. We have indeed added, absent this amendment, \$347 million above the President's supplemental budget request for the Department of Education, including \$169 million for student financial assistance and \$148 million for elementary and secondary education, among other programs.

The amount proposed in the amendment would be in addition to the \$29 million added by the committee to this program. It would raise that total to \$355 million, which, as I understand it, would basically hold harmless the institutional programs in place, relative to the 1979-80 school year.

The SEOG program, Mr. President, was designed to assist institutions in providing grants to deserving students to supplement the assistance they need under the Pell grant program. The Pell grant program is the cornerstone of assistance to the neediest of students.

It may be of interest to our colleagues that 38 percent of the students receiving SEOG assistance are dependents from families with incomes below \$12,000. By contrast, in the Pell grant program, which provides a basic service of the Federal Government to the neediest students, 83 percent of the students are from families with income below \$12,000.

So I think appropriately the committee has focused the Federal assistance activity more in the area of the most needy through the Pell grant program than maybe we have through the SEOG program.

However, the situation that is faced by many institutions in this country as described by the distinguished Senator from Connecticut is a real one, and it would be my recommendation to the chairman of the committee and to the Senate as a whole that we accept this amendment, that we consider it further in conference as we look at the entire bill, and see if it is possible, to come up with a bill that indeed the President will sign.

Mr. DODD. Will my distinguished colleague yield?

Mr. SCHMITT. I am happy to yield.

Mr. DODD. I thank the Senator for yielding. I commend the Senator for his comments and thank him for his support of this amendment. I realize, as he does, how difficult these issues are. I considered offering an amendment earlier in the year on an appropriations bill but I did not do so in order to give the committee a chance to look into the matter more fully.

I particularly want to commend the Senator from New Mexico for his fine efforts in doing as much as he possibly

could for this program. I am particularly grateful for his help this afternoon in trying to support this request for the needs of our neediest students. I thank the Senator.

● Mr. SASSER. Mr. President, I rise today in support of the pending amendment of my distinguished colleague from Connecticut (Mr. DODD). I am a cosponsor of this amendment, and it is my belief that the supplemental educational opportunity grant program is simply too important to permit its untimely demise by withholding needed funding.

The SEOG program provides financial aid to the neediest of America's college students. SEOG recipients are those students who have exhausted every other avenue of financial assistance.

Last year, under the continuing appropriations resolution, SEOG's suffered a 25-percent reduction, some \$92 million. The new appropriations level, \$290 million, was further reduced 4 percent under the President's threatened veto. These cuts came despite the mandate of the Higher Education Act that institutions receiving SEOG funds receive no less than they did in 1979-80.

Due to the allocation formula, some institutions are showing losses of 40 to 50 percent in their Federal allocation, rather than a 25-percent loss. This is especially true of colleges and universities who have traditionally enrolled a high percentage of low-income students. These institutions have had last year's additional funds deducted from this year's allocation. The result is that students who have a right to a college education will be denied that opportunity simply because of financial inability. That, Mr. President, may mean the loss of higher education for 150,000 young Americans.

In 10 short days, the Department of Education will be sending tentative allocation notices to postsecondary institutions. Upon receipt of that notification, these schools must notify needy students of the amounts of financial assistance they might expect during the coming school year. But for many of the most needy, the amount will be too low to permit their return to classes.

It is important to note that even by accepting our amendment to restore \$48 million to the SEOG program, the total appropriation will still be below the level set for SEOG in the Omnibus Reconciliation Act of 1981. We are not "busting" the budget with this amendment; we are providing America's neediest students the opportunity to break through the economic barriers that keep them from obtaining higher education.

Years ago, the Federal Government forged a partnership with the Nation's postsecondary educational institu-

tions, to improve educational opportunities for all students. The Federal Government promised to share the financial burden of providing these opportunities. I urge the Senate to approve the Dodd amendment and reaffirm the national commitment to providing a strong system of higher education for all.

Mr. KENNEDY. Mr. President, I rise in support of the amendment by the Senator from Connecticut (Mr. Dodd). Senator Dodd has been tireless on the floor of the Senate in his support of supplemental education opportunity grants. This amendment is another example of his efforts. I commend the gentleman for his interest and his work.

The SEOG program is just one of a number of programs designed to meet the financial problems caused by skyrocketing college costs. It strives to lessen the economic barriers facing qualified but poor students. I think that we all agree that American colleges and universities must never become an enclave of the rich and the elite. Programs like SEOG are instrumental in preventing just such an occurrence.

Yet when faced with funding these programs, too often this Congress has chosen to reduce the funding—scale back the program and relegate thousands of young Americans to a future which does not and cannot include a college education. For example, in the last year SEOG has been cut by an incredible 25 percent—cutting off some 150,000 of the neediest students. Even the \$29 million supplemental appropriation in this bill does not provide sufficient funds to meet the statutory hold-harmless provisions. Without the funds provided in the Dodd amendment, there will be significant inequities between individual schools and individual students.

Mr. President, our Nation faces a future filled with challenges and dangers. The potential for disaster exists in so many situations. The struggle to prosper or even survive will be difficult enough without the handicap of an uneducated populace. But if we continue to cut funds for education programs that are successful and effective, we will be a crippled nation.

In the last year and a half, we have repeatedly cut Federal funding for elementary and secondary education, higher education, and student aid. Even those programs that have not been cut have been squeezed by inflationary cost increases. We have not been cutting the budgetary fat but the program muscle and bone. I have opposed those cuts because I felt they were wrong: wrong for our students, our schools, and our country.

We must now dedicate ourselves to investing funds in our future by investing in our greatest resource—our people. We must restore our historic

commitment to education that has been eroded since January 1981. It was that commitment that helped make America great.

I urge by colleagues to take this first step by restoring and expanding support for American education by voting in favor of the Dodd amendment.

(The name of the Senator from Mississippi, Mr. STENNIS, was added as a cosponsor of the amendment.)

Mr. RANDOLPH. Mr. President, I am gratified to be a cosponsor of the pending amendment restoring \$48 million to the supplemental educational opportunity grant program. I commend Senator Dodd for his leadership in this constructive effort.

The SEOG program is currently funded at \$278 million—a shortage of \$77 million if eligible students at all schools are to be aided with an equitable share of such funds.

The supplemental appropriations bill for fiscal year 1982, H.R. 6863, has a provision that would add back \$29 million for SEOG. I applaud the committee's action in understanding the importance of additional funding for SEOG students—the neediest students on campus.

But Mr. President, aside from the fact that SEOG funds go to the students who have demonstrated the most financial need after all other sources of aid have been exhausted, the other most important aspect of the program that my colleagues must be made aware of is that, statutorily, each institution within each State is supposed to receive no less than the amount received by the school in 1979–80.

Yet the continuing resolution in effect for fiscal year 1982 reduced SEOG by a disproportionately large—25 percent, and as a result, those statutory, hold-harmless levels will not—cannot—be met. This means that awards to nearly 150,000 students nationwide will be eliminated. Thus, thousands of qualified students having severe financial need—will literally be denied access to college.

In terms in a news release of West Virginia, this reduced funding will result in the loss of a total of 1,022 students, both public and private, and a dollar loss of \$610,358—nearly a million dollars, Mr. President.

SEOG dollars, while going to students with the most severe need, are also based on the cost of education. In other words SEOG's aid students who have chosen to attend higher cost private colleges—assisting them to exercise the freedom of choice—and if after counting all other sources of available financial aid there is a remaining need—it can be obtained under the SEOG program.

In West Virginia, in the past academic year, 1,625 students received \$1.09 million in SEOG funds at private institutions. Of those 1,625 students,

419 will not be able to continue as SEOG recipients if the funding level is not raised by \$77 million in this supplemental spending bill—meaning a total dollar loss of \$285,105.

Those may not seem to be large amounts of money and students to many of my colleagues from larger States receiving much larger allocations from SEOG funds. I can assure my colleagues that the loss of nearly \$1 million in one student aid program in West Virginia looms large for those 1,022 students barred from receiving enough aid to continue in college.

You have heard me speak of my own alma mater, Salem College, many times in this Chamber—and most recently I have expressed my concern for the very tenuous hold it, and other small, private colleges have on their very existence.

Salem College, as an example, currently has 320 students who receive SEOG assistance, for a total dollar amount of \$215,200.

If SEOG funding levels do not rise by \$77 million, Mr. President, Salem College will lose 82 eligible students for a dollar loss of \$55,347—as we can calculate.

These statistics, Mr. President, are for one small, independent, private, college that deserves to survive—but it is threatened as are hundreds of others if we eliminate funds that allow students the freedom of choice to attend a school that costs a little more. SEOG's provide that choice, Mr. President.

If this administration—indeed this Congress—continues its attack on higher education—not just SEOG's, but Pell grants, college work-study grants, direct loans, guaranteed loans, and incentive grants to States—the dreadful, cumulative effects on both private and public institutions will bring “fiscal strangulation” as already eloquently described by my able colleague from Missouri, Tom EAGLETON, who serves with me on the education subcommittee.

If cuts proposed in all programs by the administration are adopted, West Virginia is projected to lose 7,000 students and \$11.7 million in academic year 1982–83.

According to estimates, if additional cuts are approved in all student aid as proposed by the administration, then West Virginia stands to lose 18,705 students and \$20.5 million in academic year 1983–84.

We stand in support of increased funding for SEOG's, Mr. President, in fiscal year 1982.

But even as we debate funding needs in the current fiscal year, we are keenly aware that in less than 2 months we must have fiscal 1983 spending proposals ready for debate and final decisions made. In no time at all, we can expect to receive the Presi-

dent's fiscal 1984 requests—and none of us are optimistic enough to think that he will let student aid off the hook.

We are speaking for college aid today, and we must continue to stand strong and say no, and no, and no until we stop this unwarranted barrage on tomorrow's future.

I saw a bumper sticker the other day, and I recommend it to all my colleagues for their thoughtful consideration. The bumper sticker read as follows, Mr. President: "If you think education is expensive, try ignorance."

I feel our colleagues will vote in favor of the amendment, adding back \$48 million to fund supplemental grants.

Mr. WEICKER. Mr. President, I rise in support of increasing the funding for the supplemental education opportunity grant (SEOG) program by \$77 million for fiscal year 1982 as offered by Senator Dobb to H.R. 6863, the supplemental appropriations bill. This would bring the funding level for this campus-based student aid program to \$355 million, the level necessary to insure that all eligible students receive an equitable share of the funds.

The SEOG program has been available for needy students who must package several of the Federal student aid programs in order to meet their educational costs. This is a supplemental grant program which provides students with the greatest financial need some measure of choice when deciding on an institution of higher education. Without financial assistance from this program, many needy students will be denied the opportunity to attend a college which matches their abilities and aspirations.

In my State of Connecticut alone, funding has been reduced from \$5.1 million for fiscal year 1981 to \$3.8 million for fiscal year 1982. As a result of this reduction in funding approximately 2,000 students were eliminated from the SEOG program.

The SEOG program is limited to needy students who are accepted as undergraduates, are enrolled at least part time and maintain satisfactory progress. Women and minorities receive the greatest proportion of these grants. The grant reward at under \$2,000 each is minimal and yet the availability of this program is a critical factor in the ability for many students to pay for and to attend college.

Students should not be denied college access or choice based on an inability to pay. To deny educational opportunities to some is not only a promise unfulfilled, it is an ideal betrayed. It is misleading to say we are a democratic nation which takes pride in providing its citizens the opportunities to strive to maximize their potential—and achieve satisfying and meaningful adult lives—if, in fact, this principle is

conditional, depending upon one's financial situation.

Furthermore, the development of human resources enriches all our lives. An educated citizenry makes an invaluable contribution to our general well-being. We enjoy the standing in the world today because of our efforts to realize our ideals such as equal educational opportunity and quality education.

I urge my colleagues to join me in supporting Senator Dobb's amendment.

Mr. HATFIELD. Mr. President, I would only underscore the comments made by the subcommittee chairman, Senator SCHMITT, to indicate that I think this is a very desirable program and one that bears a great deal of return on the investment. But I think we have to recognize that it does not do much good to increase these programs if we cannot get a final approval from the White House. So we are moving, conscious of the great restrictions that we have.

I do feel that this is one of those matters that will ultimately have to be decided in conference anyway, so I support the action of the subcommittee chairman in accepting this amendment.

The question is on agreeing to the amendment.

The amendment (UP No. 1196) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1197

(Purpose: To require the Architect of the Capitol to cease the obligation, commitment, or expenditure of unallotted construction contingency funds for completion of the physical fitness facility in the Hart Senate Office Building.)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), for himself and Mr. DeCONCINI, proposes an unprinted amendment numbered 1197.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, after line 17, insert the following:

HART SENATE OFFICE BUILDING

Notwithstanding the directive of the Senate Office Building Commission on Friday, March 19, 1982, the Architect of the

Capitol shall cease the obligation, commitment, or expenditure of any unallotted construction contingency funds (identified during the construction of the Hart Senate Office Building) for the purpose of completing the construction of the physical fitness facility in the Hart Senate Office Building. The Architect of the Capitol shall return to the Treasury of the United States, \$736,400 of any such identified, unallotted construction contingency funds not obligated, committed, or expended before the day on which the Senate passes this Act.

Mr. JOHNSTON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. JOHNSTON. The amendment is patently legislation on an appropriations bill.

Mr. PROXMIRE. Mr. President, I did not yield to the Senator from Louisiana to make a point of order.

The PRESIDING OFFICER. The Chair rules that he did not again recognize the Senator from Wisconsin after the amendment had been sent to the desk for reading. Through the discretion of the Chair, the Chair recognized the Senator from Louisiana for the point of order to be made.

The Chair sustains the point of order that the amendment is legislation on an appropriations bill.

Mr. PROXMIRE. Mr. President, I appeal the ruling of the Chair. I will speak in opposition to the Chair's ruling, and I will ask for a rollcall vote.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, this amendment is an amendment that simply knocks out \$732,000 for the third gym, the third gym, gymnasium, for Members of the Senate. Let me explain this amendment. It is \$736,400.

Mr. President, as my colleagues may recall, back in 1978, after failing to kill the Hart Building project outright, I collaborated with former Senate Appropriations Committee Chairman Warren Magnuson to impose a \$137 million ceiling on the cost of the Hart Building, in the wake of GAO estimates that the cost of the building could hit \$230 million if left unchecked. Then, in 1979, in order to keep the cost of this ill-advised building under the ceiling, the Senate Office Building Commission agreed to delete a number of low-priority projects, including all of the projects now being given the green light. Then, on March 19, 1982, the Senate Office Building Commission, by a vote of 4 to 1 and over the objections of its chairman, Senator STAFFORD, authorized the Architect of the Capitol to spend as much as \$4.2 million in projected Hart Senate Office Building "unallotted construction contingency funds" to start or complete a number of new or partially completed projects in the new Hart Building—projects that had been deleted by this same Commission

in 1979. Among the projects now cleared for construction by the Architect and the Commission are \$736,400 for a third Senate gymnasium.

Mr. President, this amendment will delete only the savings targeted for completion of the physical fitness facility in the Hart Senate Office Building. The cost of this project is \$736,400, to be paid for out of identified, unallotted construction savings.

Now, Mr. President, I think we ought to consider the position we are in with this kind of expenditure.

For the past year and a half, this Congress, and especially this Senate, has been trying to hold down spending. Think of the sacrifices we have imposed. We have cut Federal assistance for disadvantaged school children. We have hammered down appropriations for handicapped men, women, and children. We have cut food stamps. We have reduced Medicaid. We have forced elderly people to make higher payments for their medical care.

Incidentally, I think I voted for every one of those reductions.

In the Senate tax bill we passed recently, we reduced the medical cost that our people can deduct in computing their income tax. We have sharply cut farm price supports.

Altogether, almost all Americans have been asked one way or another to make a sacrifice. And yet, now we will provide over \$700,000 for a third Senate gymnasium and over \$1 million for a new especially fancy and super-equipped media hearing room.

Why do we need still another gym? My amendment does not touch the hearing room and it does not touch a lot of other low-priority projects that I could have touched, but I felt I had even less chance of getting them adopted.

We now today have two gyms exclusively for 100 Senators. One of our gyms has a small swimming pool, a variety of exercise machines, rubdown tables and attendants to rub us down, shower stalls, and rooms for taking naps. That is just one gym in the Russell Office Building.

Then we have 100 Senators and we have a second gym with a locker room, six shower stalls, an exercise room with stationary bicycle machines, a punching bag, a mat, weightlifting equipment, and very, very few of us as patrons.

One of the most distinguished patrons is now occupying the Chair. That is why he is in such good shape.

Mr. President, that adds up to two gyms for 100 Senators. Neither staff nor family nor friends are allowed, just 100 Senators.

And now the Senate Building Commission wants to spend more than \$700,000 for a new gym, a third gym.

Consider the ridiculously selfish, self-serving nature of this public ex-

penditure. Here we are, middle-aged or older men, 98 of us, and two women. The women, incidentally, as far as I know, do not use the gym and they look in far better and far superior physical shape than any of us 98 who can and in many instances do use the gym. You would think, Mr. President, that we 98 male Senators who use these two gyms, with these facilities, would be physical paragons, lean, muscular, Jack LaLannes.

But look at us. Oh, yes, some of the newer Members, who have not yet been softened and enfeebled by years of Senate service, look reasonably fit, but most of us are too fat, too soft, or too beat, kept alive and breathing not by the gym but by the ministrations of our remarkably skillful Senate doctor who, fortunately, has such remarkable skill he can seem to find ways to keep us voting and talking years after rigor mortis has begun to sink in.

Mr. JOHNSTON. Will the Senator yield for a question?

Mr. PROXMIRE. I shall yield shortly.

Mr. President, most of us consider 15 minutes on the table absorbing a rubdown as a terrific workout.

Oh, sure, these days, \$700,000 seems like small change compared to the billions we pour into projects all over the world. But the example of this body spending \$700,000 on a wholly unnecessary, completely superfluous expenditure, a third gym for only 100 Senators, sends a message, it seems to me, that we really do not have any sensitivity or appreciation of the examples we set.

Mr. President, before I yield to my good friend from Louisiana, let me quote from an article from a very little paper, a small paper in northern Michigan. This is an article by a man named Ray Linders. Talking about the gym, he said:

What miffs me about this small travesty—and a \$750,000 gymnasium in a U.S. Senate office building is a small one considering all the travesties of greater magnitude we're exposed to—is that this facility is planned for a handful of men and women and their friends.

He did not realize that it is planned for just a handful of men—no women, no friends, no staff. He continues:

There are communities in this country—and right here in this area—with far more inhabitants than the U.S. Senate can claim which cannot afford three-quarters of a million for a gymnasium.

There are communities that can't even afford two cents for a gymnasium, or a new school, or a better educational program, or filled potholes in their respective streets.

They can't because, for one thing the spenders of the tax dollars here at home have to face the taxpayers on a daily basis, and take the flak when it's due.

And they can't because in many instances the hometown taxpayers have a direct voice in how they'll be taxed, and what the money will be used for.

In Washington, D.C., that far removed never-never land on the banks of the Poto-

mac, the occupants of the chairs of decisions do not have that albatross to worry about.

Mr. President, I do hope that the Senate will recognize that what the Senate Office Building Commission did over the objections of their chairman, the distinguished Senator from Vermont (Mr. STAFFORD), was wrong. The only way I can reach this is by appealing the decision of the Chair, because there was no other way that we could get at this particular appropriation. It certainly is on the right bill, and I do hope that the Senate will overrule the ruling of the Chair and give us an opportunity to rescind \$700,000 for the gym.

Now I am happy to yield to my friend from Louisiana.

Mr. JOHNSTON. Mr. President, I was just going to ask my friend from Wisconsin if he is not one of the pre-eminent exercisers in the Senate? In fact, does he not run to and from work virtually every day?

Mr. PROXMIRE. Mr. President, I am delighted to report to my good friend that I do run to work every day. When I get to work, I go in that second gym, which is almost always empty except for my good friend from Indiana, who is sometimes, there, and a few other physically fit Members. But I must say that I think I could run to work and I could use the facilities in my office, which I used to use before I found that gym was available. It would be a little less convenient. I would be delighted to give that up.

I certainly think we ought not to spend \$700,000 more for a third gym. What do we need it for?

Mr. JOHNSTON. Of course, Mr. President, I did not ask that question. I simply wanted to establish that the Senator thinks exercise is very important. I was going to reveal what I think may have been revealed or may not have been revealed before. That is that the Senator from Wisconsin, on two occasions, has been the subject of holdups, robberies, as it were, when he is running out on the street. I am wondering if the Senator from Wisconsin wants to subject his colleagues to that kind of treatment. [Laughter.]

The PRESIDING OFFICER (Mr. RUDMAN). The Senate will be in order.

Mr. PROXMIRE. I say to my good friend this city is relatively crime free. I am sure even in Baton Rouge or New Orleans, people are very often held up. In Baton Rouge, or New Orleans, people do not feel safe, either, even in their homes. Maybe they have large dogs that accompany them on their way, maybe their wives accompany and protect them.

Mr. JOHNSTON. Was the Senator held up? Seriously?

Mr. PROXMIRE. Neither time was I exercising, Mr. President. The first time I talked them out of harming me

by telling them I had cancer and was going to be dead in 3 months and they were doing me a favor.

Mr. JOHNSTON. Did the Senator look the part?

Mr. PROXMIRE. Probably. That is what exercise does for you, makes you look pretty hungry and beat.

Mr. JOHNSTON. Mr. President, I always enjoy debating with my distinguished friend from Wisconsin. We bring this issue up every year. Let me say I never enjoy being on this side of the question. I must hasten to establish my credentials.

I did not ask for the job as chairman of the Senate Office Building Commission. In fact, I am not now chairman. I am now ranking minority member. When I was chairman of the commission, we put together the compromise which passed the Senate and is now the law of the land; that is, to cut down the size of the Hart Senate Office Building to, if I recall correctly, something in the neighborhood of \$137 million.

Our status was, Mr. President, that back in the late 1960's, the Public Works Committee of the Senate authorized this building and then money was appropriated for it. Then a Senate Office Building Commission was created and charged with the duty of approving and overseeing the construction. Indeed, plans were concocted, actually not let out for bids—that was one of the problems here. The building was underway.

At the time I really arrived on the scene as Chairman of this Commission, we had a completed contract, completed plans, steel was all the way up the full five or six stories, whatever it is. Then the motion came in to stop the Senate Office Building at that point.

What was to be done with the Senate Office Building at that point, I do not know. I guess it was to be left to rust away as an eternal monument to the profligacy of the Senate and of the Congress. Perhaps in that respect, it would have been an apt monument, because the public believed that anyway. To be able to come to the city of Washington and see a rusting hulk right there on Capitol Hill would have, indeed, been graphic evidence of that profligacy.

Of course, that makes a good joke, Mr. President, and it might make a good example, but it would have been very poor policy because, of course, the Senate and the Congress could not have allowed that to happen. We had to put it together to finish the building. We were too far committed. You cannot allow an eyesore on Capitol Hill.

So, the distinguished majority leader asked me to take the chairmanship of that Senate Office Building Commission and over my vociferous objections, because I knew the Senate

Office Building was the delight of all of those who would—as they say, a demagog's delight. I certainly do not mean that to apply to my friend from Wisconsin, but there are those who see this as a juicy target to talk about every time it comes up.

In any event, I took the job. In any event, we put together the compromise at \$137 million. The Senate—the Congress—has supported that compromise on through.

Where are we now, Mr. President? We are now approaching completion of the Senate Office Building. A number of what we call the exclusions, which we excluded from the contract in order to get to the \$137 million, can now be put back in pursuant to the understanding, the express understanding we had when we last considered the matter on the floor, because savings have been made.

Those are such things as providing additional office space, which office space was already there; providing for energy savings equipment; providing for a whole host of things. Those matters can now be put in—vertical blinds, auxiliary office space, energy management systems, data communication tables, and so forth. With the savings, we put those back in under a certain schedule of priority. The physical fitness facility is about eighth or ninth in priority.

Mr. President, the physical fitness facility will constitute the only real gym in either of the buildings.

The so-called gymnasium referred to in the Dirksen Senate Office Building I have not seen. I doubt if any of my colleagues have seen it. The Architect of the Capitol advises me it is not a gymnasium at all. It is a single room, some 15 by 15 in dimension. I dare say that the Senator from Wisconsin could not jog in there.

Mr. PROXMIRE. Will the Senator yield on that?

Mr. JOHNSTON. Yes.

Mr. PROXMIRE. There are three rooms. There is one exercise room that has the equipment I described, including two stationary bicycles, including a mat, including weight-lifting machinery, including a punching bag. There is another room which has lockers in it, about 86 lockers. There is another room that has six shower stalls, as well as bathroom facilities. So it is a three-room gym.

Mr. JOHNSTON. The exercise part of it, which is what we refer to when we talk about a gymnasium, is 15 by 15, is it not, roughly?

Mr. PROXMIRE. No, no, no. It is bigger than that.

Mr. HATFIELD. Yes, it is 15 by 15.

Mr. JOHNSTON. The Architect of the Capitol, who is on the floor now, just advised me it is 15 by 15. I have not seen it. It hardly qualifies as a gymnasium, as a place in which any exercise can transpire.

Mr. PROXMIRE. I exercise there every single day.

Mr. JOHNSTON. The Senator runs to work every day.

Mr. PROXMIRE. I do 15 minutes on a stationary bike, and BILL BRADLEY, the Senator from New Jersey, comes in, the distinguished Senator from Indiana comes in, and a number of other Senators; the Senator from Oklahoma (Mr. NICKLES) lifts those weights. That is why they look so good.

Mr. JOHNSTON. The question is not whether we are going to have a physical fitness facility. The physical fitness facility in the new building is there. It exists. It has a roof, it has walls, it has sides. All this means is whether or not we are going to spend an additional \$736,000, and actually less than that, because the Architect of the Capitol, who again is on the floor—and I invite Senators to question him about the details—advises me we have already spent over \$100,000 to buy the equipment which would be put in—I do not know whether it is the flooring or the sides. Whatever it is, \$100,000 has already been spent, so we have to reduce that amount. The facility has many more uses than just a physical fitness facility. I invite the Senator to go up and see it. It will serve as a hearing room. It will serve as one of the largest hearing rooms in the entire Senate. It will serve many purposes, and for an additional what, 10 percent or less, not to finish it, knowing that some future Congress would finish it at a much greater cost, I think is very false economy.

Mr. President, the issue is not whether we are going to build a gym. The gym is built. The issue is whether we put the final, finishing touches on a facility which can, in addition to being used as a gym, have a multitude of other purposes and will constitute really the first gymnasium in the entire Senate.

Actually, Mr. President, if you want to know what the real question is, it is, Whether the ruling of the Chair as to legislation on an appropriation bill will be sustained or not?

What you ought to do is submit this back to the hearing process and have a hearing, as we did in the Senate Office Building Commission, where with only one dissenting vote it was very clear to everyone that you waste money if you do not finish this large, commodious room at this time. You waste a great deal of money because it is going to be finished. It would be a travesty to have a large room which could be used as a hearing room, it could be used as a gymnasium, it could be used for any number of purposes, not to be finished. Nobody seriously thinks that it will not be finished at some particular time.

Mr. President, I urge my colleagues to sustain the ruling of the Chair. I

was going to move to table the appeal, but if the Senator from Wisconsin wants to have another go at it, I will yield.

Mr. PROXMIRE. I will be quite brief.

Mr. President, let me point out that the Senator devoted most of his talk to matter that I did not touch. It is true that I at one time wanted to knock out all of the low-priority projects that the Building Commission 3 years ago decided should be lower priority and should be put off until another day because they might cost too much, over \$4 million, but the only one I knocked out was the gym. The vertical blinds, for instance, \$167,000 for vertical blinds instead of horizontal blinds, because some people think they might look a little better; central wing first floor office, the hearing facility that the Senator talked about—I think that is a waste of \$1,182,000—I do not touch. But the gym is so obviously unnecessary.

The Senator said nothing about the main gym we have in the Russell Building. That does have a swimming pool. That does have a much larger exercise room. It does have the facilities for rubdowns, and so forth. It is a substantial gym certainly for 100 people—98 people because, as I say, the ladies of the Senate do not use that.

Mr. President, my friend from Louisiana indicated that this had been a deliberative process. We never have had hearings in the Appropriations Committee. We ought to hold hearings on this. The hearings held by the Building Commission, as far as we know, have not been published. My staff has not been able to get ahold of them. We have not been able to examine them.

The fact is, also, that this was a low-priority project that the Building Commission itself, 3 years ago, decided to postpone. As I say, the \$4,217,000, which I think we ought to knock out, I tried to knock out in the Appropriations Committee meeting but did not succeed. Only the amount for the third gym would be deleted under my proposal, \$736,000.

Mr. President, furthermore, let me just point out that the additional amount would be \$269,000 for materials they do not have now, \$403,000 for labor, and all of that would seem to me to be a saving that we can well make.

It is true that they might have to use their ingenuity and use that space for something else. We can do that.

It also may be true that the wisest thing to do is just not spend the money at all. Somehow it is very hard for us in the Senate to resist going ahead and spending \$736,000.

Certainly if this were a small city in New Hampshire or a small city in Wisconsin or Oregon, you know perfectly well there is no way this money would

be spent. So I do hope that the Senate will not sustain the ruling of the Chair.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I want to tell my colleagues that I certainly will miss this issue. I hope it is the last time it will come up. I certainly am going to miss it in future years. We have had a lot of fun with this each year it has come around. I know the Senate is prepared to be serious on this and look at the long-term saving. Frankly, if we could do away with the whole Hart Building, I bet this Senate would vote for it 100 to 0.

I think the Senate that first authorized it back in the late sixties is sorry it ever authorized it, sorry it had anything to do with it and, believe me, I am sorry I have had to be chairman of the Senate Office Building Commission.

However, Mr. President, we are in it now. We ought to make the best of what is an expensive and also a very nice building. I think we at least ought to say something nice about it, and that is about all I can find to say nice about it, that it is a pretty building. It also really is needed, although I would not vote for it if it were being authorized today.

Mr. SCHMITT. Will the Senator yield?

Mr. PROXMIRE. Will the Senator yield?

Mr. JOHNSTON. I hope it is the last time that I have to shoulder this duty.

Mr. PROXMIRE. Will the Senator yield?

Let me just say to my good friend I am delighted that if the Hart Building were up today, the Senator would not vote for it. As the Senator knows, the Architect of the Capitol has recommended a fourth Senate office building; he is going to push for it.

I predict that when that comes along, you will see the same old story we had when we had the Hart Building. I was the only one in the Appropriations Committee who voted against that when it began, the only one.

Mr. JOHNSTON. The Architect has not made that recommendation.

Mr. PROXMIRE. This is not the last one. We will not stop until every Senator has his own building. [Laughter.]

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Architect of the Capitol has made a lot of mistakes. Maybe he has made some on the Hart Senate Office Build-

ing, but he has not made what would be the most egregious mistake of his entire career by recommending still a fourth Senate office building. If he should, then I will be in the forefront fighting that building. But for the time being, let it be said for the Architect of the Capitol that he is not recommending it and not one single Senator is prepared to vote for it in this Senate.

I yield to my friend from New Mexico.

Mr. SCHMITT. Mr. President, I appreciate the Senator from Louisiana yielding. I just wanted to mention that I, coming here in 1977, had the privilege of voting against the Hart Building the first time that the issue arose on the floor.

I know that the distinguished Senator from Louisiana argued just as eloquently at that time, but at that time we could have saved, as I recall, \$60 million or \$70 million and put it into a parking lot or something else.

The next time the issue came up, it was too late. I think the Senator is exactly right in the way he characterizes the issue—it is too late on this. We have to make the best of what I think most of us believe was a bad deal, made more than a decade ago, and proceed to utilize this building in the best possible way.

Mr. MATTINGLY. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. MATTINGLY. I am chairman of the Legislative Branch Committee, and I have been here for 1 year and 7 months, so I have even more current respect than the Senator from New Mexico. But it seems to the new Senators that we are talking about something already accomplished, the building is there; the money has been spent. The authority was given to the Senate Office Buildings Commission and the Architect of the Capitol to construct this building, to make it function.

I suggest that the expenditure that has already been allocated is probably less than 1 day's storage of dairy products in the United States.

The PRESIDING OFFICER. Is there further debate?

Mr. HATFIELD. Mr. President, what is the question before the Senate?

The PRESIDING OFFICER. The question before the Senate is, Shall the ruling of the Chair be sustained as the judgment of the Senate? The yeas and nays have been ordered.

Mr. HATFIELD. Mr. President, I move to table the appeal of the ruling of the Chair.

Mr. JOHNSTON and Mr. PROXMIRE requested the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the appeal of the ruling of the Chair. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Pennsylvania (Mr. HEINZ) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 300 Leg.]

YEAS—50

Andrews	Goldwater	McClure
Armstrong	Gorton	Melcher
Baker	Hatfield	Murkowski
Baucus	Hayakawa	Packwood
Brady	Helms	Pell
Cannon	Hollings	Percy
Chiles	Huddleston	Quayle
Cochran	Inouye	Rudman
Cranston	Jepson	Schmitt
D'Amato	Johnston	Specter
Dodd	Kassebaum	Stennis
Dole	Laxalt	Stevens
Domenici	Leahy	Symms
East	Long	Thurmond
Ford	Lugar	Tower
Garn	Matsunaga	Tsongas
Glenn	Mattingly	

NAYS—48

Abdnor	Durenberger	Nunn
Bentsen	Eagleton	Pressler
Biden	Exon	Proxmire
Boren	Grassley	Pryor
Boschwitz	Hart	Randolph
Bradley	Hatch	Riegle
Bumpers	Hawkins	Roth
Burdick	Heflin	Sarbanes
Byrd	Humphrey	Sasser
Harry F., Jr.	Jackson	Simpson
Byrd, Robert C.	Kasten	Stafford
Chafee	Kennedy	Wallop
Cohen	Levin	Warner
Danforth	Metzenbaum	Weicker
DeConcini	Mitchell	Zorinsky
Denton	Moynihan	
Dixon	Nickles	

NOT VOTING—2

Heinz Mathias

So the motion to table the appeal of the ruling of the Chair was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

Mr. HATFIELD. Mr. President, I wonder if I could have the attention of my colleagues to ask anyone who has an amendment to this supplemental appropriations bill to please alert the managers of the bill, Senator PROXMIER, now Senator LEAHY, acting on behalf of the minority, and myself as the manager on the majority side, because we want to get an idea of how many more hours we have on this bill. If we could get some notification list set up as to how many amendments we

have to consider, it would be very helpful.

Mr. President, I believe that the next Senator that has informed me of an amendment is the Senator from Connecticut.

Mr. WEICKER addressed the Chair. The PRESIDING OFFICER. The Senator from Connecticut.

UP AMENDMENT NO. 1198

(Purpose: To provide that it is the sense of the Congress that the proposed regulations implementing part B of the Education of the Handicapped Act should not become effective until after the 97th Congress reconvenes for a special session or the 98th Congress has convened, whichever first occurs)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment numbered 1198.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. . (a) The Congress finds that—

(1) since the enactment of Public Law 94-142, the Education for All Handicapped Children Act of 1975, amending part B of the Education of the Handicapped Act, significant numbers of handicapped youngsters have been successfully brought into the Nation's educational system;

(2) part B of the Education of the Handicapped Act has been consistently upheld since its enactment and any attempt to weaken the rights of handicapped children or the rights of parents of handicapped children has been rejected by the Congress;

(3) handicapped children have consistently demonstrated that they can and do take full advantage of the educational opportunities afforded to them;

(4) the success of part B of the Education of the Handicapped Act in States where it is in effect can be attributed in large measure to the statutory and regulatory provisions assuring the rights and participation of parents in determining the education of their children; and

(5) the Department of Education has on August 4, 1982 published proposed changes in the regulations implementing part B of the Education of the Handicapped Act designed to eliminate the assurances that the rights and participation of parents and handicapped school children be recognized.

(b) It is the sense of the Congress that—

(1) the proposed final regulations implementing part B of the Education of the Handicapped Act should not become effective, and should not be transmitted to the Congress under paragraph (1) of section 431 (d) of the General Education Provisions Act, until—(A) after the 97th Congress has returned from the recess which is scheduled to begin in October, 1982, or

(B) after the 98th Congress is convened, whichever first occurs;

(2) the forty-five day period specified in such paragraph (1) should begin on the day that such regulations are transmitted to the Congress in accordance with clause (1) of this subsection; and

(3) paragraph (2) (except the first sentence) of section 431(d) of such Act should not apply to such forty-five day periods.

The PRESIDING OFFICER. The Senate is not in order. Will those Senators wishing to converse, please retire to the back of the Chamber?

The Senator from Connecticut.

Mr. WEICKER. Mr. President, during the past 7 years since the enactment of Public Law 94-142, the Education for All Handicapped Children Act, we have witnessed as never before, millions of disabled youngsters taking their places alongside their nonhandicapped fellows in the mainstream of American society.

No longer are they confined in out-of-the-way places, their bodies, minds and talents left ignored to wither. Now these courageous youngsters, eager and capable to learn, sport the bright faces of self-esteem. They live at home, attend school and—most importantly—are giving it their all.

It has been tough, no doubt about it. These youngsters have had to work and work hard to overcome their disabilities. Parents have unselfishly given of their time and money to see that their children take advantage of all opportunities given them. And, yes, dedicated professionals—physical, occupational, and speech therapists among them—have teamed up with special education teachers and administrators to create the network of services necessary to get the job done.

Congress, too, has held the steady course. We have said loudly and clearly that we do not want to see the underpinnings of Public Law 94-142 weakened in any way. We have extended the life of the law and in the most difficult of financial times we have found the dollars to sustain our commitment to disabled youngsters.

Now, however, just at the time when virtually everyone agrees the big job is getting done and done well, the Department of Education dares to propose changes in the rules which govern the program.

The PRESIDING OFFICER. The Senator will please suspend.

The Senate is not in order. Those members of the staff who wish to converse will do so in the cloakrooms. The Senator from Connecticut has a right to be heard.

The Senator from Connecticut.

Mr. WEICKER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WEICKER. Mr. President, why is this being done? To help children

learn better and progress faster? To make it easier for parents to cope? No, Mr. President, these are not the reasons.

As incredible as it may seem, what is in fact being proposed is to weaken kids' ability to join with their nondisabled peers. To reduce parents' ability to take part in their children's education—in short, the beginning of the end for Public Law 94-142.

Today, I offer a sense-of-the-Congress amendment to put the proposed changes on hold. This amendment would postpone the start of the 45-period allotted Congress for passage of a concurrent resolution of disapproval until Congress returns after sine die or the 98th session, should there be no lame duck session. This sense of the Senate amendment does not change the General Education Provision Act, which provides for the review period. It does, however, signal the Department of Education, the President and the public that we want to carefully examine the regulations. Rigorous review is necessary if we are to insure that the Department's regulations continue to result in the free appropriate public education Public Law 94-142 calls for.

Today, as chairman of the Subcommittee on the Handicapped, I held a hearing on the new regulations. Participating were Secretary Bell and a panel of professionals and experts in the area of special education. I heard testimony clearly stating that the proposed changes will wipe out regulatory assurances that the rights of parents and handicapped schoolchildren are recognized.

If, after further careful consideration, this proves to be the case, I am sure the Congress will want to express its displeasure with the new regulations. In the meantime, I urge my colleagues to adopt this amendment mandating a full 45-day review period.

Mr. President, it is important that the Congress reaffirm the support it has consistently given to Public Law 94-142. It is imperative that we let parents, professionals and disabled children from one end of this Nation to the other know that we continue to stand with them in their courageous fight.

I urge all my colleagues to vote to approve this amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I rise to support the amendment of the Senator from Connecticut. I think the proposed regulations with respect to handicapped children do irreparable harm to a program that has great merit. I think that by enacting this amendment and indicating the sense of Congress there should be a delay in the implementation of the regulations,

it would give Congress the opportunity to deal more accurately with this program.

I think the program is retrogressing. I think that it would be a disservice to the handicapped children of this country.

I believe that enactment of this amendment indicating the Congress attitude with respect to the implementation of the program is entirely appropriate and hope that every Member of the Senate will see fit to join with the Senator from Connecticut in support of this proposal.

I ask that I be made a cosponsor, Mr. President.

Mr. WEICKER. I ask unanimous consent that the Senator from Ohio (Mr. METZENBAUM) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I compliment the Senator from Connecticut for his continued leadership in these issues. I think he has been a great source of strength in the subcommittee in enabling us not only to understand but to provide funding commensurate with the needs of the handicapped.

The sense-of-the-Congress resolution that the Senator has proposed states that new regulations for the Education of the Handicapped Act should not become effective until after the 97th Congress reconvenes for a special session, or the 98th Congress convenes, whichever occurs first.

The Department of Education published a notice of proposed rulemaking on August 4 that would considerably revise the regulations governing part B of the Education of the Handicapped Act—State grants. The proposed regs are complicated and controversial, having evoked an immediate negative response from advocacy groups for the handicapped, as well as just the general concern of those of us who watch governmental rulemaking with a jaundiced eye to begin with.

The regs have a 90-day public comment period which would end in early November. Technically, the Department could very quickly publish the final rules and send them to Congress for the required 45-day approval period. The 45-day period would then end during recess, or during a lame-duck session, thus sidestepping legislative review, that has been incorporated into the law.

The resolution will make clear to the Department of Education that the Congress places a great deal of importance not only on the full implementation of the law mandating a free, appropriate, public education to handicapped children, but also on the process of legislative review, which, unfortunately, the Carter administration

declined to follow and fought the Congress tooth and nail.

The present administration also is reluctant to endorse the concept of legislative review. We hope that that reluctance will gradually disappear.

It is my understanding that the Department of Education estimates that it will take months to analyze and respond to the public comments received during the 90-day period. Therefore, the final rules would not be published and sent to the Congress for review until the spring of 1982.

I believe the Senator from Connecticut is exactly right in making this very clear statement and allowing the entire Congress also to clarify what we expect that progress to be.

I compliment him on his amendment.

Mr. MITCHELL. Mr. President, I rise in support of the Weicker amendment, expressing the sense of the Congress that the start of the legislative review period for proposed regulations on special education will be postponed. The effect of the amendment is to delay the implementation date for the regulatory changes being suggested.

On Wednesday, August 4, the Department of Education published in the Federal Register proposed changes to existing regulations under part B of the Education of the Handicapped Act, Public Law 94-142. Congress passed this law in 1975 to insure that all handicapped children would have a free appropriate public education, that their rights and those of their parents would be protected, and that States and localities would receive assistance in providing that education.

Passage of the Education of the Handicapped Act recognized that government at all levels must do more to improve educational opportunities for handicapped children and integrate them into society. Since that time, great strides have been made in that direction. However, we must not retreat on our commitment to the disabled. By helping them overcome their handicaps, we enable them to become productive members of society, to take their place beside those of us who are more fortunate and can function without assistance.

In promoting certain rule changes, the Secretary of Education has said he wants to streamline Federal policy and reduce costs and administrative burdens on local school districts. However, this action has provoked the immediate opposition of advocacy groups who believe that the rights of handicapped children and their parents will be nullified if the proposals are adopted.

Officials of two Maine organizations, the Maine Association of Handicapped Persons and Parents of Learning Disabled Students, Inc., have spoken strongly against the proposed rules. Among their primary concerns are the

potential erosion in parental rights, the granting of authority to school systems for exclusion of handicapped children from regular classrooms and from nonacademic activities such as meals and recreation, and relaxation of the requirement that handicapped children must be placed in a program as near their home as possible.

The sponsor of this amendment, my distinguished colleague from Connecticut, held a hearing on the proposed regulations this morning in the Subcommittee on the Handicapped which he chairs. I understand that several professionals expressed considerable concern about the effect of the rule changes on educational opportunities for the handicapped.

By delaying the implementation of these rules, Congress is giving a clear signal that it, too, is concerned about the rights of the handicapped and wants ample opportunity to review the proposals before any action is taken on them. I join my colleagues in supporting this amendment because I believe that special education is too important for it to escape scrutiny whenever changes in the fabric of the program are considered.

During the comment period, Congress and the public must examine the effect of the rules on all of the States. Some have relatively weak protections for the handicapped and others, like my own State of Maine, have stronger protections. I am proud to say that the Maine Legislature enacted special education legislation in 1973, 2 years before approval of the Federal statute. State leaders have thus for almost a decade showed great interest in working with the handicapped to improve opportunities throughout the State.

During the next few weeks, I intend to review these rule changes with great care. On September 13 and 14, the Department of Education will hold a public hearing on them in Portland, Maine. I hope all those interested in my State will take that opportunity to express their thoughts and concerns on this area so vital to the handicapped.

I commend my fellow New Englander for his leadership in the field of handicapped rights and for his sponsorship of this amendment.

Mr. HATFIELD. Mr. President, I suggest we vote.

The PRESIDING OFFICER. Is there further debate?

Mr. WEICKER. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Connecticut. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) the Senator from Maryland (Mr. MATHIAS) and the Senator from Delaware (Mr. ROTH) are necessarily absent.

The PRESIDING OFFICER. (Mr. BRADY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 93, nays 4, as follows:

(Rollcall Vote No. 301 Leg.)

YEAS—93

Abdnor	Ford	Mitchell
Andrews	Garn	Moynihan
Armstrong	Glenn	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Brady	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd	Helms	Randolph
Byrd, Jr.	Hollings	Riegle
Byrd, Robert C.	Huddleston	Rudman
Cannon	Humphrey	Sarbanes
Chafee	Inouye	Sasser
Chiles	Jackson	Schmitt
Cochran	Jepson	Simpson
Cohen	Johnston	Specter
Cranston	Kassebaum	Stafford
D'Amato	Kasten	Stennis
Danforth	Kennedy	Stevens
DeConcini	Laxalt	Thurmond
Denton	Leahy	Tower
Dixon	Levin	Tsongas
Dodd	Long	Wallop
Dole	Lugar	Warner
Domenici	Matsunaga	Weicker
Durenberger	Mattingly	Zorinsky
Eagleton	Melcher	
Exon	Metzenbaum	

NAYS—4

East	McClure
Goldwater	Symms

NOT VOTING—3

Baker	Mathias	Roth
-------	---------	------

So Mr. WEICKER's amendment (UP No. 1198) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WEICKER. Mr. President, I ask unanimous consent that Senators PERCY, STAFFORD, and QUAYLE be added as original cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, while we are in Labor-HHS matters, may I ask the Senator from New Mexico, the chairman of the Labor, Health and Human Services and Education Subcommittee, about language in the committee report concerning adolescent family life program? There has been some concern expressed that the report language could somehow be interpreted to apply the "parental consent and notification" provisions of the adolescent family life program to other programs under the jurisdiction of the Department of Health and Human Services. Can the Senator tell

me whether the language does apply to Health and Human Services programs other than adolescent family life?

Mr. SCHMITT. It does not.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I should like to recite the list of amendments that we have pending that I have been notified about: Senator PERCY, Senator BRADLEY, Senator LEAHY, Senator ARMSTRONG—

Mr. LEAHY. Mr. President, I cannot hear the Senator. I am sorry.

Mr. HATFIELD. I am reading the list of amendments that I am informed will possibly be offered: Senator PERCY, Senator BRADLEY, Senator LEAHY, Senator ARMSTRONG, Senator SCHMITT, Senator KENNEDY, Senator CHAFFEE, Senator MATTINGLY, and Senator DODD.

I again invite any other Senator who expects to offer an amendment to provide us with that information so that we might proceed in an orderly fashion.

Mr. President, I hope that we could get all the amendments dealing with one subject handled in sequence following the introduction of that subject, which I think we are about ready to embark upon. Senator PERCY, I believe, would be next on the pecking list, if we follow that, although the Chair should recognize whoever he wishes. Once Senator PERCY raises CBI, Caribbean Basin Initiative, I imagine then that Senator LEAHY would offer his point of order. Once that is disposed of, I urge, if there are other amendments that are pending on the CBI subject even though they are not listed in this particular order, that we deal and dispose of each one of those and complete that subject. I think that would be by far the most practicable procedure.

With that in mind, I yield to the Senator from Illinois.

Mr. PERCY. Mr. President, I thank my distinguished colleague, the chairman of the committee and floor manager, for yielding.

UP AMENDMENT NO. 1199

Mr. PERCY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1199:

On page 31, line 15, delete the period and insert in lieu thereof the following: "Provided, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first."

Mr. PERCY. Mr. President, this amendment is designed to protect the legitimate interests of the authorizing committee for the Caribbean Basin Initiative in a way which does not undercut the chances of funding this important program in fiscal year 1982.

The amendment stipulates that none of the funds appropriated for the purposes of the Caribbean Basin Initiative may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first.

This gives the authorization committees another 5 weeks to take their legislation to the floor and provide policy guidelines for this program. I believe we can meet this deadline. I have talked to the majority leader (Mr. BAKER) and he has assured me that there will be time available on the floor for the authorizing bill prior to September 15.

The House Foreign Affairs Committee will seek a rule this Thursday for the authorization of these foreign aid funds, and they may take their bill to the floor on Thursday.

Under normal circumstances, I would not agree to any waiver of authorization requirements, but this is a special case which requires special procedures. Fiscal year 1982 is over in less than 2 months. If the administration is unable to begin obligating funds for this important program by mid-September, the outlays for CBI will all appear in fiscal year 1983. As the chairman of the Foreign Operations Subcommittee (Mr. KASTEN) knows, we already have severe problems with foreign affairs outlays in fiscal year 1983. With this amendment in place, the administration will be able to begin obligating funds for this program on September 15, 1982 and the fiscal year 1983 outlay problem will be made less severe.

This amendment further protects the prerogatives of the authorizing process with regard to earmarks. I do not necessarily agree with all of the earmarks contained in this bill. But the Foreign Relations Committee will have the opportunity to address that issue in the authorizing bill and to supersede these earmarks if that is desired.

Finally I say to my friend and colleague, the Senator from Connecticut (Mr. DODD), a valued member of our committee, that I believe this amendment protects his rights to address his desires to channel some or all of these funds through the World Bank. We will have another opportunity on the floor to review this proposal.

Mr. President, before yielding the floor, I should like to make a general statement on the importance of the Caribbean Basin Initiative, the Presidential initiative that has been thought through very carefully, supported very vigorously by the contrib-

uting nations, such as Mexico, Colombia, and Canada, and supported by all nations with whom I have discussed this matter in Latin America.

The \$350 million in supplemental assistance authorized in this section of the bill are absolutely critical to meeting the immediate financial needs of a number of Caribbean Basin economies. In many cases, lending from other sources—our European friends, Japan, the World Bank and Canada—remains in abeyance until the United States makes its commitment of assistance to the Caribbean Basin.

In the past several months, I and other Members of Congress have been visited by citizens of the Caribbean countries. All have come to speak to the importance of the Caribbean Basin Initiative. More recently, the Presidents of Costa Rica and Honduras have both met with members of the Foreign Relations Committee as well as with members of the Finance Committee to speak to the absolute necessity of the aid and trade portions of the Caribbean package.

The Caribbean Basin is a region of profound interest and concern to the United States. It is economically important to us. A good share of our trade, especially raw materials and petroleum, passes through the Caribbean. It is militarily important to us. It guards the access to the Panama Canal and to the Atlantic Ocean. If hostile bases were established in the region, we would have to engage in costly defense preparations quite different from what we have now. The Caribbean Basin is also politically important to the United States. The countries of the region are our neighbors. It is important to us and to them that we all pursue positive, mutually cooperative and beneficial relations in the region. No one gains from hostilities.

Mr. President, I yield to the distinguished Senator from Wisconsin (Mr. KASTEN).

Mr. KASTEN. I thank the Senator from Illinois, the chairman of the Foreign Relations Committee.

As chairman of the Foreign Operations Subcommittee, I accept this amendment, assuming that the managers of the bill will accept it, also.

Senator PERCY's efforts on what could have been a touchy subject are to be commended. He has protected his interests, while at the same time insuring that funding for this very important foreign policy initiative is not jeopardized. I compliment the chairman of the Foreign Relations Committee, and I thank him for his cooperation. I know that he and I will continue to work together on these very difficult issues in the future.

Mr. President, the amendment offered by the distinguished chairman of the Foreign Relations Committee is self-explanatory. It provides that

funding for the Caribbean Basin Initiative will not be obligated until September 15, or until enactment of authorizing legislation, whichever comes first. This basically keeps intact the Appropriations Committee's action on this matter, although it gives the authorizing committees a specific amount of time in which to take action. I believe this is a good accommodation, a fair compromise, and I commend the chairman of the Foreign Relations Committee for it.

One of the reasons the waiver provision in the bill and the chairman's amendment is necessary is because of the severe outlay constraints that will affect the function 150 account in fiscal year 1983. If expenditures under the CBI are delayed beyond September 15, the impact on this outlay problem for fiscal year 1983 will be severe.

We have been told that the Agency for International Development expects to expend approximately \$200 million before the end of fiscal year 1982 from CBI funds. I also understand that there may be problems with respect to GAO concerns that expenditures should not exceed the immediate needs of a particular program. However, although I recognize these concerns as valid, I believe that the serious balance of payments problems existing throughout the Caribbean region, and our own outlay concerns, justify expenditures in the amounts contemplated by the CBO. I would, therefore, strongly encourage the Agency for International Development to expend approximately \$270 million in fiscal year 1982, utilizing appropriate mechanisms, including trust arrangements or escrow accounts or other similar methods of controls.

Mr. LEAHY. Mr. President, I have heard the discussion of the distinguished chairman of the Foreign Relations Committee and the distinguished chairman of the Foreign Operations Subcommittee, but I must say that the amendment that has been proposed by my good friend from Illinois does not really address the question, because it is an either/or situation.

It says that if we have authorizing legislation—that is, legislation that has passed both bodies and is signed by the President—by September 15, that will control. Or, if we do not do it, which is a very real possibility—I would say nearly a probability—then we will just go ahead and spend this money willy-nilly, anyway. That is the rub.

The President of the United States has spoken of a need for a Caribbean Basin Initiative, and I agree with President Reagan on that. I will support him in efforts for a Caribbean Basin Initiative but I want to know what is in it.

Maybe it is a bit of my Vermont background, but we Vermonters like to

know what we are paying for before we put out the money.

Specifically, this bill appropriates \$280 million for various foreign military assistance programs, \$355 million for the Caribbean Basin Initiative, and \$635 million in foreign aid, without any prior authorization.

There is no Caribbean Basin Initiative as yet. I do not believe we should blindly fund a program of this magnitude and controversy. The administration has already agreed to a compromise package in the House which would have reduced the request for military aid from \$301 million to only \$52 million. That is not reflected anywhere in this appropriation.

More important, the administration dropped its military aid request for El Salvador altogether, and there is a letter from Under Secretary Buckley—which letter I will put in the RECORD this afternoon—which says that they offered that. That compromise package was later taken down in the House on a point of order that the CBI had not been authorized.

Mr. President, I go home to my State of Vermont almost every week, and I have had people tell me that they are concerned about the cuts in housing, the cuts in veterans programs, the cuts in aid for education, the cuts in school lunch, the cuts in medical programs, the cuts in nutrition programs, the cuts in aid to the disabled and the elderly, the cuts in farm programs—and cut after cut after cut.

Mr. President, I feel awfully nervous about going back home to Vermont this weekend and telling them that I voted for more than a half billion dollars in foreign aid. Then somebody will say to me, "Exactly what is that going to go for?" I will have to say, "I don't know. It has not been authorized yet."

However, if we get an authorization by September 15, that will carry. But then, I suspect, the next question is going to be, "Aha, but if you don't get the authorization by September 15, what happens then?" Well, then it can be spent in some vague fashion.

I do not think any one of us wants to explain that we are voting for a half-billion dollar foreign aid bill at a time when we are cutting everything else, and we do not know how we are going to spend it.

This has not been authorized. So I am going to request the Chair to rule on whether, under rule XV, paragraph 5, a point of order lies against the material beginning on line 1 of page 31 through line 17 of page 33.

My point of order will be that this material contains significant matter not within the jurisdiction of the Appropriations Committee, which has proposed the amendment, and that the changes in substantive law included herein properly lie within the juris-

diction of the Committee on Foreign Relations.

Mr. President, I raise a point of order under rule XV and I ask for a ruling on my point of order.

Mr. KASTEN addressed the Chair.

Mr. LEAHY. I ask the Chair to rule on my point of order.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Chair asks the Senator from Vermont whether he is making the point of order against the Percy amendment or the underlying amendment.

Mr. LEAHY. I make the point of order against the underlying amendment, the committee amendment, beginning on line 1, page 31, through line 17, page 33.

Mr. KASTEN. Mr. President, I raise the defense of germaneness.

Mr. LEAHY. A parliamentary inquiry, Mr. President. Under the precedents of the Senate, is there any precedent for the defense of germaneness against a point of order raised under rule XV, paragraph 5?

The PRESIDING OFFICER. The Chair states that this is a case of first impression, as to whether or not the defense of germaneness is a permissible defense against a point of order based on rule XV. For that reason, the Chair will submit the question to the Senate for its determination.

Mr. LEAHY. Mr. President, I ask again, is there any precedent whatsoever for the action of the Chair?

The PRESIDING OFFICER. Since the Chair is aware of no precedent on the point—

Mr. LEAHY. Is there any precedent for the use of germaneness against XV-5?

The PRESIDING OFFICER. The Chair stated that there are no precedents on the point, and for that reason, the Chair will submit the question to the Senate.

Mr. LEAHY. Can the Chair, in its discretion, permit debate on the defense of germaneness?

The PRESIDING OFFICER. The Chair, in its discretion, can entertain debate on the question it has submitted to the Senate—namely, is the defense of germaneness an appropriate defense to a point of order based on rule XV, paragraph 5?

The PRESIDING OFFICER. The Chair will entertain debate.

Mr. LEAHY. Mr. President, I made the point of order. It is obvious a point of order would lie after the defense of germaneness. There are no precedents for the defense of germaneness. I assume that the parties making the defense of germaneness would raise some points which show that such a defense is justified.

Mr. KASTEN. Mr. President, I think the question and the issue is clear. I am prepared to have the issue considered by the Senate.

Mr. LEAHY. Mr. President, it has been contended that a point of order should not lie against a \$600 million amendment which has been reported by the committee. The defense of germaneness would exist where the other body has legislated on an appropriations bill. That is why we have it, so the Senate would not have its hands tied by its rules. That is not the case here.

I wish to make a couple of points:

The House of Representatives obeyed its own rules in this matter. When the point of order was raised in the House of Representatives, the matter was taken down. It struck the entire matter from the bill because it was legislation on an appropriation bill.

Second, the legislation that does exist in the House version of Foreign Operations under this bill has nothing to do with the Caribbean Basin Initiative or \$280 million for military aid. It is only related to other matters.

In sum, the House of Representatives obeyed its own rules. We should do the same. It would be the most enormous stretch of any sense of germaneness to say that under the committee amendment we have before us today this would be germane and that the point of order would not lie.

The PRESIDING OFFICER. The question is, Is a defense of germaneness a valid defense against a point of order based on rule XV?

Mr. LEAHY. I am sorry, Mr. President, I cannot hear the Chair. Will the Chair begin again?

The PRESIDING OFFICER. The question is, Is the defense of germaneness a valid defense against the point of order based on rule XV, paragraph 5?

This question is being submitted to the Senate for its decision. An "aye" vote maintains the appropriateness of raising the defense of germaneness. A "nay" vote holds that the defense of germaneness is not appropriate against a point of order under rule XV, paragraph 5.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Did the Chair rule on whether rule XV, paragraph 5 a point of order lies against the material after the question of germaneness?

The PRESIDING OFFICER. The Chair has not ruled on that point.

Mr. LEAHY. Will the Chair rule on that point?

The PRESIDING OFFICER. The Chair will wait for the Senate to decide whether germaneness is or is not an appropriate defense.

If the Senate holds that germaneness is not an appropriate defense or if the Senate decides germaneness is a satisfactory defense generally but is

not applicable to this case, then the Chair will rule on the point of order.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. Then what the Chair—

Mr. CHILES. Mr. President, will the Senator yield?

Mr. LEAHY. I yield.

Mr. CHILES. Will the Senator explain to the Senator from Florida, is he raising a point of order on rule XV, paragraph 5?

Mr. LEAHY. I am.

Mr. CHILES. Then it would seem to me, Mr. President, if the point is being raised on rule XV, paragraph 5, as well as the point on the other, then the Chair should rule and the Chair should not skirt this by saying he is going to wait and rule after the Senate has had a vote on germaneness.

I think a Member of this body is entitled to raise one or more points that he wishes if he has those points and the Chair should rule on all of those points.

The PRESIDING OFFICER. The question is, Is the defense of germaneness an appropriate defense?

All those in favor signify—

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. If the Chair were to rule on the point of order and even if the Chair were to rule in favor of the Senator from Vermont on that point of order, and even assuming that the Chair was sustained in the ruling on that point of order, that would not preclude a subsequent effort to raise a defense of germaneness, would it?

The PRESIDING OFFICER. Once the Chair has ruled on the point of order, the defense of germaneness is too late.

Mr. LEAHY. Mr. President, is there any precedent for that?

The PRESIDING OFFICER. Under rule XVI when points of order are made against amendments on the grounds that they are legislation a Senator may raise a defense against that point of order on the grounds that the amendment is germane, but that Senator must raise that defense of germaneness before the Chair rules on the point of order.

Mr. LEAHY. We are operating under rule XV, paragraph 5 when there is no House text. There is no House text under rule XV 5 or under rule XVI. Must not the Chair rule on the point of order when there is no House text at all on this subject, this having all been stricken out in the House already on a point of order?

Mr. President, the point is there is no House text whatsoever here.

The PRESIDING OFFICER. Since this is a case of first impression the Chair is submitting the question to the Senate for its decision. The question is debatable, and the Chair is entertaining debate.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Mr. President, will the Senator withhold for just a second?

Mr. LEAHY. I withhold.

Mr. BUMPERS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. If we vote on the germaneness issue, the point of order dealing with germaneness, first, and the Chair is not upheld, then would the second point of order that this is legislation on an appropriation bill, would that be a second vote then?

The PRESIDING OFFICER. No point of order has been made that this is legislation on an appropriation bill.

Mr. BUMPERS. Well, the question of germaneness, if the Chair is not sustained on that, would there be a second vote on the other point of order?

The PRESIDING OFFICER. The Chair has made no ruling. The Chair is submitting the question to the Senate.

Mr. LEAHY. Mr. President, under the precedents of the Senate, the Chair is referred to rule XVI. Is it not true that we have a precedent in a case where after the question of germaneness was raised, but before the Chair submitted the question to the Senate for a decision, the majority leader made a second point of order that there was no House language in the House-passed bill to which the question of germaneness could be raised? The Chair sustained that point of order from which an appeal was taken, but the appeal was tabled, sustaining the ruling of the Chair, which sustained the point of order that there was no House language in the bill to which the question could be raised. The Chair then sustained the first point of order that the amendment was legislation on a general appropriations bill.

Is that not a precedent of the Senate for a ruling on the original point of order?

The PRESIDING OFFICER. The Senator from Vermont is correct, and this understanding is consistent with the question as stated by the Chair. The Chair is submitting the general question as to whether germaneness could be a valid defense under the circumstances.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. Only if the Senate holds that germaneness could be a valid defense—

Mr. HATFIELD. Will the Senator yield for just one question? The Sena-

tor is looking for a particular right here, and I think it can be accommodated. I would like to suggest that we have a call of a quorum to get the Parliamentarian together with the leadership, which has been alerted in this matter, because I think we ought to be careful as to what kind of precedent we set in this matter at the moment. Let us work this out if we can with the Parliamentarian. Therefore, if the Senator will not object, I would like to suggest the absence of a quorum.

Mr. LEAHY. Mr. President, if the Senator will withhold in order that I may make a parliamentary inquiry, I understand the Chair has allowed time for debate. Would there be any time for debate on this matter after the call for a quorum, and that the Senator from Vermont be assured that he would be recognized?

Mr. HATFIELD. Mr. President, I ask unanimous consent that following the call for the quorum it be in order that the Senator from Vermont be recognized to pickup where we have left off at this moment, hopefully for a solution of the parliamentary tangle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Now, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. EAST). Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I should have done this earlier. I apologize to anyone who has been inconvenienced by my delay.

I indicated earlier this morning that we should expect to be in late tonight. I have consulted with managers of the bill and with others, it appears that in order to make significant progress on this measure and perhaps to finish it tomorrow or the next day at the very latest, it will be necessary to stay in this evening. I advise Senators, then, that I expect us to be here until about 9 o'clock tonight, maybe a little later. Members should be on notice of the possibility of a late evening tomorrow as well.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Oregon.

Mr. HATFIELD. Mr. President, what is the pending question?

Mr. LEAHY. I cannot hear the Senator.

Mr. HATFIELD. What is the question pending before the Senate?

The PRESIDING OFFICER. The question that has been submitted to the Senate is, Is germaneness an appropriate defense generally against the point of order lodged against an amendment to a general appropriations bill on the grounds that it violates rule XV, paragraph 5?

Mr. HATFIELD. Mr. President, I wonder if the Senator from Vermont would clarify for the benefit of the Senate whether he intends to pursue this question or if he has other parliamentary procedure in mind?

Mr. LEAHY. I appreciate the question, Mr. President. My concern, as I have expressed it to the distinguished chairman of the Appropriations Committee, is that we have totally usurped the powers of the Committee on Foreign Relations; that the Appropriations Committee has passed a Caribbean Basin Initiative, aid to El Salvador, and a whole lot of other things that have not been authorized. We have no deadline for when they might be authorized. We have waived the necessity for them to be authorized. What we would be doing is voting a half-a-billion dollars in foreign aid and never be able to explain to our constituents what it is for. Therefore, I raise rule XV-5, that this is substantially going into the jurisdiction of another committee.

I had hoped that the Chair might rule one way or the other on it. I think it is very clear that it is. The Chair declined, as is the Chair's prerogative, to rule on that.

The distinguished Senator from Wisconsin raised a defense of germaneness. The Chair has submitted that to the Senate and has graciously allowed time for debate on it, which we have had.

I also feel that it is not germane because there is not adequate language in the underlying House bill to make it germane.

Now, if the question of germaneness is going to be the question, then I would, of course, if we are going to do that, ask for the yeas and nays on that question, naturally.

My concerns are twofold, and I understand that I would still have the ability to move to strike such things as the language allowing us to bypass the Foreign Relations Committee and also have the ability to ask for the yeas and nays on the committee amendment itself.

In fact, a parliamentary inquiry, Mr. President: Is it in order to ask at this time for the yeas and nays on the committee amendment on foreign aid?

The PRESIDING OFFICER. It is not in order to ask for the yeas and

nays on a first-degree amendment to which a second-degree amendment is pending.

Mr. LEAHY. I thank the Chair.

Mr. HATFIELD. I wonder if the Senator then would be willing to proceed along the line of raising a point of order against the section on the basis that it is legislation on appropriation and then let the Senator from Wisconsin raise the defense of germaneness to the question raised by the Senator from Vermont and let the Senate proceed to vote on that question?

Mr. LEAHY. I suspect that the vote is going to be the same in either instance, so we might as well stay with XV-5, if we are going to have to face the question of germaneness.

Mr. HATFIELD. I wonder, in light of the counsel from leadership and others to the Senator and other parties to this discussion about attempting to not raise the question on rule XV-5, which may set forth a precedent in the Senate, if the Senator from Vermont would be willing to avoid that type of issue at this point?

Mr. LEAHY. I tell my distinguished friend and colleague from Oregon that there are precedents on the germaneness issue on XVI. I would be happy to go under rule XVI if the defense of germaneness is not being raised so we do not have further precedent, but otherwise I feel strongly enough on this issue that I would risk precedent by going under XV-5. Again, I suspect the final vote would be the same under either one. I am being asked to give up a number of my rights. The other side does not seem to give up any of theirs, so I would rather go under that procedure. I have great faith in the collective wisdom of the Senate.

I am sure we would not set a precedent we would regret later on.

Mr. HATFIELD. Will the Senator yield?

Mr. LEAHY. Sure.

Mr. HATFIELD. Is the Senator not aware, as far as the Appropriations Committee is concerned, that we are willing to give the Senator from Vermont a vote on any part of this bill, an up-or-down vote on any question he should raise concerning the foreign aid section or any other section and in any form in which he wishes to raise that question as far as El Salvador, arms, economic aid, security aid? Would that not be satisfactory to the Senator as far as getting us out of this parliamentary entanglement?

Mr. LEAHY. Mr. President, I appreciate what the Senator from Oregon has said. The distinguished chairman of the Senate Appropriations Committee, Mr. HATFIELD, has always protected the rights of the Senator from Vermont and has always allowed a vote whenever I wanted one.

Mr. HATFIELD. And voted with him frequently.

Mr. LEAHY. And that is greatly appreciated.

I do not intend to go through this on a line-by-line basis. I think that would be unnecessary. I have no intention of taking the time of the Senate for that.

Mr. President, I make a parliamentary inquiry. Would it be in order for the Senator from Vermont to withdraw his rule XV-5 point of order and go to the usual point of order under rule XVI? Would that be in order?

The PRESIDING OFFICER. The Senator has a right, under the circumstances to withdraw his point of order, since the Senate has taken no action on the point of order, and the Senator then would have a right to make a new point of order.

Mr. LEAHY. Mr. President, I have an enormous amount of respect not only for the Senator from Oregon but also for my own leader, Mr. ROBERT C. BYRD, and for the majority leader, Mr. BAKER. I have listened to their concerns expressed during the quorum call, regarding some dangerous precedents we might enter into with respect to rule XV-5.

It is with reluctance that I withdraw my point of order under rule XV-5 and raise a point of order that under rule XVI, the language on line 6, page 31, of H.R. 6863, as reported by the committee, is legislation on an appropriation matter.

Mr. KASTEN addressed the Chair.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. LEAHY. I yield.

Mr. HATFIELD. First, I thank the Senator for withdrawing his original point of order and for rephrasing it under rule XVI. I express my appreciation to the Senator from Vermont for that.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. ROBERT C. BYRD. Mr. President, will the Senator from Wisconsin yield to me? I know he wants to raise the point of germaneness. That has to be voted on immediately, and I should like to make a remark.

Mr. KASTEN. I am pleased to yield to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I join the distinguished Senator from Oregon in congratulating the Senator from Vermont and in expressing appreciation to him for withdrawing the point of order involving Senate rule XV, paragraph 5. I think that to have that rule upheld by submitting to the Senate the question of germaneness would create serious problems down the road, especially in connection with reconciliation bills. I thank the Senator, and I thank the Senator for yielding.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. KASTEN. I yield.

Mr. BAKER. Mr. President, I take this opportunity to join the minority leader in congratulating the distinguished Senator from Vermont. What he did was highly responsible and perhaps inimical to his parliamentary interests in this situation. I believe that, in the long term, it is in the interests of the Senate, the Senator from Vermont, and all of us, in that we have time to give careful thought and consideration to the appropriate application by precedent and example of rule XV. I thank the Senator for forbearing in connection with the precedent at this time.

Mr. KASTEN. Mr. President, I raise the defense of germaneness.

The PRESIDING OFFICER. Under the precedents of the Senate and rule XVI, the question of germaneness having been raised, the Chair must submit the question to the Senate for a vote, without debate.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Is the committee amendment dealing with the Caribbean Basin Initiative germane? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—53

Abdnor	Gorton	Nickles
Andrews	Grassley	Packwood
Armstrong	Hatch	Percy
Baker	Hatfield	Pressler
Boschwitz	Hawkins	Quayle
Brady	Hayakawa	Roth
Chafee	Helms	Rudman
Cochran	Helms	Schmitt
Cohen	Humphrey	Simpson
D'Amato	Inouye	Specter
Danforth	Jepsen	Stevens
Denton	Kassebaum	Symms
Dole	Kasten	Thurmond
Domenici	Laxalt	Tower
Durenberger	Lugar	Wallop
East	Mattingly	Warner
Garn	McClure	Weicker
Goldwater	Murkowski	

NAYS—46

Baucus	Cranston	Jackson
Bentsen	DeConcini	Johnston
Biden	Dixon	Kennedy
Boren	Dodd	Leahy
Bradley	Eagleton	Levin
Bumpers	Exon	Long
Burdick	Ford	Matsunaga
Byrd	Glenn	Melcher
Harry F., Jr.	Hart	Metzenbaum
Byrd, Robert C.	Heflin	Mitchell
Cannon	Hollings	Moynihan
Chiles	Huddleston	Nunn

Pell
Proxmire
Pryor
Randolph

Riegle
Sarbanes
Sasser
Stafford

Stennis
Tsongas
Zorinsky

NOT VOTING—1

Mathias

The PRESIDING OFFICER (Mr. East). On this vote the yeas are 53, the nays are 46. Therefore, the amendment is germane and the point of order fails.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was held to be germane.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON UP AMENDMENT NO. 1199

Mr. KASTEN. Mr. President, what is the issue now before the Senate, the Percy amendment?

The PRESIDING OFFICER. The matter before the Chamber would be the amendment of the Senator from Illinois (Mr. PERCY).

Mr. KASTEN. I know of no more Senators seeking to debate that particular issue.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

Mr. DeCONCINI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. DeCONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate will be in order. The Senator from Oregon has the floor.

Mr. HATFIELD. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Arizona has asked for the yeas and nays.

Mr. HATFIELD. No, Mr. President—

Mr. DeCONCINI. Mr. President, I ask unanimous consent to withdraw my request.

The PRESIDING OFFICER. The Senator did withdraw his request.

Mr. HATFIELD. Mr. President, the Senator from Arizona having withdrawn his request for the yeas and nays, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Illinois.

The amendment (UP No. 1199) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT VOTES BE STACKED UNTIL 7 P.M.

Mr. BAKER. Mr. President, I have discussed this with the minority leader and other Members. Mr. President, I ask unanimous consent that any roll-call votes ordered between now and the hour of 7 p.m. be stacked to occur beginning at 7 p.m. in sequence, the same sequence in which they were ordered back to back.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1200

(Purpose: To strike out supplemental appropriations for economic support fund assistance, military assistance, international military education and training, and foreign military credit sales, and for other purposes)

Mr. LEAHY. Mr. President, I send to the desk an amendment on behalf of myself and Mr. PELL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont (Mr. LEAHY) (for himself and Mr. PELL) proposes an unprinted amendment numbered 1200:

Beginning on page 31 with line 1, strike out all through line 17 on page 33.

Mr. LEAHY. Mr. President, I ask unanimous consent that Mr. Dodd of Connecticut be listed as a cosponsor as well as Mr. DeCONCINI from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, before the Senator commences his discussion of his amendment—

Mr. LEAHY. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. The Senate is not in order.

The Senator from Vermont has the floor, and under the rules of this Chamber he is entitled to be heard. The Senator from Vermont.

Mr. LEAHY. Mr. President, I do not want to unduly hold up my colleagues here. I have expressed my concern on the floor of the Senate in some considerable detail about the section referring to foreign aid in this supplemental bill.

The administration is asking for a total supplemental of almost \$1 billion for foreign aid, mainly security and military aid. It is asking for \$401 million in bilateral economic assistance and \$301 million in military aid. It has already agreed to a military aid package of \$52 million, with no funds for El Salvador, on the House side. The security arguments, therefore, really have less meaning here since the administration was apparently willing to give this away in the other body.

I ask unanimous consent that a letter dated July 28, 1982, from James L. Buckley, the Under Secretary of State, be printed in the RECORD. This bolsters the comments I have made about the administration's position.

There being no objection, the letter was ordered to be printed in the Record, as follows:

UNDER SECRETARY OF STATE,
Washington, D.C., July 28, 1982.

HON. CLARENCE D. LONG,
Chairman, House Subcommittee on Foreign
Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: This is to inform you that the Administration finds that it has no responsible choice but to accept a compromise on the security assistance supplemental we have requested for FY 82. The compromise will include an overall total of \$52 million of new MAP and FMS credits, for the purpose of funding programs for Sudan, Somalia, Honduras, Portugal and Costa Rica; and \$350 million of ESF to carry out the President's Caribbean Basin Initiative.

In so stating, I emphasize that the President's original request was specifically drawn to meet the most pressing needs of key allies; to improve stability in the Middle East, the Caribbean and Central America; and to pursue our national security objectives in Europe and elsewhere.

We remain convinced that the requested amount is necessary. Nonetheless, we are prepared to accept this arrangement because of your assessment that it is this, or nothing; and we will seek no further funding under our FY 82 supplemental request.

Sincerely,

JAMES L. BUCKLEY.

Mr. LEAHY. Mr. President, we have already enacted over \$2.5 billion for security assistance this year, \$176 million in grant military aid and \$750 million in foreign military sales credits.

When you look at the current economic crisis facing this country, can we really talk about another \$½ billion here, especially \$½ billion that has not gone through the crucible of the authorizing process, one that has not been debated in the authorizing process and apparently will not be? Are there real security needs?

The administration is willing to give up its request for military funds for El Salvador. Can we really vote this much money in foreign aid—and I would just repeat what the distinguished chairman of the Appropriations Committee said yesterday:

Although the committee made reductions in several programs below the levels provided in the House-passed bill, our final prod-

uct is still over the House bill by \$225 million.

Mr. HATFIELD continues to say:

It should be pointed out, however, that the overage is, in large part, attributable to the committee's recommendation of \$426,531,000 in foreign assistance, including \$355 million for the President's Caribbean Basin Initiative.

(Mr. SCHMITT assumed the chair.)

Mr. PELL. Will the Senator yield for a question?

Mr. LEAHY. Certainly.

Mr. PELL. Would it not be the case, if we left things as they are now, exactly the same as if we in the Foreign Relations Committee decided to appropriate some money and did that?

Mr. LEAHY. It would be that exactly. It would really be saying that we do not need the committee system in the U.S. Senate and that we do not need both an authorizing and appropriating committee. We lose the checks and balances. I would say to my good friend, the distinguished Senator from Rhode Island, that we lose the checks and balances which assure the public that at least there will be full consideration of what we do here on the floor of the Senate.

Mr. PELL. And this waives, one step further, the specific provision of the law saying the Appropriations Committee should not take an action of this sort which does not apply to the Foreign Relations Committee until they decided to appropriate some money. Would that not be true?

Mr. LEAHY. Exactly. We would be saying that the rules apply to everybody but they do not apply to us.

Mr. PELL. I congratulate the Senator from Vermont for bringing up this amendment and I hope the amendment prevails.

Mr. LEAHY. I appreciate the comments of the ranking member of the Foreign Relations Committee.

Mr. President, last week this body ratified a constitutional amendment to balance the budget. This week we toss in one-half billion dollars in foreign aid without really even saying what it is going to be used for.

I have stated earlier that I go back to Vermont virtually every week and have doing this now for most of 8 years. I like to go around my State. I feel it is about the most beautiful State in the country. I enjoy talking with the people. I enjoy visiting them, and I enjoy hearing what is on their minds.

I do not think it comes as any surprise to Members of this body on either side of the aisle that the things I hear on their minds these days are cuts in housing, cuts in school lunches, cuts in nutrition, cuts in health, cuts in veterans benefits, cuts in aid to the elderly, cuts in energy, cuts and cuts and cuts.

Mr. President, I will be going back home either this week or next and I

really am not too anxious to have somebody come up to me and say:

Pat, we heard you voted for a half a billion dollars in foreign aid, having voted just last week in the reconciliation bill to make more cuts in all these programs that affect everybody in the country. You voted for a half billion dollars in foreign aid and that was not even authorized. You couldn't even point to a Foreign Relations Committee vote or a Senate vote or a law saying that that money had been authorized for what it is going for. You can cut our farm program, you cut us everywhere else, but you cannot cut this.

To paraphrase a distinguished colleague and friend of mine on April 29, "at a time when domestic programs are being reduced, this increase in foreign aid is hard for me to swallow." That was said by the distinguished chairman of the Subcommittee on Foreign Operations, Mr. KASTEN, and I agree with him.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. LEAHY. Of course.

Mr. CHAFEE. Is this indicative of the intense opposition that the Senator will bring against the \$2.4 billion aid for Israel? Is this a harbinger of his views on that?

Mr. LEAHY. I would assume that we will look at the Israeli aid on the basis of has it been authorized and what is the status of it. The position I am taking is consistent with one I have taken over and over again in this body on the questions of authorization.

Mr. CHAFEE. The authorization is the key element?

Mr. LEAHY. The authorization on a major program, a new program, one that has really no precedent, weighs very heavily with me, yes, it does. We have some items in this bill that probably follow past legislation, past precedent. But there has been no legislation for the Caribbean Basin legislation, no legislation that has passed the Senate, no legislation that has passed the House of Representatives. Actually, nothing that has been voted on the floor here on the Caribbean Basin Initiative. It makes it very difficult for me to support a whole new program solely on the appropriations process.

To give an example, as we have had at times when we have voted appropriations bills, the distinguished Senator from Rhode Island and I and others have voted appropriations bills that may have exceeded the authorization. I would say that those are bills that normally are just following year after year after year of precedent. But it is very hard to vote on the appropriation level for something that is brand new.

I will support the Caribbean Basin Initiative once they tell me what it is going to be. I am delighted to see that the administration wants to have a policy in Central America. After 1½ years, it is high time. I am delighted

that they are now willing to do so. But I think what they should do is come here and say, "This is what our policy will be. This is what the Caribbean Basin Initiative is going to be." Then we will debate it with the majority of the President's party in this body, and then vote the dollar needs.

Mr. CHAFEE. As I understand the Senator's explanation to my prior question, it is not the dollars involved, but it is the lack of authorization and what the program is. If that is what he is following, I think it would be better not to constantly refer to the amount, sort of describing the Nation going into bankruptcy, which obviously it is not.

Mr. LEAHY. I think the dollars are an issue. I do not think we should willy-nilly vote \$128 million for El Salvador. This bill includes \$128 million for El Salvador. I would like to see some authorizing legislation on that.

I am not too sure that there are very many Vermonters, Republicans or Democrats, who expect me to be voting \$128 million for El Salvador without some darn good reasons for it. The dollars are part of the issue. But the dollars in fact become an overwhelming issue without authorization. A half billion dollars is a half billion dollars. That is far more than the whole budget of my State for a year. That is far more than the taxpayers of the State of Vermont will spend in a year, in 1½ years. If we are going to give that away in foreign aid, I think we ought to have it authorized. We ought to know exactly where the foreign aid is going to go before we do it.

So the dollars are important to me, I tell my good friend from Rhode Island, whether they are going to El Salvador or anywhere else.

The dollars may be justified. Maybe notwithstanding our balanced budget constitutional amendment that we passed last week, this half billion dollar increase is justified. Maybe it is. But none of us can really know without the authorizing legislation.

Mr. PROXMIRE. Will the Senator yield briefly?

Mr. LEAHY. I yield to my distinguished colleague.

Mr. PROXMIRE. Mr. President, I commend the distinguished Senator from Vermont on what he is doing here. I think it is so important to respect the integrity of our authorizing committees. We should have an authorization, particularly with a new program and a new big program.

May I ask my good friend from Vermont how he would explain, for example, the fact that on page 31, line 13, the amendment provides \$5 million for Haiti, and on line 14 it provides \$50 million for Jamaica? Does that mean that Haiti is less needy, that Jamaica is 10 times as needy as Haiti? Is that the kind of division of aid that we ought to have a solid record on, that

we ought to have a knowledge about, that we ought to have a demonstrated case showing that we should provide that kind of disproportionate assistance to Jamaica compared to Haiti?

Mr. LEAHY. I have to agree with my good friend and seatmate from Wisconsin. There is no record that I can look back to and say why it is in here.

You can look at these things all the way through. The bill asks for an additional \$12 million for military aid to Honduras. That is in addition to \$10 million appropriated last year in military aid, \$40 million in the proposed CBI, \$20 million in last year's development aid, \$28 million proposed for next year's aid, \$25 million proposed in next year's ESF, \$5 million in Public Law 480, \$20 million in military construction, and another \$15 million in military aid request for fiscal year 1983.

I asked the administration what their policy was in Honduras, what the money was for. I did not get many answers. It is a small and poor country. It does need economic assistance. But what is the military threat? What requires this supplemental?

I share the concern of the Senator from Wisconsin (Mr. PROXMIRE). Just look at the numbers floating across the page. In El Salvador, the Economic Support Fund, \$40 million; military assistance, \$82 million; Public Law 480, title I, \$22.4 million.

That may not be an awful lot of money to Foggy Bottom, but to Middlesex, Vt., it is a fair amount of change.

Mr. DODD. Will the Senator yield?

Mr. LEAHY. I yield.

Mr. DODD. I thank the Senator for yielding. I commend the Senator for offering this amendment. I cosponsored the amendment but I did so with great reluctance. Frankly, the Caribbean Basin Initiative, Mr. President, is the first such initiative in Central and South America in 20 years. The last program that was anything like this at all was the Alliance for Progress, offered by President Kennedy as a way of trying to deal with economic and social injustice in this hemisphere.

So it is with a great deal of reluctance that I stand as a cosponsor of the amendment being offered by the Senator from Vermont and the Senator from Rhode Island. But I do so quite frankly because I think our colleagues ought to know what this issue is.

Despite the fact that Caribbean Basin Initiative has been called an economic development program for the region, it is nothing like that at all.

We are talking about \$230-odd million to go to four countries, the balance of that money to go to the rest of the entire Caribbean. We are talking about \$128 million going to a country that is in the middle of a civil war, El Salvador. Does anyone in this Cham-

ber believe for 1 second that \$128 million in economic assistance is actually going to provide economic help to El Salvador at this hour? Granted they have problems, but does anyone really believe we are going to achieve that?

Do you know why we are providing \$128 million for El Salvador? Because the very rich in El Salvador are taking their money out and sending it to Miami and to Switzerland. We are going to jump in with \$128 million of this country's money to bail out the capital flight from El Salvador. That is what it is all about. We are not going to see 1 red cent of this money going toward a food program, a housing program, a road program. It is balance-of-payments money, capital flight issues in El Salvador.

In addition to the \$20 million in military assistance, we are now going to bail out a nation economically where its own people, the very affluent of this country, will not invest in it. That is No. 1. That is a major issue we have. It is really not an economic development program.

We are going to provide \$5 million for Haiti. We do not even show \$5 million in the budget. I cannot remember when we authorized \$5 million for anything. In the last few weeks the Haitian Government has eliminated some of the best people they put into their Government a few months ago, such as the finance minister. Well, \$5 million may not be a lot but one of the reasons they are getting it quite frankly is because they claim to be an ally.

We are going to provide \$50 million for Jamaica. I have a great deal of respect for the prime minister there. I think he is doing the best job he can. But let us be honest with ourselves. The economic problems of Jamaica are certainly not as serious as the economic problems of the Dominican Republic. Yet there is disparity there.

The point is this: Call this what you will—call it a Caribbean Basin Initiative, call it economic assistance to the region. It is nothing of the kind. It is not even integrated. In fact, the committee, by a vote of 9 to 8, voted to eliminate these markings and identifications and to put all of the funds, the \$350-odd million, into a trust fund. That is what the committee did. That is what the authorizing committee has done. But the appropriating process here has said, no, that does not really count at all, we are going to do what we want anyway, regardless of what the committee has done.

Granted, the Senate as a body has not done anything. I have not voted on a foreign aid bill that came to the floor. I believe foreign aid is absolutely essential. It helps America's prestige around the world. It certainly fulfills obligations we have to our neighbors. But I do hope our colleagues understand what we are doing here today.

The \$350 million in just the Caribbean Basin Initiative proposal—this is an end run. It is an effort to avoid the kind of painstaking process that the authorizing committee has engaged in.

We have gone through days of markup, days of hearings, to try to figure out what we ought to do and what made sense. We made a decision in the committee and, frankly, the committee decision now is not even being considered.

Let me make something also clear to my colleagues here. Nothing is going to happen on the second and third leg of the Caribbean Basin Initiative. This is just a bilateral aid program. That is all this is, \$128 million for El Salvador. That is basically what it is.

What happened to the tax and trade issues? I shall tell you where they are, Mr. President. They are in the Finance Committee. And they are not coming out, either. There is no way those bills are going to come out of the Finance Committee this year.

They talk about economic development in the region and tax incentives and aid issues could play a role in Caribbean Basin development. But they are not going to see the light of day. All we are going to see is this, without any consideration at all for the real economic need of the region.

I strongly urge my colleagues to support the amendment being offered by the Senator from Vermont and the Senator from Rhode Island, because I think it is about time we said no. This has not been well thought out. We are not going to subsidize capital flight, which is what we are doing.

We are not going to sit back and support the sending of our tax dollars to a country where people who have the financial capability fail to do it themselves. That is what we have here.

If we have the will, we will accept this amendment and allow the committee to do its work and come before this body with a well-thought-out bill, and then proceed on it.

I thank the Senator from Vermont for yielding.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Mr. President, I wish to echo much of what my good friend from Connecticut has just said. I support a great deal of our efforts in foreign aid. I have done this on a bipartisan basis. I have voted for foreign aid bills of President Ford's, of President Carter's, and of President Reagan's. But every time I voted for foreign aid, I have at least known what is in the bill. I have at least known where the money is going to, or at least known where we wanted it to go. Now we are dealing, we must be quite frank about it, not only with an issue in this Carib-

bean Basin Initiative, or a great deal of it, not only of not knowing where the money is going to go, but not even knowing where we want it to go. We are going to have a difficult enough time when we finally have a CBI bill before us, when we finally lay out what our policy is going to be, getting assurances that the money will actually go where we want it to go. We are going to have a difficult time being sure that if a land reform program is part of it, indeed, they will have land reform.

We are going to have a difficult time knowing, if American money goes in for economic development in a particular country, it does not end up in a Miami bank account.

We are going to have a difficult time knowing that, when we have a certification of human rights progress, indeed, human rights progress has been obtained.

We are going to have to know for sure that if we are told that killing has stopped, for example, in El Salvador or the killings have slowed in El Salvador, indeed, if that is because there has been a change in attitudes and not simply that most of the likely targets are already dead and that is why the killings have slowed. There are so many issues, all of which would be debated if authorizing legislation is before us.

Mr. President, I have stated before that I have supported foreign aid bills in the past of three Presidents—two Republican, one Democrat—I intend to do it in the future. I intend to with President Reagan. I hope to see a Caribbean Basin Initiative that I can support. I would like to see one that would have the bipartisan support of this body, one that cuts across the ideological, geographical, political, or partisan lines. But I am not going to be able to do it, in a time of great austerity, by writing a blank check.

I know when the President's fiscal 1983 foreign aid request came before Congress. I remember well what the Foreign Relations Committee Chairman Senator PERCY, told Under Secretary of State James Buckley.

Having spent the weekend in Peoria for three days two weeks ago, I can tell you that foreign assistance doesn't fly too well in Peoria or in most other parts of the country.

I remember what Senator HELMS, chairman of the Committee on Agriculture, said:

It's a little tough for me to look at foreign aid with farmers in Illinois, North Carolina, South Dakota, going down the tube because they can't get money.

This may well be an issue that is in the best interests of our country, notwithstanding austerity at home, notwithstanding cuts in programs at home; maybe it is best to continue foreign aid and to continue spending money in these other countries. But if

that is the case, then the case has to be made. On the floor of the Senate, the case has not been made.

If we are in a time of great austerity; if we are in a time when things are so rough that we must vote in this body on a constitutional amendment to balance the budget; if things are so tough that we must cut back on our school lunch program, on our aid to farmers, on housing for the elderly; if we must cut back on medicare and medicaid; if we must cut back on our educational efforts; if we must cut back on our health efforts; if we must cut back even on vaccinations; if we must raise catsup to the level of a vegetable—if we must do all of those things, then I think it behooves us, Mr. President, at least when we are talking about sending money to foreign countries, to sit down and ask first, what is it for?

If we are going to have to be making all these cuts, and I believe that many we have to make in this country because of our economic situation, but if we are cutting everything in our own country, let us not sign blank checks for other countries. Let us make sure that the interests of the United States are being protected when it goes abroad.

Let us make sure, when we shell out a half billion dollars in foreign aid, that we know what it is going to be used for. Let us have a little bit of responsibility. Let it at least be argued, let us know what the overall policy of the United States is going to be: Is this the beginning of the Caribbean Basin Initiative? How much is that going to cost? Is it going to be eventually \$1 billion, \$2 billion, \$5 billion? Nobody has said yet. What do we hope to gain by it?

Is it a case maybe of too little too late? Will it bring stability in Central America? Will the killings stop in El Salvador? Will the human rights be respected? Will we keep some of the countries out of the orbit of the Soviet Union? Those are the appropriate questions before we start out with all of this money, because be assured, my friends, this is only the camel's nose. There is nobody I have talked with that suggests for one moment that this is all the money that is going to be requested. We are embarking on the beginning of billions of dollars of aid.

Did the Senator from Arizona seek recognition? I would be happy to yield to my colleague, the Senator from Arizona.

Mr. DECONCINI. I thank the Senator from Vermont, and I want to compliment the Senator first for locating this particular area in the supplemental appropriations bill and the outstanding presentation he has made this evening in opposition to it.

I rise in support of the amendment of the Senator from Vermont for the

same reason I have risen with the Senator from Montana (Mr. MELCHER) during the budget resolution debate, to try to put some curbs on the excessive expenditures in the foreign aid area.

I find it absolutely ludicrous for us to continue to advance hard-earned taxpayers' dollars when we are all voting—not all of us but most of us, 69 of us—for a constitutional amendment after much debate to balance the budget. Now we have a chance to reduce that deficit by a nifty little 800 some million dollars, and I hope that those who sincerely want to see this budget brought under control will agree that this is a good place to start.

It is very hard to talk to constituents when you talk about putting a pay cap on retired military personnel and civil servants, when you talk about cutting veterans' health care benefits, and many other areas, and then have to hear, "Well, how do you explain this year, 1982, \$3.1 billion more in foreign assistance than the year before?"

Here is a perfect example of putting the cart before the horse when it has not been authorized, No. 1; No. 2, when the priorities have certainly not been set down, and, No. 3, when we flat cannot afford it. We cannot afford an additional \$800 million today. It is time the American people know that on the floor this evening there is going to be an opportunity to decide whether or not we have our priorities in the right perspective, whether or not we think it is important that we do something about the needs in this country and also about the need to reduce that deficit.

I thank the Senator from Vermont for bringing this to the attention of the Senate. I compliment him for it and I hope our colleagues will join us.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, let me make a few other points, if I may, in support of the amendment offered by the Senator from Vermont.

There has been an extensive debate over the past year and a half on the issue of our financial support for the Government of El Salvador. Without debating that issue, Mr. President, as to whether or not we should or should not be supporting the Government in El Salvador, I think all of our colleagues in the Chamber would agree on one point, and that is that it deserves to be debated. Regardless of where one comes down on the issue of El Salvador, very few other issues have captured as much of the attention of the American public or the press as the issue of El Salvador. In the last 3 years, between economic and military assistance almost a quarter of a billion dollars has gone into El Salvador.

I might add that that amount of money is more money than we have spent in three and one-half or four decades in El Salvador in economic aid, just to put it into perspective.

But certainly it has been an issue in hot debate. There have been countless editorials, op-ed pieces in newspapers, TV debates, radio debates, debates in committees in both bodies of this Congress. What we are being asked to do in effect in this particular bill is to agree almost without debate that El Salvador should get almost a third of all the money that is going to go to the Caribbean Basin Initiative, \$128 million just sort of put in the bill despite the fact that the committees charged with the responsibility of debating the merits of such a program have taken a different position. By a vote of 9 to 8 the Foreign Relations Committee decided that it made more sense to multilateralize this assistance, to better coordinate with the donor countries of Canada, Venezuela, Mexico, and Colombia so that the Caribbean Basin Initiative would work in a most efficient possible way. What we are doing is totally obviating that discussion and that debate. We are saying it did not really matter at all.

What I am suggesting is, whether or not you agree or disagree with the conclusion of the authorizing committee, certainly the authorizing committee deserves more respect than the treatment it is getting by just totally disregarding the hours of debate that preceded the vote in the committee to multilateralize this assistance, rather to make it a bilateral aid program that we have done by earmarking the funds specifically for the countries that we think deserve that assistance.

Mr. President, I emphasize again that I happen to feel very strongly about the need for a Caribbean Basin Initiative. The region needs it desperately. It is the best hedge we have against the kind of tragedy we see in El Salvador, we saw in Nicaragua, that we are seeing in Guatemala, we may see in Costa Rica before the year is out. The best hedge against totalitarianism, against the Marxists, the Leninists, is to have a country that is economically sound based on democratic principles and the right of self-determination.

The Cubans and others have never been successful in penetrating those societies, but what we are doing with this bill is to provide a disproportionate amount of funds to one nation for the simple reason that the people who live there have failed to make the investment in their own nation. We are not suggesting that there ought to be a slowdown in capital flight, not making these funds contingent upon El Salvadorans investing in their own country. We are saying we will bail you out, we will provide the \$128 million so that you can continue to take

your money out of El Salvador and put it in accounts in other nations including our own. That is what we are really doing.

For the reasons I have identified, the reasons that have been identified by the distinguished Senator from Vermont, the distinguished Senator from Arizona, and the distinguished Senator from Rhode Island, I hope that our colleagues agree to this amendment and allow for a normal process to proceed. If we are truly interested in providing the kind of economic assistance that the President has described, through the vehicle of the Caribbean Basin Initiative, then let us do it intelligently. Let us do it so it will make a difference, so that it will reach the people we would like to see these funds reach, the people who are desperately trying to get their countries back on their feet. The present process will not achieve that. We are wasting money through this proposal. I strongly urge the adoption of the amendment. I yield back the floor.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, the Appropriations Committee is recommending approval of the administration's economic assistance portion of the Caribbean Basin Initiative including an add-on of \$5 million for Honduras. I point out to the Senate that that \$5 million add-on has been offset by a similar reduction in the military assistance request for that country.

Mr. President, the Caribbean Basin Initiative is the single most important program the administration has suggested for Latin America. It represents the most comprehensive economic cooperation package since the Kennedy administration's Alliance for Progress 20 years ago.

The CBI is going to provide badly needed budget and balance-of-payment support for the economies of several important countries in the Caribbean.

It is important to recognize that we have had five different hearings touching on subjects dealt with here, one being a special hearing on the CBI itself.

It is also important to recognize that we have worked with the Foreign Relations Committee and with the chairman of the Foreign Relations Committee in a compromise amendment on the authorizing legislation. The amendment which was offered by the distinguished chairman of the Foreign Relations Committee and which was adopted provides that funding for the CBI will not be obligated until September 15 or until enactment of authorizing legislation, whichever comes first.

So, basically, that keeps intact the Appropriations Committee action on

this matter, although it gives the authorizing committees sufficient time in which to take action.

This is a good accommodation, a fair compromise, and we are under a time constraint in connection with this matter.

One reason why the waiver provision of that bill and the chairman's amendment were necessary was the severe outlay restraints that will affect function 150 in fiscal year 1983. If all expenditures under the CBI are delayed beyond September 15, the impact of this outlay problem for fiscal year 1983 will be severe.

I yield at this time to the ranking minority member of the Foreign Operations Subcommittee, the distinguished Senator from Hawaii. I thank him for his help, his support, and his work. I know that he joins me in trying to work through the difficult and serious problems we have in the Caribbean.

I hope this amendment is defeated.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUE. Mr. President, I find myself in a very uncomfortable position, debating this issue in opposition to my beloved colleagues on the Democratic side of the Senate Chamber. But before proceeding, I think a few items should be clarified.

This is not the first time we have appropriated moneys without authorization. As many Members are aware, I was chairman of the subcommittee for many years. I can recall at least two occasions when we appropriated huge sums of money for the migration and refugee programs covering Indochina, and this was a new program. The authorizing committee, the Foreign Relations Committee, for reasons of its own, had failed to act. An emergency was upon us, and on two occasions we appropriated millions of dollars.

I can also recall at least two occasions when we appropriated funds without authorization on another new program, the international narcotics control program. Narcotics abuse was a problem that was reaching crisis proportions, especially in our port cities and our huge urban areas, and we felt that the time had come for us to become involved not just within our localities but at the source.

On at least four occasions, we appropriated funds for the international financial institutions, without authorization. These are the funds we set aside for the multilateral development banks.

I am certain it is common knowledge to all of us here that on countless occasions we have appropriated funds under continuing resolutions without authorization; and when one speaks of continuing resolutions, we are talking about the whole foreign assistance package.

We have appropriated funds for programs in the Middle East for Egypt, for Israel, for Lebanon, for Jordan, all without authorization.

In looking over the measure presently before the Senate, under appropriations for the Department of State, I can see, on one page alone, four items totaling more than \$60 million that will be appropriated without authorization.

So I think the record should show that this is not the first time. The question is: Should we wait?

Second, it has been suggested in opposition throughout the debate that the military assistance program, the foreign military sales program, and the military education program have not been authorized. I am certain that all of us know they have been authorized.

I believe the chairman of the committee has adequately covered the reasons why the Caribbean Basin Initiative is worthy of our support. It is true that we are supporting the El Salvador Government and economy; and it is true that many of their wealthy people have taken out their funds. But why are they taking out their funds? Because of instability and because of terrorism in that country.

I know that it is tempting for all of us to close our eyes and look inward, within our own country, in times of need and crisis; that we wish to close our eyes to any relationships and concerns we may have with foreign countries. But I think we should remind ourselves that, notwithstanding the greatness of this country, we are not independent. We are dependent upon other countries. Our colleagues should be reminded that about 15 years ago, a very important commission made a very important study to determine that 100 most essential strategic goods that are required to maintain our economy and keep our Republic afloat. Of the 100 items—such as cobalt, manganese, titanium, iron, copper, platinum—it was found that we could provide only 15 percent. Eighty-five percent had to come from the outside.

For example, Jamaica provides most of our bauxite. The only bauxite deposits we have in the United States are found on the island of Kauai, in the Hawaiian chain, under the city of Lihue, and I do not believe that the people of Lihue will dig up the city for the bauxite.

What do we find in the Caribbean that is so important to us? Why does the committee feel that money should be set aside for these countries—these foreign countries—at a time when we are denying our people? For one thing, we find that one-half of our exports and imports that are carried by ships have to go through the Caribbean; they have to go through the Panama Canal. Three-fourths of all our oil im-

ports have to follow sealanes through the Caribbean. It would be most uncomfortable if these important countries in the Caribbean were in unfriendly hands.

Third, this is a time when we are concerned about illegal immigrants. We are going to debate in a few days the matter of immigration—about the Haitians, about the Mexicans, about the Indonesians, about South Americans who are illegally entering the United States.

Every study has indicated that the economic pressures in the Caribbean nations have contributed heavily to the illegal immigration to the United States. If we want those people to remain where they are, I believe the time has come for us to address these economic conditions of these countries.

Fourth, I think it should be noted that the economies of the countries in the Caribbean Basin are very important to our economy. Even under poor conditions, they have been purchasing at least \$7 billion of U.S. goods. This was last year.

Fifth, I believe it should be noted that of the \$350 million that will be appropriated in this bill for the Caribbean Basin Initiative, much, if not all of it, will be spent in the United States.

It is true that this is not truly an economic support program. As my colleague from Connecticut said, this program will help these countries by assisting them on their balance of payments deficits. Without this assistance we will find several of these countries not only on the verge of bankruptcy but possibly going into bankruptcy.

So we have a choice, I say to my dear colleagues, of closing our eyes to the problems of the foreign countries, or concerning ourselves with their problems because I am always convinced that if there is a riot in Bangladesh, it will affect us; if there is a civil war in El Salvador, it will affect us, if Nicaragua falls to an element that is not friendly to us, it will affect us.

And if we are to maintain this democracy which we cherish so much, we cannot uphold ourselves as an island. We are not an island. We are part of the world.

It is a large sum. But when one considers the economic health and political stability of our country, I think it is a small investment to make.

I hope that my colleagues will uphold a position of the committee. As indicated earlier I find it very uncomfortable speaking against my colleagues on the Democratic side. But I want to be consistent, whether in the majority or in the minority.

I thank the Chair.

Mr. SYMMS and Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I wish to compliment my colleague from Hawaii for those very incisive remarks.

I shall be very brief. I know the chairman of the Foreign Relations Committee is seeking time.

I would like to point out that there are 100 million people who live between the borders of the United States on the southern side and the Panama Canal. We hear this hue and cry about our immigration problem, and the Senator from Hawaii touched on the immigration problem that I think is ahead for us, and surely the United States with billions and billions of dollars that we have poured overseas in the Far East, in Europe, in the Middle East, in terms of foreign aid, can come up with a little bit of support to try to help people right here in this hemisphere.

I had the opportunity to visit Central America earlier this year, and I have filed a report with the majority leader and made it available to all my colleagues on what I observed in Central America.

I only say to my colleagues that I think without America's aid right now in El Salvador surely things will be very, very difficult in the future.

I believe that the Senator from Hawaii makes a very, very good argument in terms of safeguarding the supply of minerals and resources that we are relying on in this country, in terms of the Caribbean, the oil flow that comes in through the Caribbean Basin, in terms of its essential importance to the future security of the United States. If we fail to defend freedom in El Salvador and in Central America, we are going to have immigration problems in this country that will be unimaginable when compared to anything we have had in the past. There is no question about it, in my judgment.

If we apply the rule of 10 percent, we will be talking about at least 10 million immigrants walking through Central America and across that 2,100-mile unmaned border with Mexico. There are already a half million El Salvadorans in the United States. If the efforts of the government in power there now to defend freedom should fail and the efforts we are making should fail, then I think we could probably anticipate seeing not next year, not 5 years from now, but immediately, another half million in the United States, and there are problems that we as Members of this body will have to cope with.

So I believe it would be very shortsighted for the Senate here tonight to support the amendment of my good friend from Vermont. We should stand with the Foreign Relations Committee, and I believe that the wise deci-

sion would be to vote down the Leahy amendment.

I yield the floor to the Senator from Illinois.

Mr. PERCY. Mr. President, I express appreciation to both the Senator from Hawaii and Senator SYMMS for what I consider to be a very sound evaluation of programs that are in the United States national interest.

We are talking about security assistance. We are not just talking about the CBI. This amendment strikes programs that have been authorized for a year in the Foreign Relations Committee. This strikes supplemental appropriations for military assistance, military training, military credit sales, and the special defense acquisition funds. We are striking at the heart of things that we have worked on to strengthen our own national security interest and the security interest of our friends.

In a period when the President has placed the highest priority on security, why would we strike at the very programs and funds that strengthen others and by so doing strengthen the common defense? That is the most self-defeating thing that I have ever heard.

This amendment strikes at the heart of these security assistance programs, and we have to realize that.

We will deal later with CBI and we will have other amendments when we can talk about that. But I think at this particular point it is well to just indicate how closely allied these programs are that will be cut out with our own national security interests.

All of these programs, as I say, have been authorized except the CBI, and I have reiterated and will repeat again that the CBI can be authorized by September 15. This amendment strikes funds for NATO allies that have bases used by U.S. military forces, Portugal and Spain.

The Ambassador from Portugal came in today to say goodbye as he now leaves to go back to be Foreign Minister of Portugal. I can just imagine what his reaction would be as foreign minister of a fine NATO ally if we strike at the heart of funds that he feels are small indeed compared to the real overall need.

It strikes funds for U.S. allies in South Korea and Thailand that are under constant military pressure.

Have we forgotten that we fought a war in Korea? Have we forgotten that and we won freedom for South Korea? Are we going to endanger that by sending a signal out there that we think the danger is all over?

Just take a trip out there, just talk to them, talk to anyone who has been in that area and he will tell you the danger is not over, the danger is ever present, and the buildup in North Korea is very real indeed.

This strikes funds for Sudan.

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. PERCY. I will be finished in just a moment and be happy to yield.

This strikes funds for Sudan and Tunisia that are under constant political and military pressure from Libya's Qadhafi. I was in Sudan at the time of the riots there in January when they had thousands of people rioting and a death as a result of pressure on them economically and because they had to increase the price of sugar some 60 percent.

Certainly we know that Tunisia is one of the staunchest friends we have, but they are under constant threat from Qadhafi. This is the wrong time, the wrong time indeed to take this kind of a measure.

A prominent diplomat from Europe today reported that today for the first time in his memory it is popular in Europe to be anti-American. They feel some of our policies have been very inconsistent. We know the problems we are facing in the Middle East today, all over the area where the credibility of the United States has dropped down drastically.

You do not buy friends but you also do not destroy programs that have been worked out in cooperation with friends, allies, and supporters of the free world. We do not just pull the rug out from under them precipitately this way. I trust the amendment will be defeated.

Mr. LEAHY. Mr. President, I listened to what the distinguished chairman and my good friend from the Foreign Relations Committee has said. Incidentally, when he mentioned Sudan I point out they are now substantially in default of their FMS guaranteed loans as are some of the other countries listed in a recent GAO report, including El Salvador.

When he speaks of the urgency, I would remind the Senate of the letter that has already been placed in the Record from Mr. Buckley in which the administration suddenly found they could do without nearly a quarter of a billion dollars of MAP and FMS credits.

Now, this is why we should vote on this only when we have an authorization. It is obvious the one hand does not know what the other hand is doing. I want to know where a half-billion dollars of the taxpayers' money is going before I vote for it.

Mr. THURMOND. Mr. President, I rise today in support of the appropriations included in this bill to carry out the President's Caribbean Basin Initiative.

This program will target much needed assistance to several small developing countries in Central America, the Caribbean, and South America. This initiative addresses the poor eco-

conomic conditions which threatened political and social stability in the region.

The program includes provisions for improved trade agreements with these countries, tax incentives for U.S. industries willing to invest in these areas, and direct economic and technical assistance to these nations.

Mr. President, I feel it is imperative that we undertake this initiative to improve our ties with our neighbors to the South. This is an excellent opportunity to strengthen our commitment to freedom and independence for the peoples of the Western Hemisphere.

It would be a grave strategic error to allow subversive forces such as Cuba and the Soviet Union to continue being the dominant influence in this area of our hemisphere. If this program is implemented, a clear message will be sent to our adversaries that we are willing to assist our neighbors in their attempt to preserve their freedom, peace, and security.

The peoples of Central America and the Caribbean are our fellow Americans. The most effective way of maintaining and improving our relations with our fellow Americans is to insure that they are not forced to exist under economic depression and misery. This program will allow us to answer their call for assistance, and at the same time, it will allow us to improve our strategic position in the area. The results will be a free, prospering hemisphere whose countries have a better understanding of each other.

Mr. President, I am pleased to lend my support to this progressive and imaginative initiative, and I hope that my colleagues will be able to support it also.

The PRESIDING OFFICER (Mr. HAYAKAWA). Under the previous order, a vote has been ordered for 7 o'clock.

Mr. LEAHY. Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. The hour of 7 having arrived, the question is on agreeing to the unprinted amendment of Senator LEAHY, UP No. 1200. The yeas and nays have been ordered, and the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Vermont. The yeas and nays have been ordered, and the clerk will call the roll. The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Georgia (Mr. NUNN), the Senator from Michigan (Mr. LEVIN), and the Senator from Michigan (Mr. RIEGLE) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 42, nays 54, as follows:

[Roll Call Vote No. 303 Leg.]

YEAS—42

Baucus	Dodd	Melcher
Bentsen	Eagleton	Metzenbaum
Biden	Exon	Mitchell
Boren	Ford	Moynihan
Bradley	Glenn	Pell
Bumpers	Hart	Proxmire
Burdick	Hefflin	Pryor
Byrd	Hollings	Randolph
Harry P., Jr.	Huddleston	Sarbanes
Byrd, Robert C.	Jackson	Sasser
Cannon	Johnston	Stennis
Chiles	Kennedy	Tsongas
Cranston	Leahy	Zorinsky
DeConcini	Long	
Dixon	Matsunaga	

NAYS—54

Abdnor	Gorton	Nickles
Andrews	Grassley	Packwood
Armstrong	Hatch	Percy
Baker	Hatfield	Pressler
Boschwitz	Hawkins	Quayle
Brady	Hayakawa	Roth
Chafee	Helms	Rudman
Cochran	Helms	Schmitt
Cohen	Humphrey	Simpson
D'Amato	Inouye	Specter
Danforth	Jepson	Stafford
Denton	Kassebaum	Stevens
Dole	Kasten	Symms
Domenici	Laxalt	Thurmond
Durenberger	Lugar	Tower
East	Mattlingly	Wallop
Garn	McClure	Warner
Goldwater	Murkowski	Weicker

NOT VOTING—4

Levin	Nunn
Mathias	Riegle

So Mr. LEAHY's amendment (UP No. 1200) was rejected.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. INOUE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1201

(Purpose: Perfecting amendment to the committee amendment.)

Mr. SYMMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 1201.

Mr. SYMMS. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the Committee Amendment on page 31 at the end of the paragraph, insert the following: Notwithstanding any other provision of this Act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and Safety'; and

Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

Whereas the Foreign Ministers of the Organization of American States of Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extra-continental Communist powers, including even threat of military intervention in America on the part of the Soviet Union'; and Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination;

Mr. SYMMS. Mr. President, I yield to the Senator from Wisconsin (Mr. KASTEN). I think he wants to set the amendment aside.

Mr. KASTEN. I would prefer that the committee had an opportunity to review the amendment. We had an understanding with other Senators that, at this point, we would proceed with their amendments. I wish the Senator would withdraw his amendment at this time and give the committee members an opportunity to study it, then it can be taken up following the amendment on Greece and Turkey.

Mr. SYMMS. Mr. President, would it be in order to ask unanimous consent to set the amendment aside so we can consider the other amendments first?

Mr. HATFIELD. I would object to that, Mr. President.

I implore the Senator from Idaho please to withdraw his amendment at this time, for the simple reason that we have asked Senators, on two previous occasions, to give us an understanding of what amendments are going to be offered. We have been trying to deal with subject matter, to keep them together, such as CBI. To intervene at this time would be very difficult and change the whole procedure.

Mr. SYMMS. Mr. President, it is not my wish to impose upon the committee. This amendment is perfectly germane to the CBI amendment. I thought it was the understanding of the Senator from Wisconsin—

Mr. HATFIELD. Mr. President, in all fairness to Senators who have given us notification, we have set up a schedule here. We have called Senators to the floor with the expectation of having their amendments considered in orderly procedure. I ask the Senator to let us follow this procedure, to let us get this matter moving.

Mr. SYMMS. I ask unanimous consent to withdraw the amendment.

Mr. HATFIELD. I thank the Senator.

Mr. KASTEN. I thank the Senator from Idaho and I look forward to working with him on this amendment.

The amendment (UP No. 1201) was withdrawn.

UP AMENDMENT NO. 1202

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. KASTEN) proposes an unprinted amendment numbered 1202.

On page 33, line 3, strike all after the comma following "Spain," through line 12, and insert in lieu thereof, the following:

"Greece, and Turkey: *Provided further*, That of the commitments provided only to guarantee loans for the countries referred to in the first proviso \$26,000,000 shall be provided only for Korea, \$25,000,000 shall be provided only for Thailand, \$20,000,000 shall be provided only for Morocco, \$10,000,000 shall be provided only for Tunisia, \$20,000,000 shall be provided only for Portugal, \$25,000,000 shall be provided only for Spain, \$35,000,000 shall be provided only for Greece, and \$50,000,000 shall be provided only for Turkey."

Mr. KASTEN. Mr. President, a number of Senators have indicated some concern with regard to the FMS guarantee supplemental we are providing for Turkey. As I understand that concern, it relates to a need for balance that many Senators feel between our assistance programs to Greece and our assistance program to Turkey. The committee has simply approved the supplemental request for Turkey, as requested by the administration. It agrees that this assistance is urgently

required to modernize that country's armed forces.

The PRESIDING OFFICER. The Senate will be in order so we may hear the Senator from Wisconsin.

Mr. KASTEN. The committee agrees that this assistance is urgently required to modernize that country's armed forces so that Turkey may meet vital NATO commitments. I do recognize, however, the question of balance brought up by a number of Senators, particularly the Senators from Maryland and Delaware. They have been concerned about this issue. The amendment I am offering, I believe, will alleviate this concern by providing \$35 million in FMS for Greece and \$50 million for Turkey. This will keep the ratio a number of my colleagues are interested in and, at the same time, not jeopardize the additional assistance required by Turkey.

I yield to the Senator from Delaware.

Mr. BIDEN. Mr. President, I shall be brief. Let me begin by thanking the Senator from Wisconsin for this amendment changing U.S. military assistance to Greece and Turkey from a 7-to-12 ratio back to the 7-to-10 ratio.

I shall not belabor the Senator on the merits of this proposal, only to say that I think the position we originally took in the Committee on Foreign Relations for fiscal years 1982 and 1983, which was one of rejecting the argument for additional money for Turkey in the first place, is the best of all positions. That is not what is before us.

What is before us is a compromise moving us back to a position where, at a minimum, we maintain the 7-to-10 ratio, which is vital.

I think it is important that a message go forward from here, that the U.S. Senate is not about to deviate from that ratio and that we believe that is vitally important.

I also think it is very important not to upset the balance which we have abided by for so long around here, for several very specific reasons. One, Turkey still occupies 40 percent of Cyprus and it still has a military government.

Second, Greece and Turkey have a new agreement for a moratorium on provocations and for foreign ministers to enter discussions in October, and now is not the time to change the game plan. There is much more that can and should be said to this, but I think in light of what is a reasonable compromise it would do me well to say no more and yield the floor.

Mr. SARBANES addressed the Chair.

Mr. KASTEN. I yield to the Senator from Maryland.

Mr. SARBANES. Mr. President, the amendment offered by the distinguished chairman of the subcommittee is an improvement over the committee-reported bill since the amend-

ment recognizes the 10-to-7 ratio between aid to Turkey and aid to Greece heretofore established as necessary to maintain the balance of forces in the eastern Mediterranean. By reducing the amount of aid to Turkey and by providing \$35 million in assistance to Greece, the amendment underscores the continuing concern of the Congress with the situation in the eastern Mediterranean.

However, I regret that any increase of assistance is being provided to Turkey which has remained intransigent in resolving the tragic situation in Cyprus and other outstanding issues in the eastern Mediterranean. Constructive solution of these issues would greatly enhance relations between Greece and Turkey and between each of these countries and the United States. American policy should be pressing for such solution and clearly large amounts of American assistance ought not to be granted if a positive response by Turkey is not forthcoming. In the absence of such a response, there is no basis for an increase in assistance, and I hope the final version of this legislation will not so provide.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I do not understand exactly what we are doing tonight. As I understood what was happening was that the administration asked for a certain amount of money for aid to Turkey, and that that amount was approved by the Appropriations Committee. Now we are coming to the floor tonight and suddenly it has come up that there is some magic formula that has to exist in the aid that is given to certain countries.

I would like to know the explanation for doing that. If x amount of dollars should go to Turkey, fine. If x amount of dollars should go to Greece, fine. But I do not think we should be strapped by some formula that in perpetuity says that if you give x to Turkey, you must give y to Greece. I would be interested in the proponents of this amendment giving us some explanation, based on a deeper reasoning than the fact that some formula has been struck that we all must observe. We are giving U.S. taxpayers' dollars away.

Mr. BIDEN. I would be happy to attempt to respond.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CHAFEE. On what basis, the Senator is giving the explanation on what basis?

Mr. BIDEN. The Senator said proponents of the amendment. I am not the author. If the Senator would like me to respond, I would be delighted to. I think I have a cogent answer for the

Senator, but if he would rather someone else respond, fine.

Mr. CHAFEE. No; I could not get a better source than the Senator from Delaware, who is always very persuasive.

Mr. BIDEN. Let me respond to what is a very valid question in the following way. First of all, a bit of immediate past history. The Foreign Relations Committee previously rejected additional arms sales for Turkey. The Appropriations Committee in its wisdom decided to put it back in. But that does not respond specifically to the Senator's question. His question was why this ratio of 7 to 10. The answer can be had very simply by pointing out that Greece and Turkey are both deemed to be vital to U.S. security interests, and years ago in order to maintain what was believed to be the physical structure that each country needed and the relative balance of power between them so that they would both maintain their continued positions in NATO, it was concluded that a 7-to-10 ratio, was in fact, one that would enable Turkey and Greece to meet their NATO commitments but not enable Turkey and/or Greece to gain military power that would, in fact, put their other long-term adversary at a position they would not have been in but for U.S. aid. Or to put it another way, 7 to 10 means that Turkey does not have the wherewithal to militarily do in Greece and vice versa. That is a formula upon which both the Turks and the Greeks have known we have been operating for some time. It is against U.S. interests for us, in the name of preserving a NATO commitment and NATO capability, to put one of our two allies in that region of the world in a position of military preponderance over the other.

Mr. CHAFEE. May I ask a question?

Mr. BIDEN. Yes.

Mr. CHAFEE. The distinguished Senator from Delaware says it is against U.S. interests. Says who? Who is to determine U.S. interests?

Let me follow that with, What did the administration ask? Does anybody know? I am not saying the Senator should know. Somebody must know in this Chamber.

Mr. BIDEN. Yes. The administration asked for \$82 million not be divided in the 7-to-10 ratio but an additional \$82 million to go to Turkey.

Mr. CHAFEE. But the Senator said it was against U.S. interests. Now, there is an administration who asked this. Were they operating against the interests of the United States?

Mr. BIDEN. I believe that this administration is misguided in what they believe to be in our best interests. The better way to put it would be that it has been viewed by the past three administrations—

Mr. CHAFEE. I am not so sure that is true either.

Mr. BIDEN. Wait. Let me finish. It has been viewed by the past three administrations that the ratio of 7-to-10 was in fact a ratio that best met our interests in the region. What I am arguing is, in the face of the lack of movement on Cyprus, coupled with what are peaceful overtures by the Greek Government and the Turkish military regime to talk about their mutual problem, now is not the time to change what heretofore has been the game plan.

Mr. CHAFEE. Mr. President, is the Senator through?

Mr. BIDEN. Yes.

Mr. CHAFEE. Mr. President, this bothers me. I do not know the answer to these problems, but I know that getting locked into some permanent formula is the wrong way to do business. The needs of the two countries vary as the exigencies of the time vary. The needs of Turkey at one time are x dollars, another time perhaps it might be Greece requires more than that. But I think we are making a tremendous mistake to say that regardless of the conditions we must follow some pattern that somebody at one time has set.

What is magic about 7 to 10? For every \$7 you give Greece, you must give \$10 to Turkey; for every \$20 you give Turkey, you have to give \$14 to Greece. That does not make any sense at all, Mr. President.

Mr. BIDEN. If the Senator will yield—

Mr. CHAFEE. And nobody has given us a rational explanation of this.

Mr. BIDEN. If the Senator will yield on that point, foreign policy is not always rational. The important point is that we continue to have a firm alliance with both Turkey and with Greece. The fact of the matter is if we shift the amount of aid in such a way that either nation perceives the involvement of U.S. aid as being detrimental to their interests, causing them to do what Mr. Papandreou was threatening to do prior to his election and what is constantly a real threat in that part of the world, and that is receding from NATO or their NATO obligations, it seems to me purely from a naked self-interest point of view it is important that the United States strike upon a balance which does three things:

One. It provides both our NATO allies with the military wherewithal to be able to fulfill their responsibilities.

Two. It does it in such a way that neither believes that military aid puts their national sovereignty in jeopardy relative to our other allies.

Three. It is relatively cost effective. I said at the outset the wisest thing to do would be not to give any increase in aid but if the Senator wants to, I would be glad to go into the merits of whether or not the Turks need an additional \$82 million. The Foreign Rela-

tions Committee concluded the administration did not make the case for that, and we did not go along with it, purely on military grounds.

So it seems to me that although this is not the best solution—the best solution is to wipe out the \$82 million, period—it does, in fact, meet a legitimate, reasonable requirement of American foreign policy, and for us to have our aid go forward in such a way that we keep a balance between both parties, which we believe to be essential to our security. It is a judgmental call on the part of the administration and Congress as to whether or not a certain allocation meets that requirement. But that is the end objective. There is nothing magic about a formula.

Mr. CHAFEE. Mr. President, I think we make a great mistake by being locked into certain formulas.

In a prior incarnation within the Navy Department, we had a set formula to always keep two carriers in the Caribbean. If you did not keep two carriers in the Caribbean, everything went to pieces.

That was a terrible mistake, because that meant when we had only one there, everybody became excited; or, if we had three there, it appeared that we were warmongers.

Mr. President, I believe that this country is becoming locked into a set formula such as that, or this 7-10 formula, with the aid to these countries, both of whom are our allies, both of whom are associated with us in NATO, is the wrong way to proceed.

The administration, as I understand it, has asked for \$82 million for Turkey. I ask the chairman of the committee if that is correct.

Mr. KASTEN. The Senator is correct.

Mr. CHAFEE. They have arrived at that formula, presumably, because they thought that was needed for Turkey. It turns out that if you do that, that is going to upset everybody, or so it is said. Apparently, the administration did not think so.

We have dealt here in past years with other matters affecting these two countries. What is said by the administration is not always wrong.

What has happened, as I understand the proposal, is that we take the \$82 million and chop it up so that it ends up with 10 of those units to Turkey and 7 of those units to Greece. Is that correct?

Mr. KASTEN. The amendment provides \$35 million for Greece and \$50 million for Turkey, both in FMS guarantees.

Mr. CHAFEE. Mr. President, I see where the votes are here tonight, so I will not press this to a vote. But I hope that in the future we will be able to look at each country individually and its needs. It may well be that we will

have evenings such as this in the future when the requirements of Greece are greater than those of Turkey; and if so, we should meet them, or vice versa.

What we want is the strongest possible alliance and the best help from either of those countries, as it might be, in accordance with the precepts of NATO. But I think a set formula such as this is the wrong way to proceed.

Mr. TSONGAS. Mr. President, I support my colleagues, Senator BIDEN, Senator KASTEN, Senator PELL, and Senator SARBANES, in opposing an increase of \$82 million in foreign military credit sales to Turkey included in the fiscal year 1982 Supplemental Appropriations Act. I agree that the present compromise of splitting the increase between Greece and Turkey so as to maintain the 7-to-10 ratio is acceptable.

This proposed committee increase would send a clear message both to Greece as well as Turkey, that the United States is not committed to maintaining a military balance among the nations in the eastern Mediterranean region. Nor would the United States honor its agreement to maintain the 7-to-10 ratio in military assistance payments to Greece and Turkey. Also, this proposed increase ignores the unstable situation in Cyprus, and could further enhance Turkish intransigence there. The United States can play a role in reducing tensions and insuring the return of stability in this region, but not by increasing military assistance to Turkey with no corresponding increase to Greece.

With negotiations over renewal of U.S. base contracts in Greece expected to begin late September or early October, this \$82 million increase would only be viewed by the Greek Government as an insensitive response to the concerns of Greeks, Cypriots, and Greek Americans alike. We must expect serious consequences which may jeopardize these base negotiations.

I urge my colleagues to support this amendment in the interest of maintaining our own security positions in the eastern Mediterranean, as well as continuing cordial relations with Greece and Cyprus.

Mr. President, I was in Cyprus about 2½ weeks ago. As Senators know, the Greeks and the Turks are negotiating on the issue of Cyprus, and after a long time there has been some inching toward each other, with miles to go.

I recall that when I first came to Congress 8 years ago, we were on the verge of solving this, if only we would continue aid to Turkey and Greece, and so forth. That never took place. We went through the embargo period, the post embargo period, and, in my mind, we have made precious little progress.

The point is that those negotiations are intricate and are involved in the same symbolism that is involved in foreign policy. I do not think the issue is rationality or irrationality. The issue is symbolism.

The last thing we need is to have the Greeks and the Turks on Cyprus spending the next year or so figuring out what this vote meant.

The 7-to-10 ratio, which arguably could be dispensed with—and would be none the worse for wear—has a certain relevance because of what is happening in Cyprus.

I urge that the amendment be adopted. I would favor it all being taken out, but that is not the case. At least, let us not upset the balance of negotiations which have been going on and which I think will reconvene in September.

Mr. CHAFEE. Mr. President, I find the argument of the Senator from Massachusetts very appealing.

I say this: We are going to be confronted in this Chamber with many, many votes in which we are told, "Don't do anything because the negotiations are so tender at this moment."

We have been through this problem and this situation as it exists with those two countries for many years. Maybe the Senator is right: Do not do anything, because the negotiations are at a fragile stage, just about to reach culmination of years of difficult diplomacy. I hope he is right. But I do not find that argument all-persuasive.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. CHAFEE. I yield.

Mr. TSONGAS. I did not mean to imply that they are close to fruition. They are a long way from fruition. I just want to make that clear. I did not intend to imply that whatsoever.

Mr. PELL. Mr. President, last December Congress passed, and the President signed, a 2-year foreign aid bill providing military and economic assistance authorizations for fiscal years 1982 and 1983. In that bill, Congress allocated military aid to Greece and Turkey in a 7:10 ratio. In previous years, aid to those two countries had been apportioned in the same ratio and, given the sensitive state of relations in the eastern Mediterranean, it was a considered congressional judgment that the 7:10 ratio should be maintained. Accordingly, for each year—fiscal year 1982 and fiscal year 1983—some \$280 million in credit guarantee authority was earmarked for Greece, while report language specified that the sum of military grants and guarantees for Turkey should not exceed \$400 million.

Earlier this year, the administration submitted a fiscal year 1983 aid request which went beyond the levels already authorized for that fiscal year. Although reluctantly, the Foreign Relations Committee considered the pro-

posed increases and approved a considerable number, raising the overall authorization of appropriations for fiscal year 1983 foreign aid by some \$786 million, primarily for security assistance. The committee also raised the ceiling on military sales credit guarantees by an additional \$710 million. These two increases produced an overall program increase of nearly \$1.5 billion for fiscal year 1983—from \$9.2 billion to \$10.7 billion.

One proposed increase for fiscal year 1983 which the committee specifically and carefully considered involved aid to Turkey. The committee was mindful of Turkish security needs and Turkish economic difficulties, but also concerned that Congress continue to abide by the legally mandated commitment, placed into law in 1978, to provide U.S. aid in such a manner as to foster military balance among the countries of the eastern Mediterranean region, meaning essentially Greece and Turkey. Acting on these considerations, the committee approved additional military grants for Turkey while stipulating that the overall level of military assistance to Turkey should remain at \$400 million. Thus, the economic burden on Turkey was lightened by shifting the Turkish program further in the direction of grant aid—but without violation of the 7-to-10 ratio, which the committee judged to be particularly important for United States-Greek relations.

It was for this reason that I view with serious concern the appearance in this supplemental appropriations bill of some \$82 million in additional fiscal year 1982 military credit guarantees for Turkey. On two occasions within the last year, the Foreign Relations Committee addressed the question of aid to Greece and Turkey; and on both occasions the committee determined that the U.S. interest in that region was best served by preservation of the 7-to-10 ratio. The enactment of the fiscal year 1982 augmentation for Turkey would not only break that ratio, but would also violate the limitation which the committee implicitly attached to its original authorization of the fiscal year 1982 military credit guarantee program. I therefore support the modification proposed by the chairman of the Foreign Operations Subcommittee which would restore the 7-to-10 ratio.

Mr. KENNEDY. Mr. President, I am pleased to join with my friends and colleagues in sponsoring this amendment which limits supplemental military aid to Turkey. The Turkish Government is currently receiving \$704 million in economic and military assistance for fiscal year 1982. At this time of urgent fiscal restraint and persisting Turkish inflexibility on the Cyprus question, an additional \$82

million for Turkish military modernization is unwarranted and unwise.

The continued occupation of Cyprus by Turkish military forces denies the Cypriot people the right to determine their own future. Turkey's refusal to cooperate in resolving the Cyprus conflict should not be rewarded by generous increases in military aid. The United States should not subsidize the illegal occupation of Cyprus. Instead of providing military support to Turkey, the administration should devote more diplomatic effort to an immediate solution for Cyprus.

The request for an increase of \$82 million in military aid to Turkey would also upset the 10-to-7 ratio that has long been maintained between aid to Turkey and to Greece. This ratio has been helpful in maintaining balanced relations among the United States and its allies on the southern flank of NATO, and it should be maintained as a symbol of U.S. commitment to peace and a strong Atlantic alliance.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1202) was agreed to.

Mr. KASTEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1203

(Purpose: To reduce the CBI appropriation by \$177.5 million)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Dodd) proposes an unprinted amendment numbered 1203:

On page 31, line 5 strike everything after "1961" through line 15, and in lieu thereof, insert "\$177.5 million."

Mr. DODD. Mr. President, the effect of this amendment is to cut the funding we are appropriating in this measure for the Caribbean Basin Initiative by one-half. The \$177.5 million is exactly one-half of the request contained in the bill.

Before going into the more substantive arguments as to why we should cut this amount in half, I should like to bring up a matter which should be of deep concern to all of us in this Chamber when it comes to dealing with the budget in the next fiscal year, fiscal year 1983.

This money for the CBI, as we all know, is a supplemental appropriation for fiscal year 1982, a fiscal year that is going to draw to a close in a little over 1 month.

I ask my colleagues whether or not it makes any sense that, in the 11th

hour, we seek to increase aid to that region, the Caribbean Basin, by some 40 percent over normal levels at the same time we are asking domestic programs to take significant cuts.

I point out that the first budget resolution of Congress has established ceilings in the foreign affairs accounts and outlays for fiscal year 1983; and if the fiscal year 1982 money that is provided cannot be obligated in fiscal year 1982 due to insufficient time, these funds could be scored in fiscal year 1983 against the foreign affairs accounts. This may result in foreign affairs accounts being over the ceilings that already have been established, thereby necessitating a cut in other foreign aid programs where we do not know they are going to occur.

In effect, we will have to spend this money in a little more than a month; and if we do not, it will be scored against fiscal year 1983 accounts. Of course, we have no idea where those cuts may come in the overall foreign aid bill.

What this is, substantively, is an effort to try to appeal to those who opposed the amendment offered by the Senator from Vermont, when an effort was made to cut all the funds, some \$860 million, that included the Caribbean Basin Initiative.

This proposal just cuts in half \$177.5 million of that program.

Again, many of the arguments that were raised by the Senator from Vermont and others can be raised here.

Very briefly, let me reiterate some of those arguments as they affect the CBI. I have stated over and over again that I believe the Caribbean Basin Initiative is a sound idea. It has been 20 years since we have had such a program at all. My hope is we will be able to see a Caribbean Basin Initiative go forward.

The problem is that the appropriations bill identifies specifically where these moneys are to go. Yet the Foreign Affairs Committee has reached a different conclusion. I grant you that is not a decision by this full body. But after several days of hearings, at least a couple of days of markup, it was the conclusion of the Foreign Relations Committee that we should deal with those funds in a different manner than as suggested by this particular proposal.

So there is some significant debate not only as to the quantity of funds and how they should be allocated but in fact whether or not there should be this kind of a program at all and whether or not it should be multilateralized or dealt with in some different manner.

If we are going to deal with a new program such as this, one that could bring great economic relief to the Caribbean basin, then it should be dealt with in a far more intelligent fashion than just doing an end run on the authorizing process.

It has been argued earlier today that this is not precedent setting, that there have been numerous other instances in recent times where the Appropriations Committee has appropriated funds prior to authorizations actually occurring and that in fact that has occurred in areas that were new initiatives.

I respect that, I understand that has happened.

The difference between those events and the one that is before us this evening is the fact that the Foreign Relations Committee is prepared to move on the foreign assistance bill. We are prepared to move on the Caribbean basin initiative. We completed our markup some weeks ago, and we have been prepared to come forward.

That is really not the issue. It is not a question of whether or not the committee has acted or not acted. We have done our business. We have done our job. And we are being told here this evening that despite what we have done, another committee is going to decide another program, and that is really what the issue is here.

It seems to me that, before that process gains the kind of momentum it seems to have already this evening in this Chamber, we should be allowed to debate these issues to their fullest through the authorizing process, particularly one that is going to have the long-term effects that the Caribbean Basin Initiative may have.

Therefore, Mr. President, I offer this amendment to reduce by one-half the request for the funds for the Caribbean Basin Initiative. It still is a lot of money; \$177.5 million is not a small amount of funds. But it seems to me to appropriate the full amount, the \$355 million, with less or little more than 1 month remaining in this fiscal year is not a reasonable way to proceed and that it is a rush to judgment on a program that should be debated more thoroughly.

So, Mr. President, I urge the adoption of this amendment as one that will save some funds this year and allow us to debate the issue and deal with it in a more intelligent fashion.

Mr. President, before yielding back, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, I yield back the floor.

Mr. KASTEN. Mr. President, I wish to respond briefly to the Senator from Connecticut.

We have been told that the Agency for International Development expects to expend approximately \$200 million before the end of fiscal year 1982 from CBI funds.

I also understand that there may be problems with respect to GAO concerns that expenditures should not exceed the immediate needs of a particular program.

However, although I recognize these concerns as valid, I believe that the serious balance-of-payments problems existing throughout the Caribbean region and our own outlay concerns, justify expenditures in the amount contemplated by the CBO.

Therefore, I strongly encourage the Agency for International Development to expend approximately \$270 million in fiscal year 1982, utilizing appropriate mechanisms including trust arrangements, escrow accounts, or other similar kinds of methods or controls, and we have been told—

Mr. DODD. Mr. President, will the Senator yield?

Mr. KASTEN. Let me just complete. We have been told that they in fact do intend to do this. So we examined this particular subject with them and they have assured us that they do intend to expend these funds.

Mr. DODD. Mr. President, will the Senator yield?

Mr. KASTEN. I am pleased to yield.

Mr. DODD. This is called an economic development program. Can the Senator identify for me whether or not we are going to build or provide any economic assistance in the sense of contributing to the land reform program in El Salvador? What is the money going to be used for? What is the \$128 million in El Salvador going to be used for?

Mr. KASTEN. The funds for El Salvador's economy will be used primarily to stimulate production and employment in the private sector and develop and help maintain some of the economic infrastructure, to help rebuild and maintain some of the infrastructure that has been destroyed by the guerrilla attacks. I am told that the foreign exchange potential of our assistance will be directed through the banking system for financing.

Mr. DODD. Mr. President, if the Senator will yield further, what percentage of these funds is going toward the balance of payments in El Salvador?

Mr. KASTEN. I do not know exactly what percentage of the funds will be going for the balance of payments in El Salvador.

Mr. DODD. The Senator does not know?

Mr. KASTEN. I do know that a number of—

Mr. DODD. How much is going for land reform? How much is going to economic reform? How much is going to agriculture development? How much is going to urban development? Do we know that?

Mr. KASTEN. We know the general area it is going to be used in, and I do not think it is necessary to sit here

and earmark the money. We are having enough trouble earmarking country by country let alone earmarking a number of dollars for land reform and a number of dollars for this project or that. We have enough trouble with roads and bridges in our own country let alone getting involved with roads and bridges in El Salvador. As the Senator knows, our assistance has two effects—one being the hard currency effect, the other what is done with the local currency which is generated.

Mr. DODD. I respect the Senator's response.

The point has been made by others that this money is going to the balance of payments. That is what it is going for. The truth of the matter is there is not going to be one red cent of these funds used for economic development in the traditional sense. It is going to balance of payments. That is all it is going to. That is the truth.

Let me tell the Senate why it is going for balance of payments. It is because there has been \$1.5 billion in capital flight from El Salvador because the El Salvadorans with the money are not investing in their own country. It is going to Swiss bank accounts. It is going to Miami. It is going to other places other than their own country. We are being asked here tonight to spend \$128 million, and I listened to debate after debate over the last year and a half how we cannot spend money here at home, and we are going to bail out those people who fail to invest in their own nation. That is what we are doing. There is not a nickel of this money being used for the things the Senator from Wisconsin has suggested.

None of it is going to allow them to buy more arms, that is not what it is going to do. It is not going to go toward an economic support program or to assist a country that is in desperate shape at all. It is balance of payments, which is the only reason it is going. So this amendment I am suggesting would halve that amount across the board and then let us deal with it in a thoughtful manner. Let us find out what is going on. We do not even know. We are appropriating \$350 million to a region in the world and we cannot be told here this evening where the money is going. We would not tolerate such a proposal if it were going into the 50 States of the United States.

Can you imagine someone standing up and saying, "I am proposing that we spend \$128 million but I am sorry I cannot tell you where it is going to be spent?"

Yet no one is sitting here prepared to tell us where the \$128 million is going to be spent in El Salvador; where \$40 million is going to be spent in Honduras; \$5 million in Haiti, one of the most corrupt governments on

the face of the Earth, not only in this hemisphere, and yet we are being told to go along, to support this program, when we would subject our own domestic programs to far greater scrutiny than we are to this particular program.

We are talking about fiscal austerity. We are being told by the President that we cannot spend more, we have got to cut, we have got to cut further, we have got to cut into the marrow. Yet tonight we are being asked to support \$350 million for a program where we do not even know where the money is going to be spent, except some people believe, and I happen to believe, it is a balance of payments, and it is a bailout.

We had a longer debate over Chrysler than we are having on the bailout in El Salvador.

I thank the Senator.

(Mr. MATTINGLY assumed the chair.)

Mr. HATFIELD. Mr. President, I would like to just say that I understand the remarks on the argument made by the Senator from Connecticut because in many ways I share some of those views. But I want to put this into a little different context for just a moment.

We have a bill here that we have to get a Presidential signature to. It will not do us very much good to put anything in this bill or to delete anything in this bill if we end up with a veto and have to go back to redrafting it.

This bill is \$1.2 billion under the President's request. That is the total figure. But it is, in effect, about \$400 million over the nondefense discretionary areas of the President's request. Now, because the President is pursuing a point of analysis that separates defense spending from nondefense spending, I really feel that we are facing a very serious crisis in many of these programs, such as the Older Americans Act, such as nutrition, food, health, the infrastructure of agriculture, transportation, all of these other areas that constantly have received the cutting ax of the appropriations process.

The House has not entered into their bill this provision we have adopted in the Senate of the CBI of \$355 million plus the \$70 million of the other programs in foreign aid. This is going to go to conference anyway, and I want to say really right up front that we need some bargaining measure with the House, not only with the House but we need it with the administration. We need to be able to say to the administration that we are going to be forced to go back to the drafting board, and then the \$355 million, plus the \$70 million could become a very important issue in getting an agreement for a Presidential signature.

Now this, perhaps, is not traditional or this is not kosher to be discussing the strategy of trying to get a Presidential signature, but I want to be very up front with the Senator from Connecticut and say I really feel that as well-argued as his issue is, that in the other context which I am discussing it tends to fall short of what I think is very important, to protect these other programs.

I know the Senator, and other Senators such as the Senator from Connecticut, is deeply committed to, involved in and concerned about these programs, and I really feel we have gone to the marrow of the bone, as the Senator has indicated, in many of these other programs. Yet if we have a Presidential veto, where are we going to cut further? That is why I would like to see—the Senator has made his point, and I wonder if the Senator will consider pulling his amendment down on the basis that we probably will not get the full amount in the Senate bill nor the configuration of this amount when we go to conference. The Senator knows that Doc Long and the committee from the House with whom we will be meeting are not at all enamored of this particular structured provision we have in the CBI, and I am sure we are going to have to make some concessions and some compromises with the House.

But we do need, I think, as Senator KASTEN has indicated, the full latitude to bargain with the House and, very frankly, to get some leverage with the White House on getting a signature to the overall supplemental.

Mr. DODD. Mr. President, if the distinguished Senator will yield, I first of all want to commend him. I want him to know and others to know that my remarks in no way are directed at the Senator from Oregon, the distinguished chairman of the Appropriations Committee, who has been a leader on the issue of Central America, has been outspoken in his criticism of what he has perceived, and I agree with him, in some of the tragedies going on in Central America, and I want to thank him for the candor of his remarks, more candor than I have heard in my short tenure, as to why this has gone on.

The Senator is saying to the junior Senator from Connecticut, and I may be wrong, that the price we have to pay to get a President to sign a bill that has cut domestic programs to the very bone is to include a \$355 million request, one-third of which goes to one particular country in Central America, and if we will give him that increase then he will support the drastic cuts we have had to make in the domestic programs. In effect, is that what the distinguished chairman of the Appropriations Committee has said?

Mr. HATFIELD. No, I would not walk into that analysis whatsoever. I

would not be as candid with the Senator from Connecticut on that issue as I have been on the general strategy of getting the appropriation measure through.

But I would say simply that I believe it is a question of perception and of priorities where men of good faith can differ.

I happen to believe, as does the Senator from Connecticut, that the El Salvadoran situation is another quicksand that we find ourselves getting more and more engulfed in, and I would like to see us extricated, and I would support many actions that the Senator from Connecticut would take, as he has already taken, to restrict the flow of arms, to restrict the American involvement in El Salvador.

But I would only say this: That because of the Caribbean initiative, the President has, I think, very sincerely created or has offered or suggested, and I can support that on the developmental aspect, not perhaps on the military because I believe that that is the key to stability in the Caribbean, and that is the economic development rather than more arms to try to create more of an armed camp than is already there. But I do not think it is a question of whether we are trading off one for the other. I think it is a matter of where we can find the leverage, and I think the Senator from Connecticut is aware, as I am, that up to this time all of the major cuts in Federal spending have been taken in the nondefense discretionary area.

I would say to the Senator from Connecticut that we could abolish all those programs and still not balance the budget, and it is, I think a poor reason to think we can make further cuts there and without excising those programs and make them still a practicable, viable program. It is not possible.

But I do think this is something we have to do constant battle with the administration on, there is no question about it, and we have been doing and I continue to do so. I differ with them on this. But I do not believe it is one that one can say it is purely a tradeoff of American interests for Caribbean interests. I think it is a matter of perception, and it is not my perception. I would not charge the Senator or the President or anybody else with ill motives out of their pursuit of this policy, and I do not know that I could read into this action the motives of anyone. But I do think we have to face the reality that we are dealing with the proposition of how do we get a signature. I do feel that this is part of the leverage we ought to try to sustain at least to the conference with the House and then, hopefully, that we can get some commitments by that time from the administration.

Mr. DODD. Again, Senator, I thank the chairman for his candor in ex-

plaining his rationale for being for this amount. With all due respect to his request, I must respectfully regret that I cannot pull the amendment down. I do believe that I cannot do so not only for the reasons I have tried to articulate earlier, but because of the procedural process as well of appropriating funds before we have even had an opportunity to bring that matter before the floor, particularly when we have debated so long in committee. I think it would be a mistake, particularly when we are prepared to come forward with our authorization, which is the position we are in in the Committee on Foreign Relations.

But I do want to reiterate, if I can, Mr. President, my deep, deep respect for the chairman of the committee, Senator HATFIELD, for his work in the general area of the Caribbean Basin and his outspoken candor here this evening in explaining the rationale for his particular position. I thank him for yielding.

Mr. DENTON. Mr. President, may I ask for a brief time from the Senator from Wisconsin?

Mr. KASTEN. The Senator has been recognized.

Mr. DENTON. Mr. President, I just want to remark that not everyone in this body agrees with the point of view expressed by the junior Senator from Connecticut nor by the wise and experienced chairman of the Appropriations Committee.

I for one, and I believe many in this body, believe that the Caribbean Basin initiative is well-founded. Having been there, I can say that, that there is an external threat militarily which does have to be met. I do not oppose the Caribbean initiative on that matter. It is an insufficient effort to improve things economically.

I think it is absurd for us, from our perspective, to try to earmark funds for incremental disbursements in El Salvador. That is arrogant. I believe this body with all due respect, fails to recognize the relationship between failed foreign policy, failures in foreign policy, and disastrous effects in the domestic economy.

I believe if one were to track history and take a look, for example, at the rise in the price of oil back to 1973, could correlate that with failures in foreign policy, perhaps mostly in Southeast Asia.

If the recognition were made of the importance of the relationship between foreign policy success or failure and the domestic economy, we would not continue to make the blunder of posturing one against the other, whether we spend for defense or foreign aid, on the one hand, or for the domestic economy, on the other. They are interrelated directly. The first social service a government must provide its people is national security.

Our national security and our international commerce depend a great deal upon our respecting the President and Secretaries of State as they make judgments in this field. I believe we should be more respectful than we are, not meaning this to apply to any individual here.

I would conclude by quoting Dean Rusk's article in the Washington Post several Sundays ago, in which he said that Secretaries of State throughout recent decades would have an advantage in dealing with the Congress if they had the experience of raising a couple of teenagers.

We are schooled and experienced individually in various fields, but they are appointed, and the President is elected, to take the leadership in these fields. I believe we should show, in general, more respect for their initiatives in this area.

I thank the Senator.

Mr. KASTEN. Mr. President, it is my understanding the Senator from Illinois, the chairman of the Foreign Relations Committee, may wish to speak.

Mr. PERCY. I thank my distinguished colleague, and I will speak very briefly.

This legislation is not just about the Caribbean. It is about the central point of American interests in this whole hemisphere. It is a litmus test as to whether we mean what we say, whether we really do feel that stability in the Caribbean area is in our national interest and whether we are willing to reach out and do something about it.

Other nations have interfered and reached into this area. They have done so on a massive basis and they have made some progress.

The question we must deal with is do we really care, are we concerned about the Caribbean Basin? And if we are, what are we going to do about it? What the administration has come up with is an imaginative program that certainly is not of the bold nature of, say, a Marshall plan for Europe. It does not depend upon aid. It depends upon laying a foundation with modest amounts of aid but primarily based on trade and on investment. But you have

to create the climate to attract that investment.

Many of the countries in this area, as we know, are struggling democracies. We have had the presidents of several of them just recently here telling us of what they are doing, what they are accomplishing, and what they are trying to accomplish under the democratic principles in which they deeply believe. But they need help; they need assistance; and this is the chance that we have to step up and give it.

Representatives of nearly every one of these countries at some time or other have made representations to us and have indicated how much our help, not only our symbolic help but meaningful aid, will enable them to do the kind of a job that they are undertaking in building the democratic process.

Not only do they want our help, but they are also asking us to help them create opportunities for their country to expand in production efforts, in production and output, in creating employment opportunities for their people, so that they can build a stable country the kind that can only come through a stable economy. They are struggling to do this and they have asked for our help. These business opportunities we will have to be developed one at a time. But you have to lay a foundation and a base under them.

We have a role and a responsibility in this region and we cannot shirk it; we cannot shrug it and we cannot minimize its impact on our own security here.

I ask unanimous consent, Mr. President, that a table be printed in the RECORD at the conclusion of my remarks that will show the balance of payments gap in the Caribbean Basin countries and what their present deficit is, what their capital account will be, as made up from other aid agencies, international organizations, the additional financing they need, and what the CBI supplemental will help them accomplish.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1.)

Mr. PERCY. Without our assistance at this time, the balance of payments gap in a great number of these countries will double what it presently is forecast to be. Let there be no doubt about the fact that our participation in overall aid programs for these countries is absolutely critical in the planning presently underway in the World Bank, in the IMF and in the development cooperation agencies of our allies in Canada, Europe and Japan.

Because we have not yet acted to make our commitment clear, meetings have been canceled with the other regional donors. They have been canceled with Canada, Mexico, Venezuela, and Colombia. Meetings with our European allies in which they might act to double their own assistance in this region have not been held, simply because this Congress has not yet declared its commitment to the future economic development and stability of the Caribbean Basin area. An area that is an integral part of our Western Hemisphere's security and defense and stability.

This is leverage that we offer. It is seed money that we are putting in. A great deal more will follow and from a great variety of other donors. This legislation is only the first step in a very important multilateral effort.

I just give another example. The Association of Commerce and Industry in Chicago is the largest association of its kind in the United States, if not in the world—12,000 members. They have pledged their full, total support for this effort. They are ready to go. Thousands of manufacturers will be contacted to see what they can do to invest in this area, to help in furthering our national security interest in the stability of a region important to this country. But this cannot be done if we just walk away and say we are not going to take care of the financing of the CBI.

In conclusion, I would like to comment on what Senator Dobb has previously indicated, that El Salvador would get one-third of the aid in this

EXHIBIT 1

CARIBBEAN BASIN COUNTRIES 1982 BALANCE OF PAYMENTS GAP

	Belize	Costa Rica	Dominican Republic	Eastern Caribbean	Haiti	El Salvador	Honduras	Jamaica
Current account deficit	-54	-393	-806	-150	-176.3	-361.5	-398	-584
Capital account	(1)23	(2)181	(3)619	(4)115	(5)147.9	(6)164.7	(7)277	(8)311
Gap	-31	-212	-187	-35	-28.4	-196.8	-121	-303
Additional finance	16	142	132	13	28.4	173.0	62	244
(Of which CBI supplemental)	(10)	(70)	(40)	10	(5.0)	(128.0)	(35)	50
Unfinished gap	15	70	55	22	23.4	23.8	59	59

Sources of capital: (1) CDB—5.4; UK—11.4; EDF—3.0; Canada—1.4; Cfc—0.5; V/Mex—4.7. (2) U.S. Aid—50; IBRD—31; V/Mex—57; FRG—15; Japan—7. (3) Private—320; US Aid—24.3; IDB—93.2; IBRD—70.0; IDA—14.4; USCCC—57.0; Other—40.1. (4) Private—40; U.S. Aid—18; UK—12; Canada—10; CDB—12; EDF—8. (5) None. (6) Private—50; U.S. Aid—122.5; IDB—64.8; V/Mex—48.4; CABI—13.8. (7) Private—75; Intermediaries—12; SOR—25; U.S. Aid—42.6; IDB—63.7; CABI—19.7; IBRD—31.3; V/Mex—15.9. (8) Private—7; UK—10; Canada—15; IDB—30; IBRD—30; OPEC—10; V/Mex—75; Trin/Tobago—30; Decrease in arrears—30.

Source: U.S. Agency for International Development.

bill. This is wrong, because the amendment that has been accepted by the distinguished manager of the bill, Senator KASTEN, the amendment that I offered provides for authorizing legislation to take effect before money can be appropriated under this bill—unless we go to the very deadline of September 15. At that time, if we simply have not been able to act by then, then certainly we want to go ahead with this program. That only gives them 2 weeks to implement the program. But we have from now until September 15 to have an authorization bill.

The Foreign Relations Committee, in accordance with the procedures of the Senate, can then determine and register its opinion on the level of assistance to El Salvador. That is the impact we could have at that time. That is what the law and our procedures provide.

Still more importantly, this package is not just about El Salvador, it is about an entire geographical region that is of critical importance to the United States. Time is running out. It is time for us to take a first step in the launching of the Caribbean Basin package, and I urge the defeat of the pending amendment.

Mr. KASTEN. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Wisconsin (Mr. KASTEN) to table the amendment of the Senator from Connecticut (Mr. DODD). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Mr. RIEGLE), the Senator from Arizona (Mr. DECONCINI) and the Senator from Maryland (Mr. SARBANES) are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN) and the Senator from Michigan (Mr. RIEGLE) would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 40, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS—55

Abdnor	Grassley	Nunn
Andrews	Hatch	Packwood
Armstrong	Hatfield	Percy
Baker	Hawkins	Pressler
Boschwitz	Hayakawa	Quayle
Brady	Heflin	Rudman
Chafee	Helms	Schmitt
Cochran	Humphrey	Simpson
Cohen	Inouye	Specter
D'Amato	Jepson	Stafford
Danforth	Kassebaum	Stevens
Denton	Kasten	Symms
Dole	Laxalt	Thurmond
Domenici	Lugar	Tower
Durenberger	Mattingly	Wallace
East	McClure	Warner
Garn	Murkowski	Weicker
Goldwater	Nickles	
Gorton		

NAYS—40

Baucus	Dodd	Melcher
Bentsen	Eagleton	Metzenbaum
Biden	Exon	Mitchell
Boren	Ford	Moynihan
Bradley	Glenn	Pell
Bumpers	Hart	Proxmire
Burdick	Hollings	Pryor
Byrd	Huddleston	Randolph
Harry F., Jr.	Jackson	Roth
Byrd, Robert C.	Johnston	Sasser
Cannon	Kennedy	Stennis
Chiles	Leahy	Tsongas
Cranston	Long	Zorinsky
Dixon	Matsunaga	

NOT VOTING—5

DeConcini	Riegle
Levin	Sarbanes
Mathias	

So the motion to lay on the table Mr. Dodd's amendment (UP No. 1203) was agreed to.

Mr. KASTEN. I move to reconsider the vote by which the motion was agreed to, Mr. President.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, may we have the attention of the Senate?

The PRESIDING OFFICER. The Senate will be in order.

TIME LIMITATION AGREEMENT

Mr. HATFIELD. Mr. President, I wish to announce to the Senate the program we have for the rest of the evening. It is our hope to be able to finish this section dealing with foreign aid tonight. With the amendments that we are aware of at this point, I think we can finish in a very short order. In fact, I have now cleared with the minority side of the aisle and the majority side of the aisle and the proponents and the opponents the next amendment, which is the Symms amendment. It is agreed that they will limit themselves to a half hour equally divided, Senator SYMMS being the sponsor of the amendment, Senator PERCY being the opponent.

Mr. President, at this point, on the basis of that understanding between

the minority and the majority side, I ask unanimous consent that a half-hour, equally divided, be agreed to for the Symms amendment, which will be the next amendment up.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, if I may have the attention of the Senate and if the distinguished manager will yield me 1 minute, this should complete this section. We do not anticipate the requirement for a record vote on the section, so it looks like we will have one more vote tonight. It will be the intention of the leadership then to go out until 10 a.m. tomorrow. Members should be on notice that we will be in late tomorrow, and that it is our intention to finish this bill tomorrow, if it is humanly possible to do so.

Mr. President, I will not make the request to set the hour at this time, but if the distinguished manager wants to get on this bill earlier than that, I will be glad to do that.

Mr. HATFIELD. Mr. President, I ask the leader to perhaps make that 9 o'clock or 8:30.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, will the distinguished Senator yield, the manager of the bill?

Mr. SCHMITT. Mr. President, reserving the right to object, I will not object. I am just curious if the leadership and the distinguished manager of the bill would be amenable to laying down the amendment that we have been trying to get up all day before we go out tonight?

Mr. BAKER. Mr. President, I am agreeable to having the amendment laid down tonight, and I yield to the Senator from Oregon, who is the manager, to negotiate that.

Did the Chair grant my request for tomorrow?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, it is the intention of the leadership to ask the Senate to resume consideration of this measure as soon as possible tomorrow. I hope Senators may avoid asking for special orders, and I will address the minority leader late about abbreviat-

ing our times so that we can be back on this bill at 9:30 in the morning.

I yield, if I may and with the consent of the manager, to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I have an amendment I intend to offer and then withdraw it. Also, I have a colloquy to put in the Record. It will just take a half a minute.

Does the Senator want to do that now or later?

Mr. HATFIELD. I am happy to yield to the Senator.

AMENDMENT UP NO. 1204

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND) proposes an unprinted amendment numbered 1204.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 13, strike the figure "\$29,000,000," and insert in lieu thereof the figure "\$54,000,000." On page 39, line 19, strike the word "and". On page 39, line 20, strike the period, insert in lieu thereof a semicolon, and add the following: "and \$25,000,000 for the Congaree Swamp National Monument, South Carolina."

Mr. THURMOND. Mr. President, this amendment would increase the appropriation for land acquisition and State assistance by the National Park Service by \$25 million. The purpose of these additional funds is to pay any deficiency in the award of the court for the condemnation of lands within the Congaree Swamp National Monument in South Carolina.

In October of 1976, then President Ford signed Public Law 94-545, authorizing the establishment of the Congaree Swamp National Monument. This legislation provided a land acquisition ceiling of \$35.5 million, and directed the Secretary of the Interior to develop and transmit to Congress a general management plan for the use and development of the monument by October 1979.

Three tracts, consisting of approximately 360 acres, were acquired by declaration of taking in October 1977. The vast bulk of the property within the monument was not acquired until February 1980, however, when a declaration of taking was filed against the 14,665-acre Beidler tract. On March 10 of this year, a court-appointed commission recommended a fair market value of \$47,009,000 for this tract, but this issue has since been recommitted to the commission to correct certain alleged computational errors.

Mr. President, in light of the clerical nature of the errors asserted, it is not inconceivable that a final ruling as to the fair market value of this tract may be made before the end of the current fiscal year. This amendment, if adopted, should provide sufficient funds to pay any judgment rendered in this matter, including any interest which may have accrued since the date of taking. This, in turn, would remove the only remaining impediment to the adoption of a general management plan, which is now almost 3 years overdue, and would be a major step toward the beneficial use and enjoyment of this valuable national asset.

Mr. President, I call upon my colleagues to support this amendment.

Mr. McCURE. Will the distinguished Senator from South Carolina yield?

Mr. THURMOND. I will be happy to yield to the distinguished Senator and my good friend from Idaho.

Mr. McCURE. Mr. President, while I can sympathize with the desire of the distinguished Senators from South Carolina to see the land acquisition issue at the Congaree Swamp National Monument finally resolved, I must object to this amendment on three grounds.

First, this amendment would make appropriations without the necessary authorizing legislation. As the distinguished Senator from South Carolina stated, Public Law 94-545 authorized only \$35.5 million for land acquisition for the monument. This entire authorization has already been expended, and legislation to increase the authorized level of spending has yet to be introduced.

Second, the intent of the Interior Subcommittee in providing land and water conservation funding in this supplemental appropriations bill is simply to enable the Secretary of the Interior to be in a position to satisfy deficiencies and court awards as promptly as possible. The projects included are those projects which in the judgment of the Secretary, are likely to need funds first. As a practical matter, funding for Congaree Swamp was not included in this bill because, in the Department of Interior's opinion, funds would not be required in fiscal year 1982.

Third, and perhaps most important, the appropriations recommended by this chapter already exceed the administration's request by \$27 million, and this amendment, if adopted, would add \$25 million to this figure.

Mr. THURMOND. If legislation increasing the authorized land acquisition ceiling for the Congaree Swamp National Monument were to be introduced tomorrow, would that satisfy the first objection of the distinguished Senator from Idaho?

Mr. McCURE. It would be a good starting point. Hearings must also be

held by the appropriate committee to determine the amount of any increase which would need to be made.

Mr. THURMOND. Is not the appropriate committee for considering any increase in the authorized land acquisition ceiling for the Congaree Swamp National Monument the Committee on Energy and Natural Resources, of which the distinguished Senator from Idaho is chairman?

Mr. McCURE. It is, and I am.

Mr. THURMOND. If legislation increasing the authorized land acquisition ceiling for the Congaree Swamp National Monument were to be introduced tomorrow, would the distinguished Senator from Idaho be willing to schedule hearings on that measure?

Mr. McCURE. Knowing of the concern of the distinguished Senators from South Carolina, I would do everything in my power to see that hearings would be scheduled on that measure.

Mr. THURMOND. If legislation increasing the authorized land acquisition ceiling for the Congaree Swamp National Monument were to be introduced tomorrow, would the distinguished Senator from Idaho, as chairman of the Subcommittee on Interior and Related Agencies of the Senate Committee on Appropriations, consider recommending appropriations sufficient to meet any deficiency in the land acquisition ceiling for the Congaree Swamp National Monument in this bill or in the regular appropriations measure for fiscal year 1983?

Mr. McCURE. For the reasons I have already stated, I could not recommend such an increase in the bill now before the Senate.

As for fiscal year 1983, it is the policy of the Subcommittee on Interior and Related Agencies to recommend appropriations in matters of this sort only where a judgment has already been rendered or may be anticipated to be rendered within the applicable fiscal year, and the probability of a successful appeal is unlikely.

Mr. THURMOND. If a judgment is rendered or may be anticipated to be rendered with respect to the Beidler property and the probability of a successful appeal from that judgment appears unlikely, would the distinguished Senator from Idaho then recommend appropriations for this purpose in fiscal year 1983?

Mr. McCURE. While I cannot give an unqualified answer to the question from the distinguished Senator from South Carolina, I can assure him that I will follow the policy of the Subcommittee on Interior and Related Agencies and, if such a recommendation complies with this policy, will do everything possible within the budget constraints we face to assure its adoption.

Mr. THURMOND. Mr. President, based upon the answers I have received from the distinguished Senator from Idaho, I ask that the amendment be withdrawn from consideration at this time. I thank the distinguished Senator from Idaho for his cooperation in this matter.

Mr. McCLURE. I thank the Senator.

Mr. THURMOND. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has that right. The amendment is withdrawn.

UP AMENDMENT 1201

(Subsequently numbered amendment No. 2020.)

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. Symms) proposes an unprinted amendment numbered 1201.

Mr. SYMMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. DODD. I object, Mr. President.

The PRESIDING OFFICER. Will the Senate please come to order.

The Senator from Idaho.

Mr. SYMMS. Mr. President, I yield myself 5 minutes.

Mr. DODD. Mr. President, objection is heard to the unanimous-consent request.

The PRESIDING OFFICER. The unanimous consent has been granted for the time agreement on this amendment.

Mr. DODD. The unanimous consent was dispensing of the reading of the amendment. I object.

The PRESIDING OFFICER. The clerk will continue to read the amendment.

The assistant legislative clerk read as follows:

In the Committee Amendment on page 31 at the end of the paragraph, insert the following: Notwithstanding any other provision of this act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. Res. 230 (76 Stat 697), to wit:

Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers "To extend their system to any portion of this Hemisphere as dangerous to our peace and safety," and

Whereas in the Rio treaty of 1947 the parties agreed that "an armed attack by any State against all the American States, and,

consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations", and

Whereas the Foreign Ministers of the Organization of American States of Punta del Este in January 1962 declared: "The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extra-continental Communist powers, including even threat of military intervention in America on the part of the Soviet Union", and

Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination;

Mr. SYMMS. Mr. President, I thank my colleagues for the opportunity to present arguments again on my amendment reaffirming the 1962 Cuba resolution and U.S. policy toward Cuba.

As the Senate knows, I offered Senate Joint Resolution 158 as an amendment to another Senate resolution a few weeks ago. After considerable debate, the Senate, by a vote of 41 to 39, on April 14, 1982, tabled the amendment in order that the Foreign Relations Committee might hold hearings on this issue.

Regardless of the tabling action, I was pleased that the Senate had an opportunity to discuss the issue. I was, of course, disturbed that the Senate did not see fit at that time to send a strong, clear message to the Soviet Union and Cuba that at least the Senate believes aggression and subversion in the Caribbean should be resisted. However, I hope the Senate will now approve the resolution.

The purposes of my resolution are threefold. First and most significantly, the resolution reaffirms the law of the land on American policy toward Cuba, as embodied in Senate Joint Resolution 230, passed overwhelmingly by bipartisan majorities of both Houses in September 1962. Second, it reaffirms the Monroe Doctrine first announced in 1823. Third, my amendment has several policy thrusts:

It expresses the determination of the United States to prevent, by force

if necessary, the Soviet-backed Communist regime in Cuba from engaging in aggressive or subversive activities in any part of the Western Hemisphere;

It expresses American determination to prevent the Soviets from establishing a military base in Cuba;

It states American support for the freedom and self-determination of the Cuban people.

Mr. Chairman, I could not agree more with a statement by William Safire in his recent New York Times column entitled "Is Castro Convertible." He said:

Now is the time to deal with a threat before it becomes a crisis.

Indeed, we do need to fully understand and recognize the Soviet threat from Cuba, both subversive and nuclear. The President has acknowledged that the Soviet threat from Cuba is as great or even greater than it was in 1962. He warned the Caribbean nations during his visit to Barbados in early April 1982 about the "Soviet-Cuban virus." My resolution is an attempt to bring into focus that cancer in our underbelly so it can be properly diagnosed by the Congress, understood by the American people, and dealt with through a clear expression of policy.

This resolution is aimed merely at strengthening our national will, which is the key to resisting any challenges to freedom and liberty. If we cannot muster the national will to oppose threats and dangers to our security, then we may never be able to safeguard our heritage.

I am not advocating the use of force in the Caribbean. Quite the contrary, I am merely trying to strengthen our first line of defense, which is diplomacy. By reaffirming the 1962 resolution, U.S. diplomatic leverage should be strengthened. Any option of initial deployment of military force in the Caribbean is wholly up to the President, with subsequent consultation with the Congress. My resolution does not change that. It is designed only to reinforce present U.S. law and foreign policy toward Cuba, and the resolution is fully consistent with and supportive of President Reagan's Caribbean policy announced on February 24, 1982.

Mr. President, despite what I considered unclear and often conflicting signals from the State Department regarding their position on this resolution during the time it was considered on the floor of the Senate, I am pleased that the State Department expressed its strong support for the resolution before the Senate Foreign Relations Committee on April 20. In a letter addressed to me that same day the State Department said that the Symms resolution—and I quote:

Is a restatement of actual U.S. policy toward Cuba—and the sentiment behind it,

we believe, remains valid today just as it was valid in 1962 when the resolution was first stated. . . . We support the resolution.

In testimony before the Senate Foreign Relations Committee on April 20, Deputy Assistant Secretary of State Stephen Bosworth stated:

The (Symms) resolution . . . reflects the policy of six administrations, certainly this one. As we told Senator Symms, we have always endorsed the thrust of his resolution . . . After it has been given the appropriate committee consideration, we fully intend to support the Symms resolution.

On April 20, 1982, Bosworth testified further in answer to a question I posed that the official U.S. policy position is now in support of the resolution. Bosworth stated further:

Our position remains one of full support for the thrust of that resolution . . . I can assure you that the finding that the thrust of your resolution is fully consistent with the policy of this administration, was made at the very highest level of the State Department by the Secretary of State himself.

Mr. President, the gravity of the Cuban threat to the Caribbean was also made explicit in Bosworth's testimony. He pointed out that Cuban arms shipments to Nicaragua and El Salvador have not diminished. He declared Cuba "To be a threat to U.S. security interests . . . in Central America and the Caribbean." Bosworth agreed that the present level of military capability in Cuba endangers U.S. security interests.

When asked what effect a Senate reaffirmation of the Cuba resolution of 1962 would have on our relationship with either Cuba or the Soviet Union, Bosworth answered:

. . . to the extent that it tends . . . to present the views of Congress, in addition to the views of the administration, I think it would probably be seen by the Government of Cuba as a rather firm statement of U.S. views regarding the unacceptability of Cuban behavior . . .

When asked if the State Department had specifically assessed whether or not the Symms resolution was inconsistent with the War Powers Act, Mr. Michel from the State Department Legal Advisor's Office stated:

The Legal Advisor's Office reviewed the Symms amendment in terms of the War Powers Resolution in order to make a judgment as to whether on its face it would affect the provisions of the War Powers Resolution in any way, and we concluded that it did not.

Finally, when asked if the State Department supported reintroduction of the Symms resolution, Bosworth answered "yes." He added that: "The administration finds this resolution is consistent with our policy, and we support it."

The administration's position should now be clear and this position of support, of course, is welcomed, as is the support of my colleague, the distinguished Senator PERCY as expressed in his letter to our colleagues before the debate of my resolution on the Senate

floor a few weeks ago. As Senator PERCY stated so well:

The purposes of the Symms resolution are ones we can all support: Resistance to Cuban aggression and subversion in the hemisphere, prevention of Soviet bases in Cuba, and support for the self-determination of the Cuban people.

I urge the Senate to approve the resolution as originally proposed. I fear any action otherwise might be further misread as a sign that we do not have the will and the determination to defend this Nation and its neighbors—to stand up to nuclear blackmail by the Soviet Union.

Mr. President, should we show our strong support for the Commander in Chief by reaffirming existing U.S. policy and law of the land expressing opposition to Soviet military bases in Cuba? Are we for enforcing the Monroe Doctrine with regard to the Soviet Union and Cuba, or are we not? Do we support the Soviet/Cuban-backed aggression in the Western Hemisphere, or do we oppose it?

If we cannot resist aggression and blackmail in our own backyard, where can we draw the line? If we cannot reaffirm long standing American policy in defense of freedom among our neighbors now, when and where and how will we ever be able to stem the spread of Marxism and terrorism?

Mr. President, my amendment attempts to provide the Senate at least with an opportunity to answer in part those questions, and express its will regarding American policy toward Cuba.

Mr. President, I should like to read for the record the following letter:

THE WHITE HOUSE,
Washington, April 29, 1982.

HON. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMMS: I am gratified to have the opportunity to enthusiastically endorse your amendment, S.J. Resolution 158 as an abiding expression of the Reagan administration's policy toward Cuba.

The principles embodied in your Resolution have the full support of the President. He clearly expressed these same sentiments during his speech before the Organization of American States on February 24, 1982.

Again, many thanks for this opportunity to make our views known to you and your colleagues.

Sincerely,

WILLIAM P. CLARK.

I have a similar letter from Fred Ikle, Under Secretary of Defense for Policy, also indicating that the administration fully support the resolution:

We fully support this resolution and commend you and your colleagues for introducing it. Passage of the resolution is important for U.S. policy toward Cuba.

Mr. President, I ask that Under Secretary Ikle's letter also be printed in the RECORD.

Mr. President, many may ask how the mixup came about when we had this before the Senate at an earlier date this year. I have the transcript

provided to me by Mr. Jack Anderson which I should like to insert in the RECORD. Many of my colleagues may have seen this as it was reported in the press. It is the transcript of a conversation from Air Force 1 between Steve Bosworth and Tom Enders.

Before that, I ask unanimous consent to have printed in the RECORD the testimony of Mr. Steve Bosworth before the Foreign Relations Committee on April 20, 1982, indicating that the administration and the Assistant Secretary support the amendment, and a cover letter from Mr. Powell Moore, Assistant Secretary for Congressional Relations.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNDER SECRETARY OF DEFENSE
Washington, D.C., April 29, 1982.

HON. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Thank you for your letter of 26 April 1982 requesting our views on SJ Resolution 158 which reaffirms SJ Resolution 230 of 1962. As a restatement of actual U.S. policy toward Cuba, Resolution 158 reflects the policy of this Administration and is certainly strongly supported by the Department of Defense.

In testimony before the Senate, this Department has highlighted the threat from Cuban aggression and subversion, (including the use of terrorism), as well as from the Soviet military presence on Cuba. Should the Soviet and Castro regimes be successful in their efforts to install Marxist-Leninist governments aligned with them in Central America, this could lead to an expanded Soviet military presence in the Caribbean Basin that would have significant adverse consequences for the defense of the United States. Such a new military threat to the South of the United States would require further increases in the U.S. defense burden, since a major hostile military presence would then exist in an area previously considered militarily secure.

We fully support this resolution and commend you and your colleagues for introducing it. Passage of the resolution is important for U.S. policy toward Cuba.

Sincerely,

FRED C. IKLE.

STATEMENT BY DEPUTY ASSISTANT SECRETARY FOR INTER-AMERICAN AFFAIRS STEPHEN W. BOSWORTH

Mr. Chairman, I am pleased to have this opportunity to discuss with the committee our request for security assistance for fiscal year 1983 for Latin America and the Caribbean. The Administration is requesting \$326 million in Economic Support Funds (ESF), which with \$274.6 million in development assistance and \$183 million of Public Law 480 from the separate A.I.D. appropriation, would bring our proposed fiscal year 1983 economic assistance for the region to a total of \$783 million. We are also asking for \$138.6 million in funds for FMS financing and military training (IMET).

The bulk of this projected assistance is for the countries of the Caribbean and Central America. These fiscal year 1983 requests are substantially higher than those provided for in the fiscal year 1982 budget. As such, they reflect the high priority the Administration

attaches to United States interests in Central America and the Caribbean. They are essential elements of an integrated approach to the economic, political, and security problems of the region.

Let me summarize briefly the overall framework of U.S. interests, analysis, and objectives within which the Administration's assistance requests should be addressed.

President Reagan in his address at the Organization of American States on February 24 outlined the U.S. national interests in the Caribbean Basin region. As the President said, the "well being and security of our neighbors in the region are in our own vital interest."

Economic progress, peace, and security are in serious danger in the Caribbean Basin. Almost without exception, the countries of the region face economic difficulties of a potentially catastrophic nature. Their economies are for the most part small, fragile, and extremely vulnerable to disruption. Developments in the international economic system can seriously exacerbate long-standing internal problems. The current slowdown in the world economy is a case in point. Prices for the raw materials which are the principal exports of these countries—sugar, coffee, bananas, and bauxite—have fallen sharply. Simultaneously, most of the region is still struggling with the need to adjust to increases in the costs of essential imports, particularly petroleum. High interest rates have imposed a new burden in countries needing to borrow money or refinance existing debt. Tourism, important to many, has stagnated. Certain of the economies of Central America, particularly in El Salvador and Guatemala, have been further damaged by guerrilla-sponsored violence and the general political instability of the area.

At the same time, Cuba and now Nicaragua are both seeking to exploit the region-wide economic crisis for their own political objectives. These instruments are anti-democratic minorities predisposed to extremism, violence and systematic armed conflict. Cuba and Nicaragua are providing political organization, guerrilla training, and other support to insurgent groups in El Salvador and Guatemala, and there are disquieting signs of their aggressive intent in several other countries.

We do not, for our part, seek to involve our neighbors in the political and military competition between East and West. And certainly they do not want to be involved. They are independent, and they hope their countries and the waters of the Caribbean can be free of international tension and conflict. They need our help to overcome economic difficulties, to defend themselves, and to keep alive their faith in freedom and democracy. With our assistance, they can manage their own affairs and find their way out of their present troubles.

The complexity and urgency of the problems which I have outlined make clear that our response must be comprehensive. It must respond to both immediate and longer-term needs, and it must address all aspects—economic, political, and security—in their separate individual requirements while recognizing that in fact, these aspects are also interdependent in important ways. The overall strategy will not succeed unless we move forward in all areas.

First, the economic.—On March 17, the President sent to the Congress a set of integrated proposals for a major new program of economic cooperation for the Caribbean

Basin. We were pleased that you invited Ambassador Brock and Ambassador Stoessel to present our views on the Caribbean Basin initiative at an early point in your deliberations. As you are aware, the President's program includes three major elements:

Authority to extend duty free treatment in the U.S. for agricultural and industrial products, except textiles, from countries of the Caribbean Basin;

Authority to extend tax incentives to U.S. investors in Basin countries; and

Substantial increases in levels of U.S. economic assistance to countries of the region, including a requested \$350 million supplemental in ESF funds for fiscal year 1982.

Over the medium-term, the trade and investment authorities requested by the President will make a major contribution to the economic well-being of the region. Together with the self-help efforts of these countries themselves, we can contribute to an economic climate of expanded production, new employment, and rising exports. These measures will also convey a political message. The United States is saying in effect that the economic well-being and political health of these countries is of such direct importance to us that we are willing to extend special treatment to them on a long-term basis. Our commitment is both serious and sustained.

The President's program also recognizes that many of these countries face major short-term problems which must be addressed if they are going to be able to benefit from the trade and investment initiatives. In some countries, including El Salvador, Honduras, and Costa Rica, major balance of payments problems threaten immediately their ability to import foodstuffs and critical raw materials for industry and agriculture. Jamaica will need increased assistance to sustain a still vulnerable economic recovery. Other countries, for example the small nations of the Eastern Caribbean, need additional assistance to develop the economic infrastructure required to capitalize on the new trade and investment opportunities.

Because of the urgency of these problems the President has requested an additional \$350 million in ESF in the current fiscal year to supplement the funds already approved by the Congress. But that \$350 million, vital though it is, will not be enough to meet the needs of the next few years. Therefore, we have requested \$326 million in ESF for fiscal year 1983. Combined with development assistance and Public Law 480, our economic assistance for the region would total \$783 million. This is a 47 percent increase over the amount budgeted for the current fiscal year. It reflects both the large and urgent needs of these countries and the high priority which the Administration attaches to our interests in the Caribbean Basin area.

A large share of our fiscal year 1983 ESF request, \$105 million, would go to El Salvador. Its economy has been brought to the point of collapse by terrorism and economic sabotage directed against the country's transportation and power systems, businesses and workers. Investment has dried up and the private sector cannot even obtain the credits essential to its survival. Output declined 10 percent in 1980; and 10 percent again in 1981. With the assistance we and other donors plan for this year, this decline should be significantly reduced by the end of the year. We expect further improvement next year with the economic assistance we are requesting in fiscal year 1983.

Other major recipients of ESF would include:

\$55 million to Jamaica to support President Seaga's efforts to revitalize his nation's economy.

\$60 million for Costa Rica, to help that country address one of the most severe crises in its history.

\$25 million for Honduras to help bolster confidence and provide critically needed credits to the struggling private sector.

\$30 million to the Eastern Caribbean to stimulate economic activity and generate employment.

Second, the political.—The Caribbean Basin is not, as some suppose, a region of repressive, right wing military dictatorships. Of the twenty four governments in the Basin, not including the United States, sixteen have democratically elected governments. Support for the establishment and consolidation of democratic institutions is a central element of our approach. Not just because it is our own system of government, but also because we believe it is the system best able to produce social justice, economic progress, and political stability in the Caribbean Basin itself.

We have been encouraged by last year's electoral success in Honduras. We were similarly heartened by February's peaceful elections in Costa Rica as the people of that country demonstrated again the strength of their commitment to democratic institutions. Now the Dominican Republic is preparing again for elections, extending the democratic achievements made during the last generation.

In Guatemala, the military coup last month may have ended the political paralysis which had gripped that country. It was led by junior officers apparently seeking to give the Guatemalan people a better government. General Rios Montt, who has emerged as leader of the junta, was the presidential candidate of the Christian Democratic coalition in 1974. Since the coup, violence not directly connected to the insurgency has been brought virtually to an end. Concrete measures have been taken against corruption. All political forces have been called to join in national reconciliation. We are watching these developments closely. We hope that the new government of Guatemala will continue to make progress in these areas, and that we in turn will be able to establish a closer, more collaborative relationship with this key country that faces both economic difficulty and an active Cuban-supported insurgency.

In El Salvador, the elections of March 28 were a fundamental first step in the democratic process, but it was only the beginning. Discussions are now underway among the political parties concerning the organization of a new provisional government and the launching of the work of the newly-elected Constituent Assembly. That newly-elected Constituent Assembly must carry forward political reform, and, importantly, establish procedures for the election of a President.

Discussions on the composition of the provisional government and the actual form of the political reforms are ones which can only be made by the Salvadorans themselves. For our part, we have made clear our desire to continue to support El Salvador in their programs of economic recovery and in their battle against the guerrillas of the extreme left. We have also made clear, however, that our continued support must not be taken for granted. In particular, we have emphasized our expectation that the new provisional government will carry forward

political and economic reform, including land reform, and continue to make substantial progress in controlling violence.

I would like, Mr. Chairman, to say a word here on the question of negotiations. On March 28, the people of El Salvador massively signaled their choice for a democratic process of elections as the method for resolving political conflict and ending the violence. They did this despite a concerted attempt by the guerrillas first to dissuade people from voting and then to intimidate them. Thus, the results of the March 28 election clearly stand as a massive political defeat for the FMLN/FDR. The guerrillas had advocated, as an alternative to these elections, direct negotiation of an overall division of political power, the results of which could later—perhaps—be submitted to a plebiscite.

In the light of the March 28 results and in view of the on-going political process in El Salvador, it is our hope that elements of the FMLN/FDR which can accommodate to democracy will now decide to participate peacefully in that process. Such a decision would be in the interests of El Salvador. We for our part believe that mechanisms could be found to facilitate the entry of these groups into the democratic process. We will be prepared to be of assistance in the discussions or negotiations which might be required. However, we remain firmly and unalterably opposed to negotiations on the division of political power in El Salvador outside the democratic process.

Third, Security.—Freedom and prosperity are impossible without security. The purpose of our FMS and IMET programs is quite simply to help small countries defend themselves against an immediate threat. Many of our neighbors have neither the resources nor a long-term need to develop and maintain large military establishments. Faced with a sudden threat, they need help in the form of equipment and training from friends.

We do not believe that only the strong should be secure. With appropriate help, our neighbors all have the capability and will to turn back outside threats. They do not want us to do their fighting for them. That would not serve anyone's interest, and is not needed. All they ask is to be provided the training and equipment they cannot afford.

We are requesting \$125.3 million in FMS financing for fiscal year 1983. To keep this in perspective, I would note that this is less than two percent of our global FMS program. The increases over our request last year are largely for El Salvador, Honduras and Jamaica. We are again requesting a portion of the FMS—\$74 million—in direct concessional credits for those countries facing severe economic problems and where high interest guaranteed loans would further add to their heavy debt burden.

About one half of our FMS request for the region—\$60 million—is for El Salvador. Fifty million dollars of this is being requested on concessional terms. This program is critically important to provide the resources to enable the Salvadoran government to protect the peoples' right to choose their own future and carry forward the important economic, political and social reforms underway. Our military assistance program is designed in part to enable the Salvadoran armed forces to employ small unit tactics, considered more effective against the guerrillas and less likely to cause casualties among non-combatants in the battle zone. The growing effectiveness of El Salvador's

armed forces was evident in the exemplary way in which they turned back the guerrillas effort to launch a major pre-election offensive. They protected voters, polling places, and election officials from guerrilla attacks and harassment last March 28.

We are also seeking an increase in our FMS program for Honduras to \$14.5 million, \$9 million of which would be on concessional terms. The democratic Government of Honduras is threatened by the illegal use of its territory by those supporting the insurgencies in El Salvador and Guatemala as well as by the unprecedented military buildup in Nicaragua. Honduras needs additional help to develop its transportation, patrol and communications capabilities to defend itself from these threats.

Elsewhere in the Caribbean Basin, we are requesting an increase in our program in Jamaica—\$6.5 million in concessional credits—to help the democratic, pro-western Seaga government modernize its defense force to deal with potential subversion and to protect its coastal waters from illegal traffic. We are also seeking concessional credits and training for the small democratic states of the Eastern Caribbean to improve their coast guards.

Finally, a small part of the FMS program is for South America. We propose \$12 million for Colombia and \$6 million each for Peru and Ecuador to enable them to meet essential military needs.

Our request for \$13.3 million in IMET includes 23 country programs and our regional program for the Eastern Caribbean. We believe that training and education under the IMET program will strengthen the professional qualities of defense forces, improve our military to military relations, and ensure continued orientation toward U.S. doctrine and security goals. We have asked for \$250,000 in IMET for Guatemala in the expectation that conditions there may improve sufficiently for us to consider a small training program.

Cooperation.—The strategy I have outlined cannot rest on our efforts alone. We neither can nor should try to carry the burden by ourselves. Solutions designed exclusively in Washington are not desired, and would probably not work. Our response must be in cooperation with our neighbors.

We find today a consensus among the nations of the hemisphere over the danger of foreign intervention, the importance of democracy and free market policies, and the need to take collective responsibility.

At this point, Mr. Chairman, I would like to make some remarks on our policies toward Nicaragua and Cuba.

Over the past several months, we have tried to establish a dialogue with Nicaragua. As members of this Committee are aware, the United States is acutely concerned by several of the policies and activities being pursued by the Sandinista Government. First and foremost, like countries in the region themselves, we are concerned by Nicaragua's continuing large-scale support for the guerrillas in El Salvador and its similar activities in other Central American countries. This, together with Nicaragua's extraordinary arms buildup and the large-scale presence of Cuban military advisers, is the fundamental cause of tension within the region.

On April 8, our Ambassador in Managua conveyed to the Nicaraguan Government several proposals which would address our concerns and, we believe, address the alleged concerns of the Sandinistas. On April 14, the Nicaraguan Ambassador in Washing-

ton presented to us a response. We are now evaluating that response and expect to decide soon our possible next steps.

I would stress, however, as we have stressed to the Nicaraguans that no progress is possible in the areas of our relationship of concern and interest to them unless and until they cease their active support for insurgencies in the region.

In the case of Cuba, we continue to oppose fundamentally all efforts to export subversion and terrorism in Central America and the Caribbean. In this connection, Senator Symms has introduced a resolution reaffirming the resolution adopted in 1962 on the U.S. determination to oppose the efforts of Cuba to expand its sphere of influence. The resolution, which is scheduled to be considered by the Committee, reflects the policy of six administrations, certainly this one. As we told Senator Symms, we have always endorsed the thrust of his resolution. While we supported the tabling motion on the Senate floor, we did so only because we believed it was appropriate that the resolution be fully addressed in committee before coming to the Senate floor. After it has been given the appropriate committee consideration, we fully intend to support the Symms resolution.

We will not accept that the future of the Caribbean Basin be manipulated from Havana. Support for self-determination and democracy was evident at the OAS meeting in St. Lucia, and in the hemisphere's wide support for the elections in El Salvador. It was evident in the formation this year of the Central American Democratic Community by Costa Rica, Honduras and El Salvador to cooperate toward the common goals of economic development, democracy and mutual security against outside threats.

The momentum of greater cooperation is in our interest and we will seek to strengthen and widen it. That is why we have joined Colombia and Venezuela in supporting the Central American Democratic Community. This was the spirit in which we discussed with Mexico, the proposals of the Mexican President aimed at reducing tensions throughout Central America.

The Caribbean Basin program is in many ways a model of the type of regional cooperation we seek. The overall program and the U.S. contribution to it was developed over a period of some eight months of intensive consultations and joint analysis. The United States, Venezuela, Mexico, and Canada, later joined by Colombia, recognizing our common interest in the economic health of the region, are each undertaking major efforts under a common set of objectives. This, at bottom, is what we are asking the Congress to support: programs that will make cooperation possible in support of an emerging democratic consensus among our closest neighbors.

DEPARTMENT OF STATE,

Washington, D.C., April 20, 1982.

HON. STEVEN D. SYMMS,
U.S. Senate.

DEAR SENATOR SYMMS: Enclosed is the statement which Deputy Assistant Secretary Stephen Bosworth will give today before the full Senate Foreign Relations Committee hearings on Caribbean and Central American issues, among others. You will note that contained in that statement is a portion relating to your resolution regarding U.S. policy toward Cuba. I hope that this statement and amplification which Deputy Assistant Secretary Bosworth will make will clarify any confusion which might

have surrounded our support for the tabling motion last week.

As Mr. Bosworth says in the enclosed statement, we did not oppose your resolution and we do not oppose it now. It is a re-statement of actual U.S. policy toward Cuba and the sentiment behind it, we believe, remains valid today just as it was valid in 1962 when the resolution was first stated. We were reluctant, however, to give full public support for the resolution when it was on the floor of the Senate since we felt that it would be more appropriate to have the resolution considered in committee before full floor consideration. Deputy Assistant Secretary Bosworth will now have the opportunity to articulate exactly where we stand on the issue and exactly why we support the resolution. This will preclude any misinterpretation which might have been possible without the opportunity for Administration representatives to present our position fully.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for
Congressional Relations.

Mr. SYMMS. Mr. President, after the mixup, when there was some confusion on the floor, this is the transcript of what occurred, and I should like to relay some of this to my colleagues:

OPERATOR. Mr. Bosworth's still on. I'm waiting for ambassador Enders.

ENDERS. Would you get me Steve Bosworth, please.

OPERATOR. Ambassador Enders, please.

ENDERS. Yes, this is Enders. Over.

OPERATOR. Just one moment, we have Mr. Bosworth on the line.

ENDERS. Hello, Steve, how are you? Over.

BOSWORTH. Fine, Tom. How are you?

ENDERS. Steve, I'm calling about the vote on Cuba in the Senate yesterday. Apparently the radio said this morning the State Department opposed * * * these authorities. Is that correct?

BOSWORTH. It is rather complicated, Tom. There are no authorities in question. It is a resolution which is non-binding. Through a screwup, a letter did go forward indicating, as you said, that we opposed the resolution and found that it was inappropriate at this time. Now, for the record, this bureau did not see or know of that letter until it was delivered.

ENDERS. Steve, that's an incredible screwup. How did that happen?

BOSWORTH. Well, there have been cases like this. Always it is difficult now to figure out exactly what did happen.

I think the bottom line was this: Mr. Enders said: "Let me talk to the Secretary." Then he came back and said:

ENDERS. Would you also go * * * find out, I mean, check further on what the hell happened because it does seem incredible that after a year of working to get a strong position on Cuba that something like this could have happened. I don't understand it.

I ask unanimous consent to have the entire transcript printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

Air Force One Transcript—transcribed by Mr. Dale Van Atta of Jack Anderson's office—conversation between Steve Bosworth and Thomas Enders, on April 15, 1982:

OPERATOR. Mr. Bosworth's still on. I'm waiting for Ambassador Enders.

ENDERS. Would you get me Steve Bosworth, please.

OPERATOR. Ambassador Enders, please.

ENDERS. Yes, this is Enders. Over.

OPERATOR. Just one moment, we have Mr. Bosworth on the line.

ENDERS. Hello, Steve, how are you? Over.

BOSWORTH. Fine, Tom. How are you?

ENDERS. Steve, I'm calling about the vote on Cuba in the Senate yesterday. Apparently the radio said this morning the State Department opposed * * * these authorities. Is that correct?

BOSWORTH. It is rather complicated, Tom. There are no authorities in question. It is a resolution which is non-binding. Through a screwup, a letter did go forward indicating, as you said, that we opposed the resolution and found that it was inappropriate at this time. Now, for the record, this bureau did not see or know of that letter until it was delivered. Over.

ENDERS. Steve, that's an incredible screwup. How did that happen?

BOSWORTH. Well, there have been cases like this. Always it is difficult how to figure out exactly what did happen. All I've been able to do is qualify that no one here in this bureau knew about it. Now, we are now engaged in an effort to try and walk this cat backwards in the noon briefing, which I think is highly desirable. On the other hand, we can't leave the majority leader sitting out there on the end of that limb all by himself. Over.

ENDERS. Steve, take me back over this part slowly because I don't understand. Where did the letter come from and to whom did it go?

BOSWORTH. As I understand it, Tom, the letter was in response to a request from the majority leader to the White House for a written statement of the administration's position on this issue. It all happened yesterday when Al Drischler was up on the hill. Al was told by his staff that the letter had been fully cleared, which is not true. They did have an NSC clearance, but they did not have an ARA clearance. The letter was subsequently signed and delivered to the majority leader.

ENDERS. You mean it was signed by Al Drischler * * * and it was a letter which was * * * within H?

BOSWORTH. That is right. That is as close as I can come to figuring it out. We're still trying to discover exactly what happened. But that sounds to me like what did happen. All I do know for sure is that it was not cleared in ARA.

ENDERS. Was it cleared in the office by Larry Eagleburger?

BOSWORTH. No, it was not. Over.

ENDERS. Steve, what can we do about this now, if anything? Over.

BOSWORTH. We will try in a public statement in the noon briefing to make it clear that, while we are not disavowing our letter, we nonetheless do believe that the sentiments expressed in the resolution are consistent with general administration policy. Over.

ENDERS. Well, more than that, it is an expression of administration policy. Uh, can we make a strong statement even if it does disavow the letter? Over.

BOSWORTH. We will go as far as possible in that direction, Tom, without creating difficulty with the majority leader, who is the one who asked for the letter. Over.

ENDERS. Hold the line for a minute and let me talk to the secretary and I will carry on the conversation. Just a minute. Over.

TONY. Tom, just a minute. Over.

ENDERS. Tony? Over.

TONY. This is Tony. Tom, Al Drischler read me a piece of the letter. We still haven't seen it. But it does indicate that the resolution is fully consistent with administration policy, but that the passage of the resolution at this time may not be necessary or helpful. I'm not sure what the words are. Over.

ENDERS. I still don't understand that. I would have thought at this time it would have been particularly helpful. Over.

TONY. Well, that is a view which we probably would have expressed had we had an opportunity. . . .

ENDERS. OK, let me talk to the secretary. Hang on, please. Over.

(Tony here, and he said he talked to Miles the day before on this, that this had an NSC clearance and that this is the line that has been used for the past 60 days. And on the basis of that, he told Al Drischler that the thing was OK. . . .)

ENDERS. Hello. Steve, is that you still? Over.

BOSWORTH. I'm still here, Tom.

ENDERS. Steve, I talked to the secretary and he would like (us) to get together and work out a denial of this so our position is clear.

BOSWORTH. Would you repeat that please, Tom, there was a lot of static. You would like to find a way in which the resolution or some variant of it could be reintroduced and passed. Over. Did you hear me? Thank you.

I got that, Tom. I will get on it. Over.

ENDERS. Would you also go * * * find out, I mean, check further on what the hell happened because it does seem incredible that after a year of working to get a strong position on Cuba that something like this could have happened * * *. I don't understand it.

I say to my colleagues that I think it is very important that we give a very strong signal of the will on the part of the United States to resist what is going on in Latin America, where the base camps of those operations in the Caribbean Basin and into Central America are working out of Cuba.

I reserve the remainder of my time, and I ask unanimous consent that the following additional pieces be inserted into the RECORD. First, some points in rebuttal to critiques of the Symms Cuba amendment. Second, a Heritage Foundation Background of June 11, 1982 entitled "The Soviet Military Buildup In Cuba" by Christopher Whalen. Third, a letter from Judge William P. Clark to Mr. John Fisher, president of the American Security Council, dated March 11, 1982. This letter shows further support for the principles of the Symms Cuba amendment, and suggests how it is related to President Reagan's Caribbean Basin Initiative.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POINTS IN REBUTTAL TO CRITIQUE OF SYMMS CUBA AMENDMENT

The July 1980 Republican Party platform contains language which fully supports the Symms Cuba amendment. The platform, which in

the area of foreign policy should receive bipartisan support, states:

Republicans pledge our continued support for the people of Cuba . . . in their hope to achieve self determination . . . We will make it clear to the Soviet Union and Cuba that their subversion and their build-up of offensive military forces is unacceptable.

The platform added:

Republicans deplore the dangerous and incomprehensible Carter administration policies toward Cuba. The administration has done nothing about the Soviet combat brigade stationed there, or about the transfer of new Soviet offensive weapons to Cuba in the form of modern Mig aircraft and submarines. It has done nothing about the Soviet pilots flying air defense missions in Cuba or about the extensive improvements to Soviet military bases, particularly the submarine facilities at Cienfuegos and the Soviet intelligence facilities near Havana.

One, all critics concede that the Symms Cuba amendment is at least reasonable. Senator PERCY has written that all Senators can support the objectives of the Symms Cuba amendment. Some critics have conceded that it has a certain political appeal.

Two, it is contended that the Cuba amendment does not advance U.S. security and foreign policy interests in the Western Hemisphere. This argument rests upon the fallacious assumption that American foreign policy should be passive and should adapt itself to the goals of our friends and appease our adversaries. To the contrary, the Cuba amendment would advance U.S. foreign policy and security interests in the Western Hemisphere. It should not be necessary to argue that the United States have a firm, strong foreign policy which advances American national security interests. Thus to argue against the Cuba amendment is to argue for a foreign policy of accommodation of our friends and appeasement of our enemies.

Three, it is argued that passage of the Symms Cuba amendment could be compared to the Gulf of Tonkin resolution. This is a false analogy, because the Cuba amendment merely authorizes the President to threaten to use of force in the Caribbean to protect U.S. security interests against Soviet-Cuba aggression and to prevent a Soviet military base in Cuba. The contingencies and scenarios for this are general, unspecified, ambiguous, and rightly so.

We in the Senate do not want to put ourselves in the position of telling the President when or where to actually use force. First, this would tip our hand to our enemies, Brezhnev and Castro, and would reveal our military plans. Second, the Senate does not have the power to tell the President to actually use force. Under the Constitution, it is the President who must make this decision as the Commander in Chief. Moreover, the President must consult with the Congress on any extended use of force and get its approval.

On the other hand, by opposing the Symms Cuba amendment, Senators are sending a dangerous message to our friends and enemies alike. Senators would be telling the world that the United States refuses to even threaten to use force to defend our vital national security interest in our own front yard, the Caribbean. Voting against the Symms amendment would send precisely this dangerous message. Our enemies in the Kremlin and in Havana would be delighted to hear that America now declares itself defenseless, that the Senate refused to use force to defend our vital national interest against Soviet-Cuban aggression. Even third-rate adversaries of the United States around the world could then feel free to attack U.S. interests with impunity after such a dangerous signal was sent.

Four, critics of the Symms Cuba amendment state that the Reagan administration has claimed that Cuba has provided significant material support for the guerrillas in El Salvador. Do they doubt the hard evidence which the administration has publicly provided? In fact, there is conclusive evidence of extensive Soviet-Cuban material support to the revolutionary guerrillas throughout the Caribbean.

Five, critics have contended that "their greatest concern . . . was that the resolution would threaten the use of force without detailing how and when to enforce the threat." Critics are correct in focusing on this point. But instead of being a drawback, this is precisely the virtue of the Cuba resolution. As noted, it does not specify the scenario for using force or the contingency. This is deliberately left ambiguous, and wisely so. Not only would it be beyond the constitutional power of the Senate to direct the President to use force in a specific future contingency, but doing so would reveal a secret military plan to the advantage of our enemies. Thus the Senate would be unwise to try to specify how and when the United States should use force. It is the threat of force itself which should deter further Soviet-Cuban aggression in the Caribbean. The threat of force is the best deterrent, and deterrence is the bedrock of U.S. national security policy.

Six, the canards of potential conflict with the Monroe Doctrine and the Rio Treaty can be dealt with easily. The Monroe Doctrine is an old and valuable principle of U.S. foreign policy, but its specific application comes at the discretion of the President. U.S. support for our ally Great Britain in the Falklands crisis was decided upon by the President for reasons of state of higher priority than the Monroe Doctrine. Likewise, the Rio Treaty can be invoked or ignored at the discretion of the President, who has the responsibility to initiate U.S. foreign policy. The suggestion that possible U.S. covert ac-

tions against Nicaragua or Cuba violate the Rio Treaty are not persuasive. U.S. covert actions, should they be decided upon by the President in consultation with the relevant congressional committees, are designed to be plausibly deniable. Hence by their very nature, U.S. covert actions cannot violate the Rio Treaty.

Seven, critics argue that the Cuba amendment would establish a double standard in U.S. Latin American policy, to wit, that force can be used by big powers but not by small powers. This criticism is naive at best. The United States cannot deny that it is a superpower, incapable of defending its vital national interests, unless of course the Symms amendment is defeated. The international state system is, in reality, a jungle where, despite the U.N. and the fabric of international law, force and the threat of force, are the only ultimate sanctions. If the United States is willing to eschew the use of force to defend our security, then we really do not need armed forces at all. One critic, a former Assistant Secretary of State for Inter-American Affairs in a Republican administration actually testified against passage of the Symms amendment on the ground that it would be a "vindication of the principle that resort to arms is appropriate if the case is serious enough." We will not dispute this point at all. It goes without saying that America must defend its vital national security interests, and the Symms amendment does indeed vindicate this principle. We should be proud to defend our liberties and freedoms against all threats.

Eight, the critics believe that their most telling argument is as follows: "A vote for the Symms resolution is in effect a vote directing the President to use the Armed Forces of the United States anywhere in the hemisphere where he sees a direct or indirect threat from Cuba." But this distorts the Symms amendment. The threat or use of force is not directed or required, merely authorized if the President decides. We also ask, What is so bad threatening the use of force to defend America? Are we in fact going to tell the world that the United States will not threaten to use force to defend its vital national security interests? Of course we must stand up now and defend American liberty, freedom, and our way of life.

In summary, the arguments of the critics amount to nothing more than shameful appeasement. We remember the result of Neville Chamberlain's appeasement of Hitler. It failed to halt aggression, and World War II occurred anyway. We must be prepared for war in order to defend the peace. Appeasement is not only dishonorable and un-American, it is also ultimately ineffective in preventing war.

A vote against the Symms amendment is in fact a vote for Marxist-Leninist tyranny in our own front yard.

THE SOVIET MILITARY BUILDUP IN CUBA INTRODUCTION

Over the past decade, the Soviet Union has been emplacing offensive weapons in Cuba. Based both in and around Cuba, on planes, ships, and missiles, these weapons are operated by members of the Soviet armed forces. Soviet warships conduct exercises in the Gulf of Mexico, their bombers fly reconnaissance missions along the Atlantic coast from airfields in Cuba, and their pilots operate "Cuban" fighter aircraft. The presence of these offensive strategic systems in Cuba threatens the basic foundation of U.S. security policy in the region.

The Soviets' quiet, slow, but steady, buildup of military forces in Cuba has coincided with the broader Marxist challenge throughout Central America. The precise nature of these actions by the Soviets necessitates a careful review of the 1962 Cuban missile crisis "agreement" and of whether continued compliance with this agreement by United States is still warranted. Clearly, if the Soviet Union has violated both the letter and spirit of mutual military restraint agreed to after the 1962 crisis, a prompt American response is necessary.

THE 1962 MISSILE CRISIS

Fidel Castro's seizure of power and the subsequent Cuban-American break in relations in 1959 created the first real opportunity for an outside power to penetrate the Western Hemisphere since the Spanish-American War. Although, in 1960, Moscow was not ready to challenge the United States in the Caribbean, Castro's rise to power provided an irresistible opportunity to expand Soviet influence in the area. When the United States cut off Cuban access to the American market, the USSR immediately moved in, though cautiously. The Bay of Pigs affair indicated to Moscow that America would not take concrete action against Castro. Following the ill-fated invasion, the Soviets became bolder, even to the point of sending missiles to Cuba, ostensibly to defend Castro from invasion, but in fact to offset the global strategic superiority of the United States. Khrushchev's opportunism triggered the 1962 missile crisis, a direct challenge to the United States. It ended with a U.S. naval "quarantine" and the humiliating pullout of the missiles by the Soviets. This action may have removed the immediate danger, but it left intact the political-military presence of the Soviet Union.

The agreement between President Kennedy and Nikita Khrushchev was a personal understanding between the two leaders, never embodied in a public document. It was agreed that all offensive weapons, including missiles and IL-28 Beagle strike aircraft, would be removed. In return, the United States promised not to invade the island or support other groups attempting to do so. Implicit in this agreement was the further understanding that the USSR would not introduce offensive weapons into Cuba in the future. The understanding between Kennedy and Khrushchev dealt only with the immediate political problem of strategic offensive weapons. It did not address the question of whether the Soviets could operate with impunity in the Caribbean. Thus, while President Kennedy won a great personal victory, the United States accepted a long-term strategic defeat, the first in a

series of reverses that would change the balance of power in the Caribbean.

CASTRO: "INDEPENDENT" REVOLUTIONARY

After the 1962 crisis, tension arose between Moscow and Havana, caused by both distrust and ideological differences. Castro felt betrayed by the USSR because Khrushchev had dealt directly with the United States without consulting him. Castro wanted to confront the United States and was incensed when Moscow backed away from the crisis. Disillusioned and angry, Castro sought to broaden his relations with the non-industrialized world in order to gain sources of support independent of the Soviet Union. He wished to spread his revolution throughout Latin America by violent means, a course in direct opposition to the official policy of "peaceful coexistence" followed by the Kremlin at the time. After the 1966 Tri-Continental Conference, where Castro broke openly with Moscow over the question of support for world revolution, relations between the USSR and Cuba reached an all-time low.

By 1968, Castro was in serious trouble. His revolutionary offensive in Latin America was a dismal failure and had cost him the life of his comrade and ideologist, Che Guevara. Cuba's economy had come to a complete standstill after a decade of "revolutionary development," and the support Castro sought from relations with the Third World did not materialize. Cuba's dependency on the U.S.S.R. had grown, but Moscow refused to increase material or economic aid, and initiated a slowdown of oil deliveries to put pressure on Havana. These and other factors forced Castro to abandon his independent course and humbly accommodate himself to Soviet desires.

A new dependence emerged in 1968-69 between Moscow and Havana, including increased economic and military aid. Two events symbolized it: the statements made by Fidel Castro supporting the Soviet invasion of Czechoslovakia and the visit of a Soviet naval squadron to Havana in July 1969.

EARLY STAGES OF THE SOVIET MILITARY BUILDUP

The renewed presence of the Soviet military in Cuba in 1969 stands in sharp contrast to the adventurous policies of Khrushchev seven years earlier. Experience had taught the Kremlin that sudden, openly aggressive moves would only alert the United States to their activities and force a response. Therefore, a new policy was initiated using incremental means to build up the Soviet military capacity in Cuba. The Soviets began to pursue long-range goals rather than instant success. Each small step was a test, each minor success a precedent to build on. By combining patience, propaganda, and deceit, the Soviets set out to re-establish themselves in Cuba on a permanent basis.

The naval squadron which arrived on July 10, 1969, demonstrated the character of this new offensive. Included in the squadron was a Kynda class guided missile carrier, two guided missile destroyers, two *Foxrot* class attack submarines, a *November* class nuclear attack submarine, and several support ships. The *November* class boat did not put into any Cuban ports, but several surface vessels visited Cienfuegos. The presence of these sophisticated, nuclear capable vessels in the Caribbean flew directly in the face of the 1962 agreement. However, there was no American response.

Encouraged by this success, the Soviets decided to include Cuba in their first global

naval exercises, Okean '70. The Cuban role included providing landing bases for TU-95D "Bear" bombers configured for reconnaissance, but capable of carrying nuclear bombs or launching nuclear missiles. This action set a new precedent whereby Bear bombers, or even Backfires, could fly to Cuba. This again was a clear challenge to the 1962 agreement, although the Soviets did not base the planes in Cuba. And again, there was no American response.

A second naval squadron visited Cuba in 1970, including a *Kresta-I* class guided missile cruiser, a *Kanin* class guided missile destroyer, two *Foxrot* class submarines, and an *Echo II* class nuclear-powered cruise missile submarine equipped to carry nuclear warheads. The deliberate choice of a nuclear, but non-ballistic, missile-carrying submarine again illustrates the incremental Soviet approach. The *Echo II* boat was not a "strategic" platform, but so positioned in the Caribbean that it could deliver nuclear devices against targets in the United States. Thus, the level of Soviet military presence was moved up another notch. Again this deployment violated the spirit and substance of the 1962 agreement, and again there was no significant American response. On this visit, the Russian ships conducted maneuvers and openly used Cuban ports for resupply, thus setting another precedent.

THE SUBMARINE BASE CONTROVERSY WITH THE U.S.

Prior to the second naval deployment to Cuba, Soviet planners had decided to build a submarine base at Cienfuegos to extend the range of their fleet. Indeed, the decision to build the base was made in November of 1969, less than a year after the first Russian submarine visited Cuban waters. By July 1970, when construction of the base drew considered attention among the top echelons of the American intelligence community, it was nearly completed. In September, submarine tenders arrived, including a barge to handle nuclear waste. The Soviets had established the capability to support nuclear and conventional submarines, thus advancing their presence yet another step. However, they had moved too rapidly, and their actions could not be ignored by the United States.

The matter reached the crisis stage in the fall of 1970. American congressional leaders called for action, and once again the Soviet leadership found itself in a confrontation with Washington over Cuba, a situation the incremental approach was intended to preclude. Quiet negotiations followed. In November, Washington announced that "an understanding" was reached and that Moscow had agreed that "No nuclear submarines would be serviced in or from Cuban ports." Once again the Soviets seemingly were forced to "back down" by the United States; yet within a month of the so-called understanding, a similar Soviet naval squadron arrived—minus the nuclear submarine—to reassert the right of the Soviet navy to operate in the Caribbean.

Less than three months after the 1970 "understanding," testing the U.S. reaction to the presence of Soviet weapons was again set in motion. Another nuclear-powered *November* class submarine visited Cuba in February 1971, accompanied by a *Kresta-I* guided missile cruiser and a submarine tender, but instead of remaining off the coast, the boat put into Cienfuegos and was serviced. There was no American response, or even public recognition of this blatant challenge. In May 1971, the Soviets tested

the United States again, this time with another Echo II nuclear cruise missile submarine. The boat put into Cienfuegos openly, but still there was no American reaction.

DE-SENSITIZING AMERICAN VIGILANCE

After the precedent-setting visit in May, the Soviets bided their time before testing American sensitivities any further. The 1970 Cienfuegos incident was a dangerous mistake, but the error had proved instructive. Moscow had learned that, if it presented the appearance of backing down, it could carry on its strategy as soon as U.S. attention was diverted. Moscow waited nearly a year, therefore, before making another naval deployment, though flights of TU-95 bombers between Cuba and the Kola peninsula continued unabated. Carefully concealed beneath the rhetoric of detente, the process of desensitization persisted.

The visit of President Nixon to Moscow to sign the SALT I treaty in May 1972 provided the ideal situation for the Soviet Union's next test. The U.S. was anxious to maintain tranquility during the talks—so much so that American naval commanders were advised to avoid confrontations with the Soviets at sea. Moscow chose the Golf II class diesel-powered ballistic missile submarine as the vehicle for this next initiative. Though not a modern boat, the Golf was a strategic platform and thus well suited to test American resolve. As an added precaution, the Golf met its tender at Bahia de Nipe, a quiet harbor on the opposite side of the island from Guantanamo. The submarine remained there for five days and then departed to join its escorts.

A mystery surrounds this particular episode, for outside the harbor were elements of U.S. destroyer Squadron 18, part of a unit assigned to monitor Soviet activities in Cuba. As the Russian submarine left the harbor, the American warships made sonar contact and were able to follow the submarine for three days. During this time the Golf made numerous attempts to escape, but guided by P-3 Orion aircraft based at Key West, Florida, the destroyers maintained contact. The American warships were involved in several encounters with Soviet warships attempting to aid the Golf's escape. No public mention was made by the Nixon Administration, however, concerning the presence of a Soviet ballistic missile submarine in the Caribbean, the use of Cuban facilities to service the vessel, or the confrontation between American and Soviet warships on the high seas.

The lack of a strong American response to this latest incursion again encouraged the Soviets. Less than two years after the 1970 crisis, the American position regarding the use of Cuba as a base for Soviet ballistic submarines had been completely circumvented. Steady, patient pursuit of limited objectives by the Soviets had yielded the desired results without arousing the United States. Soviet naval visits continued throughout the 1970s, including a joint Cuban-Soviet exercise during Okean '75. Vessels from the USSR now call frequently on Cuban ports, train with Cuban vessels, and patrol the southern and eastern coast of the United States after replenishment from Cuba. In addition, construction began in 1978 on a new Cuban naval base, and the facilities at Cienfuegos were expanded to include submarine piers and a handling area for nuclear warheads.

OTHER SOVIET VIOLATIONS OF THE 1962 AGREEMENT

Although naval forces have initiated the most visible Soviet activities in Cuba, there

are other instances in which the 1962 agreement has been violated by the introduction of offensive weapons. The distinction between offensive and defensive weapons ultimately depends on how they are used. A tank or a plane is defensive so long as it remains within the borders of a nation, but when used for aggressive purposes, a weapon becomes offensive. There are certain weapons in Cuba which clearly pose offensive threats to the United States.

In 1978, two squadrons of MIG 23/27 fighter-bombers arrived in Cuba, flown by Soviet pilots. Both are far superior to the IL-28s President Kennedy had forced the Soviets to remove in 1962 and clearly give Cuba a significant offensive potential. The MIG-27 configuration is an effective attack aircraft capable of carrying nuclear or conventional payloads up to 1,500 miles, and since these planes are based in Cuba, they should be considered "strategic" weapons systems. Recent deliveries by the Soviet Union have brought the total MIG 23/27 force level to approximately 75 aircraft, with half of them the more advanced MIG 27. These aircraft are frequently flown by pilots from the Soviet Union, Warsaw Pact countries, and Soviet client states. Of even greater significance is the existence of at least three and as many as six airfields that can handle the Backfire strategic bomber. Certain American defense sources predict that the Soviets will eventually move a squadron of these sophisticated planes to Cuba. From Cuban bases, the Soviet Backfire could hit any target in North America and easily make it back to the Soviet Union.

THE CONTINUING SOVIET BUILDUP

In 1979, just prior to the uproar following Senator Church's disclosure of a Soviet "Combat Brigade" in Cuba, the Soviets sent twenty-four AN-26 transport planes to the island. These aircraft are capable of carrying troops anywhere in the Caribbean region. The public debate generated by the apparent prospect of Cuban and/or Soviet troops being used in Central America helped obscure the true purpose of the now infamous brigade. A 1979 article in The Washington Post identified this unit, which had been transferred from East Europe, as being configured to guard and handle tactical nuclear weapons. This implied that the unit's role was to protect the storage of such weapons as well as other sensitive Soviet installations on the island. For instance, the Soviets maintain a very large communications complex in Cuba, the largest in the world outside the Soviet Union, which is used both to relay transmissions to Soviet military units around the world and to monitor and collect American military transmissions.

Suggestions that this unit is stationed in Cuba to back up Castro against internal opposition are simply not credible. The security of sensitive listening and intelligence-gathering installations on the island and tight Soviet control of the nuclear weapons possibly stored there must surely be of far greater importance to Moscow than Castro's stability. Elements of the "combat brigade" came from East Germany and Czechoslovakia, where they guarded nuclear weapons depots and mobile missile launchers. They are now stationed around the Punta Movida complex, a Soviet built facility linked by rail to Cienfuegos, which is now off limits to the Cuban population in the area. Intelligence reports indicate that this facility is being used to service nuclear weapons from Soviet submarines, but weapons for the MIG-27 could also be stored there. The Carter Ad-

ministration should have been aware of these developments in 1979, but no public announcement was made.

Another aspect of the increasing Soviet offensive capability in Cuba surfaced in 1979 when batteries of modified SA-2 anti-aircraft missiles were identified by air reconnaissance in Cuba. These large missiles, often equipped with nuclear weapons, can be employed quickly in a surface-to-surface mode by the simple addition of a booster. They have an operational range in excess of 150 miles and could be used against ground targets in Florida.

Overall during 1981 the Soviets exported more weapons to Cuba than in any year since 1962, at least triple the level of just two years earlier, rising to 66,000 tons.

In testimony before a Senate committee in January 1982, Secretary of State Haig pointed out that with the increasing flow of arms into Cuba, "All of the countries in the Caribbean are confronted by a growing threat from Cuba and its new-found ally Nicaragua."¹ In the first five months of 1982 the same expanded level of military shipments to Cuba has continued unabated.

THE AMERICAN FAILURE IN CUBA

Since 1973, the Soviets have deployed various naval and air units in Cuba, but the presence of nuclear-capable surface vessels, particularly *Kresta-II* class guided missile cruisers, has raised the level of force currently tolerated by the United States to an alarming degree. Naval formations made up of ships armed with surface-to-surface missiles could easily strike the Gulf coast of the United States or Mexico's oilfields. Such an open display of power may be ignored in Washington, but it is highly visible to many smaller nations in this hemisphere, who are justifiably concerned over American irresolution.

During this period, the U.S. has become unilaterally attached to the illusion of "stability" in the triangular American-Soviet-Cuban relationship, while the Soviets have steadily subverted the status quo and overturned all bilateral "understandings." The United States has meanwhile failed to recognize that the Soviets understand and respect deeds, not words, and that they measure resolve by willingness to act.

The central point regarding the Soviet presence in Cuba is that Moscow has always operated under the assumption that it could advance only as far as the U.S. allowed it to. Since experience has proved that American sensitivity to their military activities is not great, the Kremlin assumes that America will not act unless suddenly provoked and that they may pursue any course of action provided it progresses slowly. The U.S. position in the Caribbean has gone from an active to a passive posture, precisely the state of mind most desired by Castro and the Soviets.

A POSSIBLE RESOLUTION

The United States must first acknowledge the threat posed by the present situation and demand the immediate removal of all nuclear and potentially nuclear Soviet weapons systems from Cuba. Only a direct demand could have a powerful impact on Soviet thinking. Such an approach by the U.S. to the Soviets in Cuba should follow two tracks: diplomacy and preparation for potential actions.

¹ "Second Unit of MIG-23s Identified in Cuban Hands," "Aviation Week and Space Technology," February 8, 1982.

Diplomatic efforts should make it clear that the United States is aware of the scope of Soviet activities in Cuba and will no longer tolerate the present level of Soviet involvement. Privately at first, the new American stance concerning Cuba would be communicated to the Kremlin. Diplomacy would not only spell out the U.S. position concerning the weapons systems in Cuba, but more important, give the Soviets an alternative to confrontation. Past experience suggests that Moscow would reject American demands that it alter its position in Cuba. Therefore, the United States should make active preparations to remove the weapons by force while continuing the dialogue.

A crucial element of American strategy to remove the Soviet weapons is the status to be assigned to Cuba. Cuba is a subcontractor of the Soviet Union, and the U.S. must deal directly with the Soviets. Thus, at no time should Havana be consulted or recognized in the negotiations. The United States is concerned about Soviet weapons, Soviet personnel, and the use of Cuba as a staging base for Soviet operations.

Removing that influence from Cuba will be a risky and dangerous task, primarily because the Soviets do not believe that the U.S. and its leaders are willing to do what is required. To eliminate the Soviet presence from Cuba, the United States must first convince Moscow that it is fully aware of what is occurring, and that this country is serious about altering the "correlation of forces" vis-a-vis Cuba. The most important step toward this goal is for the U.S. government to educate the American public concerning past Soviet violations of the 1962 agreement and, at the proper moment, to confront Moscow publicly concerning their present involvement in Cuba and the Caribbean region. Because of the refusal of four American administrations to deal with the problem of Soviet activities in Cuba, and the secrecy with which they are treated by Washington, both American and Soviet perceptions would be shocked by such a reversal.

PUBLIC OPINION AND CUBA

A recent public opinion poll conducted on behalf of The Heritage Foundation revealed that the American people already are profoundly disturbed over the threat to U.S. interests posed by Cuba. Over two-thirds of those polled, 68 percent, considered the Castro government to be a threat to the security of the United States. Less than half that number (30.9 percent) perceived no such threat.

An even larger percentage, over three-fourths of the sample, believed "that the Castro regime in Cuba is attempting to export revolution in this hemisphere." Only 17 percent denied this proposition.

Finally, by a margin of nearly two to one, Americans want the United States to pursue tougher policies toward Cuba. Specifically 60.3 percent believed that United States policy toward Cuba is "too soft." A minuscule 0.6 percent believed the U.S. was being too tough on Cuba while 35.9 percent endorsed the status quo.

Thus, a popular foundation exists for the Reagan Administration to deal much more decisively with the threat posed by Cuba to the U.S. directly and the Western hemisphere in general.

The results of the poll are:

[Polling Dates: February 25 through March 24, 1982]

Do you consider the Castro government a threat to the security of the United States?

	Percent
1. Yes	68.0
2. No	30.9
3. Don't know	1.1

Do you believe that the Castro regime in Cuba is attempting to export revolution in this hemisphere?

	Percent
1. Yes	78.4
2. No	17.3
3. Don't know	4.3

How do you evaluate United States policy toward Cuba?

	Percent
1. Too tough6
2. Satisfactory	35.9
3. Too soft	60.3
4. Don't know	3.2

CONCLUSION

Despite their formidable military buildup, the Soviets are no more willing today than they were in 1962 to engage in thermonuclear war against the U.S. over Cuba. The Soviet military presence in Cuba is a strategic asset for Moscow, but the island is not essential to their overall global position. Fidel Castro is a costly and unpredictable client, who is at present useful to Soviet designs. Because Moscow recognizes that Cuba is ultimately in America's sphere of influence, the Soviets have never formalized by treaty any obligation to defend the island. Cuba has asked, but has not been invited, to join the Warsaw Pact. The Soviets will exploit their opportunities in Cuba as long as possible, but if confronted by genuine American resolve, the Soviets quite likely will abandon Cuba as they tentatively began to do twenty years ago. And, in the absence of continued massive Soviet support, the Castro regime would quickly collapse.

The strategic lesson of the 1962 missile crisis remains valid today: we can deal with the Soviet presence in Cuba only from a position of visible, overwhelming strength. President Kennedy was able to compel the Soviets to withdraw their weapons only because he was willing to confront them with a great sense of urgency and determination. The same principle applies today, but the situation has changed. Cuba is now a forward base for Soviet military operations and therefore poses a military threat to the countries in the region and potentially the United States. For over a decade, U.S. political leaders have ignored the gradually escalating Soviet presence in Cuba until it has become a deadly threat. The U.S. will change this situation only when its leaders recognize the Soviet activities for what they are: a clear and present danger to U.S. security and regional stability.

CHRISTOPHER WHALEN.*

THE WHITE HOUSE

Washington, D.C., March 11, 1982.

Mr. JOHN FISHER,
President, American Security Council,
Washington, D.C.

DEAR JOHN: As you know, our Caribbean Basin and Central American policy presented by President Reagan on February 24th to the OAS represented a year-long effort. It encompasses economic, political and security measures to combat underdevelopment in the region and to support our friends in warding off the brutal assaults of Cuban

*Christopher Whalen wrote this study while a Research Assistant at The Heritage Foundation. Currently, he is a Legislative Analyst for the House Republican Conference Committee.

and Nicaraguan supported insurgents in the region.

To a great extent, our successful implementation of the policy will hinge upon a greater appreciation of the threat by the American people and the Congress. Unfortunately, the media coverage has been fraught with both misinformation and disinformation, making this requirement all the more difficult.

On the other hand, the film that the American Security Council produced entitled "Attack on the Americas" was an effective and accurate portrayal of both the current and potential threats to our vital interests in the region. I congratulate you for the effort. I understand that some thought has been given to producing an update of the film. Since the successful implementation of our announced policy toward the region is a major goal of the President, such an initiative would be especially appreciated.

Please accept my personal thanks to you and your staff for the continued and abiding support for our national security. I look forward to working with you in the future.

Sincerely,

WILLIAM P. CLARK.

Mr. HELMS. Mr. President, will the Senator yield for a question?

Mr. SYMMS. I am happy to yield to the distinguished Senator from North Carolina.

Mr. HELMS. As I understand the Senator's amendment, he is simply calling on the Reagan administration to comply with and implement the congressional joint resolution, Senate Joint Resolution 230, approved on October 3, 1962. Is that correct?

Mr. SYMMS. That is correct.

Mr. HELMS. Did the Senator read into the RECORD the text of that resolution?

Mr. SYMMS. The text of the resolution has been read into the RECORD.

Mr. HELMS. It has not been?

Mr. SYMMS. The clerk read the text of the amendment.

Mr. HELMS. Mr. President, I commend the distinguished Senator for again raising this question, and I ask him to honor me by permitting me to cosponsor his amendment.

I ask unanimous consent in that regard, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Let me read just one statement that I think sums it all up, a statement by a respected former President of the United States. He said:

The evidence is clear—and the hour is late. We and our Latin friends will have to face the fact that we cannot postpone any longer the real issue of the survival of freedom in this hemisphere itself. On that issue, unlike perhaps some others, there can be no middle ground. Together we must build a hemisphere where freedom can flourish and where any free nations under outside attack of any kind can be assured that all of our resources stand ready to respond to any request for assistance.

Those words were spoken in 1962 by the late President John F. Kennedy.

I think that is precisely what the Senator from Idaho is saying, and I hope the Senate will approve his amendment, which I am cosponsoring, by a resounding vote.

I thank the Senator.

Mr. SYMMS. I thank the distinguished Senator from North Carolina for his support.

I reserve the remainder of my time.

Mr. PERCY. Mr. President, I should like to make it clear that I find myself in agreement with the intent of the Symms amendment.

Mr. STENNIS. Mr. President, will the Senator speak louder?

Mr. PERCY. I will be happy to do so.

Mr. President, I do not argue at all with the intent of the amendment offered by the distinguished Senator. Certainly the United States must remain firm in its resolve to resist and ultimately prevail over Cuban efforts to subvert the nations of this hemisphere. We have no intention to lie down in the face of that kind of threat.

One way we are doing this is by passing the CBI appropriation and trying to build up the economic base of countries in the region; because if they are economically unstable, they will be politically unstable. If they are economically sound, they can be politically sound. The struggling democracies in this hemisphere are working very hard to strengthen themselves and lift themselves up by their bootstraps. Jamaica is a very good example of this, and there are others.

I simply argue very strongly that the specific language of the Symms amendment is troublesome, and it has been troublesome to a number of members of the Foreign Relations Committee.

We have held hearings on this subject. We believe that the world is not quite as simple as it was back in 1962 when we had a clear nuclear threat and when the security of this Nation was very much at stake. Conditions are different today.

No one is presuming today that Cuba can be a threat to the security of the United States itself. We have seen to that. We faced up to it at that time. But the exact language that was pertinent at that particular time is troublesome a decade later. It is particularly troublesome when we consider that this is our own hemisphere and we are having trouble in other parts of the world. I was shocked today, as I mentioned earlier, when one of our distinguished diplomats from Europe came in to tell me that it is popular in Europe—and it shock him—to be anti-American today, for a variety of reasons. Our stock has sunk pretty low among our allies. We have differences of opinion with them which have been expressed in public opinion and attitude. We do not have the unity of pur-

pose in NATO today, and we have to fight hard to get it back.

Anyone who wants to see trouble for the United States should travel any place in the Middle East. There we are in trouble every place you go. Every single report we have had back from ambassadors in the area—in the Arab countries, from diplomats, and from our own Senators who have come back from that area have all reported that we are in trouble in the Middle East. We did endanger our relationships in the Western Hemisphere too in the Falkland Islands crisis. Fortunately, we think that has dissipated a good deal now, and there is perhaps better understanding of the position we took.

However, I think we have to move very carefully. For that reason, the Foreign Relations Committee gave a great deal of thought to this. Some of us found the Symms amendment troublesome because it does not serve U.S. efforts to build support in the hemisphere. It raises certain serious difficulties with respect to the War Powers Act. After all, our distinguished former chairman and now ranking minority member of the Armed Services Committee, together with our distinguished former colleague Jack Javits, authored the War Powers Act, which has stood the test of time.

We did not have that in place at the time of the resolution back in 1962. We do have it now. This particular Symms amendment I think raises certain serious difficulties with respect to the War Powers Act.

To speak specifically on this particular point, when Congress enacted the War Powers Act in 1973 all previous legislation was brought within its purview. The Cuban resolution of 1962 which Senator SYMMS repeats in his amendment was also brought under the purview of the War Powers Act.

The troublesome clause is "to resist by whatever means possible, including the use of arms." This was thus subject to consideration of the War Powers Act. The question today is, Is this the way we are going to threaten and rattle our sabers, and what are we going to do about it?

We have seen the American reaction when talking about sending 800 to 1,000 American forces into Lebanon. What are we going to do, wage war on Cuba? Who intends to back that up? For what reason are we raising that specter, or can we find other means that are just as effective?

New efforts would be more appropriate than language that was used when we were threatened with the possibility that nuclear weapons would be 90 miles from our shore. That issue was resolved back in 1962. That same situation does not exist today.

I would seriously question whether this 1962 clause reinvigorates and gives the President new license to use troops without prior consultation with

Congress in trouble spots around the world. To pass a resolution now which implies the use of arms without the advice and consent of Congress, as provided for in the War Powers Act, I think would be quite contrary to the long debate and the careful work we did on the War Powers Act. That act provides a certain degree of protection and goes to the fact that only Congress can declare war. Authorizing the use of troops against Cuba in this language I think would be dangerous.

Mr. HATFIELD. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield.

Mr. HATFIELD. Is the Senator going to offer an alternative then for the Senate to consider tonight?

Mr. PERCY. The Senator will offer an alternative which will essentially be the amendment that has been worked on by the Foreign Relations Committee.

I will read the language. The language is I think tough and yet consistent with conditions that exist today.

The amendment that I will offer:

Declared by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the United States reaffirms its longstanding determination—

(a) to prevent in Cuba the stationing of nuclear weapons by the Soviet Union, the development or acquisition of nuclear weapons, or any other externally supported military capability endangering the security of the United States;

(b) to resist efforts by Cuba to extend its Marxist-Leninist ideology or political system in the hemisphere by force or the threat of force in violation of the Charter of the United Nations;

(c) to pursue any diplomatic opportunity, including those afforded by the Organization of American States, with a reasonable prospect of leading to the reduction of aggressive or subversive activities by Cuba or any other state in the hemisphere; and

(d) to work through the Organization of American States and with peoples throughout the hemisphere to achieve peaceful and democratic self-determination in Cuba and in all states and territories of the hemisphere.

This language I think is strong. It is powerful language. It embraces the fact that collective security and other nations in this hemisphere should be taken into account. All freedom-loving nations should resist this kind of encroachment, and it is not just a job to be cleaned up and done by American force of arms.

What do we intend to do—invade? Do we intend to rally up the Forces? Are we going to initiate the draft? Maybe we should for other reasons but are not going to do it for this reason. We will never get a referendum to support it.

I think the committee language is good language, and for that reason at the proper moment and the proper time I will move to table the Symms amendment and on disposition of that

amendment would then substitute or offer as amendment the language that was adopted by the committee.

I am happy to yield such time as the distinguished minority leader of the Foreign Relations Committee desires.

Mr. PELL. I thank my colleague very much indeed.

It was Talleyrand who once said that: "When you are dealing with an adversary you ought to spend 10 minutes of every 60 in the skin of your adversary."

I am just looking at this from the Cuban viewpoint. They have been the victims of one pseudo-invasion, and efforts have been made to assassinate their chief of government. They naturally have a certain leanness about the United States.

For us to talk about them, one twenty-fifth the size of our country in population, as a threat is, I think we will agree, ridiculous.

The main danger in the resolution before us is the use of the phrase "including the use of arms." For a nation as Cuba that has been at the receiving end of many efforts to destabilize her government over the years, that would strike terror in many Cubans.

Also this resolution is silent on the question of nuclear arms.

For these reasons, I believe the substitute that we worked up in the Foreign Relations Committee, and that the chairman will offer, meets the requirements of our security, and meets the requirements that we seek as individual politicians in trying to appear to our constituents that we are true-blue Americans. I hope that the amendment before us will be defeated and that the one offered by the chairman of the committee will be acceptable.

Mr. PERCY. I thank my distinguished colleague.

The PRESIDING OFFICER. Who yields time?

Mr. PERCY. The amendment which I will offer immediately following disposition of the Symms amendment will be offered as an amendment to supersede the Symms amendment.

The amendment received apparently 14 votes for it and 1 vote present in the committee.

I ask once again and in conclusion whether or not Congress wants now to enact legislation that would raise the question about the requirements of the War Powers Act, that would enact this new sort of Cuba revolution and raise the serious question as to whether the clause is reinvigorated and the President is given new license to use troops without prior consultation with Congress in trouble spots around the world including Cuba.

I think that would be abdicating our responsibility, that would be walking out on the months of debate, over 1 year, that we had particularly when

we overrode the veto of the President in passing the War Powers Act.

The Foreign Relations Committee dealt at length with this issue. In hearings this spring, we determined in a fully bipartisan decision, 14 affirmative votes, to draft substitute legislation that contains the essence of Senator Symms' amendment but that qualified that language so as not to compromise our understanding of current war powers legislation.

Mr. SYMMS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Idaho has 7 minutes and 35 seconds; the Senator from Illinois, 2 minutes and 7 seconds.

Mr. SYMMS. Mr. President, I demand the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SYMMS. Mr. President, I yield 6 minutes to the distinguished President pro tem, Senator THURMOND.

Mr. THURMOND. Mr. President, I rise in support of the Symms amendment.

On April 14 of this past year, I stood before this body in strong support of the proposal offered by the distinguished Senator from Idaho, relating to U.S. policy toward the Government of Cuba. Unfortunately, by a narrow margin, the Senate tabled that Symms amendment, partially in deferral to the Foreign Relations Committee for further evaluation of the issue.

During the committee's consideration of this legislation, critical language was removed, resulting in a "watered-down" version of what once was a clear, straightforward, and firm statement of American foreign policy.

However, Mr. President, I am glad to see that Senator SYMMS has given the full Senate another opportunity to consider the undiluted version of this legislation.

Mr. President, I wish to reiterate my continued backing of this Symms amendment. It is a misperception that this amendment alters or changes any present law.

Mr. President, let us see what this amendment says. I think we should know exactly what we are voting on. It merely reaffirms and supports existing U.S. law, signed by President Kennedy in 1962, with respect to the situation in Cuba.

This amendment basically calls for U.S. resistance to Cuban aggression and subversion in this hemisphere, prevention of escalation in the number of Soviet military bases and Soviet influences in Cuba, and support for the basic principle of self-determination for the Cuban people.

What is wrong with that? Who can object to that? Are we not all in favor

of those things? That is all the resolution of Senator SYMMS does.

Now, Mr. President, I want to say I think these are fundamental principles that I am certain each Member of this distinguished body can support.

Mr. President, let me counter the argument that the strong reaffirmation of our presently existing policy relating to Cuba is not necessary in this day and time. I fear that too few Americans actually realize the seriousness of the threat that the present Communist government of this island country poses to the well-being of the hemisphere in which we live. The Marxist Castro regime in Cuba has exported its subversion to Central America. Cuban activities have assisted in the overthrow of the government in Nicaragua, in deterioration of the situation in Guatemala, and in the guerrilla violence that has resulted in bloody civil war in El Salvador. How long must we stand idly by as our neighbors to the South are engulfed by the Communist cancer?

Mr. President, there are also internal factors within Cuba that are a source of great concern. Over the past decade, the Soviet Union has been emplacing offensive weapons in Cuba. Defense analysts estimate Soviet military shipments to Cuba tripled in 1981 over 1980, and are increasing again this year. This places Russian military exports to Cuba at their highest level since 1962.

Mr. President, Soviet-made heavy bombers, of the Tu-95 class, based west of Havana, fly reconnaissance missions along our very own Atlantic coast daily. Recently, a second squadron of MiG-23 ground attack fighters was uncrated in Cuba, and they are being manned by Soviet pilots. These intercontinental aircraft allow Castro to maintain an air force second only to the United States here in the Western Hemisphere.

Mr. President, the fact remains that the controversial 4,000-member Soviet combat brigade is still stationed in Cuba. It has been reported that this very same brigade was recently sent to East Germany on a nuclear weapons securing training mission.

Additionally, we must be reminded of the new nuclear submarine facility that is being built along the Cuban coast, along with the fact that Soviet warships regularly conduct exercises in the Gulf of Mexico.

Finally, Mr. President, we must not be oblivious to the announced threat of Soviet President Leonid Brezhnev to place SS-20 nuclear warhead missiles in Cuba if the United States goes ahead with its plans to place Pershing missiles in Europe.

Mr. President, we are not speaking of a country, or a problem that exists thousands of miles away from our borders. The geographical proximity of

this situation demands that we address this problem with authority and firmness.

That is the only language the Communists know. It is the only language the Soviets know, and it seems to me we ought to take a firm stand here, not equivocate, not offer some weaker resolution which does not carry any strength to it and any firmness. If we are going to avoid a war we have got to have a clear signal to the Soviets and a clear signal to Cuba that here we stand, a continent of free people, and we are not going to stand idly by and see all of this take place here and say nothing or do nothing. This resolution to me should be passed, and I hope the Senate will pass it. Too often in the past we have handled similar situations with a weak and apathetic policy. As a result, too often we have had to stand by and witness a substantial reduction of U.S. influence in areas of vital American interest.

Mr. President, I want to make it clear that I am not calling for the use of force as the only answer to this problem, and I am confident that no one in this body is an advocate of misguided or unnecessary military action in this or any other similar situation. We must be cognizant, however, of the consequences that are likely to arise if we should formulate a policy in regard to Cuba that precludes or suggests that we would be unwilling to employ the use of force in containing Cuba's aggression. A weak stand in this area will only strengthen Castro's desire to establish a paralyzing grip on both Central and South America. The United States should not have its hands tied in this matter. We must have all means and options available to us if we are to maintain stability in this hemisphere and counter Castro's Soviet-oriented, subversive goals.

Mr. President, why should we play into the hands of our adversaries? Why should the United States send a message to the Soviet-backed regime in Cuba, that we are no longer willing to protect our own vital interests in this hemisphere? The defeat of this amendment will send that very message to Fidel Castro, and we will have passed up an excellent opportunity for this body to clearly express its desire to see the United States maintain an influential policy in our own backyard.

Moreover, Mr. President, this amendment is fully consistent with the administration's recent Caribbean policy proposals. The President views the Caribbean region as a vital strategic and commercial area for the United States. We cannot afford to allow Cuba to be the dominant force in this region. We must take steps to insure that Castro does not continue to hamper our efforts to improve the social and economic well-being of the people in the Caribbean Basin and in Central America.

Mr. President, let us not be so naive as to believe that this matter is not of extreme importance. I feel that it is essential that we take a strong stance in our relations with Cuba. It would be a most serious mistake to be submissive or imprudent in our dealings with Castro. The adverse ramifications of allowing this Russian surrogate to spread its destabilizing influence throughout our hemisphere are totally unmeasurable.

Mr. President, as I did in the past, I will vote in favor of this initiative, and I hope that my Senate colleagues will also go on record in favor of the Symms amendment, and in favor of a strong U.S. policy in regard to Cuba.

Mr. LEAHY addressed the Chair.
The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, will Mr. PERCY yield me 30 seconds?

Mr. PERCY. Yes, of course, I would be happy to yield.

Mr. LEAHY. Mr. President, the distinguished President pro tempore has spoken of the brigade in Cuba. He is absolutely right, the Soviets do have them down there.

I am reminded of what somebody said to me during 1980 in Vermont, "By golly, if Ronald Reagan was President, we wouldn't have any Soviet brigade in Cuba."

The PRESIDING OFFICER. Who yields time?

Mr. BAKER. Mr. President, before we do that, I ask unanimous consent to proceed for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is 9:25, and I had promised the Senate would be out at 9 o'clock, which for me is better than average. But I do want to try to get us out as soon as possible.

As I understand it, there is going to be a tabling motion made by the chairman of the Committee on Foreign Relations. If that succeeds then there would be an amendment offered by the Senator from Illinois (Mr. PERCY). If that does not succeed we will have a record vote on the Symms amendment itself, and then we have got the Schmitt amendment to deal with which, perhaps, will be accepted. But the long and short of it is—I mean the Mattingly amendment. The long and short of it is we could be here another hour at that rate.

I have discussed this with the two managers of the bill, with the distinguished Senator from Idaho (Mr. SYMMS), the chairman of the committee, and I have consulted with the minority leader. Mr. President, I do not think we can finish this section tonight.

Therefore, I ask unanimous consent that after the disposition of the Symms amendment that only a possible amendment by the Senator from

Illinois (Mr. PERCY) and an amendment by the Senator from Georgia (Mr. MATTINGLY) be in order for this section tomorrow when we resume consideration of this bill.

Before the Chair rules or puts the question, after that is done if we can lock down that nothing else to this section is to be offered and would be in order, then I would ask the Senate to recess after the disposition of the Symms amendment or the tabling motion.

Mr. PERCY. Mr. President, reserving the right to object, and I shall not, I would like to indicate a willingness on the amendment that I would be offering, which would supersede the Symms amendment, even if adopted, that we have a time limitation of 10 minutes equally divided and a 10-minute rollcall vote.

Mr. BAKER. Mr. President, I would be glad to put that request.

Mr. SYMMS. Mr. President, reserving the right to object, you are talking about doing this tomorrow, though?

Mr. BAKER. Yes.

Mr. SYMMS. I would think 10 minutes would be a little bit short.

Mr. PERCY. I thought this was to be tonight.

Mr. BAKER. Mr. President, let me postpone that for the time being then. Let me put the request I just stated to the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Reserving the right to object—

Mr. HELMS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER. Mr. President, after we have the next vote I will ask the Senate to recess until in the morning.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. Mr. President, will the Senator from Illinois yield me 15 seconds for a question?

Mr. SYMMS. Mr. President, has all time expired?

The PRESIDING OFFICER. All time has not expired. Who yields time?

Mr. MOYNIHAN. Will the distinguished chairman yield 15 seconds for a question?

Mr. PERCY. Yes, of course.

Mr. MOYNIHAN. I believe on this side of the aisle it would be important for us to know does the President of the United States support or oppose the Symms amendment?

Mr. SYMMS. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 2 minutes and 22 seconds.

Mr. SYMMS. This is a letter from Mr. William Clark, Bill Clark. On my time I will read this letter into the Record for the distinguished Senator

from New York. This is from Mr. William Clark:

The principles embodied in your resolution have the full support of the President. He clearly expressed these same sentiments during his speech before the Organization of American States on February 24, 1982.

This is dated April 29, 1982.

Mr. MOYNIHAN. Is the President prepared to go to war if the terms of the resolution are not met?

Mr. SYMMS. On my time again, I would say that the President is the Commander in Chief. I am not making such a judgment. But the principle here is to announce that anything less is surrender to Soviet intervention into this hemisphere, and I am sure my good friend from New York does not want to do that.

What this amendment expresses is political will, whether we as Americans have the resolve to resist expansionism of the Soviet puppet Castro in the Caribbean Basin. That is what the question is. It is a question of a strong signal; it is not a question of whether or not we are going to go to war tomorrow, next week, or the week after. It is a question of what the American position is. We need a clear-cut, concise statement of what we will or will not tolerate right off our front door, 90 miles from home.

Mr. MOYNIHAN. I thank the Senator.

Mr. PERCY. Mr. President, to respond further to the distinguished Senator from New York, after the Committee on Foreign Relations adopted by a 14 aye vote the resolution which I will present for adoption by the Senate tonight, I did send the resolution to Secretary Shultz. We have not had a reaction back from Secretary Shultz.

I also indicated that there were 14 aye votes and 1 present. Senator HELMS voted present originally but then, I note in the RECORD, he did wish later to be recorded in the negative. So it was 14 to 1.

But I do feel, for the reasons I have previously stated, the amendment that I will be offering, subject to the disposition of this amendment, will offer the opportunity to the Senate to vote on it.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. PERCY. Mr. President, I move to table the Symms amendment.

The PRESIDING OFFICER. Does the Senator from Idaho yield back his time?

Mr. SYMMS. Mr. President, I yield the remaining time to the Senator from North Carolina.

Mr. HELMS. Mr. President, I will only take 30 seconds. What we are talking about with respect to the substitute, which the Senator from Illinois will offer in the event that the Symms amendment is not tabled, is re-

ducing the Monroe Doctrine in half. Now, of course, half is better than zero. But it is time to put up or shut up.

This amendment by the Senator from Idaho does not rattle any saber. It just has America acting like America again.

I will repeat the quote from John F. Kennedy in 1962, when he said:

The evidence is clear now and the hour is late. We and our Latin friends will have to face the fact that we cannot postpone any longer the real issue of the survival of freedom in this Hemisphere.

That is what we are talking about. We can mess around with words all we want to, but we are talking really about the survival of freedom in this hemisphere.

The PRESIDING OFFICER. All the time of the Senator has expired.

Mr. PERCY. Mr. President, I move to table the Symms amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Illinois (Mr. PERCY) to table the amendment of the Senator from Idaho (Mr. SYMMS). The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART), the Senator from Michigan (Mr. LEVIN), the Senator from Michigan (Mr. RIEGLE) and the Senator from Maryland (Mr. SARBANES), are necessarily absent.

I further announce that, if present and voting, the Senator from Michigan (Mr. LEVIN), and the Senator from Michigan (Mr. RIEGLE), would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 30, nays 65, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—30

Baucus	Ford	Long
Biden	Glenn	Matsunaga
Bumpers	Gorton	Moynihan
Chafee	Hatfield	Packwood
Cranston	Huddleston	Pell
Danforth	Inouye	Percy
Dixon	Jackson	Proxmire
Dodd	Johnston	Stennis
Durenberger	Kennedy	Tsongas
Eagleton	Leahy	Weicker

NAYS—65

Abdnor	Bradley	Chiles
Andrews	Brady	Cochran
Armstrong	Burdick	Cohen
Baker	Byrd	D'Amato
Bentsen	Harry F., Jr.	DeConcini
Boren	Byrd, Robert C.	Denton
Boschwitz	Cannon	Dole

Domenici
East
Exon
Garn
Goldwater
Grassley
Hatch
Hawkins
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen

Kassebaum
Kasten
Laxalt
Lugar
Mattingly
McClure
Melcher
Metzenbaum
Mitchell
Murkowski
Nickles
Nunn
Pressler
Pryor
Quayle

Randolph
Roth
Rudman
Sasser
Schmitt
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Tower
Wallace
Warner
Zorinsky

NOT VOTING—5

Hart
Levin
Mathias
Riegle
Sarbanes

So the motion to lay on the table UP amendment No. 1201 was rejected.

Mr. SYMMS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT— AMENDMENTS TO CHAPTER VI

Mr. BAKER. Mr. President, I believe I have indicated and the minority leader agrees that there will be no more record votes tonight. I have a unanimous-consent request I wish to propound that I have submitted to the minority leader, managers, and other Senators.

I ask unanimous consent that no other amendments be in order to chapter VI of H.R. 6863 after disposition of the pending Symms amendment except a Percy amendment dealing with Cuba, a Mattingly amendment dealing with drug traffic, and also remaining Appropriations Committee amendments.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, does the Senator mean by that last phrase, "and also remaining Appropriations Committee amendments" to chapter VI?

Mr. BAKER. Yes, Mr. President, to chapter VI.

Mr. ROBERT C. BYRD. I thank the Senator. I have no objection.

Mr. MOYNIHAN. Mr. President, reserving the right to object, and I shall not object, I should like to offer an amendment to this section tomorrow.

Mr. BAKER. Mr. President, will the Senator tell us the subject of this amendment?

Mr. MOYNIHAN. On the drug traffic.

Mr. BAKER. Mr. President, I include that in the request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, in the committee's rush to file and have printed its committee report on the supplemental appropriations bill, a number of minor typographical errors occurred. To clarify any confusion, I shall ask unanimous consent to have a

list of corrections printed in the RECORD. These have been checked with the manager for the minority side.

Mr. President, included in these corrections is a technical reclassification of spending authority, which because of a transfer, is no longer counted as new budget authority. As a result, the total budget authority contained in the reported bill for program supplementals totals \$2,857,707,459. This is \$17.4 million less than is shown in the printed report. Tabular corrections in the pay supplemental title reduce the reported bill total by \$312,000 for a revised total of \$6,106,872,640. The corrected overall bill total then is \$8,964,580,099.

I ask unanimous consent that the list I referred to be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

TECHNICAL CORRECTIONS OF TYPOGRAPHICAL ERRORS IN THE COMMITTEE REPORT (S. REPT. 97-518)

Page 51, in the table at the top of the page in column 3 entitled, "Committee recommendation" aligning with the line entitled "variable housing allowance", strike out "5,000" and insert: "5,500".

Page 97, line 16, after "resources" insert: "if necessary, otherwise these funds could be deferred for use in fiscal year 1983."

Page 97, line 22, after "eliminating" strike out "the" and insert: "OMB's proposal".

Page 99, line 20, strike out "registration" and insert: "registration".

Page 100, line 19, after "provided" and insert: "the".

Page 102, line 3, strike out "October 1, 1983" and insert: "September 30, 1983".

Page 113, line 11, strike out "\$450,000" and insert: "\$540,000".

Page 113, line 15, strike out "(\$40,000)" and insert: "(\$20,000)".

Page 238, line 27, at the beginning of the paragraph, insert: "Section 303."

Page 238, line 29, strike out "1982" and insert: "1983".

TABULAR CORRECTIONS

Page 178: "Investment in fund Anticipation Notes (By transfer)";

Under the Senate committee recommendation strike "(5,000,000)", and insert: "_____".

Under the Senate committee recommendation compared with (+ or -).

Budget estimates: Strike "(+5,000,000)" and insert: "_____".

House bill: Strike "_____ " and insert: "(-5,000,000)".

Page 196: "Payment to the Postal Service Fund".

Under the Senate committee recommendation strike "39,000,000" and insert: "20,000,000".

Under the Senate committee recommendation (+ or -).

Budget estimates: Strike "+39,000,000" and insert: "+20,000,000".

House bill: Strike "+19,000,000" and insert: "_____".

Insert following "Payment to the Postal Service Fund" a new line "(By transfer)".

Under Budget estimates insert: "_____".

Under House bill insert: "_____".

Under Senate committee recommendation insert: "(19,000,000)".

Under Senate committee recommendation compared with (+ or -).

Budget estimates: Insert: "(+19,000,000)".

House bill: Insert: "(+19,000,000)".

"National Archives and Record Service, Operating Expenses".

Under Senate committee recommendation strike "[+4,900,000]" and insert: "6,500,000".

Under Senate committee recommendation compared with (+ or -).

Budget estimates: Strike "[+4,900,000]" and insert: "+6,500,000".

House bill: Strike "[+4,900,000]" and insert: "+6,500,000".

Page 199: Insert following the line "Office of the Legislative Counsel of the Senate," a new line "Office of the Senate Legal Counsel".

Under Budget estimates insert: "13,000".

Under House bill insert: "_____".

Under Senate committee recommendation insert: "13,000".

Under Senate committee recommendation compared with (+ or -).

Budget estimates: Insert: "_____".

House bill: Insert: "+13,000".

Page 231: "Advisory Council on Historic Preservation: Salaries and expenses."

Under Senate committee recommendation strike "25,000" and insert: "_____".

Under the Senate committee recommendation compared with (+ or -).

Budget estimates: Strike "+25,000" and insert: "_____".

House bill: Strike "_____ " and insert: "-25,000".

Page 236: "National Gallery of Art, salaries and expenses".

Under Senate committee recommendation strike "300,000" and insert: "_____".

Under the Senate committee recommendation compared with (+ or -).

Budget estimates: Strike "+300,000" and insert: "_____".

House bill: Strike "_____ " and insert: "-300,000".

Mr. HATFIELD. Mr. President,

there are no other amendments to be taken up on this bill at this time. I yield the floor.

Mr. PERCY. Mr. President, I would like to discuss for a few minutes with the Senator from New Mexico the matter of the \$8.5 million in the House version of the supplemental which has been earmarked for repair and construction of the Job Corps Center in Joliet, Ill.

I ask unanimous consent that a fact-sheet on the Job Corps Center and the appropriations bill be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOLIET JOB CORPS CENTER

The fiscal 1982 general supplemental appropriations bill, as passed by the House, provided \$8.5 million to rebuild a major portion of the Joliet Job Corps Center in Illinois. This item was left out of the Senate version.

The Joliet center, located 50 miles southwest of downtown Chicago, opened in July, 1979 with a rated capacity for 400 young men and women between the ages of 16 and 21. A fire in November, 1981, reduced the center's capacity to 150 youth. They are being trained as auto mechanics, clerk-typists, nursing assistants, cooks, welders and maintenance workers.

The fire destroyed a building which had been used as a dormitory for 200 male youth and also for administrative offices and for an infirmary. The House Appropriations Committee, in its report, said it wanted to see the center rebuilt "at the earliest possible date" with priority for enrollment given to youth living within 200 miles of Chicago, an area that includes major cities of Illinois, Indiana, Michigan, Wisconsin and Iowa. Here are some of the compelling reasons for the committee's decision:

(1) The Chicago area has one of the highest concentrations of unemployed minority youth in the country. Of the current enrollees, 87.6% are black, 2.4% are hispanic and 9.2% are white.

(2) There is only one other Job Corps Center in Illinois, a conservation center for 230 males operated by the Forest Service near Golconda in the southern part of the state.

(3) The Joliet center is housed in buildings leased from the Army at the "moth-balled" Joliet Army Ammunition Plant. The burned building was part of the plant's defense mobilization base so it will have to be replaced at Labor department expense in any case.

(4) The RCA Service Company was the original operator of the Joliet center. Since the contract was awarded last year to Res-Care, Inc. of Louisville, Kentucky, the operating efficiency of the center has greatly improved under its able director, James E. Daniels.

Mr. PERCY. I think the Job Corps program is a good one and this particular center in Joliet has had a good record—a placement rate of 80 to 95 percent before the recession reached its deepest point. Since it serves such a widespread area in the central Midwest, and since the repairs required by the extensive fire damage are certainly more than routine, I agree with the House that some special funding is needed. I wonder if I could call upon the Senator from New Mexico for his comments on this matter?

Mr. SCHMITT. Mr. President, I can certainly understand the concern of the Senator from Illinois in this regard. It is unfortunate that the Joliet Center has been reduced to so small a portion of its original training capacity. As the Senator knows, the House language was reviewed by the committee and we did not feel it was possible to earmark such funding in our own bill at this time.

Mr. PERCY. I appreciate the understanding of the Senator from New Mexico, who chairs the Appropriations Subcommittee on Labor, Health, and Human Services, and Education, and I wonder if he would indulge me for a few minutes in a discussion about what options may be open to us in pursuit of this matter.

Mr. SCHMITT. I would be happy to discuss the matter with the Senator from Illinois.

Mr. PERCY. Mr. President, aside from a Job Corps Center near Golconda, Ill., which is used by the Forest Service to train people in conservation and forestry, there is not now a facili-

ty within a reasonable distance—other than Joliet—that conducts training in skills that are marketable in urban areas and which is accessible to residents from adjacent States such as Wisconsin and Indiana. Does my colleague not agree that some effort should be made, at some point, to look into the problem of this severely reduced training capacity in the Chicago area, one which affects other States as well?

Mr. SCHMITT. Mr. President, we understand the concern of the Senator from Illinois. He has brought to the attention of both the committee and the Senate a very real problem and we would like to work closely with him to arrive at an appropriate solution at the appropriate time.

Mr. PERCY. I thank the Senator for his interest and concern. I wonder if the distinguished subcommittee chairman would be able to give me his assurances that he will keep an open mind on this matter as the Senate proceeds to conference on the bill.

Mr. SCHMITT. I can assure the Senator that we will have an open mind on the House provision when we go to conference. It may be, however, that this matter will have to be resolved in connection with subsequent action on funding for the entire Job Corps program for fiscal year 1983.

Mr. PERCY. I thank the Senator very much. I appreciate his willingness to discuss the problem here on the floor and his kind offer to work with us on it. His assurances have been very helpful to me and I know he will, as usual, do his best to follow up on them.

REGARDING TITLE I SUPPLEMENTAL

Mr. D'AMATO. As chairman of the Labor-HHS-Education Appropriations Subcommittee, is it the Senator's understanding that the \$148 million fiscal year 1982 supplemental appropriation for title I is to be used in conjunction with the regular appropriation to assure each county of a total title I allocation for the 1982-83 school year that is the higher of the amount under either the 1970 or 1980 census data?

Mr. SCHMITT. Yes, that is correct.

Mr. D'AMATO. Since the Department of Education has already distributed the amount appropriated according to the 1970 census, is it your understanding that the \$148 million fiscal year 1982 supplemental is to be distributed in such a way as to assure that only those counties that do better under the 1980 census data will get the amount they would have received if the 1980 data had been used?

Mr. SCHMITT. Yes, that is correct. Because the previous appropriation has now been distributed according to the 1970 data, the Department will distribute the new \$148 million to each State that has even a single county that would have done better under the

1980 census had it been used. This will insure that each State's total title I allocation will be the higher of the amount distributed under the 1970 or 1980 census data. No county, of course, will receive more than the higher of the 1970 or 1980 census data allocation.

Mr. D'AMATO. In other words, this new title I supplemental could not, therefore, be used to grant additional dollars to counties that do better under the 1970 census, but would apply only to counties that do better under the criteria for poverty in the 1980 census?

Mr. SCHMITT. Yes, exactly.

Mr. D'AMATO. And finally, what do you see as happening should the courts rule, following enactment of the supplemental, in favor of using the 1980 census data for the 1982-83 school year? Would the \$148 million then be distributed only to counties that do better under the 1970 census than under the 1980 census?

Mr. SCHMITT. Any comment would be speculative at this point. We would need to look very carefully at any court decision that is made. However, I am sure the Members would want to do everything possible to insure that there be no disruption to the school year due to court action.

Mr. D'AMATO. Is there any indication among local school administrators that they would oppose this special supplemental?

Mr. SCHMITT. I am aware of none. Many education organizations including the Council of Great City Schools; the American Association of School Administrators, whose members would administer these new funds; the National School Boards Association; and so forth have indicated they support the supplemental.

Mr. D'AMATO. I thank the Senator for this clarification.

Mr. CRANSTON. Mr. President, as the ranking minority member of the Veterans' Affairs Committee, I would like to discuss one point regarding the pending measure with the distinguished chairman of the HUD-Independent Agencies Subcommittee, my good friend from Utah (Mr. GARN). In the report to accompany this measure—Senate Report No. 97-516—the Appropriations Committee stated it concurs with the action of the House of Representatives in transferring \$8 million to the VA's medical administration and miscellaneous operating expenses account from the agency's medical care account in order to support the VA's nurse scholarship program through September 1983. The report further referred to the source of the \$8 million from the medical care account as certain funds available for the VA's vet center readjustment counseling program, more specifically from the fiscal year 1982 funds allocated to that program for contracting

with non-VA entities to provide readjustment counseling.

Mr. President, as further noted in the report, the Appropriations Committee considers the VA nurse scholarship program a high priority, and since the VA has informed the committee that it would not be able to obligate \$8 to \$10 million of the \$11.2 million allocated to the contracting-out portion of the readjustment counseling program in fiscal year 1982, the committee provided for a transfer of \$8 million of those funds rather than have the funds lapse.

As I indicated in my August 4 letter on this subject to the distinguished chairman and the distinguished ranking minority member of the subcommittee (Mr. HUDDLESTON), I very much share the Appropriations Committee's support for the VA's plan under its health professional scholarship program to finance the training and upgrading of VA nurses and fully endorse the increase in and extended availability of funding for that program that would be provided for in the pending measure.

I realize that the VA's unfortunate delay, until very recently, in developing a mechanism for fee-for-service contracts for readjustment counseling may mean that not all of the funds earmarked for that effort in fiscal year 1982 can be effectively expended for that specific purpose by the end of the current fiscal year. I do not support, however, transferring funds away from the readjustment counseling program—a program that is of great importance to many Vietnam veterans.

Mr. GARN. Mr. President, I know that my friend from California (Mr. CRANSTON) is strongly committed to meeting the needs of Vietnam veterans. I share that commitment, and I certainly would not endorse any action that would diminish the efforts of the Federal Government to assist those veterans. Although it is correct that the committee report mentions readjustment counseling fee-for-service funding as the source for the \$8 million to be transferred from the medical care account to support the nurse scholarship program, that reference was intended only as an example of a source in the medical care account from which funds could be drawn. As was noted in the committee report, the reason that source was mentioned was that the VA had advised the Appropriations Committee that the readjustment counseling fee-for-service funds would otherwise lapse. The Administrator would certainly have discretion to identify another source, or other sources, to effectuate the transfer which this act will make possible and bring that proposal to the attention of the Appropriations Committees in the usual manner.

Mr. CRANSTON. Mr. President, I appreciate the support of the chairman (Mr. GARN) for Vietnam veterans and his clarification of the committee's intent regarding the use of readjustment counseling program funds. As I urged in my August 4 letter, I would hope that, before the VA would use any of the funds earmarked for that program to support the transfer of funds for the nurse scholarship program, the agency would make an immediate, concerted effort to use those funds for the purposes intended or for other purposes related to the readjustment counseling program. For example, every consideration should be given to the possible use of such funds to support some part-time employees for the balance of the current fiscal year to bolster the existing readjustment counseling efforts, to support increased travel in conjunction with ongoing training efforts that are designed to improve the skills of those working in the program, to fund research into the effectiveness of the vet centers in addressing problems related to combat stress, and to fund a VA effort to monitor the efforts of the various contractors providing fee-for-service counseling.

Mr. GARN. Mr. President, the suggestions made by Senator CRANSTON for ways in which the VA might use these fee-for-service money that cannot be otherwise obligated by the end of fiscal year 1982 all have merit and the VA should consider them. In any event, I know that we are in agreement that these funds should not be allowed to lapse. I also trust that there will not be a repeat of this situation in the next fiscal year but rather that, in fiscal year 1983 and subsequent years, the agency will effectively use for the intended purpose all the funds earmarked for the fee-for-service portion as well as the in-house vet center aspect of the readjustment counseling program.

I will raise the concerns we have discussed regarding funding for the readjustment counseling program with my counterparts on the House Appropriations Committee during the conference on this bill and make it clear that the Administrator has the discretion to find the most appropriate source within the medical care account to provide for the transfer to MAMOE of the \$8 million for the nurse scholarships.

Mr. CRANSTON. Mr. President, I am very grateful to my good friend from Utah for this clarification and, as always, his excellent cooperation and helpfulness. I ask unanimous consent, Mr. President, that the text of my August 4 letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., August 3, 1982.

Hon. JAKE GARN,
Chairman,
Hon. WALTER D. HUDDLESTON,
Ranking Minority Member,
Subcommittee on HUD-Independent Agencies,
Committee on Appropriations, U.S. Senate, Washington, D.C.

DEAR JAKE AND DEE: I noticed that H.R. 6863, a supplemental appropriations Act for fiscal year 1982, as passed by the House of Representatives on July 29, contains a provision to transfer \$8 million from the Veterans' Administration's medical care account to the agency's medical administration and miscellaneous operating expenses account in order to provide funding support for the VA's Health Professional Scholarship Program. Once transferred, these fiscal year 1982 funds would continue to be available until September 1983.

I strongly support the VA's plan under its Scholarship Program to finance the training and upgrading of VA nurses and fully endorse the increase in and extended availability of funding for that program. I am very concerned, however, that the House Appropriations Committee recommended in its report (H. Rept. No. 97-673) to accompany H.R. 6863 that the source for this \$8 million transfer be funds previously intended to fund the fee-for-service portion of the VA's "Vet Center" readjustment counseling program. I believe that diverting funds from that source would be inappropriate, and I urge that the Senate Committee not ratify that recommendation.

As the author of the legislation establishing the VA's readjustment counseling program, I have long advocated the timely establishment of a fee-for-service counseling effort so as to provide assistance to those veterans in need of readjustment counseling who are unable to take advantage of the Vet Centers. Thus, I have been very disappointed that it took the VA until earlier this year to establish a fee mechanism and begin to implement it. Although I appreciate that the delays already incurred may mean that not all of the monies originally allocated for fee-for-service efforts in fiscal year 1982—\$11.2 million—can be effectively utilized for such purposes during this fiscal year, I would hope that your Subcommittee would first assure itself that a good faith effort has been made to utilize as much of those funds as possible before endorsing any proposal to allow the funds to be used for other purposes.

Moreover, to the extent that the Subcommittee is satisfied that some of the funds allocated for the fee-for-service portion of the readjustment counseling program in fiscal year 1982 will lapse unless they are reallocated, I urge that efforts be made to retain in that program for other uses such funds as can be effectively used by that program. For example, I believe that such funds could be effectively used for supporting some part-time FTEE's to bolster the existing Vet Centers' efforts between now and the end of the fiscal year, for supporting increased travel in conjunction with on-going training efforts that are designed to improve the skills of those conducting the program, for funding research into the effectiveness of the program in addressing problems related to combat stress, and for funding a VA effort to monitor the efforts of the various fee-for-service contractors. To the extent that funds remain after such readjustment counseling activities are funded, I

would urge that the Subcommittee favorably consider either authorization to transfer such funds for use in support of other programs targeted on Vietnam-era veterans, such as the VA's various Agent Orange activities, or an amendment to permit an appropriate amount of funds to be utilized for some or all of the foregoing purposes relating to Vietnam veterans, or for fee counseling, beyond September 30, 1982—or some combination of these actions.

I realize that, to the extent your Subcommittee does not rely on funds from the readjustment counseling program to support the VA Scholarship Program, there will be a need to identify other VA programs that could be offset so as to provide additional funding for the Scholarship Program. I understand that the Veterans' Administration plans to give you some suggestions in that respect prior to your Subcommittee's next meeting. I believe that finding an alternative transfer source would be far preferable to shifting monies intended to meet Vietnam veterans' needs to programs not directly related to their needs.

I am, as always, ready to work with your Subcommittee as appropriate and greatly appreciate your consideration of my views on these issues.

With warm regards,
Cordially,

ALAN CRANSTON,
Ranking Minority Member.

TUBERCULOSIS CONTROL

● Mr. HAWKINS. Mr. President, I had intended to offer an amendment to the Supplemental Appropriations bill to appropriate \$9 million for tuberculosis control programs. In fact, I first introduced this amendment last year in anticipation of the Labor, HHS, and Education Appropriations bill being considered by the Senate. The appropriations for programs under these departments were funded under a year-long continuing resolution that did not provide for funding under either the old 314(d) block grant or the new categorical tuberculosis control grant program. Therefore, for over a year no Federal support has been earmarked for controlling the spread of tuberculosis.

I believe wholeheartedly in providing adequate funding for tuberculosis control. I am still very much committed to assisting the States and local governments in combating this serious health threat. The action of the Senate Appropriations Committee is indeed encouraging. They hope to provide \$1 million in supplemental appropriations for the chronic disease program of the Center for Disease Control. I want to thank Senator SCHMITT, the chairman of the Subcommittee on Labor, HHS, and Education Appropriations, for accepting the House provision that earmarks \$1 million for tuberculosis control. Senator SCHMITT has been patient in listening to my concerns over cuts that jeopardize a vital health program. I appreciated his courtesy in inviting me to submit testimony during the February 3 hearing on supplemental appropriations.

While I prefer that the full \$9 million authorized for tuberculosis in fiscal year 1982 be appropriated, I can understand and agree with the concern of limiting funds for tuberculosis control to \$1 million in this particular bill, since in fact, only 1 month remains in this fiscal year. I am concerned, however, that withholding my amendment does not affect the appropriations for this program in fiscal year 1983.

Can the Senator from New Mexico assure me that this program is of such vital importance that he will give every attention to this health program during the subcommittee's consideration of appropriation levels for the next fiscal year?

Mr. SCHMITT. You can be assured that the problem of controlling the spread of tuberculosis is one which will receive every consideration when the subcommittee establishes its spending priorities for health programs for fiscal year 1983.

Ms. HAWKINS. With that assurance, I will not offer my amendment for supplemental funding for tuberculosis control programs. I do hope that the funding signals a growing awareness in Congress of the need for Federal support for tuberculosis control. It is my hope that Congress will appropriate the full authorized level for tuberculosis control for fiscal year 1983.

The Senate Labor and Human Resources Committee, of which I am a member, considered the need for increased funding during last year's omnibus reconciliation bill. We received disturbing testimony about the increase in the number of tuberculosis cases in 20 States and the discovery of a drug-resistant strain of tuberculosis. These findings prompted Congress to authorize \$9 million in fiscal year 1982 and \$10 million in fiscal year 1983 for project grants for tuberculosis control. Unfortunately, despite this action by the authorization committees, no funds were appropriated for the program. I agree with the need to make additional budget cuts through the appropriations process. I feel, however, that total elimination of funding for this preventive health program is shortsighted and will cost us dearly in the future.

Tuberculosis is a dread and vicious threat to the health of this country. Active prevention is our best defense against tuberculosis—and other health threats too. Since the victims of tuberculosis frequently are Medicaid and Medicare patients, the Federal Government, frankly, can pay now, or will have to pay later. Attacking tuberculosis right away through prevention therefore can save thousands from needlessly acquiring tuberculosis and it also makes good sense from an economic viewpoint. Briefly, prevention is cheaper than the cure.

The committee decision to eliminate funding for tuberculosis control was clearly based on a decision to not fund any new programs. This is not a new program, though. It is merely a shift in funds. From 1959 to 1970 the Federal Government initiated a program of special project grants through the Center for Disease Control's tuberculosis control program. In the 1970's funds for controlling tuberculosis were transferred to a block grant to be distributed by the States through the 314(d) block grant. That program expired in October 1981. The need, however, for Federal funding for tuberculosis has not expired.

Tuberculosis is not a disease of the past. The problem is not under control. Federal health officials have determined that tuberculosis is still a serious health problem, particularly among children. The Public Health Service reported that last year, for the first time in 18 years, the number of new cases of tuberculosis in the United States exceeded those in the preceding year. The Center for Disease Control reported that the number of tuberculosis cases increased in 30 States, and the District of Columbia last year indicated that the steady 35-year decline in reported TB cases may have reversed.

An alarming increase in the incidence of tuberculosis among children was reported in 1979. A total of 1,620 new cases of tuberculosis was reported among children, 900 of which were in children under 5 years of age. That is an increase of 18 percent over the preceding year and the highest increase for this age group since 1975. Tuberculosis in children is especially dangerous because of the risk of meningitis. The national health planning goals of the Public Health Service states:

Tuberculosis is a serious disease of children because of the potential complications of meningitis, which may lead to severe brain damage and death. Because of its severity, special efforts should be made toward eliminating tuberculosis among children.

Twenty-two children died in 1979 from this preventable and curable disease. This increase in the number of tuberculosis cases among children proves that this infectious disease is currently being transmitted and is not under control.

Twenty thousand people have active cases of tuberculosis. More than 15 million Americans are infected with dormant forms of this disease. Decreased immunity, caused by old age, illness, or improper nutrition, is often responsible for activating dormant infections. Because the symptoms of TB, bad cough, weight loss, fever, and malaise are often ignored by those affected, the virulent spread of this highly infectious disease continues.

The American Lung Association and the American Thoracic Society have

testified that a minimum of \$15 million per year in project grants is needed to treat and prevent the spread of tuberculosis. After considering the merits and financial needs of this program, Congress agreed to create a new categorical grant program within the Center for Disease Control. This new funding mechanism will assist us in eradicating this infectious disease by concentrating funding on the most troubled areas. Insufficient funds to combat tuberculosis will severely cripple efforts to combat the disease. De-emphasizing tuberculosis control will have dreadful consequences.

Now essentially all preventive treatment is conducted by public tuberculosis control programs. Presently, about 25,000 persons per year complete a course of preventive treatment, thereby preventing an estimated 2,500 cases of tuberculosis over the next 20 to 40 years. Hence, without tuberculosis control, preventive treatment would virtually cease at savings of \$4.7 million per year.

Nearly all contact investigation is conducted by public tuberculosis control programs. Contact investigation uncovers nearly 2,000 early cases of tuberculosis. If failure to identify these cases early produces two additional weeks of hospitalization per case, it would cost an additional \$2.8 million per year. Hence, without tuberculosis control, contact investigation would virtually cease.

Rapid progress in the control of tuberculosis promises even more savings. There would be a continued decline in the number of cases, a reduction in the number of treatment failures and relapses, and no need for short-course chemotherapy regimens all of which would result in savings of over \$10 million per year.

The elimination of tuberculosis control programs poses grave problems for the care of Indochinese, Cuban, and Haitian refugees with tuberculosis—nearly all of whom are treated by the public tuberculosis programs.

The precise effect of public programs on the annual tuberculosis case rate cannot be predicted. If the annual rate of decrease changed from 5 percent to 2.5 percent then the increased cost would be about \$4.1 million in the first year, rising to \$17.8 million in the fifth year.

A report prepared by the Subcommittee on Health and Environment of the House Energy and Commerce Committee stated, "Large numbers of infectious persons are not being effectively treated, and transmissions continue to occur." While we have developed drugs that can effectively treat tuberculosis, the medication must be taken for at least 9 months and sometimes for as long as 2 years. Many of the patients stop taking medication as soon as the symptoms disappear, how-

ever. Therefore, the TB bacteria develops a resistance to antibiotics. The Health Subcommittee report attributed part of the problem in treating this disease to the low priority given to tuberculosis. The local health departments are faced with a problem of not only locating patients with tuberculosis and treating them, but following and supervising patients for long periods of time to insure that they take their medication. They are also faced with the additional burden of finding and evaluating contacts of infected persons to prevent transmission of the disease.

Tremendous progress was made during the 1960's in treating and preventing the spread of tuberculosis. The progress made then was not continued between 1970 and 1980, however. According to "Tuberculosis in the United States: 1978," the percentage of those patients on drug treatment who had followup bacteriologic examinations for tuberculosis actually declined, showing retrogression in the treatment of tuberculosis.

Much of the decrease in combating tuberculosis can be attributed to a shift in the funding mechanism for tuberculosis programs. In fact, funding for tuberculosis control programs suffered during the 314(d) block grant. The impact of this transfer was felt the most by those States with the greatest incidence of tuberculosis. The reason was that categorical grants had been based on need, and the 314(d) block grant moneys were based on an income/population formula. For example, in 1980, the Florida Department of Health and Rehabilitative Services estimated that they would need \$2,133,000 for tuberculosis funding, but they only received \$365,000 from the 314(d) block grant. There was great concern over the ability of the block-grant funding properly to fund tuberculosis control programs. Congress was prompted to establish a categorical grant program for tuberculosis instead of including it in the preventive health block grant.

Tuberculosis, once a leading cause of death in the United States, continues to take a heavy toll in death and disability despite our efforts for prevention and control. I hope that the inclusion of \$1 million for tuberculosis control in the supplemental appropriations bill this year signals an awareness of the necessity to combat this highly infectious and dangerous disease. ●

LABOR-HHS-EDUCATION CHAPTER OF REGULAR SUPPLEMENTAL

● Mr. SCHMITT. I am glad to recommend adoption of the Labor-HHS-Education chapter of the supplemental.

Our proposals take account of long-standing concerns in health, education, and other programs. I believe we have been as generous as possible but still prudent.

While our bill is \$143.6 million above the budget requests, it is \$96 million below the House levels. Indeed, were we not to count the funds for the older workers program because they have no outlay impact in this fiscal year, we would be some \$67 million below the President.

Let me give you a few highlights from our committee recommendations. We provide the following:

Sum of \$211 million for the older workers program to put it back on a forward-funded basis.

Sum of \$1.5 million to deal with tuberculosis and an acquired disease of the immune system, which has reached epidemic proportions.

Sum of \$10 million for alcohol, drug abuse, and mental health research. The additional funds will support about 100 new grants in all three research areas.

Bill language to modify the staffing requirements for health systems agencies under health planning. Under this provision the minimum staff an HSA must have on board would be three instead of five. This goes along with the reduced workload and reduced funding provided HSA's under the Omnibus Reconciliation Act.

Sum of \$112 million for Medicaid. The Department of HHS substantially revised downward its estimate of supplemental needs. Also the Department's request for millions to pay retroactive claims is premature until it is decided whether to pay any of these claims.

We have also provided an additional \$148 million for compensatory education for the disadvantaged, to protect States and counties from a sudden loss of funds resulting from the unresolved outcome of the controversy over whether the 1970 census or the 1980 census data base should be used in allocating these funds for the 1982-83 school year.

Sum of \$26.5 million for several categorical programs under education of the handicapped.

Sum of \$140 million to increase funding for Pell grants and \$29 million to increase funds for supplemental education opportunity grants to \$307 million.

Sum of \$5 million for developing institutions with bill language to put emphasis on assisting Hispanic and other Native Americans.

Sum of \$11 million for 2 months of windfall funding for railroad retirement beneficiaries.

The full details of our proposals are laid out in the committee report, and I commend the report to your attention.

Mr. President, I believe we have developed a generous but realistic series of recommendations and I urge that chapter IX be adopted as reported to the Senate. ●

SUPPLEMENTAL FUNDS FOR DEVELOPING INSTITUTIONS

● Mr. CHILES. Mr. President, I would like to have a short colloquy with Senator SCHMITT, the distinguished chairman of our Subcommittee on Labor, HHS, and Education. I want to start out by complimenting Senator SCHMITT for adding the \$5.2 million for developing institutions of higher education, and for bringing attention to the problem of serving large numbers of Hispanic students. This is certainly a problem we are familiar with in Florida. I have been a strong supporter of the title III program, and intend to continue supporting its efforts to assist historically black colleges and universities. This assistance has been vital to many Florida colleges, such as Miami-Dade Community College, Florida A. & M., and Edward Waters.

But we do have a growing need to meet the special education needs of colleges which are serving the rapidly growing Hispanic population. In Florida, we get our increases of Hispanic students in huge waves, and everybody has to scramble to meet new needs. I am thinking of small colleges like Biscayne College in Miami, which now has 75 percent of its student body Hispanics, most of them low income.

I would like to clarify with the distinguished subcommittee chairman how this program will operate.

First, am I correct that this is going to be a new appropriation for this special need, and will not take funds away from the predominantly black colleges which are currently receiving funds?

Mr. SCHMITT. The Senator is correct.

Mr. CHILES. I thank the chairman for his response. Am I also correct that this is going to be an entirely new competition, and rankings and scores from previous applications will not be applied?

Mr. SCHMITT. The Senator from Florida is correct. This will be an entirely new competition, and we expect the Department to publish new guidelines telling the schools how to apply. Moreover, we have directed the Department to provide technical assistance, particularly to small schools, to help them understand the guidelines and make their way through the application process.

Mr. CHILES. I thank the chairman for his assurances. Once again, I congratulate him on bringing this growing need before the Congress. The only way we can keep support for our Federal education programs is to keep them growing and changing to meet new national needs as they arise. ●

● Mr. BRADLEY. The committee report states that the payment of any transition funding to any agency will be made specifically dependent upon the agency having met its obligation

for continuation payments to Conrail under the various contractual operations with respect to 1982 or having escrowed funds or otherwise assured that those payments will be made in 1983. I seek clarification from the chairman on whether costs that are in dispute among transit authorities, Conrail, and Amtrak are viewed differently than the basic payments made by those authorities. Specifically, I am concerned that local transit authorities would be required to pay additional sums of money for use of the corridor prior to the settlement of cost disputes among the transit authorities, Conrail, and Amtrak.

Is it my understanding, Mr. Chairman, that valid disputes such as the dispute regarding the sharing of propulsion costs on the corridor, which is currently before the ICC for resolution, are not included in the committee's definition of having met its obligations for continuation payment?

Mr. ANDREWS. I appreciate the concern of the Senator from New Jersey. It is not the intent of the committee to become involved in any cost-sharing dispute among the agencies that operate on the Northeast corridor. Valid disputes among the agencies should be resolved by the ICC, or other appropriate authorities which can make the legal determination of the issues.

Mr. BRADLEY. Mr. Chairman, am I correct in assuming that no transit authority transition assistance will be withheld because of valid cost disputes which are to be resolved by the ICC or are dependent upon the interpretation of existing laws?

Mr. ANDREWS. The Senator from New Jersey is correct; his interpretation of the Senate Appropriation Committee's report language is the intent of the committee.

Mr. BRADLEY. I thank the chairman for the clarification. I fully support the intent of the committee in insuring that all continuation payments owed to Conrail are promptly paid. At the same time, however, I do not want to see transit authorities forced into making payments that exceed those amounts due to Conrail based on existing law.

CHAPTER VII OF H.R. 6863—FISCAL YEAR 1982
SUPPLEMENTAL APPROPRIATIONS

● Mr. GARN. Mr. President, on Tuesday, August 3, 1982, the full Appropriations Committee accepted my recommendations regarding the HUD-Independent Agencies chapter of H.R. 6863. I would like to highlight the items contained in this chapter of the bill.

DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

HOUSING PROGRAMS: ANNUAL CONTRIBUTIONS
FOR ASSISTED HOUSING

Mr. President, on April 15, the Secretary of HUD announced that the administration would support the com-

pletion of approximately 70,000 housing units in the pipeline by requesting the use of \$3,700,000,000 for financing adjustment and \$2,650,000,000 for cost amendments. The administration's plan assumed the availability of approximately \$7,400,000,000 in recaptured authority.

When Public Law 97-216 was enacted, the Congress assumed that only \$5,000,000,000 of recaptures would be available to fund the planned buyout of the pipeline and, consequently, reduced the amount rescinded. Due to the uncertainties associated with the recapture estimates, the Congress included language which provided that an additional \$1,750,000,000 of fiscal year 1982 funds could be merged with recaptures to assure sufficient resources if necessary or otherwise it would be deferred for use in fiscal year 1983.

It now appears that OMB will not release this \$1,750,000,000 even though recaptures to date are only approximately \$2,400,000,000. The availability of the additional \$1,750,000,000 would assist approximately 34,000 housing units. Therefore, the committee included bill language which will have the effect of reducing the amount of recaptures necessary to fund the program by eliminating OMB's proposed deferral of the \$1,750,000,000.

LIMITATIONS ON GUARANTEED LOANS

The administration proposed reducing the 1982 limitations on Government National Mortgage Association mortgage-backed securities program and the section 108 community development loan guarantee program. The mortgage-backed securities limitation was to be reduced from \$68,250,000,000 to \$48,000,000,000 and the section 108 program was to be reduced from \$225,000,000 to \$125,000,000. Mr. President, the committee has not recommended that the limitations be reduced at this time.

FEDERAL EMERGENCY MANAGEMENT AGENCY:
SALARIES AND EXPENSES

Mr. President, the Federal Emergency Management Agency (FEMA) is responsible for helping to plan and evaluate the adequacy of State and local radiological emergency plans. The Agency requested an additional \$1,000,000 in order to plan, review and exercise evaluations related to commercial nuclear powerplants and to hire and train the 30 additional staff FTE—that would be used to test and evaluate the radiological emergency plans at the various nuclear facilities across the country.

The committee denied the request because we do not believe there is sufficient time remaining in the fiscal year for FEMA to utilize these funds.

STATE AND LOCAL ASSISTANCE

FEMA, in conjunction with the funds requested in the salaries and expenses account, requested an addition-

al \$1,408,000 for radiological emergency preparedness. The Agency intended these funds be used to initiate a program to review State and local governments' emergency warning systems, including acoustical tests, specification review, and expanded citizen awareness of radiological emergency preparedness plans.

Mr. President, as I indicated in the previous section, the committee denied the request because we do not believe that FEMA has sufficient time to utilize these additional funds before the end of the fiscal year.

NATIONAL FLOOD INSURANCE FUND

The committee included bill language which permits FEMA to use funds from the flood insurance fund to pay for the salaries and expenses of staff involved in flood insurance activities. The use of flood insurance funds for salaries and expenses is consistent with the congressional intent of putting the flood insurance fund on a more actuarially sound basis. Mr. President, I might point out that rates for flood insurance will not be increased as a result of use of funds from the program for salaries and expenses. In addition, FEMA does not receive authority to use funds from the flood insurance program for salaries and expenses, the Agency will be forced to furlough employees.

SELECTIVE SERVICE: SALARIES AND EXPENSES

Mr. President, of the \$1,367,000 requested by the Selective Service System, \$400,000 was requested for a public information program; \$153,000 to reimburse the U.S. Postal Service for registration costs; \$400,000 for printing and postage costs; \$42,000 for personnel to enter data on the expanding data base; \$48,000 for bulletproof glass; and \$304,000 for the development of automated data processing claims and alternative service systems.

The committee did not approve the \$400,000 for the public service program. Recent registration experience indicates that such a campaign is not warranted at this time. However, the committee recommended providing the \$304,000 for data processing systems development. These systems form the backbone of the Selective Service System program and should be made operational as soon as possible. These systems will support registration, induction, claims/appeals and the assignment of conscientious objectors to civilian jobs. Furthermore, the committee received information that the Selective Service can absorb the other items contained in their supplemental request. The committee did not provide funding for these activities.

Finally, the committee has recognized that some alternative service workers—ASW—will raise objections to their job assignments. Current draft Selective Service procedures do

not provide for an appeals process. In order to assure that a procedure exists to address these concerns, the committee believes that the Director of the Selective Service should include in the final alternative service program regulations a provision establishing civilian review boards for the purpose of reviewing ASW work assignments which ASW's view as unacceptable. The committee, therefore, included bill language which would require Selective Service to establish, in the event of a mobilization, civilian review boards. Therefore, the committee expects that such boards would be comprised of individuals selected by the Director to represent a broad spectrum of the civilian population—similar to local draft boards.

VETERANS' ADMINISTRATION: MEDICAL AND PROSTHETIC RESEARCH

Mr. President, the committee was recently informed that the VA would require a reprogramming in the medical care account and the medical administration and miscellaneous operating expenses—MAMOE—in order to accommodate research efforts and mandate studies—Public Law 96-151—on agent orange. The committee believed that such medical R. & D. should be managed within the VA's medical and prosthetic research account and has, therefore, included bill language transferring the required funds to this account.

This transfer would provide funds to assist in carrying out the Veterans' Administration agent orange program to support: First, the pilot phase of the epidemiology study, \$3,020,000; second, the Vietnam veteran twin study, a study of identical twin veterans where one twin served in Vietnam during the period of herbicide orange spraying and the twin sibling did not serve in Southeast Asia, \$65,000; and third, the mortality study, \$1,113,000, a study comparing the rates and causes of death in veterans who served in Vietnam to those veterans who did not serve in the Republic of Vietnam.

In addition, the VA proposed that the first and second study above be funded within the medical care account and the third study through MAMOE. Because the bill transferred the entire \$4,198,000 from the medical care account, the MAMOE account will have an excess of \$1,113,000, which more than offsets the VA's pay supplemental request of \$1,078,000 for MAMOE. The committee, therefore, did not provide the pay supplemental appropriations for MAMOE in title II of the bill.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

The committee transferred \$8,000,000 to the medical administration and miscellaneous operating expenses appropriation from the medical care appropriation for the nurse scholarship program. This amount, togeth-

er with \$4,000,000 provided in the 1982 HUD-Independent Agencies Appropriation Act, will permit the VA to operate the nurse scholarship program at a \$6,000,000 level in both fiscal years 1982 and 1983. To carry out this recommendation it is necessary to provide that the funds will remain available until September 1983. Because both the House and Senate committees consider the nurse scholarship program a high priority, it is appropriate that unutilized medical care funds be transferred to that activity rather than lapse.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

On June 30, 1982, the administration proposed a 1982 appropriation of \$500,000 for grants to the Republic of the Philippines to be derived from transfer from medical care. The committee included the requested bill language. The funds are to assure the continued effective care and treatment of U.S. veterans at the Veterans Memorial Medical Center at Manila.

ADMINISTRATION PROVISION

Mr. President, section 501(4) of title V of the 1982 Department of Housing and Urban Development-Independent Agencies Appropriation Act placed a limitation of \$34,000,000 on the total amount of funds available for the Department of Housing and Urban Development's data processing services. Since this time, the Department indicated a need for additional data processing funds. The House passed version of H.R. 6863 contains language increasing the limitation on the Department of Housing and Urban Development's data processing services from \$34,000,000 to \$35,500,000. The committee believed that this modification in the limitation was sufficient to provide for high-priority data processing requirements and was, therefore, recommended retaining the House language. The committee also retained the House language restricting the Department of Housing and Urban Development from implementing its May 11, 1982, rules concerning the section 202 housing program.

INCREASED PAY COSTS

The committee recommended \$257,060,000 in new budget authority for pay costs for agencies under the jurisdiction of the HUD-Independent Agencies Subcommittee.

The committee recommended that a change in FEMA's proposed funding of its increased pay cost requirements. The committee approved the full request but directed that \$1,000,000 be transferred from radiological defense, as proposed by FEMA, and the remaining \$1,084,000 be transferred from the civil defense program, other than State and local assistance.

In addition, the Veterans' Administration proposed transferring \$50,000,000 from the compensation and pensions appropriation to the

medical care appropriation. The committee agreed with the House that entitlement funds should not be transferred to offset supplemental pay requirements and, therefore, provide a direct appropriation of \$50,000,000.

The committee also included an additional \$48,950,000 for the National Aeronautics and Space Administration. This amount is provided to offset the transfer of up to \$50,000,000 authorized to meet certain minimums carried in Public Law 97-216. In this regard, the committee added a proviso to the House-passed version of H.R. 6863 making the \$50,000,000 available for obligation until September 30, 1983. Finally, Mr. President, as previously explained, the only change which the committee made to the House allowance for increased pay costs consists of a reduction of \$1,078,000 in the VA's medical administration and miscellaneous operating expenses.

Mr. HAYAKAWA. Mr. President, our great Nation has been termed a melting pot and so it is. We open our doors to people from around the world, not the least of which are refugees of whom a great many settle in my home State of California. We as Americans have accepted the responsibility of helping these refugees establish themselves in our society and we must live up to all it entails. In this regard, I have some concerns and questions I would like to address.

It is my understanding that in the past the Committee has supported full funding for the cost of the refugee program. I commend the committee for recognizing and following through on this humanitarian initiative. However, I am concerned for the future should full appropriations not be approved for the program. These are times when fiscal restraint and responsibility have to be taken seriously, but the Federal Government is not alone. The State and local governments are experiencing a need to cut back on expenditures in various programs as well. And we in Congress need to do all we can to see that our obligations and responsibilities to all the people of this Nation are met. Does the committee expect to continue their policy of fully funding the refugee program?

Mr. SCHMITT. I appreciate the Senator's recognition of the Committee's past support and certainly understand his concerns. As he has expressed, these are difficult times and the future is uncertain. The committee will remain committed to its responsibilities to refugees and will do what we can to help them establish their lives in our great country.

Mr. HAYAKAWA. In considering the many difficult decisions regarding budget cutbacks especially within social services, I can imagine a situa-

tion wherein Congress may not appropriate adequately for the refugee program. Should this occur, will the legitimate claims made by State and local governments be funded as they were in the past? Since significant deficit burdens rest upon the State and local governments in cases of inadequate Federal appropriation, we as representatives have a responsibility to guarantee relief of monetary difficulty. Can this Senator have any assurance that legitimate claims for full funding will be considered?

Mr. SCHMITT. The committee recognizes the serious burden that may be inflicted upon the State and local governments and will carefully evaluate all legitimate claims.

Mr. HAYAKAWA. The Department of Health and Human Services (HHS) receives quarterly reports of refugee program expenditures from States which assist in the assessment of revenue distribution. Careful analysis of these statistics can be quite valuable to our task. The House of Representatives has passed language which requires HHS to do an evaluation of projected fiscal year 1982 State costs by August 15, 1982, based on third-quarter data from the States. I would encourage the committee to seriously consider this request and support the requirement for such a report.

Mr. SCHMITT. The request shall be given serious consideration. ●

FUNDING FOR THE GULF OF MAINE CASE

● Mr. COHEN. Mr. President, I rise to draw the Senate's attention to a small but extremely significant item in the supplemental appropriations bill now before us. Included within this bill is the funding for the presentation of the United States case before the international tribunal that will decide our dispute with Canada over the maritime boundary in the Gulf of Maine.

Last year, the Senate ratified a treaty with Canada to place our longstanding disagreement over the international boundary in the Gulf of Maine before a Chamber of the International Court of Justice. The treaty provides that the decision of the Court will be final and will bind both countries in perpetuity.

Pursuant to the treaty, the United States and Canada have begun preparing their cases. Accordingly, the State Department has advised the Congress that it requires \$1,600,000 for the research, analysis, and other work that is necessary to the preparation of its case. The Senate Appropriations Committee has agreed with this figure and included it in the bill before us today. I would like to take just a moment to impress upon my colleagues the importance of the issues at stake in the Gulf of Maine dispute.

To begin with, the area in question covers more than 12,000 square miles and the ocean column as well. Included in this area are mineral resources

of undetermined value and a fishery in the Georges Bank that is considered the richest in the northwest Atlantic Ocean. Every coastal state in New England and many of the mid-Atlantic States are the homes to fishermen, fish processors, fish marketers and so forth who find their livelihood in the remarkable living resources of this region.

Both the United States and Canada will find few precedents to guide the legal arguments that they will present to the International Court of Justice. Only three boundary disputes have been decided in recent years and none of these concerned the exact geographical configuration that exists in the Gulf of Maine. Consequently, Canada and the United States will have to anticipate a host of issues, many of them novel, which could determine the outcome of the case. In addition, submissions to the International Court of Justice will have to include elaborate and detailed charts of the ocean floor and each country's coastlines, such items are expensive in the extreme.

Mr. WEICKER. I agree with Senator COHEN that the Gulf of Maine case is of great importance to New England and particularly to its fishing industry. An unfavorable decision could result in the loss of as much as one-half of the Georges Bank to Canadian jurisdiction. The Georges Bank has, from the beginning of our Nation's history, been viewed as a rich and valuable resource. The preservation of our rights, which have been exercised in this area, is important to the continued revival of fishing in New England.

I believe that the United States owes its citizens in New England the highest quality presentation of its case. The amount requested by the State Department should enable this country to fulfill that obligation.

Mr. COHEN. Mr. President, I thank my colleague from Connecticut for his keen appreciation of the importance of the Gulf of Maine case. I would note that the amount slated for this case in the Senate supplemental appropriations bill, which is in accord with the State Department's recommendation, is higher than that contained in the House supplemental appropriations bill. Under the House recommendation, the United States would present its case with only \$1,000,000, a figure that would place us at only slightly more than 40 percent of the Canadian funding level of \$2.4 million in U.S. currency.

Again, I thank Senator WEICKER for his understanding of this matter and urge my Senate colleagues to seek House concurrence in this matter when it arises in conference. ●

● Mr. WEICKER. Mr. President, for the agencies funded under chapter II of this bill, the administration has re-

quested \$171,294,000 in appropriations, of which \$40,000,000 was proposed by transfer from an account under the jurisdiction of the Foreign Operations Subcommittee. The committee recommends an appropriation of \$151,086,000 in new budget authority and \$12,550,000 by transfer to meet these program needs. In addition, the committee recommends the rescission of \$2,000,000 in foreign currency gain which is excess to the fiscal year 1982 program requirements of the Board for International Broadcasting. Thus, the committee's recommendation for program supplementals is \$7,658,000 less than the budget request.

In title II, the committee recommends \$133,733,000 in new budget authority to meet agency pay requirements. The amount recommended is \$114,000 more than the administration's request and is \$5,945,000 less than the House allowance. The highlights of the committee's recommendation follow.

HIGHLIGHTS OF RECOMMENDATION

For the Department of Commerce, the recommendation provides a total of \$15,663,000 in new budget authority and \$5,750,000 in transfers funding the following programs: \$10,000,000 for U.S. participation in the Louisiana World Exposition in 1984; \$2,500,000 for the "Patent and Trademark Office" for the hire of new patent examiners; \$7,163,000 for mandatory expenses incurred by NOAA, of which \$5,000,000 is to be provided by transfer from unobligated balances in the coastal energy impact fund; and \$3,000,000 funding the first year of New York's coastal zone management program. The recommendation of \$73,046,000 in new budget authority for the Department of Justice provides the full program requested for the Department's legal activities, U.S. attorneys and marshals, support of U.S. prisoners, fees and expenses of witnesses, the FBI, and the DEA. The reduction in appropriation for the U.S. attorneys and marshals reflects the time which has lapsed in fiscal year 1982 since the budget request was prepared. The following program changes are also included in the committee recommendation: \$750,000 is provided for the FBI to hire fingerprint identification clerks and language is included in the bill to allow the FBI to charge noncriminal justice agencies for this service. A similar provision was adopted by the Senate last year.

The recommendation provides \$4,000,000 more than the amount requested by the Bureau of the Prisons. Rather than provide for two detention facilities for INS, the recommendation provides \$17,000,000 for construction of one detention facility and \$22,000,000 for the construction of one new prison for prisoners in the west, completing a project initially approved

in 1981. Given the 16-percent increase in Federal prisoners, the committee believes this is a higher priority. The revised recommendation also includes \$1,250,000 requested for the activation of a minimum security camp in Mount Laguna, Calif., and relieves overcrowding in Federal prisons.

The recommendation also includes \$900,000 from LEAA reversionary funds which is earmarked for a Bureau of Justice statistics crime victimization study of the Metropolitan Washington Area, including the area immediately around the Capitol and will include a survey of employees of the Congress.

Provided for supplemental program is \$60,587,000 requirements of the Department of State. This request includes \$40,000,000 for additional security requirements in posts primarily in Western Europe. Because a fiscal year 1982 authorization bill for the Department of State has not yet been enacted, the bill waives relevant sections of law to permit the Department to expend appropriated funds in the absence of an authorization. Although the conference report on the authorization bill has passed the Senate, there remains some uncertainty about its passage in the House. I have consulted with the Foreign Relations Committee and, we believe that prudence warrants its retention.

Significant changes in the request for the related agencies include:

Rejection of one-half the proposed deferral from SBA business loan and investment fund and the rejection of the entire deferral for surety bond guarantee funds.

No funds are recommended for Radio Broadcasting to Cuba, Inc. As of this date, an authorization bill has yet to be reported to the Senate.

A rescission of \$2,000,000 from the Board for International Broadcasting is recommended. These funds are in excess to the planned fiscal year 1982 program for Radio Free Europe and Radio Liberty as they represent the value of foreign currency gains earned since the beginning of the year.●

THE WAHPETON INDIAN SCHOOL APPROPRIATIONS

● Mr. BURDICK. Mr. President, during committee consideration of this bill, the manager's of the bill may recall a discussion about the future operation of the Wahpeton Indian School. Senator ANDREWS and myself took exception to proposed report language which would have restricted future enrollment at the school by not allowing any new students to enroll during the coming school year. The managers will recall that the committee voted overwhelmingly to accept our amendment to delete the language and to adopt the policy that a new class of students shall be admitted to the school this fall. Since the committee report does not make any refer-

ence whatsoever to the Wahpeton School, the legislative history of this bill should reflect the committee's demonstrated concern that it remain open and operating at full enrollment levels until the House and Senate have had the opportunity to officially act on this issue in the context of the appropriations process.

Mr. ANDREWS. Mr. President, my colleague from North Dakota is correct in his concern that the legislative intent on this matter must be clear. It was my understanding also that the committee clearly intended the school to remain open at current enrollment levels until the Congress officially takes action on the fiscal year 1983 Interior budget. In addition to clarifying the committee's position, this explanation should also serve as a directive to the Bureau of Indian Affairs in their future deliberations on the school.

Mr. HATFIELD. I appreciate the concern of my two colleagues from North Dakota on this matter. I understand the BIA is under court order to operate the Wahpeton School until Congress takes action to close the school and no such action has yet been taken.●

ORDER TO CONVENE TOMORROW AT 9:30 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that the time of convening tomorrow be changed from 9 o'clock to 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

Mr. BAKER. Mr. President, I ask unanimous consent that, on tomorrow only, the time allocated to the two leaders under the standing order be reduced to 3 minutes each; that after the execution of the general order time of the leaders, the Senator from Georgia (Mr. NUNN) be recognized under a special order not to exceed 5 minutes.

I further ask unanimous consent that any time remaining after the disposition of the leadership time and the special order time be devoted to the transaction of routine morning business, in which Senators may speak for not more than 2 minutes each; that such time for the transaction of routine morning business extend to not later than 10 a.m.; and that, at 10 a.m. tomorrow, the Senate resume consideration of the pending business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, we shall be back on this bill at 10 a.m. Senators should be on notice that there is no more time on the Symms amendment, so there will be a record vote tomorrow at 10 a.m.

I yield the floor.

ROUTINE MORNING BUSINESS

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate turn to a period for the transaction of routine morning business not to extend beyond 5 minutes and that statements made by Senators therein not extend beyond 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISAPPROVAL OF CERTAIN REGULATIONS WITH RESPECT TO EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Mr. TOWER. Mr. President, I ask unanimous consent that the Senate turn to consideration of House Concurrent Resolution 388, a resolution disapproving the final regulations for the Education Consolidation and Improvement Act.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will state the resolution by title.

The legislative clerk read as follows:

A House Concurrent Resolution (H. Con. Res. 388) disapproving certain regulations submitted to the Congress on July 29, 1982, with respect to the Education Consolidation and Improvement Act of 1981.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 388) was agreed to.

ORDER FOR STAR PRINT— REPORT ON S. 1468

Mr. TOWER. Mr. President, the committee report on the bill S. 1468, Report No. 97-508, contains a printing error in one of the dollar figures. Therefore, I ask unanimous consent that the report be star printed to show the correct figure. I send a corrected version to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. TOWER. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Tax Convention with the Republic of Austria, Treaty Document 97-26, transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the United States of America and the Republic of Austria for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Estates, Inheritances, Gifts, and Generation-skipping Transfers, signed at Vienna on June 21, 1982.

The Convention is the first of its kind to be negotiated between the United States and Austria. It will apply, in the United States, to the Federal estate tax, the Federal gift tax and the Federal tax on generation-skipping transfers and, in Austria, to the inheritance and gift tax.

A principal feature of the Convention is that the country of the transferor's domicile may tax transfers of estates and gifts and generation-skipping transfers on a worldwide basis, provided that it relieves the tax on specified types of property taxable on a situs basis.

I recommend that the Senate give early and favorable consideration to the Convention and give its advice and consent to ratification.

RONALD REAGAN.

THE WHITE HOUSE, August 10, 1982.

ORDER OF BUSINESS TOMORROW

Mr. TOWER. Mr. President, to repeat the words of the majority leader, a rollcall vote is expected as early as 10 a.m. tomorrow morning on the pending Symms amendment. I think the Senate should be advised of that.

STATE JUSTICE INSTITUTE ACT OF 1981

Mr. TOWER. Mr. President, I ask the Chair to lay before the Senate, Calendar Order 248, S. 537.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 537) to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with amendments, as follows:

On page 26, line 17, strike "1982," and insert "1983,".

On page 26, line 18, strike "1983," and insert "1984,"; and

On page 26, line 19, strike "1984," and insert "1985,".

So as to make the bill read:

S. 537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Justice Institute Act of 1981".

DEFINITIONS

Sec. 2. As used in this Act, the term—

(1) "Institute" means the State Justice Institute;

(2) "Board" means the Board of Directors of the Institute;

(3) "Director" means the Executive Director of the Institute;

(4) "Governor" means the Chief Executive Officer of a State;

(5) "recipient" means any grantee, contractor, or recipient of financial assistance under this Act;

(6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and

(7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this Act, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

Sec. 3. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in the District of Columbia or in any other State. To the extent consistent with the provisions of this Act, the Institute shall exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

(1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—

(A) State courts;

(B) national organizations which support and are supported by State courts; and

(C) any other nonprofit organization that will support and achieve the purposes of this Act;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) make recommendations concerning the proper allocation of responsibility between the State and Federal court systems;

(4) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(5) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from

taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this Act, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

Sec. 4. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

(A) six judges, to be appointed in the manner provided in paragraph (3);

(B) one State court administrator, to be appointed in the manner provided in paragraph (3); and

(C) four public members, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned with the administration of justice and the objectives of this Act.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall appoint the members under this subsection within sixty days from the date of enactment of this Act.

(6) The members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term arising by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish such policies and develop such programs for the Institute as will further achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judiciaries of the United States, the recommendations of the Institute for the improvement of such programs or activities;

(5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 7(a).

OFFICERS AND EMPLOYEES

Sec. 5. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this Act.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This Act does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

Sec. 6. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

(1) conduct research, demonstrations, or special projects pertaining to the purposes described in this Act, and provide technical assistance and training in support of tests, demonstrations, and special projects;

(2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

(3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this Act;

(4) evaluate, when appropriate, the programs and projects carried out under this Act to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this Act;

(5) encourage and assist in the furtherance of judicial education;

(6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

(7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

(A) State and local courts and their agencies;

(B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

(C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

(2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in judicial administration;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

(2) to support education and training programs for judges and other court personnel, for the performance of their general duties and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the

courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve their functioning;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with their operation, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test their utility;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this Act, as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the requirement that the recipient provide a match, from private or public sources, equal to 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this Act to insure that the provisions of this Act, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this Act, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this Act.

LIMITATIONS ON GRANTS AND CONTRACTS

SEC. 7. (a) With respect to grants or contracts made under this Act, the Institute shall—

(1) insure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local

legislative body, or any State proposal by initiative petition, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute;

(2) insure all personnel engaged in grant or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) insure that every grantee, contractor, person, or entity receiving financial assistance under this Act which files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 406 of this Act.

(b) No funds made available by the Institute under this Act, either by grant or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into contracts or any other obligation under this Act shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To insure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 8. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system nor allow sums to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this Act; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) When formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in

the State judiciary, consistent with the provisions of this Act.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except those dealing with improvement of the State judiciary, consistent with the purposes of this Act.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 9. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this Act shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this Act shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 10. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

RECORDS AND REPORTS

SEC. 11. (a) The Institute is authorized to require such reports as it deems necessary from any grantee, contractor, person, or entity receiving financial assistance under this Act regarding activities carried out pursuant to this Act.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any

grantee, contractor, person, or entity receiving financial assistance under this Act shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 12. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto

as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each grantee, contractor, person, or entity receiving financial assistance under this Act to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

AUTHORIZATIONS

SEC. 13. There are authorized to be appropriated \$20,000,000 for fiscal year 1983, \$30,000,000 for fiscal year 1984, and \$40,000,000 for fiscal year 1985.

EFFECTIVE DATE

SEC. 14. The provisions of this Act shall take effect on October 1, 1981.

Mr. TOWER. Mr. President, I move that the committee amendments be agreed to en bloc and treated as original text for the purpose of further amendment.

The motion was agreed to.

UP AMENDMENT NO. 1205

(Purpose: To amend the provisions regarding the authorization of appropriations)

Mr. TOWER. Mr. President, I send an amendment to the desk on behalf of Senator GRASSLEY and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER), on behalf of Mr. GRASSLEY, proposes an unprinted amendment numbered 1205.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 17, strike out "\$30,000,000" and insert in lieu thereof "\$25,000,000".

On page 26, line 18, strike out "\$40,000,000" and insert in lieu thereof "\$25,000,000".

Mr. GRASSLEY. Mr. President, When the State Justice Institute Act, S. 537, was considered in the full Judiciary Committee earlier in the session, I reluctantly opposed reporting the bill to the floor.

Unfortunately, the conditions that spawned my opposition to the bill persist. We are still operating at a deficit, we are still in the process of attempting to balance our budget, we must still consider the budgetary impact of any new programs that we create.

Senator HEFLIN and others have presented persuasive arguments in support of Federal financial assistance for

State court systems. A gentleman whom I respect very much, Chief Justice Reynoldson of the Supreme Court of Iowa, has praised this legislation in a statement to the Brookings Institution, as a potential means of enhancing State court caseload and stature. These are aims to which I certainly want to lend my support.

The amendment that I am presenting recognizes the economic implications of this bill. As currently written, the authorization for fiscal year 1983 is \$20,000,000. That is followed by a 50-percent increase the following year to \$30,000,000; and a 33-percent increase for fiscal year 1985 to \$40,000,000.

My amendment provides that the outlays for fiscal year 1984 and 1985 not exceed \$25,000,000. Besides keeping the expenditure of funds at a constant outlay, we will be saving a total of \$20,000,000 or 18-percent of the funds requested in the bill. I think that this is a significant savings.

It is my understanding that the sponsor of this legislation, Mr. HEFLIN, is agreeable to the amendment. Therefore, I would hope there would be no objection by our colleagues to its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (UP No. 1205) was agreed to.

Mr. HEFLIN. Mr. President, I rise in support of Senate bill 537, the State Justice Institute Act of 1981.

The State Justice Institute Act would establish a nonprofit national institute to provide technical and financial assistance to State courts. The need for such an institute was well-established during extensive hearings held on this legislation this Congress as well as in the 96th Congress.

I thank Chairman STROM THURMOND, the chairman of the Senate Judiciary Committee, Senator JOE BIDEN, our ranking minority member and Senator BOB DOLE, chairman of the Subcommittee on Courts for the support and assistance on this most important legislation.

There are several important reasons for providing financial assistance to State courts. First, State courts share with the Federal courts the awesome responsibility of enforcing the rights and duties of the Constitution and laws of the United States. However, in recent years the workload of our State courts has significantly increased due to a number of factors, including decisions of the U.S. Supreme Court, wide-reaching social legislation by Congress and a diversion of cases from the Federal courts. It has been determined that State courts decide approximately 95 percent of all law suits tried. It is, therefore, appropriate and necessary that the Federal Government

provide financial and technical assistance to State courts to help alleviate many of the administrative problems which these actions at the Federal level have caused and exacerbated. This legislation would help insure that our State courts remain strong and effective.

A second reason for providing financial assistance to State courts is the problem of crime in this country. It has long been my belief that if we are to significantly reduce crime, the Federal Government must share the responsibility of improving the administration of justice with State and local governments. The State Justice Institute would be immensely beneficial to State and local governments in their attempts to control crime and in their efforts to streamline the administration of justice once a criminal has been apprehended.

The third reason has to do with the changing role of judges generally. Earlier in this century there was much argument as to whether or not a judge's function included an obligation to see that cases in their courts moved toward disposition in a regular and efficient manner. Today, however, problems of administration have taken their place along side problems of adjudication as primary responsibilities of judges. Nearly everyone has come to acknowledge that today's judges have a duty to insure that their cases do not simply languish on the docket, but instead are moved to a conclusion with as much dispatch and economy of time and effort as practicable. This, along with a heightened interest in continuing legal education generally, has resulted in thousands of judges attending intensive orientations or refresher courses offered by such organizations as the National Judicial College, and the American Academy of Judicial Education.

The concept of a State Justice Institute has been endorsed by such organizations as the Conference of Chief Justices, the Appellate Judges Conference, and the American Bar Association.

Last Congress the Senate Judiciary Committee favorably reported out the State Justice Institute Act after adopting two important amendments proposed by Senator STROM THURMOND. On July 21, 1980, the Senate passed the bill without dissent. In the House of Representatives, Congressman ROBERT W. KASTENMEIER introduced the State Justice Institute Act, which was unanimously approved by the House Subcommittee on Courts, Civil Liberties and the Administration of Justice. I was encouraged last Congress when the State Justice Institute Act received wide, bipartisan support in both the House and the Senate and I am pleased that it has again received broad bipartisan support.

Mr. President, I would like to extend my thanks to my friend from Iowa, Senator CHUCK GRASSLEY, for his suggestions and improvements of this legislation, which I wholeheartedly endorse and am most grateful for his contribution. I would also like to thank members of the committee staff that have been of valuable assistance. Vinton "Dee" Lides, Eric Hultman, Will Lucius, Pete Velde, Shella Bair, Scott Green, John Maxwell, and Lynda Nersesian.

Mr. President, I support this vital legislation and encourage all Members of the Senate to vote and support Senate bill 537.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 537

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "State Justice Institute Act of 1982".

DEFINITIONS

SEC. 2. As used in this Act, the term—

- (1) "Institute" means the State Justice Institute;
- (2) "Board" means the Board of Directors of the Institute;
- (3) "Director" means the Executive Director of the Institute;
- (4) "Governor" means the Chief Executive Officer of a State;
- (5) "recipient" means any grantee, contractor, or recipient of financial assistance under this Act;
- (6) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States; and
- (7) "Supreme Court" means the highest appellate court within a State unless, for the purposes of this Act, a constitutionally or legislatively established judicial council acts in place of that court.

ESTABLISHMENT OF INSTITUTE; DUTIES

SEC. 3. (a) There is established a private nonprofit corporation which shall be known as the State Justice Institute. The purpose of the Institute shall be to further the development and adoption of improved judicial administration in State courts in the United States. The Institute may be incorporated in the District of Columbia or in any other State. To the extent consistent with the provisions of this Act, the Institute shall exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) The Institute shall—

- (1) direct a national program of assistance designed to assure each person ready access to a fair and effective system of justice by providing funds to—
 - (A) State courts;
 - (B) national organizations which support and are supported by State courts; and
 - (C) any other nonprofit organization that will support and achieve the purposes of this Act;

(2) foster coordination and cooperation with the Federal judiciary in areas of mutual concern;

(3) make recommendations concerning the proper allocation of responsibility between the State and Federal court systems;

(4) promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

(5) encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

(c) The Institute shall not duplicate functions adequately performed by existing nonprofit organizations and shall promote, on the part of agencies of State judicial administration, responsibility for success and effectiveness of State court improvement programs supported by Federal funding.

(d) The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(e) The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1954 and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 which is exempt from taxation under section 501(a) of such Code. If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this Act, and it shall publish in the Federal Register, at least thirty days prior to their effective date, all rules, regulations, guidelines, and instructions.

BOARD OF DIRECTORS

SEC. 4. (a)(1) The Institute shall be supervised by a Board of Directors, consisting of eleven voting members to be appointed by the President, by and with the advice and consent of the Senate. The Board shall have both judicial and nonjudicial members, and shall, to the extent practicable, have a membership representing a variety of backgrounds and reflecting participation and interest in the administration of justice.

(2) The Board shall consist of—

- (A) six judges, to be appointed in the manner provided in paragraph (3);
- (B) one State court administrator, to be appointed in the manner provided in paragraph (3); and
- (C) four public members, no more than two of whom shall be of the same political party, to be appointed in the manner provided in paragraph (4).

(3) The President shall appoint six judges and one State court administrator from a list of candidates submitted by the Conference of Chief Justices. The Conference of Chief Justices shall submit a list of at least fourteen individuals, including judges and State court administrators, whom the conference considers best qualified to serve on the Board. Prior to consulting with or submitting a list to the President, the Conference of Chief Justices shall obtain and consider the recommendations of all interested organizations and individuals concerned

with the administration of justice and the objectives of this Act.

(4) In addition to those members appointed under paragraph (3), the President shall appoint four members from the public sector to serve on the Board.

(5) The President shall appoint the members under this subsection within sixty days from the date of enactment of this Act.

(6) The members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b)(1) Except as provided in paragraph (2), the term of each voting member of the Board shall be three years. Each member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Five of the members first appointed by the President shall serve for a term of two years. Any member appointed to serve for an unexpired term arising by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) No member shall be reappointed to more than two consecutive terms immediately following such member's initial term.

(d) Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) The Board shall select from among the voting members of the Board a chairman, the first of whom shall serve for a term of three years. Thereafter, the Board shall annually elect a chairman from among its voting members.

(h) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any seven members.

(j) All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of section 552b of title 5, United States Code, relating to open meetings.

(k) In its direction and supervision of the activities of the Institute, the Board shall—

- (1) establish such policies and develop such programs for the Institute as will further achievement of its purpose and performance of its functions;

- (2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

- (3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

- (4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the administration of justice in the State judicial systems of the United States, the recommendations of the Institute for the improvement of such programs or activities;

- (5) consider and recommend to both public and private agencies aspects of the operation of the State courts of the United States considered worthy of special study; and

- (6) award grants and enter into cooperative agreements or contracts pursuant to section 7(a).

OFFICERS AND EMPLOYEES

SEC. 5. (a)(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this Act.

(b) Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c)(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This Act does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d)(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code: Subchapter I of chapter 81 (relating to compensation for work injuries); chapter 83 (relating to civil service retirement); chapter 87 (relating to life insurance); and chapter 89 (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

GRANTS AND CONTRACTS

SEC. 6. (a) The Institute is authorized to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b), in order to—

- (1) conduct research, demonstrations, or special projects pertaining to the purposes

described in this Act, and provide technical assistance and training in support of tests, demonstrations, and special projects;

- (2) serve as a clearinghouse and information center, where not otherwise adequately provided, for the preparation, publication, and dissemination of information regarding State judicial systems;

- (3) participate in joint projects with other agencies, including the Federal Judicial Center, with respect to the purposes of this Act;

- (4) evaluate, when appropriate, the programs and projects carried out under this Act to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have met or failed to meet the purposes and policies of this Act;

- (5) encourage and assist in the furtherance of judicial education;

- (6) encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

- (7) be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

(b) The Institute is empowered to award grants and enter into cooperative agreements of contracts as follows:

- (1) The Institute shall give priority to grants, cooperative agreements, or contracts with—

- (A) State and local courts and their agencies;

- (B) national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments; and

- (C) national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments.

- (2) The Institute may, if the objective can better be served thereby, award grants or enter into cooperative agreements or contracts with—

- (A) other nonprofit organizations with expertise in judicial administration;

- (B) institutions of higher education;

- (C) individuals, partnerships, firms, or corporations; and

- (D) private agencies with expertise in judicial administration.

(3) Upon application by an appropriate Federal, State, or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of Federal, State, or local government other than a court.

(4) Each application for funding by a State or local court shall be approved by the State's supreme court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts.

(c) Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

- (1) to assist State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

- (2) to support education and training programs for judges and other court personnel, for the performance of their general duties

and for specialized functions, and to support national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

(3) to conduct research on alternative means for using nonjudicial personnel in court decisionmaking activities, to implement demonstration programs to test innovative approaches, and to conduct evaluations of their effectiveness;

(4) to assist State and local courts in meeting requirements of Federal law applicable to recipients of Federal funds;

(5) to support studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;

(6) to support State court planning and budgeting staffs and to provide technical assistance in resource allocation and service forecasting techniques;

(7) to support studies of the adequacy of court management systems in State and local courts and to implement and evaluate innovative responses to problems of record management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

(8) to collect and compile statistical data and other information on the work of the courts and on the work of other agencies which relate to and effect the work of courts;

(9) to conduct studies of the causes of trial and appellate court delay in resolving cases, and to establish and evaluate experimental programs for reducing case processing time;

(10) to develop and test methods for measuring the performance of judges and courts and to conduct experiments in the use of such measures to improve their functioning;

(11) to support studies of court rules and procedures, discovery devices, and evidentiary standards, to identify problems with their operation, to devise alternative approaches to better reconcile the requirements of due process with the needs for swift and certain justice, and to test their utility;

(12) to support studies of the outcomes of cases in selected subject matter areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, to propose alternative approaches to the resolving of cases in problem areas, and to test and evaluate those alternatives;

(13) to support programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

(14) to test and evaluate experimental approaches to providing increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

(15) to carry out such other programs, consistent with the purposes of this Act, as may be deemed appropriate by the Institute.

(d) The Institute shall incorporate in any grant, cooperative agreement, or contract awarded under this section in which a State or local judicial system is the recipient, the

requirement that the recipient provide a match, from private or public sources, equal to 25 per centum of the total cost of such grant, cooperative agreement, or contract, except that such requirement may be waived in exceptionally rare circumstances upon the approval of the chief justice of the highest court of the State and a majority of the Board of Directors.

(e) The Institute shall monitor and evaluate, or provide for independent evaluations of, programs supported in whole or in part under this Act to insure that the provisions of this Act, the bylaws of the Institute, and the applicable rules, regulations, and guidelines promulgated pursuant to this Act, are carried out.

(f) The Institute shall provide for an independent study of the financial and technical assistance programs under this Act.

LIMITATIONS ON GRANTS AND CONTRACTS

SEC. 7. (a) With respect to grants or contracts made under this Act, the Institute shall—

(1) insure that no funds made available to recipients by the Institute shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute;

(2) insure all personnel engaged in grant or contract assistance activities supported in whole or in part by the Institute refrain, while so engaged, from any partisan political activity; and

(3) insure that every grantee, contractor, person, or entity receiving financial assistance under this Act which files with the Institute a timely application for refunding is provided interim funding necessary to maintain its current level of activities until—

(A) the application for refunding has been approved and funds pursuant thereto received; or

(B) the application for refunding has been finally denied in accordance with section 406 of this Act.

(b) No funds made available by the Institute under this Act, either by grant or contract, may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities.

(c) The authorization to enter into contracts or any other obligation under this Act shall be effective for fiscal year 1981 and any succeeding fiscal year only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

(d) To insure that funds made available under this Act are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct court facilities or structures, except to remodel existing facilities to demonstrate new architectural or techno-

logical techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE

SEC. 8. (a) The Institute shall not—

(1) participate in litigation unless the Institute or a recipient of the Institute is a party, and shall not participate on behalf of any client other than itself;

(2) interfere with the independent nature of any State judicial system nor allow sums to be used for the funding of regular judicial and administrative activities of any State judicial system other than pursuant to the terms of any grant, cooperative agreement, or contract with the Institute, consistent with the requirements of this Act; or

(3) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body, except that personnel of the Institute may testify or make other appropriate communication—

(A) When formally requested to do so by a legislative body, committee, or a member thereof;

(B) in connection with legislation or appropriations directly affecting the activities of the Institute; or

(C) in connection with legislation or appropriations dealing with improvements in the State judiciary, consistent with the provisions of this Act.

(b)(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum, except those dealing with improvement of the State judiciary, consistent with the purposes of this Act.

(c) Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SPECIAL PROCEDURES

SEC. 9. The Institute shall prescribe procedures to insure that—

(1) financial assistance under this Act shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been given reasonable notice and opportunity to show cause why such actions should not be taken; and

(2) financial assistance under this Act shall not be terminated, an application for refunding shall not be denied, and a suspension of financial assistance shall not be continued for longer than thirty days, unless the grantee, contractor, person, or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing, and, when requested, such hearing shall

be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Institute to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Institute in accordance with procedures established in regulations promulgated by the Institute.

PRESIDENTIAL COORDINATION

SEC. 10. The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

RECORDS AND REPORTS

SEC. 11. (a) The Institute is authorized to require such reports as it deems necessary from any grantee, contractor, person, or entity receiving financial assistance under this Act regarding activities carried out pursuant to this Act.

(b) The Institute is authorized to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract or the terms and conditions upon which financial assistance was provided.

(c) Copies of all reports pertinent to the evaluation, inspection, or monitoring of any grantee, contractor, person, or entity receiving financial assistance under this Act shall be submitted on a timely basis to such grantee, contractor, or person or entity, and shall be maintained in the principal office of the Institute for a period of at least five years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

(d) Non-Federal funds received by the Institute, and funds received for projects funded in part by the Institute or by any recipient from a source other than the Institute, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

AUDITS

SEC. 12. (a)(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b)(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General

Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, and other papers or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b)).

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c)(1) The Institute shall conduct, or require each grantee, contractor, person, or entity receiving financial assistance under this Act to provide for, an annual fiscal audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

AUTHORIZATIONS

SEC. 13. There are authorized to be appropriated \$20,000,000 for fiscal year 1983, \$25,000,000 for fiscal year 1984, and \$25,000,000 for fiscal year 1985.

EFFECTIVE DATE

SEC. 14. The provisions of this Act shall take effect on October 1, 1981.

Mr. HEFLIN. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE CENTER FOR THE STUDY OF READING

Mr. PERCY. Mr. President, I would like to take this opportunity to call attention to one example of Federal investment in educational research at the University of Illinois at Urbana-Champaign that has great importance to the future well-being of the Nation's citizens. The Center for the

Study of Reading, which is in large measure supported by the National Institute of Education (NIE), has produced critical findings effecting improvements in how schools teach reading, how publishers design reading curriculums, and the perspectives that policymakers bring to bear on decisions regarding reading-related issues.

The center is directed by Prof. Richard C. Anderson, president-elect of the American Educational Research Association, and is part of the College of Education at the University of Illinois. It makes significant contributions to the outstanding scholarly record of the college and the university and has received widespread recognition as a resource for the improvement of reading materials and reading instruction throughout the Nation. School systems as different as New York City and small towns in Montana have praised the research results in the center. They have testified to the improvement of reading test scores in comprehension as a result of their use of the center's work.

The changing nature of the workplace and what is required of citizens to function in an increasingly technological era demands that the Federal Government make wise investments in human capital. To be sure, education is not primarily the responsibility of the Federal Government. However, the Federal Government does have a proper and important role in educational enterprises that serve the greater interests of the Nation. Investments which have proven themselves to be important to the improvement of the quality of schools and schooling should continue.

Educational research of the type performed by the Center for the Study of Reading with the support of the NIE is one of those investments. The NIE is also supporting critical working areas such as the instructional uses of information and communications technologies, teacher personnel practices, mathematics and science teaching, the improvement of secondary schools, the advancement of computer/technological literacy, and advanced academic skills in reading comprehension, written composition, and mathematics and scientific problem solving.

Mr. President, I ask unanimous consent that two articles about the work of the center, one from the New York Times of December 8, 1981, and one from the Minneapolis Tribune of April 12, 1981, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 8, 1981]

READING: DON'T BLAME TEACHERS

(By Fred M. Hechinger)

Reading scores are improving in elementary schools all over the country, but teen-

agers' reading skills continue to slip, and so does their interest in reading.

Richard C. Anderson, director of the Center for the Study of Reading at the University of Illinois, does not consider this a paradox. It is the natural consequence, he says, of merely drilling children to get the words right, without getting the message of what they read.

"Don't misunderstand," he adds quickly, "Nobody at the center argues that phonics are not needed." Phonics is the technical term for teaching children to "decode" words letter-by-letter and sound-by-sound.

But Mr. Anderson says he feels that many of the methods now being used to teach reading are simplistic and many of the materials children are given to read are boring. In their training, he says, teachers are given plenty of techniques but not enough cohesive structure with which to apply them. If things turn out badly, he adds, do not blame the teachers, blame the methods and the materials.

Mr. Anderson illustrates a fundamental error this way: A workbook sentence may say, "The worker dug a hole in the ground." A good reader will infer that the worker used some tool, not just his bare hands. Such a reader creates a picture in his mind. But poor readers, even though they are able to read the words, make no such inferences, nor will they reason to make connections with other parts of the story. And since poor readers are also likely to be deficient in phonics, teachers will drill them and drill them, ignoring the meaning and the connections that make reading add up to more than pronouncing words correctly.

Why is this happening?

The first reason Mr. Anderson cites is that teachers get poor advice in their training. They are not taught that children who get the word right may still need help with integrating the meaning of words. Children, says Mr. Anderson, need to be prepared to bring their own knowledge to bear on what they read. If, for example, a story begins with a statement that a youngster lost a pair of mittens, a teacher, without giving away the plot, might ask: Have you ever lost anything? How did people react to it?

Many reading instructors ask children about what they have just read, Mr. Anderson says, but are too often content if the child simply parrots specific facts.

What's needed, says Mr. Anderson, are better questions to get children to push beyond the fact they have just read.

The second problem, he continues, is that too many manuals are "thin and sketchy on comprehension." They merely give teachers vague suggestions about what to do, he says, "something of a smorgasbord, probably because it sells better if it has something for any teacher."

Third, he explains, poor readers float over the surface of a text. One way to change this is to teach them to ask themselves questions. To do this a teacher may pretend to be thinking out loud: "If I were reading this, that's what I'd ask." After a while, students learn to do this for themselves.

Fourth, poor readers find it difficult to compose sensible summaries of what they have read. Teaching them to summarize improves their reading comprehension and usually their test scores as well.

"We have fragmented the school reading program," Mr. Anderson asserts, "and much of it takes place in isolation from real reading." The center's studies showed that 50 percent of class time is often spent on workbooks that ask children to fill out spaces but

require little reading. Youngsters quite understandably get bored.

There is, he adds, a dearth of interesting in-school reading material. Books are adapted, not written. They adhere to so-called "reading ability formulas" with only simple words and short sentences. "They eliminate words that show how sentences are related, such as *before, after, but, because, etc.*," the center's researchers found.

Similarly, such simplified texts cut out all hedges or qualifications. As a typical example, he cited the reduction of the sentence, "a railway agent once figured that it would take 20 flatcars to load the trunk of one giant sequoia," to the simple statement, "It would take 20 flatcars to load the trunk of one giant sequoia." How, Mr. Anderson asks, can children learn to judge the importance of an identified source?

Such an approach, he says, not only makes reading in school less interesting but fails to prepare children to deal with complexities and to cope with "real" books. School reading "seldom gets into a character's head," Mr. Anderson says. Children are not helped to identify with the content or to relate reading to the real world. In such books, Mr. Anderson complains, "there are few complexities of plot. The stories are artificial and colorless. Style has been bled away." In the later school years, he says, textbooks—from history to science—lack "cohesive themes" and "skip around without structure."

In the crucial first years of school, Mr. Anderson says, "After the initial excitement of learning to read a little—and children are excited—reading suddenly becomes a dull business." With the lure of television and the lack of training in how to distill meaning from the printed page, fewer junior high and high school students "get any real pleasure out of reading on their own."

Parents who for years have been reading to their preschool children such wonderfully complex books as the Dr. Seuss stories or "The Little Engine That Could" have long felt instinctively that their children's first excursions into reading in school too often take them into that barren territory of "basal readers," devoid of fun, excitement and challenge.

[From the Minneapolis Tribune, Apr. 12, 1981]

IF ENGLISH IS GREEK TO YOUR KIDS, BLAME MAY LIE WITH SCHOOLBOOKS

[By Gregor W. Pinney]

The tall man bought the crackers.
The bald man read the newspaper.
The funny man liked the ring.
The strong man skimmed the book.

Now, cover those sentences with your hand and try to recall which man read the newspaper. Which liked the ring? Which bought the crackers?

Tough, isn't it? You can decode the printed words and "read" the sentences. But they are tough to comprehend because the subjects have no logical connection with the action. The connection is entirely arbitrary, and arbitrariness does not fit well in the human brain, except by rote memorization.

But there is a way to recall those sentences, and millions of American school children may be learning that technique within a few years. Indeed, they may be learning a number of new skills to help them understand what they read.

A major effort has been launched by a group of researchers, based at the University of Illinois, to reform the teaching of reading comprehension by bolstering its sci-

entific underpinnings. Comprehension, they say, is really a way of thinking. It is much more than just decoding printed symbols and then practicing and getting right answers, which characterizes much of what goes on in elementary reading classes today.

The researchers, who have been working for nearly five years and who have used up nearly \$8 million of federal money in the process, gave their message to the publishers of the nation's elementary school reading textbooks at a highly unusual two-day conference in Tarrytown.

Meeting in the storied hills above the Hudson, where educational policy once was determined by schoolmaster Ichabod Crane without benefit of a federal grant, researchers urged publishers to make substantial revisions in their basal readers, workbooks and teachers' manuals. (Basal readers are the main textbooks used in most elementary classes. Their stories and exercises are written according to a master plan that provides increasingly difficult vocabulary and structure as a child progresses.)

The researchers, who called the conference, approached the publishers directly on the assumption that textbooks are the most powerful influence on American education, and the quickest route for changes in instruction. People at the conference said it was the first time to their knowledge that such a gathering had been held.

The Illinois effort, which is organized as the Center for the Study of Reading, is believed to be the largest and most expensive study of reading instruction ever conducted. It was launched after scholars and government officials decided in the early 1970s that the nation's reading instruction was inadequate and that the problem was comprehension, not decoding.

Decoding, which means translating printed symbols into words that usually are familiar, had been the focus of scholarly research before that time. And it still gets a good deal of attention from parents and the public in general because of the interminable debate over the phonics and look-say techniques.

The researchers' basic message was that teachers and textbooks must deal with the knowledge that readers have in mind before they tackle a reading assignment. This knowledge is called "reader schema," and it has an enormous effect on the message a reader gets from any piece of printed material.

Some readers don't know enough to understand a particular written passage, the researchers said. In other cases, different readers have different schemata (the plural form of the word). Whites and blacks often have different knowledge, as do young and old, rich and poor. That is because they often have different experiences and education and because they remember different things from their experiences and education.

So teachers and textbooks must recognize those differences and get young readers onto a common track before they begin reading, according to the people gathered at Tarrytown.

But ultimately, students must learn to cope on their own with the printed page, which never contains complete information. They have to figure out what they don't know and how to fill in the gaps. They have to develop ways of making sense out of disconnected items, which brings us back to the four arbitrary sentences.

Those sentences were presented at the conference by Professor John Bransford of

Vanderbilt University, who has done some consulting work at the center in Illinois. The solution to comprehending and remembering the sentences is simply to add a few words to form a plausible link between subject and action, he said:

The tall man bought the crackers that had been lying on the top shelf.

The bald man read the newspaper to look for a hat sale.

The funny man liked the ring that squirted water.

The strong man skimmed the book about weightlifting.

Students can learn to make those connections, but they need help, said Bransford. And when they finally get the hang of it, he added, "their eyes light up."

"There's no reason you can't incorporate this into regular lessons."

The conference was studied with prominent names in reading research and theory—Richard Anderson, Dolores Durkin, Harold Herber, Roger Farr, Walter McGinitie, David Pearson. And it was attended by high level representatives of virtually all the major textbook companies: Ginn, Economy, Houghton-Mifflin, Scott-Foresman, American Book Co., Holt, Rinehart and Winston, all of whose expenses were paid by their companies. It was not a freeloader.

"I can assure you they were listening carefully," said James Squire, senior vice president of Ginn & Co. "In time, you'll see, very directly, changes as a result of this meeting alone."

"It's not going to revolutionize anything," said John Ridley, editor in chief of the reading department of Houghton-Mifflin. "It's a refinement. Reading programs come out every few years, and it seems what they've said here will find its way into virtually everything that's published."

"That's partly because people will ask, 'What are you doing about schema theory?' And you'd better have an answer. There are buzz words that develop in the textbook business, and schema theory is becoming one of them."

The publishers were not about to say exactly what changes they will make, Ridley added, "Because all of our competitors are here listening."

Richard Anderson, who is director of the Center for the Study of Reading, told the audience of about 80 that a person's perspective makes a lot of difference in what he gets out of printed prose. For example, experiments have shown that a person from India will focus on such things as family financial arrangements when he reads a description of a wedding. But an American who reads the same description will concentrate on the details of the ceremony.

"Minority children frequently fall because they don't have the same set of knowledge and values as majority children and majority authors and majority teachers," said Anderson.

It is the job of those who teach and write textbooks to be aware of different backgrounds and to help readers get the necessary knowledge before they begin reading, he said.

In an interview later, Anderson said it may be necessary to give specially tailored reading materials to children from minority subcultures when they are learning to read because "It's important that we not impose obstacles." After that, however, all students must read materials with unfamiliar settings to broaden their perspective on the world, he said.

"So I'd think you have to be alert to shortcomings of knowledge that some cultures have and be prepared to bridge them."

Anderson cited one experimental in which two groups of people were given a written description of a big house. One group was told to read it from the perspective of burglars while the other group took the perspective of real estate agents. Predictably, he said, the first group remembered such things as the silverware in the dining room while the second group remembered the stone facing on the outside.

But then they were told to reverse their roles. And without rereading the passage, the burglars-turned-real-estate-agents suddenly recalled more about the structure of the house and less about its stealable contents. And the real-estate-agents-turned-burglars experienced the reverse phenomenon.

The experiment showed how the same readers carried different schemata in their brains and could voluntarily call them into action, he said. The schemata serve as sorting devices for efficient recall of information.

Putting it another way, Isabel Beck of the University of Pittsburgh said teachers and textbooks should help students develop a "framework for attention" before they read a story.

As an example, she mentioned a story about a boy and a girl who disagree on whether the girl should embark on a career of deep-sea diving.

Ordinarily, she said, a teacher would simply tell the students, "Read to find out how John and Mary solve their problem."

But, Beck said, experimentation has shown that students will comprehend more of the story if they are psyched up first on the general subject. Without taking a moralistic stand and without giving the story away, a teacher should get the students into a discussion about whether there is any logical reason a girl could not become a pilot or a boy become a nurse.

Do current textbooks make use of background knowledge? Yes, they do, said Robert Tompkins, a vice president of Holt, Rinehart and Winston. "But many teachers aren't using it."

Tompkins conceded that publishers should try harder to make the kinds of connections in knowledge that John Bransford had advocated. Tompkins said he particularly liked one of Bransford's suggestions connecting camels and desert travelers.

In that one, Bransford had told about a story in a textbook that describes a camel—with such attributes as closeable nostrils and heavy hair around the ears—without explaining that those features afford protection against blowing sand. But if young readers can be helped to make that connection, Bransford said, they will be in a good position later to understand the dress of desert travelers who wear scarves over their faces even in hot weather.

In general, publishers don't give teachers much help in teaching comprehension, according to Dolores Durkin, an author of college textbooks on reading and a staff member of the center at Illinois.

Durkin, who is establishing a reputation as a muckraker in the field of reading instruction, shook the reading establishment two years ago by reporting that reading teachers are spending only 1 percent of their time on comprehension instruction, as she defined it. She and her staff had visited classrooms, and they counted any instance in which a teacher helped a student understand any passage longer than a single word.

For her next investigation, which she reported at the Tarrytown conference, she spent eight months leafing through teachers manuals that typically accompany basal reader series. In five sets of manuals, she found a total of 6,697 suggestions to teachers. But she said only 7 percent of those suggestions could be called "instruction." By that she meant an instance in which "A manual suggests that a teacher do, say or ask something that ought to help students understand or work out the meaning of connected text."

The rest of the suggestions dealt with review (17 percent), application (25 percent) and practice (51 percent).

And lest anyone get too excited about that 7 percent on instruction, Durkin portrayed those suggestions as anemic at best. Some were perfunctory—"Introduce the word idea." Others were over the children's heads, such as a first-grade manual that urged teachers to use the words "logical," "infer," "main idea," "prepositional phrase" and "pause momentarily."

In one first-grade class, a student identified "pause" as the things at the end of a dog's feet, Durkin said.

"People who write textbooks ought to get into classrooms," she went on. "They wouldn't use a word like that."

Some manual suggest that students list certain sentences and explain the meanings of specified words. But the emphasis is on right and wrong answers, said Durkin. She said a better approach might be to ask "How do you know it means that?" or "why couldn't it mean something else?"

The publishers did not dispute Durkin's findings.

Sandra Maccaroni, reading director for American Book Co., said improvements have been made in some of the latest editions. But she conceded that "Manuals are put together a lot faster than we'd like. We just don't have the time. Sometimes you have four people working on different manuals and there's some lack of coordination."

And Tompkins, of Holt, Rinehart and Winston, said, "I feel like I have been through a mill . . . When I came here, I thought we had the best teachers' editions on earth. When I get back, I can assure you we are going to scrutinize them."

Another speaker, Georgia Green, urged publishers to print stories as originally written instead of rewriting them in simplified style as usually is done for basal readers. She said the trouble with adapting stories is that "it risks boring the children and convincing them there is nothing interesting to be read in school."

And Alice Davison said publishers should stop using readability formulas to write textbooks. Just simplifying words and syntax does not necessarily make the message clearer, said Davison, who advocated subjective judgement as a better guide. Davison and Green both are on the staff of the reading center at Illinois.

The publishers, who also had a place on the agenda, said life is more complex than the researchers see it. They said they have to make a profit and satisfy state and local textbook adoption committees. And they said teachers demand readability formulas, controlled-vocabulary stories and lots of testing for right answers, according to the publishers.

The reason textbooks are written the way they are, said Tompkins, "comes down to a definition of the American public schools and their purpose in life."

"They are an agent of social change, not just to teach reading and writing. They are trying to correct attitudes toward sex roles, toward various races, toward the aged and the handicapped."

Maccarone, of American Book Co., added, "We face adoption committees—small as well as large committees—and we aren't going out voluntarily saying. Look at our readability. And we don't like constant testing, but management priorities have put the onus on teachers to show results. And testing shows results."

BUSY WORK, CONFUSION MAR MOST WORKBOOKS, RESEARCHER SAYS

Every school day in America, millions of children sit hunched over commercially published workbooks. But what they see in those workbooks is often confusing and difficult, according to a researcher from the University of Illinois.

Jean Osborn, speaking at a conference for researchers and publishers in Tarrytown, said she found "some very good things" in workbooks. But she also found a lot of busy work, verbose instructions, inadequate assistance, difficult vocabulary and lessons that were not connected with the main reading textbooks, called basal readers.

"My impression is that workbooks are the forgotten child of basal programs," Osborn said.

Osborn, who spent months poring over workbooks, showed the audience one page from an Economy Co. booklet that she called "a terrific example of ambiguity." It was an exercise for third-graders on finding the main idea of a paragraph, but its format made it difficult for students to get paragraphs and ideas together.

In Houghton-Mifflin workbook, students were given seven lines of vaguely worded instructions. In a Ginn and Co. workbook, students were asked to fill in the blanks with letters instead of words. The letters were keyed to a list of words.

Those are not isolated examples, said Osborn. "It's very frequent—daily in a kid's life."

As she went along, she said, she tore out pages with errors, confusion and so on. "There were some series that I'd pull out every page."

One page from the Economy workbook asked students to find words suggesting mystery, hostility, peacefulness, and confusion. Those are complex ideas for second-graders, Osborn said, but no provision was made to see whether the students understood the words in advance.

Students were told to underline "peaceful" words. But it was not clear whether they meant one word or a whole phrase, such as "soft snow falling silently."

A page from a 1979 Houghton-Mifflin workbook, which Osborn called "busy work" and "utter confusion," contained 10 words, each of them inside a square, triangle or rectangle. Students were supposed to color a shape red if it contained a word of one syllable, green if two and blue if three. Then they were to cut out the shapes and put them together into big red, green and blue squares.

"An overload of instructions, all for 10 words," she said. "It will take 15 minutes, which is all right if you want to keep kids busy for 15 minutes."

In a workbook published in 1977 by Holt, Rinehart and Winston, instructions at the top of a page told students to underline the first vowel in each word below. At the bottom of the page another set of instructions told them to do the same thing.

"The hard-to-teach child will say, 'Maybe I did it wrong,'" said Osborn. Good students often don't read the instructions, she said. They simply go ahead and do the exercises. Or they consider the instructions as a problem to be conquered.

But she said poor students simply are confounded by the tasks they see laid out for them on the pages of reading workbooks.

Osborn and her colleagues visited three school districts and sat through 90 reading periods, and she said they found that students spend as much time with their workbooks as they spend in direct contact with their teachers.

"Teachers use workbooks because they think they are important—that they are part of instruction," she said.

Indeed, they use the entire basal reading packages of textbooks, workbooks and supplementary materials, even though teacher-training colleges advocate using a variety of approaches, Osborn said.

Osborn urged publishers to eliminate confusion in workbooks and to develop exercises that teach skills, not just "expose" them briefly. And she pleaded for exercises that require words to be written in the blanks, not keyed letters or numbers.

The people who publish the nation's school workbooks and textbooks were sitting in the audience as Osborn talked, but none disputed her findings.

Will her pleas be heeded?

"They will in our programs," said Dale Howard, director of language arts for Open Court Publishing Co. "I'm going back and write them up. This is one-on-one for me. I am going to take her recommendations to heart."

And James Squire, senior vice president for research and development at Ginn and Co., said, "Workbooks are never going to be the same after Jean Osborn."

ALPHA DELTA PHI—150TH ANNIVERSARY

Mr. PERCY. Mr. President, today I would like to call attention to a convention that will soon be held at Hamilton College in Clinton, N.Y. Though it may seem odd for a Senator from Illinois to speak about an event in upstate New York, I am proud to do so, since the convention will commemorate the 150th anniversary of the founding of my fraternity, Alpha Delta Phi.

Founded at Hamilton in 1832 by Samuel Eells, the fraternity has a tradition of leadership. Members from chapters in both the United States and Canada have distinguished themselves in every field, especially in business, finance and government. Oliver Wendell Holmes, Salmon P. Chase, William K. Vanderbilt, David Eisenhower, and John D. Rockefeller, Jr. were Alpha Deltas, as were Presidents Theodore Roosevelt and Franklin D. Roosevelt.

The fraternity has also maintained ties to its heritage as a literary society. During my undergraduate years at the University of Chicago, we sponsored lectures, debates, and the other literary events. Today, despite the increasing social role of fraternities, Alpha Delta Phi still requires its chapters to

sponsor similar events. In an era when many people stereotype fraternities as "Animal Houses," it is heartening to see the members of Alpha Delta Phi gathering in a sesquicentennial celebration to reaffirm this special heritage.

SENATOR HEINZ COMMENDED FOR CONTRIBUTIONS TO TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Mr. DOLE. Mr. President, I want to commend the senior Senator from the State of Pennsylvania for his outstanding contributions to the Tax Equity and Fiscal Responsibility Act of 1982.

Senator HEINZ is responsible for at least four provisions contained in this legislation which are in the very best interests of people as well as our national economy.

While the newspapers have carried the story of a record peacetime tax increase in this bill, there is another story about provisions of the bill that goes untold. Those provisions, the results of the very arduous efforts of my distinguished colleague from Pennsylvania, reflect a strong and longstanding commitment to the underprivileged, the aged, the poor.

Under the leadership of Senator HEINZ, amendments were adopted here on the Senate side that will help people in four different and important areas. The amendments offered by Senator HEINZ will insure that the economically and otherwise disadvantaged will have an opportunity to find private sector employment; that dying elderly will not be denied access to hospice care; that senior citizens will have the option to receive better health benefits at lower cost; and that the working poor will have access to health care.

More specifically, Senator HEINZ succeeded in gaining Senate approval of an amendment to extend a revised, improved targeted jobs tax credit program. It will give private sector employers a very powerful incentive to hire individuals who qualify under nine targeted categories, including handicapped, Vietnam veterans, certain welfare recipients, former CETA workers, and disadvantaged youths. Most importantly, the amendment promises to help those, particularly during these difficult economic times, who have historically had the greatest difficulty finding employment. I might add that it is due to Senator HEINZ' efforts during last year's tax bill that the targeted jobs tax credit was overhauled, made workable, and revived.

Mr. President, Senator HEINZ also offered an amendment which I was extremely proud to cosponsor to provide hospice care as a benefit under the medicare program. As many of my col-

leagues know, hospice frequently is considered to be a more humane and less expensive method of caring for the dying. It provides support for both the patient and the family; it emphasizes quality of the final days of life; it focuses on home and community based care. In short, it allows an individual to live and die with dignity.

Mr. President, I would just note that the hospice amendment was not included in the bill reported by the Finance Committee. Although I, Senators LONG, PACKWOOD, HEINZ, and others had introduced similar legislation and Senator HEINZ had held a hearing on the bill in his Aging Committee, not every Member of the Senate was aware that our elderly, in too many instances, are denied access to hospice care because of medicare's failure to pay for it. As we started to consider the Revenue Act, I think it is fair to say we did not have the support to adopt the floor amendment. Indeed, many floor amendments had a very difficult time. So Senator HEINZ went to work on the Senate floor, personally enlisting support for our amendment, and succeeded in getting at least 67 Senators to cosponsor it. Without that extraordinary effort, adoption of Senator HEINZ' and my hospice amendment would have been impossible. It is my full expectation that the conferees will adopt our provision, and it will soon become law.

I would also like to point out the fruits of a very long labor of Senator HEINZ—the successful amendment to the medicare law to give older people the choice to enroll in HMO's and other competitive medical plans.

Mr. President, I recall when, in the late seventies, the then junior Senator from Pennsylvania was one of the first Members of the Senate to recognize the real ills of the health care payment system and espouse a realistic solution. In rejecting hospital cost containment, a strictly regulatory approach to place a band-aid over the symptoms, Mr. HEINZ began working on legislative remedies to reverse the perverse incentives driving health care costs.

He introduced the Competitive Health and Medical Plan—CHAMP—Act in the beginning of the 97th Congress as a first major step in reversing the incentives that encourage overutilization of costly services and construction of excess hospital beds that taxpayers are forced to support whether or not they are filled. Hearings were held last year in both the Finance and Aging Committees to examine the CHAMP's approach. The bill has been endorsed by such major groups as the American Association of Retired Persons, the National Council of Senior Citizens, the AFL-CIO, and the U.S. Chamber of Commerce, as well as the advocates of a free-market, consumer

choice approach to health policy reform.

The culmination of Senator HEINZ' persistent efforts was inclusion of his CHAMP's bill in the Finance Committee's revenue and spending bill that has now passed the Senate. This marks a first, a vital reform of the medicare program, which I expect to be signed into law this year.

Like the hospice provision, the CHAMP's amendment is cost effective, promising to save the Government money and contribute to the long-run reduction of the Federal deficit.

Finally, Mr. President, I would like to point out the amendment drafted by Senator HEINZ to provide medicaid as a work incentive for the working poor in our society.

As many of my colleagues know, last year as part of the Omnibus Reconciliation Act, the so-called work incentives in the aid to families with dependent children—AFDC—program were limited. This was done primarily because there was little evidence of the effectiveness of these generous income disregards in breaking welfare dependency. However, we did not at that time recognize that there was something positive we could do that would indeed encourage work instead of welfare for the AFDC population.

That positive step is a continuation of medicaid coverage for welfare recipients who find work in jobs that do not provide health insurance. A careful examination of the issue, as Senator HEINZ has pointed out, reveals that the population we are talking about here is comprised primarily of single parent mothers with little training or job experience. The jobs they find are usually part time, minimum wage, with no employer-provided health coverage. Therefore, when these families lose their medicaid coverage, a powerful work disincentive is created.

The amendment that Senator HEINZ developed addresses this problem by giving States flexibility to continue medicaid coverage for those working poor families who lose their AFDC benefits as a result of the limitations we imposed last year. In essence, his amendment will help to insure that access to health care will not be denied to those individuals struggling to break welfare dependency and become self-sufficient.

Mr. President, we can all be proud of the dedication, leadership, and outstanding work of the distinguished Senator from Pennsylvania.

SPOUSE EQUITY ACT, S. 1814

Mr. MITCHELL. Mr. President, I wish to express my strong support of S. 1814, a bill which will return to State courts the determination of property settlements in the event of divorces in military marriages. I hope

the Senate will consider this bill in the very near future.

Last June, the Supreme Court overturned a State court decision which granted a divorced wife a property right in the pension earned by her military husband. That decision, in effect, places the marriage and divorce decisions of military families beyond the reach of State law in certain important respects. That situation should be corrected.

In our Nation, the States have primary jurisdiction over laws concerning marriage, divorce, property settlements, child support payments, and related domestic issues. This is not an area in which the Federal Government ought to be involved. And we should not remove the protection of State laws from those men and women who serve in the Nation's Armed Forces.

S. 1814 will correct this situation by allowing State courts to treat military pensions in divorce cases as they treat civilian pensions, in accordance with the State's property laws.

S. 1814 does not prejudice the major factors in any divorce. Such questions as individuals' contribution to the joint property of the family, duration of marriage, fault or no-fault, are properly a judgment of the court hearing the divorce case, not of the Federal Government. What the bill does is to restore the military spouses the same rights their civilian counterparts have in divorce proceedings.

Not every State of the Nation treats pensions as joint property in dissolving a marriage. But in those States which do, there is no reason why pensions earned pursuant to a military career should be exempted from the other property acquired in the course of a marriage. Yet this is precisely the effect the Supreme Court's ruling has. It is time that ruling was changed.

The dissolution of any marriage is a personal tragedy for those involved. The frequency of divorce in our Nation is a social tragedy. The divorce rate reflects changes in our society which are outside the scope of legislation. Today, men and women who find their marriages cannot be amicably maintained seek to go their separate ways.

A decision to divorce is a personal decision. But legislation can help assure that neither partner is materially injured by such a decision.

In practice today, divorce frequently impoverishes the female partner, particularly in marriages of long duration. The reality is that a woman whose life has been devoted to making a home and raising children is often not in a position to pursue paid employment. Today's labor market demands skills that are not learned in the home. At a time such as the present, when unemployment is high, the labor market

can and does demand work experience as well as skills. Trained computer programmers are in oversupply today unless they have 5 years' experience. It is unrealistic in such a labor market to contend that divorced women can readily be self-supporting regardless of age, training, or work experience.

Our society will ultimately have to modify the worth it now ascribes and the monetary rewards it gives to various functions. We pay lip service to the importance of making a home and raising a family, but our laws generally reflect a judgment that making a home and raising children are activities of less value than pursuing an active career.

That judgment will change in future, I am certain, because we must eventually recognize that the creation of a stable home and the rearing of children are the foundation of our society. But future changes in society's values and rewards do not compensate women who have already devoted their lives to domestic duties and are threatened with the loss of all sources of livelihood today. When such women face the bitterness of a failed marriage, the law should give practical recognition to their contribution to the dissolving partnership.

The worth of a wife's contribution to a military career is verbally acknowledged by the leaders of our armed services. The Army Chief of Staff, Gen. Ed Meyer says "We recruit soldiers, but we retain families."

Statistical evidence indicates that the active support of spouses is crucial to the decision of military men to reenlist and pursue a military career. The Air Force reports that without their wives' support, only 30 percent of Air Force men would continue a military career. The contribution of the spouse to a career decision in the military is a major factor, just as a spouse's support for a move or a job change is important in civilian life.

Congress has taken substantial steps to upgrade military pay and conditions, an effort that has my strong support. It is vital that we reward the hardships of military service appropriately.

But we should not forget that the families of those serving in our Armed Forces bear the frequent moves, the disruptions, the financial losses, and the severed friendships in moving around the country and overseas, along with their enlisted spouses.

Our armed services rely substantially on the active participation of an enlistee's spouse in maintaining the military community and in providing the kind of family environment which enhances military service. That burden falls most heavily on women because men make up the bulk of our Armed Forces.

Military wives move to new duty stations with their husbands, they up

root their children from schools, they make homes on military bases, and buy homes in cities about which they know nothing and where they have no acquaintances. The frequent moves and disruptions of a military career are part of the service our Nation demands of our military enlistees. And the price is paid, not only by the officer moving, but also by the family which accompanies him.

Military wives have found in many instances that their personal behavior and their willingness to be active in community affairs has directly affected their husbands' careers. Today, when 50 percent of military wives hold paid jobs, that factor of military life may be moderated, as it has somewhat moderated in the civilian sector. But, just as many private companies judge the wives of their male employees, fairly or not, the military judges the wife when it considers advancement for the husband. And those wives who have devoted their time and talents to the furtherance of their husbands' careers have surely made as great an investment in the military life as the men directly.

Military wives who have worked, either from choice or financial necessity, know that the frequent moves involved in a military career do not constitute a sound basis for a well-paid career for themselves. Frequently a shorter term job does not even earn the worker a basic pension, because most firms' pension vesting periods are longer than the average duty assignment. Frequent job changes are inimical to career growth and advancement within a company.

Many military wives have found that despite their education, they must be content with starting anew in a new job in every new military assignment. No comparable situation faces any substantial sector of the civilian economy.

Careers such as the military, which entail frequent moves, do not allow a married couple to build up the property that a more settled family can generally acquire. In many cases, the military pension represents the major form of property acquired in such marriages.

It is grossly unfair, in such circumstances, to arbitrarily rule that this property does not belong in any part to the nonmilitary spouse. No similar distinction is made about property acquired by civilian families, whether both spouses work or not. There is no reason to treat military spouses differently. In effect, the Supreme Court ruling makes military spouses second-class citizens in the event of a divorce. That is unfair and this legislation will correct it.

The bill does not make any arbitrary prejudgments in the case of any individual marriage. It maintains fundamental protections against impover-

ishing any member of the military, without denying the marriage partner a reasonable judgment when that is reached by the State court involved.

It is foolishness to claim, as some have, that this legislation will precipitate a rash of divorce proceedings against military enlistees or retirees. Men and women do not divorce or fail to divorce on the basis of material considerations alone. Marriages are not maintained or dissolved solely because of money or property. Anyone who has been married knows that the relationships between human beings are too complex to be reduced to such a simple basis.

The complexity of human relations is reflected in S. 1814. It would leave to the courts to determine, on a case-by-case basis, as they now do, what the proper division of belongings is in a marriage that is being dissolved. This legislation will not encourage or discourage divorce among military families and more than the existence of divorce laws now encourages divorce in civilian households.

We should not force military marriages to contend with different rules than their civilian counterparts.

The Supreme Court's decision on property rights state that the determination of the proper treatment of military pensions in divorce cases is properly a congressional decision.

Recognizing that responsibility, the Congress is now ready to act. Language identical to that in S. 1814 has already been passed by the House of Representatives in the form of an amendment to the Defense authorization. I hope the Senate can consider its version of the bill promptly, so that we can return to the spouses of our military families the assurance that their domestic rights will be treated by State courts without distinction because of their service in the military.

Neither this legislation nor any other can moderate the personal tragedy of a failed marriage. But legislation can assure that when marriages do dissolve, the contribution of both partners will be judged within the context of the individual relationship, so that neither party is rendered without cause and destitute without redress.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chiridon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry

nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that he had approved and signed the following acts and joint resolution:

On July 19, 1982:

S. 2651. An act to extend the expiration date of section 252 of the Energy Policy and Conservation Act.

On July 22, 1982:

S. 881. An act to amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

S. 1230. An act to provide to the minting of commemorative coins to support the 1984 Los Angeles Olympic games.

On July 23, 1982:

S. 2240. An act to amend title 5, United States Code, to provide permanent authorization for Federal agencies to use flexible and compressed employee work schedules.

On July 28, 1982:

S.J. Res. 95. Joint resolution to authorize and direct the Secretary of the Interior, subject to the supervision and approval of the Franklin Delano Roosevelt Memorial Commission, to proceed with the construction of the Franklin Delano Roosevelt Memorial, and for other purposes.

On August 3, 1982:

S. 2332. An act to amend the Energy Policy and Conservation Act to extend certain authorities relating to the international energy program, to provide for the Nation's energy emergency preparedness, and for other purposes.

On August 9, 1982:

S. 2317. An act to recognize the organization known as the National Federation of Music Clubs.

S. 2218. An act to provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue Landfill site by the city of New York.

MESSAGES FROM THE HOUSE

At 2:02 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6276. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 388. Concurrent resolution disapproving certain regulations submitted

to the Congress on July 29, 1982, with respect to the Education Consolidation and Improvement Act of 1981.

At 5:08 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House agrees to the amendments of the Senate to the following joint resolution:

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 6276. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act to allow the issuance of revenue bonds to finance college and university programs which provide student educational loans; to the Committee on Governmental Affairs.

HOUSE BILL PLACED ON CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

ENROLLED JOINT RESOLUTIONS SIGNED

The PRESIDENT pro tempore (Mr. THURMOND) announced that on today, August 10, 1982, he signed the following enrolled joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, August 10, 1982, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 123. Joint resolution authorizing and requesting the President to proclaim "National Disabled Veterans Week";

S.J. Res. 183. Joint resolution to authorize and request the President to issue a proclamation designating October 17 through October 23, 1982, as "Lupus Awareness Week"; and

S.J. Res. 190. Joint resolution to authorize and request the President to designate "National Family Week."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4048. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, notice of a decision made to convert the Custodial Services Function at the Public Works Center, Norfolk, Virginia to performance under contract; to the Committee on Armed Services.

EC-4049. A communication from the General Counsel of the Department of Defense transmitting a draft of proposed legislation to authorize student nutritional assistance programs in the defense overseas schools; to the Committee on Armed Services.

EC-4050. A communication from the Secretary of Housing and Urban Development transmitting, pursuant to law, the annual report of the Solar Energy and Energy Conservation Bank for fiscal year 1981; to the Committee on Banking, Housing, and Urban Affairs.

EC-4051. A communication from the Chairman of the Securities and Exchange Commission transmitting, pursuant to law, a supplement to the Commission's 47th annual report entitled "Annual Report of Corporate Reorganizations Under the Bankruptcy Code;" to the Committee on Banking, Housing, and Urban Affairs.

EC-4052. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Increasing Entrance Fees—National Park Service"; to the Committee on Energy and Natural Resources.

EC-4053. A communication from the Director of the Minerals Management Service, Department of the Interior transmitting, pursuant to law, a request from Diamond Shamrock Corp. for a refund of an excess royalty payment; to the Committee on Energy and Natural Resources.

EC-4054. A communication from the Assistant Secretary of the Interior for Territorial and International Affairs, transmitting, pursuant to law, the annual report on the fiscal condition of the Government of Guam for the year ended September 30, 1980; to the Committee on Energy and Natural Resources.

EC-4055. A communication from the Joint Chairmen of the Interagency Task Force on Acid Precipitation, transmitting, pursuant to law, the final National Acid Precipitation Assessment Plan; to the Committee on Environment and Public Works.

EC-4056. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to August 4, 1982; to the Committee on Foreign Relations.

EC-4057. A communication from the Acting Director of the Office of Legislative Affairs, Agency for International Development, transmitting, pursuant to law, a report on proposed amendments to a Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4058. A communication from the Executive Secretary of the Federal Reserve Employee Benefits System, transmitting, pursuant to law, the annual report on the retirement plan of the Federal Reserve System for calendar year 1981; to the Committee on Governmental Affairs.

EC-4059. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-4060. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize the Veterans' Administration to administer a community residential care program; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 2172. A bill to amend the Communications Act of 1934 (Rept. No. 97-518).

S. 2450. A bill to authorize funds for the Magnuson Fishery Conservation and Management Act for fiscal years 1983, 1984, and 1985 to improve conservation and management of our Nation's fisheries, and for other purposes (Rept. No. 97-519).

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 2320. A bill to amend section 1936 of title 18, United States Code, and the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 801 et seq.) to provide for criminal forfeiture of the proceeds of racketeering activity, to provide for the sanction of criminal forfeiture for all felony drug offenses, to facilitate forfeitures in drug related and racketeering cases, and for other purposes (Rept. No. 97-520).

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

H.R. 1710. A bill to authorize the use of the frank for official mail sent by the Law Revision Counsel of the House of Representatives.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NICKLES (for himself and Mr. PELL):

S. 2822. A bill to amend title IV of the Higher Education Act of 1965 to provide standards for students for maintaining satisfactory progress as a condition for assistance under that title; to the Committee on Labor and Human Resources.

By Mr. STAFFORD:

S. 2823. A bill to amend title IV of the Social Security Act with respect to the treatment of earned income for purposes of the aid to families with dependent children program, and for other purposes; to the Committee on Finance.

By Mr. NUNN (for himself, Mrs. KASSEBAUM, Mr. QUAYLE, Mr. RANDOLPH, Mr. CRANSTON, Mr. LEVIN, Mr. SARBANES, Mr. CANNON, Mr. BURDICK, Mr. LEAHY, Mr. GLENN, Mr. DECONCINI, and Mr. MELCHER):

S.J. Res. 228. Joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES (for himself and Mr. PELL):

S. 2822. A bill to amend title IV of the Higher Education Act of 1965 to provide standards for students maintaining satisfactory progress as a condition for assistance under that title; to the Committee on Labor and Human Resources.

STUDENT ASSISTANCE REFORM ACT

● Mr. NICKLES. Mr. President, today I am pleased to join with my distinguished colleague, Senator PELL, in introducing a bill which makes some commonsense changes in the Federal student aid programs.

Currently, a student continues to receive student assistance from the Federal Government as long as the educational institution which he or she attends will confirm that the student is in "good standing." It is left up to the discretion of each individual educational institution to define good standing.

This policy has, unfortunately, resulted in serious mismanagement and use of Federal student aid resources. The General Accounting Office released a study in December of 1981 which found that 20 percent of the students receiving Pell grants at 19 randomly selected institutions had less than a "C" average, half of which (10 percent) had an "F" average. Clearly, this lax discretion and judgment by some educational institutions is significant enough to merit congressional action.

The legislation that Senator PELL and I offer today gives a student receiving Federal financial assistance a 1-year period to establish an academic record. At the conclusion of this first year, the student's grade point average, or its equivalent, is reviewed. If the student has less than a "C" average, then he or she is given a warning measure by being placed on probation for one grading period. If, during that grading period, the student again fails to make a "C" average or better, then he or she is no longer eligible for Federal financial assistance.

The legislation contains an "undue hardship" clause which provides for

special difficulties that a student may encounter during the academic year or probationary period. This clause is intended to allow the institution to give the student another probationary period if it determines that the student has had to contend with unusually severe circumstances during the academic grading period in question. Examples of the kinds of extenuating circumstances which might be cited and accepted are the death of a close relative or serious personal injury or illness.

A student who, for academic reasons, has lost eligibility for Federal student assistance may again become eligible if he can demonstrate, in two consecutive grading periods, his academic commitment by maintaining a "C" average or better. Upon establishing such a record, he may again apply for Federal assistance. This reapplication for aid is limited to a one-time readmission to the student assistance program.

Implementation of this legislation will simplify current law by creating a consistent and fair standard for students receiving Federal aid. It adds no new bureaucratic steps, in that an institution must already verify that a student is in good standing. This legislation simply asks for a GPA as parts of that verification process.

Although there is no concrete figure as to the amount of financial assistance which can be redirected to more serious students, evidence indicates that it could be very sizable amount. In the GAO's sampling alone, they found that 19.9 percent of the Department of Education aid recipients, 23.1 percent of the social security aid recipients, and 12.4 percent of the Veterans' Administration aid recipients had cumulative GPA's less than 2 (or a C average). Even if this figure is not truly representative of all 7,726 schools that have students receiving Federal assistance, it indicates that a significant portion of the \$7 billion spent on student aid could be used more effectively.

In closing, I think it is essential that Congress do all that is in its power to once again earn the respect and confidence of the American people for the manner in which we spend their tax dollars. Elimination of wasteful or inappropriate programs is only a part of the answer. The rest is in analyzing and reforming, where needed, the existing and valuable programs so that they are more cost effective and responsible in their use of tax dollars. This is the intent of the "Student Assistance Reform Act." I am pleased that Senator PELL, who is one of the most highly respected Members of this body for his knowledge and activity in the field of education, has understood the importance of maintaining integrity and responsibility in the Federal student aid programs for some time

now. In 1980, Senator PELL introduced an amendment which was in the same spirit as the legislation we are introducing today.

I encourage my colleagues to examine our proposal, for I am convinced that what we have put forth today is a judicious and fair approach to directing student assistance to those students which not only need it, but who are serious in their determination to make the most of their educational opportunity. ●

● Mr. PELL. Mr. President, I am very pleased to join my distinguished colleague from Oklahoma in introducing the Student Assistance Reform Act of 1982. We are both very concerned that the absence of specific academic standards for the receipt of Federal student aid can result in abuse of these important programs, and thus weaken the very valuable assistance they provide students who desire to pursue a postsecondary education but cannot afford it.

Last year the General Accounting Office examined 5,800 student transcripts at 20 postsecondary institutions across our Nation. The institutions ranged from 4-year private to 2-year proprietary schools. The results of the GAO survey, contained in the report entitled "Students Receiving Federal Aid Are Not Making Satisfactory Academic Progress: Tougher Standards Are Needed," indicated that many institutions have inadequate satisfactory progress standards and/or have failed to enforce the standards that they have in place.

The work of the GAO uncovered some glaring irregularities. For instance,

A student at a public, 4-year college received \$2,438 in Federal educational assistance over three quarters, during which his cumulative grade point averages were 0.44, 0.28, and 0.63.

A student at a public community college received \$2,215 in Pell grants over five semesters, successfully completing only 3 of 58 credit hours attempted with a 0.11 grade point average.

A student at a private, 4-year college received \$7,771 in Federal educational assistance over four semesters, with a cumulative grade point average of 0.76.

Overall, the GAO report estimated that about 20 percent of the Federal student aid recipients had less than a 2.0 grade point required for graduation, and about 10 percent had less than a 1.5 grade point.

Clearly, there is a need for Federal legislative action in this area. The bill we are introducing, however, is in no way punitive. It would simply insure that Federal student aid money would continue to be targeted not only to students with need but also who are serious and responsible in meeting their academic responsibilities. We believe it is an important proposal that

should most certainly become a part of current law for all Federal student aid programs within the Higher Education Act.

The background and history of the proposal which Senator NICKLES and I are offering today is one that merits your serious consideration. It demonstrates clearly that this is not a partisan issue, but a matter of prudent government.

The first satisfactory progress proposal was advanced by the Carter administration during the higher education hearings in October 1979. Dr. Mary Berry, then Assistant Secretary for Education in the Department of Health, Education, and Welfare, proposed on behalf of the administration that a student must successfully complete at least 50 percent of the course load undertaken using title IV aid during a given period of enrollment in order to be eligible for Federal aid in a subsequent period of enrollment. She also stipulated that this requirement would be waived for demonstrated hardship circumstances.

During the question and answer period that followed Dr. Berry's formal statement, I expressed my completed support for the idea that a student should have to maintain decent grades in order to receive Federal student aid. In fact, I thought the administration's proposed standard of 50 percent was too low.

In May 1980, when the full Senate passed S. 1839, the Education Amendments of 1980, included was a requirement, of which I was the principal proponent, that a student must successfully complete 75 percent of his or her academic course load to be eligible for assistance provided from Federal student aid programs. The legislation, however, did not define what constituted successful completion of a course, but left that decision up to the individual institution of postsecondary education.

Unfortunately, the provision in the Senate bill was dropped when the House and Senate Conferees met to consider and work out differences between the higher education legislation passed by each House.

Since passage of the 1980 amendments, I understand that the Department of Education has worked closely with representatives of the postsecondary education community to develop regulations that would require more specific standards of satisfactory progress. These efforts were designed to help insure the integrity of the Federal student aid programs while also preserving institutional discretion in setting specific standards.

I applaud the initiative that has taken place between the Department and the education community, but I must frankly and candidly say that this action is a case of too little, too late. It is encouraging, for example,

that the proposed rules stipulate that satisfactory progress must be the same as or stricter than the institution's standards for determining progress toward and successful completion of the educational objective. This would help avoid the situation cited in the GAO report where students remained eligible for Federal student aid even though the student was never required to maintain a grade point average that matched the institution's requirement for graduation.

As encouraging as these proposed regulations are, they simply do not go far enough. There is a need for a Federal standard that spells out specifically what a student must accomplish in terms of a grade averaged if he or she is to continue to receive Federal student assistance.

The issue in this matter is not one of institutional integrity, or interfering with the operation of institutions of postsecondary education. Rather, it is the question of an agreement which a student makes with the Federal Government when he or she accepts Federal student aid. I contend that the aid should be dependent upon the student's maintaining a satisfactory grade point average, which is the matter directly addressed in this legislation.

This is neither a new nor an intrusive step. Already we have a series of eligibility rules for student assistance programs in areas such as family income, a student's status as dependent or independent, and whether or not he or she is a full-time or part-time student. We have agreements concerning the repayment of loans. And we have limits on the amount of money a student can receive through a grant or loan. The legislation Senator NICKLES and I are proposing would simply add another requirement with respect to the level of academic work a student must maintain if he or she is to continue to be eligible for Federal student aid.

The Student Assistance Reform Act would apply to all Federal student aid programs included in title IV of the Higher Education Act of 1965, as amended. If a student after the first year of postsecondary work has less than a "C" average or its equivalent, then he or she would be placed on probation for the next grading period. If the student receives an average of "C" or better for the following grading period, then he or she would no longer be considered on probation and could continue to receive Federal student assistance.

Should the student earn less than a "C" average, however, he or she would be dropped from eligibility for the Federal student aid programs. Once dropped from eligibility, a student would have to earn a grade average of "C" or better for two consecutive

terms in order to become eligible once again to receive Federal student aid.

There is also an undue hardship clause in our legislation. It would allow a postsecondary institution to judge students with unusually severe situations, such as sudden death or illness in the family or particularly difficult personal or emotional problems, and allow them to continue to receive Federal student aid.

Mr. President, passage of this legislation will not only protect the integrity of the Federal student aid programs but also insure that public moneys spent on these programs are used wisely and well by the millions of recipients who benefit from them each year. I urge my fellow colleagues from both sides of the aisle to join Senator NICKLES and me in cosponsoring this important piece of legislation. ●

By Mr. STAFFORD:

S. 2823. A bill to amend title IV of the Social Security Act with respect to the treatment of earned income for purposes of the aid to families with dependent children program, and for other purposes; to the Committee on Finance.

WORK INCENTIVE ACT OF 1982

● Mr. STAFFORD. Mr. President, on May 31 of this year, I met in Montpelier, Vt. with a number of working mothers who recently have lost supplementary welfare benefits for themselves and their children. They are women who work for low wages in the only jobs available to them, and who, until early this year, were eligible for help under the work incentive provisions of the aid to families with dependent children (AFDC) program.

As a result of the 1981 Omnibus Reconciliation Act, there are 711 Vermonters, who have lost the incentives to work that were built into the AFDC program. Another 1,500 had their benefits substantially reduced, working severe hardships on themselves and their children. The Congressional Budget Office estimates that, because of the work disincentive created by the 1981 Reconciliation Amendments, working mothers in 100,000 to 120,000 AFDC families will leave their jobs and go completely on welfare.

I promised the women I met that night that I would begin work on a bill to restore work incentive benefits to our low-income working parents. Today, I am introducing the Work Incentive Act of 1982.

The AFDC work incentive amendments I am proposing will repeal the 4-month limit on provisions of the AFDC law that require States to disregard certain portions of income when calculating benefits. Under the limit, low-income working parents have lost all or part of their benefits after working for 4 months.

Without those small monthly checks and other benefits such as Medicaid,

many working parents are unable to meet the needs of their children. Some have stopped working already. Others are facing the hard choice of staying home with their children to regain benefits and ease their families' burdens, or keeping their jobs, while sacrificing such basic necessities as adequate food and medical care.

My amendments will require States to calculate AFDC eligibility according to a formula that will assure that a low-income working parent realized at least a small financial advantage for going out to work.

Specifically, my amendments will allow the amount of earnings used to calculate benefits to be reduced by 20 percent of gross income for working expenses. Monthly child care expenses, up to \$160 a month per child, will also be disregarded in determining income.

In addition, the first \$50 of monthly income, and one-third of net remaining income will be disregarded in calculating benefits. It is this provision that will make working at least slightly more profitable than not working.

Recently, my office was contacted by a business manager in Vermont, who said he has spent 2 years training a young mother who has lost her work incentive support. She needs \$150 a month to get by and the business is unable to pay it, so she will be quitting work to go on welfare.

The manager complained that this new form of federalism is counterproductive if he is to pay taxes to support someone who is not working.

I want to point out that, while the bill I am proposing will keep parents such as this one working and ease their financial hardships, it also will solve some of the basic problems that existed before the 1981 changes.

It maintains the cap on gross income, and it calculates the one-third provision on net rather than gross income. These significantly lower the amount of income a worker can have and still receive benefits.

The result of adopting my amendments will be a law that solves the basic problems the 1981 act was aiming at, while restoring benefits to the neediest of our working families, and most important, restoring the incentive to work.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Work Incentive Act of 1982".

TREATMENT OF EARNINGS

SEC. 2. (a) Section 402(a)(8) of the Social Security Act is amended to read as follows:

"(8) provide that, in making the determination under paragraph (7) with respect to any month, the State agency—

"(A) shall disregard all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student, or a part-time student who is not a full-time employee, attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment;

"(B) shall disregard from the total earned income of any child who is claiming aid to families with dependent children, any relative who is claiming such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, the first \$50 of such total earned income for such month;

"(C) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to 20 percent of the total (determined prior to the application of subparagraph (B)) of any amounts received by such persons in such month as wages or salary or as net earnings from self-employment, plus the full amount of any costs incurred by them in producing self-employment income in such month;

"(D) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to the cost of care in such month for a dependent child, or an incapacitated individual living in the same home as the dependent child, receiving aid to families with dependent children and requiring such care for such month, to the extent that such amount does not exceed \$160 for any one such child or individual;

"(E) shall disregard from the total earned income of the persons specified in subparagraph (B) a standard amount equal to the average monthly cost of an employee contribution for a group health insurance policy or plan for a family in such State (as determined by the State); and

"(F) shall disregard from the total earned income of the persons specified in subparagraph (B) an amount equal to one-third of the amount of such earned income not already disregarded under subparagraph (B), (C), (D), or (E);

except that if a child who is one of the persons specified in subparagraph (B) is also included under subparagraph (A), no income of such child to which such subparagraph (A) applies shall be taken into account in applying subparagraph (B), (C), (D), (E), or (F); and except that (with respect to any month) the State agency—

"(F) shall not disregard, under subparagraph (B) or (F), any earned income of any one of the persons specified in subparagraph (B) if such person—

"(i) terminated his employment or reduced his earned income without good cause within such period (of not less than thirty days) preceding such month as may be prescribed by the Secretary;

"(ii) refusing without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after

notification by him, to be a bona fide offer of employment; or

"(iii) failed without good cause to make a timely report (as prescribed by the State plan) to the State agency of earned income received in such month;

"(G) shall not disregard, under subparagraph (B) or (F), any income derived from participation in a project maintained under the programs established by section 432 (b) (2) and (3); and

"(H) shall not disregard, under subparagraph (B) or (F), any earned income of any of the persons specified in subparagraph (B) if with respect to such month the income of the persons so specified was in excess of their need as determined by the State agency pursuant to paragraph (7) (without regard to subparagraphs (A), (B), and (F) of this paragraph), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan;"

(b) Section 402(a)(17) of such Act is amended by striking out "paragraph (8)(A)(i) or (ii)" in the matter preceding subparagraph (A) and inserting in lieu thereof "paragraph (8) (A) or (B)".

TREATMENT OF EARNED INCOME CREDIT

Sec. 3. Section 402(d)(1) of the Social Security Act is amended to read as follows:

"(1) For purposes of paragraphs (7) and (8) of subsection (a), any refund of Federal income taxes made by reason of section 43 of the Internal Revenue Code of 1954 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit) shall be considered earned income."

EFFECTIVE DATE

Sec. 4. The amendments made by this Act shall become effective on October 1, 1982; except that any of such amendments may, at the option of a State, be made effective in that State on any earlier date (on or after the date of the enactment of this Act) which the State may designate.●

By Mr. NUNN (for himself, Mrs. KASSEBAUM, Mr. QUAYLE, Mr. RANDOLPH, Mr. CRANSTON, Mr. LEVIN, Mr. SARBANES, Mr. CANNON, Mr. BURDICK, Mr. LEAHY, Mr. GLENN, Mr. DECONCINI, and Mr. MELCHER):

S.J. Res. 228. Joint resolution to provide for the designation of the week beginning on October 24, 1982, as "National Tourette Syndrome Awareness Week"; to the Committee on the Judiciary.

NATIONAL TOURETTE SYNDROME AWARENESS WEEK

● Mr. NUNN. Mr. President, today I am introducing legislation which would declare the week of October 23, 1982, as "National Tourette Syndrome Awareness Week."

There are many diseases which affect relatively few Americans, but when taken together they affect millions of our citizens. Huntington's disease, Myoclonus, Cystic Fibrosis, Muscular Dystrophy, Amyotrophic Lateral Sclerosis (Lou Gehrig's disease), and Tourette Syndrome are but a few examples.

The cosponsors of this bill are also cosponsors on another related bill, S.

2130, the Orphan Drug Act. Unfortunately, there are few if any commercial drugs available to treat most of these diseases. The primary reason for this lack of treatment is one of economics. There simply are not enough patients with each disease to make the development of drugs financially feasible for the pharmaceutical industry.

Drug companies, after all, are in business to make a profit. The research and development for a single new drug costs millions of dollars. Then, the company must follow the lengthy and costly process of getting approval from the U.S. Food and Drug Administration to put it in the market. If a company cannot forecast a profit at the end of this long road, then there is little incentive to invest the funds necessary to develop a new drug.

It is because there are so few sufferers of each disease—and hence so little financial incentive to develop new drugs to treat them—that we use the term "orphan drugs" to describe this situation. The Orphan Drug Act, S. 2130, is designed to reduce some of the economic barriers to the development of these new drugs. I and the other cosponsors hope that by setting aside the week of October 23 to learn more about one of these rare diseases, Tourette syndrome, we will better understand the problems facing the individuals and families with other rare diseases and appreciate their courage and strength.

The problems of finding treatments for these relatively rare diseases need our immediate attention. We hope that the chairman of the Senate Labor and Human Resources Committee will see the benefits of holding hearings on S. 2130, the Orphan Drug Act. These individuals and families deserve an opportunity to tell their stories and request the help of Congress in fighting these little understood diseases.

I ask that the following article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A DEBASING DISEASE TOO FEW RECOGNIZE (By Lawrence Galton)

For 10 years the boy had been on a medical merry-go-round—ever since at age 8, he was sent home from summer camp because of uncontrollable episodes of head-jerking. Other bizarre disturbances had followed: bouts of grunting, barking, jerking of neck and arms. He had been seen by more than a dozen physicians, diagnosed as suffering from severe emotional disorder, and subjected to many treatments, including years of psychoanalysis.

No treatment worked. The diagnosis was wrong.

It was wrong, too, to a 54-year-old man whose disturbances, much like the boy's had persisted for 37 years—complicated by uncontrollable outbursts of obscenities that could occur anywhere, anytime.

Today, both are free of symptoms after treatment for the real problem: Tourette syndrome, one of the most commonly misdiagnosed and mistreated disorders.

Says Dr. T. J. Murray, professor of medicine at Dalhousie University, Halifax, Nova Scotia: "The time from onset of symptoms to diagnosis averages 10 years, but undoubtedly, in many persons with this disorder, the correct diagnosis is never made."

A neurological rather than a mental or emotional illness, Tourette afflicts an unknown number. Some authorities believe at least 50,000 Americans are affected; some think the number may be far higher.

It always begins in childhood, may worsen, and can spoil lives of its victims—subjecting them to ridicule, turning many into recluses. It need not.

The first hint that such a strange disorder even existed came in 1825 when Dr. J.M.G. Itard, a French physician described the case of a young French noblewoman who, since the age of 7, had suffered from involuntary muscular tics or jerks and later gave vent to uncontrollable cursing. In 1885, Gilles de la Tourette, another French physician, reviewed her case and described eight others. Ever since, the disorder has borne his name.

Until very recently, it was considered a rarity. Medical texts gave it a paragraph. Few physicians had any idea of what it was like.

It affects three times as many boys as girls. The first indications, which usually appear between the ages of 2 and 16, are muscle twitching or tics around the eyes and face. Subsequently, shoulders, arms, legs and torso may be involved, often in complex and multiple jerking movements—brief, rapid, purposeless.

MORE THAN A TIC

These manifestations are often passed off as common habit spasms or nervous tics of childhood. Later, when the vocalizations appear, physicians, parents and teachers often think a serious psychoneurosis is present. The most frequent sounds are grunts, barking, throat clearing, repeated coughing. Some victims have noisy or irregular breathing; some tend to repeat what others have just said in tic-like fashion. Most striking is sudden cursing, which occurs in about 50 percent of patients; they experience a mounting inner tension relieved only by an outburst of obscenities.

Tourette victims have been subjected to diverse, even bizarre treatments: prolonged sipping of water, acupuncture, allergic desensitization, diets, chiropractic manipulation, electroshock, insulin coma, hypnotherapy, behavior modification, psychoanalysis.

It was Dr. Arther K. Shapiro, now clinical professor of psychiatry at Mount Sinai School of Medicine, New York City, who did much to change the picture for Tourette victims.

Almost 30 years ago, Shapiro, then a medical student, was browsing in a bookstore when he heard a string of curse words coming from behind a stack. To his astonishment, he found an attractive, well-dressed young woman examining books of poetry. She was obviously deeply interested and minding her own business but would suddenly, without apparent reason, unleash outbursts of obscene shouts.

He had no idea what was wrong. Nor when he did—many years later, as a practicing psychiatrist—he was confronted one day by a woman who entered his office grimacing, barking and cursing. She had come for psychotherapy. But when she wasn't manifesting her "crazy" symptoms, she wasn't at all emotionally disturbed.

Certain that psychotherapy would not help, Shapiro wondered whether any drug

might be of use. After checking into three dozen, he finally found one that had a dramatic effect, eliminating the woman's symptoms. The drug, haloperidol (trade-named Haldol), was the first of a new series of major tranquilizing agents for psychotic disorders. Even now, its precise mechanism has not been established.

By 1974, Dr. Shapiro and his wife, Dr. Elaine Shapiro, a psychologist, could report on the first 34 patients treated with the drug. In the majority, 90 percent of symptoms disappeared after a year. By 1976, the Shapiros and their colleagues, reported much the same results in a follow-up study of 78 patients. In 1978, after further successful experience, they published a textbook, *Gilles de la Tourette Syndrome*, for physicians.

Other investigators have also been reporting successful experiences. Of patients treated by Dr. Faruk S. Abuzzahab of Minneapolis, 89 percent have shown improvement. Dr. Gerald S. Golden of the University of Texas Medical Branch, Galveston, has treated a group of children for whom correct diagnosis had been delayed average of four years (the longest was 12 years). The majority of parents had been told it was simply a matter of tension and no specific treatment was needed. On haloperidol, 75 percent of the youngsters had good or excellent responses.

SIDE EFFECTS A PROBLEM

Haloperidol is no panacea. The drug can have side effects—muscular rigidity, fatigue, depression, motor restlessness. It should be administered expertly, starting with very small doses, gradually increasing to the point where there is maximum relief of symptoms and minimum side effects. It can take several months before that point is reached, and other medication may sometimes be needed to reduce side effects early in treatment when they are likely to be most troublesome.

Other treatments are under study, especially for those who do not respond to haloperidol. Lithium carbonate, often used for manic depressive illness, has shown promise in very limited trials. At Toronto's Clark Institute of Psychiatry, Dr. Harvey Moldofsky has been finding an experimental agent, pimozide, useful for some patients. Early trials by Dr. Michael Feinberg of University Hospital, Ann Arbor, Mich., suggest apomorphine may have value.

At New York University Medical Center, Dr. Arnold Friedhoff gave L-dopa, a drug sometimes used for shaking palsy, to two patients, aged 11 and 14, who had failed to respond to haloperidol or could not tolerate it. After L-dopa led to a worsening of symptoms, it was stopped, whereupon the symptoms improved greatly and remained improved for months, then returned gradually. Resumption of L-dopa and its withdrawal again resulted in improvement. It may be possible, with further study, to avoid the transient worsening of symptoms if haloperidol and L-dopa are given simultaneously at the beginning of treatment.

So the outlook for Tourette victims promises to brighten further. But there's a vital need for understanding of the disorder and for early diagnosis.

Tourette symptoms are often viewed as bizarre and frightening, they provoke ridicule. Some teachers cannot tolerate children with the syndrome in class because their movements and noises are disruptive. Many youngsters are either taught at home or sent to special classes or schools. Children who remain in a normal school situation are

often made to feel miserable. "Parents, too," says Dr. Arthur K. Shapiro, "are frequently overwhelmed by the strangeness of their child's behavior. This is especially evident when coprolalia (cursing) is present. The child may be threatened, excluded from family activities and prevented from enjoying normal interpersonal relationships. These difficulties may become greater as the child becomes a teenager and his symptoms are mistaken for drug-induced behavior. Early diagnosis and treatment are urgent if the child is to avoid psychological harm. The longer he is subjected to others' belief that he is different or crazy, the more likely he is to believe it. Early diagnosis is especially important, since it is now possible to control symptoms."

HELP AVAILABLE

Anyone who knows of a Tourette victim should contact the Tourette Syndrome Association at 41-02 Bell Blvd., Bayside, N.Y. 11361. Formed in 1973 by a group of nine parents of afflicted children, it now has a membership of 4000. There are 30 parent-child groups across the country and more being formed, plus a new Canadian affiliate in Toronto.

The voluntary, nonprofit association is working to educate both the public and physicians about the disease. It holds exhibits at medical conventions and membership meetings several times a year to provide information about recent research and treatment. It also publishes literature and a newsletter listing names of physicians and centers throughout the country with expertise in treating Tourette syndrome.●

ADDITIONAL COSPONSORS

S. 27

At the request of Mr. DOLE, the names of the Senator from Iowa (Mr. GRASSLEY), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 27, a bill to amend the Internal Revenue Code of 1954 to make permanent the allowance of a deduction for eliminating architectural and transportation barriers for the handicapped and to increase the amount of such deduction from \$25,000 to \$100,000.

S. 1368

At the request of Mr. HUMPHREY, the name of the Senator from Colorado (Mr. ARMSTRONG) was added as a cosponsor of S. 1368, a bill to amend the Internal Revenue Code of 1954 to provide that services performed for camps by certain students who generally are not eligible to receive unemployment compensation will not be subject to the Federal unemployment tax.

S. 1918

At the request of Mr. SPECTER, the name of the Senator from Connecticut (Mr. WEICKER) was added as a cosponsor of S. 1918, a bill to establish the Northeast-Midwest States Federal Hydropower Financing Authority.

S. 2130

At the request of Mrs. KASSEBAUM, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2130, a bill to amend the Federal Food, Drug, and Cosmetic Act

to facilitate the development of drugs for rare diseases and conditions, and for other purposes.

S. 2513

At the request of Mr. BAUCUS, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 2513, a bill to require the Secretary of Agriculture to make land diversion payments for the 1982 crops of wheat, feed grains, cotton, and rice and to establish acreage limitation programs for the 1983 through 1985 crops of wheat, feed grains, and cotton if producers approve such programs or if carryovers of such crops reach certain levels, and for other purposes.

S. 2585

At the request of Mr. CRANSTON, the names of the Senator from Alabama (Mr. HEFLIN), the Senator from Oklahoma (Mr. BOREN), the Senator from Washington (Mr. JACKSON), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2598

At the request of Mr. McCURE, the name of the Senator from Arizona (Mr. GOLDWATER) was added as a cosponsor of S. 2598, a bill to provide for the disposal of silver from the National Defense Stockpile through the issuance of silver coins.

S. 2634

At the request of Mr. NICKLES, the names of the Senator from Indiana (Mr. QUAYLE), the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of S. 2634, a bill to amend section 14(c)(3) of the Fair Labor Standards Act of 1938, to permit the employment of handicapped and severely handicapped individuals in common areas, to permit the employment of handicapped individuals in demonstration projects, and for other purposes.

S. 2659

At the request of Mr. SASSER, the name of the Senator from Nebraska (Mr. EXON) was added as a cosponsor of S. 2659, a bill to amend the Social Security Act to provide that disability benefits may not be terminated prior to completion of the reconsideration process including an evidentiary hearing, to provide that medicare entitlement shall continue through the administrative appeal process, and to require the Secretary of Health and Human Services to make quarterly re-

ports with respect to the results to periodic reviews of disability determinations.

S. 2734

At the request of Mr. HUMPHREY, the names of the Senator from North Carolina (Mr. EAST), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Florida (Mrs. HAWKINS) were added as cosponsors of S. 2734, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with power to enjoin the distribution of forged or counterfeit drugs.

S. 2735

At the request of Mr. HUMPHREY, the names of the Senator from North Carolina (Mr. EAST), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Florida (Mrs. HAWKINS) were added as cosponsors of S. 2735, a bill to amend title 39 of the United States Code to provide that drug abuse oriented advertisements and shipments of drugs in response to drug abuse oriented advertisements shall be nonmailable matter.

S. 2736

At the request of Mr. HUMPHREY, the names of the Senator from North Carolina (Mr. EAST), the Senator from Hawaii (Mr. MATSUNAGA), and the Senator from Florida (Mrs. HAWKINS) were added as cosponsors of S. 2736, a bill to make it unlawful to manufacture, distribute, or possess with intent to distribute, a drug which is an imitation of a controlled substance or a drug which purports to act like a controlled substance.

S. 2742

At the request of Mrs. HAWKINS, the names of the Senator from New Mexico (Mr. SCHMITT), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 2742, a bill to establish the U.S. Capitol Page Board for supervision and education of congressional pages, and for other purposes.

S. 2784

At the request of Mr. DECONCINI, the name of the Senator from Wisconsin (Mr. PROXMIER) was added as a cosponsor of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

S. 2807

At the request of Mr. ROBERT C. BYRD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2807, a bill to amend the Federal Reserve Act.

SENATE JOINT RESOLUTION 97

At the request of Mr. MITCHELL, the names of the Senator from Tennessee (Mr. BAKER), the Senator from Kentucky (Mr. FORD), the Senator from Arkansas (Mr. BUMPERS), the Senator

from Arkansas (Mr. PRYOR), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of Senate Joint Resolution 97, a joint resolution to designate the second full week in October as "National Legal Secretaries' Court Observance Week."

SENATE JOINT RESOLUTION 159

At the request of Mr. ROTH, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of Senate Joint Resolution 159, a joint resolution entitled the "White House Conference on Productivity Act."

SENATE JOINT RESOLUTION 206

At the request of Mr. BENTSEN, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of Senate Joint Resolution 206, a joint resolution entitled "The Flat Rate Income Tax Resolution."

SENATE JOINT RESOLUTION 226

At the request of Mr. COCHRAN, the names of the Senator from Mississippi (Mr. STENNIS), the Senator from Arizona (Mr. GOLDWATER), the Senator from Arkansas (Mr. PRYOR), the Senator from Utah (Mr. HATCH), the Senator from Tennessee (Mr. SASSER), the Senator from North Carolina (Mr. HELMS), the Senator from Arizona (Mr. DECONCINI), the Senator from South Carolina (Mr. THURMOND), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from South Dakota (Mr. ABDNOR), the Senator from Oklahoma (Mr. BOREN), the Senator from New Mexico (Mr. SCHMITT), the Senator from Alabama (Mr. HEFLIN), the Senator from Indiana (Mr. LUGAR), the Senator from Nevada (Mr. CANNON), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of Senate Joint Resolution 226, a joint resolution to authorize and request the President to designate October 1, 1982, as "American Enterprise Day."

SENATE RESOLUTION 393

At the request of Mr. PRESSLER, the name of the Senator from Wyoming (Mr. WALLOP) was added as a cosponsor of Senate Resolution 393, a resolution expressing the sense of the Senate that the Secretary of Agriculture should promptly call for a section 22 study on honey imports.

AMENDMENT NO. 2014

At the request of Mr. SCHMITT, the names of the Senator from New Mexico (Mr. DOMENICI), the Senator from Nevada (Mr. LAXALT), the Senator from Arizona (Mr. DECONCINI), the Senator from Montana (Mr. BAUCUS), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of Amendment No. 2014 intended to be proposed to H.R. 6863, a bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

IMMIGRATION REFORM AND REVISION ACT

AMENDMENT NO. 2017

(Ordered to be printed and to lie on the table.)

Mrs. HAWKINS submitted an amendment intended to be proposed by her to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

HOUSING, COMMUNITY, AND NEIGHBORHOOD DEVELOPMENT

AMENDMENT NO. 2018

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted an amendment intended to be proposed by him to the bill (S. 2607) to amend and extend certain Federal laws relating to housing, community, and neighborhood development, and related programs, and for other purposes.

● Mr. SCHMITT. Mr. President, today I am submitting an amendment to title V of S. 2607, which modifies the Farmers Home Administration housing programs and proposes a rural housing block grant. These provisions accommodate some of the major concerns expressed by the Department of Agriculture, the Office of Management and Budget, Members of Congress, and rural interest groups.

The incorporation of these amendments will result in a comprehensive, workable rural housing block grant program which will improve the delivery of housing services to rural families. This program which is now strongly endorsed by the administration, embraces our common goal of providing adequate, safe, and sanitary housing for very low income rural residents. This is accomplished in a manner which is consistent with congressional budget and policy objectives and significantly furthers the concept of New Federalism by building a positive working partnership between the Federal Government and the States without excessively burdening either.

The most significant provision in this amendment insures that there is no lapse in the availability of housing assistance to the rural poor while the block grant program is implemented. During this transitional period, FmHA is authorized to make subsidized loans for the construction and rehabilitation of single family housing. Funding for this subsidized lending activity will be available for up to 9 months following the enactment of S. 2607 and will be provided by deobligating unused funds set aside for single and multifamily units in preceding fiscal years, and by carrying over uncommitted fiscal year 1982 funds. We estimate that this will provide up to \$700 million for subsi-

dized single family housing. This increase in funding is still well within the budgetary limitations agreed to by the Budget Committee and does not change proposed fiscal year 1983 appropriations.

During this transitional period, \$5 million in technical assistance funds will be available to States that have indicated an interest in participating in the block grant program. This money would enhance States' capacity to plan and develop programs that meet the varied housing needs of their rural constituents during this 9-month period.

The amendment also sets a time table for the development of FmHA regulations and requires States to submit a final statement of activities to the Secretary by July 15 if they intend to participate in the block grant program. This provision intends to give FmHA adequate time to develop regulations while allowing participating States to receive funding and begin to actively plan a local program as soon as possible.

The definition of "very low income" has been changed from 50 percent of area median income to allow an adjustment for smaller and larger families. In order to provide States with a degree of flexibility in designing and administering housing programs, the Secretary may give States the ability to use up to 20 percent of their block grant funding to assist rural residents with incomes up to 80 percent of median. This will allow States to broaden the scope of their programs, and increase their ability to leverage funds; stretching the impact of Federal dollars.

Title V of S. 2607 allows for the renewal of all interest credit contracts, which reduce the interest rate paid on single family homes to as low as 1 percent. This amendment goes beyond this authority by allowing the Secretary to make interest credit agreements with existing borrowers that currently have unsubsidized FmHA loans and have encountered situations of economic hardship which make them unable to repay their loans. FmHA would also have the ability to make a new interest credit contract with an eligible family that assumes the loan of a FmHA subsidized home.

Part C of title V, giving Congress the authority to review all rules and regulations related to the rural housing block grant, is eliminated by this amendment. This authority would be granted under S. 1080, as passed by the Senate, which is pending in the House of Representatives. It should be noted that this amendment also specifically grants FmHA the authority to administer the block grant program.

This amendment, which contains these and other clarifying provisions,

is the result of a concerted effort made by the FmHA, the OMB, myself, and staff to devise a sound program which will meet our shared goals and objectives for housing the rural poor. This rural housing legislation possesses the potential to benefit a very low income population that has been virtually overlooked by the Federal Government's housing assistance programs. The rigid and outdated structure of existing housing programs has prevented Federal resources from reaching very low income families and I have proposed an alternative which would redirect our funds to meet these severe and increasing needs.

This amendment has strengthened the potential this legislation holds for assisting the needy families living in our rural areas. I hope that you will support and endorse title V of S. 2607, as amended when it is addressed on the floor of this Chamber.

Mr. President, I ask unanimous consent that the amendment and a letter from the Director of the Office of Management and Budget and the Secretary of Agriculture be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows.

AMENDMENT NO. 2018

On page 114, line 22, before the semicolon, insert the following: "or, in the case of a transfer or an assumption, a different borrower who is eligible for interest credits".

On page 114, line 22, strike out "and".

On page 115, line 2, strike out the period and insert in lieu thereof "; and".

On page 115, between lines 2 and 3, insert the following:

"(iii) the Secretary may enter into an interest credit contract with respect to a single family dwelling which is inhabited by a borrower to whom the loan was made prior to such effective date and who is suffering economic hardship, if the Secretary determines that additional assistance in the form of credits is necessary to reduce the effective interest rate to a level sufficient to allow maintenance of mortgage payments by the borrower but not to less than 1 per centum per annum."

On page 115, strike out lines 3 through 13 and insert in lieu thereof the following:

"(C)(i) Any contract for interest credits entered into under this section with a borrower under section 502 shall provide that the borrower shall contribute not less than 30 per centum of his income for debt service, except that the contribution of a borrower receiving such assistance prior to the effective date of the National Rural Housing Act shall not increase as a result of this subsection or any other provision of Federal law or Federal regulation by more than 10 per centum during any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law, or regulation."

"(ii) In the case of loans under sections 514 and 515 approved prior to the effective date of the National Rural Housing Act with respect to which rental assistance is provided, the rent for tenants receiving such assistance shall not exceed 30 per centum of income. In the case of a section 515 loan ap-

proved prior to the effective date of the National Rural Housing Act with respect to which interest credits are provided, the tenant's rent shall not exceed the greater of 30 per centum of income or the rent level established on a basis of a 1 per centum interest rate on debt service. No rent for a unit financed under section 514 or 515 shall be increased as a result of this subsection or other provision of Federal law or Federal regulation by more than 10 per centum in any twelve-month period, unless the increase above 10 per centum is attributable to increases in income which are unrelated to this subsection or other law, or regulation.

"(D) Notwithstanding any other provision of section 526 of the National Rural Housing Act, a State, or the Secretary in a State where the Secretary is distributing funds under section 527(d) of such Act, may use grant funds to assist families under current or renewed interest credit contracts with the Secretary when such families as a result of this subsection are required to pay an amount greater than 30 per centum of income. Such assistance may be used to reduce the effective payment by the family to a level of 30 per centum of income."

On page 117, line 13, after "loan" insert "under this subsection".

On page 118, line 22, after "Sec. 516." insert "(a)".

On page 119, between lines 6 and 7, insert the following:

(b) Section 526 of such Act is amended by adding at the end thereof the following:

"(e) The Secretary shall make or insure a loan under this section if he determines that the project or units to be financed are comparable to or lower in cost on a per unit basis than single family detached units in the same area, taking into account management and other condominium fees, and if the project or units otherwise meet the requirements of this title."

On page 121, between lines 21 and 22, insert the following:

UNDERWRITING FACTORS

SEC. 518. Section 501 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(h) In carrying out his functions under this title and in determining whether to approve a proposal for assistance under this title, the Secretary shall take into account energy costs, management expenses, and other operating expenses of the proposed project or unit."

On page 123, strike out lines 14 through 18 and insert in lieu thereof the following:

"(i) the term 'very low income residents' means those rural residents having a total income of not more than 50 per centum of State rural median income, with adjustments for smaller and larger families;"

On page 133, between lines 19 and 20, insert the following:

"(f) Upon request by the State, the Secretary may authorize up to 20 per centum of the funds received by a State to be used to assist rural residents with total income of more than 50 per centum of state rural median income but not in excess of 80 per centum of state rural median income, with adjustments for larger and smaller families."

On page 124, line 16, strike out "community association."

On page 125, line 8, after "Sec. 524." insert "(a)".

On page 125, between lines 17 and 18, insert the following:

"(b) The Secretary is authorized to prescribe such rules and regulations and make such delegations of authority as he deems necessary to carry out this part."

On page 138, between lines 14 and 15, insert the following:

TRANSITIONAL PROVISIONS

Sec. 532. (a) The Secretary shall assure that assistance under this part is made available in accordance with this section in a timely and expeditious manner.

(b)(1) Not later than December 1, 1982, the Secretary shall make appropriate technical assistance available to States which have indicated a desire to receive such assistance in order to determine the practicality of their participation in the block grant program under this part. For the purpose of this paragraph, the Secretary may utilize not to exceed \$5,000,000 of the funds available to carry out this part during each of the fiscal years 1983, 1984, and 1985.

(2) Not later than April 1, 1983, the Secretary shall publish proposed regulations implementing the provisions of this part.

(3) Not later than May 15, 1983, States desiring to participate in the block grant program under this part shall so indicate to the Secretary.

(4) Not later than July 1, 1983, the Secretary shall publish final regulations implementing the provisions of this part.

(5) Not later than July 15, 1983, each State desiring to participate in the block grant program under this part shall submit a final statement of activities to the Secretary in accordance with the provisions of section 525. Assistance shall be made available as provided in this part as soon as is practicable after the receipt of the final statement of activities.

(c) Notwithstanding any other provision of law, any funds appropriated or otherwise made available to carry out any program under title V of the Housing Act of 1949 prior to October 1, 1982, but which are not obligated on October 1, 1982, or which are deobligated on or after October 1, 1982, shall remain available for obligation under sections 502 and 504 of such Act (as such sections were in effect immediately prior to the enactment of this Act) until July 1, 1983. The total amount of funds which may be obligated under this subsection shall be determined by the Secretary. Any funds not obligated in accordance with the provisions of this subsection prior to July 1, 1983, shall be paid into the Treasury as miscellaneous receipts.

On page 138, line 16, strike out "Sec. 532." and insert in lieu thereof "Sec. 533."

Beginning with page 138, line 18, strike out all through page 152, line 2.

Amend the table of contents accordingly.

THE WHITE HOUSE,

Washington, July 30, 1982.

HON. HARRISON SCHMITT,
Chairman, Subcommittee on Rural Housing
and Development, Committee on Bank-
ing, Housing, and Urban Affairs, U.S.
Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are pleased to inform you that the Administration supports your efforts to reform and restructure the Farmers Home Administration's rural lending programs. We hope that the Congress will act expeditiously to adopt the provisions of Title V of S. 2607, as modified by the Committee amendments.

The rural housing block grant program authorized in S. 2607 is fully consistent with the Administration's policy and budget goals. It would extend the concept of feder-

alism while recognizing the necessity for fiscal restraint. Most important of all, the Committee proposal would redirect Federal assistance to meeting the needs of very low income rural residents.

We especially wish to thank the Committee for its willingness to work closely with the Administration in devising an appropriate transition mechanism to the new program and in making a number of other changes in the legislation.

The Administration is confident that Title V of S. 2607 will improve the delivery of housing assistance to rural areas in a manner that is fully in keeping with our common goals. We look forward to successful implementation of this legislation.

Sincerely,

JOHN R. BLOCK,
Secretary of Agriculture.

DAVID A. STOCKMAN,
Director, Office of Management and
Budget.

IMMIGRATION REFORM AND REVISION ACT

AMENDMENT NO. 2019

(Ordered to be printed and to lie on the table.)

Mr. HAYAKAWA submitted an amendment intended to be proposed by him to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

SUPPLEMENTAL APPROPRIATIONS, 1982

AMENDMENT NO. 2020

(Ordered to be printed.)

Mr. SYMMS proposed an amendment to the bill (H.R. 6863) making supplemental appropriations for the fiscal year 1982, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL EXPENDITURES, RESEARCH, AND RULES

Mr. DANFORTH. Mr. President, the Subcommittee on Federal Expenditures, Research, and Rules of the Committee on Governmental Affairs has scheduled a hearing on S. 1782, the Small Business Contract Payment Procedures Act. The hearing has been scheduled for Wednesday, August 18, 1982, commencing at 9:30 a.m. It is to be held in room 3302 of the Dirksen Senate Office Building.

The subcommittee has invited witnesses to provide testimony on this bill, which eliminates the automatic retainage of a portion of progress payments due Government contractors. S. 1782 authorizes such retainage only in cases where the Government's contracting officer finds inadequate contractor performance.

The subcommittee encourages the submission of written testimony by any interested person. Written submissions should be addressed to the Subcommittee on Federal Expenditures, Research, and Rules, 128 C Street NE., Room 44, Washington, D.C. 20510. For

additional information, interested persons should contact William B. Montalto, procurement policy counsel for the subcommittee, or its chief clerk, Pat Otto, at 202-224-0211.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. HELMS. Mr. President, I wish to announce that confirmation hearings have been scheduled on pending nominations before the Senate Committee on Agriculture, Nutrition, and Forestry on Tuesday, August 17.

The committee will consider first the nomination of Wilmer D. Mizell to be Assistant Secretary for Governmental and Public Affairs at the U.S. Department of Agriculture. Following his hearing, the committee will receive testimony on Tom H. Carothers and Leonard R. Fouts to be members of the Federal Farm Credit Board of the Farm Credit Administration.

The hearings will begin at 10 a.m. in room 324 Russell Senate Office Building.

Anyone wishing to testify should contact Denise Alexander or Martha Amburn at 224-2035.

COMMITTEE ON SMALL BUSINESS

Mr. WEICKER. Mr. President, I would like to announce that the Senate Small Business Subcommittee on Export Promotion and Market Development will conduct a hearing to "Consider the Obstacles Faced by Small Business Exporters," on August 19, 1982, in room 424 of the Russell Senate Office Building beginning at 9:30 a.m. Senator BOSCHWITZ will chair. For further information contact Anne Sullivan of the committee staff at 224-3188.

SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT

Mr. HAYAKAWA. Mr. President, as chairman of the Senate Agriculture Subcommittee on Forestry, Water Resources, and Environment, I wish to announce that hearings have been scheduled on S. 2805 which would provide for the orderly termination, extension, or modification of certain contracts for the sale of Federal timber.

The hearing will be held on Thursday, August 12, beginning at 9:30 a.m. in room 324 Russell Building.

Anyone wishing further information should contact Denise Alexander or Martha Amburn at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Wednesday, August 11, at 2

p.m., to consider H.R. 5161, a bill dealing with West Virginia wilderness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Transportation, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Tuesday, August 10, at 2 p.m., to hold an oversight hearing on highway revenue and cost allocation issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURE RESEARCH AND GENERAL LEGISLATION

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Agriculture Research and General Legislation, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, August 11, at 10 a.m., to hold a hearing to consider S. 2348, the Meat, Poultry, and Egg Products Inspection Amendments of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO VICE PRESIDENT GEORGE BUSH AND THE SOUTH FLORIDA TASK FORCE

● Mrs. HAWKINS. Mr. President, in 1980, sales of cocaine and marijuana in the United States totaled at least \$45 billion. About 70 percent of that illegal traffic came through south Florida. This enormous illegal industry was responsible for the growth in violent, drug-related crime. Miami had become the national port-of-entry for a flood of illegal drugs and the "Murder Capital" of America, with over 614 murders in Dade County during 1980. This was an increase of 60 percent over the previous year. The FBI crime statistics showed that of the top 11 crime-plagued communities in the United States, 6 are now in Florida.

President Reagan responded forcefully by creating a Federal South Florida Task Force under the direction of Vice President GEORGE BUSH. Under Vice President BUSH's effective leadership, the South Florida Task Force has taken massive and multifaceted action against international drug trafficking.

The task force is using military resources and intelligence. For the past 5 months, drug smugglers have been confronted with a sophisticated network of Navy E-2C Mini-AWACS radar planes and stationary radar. Navy destroyers in the Caribbean carry Coast Guard teams that board and capture suspicious boats. The Army has loaned the Customs Service

two Cobra helicopter gunships that are especially effective in tracking and intercepting smugglers' planes. Additionally, FBI forces and Coast Guard patrols have been provided with needed funding and manpower. Two hundred and fifty DEA agents and Customs officers and 45 firearms agents have also been posted to south Florida, along with more than a dozen more U.S. attorneys and Federal judges.

The President's initiative and the Vice President's leadership has had a significant impact on drug smuggling and drug-related crime. During the past 5 months, the Coast Guard has seized 104 vessels and 1.6 million pounds of marijuana—compared with 129 vessels and 1.7 million pounds all last year. During the past 2 months, not a single new plane load of illegal drugs has been sighted, and experts believe that smugglers are stockpiling. Wholesale prices of cocaine in Colombia have dropped by 25 percent to \$15,000 a kilo, while U.S. prices have significantly increased.

As chairman of the Senate Drug Enforcement Caucus, I want to take this opportunity to applaud the outstanding leadership of Vice President GEORGE BUSH.

I ask that the following article from the August 5, 1982, Wall Street Journal be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Aug. 5, 1982]

NARCOTICS DRIVE: JOINT AGENCY EFFORT IS CURBING SMUGGLING OF DRUGS INTO FLORIDA (By Stanley Penn)

MIAMI.—It seemed to be just another fishing boat returning to Miami from Bimini in the Bahamas, but there was something a bit odd about the two fishermen: One was wearing a Pierre Cardin pullover and the other a Sassoon jacket.

This was enough to rouse the suspicions of U.S. Customs Service agent Keith Deerman, and a search of the boat turned up a concealed floor compartment stuffed with 1,000 pounds of marijuana.

The case of the overdressed fishermen is just one of a growing number of drug-enforcement success stories coming out of South Florida since the federal government started a multi-agency crash effort five months ago to seal this area's porous defenses against the drug traffic. In recent years more than 70 percent of the cocaine and the marijuana smuggled into the U.S. are believed to have come through South Florida's coves, inlets and out-of-the-way landing strips for aircraft.

To battle the smugglers, Customs has increased its patrol-boat surveillance of South Florida to 24 hours a day from 12 hours previously. Three high-speed Army helicopters, together with at least two Navy radar planes, have been thrown into the fray. A blimp, dubbed Fat Albert, with a radar reach of 150 miles is patrolling for drug planes near Key West, and a second Fat Albert is planned for Patrick Air Force base, farther north.

ADDED MANPOWER

Below Florida, four Coast Guard cutters are trying to choke off the main shipping

lanes for drug boats that come up from South America. Meanwhile, the Federal Bureau of Investigation, the Drug Enforcement Administration and the Customs Service have permanently added 160 investigators to their local staffs, and a separate team of Customs-DEA agents from all over the U.S. has been in Miami on temporary assignment since March 15 to disrupt the major dope rings' financing and distribution activities.

The results of this concerted effort have been clearly discernible. Cmdr. Gary Nelson, a Coast Guard official in Miami, says that Coast Guard cutters in South Florida have seized 1.6 million pounds of marijuana in the first six months of this year—almost as much as the 1.7 million pounds confiscated in all of 1981. The wholesale price of cocaine in South Florida has jumped \$5,000 a kilo to \$60,000. At the other end of the pipeline, in Colombia, the price to wholesalers who go there to get supplies has sagged to \$10,000 a kilo from \$15,000, reflecting the increasing difficulty of moving the drug to Florida, according to Allan Pringle, a DEA official in Miami.

Marijuana supplies, too, are shrinking in Florida. Reflecting this, the price paid by wholesalers in the Miami area has gone up as much as \$40 a pound to as high as \$300 a pound, Mr. Pringle says.

IMPACT ON BANK DEPOSITS

Many of Colombia's drug traffickers live in Miami and deposit their drug proceeds in Miami-area banks. The result has been that year after year the area banks have experienced a huge cash surplus running into hundreds of millions of dollars. This year to date, the surplus is down 17% from a year ago, according to the Treasury Department. The squeeze on profits of the drug dealers is believed to be one reason, although the effect of the current recession also has to be reckoned with.

Some 93 federal indictments involving 209 defendants have resulted since the Customs-DEA enforcement team began its criminal investigations five months ago, says Stanley Marcus, U.S. attorney in Miami. His office is being increased by 22 permanent and temporary prosecutors partly to handle the increased courtroom load. In addition, Mr. Marcus says, the federal court in Miami is adding four judges on temporary assignment.

Narcotics agents believe that the international drug traders are lying low in the hope that the government will abandon its emergency effort. "We see large numbers of aircraft parked in the Bahamas," says the DEA's Mr. Pringle. "We suspect they're sitting there trying to outwait us."

VICE PRESIDENT BUSH'S PROJECT

How long the feds will keep up the pressure is a matter of concern in Miami. Much of the killing and the shooting that has outraged the community in recent years has been linked to drug wars between rival gangs. This violence has noticeably decreased since the anti-drug effort began. At a recent congressional hearing, Rep. Dante Fascell, a Florida Democrat, said that the traffickers "are sitting on their front porches, drinking bourbon and waiting for the heat to die down."

A South Florida Task Force, headed by Vice President George Bush, is directing the multi-agency effort. Adm. Daniel Murphy, Mr. Bush's chief of staff and head of the task force's working group, says he is repeatedly asked how long the task force will stay. "We're here for the long haul," he

says. "No way we are going to walk away." Adm. Murphy contends that the emergency effort is resulting in little, if any, added federal costs, because the manpower and the resources have largely been pulled in from other districts.

One unwanted effect, however, could be a shift of the smuggling problem to other areas of the country, along the coast of Georgia, the Carolinas and points north and to Louisiana, Texas and California to the west. "It's going to mean a longer, more costly haul, but the profits are so big the smugglers are prepared to do it," a narcotics agent says.

Last month, for example, authorities grabbed 40 tons of marijuana at a Newark, N.J., pier—one of the first major seizures outside of Florida since the start of the blockade. The dope was being unloaded in a tractor-trailer from a 110-foot freighter, which authorities suspect came from northern Colombia.

Ted Hunter, the special agent in charge of the DEA's Los Angeles division, is receiving information that traffickers may be moving so-called mother ships loaded with drugs up Mexico's west coast for delivery to U.S. cities on the West Coast. "Seattle, San Francisco and Los Angeles are all actively involved in mother-load investigations," Mr. Hunter says.

To circumvent the air blockade, smugglers also are making increasing use of couriers to sneak small shipments of cocaine into Florida on commercial airliners. A favorite tactic for the courier is to grease his throat with vegetable oil and swallow tiny rubber packets of cocaine for evacuation after he leaves the airport.

TAKING A BIG RISK

"We had one recent example of a guy who had 67 (cocaine) condoms in his body," says Mr. Pringle of the DEA. After he was seized by federal agents, the courier was brought to a hospital where the drugs were removed. "If one condom had broken inside him, he would have died," Mr. Pringle says.

Because planes are finding it hard to get through, cocaine increasingly is being disguised in commercial shipments flown in by legitimate air-freight carriers. Arthur Nehrbass, who heads the organized-crime bureau of the Metro Dade (Miami-area) Police Department, says his agents recently overheard suspects discussing on the phone the possibility of "buying a starch factory in Costa Rica and putting cocaine in starch barrels" for shipment to Florida through commercial channels.

Single- and twin-engine piston planes have been traditionally used by smugglers to sneak in drugs from South America and the Bahamas. These slow-moving, low-flying craft often are able to evade the law-enforcement radar planes. But the introduction of Navy Hawkeye radar planes has partly nullified the smugglers' advantage. "They give us the downward-looking range to cover those blind spots," says Robert N. Battard, the Customs Service's regional commissioner in Miami. "These planes give us (radar) coverage of 240 miles. Our standard coverage is 40 miles."

The Customs Service also is benefiting from the addition of three Army Cobra helicopters, formerly used in Vietnam. The Cobras are speedy and highly maneuverable, capable of overtaking slow-moving drug planes, landing next to them and blocking the smugglers' escape. In the past, Customs had to rely on fixed-wing aircraft. Such planes could force down the suspect craft, but often the pilot and the crew had

escaped by the time the Customs plane landed. "Our arrest rate has gone from 42% to 100% with the addition of the helicopters," according to Mr. Battard.

In zeroing in on the drug planes, the feds have imposed new restrictions on private aircraft that enter Florida. "In the past, if a plane flew at a speed under 180 knots, it didn't need to file a flight plan, but now it's got to file with the Federal Aviation Administration," says Charles Rinkevich, Vice President Bush's Miami-based representative on the task force. Also, Mr. Rinkevich reports that private aircraft coming into Florida won't be free to sneak into out-of-the-way landing strips any longer but will be required to land at one of seven designated airports. Pilots whom Customs detects disregarding the new rules will automatically come under suspicion as carrying drugs.

A 60-FOOT NEEDLE

The drug planes, however, still have ways of slipping through the air surveillance. "They go piggyback," says a narcotics investigator for the Florida state police. "Two planes come into Florida one above the other," he says. "Radar catches the bottom plane, which has no drugs, but not the other, which has the stuff. The drug plane, undetected, is home free."

The Coast Guard has no easy task, either, in interdicting drug boats from Colombia. A favorite route for smugglers from the South American nation is through the Yucatan Straits between Mexico and Cuba. Other lanes are the Windward Passage, between Cuba and Haiti, and Mona Passage, between the Dominican Republic and Puerto Rico. The Coast Guard cutters can hardly keep all the drug boats from sneaking past their patrols. "You put a 60-foot boat there and it looks like a needle in the haystack," says Coast Guard Cmdr. Nelson.

Coast Guard officials have developed a profile of suspected drug boats. "We look for rusty boats; boats that don't display a name or flag, or a mom-and-pop sailboat that you wouldn't expect to see that far out," Cmdr. Nelson says.

The intensified surveillance by sea and air has forced drug traffickers to use more and more small, high-speed boats to try to sneak through the net. "The mother ship parks somewhere in the Bahamas and loads up small boats for the run to Miami," a narcotics agent says.

In attempting to get through, the smugglers are trying the "shotgun" approach: "Three or four small boats head for the Miami coast. Then they split up and go in different directions. If one is caught, well that's the cost of doing business," the agent adds. Another tactic is the use of a decoy boat that doesn't contain drugs. "If the decoy gets through, smugglers on shore signal the other small drug boats that the coast is clear," the agent says. ●

PROFESSOR MILLER ON COURT JURISDICTION

● Mr. MOYNIHAN. Mr. President, Prof. Arthur R. Miller, a distinguished and learned professor of law at Harvard Law School, has done us all a great service by setting forth an argument against various attempts to limit, in legislation, the jurisdiction of the Federal courts.

With his customary clarity, Professor Miller examines the history of our independent judiciary and the precise

nature of those proposals that would threaten both the independence of the courts and the fragile balance of authorities amongst the branches of our Federal Government. He concludes, rightly so in my view that—

If Congress believes that the Federal courts have been too active, caution suggests that the inevitable swing of history's pendulum be allowed to correct the situation. Since the machine really isn't broken, Congress shouldn't try to fix it.

Mr. President, there are measures now before this body that represent nothing less than an assault upon our carefully-crafted system of government. We should spare no effort in understanding these measures. We should hear Professor Miller, and heed this advice.

Mr. President, I ask that the article by Prof. Arthur R. Miller from the August 1, 1982 issue of the Long Island, N.Y. newspaper, *Newsday*, be printed in the RECORD:

The article follows:

ASSAULT ON COURTS IMPERILS BASIC RIGHTS (By Arthur R. Miller)

The president of the American Bar Association labels it "turf disputes" between the branches of government. A legal scholar fears it is a "dangerous and tawdry precedent." A respected legal journal calls it "jurisdictional gerrymandering."

"It" refers to the current congressional attempts to make the federal courts play the constitutional ball game by the rules of the New Right—to have the New Right take the bat and ball away from the judges.

Some 30 bills are now pending aimed at limiting the federal courts' power to rule on certain politically charged issues. Most involve school busing, abortion and school prayer, all matters that the courts have handled in ways that have aroused the ire of many. To understand the real implications of limiting the power of our federal courts, one must look beyond the issues themselves.

We all learned in ninth-grade civics about the balance the Constitution establishes among the three coequal branches of our government. Congress makes the laws, the executive branch puts them into action and the judicial branch interprets and enforces them.

The delicate relationship between the legislative and judicial branches is underscored by the fact that each has the power to hamstring the other. The federal courts have the right to rule on whether laws passed by Congress are or are not constitutional. And, within certain limits, Congress has the power to say what kind of federal courts there will be and what types of cases they can handle. Thus far, the two branches have accommodated each other. The courts generally have not struck down laws passed by Congress, and Congress for the most part has not assailed the courts' jurisdiction. Each side's self-restraint has legitimized the other's authority—it is on that fragile reed that our democratic system rests.

The federal judiciary's Achilles' heel is that the Constitution merely creates the Supreme Court and authorizes Congress to "ordain and establish" such other courts as it chooses. Thus, federal trial courts that are located in every state and the 12 regional courts of appeals—the middle step in the

structure—exists only because Congress "ordained and established" them.

In fact, it is a given of constitutional law that Congress, if it wished, could abolish a whole class of federal courts. And it is far from certain that all the matters on the Constitution's grocery list of cases the federal courts may hear must be put in their jurisdictional pantry. This power to regulate the federal courts is what one commentator calls Congress' "final trump."

Congress has other "trump cards," but most of them seem more difficult to play than simply amputating an arm of the federal courts. One card is a constitutional amendment cutting the courts down a peg. But the Founding Fathers made that difficult to do. It takes a "super-majority" of two-thirds of each house of Congress plus three-fourths of the states. For good reason. The framers wanted our constitutional principles and governmental structure to be stable.

The other trump card is regulating the size of the Supreme Court. The best-known example is Franklin D. Roosevelt's unsuccessful "court-packing" plan in the 1930s; he wanted to appoint extra justices amenable to his policies. FDR's ploy didn't work. During the Civil War, however, the high court was enlarged to 10 members—the object was to get a majority of justices who favored the president's war views.

Most of the time, Congress has refrained from trying to rig the judiciary. In fact, when the Senate Judiciary Committee rejected FDR's plan to pack the court, it proclaimed, "Let us . . . declare that we would rather have an independent Court, a fearless Court, a Court that will dare to announce its honest opinions in what it believes to be the defense of liberties . . . than a Court that, out of fear or sense of obligation to the appointing power or factional passion, approves any measure we may enact."

"We are not above the Constitution," the Senators said then. But many members of the current Congress apparently have a different view. Most of the pending bills are unabashed attempts to reverse certain decisions and to give "a spanking" to what critics call "the imperial judiciary." For example, some congressmen don't like court-ordered busing to achieve the school integration required by the Constitution. So, bills have been introduced to take away federal court authority to order busing or any other race-conscious "assignment" of students.

The federal courts still must carry out integration, but the proposed legislation would deprive them of a key remedy to set things right. Some fear that the threat of declaring a segregated public school unconstitutional is a toothless tiger if not reinforced by effective corrective remedies.

Some of the anti-abortion bills work much the same way—they would prevent the federal courts from hearing a challenge to a state law that prohibits or restricts abortions. Ironically, the bills give access to the federal courts to those who want to uphold anti-abortion statutes. Thus, a pregnant woman couldn't sue in a federal court to invalidate an anti-abortion law. But someone representing a fetus—declared a "person" by these proposals—could ask a federal court to shut an abortion clinic.

By stripping the lower federal courts of jurisdiction to hear certain types of cases, these bills "draw a target" on certain constitutional rights—such as a first-trimester abortion and integrated schools—that are disfavored by certain groups. According to

some, these bills in effect tell state officials hostile to these rights to "go ahead, do what you want, we won't let the federal courts do anything about it." Many state courts, with elected judges who are subject to the shifting sands of popular sentiment, would be more apt to ignore past Supreme Court edicts and curtail minority viewpoints. Also these proposals create dangerous precedents; if enacted, our most cherished freedoms might be in jeopardy should the national mood become ugly enough.

Most careful constitutional commentators have concluded that there are several reasons why Congress cannot do violence to the jurisdiction of the federal courts so easily. First, it will be the federal courts who ultimately will rule on the constitutionality of any jurisdiction-stripping statute passed by Congress. Thus, a federal court could declare any attempt to limit its jurisdiction unconstitutional, and go merrily on adjudicating cases.

Something like that happened in the 1870s. Congress had given the U.S. Court of Claims power to hear cases involving recovery of property seized by the military during the Civil War. It then passed a statute stripping away the court's ability to hear claims brought by people who had been given a presidential pardon—presumably all Confederate sympathizers. No go, said the Supreme Court—Congress couldn't negate the effect of a presidential pardon by preventing the bringing of claims.

Another judicial tactic, admittedly a bit farfetched, is simply refusing to play the game. If a law unconstitutionally removes part of the federal courts' jurisdiction in certain matters, the judges simply might decline to hear any related matter. To use an exaggerated example, suppose Congress passes a statute creating a right but says that the lower federal courts can't hear claims under it by blacks. A judge might say, "This whole package, which allows suits only by whites, is so tainted that my oath to uphold the Constitution makes it impossible for me to touch any of it. So I won't hear any claims under the statute!" Whites then would be denied the right as well, and presumably the public outcry would force Congress to back down.

But let's put all this careful legal reasoning and tactical machination to one side. The best hope is that ultimately respect for the Constitution itself will defeat any jurisdiction-stripping bill aimed at rigging the court system to deprive people of their ability to assert their rights. Many commentators hope that Congress just won't vote for any bill that tampers with a balance of power that has served so well for 200 years. After all, members of Congress are sworn to uphold the Constitution, swayed though they may be by public opinion and personal convictions as to the particular issues involved.

But if the bills do become law, federal judges, also bound to uphold the Constitution, won't let them stand, say most observers. The Constitution wisely insulates federal judges from politics by giving them life tenure and salary security. In words that seem amazingly contemporary, Alexander Hamilton advocated the Constitution's grant of life tenure so judges could exercise freely the "uncommon . . . fortitude" necessary to do their duty "as faithful guardians of the Constitution, where legislative invasions of it [have] been instigated by the major voice of the community. . . ."

This faith in the obedience of our officials to the Constitution extends to state court

judges, should they be faced with deciding cases Congress has taken away from the federal courts. Although state judges usually are elected, and inevitably think about reelection, they also are bound by the principle that the Constitution "shall be the supreme Law of the Land." But even if state judges act in good faith, we will end up with 50 different interpretations of our constitutional principles. If Congress withdraws jurisdiction from lower federal courts on certain matters, we would lose the Supreme Court's ability to reconcile different versions of the same idea because cases would be less likely to reach the Supreme Court from the state system. Some of our most important rights could end up fragmented, with each state treating citizens differently than the others.

The pending bills are a reaction to a judiciary that some feel has grown too powerful. What is ironic and sad is that had other governmental elements, state and federal, acted responsibly on discrimination, prisons, school prayer, mental health institutions and abortion, the courts wouldn't have had to take as aggressive a role as they have. When the other branches of government have fled the field, only the courts remained in the trenches to defend the Constitution.

But these bills are an overreaction. If Congress disapproves of a court decision, it would be far more appropriate to deal with its substance, directly and constitutionally, rather than snipping off bits and pieces of the judiciary's power each time a new "emotional" issue takes center stage.

For almost two centuries, the federal courts have been our watchdog of democracy. A former Supreme Court justice once told a group of journalists that "the stork didn't bring" constitutional rights. "They came because the courts . . . at some time or place when some other agency of government was trying to push [you] around . . . protected you."

If that capacity is to be preserved, our watchdogs must be protected against political crosswinds. That means Congress must exercise restraint and not take both the bark and bite out of our judges' ability to breathe life into our Constitution. The balance among the branches of our federal government, with teeterings here and totterings there, has worked well. The current attempt to alter that balance, however well intentioned and emotionally attractive it may seem, threatens to throw the whole fragile structure out of alignment. If Congress believes that the federal courts have been too active, caution suggests that the inevitable swing of history's pendulum be allowed to correct the situation. Since the machine really isn't broken, Congress shouldn't try to fix it. ●

GLENWOOD S. (GLEN) TROOP, JR.

● Mr. RIEGLE. Mr. President, late last Wednesday night Glenwood S. (Glen) Troop, Jr., a personal friend and one of Washington's premier lobbyists, died of a heart attack at his home in suburban Alexandria at the age of 58.

To many in this town Glen Troop was a Washington institution. He represented the U.S. League of Savings Associations as their chief lobbyist. To

many the names of Glen Troop and the U.S. League were synonymous.

Glen was at the same time an intensely private, highly individualistic, and totally devoted public servant. His was the most difficult of Washington occupations—influencing the course of legislation in the service of a business he knew best. In Glen's case that was the savings and loan business.

In his field there was none better.

As his Washington staff acknowledged:

The servants of the people in our democracy include the vain and the modest, the important and the self-important. Glen was satisfied when the praise went to others less deserving and was content, too, to swallow the blame, when undeserved. Throughout he earned the admiration of all for his knowledge . . . for his skill . . . for the strength of his convictions . . . and, above all, for his integrity. His word was his bond.

Beneath his gruff exterior (and his legendary salty tongue), we knew and loved Glen Troop. He was generous and compassionate, warm and caring, a friend as well as a colleague. To those of us who learned from him day by day, he was a master.

These views of his staff I know are shared by many in the Senate who knew and worked with Glen.

On numerous occasions I sought Glen Troop's counsel in considering legislation which might benefit Americans in their dream of homeownership.

I respected and shared his belief that the American people deserved to have a system of financial institutions specializing in home finance and I always enjoyed the total professionalism with which Glen Troop approached his job.

There is no question in my mind, that Glen Troop significantly affected the legislative process for the better. He brought the highest standards to his job. For as long as I am in the Senate I believe that each time we consider financial institutions or housing legislation I will think of and miss Glen Troop.

He is already missed in my office and my staff joins me in extending condolences to his wife, the former Anne Brinkley; his son and daughter-in-law, Michael G. and Cinda; and his daughter, Mrs. Patricia Anne Wharton. ●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of \$50 million or, in the case of major defense equipment as defined in the act, those in excess of \$14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provisions stipulates that, in the Senate, the notification of a proposed sale shall be sent to the

chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD a notification which has been received.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., August 9, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-73, concerning the Department of the Army's proposed Letter of Offer to Turkey for defense articles and services estimated to cost \$134 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

WALTER B. LIGON,
Acting Director.

[Transmittal No. 82-73]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

- (i) Prospective Purchaser: Turkey
(ii) Total Estimated Value:

	Million
Major defense equipment ¹	\$0
Other	134
Total	134

¹ As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of Articles or Services Offered: Five hundred eighteen M48A5 tank conversion kits consisting of 14 selected sub-kits, support items, and services for the conversion of M48A1 tanks to the M48A5 configuration.

(iv) Military Department: Army (UPI)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: None.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: 9 August 1982.

POLICY JUSTIFICATION

Turkey—M48A5 tank conversion kits

The Government of Turkey has requested the purchase of 518 M48A5 tank conversion kits consisting of 14 selected sub-kits, support items, and services for the conversion of M48A1 tanks to the M48A5 configuration at an estimated cost of \$134 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Turkey in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Government of Turkey needs these conversion kits to continue to upgrade its Korean War vintage M48 series tanks. Turkey will have no difficulty in absorbing and maintaining the converted tanks as the

tanks, parts, tools, and test equipment are already in the inventory and trained personnel are available. This sale will enable the Turkish Army to increase its military capability. The tank conversion kits will be provided in accordance with and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of sale. This sale will not adversely affect either the military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

There is no prime contractor for all of the various sub-kits requested in this sale. Parts and sub-kits of the conversion kits produced by the various contractors will be shipped to the Anniston Army Depot, Alabama, for assembly into a "package" shipment.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Turkey.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE,
Washington, D.C., August 3, 1982.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the Act), and the authority vested in me by Department of State Delegation of Authority No. 145, I hereby certify that the provision to Turkey of 518 M48A5 tank conversion kits is consistent with the principles contained in section 620C(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the above-named articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY. ●

THE RE-ENGINEED KC-135

● Mr. GOLDWATER. Mr. President, recently a very important event took place in Arizona when the Arizona Air National Guard received its first re-engine KC-135 aircraft.

There are those who are critical of defense spending and frequently they are most critical of waste in defense spending. I submit that the re-engineing of these KC-135 tanker aircraft is one of the many instances where the taxpayers' money is being spent very judiciously. The initial units to receive this KC-135 aircraft will be the 161st Air Refueling Group in Phoenix, Ariz.; the 151st Air Refueling Group in Salt Lake City, Utah; and the 134th Air Refueling Group in Knoxville, Tenn. After congressional funding is approved for the remainder of the KC-135 aircraft, additional locations will be selected. The Air National Guard has proposed to re-engine 11 of its KC-135 refueling units with the Pratt & Whitney JT3D engine. Two remaining National Guard units will be re-engineed with the General Electric CFM-56 engine.

Having mentioned the plan for the re-engineing program, let me now highlight what this program does for the

Air National Guard and, in turn, the American taxpayer. The KC-135 tanker aircraft has been using old, inefficient engines. Basically, the KC-135 is a Boeing 707 aircraft which has been modified to fit the role as a tanker for inflight refueling of other aircraft. Instead of going to a new airplane or even a buying of factory-fresh engines, the Air Force has bought engines from 707 aircraft being retired by the airlines in favor of smaller passenger planes. With the new JT3D engines, the KC-135 tankers can accomplish a lot of things. They can take off using 2,000 feet less runway, while emitting 90 percent less visible smoke and producing 60 percent less noise. If you have ever lived in the vicinity of an airfield where the 707 was being flown, you could certainly appreciate this. In addition, and perhaps most importantly, the increased fuel efficiency of these aircraft will result in a savings of about 90,000 gallons of fuel for each tanker annually.

Those are not the only benefits. The basic reason for this re-engining was that the Air Force currently has a significant tanker shortfall caused by increased wartime air refueling requirements for strategic tactical, and airlift aircraft. What do these new engines do to correct that situation? In addition to saving the taxpayers' money, these engines also improve the operational capability of the aircraft. Because the tankers require less fuel for their own engines, they can deliver more to other aircraft during inflight refueling. Because they also have a 30-percent thrust increase, they can take off from the runways in hot climates with a full load of fuel in the summertime, as opposed to having carry a less load of fuel which will be receiving aircraft.

Mr. President, the conferees from the Senate Armed Services Committee will be discussing this issue in conference with the House shortly. I feel that this is one of the more cost-effective programs which the Department of Defense has undertaken and I am hopeful that our colleagues in the House will see fit to fund the re-engining of these vital KC-135 aircraft at an appropriate level.

Mr. President, I ask that the KC-135 paper, as well as the two articles from the Phoenix Gazette be printed in the RECORD.

The material follows:

KC-135 REENGINEING

1. GENERAL

Thirteen Air National Guard units are equipped with KC-135 Strategic Tankers. Eleven of these units are located at commercial airfields or Air Force bases without active Air Force KC-135 units. Two units are collocated with active Air Force KC-135 units on Air Force bases. All of the ANG KC-135 units have a day-to-day alert commitment in support of the SAC Strategic Integrated Operations Plan (SIOP).

The Air Force currently has a significant tanker shortfall caused by increased wartime air refueling requirements of strategic, tactical and airlift aircraft. This shortfall can be most effectively reduced by reengining the KC-135 fleet with the CFM56 engine. This will reduce fuel consumption by 25 percent and provide an aggregate 50 percent increase in fuel offload capability.

To complement the CFM56 reengining program and to provide near term improvements to the ANG KC-135 fleet, the Air Force, at the direction of the Congress, has begun a program to reengine the ANG KC-135s with the JT3D engine. Compared to the current engine, the JT3D provides: 30 percent thrust increase; 10-12 percent fuel savings; 18 percent increased offload capability, and include environmental impact (noise and emissions). With all of the ANG KC-135s equipped with JT3D engines, the annual fuel savings should be over 8 million gallons per year.

The first three Air National Guard units to receive the JT3D reengined KC-135s are the 161 Air Refueling Group, Phoenix, AZ; the 151 Air Refueling Group, Salt Lake City, UT; and the 134 Air Refueling Group, Knoxville, TN. The specific locations for additional reengined KC-135s has not been announced pending Congressional funding.

The ANG proposes to reengine 11 ANG KC-135 units with the JT3D. The two remaining ANG KC-135s units will be reengined with the CFM56. ANG units are scheduled to receive their first CFM56 modified aircraft in fiscal year 1985 and fiscal year 1986.

The long term plan for the CFM56 will include reengining all 104 ANG KC-135s with the CFM56 engine.

2. IMPACT

Without additional JT3D reengined aircraft the ANG will continue to experience mission degradation due to the inefficiency of the current engines; the ANG will not be able to take advantage of the fuel economies and efficiencies available through the use of JT3D engine; and unnecessary noise and air environmental pollution will continue to exist at an around Air National Guard KC-135 units.

3. RECOMMENDATION

That the Congress add \$135 million in fiscal year 1983 for the JT3D reengining of 28 ANG KC-135 aircraft.

JT3D RE-ENGINE SCHEDULE

	Date
FISCAL YEAR 1982 SCHEDULE	
1 KC-135E:	
161st Phoenix	July 20, 1982
151st Salt Lake	July 29, 1982
151st Salt Lake	Aug. 5, 1982
161st Phoenix	Aug. 12, 1982
134th Knoxville	Aug. 19, 1982
161st Phoenix	Aug. 26, 1982
151st Salt Lake	Sept. 2, 1982
134th Knoxville	Sept. 10, 1982
161st Phoenix	Sept. 17, 1982
134th Knoxville	Sept. 24, 1982
161st Phoenix	Oct. 1, 1982
134th Knoxville	Oct. 8, 1982
151st Salt Lake	Oct. 15, 1982
134th Knoxville	Oct. 22, 1982

JT3D RE-ENGINE SCHEDULE—Continued

	Date
151st Salt Lake	Oct. 29, 1982
161st Phoenix	Nov. 5, 1982
FISCAL YEAR 1983 SCHEDULE (PROPOSED)	
1 KC-135E:	
151st Salt Lake	Nov. 12, 1982
134th Knoxville	Nov. 26, 1982
161st Phoenix	Dec. 3, 1982
161st Phoenix	Dec. 17, 1982
151st Salt Lake	Dec. 24, 1982
134th Knoxville	Jan. 3, 1983
151st Salt Lake	Jan. 7, 1983
134th Knoxville	Jan. 21, 1983

Note: 161st Comp by Dec. 17, 1982; 151st Comp by Jan. 7, 1983; 134th Comp by Jan. 21, 1983.

[From the Phoenix Gazette, July 23, 1982]

A GOLDEN EGG AWARD

A counterpart of Sen. William Proxmire's Golden Fleece Award for wasteful spending—a Golden Egg Award, perhaps—should go to the Air Force for the enormous economies it is achieving in modernizing its aerial tanker fleet.

The tankers—KC-135s like those flown by the Air National Guard in Phoenix—were using old, inefficient engines. Instead of going to a new airplane or even buying factory-fresh engines, the Air Force bought engines from 707s being retired by the airlines in favor of smaller passenger planes.

With the newly-acquired turbofan engines, the KC-135 tankers can take off using 2,000 feet less runway, while emitting 90 percent less visible smoke and producing 60 percent less noise. The increased fuel efficiency will result in savings of 90,000 gallons of fuel for each tanker annually.

In addition to cost savings, the new engines also improve the operational capabilities of the aircraft. Because the tankers require less fuel for their own engines, they can deliver more to warplanes during inflight refueling.

Refitting a KC-135 with the airliner engines and making other modifications that improve performance and safety costs \$3.5 million per plane—a fraction of what a new aerial tanker would cost.

The first KC-135s went into service in the mid 1950s, and in many cases the airplane is older than the pilot flying it. The modification, however, will extend the service life of the tankers into the late 1990s.

Although perhaps it robs the dignity of the venerable KC-135 to liken it in any way to a goose, the Air Force's modification program—with its cost underrun—certainly produced a golden egg for the taxpayers. ■

LEST WE FORGET CORPORATE RESPONSIBILITY

● Mr. SASSER. Mr. President, record high levels of unemployment have caused frustration and despair for over 10 million workers in this country, while the prospects for economic recovery look dim.

The economic program offered by the administration last year is premised upon the private sector's willingness and ability to absorb the transfer of social responsibility away

from the Federal Government. In numerous communities corporate enterprises have taken an active role in developing and implementing essential services for the betterment of the respective communities in which they are located.

The motion of corporate responsibility is an important concept, and one which should be given particular attention in light of the serious economic difficulties confronting our society. I would like to bring to the attention of my colleagues a recent superb article on this subject by Mr. Bernard Rapoport, the chairman of the board and the chief executive officer of the American Life Insurance Co. I ask that the full text of Mr. Rapoport's article be printed in the RECORD.

The article follows:

CORPORATE RESPONSIBILITY

(By Bernard Rapoport)

To tell you the truth, I'm just a little bit nervous. I've spoken to groups all over this country, but to come back home and talk to the Rotarians which include some of this community's most distinguished citizens is an exciting challenge. I relish it, and I'm going to do the very best I can to articulate my ideas on this all-important subject of corporate responsibility and hope that in so doing it will stimulate your thinking and result in more dialogue within the community among those of us who run the business of Waco.

Most of us are executives. I am reminded of the query of a youngster who said to his father: "Daddy, what is executive ability?" And the father's retort was: "Executive ability, my son, is the art of getting the credit for all the hard work that somebody else does."

Getting down to this serious business of corporate responsibility, I'm not one who is a great advocate of principles because I'm persuaded that good business executives ought to be guided more by situational ethics. And let me tell you why I feel this way. What we need in our country are idealists rather than ideologues. The latter are intransigent, inflexible, immovable. The idealist, on the other hand, has balance and considers problems in terms of the short term gains as well as the long term requirements.

A couple of examples: corporate responsibility necessitates a commitment to the free market and free enterprise system. An idealist who subscribes to this philosophy recognizes that this necessitates an economic system that has access for those who wish to enter into the market system. For too many ideologues, they express a verbal commitment to the free market system and then insist on that particular kind of regulation that restricts entrance of others to compete. A few examples will suffice, whether we are talking about professional associations or highly-regulated businesses. There are just numerous examples to confirm the premise that too many of us in positions of responsibility give lip service to free enterprise, but in practice, want monopoly when it comes to our own particular interests. This, to me, is irresponsible and antithetical to any concept of corporate responsibility.

We give lip service to the fact that we want a competitive society, and yet we have an antitrust policy that is farcical. We are

confronted with the highest interest rates that we've experienced in a hundred years, and monopolistic corporations tie up billions and billions of dollars in seeking acquisitions that are nonproductive, non-job producing, noncontributing so far as our economy is concerned. The ideologue says that's free enterprise and the reality is, it not only stifles it, but if it continues at the rate that it's going, there are going to be very, few independent businesses that survive.

I remember when I moved to Waco in the early forties. From the old square all the way to 8th Street on Austin Avenue, there was business after business after business; and to the best of my recollection, I don't think there were over 4 or 5 that were owned by chains. They were all independent Waco business people. Today, Waco is in the same situation as the other communities of our nation—virtually everything is chain operated and chain dominated.

Well, you might ask, what has this got to do with corporate responsibility? It is my firm conviction that corporate responsibility necessitates a community involvement and commitment on the part of those who run the businesses and corporation of this nation to being sensitized and to encourage that kind of legislation that will provide access for those who want to enter into the business world and which will be restrictive toward this trend toward mergers and monopoly in our nation.

The idealist to which I allude has this kind of flexibility and understanding that a free market society means that there has to be a realistic and pragmatic approach to this tendency in our society to increasingly narrow the parameters which permit entrance of those who possess entrepreneurial spirit into the business world.

Too many ideologues say, we don't want regulation, we have too much regulation. And let me say this: I couldn't agree more. But we need to recognize that too many businesses scream about regulation and yet they want it when it preserves the status quo in their particular industry. The airlines squealed when they deregulated. The same for the trucking companies. We can't have it both ways. We are either for free enterprise and for prices being determined in the market place, or we're not. On the other hand, when it comes to the public safety, that isn't a matter to be decided in the market place. There are certain areas that determine the decency and the spirituality of a nation—how it takes care of its young and its aged, its handicapped and its mentally retarded, areas of education and culture. Our commitment in these areas will determine how future generations will evaluate us.

You might question at this point why I am making reference to the importance of a free market system, regulation and antitrust policies in a speech the subject of which is corporate responsibility. I believe very firmly in the organic nature of this society and that everything is interrelated. It is difficult to talk about ethics and morality without taking into account economics.

It is when we become single issue oriented that our society begins to get into serious and sometimes unresolvable problems. We need to always keep in mind the organic nature of things of which I just spoke. For example, it should never be the attitude of any business that "We've got so many problems in our own business, we don't have time to be concerned about anything other than those matters relating to our company." It is this type of attitude that leads to

the decay of any civilization. It is even more true in this year where we have whittled away at our commitment to the work ethic, and how tragic this is.

Corporate responsibility means being very aware of what Richard Parker told us in one of his essays:

"A cynical, each-man-for-himself attitude becomes the rule of life. That only the most powerful, the most resourceful and unscrupulous, the hyenas of economic life can come through unscathed. The great mass of those who put their trust in the traditional order, the innocent and the unworried, all those who do productive and useful work but don't know how to manipulate money, the elderly who hope to live on what they've earned in the past—all those are doomed to suffer. An experience of this kind poisons the morale of a nation."

And, my fellow citizens, the morale of this nation is suffering and as it does, your business and mine also suffer.

I alluded to the word "principle" when I started. Most of you have engaged in numerous charitable drives, you've worked with United Way, the Red Cross, the hospitals in our community, and gee, these are worthwhile efforts, they really are. I don't think there is anything more disgusting than to be confronted by someone who says, "It's against my principles to give to this or that or the other." He's assuming that you are interpreting what he says with "principle" ending in "le" and the reality is, he's using this as an excuse to conserve his principal ending with an "al." It's this myopic type of individual that contributes to the condition in which this nation now finds itself.

We want people that are committed to the work ethic. I think it's the most essential ingredient in the character of a nation—that is, its commitment to the work ethic. Here we find ourselves in a situation where we have the highest unemployment since the depression, and we're saying to these people, there are no jobs for you. This is the price that we all have to pay to get the nation back on an even keel.

It doesn't seem quite fair to me that out of the 220 or 230 million people that we have in this country—of which approximately 10 or 12 million want to be working—that we say to those 10 or 12 million unemployed, "It's tough, but while we're working and doing all right, you've got to pay the price." You ask me, what's the answer? Well, this isn't the time or the place to get into economics, but the one thing I'm certain of is that fairness is the most essential requisite in a free democratic society. Putting the burden on 10 or 12 million people is not a reasonable answer with which to cure inflation.

This is the greatest nation in the world. What makes it so are the standards to which we have adhered. When we begin to lessen those standards, our commitment to greatness diminishes. And when it does begin to do this—to diminish, that is—it accelerates at an exponential rate. And I submit to you that it's up to those of us who head up corporations to take it upon ourselves as an essential part of corporate responsibility to advocate those policies and immediately that will encourage full employment.

I know what survival means in business. I started one on a shoestring that has matured into a major American corporation. All along, however, we've taken into account our corporate responsibilities—not nearly to the extent that perhaps we should have.

But the truth is, we don't have any choice now. As business people, we negotiate that which is negotiable. We try to buy the products we use at the best prices we can to sell at prices that produce a fair and equitable profit. We watch our costs and do those things that are attendant to good business practices.

On the other hand, we also have to assume those responsibilities that decency dictates. Take, for example, United Way. It was conceived by those of us in business primarily. There were so many drives going on within the community that it was almost impossible for any executive to see all of the solicitors. Yet, within every community there are needs that have to be fulfilled, whether it's the YMCA, Boy Scouts or Girl Scouts, nursing homes, daycare centers, organizations that provide hot meals for the aged, care of orphans—well, part of corporate responsibility is that we recognize the need to assume those responsibilities that decency dictates. And let me tell you one thing. Corporate intelligence recognizes that today's unmet needs produce tomorrow's revolutions. Many, many dictators—none for whom I have any grief at all—would still be in power if they would have recognized that axiom that today's unmet needs produce tomorrow's revolutions.

Yes, corporate responsibility recognizes those areas in which the corporation must negotiate that which is negotiable and assume those responsibilities that decency dictates. We don't need to do this out of the goodness of our heart. It's just plain good common sense.

Corporate responsibility means that a corporation isn't looking for a free lunch, that it's not going to be a parasite on the community. And what I mean by that is, after all, if a business has 100, 200, 500, 2,000 or 4,000 employees, these employees utilize the services of many of the service organizations of the community. These services may be recreational or a daycare center. It might be that the parents of the employee are being serviced by some particular organization in the community. Where does the money come from for these services? It comes from two places—from those who work and the businesses of our community. Both have to measure up to their responsibilities. Sometimes those businesses that talk the most about the free enterprise system are the most wanting when it comes to meeting corporate responsibilities. They suck up the best in the community and give nothing in return. Their leaders pride themselves in being men of principle and they are, but the word ends with "al." I have a deep resentment about this very small minority of business people because to me they threaten the free enterprise competitive system, without which there can be no free democratic society.

We might all take heed from Albert Camus' advice:

"I shall tell you a great secret, my friend. Do not wait for the last judgment. It takes place every day."

That, my friends, sums up the approach that I think best describes corporate responsibility. ●

A FIRST-CLASS PATENT AND TRADEMARK OFFICE

● Mr. SCHMITT. Mr. President, strong and effective patent and trademark systems are essential to the economic well-being of our Nation. The patent system provides the incentive

to invent, invest in, and disclose new technology. It has proved to be the cornerstone for our growth as a leader among industrialized nations. The trademark system allows product identification and prevents consumer confusion in the marketplace.

When this administration took office, the Patent and Trademark Office was in a sorry state, with ever-increasing backlogs of patent and trademark applications and unacceptably long times to get a patent or register a trademark.

Significant steps have been taken over the past year to improve the Patent and Trademark Office and the patent and trademark systems. The Commissioner of Patents and Trademarks, Gerald J. Mossinghoff, outlined these steps in a speech in San Francisco to the American Bar Association's Section on Patent, Trademark and Copyright Law on August 7, 1982. He described progress toward the administration goals to reduce the time it takes to get a patent to 18 months by 1987 and to reduce the time it takes to register a trademark to 13 months by 1985. The Commissioner also cited steps taken toward a fully automated Patent and Trademark Office in the 1990's.

The key to lasting improvements in the Patent and Trademark Office is to assure adequate and stable funding for the Office through enactment of a new fee structure in H.R. 6260. This measure awaits floor action in the Senate now, having passed in the House.

Enactment of a comprehensive and uniform Federal patent policy under my bill, S. 1657, will also be a significant improvement to the patent system. Presently, the Federal agencies operate under a variety of policies, that generally require that title to a contractor's invention made under a Federal contract be transferred to the Government. Ownership to thousands of inventions have been acquired in this manner, with fewer than 5 percent of these inventions ever being successfully commercialized.

In his speech, the Commissioner noted that contractor-owned patents of Government sponsored inventions are about 20 times more likely to be commercialized than if the Government retains the patent. Mr. President, I believe the citizens of this country deserve a better return on their investment of \$40 billion in federally sponsored research and development. My bill will make it possible for more Government-sponsored inventions to be commercialized to the benefit of our economy and to the enhancement of our position as world leaders in technological innovation.

I ask for the text of the Commissioner's remarks be printed in the RECORD. The text follows:

REMARKS OF GERALD J. MOSSINGHOFF

Distinguished Guests, Ladies and Gentlemen; I am delighted once again to report to the Section on Patent, Trademark and Copyright Law on the status of the U.S. Patent and Trademark Office to outline our progress over the past year and to highlight our plans for the future.

In my report to your Section last year, I rejected out of hand the notion that for some reason Government programs cannot be made to succeed. I also stated that I felt uniquely privileged to serve as Commissioner at this time and during this Administration. Everything that has happened in the world of patents and trademarks this past year has reinforced my optimism.

Key to all of our plans to upgrade the U.S. Patent and Trademark Office has been to assure adequate and stable funding for the Office, not only during this Administration but for the foreseeable future. The importance of that cannot be overstated. The Office was plagued by very real and pervasive problems at the end of the previous Administration. The most serious of those resulted directly from a lack of adequate resources. With the new fee structure in H.R. 6260, the Office is assured of adequate resources over the next decade without the need for increases in appropriations.

H.R. 6260 represents a compromise on all sides. Patent filing fees for large and medium size companies will be \$100 higher than those recommended by your section at its March 23 meeting. The same holds true for patent issue fees. For individual inventors and small businesses, patent filing fees will be \$50 less, and patent issue fees \$150 less, than those recommended at your March 23 meeting.

From the Administration's viewpoint, in order to accommodate the concern expressed by the patent bar and others on behalf of individual inventors and small businesses, additional appropriations of \$7 million will be required next fiscal year to accommodate the two-tier system of fees which Congress adopted. Also, responding to inventor and bar groups, Congress chose not to give the Patent and Trademark Office the authority to set patent fees administratively; rather major patent fees were written into H.R. 6260. Significantly, those fees can be adjusted administratively every three years, but only to keep pace with inflation.

MANAGEMENT ACHIEVEMENTS

Perhaps the most important feature of H.R. 6260 is that it represents a bargain between the Administration and those whom we serve to bring about significant and lasting improvements in the Office. We have made real progress during the past year to carry out our end of that bargain.

To begin to manage our still-increasing 218,000-case backlog of pending patent applications, we have hired 235 new examiners since last October 1. Our recruiting program is already in high gear to hire an additional 245 examiners during fiscal year 1983. To achieve our goal this year we pulled out all stops. We visited almost 200 engineering schools, conducted 1500 interviews, established and publicized a toll-free 800 number, advertised extensively in national journals and college newspapers, displayed posters with tear-off mail-in cards in virtually every engineering school in the nation, and relied extensively on the generous help of local patent law associations in contacting graduates in their areas. The results are impressive. A majority of the engineers we hired

are honors graduates. The mean grade point average of all those we hired is 2.93.

We are on schedule to achieve the goal of Plan 18/87 in patents, i.e., to reduce the average time of pendency to 18 months by fiscal year 1987. During fiscal year 1983 we will dispose of nearly 100,000 patent applications, compared with 83,000 this fiscal year. In fiscal year 1984 we will process almost 109,000 patent applications. In that year, for the first time in six years, we will dispose of more patent applications than we will receive.

In trademarks it now takes us 9 months on the average to render a first opinion on registrability and 22 months to dispose of an application. That is down from the record high 24 months which it took last year. We will achieve the goal of 3/13—three months to first action and 13 months to disposal—at least by fiscal year 1985. This coming fiscal year we will turn the corner in trademarks and dispose of more cases than we will receive.

We have taken several important steps to move realistically toward a fully automated Patent and Trademark Office in the 1990's. Through a reorganization of the Office we established the senior position of Administrator for Automation, and we appointed Dr. J. Howard Bryant, who has impressive experience both in industry and Government, to that position. Dr. Bryant has overall responsibility for the management of all automation initiatives in the Office—in patents, trademarks and administration. He has spearheaded our efforts to refine our automation blueprint under § 9 of P.L. 96-517. Copies of the final Executive Summary of that study will be available by mid-September. The § 9 plan is based on our conviction that we do not have to sit back passively and wait for the estimated 24 million paper documents we now have to become 50 million paper documents by the turn of the century. One of the most serious problems we now face is that 7% of our 24 million paper documents are either missing or misfiled. Only by moving aggressively toward automated systems in which paper is replaced by advanced technology can we ever hope to achieve anything even approaching 100% file integrity in our vast collection of technical documents.

We have already installed computer terminals in each of our 15 patent examining groups to give patent examiners access to all available commercial patent data bases. Given increased resources in FY 1983 we will be able to increase significantly the amount of "on-line" time the examiners can use.

To eliminate the 80,000 handwritten examiner opinions that were sent each year to industry and inventors world-wide, we have completed the world's largest installation of IBM Displaywriter word processors. Using the 50,000-word built-in vocabulary, the detailed form paragraphs we developed and the hand-tailored dictionaries of technical terms, these machines are now producing 200,000 first-class documents each year.

We are in the final stages of the full-text search experiment we are conducting in a joint venture with Mead Data Central using the LEXIS system. The full texts of 50,000 patents have been stored in LEXIS and are being accessed through seven LEXIS terminals located in six art units.

We have completed augmentation of our in-house Burroughs computer, increasing its capability by a factor of four, to support our expanded case-tracking system. And we have acquired additional space in Crystal

City to receive a replacement of our existing in-house computer in FY 1984. That space had already been configured to house a large main-frame computer complex.

Secretary Baldrige's reorganization of the Department of Commerce is now complete. That reorganization formalizes the arrangement under which I report directly to the Secretary and the Deputy Secretary, Mr. Guy W. Fiske. The reorganization of the PTO has also been approved. In addition to establishing the position of Administrator for Automation, which I have already mentioned, we have promoted Mike Kirk into the new position of Assistant Commissioner for External Affairs, and we have elevated the Office of Quality Review to report directly to Deputy Commissioner Don Quigg.

In his day-to-day attention to the Quality Review program, Don has changed the standard used in reviewing the quality of examination in the 4 percent sample of cases selected for quality review, and he is insisting that the line managers be totally involved in the quality review process. Instead of reviewing a case for "clearly unpatentable" claims, the test now will be whether there are "questions of patentability" of any of the claims in a case.

Don Quigg has also assumed day-to-day responsibility for the Examiner Education Program, which was jointly established by the Intellectual Property Owners Association and the Patent and Trademark Office. Examiners have already traveled to industrial installations to gain a better appreciation of trends in industrial development. Industry has been generous in its support of the program. We have received over \$75,000 in contributions since the program was established this spring. Thanks to Don's efforts, the Internal Revenue Service ruled on July 20 that contributions to the program are tax deductible.

We are beginning negotiations this month with the Patent Office Professional Association—the union which represents professionals on the patent side of the Office—with a view toward revising totally the outdated agreement under which we currently operate. Bargaining units in the Government play a critically important role in the management of any agency. I am convinced that the Patent Office Professional Association, or POPA as it is called, is totally dedicated to our goal of significant and lasting improvements in the U.S. patent system. Our objective in renegotiating the basic agreement with POPA is to produce an agreement which will be clear and understandable to all parties, without the need for protracted litigation and grievances. That task will not be easy, but it will be accomplished given a renewed spirit of cooperation between management and the union.

LEGISLATION

In the legislative area there have been several significant developments.

H.R. 6260, of course, represents a major accomplishment. In addition to authorizing a greatly expanded PTO program for FY 1983 through FY 1985, and increasing the user fees we will charge, that bill incorporates a number of cost-saving proposals.

Under that law, we will accord filing dates for patent and trademark applications based on a showing of when it was deposited in the U.S. mail.

We will revive unintentionally abandoned patent applications upon payment of a \$500 statutory fee.

We will be able to substitute one sole inventor for another, provided the mistake was not due to deceit.

We will do away with the current bureaucratic hassles in granting time extensions; they will be granted automatically upon payment of the statutory fees.

We will eliminate the need for verification of trademark oppositions and cancellations.

Finally, and most significantly, we are gratified that H.R. 6260 specifically authorizes voluntary binding arbitration of patent validity and infringement issues. That authority will provide business executives with an attractive and cost-effective alternative to protracted and complex Federal litigation in patent cases.

The Office is proud of the role the Department of Commerce played in supporting the enactment of P.L. 97-164, which established the Court of Appeals for the Federal Circuit. As I reported to you last year, we are convinced that, by providing a single authoritative tribunal to handle patent cases nationwide, the new court will contribute greatly to a single standard of patentability which will be understandable to inventors and business executives alike.

It appears that the "Patent Term Restoration Act," S. 255 and H.R. 6444, will be enacted by the 97th Congress. That reform is long overdue. It will restore an appropriate balance of incentives to patent owners whose products have been held back from the marketplace by Federal regulatory procedures. We agree totally with the views expressed in the Senate Judiciary Committee report on S. 255 that, "There is no valid reason for a better mousetrap to receive 17 years of patent protection and a life-saving drug less than 10 years."

Although time is becoming a critical factor, we are still hopeful that this Congress will enact a comprehensive Federal patent policy along the lines of Senator Schmitt's S. 1657 and Congressman Ertel's H.R. 4564. The debate on who should receive commercial rights to inventions resulting from Federal sponsorship is now well into its fourth decade. During that time the Department of Defense has for the most part given its contractors the first option of acquiring such commercial rights. Literally tens of thousands of DOD-sponsored inventions were handled under that policy, and not a single case has been identified in which that policy has had any adverse impact. On the other side of the coin, NASA's experience clearly shows that contractor-owned patents on NASA-sponsored inventions are about 20 times more likely to be commercialized than NASA-owned patents on contractor-generated inventions.

The Patent and Trademark Office intends to propose three new initiatives in our 1983 legislative program.

The U.S. Government owns twice as many active patents—more than 28,000—than any other single entity. Most of these belong to the Department of Defense and most were acquired solely for defensive purposes. In a speech made before the Government Patent Lawyers Association on April 14, I proposed that legislation be enacted to permit the issuance of a patent on a Government-owned invention without the examination required by 35 USC §§ 131 and 132 if the head of the appropriate department or agency or his or her designee waives all remedies of 35 USC §§ 271 through 289 with respect to the patent or any reissue of the patent. A patent so issued would be a U.S. patent for all defensive purposes: the application or the patent could become involved in an in-

terference; it would be a "constructive reduction to practice" under our first-to-invent system; it would be "prior art" under all subsections of 35 USC § 102; and it would be classified and cross-referenced like any other patent, disseminated to foreign patent offices, stored in the PTO computer tapes made available in commercial data bases, and announced in the Official Gazette. In addition, it would serve as the basis for a priority claim in a foreign application. In response to our proposal, we have received many recommendations from industry and the bar. There seems to be general agreement that something needs to be done in this area. We have received recommendations that the defensive patent be made available to industry as well as to Government agencies. Some support the concept, but question whether the term "patent" should be used to describe the document we would issue. Still others would support legislation under which the Government agencies could defend a 28 USC § 1498 action on the basis of prior inventorship. That would obviate the need for the Government to acquire any defensive patents. We are currently weighing these alternatives prior to presenting a formal recommendation to the Congress next January.

We are formulating a new proposal to change interference procedures. Under our proposal we would retain the present first-to-invent system of priority. But we would change the procedures so that a patent will be issued to the first person to file an application, and it would be up to the second person filing an application on the same invention to trigger an interference with the patentee. If the "junior party" is successful in the interference, his or her patent would run from the date of the original senior party's patent. We are still working on the details of this proposal, and we would very much welcome your views and counsel.

We are recommending an amendment to 35 U.S.C. § 271 to provide that importation into the United States of a product made in another country by a process covered by a U.S. patent will constitute infringement of the U.S. patent. The United States is one of the few major countries whose domestic patent law does not extend process patent protection to products manufactured by the patented process. Considering the great strides being made—for example, in genetic research where revolutionary new processes are used to make existing and therefore unpatentable products such as insulin—it is time to close the gap in patent protection which now exists.

INTERNATIONAL ACTIVITIES

In the international arena, we are deeply involved in preparations for the Third Session of the Diplomatic Conference on the Revision of the Paris Convention. That conference will begin October 4 in Geneva. While the prospects in Geneva are uncertain at best, we are hopeful that there will be efforts made there to seek a broader consensus on Article 5A of the Paris Convention, the article which deals with compulsory licensing and forfeiture of patent rights.

Over the past year we have been active in joint Government-industry efforts to encourage several nations to strengthen their protection of patents and trademarks.

For example, working closely with the Department of Commerce International Trade Administration, we have had productive meetings with officials of Mexico, Korea, and Romania in this regard.

The Office is participating in the negotiations to establish an International Code of

Conduct for the Transfer of Technology under the auspices of UNCTAD, the United Nations Conference on Trade and Development. These deliberations are currently aimed at deciding whether to hold a fifth session of the UN Conference on the Code next year.

In meetings with Chinese officials in Beijing this past May, I discussed with them the transfer of the Chinese Patent Bureau from the State Scientific and Technological Commission to the State Economic Commission. It remains to be seen whether that move will expedite their consideration and enactment of a patent law.

We have reached agreement with the European Patent Office (EPO) that, beginning this October 1, they will serve as an International Searching Authority for U.S. industry using the Patent Cooperation Treaty international filing procedures. This will give U.S. industry a potentially attractive alternative to using the U.S. Patent and Trademark Office as an International Searching Authority. Details of the arrangement with the EPO, including the fees they will charge, are now being worked out and will be announced prior to the October 1 date.

To help us carry out our automation programs here at home, we have entered into a cooperative venture with the European Patent Office to exchange advanced forms of documentation, both on film and magnetic tape, and to coordinate closely the advanced automation programs conducted by each. The leadership of the European Patent Office recognizes, as we do, that we must eventually move away from all paper hand-file-and-retrieve systems if we are to keep pace with the explosion in technological data. We are exploring the possibility of similar joint ventures with other major patent offices.

FIVE-POINT PLAN TOWARD A FIRST-CLASS PTO

Our efforts to upgrade the patent and trademark systems generally center on the PTO itself. We have made real progress, but much more needs to be done. None of us can be satisfied until the Office itself is a true service organization, one that is first class in every respect and every sense of that term. Attention to detail will be the keynote. We simply must improve the operations at every level and in every function. Working with our employees and officials of their bargaining units, we are undertaking a five-point action plan. The major elements of this plan are:

(1) To upgrade the physical environment—to rehabilitate furnishings, to pay particular attention to interior design and office layout, to improve cleaning services, to clean out old files and papers, to control signs and bulletin boards to ensure a professional appearance, and to upgrade the training facilities.

(2) To improve internal communications—to conduct cross-training programs to ensure all employees understand their role in the overall programs of the Office, to insist on the sharing of information downward and upward, to investigate promptly causes of employee morale problems, to encourage managers to involve employees in solving problems and improving services, and to ensure that all employees are aware of important developments in the Office.

(3) To ensure that all employees in demeanor and dress reflect favorably on the Office and its important mission of public service.

(4) To improve communications with the public—to provide training in courteous and effective communications techniques, on

the telephone and in person, to elicit specific public feedback, good and bad, and to recognize good performers.

(5) To establish a focal point within the PTO staffed with knowledgeable, articulate employees to respond to public inquiries, complaints and, hopefully, commendations so that we can recognize highly motivated, service-oriented employees and correct deficiencies if they should occur.

Our first actions in these efforts will be to respond aggressively to the recent user survey of Patent and Trademark Office services. That survey will be very useful to us in pinpointing where to focus our initial attention.

CONCLUSION

The Patent and Trademark Office has all the ingredients for success. We have the strong support of Secretary Baldrige and Deputy Secretary Fiske. We have a very able and effective executive staff and core of Senior Executives. We have employees totally dedicated to serving industry and inventors. We are assured of adequate financial resources. And we have the momentum and spirit to bring about a truly first class organization. That is our commitment. And we are well on our way!

THE SOCIAL SECURITY PROBLEM

● Mr. BAUCUS. Mr. President, Monday's Washington Post published a perceptive analysis of President Reagan's current budget dilemma. The Post reported that the President has said he will not scale back his defense buildup for next year, not support additional tax increases beyond the bill now in conference, and still reduce the budget deficit.

The Post concludes that the only way to accomplish these goals is to cut even deeper in domestic spending, especially social security and other entitlements.

We seem to be moving beyond budgetary blue smoke and mirrors. A closer look at the latest budget numbers illustrates the magnitude of the President's problem.

The 1983 budget can be broken down into five parts: interest on the national debt, defense spending, discretionary domestic spending, entitlements, and tax expenditures. Mr. Reagan wants to go ahead with a \$1.5 trillion military buildup and no additional reductions in his \$250 billion tax cut.

That leaves domestic spending and entitlements as the primary candidates for future cuts.

President Reagan has made several previous attempts to cut social security benefits. Medicare, one of the three major components of the social security system, has been slashed some \$3.5 billion in the tax increase bill.

Social security minimum benefits have been eliminated for new retirees. Student benefits are being eliminated. Recipients of disability insurance benefits, also part of social security, are finding their cases under review. Many recipients are being dropped from the

program, despite the fact that their medical condition has not improved.

The President tried unsuccessfully to delay and reduce scheduled cost-of-living adjustments—COLA—for retirement benefits.

I share the President's goal for reducing the size of the Federal Government. I know there is waste and mismanagement in Federal agencies.

But this is a question of priorities. I cannot stand by and be silent while the administration seeks to balance the budget by slashing social security benefits, while unnecessarily increasing other programs.

The domestic spending reductions already enacted have cut much more than fat. They come perilously close to the bone.

Meanwhile, the Pentagon is fatter than ever. There are scores of documented examples of unnecessary, inappropriate, and wasteful spending in the name of the national defense buildup.

The Defense Department spends \$1.4 million on shots and other veterinary services for the pets of military personnel. Millions more are spent on transporting the pets of military personnel who have been transferred.

The General Accounting Office has estimated that nearly half the messages sent over DOD teletype nets are routine, nonpriority messages which would be better sent by mail, saving \$20 million a year.

Shortly after taking office, President Reagan called on Federal agencies to cut their travel budgets by 10 percent. Civilian agencies responded by cutting their 1981 travel budgets by some 16 percent. But this savings was wiped out by the Pentagon's 9-percent increase.

By 1987 President Reagan wants 37 percent of all Federal spending to go for defense.

Mr. President, I favor a steady, sustained increase in national defense spending. I favor defense programs that are vital in the dangerous world in which we live. However, we do not strengthen our security by providing a blank check to the Pentagon, any more than we can solve domestic problems by merely throwing money at them.

I cannot support irresponsible cuts in medicare and social security so that the administration can indiscriminately fund every possible weapon and cut taxes for the wealthy.

Social security trust funds are depleted, true. We need to take action. But to conclude that Congress must either cut social security benefits or raise payroll taxes is wrong.

Like medicare, social security's problems will not be solved by cutting benefits. To insure the future solvency of social security will force all of us to make tough decisions and cast difficult votes.

But let us remember the commitment our predecessors made when they created social security and medicare. They made an important commitment to the financial security of older Americans.

When Congress finally comes to grips with the funding problems facing social security, we may be told we face a crisis. We may be told that drastic action is needed to protect monthly benefit checks. We may be told that we must either cut benefit checks or raise payroll taxes.

But let us keep this in perspective. Let us not forget that it is the President's decision to give the Pentagon a blank check and his refusal to alter the massive tax cut that are the reason for this dilemma.

I ask that the Washington Post article be printed in the RECORD.

The article follows:

[From the Washington Post, Aug. 9, 1982]

**BENEFIT CUTS MAY BE THE ONLY WAY—
SOCIAL SECURITY PROBLEM DOGS REAGAN**

(By David Hoffman)

President Reagan finally has come down to the budget issue that has dogged him throughout his political career: cutting Social Security benefits.

That is the underlying message of the last two weeks of skirmishing over budget and taxes in which the president has indicated he intends (1) to stick with his defense buildup next fiscal year, but (2) have no tax increase beyond the one pending in Congress and (3) still drive down the Federal deficit.

The only way to accomplish all three objectives is to make further large cuts in domestic spending, and many domestic programs already have been cut close to the bone.

The largest and ripest left are the entitlement programs, the basic benefit programs at the heart of the budget. And the largest and ripest of these is Social Security, which now is about a fifth of the budget and which so far has not been cut significantly.

Administration officials will not say directly that Social Security cuts are next. Social Security is probably the most sensitive of all political issues except war and peace. One American in seven is supported in whole or part by Social Security payments. And the Nov. 2 congressional elections take place before the fiscal 1984 budget is scheduled to go to Congress, next January or February.

But there is no secret about the direction the administration is headed.

"We still have much further to go in reducing the increase in government spending," Reagan said at his July 28 news conference.

David A. Stockman, director of the Office of Management and Budget, told the Senate Budget Committee last week, "As a practical matter it would be necessary in the '84 budget . . . to substantially reduce nondefense spending beyond what we've done already . . . to close the budget deficit gap."

Next year "we will have an all-out campaign to cut entitlements," a senior administration official said in a recent interview.

And given the implacable math of it all, "the word entitlements then becomes a euphemism for Social Security," said economist Rudolph Penner of the American En-

terprise Institute, who served in OMB during the Ford administration.

There are other large entitlement programs: Medicare, Medicaid, food stamps, housing assistance, college student aid. But some of these already have been cut, and others are slated to be cut this year. Further cuts in these are unlikely to do the job for Reagan without inroads into Social Security—either in current benefits or in future benefit increases—as well.

The Social Security system has been nettlesome for Reagan since his earliest days in politics. In the 1960s he created a tempest by suggesting that participation might be made voluntary.

By the 1976 presidential campaign, he had become so sensitive about it that he exempted Social Security along with defense from \$90 billion he said could be cut from the federal budget. But this came to embarrass him, too, because by exempting Social Security he was condemning the rest of the government to be cut nearly in half.

Last year he again ran afoul of the issue, proposing at one point that deep cuts be made in benefits, on grounds they were needed to keep the system solvent. Critics quickly accused him of trying to balance the budget on the backs of the elderly, saying his cuts were more than were needed simply to stabilize Social Security. He withdrew the proposals in his one such setback of the year, and named an advisory commission to report this winter.

There now is an expectation in Congress that Social Security will be at the top of the agenda after the November elections, if only to prevent the system from going insolvent in July next year as projected.

Administration officials, speaking on condition they not be identified, also see a harbinger for Social Security in the appointment last week of Harvard economist Martin S. Feldstein as chairman of the president's Council of Economic Advisers. Feldstein has argued that future increases in Social Security costs must be held down and that benefits can safely be trimmed for recipients who are not poor. His work on the subject was an important factor in his selection by White House officials looking at the Reagan economic agenda for next year.

What kind of cuts are proposed also may depend in part on the recommendation of the Social Security advisory panel, which is divided between one group that wants to cut hard and another that thinks the system will revive when the economy does and that gentler remedies will do.

Reagan last year proposed, among other things, stricter eligibility standards for disability benefits and sharp cuts in the benefits of workers who retire before age 65 in the future. At the other extreme are organized labor and some Democrats who have proposed no benefit cuts and instead would finance Social Security—or at least the Medicare segment of it—partly out of income tax revenues.

A middle-ground alternative, which many members of Congress seemed to find attractive last year, would be to curtail future cost-of-living increases in benefits. Reagan so far has shied away from this.

After Reagan indicated two weeks ago that he remains determined to build up the defense budget, one official said: "We are stuck here and the battleground is going to have to be entitlements, and it's going to cause quite a stir in the administration."

"If this is really what the president wants, we are going to have to fish or cut bait after the November elections," the official said.

But he cautioned that Reagan's intentions could change in the next five months, just as they did last year on taxes. "The true battleground is going to be late in the fall," he said. "I am sure Reagan is going to be tested over this."

In fact, many conservative economists outside the administration, as well as a number of senior presidential aides believe Reagan has yet to really face the consequences of his defense buildup.

"The dilemma Reagan and Congress will face if they want to go whole hog on defense is much more serious," said Penner. He noted that Reagan already has cut into the "muscle" of many domestic programs. "The options are not happy ones, and that's why I wouldn't rule out further tax increases" he added, even though Reagan is struggling to quite a conservative revolt over the tax increase bill now pending.

"I really think, if they want to go ahead on defense they are going to have to have tax increases or huge deficits."

Added one presidential aide: "I think we are going to be fighting this battle for the rest of this administration." ●

MANAGEMENT OF PUBLICLY FINANCED HEALTH PROGRAMS

● Mr. DURENBERGER. Mr. President, we are all familiar with the problem of high health care costs. Nowhere is this more evident than in the Medicare program, where actual costs in 1980 exceeded initial projections by \$30 billion.

Part of the problem is reimbursement policy. Part of it is inflation. And part of it is program management. The management of public programs differs from that of the private sector. The inefficiencies we pin on the bureaucracy are often a result of structural constraints imposed by the policies of public programs.

John C. Anderson, Ph. D., an associate professor of management sciences at the University of Minnesota, has recently published a study with Kathleen Sullivan entitled, "Publicly Financed Health Programs: Managerial Problems and Opportunities." It is part of a series on health issues supported by Hoffman-LaRoche, and it is a much needed examination of the management of public programs.

I encourage my colleagues to read the study's summary and conclusion, which I have included as part of the RECORD. The complete study is also well worth reading.

The material follows:

SUMMARY AND CONCLUSIONS

The several decades of public debate on a variety of proposals for expanding the role of government in the financing and administration of health care for the American public is evidence of a lack of broad public consensus on such health-related social goals as assurance of access, quality and equity in the distribution of health services, and containment of rising health care costs. We have not yet resolved a basic issue concerning whether health care is a right or a privilege. In addition, there is not yet a U.S. health policy with clearly specified priorities, nor is there consensus on an optimal

approach to organizing an administrative and financing structure to attain those goals. Partially as a result of these factors, the job of the public program manager is exceedingly difficult. A fragmented health care system with dissimilar organization, philosophy, structure and mission currently exists with managers trying to contain costs, improve quality and extend access all at the same time. As health care expenditures absorb an increasing proportion of the Gross National Product and as public resources become scarcer, a formula for the optimum expenditure of health care dollars becomes more essential. In the development of such a formula or policy it is undoubtedly useful to draw upon the lessons learned in the past 15 years experience of the largest public health care programs, Medicare and Medicaid.

It is the objective of this report to examine the areas wherein sound management theory has positively impacted publicly financed health programs. Using a well-defined framework for analysis, this report identifies the types of internal, external, and environmental management opportunities and constraints that have characterized the two largest publicly financed health care programs, Medicare and Medicaid and makes some observations concerning the development of additional programs and/or national policy.

Key to any analysis of the performance of the Medicare and Medicaid programs is the fact that "good" government management is not synonymous with "good" business management. Administrators in the public sector, particularly in Medicaid and Medicare, must frequently accept goals that are set by legislation. They are required to run organizations that are designed by individuals and agencies beyond their domain, work with people whose careers are outside their control, and attempt to accomplish massive objectives with the application of severely limited resources in insufficient time. Business managers limit their objectives to a set of tasks consistent with their resources. These public sector conditions, radically different from the conditions in which private managers operate, must be carefully considered in evaluating management performance in the public sector, not to protect the sensibilities of government managers but to more clearly identify the real sources of constraints in public program management.

The political environment in which Medicare and Medicaid function constrain the process of long-term resource utilization planning. The Congress, or a particular State legislature, is totally isolated from the day-to-day operations of the programs. Moreover, unlike management committees in the private sector, legislative bodies are charged with oversight responsibilities for a myriad of programs, projects and activities which limits their ability to spend too much time on any individual area. Also, some State legislatures are only in session for several months during a year. This lack of continuity constrains any ongoing development of long-range goals and priorities. Because things are so dynamic and conflicting, management frequently operates in a responsive mode rather than with a predictive, anticipatory problem-solving approach.

In the face of multiple political power centers impinging on the authorities and resources of program management, strategic planning is often given a lower and optional priority. Instead, crisis management frequently substitutes for strategic planning,

and services or eligibility are cut in an effort to immediately impact the bottom line. The results of these actions in terms of program effectiveness and capacity can be disastrous and compromising in terms of the intent of both programs.

Evaluations of Medicare and Medicaid Management performance are necessarily imprecise and problematic due to the lack of data and clear-cut criteria against which to measure the attainment of objectives. Performance standards for many aspects of program operation are hard to come by. Specific characteristics of public program experience that hamper not only management performance but the development of performance standards for purposes of evaluation and planning include the following:

Program objectives and relative priorities are subject to constant reshaping by political forces with the result that substantial program changes occur so frequently there is never sufficient stability to observe and evaluate the impact of management decisions over time, and those decisions are frequently made in a crisis environment as a result of political pressures.

The distribution of decision-making authorities within and among public agencies, legislative bodies, and program constituent organizations seriously compromises the adequacy of management's authority and resources to implement its decisions.

The budget constraints imposed upon funding bodies or their unwillingness to invest adequate resources in the staffing and technology of administering organizations hampers the collection and analysis of data critical to the decision-making process.

In addition, Medicare and Medicaid performance is often hampered by legislation and regulation at the state or federal level which is sometimes contradictory and compromising to optimally efficient and effective program management. It has been recognized that the stability of the program administering agency impacts its relationship with other organizations in the system. Another significant obstacle with respect to managing publicly financed health programs is the apparent organizational flux that so often characterizes these programs. It is not uncommon for there to be frequent change in the designated administering agency/or fiscal intermediary. These changes make it difficult to maintain beneficial relationships with the legislature and provider communities. Lack of program managers autonomy and authority over external entities such as county agencies or state treasury department staff whose contributions impact the bottom line of both programs is another noteworthy constraint.

Finally, the complexity of the Medicaid eligibility process requires enormous staff time and funds that could otherwise be applied to beneficiary services. The elimination of this kind of burden should be a high priority in future U.S. health policy.

The above mentioned constraints limit management capabilities within Medicare and Medicaid. The obstacles are, however, virtually inherent in the current publicly financed program environment. As a result, future U.S. health policy development must be cognizant of the limitations of public administration in a health system characterized by instability, distance from oversight committees, and lack of managerial autonomy and performance standards.

Viewing existing performance of Medicare and Medicaid in terms of criteria such as efficiency, effectiveness, capacity and flexibility, raise some provoking questions. Enough

data exist to strongly speculate that current programs do not provide for the most efficient use of resources. Some effectiveness in the operation of specific programs has been achieved, yet we may be failing to achieve maximum effectiveness toward the broader goals of assurance of access, quality and equity in the distribution of health care services. Serious capacity issues are apparent in terms of organizational and economic resources. Finally, existing programs have exhibited flexibility to meet evolving needs yet have done so without evidence of a blueprint for the future.

There are, however, some managerial initiatives that can be and in selective instances have been pursued within the current context of publicly financed health programs. These initiatives, described more fully in the body of the report, represent opportunities for management. They include:

The application of advanced claims processing technology to provide managers with key program data and information in a timely manner to facilitate informed decisionmaking;

The careful use of edits in the claims processing system to protect the fiscal integrity of the program and insure the appropriateness of vendor payments;

Timely claims processing, communication with, and payment of providers to ensure maximum provider participation and consequent beneficiary access to care;

The implementation and operation of program controls and the tracing and analysis of program performance to design and implement corrective action strategies in a timely, cost-effective manner;

The closing of policy loopholes and deletion of unneeded and contradictory program policy; an ongoing effort to evaluate and assess the program from this perspective will enhance overall program operation;

Quality performance in audit functions and settlement of cost reports will lead to tighter control within the program;

Working to amend legislation that is unfavorable to the efficiency and effectiveness of public programs is a continuing and necessary activity as the dynamic health care environment continues to evolve;

The proper allocation of administrative resources including spending one dollar to save two or more where such action is cost justified; in certain cases increases in administrative costs will yield substantial returns leading to greater operational efficiency;

The design of the internal Medicaid agency hierarchy to ensure that units key to better program performance are at a level high enough to carry out their corrective action strategies. Proper authority must be vested in those individuals responsible for performance if successful implementation is to be achieved.

To date these initiatives have often occurred sporadically, with too little consistency across individual state and federal agencies. Recent experience has evidenced management improvement of program operations in both Medicare and Medicaid, yet little effort has been concentrated on longer range planning and analysis.

To alleviate some of the obstacles that are seemingly part and parcel of the public sector, it is important that program managers and committees try to inject as much stability in the process as possible. Furthermore, it is imperative that sufficient information for planning and control is generated so that budgets can be justified and policy changes can be affected. In addition,

development of and adherence to performance standards would go a long way in convincing decision makers of the validity of certain management initiatives. Allocating staff to perform third party liability recovery functions and quality control functions contributes to programwide cost effectiveness. Finally, a problem anticipation mechanism must be developed and truly operational so that harmonious program objectives are pursued and the crisis problem solving mode gives way to a well-reasoned managerial approach.

In turn we need to press hard for the utilization of performance standards in current programs. We need comparable dimensions across programs to map out the future direction of U.S. policy. Information on program operations must flow up to the decision makers, and policy must flow down. The lines of communication are broken in the current system. The solution is not to develop a new arm of government, but rather to recognize the limitations of publicly financed health programs and aggressively seek consistent indicators of performance and program accountability. What seems essential to significantly improve the performance of publicly financed health program management is to reduce the impact of political conflict and instability on program operations, either by reducing the levels of conflict and instability in the environment or by shielding the administrative organizations from them. Until a system can be designed that addresses these deficiencies in the variety of organizational structures that characterize publicly financed programs, the public sector should not be further burdened with additional administrative responsibilities by the extension of coverage to new segments of the population or new areas of service.■

THE AVIATION HALL OF FAME

● Mr. GOLDWATER. Mr. President, serving as the statutory agent for the Aviation Hall of Fame in Dayton, Ohio, I offer for insertion in the RECORD an audit report for the calendar year 1981 as prepared by Coopers & Lybrand, and I also offer for insertion in the RECORD the program for 1981.

The material follows:

NATIONAL AVIATION HALL OF FAME, INC.

REPORT ON EXAMINATIONS OF FINANCIAL STATEMENTS FOR THE YEARS ENDED DECEMBER 31, 1981 AND 1980

COOPERS & LYBRAND,

Dayton, Ohio, June 25, 1982.

BOARD OF TRUSTEES,
National Aviation Hall of Fame, Inc.,
Dayton, Ohio.

We have examined the balance sheets of the National Aviation Hall of Fame, Inc. as of December 31, 1981 and 1980, and the related statements of revenue and expenses, changes in fund balances and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of the National Aviation Hall of Fame, Inc. as of December 31, 1981 and 1980, and the results of its operations and

the changes in its financial position for the years then ended in conformity with generally accepted accounting principles applied on a consistent basis.

COOPERS & LYBRAND,
Certified Public Accountants.

NATIONAL AVIATION HALL OF FAME, INC., BALANCE SHEETS, DEC. 31, 1981 AND 1980

	1981	1980
ASSETS		
Cash	\$21,262	\$15,223
Certificates of deposit	58,845	25,398
Marketable securities, at market (cost, \$3,160)		5,856
Prepaid expenses	115	115
U.S. Treasury bill, 9.765 percent, due February 1981 at cost plus accrued interest (market value \$9,831)		9,858
Total current assets	80,222	56,450
Furniture, fixtures and equipment, net of accumulated depreciation of \$1,685 in 1981 and \$1,297 in 1980	2,197	2,585
Copyrights	1	1
Collections (note 2) ¹		
Total assets	82,420	59,036
LIABILITIES AND FUND BALANCES		
Accounts payable	3,412	246
Accrued expenses	709	633
Deferred amounts (note 5): ¹		
Membership income	17,413	13,243
Restricted biographical research program	18,000	
Total current liabilities	39,534	14,122
Fund balances (note 3): ¹		
Designated by Board of Trustees:		
Capital expenditures	19,667	15,628
Founders	1,000	
Promotion		5,000
Undesignated	22,219	24,286
Total fund balances	42,886	44,914
Total liabilities and fund balances	82,420	59,036

¹ See Notes to Financial Statements.

STATEMENTS OF REVENUE AND EXPENSES FOR THE YEARS ENDED DEC. 31, 1981 AND 1980

	1981	1980
Revenues:		
Individual memberships	\$36,118	\$30,289
Organizational memberships	24,430	30,905
Enshrinement dinner	17,460	12,330
Sales of medals and other items	1,735	5,687
Donations	5,640	4,334
Interest and dividends	8,770	6,236
Total	94,153	89,781
Expenses:		
Management fee	25,535	26,400
Salaries and office help	7,462	7,227
Enshrinement dinner	34,212	34,283
Membership expenses	15,476	5,861
Exhibits	4,189	2,887
Cost of medals and other items	696	1,297
Office supplies	5,147	3,816
Postage	1,784	1,728
Telephone	648	819
Payroll taxes	601	548
Depreciation	388	388
Miscellaneous	41	
Total	96,181	85,254
Excess (deficiency) of revenues over expenses	(2,028)	4,527

STATEMENTS OF CHANGES IN FUND BALANCES FOR THE YEARS ENDED DEC. 31, 1981, AND 1980

	Designated			Undesignated	Total
	Capital expenditure	Promotion	Founders		
Balance, Jan. 1, 1980	\$10,707	\$5,000		\$24,680	\$40,387
Excess of revenues over expenses				4,527	4,527
Designation (note 3) ¹	4,921			(4,921)	

STATEMENTS OF CHANGES IN FUND BALANCES FOR THE YEARS ENDED DEC. 31, 1981, AND 1980—Continued

	Designated			Undesignated	Total
	Capital expenditure	Promotion	Founders		
Balance, Dec. 31, 1980	15,628	5,000		24,286	44,914
Excess of expenses over revenues				(2,028)	(2,028)
Designation (note 3) ¹	4,039	(5,000)	\$1,000	(39)	
Balance, Dec. 31, 1981	19,667		1,000	22,219	42,886

¹ See Notes to Financial Statements.

STATEMENTS OF CHANGES IN FINANCIAL POSITION FOR THE YEARS ENDED DEC. 31, 1981 AND 1980

	1981	1980
Sources:		
Operations:		
Excess (deficiency) of revenues over expenses	—\$2,028	\$4,527
Item which did not require current outlay of cash:		
Depreciation	388	388
Provided from (used in) operations	—1,640	4,915
Decrease in Treasury bills	9,858	
Decrease in marketable securities	5,856	
Increase in accounts payable	3,166	246
Increase in deferred amounts	22,170	13,243
Increase in accrued expenses	76	633
Total	39,486	19,037
Uses of funds:		
Increase in marketable securities		2,287
Increase in U.S. Treasury bill		9,858
Total		12,145
Net increase in cash and certificates of deposit	39,486	6,892
Cash and certificates of deposit, beginning of year	40,621	33,729
Cash and certificates of deposit, end of year	80,107	40,621

NOTES TO FINANCIAL STATEMENTS

1. Summary of significant accounting policies

The Corporation was created by an Act of Congress, Public Law 88-372, July 14, 1964, to honor outstanding persons in the field of aviation. The Internal Revenue Service has confirmed the status of the Corporation as a tax-exempt public foundation. On December 18, 1981, the Corporation changed its name from Aviation Hall of Fame to National Aviation Hall of Fame, Inc.

Furniture, fixtures and equipment are recorded at cost when purchased or at estimated values when received as a donation. Depreciation is computed on the straight-line basis over the estimated useful lives of the assets.

Donated materials other than collections are recorded at their estimated value at the date of receipt. No amounts have been reflected in the statements for donated office space and services as no objectives basis is available to measure the value of such services. Donated office space consists of an office and storage provided by the City of Dayton. Donated services consists of time donated by the Board of Trustees for the Corporation.

The Corporation offers both one-year and two-year memberships to the public. Membership dues received for the current year are recorded as income at the time the membership period commences. Deferred membership income, representing dues the second year of two-year memberships, is recognized as income during the second membership year.

Biographical research program resources are restricted by the donor, grantor, or other outside party for operating the biographical research program, and are deemed to be earned and reported as revenues of the operating fund when the Corporation has incurred expenditures in compliance with the specific restrictions. Such amounts received but not yet earned are reported as restricted deferred amounts.

2. Collections

The Corporation has acquired by purchase or through donations, various models, books and other memorabilia relating to the field of aviation since its founding. Because the value of these items are not readily determinable and they can be considered inexhaustible items, the Corporation has not capitalized them. The value of objects acquired by gift for which the Corporation can make a reasonable estimate is reported as gifts in the statement of revenue, expenses and changes in fund balance.

3. Fund balances

The capital expenditure fund is intended to provide funds for the purchase of a facility for the Corporation. The Board has directed that all donations received from enshrinees or their families and income earned from investments applicable to capital expenditure fund be added to this fund.

In 1981, the Board of Trustees established the Founders Fund for special projects undertaken by the executive director of the Corporation. No expenditures can be made from the fund without the approval of the Board.

The promotion fund was established by the Board in 1978 for promotion of the Corporation. The Board authorized the expenditure of these funds during 1981.

4. Management contract

The Corporation contracts with James W. Jacobs & Associates, Inc. on an annual basis to provide consultation and professional services to maintain operations, expand membership, sponsor events and any other services required by the Corporation. Management fees paid amounted to \$25,535 and \$26,400 in 1981 and 1980, respectively.

5. Deferred restricted biographical research program

The biographical research program began during 1981. Contributions received during 1981 totaled \$18,000. No funds were expended.

THE AVIATION HALL OF FAME

Dedicated to honoring the outstanding pioneers of aviation, the Aviation Hall of Fame was conceived by James W. Jacobs in 1958 to more fully recognize the achievements of the men and women of our nation contributing to the various aspects of successful flight. Through his efforts, and with the support of the Dayton Area Chamber of Commerce, he, Gregory C. Karas, John A. Lombard, Larry E. O'Neill and Gerald E. Weller formed the National Aviation Hall of Fame, a not-for-profit Ohio corporation, in October 1962. The first Enshrinement Ceremonies were held in December 1962.

In response to the wide public acceptance and support of the National Aviation Hall of Fame, a bill was introduced in Congress to form a national organization to be known as the Aviation Hall of Fame. This bill was passed by Congress as Public Law 88-372 and signed by President Johnson on July 14, 1964.

Today, the Aviation Hall of Fame is a public foundation and is required to file an annual report to Congress. However, it re-

ceives no federal, state or local tax revenues. It is supported solely through tax-deductible individual and organizational membership dues and contributions.

Tonight, as the result of the generous efforts of many members throughout the world, the Aviation Hall of Fame enshrines four more outstanding aviation pioneers. The ninety-three so honored represent the history of flight—and include some who dreamed of its possibilities, some who gave their lives in its cause, some who made it a practical reality, and some who have shown the way to the limitless universe.—A. G. LIEFKE, President.

1981 NOMINEES FOR ELECTION TO THE AVIATION HALL OF FAME

The following aviation pioneers were the Nominees for election to the Aviation Hall of Fame in 1981. The four honored tonight were selected in accordance with the procedures and guidelines prescribed for the Board of Nominations and the Board of Trustees.

Edmund T. Allen, Orvil A. Anderson, Frank M. Andrews, John L. Atwood, Olive Ann Beech, Giuseppe M. Bellanca, Patrick N. L. Bellinger, Donovan R. Berlin, Richard I. Bong, Albert Boyd, Mark A. Bradley, Jr., Thomas E. Braniff, Lewis H. Breton, Walter R. Brookins, Harry A. Bruno, W. Starling Burgess, Marion E. Carl, Washington, I. Chambers, Charles deF. Chandler, Godfrey deC. Chevalier, Frederick C. Crawford, A. Scott Crossfield.

Charles S. Draper, Oliver P. Echols, Carl B. Eielson, Henry Ford, Joseph J. Foss, Robert G. Fowler, Jack Frye, Artemus L. Gates, Harvey Gaylord, Harold L. George, Daniel J. Houghton, Frank M. Hawks, Edward H. Heinemann, Jerome C. Hunsaker, David S. Ingalls, Charles S. Irvine, Daniel James, Jr., Alexander Karvell, Oakley G. Kelly, Hugh J. Knerr, Ezra Kotcher, Jerome Lederer.

Thaddeus S. C. Lowe, Theodore C. Lyster, Henry T. Merrill, John C. Meyer, Thomas deW. Milling, Marc A. Mitscher, William A. Moffet, Thomas H. Moorer, Edwin C. Musick, Erik H. Nelson, Ruth D. Nichols, Emmet O'Donnell, Robert Olds, Clyde E. Pangborn, Billy Parker, Harold F. Pitcairn, Robert W. Prescott, Alfred M. Pride, Arthur W. Radford, Jennings Randolph, Edwin W. Rawlings, Frederick B. Rentschler.

John Rodgers, Charles E. Rosendahl, Ralph Royce, Walter M. Schirra, Jr., Lowell H. Smith, Lawrence B. Sperry, Sr., Apollo Soucek, Lloyd C. Stearman, James B. Stockdale, William B. Stout, Hoyt S. Vandenburg, Jesse G. Vincent, Wernher von Braun, Chance M. Vought, James E. Webb, Edward C. Wells, Thomas D. White, Ennis C. Whitehead, Alford J. Williams, Thornton A. Wilson, Kenneth B. Wolfe, Katharine Wright.

AVIATION HALL OF FAME—1981 ENSHRINEES

Lawrence Burst Sperry, Sr. (1892-1923) honored for his outstanding contributions to aviation by his pioneering inventions in the field of automatic flight stabilization and aircraft instruments utilizing the principles of the gyroscope that made flying safer and ultimately led to the automatic pilot and the achievement of controlled "blind" flight; his pioneering work in developing one of the world's first guided missiles incorporating an automatic flight control system; his role in building significantly advanced design aircraft; and his creating one of the world's first true sport planes that helped popularize private flying.

Edward Henry Heinemann, (1908-) honored for his outstanding contributions to aviation by his contributions as an aircraft designer and aeronautical engineer in the development of carrier-based attack aircraft and dive bombers crucial to the needs of the United States Navy during World War II; his role in the development of highly-advanced jet and rocket-powered research aircraft for exploring transonic and supersonic flight regimes; and for his development of a vitally important series of carrier-based attack and fighter aircraft that served the nation with distinction in Korea and Southeast Asia, and still serve today in the ongoing struggle to preserve world peace.

Charles Stark Draper, (1900-) honored for his outstanding contributions to aviation and space technology by his development of gyroscopic fire control systems and inertial guidance and navigation systems for aircraft; his development of precision computer-controlled and programmable inertial guidance and navigation systems that enable the United States to produce reliable ballistic missiles for defense and preservation of peace, and for its astronauts to travel safely in space and land on and return from the moon; and for developing innovative educational processes that effectively interfaced academic education with aeronautical and astronautical engineering and science.

Olive Ann Beech, (1903-) honored for her outstanding contributions to aviation by her devoted service to the development and progress of General Aviation which earned her worldwide recognition as "The First Lady of Aviation"; for her role in the creation of the Beech Aircraft Company which she and her late husband, Walter Herschel Beech, founded in 1932; and for her excellent leadership assuring the growth and success of the Beech Aircraft Corporation since 1950, during which time it grew into a giant diversified aerospace organization serving both vital military and space exploration needs, as well as those of private and commercial aviation throughout the world.

AVIATION HALL OF FAME—1981 ENSHRINEMENT CEREMONIES, JULY 25, 1981 DAYTON CONVENTION CENTER, DAYTON, OHIO

Master of Ceremonies: Cliff Robertson

Ceremonies Narrator: Don Wayne

Reception, Enshrinement Hall.

Musical Prelude, Air Force Band of Flight (Commander, Lt. Col. Harold C. Johnson, USAF).

Presentation of Colors, United States Air Force Presidential Honor Guard.

National Anthem, Senior Airman Edward J. Pember, USAF.

Toast to The Wright Brothers, Chairman Louis C. Breckenridge.

Television Introduction, Ted Ryan, WHIO-TV.

DINNER

Dinner Music, the Ron Meyer Orchestra.

Musical Entertainment, Air Force Band of Flight.

ENSHRINEMENT CEREMONIES

Welcome, President A.G. Liefke.

Introduction of Special Guests, Cliff Robertson.

Award to U.S. Air Force "Thunderbirds," General Bryce Poe, II, USAF, Commander, Air Force Logistics Command.

President Ronald W. Reagan's Greetings, Congressman Clarence J. Brown, Seventh District, Ohio.

Prologue to Flight, Cliff Robertson.

Presentation of Lawrence Burst Sperry, Sr., Vice Admiral Wesley L. McDonald,

USN, Deputy Chief of Naval Operations (Air Warfare).

Acceptance of Sperry Award, Lawrence B. Sperry, Jr.

Presentation of Edward Henry Heinemann, Admiral Thomas H. Moorer, USN (Ret.), Former Chairman, Joint Chiefs of Staff.

Acknowledgement of Award, Edward H. Heinemann, Rancho Santa Fe, California.

Presentation of Charles Stark Draper, James E. Webb, Former Administrator, National Aeronautics and Space Administration.

Acknowledgement of Award, Dr. Charles S. Draper, Senior Scientist, The Charles Stark Draper Laboratory.

Presentation of Olive Ann Beech, George E. Haddaway, President, Aerospace Heritage Foundation.

Acknowledgement of Award, Olive Ann Beech, Chairman, Beech Aircraft Corporation.

Epilogue: "High Flight," Cliff Robertson.

SPECIAL ACKNOWLEDGEMENTS

The Air Force Museum: Special thanks are extended to the Director, Colonel Richard L. Uppstrom, and his staff for use of the facilities of the Air Force Museum to hold the Aviation Hall of Fame President's Reception and Dinner on July 24, 1981; and for use of historical documents and photographs used in preparing this evening's presentations.

Milton Caniff: The Aviation Hall of Fame is especially grateful to Milton Caniff for the ninety-three portraits of the enshrined aviation pioneers. His artistry, contributed to the Aviation Hall of Fame over the past twenty years, represents the most complete collection of portraits of aviation pioneers ever created.

Air Force Orientation Group: Special thanks are extended to Colonel Arthur F. Creighton, Jr., and the Air Force Orientation Group, Wright-Patterson Air Force Base for the excellent mobile display on the Aviation Hall of Fame and the enshrined aviation pioneers, which serves as the backdrop for tonight's presentation, as well as the "Milestones of Flight", and the Northrop T-38 "Talon" aircraft used by "The Thunderbirds".

The Aviation Hall of Fame thanks each of the following people and organizations for their contribution to the success of this evening's program:

Program Director, Mike White, WHIO-TV.

Production of Visuals, John J. Hirschman and Gregory I. Wright, WHIO-TV.

Historical Research and Program Scripts, James W. Jacobs and Associates.

Program Layout and Production, Richard D. Cost and O'Neil and Associates.

Special Ladies' Activities and Decorations, Zoe Deli Nutter.

Ceremonies Hostess, Sharon Cost.

Ceremonies Host, John E. Purdy.

Photographs, Jerry Hackman, Valerie Hackman, Robert Maltby, and Rowe Maxwell.

AND

National Security Industrial Association Dayton Chapter, Merchandise Displays, Inc., E. F. MacDonald Company, the Standard Register Company, First National Bank of Dayton, Ernst and Whinney, Dayton Area Chamber of Commerce, Sperry Corporation, Beech Aircraft Corporation, Wright-Patterson Air Force Base, Elano Corporation.

Dayton Air Fair 81, David K. Burnap Advertising Agency, Inc., Wright "B" Flyer,

Inc., the Charles Stark Draper Laboratory, WHIO-TV, WDTN-TV, WKEF-TV, WPTD-TV, WHIO-AM-FM, WING-AM, WAVI-AM, WDAO-FM.

AVIATION PIONEERS ENSHRINED IN THE AVIATION HALL OF FAME

(With Year of Enshrinement)

Allen, William McPherson, 1971; Armstrong, Neil Alden, 1979; Arnold, Henry Harley, 1967.

Balchen, Bernt, 1973; Baldwin, Thomas Scott, 1964; Beachey, Lincoln, 1966; Beech, Olive Ann, 1981; Beech, Walter Herschel, 1977; Bell, Alexander Graham, 1965; Bell, Lawrence Dale, 1977; Boeing, William Edward, 1966; Byrd, Richard Evelyn, 1968.

Cessna, Clyde Vernon, 1978; Chamberlin, Clarence Duncan, 1967; Chanute, Octave, 1963; Chennault, Claire Lee, 1972; Cochran, Jacqueline, 1971; Conrad, Charles, Jr., 1980; Cunningham, Alfred Austell, 1965; Curtiss, Glenn Hammond, 1964.

DeSeversky, Alexander P., 1970; Doolittle, James Harold, 1967; Douglas, Donald Wills, 1969; Draper, Charles Stark, 1981.

Eaker, Ira Clarence, 1970; Ellyson, Theodore Gordon, 1964; Ely, Eugene Burton, 1956.

Fairchild, Sherman Mills, 1979; Fleet, Reuben Hollis, 1975; Fokker, Anthony Herman Gerard, 1980; Foulois, Benjamin Delahauf, 1963.

Gabreski, Francis Stanley, 1978; Glenn, John Herschel, Jr., 1976; Goddard, George William, 1976; Goddard, Robert Hutchings, 1966; Gross, Robert Ellsworth, 1970; Grumman, Leroy Randle, 1972; Guggenheim, Harry Frank, 1971.

Hegenberger, Albert Francis, 1976; Heinemann, Edward Henry, 1981; Huges, Howard Robard, 1973.

Johnson, Clarence Leonard, 1974.

Kenney, George Churchill, 1971; Kettering, Charles Franklin, 1979; Kindelberger, James Howard, 1972; Knabenshue, A. Roy, 1965.

Lahm, Frank Purdy, 1963; Langley, Samuel Pierpont, 1963; Lear, William Powell, Sr., 1978; LeMay, Curtis Emerson, 1972; LeVier, Anthony William "Tony", 1978; Lindbergh, Anne Morrow, 1979; Lindbergh, Charles Augustus, 1967; Link, Edwin Albert, 1976; Loening, Grover, 1969; Luke, Frank, Jr., 1975.

Macready, John Arthur, 1968; Martin, Glenn Luther, 1966; McDonnell, James Smith, 1977; Mitchell, William, 1966; Montgomery, John Joseph, 1964; Moss, Sanford Alexander, 1976.

Northrop, John Knudsen, 1974.

Patterson, William Allan, 1976; Piper, William Thomas, Sr., 1980; Post, Wiley Harde- man, 1969; Putnam, Amelia Earhart, 1968.

Read, Albert Cushing, 1965; Reeve, Robert Campbell, 1975; Richardson, Holden Chester, 1978; Rickenbacker, Edward Vernon, 1965; Rodgers, Calbraith Perry, 1964; Rogers, Will, 1977; Ryan T. Claude, 1974.

Schriever, Bernard Adolf, 1980; Selfridge, Thomas Etholen, 1965; Shepard, Alan Barlett, Jr., 1977; Sikorsky, Igor Ivan, 1968; Six, Robert Forman, 1980; Smith, C. R., 1974; Spaatz, Carl Andrew, 1967; Sperry, Elmer Ambrose, Sr., 1973; Sperry, Lawrence Burst, Sr., 1981.

Taylor, Charles Edward, 1965; Towers, John Henry, 1966; Trippe, Juan Terry, 1970; Turner, Roscoe, 1975; Twining, Nathan Far- ragut, 1976.

Wade, Leigh, 1974; Walden, Henry W., 1964; Wright, Orville, 1962; Wright, Wilbur, 1962.

Yeager, Charles Elwood, 1973.

PATRON MEMBERS

On behalf of the Board of Trustees of the Aviation Hall of Fame, I express special thanks to the following Patron Members whose extra special generosity has enabled us to place emphasis on the unique role of the pioneers of aviation in the progress and development of our nation during the past century.—A. G. LIEFKE, *President*.

Acme Screw Products, Clyde G. Balyo.
AVCO Corporation, Byron K. Boettcher,
Dr. Mac C. Adams, Donald I. VanDerKarr.
Mr. and Mrs. Charles L. Backus, Jr.
Mr. and Mrs. Edmund F. Ball.
Beech Aircraft Corporation, Mrs. Olive Ann Beech, Leddy L. Greeve, Frank E. Hedrick, Edward C. Burns, Chester A. Rembleske, William G. Robinson.

Bell Aerospace Textron, Robert A. Norling, Norton C. Willcox, Charles F. Kreiner.
Dr. and Mrs. Don R. Berlin.
L. M. Berry and Company, Richard C. Noyes, John W. Berry, J. William Craig, Jr.
Mr. and Mrs. Charles K. Billings.
The Boeing Company, T. A. Wilson, H. K. Hebel, Earl E. Prater.

Mr. and Mrs. A. Rodney Boren.
Mr. and Mrs. William Q. Brookley.
Dr. and Mrs. Russell N. Brown.
Mr. and Mrs. David K. Burnap.
Cessna Aircraft Corporation, Russell W. Meyer, Jr., Robert L. Lair, Dean Humphrey.
Col. and Mrs. Jesse L. Coalter, USAF(Ret).

Continental Airlines, Inc., Richard M. Adams.

Mr. and Mrs. Jerry W. Cosley.
Mr. and Mrs. Rayman A. Coy.
Mr. and Mrs. Harry K. Crowl.
Mr. and Mrs. Robert L. Davidson.
Dayton Communications Corporation,
Alfred M. Sinder, Robert K. Keelor, Fredric L. Sinder.

Dayton Newspapers, Inc., David E. Easterly, Arnold Rosenfeld, John E. Black.
Delco Air Conditioning Division, GMC,
Leonard P. Roberts, Thomas J. Tatham,
Thomas G. Manoff.

Delco Moraine Division, GMC, John D. Debbink, Ronald L. Stump, John E. Mischl.
Delco Products Division, GMC, Charles J. Rose, Robert E. Chandler, Jack J. Moore.
Col. John B. Downs, Sr., USAF(Ret).

John B. Downs, Jr.
Mr. and Mrs. John C. Dussault.
Elano Corporation, Ervin J. Nutter, Zoe Dell L. Nutter.

Elano-East Corporation, Michael Gopoian.
Enlo, Inc., Samuel Grice.
Fairchild Industries, Inc., Edward G. Uhl,
John F. Dealy, Charles Collis.

Mr. and Mrs. Joseph E. Farrell.
Mr. and Mrs. Harrison B. Favre.
Mr. and Mrs. Eugene F. Felt.
Flying Tiger Line, Inc., Wayne M. Hoffman, Thomas F. Grojean, Nissen A. Davis.
Lt. Col. and Mrs. Wayne W. Gamble, USAF(Ret).

The Garrett Corporation, Ellis B. Davis,
R. J. Wright, Michael Rachlin.
Gates Learjet Corporation, James R. Greenwood, Harry B. Combs, B. S. Stillwell.

General Dynamics Corporation, David S. Lewis, Oliver C. Boileau, Orrie G. Hiett, Jr.
Mr. and Mrs. Edward J. Gerding.
Mr. George C. Gilfillen, Jr.

Mr. and Mrs. John B. Greene.
Grumman Aerospace Corporation, George M. Skurla, Donald Evans, Maj. Gen. Frederick C. Blesse, USAF(Ret).

Mr. and Mrs. Joseph B. Haverstick.
Mr. Charles A. Hinsch.

Cmdr. and Mrs. Harry J. Hueter, USN (Ret).

Inland Division, GMC, George G. Johnson, G. William Beck, David R. Levering.

Mr. and Mrs. Max Isaacson.
Mr. and Mrs. James W. Jacobs.
Mr. and Mrs. Arthur Kolde.
Mr. and Mrs. Martin C. Kuntz.
Mr. and Mrs. Alexander Latsko.
Mrs. Moya Olsen Lear.

Mr. and Mrs. William P. Lear, Jr.
Mr. and Mrs. Gerald H. Leland.

Lockheed Corporation, Lawrence O. Kitchen, Roy A. Anderson, Gen. Jack J. Catton, USAF(Ret.).

Mr. and Mrs. John A. Lombard.
The E. F. MacDonald Company, George C. Gilfillen, Jr., Maurice I. Cutlip, Robert E. MacDonald.

Mr. and Mrs. James J. Magill.
Mr. and Mrs. Thomas O. Mathues.

Mr. and Mrs. Frank W. McAbee.
Mr. and Mrs. John H. Murphy.

Mr. Michael Murphy.
NCR Corporation, Donald L. McIntosh, B. Lyle Shafer, Richard F. Beach.

Northrop Corporation, Thomas V. Jones,
Welko E. Gasich, Louis C. Breckenridge.

Mr. and Mrs. Larry E. O'Neill.
Mr. and Mrs. Walter C. Pague.

Mr. and Mrs. David B. Peterson.
Dr. and Mrs. Deward D. Peterson.

The Polk Foundation, Louis F. Polk.
Mr. and Mrs. L. N. Pollock.

Dr. and Mrs. David H. Ponitz.
Mr. and Mrs. John W. Puffer, Jr.

Mr. and Mrs. John W. Puffer, III.
Mr. and Mrs. John E. Purdy.

Mr. and Mrs. Jack D. Reeder, Sr.
Reeve Aleutian Airways, Inc., Richard D. Reeve.

Rockwell International Corporation,
Robert Anderson, Donald R. Beall, William B. Horner, Mr. T. Claude Ryan.

Col. and Mrs. Wendell H. Shawler, USAF (Ret).

Mr. and Mrs. George W. Sherwood.
Dr. and Mrs. James R. Simpson.

Mr. and Mrs. Daniel L. Smith.
Mr. and Mrs. Gerard A. Smith.

Sperry Corporation, A. B. Martin, Joseph J. Campanella.

Mrs. Katherine N. Stanley.
Lt. Gen. and Mrs. James T. Stewart, USAF(Ret).

Lt. Gen. and Mrs. George H. Sylvester, USAF(Ret).

TRW, Inc., Frederick C. Crawford, George A. Harter, A. G. Liefke.

Mr. and Mrs. John P. Turner, Jr.
United Aircraft Products, Inc., Nick G. Harris, Henry Cozzolino, Robert R. Pfouts.

United Technologies Corporation, Gen. William J. Evans, USAF(Ret.), Edward J. Leach, David J. Slason.

Capt. and Mrs. W. Gene Vogel, USAFR (Ret).

Mr. and Mrs. Richard A. VanderMeulen.
Mr. and Mrs. John H. Warlick.

Mr. and Mrs. Robert F. Watts.
Mr. and Mrs. Gerald E. Weller.

Capt. and Mrs. Richard Wells.
WHIO-TV, Stanley G. Mouse, Neil Pugh, Jack Hurley.

Mr. and Mrs. William R. Winger.
Mr. and Mrs. Stephen J. Wolfe.

Mr. and Mrs. David S. Wyse.

WATERWAY USER FEES

● Mr. BAUCUS. Mr. President, the Senate is currently considering legislation to impose waterway user fees. This legislation is controversial and

could have a significant impact on this Nation's transportation industries.

I believe we need to carefully and accurately evaluate the impact that increased user charges will have on the transportation sector in both the short and long run. We have to start planning now for our Nation's future transportation needs. We need to examine how the various transportation modes will be able to meet these needs and what the Government's role in a transportation system should be.

To that end, Mr. President, I would like to commend to my colleagues some recent remarks by Mr. Anthony L. Kucera, president of the American Waterways Operators, Inc.

Mr. Kucera points out that the time has come for the different transportation modes to stop feuding. He believes that the time and effort spent on charges and countercharges would be better spent doing the job expected of the transportation industry—moving freight.

Mr. Kucera admits that each mode of bulk freight transportation plays an important role in our Nation's transportation system. By recognizing that fact, and working together, the capacity, reliability, and productivity of our transportation system can be increased.

The transportation system of this Nation, Mr. Kucera goes on to point out, is too important to be viewed as nothing more than another line item in the Federal budget. He calls for a set of national transportation objectives which will promote productivity by allowing each mode to do what it does best.

Mr. President, I believe that this type of constructive attitude and concern for getting the job done will be much more useful in our consideration of user fee legislation than additional controversy about "who did what to whom." I, therefore, ask that Mr. Kucera's remarks be printed in the RECORD at this point. I commend his remarks to my colleagues.

The remarks follow:

NEW RELATIONSHIP NEEDED BETWEEN FEDERAL GOVERNMENT AND TRANSPORTATION INDUSTRIES

(By Anthony L. Kucera)

There are numerous issues facing the Nation's commercial shallow-draft navigation industry—the threat of unfair user taxes, regulatory proposals, the condition of the country's waterways system, a decline in petroleum movements, the future of export markets, and so on.

There is, however, a single element that relates to all of these topics: Government transportation policy and the tremendous impact it has on the barge and towing industry, other transportation modes, and the Nation's economy, in general. We may not always like it, but it's clear that our fortunes are inextricably linked to actions taken by the Federal Government.

It is my opinion that the United States Government must develop a new relation-

ship with transportation industries. Rather than stifle industry through inequitable and selective cost recovery proposals, the Government must learn to foster transportation opportunities that will improve the Nation's economic health.

There has been considerable talk lately about the need for a national transportation policy. Even President Reagan has noted that we are paying a high price for the absence of any coherent national policy.

It may, therefore, come as a surprise to some that the United States does, in fact, have a national transportation policy. Or, at least, Congress has mandated that it should.

The preamble to the Interstate Commerce Act, as amended in 1940, reads as follows: "It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation." The act goes on to say the policy should recognize and preserve the inherent advantages of each mode. It should promote safe, economical and efficient service, and foster sound economic conditions in transportation.

The act also states that our national transportation policy should encourage the establishment and maintenance of reasonable charges for transportation services, without unjust discrimination, preferences or advantages.

Even casual observers of our industry can conclude that a number of recent Government actions have been contrary to the intent of this congressionally mandated national transportation policy. Proposals to increase waterway user taxes—while continuing to subsidize the rail industry—are an obvious example.

Perhaps what we need now is a set of national transportation objectives. These would be designed to promote productivity by allowing each mode to do what it does best. We must establish concrete goals and a set of strategies to ensure we meet those goals.

I think it is interesting to note that Congress recognized more than 40 years ago that each transportation mode has inherent advantages. To this day, however, some in the transportation industry continue their verbal sparring over which mode is superior to the others.

The rail industry has undertaken an expensive advertising campaign in newspapers and magazines. The ADS attempt to rebut various "myths" about the industry with so-called "facts." A number of conflicting claims and explanations are being made about fuel efficiency, safety records, GoVernment subsidies and the like.

A lot of time is being spent trying to convince the public that the railroads are superior and somehow more deserving than other modes of transportation.

One fact that is clear is that the different transportation modes have to stop feuding. The time and effort spent on charges and countercharges would be better spent doing the job expected of the transportation industry—moving freight.

It's time, for example, to stop bickering over which mode is more fuel efficient. Everyone is aware of the need for fuel efficiency. Each mode has advantages that make it best suited for meeting particular shipping needs. For example, while barge transportation is cost effective and fuel efficient, its service area is limited by the waterways network. It also cannot promise the speed desired for some finished products.

The point I want to make is that all modes of bulk freight transportation are

productive and fuel efficient, and each plays an important role in the Nation's transportation system. If all of the modes would recognize this fact, we could all work together to increase the capacity, reliability and productivity of that transportation system.

This can only be accomplished by dropping the selfish attitude that profits and success are gained best by constraining another mode of transportation. There is no need to recount the railroads' continuing fight against the critically needed replacement project at locks and dam 26 on the Mississippi River. Nor is there any need to discuss the railroads' fervent support of very high user taxes for the barge industry.

This attitude ignores the importance of developing the type of efficient freight distribution system that is so urgently needed in this country. By now, it should be obvious to everyone that that system will, by necessity, be intermodal.

I don't want to imply by this that there has not been any cooperation at all between the rail and water modes in the recent past. As a matter of fact, we see improved rail-barge coordination as a major trend for the next decade. Some railroads have begun to promote rail-water service in recognition of the advantages that can accrue in certain areas.

It should be clear to all that the enhancement of our Nation's transportation capability is a most pressing need that must be addressed now.

Our industry has repeatedly demonstrated its flexibility to expand to meet increasing demand. This has been especially true during recent years when fuel costs have skyrocketed and congestion on the river has increased.

To a large extent, the mid-American river navigation system is a mature system. The major investment is already in place. Some of it needs modernizing, but that expense is relatively minor compared to the benefits of economical and reliable distribution of goods.

Having addressed the necessity for cooperation among the modes, I would like to discuss the role that government must play in setting our national transportation objectives.

Last year, President Reagan promised our nation a new beginning. He has also recognized the need to revitalize our nation's domestic water transportation system. During his candidacy, Mr. Reagan noted: "The inland water transportation system provides an economic and energy efficient method of moving the goods and commodities of the nation. It also provides a vital link in our international trading effort."

I have to admit that some of the measures proposed by the administration affecting the waterways industry are not quite what we had anticipated when Mr. Reagan promised to revitalize our domestic water transportation system.

We are very much concerned that the burden we are being asked to share is disproportionate to sacrifices being asked of other modes of transportation.

AWO endorses non-discriminatory national policies intended to recognize and preserve the inherent advantages of each mode of transportation. User tax increases of the magnitude proposed by the administration, however, would have a debilitating effect on the competitiveness of barge transportation.

Our Nation's transportation system is too important to be viewed as nothing more than another line item in the Federal budget. In some ways, that system is the lifeblood of the country.

That is why we must revamp the relationship between the transportation industry and the Federal Government. The Government should place more emphasis on promoting the growth and modernization of the industry and work to stimulate economically and environmentally sound expansion. At home, competition should be protected by treating all modes of transportation equitably. Abroad, our Government should take a more active role in working with U.S. industry to develop new markets and expand American exports.

The success of such a relationship is documented in the greatly improved economies of other industrial nations that have followed such a course. It simply requires flexibility, creativity and imagination by our Government—qualities that have been in short supply for some time. But when Government demonstrates these qualities, I am certain that industry can be counted on to respond aggressively.

What I'm really calling for is a new attitude on the part of Government—an attitude that recognizes that business, particularly the transportation industries, cannot be expected to reach full potential in a cautious, unpredictable and often restrictive environment. We need a good deal more far-sightedness.

In short, it's time our Nation started thinking about the type of transportation industry it needs in today's competitive world. A strong transportation system is essential if we are to improve our economy and international trade status. We can achieve that goal only by setting some concrete objectives based on intermodal development and equitable treatment of all transportation modes.

The results of such an effort would benefit the entire Nation—industry, agriculture, shippers and consumers. That is certainly a goal worth striving for.●

EMINENT DOMAIN FOR COAL PIPELINES IS EMINENTLY FAIR

● Mr. JOHNSTON. Mr. President, last week the Energy Committee favorably reported S. 1844, the Coal Distribution and Utilization Act, by a vote of 14 to 6. This legislation, which has been in and out of Congress for over 10 years, would grant the right of Federal eminent domain to those coal slurry pipelines that the Secretary of Energy determines to be in the national interest.

I believe that this bill is overwhelmingly in the national interest. In fashioning this legislation during committee markups, every effort was made to address the concerns of all parties. In so doing, we adopted provisions which would mandate that State law apply in all instances with regard to water rights, and where available, State law would apply to eminent domain procedures unless to do so would have the effect of prohibiting the building of the pipeline.

Mr. President, I believe that the result we reached is fair. I believe that the idea of allowing coal pipelines to enter the coal transportation market is fair, and I believe this bill does that in a manner which is acceptable to all. An editorial to that effect appeared in

today's Wall Street Journal. I commend the editorial staff of the Journal, and I commend their work to the attention of my colleagues.

I submit for the RECORD the following editorial.

COAL TRANSPORT CORRECTIVE

The Senate Energy Committee last week approved legislation that could introduce much needed competition in the coal transportation market and might create further incentives to develop the nation's vast coal reserves. The Coal Pipeline Act would facilitate the construction of pipelines to carry ground coal slurry and would end the railways' virtual monopoly over long-haul coal transport. The legislation is long overdue.

The biggest cost that coal users face isn't for the coal itself but for transportation. Railway charges now often run four times the cost of the coal at the mine. The most viable alternative means of transport is coal slurry pipelines, in which the coal is ground up, mixed with a liquid such as water, oil or even liquefied carbon dioxide from the coal itself and then pumped through the pipeline. Coal pipelines could provide a competitively priced alternative to the railways, which is especially important now that the railroads are asking for more price deregulation under the Staggers Act.

While the idea of coal pipelines has been around for over 90 years, the main problems stopping pipeline planners are their inability to get rights-of-way across the web of railroad lines that crisscross the country and the availability of water to mix with the coal. The irony of the current dispute over whether the federal government should grant the pipelines eminent domain is that Congress granted the railroads land privileges in the 1800s that they are now using to block pipeline passage.

The water issue seems pretty much settled. An amendment, which was introduced by Sen. Malcolm Wallop of Wyoming and approved by the energy committee, would ensure the primacy of state water laws and would effectively mean that states would have to okay pipeline plans before the federal government granted rights-of-way. (This assurance may be more attractive to Western governors now, following a Supreme Court decision last month that limited states' control over the interstate use of water.)

The railway lobby on Capitol Hill has pulled out all the stops to try to block the pipelines legislation. This included some questionable parliamentary tactics, when members of the House Public Works Committee tried recently to sneak out of important quorum calls. Nonetheless, the committee approved the bill and a House floor vote is expected later this month, if the bill isn't held up in the House Rules Committee.

The coal transportation market needs increased competition to help hold down prices, especially if the railways want further deregulation. Pipelines would provide the most efficient means of competition and might eventually increase the utilization of our coal reserves instead of foreign oil. Granting coal slurry pipelines eminent domain across railway land is eminently fair. ●

EUROPEANS AGREE TO EXPORT CONTROLS

● Mr. GARN. Mr. President, the debate over the export controls on participation by U.S. companies, or

their affiliates or licensees, in the Siberian natural gas pipeline misses with alarming frequency one of the most important points. In their fervor to denounce what they call extraterritoriality, commentators neglect to point out that the European firms affected by the export controls specifically agreed in their contracts with the U.S. companies to comply with relevant export controls, should they be levied.

No one forced these European companies to sign the contracts with these terms in them. When they signed them, they seemed to consider the risk worth the anticipated economic payoff. This is nothing new, Mr. President. It is called political risk and is a common ingredient of international trade. The United States was clearly within its legal rights to insist on compliance. To have done otherwise would have been to allow our export control system to have been seriously circumvented. Not only would our national security have suffered, but this would have left our U.S. companies unfairly restricted while their foreign licensees reaped the profits from products of American design and proprietorship.

In a recent article by William F. Buckley, published in the Washington Post, this point is clearly made. Mr. Buckley is right on the mark when he concludes:

No one required John Brown or Alsthom to sign to contracts it signed with GE. It is therefore, interference by the European governments, not by the United States, when those companies are directed to do that which they promised they would not do. If Mitterrand succeeds in forcing Alsthom to make those compressors, he is in effect challenging the right of Congress to pass an export control law and of the President to administer it. Who is being unfriendly to whom?

Mr. President, I ask that the article by William F. Buckley be inserted in the RECORD at this point.

The article follows:

THE CULPRITS: BRITAIN, FRANCE

(By William F. Buckley, Jr.)

Margaret Thatcher has backed off—just a little bit—from her earlier position respecting John Brown Ltd. At first she said, even as Francois Mitterrand in France has said to Alsthom-Atlantique, but notwithstanding President Reagan's order to the contrary, John Brown should proceed to make those fancy compressors needed by the Soviet Union for the huge gas pipeline from Siberia to Europe. Thatcher's new position is that the British government will "assist" John Brown in living up to its "contract."

Meanwhile, the collaborationist press has cranked up an international campaign designed to discredit Reagan, to insist that our relations with Western Europe are going to the dogs, and doesn't the United States know that France and England, like other European countries, are independent, and make their own foreign and economic policies?

Yawp. We realize all of this. Now listen a moment.

In 1949, responding to the imperialist tyranny of Joseph Stalin, Congress passed the

Export Administration Act. Under that act, American enterprise is required to get permission of the Department of Commerce before exporting, for the use of the Soviet Union, articles of strategic significance. When the French and British firms acquired the technology from the General Electric Co. to manufacture those compressors, the deal specified that the companies acquiring the licenses from GE would conform to the 1949 act. They agreed to do so.

Now, what is permitted to be exported by the Commerce Department and what isn't permitted has always been a matter for Executive judgment. Reagan, surveying the situation in Europe, concluded that it was not in the best interest of the United States to help the Soviet Union build the pipeline. For one thing, as our ambassador to France, Evan Galbraith, pointed out, only 15 percent of the gas flowing through the pipeline is slated to be sold in Europe. The balance will travel from Siberia into industrial Russia—"a contribution to the Soviet economy comparable to the development of the Russian railroad system at the end of the last century."

If we permit the Soviet Union the use of our technology with which to build this pipeline, we are accelerating the day when the Soviet Union uses gas now stored underground in Siberia to light up the factories in the Soviet Union so busily engaged in the manufacture of weapons whose only use is to threaten, or to kill, non-Russians.

Allies always have differences of opinion, and in the end must respect each others' sovereignty. But no one required John Brown or Alsthom to sign the contracts it signed with GE. It is, therefore, interference by the European governments, not by the United States, when those companies are directed to do that which they promised they would not do. If Mitterrand succeeds in forcing Alsthom to make those compressors, he is in effect challenging the right of Congress to pass an export control law and of the president to administer it. Who is being unfriendly to whom? ●

AN ACT OF MURDEROUS TERRORISM

● Mr. TSONGAS. Mr. President, I was saddened and enraged to read in the newspaper this morning about a murderous, coldblooded attack on a famous Jewish restaurant in Paris. Six persons were killed, and 22 wounded, by assailants armed with a grenade and machineguns. The motive appears to have been anti-Semitism, pure and simple.

This sort of vicious, terrorist attack against innocent persons has become all too familiar in the world. Though the attack yesterday in Paris was the gravest incident in France since World War II, it hardly stands alone. As recently as October 1980, another terrorist assault left four persons dead at the country's largest reform synagogue in Paris. In Munich last week a bomb exploded at the passenger terminal of the Israeli airline El Al and injured seven persons.

Of course, not all terrorism is related to anti-Semitism. The continuing cycle of terrorist violence wherever it occurs is despicable and sickening. It

ought to draw condemnation from every corner of the world.

Mr. President, I request that two articles from the New York Times and the Washington Post dealing with this subject be printed in the RECORD.

[From the New York Times, Aug. 10, 1982]

**6 KILLED IN ATTACK ON JEWS IN PARIS
22 WOUNDED AS GUNMEN SHOOT INTO A KOSHER
RESTAURANT**

(By John Vinocur)

PARIS, Aug. 9.—Unidentified gunmen, firing submachine guns and hurling a grenade, attacked a kosher restaurant and passers-by in a Jewish neighborhood at lunchtime here today, killing six persons and wounding 22.

The police said that the attack had been carefully planned and involved as many as five or six assailants. One of them threw a grenade into the restaurant while the rest opened fire on patrons and then fled on foot in the narrow streets between the City Hall and the Place de la Bastille, shooting bursts into doorways and at automobiles.

"Considering the circumstances and the site of this indescribable action, everything suggests that anti-Semitism was the ugly motive," said Interior Minister Gaston Defferre, who visited the area along the Rue des Rosiers after the attack.

MAYOR CALLS RAID "HORRIBLE"

Mayor Jacques Chirac described the raid as "horrible" and said, "Alas, its racist character appears beyond doubt."

The assailants escaped, and there was no indication from the police what group might have been behind the attack.

The newspaper France-Soir said it had received a telephone call from an organization called Action Directe claiming responsibility. But another caller, saying he represented the left-wing group, which has been linked by the police to three other attacks on businesses and people with Jewish connections in recent days, told Agence France-Presse that it was not involved.

The police described the raid as highly organized, involving a group whose goal was said to be killing as many people as possible.

The deaths come at a time of some tension for France's Jews. France's Jewish population, totaling 700,000, is the world's fourth largest. Many Jews here have felt that the Government has taken a patently pro-Palestinian position on the Israeli siege of Beirut, and that the state television network has favored the Arab side, making little effort to cover the Israeli point of view.

A spokesman for the Israeli Embassy here said, "These murderous attacks are encouraged by a certain climate of hostile propaganda that is very often clearly anti-Semitic."

Tonight, when President François Mitterrand went to a memorial service at a synagogue on a street near where the attack took place there were angry shouts and shoving between policemen and spectators. Cries of "Mitterrand treason!" and "Mitterrand the killer!" went up as the President left his automobile.

After leaving the service, when the crowd had become less aggressive, the President said: "I've always been and I am a friend of the Jewish community of France. Today a new attack by cowards bloodied this community. I bow to its victims and I say that this fanaticism, like all fanaticism, will find itself having to deal with me."

CROWD IN STREET IS TENSE

The crowd in the street had been tense and at times seething since the attack. Members harassed journalists and painted Stars of David on trucks belonging to the state television network. A man said he felt that French Jews were particularly upset because the authorities had been unable to make any arrests in connection with a bombing in October 1980 that killed four persons at the country's largest Reform synagogue in Paris.

The attack today was centered on a restaurant and delicatessen known by the name of its owner as Chez Jo Goldenberg. The restaurant, which specializes in the Jewish cooking of Eastern Europe, is situated on a corner of the Rue des Rosiers, which has been a center of Jewish life in Paris for centuries. The dark, narrow street is now one of small shops, kosher butchers, a synagogue and a ritual bath.

Witnesses offered contradictory accounts of what took place, but there was agreement on a rough outline of events. Shortly after 1 P.M., it was generally agreed, two groups of men arrived at the restaurant, one hurling a grenade through a window and the other opening fire with automatic weapons.

Natali Tvaouri, a restaurant employee, told a reporter: "I was bringing dishes down to the ground floor when I heard a big explosion. When I got to the bottom, I saw one of the terrorists. He had wavy black hair and a light blue jacket. He was about 30, and he was spraying the customers with bullets."

"I ran to the back and the man saw me and went after me, firing away. I jumped out of a window, and just as I got out a burst shattered it after me."

NUMBER OF ATTACKERS UNCLEAR

The scenes in the street were more difficult to reconstruct. Some witnesses said there were only two men, others that there were four, five or six.

Two women talked of having seen two men with guns. One of them said: "They ran with their machine guns over their shoulders, as if it were all very normal and they had time to stop and pick something up. They had brown hair and what you'd call Mediterranean types."

A butcher also said he had seen only two attackers. "They were in a white car that stopped in front of Jo Goldenberg's," he said. "They looked like Arabs to me. They got out with machine pistols in their hands and started shooting bursts into the restaurant. They came to get themselves some Jews. They shot up everything and then went after the shopkeepers in their shops. They were wild."

The police offered few specific details but disclosed that a part of the grenade that had been recovered indicated it had been made in Czechoslovakia.

9 OF WOUNDED IN SERIOUS CONDITION

Nine of the wounded persons were reported in serious condition. Initial identification of the six dead suggested that they were all Paris residents.

A representative of the Palestine Liberation Organization in Paris, Ibrahim Souss, was quoted as "firmly condemning this attack, deploring its victims, and transmitting condolences to their families." Mr. Souss said that "at a time when the Lebanese and Palestinian peoples are being massacred in Beirut by the Israeli army, the Palestine Liberation Organization rejects all blind violence."

In the Rue des Rosiers the tone of the shouting until nightfall was different.

"P.L.O. killers!" groups chanted, and some young men declared that they planned to take revenge.

The attacks had the character of a major political problem for Mr. Mitterrand because they fit into a series of terrorists acts in France going far beyond the Arab-Israeli conflict and related issues. United States, Israeli and Palestinian officials have been assassinated this year, and train and car bombings have killed six people. In a time of economic difficulty, a growing sense of insecurity has become an additional liability for Mr. Mitterrand's Socialist Government.

U.S. DEPLORES "DESPICABLE ACT"

WASHINGTON, Aug. 9.—The State Department called today's incident in Paris a "tragic and despicable act."

ATTACK DENOUNCED BY ISRAEL

JERUSALEM, Aug. 9.—A Foreign Ministry statement said Israel "denounces the criminal act of terrorism in Paris perpetrated against Jews and Jewish targets."

"The anti-Israel atmosphere in France since the start of Operation Peace for Galilee, particularly in the French media, encourages extremist elements to harm Israelis and Jews," the statement said.

[From the Washington Post, Aug. 1, 1982]

BOMB INJURES SEVEN AT MUNICH AIRPORT

MUNICH.—A bomb concealed in a suitcase exploded in a crowded passenger terminal of the Israeli airline El Al yesterday, injuring at least seven people and causing "considerable damage," police said.

Among the injured were two police guards, one of them seriously hurt, an El Al security officer and four civilians. The blast hurled chunks of the roof and walls through the air, shattering glass and scattering debris for at least 100 yards.

A police spokesman said the bomb went off at around 3 p.m. at Munich's Riem airport in the check-in hall reserved for El Al flights, where nearly 400 people were waiting. "Only the fact that there were no passengers and security officials directly beside the suitcase kept more people from being hurt," said a police official.

ENDING WORLD HUNGER

● Mrs. HAWKINS. Mr. President, we are indeed fortunate to live in an age which has produced an agricultural technology so advanced that we have the know-how to feed the world.

Sadly, however, we have yet to eradicate hunger and malnutrition. These twin tragedies exist even in America; in other corners of the world they flourish. Hunger and malnutrition walk hand-in-hand with poverty and ignorance. Their victims are generally the most helpless members of society—the very young, the sick, and the elderly.

This week, teams of cyclists from across the country arranged to meet on Capitol Hill to dramatize their commitment to end world hunger. One group of these cyclists came from my home State of Florida, bicycling here from Fort Lauderdale. Others came from Denver and Atlanta. Their ultimate destination is the United Nations in New York.

The goal of these cyclists is to raise the awareness of the American public that hunger is a menace that still exists, even in a nation as bountiful as the United States; that we have the technology to end hunger; and that with knowledge and commitment can come the self-sufficiency necessary to combat hunger.

The Cyclists to End World Hunger have traveled across 15 States, carrying their message to the public and to State and local officials along the way. They have collected the signatures of more than 10,000 Americans who have expressed a commitment to end hunger. They have compiled into "The Presidential Book" the signatures of 2.2 million people who support their efforts to end world hunger.

I would like to join my colleagues in welcoming the cyclists to Washington, and to commend them for their dedication to ending world hunger.●

DAVID W. EVANS

● Mr. GARN. Mr. President, Utah, the West and the Nation lost an advertising and public relations giant Saturday, August 7, with the death of David W. Evans at age 88.

He was the founder of one of the largest advertising agencies headquartered in the West, David W. Evans, Inc., Advertising and Public Relations. The firm has more than \$60 million in billings annually which ranks it among the top 1 percent in the country. The company has offices in Los Angeles, San Francisco, Denver, Seattle, Portland, Atlanta, and Pittsburgh.

A native of Salt Lake City, the advertising pioneer founded the firm with a borrowed desk in a small one room office in 1943. He was 50 years of age at the time which demonstrated the unique personal character of this tireless individual.

A dynamic force in the political arena, his agency supervised the successful campaigns of noted national and local political leaders. In addition, his firm was instrumental in the successful efforts aimed at gaining congressional authorization of the upper Colorado River water storage and power projects.

A devoted member of his church, Mr. Evans organized the worldwide public relations campaign (1956-68) for the Mormon Church which played a role in making it among the fastest growing Christian faiths in the world.

Highly regarded and respected by his peers, David W. Evans gave freely of his time to worthwhile community functions and to the advertising industry. He was a member of the executive board of the Great Salt Lake Boy Scouts Council, an executive board member of Ballet West, and a member of the Utah State University Board of Trustees.

I also feel a personal sense of loss at the passing of Dave Evans. As long as I have been in public office, he has been a man who I could—and often did—rely on for sound advice and counsel. In addition, he was my father's friend. They both graduated from L.D.S. High School in the class of 1912.

My heartfelt sympathy is extended to his widow and lifelong companion, Beatrice Cannon Evans, and their five sons.●

TAX ATTITUDE

● Mr. GRASSLEY. Mr. President, in studying the flat tax issue, I have come to realize that any transition from our present tax system to a flat-rate system would be complex indeed. The fact that there would be clear winners and clear losers makes the process difficult.

In any case, these difficulties should not deter us from our basic tax reform goals: efficiency, fairness, simplicity, low rates, and neutrality.

Mr. President, I ask that an article from yesterday's Wall Street Journal, describing a flat-rate system in operation in Hong Kong, be reprinted in the RECORD at the conclusion of my remarks for the benefit of my colleagues. This article brings home the importance of flexibility in a low-tax, broad-based system.

A flat-tax system need not be absolutely pure to be efficient, simple, neutral, and so on. Infinitely more important is the presence of a sound tax attitude on the part of the general public, and especially of those who write and interpret tax legislation. Before we undertake tax reform legislation, we must reassert basic economic principles and then work to preserve them through a restructured tax code. There must be an awareness of how to treat income, savings, investment, consumption, capital, and so forth. We must reinforce the attitude that work and savings are desirable. This is the best possible way to accomplish our goals of tax reform and to preserve what we have accomplished.

The objectives of tax reform must be to channel available wealth into more productive areas, and to facilitate the creation of new wealth to again be channeled into productive sectors. This can be accomplished through low-tax rates and a neutralized tax base. Lower tax rates encourage production and raise after-tax income. Neutrality channels that income into productive, market-efficient segments of the economy. Presently, high tax rates discourage productivity and savings while the bias toward debt and consumption cause market disequilibria, distortions, and inflated prices.

That is not to say that we cannot show flexibility in our restructured tax system. Allowing tax exemptions

for charity and for elderly care is a noble practice. Furthermore, there is nothing economically unsound about this kind of exemption or deduction. Most arguments against retaining the charity deduction center on the inevitability of other exemptions and deductions finding their ways into the tax code once the precedent has been established. In the pursuit of basic social objectives, we must overcome that fear. So long as these goals are not burdensome and costly, we should remain flexible. The key is not to turn our backs on social goals. The key is to create an awareness of why tax reform is necessary, why reform should lead to a work-and-save tax code. This awareness will help cultivate a desirable tax attitude that will temper our flexibility with prudence.

Mr. President, I hope that as we continue to study the feasibility of broad-based, low-rate tax reform in the Senate, we will keep in mind the goals of reform rather than simply the design of reform. We must develop here, first, a favorable tax attitude toward income, savings, and production. This is a necessary precondition for meaningful tax reform. Without a favorable tax attitude we are doomed, no matter how extensive the tax reform, to the inefficiencies and inequities of the present system.

The article referred to follows:

[From the Wall Street Journal, Aug. 9, 1982]

HONG KONG'S FLAT TAX: A MODEL FOR OTHER COUNTRIES?

(By Robert Keatley)

HONG KONG.—No one likes to pay income tax, and those who must pay the most seem to like it least.

This helps explain why the flat-tax folks are enjoying a boomlet in the U.S. Advocates of lower income tax rates—ones which would eliminate most or all personal deductions—have made their cause fashionable in and out of the U.S. Congress. They argue nobly that lower tax rates, uniformly applied, would reduce tax abuse and unleash productive forces that in the long run would make everyone richer.

Less often conceded, except in denials, is the greed factor. Many upper income earners believe their tax bills would drop if rates were lowered, even if deductions were cut and loopholes closed. In addition, of course, there is widespread belief that the U.S. income tax system, like those of many other industrial nations, is unfair, complex and economically stifling.

"Our present taxing system has become a labyrinth for the wary and unwary alike, filling endless volumes with its exceptions to exceptions, and indecipherable differentiations in the way we tax various sources of income," complains Sen. Dennis DeConcini (D., Ariz.) on behalf of a cause which is uniting political liberals and conservatives these days.

And like some other flatter-tax advocates, Sen. DeConcini cites the Hong Kong experience as a model the U.S. might well copy. If so, it would seem equally applicable to other industrial nations, where taxes are also high and systems complicated, and to many de-

veloping states, whose confiscatory tax systems produce insufficient revenue but excessive abuse.

There's no doubt that Hong Kong taxes are low and simple. Few personal deductions exist, and family allowances help only low-income earners. The maximum individual rate is 15 percent of taxable income, and there is no tax at all on overseas earnings, capital gains or dividends. Businesses can deduct all legitimate operating expenses, plus 55 percent of their capital investments in the first year, from gross income; they pay only 16.5 percent tax on the rest.

An official synopsis of all Hong Kong taxes fills only 12 small pages, plus a paragraph, of an information pamphlet. A simple three-page tax form covers liability on salary, business, property and interest income. A single additional page explains how to use the form.

Thus a closer look does seem warranted. But a caution is in order. Salary and profit taxes here don't produce nearly enough income to finance the Hong Kong government's operations, even though social services range from minimal to inadequate by modern standards. Salary taxes account for only 11 percent of total government revenue, while business profit taxes add a further 20 percent. This means the vast bulk of revenue must be found elsewhere, including from land sales—a source not open to many states.

Even so, the Hong Kong tax structure is one of the world's few examples of a (relatively) flat tax in action, and some of its terms meet objections that American critics often raise.

For example, Hong Kong permits charitable deductions. An earner here can donate up to 10 percent of his salary to approved charities—the government publishes a list—and deduct that amount from taxable income. This cuts his tax bill somewhat, but still means up to 85 percent of the gift must come from his own pocket. Most American flat-tax proposals don't permit such deductions, which worries private foundations and charities.

The only other deductions permitted are personal and family allowances, extremely generous by international standards. At current exchange rates, a single person pays nothing on his first \$4,670 of salary; a family of four can exclude \$11,600. Amounts above that are taxed at increasingly high rates until all benefits of family allowances are wiped out. From that point, the taxpayer pays the maximum effective tax of 15 percent on gross earnings (minus only charitable contributions). At present, the full 15 percent rate takes hold at the \$20,000 mark for single people and at \$39,000 for a family of four.

To discourage large families, crowded Hong Kong scales down allowances from \$1,330 for the first child to only \$165 for the seventh and beyond. To encourage private care of the elderly, an allowance of \$1,330 can be taken for each parent supported by family members.

That's it. There are no tax shelters, no deductions for interest payments nor other ways for most to dodge the assessors. The low rates and high personal deductions mean only 218,000 of a 5.2 million population will pay regular salary taxes this year, though 66,000 more will pay under a "personal assessment" provision which can reduce tax bills somewhat.

However, the system does permit some tax avoidance. A wealthy shipowner, for example, could incorporate his vessels in offshore

tax havens, register them in flag-of-convenience locations and collect earnings as dividends. This would let him avoid paying anything significant toward upkeep of any part of the international economic system which brings him great wealth and social prestige.

But the Hong Kong experience indicates there's no reason to be doctrinaire about a flat-tax system. Business profits are taxed at higher rates than personal salaries. This colony taxes large estates—anathema to some flat-tax ideologues—at rates from 10 percent to 18 percent, beginning at the \$333,000 mark. (But the "principal matrimonial home" is excluded.) Though committed to the free market system, Financial Secretary John Bremridge stresses Hong Kong is "ordinarily non-interventionist but certainly not laissez-faire. The approach is more flexible than ideological.

This attitude could bring higher taxes in the years ahead. Local demand for social services is growing, and more money could well be channeled into education, medical programs or pensions. Government spending already equals 24 percent of the gross domestic product, up from 17 percent five years ago, and the trend continues.

Yet the underlying philosophy here is to have low taxes on high prosperity, an approach that isn't endangered. Moreover, spending plans remain closely tied to revenue prospects; Mr. Bremridge, like other government officials, believes long-term deficit spending is dangerous and cites the poor status of Western economics as proof.

A Hong Kong-type tax structure might give such economies their needed boost, as advocates claim. But rates would probably have to be higher if existing programs are to be financed. "If you need money, you don't get it from the rich," warns the blunt Mr. Bremridge. "There aren't enough of them." He believes a Hong Kong-type tax system would be more right for industrial states than the fiscal messes they now administer, but warns a switch wouldn't be easy and might be no panacea.

But experience here warrants close study by those who seek basic revisions. If nothing else, it proves a simple system with low rates can be applied with flexibility. Terms can be adjusted for social as well as fiscal reasons without compromising basic goals or wallowing in pointless doctrinal disputes.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Diana Hamilton of the staff of Senator RIEGLE, George Dahlgren of the staff of Senator DIXON, Mary Moses of the staff of Senator QUAYLE, Terry Spillsbury of the staff of the Com-

merce Committee, Dan McNamara of the staff of Senator DURENBERGER, Bob Ziener of the staff of Senator KASTEN, and Tim Bergan of the staff of Senator BOSCHWITZ, to participate in a program sponsored by a foreign government agency, the Canadian National Harbors Board, in Montreal, Canada from July 8 to 11, 1982.

The committee has determined that participation by the above-named staff members, at the expense of the Canadian National Harbors Board, to discuss the St. Lawrence Seaway and transportation problems, is in the interest of the Senate and the United States.●

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. TOWER. Mr. President, I ask unanimous consent that, pursuant to the previous order, the Senate stand in recess until 9:30 a.m. tomorrow.

There being no objection, at 10:01 p.m., the Senate recessed until tomorrow, Wednesday, August 11, 1982, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate August 10 (legislative day, July 12), 1982:

THE JUDICIARY

Thomas F. Hogan, of Maryland, to be U.S. district judge for the District of Columbia vice William B. Bryant, retired.

Alex Kozinski, of the District of Columbia, to be a Judge of the U.S. Claims Court for a term of 15 years vice a new position created by Public Law 97-164.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. John L. Piotrowski, xxx-xx-xx... FR, U.S. Air Force.

IN THE ARMY

The following-named officer, under the provisions of title 10, United States Code, section 3015 to be Chief, National Guard Bureau:

To be chief, National Guard Bureau

Maj. Gen. Emmett H. Walker, xxx-xx-xx... Army National Guard of the United States.

The following-named Army National Guard of the United States officer for appointment to the grade of major general as a Reserve commissioned officer of the Army under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Herbert R. Temple, Jr., xxx-xx-xx...

IN THE AIR FORCE

The following Air National Guard of the United States officers for promotion in the Reserve of the Air Force under the provi-

sions of section 593(a) title 10 of the United States Code, as amended.

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Clayton B. Anderson, xxx-xx-xxxx
 Maj. George C. Arvanetaki, xxx-xx-xxxx
 Maj. George D. Brooks, xxx-xx-xxxx
 Maj. Raymond A. Cline, Jr., xxx-xx-xxxx
 Maj. John J. Collins, xxx-xx-xxxx
 Maj. David J. Coons, xxx-xx-xxxx
 Maj. John R. Daigneau, xxx-xx-xxxx
 Maj. Michael R. Denton, xxx-xx-xxxx
 Maj. Gary W. Felstead, xxx-xx-xxxx
 Maj. Duane A. Fitch, xxx-xx-xxxx
 Maj. Robert F. Francoeur, xxx-xx-xxxx
 Maj. Timothy J. Griffith, xxx-xx-xxxx
 Maj. Paul R. Haith, xxx-xx-xxxx
 Maj. William L. Howland, xxx-xx-xxxx
 Maj. James W. Lundy, xxx-xx-xxxx
 Maj. Kenneth M. Mathias, xxx-xx-xxxx
 Maj. Edward G. Moran, xxx-xx-xxxx
 Maj. Richard Norwood, xxx-xx-xxxx
 Maj. Charles E. Porter, xxx-xx-xxxx
 Maj. Douglas J. Scott, xxx-xx-xxxx
 Maj. Mary C. Small, xxx-xx-xxxx
 Maj. Larry D. Snody, xxx-xx-xxxx
 Maj. Thomas E. Stephens, xxx-xx-xxxx
 Maj. James E. Wiseman II, xxx-xx-xxxx

MEDICAL CORPS

Maj. Pomp T. Carney, xxx-xx-xxxx
 Maj. Gerald D. Loos, xxx-xx-xxxx
 Maj. Hugh E. McGee, Jr., xxx-xx-xxxx

LEGAL

Maj. Michael L. Cruse, xxx-xx-xxxx
 Maj. Terrence P. Woods, xxx-xx-xxxx

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States, in their active duty grades, under the provisions of title 10, United States Code, sections 531, 532, and 533:

Colonel

Porter, Robert O., xxx-xx-xxxx

Lieutenant colonel

Smith, Edward F., xxx-xx-xxxx

Major

Davis, Rudy P., xxx-xx-xxxx
 Herod, Herbert L., xxx-xx-xxxx
 Jones, Lafayette, Jr., xxx-xx-xxxx

Captain

Duque, George M., xxx-xx-xxxx
 Kayfetz, Richard, xxx-xx-xxxx
 Sharp, Robert A., xxx-xx-xxxx

IN THE NAVY

The following-named commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of captain in the Staff Corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

MEDICAL CORPS

Captain

Arzola, Javier Arquimedes
 Bauer, Earl A., Jr.
 Bernstein, Sidney Steman
 Bigley, Harry Alan, Jr.
 Broadley, Paul Hickman
 Burkle, Frederick Martin, Jr.
 Burvant, Michael Urban
 Fowler, James Raymond
 Gansa, Alexander Nicholas
 Haney, J. F. B.
 Huff, Carl Wayne
 Jones, Alan Clifford
 Levine, Michael Jay
 Moran, Thomas Edward
 Newman, Cyril
 Proctor, Jack D.
 Schroder, Paul Erwin

Smith, Arthur Mattus
 Stuckey, Charles Edward
 Villadiego, Rafael E.
 Wallin, Gene Ambrose
 Watterson, Samuel George
 Zaroulis, Charles G.

SUPPLY CORPS

Captain

Alwine, Paul R., Jr.
 Barr, Charles V.
 Bartuska, Anthony John
 Benton, Gordon J.
 Bolin, James H.
 Booth, Henry Adolph, Jr.
 Brill, Henry Fred
 Budill, Edward Joseph, Jr.
 Chapman, William D.
 Connell, James Joseph
 Floyd, Edward T.
 Gilman, Joseph
 Hecker, Robert Wyatt
 Herndon, David Lewis
 Hillman, Tatnall Lea
 Hoover, Marcus Gray
 Hutchinson, Thurlow Q.
 Kane, John J.
 Levinson, Henry Gerald
 Loreen, Jon Michael
 Mitchell, Arthur Jonathan
 Modell, Robert Leonard
 Morgan, Ronald G.
 Morse, Gary Allan
 Mulhern, John J.
 Noel, Wilbert E.
 Pfund, Gale Arlo
 Price, Jacob Morris
 Priest, William G., Jr.
 Riggs, Richard William
 Riordan, John Joseph
 Soletti, Lawrence A.
 Titus, Robert George
 Vanness, Robert L.
 Waite, Richard, IV
 Warrick, James Craig
 Webb, Evans W.
 Wright, William Ross

SUPPLY CORPS (TAR)

Captain

Elliott, Richard E.

CHAPLAIN CORPS

Captain

Awes, Vernon Edward
 Conn, George Malrice, Jr.
 Cronin, Hugh John
 Lundeen, Lyman T.
 Peters, Frederick John
 Shaner, Donald Wayne
 Strickland, William J.

CIVIL ENGINEER CORPS

Captain

Aaron, Lawrence Edward
 Bader, Robert Housel
 Bridges, Donald Norris
 Hinkle, Daniel Eaxter
 Maddox, Robert Gilmer
 Miller, Charles Donald
 Pickrell, John Henry
 Smith, Gerald
 Walter, Richard Joseph
 Wolfram, Carl Bruno

JUDGE ADVOCATE GENERAL'S CORPS

Captain

Adams, Joseph A., Jr.
 Bales, John Albert
 Brant, Kirby Ensign
 Elide, David Benjamin
 Evans, John Arlen
 Feldman, Joel Martin
 Flanagan, Hugh Michael
 Galliani, William Rudolf
 Gehrke, Harold Dennis

Hamner, Elmer Duncan, Jr.
 Hetherington, John W.
 Jakaboski, Sheodore P.
 Jones, Taylor Webb
 Koenig, Rodney C.
 Lanza, Carl Francis, Jr.
 McAuliffe, William C., Jr.
 Nobles, Eric Arthur
 Psihas, Andrew Peter
 Rabideau, Clarence J.
 Roberts, Charles Pinckney
 Schumacher, James Joseph
 Smallmon, John William
 Wimberly, Bennie Charles

DENTAL CORPS

Captain

Balmforth, John Bernard
 Bennett, Steven Laurel
 Brown, William Dean
 Cimino, Samuel Peter
 Crowell, Nelson Thomas
 Emery, Lee Edward, Jr.
 Ennis, Richard Jerome
 Eure, Darden Johnson, Jr.
 Kumamoto, Steven Yoshikazu
 Mallander, Gary Dean
 Moutos, Minelads George
 Murphy, Richard Thomas
 Pebbles, Harold Alba, Jr.
 Smith, Charles Luther, Jr.
 Sweeney, James Michael
 Vick, John Bennett
 Williams, Alvin Richard
 Yavel, Robert Paul

MEDICAL SERVICE CORPS

To be captain

Carrera, Richard Nestor
 Davis, Linda Jane
 Earle, Alvin Mathews
 Sagan, William
 Sager, Kenneth Bernell

NURSE CORPS

To be captain

Haubenreich, Catherine Ruth
 Ryan, Dorothy Angela
 Ward, Judith Ann

The following-named lieutenant commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of commander in the staff corps, as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

MEDICAL CORPS

To be commander

Abdon, Soledad V.
 Aldana, Zena Ida H.
 Allen, James W., Jr.
 Aziz, Abdul
 Bauerle, Leonard C.
 Borlongan, Ofelia Maralit
 Bosworth, William Posey
 Brown, Malcolm Dewitt
 Chan, Yung Cheung
 Dalakis, Helen
 Druckemiller, William H., Jr.
 Esperanza, Bonifacio Coloma
 Foster, John Watkins
 Galang, Remedios Navarro
 Goodrum, James K.
 Gupta, Alicja Urszula
 Jensen, Christian Edward
 Johnson, Charles M., III
 Jurjescu, Octavian
 Kambic, Anne R.
 Khalil, Mostafa Ibrahim
 Krauss, Jonathan Seth
 Lasquety, Ludovico Z.
 Lotsu, Solace M. A.
 Makino, Ryoji
 Matthews, David C., Jr.

McNeil, Harold Gordon
McPike J. Donald, Jr.
Moser, James Robert
Padua, Federico Pasudag
Pantera, Richard L., Jr.
Punzalan, Rodolfo Vallejos
Rahimian, Ozra Soraya
Ramsay, David L.
Ranck, Sidney Graydon, Jr.
Stone, James R.
Straughn, William R., III
Taylor, Norman W.
Vanmeter, Charles Jackson, Jr.
Yuen, Michael Hak Lai

SUPPLY CORPS

To be commander

Ackermann, William Charles
Aljoe, Daniel William
Allan, James Scott
Allen, Arthur Knight
Allen, Brian Stanley
Allen, Bruce Leroy
Amour, Gilbert Neal
Appel, George Christian
Arendt, Kenneth E.
Artherholt, Michael Lee
Bachman, Richard Bruder
Baker, William John
Ballou, Charles Wilkins
Barry, Edward Joseph
Barth, Webster Ewing, III
Bentley, Brian Smith
Boal, Donald Stuart
Bogart, James Russell
Bohm, Dwight Keith
Boman, Roger Lyon
Bourke, James Patrick
Boyarski, John R.
Brock, Douglas Alan
Blennagel, George David
Casey, William John
Cavanagh, Arthur L., III
Chronister, Carl Stewart
Cobb, Francis Reilly
Collins, Larry Carver
Cook, Charles D.
Cornie, Robert Lynn
Crellin, Thomas Earle
Cumesty, Edward George
Dintaman, Roger Louis
Dodson, John Roger
Donegan, George Joseph, Jr.
Driscoll, Philip Thomas
Dunnavant, David Earl
Eamigh, John Relon
Emmons, John Faum
Farkas, James Anthony
Fassnacht, David Gilmore
Field, Leroy Frank, Jr.
Finch, Gerald Licyd
Finefield, Anthony Edward
Giacomini, Joseph Augustine
Gilbart, Gordon John
Gillespie, John Clement
Gottlieb, Harris Nathan
Goulet, Gerard Romeo
Graef, Donald Arthur
Greiner, William Reinhold, Jr.
Griffiths, William D.
Griswold, Robert Edward
Guy, William Edwin, Jr.
Hall, Michael Robert
Hand, Edward Francis
Hanlin, John Paul
Harden, David Theodore
Harris, John W.
Harris, Ronald Samuel
Harty, James Patrick
Hayne, Robert Tenbrook
Hayslett, Roderick J.
Hemmy, Victor H., Jr.
Henderson, James Patrick
Hummer, Robert Charles
Hupp, Thomas Feiller

James, William Granville
Karsner, Garry Lee
Kaye, Larry James
Kelley, Henry George
Kelly, Thomas Andrew
Kice, Charles Jeffrey
Kingen, Thomas Frederick
Knudson, Richard Theodore
Kotys, William Nicholas
Kule, Christopher Anthony
Lang, Eugene Cottrell, Jr.
Lillquist, David Bartley
Lindstrom, Kenneth Wayne
Lundell, Douglas
Maier, Paul Victor
Martin, William Brian
Mathews, Gerald Kenneth
Maxwell, David Everett James
Mayhew, Patrick James
McAllister, John James, Jr.
McKellar, Robert Rhodes
Menard, Ronald M.
Middleton, George Robert
Miller, David Lee
Minaudo, John Phillip
Mires, Arthur William, Jr.
Miri, John Nicholas
Mize, Robert Thomas
Morell, Robert Phillip
Moser, Daniel Earl, Jr.
Murphy, John
Murray, William Michael
Nierman, William Charles
O'Bryon, Tom Watson, II
Odachowski, Edward Joan, Jr.
Odonnell, Robert Erwin
Overson, Alonzo Robert
Owens, James David
Perkins, James McArthur
Perkins, John Barnard
Peters, Robert Allen, Jr.
Phares, Robert Charles
Potter, David Andrew
Powers, Dennis Michael
Powers, James Bruce
Qualls, David William
Ramsey, Danny Dick
Randall, Ellsworth James
Reed, Wallace Smart
Rider, Richard James
Roby, Jeffrey Paul
Rodolico, Rhody James
Ross, Lewis Williams, Jr.
Rost, David Larry
Rouzer, William Wolf
Royal, William Appleby
Ruch, Thomas Lee
Rudy, John Charles
Ryan, James Arthur
Sarbello, Joseph Samuel
Satir, Stephen Morris
Sato, Kenneth Kenichi
Sepoich, Carl Victor
Shaeffer, John Michael
Shorter, James Russell, Jr.
Sims, Joseph Roy
Sisola, Gregory Douglas
Solie, Theodore Daniel, III
Sonnenberg, Robert W., Jr.
Spathelf, Frederick Carlton
Stanford, James Lawrence
Stewart, James Frank
Stout, Kenneth Dale
Taylor, Allen Griffith, Jr.
Taylor, Steven John
Tracy, Richard Tillotson
Traupe, Robert Lloyd
Tucker, Richard William
Twomey, Kevin Mitchell
Tyde, Stephen John
Varney, Philip Riggs
Vortmann, Thomas Allan
Weigle, John Michael
Weldon, Robert Donald, Jr.

Willcox, Kenneth Alan
Williams, John Leslie
Wood, Michael Gordon
Worsdell, Terry Allen
Worthen, Winston Kent
Zahn, Richard Lee

SUPPLY CORPS (TAR)

Commander

Griffith, Paul D.
Lemburg, Myrl Lee
Miller, Robert E.
Pearson, Douglas Roland
Pretulak, Ronald T.
Wagner, William A.

CHAPLAIN CORPS

Commander

Dean, John Cramer
Goldstein, David S.
Hearl, Alan Frederick
Morrison, David Richard
Padgett, Clarence Dixon
Westerhoff, Robert Ralph

CIVIL ENGINEER CORPS

Commander

Anderson, Curtis Wilford
Andres, Gary Howard
Behounek, Charles Joseph
Bredahl, Timothy Donn
Delciotto, Joseph John, Jr.
Delwiche, David Edmund
Dickerson, Jerauld Lee
Elsner, Bruce Paul
Gabrielson, Edward Maler
Graham, Robert Kenneth
Gruel, Larry Howard
Hall, Albert Brown, III
Heinstact, John Powers
Hoversten, William August J.
Ishihara, James
Johnson, Richard Keith
Lombardi, Charles Guthrie
Lynch, John Walter
Miller, Richard Howard
Nichols, Thomas Bruce
Nielsen, James Niels
Norman, Richard Melton
Osgood, Frederick J.
Painter, Dennis Wayne
Phillips, David Wharton
Price, David Andrew
Royal, Clifford Harper
Schultes, Daniel Thomas
Smith, Robert Frank
Steere, David Bennett
Stegmiller, John Richard
Stitle, Harry Mariam, III
Tyner, Weldon Harry, Jr.
Webber, Raymond Paul
Werner, Jack Allen
White, Dean Kimball
Wills, Winston Douglas
Winesett, Robert Davis, Jr.

JUDGE ADVOCATE GENERAL'S CORPS

Commander

Allison, Richard Harvey
Amelka, Walter Stephen
Arledge, George Edward
Atherly, Harold Ervin
Baker, Bruce T.
Bell, Thomas Porter, Jr.
Bretz, Charles George, Jr.
Brown, Gary L.
Carletti, James Silvio
Conliffe, Frank K.
Costello, Paul K.
Doherty, Daniel Bruce
Dosh, Lowell John
Francke, James M.
Haskell, Daniel Mark
Hendricks, Ronald Lee
Isom, Charles E.

Jones, James Edwin
 Levin, Roger
 Livesey, James Eugene
 McCarthy, Justin John
 Meeker, Theodore Greene
 Mutzebaugh, Richard Frances
 Read, Dale W., Jr.
 Renton, William James
 Riepe, Michael A.
 Roedersheimer, Charles J.
 Schexnayder, Thomas Florent
 Showalter, John Stuart
 Skone, Edward Robert
 Sollecito, Daniel V.
 Sturek, Clifford Joseph
 Traeger, Louis Victor
 Warner, Robert Sands, Jr.
 Wegener, Edmund T., Jr.

DENTAL CORPS
Commander

Bateman, John K.
 Berick, Joel David
 Biddulph, John Wesley
 Bonebreak, Byron Austin, Jr.
 Burjetka, Mira George
 Cottone, James Anthony
 Creal, Stephen M.
 Dembinski, Thomas H., II
 Dorr, Charles Henry, Jr.

Eickenhorst, Julius Wayne
 Henkle, Hubert Allen
 Hull, Thomas Edwin
 Larkin, George Francis, Jr.
 Latimer, Louis Steven, II
 Marini, Ronald Michael
 McCann, David Thomas
 Menser, Daniel H.
 Moore, Alfred Phillips
 O'Boyle, Ronald C.
 O'Leary, Kevin John
 Petersen, Byron Thad
 Peterson, Howard C., Jr.
 Phreaner, Robert John
 Polifko, Michael, III
 Reifensahl, Dean Clay, Jr.
 Rothstein, Jerome Philip
 Sharp, Bobby Montgomery
 Sliwa, Norman William
 Spangler, David James
 Springstead, James Merritt

MEDICAL SERVICE CORPS
Commander

Perry, Joel Wayne
 Rose, Charles Samuel
 Sawyer, Dennis Lee
 Williams, Lionel Augustus J.

NURSE CORPS
Commander

Baker, Shirley Anne
 Ballew, Carol Marie
 Burns, Patricia L.
 Buser, Carol Ann
 Craig, Doris Josephine
 Dahlgren, Sarah Shepard
 Eschenbaum, John Melvin
 Foster, Arline P.
 Gillchrest, Anita M.
 Hazelwood, Dorothy Bean
 Levin, Joanne
 Pedmo, Richard Paul
 Rosenberger, Carol A.
 Sherman, Thomas Phillip
 Skipworth, Nancy Stolare
 Smith, Marilyn Anderson
 Stuebe, Judith M.
 Sutherland, Sandra Fiser
 Taylor, Louise Ann
 Watson, Patricia James

IN THE MARINE CORPS

Capt. Truman W. Crawford, USMC, for appointment to the grade of major (temporary) while serving as the Director of the Marine Corps Drum and Bugle Corps in accordance with article II, section 2, clause 2 of the Constitution.

HOUSE OF REPRESENTATIVES—Tuesday, August 10, 1982

The House met at 10 a.m.

Rabbi Israel Miller, senior vice president, Yeshiva University, New York, N.Y., offered the following prayer:

Almighty Father in Heaven, we acknowledge Thy presence and bow our heads in prayer before Thee, our Maker. Even as we bow our heads, we lift our hearts in thanksgiving for the opportunities granted this body to lead and legislate for the benefit of all the people. May we use our resources resourcefully. Grant us, O Lord, the faith, strength, and courage to face the challenges which confront us and the knowledge and skill to conquer them.

We pray for our country and the ideals of liberty and freedom here enshrined. We pray that man's inhumanity to man may forever end. May we realize that we are closest to Thee when we are nearer to our fellow human beings, helping all who are in distress and sorrow.

May peace and justice be our calling, and the Earth be full of knowledge of Thee as waters cover the sea.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. HUNTER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. HUNTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 287, nays 25, answered "present" 2, not voting 120, as follows:

[Roll No. 252]

YEAS—287

Addabbo	Archer	Bedell
Albosta	Ashbrook	Benedict
Alexander	Aspin	Benjamin
Anderson	Badham	Bennett
Annunzio	Bailey (PA)	Bereuter
Anthony	Barnard	Bethune

Bingham	Hall, Sam	Nowak
Bliley	Hamilton	O'Brien
Boggs	Hammerschmidt	Oakar
Boland	Hance	Obeys
Bouquard	Hansen (ID)	Oxley
Breaux	Hansen (UT)	Panetta
Brinkley	Hartnett	Parris
Brooks	Heckler	Pashayan
Broomfield	Hefner	Patman
Brown (CA)	Hendon	Patterson
Brown (CO)	Hightower	Paul
Broyhill	Hill	Pease
Burton, Phillip	Hillis	Pepper
Campbell	Hollenbeck	Perkins
Carman	Holt	Petri
Chapple	Hopkins	Peyser
Clausen	Horton	Pickle
Clinger	Howard	Porter
Coats	Hoyer	Price
Coleman	Hubbard	Pritchard
Collins (IL)	Huckaby	Rahall
Collins (TX)	Hughes	Rangel
Corcoran	Hunter	Ratchford
Courter	Hutto	Regula
Coyne, James	Hyde	Reuss
Coyne, William	Jeffords	Ritter
Craig	Jones (NC)	Roberts (KS)
Crane, Philip	Jones (OK)	Roberts (SD)
D'Amours	Jones (TN)	Robinson
Dannemeyer	Kastenmeier	Rodino
Daub	Kazen	Roe
de la Garza	Kennelly	Rogers
Deckard	Kildee	Rostenkowski
DeNardis	Kindness	Roukema
Derrick	Kogovsek	Roybal
Derwinski	Kramer	Rudd
Dicks	LaFalce	Russo
Dingell	Lagomarsino	Sawyer
Donnelly	Leach	Scheuer
Dorgan	Leath	Schneider
Dowdy	Lehman	Schulze
Downey	Leland	Schumer
Dreier	Lent	Sensenbrenner
Duncan	Levitas	Shamansky
Dwyer	Lewis	Sharp
Dymally	Livingston	Shaw
Dyson	Loeffler	Shelby
Early	Long (LA)	Shumway
Eckart	Long (MD)	Shuster
Edgar	Lowery (CA)	Simon
Edwards (CA)	Lowry (WA)	Skeen
Emery	Lujan	Skeltton
English	Lundine	Smith (AL)
Erlenborn	Lungren	Smith (IA)
Evans (IN)	Marriott	Smith (NE)
Fary	Martin (IL)	Smith (NJ)
Fascell	Martin (NC)	Smith (OR)
Fazio	Martinez	Smith (PA)
Fiedler	Matsui	Snowe
Findley	Mattox	Snyder
Fish	Mavroules	Solarz
Fithian	Mazzoli	Solomon
Florio	McCurdy	Spence
Foglietta	McDonald	St Germain
Foley	McEwen	Stanton
Fountain	McGrath	Stark
Fowler	Mica	Staton
Frank	Mikulski	Stenholm
Frenzel	Miller (CA)	Stratton
Frost	Mineta	Studds
Gephardt	Minish	Stump
Gibbons	Mitchell (NY)	Swift
Gingrich	Moakley	Synar
Glickman	Molinar	Tauke
Gonzalez	Mollohan	Tauzin
Gore	Montgomery	Taylor
Gradison	Moore	Thomas
Gramm	Moorhead	Trible
Gray	Morrison	Wampler
Gregg	Mottl	Waxman
Guarini	Murtha	Weaver
Gunderson	Myers	Weber (MN)
Hagedorn	Napier	Weber (OH)
Hall (OH)	Natcher	Whitehurst
Hall, Ralph	Nelligan	Whitley

Whittaker
Whitten
Williams (OH)
Willson
Winn

Wirth
Wolpe
Wortley
Wright
Wyden

Wylie
Young (FL)
Zablocki
Zeferetti

NAYS—25

Atkinson
Bailey (MO)
Barnes
Butler
Clay
Coughlin
Dickinson
Emerson
Evans (IA)

Fields
Gejdenson
Goodling
Harkin
Johnston
Latta
Luken
Miller (OH)
Mitchell (MD)

Murphy
Roemer
Roussellot
Sabo
Schroeder
Walker
Washington

ANSWERED "PRESENT"—2

Oberstar

Ottinger

NOT VOTING—120

Akaka
Andrews
Applegate
AuCoin
Bafalis
Beard
Bellenson
Bevill
Biaggi
Blanchard
Bolling
Boner
Bonior
Bonker
Bowen
Brodhead
Brown (OH)
Burgener
Burton, John
Byron
Carney
Chappell
Cheney
Chisholm
Coelho
Conable
Conte
Conyers
Crane, Daniel
Crockett
Daniel, Dan
Daniel, R. W.
Daschle
Davis
Dellums
Dixon
Dornan
Dougherty
Dunn
Edwards (AL)

Edwards (OK)
Erdahl
Ertel
Evans (DE)
Evans (GA)
Fenwick
Ferraro
Flippo
Ford (MI)
Ford (TN)
Forsythe
Fuqua
Garcia
Gaydos
Gilman
Ginn
Goldwater
Green
Grisham
Hatcher
Hawkins
Heftel
Hertel
Holland
Ireland
Jacobs
Jeffries
Jenkins
Kemp
Lantos
LeBoutillier
Lee
Lott
Madigan
Markley
Marks
Marlenee
Martin (NY)
McClary
McCloskey
McCollum
McDade
McHugh
McKinney
Michel
Moffett
Neal
Nelson
Nichols
Pursell
Quillen
Rallsback
Rhodes
Richmond
Rinaldo
Rose
Rosenthal
Roth
Santini
Savage
Seiberling
Shannon
Siljander
Stangeland
Stokes
Traxler
Udall
Vander Jagt
Vento
Volkmmer
Walgren
Watkins
Weiss
White
Williams (MT)
Wolf
Yates
Yatron
Young (AK)
Young (MO)

□ 1015

Mr. ALBOSTA changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1193) entitled "An act to authorize appropriations for fiscal years 1982 and 1983 for the Department of

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

State, the International Communication Agency, and the Board for International Broadcasting and for other purposes."

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2774. An act to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

RABBI ISRAEL MILLER

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, we are privileged today to have as our guest chaplain one of the most distinguished members, one of the leaders, of the Jewish community in this country. He is senior vice president of Yeshiva University, Rabbi Israel Miller.

I have had the privilege of knowing Rabbi Miller as a friend since I first ran for Congress in 1964. He was for 27 years Rabbi of the Kingsbridge Heights Jewish Center in the Bronx, which is in my district. He was a chaplain during World War II in Europe. He has held numerous high positions, including president of the Rabbinical Council of America, chairman of the American Jewish Conference on Soviet Jewry, and chairman of the Conference of Presidents of the major American Jewish organizations, and many, many others. He has been honored with innumerable awards.

But the most important thing about Rabbi Miller is that he is one of the truly great human beings it has ever been my privilege to know.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS, 1983

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making appropriations for the Departments of Commerce, Justice, and State, the judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

Mr. CAMPBELL reserved all points of order on the bill.

The SPEAKER pro tempore (Mr. DE LA GARZA). Is there objection to the request of the gentleman from Iowa?

There was no objection.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, AND SUNDRY INDEPENDENT AGENCIES, BOARDS, COMMISSIONS, CORPORATIONS, AND OFFICES APPROPRIATIONS, 1983

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

Mr. COUGHLIN reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TODAY, TUESDAY, AUGUST 10, 1982, DURING CONSIDERATION OF LEGISLATION UNDER 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit today during consideration of legislation under the 5-minute rule for purposes of considering the Clean Air Act, H.R. 5252.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. EDGAR. Mr. Speaker, I object.

The SPEAKER pro tempore. The Chair will note those Members standing. There must be 10 objectors.

The Clerk will note the Members standing.

An insufficient number. The gentleman's request is granted.

Mr. EDGAR. Mr. Speaker, a parliamentary inquiry.

Mr. DINGELL. Regular order.

The SPEAKER pro tempore. The regular order was that the Chair has stated there was an insufficient number, and the gentleman's request is granted.

PARLIAMENTARY INQUIRY

Mr. EDGAR. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. EDGAR. Mr. Speaker, a unanimous-consent request was made that they not sit. There was an objection heard. The Speaker was not very clear in letting us know the action of 10 Members standing.

Mr. DINGELL. I ask for the regular order.

Mr. EDGAR. Those Members standing would have been sufficient had the

membership of the House known what the action was at that point.

The SPEAKER pro tempore. The Chair clearly stated it requires 10 Members. If the Chair is not mistaken, he mentioned it twice. There was not a sufficient number. The gentleman's request was granted.

UNNEGOTIATED SOCIAL SECURITY CHECKS

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, today I am introducing legislation which could provide millions of dollars to the social security trust funds without requiring payroll tax increases for American workers or benefit cuts for our retirees.

Every year millions of social security dollars are lost because people, for one reason or another, do not cash their checks. Because the checks are unnegotiated this money sits in the Federal Treasury doing nothing. The money is not transferred back to the social security trust funds nor does the money earn interest. This happens for two reasons: One, there is no limit on the life of a social security check. Also, the Treasury Department has no system for identifying social security checks from other Government checks. The worst part is that neither the Treasury Department nor the Social Security Administration knows for sure how much money is being lost from the trust funds. Estimates run between \$20 and \$30 million each year, and between \$200 million and \$600 million cumulative since the first social security checks were sent out in 1940.

The legislation I am introducing today would force the Treasury Department to establish and implement procedures to identify uncashed social security checks, would credit future uncashed checks back to the social security trust funds, and would authorize an appropriation to reimburse the social security trust funds for checks currently outstanding dating back to 1940. I am also calling on the GAO to make a precise determination of the amount of money that has accumulated over the years from these uncashed checks. With this knowledge we can reimburse the trust funds for the proper amount.

During this time when social security benefits are being threatened, my bill would provide a way to put social security money already collected to the use it was originally intended, and make sure that future uncashed checks will be reinstated to the appropriate accounts.

CLINCH RIVER BREEDER REACTOR PROJECT—AN UNJUSTIFIED BOONDOGGLE

(Mr. WOLPE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLPE. Mr. Speaker, despite the stated objections of over 100 Members of this House, last Thursday, the Nuclear Regulatory Commission granted a licensing exemption for the Department of Energy for the Clinch River breeder reactor project. DOE can now begin digging at the Clinch River site without the benefit of a construction permit.

Many of us in this body are very disappointed that this crucial licensing process has been set aside so that when the Clinch River project is once again debated on the floor of this body, its supporters can exclaim, "We can't terminate this project, we already have a hole in the ground."

However, despite this disappointment, I am convinced that when the Congress examines the latest evidence concerning the economics of this project, this body will reach the conclusion that it makes a lot more sense to fill in the hole at the Clinch River site than to spend billions of taxpayer dollars to continue this unjustified boondoggle.

MR. NOFZIGER SHOULD ADMIT HE IS WRONG

(Mr. GRAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRAY. Mr. Speaker, it is with a great sense of sadness and outrage that I come before the Members this morning as a result of an article in the Washington Post which said that Lynn Nofziger, long-time Presidential adviser and one of the architects of supply-side economics, is quoted as saying that he is returning to the Presidential fold to support the administration's tax bill. And when asked why he was doing so he said, "I am like a woman—I changed my mind."

Well, I simply would like to say to Mr. Nofziger, why does he not become just a person. If he is going to continue in this sexist vein, then he might as well "stand up like a man," and admit that he was wrong and changed his mind. Then he would show he is a real person.

T. OVERTON BROOKS VETERANS' ADMINISTRATION MEDICAL CENTER

(Mr. ROEMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, today I have introduced legislation which will

designate the Veterans' Administration medical center in Shreveport as the T. Overton Brooks Veterans' Administration Medical Center. This will serve as a tribute to one of the most distinguished men to have served in the U.S. Congress. Mr. Brooks' career in the Congress began in 1936, and he served for more than 20 years before his untimely death in 1961. He has left a record of achievement in the Congress which few have equaled. During those years in Congress, his efforts yielded benefits both for the people of his district and the Nation. Mr. Brooks was influential in winning approval to construct the Veterans' Administration hospital in his district. As well, he played a crucial role in efforts to build Barksdale Air Force Base and to make Fort Polk Army installation a permanent one.

A native of Shreveport, Mr. Brooks graduated with honors from the LSU Law School in 1923. He also served as commander of Shreveport's Lowe-McFarland American Legion Post.

I deeply believe that the tribute I have proposed here today is but slight recompense for the debt this country owes this fine statesman. It is a fitting and proper memorial to his legacy of service that we name and dedicate this medical center as the T. Overton Brooks Veterans' Administration Medical Center.

□ 1030

SOVIET ATTITUDE AWAITED AS HUNGER STRIKE ENDS

(Mr. FASCELL asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, I want to call the attention of our colleagues to the case of Yuri Balovlenkov, the Soviet citizen who was on a hunger strike because he could not get permission to emigrate from the Soviet Union to join his wife, a Baltimore nurse, in the United States. Yesterday, at her behest and because she deliberately took action to save his life, he finally terminated his 36-day fast. His wife told him that she had received assurances that he would soon be allowed to emigrate and rejoin her and their 2-year-old daughter in this country. Unfortunately, Mrs. Balovlenkov had received no such promises from Soviet authorities but, desperate to save her husband's life, she felt compelled to lie to him and say that she had.

Yuri Balovlenkov is one of the original members of the "divided families group"—Soviet citizens married or engaged to Westerners who together began a hunger strike on May 10. Since then, two of the group have emigrated and two others have been promised visas. Mr. Balovlenkov had ended his first fast on the 43d day

after he, too, was told that he would be allowed to leave. Soviet authorities, however, reneged on that pledge and, therefore, Mr. Balovlenkov renewed his fast. As of yesterday, he had not eaten anything for 80 of the last 94 days and has consumed no solid food since May 10. He is in critical condition and has, undoubtedly, suffered irreversible damage to his health. Medical authorities claim that the next week will be crucial.

Mr. Speaker, under the provisions of the 1975 Helsinki Final Act, the Soviet Union is obligated to "facilitate" the reunification of families and to deal in a "positive and humanitarian spirit" with requests for emigration from persons who wish to live with their relatives abroad. The point is, however, the Soviets have not changed their attitude nor their stripes. The Balovlenkov case is a vivid and tragic example of the callous disregard with which the Soviets view their international commitments. They would not do anything that any of us would consider humanitarian while Balovlenkov was on the hunger strike. Now that he is off the hunger strike, let us see if they are capable of honoring their commitments. They have an opportunity to make a humanitarian decision and I certainly hope they do. They should.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6070

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that my name be deleted as a cosponsor of H.R. 6070.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

UNFAVORABLE RESPONSE FROM CONSTITUENTS ON TAX EQUITY AND FISCAL RESPONSIBILITY ACT

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, within the next week House Members will be faced with an important decision: Whether or not to approve the conference report on H.R. 4961, the Tax Equity and Fiscal Responsibility Act. We will be asked, in the name of deficit reduction, to approve over \$20 billion in new taxes next year, and nearly \$100 billion over the next 3 years. Many of us on both sides of the aisle will either remain consistent with the tax policies we espoused in coming into the 97th Congress, or we will confuse our conservative constituents who sent us here to cut spending and taxes.

I come before the House today to share with my colleagues what some Americans are saying about this legis-

lation. There are few better reasons for supporting or opposing a bill than reflecting the views of those you represent.

Since early May, when Congress began considering new taxes in the budget, I have received more than 850 letters and phone calls from my constituents on the tax proposals under consideration. Over 90 percent of those Virginians oppose one or more provisions of H.R. 4961, while less than one-half of 1 percent favor any of the bill's provisions. That means that only seven people in the city of Richmond and Chesterfield and Henrico Counties have felt supportive enough of this legislation to ask me to support it.

While you may have received far more letters and calls, I believe these numbers are significant. I wanted to take a minute to share with you what some Americans think about what Congress is doing, and urge you all to pay close attention to your constituents' concerns when the matter comes before the House for our one vote. The people you represent will appreciate it.

DISAPPROVING CERTAIN REGULATIONS WITH RESPECT TO EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981

Mr. PERKINS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 388) disapproving certain regulations submitted to the Congress on July 29, 1982, with respect to the Education Consolidation and Improvement Act of 1981.

The Clerk read as follows:

H. CON. RES. 388

Whereas the Secretary of Education on July 29, 1982, submitted to the President of the Senate and the Speaker of the House of Representatives certain regulations with respect to the Education Consolidation and Improvement Act of 1981 pursuant to the Secretary's duty under section 431 of the General Education Provisions Act, and

Whereas the Congress, in the exercise of its authority under article I of the Constitution and in accordance with the procedure established by that section of the General Education Provisions Act for the safeguarding of that authority, has reviewed such regulations and finds certain of them inconsistent with the Act from which they must derive their authority: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That those regulations, submitted to the Congress on July 29, 1982, proposing to amend parts 74, 76, 78, 200, 201, and 298 of title 34 of the Code of Federal Regulations with respect to the Education Consolidation and Improvement Act of 1981 are disapproved by the Congress on the grounds of their inconsistency with the Act from which they derive their authority, and are returned to the Secretary of Education to be modified or otherwise disposed of as provided in section 431(e) of the General Education Provisions Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky (Mr. PERKINS) will be recognized for 20 minutes, and the gentleman from Pennsylvania (Mr. GOODLING) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 388, before the House today, disapproves the regulations for the chapter 1 and chapter 2 programs of the Education Consolidation and Improvement Act of 1981. These regulations were transmitted to Congress by the Secretary of Education and published in the Federal Register on July 29, 1982.

Mr. Speaker, disapproval of regulations is not an action to be taken lightly, but we in Congress cannot condone a situation where a Federal Department ignores the law when it writes regulations.

The Education Consolidation and Improvement Act was adopted last year. Chapter 1 amended the title I program for disadvantaged children under the Elementary and Secondary Education Act. Chapter 2 consolidated 28 categorical elementary and secondary education programs into a new State block grant.

The committee is recommending disapproval of the chapters 1 and 2 regulations because they are inconsistent with and contradictory to the authorizing legislation. This resolution enjoys bipartisan support and was reported unanimously.

The committee's disapproval of these regulations centers on the Department's contention in these regulations that the General Education Provisions Act does not apply to chapters 1 and 2. We believe that this interpretation flies in the face of the statutory language and congressional intent, which clearly show that the General Education Provisions Act is meant to apply to the Education Consolidation and Improvement Act.

The General Education Provisions Act contains several provisions important to the proper administration and smooth functioning of education programs at the Federal, State, and local levels. The first section of this act unequivocally states that it automatically applies to any Department of Education program except where specifically exempted.

The Education Consolidation and Improvement Act does not exempt chapters 1 and 2 from the provisions of the General Education Provisions Act. It merely limits the applicability of three specific sections of the General Education Provisions Act. Nowhere does it state that the other sections of

the General Education Provisions Act do not apply.

Our disagreement with the Department's position, while based on non-compliance with the statute, goes beyond the philosophical and legal issue of legislative authority. We are concerned about the impact on local education programs if the mandates of the General Education Provisions Act are shelved for the two largest Federal elementary and secondary education programs.

The General Education Provisions Act substantially affects the operation of Federal programs at the local and State levels. For example, it provides for advance funding of education programs, a provision vital to the stable planning of education programs before the school year begins. If the General Education Provisions Act does not apply, the advance funding provision, which many of us worked hard to get into law, could be abolished.

The General Education Provisions Act also includes key measures to control Federal paperwork, protect the privacy of student records, prohibit Federal control of education, and provide clear rules for Federal audits and enforcement.

The committee does not recommend this action without having attempted to inform the Secretary of our concerns, in a responsible fashion consistent with our committee's standard procedures for reviewing regulations. Following publication of the proposed regulations in February, I wrote Secretary Bell on April 13 and voiced the committee's view that the General Education Provisions Act is meant to apply to chapters 1 and 2. Congressman John Ashbrook, the primary sponsor of the Education Consolidation and Improvement Act, had expressed the same view last October during a public hearing on chapters 1 and 2.

Finally, I want to assure the Members that this is not a partisan attack on the administration's policy. My colleagues Congressman ERLBORN and Congressman GOODLING joined me in sponsoring this resolution, and I commend their leadership in this area. I should also note that our committee disapproved four sets of education regulations under the Carter administration.

Mr. Speaker, this body would not be doing its job if we did not exercise our disapproval authority when confronted with this sort of disregard for the statute and congressional intent.

I urge my colleagues to join me in protesting this action.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I simply want to join my colleague and point

out—I believe I am correct in saying—that the gentleman's counterpart, the chairman of the committee in the Senate, the Senator from Utah, is taking the same precise stand that the gentleman from Kentucky is taking. Is that correct?

Mr. PERKINS. That is correct.

Mr. SIMON. Mr. Speaker, it is important that we underscore the two points that the gentleman from Kentucky has made, and that is the advance funding which is so important to the schools of the Nation, and, second, the loss of any control we would have over regulations written by the Department of Education.

Mr. PERKINS. Mr. Speaker, the gentleman is absolutely correct. If they had their way and destroyed the forward funding, the schools throughout the Nation, those serving the poorest children, would not know from one year to the next what amount of money they would receive. It would really destroy the effectiveness of title I for the disadvantaged of the country.

The gentleman is correct on all the points he has made. I just cannot visualize the Supreme Court or the Congress or anyone else standing idly by and letting such a situation occur within the Department of Education and letting the Department of Education commit an overt act of this type which intrudes upon the rights of the Congress without the Congress taking action to set the house in order.

Mr. SIMON. Mr. Speaker, I commend my colleague, and I strongly support his stand. I hope this House will unanimously support that stand.

Mr. Speaker, I want to join my colleague from Kentucky, the distinguished chairman of the House Education and Labor Committee, in support of House Concurrent Resolution 388—disapproving the Department of Education's regulations implementing chapter 1 and chapter 2 of the Education Consolidation and Improvement Act of 1981. The issue before us today is simple—whether the Secretary of Education has the authority to decide whether or not the General Education Provisions Act (GEPA) may be ignored.

The General Education Provisions Act or GEPA as it is commonly known is an essential tool in Congress oversight of Department of Education administrative regulations. GEPA provides a fail-safe mechanism so that the legislative branch of the Government can assure that regulations issued by the Department conform to the law.

The Secretary of Education has decided that this act does not apply to the regulations he has promulgated to implement the new Education Consolidation and Improvement Act. The law however is clear. The General Education Provisions Act applies automatically to any program related to education. Whether the new law mentions

the general provisions or not makes no difference. It still applies.

Mr. Speaker, the regulations before us, designed to help implement the new title I law and the new block grant in education, must have the general provisions incorporated into them if local implementation of these laws is to remain orderly and smooth.

This is not a partisan issue. Our late colleague, John Ashbrook, stated last October in a public hearing that it was his belief that the general provisions do apply to the Education Improvement and Consolidation Act. And as recently as July 15, Senator ORRIN HATCH, chairman of the Senate Labor and Human Resources Committee, told the Education Department the same thing. This disapproval resolution has been introduced by our committee chairman and the ranking Republicans of the House Education and Labor Committee. It deserves your support.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the ranking minority member of the committee, the gentleman from Illinois (Mr. ERLBORN).

Mr. ERLBORN. Mr. Speaker, I commend the chairman of the committee for acting so quickly to bring this resolution to the floor. As a cosponsor of the resolution with him and the able ranking member of the Subcommittee on Elementary, Secondary and Vocational Education, the gentleman from Pennsylvania (Mr. GOODLING), I urge my colleagues to suspend the rules and agree to the resolution before us.

As in the past, we are faced with the need to take action to insure that decisions made by the Congress are not altered or flouted by unelected officials of the Education Department.

The General Education Provisions Act (GEPA) allows a two-House veto of any final regulations for education programs within 45 days after publication and transmittal to Congress. Ironically, were these regulations not to be challenged, that authority to disapprove ECIA regulations under the provisions of GEPA would be abrogated. This would result from the Department's interpretation—in the face of convincing evidence to the contrary—that GEPA is largely inapplicable to the Education Consolidation and Improvement Act.

We simply cannot let this practice of regulations writers rewriting the law continue. Especially egregious is the attempt in these regulations to eliminate the very section of the law we enacted (GEPA) that gives the Congress authority to exercise oversight over all education regulations. We would be abdicating our responsibility in this matter if we do not exercise this authority today. We have the ultimate responsibility for the regulations which flow from the laws we pass.

The chairman of the committee has explained that the applicability of three sections of the General Education Provisions Act is limited by the language of ECIA, and a fourth section is mentioned to clarify that all of that section would apply to ECIA without limitation.

The statute is silent with respect to the applicability of the balance of the provisions of GEPA. Yet, the Department takes the unsupportable position that we have repealed the more than 50 other sections of that law. I need not remind you that a strong legal presumption exists against legislative repeals by implication. But I would remind you that the Department knew virtually from the outset what the legislative intent was. And, in any event, there is no need to make presumptions when the principal author of a bill makes it clear he did not intend a wholesale repeal of the General Education Provisions Act, as was the case here.

In discussing the applicability of the General Education Provisions Act at a subcommittee hearing on October 6 of last year, the late Member from Ohio, Mr. Ashbrook, stated, and I am quoting him now:

The General Education Provisions Act (GEPA) is applicable, in whole, to the Education Consolidation and Improvement Act, unless (1) a provision of GEPA is made inapplicable by specific reference to ECIA, or (2) there is a provision or requirement in ECIA which supersedes a similar requirement in GEPA.

Frankly, Mr. Speaker, I believe this fact is understood by the people in the Department. They appear to be choosing, however, to use their rulemaking power to bring about a result not intended by the Congress. This is a use of that power that should not be condoned.

If the Department's interpretation is not challenged, the Congress will be denied the right to disapprove regulations governing Federal programs to assist educationally deprived children, as well as some 30 other programs in the education block grant we enacted last year even if we find those regulations inconsistent with the law from which they derive their authority, as we have here.

But denial of legislative oversight is not my only concern. The General Education Provisions Act contains many other important provisions. We enacted them for a purpose. If we ever want to repeal those provisions, we will do it by action of this Congress. We cannot permit it to be done by administrative fiat. Those other sections which would be deemed to no longer apply include the authority for advance funding, a prohibition against the use of appropriated funds for busing, and a prohibition against Federal control of education.

I urge my colleagues to approve House Concurrent Resolution 388 to insure that legislation we enact is correctly interpreted and administered accordingly.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. GOODLING. Mr. Speaker, I would like to reinforce the statements of my colleagues, the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS), and the ranking Republican member of the committee, the gentleman from Illinois (Mr. ERLBORN). I fully endorse their remarks and support the passage of House Concurrent Resolution 388.

The Secretary of Education has held that the General Education Provisions Act (GEPA) does not apply to the Education Consolidation and Improvement Act (ECIA). This interpretation not only complicates the administration of chapter I, which is the education for disadvantaged children, and chapter II, the education block grant, but it completely ignores the expressed intention of Congress.

Let me give the Members a quick overview of the facts which will prove my case. First of all, section 400 of GEPA makes GEPA applicable to all education programs unless there is a specific—and I repeat “specific”—exception in another statute.

□ 1045

ECIA has no such exception.

Second, the Secretary has the administrative responsibility at the Federal level, as contemplated in section 400(b) of GEPA.

Third, our late colleague, Mr. Ashbrook, specifically included in ECIA three sections of GEPA in order to limit the applicability. This carries with it the presumption that they would totally apply unless limited.

Fourth, Congress specifically used language in ECIA precluding certain ESEA title I sections. It would have done the same for GEPA if that were the intent.

Fifth, the rule of statutory construction is that all provisions which are, on their face, applicable, shall be followed, unless internally and explicitly contradictory. No contradiction exists here.

So, there is no question in my mind that the Department is totally wrong. Their argument is weak.

Of course OMB and the Department would like to remove the power of Congress to review and disapprove Department regulations. I suppose that is true of all Departments.

But we are the elected people; they are not. Certainly we are held responsible for what they do.

We have no way to assume this responsibility unless we have this opportunity to review and disapprove or approve.

So I would hope that we would unanimously pass this concurrent resolution because, as I said, in this case the Department is wrong.

I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I strongly urge the House to accept the recommendation of the House Education and Labor Committee and approve House Concurrent Resolution 388, which disapproves regulations for chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 (ECIA). The regulations were submitted to Congress by the Secretary of Education and published in the Federal Register on July 29, 1982. The very law which gives Congress the responsibility of formal review and comment on the regulations, the General Education Provisions Act (GEPA), is under attack by the Department of Education in these regulations. It is their contention that it does not apply to either chapters 1 or 2 of ECIA.

After a thorough review by the Subcommittee on Elementary, Secondary and Vocational Education on which I am privileged to serve, I have determined that the Department of Education's finding is not only inconsistent but totally contradictory with the authorizing statute, and to congressional intent. Section 400 of GEPA unquestionably has an all-encompassing applicability to all education statutes. It reads:

(b) Except where otherwise specified, the provisions of this title shall apply to any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law. (Sec. 400(b) of GEPA, 20 U.S.C. 1221 (b)).

The law clearly indicates that GEPA automatically applies to any program that is related to education, except where there are specific exemptions.

In fact, it is for the very situation we face today—one in which the executive branch has overstepped its authority and violated the intent of the law—that GEPA was put into the law in 1974. The administration, and more specifically the Department of Education, have made it well known that they do not want to be bound by GEPA. Given that they realize they have no chance of being successful in a legislative repeal of the provision, they are attempting this backdoor approach to deny its applicability over the two major elementary-secondary education programs. I am afraid that this is just the tip of the iceberg. There is no question that this administration has a strong philosophical belief about certain programs and overall patterns in the Department of Education, and now it is apparent that they will ignore the law to institute that philosophy. We need the benefit of the GEPA more than ever during the tenure of this administration, so that State and local school districts

can be protected from their indiscriminate disregard for the law and legislative history.

GEPA also provides for advance funding of education programs, a policy local school districts specifically requested so that they could better plan for their school year budgets. In addition, GEPA contains the important provisions controlling Federal paperwork, protecting the privacy of student records and pupil rights, prohibiting Federal control of education, and setting up procedures for the return of funds recovered from audits to grantees. Thus, my strong support of the committee's resolution to disapprove of the Department of Education regulations stems not only from my firm position on legislative prerogative, but a practical concern about the impact on local education programs if the GEPA statute is not followed.

It is imperative that the House disapprove these regulations—not only for the sake of legislative integrity, but to retain and strengthen the faith and good will the Congress has built up over the years with the education community throughout the Nation.

Mr. MOFFETT. Mr. Speaker, House Concurrent Resolution 388 is a resolution of disapproval of the final regulations for chapters 1 and 2 of the Education Consolidation and Improvement Act. After careful and close review of the regulations, the Committee on Education and Labor has reported that they are “inconsistent with and contradictory to their authorizing statute, the Education Consolidation and Improvement Act, and to the General Education Provisions Act.” I concur with the committee's findings and fully support its actions.

I must say that I have reservations about the legislative veto mechanism. The recent congressional veto of the Federal Trade Commission's used car rule was a shameful exercise, one which prompted me to file an amicus brief challenging legislative veto. However, one issue which became clear during the debate was that not a single Member of Congress alleged FTC violation of congressional intent in drafting the used car rule. In the case of the resolution of disapproval before us today, however, the Education and Labor Committee has clearly determined that the final chapters 1 and 2 regulations are inconsistent with the authorizing legislation. Under this circumstance, and given the sober and scholarly approach with which the committee approached the final regulations, I strongly support the resolution disapproval.

Congress has the responsibility of insuring that the laws it passes are properly carried out. Regrettably, the final education regulations at hand fall short of upholding the mandate of chapters 1 and 2 of the ECIA, forcing

Congress to take action. The basis of the disapproval resolution is the Secretary of Education's contention that the General Education Provisions Act (GEPA) does not apply to either chapter 1 or 2. In brief, it has been found that—

GEPA automatically applies to "any program" that is under the administrative jurisdiction of the Department of Education, "except where" there are specific exemptions or latter statutory provisions which are specifically contradictory are enacted. There is no need to mention GEPA; absence of mention denotes an intent to have it apply. Since ECIA contains no provisions exempting chapters 1 and 2 from the GEPA statute, the Secretary is bound to follow GEPA mandates.

We must not lose track of the extraordinary circumstance under which the Education Consolidation and Improvement Act was created. As Chairman Carl Perkins has put it:

Implementation of chapter 2 involved an unprecedented transition from 28 separate programs to one block grant, the repeal of some 44 education programs, and the creation of new administrative responsibilities at all levels of government.

With such large-scale changes envisioned, Congress anticipated the confusion that could ensue in administering the new program. The Secretary of Education's decision that GEPA does not apply to the Education Consolidation and Improvement Act serves to only further confuse the issue and confound the intention of Congress as to the implementation of chapters 1 and 2.

In the final analysis, I believe that Congress and our people will be served better by means other than legislative veto, when confronting regulations such as these. These tools include oversight by the appropriate subcommittees of jurisdiction, sunset laws, and biennial budgeting. Each of these techniques would permit Congress write better laws and see that the laws are being faithfully executed by the executive branch.

This, it seems to me, would be better than the current situation under which we are operating; that is, with Congress acting legislatively and then judicially. If we make our intentions better known when writing the laws, we will not need to rely on legislative veto to determine if the agencies understood what we meant.

I urge, therefore, the disapproval of the final regulations. The Department of Education has not done its job. Let us send these regulations back to the drawing board so that they can be realigned with the intent of the authorizing statute.●

● Mr. WEISS. Mr. Speaker, the resolution before us this morning, House Concurrent Resolution 388, will send a loud, clear message to the executive branch that Congress will not tolerate Federal departments disregarding statutes when they write regulations. I

urge my colleagues to speak with one voice and support this concurrent resolution.

As a member of the Education and Labor Committee, I completely concur with the committee's belief that the regulations for chapters 1 and 2 of the Education Consolidation and Improvement Act are inconsistent with the authorizing legislation because they state that the General Education Provisions Act does not apply to the chapters 1 and 2 programs. In my view, the Department's position is an affront to the Congress and our responsibility to write the laws.

While I am troubled by the Department's failure to comply with the statute, I am also greatly concerned about the practical effects of the Department's position that the General Education Provisions Act should not apply to two of the largest Federal programs aiding elementary and secondary schools.

The General Education Provisions Act houses many provisions that are crucial to the operation of education programs at the Federal, State, and local levels. To dismiss these provisions would surely cause harm to local school personnel and schoolchildren.

For example, section 411 of the General Education Provisions Act authorizes advance funding for education programs. As a result of this provision, funds for most education programs are included in the appropriation act for the fiscal year preceding the fiscal year in which they are obligated. Practically speaking, this means that chapter 1 (or title I) funds are appropriated in fiscal year 1982 for use at the local level in school year 1982-83.

The purpose of advance funding is to afford States and local school districts adequate notice of how much Federal funding will be available to them in the upcoming school year. Many local school districts must approve their budgets and notify staff whether they will be kept on well in advance of the school year. Advance funding is therefore vital to the stable planning needed in education.

Many Members of Congress worked many years to see this provision passed into law. Now that it has been working for several years, we cannot give it up by administrative fiat.

The administration's regulations would destroy advance funding for chapters 1 and 2. Without this important provision, school budgets would be thrown into disarray, teacher contracts would be left hanging, and the poorest school districts would have difficulty keeping solvent.

The General Education Provisions Act includes a host of other key provisions: Sections to reduce the Federal paperwork burden, protect the privacy of student records, pay back funds recovered from audits to grantees, prohibit Federal control of education, and

reserve to Congress the authority to disapprove regulations. All of the protections afforded State and local educational agencies by this law would disappear if the administration had its way.

I ask my colleagues to suspend the rules and vote in favor of this resolution.●

● Mr. KILDEE. Mr. Speaker, when this body moves to disapprove a set of departmental regulations, it is a weighty matter. However, there is no question that in this case, serious action is necessary to put a stop to an equally serious offense: Disregard for the law in Department regulations.

We on the Education and Labor Committee are recommending disapproval because the regulations for the Education Consolidation and Improvement Act contradict the statute. In these regulations, the Department of Education takes the position that the General Education Provisions Act does not apply to chapters 1 and 2 of the Education Consolidation and Improvement Act.

The law and legislative history clearly show that the General Education Provisions Act is meant to apply. The General Education Provisions Act applies to any Department of Education program except where specifically exempted, and the Education Consolidation and Improvement Act does not exempt chapters 1 and 2 from the provisions of the General Education Provisions Act.

Mr. Speaker, this has been the position of our committee, on both sides of the aisle, since the Education Consolidation and Improvement Act was enacted. We have initiated disapproval in order to protect Congress responsibility to see that the laws are administered as they are written, not as a partisan attack on the administration.

Since the Education Consolidation and Improvement Act was passed, the administration was made fully aware of congressional intent that the General Education Provisions Act apply to chapters 1 and 2.

Last October 6, a few months after the Education Consolidation and Improvement Act passed, the Subcommittee on Elementary, Secondary, and Vocational Education held a public oversight hearing on the law. At that hearing, Congressman JOHN ASHBROOK, the primary author of the Education Consolidation and Improvement Act, stated that the General Education Provisions Act is applicable to the Education Consolidation and Improvement Act.

Following publication of proposed regulations on February 12, 1982, the committee closely reviewed these regulations according to the procedures for regulation review instituted during the past 3 years within our committee. In keeping with committee policy, the

chairman wrote the Secretary of Education on April 13, expressing concerns and comments on the proposed regulations. In that letter, the chairman stated:

I am also concerned about the interpretation expressed in the introduction to these regulations that GEPA, for the most part, does not apply to Chapters 1 and 2. Section 400 of GEPA gives that law general applicability to Department of Education programs. I find no exception to the provision in ECIA.

Thus, the committee did not take action to disapprove without thorough consideration of the regulations and without formally notifying the Department of our concerns.

I hope my colleagues join with me in supporting this resolution.●

Mr. PERKINS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 388).

The question was taken.

Mr. PERKINS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 363, nays 0, not voting 71, as follows:

[Roll No. 253]

YEAS—363

Acadabbo	Coats	Evans (DE)
Albosta	Coelho	Evans (IA)
Alexander	Coleman	Evans (IN)
Anderson	Collins (IL)	Fary
Annunzio	Collins (TX)	Fascell
Archer	Conable	Fazio
Ashbrook	Conte	Fenwick
Aspin	Corcoran	Ferraro
Atkinson	Coughlin	Fiedler
Badham	Courter	Fields
Bailey (MO)	Coyne, James	Findley
Bailey (PA)	Coyne, William	Fish
Barnard	Craig	Fithian
Barnes	Crane, Philip	Florito
Bedell	D'Amours	Foglietta
Bellenson	Daniel, Dan	Foley
Benedict	Dannemeyer	Forsythe
Benjamin	Daschle	Fountain
Bennett	Daub	Fowler
Bereuter	de la Garza	Frank
Bethune	Deckard	Frenzel
Bingham	DeNardis	Frost
Bliley	Derrick	Fuqua
Boggs	Derwinski	Gaydos
Boland	Dickinson	Gejdenson
Bolling	Dicks	Gephardt
Bouquard	Dingell	Gibbons
Bowen	Dixon	Gilman
Breaux	Donnelly	Gingrich
Brinkley	Dorgan	Glickman
Brooks	Dowdy	Gonzalez
Broomfield	Downey	Goodling
Brown (CA)	Dreier	Gore
Brown (CO)	Duncan	Gradison
Broyhill	Dwyer	Gramm
Burgener	Dymally	Gray
Burton, Phillip	Dyson	Green
Butler	Early	Gregg
Byron	Eckart	Guarini
Campbell	Edgar	Gunderson
Carman	Edwards (AL)	Hagedorn
Chapple	Edwards (CA)	Hall (OH)
Cheney	Edwards (OK)	Hall, Ralph
Chisholm	Emerson	Hall, Sam
Clausen	Emery	Hamilton
Clay	English	Hammerschmidt
Clinger	Erlenborn	Hance

Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Heckler
Hefner
Hendon
Hightower
Hill
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Jacobs
Jeffords
Johnston
Jones (NC)
Jones (OK)
Jones (TN)
Kastenmeier
Kazen
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markley
Marriott
Martin (IL)
Martin (NC)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McCollum
McCurdy
McDade
McDonald

Akaka
Andrews
Anthony
Applegate
AuCoin
Bafalis
Beard
Bevill
Biaggi
Blanchard
Boner
Bonior
Bonker
Brodhead
Brown (OH)
Burton, John
Carney
Chappell
Conyers

McEwen
McGrath
McHugh
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Mottl
Murphy
Murtha
Napier
Natcher
Neilligan
Nelson
Nichols
Nowak
O'Brien
Oskar
Oberstar
Obeys
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rostenkowski
Roth
Roukema
Roussot
Roybal
Rudd
Russo
Sabo
Savage
Sawyer

NOT VOTING—71

Crane, Daniel
Crockett
Daniel, R. W.
Davis
Dellums
Dornan
Dougherty
Dunn
Erdahl
Ertel
Evans (GA)
Filippo
Ford (MI)
Ford (TN)
Garcia
Ginn
Goldwater
Grisham
Hawkins

Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Sharp
Shaw
Shelby
Shumway
Shuster
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Trible
Udall
Vander Jagt
Volkmer
Walker
Wampler
Washington
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolpe
Wortley
Wright
Wyden
Wyllie
Young (AK)
Young (FL)
Zablocki
Zeferetti

□ 1045

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit on today, August 10, 1982, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RABBI ISRAEL MILLER

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I want to join in the sentiments expressed by my distinguished colleague, the gentleman from New York (Mr. BINGHAM), regarding our distinguished friend from New York, Rabbi Israel Miller, who gave the opening prayer.

Rabbi Miller is an officer of Yeshiva University, which is located in my district, a revered leader of the Jewish community, an outstanding resident of New York, and a magnificent American. It is a pleasure and a delight to welcome him to the House today.

REQUEST TO RESCIND PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the previous unanimous-consent request that was granted by the House to allow the Committee on Energy and Commerce to sit during the 5-minute rule be rescinded.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HILER. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

THE FOOD AND AGRICULTURE RECONCILIATION ACT—FISCAL YEAR 1983

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 551 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 551

Resolved, That upon the adoption of this resolution it shall be in order, sections 401(b)(1), 402(a), and 303(a)(4) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6892) to provide changes in legislation to meet reconciliation requirements of the first congressional budget resolution—fiscal year 1983—for the House Committee on Agriculture, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be considered as read for amendment under the five-minute rule. No amendment to the bill shall be in order except the following amendments: (1) the amendments recommended by the Committee on Agriculture now printed in the bill, said amendments shall be considered as having been read, shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole, and shall not be subject to amendment; (2) an amendment printed in the Congressional Record of August 5, 1982, by Representative Zablocki, and said amendment shall not be subject to amendment; and (3) an amendment in the nature of a substitute printed in the Congressional Record of August 5, 1982, by, and if offered by, Representative Wampler, said substitute if offered shall be considered as having been read and shall not be subject to amendment but shall be debatable for not to exceed one hour, equally divided and controlled by Representative Wampler and a Member opposed to said substitute, and all points of order against said substitute for failure to comply with the provisions of sections 303(a)(4) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Texas (Mr. Frost) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, I yield the usual 30 minutes, for the purposes of debate only, to the gentleman from Ohio (Mr. Latta), pending which I yield myself such time as I may consume.

Mr. FROST. Mr. Speaker, House Resolution 551 is a modified closed rule providing for the consideration of H.R. 6892, the Food and Agriculture Reconciliation Act. The rule provides 1 hour of general debate to be equally divided and controlled between the chairman and the ranking minority member of the Committee on Agriculture.

The SPEAKER. This is the last of the reconciliation proposals to be reported to the House. In order to expedite consideration of the Agriculture Committee's reconciliation proposal and prevent extraneous issues from impeding the budget process, this rule limits the amendments to those requested by the chairman and the ranking minority member of the Agriculture Committee.

Only the amendments specifically identified by this resolution shall be in order to the bill. First, the rule provides for the consideration of the Agriculture Committee amendments now printed in the bill which shall be considered as read, shall be considered en bloc, shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole and shall not be subject to amendment. Second, the rule makes in order an amendment to be offered by Representative ZABLOCKI regarding coordinating disposition of donations of agricultural products outside the United States. This issue is obviously within the jurisdiction of the Committee on Foreign Affairs, but Chairman ZABLOCKI agreed to forgo sequential referral of the bill so as not to impede the reconciliation process.

The final amendment made in order by this rule is the substitute to be offered by Representative WAMPLER, the ranking Republican member of the Agriculture Committee. That substitute shall be considered as read, shall not be subject to amendment but shall be debatable for 1 hour to be equally divided between Representative WAMPLER and a Member opposed to the amendment. No other amendments to the bill shall be in order.

Mr. Speaker, to permit consideration of the bill and the Wampler substitute, several waivers of points of order are included in the rule. The rule waives points of order against the bill and the Wampler substitute for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act. Section 303(a)(4) prohibits consideration of any bill which provides new entitlement authority effective

in a fiscal year before the first budget resolution for such fiscal year has been adopted. The waivers are necessary because the bill and the Wampler substitute provide new entitlement authority under the dairy price support program and the corn loan program which are first effective in 1984 and since no first budget resolution for fiscal year 1984 has been adopted.

The rule waives section 401(b)(1) of the Budget Act against the bill and the Wampler substitute. Section 401(b)(1) bars consideration of any bill which provides new entitlement authority effective before the beginning of the fiscal year which begins in the calendar year in which the bill is reported. This waiver is necessary because the bill and the Wampler substitute would provide new entitlement authority in the form of payments to producers for 1983 crop retirement and conservation for wheat, feed grains, upland cotton and rice. Since the entitlement authority would be effective upon enactment, presumably in fiscal year 1982, and since the bill was not reported in 1981, the bill technically violates section 401(b)(1) of the Budget Act.

Mr. Speaker, the rule waives section 402(a) of the Budget Act against the bill. Section 402(a) prohibits consideration of new budget authority for a fiscal year unless that bill has been reported by May 15 preceding the beginning of that fiscal year. This waiver is necessary because the bill contains authorizations for fiscal years 1982 and 1983 and it was not reported by May 15, 1981. However, the Budget Committee supports these emergency waivers.

Mr. Speaker, House Resolution 551 waives clause 5 of rule XXI which prohibits appropriations in a legislative bill. This waiver is necessary because the bill and the Wampler substitute contain several provisions relating to the dairy price support program which would authorize the use of funds previously appropriated to the Commodity Credit Corporation, authorize the CCC to make payments in connection with the donation of dairy products outside the United States or otherwise contain provisions which may be construed as an appropriation.

Finally, the rule provides one motion to recommit with or without instructions.

Mr. Speaker, this is necessarily a tightly structured rule which would allow the House to proceed in an orderly expeditious manner to the completion of the reconciliation process. The bill made in order by this rule exceeds the goals set forth in the first concurrent resolution on the budget. H.R. 6892 would achieve savings of \$1.276 billion in 1983, \$1.724 billion in 1984, and \$1.596 billion in 1985 by

amending the commodity programs for dairy, feed grains, wheat, rice, and upland cotton and by amending the Food Stamp Act.

Mr. Speaker, I urge adoption of this resolution so that the House may proceed to consideration of this important legislation.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again, this rule violates the Budget Act and the first budget resolution for fiscal year 1983. Both of those documents make it clear that the standing committees covered by reconciliation instructions are supposed to report to the House Budget Committee. In this case, the committees did not report to the Budget Committee. The Budget Committee is supposed to combine all of the various recommendations into one package and then send them to the House floor. Once again, Mr. Speaker, this House, under your leadership, is following a procedure which is in violation of the law, and also in violation of the specific instructions written in the first budget resolution.

□ 1115

Mr. Speaker, a word about this very restrictive rule. It allows only three amendments: First, the Agriculture Committee amendments, which will not be amendable; second, an amendment to be offered by the chairman of the Foreign Affairs Committee, the gentleman from Wisconsin (Mr. ZABLOCKI), dealing with the distribution of dairy products abroad, which will not be amendable; and third, an amendment in the nature of a substitute to be offered by the ranking minority member of the Committee on Agriculture, the gentleman from Virginia (Mr. WAMPLER), which also will not be amendable.

Mr. Speaker, this is highly unusual. This bill makes basic changes in agricultural programs and this highly restrictive approach prohibits the House from considering significant alternatives and amendments which were presented to the Rules Committee and also in committee.

For example, the gentleman from Iowa (Mr. SMITH) appeared in the Rules Committee when this rule was being considered last week and made the point that cornrowers who participate in the diversion program are not treated as well as wheatgrowers who participate in the diversion program; yet under this procedure, nothing can be done to try to make this situation more equitable.

The gentleman from Wisconsin (Mr. GUNDERSON) appeared with a similar problem. He had an amendment to the dairy part of the bill which he had worked out with several other Members. He stated in the Rules Committee that his amendment would save more money than any other proposal

before us; that it would eliminate the surplus more quickly than any other proposal before us; and that it would do so in a way that preserves the traditional family dairy farm. Yet, under this rule the House will never have an opportunity to consider that approach.

Finally, Mr. Speaker, there is no doubt in my mind that the Agriculture Committee proposal fails to save the amount required under the reconciliation instructions.

Instead of reducing expenditures by \$5 billion over 3 years, this bill would save only \$882 million.

The first budget resolution directed the Agriculture Committee to report reconciled savings of \$0.779 billion in 1983.

It called for \$1.083 billion in 1984; and \$1.428 billion in 1985, for a total of \$3.29 billion.

Savings assumed but not reconciled were \$1.070 billion in 1983; \$0.6 billion in 1984; \$0.2 billion in 1985, for a total of \$1.870 billion. Together, both categories add up to a total savings of \$5.160 billion.

However, under this bill, we find that dairy savings in 1983 would be \$1.068 billion; whereas the grains and cotton program would increase by \$1.09 billion.

The food stamp savings are only \$0.334 billion, for a total net savings of \$0.312 billion.

The total dairy savings over 3 years would be \$1.401 billion.

We would have an addition in the grains and cotton section of \$1.845 billion over 3 years.

The food stamp program would only save over a period of 3 years \$1.326 billion; for a total net savings of \$882 million, far short of the amount mandated by this Congress.

Mr. Speaker, I have two requests for time.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I would be happy to yield to the gentleman from California.

Mr. ROUSSELOT. Aside from changing the law, as the gentleman has pointed out, how far short does this bill go, or how far short is it in living up to what we should do in reconciliation?

Mr. LATTA. It is about 88 percent short, or \$4.5 billion.

Mr. ROUSSELOT. It is \$4.5 billion short?

Mr. LATTA. That is correct.

Mr. ROUSSELOT. It is 88 percent of what we are supposed to do?

Mr. LATTA. That is correct.

Mr. ROUSSELOT. Well, I guess you could look at the bright side, we are 12 percent right.

Mr. LATTA. If there is a bright side.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. LATTA. I would be happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, do I understand the gentleman to say that this rule is so restrictive that there is going to be no opportunity on the floor, short of a recommittal motion, to have any chance whatsoever of getting some additional savings to bring us closer to the budget targets?

Mr. LATTA. That is correct, and I hasten to point out to my farmer friends that they are going to have no opportunity to offer any other amendments, other than the three made in order in the rule, and they are changing basic agricultural law.

I served on the Agriculture Committee when I first came to this Congress, and back in those days the House would have defeated the rule if the rule on an Agriculture Committee bill had been so restrictive.

Mr. WALKER. This is one of the most restrictive rules we have had in this session and yet it deals with one of the most important issues that this House addresses; is that not so?

Mr. LATTA. A very important issue, because across this country the farmers are hurting.

Mr. WALKER. Mr. Speaker, I thank the gentleman.

Mr. LATTA. Mr. Speaker, I yield 10 minutes to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of this reconciliation legislation. However, I, and I am sure many others, reserve the right to try to amend this piece of legislation through a substitute I intend to offer during the course of consideration of H.R. 6892. There may be a motion to recommit with instructions that members will want to examine carefully.

I wish to be candid with you about this matter and in doing so I wish to give you some background on how the Committee on Agriculture, and its members including myself, responded to the reconciliation instructions contained in the conference report on Senate Concurrent Resolution 92 on the first concurrent budget resolution for fiscal year 1983.

Chairman DE LA GARZA has worked hard and diligently to comply with the spending cuts requirements of the first concurrent resolution. The spending cuts have come with some difficulty this year. This is true in part this year, I believe, because we in the House are going at this with multiple reconciliation bills rather than an omnibus reconciliation bill as we did last year. Moreover, each committee is going directly to the floor with their reconciliation bills. For these among other reasons, I believe spending cuts are harder to achieve.

Next, let me observe initially that this is not merely a spending cut bill

we deal with today; it is also an authorization bill for the food stamp program in that it authorizes nearly \$40 billion over a 3-year period for fiscal year 1983-85. We authorized a \$11.3 billion cap in the 1981 Farm Act for fiscal year 1982 and I understand that cap will be adequate for the funds that will be appropriated this year. We were fortunate, in my opinion, in retaining the cap on this program in the bill before you today. It is evident, I believe, for those who have voted for this concept of cap for many years that it is possible to get what was an entitlement program under control by placing a cap on it.

Let me also point out that there are many frustrations in the budget process in the numbers game we seem to encounter in what our Congressional Budget Office arrives at in estimating reductions in budget authority and/or outlays. As one of our Members observed with respect to the adjustments in the farm commodity programs; "it nearly, if not in fact, confounds logic that we spend more money in fiscal year 1983 to achieve savings in fiscal year 1984" in certain of these programs. Meanwhile, CBO estimates no costs for the feed grains program in fiscal year 1983 because the 1982 crop is estimated by CBO at 7.2 billion bushels. Yet I think we all will admit that the 1982 corn crop is estimated right now by most responsible authorities at over 7.6 billion bushels. In saying this I do not mean to criticize CBO or its employees, they are merely trying to do their job—the CBO corn crop estimate of 7.2 billion bushels is based on January baselines that they use in dealing with the budget process. Nor, do I wish to single out these adjustments in farm commodity programs for criticism. They merely lend themselves as examples of the frustrations encountered in dealing with the budget process and more particularly reconciliation.

Mr. LATTA, the ranking member of the Budget Committee, has expressed his concern about the scoring of budget savings or spending cuts in H.R. 6892. Some of these budget issues such as scoring become so complicated that it is difficult for those, such as I, who do not deal with them every day to confidently arrive at commonsense judgments on these matters. I am told, however, that while the scoring by CBO will be made as Mr. LATTA requested, the committee's reconciliation bill does not technically meet a strict definition of the budget authority and budget outlay requirements of the instructions of the conference report on Senate Resolution 92 on the first concurrent resolution. Mr. LATTA himself may wish to articulate this further during the debate on this bill.

We on this side of the aisle were hopeful last Wednesday that we had reached a compromise that would gen-

erate substantially greater spending cuts than those contained in this bill—H.R. 6892. However, I must admit that our efforts for such a compromise—that we were hopeful might have bipartisan support came apart on Thursday as we were scheduled to appear before the Rules Committee.

A substitute that I will offer during the consideration of this bill—and that Mr. COLEMAN of Missouri will manage—will provide certain selective additional spending cuts which I believe offer many of you an opportunity to reduce Federal deficits and avoid having to pass additional revenue enhancers later to reduce the fiscal years 1983-85 deficits.

The one thing that the substitute I will offer will do—I am confident—is to put the House in a better posture to come out of a House-Senate conference on agriculture reconciliation with a better bill than perhaps either House will take to such a conference.

We must all realize that what we fail to do in areas of spending cuts may have to be made up in the tax bill that we consider later if we are to meet first concurrent budget resolution goals.

I realize that it is currently in vogue to criticize what the Congress did last year in the way of tax cuts and spending cuts—the fiscal year 1982, Reconciliation Act—however, I would point out that several so-called liberal governments such as those in Canada and France are currently encountering greater economic difficulties than we are here in the United States. Unemployment in Canada is about 11 percent and inflation is about 12 percent and a limit on wage increases for government employees has been adopted. France is encountering several problems not the least of which is the flight of investment funds to other countries.

Our plight is part of a greater worldwide economic problem that we in the United States must continue to grapple with in a number of different ways. We are in this problem together and we must get out together. We did not get into our current economic plight overnight and we have not been able to get out magically in the last 18 months. Enforcing spending cuts is always a difficult problem for legislators. Especially is this true in a period when our national economy is in a recession. However, we must stay our course of persisting in our efforts to bring our Government fiscal affairs in order and getting our national economy back on its feet. Those are consistent and concurrent efforts on spending and Federal deficits.

I urge you to keep an open mind on this entire matter, support the Wampler substitute and give strong and serious consideration to the motion to

recommit that will be offered from this side of the aisle.

Mr. FROST. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. DE LA GARZA), the chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I take this time, I had not intended to speak on the rule, but I take this time only to address the issue which was discussed by my dear colleague, the gentleman from Ohio (Mr. LATTA).

□ 1130

It grieves me very much to see that my distinguished friend from Ohio would take issue with this committee at this date.

Due to the first Gramm-Latta resolution that this House adopted, and this committee worked with, the diligence and the hard work of this committee provided us some \$3 billion above and beyond what we had been ordered by that Latta resolution.

We were very diligent, and it is very painful and difficult, as the gentleman from Virginia just mentioned, to cut, especially in the programs, those that we have to deal with, where we are dealing into the future with projections.

So needless to say, in the first encounter with the Latta resolutions we went above and beyond, and for that we would expect perhaps not commendation, but at least some semblance of recognition.

Now, on this new Latta resolution, the gentleman is using figures provided by the Department of Agriculture ostensibly from OMB. We have to deal with figures by CBO, the Congressional Budget Office. We cannot deal with the assumptions or assumed savings or whatever of the OMB or the Department.

We have had that problem throughout. The Members should know that, for example, when we had the 4-year bill, our staff, our economists, CBO, we could not reconcile the figures with those of the Department of Agriculture.

Finally, one morning I took all our economists, I took members of the committee, and we went over to the Department of Agriculture. We sat down and we said, "Look, we are using 2 and 2 makes 4, and yours is not coming out that way. There is something wrong."

Well, lo and behold, we found out that they were doing 5-year expenditures on a 4-year bill; therefore, they were coming out with a cost above and beyond that which we were doing. And they admitted to us, "Well, OMB forces us to do our assumptions on a 5-year basis." My south Texas logic said, "Of course, my friend, it is only a 4-

year bill. How can you attach to it a cost for 5?"

"Well, that is what we are ordered to do by OMB."

So the same happens now. But OMB notwithstanding, we have to deal with figures by CBO.

The Senate has to deal with figures by CBO. We have to meet with the Senate in conference and we have to be speaking the same language. We have to be using the same computer, and we have to be discussing the same assumptions.

So I say it is even unfair of the gentleman, my distinguished colleague from Ohio, to confuse the issue using these figures from the Department of Agriculture because this is not the realm of the Department of Agriculture; this is the House of Representatives. We have to use CBO figures. The Senate uses CBO figures.

But above and beyond, even though we were to use the Department of Agriculture figures, we still come up with savings. We still come up to the numbers mandated by the Latta resolution. And for that, I think, with respect to all the other committees, I think that this committee, whichever figures we use, Department of Agriculture, Mr. Stockman's, Mr. Latta's, CBO, whichever figures we use I would challenge the Members that this committee has provided more savings than any of the other committees, with all due respect to the other committees.

Again I say, we have a very difficult constituency, both here in the House and out there in the country. That is one of the reasons for the rule which is modified closed, because it is difficult enough to cut, but if you were to air all of needs of all of the Members of all of the constituency, of all of the jealousies, justly or unjustly, of one commodity against another commodity, of the consumer, we have to deal with the art of the possible.

We cannot go to the expectation of every Member or every constituency out there in the country.

This is why, in a very difficult and painful way, we have been able to arrive at, and I would hope that the Members would take my word as sincerely as I can offer it that this is the best we can come up with, under the assumptions and with the figures used by the CBO.

The effort has been genuine, has been dedicated. There has been a lot of hard work by the different subcommittees and the subcommittee chairmen and ranking minority members to arrive at the point where we now find ourselves, and I would hope that you would support the rule and then support the legislation, because whichever way you test it, it still comes out savings above and beyond what we are instructed to be the Latta resolution.

Mr. LATTI. Mr. Speaker, I yield myself such time as I may consume.

Certainly I hate to differ with my dear friend from Texas on this issue. We must differ. I do not care where he gets his figures, whether it is CBO or wherever; we have to deal with the Department of Agriculture. They keep updating these figures. The figures that he is using are CBO figures from back in April.

But let us just look at some of the major—the major—discrepancies and ask ourselves how he comes out where he says he does.

The committee claims dairy savings of \$3.3 billion over 3 years for the proposed two-tier price support and production quota system, and it cannot be realized. The committee bill provides for a 21-percent increase in dairy price supports to \$16 per hundredweight by 1985, thereby encouraging continued overproduction and higher CCC purchase costs.

Where is he going to store all that cheese? We cannot get rid of it today. The USDA estimates maximum savings at \$1.4 billion over 3 years. The committee claims 3-year net savings of \$31 million for the feed grain, wheat, and other commodity price support and diversion payment increases. However, the bill mandates unrecoverable—unrecoverable—outlay increases of \$1.5 billion for diversion, deficiency, and grain storage payments. These are in his bill.

These spending increases now are supposed to cause budget savings later? By contrast, USDA estimates a net outlay increase of \$1.8 billion over commodity program cost levels assumed in the budget resolution.

The committee food stamp savings of \$1.326 billion are overestimated by \$252 million, resulting in actual savings of \$1.074 billion, or only 31 percent of the savings envisioned in the budget resolution.

In addition to drastic shortfalls and budget savings required by the budget resolution, the committee bill is inconsistent with major administration and congressionally supported objectives. It reduces the cost of the food stamp program by less than 3 percent over the next 3 years, which is not compatible with restraint needed on entitlement cost growth.

It creates—and get this, my friends from the farm—it creates a producer-controlled dairy board with monopoly powers to rig milk markets and inflate consumer costs by as much as \$1 billion annually. And we cannot amend it.

It raises wheat and feedgrain price supports, thereby increasing budget costs and undermining increased export sales at a time when we want to export more. That is all we hear back home: We have to export more. How are we going to do it if this bill becomes law?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. LATTI. I will be happy to yield to my friend, the gentleman from Texas.

Mr. DE LA GARZA. Mr. Speaker, very respectfully, I just take the time to tell the gentleman of course he has the right to his assumptions. I say categorically they are wrong. But my problem is that the gentleman's problem is not with this committee; the gentleman's problem is with CBO. He should address that issue some other place and see if he and CBO and/or the Department cannot come up with the right figures.

We do the changes in the law, CBO puts the figures to them, and we do not manufacture them out of the sky. So I would hope and plead with my dear friend that he address the issue to CBO and let us get on with our business here.

Mr. LATTI. Mr. Speaker, let me, in answer to my friend, say there is more to it than just CBO. It is the content of the legislation. In this proposed legislation they are going to encourage a farmer to reduce his dairy herds.

I can remember F. D. R. killed off a bunch of little pigs to get rid of the pig overproduction. I do not know whether we are going to start slaughtering the dairy herds or not.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield?

Mr. LATTI. I yield to the gentleman from Texas.

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Speaker, I have a great deal of respect for the gentleman from Ohio and his knowledge of the budget process, but I am a little concerned with the tenor of the debate and the argument that he has put forth, particularly as he now addresses the dairy program, because I believe that if the gentleman will examine the legislation that has been put together in the Agriculture Committee he will find that the concerns that he has, as far as the cost to the taxpayer of the dairy program, are indeed being met by the legislation; whereas, as I understand his concern, or the direction that he is suggesting that we should go, will in fact do what the gentleman is saying he does not want to happen which is to increase the cost of the dairy program to the taxpayer.

What we have attempted to do in the committee, and I believe we have accomplished, is to put a cap on what the taxpayer can effectively pay in the dairy program and, in fact, the gentleman will find, once he closely examines what this committee has done, is that we have addressed the cost to the taxpayer, and if we indeed do continue to produce more milk than we can consume, it will be the dairy farmer who

will assume this cost and not the taxpayer.

I believe that is what the gentleman and I both would like to see accomplished, not only in the dairy program but also in every other farm program that we have before us.

Mr. LATTA. I appreciate the gentleman's comments, even though I question whether we are going to have the savings that he hopes we will have, and I agree with him on the goal.

Mr. Speaker, we would like to save a lot of money, but I do not think this program, as seen by the experts, is going to come forth with the type of savings claimed.

Mr. STENHOLM. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I am happy to yield to the gentleman.

Mr. STENHOLM. The other experts—and I have listened to this debate for hours in the Agriculture Committee on the Dairy Subcommittee on which I serve—the other experts contend that if we lower the price of milk or we lower the price of wheat or we lower the price of cotton that we will somehow reduce the cost to the Treasury.

History has shown time and time again the farmer's response to a lowered price is to produce more in the short run in order to cover his fixed costs of operation. Therefore, the cost to the budget in fiscal year 1983 would be astronomical compared to the legislation we have before us.

Mr. LATTA. Mr. Speaker, I wish I could agree with my friend on that statement, but I cannot because we are going to be increasing, as I pointed out, by 21 percent the dairy price support, to \$16 a hundredweight, by 1985, and if that does not encourage overproduction, I am not standing here today.

Mr. GUNDERSON. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Wisconsin (Mr. GUNDERSON).

Mr. GUNDERSON. Mr. Speaker and Members, I think it is important that we continue the debate which we have just begun in terms of reconciliation and what it really means to the dairy price support program.

Mr. Speaker, I rise in opposition to the rule. The reason I do so is because of the underlying philosophy of the whole process of reconciliation—the process whereby we reconcile our authorized programs to live within the budget resolution that we passed.

When we come to the floor, we are supposed to be debating the various specifics that would accomplish this goal. The bill that we are going to consider today really makes major legislative changes to three areas under the jurisdiction of the Agriculture Com-

mittee in order to fulfill reconciliation instructions.

It clearly does it in food stamps. There is going to be a major debate on what we are going to do to the food stamp program.

It clearly does it in wheat and feedgrains—a major change from present law.

And clearly it does it in the dairy program as well.

It is interesting to note what has been happening on the floor of the House during the reconciliation process. We said we cannot have an omnibus reconciliation bill because, if we bring one to the floor, we will not have an opportunity to vote on the individual programs and policies we are trying to change. As such, we must bring separate reconciliation bills by committee. Now, we are not allowed to vote on the particulars of one of those bills under the rule that we have before us today.

My concern and my objection to the rule is that we are really allowing ourselves to get into only one debate today—a debate over food stamps.

□ 1145

If you look at the substitute and compare it with the committee bill, there is really only one area of difference, and we do not consider changes in the dairy and feedgrain areas. I think that is wrong. It is wrong to those people concerned about loan rates.

We do not get into the whole debate on dairy, and as the gentleman from Ohio, the ranking member of the Budget Committee, has so eloquently said, we are facing major, major problems in that dairy program at present and, unfortunately, we are going to face those problems in the future because there is no disincentive to overproduction in H.R. 6892.

To quote from the Department of Agriculture letter dated July 14 to the chairman of the full Committee:

USDA analysis indicates that the levels required in the bill on dairy would provide sufficient economic incentive to encourage excessive production and more than compensate for the resulting assessments.

For the last 18 months on the floor of this House I have maintained an "I told you so" attitude that what we are doing in dairy is only going to encourage further production. And that is exactly what has happened. The problem with the dairy provisions in the reconciliation bill is that any farmer who expands production over 25 percent in 1 year makes money by that expansion. So, clearly, the way to beat the system is to simply expand your production by 25 percent.

What does that do to us in 1985? It gives us a huge, huge surplus of dairy production and, in the process, we will be so undercut by prices that we will have effectively changed the structure

of dairy agriculture in this country. The gentleman from Minnesota, Mr. OBERSTAR, and I wanted the Rules Committee to provide us an opportunity to come in here and debate the dairy section of H.R. 6892 through an amendment that would have given us a genuine alternative. First of all, it would have saved more money—\$222 million in fiscal year 1983—in outlays on the dairy price support program; second, it would have more quickly and effectively solved the surplus situation; and third, it would have accomplished these goals in a way that would have solved the current surplus problem in the best interests of the family dairy structure that we have in this country.

Unfortunately, the rule before us does not allow any of that. It does allow one amendment to the dairy section, thus acknowledging some of the problems with the National Milk Producer proposal. It allows the chairman of the Foreign Affairs Committee to come in and provide an amendment to deal with some of the administrative foreign policy problems created by H.R. 6892.

In fact, there is a great deal of concern all over the spectrum. My colleague from Massachusetts, Mr. FRANK, also appeared before the Rules Committee. He wanted to offer an amendment on dairy as well. While I am very opposed to his amendment, he probably should have had the opportunity to offer it as, I believe, the rest of us should have had so that the various solutions to the dairy problem could have been fully debated.

Unfortunately, what we are doing today is embarking upon a road that leaves the conference committee with the Senate on two choices: Either a cut or a freeze in dairy price supports. As my colleague from Texas, Mr. STENHOLM, so astutely said, the inevitable result of either choice will be an increase in production and, either after the election of later next year, we will be back here again debating the dairy program in this Congress for the third year in a row.

Those Members who are interested in preserving some form of that program and preserving some form of the family farm structure of dairy agriculture in this country ought to be very concerned about what that does. For those reasons, then, I ask the Members to oppose this rule, because it plays games with the legislative process of reconciliation and, more importantly, because it plays games with the structure of dairy agriculture and the family dairy farms in this country.

The SPEAKER pro tempore (Mr. KAZEN). The time of the gentleman has expired.

Mr. FROST. Mr. Speaker, I yield 3 minutes, for debate only, to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, this is the final package on reconciliation savings that will come before the House. To summarize, we have done five packages. The first was the Veterans package, which was passed unanimously under suspension of the rules by the House. The Ways and Means Committee and Energy and Commerce are already in conference with the Finance Committee on issues related to both taxes and cuts in that area. The Post Office and Civil Service Committee came before this House under exactly the same rule as the Agriculture Committee is coming before this House. That too is now headed to conference. The Banking and Currency Committee came up last week with exactly the same rule as we have for the Agriculture Committee. That has passed the House and is ready for conference.

Now, we have the last package, which is Agriculture, which is being presented to the Members with exactly the same rule as the other packages were, allowing one substitute by the minority. Following that approach, CBO has told us that this committee has exceeded its savings' target. We do follow CBO as our primary guide, although obviously there are differences whether we use OMB or whether we use a department downtown, but the reality is that CBO is our primary guide. All of the committees were instructed to come up with \$27.1 billion in 3 years in savings.

All of the committees have come up with \$29.3 billion in savings, or an excess in savings of \$2.1 billion. So, the committees have met their targets, and indeed exceeded their targets.

With regard to the Agriculture Committee, they come before us with what I think is a balanced approach involving savings in food stamps, savings in the dairy program and savings in crop diversion. We have argued for years about the need to finally cap the dairy program. Somehow the issue has been missed that we are not really achieving savings in dairy. This is a major reform. It assures \$3.2 billion in savings over the next three years.

The same thing is true for the crop diversion program, which picks up almost \$50 million.

One substitute is permitted the minority. They have not touched the dairy program. Regardless of the arguments of the gentleman from Ohio, they are not even going at the dairy program. They are not even going at the crop diversion program. They are going at one program, which is food stamps, and the House will have the opportunity to decide whether additional cuts will be made there. But, let me make clear that the minority has not sought out any changes with regard to the dairy program or crop diversion. So if we are interested in trying to proceed to get the spending

cuts in place, the best thing to do is to support this rule, and let us proceed to conference.

Mr. FROST. Mr. Speaker, I yield 5 minutes, for debate only, to the distinguished gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, what I have to say does not just apply to this bill. It applies to the whole reconciliation process when combined with the closed rules. But, this bill is a good example of the problem.

Under this reconciliation process Members will remember that a year ago the House passed a reconciliation bill written in the executive branch about as thick as the Bible, and we are still finding out what was in it. This year the House is passing five separate bills, and this is one of them, but each one combines amendments to several programs into one bill. It is an omnibus reconciliation bill for everything that comes under the jurisdiction of the Agriculture Committee.

The Agriculture Committee has vast jurisdiction, applying clear across the board, all the way from food stamps, dairy, consumer programs, nutrition programs, a vast number of programs, and tucked away in these bills are things that do not involve savings. And, the proposed rule prohibits amendments, including those that do not have anything to do with savings or additional expenditures.

It is a bad process. It is sure to result in laws which will embarrass this House. We are going to discover provisions in these bills as the months go by that no one knew was in these bills when they passed. It is the wording that is important. If some of these provisions came on the floor by themselves, they would not pass and would be subject to amendment at that point which would correct them.

One thing they have tucked away in this bill, for example, involves the feed grains program. We hear all this talk about food stamps and dairy, but they also have a diversion program in here for feed grains that is very discriminatory against feed grains compared to wheat. The feed grains diversion is based on a dollar and a half a bushel on one-half of the acres idled of corn, and relatively on other feed grains; but is based on \$3 for wheat. It figures out this way: Fragile lands diverting wheat acreage will get \$55 an acre for diverting those fragile land productivity acres and \$75 to pay for the cost of carrying productive farm land with four times the value. The diversion program pays for the cost of carrying the idle land. There is no production involved. It does not involve costs of production because there is not going to be grain or wheat produced on this land. It is to cover the cost of carrying the land. It is very discriminatory, \$55 an acre for fragile land and \$75 for the good lands which cost 4 or 5 times as

much and pays 10 times as much in taxes. Those rates will divert wheat acres which are not very productive and contribute little to adjusting production but will not secure diversion of productive corn land and better grain land which would contribute to an adjustment.

The fact of the matter is, it is not even good for those who think it is good. What happened about 4 years ago, and one reason wheat got into this problem, was that they secured a very, very favorable loan rate compared to feed grains, so what happened was that there was a big bulge in acreage in the double crop high yielding area to wheat, wheat followed with beans or wheat followed with sunflowers or something else. They got into trouble because they penalized corn and not giving it a program comparable to what they had for wheat, so it hurt wheat in the end. The people supposedly helping wheat were their own worst enemies because they opposed a corn and milo program at a comparable level. They seem to be preoccupied with the discriminating against feed grains compared to wheat when actually it is necessary to look at both on an equal basis. That kind of substantive change in treatment of grains and discrimination against corn is tucked away in this bill.

My real objection, then, is to the fact that this rule prohibits even amendments that do not have anything to do with alleged savings under the guise of making alleged savings, and they are very doubtful. The committee proposed an omnibus bill amending many kinds of programs, and we will find out several months from now there were some provisions in the bill which were obscured. I just think it is a bad process and we should change the whole process.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield.

Mr. THOMAS. Mr. Speaker, I think the gentleman is absolutely correct. He did not mention the rice program, but to give the Members an idea of what was also tucked away in the omnibus reconciliation for agriculture is the paid diversion program for rice, which even by CBO figures costs the taxpayer money. It does not save—it costs.

Mr. SMITH of Iowa. Well, I am not an expert on the rice program, but I think the rule should provide an opportunity at least to make amendments that do not result in additional expenditures.

Mr. LATTI. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Speaker, I rise in opposition to the rule on this agriculture reconciliation bill. I believe that the House must have an opportunity to

consider specifics, and not be forced to swallow this legislation whole.

Nevertheless, I do believe this legislation has merit, and I particularly applaud the committee's changes in the dairy price support program. I believe a two-tier approach rightly puts the burden of controlling production on the industry.

However, I am concerned that the committee missed a great opportunity to deal effectively once and for all, with the negative effects that imports of artificial milk protein products has on the dairy industry and on the dairy program.

Quite simply, it makes no sense to penalize farmers for overproduction at the same time that we allow unlimited amounts of foreign dairy products, real and artificial, into this country. It is not enough to freeze the effects of increased dairy imports on farmer's incomes; we must cut imports of artificial dairy products in order to release Government-held stocks of nonfat dry milk accumulated at taxpayer expense because of shortsighted trade policy. Plainly, it is time to put America first.

Further, I believe that the committee did not achieve meaningful savings in the food stamp program. The cost of the food stamp program has skyrocketed and it has been estimated that over \$1 billion annually is lost in the food stamp program to fraud, waste, and abuse. Increasing unemployment has put even greater financial strains on the program. I believe that the committee missed an opportunity to achieve significant savings in the program while protecting benefits for the needy by not removing the voluntarily unemployed from eligibility for food stamps, thus placing it in the same eligibility area as unemployment benefits—reserved for those who lose their jobs involuntarily.

Fairness to farmers should extend to fairness for taxpayers in every agricultural program.

Fairness means cutting back on dairy imports into this country. Fairness means reducing the costs of the food stamp program to the beleaguered taxpayer.

Mr. FROST. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 156, not voting 48, as follows:

(Roll No. 254)

YEAS—230

Addabbo	Frost	Oakar
Albosta	Fuqua	Obey
Alexander	Garcia	Ottenger
Annunzio	Gaydos	Panetta
Anthony	Gejdenson	Pashayan
Applegate	Gephardt	Patman
Aspin	Gibbons	Patterson
Bailey (MO)	Glickman	Pease
Bailey (PA)	Gonzalez	Pepper
Barnard	Gore	Perkins
Barnes	Gray	Peyser
Beard	Guarini	Pickle
Bedell	Hall (OH)	Price
Bellenson	Hall, Ralph	Quillen
Benjamin	Hall, Sam	Rahall
Bennett	Hamilton	Rangel
Bereuter	Hammerschmidt	Ratchford
Bevill	Hance	Reuss
Bingham	Harkin	Richmond
Boggs	Hatcher	Rinaldo
Boland	Hefner	Roberts (SD)
Bolling	Heftel	Rodino
Boner	Hightower	Roe
Bouquard	Holland	Roemer
Bowen	Hopkins	Rostenkowski
Breaux	Howard	Roybal
Brinkley	Hoyer	Russo
Brooks	Hubbard	Sabo
Brown (CA)	Huckaby	Scheuer
Burton, Phillip	Hutto	Schneider
Butler	Ireland	Schumer
Byron	Jones (NC)	Seiberling
Campbell	Jones (OK)	Shamansky
Chisholm	Jones (TN)	Shannon
Clay	Kastenmeier	Sharp
Clinger	Kazen	Shelby
Coelho	Kennelly	Simon
Coleman	Kildee	Skeen
Collins (IL)	Kogovsek	Skelton
Coyne, William	Lantos	Smith (NE)
D'Amours	Leach	Smith (PA)
Daschle	Leath	Solarz
Daub	Lehman	Spence
de la Garza	Leland	St Germain
Deilums	Livingston	Stangeland
Dicks	Long (LA)	Stark
Dingell	Long (MD)	Stenholm
Dixon	Lowry (WA)	Stokes
Donnelly	Lukens	Stratton
Dorgan	Lundine	Studds
Dougherty	Markey	Swift
Dowdy	Martinez	Synar
Downey	Matsui	Tausin
Duncan	Mattox	Taylor
Dwyer	Mavroules	Udall
Dymally	Mazzoli	Vento
Dyson	McCurdy	Volkmer
Early	McHugh	Wampler
Eckart	Mica	Washington
Edgar	Mikulski	Waxman
Edwards (CA)	Miller (CA)	Weaver
Emerson	Miller (OH)	Weber (MN)
Emery	Mineta	Weiss
English	Minish	White
Evans (IA)	Mitchell (MD)	Whitley
Evans (IN)	Moakley	Whitten
Fary	Mollohan	Williams (MT)
Fascell	Montgomery	Wirth
Fazio	Morrison	Wolpe
Ferraro	Mottl	Wright
Fithian	Murphy	Wyden
Florio	Murtha	Yates
Foglietta	Myers	Yatron
Foley	Napier	Young (AK)
Ford (TN)	Natcher	Zablocki
Fountain	Nelson	Zeferetti
Fowler	Nichols	

NAYS—156

Anderson	Brown (CO)	Conable
Archer	Broyhill	Conte
Ashbrook	Burgener	Corcoran
Atkinson	Carman	Coughlin
Badham	Chapple	Courter
Benedict	Cheney	Coyne, James
Bethune	Clausen	Craig
Billey	Coats	Crane, Daniel
Broomfield	Collins (TX)	Crane, Philip

Daniel, Dan	Jacobs	Petri
Daniel, R. W.	Jeffords	Porter
Dannemeyer	Jeffries	Pritchard
DeNardis	Johnston	Regula
Derwinski	Kemp	Rhodes
Dickinson	Kindness	Ritter
Dreier	Kramer	Roberts (KS)
Dunn	LaFalce	Robinson
Edwards (AL)	Lagomarsino	Rogers
Edwards (OK)	Latta	Roth
Erdahl	Lee	Roukema
Erlenborn	Lent	Rousselot
Evans (DE)	Levitas	Rudd
Fenwick	Lewis	Sawyer
Fiedler	Loeffler	Schroeder
Fields	Lott	Schulze
Findley	Lowery (CA)	Sensenbrenner
Fish	Lujan	Shaw
Forsythe	Lungren	Shumway
Frank	Madigan	Shuster
Frenzel	Marlenee	Smith (AL)
Gilman	Marriott	Smith (IA)
Gingrich	Martin (IL)	Smith (NJ)
Goodling	Martin (NC)	Smith (OR)
Gradison	Martin (NY)	Snowe
Gramm	McCollum	Snyder
Green	McDade	Solomon
Gregg	McDonald	Staton
Gunderson	McEwen	Stump
Hagedorn	McGrath	Tauke
Hansen (ID)	McKinney	Thomas
Hansen (UT)	Michel	Thibodeau
Hartnett	Mitchell (NY)	Vander Jagt
Heckler	Molinar	Walgren
Hendon	Moore	Walker
Hill	Moorehead	Weber (OH)
Hillis	Nelligan	Whitehurst
Hollenbeck	Nowak	Whittaker
Holt	O'Brien	Williams (OH)
Horton	Oberstar	Winn
Hughes	Oxley	Wortley
Hunter	Parris	Wyllie
Hyde	Paul	Young (FL)

NOT VOTING—48

Akaka	Deckard	McCloskey
Andrews	Derrick	Moffett
AuCoin	Dorman	Neal
Bafalis	Ertel	Pursell
Blaggi	Evans (GA)	Railsback
Blanchard	Flippo	Rose
Bonior	Ford (MI)	Rosenthal
Bonker	Ginn	Santini
Brodhead	Goldwater	Savage
Brown (OH)	Grisham	Siljander
Burton, John	Hawkins	Stanton
Carney	Hertel	Traxler
Chappell	Jenkins	Watkins
Conyers	LeBoutillier	Wilson
Crockett	Marks	Wolf
Davis	McClory	Young (MO)

□ 1215

Messrs. BENEDICT, GRAMM, WORTLEY, FISH, and SMITH of New Jersey changed their votes from "yea" to "nay."

Mr. EMERSON and Mrs. COLLINS of Illinois changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8892) to Provide changes in legislation to meet reconciliation requirements of the first congressional budget resolution—fiscal year 1983—for the House Committee on Agriculture.

The SPEAKER pro tempore. The question is on the motion offered by

the gentleman from Texas (Mr. DE LA GARZA).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WAXMAN. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 9, not voting 63, as follows:

[Roll No. 255]

YEAS—362

Albosta	Dorgan	Hollenbeck
Alexander	Dougherty	Holt
Anderson	Dowdy	Hopkins
Andrews	Downey	Horton
Annunzio	Duncan	Howard
Anthony	Dunn	Hoyer
Archer	Dwyer	Hubbard
Ashbrook	Dymally	Huckaby
Aspin	Dyson	Hughes
Atkinson	Early	Hunter
Badham	Eckart	Hutto
Bailey (MO)	Edgar	Hyde
Bailey (PA)	Edwards (AL)	Ireland
Barnard	Edwards (CA)	Jacobs
Barnes	Edwards (OK)	Jeffords
Beard	Emerson	Jeffries
Bedell	Emery	Johnston
Bellenson	English	Jones (NC)
Benedict	Erdahl	Jones (OK)
Benjamin	Erlenborn	Jones (TN)
Bennett	Evans (DE)	Kastenmeier
Bereuter	Evans (IA)	Kazen
Bethune	Evans (IN)	Kemp
Bevill	Fary	Kennelly
Bingham	Fascell	Kildee
Billey	Fazio	Kindness
Boggs	Fenwick	Kogovsek
Boland	Ferraro	Kramer
Boner	Fields	LaFalce
Bouquard	Findley	Lagomarsino
Bowen	Fish	Lantos
Breaux	Fithian	Latta
Brinkley	Florio	Leach
Brooks	Foglietta	Leath
Broomfield	Foley	Lee
Brown (CA)	Ford (TN)	Leland
Brown (CO)	Forsythe	Lent
Broyhill	Fountain	Levitas
Burgener	Fowler	Livingston
Burton, Phillip	Frank	Loeffler
Butler	Frenzel	Long (LA)
Byron	Frost	Lott
Campbell	Fuqua	Lowery (CA)
Carman	Garcia	Lowry (WA)
Chappie	Gejdenson	Lujan
Cheney	Gibbons	Lundine
Clausen	Gilman	Madigan
Clay	Gingrich	Markey
Clinger	Glickman	Marlenee
Coats	Gonzalez	Marriott
Coelho	Goodling	Martin (IL)
Coleman	Gore	Martin (NC)
Collins (IL)	Gradison	Martin (NY)
Collins (TX)	Gramm	Martinez
Conte	Gray	Matsui
Corcoran	Green	Mattox
Coughlin	Gregg	Mazzoli
Courter	Guarini	McCollum
Coyne, James	Gunderson	McCurdy
Coyne, William	Hagedorn	McDade
Craig	Hall (OH)	McEwen
Crane, Daniel	Hall, Ralph	McGrath
Crane, Philip	Hall, Sam	McHugh
D'Amours	Hamilton	Mica
Daniel, Dan	Hammerschmidt	Michel
Daniel, R. W.	Hance	Mikulski
Dannemeyer	Hansen (ID)	Miller (CA)
Daschle	Hansen (UT)	Miller (OH)
Daub	Hartnett	Mineta
de la Garza	Hatcher	Minish
Deckard	Heckler	Mitchell (MD)
Dellums	Hefner	Mitchell (NY)
Derwinski	Heftel	Moakley
Dickinson	Hendon	Mollinari
Dicks	Hightower	Mollohan
Dingell	Hiller	Montgomery
Dixon	Hillis	Moore
Donnelly	Holland	Moorhead

Morrison	Roberts (SD)	Staton
Mottl	Robinson	Stenholm
Murphy	Rodino	Stokes
Murtha	Roe	Stratton
Myers	Roemer	Studds
Napier	Rogers	Stump
Natcher	Rostenkowski	Swift
Neilligan	Roth	Synar
Nelson	Roukema	Tauke
Nichols	Rousselot	Tauzin
Nowak	Roybal	Taylor
O'Brien	Rudd	Trible
Oakar	Russo	Udall
Oberstar	Sabo	Vander Jagt
Obey	Sawyer	Vento
Ottinger	Scheuer	Volkmer
Oxley	Schneider	Walgren
Panetta	Schroeder	Walker
Parris	Schulze	Wampler
Pashayan	Schumer	Washington
Patman	Sensenbrenner	Waxman
Patterson	Shamansky	Weaver
Paul	Shannon	Weber (MN)
Pease	Sharp	Weber (OH)
Pepper	Shaw	White
Perkins	Shelby	Whitley
Petri	Shuster	Whittaker
Peyster	Simon	Whitten
Pickle	Skeen	Williams (MT)
Porter	Smith (AL)	Williams (OH)
Price	Smith (IA)	Winn
Pritchard	Smith (NE)	Wirth
Quillen	Smith (NJ)	Wolpe
Rahall	Smith (OR)	Wortley
Rangel	Smith (PA)	Wright
Ratchford	Snowe	Wyden
Regula	Snyder	Wyllie
Reuss	Solarz	Yates
Rhodes	Spence	Yatron
Richmond	St Germain	Young (AK)
Rinaldo	Stangeland	Young (FL)
Ritter	Stanton	Zablocki
Roberts (KS)	Stark	

NAYS—9

Conable	Luken	Shumway
Dreier	Lungren	Solomon
Lewis	McDonald	Thomas

NOT VOTING—63

Addabbo	Dornan	McCloskey
Akaka	Ertel	McKinney
Applegate	Evans (GA)	Moffett
AuCoin	Fiedler	Neal
Bafalis	Flippo	Pursell
Blaggi	Ford (MI)	Railsback
Blanchard	Gaydos	Rose
Bolling	Gephardt	Rosenthal
Bonior	Ginn	Santini
Bonker	Goldwater	Savage
Brodhead	Grisham	Selberling
Brown (OH)	Harkin	Siljander
Burton, John	Hawkins	Skelton
Carney	Hertel	Traxler
Chappell	Jenkins	Watkins
Chisholm	LeBoutillier	Weiss
Conyers	Lehman	Whitehurst
Crockett	Long (MD)	Wilson
Davis	Marks	Wolf
DeNardis	Mavroules	Young (MO)
Derrick	McClary	Zefteretti

□ 1230

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6892, with Mr. GRAY in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentle-

man from Virginia (Mr. WAMPLER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill, H.R. 6892.

The bill provides changes in legislation to meet reconciliation requirements imposed on the Committee on Agriculture by the first concurrent budget resolution for fiscal year 1983.

GENERAL

The actions taken by the committee exceed by \$1.3 billion the goals prescribed by the reconciliation instructions of the budget resolution. Under section 2(c)(1) the Committee on Agriculture was asked to report changes in laws under the jurisdiction of the committee that would reduce spending by \$779 million in fiscal year 1983, \$1.083 billion in fiscal year 1984 and \$1.428 billion in fiscal year 1985. H.R. 6892, instead, would yield savings of \$1.276 billion in fiscal year 1983, \$1.724 billion in fiscal year 1984, and \$1.596 billion in fiscal year 1985.

These net savings were achieved by amendments to the commodity programs and by amendments to the Food Stamp Act. The amendments to the commodity programs would result in savings of a total of \$3.270 billion over the 3 years, and the amendments to the food stamp program will yield savings totaling \$1.326 billion over the 3 years.

The amendments to the commodity programs are designed to achieve supply adjustment by alleviating surpluses which, in the case of the dairy program, have resulted in excessive Government costs and, in the case of other farm commodities, have depressed farm prices and contributed to a decline in real farm income which is at its lowest level since the Great Depression.

Mr. Chairman, I think the committee has done an exceedingly good job, not only in complying with the requirements imposed on us by the Budget Committee and by the House, but by affording the House and eventually the taxpayers of this country far more savings than we were requested to do. This was done because of our interest in helping the largest number of people with the smallest number of dollars; and when we make reductions, we seek to cut the largest amount of dollars in a way that would affect the least number of people. That is within the art of the possible, and that is what we have to deal with in the legislative process.

I know there are many Members who are not satisfied with this legislation. That is only proper and expected in a body such as this. You could see by the vote on the rule that many

Members, a large number, were unhappy that we would have a modified closed rule; and that, of course, is their prerogative. And some of them may be correct in their concern. But in order to have the necessary flexibility to make cuts, very difficult and painful cuts, in programs that are so dear and near to the hearts of so many of our Members, we had to have that type of rule. Otherwise, we could not come here and open up the entire bill to amendment, because many of those—and I say this and I hope that my colleagues would listen—who are dissatisfied with our product are dissatisfied because we cut too much, because their program is not given more assistance since that would have added to the cost. I say to those Members that they have the right to disagree, but it would be very difficult if we were to come here, under the guise of working on a budget resolution in reconciliation, to try and reduce savings if we were to have a run, if you would call it that, on the budget, by adding more expensive programs.

I know that in one of the areas, in dairy, one of our dear colleagues, of course, is very dissatisfied. But his resolution would cost exceedingly more than what we have come with.

So, again, I would hope that the Members of the House would support our effort, the very sincere and dedicated effort of this committee, of all its Members, and the subcommittee chairmen, that what we have done is: First, within the art of the possible; and second, that it was not easy but it was very, very difficult to cut anything. To reduce anything in this Government is very difficult. We have gone above that.

Now, Mr. Chairman, later on I might have some further comments as to where we are in the economy, the farm economy, and why the need for this legislation. But, for the time being, I will just say that I would hope that all of the Members of the House would support our effort in this legislation, which was done with the very, very difficult task of reducing expenditures, but it was done, I think, in an exceedingly good manner by the members of the Agriculture Committee.

The committee would also point out that it recently reported out a bill, which has since been enacted into law, to insure that the tobacco price support program will be carried out at no expense to the taxpayers. The Congressional Budget Office estimated that this legislation will result in savings totaling \$44 million over the next 5 fiscal years.

The amendments to the Food Stamp Act achieve significant cost savings through measures believed by the committee to represent the least harmful alternatives with respect to needy households dependent upon the program. In this regard, the commit-

tee would emphasize that as a result of legislation adopted in 1981 savings were made in the food stamp program which totaled in excess of \$6 billion for the 3 fiscal years affected. While the committee was compelled to make further food stamp cuts so as to contribute to achieving the directive that it make cost savings in programs within its jurisdiction, any deeper cuts in the program would impact heavily on the ability of low-income Americans to secure an adequate diet.

DAIRY

Title I of H.R. 6892 amends section 201 of the Agricultural Act of 1949, as amended by the Agricultural and Food Act of 1981, to establish a two-tier dairy price support program to be implemented by a National Dairy Board.

The Agricultural Act of 1949, as originally enacted, required the support of milk prices at such level between 75 and 90 percent of parity as is necessary to assure an adequate supply. Until recently the dairy price support program has functioned effectively to assure an adequate supply of dairy products at a reasonable cost, bringing stability to an industry which is subject to annual swings in both production and consumer demand.

The Food and Agriculture Act of 1977 raised the minimum support level from 75 to 80 percent of parity through March 31, 1979, and required that the support price be adjusted semiannually. Congress, in 1979, extended the 80 percent of parity minimum support level through September 30, 1981.

Unfortunately, due to a variety of factors, the purchase of surplus stocks by the Commodity Credit Corporation has grown to record proportions since that time.

The committee is deeply concerned about this unprecedented surplus milk production and has acted on three occasions in the last 18 months to rescind scheduled increases in the support level. In the most recent action, the Agriculture and Food Act of 1981 continued through fiscal year 1982 the \$13.10 per hundredweight support level, which had been in effect in 1981. This level of support was equivalent to 72.5 percent of parity on October 1, 1981—the first time in the history of the program that the support level has been set below 75 percent of parity at the beginning of the marketing year.

These actions have not been successful in reducing milk production. For a variety of reasons, milk production continues to expand, although at a decreasing rate.

Foremost amongst these reasons for continued expansion is the decline in grain prices experienced last year. Record feed grain production in 1981 depressed grain prices severely. Because grain is the principal cost item in milk production, dairy farmers

found it economical to increase feeding rates, increasing milk production per cow. Also some farmers entered dairy farming because of the limited or nonexistent income opportunities in the other sectors of agriculture.

Other reasons for the increase in surplus milk production have been the stagnant demand for dairy products caused by the recession, stagnant beef prices which have discouraged the marketing of older, inefficient milk cows, and the expansion of herds caused by setting the support level at 80 percent of parity during the period 1977-80.

Faced with at least another year of record milk production and expenditures for the dairy program, the committee has developed this legislation which will completely restructure the program and create a strong and immediate incentive to reduce production.

The principal feature of title I of H.R. 6892 is to create a two-tier dairy price support program for the 3 fiscal years beginning October 1, 1982.

For that portion of the national milk supply required to meet domestic needs, the support level of \$13.10 per hundredweight, which had been in effect for 2 years, would continue through fiscal year 1983. For the next 2 fiscal years, the level of support would be adjusted to reflect the percentage of parity that the Secretary determines \$13.10 represented on October 1, 1982. This is now estimated to be approximately 68 percent of parity.

For that portion of the national milk supply determined to be in excess of domestic needs, a uniform deduction to the basic support level would be applied. The rate of reduction would be calculated in a manner so as to cover the net cost of acquiring, managing, and disposing of all surplus milk in excess of 5 billion pounds annually, as well as making incentive refunds to producers.

The funds represented by this deduction will be collected and remitted to the CCC by the first handler of the milk. Through this system, producers will finance their portion of the cost of the price support program.

One of the major criticisms of the current dairy price support program is the absence of any upward limit on dairy purchases by the CCC. Limiting CCC responsibility to 5 billion pounds milk equivalent will achieve an immediate and substantial reduction in the dairy program. By comparison, the CCC will acquire an estimated 13.3 billion pounds milk equivalent of dairy products in fiscal year 1982. Enactment of this legislation will achieve savings in excess of \$1.3 billion in fiscal year 1983 according to CBO estimates.

To provide further incentive to reduce production, incentive refunds

would be made to producers who can demonstrate a reduction in production from that of the previous year. The committee believes this mechanism will provide a strong incentive for producers to immediately reduce production.

The bill also creates a National Dairy Board appointed by the President from nominations recommended by producer organizations. It is assigned major responsibilities for administering the program.

The committee also addressed the subject of dairy product promotion. H.R. 6892 provides for a coordinated national promotional effort financed by milk producers.

If the program is approved in a national referendum by a majority of milk producers who vote, there would be a 5 cents per hundredweight nonrefundable assessment on all milk marketed to be used for the purpose of general advertising and promotion of dairy products. The promotional activities would be limited to processed dairy products for the first 2 years of the program. The program would expire at the end of 5 years unless approved by another referendum.

The program would be operated at no cost to the Government and by promoting consumption of dairy products, it should contribute to a reduction of the surplus and the cost of the price support program.

Another dairy issue addressed by the committee deals with the donation of surplus dairy commodities domestically and abroad. Subtitle C of title I (section 130) expands the authority of the CCC to donate surplus dairy commodities to needy households in the United States, including households participating in the food stamp program which are ineligible to receive such products under current law. It also provides expanded authority for donation of surplus dairy products to needy persons outside the United States. On this issue Chairman ZABLOCKI plans to offer an amendment which would require coordination of this program with existing donation programs under title II, Public Law 480. There is much merit to his proposed amendment.

WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

Title II provides emergency legislation to help strengthen the sagging farm economy by offering producers of wheat, feed grains, upland cotton, and rice an effective surplus reduction program for the 1983 crop of these commodities.

The bill proposes a practical and effective solution to an urgent problem currently facing producers of these commodities. Real farm income in the United States now is at its lowest level since the Great Depression in the 1930's. This is the result of recent worldwide bumper harvests, coupled with high interest rates, a worldwide

recession, and the strength of the dollar abroad—making it more expensive for foreign buyers to buy our farm commodities. The situation is particularly grave for the U.S. grain and rice industry.

A substantial reduction in stocks of these commodities is necessary if we are to see any improvement in prices. Grain and rice prices are particularly depressed at the present time. The July farm price for wheat was \$3.29 per bushel compared with the July 1981 price of \$3.62 per bushel and the seasonal average price in 1980 of \$3.65. Similarly, the July corn price was \$2.54 per bushel contrasted with the July 1981 price of \$3.14 per bushel. The July farm rough rice price was \$8.16 per hundredweight compared with the July 1981 price of \$12.80 per hundredweight and a seasonal average price in 1980 of \$12.80 per hundredweight.

It is the view of the committee that the program announced by the administration for 1983 crop wheat or any other similar program patterned after the 1982 program would once again be ineffective in actually reducing supplies. The committee believes that in addition to program benefits, a paid diversion is needed to provide the incentive necessary to gain farmer participation. Without the paid diversion included in this bill, participation would likely be too low and stocks would continue to build. On the other hand, the reduction program approved by the committee, with a portion in the form of a paid diversion, would increase compliance, effectively reduce production, restore better balance between supply and demand, and afford farmers a better chance for adequate returns.

Further, the committee is of the opinion that a paid diversion program is in the best interest of soil conservation. Nobody including producers wants to waste this Nation's resources producing crops that presently are not needed. Unless an effective supply management program such as the committee recommends is initiated, we can only look forward to larger Government outlays in addition to having to witness the depletion of one of this Nation's most valuable resources—our croplands.

To this end, H.R. 6892 provides the following for wheat, feed grains, and rice.

For wheat, there would be an acreage reduction program consisting of a reduction of 25 percent of the wheat acreage base, 10 percent to be made under a paid diversion program which would qualify the producer for a diversion payment of \$3 per bushel on the yield for the diversion program acreage.

For feed grains, the program would be required if the 1982 corn crop exceeds 7.3 billion bushels in which

event a reduction of 20 percent of the 1983 crop feed grain acreage base would be required, 10 percent to be made under a paid diversion program, the payment to be \$1.50 per bushel.

For rice, a program would be required if the 1982 rice crop exceeds 145 million hundredweight, the reduction to consist of a total of 20 percent of the 1983 crop rice acreage base, 10 percent to be made under a paid diversion program which would qualify the producer for a \$3 per hundredweight payment.

In addition, H.R. 6892 establishes a minimum loan rate for the 1983 crop of wheat of \$3.80 per bushel and for the 1983 crop of corn of \$2.61 per bushel. This would increase the loan rate by the same amount as the increase in the target price for these commodities mandated by the Agriculture and Food Act of 1981. This assures that the exposure for deficiency payments for the 1982 crop would not be increased in 1983.

Another provision contained in this bill would require an effective supply-management program for cotton producers for the 1983 crop in the event the Secretary of Agriculture determines that a supply-reduction program is necessary.

During the past year, cotton producers were severely affected by the same disastrous economic conditions that adversely impacted producers of other major commodities.

By June of this year, cotton prices had fallen nearly 25 percent from the year before. It was becoming clear that the acreage reduction program announced by the Department would reduce stocks by no more than 300,000 bales by August 1983.

During the month of June, a series of weather patterns developed in west Texas which produced a host of extraordinarily devastating storms causing a loss of the equivalent of 26 percent of the acres planted throughout the United States. As a result, only about 10 million bales are expected to be harvested in the United States from this year's crop, and stock projections for August 1983 have now been revised downward from 6.1 to 4.4 million bales. Were it not for this calamity, there would be little doubt that cotton producers would be facing an indefinite yet prolonged period of large surpluses coupled with prices far below cost of production.

Still, there is a great deal of uncertainty surrounding the exact extent of the Texas disaster, which cannot be accurately determined for some months. In addition, the export outlook continues to sag, with 1982-83 projections now revised downward from 7.3 to 6.7 million bales. Domestic use for next year is also expected to be lower than earlier projections. Thus, in the absence of marked improvement

in economic conditions, cotton markets in the United States and abroad could become increasingly sluggish. Because of these factors, many farmers and farm organizations have expressed concern that surplus conditions could soon return, with the same adverse conditions of the past year.

The committee recognizes these uncertainties facing the cotton industry, and therefore is leaving the initial determination of the need for a reduction up to the Secretary of Agriculture. The Secretary is in a position to monitor the situation carefully both here and abroad during the coming months and assess the need for a reduction program.

In the event that he determines a need for such a reduction, this legislation will provide the tools for a more effective program. H.R. 6892 provides that if the Secretary should establish an acreage reduction program under current law, 25 percent of the reduction would be required under a paid diversion program which would qualify producers for a payment of 25 cents per pound on the yield for the diversion program acreage.

In the view of the committee that incentive of a paid diversion is necessary to encourage participation in any supply adjustment program that may be announced by the Secretary.

FOOD STAMPS

The bill would continue the food stamp program for 3 more years—through September 30, 1985—with authorization for funding for fiscal year 1983 at \$12.648 billion, for fiscal year 1984 at \$12.908 billion and for fiscal year 1985 at \$13.651 billion. The spending caps are those proposed by Mr. COLEMAN, ranking minority member of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition. They are based upon the following Congressional Budget Office estimates for unemployment and food price inflation:

[By fiscal years, in percent]

	1983	1984	1985
Unemployment	8.6	7.7	7.3
Food price inflation	6.1	6.8	6.9

In conformity with the reconciliation process, the committee has utilized the current CBO estimates for program expenditures; on the basis of those estimates, the appropriation levels authorized appear sufficient to maintain benefits for those Americans without resources to purchase an adequate diet. If, however, the rate of inflation or the rate of unemployment should exceed the rates assumed in the CBO cost estimates, it is apparent that the authorized funding levels established in the bill may not be adequate to meet program needs.

The bill reduces the cost of the food stamp program over 3 years by an estimated \$1.3 billion, based on economic assumptions used in the first concurrent budget resolution.

The committee achieved cost savings by various changes in the program. The committee agreed to:

Require rounding down to the lowest dollar increment any computations of, respectively, the thrifty food plan, standard and excess shelter deductions and value of allotments. As is current practice, the unrounded number will continue to be used as the basis for updating the deductions the following year. (Savings of \$68 million for fiscal year 1983, \$93 million for fiscal year 1984, and \$93 million for fiscal year 1985).

Delay the next scheduled adjustment of the standard shelter and dependent care deductions from July 1 to October 1, 1983 and update the deductions every October 1 thereafter. This would coordinate the update of these deductions with the timing of the update in the thrifty food plan. Current law provides that the standard and the shelter/dependent care deductions will be adjusted on July 1, 1983; therefore, under the amendment, the adjustments to both deductions and to the thrifty food plan will take place on the same dates, reducing the work required by State food stamp administrators. (Savings of \$42 million for fiscal year 1983, and no savings for the following fiscal years.)

Eliminate any allotment for the initial month or period of participation for a household if the value of the allotment it otherwise would receive is less than \$10 because of proration of the initial month's benefits. In subsequent months, the household would receive the full allotment which it was due. (Savings of \$15 million for each of fiscal years 1983, 1984, and 1985.)

The committee amendment requires that expedited food stamp service be made available to destitute migrant households in accordance with regulations in effect on July 1, 1982, and to other households having no net income. The committee continues to feel that the special circumstances of migrant and seasonal farmworkers warrant continued protection for expedited service eligibility. Because of the seasonal nature of their work which involves movement from area to area, migrants in most instances arrive at a new worksite without sufficient funds to feed themselves until payment is received from a new employer. Households in such situations currently qualify for expedited service under USDA regulations as destitute households.

To insure continued protection for migrant and seasonal farmworker households under the destitute provisions, the committee wrote into law the safeguards now contained only in

USDA regulations, which include a requirement that stamps be made available in 2 or 3 days after application. The committee wishes to make clear that the current regulations regarding expedited service eligibility and benefit levels for destitute households must remain intact for migrant and seasonal farmworker households.

The committee rejected an amendment to impose what it considered undue restrictions upon expedited service for households which face real hunger emergencies. Witnesses from the General Accounting Office testified before the committee in hearings in March that quality control data for 20 States showed that errors for expedited cases were generally lower than those for the overall caseload. During this time of exceptionally high unemployment, to deny households who experience temporary destitution speedy access to food assistance would be cruel and unreasonable. The administration reported that in New Jersey 60 percent of the households that were given expedited services treatment during a temporary emergency did not require food stamps on a long-term basis.

In connection with expedited service, the report of the committee on H.R. 6892 addresses other concerns—that there be no gap in benefits for those providing prompt verification of need, and that a State's issuance cycle not result in a migrant household being deprived of benefits in the second month of eligibility. I would emphasize a view shared by both the majority and minority sides of our committee—that the comments in the committee report on these issues are applicable whether the committee bill or the substitute is adopted by the House.

The committee also refused to delay adjustments in the thrifty food plan which would further erode the purchasing power of recipients. Because of legislation enacted last year, the July benefit allotments are based on food prices that are 22 months out of date, which corresponds to a 10- to 15-percent loss in food purchasing power. Many of the witnesses at this year's food stamp hearings testified that the current delay in thrifty food plan adjustments may be a contributing factor to the increased use of food banks and soup kitchens by low-income persons around the country. At the hearings, witnesses estimated that an average food stamp family lost \$4 a week in food buying power—an amount which represents three meals a day for each family member for 2 days each month—with the 1981 freeze on adjustments, and, if the family lived in a State with a sales tax on food, they lost almost \$3 more. If food stamp adjustments were delayed again this year, food stamp families

would lose another \$5 a week in food-buying ability.

USDA's last National Household Food Consumption Survey, conducted in the late 1970's, found that five-sixths of all households whose food expenditures equaled the cost of the thrifty food plan failed to obtain the recommended daily allowances for the basic nutrients. Today, the average food stamp benefit equals but 43 cents per person per meal, and the maximum benefit (to families with no other income for food purchases) totals 64 cents per person per meal.

The committee recognizes that to effectively serve the needs of the poor, a substantial effort must be made to deny program benefits to those who are not entitled to them. Accordingly, the committee adopted several measures which reflect the suggestions made by State program administrators, officials from the General Accounting Office, and the Department's Inspector General to achieve this objective.

The committee bill includes the following antifraud and abuse provisions, some of which also result in program savings:

First, job search: Establishes an option for States to apply job search requirements at the time households apply for participation in the program. (Savings of \$5 million for fiscal year 1983, \$6 million for fiscal year 1984, and \$7 million for fiscal year 1985.) The committee rejected a job search amendment which would have authorized the Secretary to require job search by applicants. This action was taken primarily in recognition of the fact that imposing this requirement would be an exercise in futility in States where the unemployment rate is extraordinarily high.

Second, voluntarily quitting a job: Lengthens the voluntary quit disqualification period from 60 to 90 days, making this penalty compatible with the AFDC disqualification period.

Third, reimbursement for workfare administrative expenses: Directs the Secretary to use one-half of the savings resulting from the employment of food stamp recipients who had been participating in workfare programs to defray additional Federal contributions to agency costs of operating such programs.

Fourth, household definition: Requires siblings who live together to be treated as one household unless one sibling is elderly, blind, or disabled and permits certain elderly, disabled persons who live with others but who do not purchase food and prepare meals to be considered a separate household. (Net savings of \$38 million in fiscal year 1983, \$40 million in fiscal year 1984, and \$42 million in fiscal year 1985.)

Fifth, standard utility allowance: Prohibits the use of standard utility

allowances for households, such as those in public housing, that are not billed for heating or cooling costs. (Savings of \$90 million in fiscal year 1983, \$93 million in fiscal year 1984, and \$97 million for fiscal year 1985.)

Sixth, alternative issuance systems: Authorizes the Secretary to require that State agencies develop alternative issuance systems or to issue a reusable document in lieu of coupons if the Secretary, in consultation with the Inspector General, determines that use of such systems or documents is necessary to protect the integrity of the food stamp program and reduce losses to the program.

The overissuance of allotments caused by recipients or administrative staff error results in unnecessary costs to the food stamp program. The committee, in an effort to reduce the amount of overissued benefits, has approved several measures to improve the administration of the program, while at the same time, applying strong sanctions on the States. To ease the State's administrative burden and reduce costs, these measures, among others, were adopted:

First, prompt reduction: Authorizes State agencies to immediately reduce or terminate a household's benefits if the agency receives clear, written information that such a benefit reduction or termination is required. (Savings of \$10 million for each of fiscal years 1983, 1984, and 1985.)

Second, error rate reduction system: Sets specific targets for error reduction by State agencies for fiscal years 1983-85 and thereafter and imposes sanctions for States failing to meet the targets. (Savings of \$90 million for fiscal year 1983, \$200 million for fiscal year 1984, and \$325 million for fiscal year 1985.)

H.R. 6892, as reported by the Agriculture Committee, contains the same error rate sanction provisions as those introduced earlier this year by Senators DOLE, COCHRAN, ANDREWS, JEPSEN, and BOSCHWITZ, and passed by the Senate. The committee rejected an error rate reduction provision which would have draconian effects on the States.

Both the committee bill and the rejected amendment would require States to lower error rates to 5 percent by fiscal year 1985 or face financial penalties. Both save considerable amounts of money, and result in identical savings in fiscal year 1983. There are, however, important differences between the two approaches. Because of these differences, the National Governors Association and the Council of State Public Welfare Administrators both opposed the approach contained in the amendment when it was offered in the Agriculture Committee, and stated a strong preference for the committee provisions.

H.R. 6892 sanctions States that fail to meet their error rate targets by reducing the Federal share of their administrative costs by 5 percent for each of the first 3 percentage points that the error rate exceeds the target, and by 10 percent for each additional point that their error rate exceeds the target. In other words, if a State's target is 5 percent but its actual error rate is 8 percent, it would lose 15 percent of the Federal share of its administrative costs. If its error rate were 10 percent it would lose 35 percent of the Federal share of its administrative costs. But a State making significant reductions in its error rate (by reaching one-third of the 5-percent target during 1983, for example) would not suffer financial sanctions.

The amendment, by contrast, would have penalized a State a full dollar for every dollar in benefits overissued over the State's error rate target. This could result in huge and unrealistic sanctions that in some cases could exceed 100 percent of the Federal share of a State's administrative costs. The sanctions in the amendment were so large that they would likely have been counterproductive. They would have reduced State funds to the extent that a State could well have insufficient resources to invest in new technology and other systems needed to reduce errors in future years.

In conclusion, Mr. Chairman, I believe that the committee has acted responsibly in not only meeting but exceeding the goals prescribed in the budget resolution. I would urge the Members to join me in support of this bill.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the budget process is, I believe, coming apart at the seams. It is not working as it should and certainly not as I and many of the Members, I am sure, intended when it became law in 1974. The confusing maze of figures that come out of the Congressional Budget Office, the Office of Management and Budget, and others, tend to confuse Members themselves, and it must totally confuse the taxpayers and the public in general who are only observers in this budget process.

Mr. Chairman, I mentioned in my appearance before the Rules Committee that the credibility of cost estimates for bills such as this is taxed when the Congressional Budget Office estimates that there will be no cost attached to the feed grains provisions of the agriculture reconciliation bill because, and I repeat because, CBO states that the 1982 corn crop will be 7.2 billion bushels. No other authority claims such a low figure, yet diversion payments under title II of the bill are

not triggered unless there is a crop estimate of over 7.3 billion bushels.

□ 1245

Currently, most authorities estimate the corn crop at about 7.6 billion bushels. Now, this is frustrating indeed to adopt provisions based on statistics that we are relatively sure are wrong.

What has been said is true about the fact that this bill does substantively change farm commodity programs, the dairy program, and the food stamp program. Yet it is difficult to amend the provisions selectively.

Yes, it is true that there is only one "substitute" authorized by the rule. I would have preferred, as I stated in the Rules Committee, if we could have been given a more "open" rule for H.R. 6892. I asked for such a rule, but recognizing the practicalities of the situation, I asked for a minimum of a minority substitute.

Meanwhile, the chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES) appeared before the Rules Committee and stated that the "savings" directed by the first concurrent budget resolution instructions had been met by the provisions of H.R. 6892. The Congressional Budget Office stated that, through a combination of dairy, commodity, and food stamp provisions, the reconciliation goals had apparently been met.

Now, given those facts, Mr. Chairman, the minority could not get a bipartisan or even Republican substitute that could overhaul this entire agricultural reconciliation bill.

So what must we do? I think perhaps we may be relegated to go into conference with the other body and getting the best possible conference report we can. If we have an unsuccessful conference, then certainly the House can work its will and if that conference report is not acceptable to the administration, then I suspect the bill may be vetoed.

Now, in this regard, Mr. Chairman, let me read in part from a letter from Secretary Block setting forth the position of the administration on this bill:

The administration opposes this bill with the exception of section 130, which amends section 416 of the Agricultural Act of 1949 and authorizes the donation of dairy products.

We oppose the provisions creating special paid diversion programs for the 1983 crops of wheat, feed grains, rice and upland cotton. Not only would these provisions require outlays for diversion payments, but we estimate that the resulting production adjustment would be insufficient to provide offsetting savings in net lending and deficiency payments. We estimate that the program as envisioned in the bill would result in additional outlays for Commodity Credit Corporation of over \$1.3 billion in fiscal year 1983 on these crops. Even using the Congressional Budget Office (CBO) estimates for grain, rice, and cotton, these provisions would increase fiscal year 1983 out-

lays by \$363 million. So, the paid diversion programs would not be money-savings changes.

And to quote further, Mr. Chairman:

We oppose the higher loan rates which H.R. 6892 mandates for wheat and feed grains. We estimate that these loan rates would increase the net outlays for wheat and feed grain commodity loans by \$450 million in fiscal year 1983 and by \$64 million in fiscal year 1984.

The Secretary of Agriculture also says, Mr. Chairman:

We oppose the provisions of H.R. 6892 which establish the National Dairy Board and unduly complicate the dairy price support program. This bill would require a new bureaucracy in USDA to operate the new program. Because of the complexities of the provisions it would take up to 6 months to implement the program. Since the cost savings estimated for this bill stem partly from the assumption that it will be implemented immediately, they are overstated by perhaps 50 percent. Moreover, the National Dairy Board would not be accountable to the Secretary or the public. The bill would continue to encourage a supply imbalance of milk through high price support levels. It would lock the Government into a long-term obligation to purchase 5 billion pounds of dairy products annually. Even under the 1981 Act, purchases would likely have fallen below this level by fiscal year 1985.

Now, Mr. Chairman, I do not necessarily agree with each and every position of the administration as stated in the letter from Secretary Block. However, I want to emphasize, it is the President of the United States who must eventually sign this legislation if it is to become law. Therefore, the administration's views are very important on each of these issues.

I have said repeatedly, Mr. Chairman, that an omnibus reconciliation bill, in my judgment, would have been the proper course for the House to take if we really want to effect savings. Now, most of us did not participate in this decision on that issue. It was decided to proceed with a multiple reconciliation bills approach. Obviously, this approach is not working, or at least it is not in my opinion, and it is not effecting the kind of savings that could be achieved.

Mr. Chairman, I think our best hope here today is to pass the minority substitute adding additional food stamp savings, and then, depending on what may happen on a motion to recommit, proceed to obtain the best solution possible in the conference. It is not an easy course that has been set out for us, but we must do the best we can under the circumstances.

So I would urge members of the committee to vote for the minority substitute; then give strong consideration to a motion to recommit with instructions, which I understand the gentleman from Ohio (Mr. LATTI) will offer. Now, if you can support the gentleman from Ohio (Mr. LATTI) after hearing the debate and voting on the minority substitute, I urge you to do so.

If the motion to recommit fails, I urge you to support a stronger conference report that I am hopeful we can bring back to you soon.

Mr. Chairman, I agree with the minority leader, the gentleman from Illinois (Mr. MICHEL) who has said repeatedly that we must resolve the "spending cut" portions of the budget process before proceeding to the tax bill now in conference. I would assume this means holding the tax bill until we determine what the President's action will be on the various spending cut bills.

The vote of 230 to 156 on the rule should tell us all something about what may happen to this bill if we do not proceed with caution.

So, Mr. Chairman, I support the committee in what it has achieved so far in the agriculture reconciliation bill. I again commend the chairman of the committee, the gentleman from Texas (Mr. DE LA GARZA) and others on the committee for their hard work and commitment to date; however, I think we all have to work harder to achieve more savings and certainly I pledge my support to this end.

Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Missouri (Mr. COLEMAN).

Mr. COLEMAN. Mr. Chairman, it was less than 1 year ago that we passed a 4-year farm bill here in this Chamber. At that time, there was quite a debate as to whether or not we could forecast 4 years in advance exactly what the farm situation might be. After considerable debate and the fine leadership of our chairman, that bill passed by one or two votes, as I recall.

Well, here we are about 1 year later and although interest rates may have declined a little bit, they are still too high for the American farmer and farm commodity prices, though perhaps up for livestock, are disastrously low in the grains.

Yesterday, on the Chicago Board of Trade, the corn and bean prices that they quoted simply are insufficient to sustain a farm operation in this country. December corn closed at \$2.45; January soybeans, \$5.98.

Let me explain and interpret these figures for those who are not familiar with their meaning. These prices are not even equal to the cost of production of these crops.

Net income continues to fall for the American farmer and the farmers continue to fail to make payment at the bank.

Now, the reason that I support the committee bill, as far as the farm-related programs go, is that there needs to be some incentive for the American farmer to stop producing himself into a disastrous situation piecewise. In my home State of Missouri, three out of four farmers are not participating or

being certified in the voluntary set-aside program that this administration has put in place to reduce production. It is obvious that they need some sort of incentive to do that, and this bill provided, I believe, an incentive in the form of a paid diversion program. Farmers will undertake to curtail production so that they might be able to help themselves in a resulting higher price in the marketplace. Without that incentive, I am assured that we will have more bumper crops, lower prices for the farmer and more and more deficiency payments paid out of the Treasury in the long run.

Farmers, when they are confronted with low prices and no incentives to reduce production output, are going to try to produce themselves out of a hole. They are going to increase volume. They are going to try to increase efficiency and increase production of grain.

The farmer-held reserve stores more than 2 billion bushels of grain right now.

The farm production figures of last year, 1981, total nearly \$139 billion as an aggregate.

The cost of money that the farmers borrow was \$13 billion; rent on land and machinery was over \$11 billion.

Mr. Chairman, that is why I rise in support of that portion of the bill for farmers, because I believe that something needs to be done.

Now, there has been much debate as to whether or not this bill meets reconciliation. I believe we can all figure that out for ourselves. We are going to offer a substitute which I will speak to later on where we could save \$197 million over 3 years in reducing the error rates and other matters in the food stamp program, which would help save money that we know we have not saved under the other parts of this bill.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. PANETTA), a member of the Committee on the Budget and also a distinguished member of the Committee on Agriculture.

Mr. PANETTA. Mr. Chairman, I rise as both a member of the Budget Committee but more importantly, a member of the Agriculture Committee with regards to the bill that is now before the House.

First of all, I want to commend the chairman of the committee and the subcommittee chairmen, who worked on this bill, as well as the minority members, all of whom I think worked very diligently to bring this product to the floor today.

Obviously, there is no question that we have a problem with regards to credibility of numbers. The Office of Management and Budget reflects the particular numbers that they want to target at. We have to rely on CBO, the Congressional Budget Office, to

present the numbers that scorekeep the savings that we provide to the House.

I realize that it is difficult for the Members, for the members of the public, to try to analyze who is right and who is wrong. The only thing I can point out, I think, to the Members is that CBO has been persistently closer to reality than what OMB has presented and that is true for the prior administration as well as this administration.

The best example of that I can give is that for 1983 the Office of Management and Budget has projected a \$115 billion deficit; CBO is projecting a \$140 billion to \$160 billion deficit, and everyone that I know of that looks at this issue agrees that CBO is much closer to what the projected deficit will be.

So I think in terms of credibility of those that do provide the numbers, CBO is much closer to the mark and, therefore, we do rely on CBO to scorekeep these figures.

In conjunction with that, the Agriculture Committee has exceeded the targets that were given to them in the reconciliation instruction. They were to reconcile \$3.2 billion in 3 years and in this bill they have provided savings of \$4.6 billion. That is \$1.3 billion in excess of the instructions that were given them. It is \$1.2 billion ahead of what the Senate has reported in their reconciliation measure.

I think the program that is presented here is also balanced. It does not just go after one program. It tries to spread the sacrifice that is involved any time we try to achieve savings in a reconciliation bill.

Food stamps are cut over the next 3 years to the tune of \$1.3 billion, involving error rate adjustments, job search adjustment, and changes in definitions.

The dairy program cuts \$3.2 billion. I might mention that that is a program the administration has consistently said ought to be reformed. We ought to cut back on that, and for the first time before this House a major reform bill that, in fact, provides those savings is now open to consideration by the House. It is the first major reform in the dairy program since its existence and I think it is important to recognize that those are real savings. They are to be counted.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 additional minute to the gentleman.

Mr. PANETTA. Because of that, the fact that these are real savings, they do attribute to the overall scorekeeping that has the Agriculture Committee exceeding its targets.

□ 1300

I would urge the Members to support the committee approach, not only because it exceeds the goals and because it is balanced, but also because of the way it does approach the food stamp issue.

Let me say that last year when we had reconciliation, food stamp cuts made up 52 percent of the overall cuts presented in the agriculture package. Almost \$7 billion was cut last year for 3 years in the food stamp program. This year, in this package, \$1.3 billion, in addition, is cut over the next 3 years.

This is a time of unemployment; it is a time of recession. I think we have to have some sense of the need out there in terms of this program before we go charging ahead and adding additional cuts.

So I would urge the Members to stick with the committee because they did the job, they presented a balanced and effective package, and they are saving money not just when it comes to the poor, but for everyone involved in agricultural programs.

Mr. WAMPLER. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Chairman, in these troubled times I seek inspirational reading. Unfortunately, more and more I am being inspired by Lewis Carroll's work. For example, in "Through the Looking Glass," when the Red Queen and the White Queen were quizzing Alice, the White Queen said, "What is the cause of lightning?" "The cause of lightning," Alice said very decidedly because she was quite certain about it, "Is the thunder. No, no," she hastily corrected herself, "I mean the other way around."

"It is too late to correct it," said the Red Queen, "When you have once said a thing that fixes it and you must take the consequences."

That was "Alice in Wonderland." But look at what the Agriculture Committee has done.

This reconciliation bill before us from the Agriculture Committee, pays people not to grow crops. This bill proposes to pay people not to grow wheat, pay people not to grow feed grains, pay people not to grow rice, and pay people not to grow cotton.

Why you ask? Because otherwise the Government would have to pay deficiency payments.

What is a deficiency payment? A deficiency payment is the difference between the market price and the target price.

What is the target price? The target price is an absolutely arbitrary, agreed upon price. Last year in negotiations on the farm bill in the conference committee, and I sat through 6 weeks of those negotiations, and that confer-

ence resembled a Turkish bazaar at times when there were negotiations on what the target prices were going to be on wheat, for feed grains, and for rice. The number arrived at as the target price was simply a political agreement.

But now, somehow, once stated, as the Red Queen says, you cannot go back and correct it. We are locked into a target price. But the Government is going to have to pay too much money in deficiency payments.

So how do we get out from under it? We create a new program, in a reconciliation bill, to pay people not to grow. And when you examine one of those commodities, rice for example, even by all CBO estimates, we are actually going to end up costing ourselves money not saving money.

We are not going to save money by paying people not to grow in the rice area. It is going to cost us money, even by the CBO figures.

I talked about "Alice in Wonderland." Take a look at the cotton program. That is the one exception in terms of target price. That is not an arbitrarily agreed-upon political figure.

In the cotton program, the most market-oriented program of the commodities, the target price is computed by taking the last 5 years' actual market price of cotton, dropping the high figure, dropping the low figure, and averaging the remaining 3 years. That figure becomes the loan rate. The target price is 120 percent of the loan rate.

It at least has some relationship to reality. And because the cotton program is so market oriented, the growers, understanding the need to reflect the market price, have a very high commitment to voluntarily modify their growing habits. As a matter of fact, figures currently in the Department of Agriculture indicate will probably have in the vicinity of an 80-percent compliance, that is 80 percent of the farmers are voluntarily setting aside acres, voluntarily not growing cotton.

Yet in this reconciliation bill, the CBO figured that if we paid people not to grow cotton, we would have about a 75-percent set-aside figure.

As a matter of fact, voluntarily, cotton farmers across the United States voluntarily will set aside a higher percentage. If you want to argue CBO numbers, you have to look at CBO's concepts, the arguments behind the numbers. They are as fallacious as other numbers are in terms of other people's arguments.

I would ask Members to, in fact, recommit this bill and examine the concept of target prices as well as the concept of paid diversion. It does not make any sense at all to me to pay people not to grow when: First, it costs money to do it under the rice program.

In a reconciliation bill we are supposed to be saving money; and second, to pay people not to grow when voluntarily they are doing it anyway.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Louisiana (Mr. HUCKABY).

Mr. HUCKABY. Mr. Chairman, I rise to the floor in strong support of this bill and would like to comment on some of the statements just made by my good friend and colleague from California, who is a member of the minority party.

It is my understanding the minority will be offering a substitute, and the substitute has the exact same provisions as the bill before the House regarding cotton, rice, wheat, and feed grains. Hence, I must arrive at the conclusion that both parties have recognized that it is necessary that we take action from where we are today, not only to protect the American farmer in the short run but also the consumer in the long run.

American agriculture is hurting like it has never hurt in my lifetime before. If CBO says that from where we are today, with the system we have, where we pay target prices to make up the difference from what the marketplace determines, and what Congress has by previously passed legislation, says is a fair minimum price that farmers should receive, if we can pay money to get farmers to participate in this program and save taxpayers' dollars, it certainly makes sense to do so.

The gentleman from California mentioned the cotton program. But he does not talk reality; he talks of numbers of people who signed up with intentions of what they were going to do. Most farmers will sign up to keep open their options so that they can later on determine whether or not they wish to participate in a program.

For instance, the only numbers that the Department of Agriculture had for the Nation were for the State of Mississippi. Mississippi had over a 90-percent sign-up of farmers who said, "I will set aside some of my land." But once it came time to plant, only 70 percent of those farmers agreed to set aside their land.

Mr. Chairman, I urge my colleagues to support the committee bill.

Mr. WAMPLER. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from South Dakota (Mr. CLINT ROBERTS).

Mr. ROBERTS of South Dakota. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the agriculture programs section of the reconciliation measure currently before the committee. I commend Chairman DE LA GARZA for his efforts on behalf of Agriculture, and my colleague, Mr. FOLEY, for authoring, introducing, and working for the com-

modity provisions we have before us today, of which I am a cosponsor and thank the ranking minority member of the committee for his leadership. If my colleagues will recall, I conducted a "show and tell" for you last session to help educate those of you who may not be familiar with agriculture on just what kind of a return the farmer receives from each \$1 you spend on grocery products. If you remember, I indicated that the farmer receives only 4 cents for the wheat in a \$1 loaf of bread.

The plight of the American farmer has deepened since that time, and we can no longer stand back and watch the agriculture industry deteriorate.

Farmers today are still battling the results of the ill-conceived grain embargo, and record crops over the past several years have added to the surplus. We currently have a surplus of over 1.1 billion bushels of wheat, and it does not take a genius to figure out that the price of our product is not going to go up when we have an abundance of that product on hand.

There have been legislative attempts made to force farmers to reduce production by penalizing them for not participating in reduced acreage programs. I do not believe that is the proper approach, and, fortunately, my colleagues agree with me. We do have a surplus. We do need to reduce production, but we cannot achieve that by mandating what a farmer can and cannot do with his own land. Rather, we must go with an incentive program which provides to that producer the financial motivation to take some of his land out of production. Mr. FOLEY's set-aside and paid diversion plan offers that incentive.

We have a lot of young farmers out there who cannot afford to reduce their production—they have too much tied up in buying their land, and equipment, and producing their crop. They need that cash flow to keep their heads above water. The paid diversion provisions of this measure will insure that the farmer will at least receive enough to make his rent payments. Hopefully, we will see a lot less fence-row to fence-row farming under this plan because we are offering those young producers a reasonable alternative.

The American farmer has done more than his fair share in helping to turn this economy around. He has survived embargoes, high interest rates, tight money, and low prices; but he cannot hold on forever. If we want to continue to enjoy one of the lowest food bills in the world for the best quality food products in the world, we have to step in now and help the farmer receive a greater return for his hard work and investment.

We have asked a lot of America's farmers. We now have a chance to

achieve a sizable budget savings while at the same time do something positive for agriculture. It is not the total answer to our problems, but it is a step in the right direction. I hope you will join me in supporting this measure. It is special interest legislation, special interest to those all across our land who enjoy the tidal effect of a healthy agriculture from the soil of the land to the workers in our factories. Agriculture is the catalyst that fires the furnaces of our factories across America.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota (Mr. DORGAN).

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of the committee bill.

I am going to support this reconciliation package because at least with respect to wheat and feed grains programs it may provide an opportunity for increased farm prices.

I do not like the priorities we are establishing in this House.

We sort of act like four bookkeepers around a coffee table.

The fact is, we ought to be outraged. We have the worst conditions on the farm that we have had for decades.

I went to a barn dance last Saturday night. Do my colleagues know what it was for? It was farmers organizing to raise money to fight the Farmers Home Administration foreclosures. That is what it was for.

Do you know who was playing the music? The Farm Foreclosure Band.

People are upset out there because they are losing their farms; they are literally being kicked off their farms. It is not always a formal foreclosure action; it is forced liquidation.

The Secretary of Agriculture also came to North Dakota recently, not to talk to those folks, of course, but he came to North Dakota. Do you know what he said? He said, "You know, things are not as bad out there on the farm as some people have been led to believe."

Nonsense. He is talking to the wrong folks. I talked to an auctioneer the other evening at the barn dance and he said he is booked up solid to the end of the year, and he said if he had more help he could do twice as many auction sales.

I will say this to the Secretary of Agriculture: If things do not change, he is not going to be known as Secretary Block; he is going to be known as Auction Block, because we are going to have more auction sales in this country out in rural America in the next couple of years than under any other Secretary of Agriculture that we have had. It is not all his fault; I am not saying that. But I am saying that these folks like Secretary Block who are saying farmers should operate in the free market and then take the free market away, that is hypocrisy.

Our agricultural exports are expected to decrease this year for the first time in 8 years; farmland prices are down, the first time since 1954; interest charged exceeds net farm income for the first time in history.

Our family farmers have serious troubles, and it is time for this Congress to pass some legislation that will give them a chance to survive.

□ 1315

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Chairman, I thank the Chairman for yielding me this time, and I congratulate his effort.

Mr. Chairman, I rise to speak on behalf of the bill H.R. 6892, which the House Agriculture Committee has reported to meet reconciliation requirements of the first congressional budget resolution.

This bill is a valuable contribution to our overall effort to reduce Government spending and provide much needed relief to the farmers of America. It comes at a time when our farmers are literally fighting for their own economic survival and at a time when no other source of relief appears to be in sight from the effects of low prices, high interest rates, high production costs, and failing farm policy.

The proposal to increase support prices and to set-aside land from production in exchange for diversion payments is an example of how Government farm programs designed to improve farm prices help the farm economy while causing a saving in Federal expenditures. The cost of the present farm policy will result in a higher takeover by increased farmer participation in the Commodity Credit Corporation loan program. The proposed set-aside program with diversion payments will reduce supply, increase market prices, thereby reducing Government loans, deficiency payments, storage costs and bankruptcy losses. The result is an estimated net saving to the Treasury of at least \$3.3 billion.

But, far more vitally important to the national interest will be the American farmers who survive this economic depression because Congress responded to the national need of agriculture.

This Congress must recognize the urgency of the situation in the farm sector even if the President will not. The Nation's agricultural economy is in the worst economic depression in 50 years. Domestic farm prices reflect the effects of an economic program that has ripped to shreds any pretense of an economic safety net for farmers. Domestic net farm income in 1982 will be the lowest since 1932 and the level of farm foreclosures in 1983 will probably be the highest since that same period a half century ago.

Let us review some of the facts that have persuaded the Agriculture Committee to present a plan for reduced crop production and reduced expenditures for agricultural programs for the next 3 years.

Crop prices dropped every month in 1981 for an average decrease among major commodities of 14 percent.

Livestock prices declined by an average of 10 percent in 1981 and have yet to regain the price levels of 1979-80, despite Secretary Block's claim of economic recovery for livestock producers.

After modest upward price movement in the spring, crop prices have now collapsed below the depressed levels of 1981 to a point unforeseen by even the most pessimistic farm forecasters. There literally is not a single farm crop among the grains and soy complex which will return a profit to farmers at this time no matter how efficient the farmer.

The July 30 issue of *Agricultural Prices* by USDA, which includes the parity price index, showed the July parity levels of major farm commodities to be lower than during the Great Depression of the 1930's.

Commodity:	Percent of parity
Rice.....	39
Wheat.....	45
Corn.....	50
Cotton.....	47
Soybeans.....	47

Farm prices in the Great Depression generally did not decline below 50 percent of parity.

Burdensome supplies and depressed prices are a reflection of this administration's failed agricultural program. There are almost 2 billion bushels of wheat and corn in the farmer-owned grain reserve with no place to go and inadequate storage available for the 1982 crops. The administration will spend almost \$12 billion on the 1982 farm program and \$1 billion of that will be the cost of storing grain with no known market.

The administration professes not to share the concern of those of us from the farming regions about the present danger of mass bankruptcies and irretrievable loss of thousands of our most efficient agricultural producers in the coming months. In the special order discussion of the farm problem on the House floor on May 4, I noted that our 2.4 million farmers had total debts of almost \$200 billion, much of that at short-term high-interest rates which cannot be repaid, given the farm income realities of 1980, 1981, and 1982.

As has been widely reported, net farm income has been shrinking rapidly for 3 years, just as farm debt has ballooned. In current dollars, net farm income for each of the last 3 years, including 1982, has been about half of

the 1979 level while total debt is double that of 1975.

The Farmers Home Administration was justly embarrassed by the unprecedented levels of delinquency among its farm borrowers, revealed earlier this year. Their policy of refinancing and subordination of debts to other lenders has allowed most of those borrowers to continue to operate in 1982. But a day of reckoning is coming, given current farm prices and farm income projections. The January 1982 FmHA data on farm loan borrowers showed that operating loan accounts were 38 percent delinquent and emergency loan accounts were 41 percent delinquent nationally. In my State of Arkansas, the figures were 63 and 64 percent respectively. I shudder to think what those figures will look like for January 1983.

I have come to the same conclusion reached by the Agriculture Committee that farm production must be temporarily reduced if the current farm depression is ever to end. It makes no commonsense to continue to pile up commodity surpluses when we have an economic program in effect which is constricting and strangulating our efforts to expand agricultural exports. Farm exports will decline in value this year from about \$44 billion in 1981 to \$42 billion, the first decline in a decade of export growth. Our storage facilities are full, we have accumulated a full year's production without any immediate market prospects for it, and our taxpayers are being required to assist farmers in managing this huge inventory at a very high cost to all concerned.

We must restore economic policies that achieve moderation in interest rates and reduce the dollar's overvaluation in relation to the currencies of our major foreign customers in order for our farm programs based on larger value and volume of agricultural exports to succeed. Because those policies which could successfully move our current surpluses into foreign markets are not working, we have no choice but to cut production.

The bill H.R. 6892 can provide the needed incentives to reduce excess crop production and it will do so while reducing Government outlays over the life of the bill. It can succeed by giving the producer the economic incentive to take 20 percent of his land out of production in the case of rice and feedgrains and 25 percent in the cost of wheat. It will make modest adjustments in the support program for dairy products which will achieve \$3.3 billion savings in this program over 3 years. It will save \$70 million in the cotton and rice program over 3 years but will increase the costs of the wheat and feedgrain programs by \$56 million over the same period, according to the Congressional Budget Office. Total savings in the bill over 3

years is \$3.3 billion, which meets the mandate of the first budget resolution.

To sum it up, it will help farmers bring supply back in line with known demand and it will save money in doing so. I urge my colleagues to support H.R. 6892.

Mr. WAMPLER. Mr. Chairman, I yield 3 minutes to the distinguished gentlewoman from Nebraska (Mrs. SMITH).

Mrs. SMITH of Nebraska. Mr. Chairman, I rise in support of H.R. 6892.

I am especially pleased that the committee included provisions for a paid acreage diversion in the wheat and feed grain titles of the bill. From all indications it appears that this additional incentive is needed for producers to reduce acreage.

It is clear that carryover stocks for wheat and feed grain must be reduced if we are to restore the supply and demand balance. Cash wheat prices in my district are running as low as \$3.20 a bushel and \$2.20 a bushel for corn. This is far below cost of production and \$1 below last year at this time.

The present program benefits for acreage reduction of loans and deficiency payments have not been and will not be enough for a majority of producers to participate. Fixed costs on farms continue regardless of whether or not a crop is produced. Financial incentives to reduce production must be enough to cover those fixed costs plus any expected profit from the lost production.

If we are not successful in reducing carryover stocks the economic condition of agriculture will become even more disastrous than it already is. For many producers this year is critical for survival. If they cannot make expenses in 1982 after 2 years of bad prices and at least 1 year of drought, the future farm foreclosure rate will make this year's failure rate look good.

Normally, I would not support these acreage set aside policies, since the normal grain situation in the 1970's was characterized by increased demand and expanding markets. This situation has changed due to the worldwide economic recession, high interest rates that make U.S. products more expensive on the world market, and a devastating grain export embargo. Therefore, I think that the acreage reduction program with a paid acreage diversion is now needed to adjust to a changing market. As a short-term action designed to bring supply and demand back into balance the paid diversion, in my opinion, is not contrary to a market oriented agriculture and is in fact a logical adjustment to the changing market. When the demand situation picks up again with world economic improvements, we can return to full production.

I commend the committee's action on the wheat and feed grain portion of

the bill. It offers the only immediate hope of increasing producer income, not through high Government handouts, but through offering more adequate incentives to reduce production and therefore raise market prices.

Mr. WAMPLER. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I rise in strong support of the legislation which is before the House, particularly the wheat and feed grain provisions of the bill. This measure represents a good faith effort to actually reduce Federal spending while at the same time providing the American farmer with some meaningful assistance in these times of chronically depressed commodity prices. I applaud the Committee on Agriculture for its efforts and urge the adoption of this measure.

Mr. Chairman, the wheat and feed grain provisions of this reconciliation measure were taken directly from legislation which was introduced earlier this summer by the distinguished chairman of the Wheat, Soybeans, and Feed Grains Subcommittee. I and numerous other farm State representatives cosponsored that effort, with the recognition that our farm families are currently caught in the throes of the worst economic condition since the Great Depression. Preliminary reports indicate that we could be facing a record wheat harvest this year, and the prospects are good for a record or near-record corn harvest as well. The response to the voluntary acreage reduction on these crops is, not surprisingly, inadequate to reduce production sufficiently, even though emphasis must be on developing additional markets. Resultantly, as this Member recognized, there is a pressing need for a paid diversion such as that contained in this bill. It is obvious that stronger incentives will be required if we are to substantially reduce production, raise commodity prices, and avoid huge outlays in deficiency payments next year; that is the premise of the bill which is before the Committee of the Whole today.

I want to call to the attention of my colleagues the simple fact that there is currently almost 2 billion bushels of wheat and corn in the farmer-owned grain reserve. While this program has worked well in providing our producers with additional marketing flexibility, the mere existence of this surplus grain has worked to the disadvantage of the farmer in that it has a price-depressing effect upon the market. It is vitally important that these surplus stocks be dissipated through export sales and new domestic markets at the same time we are cutting back production to more closely match demand.

Mr. Chairman, I stress the fact that the Agriculture Committee has not only met, but has come in with \$1.3 billion under the savings required by the budget resolution which passed this body earlier this year. This exemplary effort is in sharp contrast to that of some other committees which have reported mere token efforts to hone the budget process and the passage of legislation in June of this year. Again, I commend the Agriculture Committee, for this initiative and I urge adoption of this bill in its present form.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Chairman, I rise in support of H.R. 6892, the Food and Agriculture Reconciliation Act. The bill, which has the strong bipartisan support of the Agriculture Committee, makes changes in the wheat, feed grains, cotton, rice, and dairy programs and in the food stamp program. The legislation exceeds the goals contained in the first budget resolution for cost savings—it is estimated that H.R. 6892 would save \$1.276 billion in fiscal 1983, \$1.724 billion in fiscal 1984 and \$1.596 billion in fiscal 1985.

I would like to address myself to the wheat and feed grains section of this bill, as that is the portion in which I have been most actively involved. My big disappointment in this legislation is that we have to have it at all—this legislation, which provides incentives for farmers to cut production and conserve soil, while at the same time saving money and raising grain prices, is all within the Secretary of Agriculture's jurisdiction. It is all action that he could have, and should have taken to shore up our depression level farm economy. We have a depression in agriculture today. There can be no misunderstanding about that.

The administration has refused to enter into a multiyear grain agreement with the Soviet Union—the administration has only lately and very reluctantly agreed to talk with the Soviets about a 1-year extension of the agreement. This Nation has huge grain surpluses that are driving prices down and farmers out of business, and for our Government to ignore one of the world's largest commercial markets is inexcusable.

The administration has refused to use its authority to offer meaningful programs to farmers to cut production as a way to deal with supply/management imbalances. This refusal is particularly perplexing in light of the fact that this legislation saves money over current administration policy. And for an administration which gives lip service to soil conservation, they are strangely unenthusiastic about even voluntary programs with incentives for setting aside land for conservation purposes.

The administration's announced wheat plan is an insult—its source of incentive for participation is to offer farmers a 50-percent advance on their deficiency payments. The assumption by the administration is that prices will remain so low that farmers will be receiving wheat deficiency payments in crop year 1983. If, however, deficiency payments are made and then prices go up and it turns out the payments were unnecessary, the administration has not yet decided whether the farmer would—a year later—have to repay the money and whether he would be charged interest. I cannot imagine many wheat farmers finding the administration program a very good gamble.

I and a number of other Members introduced in May of this year the Farm Crisis Act which contained many of the elements in the bill before us today. The original Farm Crisis Act had a paid diversion for crop year 1982 and an acreage reduction program with conservation features and increased loan rates for crop years 1983 through 1985. Following the tie vote defeat of this bill in the Agriculture Committee, the members of the Farm Crisis Group, along with Mr. FOLEY and others, devised a new strategy. We agreed on an approach which would split off the commodity section of the bill, revise it, and incorporate it into reconciliation. Title I of the revised Farm Crisis Act is nearly identical to the wheat and feed grains portion of the agriculture reconciliation bill. I would particularly like to thank Mr. FOLEY, and I am sure farmers everywhere thank him also, for his leadership on this legislation.

The remaining portion of the Farm Crisis Act deals with the agriculture export credit revolving fund, the economic emergency loan program, loan guarantees for on-farm storage facilities, bartering, a White House Conference on Agriculture, and multiyear grain agreements. I am pleased to be able to say that this bill, too, has been approved by the House Agriculture Committee and now awaits House action.

The bill we are considering today provides for a 25-percent voluntary acreage adjustment program for wheat—15 percent of this would be in the form of acreage reduction and 10 percent paid diversion. The wheat price support loan for those participating would be raised from \$3.55 to \$3.80 and the diversion payments would be based on \$3 per bushel. All land set aside is required to be put to approved conservation uses. Farmers would receive half their diversion payment at time of signup.

With regard to feed grains, the bill provides for a 20-percent voluntary acreage adjustment program—10 percent of this would be in the form of acreage reduction and 10 percent paid

diversion. The corn price support loan for those participating would be raised from \$2.55 to \$2.71 and the diversion payment would be based on \$1.50 per bushel. Farmers would receive half their diversion payment at time of signup. All land set aside is required to be put to approved conservation uses.

Savings from this program would be achieved by reducing surpluses and cutting potential direct target price payments.

I urge the support of my colleagues for this legislation which not only exceeds the goal set by the first budget resolution but which will also help beleaguered farmers.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. BEDELL), a distinguished member of the committee.

Mr. BEDELL. Mr. Chairman, first of all I would like to commend all of those who have worked to make this legislation possible, including the chairman of the committee. This is not a perfect bill. We see few perfect bills, but unless we take some steps quickly to try to bring supply and demand into balance, I fear that we are going to see more and more of a depression in our farm economy.

I know Members have heard time after time after time about the problems of our farmers. Let me tell them, this time our farmers really have problems. We had the Farmers Home Administration and some other lending institutions before our committee recently, and their testimony to us was specifically, "If you think you have problems today, wait until you hold this same hearing a year from now unless something happens in agriculture, and see how desperate the situation is."

As long as we have an administration which acts similar to previous administrations in using food as a weapon for foreign policy, and making it more and more and more difficult for us to expand our foreign markets and to sell on those foreign markets, then we have no choice. We are either going to build surplus upon surplus upon surplus, or somehow we are going to bring our production under control so that we do not build those huge surpluses which depress prices and cause the taxpayers to have to pay more and more money in order to handle the surpluses.

I think this is a good bill. I am proud to be able to stand here and support it, and I commend the committee for the work that was done on it.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Chairman, I rise in support of H.R. 6892, and urge my colleagues to support the budget reconciliation package which

has been brought forward by the Committee on Agriculture.

This budget reconciliation legislation in my opinion represents an effective and responsible effort on the part of the Agriculture Committee to provide for the necessary reductions in Federal spending over the next 3 years, while at the same time offering the American farmer a sincere and realistic opportunity to pull himself out of the worst economic depression agriculture has seen since the days of the Dust Bowl.

On several occasions over the past year, attempts have been made in the Agriculture Committee to face up to the crisis which exists in our Nation's farm sector. But until now, this Congress, for one reason or another, has refused to act. But for those who had begun to give up hope that a meaningful program could emerge to reverse the downward trend in agriculture, I point to this bill, and say here is a good start.

Today, we have the opportunity to prove to the American farmer that we do have the courage to act—that we have the courage to give the grain farmer, the dairy farmer, the rice and cotton farmer the tools and incentives to reduce surplus production and, in the end, improve the price he receives for his commodity.

Not only that, but we can also demonstrate to the American taxpayer that we have the courage to trim over four and one-half billion dollars from Federal spending in USDA programs over the next 3 years.

Again, I urge the House to approve this legislation because it represents a thoughtful and realistic approach to our responsibilities in the budget process as well as the current economic crisis in American agriculture.

Mr. WAMPLER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the distinguished Resident Commissioner of Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise to make some remarks on H.R. 6892 and I do so to set forth a situation as it relates to Puerto Rico.

The bill has a provision in the food stamp portion mandating Puerto Rico to go back to a noncash food assistance program by October 1, 1983.

If it becomes public law, this amendment will force Puerto Rico to change a new program which just began July 1 which has as its main element a cashout of former food stamp benefits.

The amendment would mandate a noncash food assistance program by October 1, 1983, and also directs the Federal Government through the U.S. Department of Agriculture to undertake a thorough study of our new cashout nutritional assistance plan.

I want the Members to know that I still feel that the mandated change to another program is precipitous and premature.

I do not intend to offer an amendment to repeal this provision but do remind my colleagues here today that what we did in Puerto Rico was done following congressional adoption of the Omnibus Budget Reconciliation Act of 1981. This law took Puerto Rico out of the Federal food stamp program while reducing our annual level of benefits to a fixed figure of \$825 million.

Consistent with congressional intent, and in response to official guidelines and regulations promulgated following the new nutritional assistance block grant provisions for Puerto Rico, our island government developed a plan to cash out the reduced benefits. The plan received USDA approval and is now in operation.

It is my strong feeling that this amendment contained in the bill prejudices our program before all of the facts are in as to how well and how efficiently it is operating and how adequately it is providing nutrition for the many Puerto Ricans dependent on the new cash benefits.

I feel that Congress is taking action to change our unique situation prior to a thorough assessment and evaluation of that situation in Puerto Rico.

The additional language calling for a study of the nutritional status of Puerto Ricans as well as a study of the effect of this new program on the economy of the island is beneficial and I fully support it.

The study is one which I hope will be sound, thorough, and objective and will help guide the House Agriculture Committee in any future deliberations on the reauthorization of food stamps, particularly as it will affect Puerto Rico.

I would hope that the distinct problem of Puerto Rico and any evaluation of our new nutritional assistance plan will be kept separate and distinct from any possible link to the ramifications of the New Federalism, or a national cashout which some Members of the other body are proposing for the entire national food stamp program.

I feel our new program should be considered on its own merits. I also trust that in conference with the other body, if this bill should pass the House, we may be able to take another look at this problem.

● Mr. HYDE. Mr. Chairman, I rise in opposition to this bill, not because it fails to meet the mandate of the House in the first concurrent resolution of the budget and it does fail that test. I am against this bill not because it takes us backward into the mistakes of the past on farm programs by weaving a complex net of new regulations on farm people and the farm economy and it clearly does fail that test, too.

No, I rise in opposition to this bill because of its severe constitutional abuse.

This bill would set up a 16-member "Dairy Board" composed of 15 people, handpicked by the big dairy co-ops, plus the Secretary of Agriculture. This unlikely group would be charged with the administration of a new two-tier—and I might add a de facto tax and payment system affecting all dairy producers, processors, and consumers.

Under the terms of this bill, the Secretary of Agriculture could not even serve as Chairman, Vice Chairman or Secretary-treasurer of the Board.

This new Board would be outside the scope of civil service laws; it would be immune from Presidential discharge; it would supervise U.S. Government employees; and it could even dabble in foreign policy.

Perhaps this is why the Secretary of Agriculture, in the administration's report on this bill, states in part:

This bill would establish a producer-controlled National Dairy Board within the Department. However, the Board would be completely independent of Department review or supervision since there is no provision for Executive Branch oversight. In effect, powers traditionally reserved to governmental authorities would be delegated under this bill to industry representatives—dairy farmers—who would not be charged to serve the public interest. Operation of the Board would create an intolerable and unacceptable interference with the Secretary's authority and responsibilities to manage the Department of Agriculture and operate its programs. Under the bill, the Board would have extensive authority to use Department personnel and facilities. Establishment of a dairy advisory board to work with and advise the Secretary of Agriculture on dairy matters would be a more acceptable alternative.

Well, you may ask what is wrong with letting a group of public-spirited dairy farmers run the dairy price support system? Are they not a group of well-intentioned, hardworking citizens?

Of course they are. But are they any better equipped under our constitutional law system to administer dairy laws than would have wheat farmers running the wheat program, big business running the antitrust program or foxes running a chicken coop?

The Supreme Court has addressed this issue in the past, and in *Schechter Poultry Corp. against U.S.* and in *Carter against Carter Coal Co.*, established a doctrine on the delegation of authority to private citizens that has remained unchallenged for 37 years.

In the *Carter* case, the Court reminds us that—

While the lawmaker is entirely free to ignore the ordinary meaning of words and make definitions of his own, that device may not be employed so as to change the nature of the acts or things to which the words are applied.

Thus, I ask you to read this bill carefully and to recognize what it does. It establishes a dairy cartel.

Mr. Chairman, we Americans have been given a republic by our forebearers; we were not given a cartel. We have a legal and constitutional system that vests the power of governing in our elected and appointed officials, all of whom are answerable for their activities, and all of whom are charged with protecting the public interest.

This bill calls for the vesting of that power in the hands of 15 people who would be neither answerable to anyone nor expected to serve the public interest.

It is bad constitutional law, and this House should not be a party to it.

Since we cannot cure this bill by the amendment process permitted today, we must do the best we can and that is to either send it back to the Agriculture Committee or defeat it. ●

● Mr. FRENZEL. Mr. Chairman, I can appreciate the difficulty the Agriculture Committee has had with reconciliation. Estimates and reestimates have given it a moving target.

Nevertheless, while the committee can claim that it has exceeded the reconciliation instruction, it knows, and every Member here knows, that it has failed to meet the targets of the budget resolution.

In so doing, the committee follows the bad example of the Post Office Committee which thumbed its nose at the budget process, and met only 8½ percent of its reconciliation target. It follows the bad example of the Armed Services and Foreign Affairs Committees which copped out of their obligations just like the Post Office Committee.

It follows the bad example of the Ways and Means Committee which tried to meet its spending reduction obligations by a raising taxes, and that of the Appropriations Committee which has abused the budget process by misallocating 302(b) quotas by subcommittees.

No committee, of course, can do anything without the consent of the majority of both Houses. So all of us must acknowledge that we as a group are responsible for the failure of the budget process.

But we have been set up for this failure by the House Leadership. Our Speaker refused to follow the successful pattern of last year's reconciliation. Instead, reconciliation was subdivided in a conscious effort to undermine the process. Under the Leadership's procedure, the reconciliation, overall, is bound to fail, and the budget resolution will surely not be achieved.

Thus has the Congress been able to repudiate its own budget. Today's exercise in repudiation is not as bad as some, but repudiation it is.

Here are the figures. The budget calls for reconciliation savings—in food stamps—of \$3.3 billion in 3 years. It calls for unreconciled savings—in agriculture programs—of about \$1.9 billion in 3 years. That is a total of \$5.2 billion.

Here is what the committee did. It took savings which were to be made outside of reconciliation, and claimed them as reconciliation savings. Its savings fall far short of \$5.2 billion. In food stamps alone, the committee made only about one-third of its reduction target, according to its own figures. According to the Office of Management and Budget, that figure is only 30 percent.

The food stamp program seems a worthwhile social purpose. However, it has increased by 580 percent in only 10 years. No economy can stand that growth rate in a major entitlement program. And the food stamp program is laid on top of regular welfare, housing benefits, energy payments, employment compensation and other programs designed to sustain people who cannot support themselves.

I voted against the rule which denied as regular debate and an opportunity to amend this bill. I shall vote for the Wampler substitute, simply because it saves a little money. It does not satisfy the budget resolution.

Finally, I shall vote for recommitment so the bill can be put in shape to meet budget obligations, and should that motion fail, I shall be obliged to vote against the bill.

I do not object to the dairy program. It is not perfect, but it is better than the administration program, and has some possibility of reducing the terrible surpluses which hang over the dairy market. That program in this resolution does meet the expectations of the budget resolution. ●

● Mr. MARKEY. Mr. Chairman, I oppose the Republican substitute to the House Agriculture Committee's food stamp reauthorization bill. This bill would achieve savings of \$1.3 billion over 3 years on top of \$2 billion achieved last year alone.

After the Agriculture Committee satisfied and even exceeded the budget reconciliation savings requirements, the Republican substitute proposed further cuts in the food stamp program. The committee bill, H.R. 6892, already cuts \$1.3 billion in the program over 3 years. We should not forget that this program incurred \$6 billion in cuts for 1982-84 just last year.

The impact of further food stamp cuts cannot be considered alone. They come on top of drastic cuts in AFDC, medicaid, and public housing. The cumulative effect of these cuts is devastating. This is no time for further unraveling of the meager Federal safety net still in place.

Let me turn to look at the effect of each part of the substitute:

The committee's bill includes error rate sanctions which mirror those introduced earlier this year on the Senate side by Senators DOLE, COCHRAN, ANDREWS, JEPSEN, and BOSCHWITZ, and which were recently adopted by the entire Senate.

However, the Republican substitute rejects this bipartisan approach for a plan which by its very terms imposes financial penalties on the States so severe that they could exceed the Federal share of a State's administrative costs if imposed. A loss of such revenue would have tragic results—deeper cuts in other social service programs and cutbacks in administrative services. I think it is important to note that both the National Governors Association and the Council of State Public Administrators oppose the provision.

The job search requirement in the Republican substitute also goes further than many States would support. By making job search at time of application mandatory, we would eliminate State flexibility and require its imposition even in high unemployment areas where it would not be cost-effective. The committee bill already gives the States the option to require job search at application.

The emergency service provision of the substitute would require families in immediate need to wait up to an additional 3 days to get emergency food stamps. Further restrictions would be imposed upon eligibility for these services. Those in dire straits should be given help as quickly as possible and without hardship and additional delay.

Enough is enough. We have cut this program too often and too severely. Further cuts are uncalled for. I urge my colleagues to support H.R. 6892 and reject the substitute. ●

Mr. DE LA GARZA. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the bill is considered as having been read for amendment under the 5-minute rule. No amendments are in order except the following amendments: First, the amendments recommended by the Committee on Agriculture printed in the bill which shall be considered as having been read, shall be considered en bloc, and shall not be subject to amendment; second, an amendment printed in the CONGRESSIONAL RECORD of August 5, 1982, by Representative ZABLOCKI which shall not be subject to amendment; and third, an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of August 5, 1982, by, and if offered by, Representative WAMPLER, which shall be considered as having been read and shall not be subject to amendment but

shall be debatable for 1 hour, equally divided and controlled by Representative WAMPLER and a Member opposed to said substitute.

The text of the bill, H.R. 6892, is as follows:

H.R. 6892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Food and Agriculture Reconciliation Act—Fiscal Year 1983".

TITLE I—DAIRY

Subtitle A—Dairy Price-Support Program

Sec. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, is amended by—

(1) striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows:

"(d) Notwithstanding any other provision of law—

"(1)(A) For that portion of the national milk supply required to meet domestic commercial market needs (i) effective for the period beginning October 1, 1982, and ending September 30, 1983, the price of such milk shall be supported at \$13.10 per hundredweight of milk containing 3.67 per centum milkfat; and (ii) effective for each of the fiscal years beginning October 1, 1983, and October 1, 1984, the price of such milk shall be supported at such level that represents the percentage of parity that the Secretary determines \$13.10 represented as of October 1, 1982. That portion of the national supply required to meet domestic commercial market needs shall be the estimate of marketings of milk by producers minus the estimate of removals of milk from the market by the Commodity Credit Corporation under the price support program; and that portion of the national milk supply determined excess to domestic commercial market needs shall be the estimated removals of milk from the market by the Commodity Credit Corporation under the price support program.

"(B) The level of price support provided producers on that portion of the national milk supply determined excess to domestic commercial market needs shall be the level of price support provided for in subparagraph (A) reduced by such uniform rate as determined by the National Dairy Board as necessary to meet that portion of the cost of the price support program which is the responsibility of producers of milk as defined in paragraph (2). Such level of price support shall be (i) determined by the National Dairy Board provided for in paragraph (6); (ii) announced prior to October 1 of the fiscal year to which the rate applies and may be adjusted during the fiscal year as determined necessary by the National Dairy Board; and (iii) shall be achieved through a uniform reduction of the price paid producers on that portion of the national milk supply determined excess to domestic commercial market needs. The funds represented by such reduction shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The Corporation shall

credit the funds received by it under this provision to the account of the National Dairy Board. Such account shall bear interest at the same rate as payable by Commodity Credit Corporation on its borrowings from the United States Treasury. The funds represented by such reduction shall not be taken into consideration in determining payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(2) Producers of milk shall have responsibility in each fiscal year during which this program is in effect for (A) that portion of the estimated total cost of Commodity Credit Corporation purchases under the price support program for milk represented by purchases in excess of five billion pounds (milk equivalent), related costs associated with such purchases and costs associated with inventory management and disposition of products related to said purchases in excess of five billion pounds (milk equivalent), (B) the amount of marketing reduction incentive payments due producers under paragraph (4) for reductions in their milk production, (C) anticipated administrative expenses of the Board, and the expenses arising from the operations of the Board under this subsection, and (D) any balance remaining from the immediately preceding fiscal year on advances made to the Board by the Commodity Credit Corporation as provided for in paragraph (3). There shall be deducted from such total amount the estimated receipts from the sale or transfer of dairy products and other operations conducted under this subsection. For the purposes of this paragraph the estimated cost of purchases of five billion pounds (milk equivalent) shall be the dollar amount represented by the cost of purchasing and handling butter and nonfat dry milk produced from five billion pounds of milk of 3.67 per centum milkfat content. Price support operations under this Act shall not, however, be limited to the purchase of these products or to their purchase in the proportions they appear in milk. In the event of an increase in dairy product imports through action taken under section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624), the portion of the cost of the price support program which is the responsibility of producers shall be reduced by the milk equivalent represented by such increased imports. The milk equivalent of any such increased imports shall be determined on either a solids-not-fat or milkfat-milk equivalent basis, whichever is higher.

"(3) The price of milk shall be supported through the purchase of milk and the products of milk. All such purchases shall be made at the level provided under paragraph (1)(A). If funds available to the Commodity Credit Corporation to meet that portion of the cost of the price support program which is the responsibility of producers are not adequate to meet current needs, purchases of dairy products shall be made using funds otherwise available to the Commodity Credit Corporation. Such expenditure shall be deemed an advance by the Commodity Credit Corporation to the National Dairy Board which shall be liable for its repayment with interest at the same rate as payable by the Commodity Credit Corporation on its borrowings from the United States Treasury. The National Dairy Board shall make provision for repayment of any balance outstanding at the end of any fiscal year by the end of the succeeding fiscal

year. Funds for such repayment shall be provided in the manner prescribed in paragraph (1)(B) or through sales of products under the provisions of paragraph (8).

"(4)(A) If the level of price support provided for under paragraph (1)(B) is less than the level of price support provided for under paragraph (1)(A), a payment shall be made to any producer who can establish that the producer's marketings of milk during the period described in subparagraph (D) have been reduced from the level of marketings during the corresponding period of the prior fiscal year.

"(B) Prior to approving such payment, the Board shall require evidence that such reduction in marketings has taken place including a certification by the producer in a form specified by the Board, that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(C) The payment due any producer under this paragraph shall be determined by multiplying the number of hundredweights of milk by which marketings were reduced from those for the same period a year earlier by a rate in dollars per hundredweight established by the Board: *Provided*, That no refund shall be made on a quantity of milk in excess of the quantity for which the person was paid at the rate provided under paragraph (1)(B) nor shall the rate of payment exceed the difference between the level of price support provided under the paragraph (1)(A) and the level of price support under paragraph (1)(B).

"(D) The Board shall provide for application for such payment at least on a quarterly basis but not more frequently than monthly: *Provided*, That if application for payment is made for any period during the year, a year-end statement of marketings must be filed by the applicant. *Provided further*, That payments made under this section during the year shall be considered preliminary settlements for reductions in marketings. In making final settlement for the year, the Board shall base such settlements on the volume of marketings for the entire fiscal year. If, based on total marketings for the year, the Board should determine that preliminary settlements have resulted in overpayment to the producer, the producer shall repay the amount of the overpayment plus interest.

"(E) If a reduced level of support is provided under paragraph (1)(B) for consecutive fiscal years, the Board shall recognize the actions taken by persons in reducing milk marketings in any of such years preceding the current fiscal year when determining eligibility for payment in the current fiscal year: *Provided*, That if a person increases milk marketings in the current fiscal year from the year of reduced marketings, any payment made to that person shall be adjusted to reflect such increase. If a person increases marketings to a level in excess of the marketings of said person during the fiscal year immediately preceding the first fiscal year the program was effective, no payment will be made.

"(F) Eligibility for payment under this paragraph is limited to those producers who made reductions in their marketings of milk and is not transferable to any other person.

"(5) In carrying out this subsection, the Board may, on a reimbursable or nonreim-

burstable basis, as it deems appropriate, utilize—

"(A) marketing administrators appointed by the Secretary for the administration of Federal milk marketing orders promulgated under provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h); or

"(C) administrators of State milk marketing programs.

"(6)(A) There shall be established a National Dairy Board (hereinafter referred to as the "Board") that shall consist of fifteen members plus the Secretary;

"(B) The fifteen members of the Board shall be appointed by the President with the advice and consent of the Senate. Such appointments shall be made from recommendations submitted by organizations certified by the Secretary as eligible to make such recommendations. Nominations to the initial Board shall be submitted by the President to the Senate for its advice and consent not later than January 1, 1983;

"(C) In making such appointments, the President shall take into account the geographical distribution of milk production volume throughout the United States;

"(D) The term of Board members shall be three years and no member shall be eligible to serve more than two consecutive terms: *Provided*, That in making initial appointments to the Board, the President shall designate one-third of the appointments as one-year terms, one-third of the appointments as two-year terms, and one-third of the appointments as three-year terms;

"(E) Vacancies on the Board shall be filled by the President in the same manner as initial appointments are made;

"(F) The members of the Board shall serve without compensation, if not otherwise officers of employees of the United States, except that they shall, while away from their homes or regular places of business in their performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5, United States Code.

(G) The Secretary shall certify as eligible to make recommendations for Board membership, any organization that is determined to meet the eligibility criteria established by the Secretary upon the submission of a factual report which shall contain information deemed relevant and specified by the Secretary including, but not limited to the following:

- (1) geographical territory covered by the organization's active membership;
- (2) nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization;
- (3) evidence of stability and permanency of the organization;
- (4) sources from which the organization's operating funds are derived; and
- (5) functions of the organization.

(H) If the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by any such eligible organization, nominations for the Board may be made from recommendations made by such milk producers in the manner authorized by the Secretary.

"(7)(A) At its initial meeting, the Board shall elect from its members a chairman, vice chairman, and secretary-treasurer. These officers shall have a term of one year. The Secretary shall not be eligible for service in these positions.

"(B) The chairman shall preside at all meetings of the Board and shall be responsible for supervision and direction of any personnel employed by the Board to carry out the directives of the Act.

"(C) The Vice Chairman shall, in the absence of the Chairman, preside at meetings of the Board. In the event the office of Chairman is vacated by the death, resignation, or by disqualification of the incumbent, the Vice Chairman shall assume those duties until a successor has been duly named and qualified by the Board.

"(D) The secretary-treasurer shall be responsible for maintenance of such records as may be required by the Board. In addition, the secretary-treasurer shall prepare such reports as are necessary including an annual report to the chairman of the Committee on Agriculture, Nutrition, and Forestry of the United States and the chairman of the Committee on Agriculture of the United States House of Representatives.

"(E) Regular meetings of the Board shall be held on a schedule determined by the Board. Special meetings may be called by the Chairman, by the Secretary or by a majority of the Board requesting the Chairman convene such special meeting.

"(F) The Board may issue such regulations as are necessary for the conduct of activities required by this subsection.

"(G) The Board may employ such personnel as may be required to assist in carrying out the purposes of this subsection. Such employees shall be considered employees of the Department of Agriculture, however, costs of such employment shall be met from funds available to the Board under this subsection for the conduct of its activities.

"(8) Notwithstanding any other provision of law, the Board shall have the following duties and responsibilities—

"(A) based on estimates of milk production, consumption, and Commodity Credit Corporation purchases, determine the relative proportions of milk to which the price support levels provided for in paragraph (1) shall apply;

"(B) determine the amount of the producer responsibility for dairy product purchases as determined under paragraph (2);

"(C) determine and announce prior to October 1 of each year, the level of price support under paragraph (1)(B) and the uniform rate by which the price paid farmers for milk determined to be in excess of domestic commercial market needs shall be reduced to achieve the level of price support provided for in paragraph (1)(B);

"(D) dispose of dairy products acquired by the Commodity Credit Corporation through price support operations provided for herein. Such dispositions may include, but are not limited to—

"(i) sales to the domestic commercial trade for unrestricted use: *Provided*, That in no event shall such sales be made at a price less than the higher of the current market price or 110 per centum of the currently effective price for purchase of the product by the Commodity Credit Corporation;

"(ii) transfer to Federal, State, and local government agencies for use in food assistance programs. Such programs shall include the child nutrition programs of the Department of Agriculture, elderly feeding programs, and others whether of an ongoing or

of a temporary nature designed to meet short-term conditions. Unless otherwise provided for by law, the rate of reimbursement for commodities used in such programs shall be determined by the Board: *Provided*, That dairy products, not in excess of five billion pounds (milk equivalent) made available for child nutrition programs operated by the Food and Nutrition Service of the Department of Agriculture and similar programs including those conducted under the Older Americans Act, shall be made available at the request of the Secretary without cost annually;

"(iii) sales to persons engaged in international commerce for the purpose of commercial export sales of said dairy products;

"(iv) sales and transfers of dairy products to foreign governments, agencies of foreign governments, or international agencies;

"(v) other sales or donation efforts to meet specific needs, as determined by the Board. This may include, but is not limited to, disposition of dairy products for other than unrestricted commercial use to prevent waste, deterioration, or loss of the product;

"(vi) the Board shall have authority to direct the reprocessing and, if necessary, repackaging of dairy products to facilitate operations undertaken pursuant to this paragraph;

"(E) proceeds realized from any operations undertaken pursuant to this paragraph shall be remitted to the Commodity Credit Corporation and credited to the account of the Board;

"(F) if, in the judgment of the Board, any of the operations provided for in subparagraph (D) can be more effectively carried out through products other than those purchased by the Commodity Credit Corporation or on a basis other than through purchase by the Commodity Credit Corporation and subsequent resale or transfer, the Board shall develop and announce details of such programs;

"(G) make recommendations to the Secretary regarding details of the operation of the price support program for milk; and

"(H) establish and announce the rate of the marketing reduction incentive payment provided for in paragraph (4).

"(9) The Secretary of Agriculture shall—

"(A) exercise the authority vested in the Board by this subsection until such time as the initial Board has begun functioning, but in no event later than April 1, 1983;

"(B) serve as a member of the Board;

"(C) cooperate with the Board in the performance of its duties, including providing the Board access to all pertinent economic and financial data and information necessary to the achievement of its responsibilities, and provide the Board with such facilities and support as may be determined necessary;

"(D) collect from all persons who make payment to farmers for milk and from farmers who market milk of their own production directly to consumers, the funds derived from the reduction in prices paid farmers for that portion of the national milk supply determined excess to the needs of the domestic commercial market so as to achieve the level of price support provided for in paragraph (1)(B);

"(E) provide for audit and verification to determine that all funds due have been collected and properly credited;

"(F) provide for the delivery from the inventories of the Commodity Credit Corporation dairy products acquired in the conduct of the price support program for milk. Such

deliveries shall be in the form and at the time and place directed by the Board; and

"(G) provide for the payment of obligations incurred by the Board in carrying out its responsibilities. Such obligations shall be paid from funds available to the Board under this subsection. Such payments shall be made at the direction of the Board.

"(10)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violation, any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of any regulation issued by the Secretary or the Board under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than \$1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subsections (A) and (B) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

"(11) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provision of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or rule or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(12) All operations conducted under this subsection shall be considered a program or operation of the Department of Agriculture for the purposes of section 22 of the Agricultural Adjustment Act of 1933."

Subtitle B—Dairy Promotion Act

SHORT TITLE

SEC. 110. This subtitle may be cited as the "Dairy Promotion Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 111. (a) The Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy; the milk from which dairy products are manufactured is produced by thousands of milk producers; and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to assure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products is vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce in dairy products.

(b) It, therefore, is declared to be the policy of the Congress that it is essential and in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for the financing (through adequate assessments on all milk produced in the United States for commercial use) and the carrying out of an effective and continuous coordinated program or promotion designed to strengthen the dairy industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for dairy products produced in the United States. Nothing in this subtitle may be construed to mean, or provide for, control of production or otherwise limit the right of individual milk producers to produce milk.

DEFINITIONS

SEC. 112. As used in this subtitle—

(1) the term "Board" means the National Dairy Promotion Board established under section 114 of this subtitle;

(2) the term "Department" means the Department of Agriculture;

(3) the term "dairy products" means manufactured products for human consumption which are derived from the processing of milk, and includes fluid milk products;

(4) the term "fluid milk products" means manufactured liquid products derived from the processing of milk and customarily consumed as beverages;

(5) the term "milk" means all classes of cow's milk produced in the United States;

(6) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(7) the term "producer" means any person engaged in the production of milk within the United States for commercial use;

(8) the term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of, and demand for, dairy products;

(9) the term "Secretary" means the Secretary of Agriculture; and

(10) the term "United States" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

ISSUANCE OF ORDERS

SEC. 113. (a) Whenever the Secretary has reason to believe that the issuance of a proposed dairy products promotion order will tend to effectuate the declared policy of this subtitle, the Secretary shall give due notice and opportunity for hearing upon the proposed order. Such proposal for an order may be submitted and a hearing may be requested and proposed for an order submitted by an organization certified under section 116 of this subtitle, or by any interested person affected by the provisions of the subtitle, including the Secretary.

(b) After notice and opportunity for hearing are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy products promotion order if the Secretary finds (and sets forth in such order), upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this subtitle.

(c) The Secretary may, from time to time, amend dairy products promotion orders.

REQUIRED TERMS IN ORDERS

SEC. 114. Any order issued under this subtitle shall contain the following terms and conditions:

(1) Providing for the establishment and appointment by the Secretary of a National Dairy Promotion Board that shall consist of not fewer than thirty-six members; and providing for the definition of powers and duties of the Board that shall include only the powers enumerated in this section, including the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments to such order. The term of an appointment to the Board shall be for three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms. The Board may appoint from its members an executive committee whose membership shall, to the maximum extent practicable, reflect the membership composition of the Board. Such executive committee shall have such duties and powers as are conferred upon it by the Board.

(2) Providing that members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations or associations certified under section 116 of this subtitle, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization or association, then from nominations made by such milk producers in the manner authorized by the Secretary: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be used as a unit. A

region may be represented by more than one director and a region may be made up of more than one State.

(3) Providing that the Board shall develop and submit to the Secretary for approval any promotion plan or project, and that any such plan or project shall take effect only if approved by the Secretary.

(4) Providing that the Board shall submit to the Secretary for approval budgets, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the order, including probable costs of dairy product promotion projects.

(5) Providing that each milk producer shall pay, at the plant of first receipt, an assessment based upon the number of hundredweights of milk for commercial use, handled for the account of the producer, in the manner as prescribed by the order, for the expenses and expenditures (including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this subtitle), as the Secretary finds are reasonable and likely to be incurred by the Board under the order during any period specified by the Secretary. The operator of such plant shall collect such assessment from the producer and shall pay the sum to the Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall be five cents per hundredweight of milk for commercial use, or the equivalent thereof. To facilitate the collection of such assessments, the order or the Board may designate different operators of plants or classes of such operators to recognize differences in marketing practices or procedures used in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(6) Providing that the Board shall maintain such books and records (which shall be available to the Secretary for inspection and audit) and prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, including reports requiring an appropriate accounting by the Board with respect to the receipt and disbursement of all funds entrusted to it.

(7) Providing that the Board, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order under terms and conditions specified in subsection (a) of section 115 of this subtitle for the payment of the cost thereof with funds collected through the assessments under the order. Any such contract or agreement shall provide that (A) the contractors shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, and (B) the plan or project shall become effective upon the approval of the Secretary, and (C) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require.

(8) Providing that the Board, with the approval of the Secretary, may invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in obligations of the United States or any agency thereof, in gen-

eral obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(9) Providing that no funds collected by the Board under the order shall in any manner be used for the purpose of influencing any governmental policy or action, except as provided by paragraph (1)(D) of this section.

(10) Providing that the Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board, including a per diem allowance as recommended by the Board and approved by the Secretary.

PERMISSIVE TERMS IN ORDERS

Sec. 115. Orders issued under this subtitle may contain one or more of the following terms and conditions:

(1) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising and promotion of the sale and consumption of dairy products, and for the disbursement of necessary funds for such purposes: *Provided*, That any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of dairy products may be encouraged, expanded, improved, or made more acceptable and shall make no reference to private brand or trade name: *Provided further*, That no such advertising or sales promotion program shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product: *And provided further*, That during the two-year period beginning on the effective date of an order first issued under this section, fluid milk products may not be promoted under this subtitle.

(2) Providing that operators of plants receiving from producers milk for commercial use maintain and make available for inspection such books and records as may be required by an order issued under section 113(a) of this subtitle; and providing for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data appropriate or necessary to the effectuation, administration, or enforcement of this subtitle, or any order or regulation issued under section 113(a) of this subtitle shall be made available to the Secretary: *Provided*, That all information so obtained shall be kept confidential by all officers and employees of the Department, and contracting agencies having access to such information, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was furnished or acquired. Nothing in this paragraph shall be deemed to prohibit (A) the issuance of general statements, based upon the reports, or the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (B) the publication, by direction of the Secretary, of the name of any person violating any order, to-

gether with a statement of the particular provisions of the order violated by such persons. No information obtained under the authority of this subtitle may be made available to any agency or officer of the Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement actions necessary for the implementation of this subtitle. Any person violating the provisions of this subsection, upon conviction, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than one year, or to both, and, if an officer or employee of the Board or the Department, shall be removed from office.

(3) Providing terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle and necessary to effectuate the other provisions of such order.

CERTIFICATION OF ORGANIZATIONS

Sec. 116. (a) The eligibility of any organization to represent milk producers, to request the issuance of an order under section 113(a) of this subtitle and to participate in the making of nominations under section 114(2) of this subtitle shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section, and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, upon a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) The geographic territory covered by the organization's active membership.

(2) The nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization.

(3) Evidence of stability and permanency of the organization;

(4) Identification of the sources from which the organization's operating funds are derived.

(5) The functions of the organization.

(6) A statement describing the organization's ability and willingness to further the aims and objectives of this subtitle.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production of milk and dairy products.

REQUIREMENT OF REFERENDUM

Sec. 117. (a) The Secretary shall conduct a referendum as soon as practicable among producers who during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the issuance of an order is approved or favored by the producers. No order issued under this subtitle may be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than one-half of the producers voting in the referendum.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses (other than salary payments to Government employees) incurred for the conduct of the referendum.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 118. (a) The Secretary shall, whenever the Secretary finds that any order issued under this subtitle or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or such provisions thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate the order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(c) Prior to the fifth anniversary of any order issued under this subtitle, the Secretary shall conduct a referendum to determine if producers support continuation of such order. The Secretary shall terminate such order unless its continuation is approved or favored by a majority of producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(d) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

COOPERATIVE ASSOCIATION REPRESENTATION

SEC. 119. Whenever, pursuant to the provisions of this subtitle, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any bona fide cooperative association of producers, engaged in marketing milk or dairy products as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers: *Provided*, That if a cooperative association of producers elects to exercise this prerogative on behalf of its members, such cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval a description of the question presented in the referendum together with a statement of the manner in which the cooperative association vote was cast on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should such producer choose to vote. Such individual ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual voters.

PETITION AND REVIEW

SEC. 120. (a) Any person subject to any order may file, with the Secretary a petition stating that any such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition, which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, if a complaint for the purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

SEC. 121. (a) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subtitle may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subtitle whenever the Secretary believes that the administration and enforcement of this subtitle would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this subtitle or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty (to be assessed by the Secretary) of not more than \$1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not in lieu of, the remedies otherwise provided at law or in equity.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATION; AID OF COURTS

SEC. 122. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subtitle or to determine whether any person subject to the provisions of this subtitle has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subtitle or of any order, rule, or regulation issued under this subtitle. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, as so ordered, or to give testimony touching the matter under investigation. Any failure to

obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

ADMINISTRATIVE PROVISIONS

SEC. 123. (a) Nothing in this subtitle may be construed to preempt or supersede any other program relating to dairy product promotion organized and operating under the laws of the United States or any State.

(b) The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

AUTHORIZATIONS

SEC. 124. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle. Sums authorized to be appropriated by this subtitle shall not be available for payment of the expenses or obligation incurred by the Board in administering any order issued under this subtitle.

Subtitle C—Donation of Dairy Products

SEC. 130. Section 416 of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery."

TITLE II—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON AND RICE

1983 CROP WHEAT LOANS

SEC. 201. Section 107B(a) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than \$3.80 per bushel."

1983 CROP WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 202. Section 107B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) For the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat on the farm would be limited to the acreage base for the farm reduced by a total of 25 per centum, consisting of a reduction of 15 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for

loans, purchases and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program."

WHEAT ACREAGE BASE

SEC. 203. Section 107B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each wheat producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to wheat for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR WHEAT

SEC. 204. Section 107B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of wheat who participates in the acreage limitation or set-aside program for such crop of wheat under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payments shall be made in an amount computed by multiplying (i) the rate of \$3.00 per bushel by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 FEED GRAIN LOANS

SEC. 205. Section 105B(a)(1) of the Agricultural Act of 1949 is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available

to producers loans and purchases for the 1983 crop of corn at not less than \$2.71 per bushel."

1983 CROP FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 206. Section 105B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) If on October 15, 1982, the Secretary estimates that the 1982 crop of corn will be in excess of 7.3 billion bushels, the Secretary shall announce on such date that there will be in effect for the 1983 crop of feed grains a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program."

FEED GRAINS ACREAGE BASE

SEC. 207. Section 105B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each feed grain producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to feed grains for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to feed grains for harvest in the two crop years immediately preceding the year for which the determination is made."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR FEED GRAINS

SEC. 208. Section 105B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces under paragraph (1)(B) of this subsection that there will be in effect a diversion program on the 1983 crop of feed grains, the Secretary shall make crop retirement and conservation payments available to any pro-

ducer of the 1983 crop of feed grains who participates in the acreage limitation or set-aside program for such crops of feed grains under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payment shall be made in an amount computed by multiplying (i) the payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The payment rate for corn shall be in the amount of \$1.50 per bushel and in the case of grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 CROP UPLAND COTTON ACREAGE REDUCTION PROGRAM

SEC. 209. Section 103(g)(9)(A) of the Agricultural Act of 1949 is amended by—

(1) inserting immediately after the third sentence the following: "If the Secretary shall make the determination referred to in the first sentence of this subparagraph for the 1983 crop of upland cotton and establish an acreage reduction program for such crop, the Secretary shall provide that 25 per centum of any reduction required in the acreage base for the farm shall be made under the diversion program provided in subparagraph (B) and the balance of the reduction shall be made under an acreage limitation program as provided in this subparagraph. In such event, as a condition of eligibility for loans, purchases and payments on the 1983 crop of upland cotton the producers on a farm must comply with the combined acreage limitation and diversion program."

(2) inserting immediately after the eighth sentence (after the addition of paragraph (1) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of upland cotton shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR UPLAND COTTON

SEC. 210. Section 103(g)(9)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop

retirement and conservation payments available to any producer of the 1983 crop of upland cotton who participates in the acreage limitation program for such crop of upland cotton under subparagraph (A), if the permitted acreage for the farm as determined under such subparagraph is reduced by an amount equivalent to the reduction required by the Secretary to be made under this subparagraph in addition to the reduction made under the acreage limitation program, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such acreage limitation program. Such payments shall be made in an amount computed by multiplying (i) the rate of \$.25 per pound by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisions of paragraph (13), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 CROP RICE ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 211. Section 101(i)(5)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of this paragraph the following: "If on November 15, 1982, the Secretary estimates that the 1982 crop of rice will be in excess of 145 million hundredweight, rough rice basis, the Secretary shall announce on such date that there will be in effect for the 1983 crop of rice a combination of (i) an acreage limitation program as described in this paragraph and (ii) a diversion program as described under paragraph (B) under which the acreage planted to rice on the farm would be limited to the acreage base for the farm reduced by a total of 25 per centum, consisting of a reduction of 15 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program."; and

(3) inserting immediately after the ninth sentence (after the addition of paragraph (2) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR RICE

SEC. 212. Section 101(i)(5)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces that there will be in effect a diversion program on the 1983 crop of rice, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of rice who participates in the acreage limitation program for such crop of rice under subparagraph (A), if the permitted acreage for the farm is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under subparagraph (A), and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such subparagraph. Such payment shall be made in an amount computed by multiplying (i) a payment rate of \$3.00 per hundredweight by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisions of paragraph (8), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

TITLE III—FOOD STAMP ACT AMENDMENTS OF 1982

SHORT TITLE

SEC. 301. This title may be cited as the "Food Stamp Act Amendments of 1982."

HOUSEHOLD DEFINITION

SEC. 302. Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence, striking out "parents and children" and inserting in lieu thereof "parents and children, or siblings,"; and inserting "or siblings" after "the parents"; and

(2) inserting after the first sentence a new sentence as follows: "Notwithstanding paragraph (1) of the preceding sentence, an individual who lives with others, who is 60 years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household without regard to the purchase of food and preparation of meals if the income of the others (as computed under section 5(d) for purposes of determining, without regard to such individual and spouse, eligibility to receive food stamp benefits) does not exceed 165 per centum of the applicable nonfarm income poverty guideline prescribed by the Office of Management and Budget, adjusted as described in section 5(c), for a household excluding such individual and spouse."

ROUNDING DOWN

SEC. 303. (a) The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of such diet)" after "adjustments"; and

(2) in each of clauses (6) and (7), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest \$5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso to clause (2) of the fourth sentence, striking out "nearest \$5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

DISABLED VETERANS AND SURVIVORS

SEC. 304. (a) Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by adding at the end thereof a new subsection as follows:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;
 "(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);
 "(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A)(i) has a wartime disability, peacetime disability, or disability by treatment or vocational rehabilitation, which is rated as total under section 314, 334, or 351, respectively, of title 38, United States Code; or

"(ii) is considered in need of regular aid and attendance or permanently housebound under any such section; or

"(iii) is considered permanently and totally disabled, in need of regular aid and attendance, or permanently housebound under subsection (a), (b), or (c), respectively, of section 502 of title 38, United States Code;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under subsection (d) or (e), respectively, of section 541 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent

under section 221(l) of the Social Security Act (42 U.S.C. 421(l)).

(b) The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(c) Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)) is amended by striking out "a member who is" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the fourth sentence, striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member";

(2) in the fifth sentence—

(A) striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member"; and

(B) in clause (A), striking out "household" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty years" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

Sec. 305. Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by—

(1) at the end of clause (10), striking out "and"; and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under titles II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the adjustment".

ADJUSTMENT OF DEDUCTIONS

Sec. 306. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) in the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subdivision (i) of the proviso to clause (2) in the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

Sec. 307. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) inserting after the fourth sentence the following: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not

incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households with regard to such expense only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the other individual, household, or both."; and

(2) in subclause (B) of the last sentence, striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

AVERAGING INCOME

Sec. 308. Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by inserting after subparagraph (B) a new subparagraph as follows:

"(C) In computing household income under this section, household income that is received on a regular weekly or biweekly basis from the same source(s) shall be converted to a monthly amount."

MIGRANT FARMWORKERS

Sec. 309. The last sentence of section 5(f)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A) of this subsection relating to migrant farmworker households)".

ELIMINATION OF STUDIES AND REPORTS

Sec. 310. (a) The second sentence of section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking out "(1)" and ", and (2)" and all that follows through "1978".

(b) Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking out the last sentence.

(c) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by—

(1) striking out subsections (d) and (e); and

(2) redesignating subsection (f) as subsection (d).

CATEGORICAL ELIGIBILITY

Sec. 311. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end thereof a new subsection as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c) to have satisfied the resource requirements prescribed under subsection (g)."

IMPROVEMENT IN COST-EFFECTIVENESS OF MONTHLY REPORTING SYSTEMS

Sec. 312. The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" between "all" and "members"; and

(2) adding, after "Secretary", the following: ", except that with the prior approval of the Secretary, a State agency may select categories of households which may report at specified less frequent intervals upon the State agency's showing to the satisfaction of the Secretary that to require households in such categories to report monthly would

result in unwarranted expenditures for administration of this subsection".

REQUIREMENTS APPLICABLE TO JOB SEARCH

Sec. 313. Section 6(d)(1)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting, after "Secretary", the following: ", which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application".

VOLUNTARILY QUITTING A JOB

Sec. 314. Section 6(d)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(iii)) is amended by striking out "sixty days" in the proviso and inserting in lieu thereof "ninety days".

ALTERNATIVE ISSUANCE SYSTEM

Sec. 315. Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by inserting at the end thereof a new subsection as follows:

"(g) The Secretary may require State agencies—

"(1) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(2) to issue, in lieu of coupons, a reusable document to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food;

if the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that the use of such document or such system is necessary to improve the integrity of the food stamp program: *Provided*, That the cost of such document or system shall not be imposed upon retail food stores participating in the food stamp program."

ELIMINATION OF INITIAL MONTH ALLOTMENTS OF UNDER TEN DOLLARS

Sec. 316. The first sentence of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than \$10".

DISCLOSURE OF INFORMATION

Sec. 317. Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting before ", except that (A)" the following: "or of direct Federal assistance programs and Federally-assisted State programs".

EXPEDITED SERVICE

Sec. 318. Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that a destitute migrant or a seasonal farm worker household in accordance with the regulations governing such households in effect July 1, 1982, and any other household in immediate need because of no income as defined in sections 5(d) and (e) of this Act receive coupons on an expedited basis;"

PROMPT REDUCTION OR TERMINATION OF BENEFITS

Sec. 319. Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting after "earlier" the following: ", except that in any case in which the State agency receives from the household a written statement containing infor-

mation that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF BENEFITS

SEC. 320. Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by—

(1) in paragraph (16), striking out the period at the end thereof and inserting in lieu thereof a semicolon;

(2) in paragraph (20), striking out "and" at the end thereof;

(3) in paragraph (21), striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) adding at the end thereof a new paragraph as follows:

"(22) that the State agency shall determine, not less frequently than annually—

"(A) whether households participating in the food stamp program include as members individuals who, under section 6(g), may not be considered members of such households; and

"(B) whether households participating in projects conducted under section 17(b)(1) receive both coupons and any assistance provided under such projects in lieu of coupons."

ERROR RATE REDUCTION SYSTEM

SEC. 321. (a) Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

"(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments underserved to eligible households by the State agency, is less than 5 per centum; and

"(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable."

(2) striking out subsections (d), (e), and (g), and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) a new subsection as follows:

"(d)(1) As used in this subsection, the term 'payment error rate' means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

"(A) issued to households which fail to meet basic program eligibility requirements; or

"(B) overissued to eligible households.

"(2)(A) The Secretary shall institute an error rate reduction program under which, if a State agency's payment error rate exceeds—

"(i) 9 per centum for fiscal year 1983,

"(ii) 7 per centum for fiscal year 1984, or

"(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for

good cause shown or as provided in subparagraph (B), reduce the State agency's feder-

ally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs pursuant to subparagraph (A)—

"(i) on the basis of the State agency's payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, or at least 33.3 per centum of the difference between the State agency's payment error rate for such period and 5 per centum; or

"(ii) on the basis of the State agency's payment error rate for fiscal year 1984, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 per centum of the difference between the State agency's payment error rate for such period and 5 per centum.

"(3)(A) The Secretary shall reduce a State agency's federally funded share of administrative costs, except as provided in subparagraph (B), by—

"(i) 5 per centum for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

"(ii) if the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

"(i) the per centum by which the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

"(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

"(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency's federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

"(5) If the Secretary reduces a State agency's federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14."

(b) Section 11(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(3)) is amended by—

(1) striking out "subsections (h) and (i) of section 16" and inserting in lieu thereof "section 16(e)"; and

(2) striking out "quality control program" and inserting in lieu thereof "error rate reduction program".

(c) The first sentence of section 18(e) of the Food Stamp Act of 1977 (7 U.S.C.

2027(e)) is amended by striking out "sections 7(f), 11 (g) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

(d) The amendments made by this section shall become effective on October 1, 1982.

BENEFIT IMPACT STUDY

SEC. 322. Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end thereof a new subsection as follows:

"(g) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, title XIII of the Agriculture and Food Act of 1981, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984 and a final report on the results of such study no later than March 1, 1985."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 323. The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981"; and

(2) inserting before the period at the end thereof the following: "; not in excess of \$12,648,000,000 for the fiscal year ending September 30, 1983; not in excess of \$12,908,000,000 for the fiscal year ending September 30, 1984; and not in excess of \$13,651,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO

SEC. 324. (a) Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "non-cash" before "food assistance".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for fiscal year 1982 or fiscal year 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include such impact on both the nutritional status of residents of Puerto Rico and the economy of Puerto Rico. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this Act.

REIMBURSEMENT OF POLITICAL SUBDIVISIONS AND STATE AGENCIES FOR WORKFARE ADMINISTRATIVE EXPENSES

SEC. 325. (a) Section 20(g) of the Food Stamp Act of 1977 (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3), and

(2) by inserting after paragraph (1) a new paragraph as follows:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to the three times the dollar value of the sum of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participation is terminated."

(b) The amendments made by this section shall take effect October 1, 1982.

AMENDMENTS MADE BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981 AND THE AGRICULTURE AND FOOD ACT OF 1981

SEC. 326. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101, 102, 103, 104, 105, 106, 107 (other than subsection (b)), 108 (other than subsection (c)), 109, 110, 111, 112, 113, and 114 of such Act shall take effect on the date of the enactment of this Act, unless such amendments have taken effect before such date.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the date of the enactment of this Act, unless such amendments have taken effect before such date.

EFFECTIVE DATES

SEC. 327. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) Sections 321 and 325 shall take effect on October 1, 1982.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will designate the committee amendments. The committee amendments read as follows:

Committee amendments: Page 2, line 8, insert "effective October 1, 1982," immediately after "(1)";

Page 3, lines 15 and 16, insert "to recover the funds required" immediately after "as necessary";

Page 4, lines 16 and 17, strike out "shall not be taken into consideration in determining" and insert in lieu thereof "shall be considered as included in the";

Page 10, line 14, insert "(other other than the Secretary)" after "Board", and lines 16 and 17, strike out the period and "Such appointments shall be made";

Page 11, line 13, strike out "of" and insert in lieu thereof "or";

Page 13, line 18, insert "Senate" after "States";

Page 16, line 16, insert "and" after the semicolon;

Page 16, line 23, strike out "(vi)" and insert in lieu thereof "(E)";

Page 17, line 3, and page 17, lines 7, 16, and 19, strike out the designations "(E)", "(F)", "(G)", and "(H)" and insert in lieu thereof "(F)", "(G)", "(H)" and "(I)";

Page 23, line 4, strike out "is" the first time it appears and insert in lieu thereof "it";

Page 23, line 9, strike out "or" and insert in lieu thereof "of";

Page 31, line 20, strike out "an" and insert in lieu thereof "any";

Page 32, lines 5 and 6, strike out "and contracting agencies having access to such information";

Page 34, line 10, strike out the semicolon and insert a period in lieu thereof;

Page 37, line 9, strike out "voters" and insert in lieu thereof "votes";

Page 39, line 4, insert "in" before "lieu of";

Page 39, line 7, strike out "AFFIRMATION" and insert in lieu thereof "AFFIRMATIONS";

Page 43, line 12, strike out "corp-rotation" and insert in lieu thereof "crop-rotation";

Page 43, line 16, strike out "producing" and insert in lieu thereof "producing";

Page 43, line 23, strike out "heavest" and insert in lieu thereof "harvest";

Page 49, line 12, strike out "shall" and insert in lieu thereof "should";

Page 51, line 22, strike out "section" and insert in lieu thereof "subsection";

Page 52, line 12, strike out "25" and "15" and insert in lieu thereof "20" and "10";

Page 59, line 23, insert "members" after "disabled";

Page 70, line 3, strike out "or" and insert in lieu thereof "of";

Page 72, line 15, insert ", as amended by section 310(c) of this title," after "U.S.C. 2026";

Page 72, line 18, strike out "(g)" and insert in lieu thereof "(e)";

Page 74, line 20, page 76, lines 11, 16, 20, and 21, strike out "Act" each place it appears and insert in lieu thereof "title".

□ 1330

The CHAIRMAN. The question is on the committee amendments.

The committee amendments were agreed to.

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: Page 41, line 12, immediately before the quotation marks, insert the following:

In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programed under that Act.

Mr. ZABLOCKI. Mr. Chairman, this amendment is being offered in behalf of the Foreign Affairs Committee to section 130 of this bill, the section which gives the Commodity Credit Corporation (CCC) authority to donate surplus CCC dairy products to

needy persons abroad through foreign governments and public and private nonprofit humanitarian organizations.

The amendment provides that programs for these donations of CCC stocks abroad will be coordinated with the existing food aid programs through the established Public Law 480 mechanism and will be in addition to the overseas food assistance that is provided under Public Law 480.

Mr. Chairman, I strongly support the use of U.S. agricultural surpluses for distribution to needy people overseas. This amendment is intended to help assure the most effective use of these surpluses. I believe the amendment has general support.

I would like to express appreciation to the Committee on Agriculture and particularly to its distinguished chairman, the gentleman from Texas, for his cooperation and support in our offering of the amendment.

Our appreciation is extended also to the ranking member of the committee, Mr. WAMPLER; to the gentleman from Iowa (Mr. HARKIN), chairman of the Subcommittee on Livestock, Dairy and Poultry; and the gentleman from Minnesota (Mr. HAGEDORN), the ranking minority member of the subcommittee, who sponsored the section 130 provision.

The amendment reflects the experience of the Foreign Affairs Committee in trying to get maximum accomplishment for foreign assistance programs over the years and getting the most out of the taxpayer's dollar. We have found that it is very important to have good coordination among the bureaucracies here in Washington so that overseas, we do not have the left hand and the right hand duplicating or operating at cross purposes.

In the case of the new overseas dairy surplus donation authority being provided under section 130 of this bill, the original language submitted by the administration for this authority did include a provision for its coordination under presidentially established procedures. However, the language was not contained in the version offered during markup of the bill in the Agriculture Committee.

The Foreign Affairs Committee amendment is being offered in lieu of sequential referral of H.R. 6892 to our committee, for review of its foreign affairs provisions, in order to expedite the reconciliation process.

At present, the principal statutory instrument for U.S. food aid abroad is the Agricultural Trade Development and Assistance Act of 1954, commonly known as Public Law 480 or the food for peace program. Under Public Law 480 the United States sells on concessional terms or donates some \$1½ billion worth of food assistance a year. Title II of Public Law 480 provides for donations through foreign govern-

ments and public or private humanitarian organizations. A similar authority for dairy disposals is now being provided to the CCC under section 130 of this bill.

It would make no sense, obviously, to have Public Law 480 title II food donation program laid out for a developing country, then to have another donation of dairy surpluses come from the CCC without reference to the Public Law 480 program. The amendment would include the CCC dairy donation authority in the established food aid coordinating mechanism for Public Law 480 aid which is the Food Aid Subcommittee of the Development Coordination Committee.

The Food Aid Subcommittee is chaired by the U.S. Department of Agriculture. Other members include representatives of the State Department, the Treasury, the Agency for International Development, and OMB.

The coordinating mechanism helps to insure that the range of U.S. interests abroad are taken into account in the allocations of food assistance. For example, the State Department representative is able in the subcommittee to express U.S. foreign policy concerns regarding the aid-receiving country. AID is familiar with the nutritional and developmental needs of the populations of poor countries. The Treasury is expert on foreign debts.

Such considerations need to be kept in mind on overseas programs. With the USDA chairing the Food Aid Subcommittee, its review should not cause any undue delays for appropriate dairy surplus disposals under the CCC authority. The amendment does not require that the provisions of the Public Law 480 law, itself, apply to use of the new authority.

The provision in the amendment that the donations under the new authority shall be in addition to the levels programed under Public Law 480 is designed to assure that the use of the new authority will not result in a loss of Public Law 480 title II. This provision is in line with the intent of the administration's declared intent for the new authority. Hopefully, it will take care of concerns expressed by some that the CCC disposals not undermine or be in lieu of the title II programs for which there is a 1.7 million ton annual minimum. I know of no opposition to this provision.

Mr. Chairman, I urge adoption of the amendment.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word, and I rise in support of the amendment.

The CHAIRMAN. Without objection, the gentleman from Texas (Mr. DE LA GARZA) is recognized.

There was no objection.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I rise in support of the Zablocki amendment. As this bill came out of the Agriculture Committee, the surplus dairy products donated by CCC to foreign governments do not have to go through any established food aid program. There is a tremendous amount of evidence from voluntary organizations, from U.S. Government reports, and from fieldworkers that food aid often does not reach those it is intended to reach—and this is under established food aid programs.

So to have a provision whereby there is not any kind of direction given to this food aid is certainly foolish. We should not, in our enthusiasm to get rid of surplus dairy products, dump the food where it is not needed or wanted or where it might depress local markets of the recipient country. I urge my colleagues to support the Zablocki amendment which requires that any Commodity Credit Corporation foreign donations under the dairy title of this bill be coordinated with other U.S. foreign assistance under the Agricultural Trade and Development Act of 1954.

Mr. DE LA GARZA. Mr. Chairman, I want to thank the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on Foreign Affairs, for his assistance in this endeavor. I wish to commend him and the members of his committee for their cooperation with us and their favorable and positive contribution to this legislation.

Also I want to very sincerely thank the gentleman, not only in our behalf, but I am sure, in behalf of the House, for the assistance he gave us in expediting the process to arrive at this stage here today by not insisting on sequential referral of the legislation to his committee. The staffs of both committees were able to work with the Members and the individuals concerned in this area.

With that, Mr. Chairman, we gladly recommend the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI) and will accept it.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wish to associate myself with the remarks and observations of the distinguished gentleman from Texas (Mr. DE LA GARZA). On behalf of the minority, it is our pleasure to accept the amendment offered by the distinguished gentleman from Wisconsin (Mr. ZABLOCKI).

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The amendment was agreed to.

Mr. SOLOMON. Mr. Chairman, I rise to ask unanimous consent to offer

an amendment which I have at the desk.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DE LA GARZA. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. SOLOMON. Mr. Chairman, may I ask who objected?

The CHAIRMAN. The Chair will state to the gentleman that the gentleman from Texas objected.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WAMPLER

Mr. WAMPLER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The CHAIRMAN. The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute offered by Mr. WAMPLER is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Food and Agriculture Reconciliation Act—Fiscal Year 1983".

TITLE I—DAIRY

Subtitle A—Dairy Price-Support Program

SEC. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agricultural and Food Act of 1981, is amended by—

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows: "(d) Notwithstanding any other provision of law—

"(1)(A) For that portion of the national milk supply required to meet domestic commercial market needs (i) effective for the period beginning October 1, 1982, and ending September 30, 1983, the price of such milk shall be supported at \$13.10 per hundredweight of milk containing 3.67 percent milkfat; and (ii) effective for each of the fiscal years beginning October 1, 1983, and October 1, 1984, the price of such milk shall be supported at such level that represents the percentage of parity that the Secretary determines \$13.10 represented as of October 1, 1982. That portion of the national supply required to meet domestic commercial market needs shall be the estimate of marketings of milk by producers minus the estimate of removals of milk from the market by the Commodity Credit Corporation under the price support program; and that portion of the national milk supply determined excess to domestic commercial market needs shall be the estimated removals of milk from the market by the Commodity Credit Corporation under the price support program.

"(B) The level of price support provided producers on that portion of the national milk supply determined excess to domestic commercial market needs shall be the level of price support provided for in subparagraph (A) reduced by such uniform rate as

determined by the National Dairy Board as necessary to recover the funds required to meet that portion of the cost of the price support program which is the responsibility of producers of milk as defined in paragraph (2). Such level of price support shall be (i) determined by the National Dairy Board provided for in paragraph (6); (ii) announced prior to October 1 of the fiscal year to which the rate applies and may be adjusted during the fiscal year as determined necessary by the National Dairy Board; and (iii) shall be achieved through a uniform reduction of the price paid producers on that portion of the national milk supply determined excess to domestic commercial market needs. The funds represented by such reduction shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The Corporation shall credit the funds received by it under this provision to the account of the National Dairy Board. Such account shall bear interest at the same rate as payable by Commodity Credit Corporation on its borrowings from the United States Treasury. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(2) Producers of milk shall have responsibility in each fiscal year during which this program is in effect for (A) that portion of the estimated total cost of Commodity Credit Corporation purchases under the price support program for milk represented by purchases in excess of five billion pounds (milk equivalent), related costs associated with such purchases and costs associated with inventory management and disposition of products related to said purchases in excess of five billion pounds (milk equivalent), (B) the amount of marketing reduction incentive payments due producers under paragraph (4) for reductions in their milk production, (C) anticipated administrative expenses of the Board, and the expenses arising from the operations of the Board under this subsection, and (D) any balance remaining from the immediately preceding fiscal year on advances made to the Board by the Commodity Credit Corporation as provided for in paragraph (3). There shall be deducted from such total amount the estimated receipts from the sale or transfer of dairy products and other operations conducted under this subsection. For the purposes of this paragraph the estimated cost of purchases of five billion pounds (milk equivalent) shall be the dollar amount represented by the cost of purchasing and handling butter and nonfat dry milk produced from five billion pounds of milk of 3.67 per centum milkfat content. Price support operations under this Act shall not, however, be limited to the purchase of these products or to their purchase in the proportions they appear in milk. In the event of an increase in dairy product imports through action taken under section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624), the portion of the cost of the price support program which is the responsibility of producers shall be reduced by the milk equivalent represented by such increased imports.

The milk equivalent of any such increased imports shall be determined on either a solids-not-fat or milkfat-milk equivalent basis, whichever is higher.

"(3) The price of milk shall be supported through the purchase of milk and the products of milk. All such purchases shall be made at the level provided under paragraph (1)(A). If funds available to the Commodity Credit Corporation to meet that portion of the cost of the price support program which is the responsibility of producers are not adequate to meet current needs, purchases of dairy products shall be made using funds otherwise available to the Commodity Credit Corporation. Such expenditure shall be deemed an advance by the Commodity Credit Corporation to the National Dairy Board which shall be liable for its repayment with interest at the same rate as payable by the Commodity Credit Corporation on its borrowings from the United States Treasury. The National Dairy Board shall make provision for repayment of any balance outstanding at the end of any fiscal year by the end of the succeeding fiscal year. Funds for such repayment shall be provided in the manner prescribed in paragraph (1)(B) or through sales of products under the provisions of paragraph (8).

"(4)(A) If the level of price support provided for under paragraph (1)(B) is less than the level of price support provided for under paragraph (1)(A), a payment shall be made to any producer who can establish that the producer's marketings of milk during the period described in subparagraph (D) have been reduced from the level of marketings during the corresponding period of the prior fiscal year.

"(B) Prior to approving such payment, the Board shall require evidence that such reduction in marketings has taken place including a certification by the producer in a form specified by the Board, that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(C) The payment due any producer under this paragraph shall be determined by multiplying the number of hundredweights of milk by which marketings were reduced from those for the same period a year earlier by a rate in dollars per hundredweight established by the Board: *Provided*, That no refund shall be made on a quantity of milk in excess of the quantity for which the person was paid at the rate provided under paragraph (1)(B) nor shall the rate of payment exceed the difference between the level of price support provided under the paragraph (1)(A) and the level of price support under paragraph (1)(B).

"(D) The Board shall provide for application for such payment at least on a quarterly basis but not more frequently than monthly: *Provided*, That if application for payment is made for any period during the year, a year-end statement of marketings must be filed by the applicant. *Provided further*, That payments made under this section during the year shall be considered preliminary settlements for reductions in marketings. In making final settlement for the year, the Board shall base such settlements on the volume of marketings for the entire fiscal year. If, based on total marketings for the year, the Board should determine that preliminary settlements have resulted in

overpayment to the producer, the producer shall repay the amount of the overpayment plus interest.

"(E) If a reduced level of support is provided under paragraph (1)(B) for consecutive fiscal years, the Board shall recognize the actions taken by persons in reducing milk marketings in any of such years preceding the current fiscal year when determining eligibility for payment in the current fiscal year: *Provided*, That if a person increases milk marketings in the current fiscal year from the year of reduced marketings, any payment made to that person shall be adjusted to reflect such increase. If a person increases marketings to a level in excess of the marketings of said person during the fiscal year immediately preceding the first fiscal year the program was effective, no payment will be made.

"(F) Eligibility for payment under this paragraph is limited to those producers who made reductions in their marketings of milk and is not transferable to any other person.

"(5) In carrying out this subsection, the Board may, on a reimbursable or nonreimbursable basis, as it deems appropriate, utilize—

"(A) marketing administrators appointed by the Secretary for the administration of Federal milk marketing orders promulgated under provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h); or

"(C) administrators of State milk marketing programs.

"(6)(A) There shall be established a National Dairy Board (hereinafter referred to as the "Board") that shall consist of fifteen members plus the Secretary;

"(B) The fifteen members of the Board (other than the Secretary) shall be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations certified by the Secretary as eligible to make such recommendations. Nominations to the initial Board shall be submitted by the President to the Senate for its advice and consent not later than January 1, 1983;

"(C) In making such appointments, the President shall take into account the geographical distribution of milk production volume throughout the United States;

"(D) The term of Board members shall be three years and no member shall be eligible to serve more than two consecutive terms: *Provided*, That in making initial appointments to the Board, the President shall designate one-third of the appointments as one-year terms, one-third of the appointments as two-year terms, and one-third of the appointments as three-year terms;

"(E) Vacancies on the Board shall be filled by the President in the same manner as initial appointments are made;

"(F) The members of the Board shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in their performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5, United States Code.

(G) The Secretary shall certify as eligible to make recommendations for Board membership, any organization that is determined by the Secretary upon the submission of a factual report which shall contain information deemed relevant and specified by the Secretary including, but not limited to the following:

(1) geographical territory covered by the organization's active membership;

(2) nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization;

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived; and

(5) functions of the organization.

(H) If the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by any such eligible organization, nominations for the Board may be made from recommendations made by such milk producers in the manner authorized by the Secretary.

"(7)(A) At its initial meeting, the Board shall elect from its members a chairman, vice chairman, and secretary-treasurer. These officers shall have a term of one year. The Secretary shall not be eligible for service in these positions.

"(B) The chairman shall preside at all meetings of the Board and shall be responsible for supervision and direction of any personnel employed by the Board to carry out the directives of the Act.

"(C) The Vice Chairman shall, in the absence of the Chairman, preside at meetings of the Board. In the event the office of Chairman is vacated by the death, resignation, or by disqualification of the incumbent, the Vice Chairman shall assume those duties until a successor has been duly named and qualified by the Board.

"(D) The secretary-treasurer shall be responsible for maintenance of such records as may be required by the Board. In addition, the secretary-treasurer shall prepare such reports as are necessary including an annual report to the chairman of the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and the chairman of the Committee on Agriculture of the United States House of Representatives.

"(E) Regular meetings of the Board shall be held on a schedule determined by the Board. Special meetings may be called by the Chairman, by the Secretary or by a majority of the Board requesting the Chairman convene such special meeting.

"(F) The Board may issue such regulations as are necessary for the conduct of activities required by this subsection.

"(G) The Board may employ such personnel as may be required to assist in carrying out the purposes of this subsection. Such employees shall be considered employees of the Department of Agriculture, however, costs of such employment shall be met from funds available to the Board under this subsection for the conduct of its activities.

"(8) Notwithstanding any other provision of law, the Board shall have the following duties and responsibilities—

"(A) based on estimates of milk production, consumption, and Commodity Credit Corporation purchases, determine the relative proportions of milk to which the price support levels provided for in paragraph (1) shall apply;

"(B) determine the amount of the producer responsibility for dairy product purchases as determined under paragraph (2);

"(C) determine and announce prior to October 1 of each year, the level of price support under paragraph (1)(B) and the uniform rate by which the price paid farmers for milk determined to be in excess of domestic commercial market needs shall be reduced to achieve the level of price support provided for in paragraph (1)(B);

"(D) dispose of dairy products acquired by the Commodity Credit Corporation through price support operations provided for herein. Such dispositions may include, but are not limited to—

"(i) sales to the domestic commercial trade for unrestricted use: *Provided*, That in no event shall such sales be made at a price less than the higher of the current market price or 110 per centum of the currently effective price for purchase of the product by the Commodity Credit Corporation;

"(ii) transfer to Federal, State, and local government agencies for use in food assistance programs. Such programs shall include the child nutrition programs of the Department of Agriculture, elderly feeding programs, and others whether of an ongoing or of a temporary nature designed to meet short-term conditions. Unless otherwise provided for by law, the rate of reimbursement for commodities used in such programs shall be determined by the Board: *Provided*, That dairy products, not in excess of five billion pounds (milk equivalent) made available for child nutrition programs operated by the Food and Nutrition Service of the Department of Agriculture and similar programs including those conducted under the Older Americans Act, shall be made available at the request of the Secretary without cost annually;

"(iii) sales to persons engaged in international commerce for the purpose of commercial export sales of said dairy products;

"(iv) sales and transfers of dairy products to foreign governments, agencies of foreign governments, or international agencies; and

"(v) other sales or donation efforts to meet specific needs, as determined by the Board. This may include, but is not limited to, disposition of dairy products for other than unrestricted commercial use to prevent waste, deterioration, or loss of the product;

"(E) the Board shall have authority to direct the reprocessing and, if necessary, repackaging of dairy products to facilitate operations undertaken pursuant to this paragraph;

"(F) proceeds realized from any operations undertaken pursuant to this paragraph shall be remitted to the Commodity Credit Corporation and credited to the account of the Board;

"(G) if, in the judgment of the Board, any of the operations provided for in subparagraph (D) can be more effectively carried out through products other than those purchased by the Commodity Credit Corporation or on a basis other than through purchase by the Commodity Credit Corporation and subsequent resale or transfer, the Board shall develop and announce details of such programs;

"(H) make recommendations to the Secretary regarding details of the operation of the price support program for milk; and

"(I) establish and announce the rate of the marketing reduction incentive payment provided for in paragraph (4).

"(9) The Secretary of Agriculture shall—

"(A) exercise the authority vested in the Board by this subsection until such time as

the initial Board has begun functioning, but in no event later than April 1, 1983;

"(B) serve as a member of the Board;

"(C) cooperate with the Board in the performance of its duties, including providing the Board access to all pertinent economic and financial data and information necessary to the achievement of its responsibilities, and provide the Board with such facilities and support as may be determined necessary;

"(D) collect from all persons who make payment to farmers for milk and from farmers who market milk of their own production directly to consumers, the funds derived from the reduction in prices paid farmers for that portion of the national milk supply determined excess to the needs of the domestic commercial market so as to achieve the level of price support provided for in paragraph (1)(B);

"(E) provide for audit and verification to determine that all funds due have been collected and properly credited;

"(F) provide for the delivery from the inventories of the Commodity Credit Corporation dairy products acquired in the conduct of the price support program for milk. Such deliveries shall be in the form and at the time and place directed by the Board; and

"(G) provide for the payment of obligations incurred by the Board in carrying out its responsibilities. Such obligations shall be paid from funds available to the Board under this subsection. Such payments shall be made at the direction of the Board.

"(10)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violation, any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of any regulation issued by the Secretary or the Board under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than \$1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subsections (A) and (B) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

"(11) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provision of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or rule or regulation issued under this subsection. For the

purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(12) All operations conducted under this subsection shall be considered a program or operation of the Department of Agriculture for the purposes of section 22 of the Agricultural Adjustment Act of 1933."

Subtitle B—Dairy Promotion Act

SHORT TITLE

Sec. 110. This subtitle may be cited as the "Dairy Promotion Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 111. (a) The Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy; the milk from which dairy products are manufactured is produced by thousands of milk producers; and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to assure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products is vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce in dairy products.

(b) It, therefore, is declared to be the policy of the Congress that it is essential and in the public interest to authorize the establishment, through the exercise of the powers provided herein, of an orderly procedure for the financing (through adequate assessments on all milk produced in the United States for commercial use) and the carrying out of an effective and continuous coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for dairy products produced in the United States. Nothing in this subtitle may be construed to mean, or provide for, control of production or otherwise limit the right of individual milk producers to produce milk.

DEFINITIONS

Sec. 112. As used in this subtitle—

(1) the term "Board" means the National Dairy Promotion Board established under section 114 of this subtitle;

(2) the term "Department" means the Department of Agriculture;

(3) the term "dairy products" means manufactured products for human consumption which are derived from the processing of milk, and includes fluid milk products;

(4) the term "fluid milk products" means manufactured liquid products derived from the processing of milk and customarily consumed as beverages;

(5) the term "milk" means all classes of cow's milk produced in the United States;

(6) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(7) the term "producer" means any person engaged in the production of milk within the United States for commercial use;

(8) the term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of, and demand for, dairy products;

(9) the term "Secretary" means the Secretary of Agriculture; and

(10) the term "United States" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

ISSUANCE OF ORDERS

Sec. 113. (a) Whenever the Secretary has reason to believe that the issuance of a proposed dairy products promotion order will tend to effectuate the declared policy of this subtitle, the Secretary shall give due notice and opportunity for hearing upon the proposed order. Such proposal for an order may be submitted and a hearing may be requested and proposed for an order submitted by an organization certified under section 116 of this subtitle, or by any interested person affected by the provisions of the subtitle, including the Secretary.

(b) After notice and opportunity for hearing are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy products promotion order if the Secretary finds (and sets forth in such order), upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this subtitle.

(c) The Secretary may, from time to time, amend dairy products promotion orders.

REQUIRED TERMS IN ORDERS

Sec. 114. Any order issued under this subtitle shall contain the following terms and conditions:

(1) Providing for the establishment and appointment by the Secretary of a National Dairy Promotion Board that shall consist of not fewer than thirty-six members; and providing for the definition of powers and duties of the Board that shall include only the powers enumerated in this section, including the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments to such order. The term of an appointment to the Board shall be for three years with no member serving more

than two consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms. The Board may appoint from its members an executive committee whose membership shall, to the maximum extent practicable, reflect the membership composition of the Board. Such executive committee shall have such duties and powers as are conferred upon it by the Board.

(2) Providing that members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations or associations certified under section 116 of this subtitle, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization or association, then from nominations made by such milk producers in the manner authorized by the Secretary: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be used as a unit. A region may be represented by more than one director and a region may be made up of more than one State.

(3) Providing that the Board shall develop and submit to the Secretary for approval any promotion plan or project, and that any such plan or project shall take effect only if approved by the Secretary.

(4) Providing that the Board shall submit to the Secretary for approval budgets, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the order, including probable costs of dairy product promotion projects.

(5) Providing that each milk producer shall pay, at the plant of first receipt, an assessment based upon the number of hundredweights of milk for commercial use, handled for the account of the producer, in the manner as prescribed by the order, for the expenses and expenditures (including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this subtitle), as the Secretary finds are reasonable and likely to be incurred by the Board under the order during any period specified by the Secretary. The operator of such plant shall collect such assessment from the producer and shall pay the sum to the Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall be five cents per hundredweight of milk for commercial use, or the equivalent thereof. To facilitate the collection of such assessments, the order or the Board may designate different operators of plants or classes of such operators to recognize differences in marketing practices or procedures used in the industry. The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(6) Providing that the Board shall maintain such books and records (which shall be available to the Secretary for inspection and audit) and prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, including reports requiring an appropriate accounting by the Board with respect to the receipt and disbursement of all funds entrusted to it.

(7) Providing that the Board, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order under terms and conditions specified in subsection (a) of section 115 of this subtitle for the payment of the cost thereof with funds collected through the assessments under the order. Any such contract or agreement shall provide that (A) the contractors shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, and (B) the plan or project shall become effective upon the approval of the Secretary, and (C) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require.

(8) Providing that the Board, with the approval of the Secretary, may invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(9) Providing that no funds collected by the Board under the order shall in any manner be used for the purpose of influencing any governmental policy or action, except as provided by paragraph (1)(D) of this section.

(10) Providing that the Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board, including a per diem allowance as recommended by the Board and approved by the Secretary.

PERMISSIVE TERMS IN ORDERS

SEC. 115. Orders issued under this subtitle may contain one or more of the following terms and conditions:

(1) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising and promotion of the sale and consumption of dairy products, and for the disbursement of necessary funds for such purposes: *Provided*, That any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of dairy products may be encouraged, expanded, improved, or made more acceptable and shall make no reference to private brand or trade name: *Provided further*, That no such advertising or sales promotion program shall make use of unfair or deceptive acts or practices with respect to the quality, value, or use of any competing product: *And provided further*, That during the two-year period beginning on the effective date of an order first issued under this section, fluid milk products may not be promoted under this subtitle.

(2) Providing that operators of plants receiving from producers milk for commercial use maintain and make available for inspection such books and records as may be required by any order issued under section 113(a) of this subtitle; and providing for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data appropriate or necessary to

the effectuation, administration, or enforcement of this subtitle, or any order or regulation issued under section 113(a) of this subtitle shall be made available to the Secretary: *Provided*, That all information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was furnished or acquired. Nothing in this paragraph shall be deemed to prohibit (A) the issuance of general statements, based upon the reports, or the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (B) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such persons. No information obtained under the authority of this subtitle may be made available to any agency or officer of the Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement actions necessary for the implementation of this subtitle. Any person violating the provisions of this subsection, upon conviction, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than one year, or to both, and, if an officer or employee of the Board or the Department, shall be removed from office.

(3) Providing terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle and necessary to effectuate the other provisions of such order.

CERTIFICATION OF ORGANIZATIONS

SEC. 116. (a) The eligibility of any organization to represent milk producers, to request the issuance of an order under section 113(a) of this subtitle and to participate in the making of nominations under section 114(2) of this subtitle shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section, and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, upon a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) The geographic territory covered by the organization's active membership.

(2) The nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization.

(3) Evidence of stability and permanency of the organization.

(4) Identification of the sources from which the organization's operating funds are derived.

(5) The functions of the organization.

(6) A statement describing the organization's ability and willingness to further the aims and objectives of this subtitle. The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily

of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production of milk and dairy products.

REQUIREMENT OF REFERENDUM

SEC. 117. (a) The Secretary shall conduct a referendum as soon as practicable among producers who during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the issuance of an order is approved or favored by the producers. No order issued under this subtitle may be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than one-half of the producers voting in the referendum.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses (other than salary payments to Government employees) incurred for the conduct of the referendum.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 118. (a) The Secretary shall, whenever the Secretary finds that any order issued under this subtitle or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or such provisions thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate the order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(c) Prior to the fifth anniversary of any order issued under this subtitle, the Secretary shall conduct a referendum to determine if producers support continuation of such order. The Secretary shall terminate such order unless its continuation is approved or favored by a majority of producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(d) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

COOPERATIVE ASSOCIATION REPRESENTATION

SEC. 119. Whenever, pursuant to the provisions of this subtitle, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall consider the approval or disapproval by any bona fide cooperative association of producers, engaged in marketing milk or dairy products as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers: *Provided*, That if a cooperative association of producers elects to exercise this prerogative on behalf of its members, such cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval a description of the question presented in the referendum together with a statement of the manner in which the co-

operative association vote was cast on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should such producer choose to vote. Such individual ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

PETITION AND REVIEW

SEC. 120. (a) Any person subject to any order may file, with the Secretary a petition stating that any such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition, which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, if a complaint for the purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

SEC. 121. (a) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subtitle may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subtitle whenever the Secretary believes that the administration and enforcement of this subtitle would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this subtitle or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty (to be assessed by the Secretary) of not more than \$1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not in lieu of, the remedies otherwise provided at law or in equity.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

SEC. 122. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subtitle or to determine whether any person subject to the provisions of this subtitle has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subtitle or

of any order, rule, or regulation issued under this subtitle. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, as so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

ADMINISTRATIVE PROVISIONS

SEC. 123. (a) Nothing in this subtitle may be construed to preempt or supersede any other program relating to dairy product promotion organized and operating under the laws of the United States or any State.

(b) The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

AUTHORIZATIONS

SEC. 124. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle. Sums authorized to be appropriated by this subtitle shall not be available for payment of the expenses or obligation incurred by the Board in administering any order issued under this subtitle.

Subtitle C—Donation of Dairy Products

SEC. 130. Section 416 of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, repackaging, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programmed under that Act."

TITLE II—ADJUSTMENT PROGRAM FOR THE 1983 CROPS OF WHEAT, FEED GRAINS, UPLAND COTTON, AND RICE

1983 CROP WHEAT LOANS

SEC. 201. Section 107B(a) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwith-

standing the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than \$3.80 per bushel."

1983 CROP WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 202. Section 107B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) For the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph

(2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat on the farm would be limited to the acreage base for the farm reduced by a total of 25 per centum, consisting of a reduction of 15 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program."

WHEAT ACREAGE BASE

SEC. 203. Section 107B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each wheat producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to wheat for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR WHEAT

SEC. 204. Section 107B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of wheat who participates in the acreage limitation or set-aside program for such crop of wheat under paragraph (2) or (3) of this subsection, as applicable, if the permit-

ted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payments shall be made in an amount computed by multiplying (i) the rate of \$3.00 per bushel by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 FEED GRAIN LOANS

SEC. 205. Section 105B(a)(1) of the Agricultural Act of 1949 is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than \$2.71 per bushel."

1983 CROP FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 206. Section 105B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) If on October 15, 1982, the Secretary estimates that the 1982 crop of corn will be in excess of 7.3 billion bushels, the Secretary shall announce on such date that there will be in effect for the 1983 crop of feed grains a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of feed grains, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program."

FEED GRAINS ACREAGE BASE

SEC. 207. Section 105B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to

reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each feed grain producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to feed grains for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to feed grains for harvest in the two crop years immediately preceding the year for which the determination is made."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR FEED GRAINS

SEC. 208. Section 105B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces under paragraph (1)(B) of this subsection that there will be in effect a diversion program on the 1983 crop of feed grains, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of feed grains who participates in the acreage limitation or set-aside program for such crops of feed grains under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payment shall be made in an amount computed by multiplying (i) the payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The payment rate for corn shall be in the amount of \$1.50 per bushel and in the case of grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 CROP UPLAND COTTON ACREAGE REDUCTION PROGRAM

SEC. 209. Section 103(g)(9)(A) of the Agricultural Act of 1949 is amended by—

(1) inserting immediately after the third sentence the following: "If the Secretary should make the determination referred to in the first sentence of this subparagraph for the 1983 crop of upland cotton and establish an acreage reduction program for such crop, the Secretary shall provide that

25 per centum of any reduction required in the acreage base for the farm shall be made under the diversion program provided in subparagraph (B) and the balance of the reduction shall be made under an acreage limitation program as provided in this subparagraph. In such event, as a condition of eligibility for loans, purchases and payments on the 1983 crop of upland cotton the producers on a farm must comply with the combined acreage limitation and diversion program."

(2) inserting immediately after the eighth sentence (after the addition of paragraph (1) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of upland cotton shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR UPLAND COTTON

SEC. 210. Section 103(g)(9)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of upland cotton who participates in the acreage limitation program for such crop of upland cotton under subparagraph (A), if the permitted acreage for the farm as determined under such subparagraph is reduced by an amount equivalent to the reduction required by the Secretary to be made under this subparagraph in addition to the reduction made under the acreage limitation program, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such acreage limitation program. Such payments shall be made in an amount computed by multiplying (i) the rate of \$.25 per pound by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisions of paragraph (13), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 CROP RICE ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 211. Section 101(i)(5)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this subsection, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of this paragraph the following: "If on November 15, 1982, the Secretary estimates that the 1982 crop of rice will be in excess of 145 million hundredweight, rough

rice basis, the Secretary shall announce on such date that there will be in effect for the 1983 crop of rice a combination of (i) an acreage limitation program as described in this paragraph and (ii) a diversion program as described under paragraph (B) under which the acreage planted to rice on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program.";

(3) inserting immediately after the ninth sentence (after the addition of paragraph (2) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR RICE

SEC. 212. Section 101(i)(5)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces that there will be in effect a diversion program on the 1983 crop of rice, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of rice who participates in the acreage limitation program for such crop of rice under subparagraph (A), if the permitted acreage for the farm is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under subparagraph (A), and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such subparagraph. Such payment shall be made in an amount computed by multiplying (i) a payment rate of \$3.00 per hundredweight by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisions of paragraph (8), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

TITLE III—FOOD STAMP ACT AMENDMENTS OF 1982

SHORT TITLE

SEC. 301. This title may be cited as the "Food Stamp Act Amendments of 1982."

HOUSEHOLD DEFINITION

SEC. 302. Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence, striking out "parents and children" and inserting in lieu thereof "parents and children, or siblings,"; and inserting "or siblings" after "the parents"; and

(2) inserting after the first sentence a new sentence as follows: "Notwithstanding paragraph (1) of the preceding sentence, an individual who lives with others, who is 60 years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household without regard to the purchase of food and preparation of meals if the income of the others (as computed under section 5(d) for purposes of determining, without regard to such individual and spouse, eligibility to receive food stamp benefits) does not exceed 165 per centum of the applicable nonfarm income poverty guideline prescribed by the Office of Management and Budget, adjusted as described in section 5(c), for a household excluding such individual and spouse."

ROUNDING DOWN

SEC. 303. (a) The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of such diet)" after "adjustments"; and

(2) in each of clauses (6) and (7), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest \$5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso to clause (2) of the fourth sentence, striking out "nearest \$5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

DISABLED VETERANS AND SURVIVORS

SEC. 304. (a) Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by adding at the end thereof a new subsection as follows:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A)(i) has a wartime disability, peacetime disability, or disability by treatment or vocational rehabilitation, which is rated as total under section 314, 334, or 351, respectively, of title 38, United States Code; or

"(ii) is considered in need of regular aid and attendance or permanently housebound under any such section; or

"(iii) is considered permanently and totally disabled, in need of regular aid and attendance, or permanently housebound under subsection (a), (b), or (c), respectively, of section 502 of title 38, United States Code;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under subsection (d) or (e), respectively, of section 541 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i))."

(b) The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(c) Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)) is amended by striking out "a member who is" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the fourth sentence, striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member";

(2) in the fifth sentence—

(A) striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member"; and

(B) in clause (A), striking out "household" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty years" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

SEC. 305. Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by—

(1) at the end of clause (10), striking out "and"; and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under titles II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section

3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the adjustment."

ADJUSTMENT OF DEDUCTIONS

Sec. 306. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) in the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subdivision (i) of the proviso to clause (2) in the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

Sec. 307. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) inserting after the fourth sentence the following: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households with regard to such expense only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the other individual, household, or both."; and

(2) in subclause (B) of the last sentence, striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

AVERAGING INCOME

Sec. 308. Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by inserting after subparagraph (B) a new subparagraph as follows:

"(C) In computing household income under this section, household income that is received on a regular weekly or biweekly basis from the same source(s) shall be converted to a monthly amount."

MIGRANT FARMWORKERS

Sec. 309. The last sentence of section 5(f)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A) of this subsection relating to migrant farmworker households)".

ELIMINATION OF STUDIES AND REPORTS

Sec. 310. (a) The second sentence of section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking out "(1)" and ", and (2)" and all that follows through "1978".

(b) Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking out the last sentence.

(c) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by—

(1) striking out subsections (d) and (e); and

(2) redesignating subsection (f) as subsection (d).

CATEGORICAL ELIGIBILITY

Sec. 311. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end thereof a new subsection as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c) to have satisfied the resource requirements prescribed under subsection (g)."

IMPROVEMENT IN COST-EFFECTIVENESS OF MONTHLY REPORTING SYSTEMS

Sec. 312. The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" between "all" and "members"; and

(2) adding, after "Secretary", the following: ", except that with the prior approval of the Secretary, a State agency may select categories of households which may report at specified less frequent intervals upon the State agency's showing to the satisfaction of the Secretary that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

REQUIREMENTS APPLICABLE TO JOB SEARCH

Sec. 313. Section 6(d)(1)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting, after "Secretary", the following: "(including any reporting and inquiry as may be required by the Secretary to be fulfilled at the time of application)".

VOLUNTARILY QUITTING A JOB

Sec. 314. Section 6(d)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(iii)) is amended by striking out "sixty days" in the proviso and inserting in lieu thereof "ninety days".

ALTERNATIVE ISSUANCE SYSTEM

Sec. 315. Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by inserting at the end thereof a new subsection as follows:

"(g) The Secretary may require State agencies—

"(1) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(2) to issue, in lieu of coupons, a reusable document to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food;

if the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that the use of such document or such system is necessary to improve the integrity of the food stamp program: *Provided*, That the cost of such document or system shall not be imposed upon retail food stores participating in the food stamp program."

ELIMINATION OF INITIAL MONTH ALLOTMENTS OF UNDER TEN DOLLARS

Sec. 316. The first sentence of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such

household would otherwise be eligible to receive under this subsection is less than \$10".

DISCLOSURE OF INFORMATION

Sec. 317. Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting before "except that (A)" the following: "or of direct Federal assistance programs and Federally-assisted State programs".

EXPEDITED SERVICE

Sec. 318. Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that the State agency shall—
"(A) provide coupons no later than five days after the date of application to any household which—

"(i)(I) has gross income that is less than \$150 per month; or

"(II) is a destitute migrant or a seasonal farm worker household in accordance with the regulations governing such households in effect July 1, 1982; and

"(ii) has liquid resources that do not exceed \$100; and

"(B) to the extent practicable, verify the income and liquid resources of the household prior to issuance of coupons to the household."

PROMPT REDUCTION OR TERMINATION OF BENEFITS

Sec. 319. Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting after "earlier" the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF BENEFITS

Sec. 320. Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by—

(1) in paragraph (16), striking out the period at the end thereof and inserting in lieu thereof a semicolon;

(2) in paragraph (20), striking out "and" at the end thereof;

(3) in paragraph (21), striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) adding at the end thereof a new paragraph as follows:

"(22) that the State agency shall determine, not less frequently than annually—

"(A) whether households participating in the food stamp program include as members individuals who, under section 6(g), may not be considered members of such households; and

"(B) whether households participating in projects conducted under section 17(b)(1) receive both coupons and any assistance provided under such projects in lieu of coupons."

ERROR RATE REDUCTION SYSTEM

Sec. 321. (a) Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(c)), as amended by title XIII of the Agriculture and Food Act of 1981 (Public Law 97-98; 95 Stat. 1282), is amended by adding at the end thereof the following new paragraph:

"(23) that the State agency shall reimburse the Secretary, in an amount determined under section 16(g) of this Act, for

the value of excessive allotments issued to households."

(b) Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)), as amended by title XIII of the Agriculture and Food Act of 1981 (Public Law 97-98; 95 Stat. 1282), is amended to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a) of this section, other than the costs already shared in excess of 50 per centum as described in the proviso to subsection (a) of this section, by increasing such share to 60 per centum of all such administrative costs in the case of a State agency whose (1) payment error rates with respect to eligibility, overissuance, and underissuance as calculated in the quality control program undertaken pursuant to subsection (d)(1) of this section are less than 5 per centum and (2) whose percentage rate of invalid decisions in denying eligibility as calculated in the quality control program conducted under subsection (d)(1) of this section is less than a nationwide percentage rate that the Secretary determines to be reasonable."

(c) Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025), as amended by title XIII of the Agriculture and Food Act of 1981 (Public Law 97-98; 95 Stat. 1282), is amended—

(1) in subsection (d)—

(A) by striking out "Effective October 1, 1978, and annually thereafter, each" and inserting in lieu thereof "Each";

(B) by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (c)", and

(C) in paragraph (1) by striking out "error rates" and inserting in lieu thereof "payment error rates", and

(2) in subsection (g)—

(A) by striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following new paragraph:

"(1)(A) Each State agency shall pay, other than for good cause as determined by the Secretary, to the Secretary or have withheld by the Secretary, as described in paragraph (2) of this subsection, the amount determined under subparagraph (B).

"(B) For purposes of subparagraph (A), the amount payable by a State agency for a fiscal year is an amount equal to the difference between—

"(i) the product of—

"(I) the payment error rate for such fiscal year; and

"(II) the aggregate value of all allotments issued to households by such State agency in such fiscal year; and

"(ii) the product of—

"(I) the allowable error rate for such fiscal year; and

"(II) the aggregate value of allotments issued to households by such State agency in such fiscal year.

"(C) For purposes of subparagraph (B)(i)(I), the term 'payment error rate' means the percentage of all food stamp allotments which are issued in a fiscal year to households that fail to meet the eligibility requirements of sections 5 and 6 of this Act and are overissued to eligible households.

"(ii) For purposes of subparagraph (B)(ii)(I), the allowable error rate is—

"(I) 9 per centum for fiscal year 1983;

"(II) 7 per centum for fiscal year 1984; and

"(III) 5 per centum for fiscal year 1985 and each fiscal year thereafter.", and

(B) by redesignating paragraph (4) as paragraph (2).

BENEFIT IMPACT STUDY

SEC. 322. Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026), as amended by section 310(c) of this title, is amended by adding at the end thereof a new subsection as follows:

"(e) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, title XIII of the Agriculture and Food Act of 1981, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report on the results of such study no later than February 1, 1984 and a final report on the results of such study no later than March 1, 1985."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 323. The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981"; and

(2) inserting before the period at the end thereof the following: "not in excess of \$12,623,000,000 for the fiscal year ending September 30, 1983; not in excess of \$12,817,000,000 for the fiscal year ending September 30, 1984; and not in excess of \$13,570,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO

SEC. 324. (a) Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "non-cash" before "food assistance".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for fiscal year 1982 or fiscal year 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include such impact on both the nutritional status of residents of Puerto Rico and the economy of Puerto Rico. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this title.

REIMBURSEMENT OF POLITICAL SUBDIVISIONS AND STATE AGENCIES FOR WORKFARE ADMINISTRATIVE EXPENSES

SEC. 325. (a) Section 20(g) of the Food Stamp Act of 1977 (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) a new paragraph as follows:

"(2)(A) From 50 per centum of the funds saved from employment related to a work-

fare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to the three times the dollar value of the sum of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participation is terminated."

(b) The amendments made by this section shall take effect October 1, 1982.

AMENDMENTS MADE BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981 AND THE AGRICULTURE AND FOOD ACT OF 1981

SEC. 326. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101, 102, 103, 104, 105, 106, 107 (other than subsection (b)), 108 (other than subsection (c)), 109, 110, 111, 112, 113, and 114 of such Act shall take effect on the date of the enactment of this title, unless such amendments have taken effect before such date.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the date of the enactment of this title, unless such amendments have taken effect before such date.

EFFECTIVE DATES

SEC. 327. (a) Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this title.

(b) Sections 321 and 325 shall take effect on October 1, 1982.

The CHAIRMAN. Pursuant to the rule, the gentleman from Virginia (Mr. WAMPLER) is recognized for 30 minutes.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am offering a substitute to H.R. 6892, the agriculture reconciliation bill. The substitute incorporates all of the provisions of H.R. 6892 with the following changes to title III, the Food Stamp Amendments of 1982.

First, the Secretary is given the authority to require food stamp applicants to look for a job at the time they apply for food stamps.

Second, definitive guidelines are established for expedited service so that only those in immediate need receive benefits on an expedited basis.

Third, States will be required to reduce their error rates to 9 percent by 1983; to 7 percent by 1984; and, to 5 percent by 1985. States will be respon-

sible for repaying the amount of Federal money misspent over these target levels.

I might mention that in my State, the agencies responsible for administering public assistance programs have a good record in their efforts to reduce the number of errors and the amount of money spent in error. According to USDA the latest error rate for the food stamp program for payments to ineligible persons and overpayments to eligible persons is 8.38 percent in Virginia.

These agencies are continuing in their efforts to reduce error rates. While I would like to see a zero error rate—and I know in Virginia they agree—it is not reasonable to assume that a program which costs over \$11 billion this year and helps over 22 million people can operate with no errors.

I support the food stamp program as one that provides assistance to the poor, the elderly, the disabled, and the working poor. However, when \$1 billion is spent in error, positive action must be taken by all States administering the program.

The additional savings in the substitute totals \$197 million over the 3-year reauthorization of the food stamp program. This additional savings comes from strengthening work requirements and tightening program administration.

The substitute also contains the amendment offered by the chairman of the Foreign Affairs Committee concerning donation of dairy products and all technical committee amendments.

I urge you to support the amendment in the nature of a substitute to H.R. 6892.

Mr. Chairman, to further explain the amendment in the nature of a substitute, I yield 12 minutes to the gentleman from Missouri, (Mr. COLEMAN) who is the ranking minority member of the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition.

Mr. COLEMAN. Mr. Chairman, I appreciate the gentleman's yielding me this time.

The amendment in the nature of a substitute to H.R. 6892, as the gentleman from Virginia (Mr. WAMPLER) has explained, does in fact provide for three changes, and, additionally, there is a fourth savings in this substitute. Other than these changes, I want to point out to the membership that our substitute is identical to the committee bill, including the committee amendments and the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI) which were just accepted by the committee. No other changes and no other issues are involved but these three changes that occur in this amendment.

The first change gives the Secretary the authority to require that food

stamp applicants who are physically and mentally able to do so and who are between the ages of 18 and 60 look for jobs when they apply for food stamps. The committee bill gives States the option to require States to provide for this job search rule.

I support strong work incentives in the food stamp programs, and that is why I disagreed with what the administration originally proposed in this area when they wanted to limit the 18-percent earned income deduction. That is not before us today.

I want to see food stamp participants who are able to become self-sufficient. I also want to make sure that those who are able to work actively seek a job, and that those who quit a job in order to receive food stamps voluntarily are not supported at taxpayers' expense. It is my hope that some of the people who apply for food stamps, when they make application for food stamps, will find a job, thereby either reducing the amount of food stamps they need, or eliminating their need altogether for the food stamp program. Others may not be able to find a job and I recognize that. However, under this substitute they will at least begin the process of looking for a job rather than waiting until they receive food stamps and then looking for a job, as present law requires.

The Congressional Budget Office estimates overall savings of \$15 million in 1983, \$17 million in 1984, and \$18 million in 1985 under this part of the substitute.

The General Accounting Office supports this provision, Mr. Chairman. They believe that it is appropriate, based upon their reviews to require food stamp applicants to begin job search activities as soon as they apply for food stamp benefits.

The second part of the substitute covers expedited service. Current law allows individuals to come in to a food stamp office and say they have no money or no income and receive food stamps within 2 to 3 days. The only verification, the only proof, if you will, that is required is that they are the person they state they are by identity, and that they reside where they say they reside.

The substitute provides that specific criteria be established to determine eligibility for expedited service. We want to provide standards, if you will, for the local food stamp office and criteria for them to gauge who should and who should not receive expedited service. First of all, we set a maximum gross income level not to exceed \$150 a month for expedited service. An exception is provided for migrant and seasonal farmworkers. These households will continue to follow the income rules that were in place in July of this year.

Second, all households must have liquid assets to qualify for expedited service of less than \$100. By "liquid assets" I mean assets immediately available in a checking or savings account or similar source.

Third, we think that people who ask for expedited service and special treatment ought to have some sort of verification made on their claims, that is, to verify the income and liquid assets provisions that we have provided for. Applicants can prove this by showing pay stubs, bankbooks, or similar items.

Fourth, the expedited service cases must be processed as soon as possible but no later than 5 days. I offered this provision in committee along with the gentleman from California (Mr. PARNETT). We failed on a tie vote in committee, and that is why I bring it to the floor this afternoon.

Obviously there are sentiments for change needed for expedited service. In fact, last year the chairman of our subcommittee himself offered a very similar amendment which was adopted. The conferees, though, on the Agriculture and Food Act of 1981 dropped this provision. But the changes for expedited service are still needed.

The General Accounting Office also studied this area and indicated that they found that within the States there were different numbers of cases that come through the food stamp program and ask to be expedited. They ranged from 6 percent to 70 percent of all new cases that walked through the food stamp office and asked for expedited service. Obviously, the States are now floundering around without any guidance from the Congress and without any standards or criteria upon which to judge the eligibility of an expedited case.

I want to point out that the American Public Welfare Association, which represents State welfare agencies, supports changes in expedited service. The CBO estimates that we can save \$45 million over the next 3 years by this provision in the substitute. I feel that this provision places reasonable limits on expedited service. It requires verification of income and resources and curtails overuse and abuse and insures that those people who really should receive expedited service have it available to them.

□ 1345

Mr. Chairman, the third change in the substitute from what the committee bill represents is a change in the error rate reduction and sanctions system.

The committee bill contains a section requiring States to reduce their error rates to specific targets. However, the committee did not go far enough, Mr. Chairman, because they did not require positive responses on

behalf of the States administering the food stamp program.

The substitute we feel accomplishes this. States must reduce their error rates to 9 percent by 1983, 7 percent by 1984, and down to 5 percent by 1985.

If the States fail to meet these error rate reductions they are expected, under this substitute, to repay the amount of benefits sent out in error, their error, if you will, over these target levels.

According to the USDA, over \$1 billion a year, Mr. Chairman, each year goes out to food stamp participants who are either ineligible for benefits or receive too many benefits.

We are talking here, remember, about documented cases of ineligibility, of errors being made to people who received food stamps. We are not talking about taking away food stamps from people who deserve them or who are eligible. We are talking about States tightening up the administration of the food stamp program because they are the ones that are making the errors, but they are doing it with our Federal tax dollars. That is the problem.

CBO feels that we can save an additional \$120 million over 3 years by adopting this language for reducing error rates.

Finally, Mr. Chairman, the authorizations for appropriations in this bill are adjusted to reflect these savings in the substitute. The cap that we adopted in committee, by my motion, will stay in place but, of course, because of these changes that the substitute makes we will adjust the cap accordingly to reflect the accurate and true cost as determined by CBO of the cost of the food stamp program for the next 3 years.

That will also, of course, include the additional costs that are resulting from decreases in AFDC as well as SSI.

To spell out specifically what those caps are for the next 3 years, our substitute contains the following:

In 1983, a cap of \$12.623 billion; in 1984, \$12.817 billion; and in 1985, \$13.570 billion.

This represents, Mr. Chairman, more money than ever has been spent on the food stamp program. In 1983 this represents an increase of almost 12 percent over the 1982 authorization levels.

I urge all of us to support this Republican substitute. It represents an additional savings over 3 years of \$197 million. These savings are made through strengthening the work requirements and improving the administration of the program, Mr. Chairman, without reducing benefits to those people who are entitled to food stamps.

Mr. ROEMER. Mr. Chairman, will gentleman yield?

Mr. COLEMAN. I yield to my colleague from Louisiana.

Mr. ROEMER. I just have a question on the numbers. As I understand it, the committee recommendations save about \$1.3 billion in the food stamp expenditures over a 3-year period; is that correct?

Mr. COLEMAN. I believe that is correct.

Mr. ROEMER. The gentleman's amendment or the amendment offered on his side of the aisle would save an additional how much money per year? Could the gentleman repeat that for us so that we understand it?

Mr. COLEMAN. I will try and break it down by year if I can. It is \$197 million over 3 years. The first year's savings would be \$25 million; the second year's savings would be around, I believe, \$91 million, and the rest would be \$81 million in 1985, but the total is \$197 million.

Mr. ROEMER. The question I have in my mind is in reading the language from the other body I understand they saved about \$2.6 billion in the program over 3 years. Our own Agriculture Committee recommended a bill that saves about half that. The gentleman adds savings of some small additional dollars.

Do you know what the difference is of about \$1.1 billion? How did the other body save money that we seem unable to save?

Mr. COLEMAN. The gentleman is absolutely right; the other body saves sufficiently more than we did, a billion plus more.

The reason they did that was that they addressed some of these issues that we failed to address in committee or had insufficient votes to pass in committee and probably do not have sufficient votes to pass here on the floor.

That is, they went through a number of things, but the biggest one is the change in the thrifty food plan, that is the amount of dollars it takes to fund each family or each individual on the food stamp program.

The other body simply reduced the period of time in which we adjusted the thrifty food stamp program and that is where they saved an awful lot of their money in the process.

They saved \$430 million in 1983 and \$246 million in 1984 and \$160 million in 1985, just in that part of the bill alone.

Mr. ROEMER. So if the gentleman will yield for one final question, as I understand it your amendments would save an additional \$100 million or so?

Mr. COLEMAN. Almost \$200 million.

Mr. ROEMER. Almost \$200 million, but would be substantially less than the savings suggested by the other

body. No. 1; and, No. 2, would allow the appropriated funds expected to be spent for food stamps to go up each of the next 3 years to all time-highs in each of those years?

Mr. COLEMAN. The gentleman has it absolutely right.

I do not think anyone could characterize this amendment as being a hard line substitute. There could certainly have been a lot bigger figures, but we felt these figures could pass, whereas higher figures may not have.

Mr. ROEMER. I thank the gentleman.

The CHAIRMAN. Is the gentleman from Texas (Mr. DE LA GARZA) opposed to the amendment?

Mr. DE LA GARZA. I am, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas is recognized for 30 minutes.

Mr. DE LA GARZA. Mr. Chairman, I yield 11 minutes to the gentleman from New York (Mr. RICHMOND), chairman of the subcommittee that handles food stamps.

Mr. RICHMOND. I certainly support H.R. 6892 in its entirety.

We are met, for the 7th year in my 8 years of service in Congress, to alter the food stamp program one more time in the name of budget cuts. We have conducted 40 days of hearings and 95 days of markup on this program since January 1975. We continue to give it more scrutiny than any other social program. We constantly tinker with and change its details until neither recipients nor State and local administrators can remember what the rules of the game are. Why should that be? Why must this program consistently provide, year after year, the primary target for budget slashers and those who would scheme to redistribute income from the poor to the rich?

There is no good answer. Academic experts and social policymakers agree that food stamps are the best countercyclical program ever devised to offset, however partially, the ravages of unemployment and depression. Doctors testify that food stamps are "the most valuable health dollar spent by the Federal Government." Nutritionists know that food stamps are responsible for the progress we have made this past generation in eliminating hunger and malnutrition in this country.

Today, however, we meet to consider budget savings and not the nutritional needs of the poor.

H.R. 6892 amends the Food Stamp Act of 1977 and extends the food stamp program for 3 additional years through September 30, 1985. In the course of extending the food stamp program, the committee added amendments that would sanction the States for overissuance of food stamp allotments and tighten eligibility requirements.

Title III extends an emergency feeding program which enables 21 to 22 million truly needy Americans to purchase food; second, it expands program benefits to include disabled veterans, elderly, social security recipients, and certain AFDC recipients; third, it tightens the household definition and modifies procedures for determining benefits; fourth, it prevents fraud and abuse by establishing State option for job search at application and providing for alternative issuance systems; fifth, it imposes strict sanctions on States for excessive error rates, improving cost-effectiveness of monthly reporting, allowing prompt reduction or termination of benefits and eliminating possible duplication of benefits; and sixth, demonstrates a concern for nutrition by studying the impact of program budget cuts on the nutritional status and social conditions of needy Americans.

The amendments to the Food Stamp Act achieve significant cost savings through measures believed by the committee to represent the least harmful alternatives to needy households dependent upon the program. The committee emphasizes that as a result of legislation adopted in 1981, savings were made in the food stamp program which totaled \$6.7 billion for the 3 fiscal years affected. While the committee was again compelled to make further food stamp cuts to achieve the directive that it make cost savings in programs within its jurisdiction, any deeper cuts in the program would impact heavily on the ability of low-income Americans to have an adequate diet.

The committee adopted many reforms in the food stamp program to control error rates and to curb abuse. These provisions resulted in additional savings of \$334 million in fiscal year 1983, \$431 million in fiscal year 1984, and \$561 million in fiscal year 1985 for a total net savings of \$1.3 billion over a 3-year period.

This bill will continue the food stamp program for 3 more years through September 30, 1985, as well as provide authorization for funding for fiscal year 1983 at \$12,648,000,000 for fiscal year 1984 at \$12,908,000,000 and for fiscal year 1985 at \$13,651,000,000.

Our committee, recognizing the fallibility of the economic forecasts on which the spending limits for the food stamp program are based, imposed a ceiling on expenditures to maintain oversight and control of program funding. The economic assumptions on which the spending ceilings are founded include the following estimates for unemployment and food price inflation:

	(In percent)		
	Fiscal year—		
	1983	1984	1985
Unemployment.....	8.6	7.7	7.3
Food price inflation.....	6.1	6.8	6.9

In addition, CBO savings estimates assume October 1, 1982, implementation date.

The total spending established for each fiscal year includes an appropriation level of \$825 million for Puerto Rico as mandated in the Omnibus Budget Reconciliation Act of 1981.

It also includes offsets of \$190 million for fiscal year 1983, \$208 million for 1984, and \$213 million for 1985 to reflect the impact on food stamp costs of reductions in other benefit programs.

A recent report from the Food and Nutrition Service of USDA issued June 1982 indicates that participation in the food stamp program averaged 22.7 million for March 1982, the highest level in 11 months. Although participation has increased for 4 consecutive months it remains about 1.3 percent below a year earlier. Legislative and administrative changes slowed the usual seasonal increase in participation. However, the sluggish economy and high rates of unemployment have pushed participation up, particularly in areas hard hit by unemployment. In the Midwest region, where unemployment is exceptionally high, participation during March of this year was 5 percent above a year earlier and about 120,000 more than March 1980. Commensurate with the overall decrease in total participation, the costs of the food stamp program in March 1982 were 5 percent below the preceding March. Each 1-percent increase in unemployment adds \$500 million to program costs and each 1-percent price increase adds \$150 million.

The committee assumed that the current CBO estimates for program expenditures are accurate and will be sufficient to maintain benefits for those Americans without resources to purchase an adequate diet. It is not the intent of the committee to abruptly cut off food stamps or abruptly decrease the amount of food stamps that recipients would receive in the last quarter in the event that unemployment or inflation should go higher than the figures projected by CBO. At the same time, the committee recognizes the responsibility of both USDA and the State agencies to operate an efficient and effective program with minimal error and waste.

EXPANDING PROGRAM BENEFITS

The bill expands program benefits to households previously excluded from eligibility. Recognizing the inequities created by previous legislative actions, the committee amends the current statute to correct these problems.

First, the committee expands the definition of "elderly or disabled" member to include disabled veterans and veterans' disabled spouses and children who receive veterans' compensation for purposes of household definition, income standards of eligibility, income deductions, and other places in the law where this definition applies.

This provision will cost \$5 million in each fiscal year.

Second, the committee, recognizing the hardship placed on recipients of social security and other retirement benefits which are indexed on July 1 of each fiscal year, exempts this additional income from consideration for purposes of determining food stamp benefits through September 30 of the fiscal year. Many senior citizens have written to committee members describing the hardships they face when food stamp benefits are reduced in July as a result of cost-of-living increases in their social security or retirement benefits.

Since the cost-of-living increases are based on the CPI which include food price inflation, the committee concurs it is infinitely unfair to reduce food stamp benefits and, consequently, jeopardize the ability of these individuals to obtain an adequate diet. Under this bill, any July 1 cost-of-living increase received by elderly or disabled households from another Federal program—such as social security, SSI, railroad retirement and veterans' pensions—would be ignored until October 1 of that year for purposes of the food stamp program. As of October 1, an adjustment in food stamp benefits would be made to reflect COLA's in all programs, including food stamps.

There are two major reasons for this proposal. The first is to avoid the effect of having elderly and disabled persons lose a substantial portion—30 to 45 percent—of their social security COLA in decreased food stamp benefits for a 3-month period. This has a disheartening and confusing effect on participants, especially when the October 1 food stamp COLA would totally or partially restore the lost benefits just 3 months later.

The second justification for this proposal is to save States and local governments the administrative cost and effort involved in adjusting the food stamp benefits of about 2 million households with elderly or disabled members twice in a 3-month period.

This provision will cost \$19 million in fiscal year 1983, \$21 million in fiscal year 1984, and \$23 million in fiscal year 1985.

Third, the committee provides States the opportunity to consider households in which all members receive aid for family with dependent children benefits and who meet the food stamp income eligibility guide-

lines as having met the food stamp resource requirements. This revision is intended to ease the administrative burden on States by eliminating the need to apply two different, though similar assets tests. At the same time this provision maintains the integrity of the food stamp eligibility rules by preserving the food stamp gross income test.

Fourth, we require States to base benefit allotments and eligibility on income received for 30 days of labor or obligation, whether that income is determined prospectively or retrospectively. This provision prevents States from calculating a month's benefits and eligibility for an individual who receives income for a 5- or 6-week period.

The committee recognized that households receiving weekly or biweekly earned or unearned income will experience months each year when there are five weekly checks or three biweekly checks in a single month. In such months, unless the household's weekly or biweekly income is converted into a monthly amount, the monthly income is misleading and leads to numerous technical terminations or suspensions. Income averaging prevents households from being terminated for 1 month as a result of a fluke of the calendar.

ACHIEVING PROGRAM SAVINGS

The bill reduces the costs of the food stamp program over 3 years by an estimated \$1.3 billion. Based on economic assumptions used in the first concurrent budget resolution, the following table represents CBO's approximate figures for the savings if implemented on October 1, 1982.

While achieving these savings, we recognized the severe cuts made in these programs in fiscal year 1982 through enactment of the Omnibus Reconciliation Act of 1981 (Public Law 97-35) and the Agriculture and Food Act of 1981 (Public Law 97-98). Together, these laws reduced food stamp costs by 10 percent or about \$2.3 billion in fiscal year 1982. Public Law 97-98 reauthorized the program for 1 year only and included the following major changes:

First, lowered income eligibility limits to 130 percent of poverty for all nonelderly and nondisabled households. This was the level suggested by the President to limit the program to the truly needy.

Second, delayed thrifty food plan adjustments for 9 months. The adjustment scheduled for October 1, 1982, will be the first in 21 months.

Third, froze the standard and excess shelter/dependent care deductions for a 2½-year period through July 1, 1983. Also, deleted the home ownership components from the CPI when updating these deductions in the future.

Fourth, reduced the deduction allowed for work-related expenses from 20 percent to 18 percent of earnings.

Fifth, mandated retrospective accounting and periodic reporting.

Sixth, eliminated strikers.

Seventh, converted the food stamp program in Puerto Rico to block grant at reduced and fixed funding levels.

Eighth, required that benefits paid in the first month of eligibility be prorated to the day the application was received.

Ninth, tightened work requirements and provided guidelines for optional nationwide workfare.

Tenth, increased penalties for fraud and misrepresentation and minimum mandatory court sentences for criminal offenses.

Eleventh, enacted a variety of other measures to improve program administration and enhance accountability.

This year the committee achieved the cost savings by administrative changes in the program. The committee agreed to:

Require rounding down to the lowest dollar increment any computations of, respectively, the thrifty food plan, standard and excess shelter deductions, and value of allotments. As is current practice, the unrounded number will continue to be used as the basis for updating the deductions the following year and the household size adjustments to the thrifty food plan should be based on the unrounded cost of such plan.

Delay the next scheduled adjustment of the shelter-and-dependent-care deductions from July 1 to October 1, 1983 and updates the deductions every October 1 thereafter. This would coordinate the update of these deductions with the timing of the update in the thrifty food plan. Current law provides that the standard and the shelter/dependent care deductions will be adjusted on July 1, 1983; therefore, under the amendment, the adjustments to both deductions and to the thrifty food plan will take place on the same dates, reducing the work required by State food stamp administrators. On October 1, 1983, a new series of adjustments will begin, using \$85 for standard deduction and \$115 for the shelter cap as the base. Each adjustment the following years should use as the base the unrounded numbers from the previous years.

Eliminate the requirement that USDA conduct studies on the financial resources requirements of the food stamp program, the effect of the elimination of the purchase requirement; the feasibility of recoupment, and the Consumer Price Index. These studies or reports have been completed by the Department.

Eliminate any allotment for the initial month or period of participation for a household if the value of the allotment it otherwise would receive is

less than \$10 because of proration of the initial month's benefits. In subsequent months, the household would receive the full allotment to which it was entitled.

The committee rejected an amendment to impose unreasonable restrictions for expedited service on individuals who face real hunger emergencies. GAO testified before the committee in the March hearings that quality control data for 20 States showed that errors for expedited cases were generally lower than those for the overall caseload. During this time of exceptionally high unemployment, to deny households who experience temporary poverty access to food stamps would be unreasonable punishment. The administration reported that in New Jersey 60 percent of the households that were given expedited services treatment during a temporary emergency did not require food stamps on a long-term basis.

It was our intent in defeating this amendment to insure that destitute individuals, especially migrant farmworkers, can continue to feed their families in emergencies. To afford migrant farmworkers continued protection, the committee exempts these households from the requirements of retrospective accounting and retains current expedited service eligibility and benefit levels for migrant and seasonal farmworkers.

We refused to delay adjustments in the thrifty food plan which would further erode the purchasing power of recipients. Because of legislation enacted last year, the July benefit allotments are based on food prices that are 22 months out of date, which corresponds to a 10- to 15-percent loss in food purchasing power. Many of the witnesses at this year's food stamp hearings testified that the current delay in thrifty food plan adjustments may be a contributing factor to the increased use of food banks and soup kitchens by low-income persons around the country. At food stamp hearings this year, witnesses estimated that an average food stamp family lost \$4 a week in food-buying power—an amount which represents three meals a day for each family member for 2 days each month—with the 1981 freeze on adjustments, and, if the family lived in a State with a sales tax on food, they lost almost \$3 more. If food stamps were delayed again this year, food stamp families would lose another \$5 in food-buying ability.

Under current law, food stamp benefits are adjusted every October to reflect the cost of USDA's thrifty food plan during the previous June. USDA's last national household food consumption survey, conducted in the late 1970's, found that five-sixths of all households whose food expenditures equaled the cost of the thrifty

food plan failed to obtain the recommended daily allowances for the basic nutrients. Today, the average food stamp benefit equals but 43 cents per person per meal, and the maximum benefit—to families with no other income for food purchases—totals 64 cents per person per meal.

Food stamp benefits have not been overindexed. Food stamp allotments are not adjusted according to the whole CPI, but only to food prices. A recent USDA study examining food stamp trends from 1975 to 1980 found that when food stamp benefits are measured in real dollars, the average per person benefit did not rise at all during this period.

The food stamp program is the only Federal entitlement program that has not been indexed in a timely manner and intends that food stamp allotments be updated to reflect increases in food prices.

PREVENTING FRAUD AND ABUSE

The committee recognizing that to effectively serve the needs of the poor it must make a substantial effort to direct program benefits away from those who are not entitled to them. Accordingly, the committee adopted several measures which reflect the suggestions made by State administrators, officials from the General Accounting Office, and the Department's Inspector General.

The committee bill includes the following antifraud and abuse provisions:

First, job search.—Establishes an option, rather than a uniform Federal mandate, for States to apply job search requirements at the time households apply for participation in the program. The provision allows States to take local employment conditions into account.

Second, voluntarily quitting a job.—Lengthens the voluntary quit disqualification period from 60 to 90 days, making this penalty compatible with the AFDC disqualification period.

Third, reimbursement for workfare administrative expenses.—Directs the Secretary to use one-half of the savings resulting from the employment of food stamp recipients who had been participating in workfare programs to defray additional portions of State agency costs of operating such programs. These requirements provide added incentive to State agencies to focus on obtaining jobs for food stamp recipients participating in workfare programs. CBO concurred with the administration's position that Federal costs would be less than \$1 million annually under the current policy for optional workfare.

Fourth, household definition.—Requires siblings who live together to be treated as one household unless one sibling is elderly, blind or disabled and permits certain elderly, disabled persons who live with others but who do not purchase food and prepare meals—

and their spouses—to be considered a separate household.

Fifth, standard utility allowance.—Prohibits the use of standard utility allowances for households, such as those in public housing, that are not billed for heating or cooling costs. This prohibition does not preclude the use of utility allowances based on electricity costs of the household, even though heating and cooling expenses are not included. Households whose actual utility expenses exceed the State standard utility allowance must be allowed to claim the full expenses incurred.

Sixth, alternative issuance system.—Authorizes the Secretary to require that State agencies develop alternative issuance systems or to issue a reusable document in lieu of coupons if the Secretary, in consultation with the Inspector General, determines that use of such systems or documents is necessary to protect the integrity of the food stamp program and reduce losses to the program. The Secretary is also authorized to test methods of issuing benefits in which the food coupon itself is eliminated. The Secretary cannot require retail food stores participating in the program to bear the development and implementation costs of such systems or documents.

CONTROLLING ERROR

The overissuance of benefit allotments caused by recipients or administrative staff results in unnecessary costs to the food stamp program. The committee, in an effort to reduce the amount of overissued benefits, has approved several measures to improve the administration of the program, while at the same time, applying strong sanctions on the States. To ease the State's administrative burden and reduce costs, the committee has adopted the following provisions: Monthly reporting requirements both to exempt households having no income and all of whose adult members are aged, blind or disabled and to authorize exemptions where monthly reporting resulted in unwarranted administrative expenditures. To ease the State's administrative burden and reduce costs, the committee granted State agencies the authority to immediately reduce or terminate a household's benefits if the agency receives clear, written information from the household that indicates such a benefit reduction or termination is required. This provision does not preempt the right of such household to appeal or to have benefits reinstated to prior levels if proper procedures were followed for the appeal.

In addition, the committee bill authorizes the Secretary to cross match the cashout files of SSI recipients with food stamp recipient files to identify and eliminate any duplication of benefits.

First, monthly reporting.—Exempts households in which all adult members are aged, blind, or disabled and authorizes exemption of certain households where a State agency established the requirement is not cost effective.

Second, prompt reduction.—Authorizes State agencies to immediately reduce or terminate a household's benefits if the agency receives clear, written information that such a benefit reduction or termination is required.

Third, duplication of benefits.—Requires State agencies that have cashed out the SSI portion of their caseload or that operate pilot cashout programs to annually match the cashout files of SSI recipients with food stamp recipient files to eliminate duplication of benefits.

Fourth, error rate reduction system.—Sets specific targets for error reduction by State agencies for fiscal years 1983-85 and thereafter and imposed sanctions for States failing to meet the targets.

Fifth, disclosure of information.—Authorizes release of information obtained from households to other federally assisted programs.

DEMONSTRATING A CONCERN FOR NUTRITION

In creating the food stamp program, President Nixon recognized the Federal Government's role in providing emergency nutrition to people who are suddenly in trouble. Even today, the average food stamp recipient uses the program allotments for an average of 3 or 4 months a year to maintain an adequate diet.

While protecting needy Americans from hunger and malnutrition, the food stamp program has increased the purchasing power of recipients in obtaining farm commodities produced in this country. Today's farmers receive almost 60 percent of the food stamp dollar spent on commodities such as fruits, vegetables, dairy products, eggs, poultry, and meat. The committee recognizes that it is in the best interests of farmers, of consumers, and of working people to preserve this program for those truly needy Americans who depend on this assistance for nourishment.

Last year, the committee established a block grant for nutrition assistance to Puerto Rico. It was the committee's intent that the money would be spent to improve the nutritional status of the needy. The plan for operating this block grant, recently submitted by Puerto Rico and approved by the administration, specifies that funds distributed for nutrition will be issued in the form of cash. After 1 month of operation, conflicting reports suggest the program is not meeting the goals or purposes the committee intended. Acting on this information, the committee adopted an amendment to require that as of October 1, 1983, food

assistance made available under the block grant to the Commonwealth of Puerto Rico shall be made available to recipients in a form other than cash.

To determine the impact on both the nutritional status of Puerto Ricans and the economy of the island, the committee has directed the Secretary of Agriculture and the General Accounting Office to conduct a thorough study of the cashout program and report to Congress 6 months after enactment of this bill.

The committee is concerned over the large number of reductions enacted last year and likely to be enacted this year in income-tested programs. The committee believes that before it considers further food stamp proposals, it will be important to have solid information on the effects of these cuts on program recipients.

I would like to just answer the gentleman from Louisiana for a minute, if I may.

The gentleman from Louisiana has to understand, as does my colleague from Missouri (Mr. COLEMAN), with whom I have worked so closely on this food stamp legislation, that the food stamp program in the United States is the only basic nutritional emergency program we have.

As inflation rises and unemployment rises there is only one place that the people of the United States can go for emergency nutrition and that is to food stamps.

Each 1-percent increase in unemployment increases the food stamp program by \$557 million and adds 1 million people to the program. Each 1-percent increase in inflation adds \$150 million to the cost of the program.

We recognize that people in the United States are entitled to an adequate diet. We also recognize that if people are seriously in need and are hungry they cannot look for a job or go to school. That is the whole theory of the food stamp program.

The Senate adopted a most onerous provision in its food stamp bill. They again refused to index the thrifty food program plan. The entire program is based on a meager diet called the thrifty food plan. You and I could not live on it, believe me, because I have tried it.

They refused to index the thrifty food plan, so basically people on food stamps right now are getting a food plan based on figures that are from 22 months old.

There are other ways to balance the Federal budget.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I am happy to yield to the gentleman from Louisiana.

Mr. ROEMER. I am glad that the gentleman has cured some of the obvious confusion on the differences in the other body's action and what you are proposing here.

One final point that I would make is that these monetary ceilings on food stamps mean absolutely nothing.

The cost of the program depends on the circumstances in our Nation. If one is eligible, even under the tightened eligibility here, they will receive the food stamps; is that not true?

Mr. RICHMOND. The gentleman is right, except that if inflation keeps going up and unemployment keeps rising, the States will not have enough money to allocate food stamps for those who are truly needy.

Mr. ROEMER. I understand that. If the gentleman will yield, my only point is that it is not the dollars that we are debating but it is the eligibility.

Mr. RICHMOND. The food stamp program while it provides benefits to those individuals who meet the eligibility criteria is subject to a spending ceiling. This cap is based on the economic assumptions and the best estimates of program costs put forth by the Congressional Budget Office. While the committee intends that this program provide all eligible persons with the means to purchase food, it imposed a cap in order to maintain oversight and control of program funding.

Mr. ROEMER. If the gentleman will continue to yield, and I will conclude, that is my point. It is not the dollar limit that is important. It is the fairness of the eligibility requirements.

I thank the gentleman.

Mr. RICHMOND. Over the years, and this is my 7th year that I have been debating food stamps out of 8 years that I have been in Congress, we have constantly tightened up the program.

Last year we cut the food stamp program by \$6.7 billion for fiscal years 1982-84. We have tightened this program almost as much as any program can be tightened. We have made it difficult for the States to run the food stamp program because Congress has changed the rules and regulations so often.

I would like to see a period of 2 or 3 years during which time the State administrators could straighten out their programs and decrease their error rates. The States need an adequate amount of funds to install new technology to help them reduce errors.

New rules and regulations take a certain educational period. In the last 7 years these State administrators have not had one year that the rules and regulations have not been changed drastically.

Mr. ROEMER. I appreciate the gentleman's statement. You yourself said 22 million people are in the program, almost an all-time high, and we are looking at the next 3 years spending in each succeeding year an all-time high figure. The figure given here on the floor today is that it seems some

States enjoy an error rate where they have erroneously paid over 9 percent.

Mr. RICHMOND. The gentleman is right on the error rate. However, it seems contradictory to so harshly penalize the States in light of the fact that the Federal Government has been unable to get its own error rate in the supplemental security income program below 5.3 percent, not even counting disability determination errors. Supplemental security income is far easier to run and should have a lower error rate than food stamps, because it is limited to elderly and disabled persons who generally do not work and are far less likely to have unreported earnings.

The gentleman is not correct in saying the program is at an all-time high. On the contrary, the program participation is 1.2 percent less than at the same time last year. People who are on the food stamp program only stay on the food stamp program for an average period of 4 months.

So the gentleman can understand how much different it is to administer the food stamp program than it is to administer the supplemental security income program.

Meanwhile, let us not condemn the States by taking a major portion of their administrative costs. That would be defeating the purpose of the error rate sanctions.

Mr. ROEMER. And I know that the gentleman is not happy with the 9-percent error rate.

Mr. RICHMOND. No.

Mr. ROEMER. But does the gentleman think it is fair to lower that rate?

Mr. RICHMOND. Of course. We have adopted the same language in committee that the other body adopted.

The Wampler amendment wishes to go even further. The Wampler amendment goes so far it becomes impractical.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. RICHMOND. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

The error rate is reflected directly by the number of people that are working to reduce that rate; is that not so?

Mr. RICHMOND. The gentleman is correct.

Mr. KAZEN. If we do not give the States the money with which to oversee this program we can pass all of the laws in the world in this Congress saying that we want a zero error rate, but if we do not have the enforcers, the people that are going to do the checking, we are not going to succeed.

In my opinion that is what is happening now. The States are cutting back on their personnel because they have budget problems, too.

What we are doing is cutting our nose to spite our face.

We are cutting the personnel that oversees the program and I do not know that we are making up the difference.

I will tell the gentleman that I am expecting recipients of food stamps in my district to increase. I represent, as the gentleman well knows, an area along the border of Mexico, along with my colleague from Texas, Mr. DE LA GARZA, and some others, Mr. WHITE and Mr. LOEFFLER.

The Mexican peso has just been devaluated again for the second time in 6 months. Six months ago it was about 12 to 1. Today it is 9 to 1.

Our unemployment is going up. In my own home county it is 18 percent.

The gentleman can appreciate what we are going to be up against, additional unemployment because retail establishments are not going to be able to sell anything like the volume they have been used to. There are going to be wholesale layoffs and no jobs at which these people can be employed. You can have as many provisions as you want about people having to register for work, but if there are no jobs available they do not mean a thing.

□ 1400

Mr. RICHMOND. The gentleman from Texas makes my case, of course. The gentleman from Texas very correctly says that if we make our rules so onerous that the States cannot follow them, then we are defeating ourselves.

So we know, therefore, that we have to depend upon the States to do the administration. Now, if we do not make it worth the States' while to reduce their error rate, put in computers, put in modern technology, we are going to defeat ourselves.

The Senate bill and the House bill do precisely that. We put out the carrot and the stick and we give the States every opportunity to properly reduce their error rates. The Wampler amendment, unfortunately, is impractical; and if it is put into law, it will have a reverse effect. It will make the States throw up their hands and do nothing to modernize their operation.

Mr. KAZEN. If the gentleman will yield for just one more statement. All of us want to reduce the price of this program.

Mr. RICHMOND. Yes.

Mr. KAZEN. Every person who is on the rolls who does not deserve to be there is taking food out of the mouths of people who do need it and are deserving. So all of us are interested in lowering this error rate. But until we get the personnel to monitor this program, we are not going to do it. As I understand the substitute, an application for expedited service has to be completed and processed in 5 days. I

will ask the gentleman, where are they going to get the personnel to complete an application and the certification in 5 days?

Mr. COLEMAN. Will the gentleman yield to me to answer that question?

Mr. RICHMOND. I can answer the gentleman. The gentleman was using expedited service, with error rate. Expedited service is another matter which we will discuss later, but on error rate, which we have been discussing, the gentleman is 100 percent right on. If we do not make it worth the States' while to modernize and to computerize, to reduce their error rates, they are going to throw up their hands and do nothing. The gentleman makes a great case.

Mr. KAZEN. I am sorry that I got the gentleman confused on this. I am talking about both of them. The error rate on the regular program needs personnel, and the expedited service needs personnel.

Now, where are we going to get them? If we can employ them, fine. But if we do not, how can they comply with the law?

Mr. RICHMOND. The gentleman from Texas is right. We certainly have to do everything possible to encourage the States to run efficient, modern programs. As the gentleman knows, most States are not totally computerized. We have to do everything possible to help update their systems with modern technology. We cannot do that with the Wampler substitute. We can with the committee bill.

The sanctions in the Wampler substitute are so large that they would likely be counterproductive. They would remove so many resources from a State that the State would have insufficient resources to invest in new technology and other systems needed to reduce errors in future years.

Both approaches require a 5-percent error rate in fiscal year 1985. They differ in fiscal year 1983 and 1984.

Under the committee bill, a State must—in fiscal year 1983—either reduce its error rate one-third of the way to 5 percent, or achieve a 9-percent error rate. In fiscal year 1984, a State must cut its error rate by two-thirds of the way to 5 percent, or achieve a 7-percent error rate. This means that a State with a 14-percent error rate would have to get to 11 percent for fiscal year 1983, to 8 percent in fiscal year 1984, and to 5 percent in fiscal year 1985.

The Wampler substitute simply sets standards of 9 percent for fiscal year 1983, and 7 percent for fiscal year 1984, and has no provision for reducing errors by one-third each year. A State that currently has a high error rate, makes a heroic effort, and cuts its error rate in fiscal year 1983 by one-third of the way to 5 percent could still face very large sanctions under this approach.

H.R. 6892 sanctions States that fail to meet their error rate targets by reducing the Federal share of their administrative costs 5 percent for each of the first 3 percentage points that the error rate exceeds the target, and by 10 percent for each additional point that their error rate exceeds the target. In other words, if a State's target is 5 percent but its actual error rate is 8 percent, it would lose 15 percent of the Federal share of its administrative costs. If its error rate was 10 percent it would lose 35 percent of the Federal share of its administrative costs.

The Wampler substitute, by contrast, penalizes a State a full dollar for every dollar in benefits overissued over the State's error rate target. This results in huge and unrealistic sanctions that in some cases would exceed 100 percent of the Federal share of a State's administrative costs.

In fact, if the error rates in fiscal year 1985 remained the same as they are today, States would be sanctioned over \$500 million under the approach in the substitute. This is an especially severe sanction, particularly in light of the fact that the Federal Government has been unable to get its own error rate in the SSI program below 5.3 percent not even counting disability determination errors. SSI is far easier to run and should have a lower error rate than food stamps, because it is limited to elderly and disabled persons who generally do not work and are far less likely to have unreported earnings.

Mr. WAMPLER. Mr. Chairman, I yield myself such time as I may consume.

Let me emphasize that there is nothing in this substitute that in any way reduces personnel to administer the food stamp program. I will include in the Record as part of my remarks the error rate for each State of the Union, Puerto Rico, District of Columbia, and Guam. And I might say that the error rate as issued by the Department of Agriculture for the period of October 1980, through March 1981, shows that 36 States of the Union have error rates over 9 percent; 12 States have error rates over 12 percent; 5 States have error rates over 15 percent; and 1 State has an error rate of over 20 percent.

So there is nothing in this substitute that takes from the States any personnel that they presently have to achieve what we believe are reasonable targets as it pertains to reducing error rates.

On the contrary, we believe the penalty that the States will have to pay unless they reach these targets will have a desirable effect.

I will insert the error rate tables at this point:

States with error rates below 9 percent¹

	Percent
Alabama.....	8.47
Arkansas.....	8.80
California.....	8.66
Delaware.....	7.84
Guam.....	4.58
Hawaii.....	7.01
Idaho.....	8.76
Maine.....	8.93
Minnesota.....	6.70
Missouri.....	8.82
Nevada.....	3.66
North Dakota.....	4.39
Ohio.....	8.32
South Carolina.....	8.40
Texas.....	8.95
Utah.....	8.48
Virginia.....	8.38
West Virginia.....	7.70

¹ USDA payment error rates (ineligible and overissuance) for the period of October 1980 through March 1981.

NOTE: There are 18 States who have error rates below 9 percent.

There are 4 States who have error rates below 7 percent.

There are 3 States who have error rates below 5 percent.

States with error rates over 9 percent¹

	Percent
Alaska.....	21.38
Arizona.....	15.09
Colorado.....	11.70
Connecticut.....	13.84
District of Columbia.....	13.79
Florida.....	12.46
Georgia.....	9.20
Illinois.....	9.08
Indiana.....	9.04
Iowa.....	10.65
Kansas.....	11.60
Kentucky.....	9.06
Louisiana.....	10.33
Maryland.....	13.74
Massachusetts.....	11.14
Michigan.....	9.38
Mississippi.....	9.83
Montana.....	15.40
Nebraska.....	11.01
New Hampshire.....	14.42
New Jersey.....	10.03
New Mexico.....	12.82
New York.....	15.05
North Carolina.....	9.86
Oklahoma.....	9.82
Oregon.....	19.15
Pennsylvania.....	10.49
Puerto Rico.....	11.86
Rhode Island.....	11.47
South Dakota.....	10.48
Tennessee.....	11.81
Vermont.....	9.60
Virgin Islands.....	14.96
Washington.....	10.56
Wisconsin.....	11.12
Wyoming.....	11.52

¹ USDA payment error rates (ineligible and overissuance) for the period of October 1980 through March 1981.

NOTE: There are 36 States who have error rates over 9 percent.

There are 12 States who have error rates over 12 percent.

There are 5 States who have error rates over 15 percent.

There is 1 State who has an error rate over 20 percent.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I appreciate the gentleman yielding.

Mr. Chairman, I think the gentleman has stated the facts very clearly. I do not think we could go forward with much more discussion erroneously thinking that this substitute does anything to benefits or to the personnel in place in States that administer this program, other than requiring those people who administer the program for the States to be more efficient and more effective in spending our Federal tax dollars. Yes, we do affect them in that way. I think that is a positive effect.

The committee bill simply gives a little slap on the wrist to the States. "Oh, if you do not come up to these error rate levels that we mandate, it is really all right, we are just really going to slap you on the wrists."

Our substitute says, "You are playing with our money, fast and loose in many cases and we want you to be more efficient." The gentleman has cited that 36 States in this country have error rates over 9 percent, 12 States have error rates over 12 percent, 5 States have error rates over 15 percent. That is not State money. That is our money. And that is money that could either be going to this program going to pay off some of that deficit that we all see looming in this budget process.

So let us not say that personnel are going to be cut, or any administrative costs reduced. The States are going to have to pay for their errors dollar for dollar. We are going to give them the incentive to reduce that error rate, and they can figure that out. But benefits will not be cut and personnel will not be cut in the process mandated by this substitute. No way.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Louisiana.

Mr. ROEMER. Where does the administrative money to supervise and administer this program come from? Does it come from the Federal Government or each of our individual States?

Mr. WAMPLER. I yield to the gentleman from Missouri to answer that question.

Mr. COLEMAN. Half of it comes from the Federal Government and half from the States.

Mr. ROEMER. I thank the gentleman.

As I understand it, from the earlier statistics given by the gentleman from Virginia, the error rate, payment of food stamps made in error to the wrong person, equals on a nationwide basis approximately 9 percent. Am I wrong in that statistic, or did I miss something?

Mr. WAMPLER. I said that 36 States of the Union have error rates over 9 percent. It has been estimated that the actual cost of error rates, that is, mainly those ineligible and

those receiving overissuance, constitutes the sum of almost \$1 billion. The cap for fiscal year 1982 was \$11.3 billion, which we believe is actually greater than the actual funds that will be expended.

Mr. ROEMER. If the gentleman will yield one final time, I thank him for his answer, and I would make the statement that I cannot think the gentleman's thoughts, and I do not know exactly where the gentleman is headed, but would like to believe that he supports this program to help people who need help, and that the gentleman's amendment is designed to take a very inefficient program and improve its efficiency for the benefit, of those who needs these food stamps most of all.

Mr. WAMPLER. The gentleman from Virginia has during the years that he has been a Member of this body supported the food stamp program. I think, by and large, it has served the purpose for which it was intended. When the food stamp program was initiated some years ago, it was intended primarily to achieve two goals: to help move agricultural surpluses into consumption and to help low-income Americans improve their chances of obtaining a nutritionally balanced diet.

The program has grown substantially through the years. The Committee on Agriculture has jurisdiction over the food stamp program, and we have tried to design a program that would have some semblance of fiscal discipline. Some years ago we chose—I was not among those who supported the effort—to abolish the so-called purchase requirement. Many households were required to put some of their resources up front, and then they received bonus stamps over and above that amount. Whether or not that was a wise move, I guess, is up to each Member to determine. But it seems to me that what we are attempting to do is to put some fiscal control over this program, since the reconciliation process does address itself primarily to budgetary restraint issues. We have not in this substitute denied any person who is presently eligible under the law to receive food stamps. What we are trying to get at is this unacceptable error rate, where people who are legally ineligible under the law and under the regulations are receiving benefits, and those where the local issuing office has overissued the number or value of the stamps.

Mr. ROEMER. I thank the gentleman for that statement. It means a lot to me. I would point out, in conclusion from my side, that you achieve savings of less than 60 percent of the savings achieved by the same program from the other body. For those who would criticize that you have been too harsh, you get less than 60 percent of what

they got, and I think deal with the question of eligibility and administration in a fair manner.

Mr. WAMPLER. I can only respond to my colleague from Louisiana by saying that if this bill passes, and if we go to conference with the other body, and if the gentleman from Virginia is a conferee—which I have every reason to expect I will be—it will be my purpose to see that we can keep the food stamp program intact as far as issuing adequate benefits to those who are eligible. But I am concerned today, as I have been for some years, about the fraud, the waste and the abuse in the food stamp program. To the extent that that exists, it denies needy people of the limited benefits that we may be able to finance. And in this time of fiscal restraint, we have to make every reasonable effort to eliminate people from the program who are not legally eligible or where they are issued stamps in error.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Texas.

Mr. KAZEN. I want to commend the gentleman for his statement. I think all of us want to get at this fraud and abuse.

The only thing that worries me is that we are not going to cure that situation unless we have the personnel out there to do the job that must be done to clear the rolls of those people who are committing the fraud and who are on these rolls and do not deserve to be on them.

Mr. WAMPLER. Let me respond to my friend, the gentleman from Texas, by saying again that there is nothing in this substitute that denies, takes, reduces, or takes away State personnel involved in the administration of the program.

Mr. KAZEN. I am not talking about taking away, because the job has not been done now with what they have. I am talking about putting some more in, into this particular effort, to weed the cheaters out. I know the gentleman has not cut any of them. But he has not put in any additional administration funds. And with what we have now, that number has apparently been inadequate.

Mr. WAMPLER. Let me say to my colleague that I think I understand his argument. But there is nothing in this substitute that in any way detracts from that effort of the State to administer the program.

I might also say that the Office of Inspector General of the Department of Agriculture has been quite active in recent months ferreting out fraud, waste, and abuse. I think it is important for State agencies to put more emphasis on trying to root out fraud and waste and abuse. It is a question of efficiency and effectiveness in the utilization of existing personnel.

Somes States are just more effective than others.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. The gentleman from Texas has made a good point. We will provide not just the stick, we will provide the carrot, too, to the States; that if they get down to the 5-percent error rate before it is mandated, they will receive 60 percent of their administrative costs from the Federal Government. We are going to provide that incentive at the same time we are trying to get them to know that if they do not reach that error rate, it is going to cost them dollar for dollar that they give out in error.

Mr. KAZEN. If the gentleman will yield, my problem is trying to reconcile the fact that the bill cuts off, for instance, 25 percent of the funds going to administration, while I understand that the substitute cuts as much as 75 percent for Texas, my State.

Mr. COLEMAN. If I might respond, all I can say is that is not the fact, as I understand it. The gentleman comes from a State with a rather low error rate of less than 9 percent. So he would not be immediately affected. They are going toward the right direction. But the fact is that I cannot say that the statement that the gentleman made is an accurate statement. It is not my understanding, and I do not know that the gentleman from New York would state that that is his understanding of it either. I do not think the gentleman from New York would support that kind of draconian language in his bill.

Mr. KAZEN. I would just love to get that straightened out. If it does not cut 25 percent under the bill and 75 percent under this substitute, I would like to know what the percentages are, because as I understand it, as far as my State is concerned, these bills cut the funds for administration. Now, am I right or wrong?

Mr. COLEMAN. If I might respond, I do not want to say the gentleman is right or wrong. The information that has been supplied is incorrect.

Mr. KAZEN. What is the right information?

Mr. COLEMAN. We have absolutely no reductions in administrative expenses to the States by this amendment period.

Mr. WAMPLER. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont (Mr. JEFFORDS).

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I rise in support of the substitute.

Mr. Chairman, the substitute offered by my distinguished colleague from Virginia (Mr. WAMPLER) is de-

signed to address the substantial error factor that contributes in a major way to the fraud and abuse that is being perpetrated throughout the food stamp program. While I am generally supportive of the food stamp program, it has been the subject to heavy taxpayer criticism, often leveled at flagrant examples of abuse. I believe we owe it to the taxpayers and to the legitimate food stamp recipients to correct this situation.

However, I wish to bring the attention of my colleagues other provisions of H.R. 6892 which are not addressed by the substitute.

Mr. Chairman, a very substantial number of Members from various States have expressed a desire to amend the dairy price support and other provisions of the committee bill. We are distressed over the decision of the Rules Committee to adopt such a restrictive rule, foreclosing the opportunity for several Members to participate in the amending process.

We from California believe that an excellent proposal was considered during the hearings conducted by the Subcommittee on Livestock, Dairy and Poultry on the dairy price support program. In discussions with the leadership of the Agriculture Committee, it became apparent that such an amendment would be subject to a question on germaneness and possibly jurisdiction. Thus, we were deprived of an opportunity to offer our amendment, due to the possibility of our effort being restricted on a germaneness ruling.

In light of these restrictions, I want to convey to the Members of the House and the leadership of the Agriculture Committee that it is our hope that they will work with us to include this amendment in the reconciliation bill. The amendment has a two-pronged purpose—to implement the program objectives of the California milk standards, and further, to give serious consideration to our sliding price incentive formula, which would minimize the impact of price support changes on farmers who have a substantial debt load, especially young farmers. I want to again emphasize my request to the committee leadership—give more in the way of consideration to the importance of raising the national milk standards to the levels that have been so successful in California, reducing Commodity Credit Corporation expenditures and providing a higher quality, better-tasting milk for the consumer.

If an opportunity to proceed along these lines develops in the House-Senate conference, and these provisions can be included, you would be going a long way toward eliminating the problems and criticisms associated with the costs of the dairy program, as well as providing something beneficial

to the consumer. If the leadership of the committee is restricted in including this proposal in conference, I urge them to become better acquainted with the benefits that will accrue from its adoption through other means.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I wish to associate myself with the remarks of the gentleman from Missouri, Mr. COLEMAN, whose statesmanship is an example to be emulated.

I enthusiastically support the reconciliation as reported by the Agriculture Committee on a bipartisan vote, but will also support the substitute of the gentleman from Missouri because of the savings and improvements effected in the food stamp program. The committee bill is excellent, but as with most matters, can always be made a little better. The Coleman substitute helps improve the efficiency in administration of food stamps, and provides the means to further reduce waste and fraud, so I urge two successive yeas here.

Mr. JEFFORDS. Mr. Chairman, first of all I would like to clear up this matter that was just rather summarily disposed of. The substitute says that the Secretary shall get back from the State, or withhold from the moneys going to the State for administration the penalty.

Now, how you can say that in one breath, and in the next breath say that is not going to cut back in administration, I do not know.

Let me get to what is a more important aspect of this situation, as far as I am concerned. Let us forget about budget cutting and the impact on States. Let us think about the fellow or woman who is going to be coming in to get expedited services. Let us take the situation that is going to be occurring.

□ 1415

He now has no money in his pocket. Under present law he can go into the office and he can get expedited food stamps. He can walk in and get stamps, so he can go out and get his family fed. This substitute says that even though he would have been eligible under present law if he had \$1,000 of income that month, now, under this provision if he had \$150, he cannot get his stamps, though an emergency situation exists. He, or she, is eligible for food stamps, has had less than \$150 of income, is broke, but has to wait weeks to get help for his hungry family.

Now, when you take a look at it from this perspective, what are we going to say to that individual. In order to save \$15 million from a \$10 billion bill, these families must face disaster. But these are human beings that we are going to have to deal with human

beings who will be forced to look somewhere else—to crime or whatever—to feed their families. I think that is ridiculous.

Now, back to the States. In the time I have left I would just point out that the present bill has sanctions which under present circumstances, would result in up to 100 percent of the funds slated for the States, administrative costs being taken back.

But the provision that we have here in the substitute would require 26 States to give back more money than they get from the Federal Government right now under present circumstances.

For instance, it is estimated that Alaska, Florida, Montana, New York, and Rhode Island would all be penalized an amount well over 200 percent of the Federal share of their administrative costs, based on the latest reported State error rates.

Now, as has been pointed out, the penalty money is going to have to come from that which the States use to administer the program. If you have a high error rate, you need the money to hire the people to make the error rate better, or else the State has to cough it up to the Federal Government. I cannot believe the Federal Government is going to end up suing these States to get the money back.

All in all, I think that the present bill handles these areas in food stamps just the same as the other body does. It is strict, but it is fair.

The CHAIRMAN. The time of the gentleman from Vermont (Mr. JEFFORDS) has expired.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 additional minute to the gentleman from Vermont.

Mr. JEFFORDS. I would just like to inquire from the chairman of the subcommittee, if I am correct in my belief that if I had \$1,000 I might have been eligible for the program, but under the substitute's expedited service if I come in broke, but somehow had had \$150 during that month and had spent it on my family of four, that I would not be eligible for any expedited service and might have to wait until the end of the month to get any food stamps.

Mr. RICHMOND. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from New York.

Mr. RICHMOND. The gentleman is correct.

Mr. JEFFORDS. I appreciate that. I think that is important to remember.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

I would like to put this in perspective because the gentleman from New York, who everybody knows is an advocate of the food stamp program, of-

fered an amendment with the same criteria that this substitute has in it regarding expedited service.

The gentleman just pointed out it would be \$150 gross income per month and \$100 liquid assets. That is an amendment the gentleman from New York offered last year. So it cannot be counted as an amendment without any sort of supportable evidence when the gentleman from New York offered it himself.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Chairman, I was disappointed to see the substitute in no way changes the dairy part of the committee's bill.

I think it is regrettable that we are being asked to vote on, in the guise of a reconciliation bill, a 40-page title that creates an entirely new system for dairy subsidies. It seems to me to be that this program is as unlikely to bring serious cost savings this year as the bill passed last year.

We are going to set up our own OMEC, an Organization of Milk Exporting Counties. That is going to be the cartel that runs the dairy program, a cartel composed exclusively of dairy producers.

What we ought to do is to provide the Secretary of Agriculture the authority to lower the support price to give dairy farmers strong signals to keep their production down in order to cut Federal costs meaningfully. Instead, we are creating new boards, penalizing imports, and I think we are going shortly to see the same kinds of problems as last year.

I hope Members will vote against both the substitute and the whole bill and let us come back again in a form in which we can discuss the very significant changes in the dairy programs being proposed here.

While the committee purports to cut Government expenditures over the next 3 years, the history of this program makes clear that projections of this sort can be very unreliable. This year, for example, the costs of the dairy program are 50 percent higher than the estimates made only last October. What is sure to happen, however, under this bill is that a new anti-competitive, anticonsumer cartel will be established which will have the power to control the support price to be paid as well as supplies. The losers will most definitely be the consumers of this country but if history is our guide and the committee's cost projections, as well-meaning as they may be, do not turn out to be accurate, the taxpayers will also be big losers as they continue to support a bloated program.

The changes in the dairy program being proposed here are perhaps the most far reaching in over 30 years. I

regret that we were unable to have a full debate, and separate votes, on this aspect of the program.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume and I do so in order to engage in a colloquy with the distinguished ranking minority member of the subcommittee, the gentleman from Missouri (Mr. COLEMAN).

In connection with the expedited service, the report of the committee on H.R. 6892 addresses other concerns; that there be no gap in benefits for those providing prompt verification of need, and that a State's issuance cycle not result in a migrant household, for example, being deprived of benefits in the second month of eligibility.

I understand that the ranking minority member of the subcommittee shares the views expressed in the committee report on these issues. I would ask the gentleman from Missouri (Mr. COLEMAN) if my understanding is correct.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

Yes; the gentleman's understanding is correct.

Mr. DE LA GARZA. I thank the gentleman for his cooperation.

Mr. Chairman, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I would urge defeat of the substitute. I would like to speak specifically to the error rate questions that have been generating a lot of controversy here.

Both provisions, the committee provision and the substitute, contain penalties for States who fail to meet their error rate targets. The committee position reduces the Federal share of the administrative costs by 5 percent for each of the first 3 percentage points that the error rate exceeds the target and by 10 percent for each additional point that the error rate exceeds the targets.

I think we need to clarify this question.

The committee position does indeed penalize the States who do not meet their targets. Now the difference is that the substitute provision would establish basically a much lower percent error rate as a goal in this program, and based upon this assumption the States would be subject to enormous penalties if they do not meet the error rate reduction in the substitute provision. The States would still be subject to very significant penalties if they do not meet the error rate reduction in the committee provision.

I would like to read a bit from the remarks contained in the CONGRESSIONAL RECORD of the senior Senator

from Kansas when he made them back in May concerning this provision.

Under both of these approaches—

And by this Senator DOLE is talking about higher error rate provisions of the type proposed by the gentleman from Virginia (Mr. WAMPLER) as well as even more severe ones proposed by the administration—

States would be liable for hundreds of millions of dollars in sanctions starting next year and continuing every year thereafter.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Missouri.

Mr. COLEMAN. Is the gentleman talking about the administration's original proposal to have a zero error rate which I rejected and we rejected out of hand?

Mr. GLICKMAN. The gentleman is correct. But he is referring to both that provision and the one that Senator HELMS proposed. So he is talking about two. One is more closely identified with the gentleman's. But "under these approaches," and granted one of them is a zero rate proposal, "States would be liable for hundreds of millions of dollars in sanctions starting next year and continuing every year thereafter."

What these bills really do is transfer a portion of the cost of the food stamp program to State and local government. It would take an extraordinary effort for every State to lower its error rate to 5 percent. And this is the amendment of the substitute.

Then Mr. DOLE goes along to quote a GAO report, and my colleague from Missouri has cited a GAO report. In this report, July 18, 1980, the GAO said the following:

Fiscal sanctions create an adversary relationship between the Federal Government and the States at a time when a cooperative effort is needed to reduce errors. Using the quality control system as the basis for sanctions limits the system's value as a means for improving payment processes. Because a high error rate will result in sanctions, there is an incentive to identify fewer errors. To be most effective the quality control system should identify as many errors as possible.

GAO report says:

When penalties per error are too excessive, States might respond by hiding their errors or putting their energy into fighting the sanction policy rather than improving programs.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

It is for that specific reason that the National Governors Association and the National Council of Welfare Administrators are strongly opposed to this amendment, because it in effect cuts the very costs that they need to

try to reduce the penalty rates in this area.

Mr. WAMPLER. Mr. Chairman, the gentleman from Kansas who just left the well, I know he is concerned about unacceptable error rates. We all are. However, using his State as an example, according to the data that was reported to me, Kansas has an error rate of 11.6 percent. That generally means for every \$100 of benefits issued in food stamps in Kansas, \$11.60 either are issued because the person was ineligible or there was an overissuance of stamps, or other similar problems.

So if the senior Senator from Kansas, working with the gentleman from Kansas, will impress upon their Governor and their director of public assistance, or whatever his title might be, to reduce that error rate only 2.6 percent during fiscal year 1983, they will be held harmless from the effect of the language in this amendment.

It seems to me it is not unreasonable to ask them to reduce the error rate by 2.6 percent.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Missouri.

Mr. COLEMAN. I thank the gentleman for yielding.

We have heard a lot of talk today about what the other body has done and even have had from the well of this House remarks read to us and recited to us made by a Member of the other body, as if this is some reason why we are supposed to reject out of hand this substitute.

The reason the other body could make some changes that are incorporated in the committee bill is because the other body saved \$1.2 billion more in this program than what this committee bill could do. And that is why they can go down these avenues and vacillate here and there. But I do not think any Member of this House wants to be told how to vote because some Member of the other body has spelled out an argument.

The real argument on this substitute, and the only argument on the substitute, is whether or not we are going to get the States to reduce their error rates.

Now, who have we heard from? We have heard from the State administrative officials, the department of welfare, the department of social services from our home States. Are they for this substitute? No. And why are they not? Because it is their money that we want them to pay back to us.

These are the same States that petitioned the Congress for a balanced budget. We can reduce the error rates just down to 9 percent, and they are hounding us not to even do that.

Now, where do they stand? Do they stand for fiscal integrity and responsibility? Every time we have one of

these things they come down or call us up and tell us how bad it is.

You cannot have it both ways, Mr. Chairman. You either are going to reduce the error rate or provide some incentives to the States to administer this program. It is real great to go back and administer this program and call up and say, "vote against the Republican substitute." They can do that because it is our Federal tax dollars they are throwing away at the rate of \$1 billion a year.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I simply take this 1 minute to respond to the remarks made by the gentleman from Massachusetts (Mr. FRANK).

I would suggest to that gentleman that he is dead wrong in his analysis of the dairy situation.

This proposal today does not solve the problem because it is still skewed in favor of large operators and it makes no differentiation between what is happening on the part of small producers and large producers in terms of exceeding the production limits that the bill seeks to reach.

But I would also make the point that unless you attack national economic policy to bring down interest rates—which provide massive incentives for all sizes of operations to build their herds, to beat this interest rate situation, to enable them to make their payments at the bank—until you attack that problem, "You ain't doin' nothin'" to solve the dairy surplus problem.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. I would just basically make three important points that ought to be considered by Members in deciding on the substitute.

The first is that the committee has not only met their targets under reconciliation according to the CBO but has exceeded those targets.

Indeed, they were instructed to come up with \$3.2 billion in savings over 3 years. This committee has come forward with \$4.6 billion in savings confirmed by the CBO. That is \$1.3 billion more than they were instructed to do. It is \$1.2 billion in excess of what the Senate did.

Second, and I think importantly, food stamp reductions are included in this proposal as it comes before the House to the tune of \$1.3 billion over the next 3 years. That is added to almost \$7 billion that was included in reconciliation last year, for a total of \$8.3 billion that will be reduced from this program over the next few years.

And last, it is not as if this bill has not addressed the error rate issue or the jobs search issue. The fact remains that included in this bill is an error rate provision that would penalize the

States on a graduated basis. It is exactly the same provision included in the Senate as is the job search provision.

The reason we have gone for this approach is because there is validity to the fact that the more you cut back on the administrative costs of these programs, the more you feed into the presence of error and fraud that goes on at the local level.

□ 1430

So let us not cut off our noses to spite our faces. Let us try to improve the administrative program so that we can reduce the penalties and to improve the program overall.

Mr. DE LA GARZA. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, I rise in strong opposition to the Wampler substitute amendment to the food stamp program.

Many recipients of food stamps are children and low-income elderly and are among the most truly needy in our society. They have already shouldered more than their fair share of budget cuts. Last year's cuts amounting to \$2 billion pared the program to a bare minimum; now, the poor who receive food stamp benefits are being asked to bare the burden of a further \$1.3 billion reduction. Further cuts, as required by the Wampler substitute, would be simply cruel.

It is tragic that barely 1 week after we authorized the largest single-year defense appropriation, we are faced with legislation that would slice \$200 million more than required from the food stamp program. In the context of last week's debate, that \$200 million would barely cover the cost to reactivate one outdated World War II battleship.

However, to the recipients of food stamps, the prospect of an additional \$200 million cut means that families in immediate and dire need, those most disadvantaged, can no longer receive immediate emergency benefits—they must wait 5 days. It means that the Agriculture Secretary can require them to fulfill mandatory job search requirements, even if jobseeking is rendered impossible because of individual family complications.

And, it means that States which may be making good faith efforts to improve error rates may be penalized by severe budgetary restraints. In my home State of New York, for example, significant progress has been made in reducing error rates, but it seems almost impossible to imagine New York—as well as many other States—achieving a 5 percent error rate by 1985. Under the provisions of the substitute bill, New York State could stand to lose \$30 million alone in food stamp benefits.

Mr. Speaker, the recommendations of the Agriculture Committee already provide deep and harsh cuts in food stamp benefits. Those cuts alone will take food out of the mouths of hungry children who have nowhere else to turn to relieve their starvation. The additional cuts sought by the substitute bill border on inhumanity.

The food stamp program has played a major role in eliminating the widespread hunger among the poor that existed in the 1960's. With the serious recession and record unemployment that Reaganomics has wrought, this is hardly the time to further shrink this vital food supplement program.

We have already seen evidence of the Reagan administration's attitude toward our Nation's hungry citizens. Drastic cuts in school lunch and breakfast programs, child care and summer feeding and WIC and the suggestion by an administration official that ketchup could be a suitable vegetable in a child's diet show clearly that the administration holds no compassion for the most destitute in our society.

I urge my colleagues to reject this cold-hearted proposal.

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, I want to express my appreciation for the fact that this substitute, which I assume represents the consensus judgment of the minority members of the Agriculture Committee, adopts the provisions of the committee bill in almost all cases.

This means that we now have a bipartisan consensus in favor of the committee's proposals to help reduce surpluses and improve market prices for grains.

This means that we now have a bipartisan consensus in favor of the committee proposals to reduce dairy surpluses and the cost of the dairy support program.

This means that we now have a bipartisan consensus in favor of the committee's proposals for standby programs for cotton and rice.

And, finally, this means that we now have a bipartisan consensus in favor of almost all the important decisions represented in the committee's proposals for food stamps.

When you look at the substitute, Mr. Chairman, you find that it embraces about 95 percent of the committee bill. The only difference is that the substitute includes three additional cuts in the food stamp program.

I am encouraged by the fact that both I and the ranking minority member of our committee can stand before you together and urge the House to adopt 95 percent of the committee bill. Now, I want to urge the House to adopt that remaining 5 percent. I want to urge the House to

defeat the substitute because I believe that the proposed additional cuts in food stamps would do far more harm than good.

To begin with, Mr. Chairman, Members should ask themselves this question—are the additional proposed cuts needed in order to meet the Agriculture Committee's reconciliation goal?

The answer is—no. The committee bill as it stands makes cuts in spending which go 40 percent beyond our reconciliation goal. If even more reductions were desirable, I would support them for their own sake, but this is not the case with these amendments.

One of these amendments proposes a change in the treatment of people and families which apply for food stamps under the so-called "expedited services" provision. The amendment would try to save \$15 million in fiscal 1983 by setting up new requirements and by allowing delays of up to 5 days—instead of the current 2 or 3—in providing expedited service.

Mr. Chairman, the House should remember why we have expedited service in the first place. It is designed for people who are suddenly thrown out of work and have no resources to tide themselves over with. This is for people who will go hungry unless they get food stamps immediately. We have tightened the food stamp program repeatedly in recent years and we are doing so again in several portions of this bill. But when we tighten the program, we should do so in a way which avoids harm to the truly needy people who need this food stamp help and who are fully eligible for it. The amendment, if adopted, could result in denying food to fully eligible people at a time when they need food desperately.

You may say that the amendment could delay food assistance for only a few days. Mr. Chairman, if you are hungry, and if you are a migrant family and have no money to buy food for yourself and your children, a few days can be a very long time.

Another portion of the substitute proposes to stiffen penalties which are imposed on States which do not reach the targets we set for them. In this connection, we should remember that the committee bill already proposes such increases in penalties against States which do not meet targets—the amendment, however, would make those penalties stiffer than those in the committee bill.

Nobody disagrees with the basic fact that we want the States to reduce their error rates. We want to encourage them to make progress by providing a financial incentive—a reduction in the amount of money they get for administrative costs. This is, frankly, part of a carrot and stick approach. The substitute amendment on this issue, however, turns the stick into a cannon. It would cut administrative

payments to States dollar for dollar for all stamp errors above target rates which would reach 5 percent in fiscal 1985. This could amount, in a sense, to transferring the cost of the food stamp program from the Federal Government to the States.

The penalty provisions of the substitute are so harsh that I am afraid they might be counterproductive. It is possible that, although they are intended to save money, they might save less money than a more practical approach like the one which is already in the committee bill.

I share with the backers of the substitute a desire to reduce food stamp errors as much as possible. I am convinced, however, that the committee bill on this point is more practical and will reach our mutual goal more effectively.

For these reasons, Mr. Chairman, I urge defeat of the substitute amendment. The result will be a bill on which we have a bipartisan consensus already in place on all but a few amendments. It will be a bill which I believe practically all of us can support.

With that, Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WAMPLER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Virginia (Mr. WAMPLER).

The question was taken; and on a division (demanded by Mr. COLEMAN) there were—ayes 23, noes 14.

RECORDED VOTE

Mr. DE LA GARZA. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered. The vote was taken by electronic device, and there were—ayes 181, noes 210, not voting 43, as follows:

[Roll No. 256]

AYES—181

Andrews	Corcoran	Fountain
Archer	Coughlin	Frenzel
Ashbrook	Courter	Fuqua
Badham	Craig	Gephardt
Bailey (MO)	Crane, Daniel	Gibbons
Barnard	Crane, Philip	Gingrich
Beard	Daniel, Dan	Gooding
Bennett	Daniel, R. W.	Gradison
Bereuter	Dannemeyer	Gramm
Bethune	Daub	Gregg
Bevill	Deckard	Gunderson
Bliley	Derrick	Hagedorn
Bouquard	Derwinski	Hall, Ralph
Breaux	Dickinson	Hall, Sam
Broomfield	Dreier	Hammerschmidt
Brown (CO)	Duncan	Hansen (ID)
Broyhill	Dunn	Hansen (UT)
Burgener	Edwards (AL)	Hartnett
Butler	Edwards (OK)	Hefner
Campbell	Emerson	Heftel
Chapple	Emery	Hendon
Cheney	Erlenborn	Hiller
Clausen	Evans (DE)	Hillis
Clinger	Evans (IA)	Holt
Coats	Fiedler	Hopkins
Coleman	Fields	Hunter
Collins (TX)	Findley	Hutto
Conable	Forsythe	Hyde

Ireland
Johnston
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath
LeBoutillier
Lee
Levitas
Lewis
Livingston
Loeffler
Lott
Lowery (CA)
Lujan
Lunnen
Marlenee
Martin (IL)
Martin (NC)
Martin (NY)
McCollum
McDade
McDonald
Michel
Miller (OH)
Molinar
Montgomery
Moore
Moorhead
Morrison
Mottl

Myers
Napier
Neilligan
Nelson
Nichols
O'Brien
Oxley
Parris
Pashayan
Patman
Patterson
Paul
Petri
Porter
Pritchard
Quillen
Regula
Rhodes
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Roth
Roukema
Rousselot
Rudd
Sawyer
Schulze
Sensenbrenner
Shaw
Shelby

NOES—210

Addabbo	Fary	Markey
Albosta	Fascell	Marriott
Alexander	Fazio	Martinez
Anderson	Fenwick	Matsui
Annunzio	Ferraro	Mattox
Anthony	Fish	Mavroules
Applegate	Fithian	Mazzoli
Aspin	Florio	McCurdy
Atkinson	Foglietta	McEwen
Bailey (PA)	Foley	McGrath
Barnes	Ford (TN)	McHugh
Bedell	Fowler	McKinney
Belenson	Frank	Mica
Benedict	Frost	Mikulski
Benjamin	Garcia	Miller (CA)
Biaggi	Gaydos	Mineta
Bingham	Gejdenson	Minish
Boggs	Gilman	Mitchell (MD)
Boland	Glickman	Mitchell (NY)
Bolling	Gonzalez	Mollohan
Boner	Gore	Murphy
Bowen	Gray	Murtha
Brinkley	Green	Natcher
Brooks	Guarini	Nowak
Brown (CA)	Hall (OH)	Oaker
Burton, Phillip	Hamilton	Oberstar
Byron	Hance	Obey
Carman	Harkin	Ottlinger
Chisholm	Hatcher	Panetta
Clay	Heckler	Pease
Coelho	Hightower	Pepper
Collins (IL)	Holland	Perkins
Conte	Hollenbeck	Peyser
Coyne, James	Horton	Pickle
Coyne, William	Howard	Price
D'Amours	Hoyer	Rahall
Daschle	Hubbard	Rangel
de la Garza	Huckaby	Ratchford
Dellums	Hughes	Reuss
DeNardis	Jacobs	Richmond
Dicks	Jeffords	Rinaldo
Dingell	Jones (NC)	Rodino
Dixon	Jones (OK)	Roe
Donnelly	Jones (TN)	Rostenkowski
Dorgan	Kastenmeier	Roybal
Dougherty	Kazen	Russo
Dowdy	Kennelly	Sabo
Downey	Kildee	Savage
Dwyer	Kogovsek	Scheuer
Dymally	LaFalce	Schneider
Dyson	Lantos	Schroeder
Early	Leach	Schumer
Eckart	Lehman	Seiberling
Edgar	Leland	Shamansky
Edwards (CA)	Lent	Shannon
English	Long (LA)	Simon
Erdahl	Long (MD)	Smith (IA)
Ertel	Lowry (WA)	Smith (NJ)
Evans (GA)	Lukens	Smith (PA)
Evans (IN)	Lundine	Snowe

Solarz	Vento	Wirth
St Germain	Washington	Wolpe
Stark	Watkins	Wright
Stokes	Waxman	Wyden
Stratton	Weaver	Wyllie
Studds	Weiss	Yates
Swift	White	Yatron
Synar	Whitten	Young (AK)
Tauke	Williams (MT)	Zablocki
Udall	Williams (OH)	Zefereetti

NOT VOTING—43

Akaka	Flippo	Neal
AuCoin	Ford (MI)	Pursell
Bafalis	Ginn	Rallsback
Blanchard	Goldwater	Rose
Bonior	Grisham	Rosenthal
Bonker	Hawkins	Santini
Brodhead	Hertel	Sharp
Brown (OH)	Jeffries	Siljander
Burton, John	Jenkins	Traxler
Carney	Madigan	Vander Jagt
Chappell	Marks	Wilson
Conyers	McClory	Wolf
Crockett	McCloskey	Young (MO)
Davis	Moakley	
Dornan	Moffett	

□ 1445

The Clerk announced the following pairs:

On this vote:

Mr. Goldwater for, with Mr. Akaka against.

Mr. Jeffries for, with Mr. Crockett against.

Mr. Grisham for, with Mr. Moffett against.

Mr. Madigan for, with Mr. Hawkins against.

Mr. Wolf for, with Mr. Conyers against.

Mr. Vander Jagt for, with Mr. Santini against.

Mr. Siljander for, with Mr. Rosenthal against.

Mr. Dornan of California for, with Mr. Ford, of Michigan against.

Mr. CARMAN and Mr. MITCHELL of New York changed their votes from "aye" to "no."

Messrs. ANDREWS, SKELTON, PATTERSON, and VOLKMER changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GRAY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6892) to provide changes in legislation to meet reconciliation requirements of the first congressional budget resolution—fiscal year 1983—for the House Committee on Agriculture, pursuant to House Resolution 551, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. LATTA

Mr. LATTA. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman from Ohio opposed to the bill?

Mr. LATTA. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. LATTA moves to recommit the bill H.R. 6892 to the Committee on Agriculture with instructions that the committee make changes in laws within its jurisdiction sufficient to reduce budget authority and outlays in accordance with the provisions of the first concurrent resolution on the budget for fiscal year 1983, Senate Concurrent Resolution 92, and to submit such recommendations promptly to the House Committee on the budget, Senate Concurrent Resolution 92, the Congressional Budget Act of 1974 (Public Law 93-344), and the rules of the House.

The SPEAKER. The gentleman from Ohio (Mr. LATTA) is recognized for 5 minutes in support of his motion to recommit.

Mr. LATTA. Mr. Speaker, the only responsible action this House can take in regard to this bill is to send it back to committee with instructions to come up with the reconciliation savings mandated in the budget resolution.

The fiscal year 1983 budget resolution called for reconciled and nonreconciled savings from the Agriculture Committee of \$5 billion. But what does this bill provide in savings? It provides a grand total of only \$882 million over 3 years—that is less than 18 percent of what was required.

Of course, that is not what the Agriculture Committee believed when it put the bill together because it relied upon CBO estimates which have unfortunately proved to be too optimistic. Those CBO estimates were the ones incorporated into the first budget resolution baseline and were based on information developed earlier this year. According to those estimates, this bill could have saved a significant amount of Federal spending. Based on the latest Department of Agriculture estimates, using much more recent information, this bill will not reduce Federal spending nearly as much as the Agriculture Committee was instructed to do in the first budget resolution. In fact, it will increase spending by \$1.8 billion for feedgrains and cotton over 3 years, and offset that increase by reductions in milk—of \$1.4 billion—and food stamps of—\$1.1 billion—for a net savings of \$882 million over 3 years.

For example, where the committed claims \$3.3 billion in savings in the dairy price support program, OMB

tells us the savings will be only \$1.4 billion.

For feedgrains and cotton and other items covered in title II, the committee admits its handiwork would add \$363 million in fiscal year 1983. But, in fiscal years 1984 and 1985 they claim savings which would result in only \$4 million in additional spending over the period 1983-85.

However, that is not what the more up-to-date Department of Agriculture figures show us. They show that these programs are going to add to the budget deficit over the next 3 years some \$1.8 billion.

This bill pretends to be a spending-reduction bill. That is what reconciliation is all about. But what we have here is a farm bill that is adding \$1.8 billion in spending which almost wipes out the \$1.3 billion in savings from food stamps and the \$1.4 billion in the dairy program.

Even if the so-called savings in this bill were not a sham, I would oppose the bill and ask that it be sent back to committee because it is simply poor legislation.

This bill creates what is in reality a milk producers cartel in the guise of a national dairy board to be made up of people handpicked by the dairy industry who will oversee the dairy price program. They will decide how much milk will be subject to each of two proposed support levels, the price to be paid producers for the lower tier level of support, and tell the Commodity Credit Corporation how to dispose of the dairy products it acquires because of the price support program.

Can anyone tell me why the milk producers should be telling the Agriculture Department and the Commodity Credit Corporation how to run the milk support program? We do not do that for any other commodity. The wheat producers are not given that opportunity. The feed grain producers and the cotton and rice and tobacco producers are not given that chance. Why the dairy producers?

Mr. Speaker, this bill must be sent back to committee to be redrawn to comply with the budget resolution passed in June and the Budget Act of 1974.

● Mr. MICHEL. Mr. Speaker, I rise to support the motion to recommit this bill to the Agriculture Committee to make a better effort to comply with the reconciliation instructions of the first concurrent budget resolution.

On July 27 I wrote to the Speaker calling attention to what I perceived as our budget priorities this year:

I said:

We believe that the first responsibility of the House is the reduction of spending growth and then, and only then, an increase in revenues.

Let us turn then to this spending reduction package. Let us not kid our-

selves about this package. The dairy section is never going to be enacted into law—you know it and I know it. And we all know that is not what will come back to us from conference. We will not get \$1.3 billion in dairy savings in fiscal year 1983. We will probably get a little more than a tenth of that—\$150 million—just what is in the Senate bill.

This House dairy program will not survive in conference. It contains what I am convinced is an unconstitutional delegation of authority to a dairy board comprised principally of milk producers. The dairy title has more holes in it than swiss cheese.

So what kind of savings will we have if we accept what is in this basic bill? Add them up. Fiscal year 1983—paid diversion on wheat and feed grains is an add-on of \$313 million—on rice, an add-on of \$25 million—on cotton, an add-on of \$25 million and on dairy, only a cut of \$150 million. On commodities we come out with an increase in outlays of \$213 million. Not a savings, but another add-on of \$213 million.

Then what about food stamps where the budget resolution assumed a \$779 million savings? If the conferees accept what is in this committee bill we shall save \$334 million in fiscal year 1983, for a grand total—get this—for a grand total of \$121 million in savings for fiscal year 1983 based on farm commodity and food stamp savings. Now that is really something to write home about, is it not?

Even if the conferees split the difference on food stamps, it would still bring us up to less than half the savings required by the budget resolution.

I know—I know—it is the season to antagonize as few voters as possible—the dairy industry—food stamp recipients. But lest we forget, there is another interest group out there that we should better be really concerned about antagonizing—the taxpayers—the people who are footing the bill for all this.

This bill needs to be recommitted with instructions to the Agriculture Committee to do its duty.

The House adopted a budget resolution that assumed a \$5.2 billion retrenchment of spending for the commodity and food stamp program.

According to OMB figures, the committee has produced a document that has done less than one fifth the job—which our friends on the Budget Committee tell us saves only \$882 million and which OMB estimates saves only \$700 million. And in addition, it has proposed the creation of a dairy cartel of unprecedented constitutional damage.

Let us send this bill back to the Agriculture Committee where they can hopefully spend some time reading the budget resolution and the U.S. Constitution.

In summary, let me say that if we are serious about what we are supposed to be doing here, then we do not have much choice but to go this route. I am concerned that we are charting the very course I warned against on July 27—that of neglecting spending cuts and trying to make up the difference by raising taxes. We can make a mockery of this whole process or we can do something about it.●

□ 1500

Mr. DE LA GARZA. Mr. Speaker, I rise in opposition to the motion to recommit. I would like to inform my colleagues that we went through this debate in the general debate on this resolution, and the gentleman, my distinguished and dear colleague from Ohio, is arguing something that I have no control over and the members of our committee have no control over. His argument is with figures issued by CBO and figures issued by the Department of Agriculture and/or Mr. Stockman at OMB.

He says that this bill purports to cut. Mr. Speaker, we have got the scars to show that this bill cuts. It cuts, and it cuts heavily, and for someone to play with figures saying that it does not cut—the gentleman from Ohio should be here commending this committee for adhering to that Latta resolution that his House passed, wisely or unwisely, and we had to comply with it.

Now, how does it cut? I want the Members to understand this. We send them to CBO. CBO says, "Yes; you have saved so much."

What else does the gentleman from Ohio want? What can we do beyond that? He does not like some of the technical policy parts of the bill. Well, he has the privilege to disagree with that, but we do not rule on constitutionality or unconstitutionality. I say it is constitutional, but nonetheless the surplus which we have accumulated in the dairy, this bill addresses. We are going to cut down support to that individual farmer to make him reduce.

Now, the surpluses, he makes a big to-do that we are appointing a board. Well, it will be appointed by the President, by our President. The board will be appointed by the President and the Secretary of Agriculture.

Mr. LATTA. Mr. Speaker, will the gentleman yield at that point?

Mr. DE LA GARZA. I yield.

Mr. LATTA. I thank the gentleman for yielding. I think that he is leaving out one important part. The President can only appoint the individuals whose names have been submitted to him by these various co-ops. Is that not correct? He is limited.

Mr. DE LA GARZA. That is not true. The gentleman is not correct in that statement.

Now, let me say further, appointed by the President, but the people in

charge of the surplus and distributing now have not done a good job. They do not know how to give it away, Mr. Speaker. So, we are going to get somebody else to come in and to try something else. Yes, we accumulated the surplus. Yes, we are cutting to see that it is reduced. We know it is taxpayers' money. We have worked very hard to reduce that.

Now, when we reduce that, how do we get rid of the surplus? Let us put somebody else in that can do a better job.

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from California.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding. What the House has to keep in mind is what this committee was instructed to do. It was instructed to come up with \$3.2 billion in savings. According to CBO, it has come up with \$4.6 billion in savings. It has not only met its target, but it has exceeded its target, and that is why the committee ought to be upheld.

Mr. LATTA. Mr. Speaker, will the gentleman yield further? I am sure that he wants to be correct.

Mr. DE LA GARZA. I will yield very briefly.

Mr. LATTA. Let me read from page 10 of the bill. It says:

The fifteen members of the Board—

Meaning the Dairy Board—

shall be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations certified by the Secretary as eligible to make such recommendations.

Is the gentleman saying that that language is not in the bill as we presently have it?

Mr. DE LA GARZA. Would the gentleman read on page 12?

Mr. LATTA. Is this language I just read stricken from the bill?

Mr. DE LA GARZA. Let me read to the gentleman from page 12, line 15:

If the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by any such eligible organization, nominations for the Board may be made from recommendations made by such milk producers in the manner authorized by the Secretary.

In the end, the Secretary has the final authority, and the President makes the appointments, anything to the contrary is not the intent of the law.

The SPEAKER. The time of the gentleman from Texas has expired.

Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the yeas appeared to have it.

Mr. LATTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will make the following announcement:

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 145, nays 245, not voting 44, as follows:

[Roll No. 257]

YEAS—145

Archer	Frenzel	Michel
Ashbrook	Gibbons	Miller (CA)
Atkinson	Gingrich	Miller (OH)
Badham	Goodling	Molinar
Bailey (MO)	Gradison	Moore
Beard	Gregg	Moorhead
Benedict	Gunderson	Morrison
Bennett	Hall (OH)	Mottl
Bethune	Hansen (ID)	Myers
Billey	Hansen (UT)	Nelligan
Broomfield	Hartnett	O'Brien
Brown (CO)	Hendon	Parris
Broyhill	Hiller	Pashayan
Burgener	Hillis	Paul
Byron	Holt	Regula
Campbell	Hopkins	Rhodes
Carman	Hughes	Ritter
Chapple	Hunter	Robinson
Cheney	Hyde	Rogers
Clausen	Ireland	Roukema
Coats	Jeffries	Rousselot
Coleman	Johnston	Rudd
Collins (TX)	Kemp	Sawyer
Conable	Kindness	Schulze
Conte	Kramer	Shaw
Corcoran	Lagomarsino	Shumway
Coughlin	Latta	Shuster
Courter	LeBoutillier	Skeen
Coyne, James	Lee	Smith (AL)
Craig	Lent	Smith (OR)
Crane, Daniel	Lewis	Snyder
Crane, Philip	Livingston	Solomon
Daniel, Dan	Loeffler	Spence
Daniel, R. W.	Lott	Stanton
Dannemeyer	Lowery (CA)	Staton
Derwinski	Lujan	Stump
Dickinson	Lungren	Tauke
Dreier	Madigan	Taylor
Dunn	Marriott	Thomas
Edwards (AL)	Martin (IL)	Trible
Edwards (OK)	Martin (NC)	Vander Jagt
Emery	Martin (NY)	Walker
Erlenborn	McCloskey	Weber (OH)
Evans (DE)	McCollum	Whitehurst
Fiedler	McDade	Wortley
Fields	McDonald	Wyllie
Findley	McEwen	Young (FL)
Forsythe	McGrath	
Frank	McKinney	

NAYS—245

Addabbo	Bevill	Clinger
Albosta	Biaggi	Coelho
Alexander	Bingham	Collins (IL)
Anderson	Boggs	Coyne, William
Andrews	Boland	D'Amours
Annunzio	Bolling	Daschle
Anthony	Boner	Daub
Applegate	Bouquard	de la Garza
Aspin	Breaux	Deckard
Bailey (PA)	Brinkley	Dellums
Barnard	Brooks	DeNardis
Barnes	Brown (CA)	Derrick
Bedell	Burton, Phillip	Dingell
Beilenson	Chisholm	Dixon
Benjamin	Clay	Donnelly
Bereuter		Dorgan

Dougherty	Jeffords	Roberts (KS)
Dowdy	Jones (OK)	Roberts (SD)
Downey	Jones (TN)	Rodino
Duncan	Kastenmeier	Roe
Dwyer	Kazen	Roemer
Dymally	Kennelly	Rostenkowski
Dyson	Kildee	Roth
Early	Kogovsek	Roybal
Eckart	LaFalce	Russo
Edgar	Lantos	Sabo
Edwards (CA)	Leach	Savage
Emerson	Leath	Scheuer
English	Lehman	Schneider
Erdahl	Leland	Schroeder
Ertel	Levitas	Schumer
Evans (GA)	Long (LA)	Seiberling
Evans (IA)	Long (MD)	Sensenbrenner
Evans (IN)	Lowry (WA)	Shamansky
Fary	Lukens	Shannon
Fascell	Lundine	Shelby
Fazio	Markey	Simon
Fenwick	Marlenee	Skelton
Ferraro	Martinez	Smith (IA)
Fish	Mattox	Smith (NE)
Fithian	Mavroules	Smith (NJ)
Florio	Mazzoli	Smith (PA)
Foglietta	McCurdy	Snowe
Foley	McHugh	Solarz
Ford (TN)	Mica	St Germain
Fountain	Mikulski	Stangeland
Fowler	Mineta	Stark
Frost	Minish	Stenholm
Fuqua	Mitchell (MD)	Stokes
Garcia	Mitchell (NY)	Stratton
Gaydos	Moakley	Studds
Gejdenson	Mollohan	Swift
Gephardt	Montgomery	Synar
Gilman	Murphy	Tauzin
Glickman	Murtha	Udall
Gonzalez	Napier	Vento
Gore	Natcher	Volkmer
Gramm	Nelson	Walgren
Gray	Nichols	Wampler
Green	Nowak	Washington
Guarini	Oakar	Watkins
Hagedorn	Oberstar	Waxman
Hall, Ralph	Obey	Weaver
Hall, Sam	Ottinger	Weber (MN)
Hamilton	Panetta	Weiss
Hammerschmidt	Patman	White
Hance	Patterson	Whitley
Harkin	Pease	Whittaker
Hatch	Pepper	Whitten
Heckler	Perkins	Williams (MT)
Hefner	Petri	Williams (OH)
Heftel	Peyser	Winn
Hightower	Pickle	Wirth
Holland	Price	Wolpe
Hollenbeck	Pritchard	Wright
Horton	Quillen	Wyden
Howard	Rahall	Yates
Hoyer	Rangel	Yatron
Hubbard	Ratchford	Young (AK)
Huckaby	Reuss	Zablocki
Hutto	Richmond	Zeferetti
Jacobs	Rinaldo	

NOT VOTING—44

Akaka	Dicks	Neal
AuCoin	Dornan	Oxley
Bafalis	Flippo	Porter
Blanchard	Ford (MI)	Pursell
Bonior	Ginn	Railsback
Bonker	Goldwater	Rose
Brodhead	Grisham	Rosenthal
Brown (OH)	Hawkins	Santini
Burton, John	Hertel	Sharp
Butler	Jenkins	Siljander
Carney	Jones (NC)	Traxler
Chappell	Marks	Wilson
Conyers	Matsui	Wolf
Crockett	McClory	Young (MO)
Davis	Moffett	

□ 1520

The Clerk announced the following pairs:

On this vote:

Mr. Goldwater for, with Mr. Akaka against.

Mr. Grisham for, with Mr. Moffett against.

Mr. Siljander for, with Mr. Rosenthal against.

Mr. Wolf for, with Mr. Crockett against.
Mr. Oxley for, with Mr. Hawkins against.
Mr. Dornan for, with Mr. Ford of Michigan against.

Mr. Carney for, with Mr. AuCoin against.

Ms. FERRARO changed her vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the yeas appeared to have it.

Mr. COLEMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair will announce that this will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 268, nays 121, not voting 45, as follows:

[Roll No. 258]

YEAS—268

Addabbo	Eckart	Jones (OK)
Albosta	Edgar	Jones (TN)
Alexander	Edwards (CA)	Kastenmeier
Andrews	Edwards (OK)	Kazen
Annunzio	Emerson	Kennelly
Anthony	Emery	Kildee
Applegate	English	Kindness
Aspin	Erdahl	Kogovsek
Bailey (MO)	Ertel	LaFalce
Bailey (PA)	Evans (DE)	Lantos
Barnes	Evans (GA)	Leach
Bedell	Evans (IA)	Leath
Beilenson	Evans (IN)	Lehman
Benjamin	Fary	Leland
Bereuter	Fascell	Levitas
Bevill	Fazio	Loeffler
Biaggi	Ferraro	Long (LA)
Bingham	Fish	Lowry (WA)
Boggs	Pithian	Lukens
Boland	Florio	Lundine
Bolling	Foglietta	Markey
Boner	Foley	Marlenee
Bouquard	Ford (TN)	Martinez
Bowen	Fountain	Matsui
Breaux	Fowler	Mattox
Brinkley	Frost	Mavroules
Brooks	Fuqua	Mazzoli
Brown (CA)	Garcia	McCurdy
Burton, Phillip	Gaydos	McDade
Byron	Gejdenson	McHugh
Campbell	Gephardt	Mica
Chisholm	Gibbons	Mikulski
Clausen	Glickman	Miller (CA)
Clay	Gonzalez	Mineta
Clinger	Goodling	Minish
Coelho	Gore	Mitchell (MD)
Coleman	Gramm	Mitchell (NY)
Collins (IL)	Gray	Moakley
Coyne, William	Guarini	Mollohan
D'Amours	Hagedorn	Montgomery
Daniel, Dan	Hall, Ralph	Morrison
Daniel, R. W.	Hall, Sam	Murphy
Daschle	Hamilton	Murtha
Daub	Hammerschmidt	Myers
de la Garza	Hance	Napier
Deckard	Harkin	Natcher
Dellums	Hatcher	Nelligan
Derrick	Heckler	Nelson
Dickinson	Hefner	Nichols
Dingell	Heftel	Nowak
Dixon	Hightower	Oakar
Donnelly	Holland	Ottinger
Dorgan	Hollenbeck	Panetta
Dougherty	Horton	Pashayan
Dowdy	Howard	Patman
Downey	Hoyer	Patterson
Duncan	Hubbard	Pease
Dwyer	Huckaby	Pepper
Dymally	Hutto	Perkins
Dyson	Jacobs	Pickle
Early	Jeffords	Price

Pritchard	Shamansky	Volkmer
Quillen	Shannon	Walgren
Rahall	Shelby	Wampler
Rangel	Simon	Washington
Ratchford	Skelton	Watkins
Reuss	Smith (NE)	Waxman
Rhodes	Smith (NJ)	Weaver
Richmond	Smith (PA)	Weber (MN)
Rinaldo	Snowe	Weiss
Roberts (KS)	Snyder	White
Roberts (SD)	Solarz	Whitehurst
Robinson	Spence	Whitley
Rodino	St Germain	Whittaker
Roe	Stangeland	Whitten
Rogers	Stanton	Williams (MT)
Rostenkowski	Stark	Williams (OH)
Roth	Stenholm	Wilson
Roybal	Stokes	Winn
Russo	Stratton	Wirth
Sabo	Studds	Wolpe
Savage	Swift	Wright
Sawyer	Synar	Wyden
Scheuer	Tauke	Yates
Schneider	Tauzin	Yatron
Schroeder	Taylor	Young (AK)
Schulze	Trible	Zablocki
Shumer	Udall	Zeferetti
Seiberling	Vander Jagt	
Sensenbrenner	Vento	

NAYS—121

Anderson	Frenzel	McCloskey
Archer	Gilman	McCollum
Ashbrook	Gingrich	McDonald
Atkinson	Gradison	McEwen
Badham	Green	McGrath
Beard	Gregg	McKinney
Benedict	Gunderson	Michel
Bennett	Hall (OH)	Miller (OH)
Bethune	Hansen (ID)	Mollinari
Bliley	Hansen (UT)	Moore
Broomfield	Hartnett	Moorhead
Brown (CO)	Hendon	Mottl
Broyhill	Hiller	O'Brien
Burgener	Hillis	Oberstar
Carman	Holt	Obey
Chapple	Hopkins	Parris
Cheney	Hughes	Paul
Coats	Hunter	Petri
Collins (TX)	Hyde	Regula
Conable	Ireland	Ritter
Conte	Jeffries	Roemer
Corcoran	Johnston	Roukema
Coughlin	Kemp	Roussetot
Courter	Kramer	Rudd
Coyne, James	Lagomarsino	Shaw
Craig	Latta	Shumway
Crane, Daniel	LeBoutillier	Shuster
Crane, Philip	Lee	Skeen
Dannemeyer	Lent	Smith (AL)
DeNardis	Lewis	Smith (IA)
Derwinski	Livingston	Smith (OR)
Dreier	Long (MD)	Solomon
Dunn	Lott	Staton
Edwards (AL)	Lowery (CA)	Stump
Erlenborn	Lujan	Thomas
Fenwick	Lungren	Walker
Fiedler	Madigan	Weber (OH)
Fields	Marriott	Wortley
Findley	Martin (IL)	Young (FL)
Forsythe	Martin (NC)	
Frank	Martin (NY)	

NOT VOTING—45

Akaka	Davis	Neal
AuCoin	Dicks	Oxley
Bafalis	Dornan	Peyser
Barnard	Filippo	Porter
Blanchard	Ford (MI)	Pursell
Bonior	Ginn	Rallsback
Bonker	Goldwater	Rose
Brodhead	Grisham	Rosenthal
Brown (OH)	Hawkins	Santini
Burton, John	Hertel	Sharp
Butler	Jenkins	Siljander
Carney	Jones (NC)	Traxler
Chappell	Marks	Wolf
Conyers	McClory	Wylie
Crockett	Moffett	Young (MO)

□ 1530

The Clerk announced the following pair:

On this vote:

Mr. Akaka for, with Mr. Santini against.

Messrs. LONG of Maryland, SMITH of Iowa, and HENDON changed their votes from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROVIDING FOR RECONCILIATION PURSUANT TO FIRST CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1983

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent for the immediate consideration in the House of a bill which I send to the desk, consisting of the texts of the bills H.R. 6892, 6812, 6862, and 6782 as passed by the House, and that the previous question be considered as ordered on said bill to final passage without intervening motion.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The Clerk read the bill, as follows:

H.R. 6955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Omnibus Reconciliation Act of 1982".

TITLE I—AGRICULTURE, FORESTRY, AND RELATED PROGRAMS

Subtitle A—Dairy Price-Support Program

Sec. 101. Section 201 of the Agricultural Act of 1949, as amended by the Agricultural and Food Act of 1981, is amended by—

(1) effective October 1, 1982, striking out everything in subsection (c) after the first sentence and preceding the sentence which begins "Such price support shall be provided";

(2) adding a new subsection (d) as follows: "(d) Notwithstanding any other provision of law—

"(1)(A) For that portion of the national milk supply required to meet domestic commercial market needs (i) effective for the period beginning October 1, 1982, and ending September 30, 1983, the price of such milk shall be supported at \$13.10 per hundredweight of milk containing 3.67 per centum milkfat; and (ii) effective for each of the fiscal years beginning October 1, 1983, and October 1, 1984, the price of such milk shall be supported at such level that represents the percentage of parity that the Secretary determines \$13.10 represented as of October 1, 1982. That portion of the nation-

al supply required to meet domestic commercial market needs shall be the estimate of marketings of milk by producers minus the estimate of removals of milk from the market by the Commodity Credit Corporation under the price support program; and that portion of the national milk supply determined excess to domestic commercial market needs shall be the estimated removals of milk from the market by the Commodity Credit Corporation under the price support program.

"(B) The level of price support provided producers on that portion of the national milk supply determined excess to domestic commercial market needs shall be the level of price support provided for in subparagraph (A) reduced by such uniform rate as determined by the National Dairy Board as necessary to recover the funds required to meet that portion of the cost of the price support program which is the responsibility of producers of milk as defined in paragraph (2). Such level of price support shall be (i) determined by the National Dairy Board provided for in paragraph (6); (ii) announced prior to October 1 of the fiscal year to which the rate applies and may be adjusted during the fiscal year as determined necessary by the National Dairy Board; and (iii) shall be achieved through a uniform reduction of the price paid producers on that portion of the national milk supply determined excess to domestic commercial market needs. The funds represented by such reduction shall be remitted to the Commodity Credit Corporation at such time and such manner as prescribed by the Secretary by each person making payment to a producer for milk purchased from the producer, except that in the case of any producer who markets milk of the producer's own production directly to consumers, such funds shall be remitted to the Corporation by the producer. The Corporation shall credit the funds received by it under this provision to the account of the National Dairy Board. Such account shall bear interest at the same rate as payable by Commodity Credit Corporation on its borrowings from the United States Treasury. The funds represented by such reduction shall be considered as included in the payments to a producer of milk for purposes of the minimum price provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937.

"(2) Producers of milk shall have responsibility in each fiscal year during which this program is in effect for (A) that portion of the estimated total cost of Commodity Credit Corporation purchases under the price support program for milk represented by purchases in excess of five billion pounds (milk equivalent), related costs associated with such purchases and costs associated with inventory management and disposition of products related to said purchases in excess of five billion pounds (milk equivalent), (B) the amount of marketing reduction incentive payments due producers under paragraph (4) for reductions in their milk production, (C) anticipated administrative expenses of the Board, and the expenses arising from the operations of the Board under this subsection, and (D) any balance remaining from the immediately preceding fiscal year on advances made to the Board by the Commodity Credit Corporation as provided for in paragraph (3). There shall be deducted from such total amount the estimated receipts from the sale or transfer of dairy products and other operations conducted under this subsection.

For the purposes of this paragraph the estimated cost of purchases of five billion pounds (milk equivalent) shall be the dollar amount represented by the cost of purchasing and handling butter and nonfat dry milk produced from five billion pounds of milk of 3.67 per centum milkfat content. Price support operations under this Act shall not, however, be limited to the purchase of these products or to their purchase in the proportions they appear in milk. In the event of an increase in dairy product imports through action taken under section 22 of the Agricultural Adjustment Act of 1933 (7 U.S.C. 624), the portion of the cost of the price support program which is the responsibility of producers shall be reduced by the milk equivalent represented by such increased imports. The milk equivalent of any such increased imports shall be determined on either a solids-not-fat or milkfat-milk equivalent basis, whichever is higher.

"(3) The price of milk shall be supported through the purchase of milk and the products of milk. All such purchases shall be made at the level provided under paragraph (1)(A). If funds available to the Commodity Credit Corporation to meet that portion of the cost of the price support program which is the responsibility of producers are not adequate to meet current needs, purchases of dairy products shall be made using funds otherwise available to the Commodity Credit Corporation. Such expenditure shall be deemed an advance by the Commodity Credit Corporation to the National Dairy Board which shall be liable for its repayment with interest at the same rate as payable by the Commodity Credit Corporation on its borrowings from the United States Treasury. The National Dairy Board shall make provision for repayment of any balance outstanding at the end of any fiscal year by the end of the succeeding fiscal year. Funds for such repayment shall be provided in the manner prescribed in paragraph (1)(B) or through sales of products under the provisions of paragraph (8).

"(4)(A) If the level of price support provided for under paragraph (1)(B) is less than the level of price support provided for under paragraph (1)(A), a payment shall be made to any producer who can establish that the producer's marketings of milk during the period described in subparagraph (D) have been reduced from the level of marketings during the corresponding period of the prior fiscal year.

"(B) Prior to approving such payment, the Board shall require evidence that such reduction in marketings has taken place including a certification by the producer in a form specified by the Board, that such reduction is a net decrease in marketings of milk and has not been offset by expansion of production in other production facilities in which the person has an interest or by transfer of partial interest in the production facility or by the taking of any other action which is a scheme or device to qualify for payment.

"(C) The payment due any producer under this paragraph shall be determined by multiplying the number of hundredweights of milk by which marketings were reduced from those for the same period a year earlier by a rate in dollars per hundredweight established by the Board: *Provided*, That no refund shall be made on a quantity of milk in excess of the quantity for which the person was paid at the rate provided under paragraph (1)(B) nor shall the rate of payment exceed the difference between the level of price support provided

under the paragraph (1)(A) and the level of price support under paragraph (1)(B).

"(D) The Board shall provide for application for such payment at least on a quarterly basis but not more frequently than monthly: *Provided*, That if application for payment is made for any period during the year, a year-end statement of marketings must be filed by the applicant. *Provided further*, That payments made under this section during the year shall be considered preliminary settlements for reductions in marketings. In making final settlement for the year, the Board shall base such settlements on the volume of marketings for the entire fiscal year. If, based on total marketings for the year, the Board should determine that preliminary settlements have resulted in overpayment to the producer, the producer shall repay the amount of the overpayment plus interest.

"(E) If a reduced level of support is provided under paragraph (1)(B) for consecutive fiscal years, the Board shall recognize the actions taken by persons in reducing milk marketings in any of such years preceding the current fiscal year when determining eligibility for payment in the current fiscal year: *Provided*, That if a person increases milk marketings in the current fiscal year from the year of reduced marketings, any payment made to that person shall be adjusted to reflect such increase. If a person increases marketings to a level in excess of the marketings of said person during the fiscal year immediately preceding the first fiscal year the program was effective, no payment will be made.

"(F) Eligibility for payment under this paragraph is limited to those producers who made reductions in their marketings of milk and is not transferable to any other person.

"(5) In carrying out this subsection, the Board may, on a reimbursable or nonreimbursable basis, as it deems appropriate, utilize—

"(A) marketing administrators appointed by the Secretary for the administration of Federal milk marketing orders promulgated under provisions of the Agricultural Adjustment Act of 1933, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937;

"(B) State and county committees established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h); or

"(C) administrators of State milk marketing programs.

"(6)(A) There shall be established a National Dairy Board (hereinafter referred to as the "Board") that shall consist of fifteen members plus the Secretary;

"(B) The fifteen members of the Board (other than the Secretary) shall be appointed by the President with the advice and consent of the Senate from recommendations submitted by organizations certified by the Secretary as eligible to make such recommendations. Nominations to the initial Board shall be submitted by the President to the Senate for its advice and consent not later than January 1, 1983;

"(C) In making such appointments, the President shall take into account the geographical distribution of milk production volume throughout the United States;

"(D) The term of Board members shall be three years and no member shall be eligible to serve more than two consecutive terms: *Provided*, That in making initial appointments to the Board, the President shall designate one-third of the appointments as one-year terms, one-third of the appoint-

ments as two-year terms, and one-third of the appointments as three-year terms;

"(E) Vacancies on the Board shall be filled by the President in the same manner as initial appointments are made;

"(F) The members of the Board shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in their performance of services for the Board, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5, United States Code.

"(G) The Secretary shall certify as eligible to make recommendations for Board membership, any organization that is determined to meet the eligibility criteria established by the Secretary upon the submission of a factual report which shall contain information deemed relevant and specified by the Secretary including, but not limited to the following:

(1) geographical territory covered by the organization's active membership;

(2) nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization;

(3) evidence of stability and permanency of the organization;

(4) sources from which the organization's operating funds are derived; and

(5) functions of the organization.

"(H) If the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by any such eligible organization, nominations for the Board may be made from recommendations made by such milk producers in the manner authorized by the Secretary.

"(7)(A) At its initial meeting, the Board shall elect from its members a chairman, vice chairman, and secretary-treasurer. These officers shall have a term of one year. The Secretary shall not be eligible for service in these positions.

"(B) The chairman shall preside at all meetings of the Board and shall be responsible for supervision and direction of any personnel employed by the Board to carry out the directives of the Act.

"(C) The Vice Chairman shall, in the absence of the Chairman, preside at meetings of the Board. In the event the office of Chairman is vacated by the death, resignation, or by disqualification of the incumbent, the Vice Chairman shall assume those duties until a successor has been duly named and qualified by the Board.

"(D) The secretary-treasurer shall be responsible for maintenance of such records as may be required by the Board. In addition, the secretary-treasurer shall prepare such reports as are necessary including an annual report to the chairman of the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and the chairman of the Committee on Agriculture of the United States House of Representatives.

"(E) Regular meetings of the Board shall be held on a schedule determined by the Board. Special meetings may be called by the Chairman, by the Secretary or by a majority of the Board requesting the Chairman convene such special meeting.

"(F) The Board may issue such regulations as are necessary for the conduct of activities required by this subsection.

"(G) The Board may employ such personnel as may be required to assist in carrying out the purposes of this subsection. Such employees shall be considered employees of the Department of Agriculture, however, costs of such employment shall be met from funds available to the Board under this subsection for the conduct of its activities.

"(8) Notwithstanding any other provision of law, the Board shall have the following duties and responsibilities—

"(A) based on estimates of milk production, consumption, and Commodity Credit Corporation purchases, determine the relative proportions of milk to which the price support levels provided for in paragraph (1) shall apply;

"(B) determine the amount of the producer responsibility for dairy product purchases as determined under paragraph (2);

"(C) determine and announce prior to October 1 of each year, the level of price support under paragraph (1)(B) and the uniform rate by which the price paid farmers for milk determined to be in excess of domestic commercial market needs shall be reduced to achieve the level of price support provided for in paragraph (1)(B);

"(D) dispose of dairy products acquired by the Commodity Credit Corporation through price support operations provided for herein. Such dispositions may include, but are not limited to—

"(i) sales to the domestic commercial trade for unrestricted use: *Provided*, That in no event shall such sales be made at a price less than the higher of the current market price or 110 per centum of the currently effective price for purchase of the product by the Commodity Credit Corporation;

"(ii) transfer to Federal, State, and local government agencies for use in food assistance programs. Such programs shall include the child nutrition programs of the Department of Agriculture, elderly feeding programs, and others whether of an ongoing or of a temporary nature designed to meet short-term conditions. Unless otherwise provided for by law, the rate of reimbursement for commodities used in such programs shall be determined by the Board: *Provided*, That dairy products, not in excess of five billion pounds (milk equivalent) made available for child nutrition programs operated by the Food and Nutrition Service of the Department of Agriculture and similar programs including those conducted under the Older Americans Act, shall be made available at the request of the Secretary without cost annually;

"(iii) sales to persons engaged in international commerce for the purpose of commercial export sales of said dairy products;

"(iv) sales and transfers of dairy products to foreign governments, agencies of foreign governments, or international agencies; and

"(v) other sales or donation efforts to meet specific needs, as determined by the Board. This may include, but is not limited to, disposition of dairy products for other than unrestricted commercial use to prevent waste, deterioration, or loss of the product;

"(E) the Board shall have authority to direct the reprocessing and, if necessary, repackaging of dairy products to facilitate operations undertaken pursuant to this paragraph;

"(F) proceeds realized from any operations undertaken pursuant to this paragraph shall be remitted to the Commodity Credit Corporation and credited to the account of the Board;

"(G) if, in the judgment of the Board, any of the operations provided for in subpara-

graph (D) can be more effectively carried out through products other than those purchased by the Commodity Credit Corporation or on a basis other than through purchase by the Commodity Credit Corporation and subsequent resale or transfer, the Board shall develop and announce details of such programs;

"(H) make recommendations to the Secretary regarding details of the operation of the price support program for milk; and

"(I) establish and announce the rate of the marketing reduction incentive payment provided for in paragraph (4).

"(9) The Secretary of Agriculture shall—

"(A) exercise the authority vested in the Board by this subsection until such time as the initial Board has begun functioning, but in no event later than April 1, 1983;

"(B) serve as a member of the Board;

"(C) cooperate with the Board in the performance of its duties, including providing the Board access to all pertinent economic and financial data and information necessary to the achievement of its responsibilities, and provide the Board with such facilities and support as may be determined necessary;

"(D) collect from all persons who make payment to farmers for milk and from farmers who market milk of their own production directly to consumers, the funds derived from the reduction in prices paid farmers for that portion of the national milk supply determined excess to the needs of the domestic commercial market so as to achieve the level of price support provided for in paragraph (1)(B);

"(E) provide for audit and verification to determine that all funds due have been collected and properly credited;

"(F) provide for the delivery from the inventories of the Commodity Credit Corporation dairy products acquired in the conduct of the price support program for milk. Such deliveries shall be in the form and at the time and place directed by the Board; and

"(G) provide for the payment of obligations incurred by the Board in carrying out its responsibilities. Such obligations shall be paid from funds available to the Board under this subsection. Such payments shall be made at the direction of the Board.

"(10)(A) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violation, any regulation issued under this subsection. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subsection may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subsection whenever the Secretary believes that the administration and enforcement of this subsection would be adequately served by suitable written notice or warning to any person committing such violation.

"(B) Any person who willfully violates any provision of any regulation issued by the Secretary or the Board under this subsection, or who willfully fails or refuses to remit any amounts due thereunder shall be liable, in addition to payment of the full amount due plus interest, for a civil penalty (to be assessed by the Secretary) of not more than \$1,000 for each such violation which shall accrue to the United States and may be recovered in a civil suit brought by the United States.

"(C) The remedies provided in subsections (A) and (B) of this section shall be in addition to, and not exclusive of, the remedies otherwise provided at law or in equity.

"(11) Each producer who markets milk and each person required to make payment to the Corporation under this subsection shall keep such records and make such reports, in such manner, as the Secretary determines necessary to carry out this subsection. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subsection or to determine whether any person subject to the provision of this subsection has engaged or is engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subsection or rule or regulation issued under this subsection. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

"(12) All operations conducted under this subsection shall be considered a program or operation of the Department of Agriculture for the purposes of section 22 of the Agricultural Adjustment Act of 1933."

Subtitle B—Dairy Promotion Act

SHORT TITLE

Sec. 110. This subtitle may be cited as the "Dairy Promotion Act".

FINDINGS AND DECLARATION OF POLICY

Sec. 111. (a) The Congress finds that—

(1) dairy products are basic foods that are a valuable part of the human diet;

(2) the production of dairy products plays a significant role in the Nation's economy; the milk from which dairy products are manufactured is produced by thousands of milk producers; and dairy products are consumed by millions of people throughout the United States;

(3) dairy products must be readily available and marketed efficiently to assure that the people of the United States receive adequate nourishment;

(4) the maintenance and expansion of existing markets for dairy products is vital to the welfare of milk producers and those concerned with marketing, using, and producing dairy products, as well as to the general economy of the Nation; and

(5) dairy products move in interstate and foreign commerce, and dairy products that do not move in such channels of commerce directly burden or affect interstate commerce in dairy products.

(b) It, therefore, is declared to be the policy of the Congress that it is essential and in the public interest to authorize the

establishment, through the exercise of the powers provided herein, of an orderly procedure for the financing (through adequate assessments on all milk produced in the United States for commercial use) and the carrying out of an effective and continuous coordinated program of promotion designed to strengthen the dairy industry's position in the marketplace, and maintain and expand domestic and foreign markets and uses for dairy products produced in the United States. Nothing in this subtitle may be construed to mean, or provide for, control of production or otherwise limit the right of individual milk producers to produce milk.

DEFINITIONS

SEC. 112. As used in this subtitle—

(1) the term "Board" means the National Dairy Promotion Board established under section 114 of this subtitle;

(2) the term "Department" means the Department of Agriculture;

(3) the term "dairy products" means manufactured products for human consumption which are derived from the processing of milk, and includes fluid milk products;

(4) the term "fluid milk products" means manufactured liquid products derived from the processing of milk and customarily consumed as beverages;

(5) the term "milk" means all classes of cow's milk produced in the United States;

(6) the term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity;

(7) the term "producer" means any person engaged in the production of milk within the United States for commercial use;

(8) the term "promotion" means actions such as paid advertising, sales promotion, and publicity to advance the image and sales of, and demand for, dairy products;

(9) the term "Secretary" means the Secretary of Agriculture; and

(10) the term "United States" means the several States and the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

ISSUANCE OF ORDERS

SEC. 113. (a) Whenever the Secretary has reason to believe that the issuance of a proposed dairy products promotion order will tend to effectuate the declared policy of this subtitle, the Secretary shall give due notice and opportunity for hearing upon the proposed order. Such proposal for an order may be submitted and a hearing may be requested and proposed for an order submitted by an organization certified under section 116 of this subtitle, or by any interested person affected by the provisions of the subtitle, including the Secretary.

(b) After notice and opportunity for hearing are given, as provided for in subsection (a) of this section, the Secretary shall issue a dairy products promotion order if the Secretary finds (and sets forth in such order), upon the evidence introduced at such hearing, that the issuance of such order and all the terms and conditions thereof will tend to effectuate the declared policy of this subtitle.

(c) The Secretary may, from time to time, amend dairy products promotion orders.

REQUIRED TERMS IN ORDERS

SEC. 114. Any order issued under this subtitle shall contain the following terms and conditions:

(1) Providing for the establishment and appointment by the Secretary of a National

Dairy Promotion Board that shall consist of not fewer than thirty-six members; and providing for the definition of powers and duties of the Board that shall include only the powers enumerated in this section, including the powers to (A) administer such order in accordance with its terms and provisions, (B) make rules and regulations to effectuate the terms and provisions of such order, (C) receive, investigate, and report to the Secretary complaints of violations of such order, and (D) recommend to the Secretary amendments to such order. The term of an appointment to the Board shall be for three years with no member serving more than two consecutive terms, except that initial appointments shall be proportionately for two-year and three-year terms. The Board may appoint from its members an executive committee whose membership shall, to the maximum extent practicable, reflect the membership composition of the Board. Such executive committee shall have such duties and powers as are conferred upon it by the Board.

(2) Providing that members of the Board shall be milk producers appointed by the Secretary from nominations submitted by eligible organizations or associations certified under section 116 of this subtitle, or, if the Secretary determines that a substantial number of milk producers are not members of, or their interests are not represented by, any such eligible organization or association, then from nominations made by such milk producers in the manner authorized by the Secretary: *Provided*, That in making such appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of milk production volume throughout the United States. In determining geographic representation, whole States shall be used as a unit. A region may be represented by more than one director and a region may be made up of more than one State.

(3) Providing that the Board shall develop and submit to the Secretary for approval any promotion plan or project, and that any such plan or project shall take effect only if approved by the Secretary.

(4) Providing that the Board shall submit to the Secretary for approval budgets, on a fiscal period basis, of its anticipated expenses and disbursements in the administration of the order, including probable costs of dairy product promotion projects.

(5) Providing that each milk producer shall pay, at the plant of first receipt, an assessment based upon the number of hundredweights of milk for commercial use, handled for the account of the producer, in the manner as prescribed by the order, for the expenses and expenditures (including provision for a reasonable reserve and those administrative costs incurred by the Department after an order has been promulgated under this subtitle), as the Secretary finds are reasonable and likely to be incurred by the Board under the order during any period specified by the Secretary. The operator of such plant shall collect such assessment from the producer and shall pay the sum to the Board in the manner as prescribed by the order. The rate of assessment prescribed by the order shall be five cents per hundredweight of milk for commercial use, or the equivalent thereof. To facilitate the collection of such assessments, the order or the Board may designate different operators of plants or classes of such operators to recognize differences in marketing practices or procedures used in the industry. The Secretary may maintain a suit against any

person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy.

(6) Providing that the Board shall maintain such books and records (which shall be available to the Secretary for inspection and audit) and prepare and submit such reports from time to time to the Secretary, as the Secretary may prescribe, including reports requiring an appropriate accounting by the Board with respect to the receipt and disbursement of all funds entrusted to it.

(7) Providing that the Board, with the approval of the Secretary, may enter into contracts or agreements for the development and conduct of the activities authorized under the order under terms and conditions specified in subsection (a) of section 115 of this subtitle for the payment of the cost thereof with funds collected through the assessments under the order. Any such contract or agreement shall provide that (A) the contractors shall develop and submit to the Board a plan or project together with a budget or budgets that shall show estimated costs to be incurred for such plan or project, and (B) the plan or project shall become effective upon the approval of the Secretary, and (C) the contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary may require.

(8) Providing that the Board, with the approval of the Secretary, may invest, pending disbursement under a plan or project, funds collected through assessments authorized under this subtitle only in obligations of the United States or any agency thereof, in general obligations of any State or any political subdivision thereof, in any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System, or in obligations fully guaranteed as to principal and interest by the United States.

(9) Providing that no funds collected by the Board under the order shall in any manner be used for the purpose of influencing any governmental policy or action, except as provided by paragraph (1)(D) of this section.

(10) Providing that the Board members shall serve without compensation, but shall be reimbursed for their reasonable expenses incurred in performing their duties as members of the Board, including a per diem allowance as recommended by the Board and approved by the Secretary.

PERMISSIVE TERMS IN ORDERS

SEC. 115. Orders issued under this subtitle may contain one or more of the following terms and conditions:

(1) Providing for the establishment, issuance, effectuation, and administration of appropriate plans or projects for advertising and promotion of the sale and consumption of dairy products, and for the disbursement of necessary funds for such purposes: *Provided*, That any such plan or project shall be directed toward the sale and marketing or use of dairy products to the end that the marketing and use of dairy products may be encouraged, expanded, improved, or made more acceptable and shall make no reference to private brand or trade name: *Provided further*, That no such advertising or sales promotion program shall make use of unfair or deceptive acts or practices with respect to

the quality, value, or use of any competing product: *And provided further*, That during the two-year period beginning on the effective date of an order first issued under this section, fluid milk products may not be promoted under this subtitle.

(2) Providing that operators of plants receiving from producers milk for commercial use maintain and make available for inspection such books and records as may be required by any order issued under section 113(a) of this subtitle; and providing for the filing of reports by such persons at the time, in the manner, and having content prescribed by the order, to the end that information and data appropriate or necessary to the effectuation, administration, or enforcement of this subtitle, or any order or regulation issued under section 113(a) of this subtitle shall be made available to the Secretary: *Provided*, That all information so obtained shall be kept confidential by all officers and employees of the Department, and only such information so furnished or acquired as the Secretary deems relevant shall be disclosed by them and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order with reference to which the information to be disclosed was furnished or acquired. Nothing in this paragraph shall be deemed to prohibit (A) the issuance of general statements, based upon the reports, or the number of persons subject to an order or statistical data collected therefrom, which statements do not identify the information furnished by any person, or (B) the publication, by direction of the Secretary, of the name of any person violating any order, together with a statement of the particular provisions of the order violated by such persons. No information obtained under the authority of this subtitle may be made available to any agency or officer of the Government for any purpose other than the implementation of this subtitle and any investigatory or enforcement actions necessary for the implementation of this subtitle. Any person violating the provisions of this subsection, upon conviction, shall be subject to a fine of not more than \$1,000, or to imprisonment for not more than one year, or to both, and, if an officer or employee of the Board or the Department, shall be removed from office.

(3) Providing terms and conditions incidental to and not inconsistent with the terms and conditions specified in this subtitle and necessary to effectuate the other provisions of such order.

CERTIFICATION OF ORGANIZATIONS

SEC. 116. (a) The eligibility of any organization to represent milk producers, to request the issuance of an order under section 113(a) of this subtitle and to participate in the making of nominations under section 114(2) of this subtitle shall be certified by the Secretary. The Secretary shall certify any organization that the Secretary determines meets the eligibility criteria established by the Secretary under this section, and the Secretary's determination as to eligibility shall be final.

(b) Certification shall be based, in addition to other available information, upon a factual report submitted by the organization, which shall contain information deemed relevant and specified by the Secretary for the making of such determination, including the following:

(1) The geographic territory covered by the organization's active membership.

(2) The nature and size of the organization's active membership, including the proportion of the total number of active milk producers represented by the organization.

(3) Evidence of stability and permanency of the organization.

(4) Identification of the sources from which the organization's operating funds are derived.

(5) The functions of the organization.

(6) A statement describing the organization's ability and willingness to further the aims and objectives of this subtitle.

The primary considerations in determining the eligibility of an organization shall be whether its membership consists primarily of milk producers who produce a substantial volume of milk and whether the primary or overriding interest of the organization is in the production of milk and dairy products.

REQUIREMENT OF REFERENDUM

SEC. 117. (a) The Secretary shall conduct a referendum as soon as practicable among producers who during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use for the purpose of ascertaining whether the issuance of an order is approved or favored by the producers. No order issued under this subtitle may be effective unless the Secretary determines that the issuance of such order is approved or favored by not less than one-half of the producers voting in the referendum.

(b) The Secretary shall be reimbursed from assessments collected by the Board for any expenses (other than salary payments to Government employees) incurred for the conduct of the referendum.

SUSPENSION AND TERMINATION OF ORDERS

SEC. 118. (a) The Secretary shall, whenever the Secretary finds that any order issued under this subtitle or any provision thereof obstructs or does not tend to effectuate the declared policy of this subtitle, terminate or suspend the operation of such order or such provisions thereof.

(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a representative group comprising 10 per centum or more of the number of producers subject to the order, to determine whether the producers favor the termination or suspension of the order. The Secretary shall suspend or terminate the order within six months after the Secretary determines that suspension or termination of the order is approved or favored by a majority of the producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(c) Prior to the fifth anniversary of any order issued under this subtitle, the Secretary shall conduct a referendum to determine if producers support continuation of such order. The Secretary shall terminate such order unless its continuation is approved or favored by a majority of producers voting in the referendum who, during a representative period (as determined by the Secretary), have been engaged in the production of milk for commercial use.

(d) The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this subtitle.

COOPERATIVE ASSOCIATION REPRESENTATION

SEC. 119. Whenever, pursuant to the provisions of this subtitle, the Secretary is required to determine the approval or disapproval of producers, the Secretary shall con-

sider the approval or disapproval by any bona fide cooperative association of producers, engaged in marketing milk or dairy products as the approval or disapproval of the producers who are members of or under contract with such cooperative association of producers: *Provided*, That if a cooperative association of producers elects to exercise this prerogative on behalf of its members, such cooperative association shall provide each producer on whose behalf the cooperative association is expressing approval or disapproval a description of the question presented in the referendum together with a statement of the manner in which the cooperative association vote was cast on behalf of the membership. Such information shall inform the producer of procedures to follow to cast an individual ballot should such producer choose to vote. Such individual ballots shall be tabulated by the Secretary and the vote of the cooperative association shall be adjusted to reflect such individual votes.

PETITION AND REVIEW

SEC. 120. (a) Any person subject to any order may file, with the Secretary a petition stating that any such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law and praying for a modification thereof or for an exemption therefrom. The petitioner shall thereupon be given an opportunity for a hearing upon such petition, in accordance with regulations issued by the Secretary. After such hearing, the Secretary shall make a ruling upon the prayer of such petition, which shall be final, if in accordance with law.

(b) The district courts of the United States in any district in which such person is an inhabitant, or carries on business, are hereby vested with jurisdiction to review such ruling, if a complaint for the purpose is filed within twenty days from the date of the entry of such ruling. Service of process in such proceedings may be had upon the Secretary by delivering a copy of the complaint to the Secretary. If the court determines that such ruling is not in accordance with law, it shall remand such proceedings to the Secretary with directions either (1) to make such ruling as the court shall determine to be in accordance with law, or (2) to take such further proceedings as, in its opinion, the law requires.

ENFORCEMENT

SEC. 121. (a) The district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued under this subtitle. Any such civil action authorized to be brought under this subsection shall be referred to the Attorney General for appropriate action: *Provided*, That nothing in this subtitle may be construed as requiring the Secretary to refer to the Attorney General minor violations of this subtitle whenever the Secretary believes that the administration and enforcement of this subtitle would be adequately served by suitable written notice or warning to any person committing such violation.

(b) Any person who willfully violates any provision of any order issued by the Secretary under this subtitle or who willfully fails or refuses to remit any assessment or fee duly required thereunder, shall be liable to a penalty (to be assessed by the Secretary) of not more than \$1,000 for each such violation which shall accrue to the United

States and may be recovered in a civil suit brought by the United States.

(c) The remedies provided in subsections (a) and (b) of this section shall be in addition to, and not in lieu of, the remedies otherwise provided at law or in equity.

INVESTIGATIONS; POWER TO SUBPENA AND TAKE OATHS AND AFFIRMATIONS; AID OF COURTS

SEC. 122. The Secretary may make such investigations as the Secretary deems necessary for the effective administration of this subtitle or to determine whether any person subject to the provisions of this subtitle has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of any provision of this subtitle or of any order, rule, or regulation issued under this subtitle. For the purpose of such investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, and documents that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents. Such court may issue an order requiring such person to appear before the Secretary, there to produce records, as so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever such person may be found.

ADMINISTRATIVE PROVISIONS

SEC. 123. (a) Nothing in this subtitle may be construed to preempt or supersede any other program relating to dairy product promotion organized and operating under the laws of the United States or any State.

(b) The provisions of this subtitle applicable to orders shall be applicable to amendments to orders.

AUTHORIZATIONS

SEC. 124. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle. Sums authorized to be appropriated by this subtitle shall not be available for payment of the expenses or obligation incurred by the Board in administering any order issued under this subtitle.

Subtitle C—Donation of Dairy Products

SEC. 130. Section 416 of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States

are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall be in addition to the level of assistance programed under that Act."

Subtitle D—Adjustment Program for the 1983 Crops of Wheat, Feed Grains, Upland Cotton and Rice

1983 CROP WHEAT LOANS

SEC. 140. Section 107B(a) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of wheat at not less than \$3.80 per bushel."

1983 CROP WHEAT ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 141. Section 107B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) For the 1983 crop of wheat the Secretary shall provide for a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to wheat on the farm would be limited to the acreage base for the farm reduced by a total of 25 per centum, consisting of a reduction of 15 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of wheat, the producers on a farm must comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program."

WHEAT ACREAGE BASE

SEC. 142. Section 107B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the fifth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of wheat shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base: *Provided*, That the acreage base for each wheat producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to wheat for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to wheat for harvest in the two crop years immediately preceding the year for which the determination is made."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR WHEAT

SEC. 143. Section 107B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of wheat who participates in the acreage limitation or set-aside program for such crop of wheat under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payments shall be made in an amount computed by multiplying (i) the rate of \$3.00 per bushel by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 FEED GRAIN LOANS

SEC. 144. Section 105B(a)(1) of the Agricultural Act of 1949 is amended by inserting at the end thereof the following: "Notwithstanding the foregoing provision of this subsection, the Secretary shall make available to producers loans and purchases for the 1983 crop of corn at not less than \$2.71 per bushel."

1983 CROP FEED GRAIN ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 145. Section 105B(e)(1) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this section, the" and inserting in lieu thereof "Notwithstanding any other provision of law—

"(A) Except as provided in subparagraph (B) of this paragraph, the"; and

(2) adding at the end thereof the following:

"(B) If on October 15, 1982, the Secretary estimates that the 1982 crop of corn will be in excess of 7.3 billion bushels, the Secretary shall announce on such date that there will be in effect for the 1983 crop of feed grains a combination of (i) an acreage limitation program as described under paragraph (2) or a set-aside program as described under paragraph (3) and (ii) a diversion program as described under paragraph (5) under which the acreage planted to feed grains on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation or set-aside program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of feed grains, the producers on a farm must

comply with the terms and conditions of the combined acreage limitation or set-aside program and diversion program."

FEED GRAINS ACREAGE BASE

SEC. 146. Section 105B(e)(2) of the Agricultural Act of 1949 is amended by inserting immediately after the sixth sentence the following: "Notwithstanding any other provision of this paragraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of feed grains shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base; *Provided*, That the acreage base for each feed grain producing farm that follows a normal summer-fallow crop rotational practice and has a 3-year history of such practice shall be calculated by multiplying one-half the announced acreage limitation or set-aside percentage by the acreage annually idled and devoted to conservation practices and adding the result to the acreage planted on the farm to feed grains for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to feed grains for harvest in the two crop years immediately preceding the year for which the determination is made."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR FEED GRAINS

SEC. 147. Section 105B(e)(5) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces under paragraph (1)(B) of this subsection that there will be in effect a diversion program on the 1983 crop of feed grains, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of feed grains who participates in the acreage limitation or set-aside program for such crops of feed grains under paragraph (2) or (3) of this subsection, as applicable, if the permitted acreage for the farm as determined under such paragraph is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under such paragraph, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such paragraph. Such payment shall be made in an amount computed by multiplying (i) the payment rate, by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subsection. The payment rate for corn shall be in the amount of \$1.50 per bushel and in the case of grain sorghums, oats, and, if designated by the Secretary, barley shall be such rate as the Secretary determines fair and reasonable in relation to the rate at which payments are made available for corn. The Secretary shall make not less than 50 per centum of any payments under this paragraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this paragraph, subject to the provisions of subsection (f), the producer shall repay the

advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 CROP UPLAND COTTON ACREAGE REDUCTION PROGRAM

SEC. 148. Section 103(g)(9)(A) of the Agricultural Act of 1949 is amended by—

(1) inserting immediately after the third sentence the following: "If the Secretary should make the determination referred to in the first sentence of this subparagraph for the 1983 crop of upland cotton and establish an acreage reduction program for such crop, the Secretary shall provide that 25 per centum of any reduction required in the acreage base for the farm shall be made under the diversion program provided in subparagraph (B) and the balance of the reduction shall be made under an acreage limitation program as provided in this subparagraph. In such event, as a condition of eligibility for loans, purchases and payments on the 1983 crop of upland cotton the producers on a farm must comply with the combined acreage limitation and diversion program."

(2) inserting immediately after the eighth sentence (after the addition of paragraph (1) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under the programs for the 1983, 1984, and 1985 crops of upland cotton shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR UPLAND COTTON

SEC. 149. Section 103(g)(9)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of upland cotton who participates in the acreage limitation program for such crop of upland cotton under subparagraph (A), if the permitted acreage for the farm as determined under such subparagraph is reduced by an amount equivalent to the reduction required by the Secretary to be made under this subparagraph in addition to the reduction made under the acreage limitation program, and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such acreage limitation program. Such payments shall be made in an amount computed by multiplying (i) the rate of \$.25 per pound by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance payment under this subparagraph, subject to the provisions of paragraph (13), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

1983 CROP RICE ACREAGE REDUCTION AND DIVERSION PROGRAM

SEC. 150. Section 101(i)(5)(A) of the Agricultural Act of 1949 is amended by—

(1) striking out in the first sentence "Notwithstanding any other provision of this subsection, the" and inserting in lieu thereof "Notwithstanding any other provision of law, except as provided in the third and fourth sentences of this paragraph, the";

(2) inserting immediately after the second sentence of this paragraph the following: "If on November 15, 1982, the Secretary estimates that the 1982 crop of rice will be in excess of 145 million hundredweight, rough rice basis, the Secretary shall announce on such date that there will be in effect for the 1983 crop of rice a combination of (i) an acreage limitation program as described in this paragraph and (ii) a diversion program as described under paragraph (B) under which the acreage planted to rice on the farm would be limited to the acreage base for the farm reduced by a total of 20 per centum, consisting of a reduction of 10 per centum under the acreage limitation program and a reduction of 10 per centum under the diversion program. As a condition of eligibility for loans, purchases and payments on the 1983 crop of rice, the producers on a farm must comply with the terms and conditions of the combined acreage limitation and diversion program."; and

(3) inserting immediately after the ninth sentence (after the addition of paragraph (2) of this amendment) the following: "Notwithstanding any other provision of this subparagraph, the acreage base to be used for the farm under programs for the 1983, 1984, and 1985 crops of rice shall be the same as the acreage base applicable to the farm under the acreage limitation program for the 1982 crop, adjusted to reflect established crop-rotation practices and to reflect such other factors as the Secretary determines should be considered in determining a fair and equitable base."

1983 CROP RETIREMENT AND CONSERVATION PAYMENTS FOR RICE

SEC. 151. Section 101(i)(5)(B) of the Agricultural Act of 1949 is amended by adding at the end thereof the following: "Notwithstanding the foregoing provision of this paragraph, if the Secretary announces that there will be in effect a diversion program on the 1983 crop of rice, the Secretary shall make crop retirement and conservation payments available to any producer of the 1983 crop of rice who participates in the acreage limitation program for such crop of rice under subparagraph (A), if the permitted acreage for the farm is reduced by an amount equivalent to 10 per centum of the acreage base for the farm in addition to the reduction under subparagraph (A), and the producer devotes to approved conservation uses an equivalent acreage of cropland in addition to the acreage devoted to conservation uses under such subparagraph. Such payment shall be made in an amount computed by multiplying (i) a payment rate of \$3.00 per hundredweight by (ii) the farm program payment yield for the crop, by (iii) the additional acreage diverted under this subparagraph. The Secretary shall make not less than 50 per centum of any payments under this subparagraph to producers of the 1983 crop as soon as practicable after a producer enters into a land diversion contract with the Secretary and in advance of any determination of performance. If a producer fails to comply with a land diversion contract after obtaining an advance

payment under this subparagraph, subject to the provisions of paragraph (8), the producer shall repay the advance immediately and, in accordance with regulations issued by the Secretary, pay interest on the advance."

Subtitle E—Food Stamp Act Amendments of 1982

SHORT TITLE

SEC. 160. This subtitle may be cited as the "Food Stamp Act Amendments of 1982."

HOUSEHOLD DEFINITION

SEC. 161. Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by—

(1) in the first sentence, striking out "parents and children" and inserting in lieu thereof "parents and children, or siblings," and inserting "or siblings" after "the parents"; and

(2) inserting after the first sentence a new sentence as follows: "Notwithstanding paragraph (1) of the preceding sentence, an individual who lives with others, who is 60 years of age or older, and who is unable to purchase food and prepare meals because such individual suffers, as certified by a licensed physician, from a disability which would be considered a permanent disability under section 221(i) of the Social Security Act (42 U.S.C. 421(i)) or from severe, permanent, and disabling physical or mental infirmity which is not symptomatic of a disease shall be considered, together with any of the others who is the spouse of such individual, an individual household without regard to the purchase of food and preparation of meals if the income of the others (as computed under section 5(d) for purposes of determining, without regard to such individual and spouse, eligibility to receive food stamp benefits) does not exceed 165 per centum of the applicable nonfarm income poverty guideline prescribed by the Office of Management and Budget, adjusted as described in section 5(c), for a household excluding such individual and spouse."

ROUNDING DOWN

SEC. 162. (a) The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended by—

(1) in clause (1), inserting "(based on the unrounded cost of such diet)" after "adjustments"; and

(2) in each of clauses (6) and (7), striking out "nearest dollar increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment for each household size".

(b) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the second sentence, striking out "nearest \$5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment"; and

(2) in the proviso to clause (2) of the fourth sentence, striking out "nearest \$5 increment" each place it appears and inserting in lieu thereof "nearest lower dollar increment".

(c) The first sentence of section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by inserting "lower" after "nearest".

DISABLED VETERANS AND SURVIVORS

SEC. 163. (a) Section 3 of the Food Stamp Act of 1977 (7 U.S.C. 2012) is amended by adding at the end thereof a new subsection as follows:

"(r) 'Elderly or disabled member' means a member of a household who—

"(1) is sixty years of age or older;

"(2) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

"(3) receives disability or blindness payments under title I, II, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.);

"(4) is a veteran who—

"(A)(i) has a wartime disability, peacetime disability, or disability by treatment or vocational rehabilitation, which is rated as total under section 314, 334, or 351, respectively, of title 38, United States Code; or

"(ii) is considered in need of regular aid and attendance or permanently housebound under any such section; or

"(iii) is considered permanently and totally disabled, in need of regular aid and attendance, or permanently housebound under subsection (a), (b), or (c), respectively, of section 502 of title 38, United States Code;

"(5) is a surviving spouse of a veteran and—

"(A) is considered in need of regular aid and attendance or permanently housebound under subsection (d) or (e), respectively, of section 541 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i)); or

"(6) is a child of a veteran and—

"(A) is considered permanently incapable of self-support under section 414 of title 38, United States Code; or

"(B) receives veterans' compensation for a service-connected death or pension benefits for a non-service-connected death under section 321 or subchapter III of chapter 15, respectively, of title 38, United States Code, and has a disability considered permanent under section 221(i) of the Social Security Act (42 U.S.C. 421(i))."

(b) The first sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by striking out "sixty" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(c) Section 5(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(c)(1)) is amended by striking out "a member who is" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member".

(d) Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in the fourth sentence, striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member";

(2) in the fifth sentence—

(A) striking out "a member" and all that follows through "Act" the second place it appears and inserting in lieu thereof "an elderly or disabled member"; and

(B) in clause (A), striking out "household" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

(e) The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by striking out "sixty years" and all that follows through "Act" the second place it appears and inserting in lieu thereof "elderly or disabled members".

COORDINATION OF COST-OF-LIVING ADJUSTMENTS

SEC. 164. Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended by—

(1) at the end of clause (10), striking out "and"; and

(2) adding before the period at the end thereof the following: ", and (12) through September 30 of any fiscal year, any increase in income attributable to a cost-of-living adjustment made on or after July 1 of such fiscal year under titles II or XVI of the Social Security Act (42 U.S.C. 401 et seq.), section 3(a)(1) of the Railroad Retirement Act of 1974 (45 U.S.C. 231b(a)(1)), or section 3112 of title 38, United States Code, if the household was certified as eligible to participate in the food stamp program or received an allotment in the month immediately preceding the adjustment".

ADJUSTMENT OF DEDUCTIONS

SEC. 165. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) in clause (1) in the second sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983"; and

(2) in subdivision (i) of the proviso to clause (2) in the fourth sentence, striking out "July 1, 1983" and inserting in lieu thereof "October 1, 1983".

STANDARD UTILITY ALLOWANCES

SEC. 166. Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by—

(1) inserting after the fourth sentence the following: "In computing the excess shelter expense deduction under clause (2) of the preceding sentence, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance which does not fluctuate within a year to reflect seasonal variations. An allowance for a heating or cooling expense may not be used for a household that does not incur a heating or cooling expense, as the case may be, or does incur a heating or cooling expense but is located in a public housing unit which has central utility meters and charges households with regard to such expense only for excess utility costs. No such allowance may be used for a household that shares such expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the other individual, household, or both."; and

(2) in subclause (B) of the last sentence, striking out "preceding sentence" and inserting in lieu thereof "fourth sentence of this subsection".

AVERAGING INCOME

SEC. 167. Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by inserting after subparagraph (B) a new subparagraph as follows:

"(C) In computing household income under this section, household income that is received on a regular weekly or biweekly basis from the same source(s) shall be converted to a monthly amount."

MIGRANT FARMWORKERS

SEC. 168. The last sentence of section 5(f)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(4)) is amended by inserting after "subsection" the following: "(except the provisions of paragraph (2)(A) of this

subsection relating to migrant farmworker households).

ELIMINATION OF STUDIES AND REPORTS

SEC. 169. (a) The second sentence of section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended by striking out "(1)" and ", and (2)" and all that follows through "1978".

(b) Section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking out the last sentence.

(c) Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by—

(1) striking out subsections (d) and (e); and

(2) redesignating subsection (f) as subsection (d).

CATEGORICAL ELIGIBILITY

SEC. 170. Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by adding at the end thereof a new subsection as follows:

"(j) Notwithstanding subsections (a) through (i), a State agency may consider a household in which all members of the household receive benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and whose income does not exceed the applicable income standard of eligibility described in subsection (c) to have satisfied the resource requirements prescribed under subsection (g)."

IMPROVEMENT IN COST-EFFECTIVENESS OF MONTHLY REPORTING SYSTEMS

SEC. 171. The first sentence of section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended by—

(1) inserting "adult" between "all" and "members"; and

(2) adding, after "Secretary", the following: ", except that with the prior approval of the Secretary, a State agency may select categories of households which may report at specified less frequent intervals upon the State agency's showing to the satisfaction of the Secretary that to require households in such categories to report monthly would result in unwarranted expenditures for administration of this subsection".

REQUIREMENTS APPLICABLE TO JOB SEARCH

SEC. 172. Section 6(d)(1)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(ii)) is amended by inserting, after "Secretary", the following: ", which may include a requirement that, at the option of the State agency, such reporting and inquiry commence at the time of application".

VOLUNTARILY QUITTING A JOB

SEC. 173. Section 6(d)(1)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(1)(iii)) is amended by striking out "sixty days" in the proviso and inserting in lieu thereof "ninety days".

ALTERNATIVE ISSUANCE SYSTEM

SEC. 174. Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by inserting at the end thereof a new subsection as follows:

"(g) The Secretary may require State agencies—

"(1) to issue or deliver coupons using alternative methods, including an automatic data processing and information retrieval system; or

"(2) to issue, in lieu of coupons, a reusable document to be used as part of an automatic data processing and information retrieval system and to be presented by, and returned to, recipients at retail food stores for the purpose of purchasing food;

if the Secretary determines, in consultation with the Inspector General of the Department of Agriculture, that the use of such document or such system is necessary to improve the integrity of the food stamp program: *Provided*, That the cost of such document or system shall not be imposed upon retail food stores participating in the food stamp program."

ELIMINATION OF INITIAL MONTH ALLOTMENTS OF UNDER TEN DOLLARS

SEC. 175. The first sentence of section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by inserting before the period at the end thereof the following: ", except that no allotment may be issued to a household for the initial month or period if the value of the allotment which such household would otherwise be eligible to receive under this subsection is less than \$10".

DISCLOSURE OF INFORMATION

SEC. 176. Section 11(e)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(8)) is amended by inserting before ", except that (A)" the following: "or of direct Federal assistance programs and Federally-assisted State programs".

EXPEDITED SERVICE

SEC. 177. Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended to read as follows:

"(9) that a destitute migrant or a seasonal farm worker household in accordance with the regulations governing such households in effect July 1, 1982, and any other household in immediate need because of no income as defined in sections 5(d) and (e) of this Act receive coupons on an expedited basis";

PROMPT REDUCTION OR TERMINATION OF BENEFITS

SEC. 178. Section 11(e)(10) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(10)) is amended by inserting after "earlier" the following: ", except that in any case in which the State agency receives from the household a written statement containing information that clearly requires a reduction or termination of the household's benefits, the State agency may act immediately to reduce or terminate the household's benefits and may provide notice of its action to the household as late as the date on which the action becomes effective".

DUPLICATION OF BENEFITS

SEC. 179. Section 11(e) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)) is amended by—

(1) in paragraph (16), striking out the period at the end thereof and inserting in lieu thereof a semicolon;

(2) in paragraph (20), striking out "and" at the end thereof;

(3) in paragraph (21), striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(4) adding at the end thereof a new paragraph as follows:

"(22) that the State agency shall determine, not less frequently than annually—

"(A) whether households participating in the food stamp program include as members individuals who, under section 6(g), may not be considered members of such households; and

"(B) whether households participating in projects conducted under section 17(b)(1) receive both coupons and any assistance provided under such projects in lieu of coupons."

ERROR RATE REDUCTION SYSTEM

SEC. 180. (a) Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by—

(1) amending subsection (c) to read as follows:

"(c) The Secretary is authorized to adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the cost already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share to 60 per centum of all such administrative costs in the case of a State agency which has—

"(1) a payment error rate as defined in subsection (d)(1) which, when added to the total percentage of all allotments under-issued to eligible households by the State agency, is less than 5 per centum; and

"(2) a rate of invalid decisions in denying eligibility which is less than a nationwide percentage which the Secretary determines to be reasonable.";

(2) striking out subsections (d), (e), and (g), and redesignating subsections (f), (h), and (i) as subsections (e), (f), and (g), respectively; and

(3) inserting after subsection (c) a new subsection as follows:

"(d)(1) As used in this subsection, the term 'payment error rate' means the total percentage of all allotments issued in a fiscal year by a State agency which are either—

"(A) issued to households which fail to meet basic program eligibility requirements; or

"(B) overissued to eligible households.

"(2)(A) The Secretary shall institute an error rate reduction program under which, if a State agency's payment error rate exceeds—

"(i) 9 per centum for fiscal year 1983,

"(ii) 7 per centum for fiscal year 1984, or

"(iii) 5 per centum for fiscal year 1985 or any fiscal year thereafter,

then the Secretary shall, other than for good cause shown or as provided in subparagraph (B), reduce the State agency's federally funded share of administrative costs provided pursuant to subsection (a), other than the costs already shared in excess of 50 per centum under the proviso in the first sentence of subsection (a) or under subsection (g), by the amounts required under paragraph (3).

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs pursuant to subparagraph (A)—

"(i) on the basis of the State agency's payment error rate for fiscal year 1983, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 33.3 per centum of the difference between the State agency's payment error rate for such period and 5 per centum; or

"(ii) on the basis of the State agency's payment error rate for fiscal year 1984, if such payment error rate represents a reduction from the State agency's payment error rate for the period beginning on October 1, 1980, and ending on March 31, 1981, of at least 66.7 per centum of the difference between the State agency's payment error rate for such period and 5 per centum.

"(3)(A) The Secretary shall reduce a State agency's federally funded share of administrative costs, except as provided in subparagraph (B), by—

"(i) 5 per centum for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); and

"(ii) if the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum, an additional 5 per centum (for a total of 10 per centum) for each per centum or fraction thereof that the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2) by more than 3 per centum.

"(B) The Secretary may not reduce a State agency's federally funded share of administrative costs for a fiscal year by an amount that exceeds the product of multiplying—

"(i) the per centum by which the State agency's payment error rate exceeds the maximum payment error rate allowed for the fiscal year under paragraph (2); by

"(ii) the total dollar value of all coupons issued by the State agency during the fiscal year.

"(4) The Secretary may require a State agency to report any factors which the Secretary considers necessary to determine the appropriate level of a State agency's federally funded share of administrative costs under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

"(5) If the Secretary reduces a State agency's federally funded share of administrative costs under this subsection, the State may seek administrative and judicial review of the action pursuant to section 14."

(b) Section 11(e)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(3)) is amended by—

(1) striking out "subsections (h) and (i) of section 16" and inserting in lieu thereof "section 16(e)"; and

(2) striking out "quality control program" and inserting in lieu thereof "error rate reduction program".

(c) The first sentence of section 18(e) of the Food Stamp Act of 1977 (7 U.S.C. 2027(e)) is amended by striking out "sections 7(f), 11 (g) and (h), 13(b), and 16(g)" and inserting in lieu thereof "sections 7(f), 11 (g) and (h), and 13(b)".

(d) The amendments made by this section shall become effective on October 1, 1982.

BENEFIT IMPACT STUDY

Sec. 181. Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026), as amended by section 310(c) of this title, is amended by adding at the end thereof a new subsection as follows:

"(e) The Secretary shall conduct a study of the effects of reductions made in benefits provided under this Act pursuant to part 1 of subtitle A of title I of the Omnibus Budget Reconciliation Act of 1981, title XIII of the Agriculture and Food Act of 1981, and any other laws enacted by the Ninety-seventh Congress which affect the food stamp program. The study shall include a study of the effect of retrospective accounting and periodic reporting procedures established under such Acts, including the impact on benefit and administrative costs and on error rates and the degree to which eligible households are denied food stamp benefits for failure to file complete periodic reports. The Secretary shall submit to the Committee on Agriculture of the House of Representatives and Committee on Agriculture, Nutrition, and Forestry of

the Senate an interim report on the results of such study no later than February 1, 1984 and a final report on the results of such study no later than March 1, 1985."

AUTHORIZATION FOR APPROPRIATIONS

Sec. 182. The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by—

(1) striking out "and" after "September 30, 1981"; and

(2) inserting before the period at the end thereof the following: "; not in excess of \$12,648,000,000 for the fiscal year ending September 30, 1983; not in excess of \$12,908,000,000 for the fiscal year ending September 30, 1984; and not in excess of \$13,651,000,000 for the fiscal year ending September 30, 1985".

PUERTO RICO

Sec. 183. (a) Section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by inserting "non-cash" before "food assistance".

(b) The amendment made by subsection (a) shall not apply with respect to any plan submitted under section 19(b) of the Food Stamp Act of 1977 (7 U.S.C. 2028(b)) by the Commonwealth of Puerto Rico in order to receive payments for fiscal year 1982 or fiscal year 1983.

(c) The Secretary of Agriculture shall conduct a study of the impact of making food assistance available to needy persons in the Commonwealth of Puerto Rico in the form of cash under section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028). The study shall include such impact on both the nutritional status of residents of Puerto Rico and the economy of Puerto Rico. The Secretary shall submit a report of the findings of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than six months after the effective date of this subtitle.

REIMBURSEMENT OF POLITICAL SUBDIVISIONS AND STATE AGENCIES FOR WORKFARE ADMINISTRATIVE EXPENSES

Sec. 184. (a) Section 20(g) of the Food Stamp Act of 1977 (7 U.S.C. 2029(g)) is amended by—

(1) redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) a new paragraph as follows:

"(2)(A) From 50 per centum of the funds saved from employment related to a workfare program operated under this section, the Secretary shall pay to each operating agency an amount not to exceed the administrative expenses described in paragraph (1) for which no reimbursement is provided under such paragraph.

"(B) For purposes of subparagraph (A), the term 'funds saved from employment related to a workfare program operated under this section' means an amount equal to the three times the dollar value of the sum of the decrease in allotments issued to households, to the extent that such decrease results from wages received by members of such households for the first month of employment beginning after the date such members commence such employment if such employment commences—

"(i) while such members are participating for the first time in a workfare program operated under this section; or

"(ii) in the thirty-day period beginning on the date such first participation is terminated."

(b) The amendments made by this section shall take effect October 1, 1982.

AMENDMENTS MADE BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981 AND THE AGRICULTURE AND FOOD ACT OF 1981

Sec. 185. (a) Notwithstanding section 117 of the Omnibus Budget Reconciliation Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 101, 102, 103, 104, 105, 106, 107 (other than subsection (b)), 108 (other than subsection (c)), 109, 110, 111, 112, 113, and 114 of such Act shall take effect on the date of the enactment of this subtitle, unless such amendments have taken effect before such date.

(b) Notwithstanding section 1338 of the Agriculture and Food Act of 1981 (7 U.S.C. 2012 note), the amendments made by sections 1302 through 1333 of such Act shall take effect on the date of the enactment of this subtitle, unless such amendments have taken effect before such date.

EFFECTIVE DATES

Sec. 186. (a) Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this subtitle.

(b) Sections 321 and 325 shall take effect on October 1, 1982.

TITLE II—BANKING

TREATMENT OF FHA SINGLE-FAMILY MORTGAGE INSURANCE PREMIUMS

Sec. 201. (a) Section 203(b) of the National Housing Act is amended by—

(1) inserting after "150 per centum of such median price" in the first sentence of paragraph (2) the following: "Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured"; and

(2) inserting after "cost of acquisition" in paragraph (9) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

(b) Section 203(c) of such Act is amended by inserting the following before the period at the end of the fourth sentence: "Provided, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations".

(c) Section 213(b)(2) of such Act is amended by inserting after "exceeded by not to exceed 90 per centum in such an area" the following: "Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(d) Section 221(d) of such Act is amended by—

(1) inserting after "in any geographical area where he finds that cost levels so require" in paragraph (2)(A) the following: "Provided further, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance

premium paid at the time the mortgage is insured";

(2) inserting after "of its acquisition cost" in paragraph (2)(B)(i)(2) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)"; and

(3) striking out "mortgage insurance premium," in paragraph (2)(B)(i)(2).

(e) Section 234(c) of such Act is amended by inserting after "one-family house price in the area, as determined by the Secretary" in clause (A) of the third sentence thereof the following: "Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured".

(f) Section 235(i) of such Act is amended by—

(1) inserting after "respectively" in paragraph (3)(B) the following: "Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(2) inserting after "respectively" in paragraph (3)(C) the following: "Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured";

(3) inserting after "so require" in paragraph (3)(D) the following: "Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured"; and

(4) inserting after "acquisition" in paragraph (3)(E) the following: "(excluding the mortgage insurance premium paid at the time the mortgage is insured)".

IMPLEMENTATION

SEC. 202. The amendments made by this Act, except for section 203, may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this Act, is actuarially sound.

SEC. 203. The last sentence of section 3552 of the Revised Statutes (31 U.S.C. 369) is amended to read as follows: "There are authorized to be appropriated for fiscal year 1983 not to exceed \$50,165,000 for all expenditures (salaries and expenses) of the mints and assay offices not herein otherwise provided for."

TITLE III—CIVIL SERVICE PROGRAMS

ROUNDING DOWN OF CIVIL SERVICE RETIREMENT ANNUITIES

SEC. 301. (a) Section 8340(e) of title 5, United States Code, is amended by striking out "fixed at the nearest dollar" and inserting in lieu thereof "rounded to the next lowest dollar".

(b) Section 8345(a) of title 5, United States Code, is amended by striking out "fixed at the nearest dollar" and inserting in lieu thereof "rounded to the next lowest dollar".

(c) The amendments made by subsections (a) and (b) shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any annuity adjustment or redetermination made on or after such date.

LATER COMMENCEMENT DATE FOR CERTAIN ANNUITIES

SEC. 302. (a) Section 8345(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) Except as otherwise provided—

"(A) an annuity of an employee or Member commences on the first day of the month after—

"(i) separation from the service; or

"(ii) pay ceases and the service and age requirements for title to annuity are met; and

"(B) any other annuity payable from the Fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

"(2) The annuity of—

"(A) an employee involuntarily separated from service, except by removal for cause on charges of misconduct or delinquency; and

"(B) an employee or Member retiring under section 8337 of this title due to a disability;

shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to annuity are met."

(b) The amendment made by subsection (a) shall apply to annuities which commence on or after October 1, 1982.

FEDERAL EMPLOYEE PAY COMPARABILITY ADJUSTMENTS

SEC. 303. (a) Notwithstanding any other provision of law, if—

(1) before September 1, 1982, the President transmits to the Congress pursuant to section 5305(c)(1) of title 5, United States Code, an alternative plan which provides for an overall percentage pay adjustment which is less than 4 percent, and

(2) the alternative plan referred to in paragraph (1) is disapproved pursuant to such section 5305,

the rates of pay under the General Schedule and the rates of pay under the other statutory pay systems shall be increased under the provisions of such section 5305 by 4 percent in the case of fiscal year 1983.

(b) Each increase in a pay rate or schedule which takes effect pursuant to subsection (a) shall, to the maximum extent practicable, be of the same percentage, and shall take effect on the first day of the first applicable pay period commencing on or after October 1 of such fiscal year.

TITLE IV—VETERANS' PROGRAMS

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SEC. 401. (a) This title may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982".

(b) Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subtitle A—Compensation and Dependency and Indemnity Compensation Rate Increases

RATES OF DISABILITY COMPENSATION

SEC. 411. (a) Section 314 is amended—

(1) by striking out "\$58" in subsection (a) and inserting in lieu thereof "\$62";

(2) by striking out "\$107" in subsection (b) and inserting in lieu thereof "\$114";

(3) by striking out "\$162" in subsection (c) and inserting in lieu thereof "\$173";

(4) by striking out "\$232" in subsection (d) and inserting in lieu thereof "\$249";

(5) by striking out "\$328" in subsection (e) and inserting in lieu thereof "\$352";

(6) by striking out "\$413" in subsection (f) and inserting in lieu thereof "\$443";

(7) by striking out "\$521" in subsection (g) and inserting in lieu thereof "\$559";

(8) by striking out "\$604" in subsection (h) and inserting in lieu thereof "\$648";

(9) by striking out "\$679" in subsection (i) and inserting in lieu thereof "\$729";

(10) by striking out "\$1,130" in subsection (j) and inserting in lieu thereof "\$1,213";

(11) by striking out "\$1,403" and "\$1,966" in subsection (k) and inserting in lieu thereof "\$1,506" and "\$2,111", respectively;

(12) by striking out "\$1,403" in subsection (l) and inserting in lieu thereof "\$1,506";

(13) by striking out "\$1,547" in subsection (m) and inserting in lieu thereof "\$1,661";

(14) by striking out "\$1,758" in subsection (n) and inserting in lieu thereof "\$1,888";

(15) by striking out "\$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "\$2,111";

(16) by striking out "\$844" and "\$1,257" in subsection (r) and inserting in lieu thereof "\$906" and "\$1,350", respectively;

(17) by striking out "\$1,264" in subsection (s) and inserting in lieu thereof "\$1,357"; and

(18) by striking out "\$244" in subsection (t) and inserting in lieu thereof "\$262".

(b) The Administrator of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 412. Section 315(1) is amended—

(1) by striking out "\$69" in clause (A) and inserting in lieu thereof "\$74";

(2) by striking out "\$116" in clause (B) and inserting in lieu thereof "\$124";

(3) by striking out "\$153" in clause (C) and inserting in lieu thereof "\$164";

(4) by striking out "\$192" and "\$38" in clause (D) and inserting in lieu thereof "\$206" and "\$40", respectively;

(5) by striking out "\$47" in clause (E) and inserting in lieu thereof "\$50";

(6) by striking out "\$86" in clause (F) and inserting in lieu thereof "\$92";

(7) by striking out "\$123" and "\$38" in clause (G) and inserting in lieu thereof "\$132" and "\$40", respectively;

(8) by striking out "\$56" in clause (H) and inserting in lieu thereof "\$60";

(9) by striking out "\$125" in clause (I) and inserting in lieu thereof "\$134"; and

(10) by striking out "\$105" in clause (J) and inserting in lieu thereof "\$112".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 413. Section 362 is amended by striking out "\$305" and inserting in lieu thereof "\$327".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 414. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$445	W-4	\$639
E-2	459	O-1	563
E-3	470	O-2	582
E-4	500	O-3	622
E-5	514	O-4	658

Pay grade	Monthly rate	Pay grade	Monthly rate
E-6	526	O-5	726
E-7	552	O-6	817
E-8	582	O-7	884
E-9	608	O-8	969
W-1	563	O-9	1,041
W-2	586	O-10	1,139
W-3	603		

¹ If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be \$655.

² If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be \$1,222.

(b) Subsection (b) of such section is amended by striking out "\$48" and inserting in lieu thereof "\$51".

(c) Subsection (c) of such section is amended by striking out "\$125" and inserting in lieu thereof "\$134".

(d) Subsection (d) of such section is amended by striking out "\$62" and inserting in lieu thereof "\$66".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 415. Section 413 is amended—

(1) by striking out "\$210" in clause (1) and inserting in lieu thereof "\$225";

(2) by striking out "\$301" in clause (2) and inserting in lieu thereof "\$323";

(3) by striking out "\$389" in clause (3) and inserting in lieu thereof "\$417"; and

(4) by striking out "\$389" and "\$79" in clause (4) and inserting in lieu thereof "\$417" and "\$84", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 416. Section 414 is amended—

(1) by striking out "\$125" in subsection (a) and inserting in lieu thereof "\$134";

(2) by striking out "\$210" in subsection (b) and inserting in lieu thereof "\$225"; and

(3) by striking out "\$107" in subsection (c) and inserting in lieu thereof "\$114".

EFFECTIVE DATE

SEC. 417. The amendments made by this subtitle shall take effect on October 1, 1982.

Subtitle B—Program Changes

ELIGIBILITY OF SENIOR RESERVE OFFICERS' TRAINING CORPS PARTICIPANTS INJURED DURING SUMMER MILITARY TRAINING CAMP FOR VETERANS' ADMINISTRATION BENEFITS

SEC. 421. (a) Section 101(22) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following new clause (D):

"(D) annual training duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for a period of fourteen days or more; and".

(b) The amendments made by subsection (a) shall apply with respect to diseases and injuries incurred or aggravated during duty performed after September 30, 1982.

INCREASE IN COMPENSATION RATE FOR BLINDED VETERANS

SEC. 422. (a) Section 314(n) is amended by inserting "or has suffered blindness without light perception in both eyes," after "anatomical loss of both eyes,".

(b) Section 314(p) is amended by inserting "or service-connected anatomical loss or loss of use of one hand or one foot" after "in one ear".

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1982.

ROUNDING OF RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 423. (a) The second sentence of section 315(2) is amended to read as follows: "The amounts payable under this paragraph, if not a multiple of \$1, shall be adjusted downward to the nearest dollar."

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

CORRECTION OF TECHNICAL ERROR WITH RESPECT TO ENTITLEMENT TO DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 424. (a) Section 410(b)(1) is amended by inserting "or entitled to receive" after "was in receipt of".

(b) The amendment made by subsection (a) shall apply with respect to dependency and indemnity compensation payable for months after September 1982.

ADMINISTRATIVE IMPROVEMENTS TO LIFE INSURANCE PROGRAMS

SEC. 425. (a) Section 770 is amended—

(1) by striking out the second sentence of subsection (c); and

(2) by adding at the end the following new subsection:

"(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would otherwise escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any sum to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection."

(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

BURIAL FLAGS

SEC. 426. (a) Section 901 is amended by adding at the end the following new subsection:

"(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery under eligibility for burial under section 1002(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Administrator considers appropriate."

(b) The amendment made by subsection (a) shall apply with respect to burials after September 30, 1982.

BURIAL BENEFITS FOR CERTAIN VETERANS WHOSE REMAINS ARE UNCLAIMED

SEC. 427. Section 902(a) is amended by striking out "When a veteran" and all that follows through "the Administrator," and inserting in lieu thereof the following: "When a veteran dies—

"(1) who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or who was in receipt of pension; or

"(2) in the case of a veteran of any war or a veteran who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State) and with respect to whom the Administrator determines—

"(A) that there is no next of kin or other person claiming the body of the deceased veteran; and

"(B) that there are not available, from the deceased veteran's estate or otherwise, sufficient resources to defray the cost of the burial and funeral of the deceased veteran, the Administrator,".

(b) The amendment made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

CLARIFICATION OF ELIGIBILITY FOR BURIAL BENEFITS FOR PERSONS DYING IN CONTRACT NURSING HOME FACILITIES

SEC. 428. (a) Section 903(a) is amended—

(1) by striking out "Where death occurs in a Veterans' Administration facility" and inserting in lieu thereof "When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title)"; and

(2) by inserting "or in an institution to which the deceased was properly transferred for nursing home care under section 620 of this title" after "of this title".

(b) The amendments made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

SUPERINTENDENTS OF NATIONAL CEMETERIES UNDER THE JURISDICTION OF THE SECRETARY OF THE ARMY

SEC. 429. Notwithstanding section 7(b)(2) of the National Cemeteries Act of 1973 (87 Stat. 88), the provisions of the Act entitled "An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in the line of duty for active field service", approved March 24, 1948, as in effect on the day before the effective date of section 7 of the National Cemeteries Act of 1973, shall not apply with respect to the appointment of superintendents of national cemeteries under the jurisdiction of the Secretary of the Army.

PROTECTION OF QUALITY OF HEALTH CARE

SEC. 430. (a) Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Except as provided in subparagraph (B) of this paragraph, all activities carried out at a medical facility under the direct jurisdiction of the Administrator shall be performed by Federal employees unless the Administrator, after considering the advice of the Chief Medical Director, determines that such facility is not capable of carrying out any such activity through such employees or that contracting for the performance of such activity would enhance the quality of medical care for eligible veterans.

"(B) Subparagraph (A) of this paragraph does not prohibit or restrict any authority of the Veterans' Administration under any other provision of this title or any other provision of law to enter into contracts or cooperative sharing agreements with other Federal agencies or departments or with State or nongovernmental entities for the exchange or sharing of goods, services, facilities, or resources."

(b) Section 5010(a)(6) of title 38, United States Code, as added by subsection (a), does not apply with respect to a contract in effect on May 15, 1982, or to any renewal, extension, or modification of such a contract.

Subtitle C—Budget Savings Provisions

SHORT TITLE

SEC. 431. This subtitle may be cited as the "Veterans' Budget Reconciliation Act of 1982".

LOAN ORIGINATION FEE FOR VETERANS' ADMINISTRATION HOME LOANS

SEC. 432. (a)(1) Subchapter III of chapter 37 is amended by adding at the end the following new section:

"§ 1829. Loan fees

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a loan guaranteed, made, or insured under this chapter, and no loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been collected and remitted to the Administrator. The amount of the fee shall be one-half of 1 per centum of the total loan amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

"(b) A fee shall not be collected under this section from a veteran receiving or entitled to receive compensation or from a surviving spouse described in section 1801(b)(2) of this title.

"(c) Fees collected under this section shall be deposited into the Treasury as miscellaneous receipts.

"(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

"1829. Loan fees."

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

EFFECTIVE DATE OF PAYMENTS

Sec. 433. (a)(1) Chapter 51 is amended by inserting after section 3010 the following new section:

"§ 3011. Commencement of payment based on an award

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made for any period before the first day of the calendar month following the month in which the award became effective as provided under section 3010 of this title or such other provision of law.

"(b)(1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such pay in accordance with section 3105 of this title, such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the

month in which such veteran's death occurred."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of payment based on an award."

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

Sec. 434. Effective on October 1, 1982, section 3012(b)(2) is amended by striking out "calendar year" and inserting in lieu thereof "month".

ROUNDING OF PENSION TO NEXT LOWER DOLLAR

Sec. 435. (a)(1) Chapter 51 is amended by adding at the end the following new section:

"§ 3023. Rounding of pension payments

"The amount of any pension payment under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of \$1, shall be rounded down to the next lower multiple of \$1."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Rounding of pension payments."

(b) Section 3023 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

ELIGIBILITY OF COLLEGE STUDENTS FOR PENSION

Sec. 436. (a) Section 501 is amended by adding at the end the following new paragraph:

"(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term 'child' shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.

"(B) The term 'child' includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support."

(b) The amendment made by subsection (a) does not apply to any child to whom or on behalf of whom pension or additional pension for the month of September 1982 is payable under section 521, 541, or 542 of title 38, United States Code, if such child has attained the age of eighteen years before October 1, 1982.

(c)(1) Notwithstanding any provision of section 521, 541, 542, or 3112 of title 38, United States Code, or section 306(a) of Public Law 95-588, and except as provided in paragraph (2) of this subsection, pension or additional pension payable to or on behalf of any child, including a child described by subsection (b) of this section, under section 521, 541, or 542 of such title or section 306(a) of Public Law 95-588, on the basis of the child's pursuit of a course of instruction at an approved educational institution, shall—

(A) not be paid for the months of May, June, July, and August, beginning with the months of May 1983;

(B) not be paid for any month after April 1985;

(C) not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of September 1982 (or a later month if the Administrator considers a later month appropriate under the circumstances), reduced by an amount—

(i) during the months after September 1982 and before May 1983, equal to 25 per centum of the benefit payable for September 1982 (or such later month);

(ii) during the months after August 1983 and before May 1984, equal to 50 per centum of the benefit payable for September 1982 (or such later month); and

(iii) during the months after September 1984 and before May 1985, equal to 75 per centum of the benefit payable for September 1982 (or such later month); and

(D) not be paid for any month after such pension or additional pension is discontinued at any time after September 30, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

(2) The limitations and reductions provided for under paragraph (1) of this subsection shall not apply to pension or additional pension payable to or on behalf of a child who—

(A) before attaining the age of eighteen became permanently incapable of self-support, or

(B) who, after attaining the age of eighteen and before attaining the age of nineteen, is pursuing a program of education for the purpose of receiving a secondary school diploma.

REPEAL OF AUTHORITY TO PURSUE CORRESPONDENCE TRAINING

Sec. 437. (a) Section 1631(c) is repealed.

(b)(1) Section 1652(c) is amended by striking out "correspondence school,".

(2) Section 1681(b) is amended by striking out "other than a program exclusively by correspondence,".

(3)(A) Section 1684 is amended to read as follows:

"§ 1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title."

(B) The item relating to such section in the table of sections at the beginning of chapter 34 of such title is amended to read as follows:

"1684. Apprenticeship or other on-job training."

(c)(1) Section 1701(a)(6) is amended by striking out "correspondence school,".

(2)(A) Section 1734 is amended—

(i) by striking out "(a)"; and

(ii) by striking out subsection (b).

(B) The heading for such section is amended to read as follows:

"§ 1734. Apprenticeship or other on-job training."

(C) The item relating to such section in the table of sections at the beginning of chapter 35 is amended to read as follows:

"1734. Apprenticeship or other on-job training."

(d)(1) Section 1780 is amended—

(A) in subsection (a)—

(i) by striking out "other than a program by correspondence,";

(ii) by inserting "or" at the end of clause (4);

(iii) by striking out clause (5); and
(iv) by redesignating clause (6) as clause (5);

(B) by striking out subsection (b) (including the center heading preceding such subsection); and

(C) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively; and

(D) by striking out "subsection (d)(2)" in subsection (d) (as so redesignated) and inserting in lieu thereof "subsection (c)(2)".

(2) Section 1784 is amended—

(A) by striking out "or, in the case of correspondence training, the last date a lesson was serviced by a school" in subsection (a); and

(B) by striking out "section 1780(d)(4)" in subsection (c) and inserting in lieu thereof "section 1780(c)(4)".

(3)(A) Section 1786, relating to correspondence courses, is repealed.

(B) The table of sections at the beginning of chapter 36 is amended by striking out the item relating to section 1786.

(4) The second sentence of section 1798(c) of such title is amended by striking out "correspondence, or".

(e) Section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (38 U.S.C. 1712 note) is amended by striking out "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) or (2)".

(f) The amendments made by this section shall take effect on October 1, 1982.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CONCERNING SUCCESSFUL COMPLETION OF THE TEST FLIGHT PHASE OF SPACE SHUTTLE PROGRAM

Mr. FUQUA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the joint resolution (H.J. Res. 541) concerning the successful completion of the test flight phase of the Space Shuttle program, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Strike out all after the resolving clause and insert:

That the Congress of the United States congratulates the National Aeronautics and Space Administration, the members of the Astronaut Corps, prime contractor Rockwell International, associate contractors Martin Marietta and Thiokol, the thousands of Shuttle subcontractors throughout the United States, and the tens of thousands of dedicated Space Shuttle workers who contributed to the successful completion of the Space Shuttle test flight period and to the entry of our Nation into a promising new era of spaceflight for the benefit of the people of the United States and all mankind.

Strike out the preamble and insert:

Whereas when the Space Shuttle Columbia flew through a blazing re-entry and skimmed to a perfect landing on the 4th of

July 1982, at Edwards Air Force Base, California, the National Aeronautics and Space Administration successfully completed the test flight phase of the Space Shuttle program and began a new era of operational Space Shuttle missions;

Whereas in four test missions, the Space Shuttle Columbia, a reusable spaceship designed to provide routine space travel for a wide variety of scientific, commercial, and military payloads at reduced costs and with a high reliability of success, lived up to its promise as the most advanced spacecraft in the world;

Whereas in four test missions, the Columbia was lifted from Earth, orbited in the vacuum of space like a satellite, operated a variety of scientific experiments, tested the capability of the remote manipulator system to deploy satellites in orbit and to retrieve satellites, descended into the Earth's atmosphere, was piloted by astronauts like a conventional winged airplane, and was landed at Edwards Air Force Base, California, and at White Sands missile range, New Mexico;

Whereas the Space Shuttle Columbia, the newly completed Space Shuttle Challenger, and the sister Shuttles Discovery and Atlantis, now under construction, will be able to fly repeatedly back and forth from space as an operational space transportation system;

Whereas the Space Shuttle orbiters will accommodate an unprecedented variety of payloads including a fully equipped scientific laboratory (Spacelab) provided by the European space agency, underscoring the commitment of the United States to international cooperation in space activities;

Whereas using the unique qualities of the space environment (weightlessness and a near perfect vacuum) the Space Shuttle orbiters will be used for experiments to produce special alloys, metals, glasses, crystals, and pharmaceuticals that cannot be performed on Earth;

Whereas the Space Shuttle orbiters will place in orbit satellites to observe the Earth's weather, provide improved communications, discover new mineral resources, monitor crop and timber yields, help United States forces to navigate, and monitor arms control agreements;

Whereas the Space Shuttle orbiters will also place in orbit the most powerful space telescope and will launch scientific probes to explore the planets;

Whereas the Space Shuttle program is a national enterprise, geographically and technologically, requiring tens of thousands of skilled workers to design, develop, test and evaluate the various Space Shuttle components;

Whereas the Space Shuttle program has been judged by independent research organizations to have a positive effect on the national economy, creating jobs, reducing inflationary pressures, and forwarding the development of advanced technologies; and

Whereas the Space Shuttle program is a source of great national pride and the United States now holds world leadership in its proven ability to operate a reusable Space Shuttle: Now, therefore, be it

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5543, OCEAN AND COASTAL RESOURCES MANAGEMENT AND DEVELOPMENT BLOCK GRANT ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-706) on the resolution (H. Res. 555) providing for the consideration of the bill (H.R. 5543) to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the fund, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6666, PROVIDING ADDITIONAL AUTHORIZATION FOR LIBRARY OF CONGRESS JAMES MADISON MEMORIAL BUILDING

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-707) on the resolution (H. Res. 556) providing for the consideration of the bill (H.R. 6666) to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6786, AUTHORIZING ADDITIONAL FUNDS FOR ACQUISITION OF CERTAIN PROPERTY FOR U.S. CAPITOL GROUNDS

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 97-708) on the resolution (H. Res. 557) providing for the consideration of the bill (H.R. 6786) to amend Public Law 96-432 relating to the U.S. Capitol Grounds to authorize additional funds for the acquisition of certain property for addition to the U.S. Capitol Grounds, which was referred to the House Calendar and ordered to be printed.

RADIO BROADCASTING TO CUBA ACT

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Incorporated.

The SPEAKER. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5427, with Mr. RATCHFORD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, August 3, 1982, pending was the first committee amendment recommended by the Committee on Energy and Commerce, and a substitute for said amendment offered by the gentleman from Iowa (Mr. LEACH).

The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

AMENDMENT OFFERED BY MR. HARKIN TO THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. HARKIN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN to the Energy and Commerce Committee amendment: Page 4, strike out line 11 and all that follows through line 8 on page 6 and insert in lieu thereof the following:

"(2) any AM frequency broadcasting to Cuba under this Act may only be carried out under the authority provided by subsection (e).

"(e) For purposes of providing AM frequency broadcasting to Cuba under this Act, the Board is authorized to—

"(1) prepare or otherwise obtain material suitable for radio broadcasting; and

"(2) provide for the broadcasting of that material to Cuba by making expenditures for charges for the use of the facilities of commercial radio broadcasting stations which can be heard in Cuba."

Page 4, line 1, strike out "(A)" and insert in lieu thereof "(1) if the Board selects a non-AM frequency for broadcasting to Cuba and if such facilities can be converted for use for broadcasting on that non-AM frequency."

Page 3, line 24, strike out "(1)".

Mr. HARKIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

(Mr. HARKIN asked and was given permission to revise and extend his remarks.)

Mr. HARKIN. Mr. Chairman, this amendment requires that if the AM band is to be used, then the mechanism will be to have the material prepared by the Board, the Board of International Broadcasting, but broadcast on a number of commercial stations.

This amendment enables private enterprise to participate in and benefit

from the \$10 million project to broadcast to Cuba. It also permits broadcasters, rather than the administration, to decide whether they wish to expose their frequency and public service to the risk that Cuba will retaliate on their frequency.

This amendment adopts the voluntarism philosophy of Kenneth Giddens, a former Director of the Voice of America, a consultant to the Presidential Commission on Broadcasting to Cuba, and an AM-FM TV broadcaster in Mobile, Ala. Mr. Giddens told officials of WHO radio in Des Moines that they should be happy to sacrifice their station in this confrontation with Cuba. He suggested that WHO's reluctance indicated a "lack of patriotism."

In a recent issue of "Broadcasting," Mr. Giddens said that if he were in WHO's shoes he would be ashamed of the way WHO is acting in trying to protect its station and service. Mr. Giddens told Broadcasting: "Maybe I am more idealistic" than WHO. He added that broadcasters "are at a risk" in the radio confrontation with Cuba, and he said, "It's a gamble we all take." Further quoting Mr. Giddens in Broadcasting, he said: "Any soldier who goes to war might be shot."

This amendment that I am offering, therefore, would allow Mr. Giddens and other broadcasters who agree with him to volunteer to place their idealism, patriotism and stations on the frontlines.

Moreover, the adoption of this amendment will maximize the chance of Radio Marti's signal actually reaching Cuba and serving a useful purpose.

There is little doubt that in its present form, that is, a single AM radio station, Cuba can completely block the signal from reaching the island. The State and Defense Department have said so, as have the FCC, the NTIA and the ICA. That being the case, to invest \$10 million in Radio Marti in its present form would be a total waste of the public's money. There is a better way. The time-proven method used by international broadcasters to overcome jamming is to broadcast on multiple frequencies. As the House Committee on Government Operations found in its December 11, 1981, report on international broadcasting:

Multiple frequency broadcasting gives the jammer more to deal with and increases the possibility that listeners will be able to tune in an audible signal.

□ 1540

Mr. Chairman, there is a strong argument to be made that Cubans would be more likely to listen to existing AM stations than to Radio Marti. There are a number of stations from the United States and from other Caribbean countries that can be heard very well in Cuba. In fact, there are at least

two very worthy precedents for this type of paid rebroadcasting.

After 1962, WGBS, WKWF in Key West, WWL in New Orleans, Radio Caribbean from the Dominican Republic transmitted programs prepared by the Cuban Freedom Committee founded in Washington by Representative Roman Pucinski who believed that Cubans had been brainwashed with a "Hate America" campaign and thereafter they responded by taking money and buying time on then existing commercial radio stations.

These stations immediately volunteered their services and were connected through telephone line patches to the Voice of America in Washington. Again I am talking about these stations—WCKR, WGBS, WMIE, all from Miami, WSB in Atlanta, WGN in Chicago, WWL in New Orleans, WCKY in Cincinnati, WRUL in Massachusetts, WGEL in Belmont, Calif., the last two being shortwave stations.

So what I am saying with my amendment is rather than just build one radio station, Radio Marti, at one frequency to broadcast propaganda to Cuba, let us take the \$10 million, and go ahead and let the BIB prepare the material in any way that they want to, take the money and buy time on commercial radio stations, buy it on WINZ Radio in Miami, or WQBA, or WWL, or any other radio station that would be willing to broadcast to Cuba.

And I guarantee my colleagues if given the money to buy the time, they will broadcast. And rather than having Castro try to jam just one frequency, he is going to have 10 or 15 frequencies out there beaming into Cuba.

So I submit, if Members really want to get a message across to Cuba, support this amendment. No. 1, it will be a volunteer effort by radio stations to go ahead and broadcast. They will be paid handsomely for the time that we buy on their stations, and the material will be prepared by the Board for International Broadcasting.

It seems to me that this is the best way to get our message through to Castro without giving him the ability to block the signal.

I urge support of the amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, the main points that the gentleman from Iowa has made have been made before and will probably unfortunately be made over and over again on every amendment.

Without having the slightest bit of doubt as to the seriousness of those who oppose this bill, basically when you examine the amendment what it does is simply kill the bill. It is a lot simpler just to vote against the bill if that is what the Members want to do, in all seriousness.

Now, I am glad the gentleman from Iowa brought up the problem about the radio stations in Miami. Some of them do reach Cuba with AM broadcasting. They reach the fringes of Havana. They by no means cover the entire island of Cuba. There is no way they could do that. Besides that, to do the kind of job that is necessary to reach the Cuban people, you would have to use quite sophisticated directional antenna and towers. You are not talking about just a plain old commercial radio station. And, sure, if you gave commercial stations the money they would want to try to do something with it. And, yes, of course they are all willing. But they would not reach the audience we are trying to reach.

So let us not fool anybody that if you suddenly went out and bought a lot of time on WHO, or WINZ, or some other radio station, that you are going to do the job as envisioned in this bill by the Board for International Broadcasting.

It would be like saying, in effect, that the way to broadcast into Poland is to buy a lot of time on German commercial stations, let them broadcast into Poland and in that way we would not have to operate the transmitters that we have in Munich and other sites in Europe in order to get our message across.

Now, you either want to do this job right or you do not. And obviously commercial stations are not a good substitute. The amendment simply guts all of the authority of the Board for International Broadcasting to use its experience in this type of international broadcasting. And if the Members want to do that, it is understandable, if you are opposed to the bill.

But from just a logical, common-sense, reasonable standpoint, there is no way that this amendment should be adopted. I would urge my colleagues to vote against it.

And let me say in conclusion we have several amendments that are rather substantive. And I am sure the gentleman from Iowa thinks this is a substantive amendment.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

I most assuredly think it is. We do have precedents for this.

Mr. FASCELL. I understand all of that. Of course we have precedents for it. That is the reason we had to quit, because it was not any good. And that is the reason we have to try something else if we are going to be sensible about it. I do not want to be ridiculous about this thing. The amendment just goes to the heart of the bill. It destroys all of the authority for the Board for International Broadcasting

to make these broadcasts. It would be just as if you reached in there and took all the authority away from the Board for International Broadcasting to run Radio Free Europe or Radio Liberty and say to them, "You prepare the material and give it to a commercial station." I think that is ridiculous.

I ask my colleagues to vote it down.

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment. I would like to make some comments relative to this amendment and to several other amendments that may be offered as well.

I would like to begin with some comments that the gentleman from Iowa made with regard to the analogy that taking this action is analogous to going to war.

If broadcasting propaganda to Cuba is a helpful U.S. national policy, and I am satisfied to take the judgment of the Foreign Relations Committee which has expertise in that area that it is, then it does not follow that there is only one way to do that and that the State Department is the only agency of the U.S. Federal Government capable of determining how to achieve that particular policy end. That is a distinction that is terribly important to make in this debate.

The gentleman from Florida said that if you were opposed to the whole bill you would certainly want to support the Harkin amendment. I would think that is true. But I think it is also true that you do not have to be opposed to the whole bill to support the Harkin amendment or some of the other amendments that have been noticed in the Record that will be offered.

We are talking here not necessarily about opposing what policy initiatives the State Department wishes to make. We are suggesting that those policy initiatives can be satisfied in ways that are not deleterious to the functioning of U.S. broadcasting.

If you want to wrap the flag around the policy goal, fine. But do not let someone tell you that you necessarily have to wrap the flag about this specific means of doing it.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

The gentleman makes a very good point. Obviously I am opposed to the bill. I make no secret of that.

But I am saying that if the bill does pass and if the people who support the bill really wanted to do what they think it is going to do, the best way to do it would be to take whatever money we are going to expend to build this one station and to do what we did back in the sixties, and that is buy commer-

cial time on commercial radio stations and have those stations volunteer their time. We want this voluntarism. But they are going to be paid for their time.

Let me say that the amendment is not just limited to U.S. stations. We can buy time on Jamaican stations, they get to Cuba, radio stations in Santa Domingo that get there, and other countries that broadcast in Spanish to Cuba. It is not just limited to U.S. stations.

So I would submit that if you really want to broadcast to the Cuban people and not allow Castro to jam it, this is the single best way to do it.

Mr. SWIFT. I thank the gentleman for those remarks.

I would just summarize my point as saying there is nothing essential to establishing Radio Marti in the precise fashion established by the State Department in order to achieve that policy goal.

□ 1550

I would hope the Members of the House would listen to this particular amendment and other amendments that will be offered that provide alternative means of achieving the same end, because they do exist and they will not interfere totally with achieving that policy goal, regardless of what the Members who support it will tell you.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, the question arises, is this or is it not a viable alternative. The fact of the matter is that if we look at it realistically, the amendment offered by the gentleman from Iowa is not a real alternative. The South Florida Broadcasters Association in their testimony to the House Foreign Affairs Committee on March 3 stated: "Commercial operations are a poor substitute for the proposed Radio Marti."

Because of their distance from Cuba, because of their insufficient power and antenna which are not designed for broadcasting to Cuba, the U.S. stations can be heard only in limited areas of Cuba and cannot provide the blanket coverage that is needed and that is envisioned for Radio Marti. Radio Marti's transmitter will be located in the Florida Keys and will have a directional antenna. Even when Radio Marti will need a separate transmitter in the Caribbean to reach eastern Cuba.

Furthermore, we do not know what, if any, radio stations in Caribbean countries can be heard in Cuba. There is no reason to believe that any such station would be willing to broadcast to Cuba in our behalf.

We have to take a look at the philosophy of private stations. Many of them are often identified with positions that are too partisan to serve our interests, whereas Radio Marti would be nonpartisan.

Finally, private stations might be reluctant to give up prime time for Radio Marti, since this might affect their own commercial viability. The cost to Radio Marti, therefore, for leasing this prime time might be quite high.

In the final analysis, the amendment is a poor amendment. It would gut the legislation. It would kill its purpose. It would render it ineffective and the amendment should be defeated.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we should point out that we are not just talking about the radio stations in southern Florida about which the last speaker spoke. This authorizes them to use stations from any area.

The gentleman said that they do not have adequate power to properly reach Cuba. There is a station in Mexico, for example, that uses 150,000 watts, compared to the 50,000 watts of the station in Florida; one in Colombia with 100,000; one in Venezuela with 100,000 watts. These are Spanish-speaking stations, widely heard in Cuba.

I hope that we will realize that whereas we are talking about American broadcasting stations, we are not limiting it to American broadcasting stations and this amendment of the gentleman from Iowa (Mr. HARKIN) makes it possible for them to contract not only with powerful stations outside of the country, but with stations which very possibly would have more credibility as we contract for such broadcasters.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I would be glad to yield to the gentleman.

Mr. RINALDO. Has the gentleman discussed this proposal with the management of any of these stations? Have they agreed to this form of broadcasting on behalf of the United States?

Mr. BEDELL. I would leave it up to the gentleman, but I guess that normally when you buy time, you can buy time; but I would ask the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, if the gentleman will yield, just in response to the gentleman, as I said, we have precedents for this in the sixties when we did, indeed, buy time from commercial stations.

Again, what I am pointing out with my amendment is that if Mr. Giddens wants voluntarism and wants people to volunteer, let us let these radio sta-

tions volunteer their time in the United States.

Now, I would just say one further thing, that there are also precedents for using other stations, such as radio Clarin in Santo Domingo, which is an anti-Castro station; and WQBA in Miami, which broadcasts at 10,000 watts.

There is also radio Swan and all the other ones that the gentleman mentioned.

I am certain that if you want to buy time on those stations, you will get the time.

Mr. RINALDO. Mr. Chairman, will the gentleman yield further?

Mr. BEDELL. I would be glad to yield to the gentleman.

Mr. RINALDO. I am sure there are precedents; but as was very aptly pointed out earlier by the gentleman from Florida, the precedents are bad precedents. They were not workable. That is why the State Department, that is why the administration, that is why everyone who formulated this legislation feels that we need Radio Marti.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Quite to the contrary, it was successful in the sixties, but the point is that what happened was that we found in the sixties that when these stations were broadcasting to Cuba, there was such a virulent anti-U.S. attitude in Cuba at that time that it was not getting through.

I submit perhaps times have changed, because we do know that Cubans are listening to Miami radio stations. I know from having been stationed in Cuba before at Guantanamo that they listen to Jamaican radio stations; so we can buy Jamaican time, too. They are listening to all these stations now which they did not listen to in the early sixties.

Mr. TAUKE. Mr. Chairman, will the gentleman from Iowa yield?

Mr. BEDELL. I will be glad to yield to my colleague, the gentleman from Iowa.

Mr. TAUKE. It is interesting that the proponents of the measure before us should use the failure of other efforts in the past as reason for denying the use of those efforts. If we go back over the last 25 years and review the record of U.S. broadcasting to Cuba, we have had dozens of efforts to broadcast information to Cuba; a program called Radio Swan, which was set up by the CIA back in the sixties was very similar to Radio Marti. That failed and I presume that it could be argued that this proposal, Radio Marti, could suffer the same fate if we are to judge by precedent.

We look at what happened to the program Cita Con Cuba, when it was broadcast by the Voice of America. That failed and was gradually phased out. I can assume that judging from precedent that the proposal that we have before us of Radio Marti could also fail.

I do not think that the proponents want to find themselves in the position of suggesting that simply because something has not worked well in the past that that is reason for rejecting it, because if they do offer that rationale, that is adequate rationale to reject the whole proposal.

Mr. LEACH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will be very brief and just simply say that I rise in support of the amendment of the gentleman from Iowa, although I do have one concern that I think should be placed in the RECORD. That is, if it should pass, it should be clear that this authorizes the use of foreign stations, but does not require it.

I personally support the notion of using private stations. It is kind of a free enterprise approach, and very interestingly, I would suspect would be far cheaper than a governmental approach from a number of points of view.

I have to say that I have some sense of an unseemliness about the U.S. Government buying time on a foreign station in order to propagandize a particular point of view to a country like Cuba.

I would only say that the Harkin amendment makes a good deal of sense to me, although if I were to leave any advice for the record it would be that we should not be buying foreign time.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. Of course.

Mr. HARKIN. I appreciate the gentleman's viewpoint. I am just saying, in response to my other colleague, the gentleman from Iowa (Mr. TAUKE), that if you ever hoped to get through a message to the Cubans, it would seem to me that this is the most logical and reasonable way of doing it; rather than one single frequency owned and operated by the U.S. Government to have time on a number of commercial stations that the Cubans are already listening to. That is why I say that if you really want to get that message through and if you support the bill, that this ought to be the best, most economical way to do it.

Mr. LEACH of Iowa. I would agree with the gentleman, but simply stress that it is not only the most economical, it certainly has the best chance of surviving some sort of jamming offensive by the other side.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. Yes, of course.

Mr. BEDELL. I think we should also point out that there is great concern about the possible jamming of whatever frequencies are used. If that should occur, I should suspect that Castro would be somewhat less likely to jam the stations from Mexico or Santo Domingo or those other stations, if it were to be necessary to do that.

I share that gentleman's concern, but it certainly is a lifejacket that is there in case it needed to be used.

Mr. LEACH of Iowa. The gentleman makes a good point, but I would stress that a number of the bands that are used in the United States that might be used against Cuba also have similar frequencies used in South America and Mexico. One of the problems with the legislation before us is that if any band is jammed, it will have an effect in Mexico and South America on those stations.

I personally feel very strongly that Cuba will not be blamed for it, that the likelihood is that the United States will be perceived as the aggressor in this particular war and that in Latin America, Cuba will be seen as a country responding in a more rational fashion than perhaps we would like and that the problem will fall on the United States of America in terms of being perceived as a country that is decimating Latin American broadcasting.

□ 1600

Mr. DERWINSKI. Mr. Chairman, I rise to oppose the amendment.

Now, I recognize that it sounds so noble to say, "Let us use free enterprise." But let us look at the facts of life here: The facts of life here are that if we adopted an amendment like this it would create an administrative monstrosity that we could not control.

Can my colleagues imagine the total chaos an administrator of this program would face trying to decide what stations to use where, how and in what ratio?

The next thing we know we would have interested local friends trying to promote a certain slice of the pie.

Mr. FASCELL. Mr. Chairman, will the gentleman yield to me?

Mr. DERWINSKI. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, it is not only an administrative nightmare, but let us examine how fair the amendment is.

Under the bill, the Board for International Broadcasting would have the flexibility, and the administration would have the flexibility to do whatever seemed best in the country's interest. It does not mandate anything. It could contract out, which the gentleman from Iowa now supports—but

later on in another amendment he will be opposed to. They could go commercial. They could do whatever they wanted to do if it seemed the best way to do it.

What the amendment would do would be to foreclose all the options except the one that is in the amendment.

As the gentleman from Illinois points out, that is an administrative nightmare and probably would not get the job done because it would require all kinds of international agreements and a whole host of other arrangements.

Although it is possible theoretically and technically to do it, you could not reach your listening audience. It would be a disaster to operate a sensible program this way.

That is what the amendment means.

Mr. DERWINSKI. One other point I would like to make. I forget who the Member was who commented that the use of time on a commercial station would somehow be more acceptable than using a Government station; quite the contrary. Remember, we are supposed to be beaming a message to the people of Cuba. They want to know that the United States is interested in them. They want to know they are not forgotten. They want to know there is an alternative to messages other than those coming out of the Castro-Soviet propaganda machine.

The very fact that the U.S. Government is now showing this dramatic, long overdue interest is a sign of hope and inspiration to the people of Cuba. That is the gut issue before us.

There are all sorts of wonderfully phrased and clever amendments; but, remember, the attack behind every one of these amendments is on the very concept of Radio Marti and broadcasting to the people of Cuba. That is the issue before us and it will be the issue before us again and again and again.

The concept here is, to give the people of Cuba the truth which they have been denied for 23 years. They have been spoon-fed propaganda. That is a concept that justifies Radio Free Europe, Radio Liberty for Europe the recognition that behind the Iron Curtain you do not receive the truth. That is the real issue here. You could claim to be using a more effective station from Jamaica, the Dominican Republic, throw in others with the geographical potential, the facts of life are that you need a U.S. message to the people of Cuba, a message of truth. That is what we will be voting on again and again and again.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I just want to say I completely agree with the remarks of the gentleman. I spent an interesting week in Cuba once. I found it startling because I had not experienced it before.

I had been in countries like Chile and Argentina that are supposed to be repressive, but I could always find a copy of an American newspaper or Time magazine or Newsweek, or something, no matter how authoritarian those governments were. But in Havana it was impossible to find anything other than the Communist paper which was dripping with "Hate America, Hate America"; everywhere you went, there was propaganda either on a wall or on a building, "Hate America, Hate America."

Mr. DERWINSKI. Or on the billboards.

Mr. HYDE. Or on billboards. You just could not find the truth in that country. Those people who are warm people, friendly, disposed toward the United States, are being denied an opportunity to learn what is going on in the world.

The same thing is true in Czechoslovakia, Hungary, by the way. Communism has a way of stultifying and stamping out access to the truth.

This bill is a direct way of rectifying that, and I support it.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(On request of Mr. BEDELL and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Chairman, I would ask the gentleman if anyone were to buy time on those stations and run these programs, does the gentleman think for a minute that the people who heard that would not know that was a message from the United States any more than if any other manufacturer or any other person bought time and ran it over that station?

Mr. DERWINSKI. Very definitely. First, how would they know after listening to, say, a message which would be advertising Post Toasties in Jamaica that, the following message was intended for them. We could not get this thing coordinated at all. That is the point we made earlier.

Also, from a practical accounting standpoint we would drive the General Accounting Office crazy trying to monitor what they were doing, how, why.

That is why I make the basic point that this amendment is one of many intended to do one thing: Attack the

very concept of the creation of this entity. That is what it does.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN) to the Energy and Commerce Committee amendment.

The question was taken; and on a division (demanded by Mr. HARKIN) there were—ayes 7, noes 16.

RECORDED VOTE

Mr. HARKIN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 78, noes 284, answered "present" 1, not voting 71, as follows:

[Roll No. 259]

AYES—78

Albosta	Harkin	Pritchard
Aspin	Hightower	Rahall
Bedell	Jacobs	Ratchford
Bingham	Jones (TN)	Reuss
Brown (CA)	Kastenmeier	Roberts (SD)
Burton, Phillip	Kildee	Roemer
Clay	LaFalce	Roybal
Collins (IL)	Leach	Sabo
Daschle	Leland	Savage
Dellums	Long (MD)	Schroeder
Dingell	Lowry (WA)	Schumer
Dorgan	Lundine	Seiberling
Dowdy	Markey	Shamansky
Downey	Martinez	Shannon
Dymally	McCloskey	Simon
Edgar	McHugh	Stark
Edwards (CA)	Miller (CA)	Stokes
Evans (IA)	Mitchell (MD)	Studds
Evans (IN)	Mottl	Swift
Ferraro	Oakar	Synar
Fithian	Oberstar	Tauke
Foley	Obey	Vento
Gejdenson	Ottlinger	Washington
Gonzalez	Paul	Williams (MT)
Gray	Pease	Wirth
Hall, Sam	Petri	Wolpe

NOES—284

Addabbo	Chisholm	Erlenborn
Alexander	Clausen	Ertel
Anderson	Coats	Fary
Andrews	Coelho	Fascell
Annuizio	Coleman	Fazio
Anthony	Collins (TX)	Fenwick
Applegate	Conable	Fiedler
Archer	Conte	Fields
Ashbrook	Corcoran	Findley
Atkinson	Coughlin	Fish
Badham	Courter	Florio
Bailey (MO)	Coyne, James	Foglietta
Bailey (PA)	Coyne, William	Ford (TN)
Barnard	Craig	Forsythe
Barnes	Crane, Daniel	Fountain
Beard	Crane, Philip	Fowler
Bellenson	D'Amours	Frank
Benedict	Daniel, Dan	Frost
Benjamin	Daniel, R. W.	Fuqua
Bennett	Dannemeyer	Garcia
Bethune	de la Garza	Gephardt
Bevill	Deckard	Gibbons
Biaggi	DeNardis	Gilman
Billey	Derrick	Gingrich
Boggs	Derwinski	Glickman
Boland	Dickinson	Goodling
Boner	Dicks	Gore
Bouquard	Dixon	Gradison
Bowen	Donnelly	Gramm
Breaux	Dreier	Green
Brinkley	Duncan	Gregg
Brooks	Dunn	Guarini
Broomfield	Dwyer	Gunderson
Brown (CO)	Dyson	Hagedorn
Broyhill	Early	Hall (OH)
Burgener	Eckart	Hall, Ralph
Byron	Edwards (AL)	Hamilton
Campbell	Edwards (OK)	Hammerschmidt
Carman	Emerson	Hance
Cheney	English	Hansen (ID)
	Erdahl	Hansen (UT)

Hartnett	Mazzoli	Schulze
Hatcher	McCollum	Sensenbrenner
Heckler	McCurdy	Sharp
Heftel	McDonald	Shaw
Hendon	McEwen	Shelby
Holland	McGrath	Shumway
Hollenbeck	Mica	Shuster
Holt	Mikulski	Skelton
Hopkins	Miller (OH)	Smith (AL)
Horton	Mineta	Smith (IA)
Howard	Minish	Smith (NE)
Hoyer	Mitchell (NY)	Smith (NJ)
Hubbard	Moakley	Smith (OR)
Huckaby	Molinar	Smith (PA)
Hughes	Mollohan	Snowe
Hunter	Montgomery	Snyder
Hutto	Moore	Solarz
Hyde	Moorhead	Solomon
Ireland	Morrison	Spence
Jeffords	Murphy	St Germain
Jeffries	Murtha	Stangeland
Johnston	Myers	Staton
Jones (OK)	Napier	Stenholm
Kazen	Natcher	Stratton
Kemp	Nelligan	Stump
Kennelly	Nelson	Tauzin
Kindness	Nichols	Taylor
Kogovsek	Nowak	Thomas
Kramer	O'Brien	Trible
Lantos	Panetta	Udall
Latta	Parris	Vander Jagt
Leath	Pashayan	Volkmer
LeBouthillier	Patman	Walker
Lee	Patterson	Wampler
Lehman	Pepper	Watkins
Lent	Perkins	Waxman
Levitas	Peyser	Weaver
Lewis	Pickle	Weber (OH)
Livingston	Price	Weiss
Loeffler	Quillen	White
Long (LA)	Rangel	Whitehurst
Lowery (CA)	Regula	Whitley
Lujan	Rinaldo	Whitten
Luken	Roberts (KS)	Williams (OH)
Lungren	Robinson	Winn
Madigan	Rodino	Wortley
Marlenee	Roe	Wright
Marriott	Rogers	Wyden
Martin (IL)	Rostenkowski	Yates
Martin (NY)	Roth	Yatron
Matsui	Rousselot	Young (FL)
Mattox	Rudd	Zablocki
Mavroules	Russo	Zerferetti
	Scheuer	

ANSWERED "PRESENT"—1

Hefner

NOT VOTING—71

Akaka	Flippo	Pursell
AuCoin	Ford (MI)	Railsback
Bafalis	Frenzel	Rhodes
Bereuter	Gaydos	Richmond
Blanchard	Ginn	Ritter
Bolling	Goldwater	Rose
Bonior	Grisham	Rosenthal
Bonker	Hawkins	Roukema
Brodhead	Hertel	Santini
Brown (OH)	Hiler	Sawyer
Burton, John	Hillis	Schneider
Butler	Jenkins	Siljander
Carney	Jones (NC)	Skeen
Chappell	Lott	Stanton
Clinger	Marks	Traxler
Conyers	Martin (NC)	Walgren
Crockett	McClary	Weber (MN)
Daub	McDade	Whittaker
Davis	McKinney	Wilson
Dornan	Michel	Wolf
Dougherty	Moffett	Wyle
Emery	Neal	Young (AK)
Evans (DE)	Oxley	Young (MO)
Evans (GA)	Porter	

□ 1620

Messrs. JOHNSTON, HOPKINS, and YATES changed their votes from "aye" to "no."

So the amendment to the Energy and Commerce Committee amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. TAUKE TO THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. TAUKE. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. TAUKE to the Energy and Commerce Committee amendment: Page 4, strike out line 11 and all that follows through page 6, line 8, and insert in lieu thereof the following:

"(2) no Federal agency shall have any authority to select a frequency for such radio broadcasting, and the Broad shall not have any authority to operate on a frequency for such radio broadcasting, if such frequency, as of the date of the enactment of the Radio Broadcasting to Cuba Act (A) is allocated to non-Government radio broadcasting in the United States; or (B) is within 10 kilohertz of any frequency allocated to non-Government radio broadcasting in the United States."

Page 3, line 24, strike out "(d)(1)" and insert in lieu thereof "(d)".

Page 4, line 1, strike out "(A)" and insert in lieu thereof "(1)".

Mr. TAUKE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. TAUKE. Mr. Chairman, I know that this bill has already been debated at some length, and I recognize that many of the Members are already becoming somewhat weary of the subject of radio broadcasting to Cuba.

The amendment that I have offered, however, is an amendment that I believe deserves careful consideration. It was approved by the Subcommittee on Telecommunications, Consumer Protection and Finance by a 12-to-2 vote when this issue first came before that subcommittee, and it was reported, of course, to the full Committee on Energy and Commerce. After extensive negotiations with the State Department, we had reached an agreement on what we thought was a compromise for this amendment to be offered to the full committee, only at the last moment to have the State Department back out. So this amendment was never considered by the full Committee on Energy and Commerce. And it did receive the 12-to-2 endorsement of the Telecommunications Subcommittee.

Mr. Chairman, one of the big concerns that we have had about the whole concept of Radio Marti is: How do we make certain that the information that is being broadcast on Radio Marti is actually heard by the Cubans? A second major concern is: How do we prevent major interference from occurring to those American broadcasters who are trying to reach our own

people with news, information, and entertainment?

It occurred to us, as we looked at this problem of how to reach the Cubans and how to prevent interference of American broadcasts, that the best alternative was to use the accepted form for international broadcasting—shortwave. Both Radio Free Europe and Radio Liberty use shortwave because it is the accepted frequency for international broadcasting. In addition, it is much more difficult to interfere with or to jam than AM or FM broadcasting. That is why the members of the Telecommunications Subcommittee said that it made a lot of sense to have shortwave be the frequency for broadcasting on Radio Marti.

□ 1630

It occurred to us that with shortwave we would first of all reach more people in Cuba.

I wish all of the members of the committee would have the opportunity to read the feasibility study on Radio Free Cuba done by the International Communications Agency that was issued last July.

I wish all of you had the opportunity to read the Voice of America broadcasting to Cuba study. Because I think that you would find in those studies clear evidence of what even the proponents of this proposal have recognized, and that is that there is going to be interference with domestic commercial broadcasters as a result of Radio Marti.

If it does what the Foreign Affairs Committee says it will do to the people of Cuba, if they hear it; namely, caused them to be disenchanted with their government, surely the Castro government has a great stake in preventing it from being heard.

If it is broadcast on AM, then, I am sure that it will be jammed or interfered with by Castro and will not be heard by the Cubans.

Now, I know there are going to be those who support Radio Marti on the AM band who will say that there are no shortwave sets in Cuba.

We have done some research into this. It is estimated by UNESCO that there are a half million shortwave sets in Cuba. The sets are being put together right now in Cuba. They come from the Soviet Union and they are assembled in Cuba.

For 80 pesos, virtually any Cuban can buy a shortwave set and many have done so already.

But the fact is it makes a great deal more sense to reach that 10, 20, or 25 percent of the Cubans who have shortwave sets with a shortwave broadcast than it does to spend millions of dollars to broadcast on AM with no assurance that any Cuban will hear it.

Moreover, this amendment protects American broadcasters. While we need

to look at the foreign policy repercussions, we must be very concerned as well about the domestic repercussions.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. TAUKE) has expired.

(By unanimous consent Mr. TAUKE was allowed to proceed for 1 additional minute.)

Mr. TAUKE. If we have Radio Marti established on AM, even the State Department personnel suggest that there would probably be retaliation. That is the excuse they gave for not putting it on Radio Marathon. That is the excuse they gave for rejecting some other frequencies that also happened to have Government stations broadcasting on them.

I believe it is fair to say the commercial broadcasters in this country will also suffer from interference if they happen to be on the same frequency as Radio Marti.

With shortwave, however, we do not have that problem. We will protect the commercial broadcasters.

So because this amendment protects the commercial broadcasters in this country and because it will guarantee that Radio Marti will reach more Cubans than Radio Marti broadcast on AM, I urge support for this proposal.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

The effect of this amendment, Mr. Chairman, purely and simply is to take Radio Marti broadcasting off the AM band and to restrict the broadcasting to shortwave.

What that means is that the U.S. Government cannot do what it started out to do; it is just that simple.

Shortwave is fine; it is effective; we use it with Radio Liberty; we use it with Radio Free Europe. There are a lot of shortwave sets in the European area that can receive a broadcast.

In Cuba you have a different ball game. You have roughly 2 million AM receivers.

If you adopt this amendment you say in effect, "Forget 2 million people, we will just carry our message to 50,000 of the elite in Cuba who have shortwave receivers."

This does not make sense to me. I think we ought to vote down the amendment.

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I just wish to reiterate a point that I made earlier about what we are wrapping the flag around.

The point is that one does not have to be opposed to the concept of Radio Marti in order to find the method the State Department has dictated we use to achieve that end. You do not have to support the method in order to

achieve the purpose or the policy goal that the State Department is after.

We hear every time we get about midway in the debate and when we start talking about what my committee has jurisdiction over and what my committee has some jurisdiction in, we run back to a lot of rhetoric about foreign policy.

We are not trying to tell the Foreign Affairs Committee how they should run their business, the area in which they have knowledge. If they believe Radio Marti is an important foreign policy initiative for the United States I will go along with that.

But when they then step totally outside their area of expertise and tell us how we have to do it, we discover that the method they suggest we have to use to do it is one that is going to directly interfere, and unnecessarily so, with U.S. broadcasters. And the only answer we have for that is, it is unpatriotic not to just roll over and play dead when Uncle Sam tells you your business has got to go down the drain in order that he can do this over here, that seems to me to be manifestly unfair.

The point we are hoping we can get the Members of this body to understand is you can support the Tauke amendment and achieve the goals of Radio Marti. You can do both. They are not fundamentally inconsistent.

I do not believe there is anyone here who would say that any American or any American business should unnecessarily give up something that is not needed in order to achieve a national foreign policy goal.

What the Tauke amendment says is we will do this for Cuba the way we do it in Europe, the way it has been done all over the world, the international method of conducting propaganda and informational programs, via shortwave.

That is all that is going on here.

So do not let them wrap a flag around the method even though it may be perfectly appropriate to wrap the flag around the foreign policy, and give very careful consideration to the Tauke amendment which is a thoughtful one, which says there is another way to achieve this goal that will not unnecessarily interfere with the American free enterprise system, with American broadcasters, and with the rights of the American public.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment proposed by the gentleman from Iowa. Although this amendment is presented in terms of whether Radio Marti should operate on shortwave or on the AM band, the real issue before us is whether Radio Marti should exist at all.

Shortwave is not a legitimate, viable alternative for Radio Marti. The adoption of this amendment would be the death knell for Radio Marti.

It is essential that Radio Marti be able to broadcast on the AM radio band. AM receivers are the prevalent type owned by the people of Cuba—the target audience for Radio Marti. The Cuban Government uses AM radio to reach its own people. Shortwave receivers are scarce in Cuba and are owned by government officials and the political elite—hardly listeners who would be influenced by Radio Marti.

AM radio is used in other instances for international broadcasting. For example, the BBC, Deutsche Welle (West Germany), Radio Free Europe, Voice of America, Radio Moscow and Radio Havana all use the AM band in addition to shortwave for their international broadcasts.

The purpose of this amendment is to eliminate the potential problem of Cuban interference with the signals of American AM radio broadcasters. Yet prohibiting Radio Marti from using the AM band will have no effect on Cuban interference with U.S. radio broadcasters.

Passage of this amendment is tantamount to killing Radio Marti. And for what reason? To head off the possibility of Cuban interference which has absolutely no relationship to Radio Marti.

This approach was rejected by the Energy and Commerce Committee, which adopted an amendment directing that all radio frequencies and bands be considered for Radio Marti. I urge the House to defeat the amendment.

Mr. YATRON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the gentleman from Iowa's amendment.

I support H.R. 5427 and commend our distinguished colleague from Florida, Congressman FASCELL, for his diligent efforts and leadership in bringing this bill to the floor for consideration.

Mr. Chairman, I support the concept of this radio station because it is first and foremost, a foreign policy tool which will utilize truthful information to counteract the propaganda forced on the Cuban people by Fidel Castro. If we are to succeed in reaching as many Cuban people as possible, it is absolutely essential that this radio station broadcasts on an AM frequency. For too long Cuba's radio broadcasts have interfered with commercial radio transmissions in Florida and throughout the United States and for the most part, we have done little to stop it. Castro has threatened to jam U.S. radio transmissions which is just more of what he has been doing to us and will continue to do unless we take

some responsible actions to rectify this problem.

Mr. Chairman, if we adopt the gentleman from Iowa's amendment, we will severely cripple the effectiveness of Radio Marti. By transmitting Radio Marti on shortwave only, we would be reaching such a minute segment of the Cuban population that we would be wasting our time and money on this station all together. In fact, by using shortwave, Radio Marti's primary audience would be the Communist elite which is certainly not the audience this station is intending to reach.

The only way this station can be effective with respect to reaching the majority of the Cuban people is to use an AM frequency. The Castro government uses the AM dial to broadcast its propaganda reports and if we are serious about conveying a message to the Cuban people, we should use an AM band as well.

In my view, Radio Marti would serve two fundamental purposes. The first and most important is that it offers the Cuban people realistic and truthful information about their country which their government will not allow them to know.

For example, why is the Cuban government spending millions of dollars to support thousands of Cuban troops in Angola when the Cuban economy is in dire straits. In other words, this radio station will convey the truth to the Cuban people that the source of their economic difficulties stems from government manipulation and military adventurism.

Last, we should pass H.R. 5427 allowing it to transmit on an AM frequency because if we are going to continue to find ourselves in confrontations perpetrated by Fidel Castro, I would much rather utilize the airwaves to counteract his propaganda attacks with truthful information instead of military-related actions.

Mr. Chairman, I might add that recently the Hispanic caucus of the Democratic Party's miniconvention in Philadelphia unanimously endorsed Radio Marti. The bipartisan support this proposed radio station has received clearly dispels any notion one might have that this station is being promoted by conservative ideologues bent on overthrowing Castro's regime.

A vote in favor of this bill is a vote in favor of freedom for the oppressed people of Cuba.

I urge that we defeat the gentleman from Iowa's amendment.

I yield back the balance of my time.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. YATRON. I yield to the gentleman from Iowa.

Mr. TAUKE. The gentleman, as I understand it, really made two points against the amendment that I offered. The first point was that only the Cuban elite have shortwave stations.

The CRS reports that today we have about 500,000 shortwave sets in Cuba, which is about 20 percent of the number of AM sets available in Cuba, leading one to believe that perhaps about 20 percent of the population would have access to shortwave.

In addition, shortwave sets are being manufactured every day in Cuba.

It just occurs to me that to suggest that 20 percent of the people are in the Communist elite is going a little far.

The second suggestion that the gentleman makes is that if we broadcast on AM, we would reach more people, when even the VOA report on Cuban broadcasting and the International Communications Agency Feasibility Study, the FCC, the NTIA, all indicate that there will be jamming of the frequencies involved with broadcasting to Cuba, which would lead me to believe that there will be nobody in Cuba receiving this on AM because it is so easily jammed.

It appears to me that if the choice is between nobody receiving this on AM or 20 percent receiving it on shortwave, what you said argues in favor of shortwave.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment clears the air a bit. This is a very practical amendment. It is one of the major challenges to the bill, to the concept before us.

Now, the gentleman from Iowa did state, and others have made the point, that in this amendment we are not debating foreign policy. We are debating the concern about the technical issues involving effective radio broadcasting.

Let me take a couple of points, and if I am wrong I stand to be corrected. My understanding is that this amendment was adopted in the subcommittee and then rejected by a vote of 24 to 18 in the full committee; is that correct?

Mr. WIRTH. If the gentleman will yield, the amendment that was offered by the gentleman from Iowa was accepted by the subcommittee by a 12 to 2 motion. We then had significant discussions with the State Department, and a substitute amendment was agreed to with the State Department that had the FCC involved in the process. And we talked about that 2 weeks ago. The amendment that was voted in the full committee was not this amendment. The full committee never focused on the amendment on shortwave. The full committee voted and focused only on the substitute relating to the FCC. It did not focus on this at all.

Mr. DERWINSKI. It related to this basic concern.

Mr. WIRTH. No, but this was not debated at all. The question voted on in full committee was, Who should allocate spectrum and make that decision? Should it be the FCC or the NTIA?

Mr. DERWINSKI. Let me reclaim my time. This was, however, the basic issue that your committee faced.

Mr. WIRTH. No, it was one of who made the decision, the FCC or the NTIA, is what was focused on in the substitute offered in the full committee. The issue of using the shortwave frequency was never debated.

Mr. DERWINSKI. But the facts are that this amendment did not clear your full committee.

Mr. WIRTH. It was not voted on in the full committee.

Mr. DERWINSKI. I am assuming it was never offered because you did not have the horses.

Mr. WIRTH. Just for the point of making the record, the gentleman from New Jersey had said that this had been voted down by the full committee. Not the case. It was never voted on in full committee because of all of the discussions which we had with the State Department, upon which the State Department reneged, as was pointed out in general debate 2 weeks ago.

Mr. DERWINSKI. Let me get back to the point, though. The key point here, the issue is AM versus shortwave in this particular case.

Let me point out a couple of practical things. Shortwave is used effectively in Europe. But it is not practical in reaching the vast audience in Cuba. That is why AM must be used. In fact, you might be interested to know that the Soviets beam shortwave to Cuba. The broadcasts are then translated by the Cuban Government into Spanish and put on AM in Cuba, which is an admission, I presume, that the audience in shortwave is not good enough.

May I also point out—that proponents of this amendment use the figure of reaching anywhere from 10 to 20 percent. Now, that means 80 or 90 percent of the audience in Cuba would not be reached, if my arithmetic is correct.

□ 1650

Therefore, this amendment would have the effect of minimizing the value of Radio Marti as the concept is advocated.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Wisconsin.

Mr. ROTH. I thank the gentleman for yielding.

I think that the gentleman is really hitting the nub of the problem. Whether it is a shortwave or whether it is AM, we have to take a look at what tools are available to us and how can we get the job done with the best

tools available. That means we have to go the route of the AM, because if, as the author of the amendment has said, half a million Cubans could be reached with shortwave, and we all are aware that there are over 10 million Cubans it stands to reason that AM is the only feasible approach. Shortwave means we would have a potential of reaching only one in 20 Cubans.

I think we have to keep our eyes on facts so we can make the proper judgments, which means that we have to go the route of the AM.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(At the request of Mr. TAUKE and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 3 additional minutes.)

Mr. TAUKE. I thank the gentleman for yielding.

I think as the gentleman from Wisconsin said, this is the nub of the issue. The gentleman is suggesting that if we go on shortwave and reach 10 or 20 or 25 percent of the Cuban people, miss 75 to 90 percent of them, that we are diminishing the impact of Radio Marti.

Mr. DERWINSKI. That is correct.

Mr. TAUKE. Which means to me that the gentleman assumes that the AM broadcast of Radio Marti will be heard by Cubans.

Mr. DERWINSKI. Yes. If I may point out to the gentleman, AM is the Cuban Government's utilization main outlet. The Cuban Government has five national AM stations I understand.

Mr. TAUKE. That is right. And I agree with the gentleman that the Cubans would normally listen to AM if they had that option, and it would be a better option if they would get it.

I guess my point is this. The gentleman has pointed out what devastating impact broadcasts of the truth about Cuba to the Cuban people could have for Castro and his government. When it is abundantly clear that AM can easily be jammed or interfered with and when Castro has not only said he would so do, but is building the mechanism with which to do it, what makes the gentleman believe that the AM broadcasts from the United States will not be jammed, that there will not be interference?

Mr. DERWINSKI. I am assuming there will be an attempt to jam. May I also say I do not take at face value the threats or promises of Mr. Castro. Mr. Castro, for example, has been on record for 20 some years as promising his people Utopia. I was there last fall and it is a far cry from Utopia.

On this point, the assumption is on the side of the opponents of the bill

who keep assuming there would be some diabolical ability of Castro to totally destroy AM listening potential in the United States.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from New Jersey.

Mr. RINALDO. I thank the gentleman for yielding.

I think it is important to point out in this discussion of jamming the fact there is no one to the best of my knowledge in this Chamber who knows exactly what Castro is going to do.

Furthermore, I think it is important to point out that if Castro did decide to interfere with Radio Marti by using a nondirectional antenna he would also interfere with the following stations. And I think it is about time we got on the record just what he would be doing. It is highly unlikely that Castro would risk alienating these neighbors with whom he is very desirous of maintaining good relationships, and that is something I know personally.

The Castro government has always used nondirectional antennas, allegedly because they are less costly. But if he was attempting to jam WHO, he would also jam TGJP in Guatemala. He would also jam radio stations in Nicaragua, Honduras, Costa Rica, the Dominican Republic. In Mexico he would jam 10 stations, 2 in Venezuela, 7 in Colombia, and 1 in Grenada. In other words, he would jam a total of 26 stations, including 16 in operation, 1 under construction, and 9 assigned frequencies.

The important fact to remember is that he would be jamming stations of countries that he desperately wants to maintain good relations with. My own opinion is that he is not going to do that. I think it is a false fear that is being perpetrated or attempted to be perpetrated amongst the Members of this House.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

(At the request of Mr. SMITH of Iowa and by unanimous consent, Mr. DERWINSKI was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Could I just make a comment right here. Castro is already building a directional antenna. It is three-fourths completed.

Mr. DERWINSKI. That does not answer the point the gentleman from New Jersey made.

Mr. SMITH of Iowa. The gentleman just said they would not use a direc-

tional antenna. We know they would because they are constructing a directional antenna.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

I think the point the gentleman from New Jersey has made has underscored the position of the gentleman from Iowa (Mr. TAUKE). The point is if Castro jams these stations he has listed we will be considered at fault, not Mr. Castro. That is the perception in the Caribbean.

Second, he talks about what do we know. All we know is that Castro has the capacity to jam and he has stated that he intends to. Sometimes we make a major mistake in this body when we refuse to believe what Communist leaders say they are going to do. He said he is going to do it. Does the gentleman have any evidence that he will not do it?

The CHAIRMAN. The time of the gentleman from Illinois (Mr. DERWINSKI) has again expired.

(By unanimous consent, Mr. DERWINSKI was allowed to proceed for 30 additional seconds.)

Mr. DERWINSKI. Mr. Chairman, just to make the profound observation that it is hardly the most logical statement of our era for the gentleman to say that we would be blamed if Castro jammed stations in other countries. That leads me to believe that the gentleman is reaching out desperately to an illogical conclusion.

Mr. LEACH of Iowa. If the gentleman will continue to yield, this is the stated assessment of the U.S. State Department. It is not simply the belief of the gentleman from Iowa. The State Department is on record on this issue.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Tauke amendment.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

I want to point out that the Voice of America memorandum that was attached to the feasibility study on Cuban broadcasting said the following: "The diplomatic situation being what it is in this area, the United States will be held more responsible for originating the signal than will Cuba for jamming it," which was the point that my colleague from Iowa (Mr. LEACH) was attempting to make.

Mr. MITCHELL of Maryland. I thank the gentleman for his remarks.

I think this is a bad bill.

Many times I have noticed since I have been in the Congress we do

things on a pell-mell rush and it just does not make sense.

Remember swine flu? Remember when we voted the funds for swine flu and there was no swine flu but people got paralyzed? Remember when we changed daylight saving time? We had some little children going to school in the dark and others going at some other crazy hour.

We are kind of panicky on situations, but the Tauke amendment at least makes some sense out of it, to do it on a shortwave basis. Sure, I am not an expert, not in foreign affairs, nor in communications, but I know what I want.

I listen to WCAO radio in Baltimore. I get up at 5 o'clock each morning and when I turn that radio on I can hear the Castro propaganda. This is before we start fighting him even. There is an all-night talk show that comes on, and that talk show is interfered with because there is the music and propaganda coming out of Cuba—even without this proposed propaganda war.

I want to hear Stevie Wonder and what is that other fellow's name, with the Beatles, singing "Ebony and Ivory," in the morning. I do not want to listen to martial music. I want some old Glenn Miller tunes to wake me up gently rather than the music coming out of Cuba. If you start this war, you can bet your bottom dollar I will not hear anything. I am not going to hear Glenn Miller or Stevie Wonder, or even the all-night talk show.

I think it is a foolish kind of thing to do. But above and beyond that there is a more serious concern.

Whether you like it or not, the intent of this Radio Marti is to encourage the Cubans to rise up against what is called an oppressor. That is the intent. And that is what we did in Hungary. Remember? Remember, we encouraged the Hungarians to rise up in revolt, and when they were being shot down they were saying, "Americans, come on in to help us." But the Americans did not come in.

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield briefly to the gentleman from Texas.

Mr. LELAND. I thank the gentleman for yielding.

Does the gentleman think we ought to do the same thing for South Africa?

Mr. MITCHELL of Maryland. Oh, no, South Africa is sacrosanct in foreign affairs. There is a tilt toward South Africa. We better not touch South Africa at all. No, I would not dare.

Mr. LELAND. Is the gentleman trying to say that apartheid is not as important to us as communism?

Mr. MITCHELL of Maryland. I am merely reflecting the views of the administration vis-a-vis South Africa.

Mr. LELAND. I see.

□ 1700

Mr. MITCHELL of Maryland. Let me go back to this business of encouraging people to rise up and overthrow governments. That becomes a very dangerous thing to do, unless you are prepared to send in some troops to back them up. Each time that we have waged a propaganda war that has resulted in an attempt to overthrow a government, we have not gone in and what has happened? We have earned contempt from the people in those nations, contempt for us because they say, "You sicced us on and then when we needed you, you didn't show."

Look, support the Tauke amendment. That helps a little bit; but then try to vote down the whole bill.

I want to wake up to nice music at 5 o'clock in the morning. That is the time I relax. I do not want to wake up to jamming, unless it is some old-time jazz jamming.

Let us stop playing around with it. Vote TAUKE, ease it down a little bit, and then when we get to final passage just ease this out quietly and gently to the martial strains of some Cuban music.

Mr. Chairman, I rise in opposition to Congressman CLEMENT ZABLOCKI's bill, H.R. 5427, Radio Broadcasting to Cuba Act.

According to the report submitted by the Foreign Affairs Committee, H.R. 5427 authorizes \$10 million in fiscal year 1982 and \$7.7 million in fiscal year 1983 to establish a radio station, Radio Marti, to provide the Cuban people with accurate information about Cuba and Cuban activities worldwide. However, since the Cuban Government incorporates the technology necessary to prevent the reception of Radio Marti's broadcasts by the Cuban people, my colleague's bill would prove to be an inefficient allocation of limited Federal resources.

Moreover, the establishment of Radio Marti could lead to a radio war with Cuba and, thereby, increase dramatically the amount of funds directed toward this ineffective program. Currently, Cuba plans to construct a radio station which will operate at 500 kilowatts—10 times more powerful than domestic U.S. stations which are limited to a maximum power level of 50 kilowatts. Consequently, in a radio war, Cuba would have the capacity to interfere and reduce the listening areas of AM radio stations in 32 States plus the District of Columbia.

To compensate for Cuba's interference, a U.S. radio station would have to spend between \$150,000 and \$200,000 to increase its power from 5 to 10 kilowatts and to modify its directional antenna. Since Congressman ZABLOCKI's measure requires the Federal Government to reimburse these stations for expenses incurred in mitigating the effects of Cuban interference

with U.S. broadcasts, the amount of moneys wasted as a direct result of Radio Marti could escalate well beyond the \$17.7 million authorized for the project initially.

Besides the fact that the Radio Marti bill is an inefficient allocation of the taxpayers' money, I am outraged at President Reagan's disregard for the Congress in this particular matter. I am sure that many of my colleagues are aware that the Navy has begun to build the radio station in Key West, Fla., even though Congress has not yet authorized one penny of the funding necessary for this project. The administration's blatant circumvention of the legislatively defined appropriations process is reason enough to oppose the Radio Broadcasting to Cuba Act.

Contrary to Radio Marti's stated purpose, to provide accurate information to the Cuban people, this administration plans to use it as an instrument to encourage revolt on that island. I wish to remind my colleagues that the United States exhorted the Hungarian people to revolt against communism in the fall of 1956. Yet, the United States refused their urgent requests for military aid when the Soviet Union invaded Hungary and ruthlessly repressed the uprising. As a result, many Hungarians lost their lives believing the United States would support their struggle. I am certain the same fate awaits any Cuban who may be deceived by Radio Marti broadcast into believing that the United States would send troops into Cuba to support a popular uprising.

Clearly, Radio Marti's primary and only purpose is to decrease the propaganda gap which exists between the United States and Russia. Currently, the Soviets outspend the United States about 7 to 1 in their broadcasting and information efforts around the world. Surely, the Congress cannot justify taking school lunches away from children, cutting health care programs for the elderly, and diminishing services for the handicapped, and, at the same time, authorize moneys for a propaganda contest with the Soviets. By opposing the passage of H.R. 5427, the House would prevent the allocation of Federal funds to a futile and impotent program, and, thereby, reject the ideological whims of President Reagan. I urge strongly that the measure be defeated.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, let me bring us back, as the gentleman from Washington (Mr. SWIFT) did, in saying that we have two issues in front of us; one, do we want to authorize Radio Marti at all and broadcast to Cuba? This issue is not the subject of this amendment.

The subject of this amendment is, assuming we are going to broadcast to Cuba, how do we go about doing it?

Now, the question raised by the amendment of the gentleman from Iowa (Mr. TAUKE) is what kind of broadcasting are we going to do? Are we going to use the AM band or are we going to use the shortwave band?

I agree with the gentleman from Iowa in saying that it is folly for us to go on AM for a variety of reasons; foremost, the Cubans have made it very clear that they are going to retaliate which will greatly harm our broadcast industry. There was earlier discussion that there was no evidence that the Cubans are going to retaliate. That is not the case.

We have not only the word of the Cuban Government. We have an internal memorandum issued by the Voice of America. We have FCC memorandums to the State Department. We have CRS studies done on the subject, broad consensus that, yes, the Cubans are going to retaliate if we go on AM.

The question then is, What is the impact in this country if the Cubans retaliate? What the Cubans are going to do is very clearly—and they are already building—is to operate a 500,000-watt radio station to broadcast back in the United States.

Now, what does that mean? How big is 500,000 watts? The largest single radio station in the United States today is 50,000 watts; so the Cubans are going to build a radio station 10 times more powerful and broadcast back to the United States. What does that mean to the United States? That means that a great deal of harm for U.S. broadcasters. Cuban retaliation may well result in interference with some 200 radio stations in 32 States. Enormous harm would be done by that retaliation coming back from the Cubans and that is going to cost radio stations a great deal. After causing this harm the bill creates the ability for Uncle Sam then to bail out the broadcasters who are getting harmed by Uncle Sam's own radio signals going over the AM band; so the taxpayer is in this fashion paying double—first by having reception of its radio station interfered with, then paying to reimburse the victims. Though, if we are going to wreak such havoc on commercial broadcasters, there should be some means to make them whole.

What the gentleman from Iowa (Mr. TAUKE) does in his amendment is to say that we are not going to become involved in AM broadcasting, that does not make any sense, that is going to cause enormous harm to American broadcasters. The gentleman from Iowa (Mr. TAUKE) and the rest of us want to protect American broadcasters; so the gentleman from Iowa (Mr. TAUKE) says let us just broadcast on shortwave.

Now, how many people will be touched by shortwave? There has been a figure of 500,000 shortwave sets thrown around. That is the number of shortwave sets that have been sold in Cuba since 1978; 500,000 since 1978 alone, and there are some 20 shortwave stations already operating in Cuba. I repeat, within Cuba are 20 shortwave radio stations.

There are also, I understand, a whole variety of other shortwave radio stations that are coming into Cuba and on that subject I was wondering if I could engage the gentleman from Iowa (Mr. TAUKE) in a brief colloquy.

Am I correct in understanding that the Soviet Union and other Communist nations are currently broadcasting into Cuba and into other Caribbean Islands, as well as into Latin America?

Mr. TAUKE. Mr. Chairman, if the gentleman will yield, it is my understanding that that is correct. In fact, these nations outspend the United States today by about a 7-to-1 margin.

Mr. WIRTH. Are there other Communist nations involved in broadcasting into Cuba?

Mr. TAUKE. If the gentleman will yield again, in addition to the Soviet Union, China, East Germany, Romania, Hungary, Czechoslovakia, and Bulgaria all broadcast to Latin America.

Mr. WIRTH. We have heard in the previous discussion and debate that the Cubans do not have any shortwave sets; so consequently, they cannot be receiving shortwave signals from all of these other nations; so therefore they must all be broadcasting on the AM band, all the nations the gentleman was talking about; is that correct?

Mr. TAUKE. I am forced to say to the gentleman from Colorado (Mr. WIRTH), the gentleman will be surprised to find out that is not correct.

Mr. WIRTH. Oh, am I.

Mr. TAUKE. They all broadcast on the shortwave band.

Mr. WIRTH. Who is broadcasting on shortwave? I mean, if the Cubans do not have any meaningful number of shortwave receivers, as has been alleged, all these other countries are wasting their scarce taxpayer money to broadcast into Cuba on shortwave?

Mr. TAUKE. By a 7-to-1 margin, they are.

Mr. WIRTH. Well, who is doing that?

Mr. TAUKE. Well, Radio Moscow.

Mr. WIRTH. Radio Moscow is broadcasting shortwave; who else?

Mr. TAUKE. Bucharest.

Mr. WIRTH. Radio Bucharest?

Mr. TAUKE. Yes, Radio Bucharest, Radio Peking, Radio Prague, Radio Berlin International, and Radio Sofia, all operate on the shortwave band.

The CHAIRMAN. The time of the gentleman from Colorado has expired.

(By unanimous consent, Mr. WIRTH was allowed to proceed for 2 additional minutes.)

Mr. WIRTH. The State Department states that broadcasting by shortwave is unacceptable. The debate today has suggested that there are not any shortwave receivers. Now, why in the world would all those other countries have broadcasting into Cuba on shortwave?

Mr. TAUKE. That is a very good question. They probably did not want their AM to be jammed.

Mr. WIRTH. Well, the point of all this is again to clarify, why the shortwave amendment? The shortwave amendment is simply a way of making sure first, that the message broadcast on Radio Marti gets into Cuba without being jammed. It is very, very difficult to jam shortwave.

Second, broadcasting on shortwave is the internationally known way of broadcasting; so this is consistent with what is done all across the world.

Third, and for our domestic purposes very importantly, broadcasting on shortwave does not get us embroiled in all the problems of domestic interference, of intervening in the whole of the broadcast industry in the United States; so the gentleman from Iowa is not only assuring that the message will get through, but also assuring that we are going to protect the domestic broadcasting industry which provides very broad and great services. If we do not do this, we are going to see interference to more than 200 radio stations in more than 32 States.

So I would urge my colleagues to support the very fine amendment crafted by the gentleman from Iowa (Mr. TAUKE).

This amendment, which was adopted by an overwhelming bipartisan vote of 12 to 2 in the Telecommunications Subcommittee, will insure that any Cuban countermeasures directed against Radio Marti will not adversely affect any AM or FM radio stations. It will insure that AM and FM broadcasters in the United States are not forced to bear the burden and costs of increased interference caused by Cuban retaliation against a Government radio station. If the U.S. Government wants to broadcast to Cuba, the U.S. Government, and not private sector broadcasters and their audiences, should assume the risks associated with the operation of such a station.

Mr. Chairman, broadcasting on the AM band is normally reserved for domestic broadcasting, while international broadcasting normally occurs over shortwave frequencies. While the State Department proposes to operate Radio Marti on the AM band, Radio Free Europe and Radio Liberty both operate on the shortwave band. According to the State Department's Senior Adviser for Science and Technology:

The shortwave bands have been traditionally regarded as the proper frequencies for international broadcasting * * *.

In fact, Annexed Radio Regulation No. 423 of the 1959 Geneva Convention explicitly states that the AM band is to be used for domestic broadcasting only.

Not only is shortwave the internationally accepted band for international broadcasting, but it would be more difficult for the Cuban Government to jam Radio Marti if it operates on shortwave. The International Communications Agency, in a study completed last summer entitled "Radio Free Cuba Feasibility Study" stated:

Unlike jamming shortwave, deliberate electronic interference to medium-wave (AM) broadcasting is easier, less costly, and more effective.

More recently, in a study for the Senate Foreign Relations Committee, the Congressional Research Service noted: "Shortwave signals are more difficult to jam."

Mr. Chairman, despite what some would have us believe, this amendment will not kill Radio Marti. In fact, if Cuba proceeds with efforts to jam or interfere with Radio Marti, as is very likely, the operation of Radio Marti on the shortwave band may very well insure the survival of this proposal—and protect the foreign policy objective from being totally frustrated.

I urge my colleagues to join me in supporting this careful and balanced approach to the serious problems posed by the operation of Radio Marti.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was going to ask the gentleman to yield, but being he did not I ask to strike that last word. I just have two questions. First, there is a reoccurring theme in this ongoing debate. It is this—Castro is going to jam Radio Marti should we construct it.

Well, my question is, Who is making foreign policy for the United States of America? Is it we in this body or is it Fidel Castro? That is the first question.

The second question I have is this. We are told that Castro is going to build a 500,000-watt station. With this station he is going to cause havoc with our radio stations in this country.

Well, our colleague, the gentleman from Iowa (Mr. SMITH) said that this radio station is already 75 percent completed. What is Castro going to do, dismantle it if we do not build Radio Marti?

I will tell you what he is going to do. He is going to jam and interfere with our stations at will. The real question is, Do we have the will to stand up for what we believe in?

It is about time we get a little backbone in this House.

Mr. FASCELL. Mr. Chairman, will the gentleman yield to me?

Mr. ROTH. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

I just want to make a couple of points to pursue the line the gentleman is following.

First of all, the question was asked, how about all these other countries using shortwave broadcasts in the Caribbean? It has something to do with shortwave sets. What the Cuban Government does is relay all those shortwave broadcasts over their AM network because they know that is the way to reach their people. So the argument that the Cuban people can be effectively reached through shortwave broadcasts is a fallacious argument.

As far as the 500-kilowatt transmitters are concerned, I think the gentleman in the well is right. We have to decide first and foremost who is making the decisions in this country with respect to our foreign policy. I think we have to bear that clearly in mind.

Then we need to point out the fact that the Castro government for years has sought to double its broadcasting capacity, the two 500-kilowatt stations are part of this plan. They were laid on the plate several years ago. It has got nothing to do with Radio Marti. That decision by the Castro government has been used by the opponents of this bill to scare everybody, including their own radio station in Iowa.

□ 1710

We do not have the slightest idea what Castro is going to do with those 500-kilowatt transmitters, and we do not know what he is going to do if he doubles his AM broadcasting, contrary to the regional broadcasting agreement.

Radio Marti, has nothing to do with that issue directly. It is peripherally involved.

Now, that still leaves one other issue, and I do need the time to answer this because the gentlemen keep making the argument over and over again, about jamming the 1040 band in Iowa. Well, if Castro is going to turn on the 500 kilowatt's to interfere with U.S. broadcasting, he is not going to go after a good station in Iowa, he is going to blanket out 7 million people in New York City. He is not going to fool around.

I hate to do that to your ego, but I can guarantee you that he is not going to worry about Iowa. If he is really going to get nasty, he is going to go after somebody else.

Now, as far as jamming is concerned, it is a lot cheaper to jam in Cuba, to prevent Cubans from listening, than it is to jam in the United States. They are not going to jam the transmitter; they are going to jam the receiver.

That is what they would be more likely to do.

For that purpose, it does not make any difference whether you have short-wave, longwave, medium wave, or any other wave; you can jam.

But the ultimate thing regarding this amendment is simply this: The bill does not mandate a single way for the administration to operate this radio. The bill makes it totally open and flexible for the administration to use its judgment about frequencies, manner of broadcast, contracts, no contracts, whatever.

The amendment says that it mandates shortwave. That is what is wrong with the amendment.

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Florida.

Mr. MICA. Mr. Chairman, I would like to point out that the argument continues to be: What will Castro do? Let us look at what he has done for the past 13 years.

Castro has not abided by any of the international treaties; he has interfered, interfered with American broadcasts throughout Florida and throughout this Nation. We have no assurance that he is not going to interfere or jam anybody any more. He has continued to do it. He has done it in the past. He is building these transmitters, and was building them long before we ever had the idea of Radio Marti.

So I think the record speaks for itself. Castro walked out of the International Radio Conference. Castro to my knowledge is the only one in the world broadcasting in this manner.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. HARKIN and by unanimous consent, Mr. ROTH was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Iowa.

Mr. HARKIN. The gentleman in the well really has gotten to the nub of what we are here about. Mr. Duncan, Mr. James Duncan, a member of the special advisory staff to the Deputy Under Secretary of Defense for Policy, told an employee of WHO in Iowa, that—

Radio Marti was an international game of chicken and the United States will not blink. We will draw a line across which Castro will know he cannot step across without paying for it.

I understand the gentleman in the well, I will make a point first and then ask him a question.

No. 1, let us wait until Castro does build it. He has threatened to build these 500-kilowatt stations. Let us just tell him: "This is what you do, this is what we are going to do."

Second, if we build Radio Marti and he does, in fact, build that 500-kilo-

watt station, what does the gentleman propose that we do?

Mr. ROTH. Yes, I will tell the gentleman what I propose to do.

I propose that we in this Congress determine American foreign policy and not let Fidel Castro intimidate us and tell us what our foreign policy should be. That is No. 1.

No. 2, I am sick and tired of hearing what Fidel Castro is going to do. It is about time we in this Congress tell Castro and the world what our foreign policy is—I would hope this House would not be intimidated and frightened by some dictator.

Mr. HARKIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to talk about this whole shortwave business for a minute.

Mr. WIRTH. Mr. Chairman, will the gentleman yield very briefly?

Mr. HARKIN. I yield very briefly to the gentleman from Colorado.

Mr. WIRTH. Mr. Chairman, a little bit of history is in order.

The Cuban Government has been a communications renegade for a long period of time. What we are doing is effectively saying we are not going to do anything to try to discuss with them radio frequency issues. We have been very successful in the past discussing fishing rights and getting that sorted out with the Cubans. We did not send the Coast Guard out and sink their ships. We sat down and figured out fishing rights.

On the question of hijacking, we worked out a treaty with the Cubans. We sorted that one out.

On this, what we are saying is that we are not going to sort out the problems on the use of the spectrum on broadcasting with the Cubans, but we are going to get into a war, an electronic war, which is going to harm many, many domestic broadcasters. It does not make any sense whatsoever.

I thank the gentleman for yielding.

Mr. HARKIN. I thank the gentleman for his comments.

Mr. Chairman, I just want to support the amendment of my colleague from Iowa.

In 1978, according to the Cuban Commission for UNESCO in Havana, Cuba had 2.7 million radio receivers. This number increased to over 3 million in 1981.

What is remarkable is that we had a 300,000 radio receiver increase in a 3-year period. Why? What is the reason for the increase? Perhaps it is due to the establishment of a Soviet radio assembly plant in Cuba. Cuban workers now assemble models from parts manufactured in the Soviet Union, the most popular being the radio called Ciboney, 240 model, which has—get this—8 shortwave bands and 1 AM band and sells for 80 Cuban pesos.

There is another radio that is a simple AM receiver that sells for about

40 pesos. Get this: Credit is available for the purchase of these radios at 2 percent. In other words, the Cuban Government is encouraging their people to buy these receivers with a shortwave band. Why?

It is very easy to understand—Radio Moscow broadcasts on shortwave and Radio Germany, and Radio Havana. There are a number of different radio stations that broadcast in shortwave to Cuba. I would submit that the way, the direction the Cubans are going in, is to shortwave because it is very difficult to jam. It is difficult for us to jam, also.

So here we are. It seems like we are going to spend all this money to build this radio transmitter to transmit on the AM band when Cuba is moving in the other direction, and they are going toward the shortwave band.

Again, I would say if you really want to make this bill work, you ought to support the Tauke amendment.

Let me say just one other thing: We have also found through information that during the Falklands crisis, many Cubans received news from BBC and they used it in their public discussions.

So when the Voice of America's AM transmitter is jammed at Marathon, Cubans will continue to listen to shortwave frequencies.

I want to make one other point: Aside from the Voice of America's single AM transmitter in Florida, no other governmental, international shortwave broadcaster uses the AM band in the Caribbean. No other one. There is one religious station in Bon Aire, on AM, but it is not a governmental radio station.

All rely on shortwave frequencies to broadcast to Cuba and the Caribbean. Now, just listen to this: BBC broadcasts for a total of 186 hours per week; Radio Moscow, 133 hours per week; Voice of Germany, 98 hours per week; Voice of America, 84 hours per week; Radio Peking, 67 hours per week; Radio Korea, that is, the Republic of Korea, 56 hours per week.

These are all shortwave. These are what these 8 bands on the new shortwave radios that they are building in Cuba are all about. So the use of a shortwave band by Radio Marti is not unreasonable, particularly considering that other international broadcasters seem satisfied with the shortwave.

They are on sale in the Cuban stores. The sales are increasing. They are being assembled in Cuba.

So what this amendment would do, again, would be to provide that we are not going to have the kind of interference back in the United States that we would have if we used the AM.

Second, I believe that we will be getting to more and more Cubans who are using shortwave rather than AM.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

I think the gentleman in the well has made a very important point. As a matter of fact, the longer this debate goes on, the more we seem to be exposed to some important information, including some from the supporters of the bill.

Now, it was said a few minutes ago that the Congress should set foreign policy. Now, if we were to admit that Congress is making the foreign policy in this country, that would mean Congress is to accept the blame for the mess our foreign policy is in.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. SMITH of Iowa and by unanimous consent, Mr. HARKIN was allowed to proceed for 1 additional minute.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, in addition to that, my friend from Florida says Cuba will jam radio stations in the whole Northeast. Well, that is the reason the Northeast representatives should be over here. It is not just Iowa that is involved. It is all stations that are on 1040, then they may turn to 770, they will jam that. And there are 1040 stations covering the Northeast, too.

So I thank the gentleman for helping us bring out some of the points that need to be brought out in this debate.

□ 1720

Mr. MICA. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield.

Mr. MICA. I would just like to carry that response a little further. What the gentleman is saying is, if Radio Marti really is possible, we are going to cause the Cubans to run out and buy Soviet products, Soviet-made radios. We certainly would not want to do that.

Mr. HARKIN. The facts are that they are already buying Soviet models in Cuba.

Mr. MICA. I think that was answered very adequately when we pointed out that all of these short-wave broadcasts are rebroadcast on AM.

Mr. HARKIN. Cuba only broadcasts AM from midnight to 6. That is all that Radio Havana rebroadcasts.

Mr. MICA. A number of all these shortwaves are rebroadcast, and all we would be doing is switching.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise for the purpose mostly of asking some questions here.

This pending amendment has to do with selective radio bands and all of that, and I am not too familiar with that; also, all of the preceding discussions have gotten a little confused, and also apparently the Members here are very knowledgeable of Cuba. I am not. I have not been to Cuba except to Gitmo with the Navy, so I have a question I thought I would ask maybe of the author of this amendment or somebody on this side.

Talking of AM and all of that, is it true or is this a canard that Fidelito will only take FM stereo? Can that be jammed? Does the gentleman know, is that true? Have they gotten FM stereo or do they want only FM stereo, or have they gotten that sophisticated, as our U.S. listening audiences are? I think this is the only thing Fidel will take.

Mr. TAUKE. I have not heard this report before.

Mr. GONZALEZ. Well, also about these radios the gentleman mentioned made in the Soviet Union. I understood Sony has done pretty good in Cuba. Since actually what we are talking about is sort of an electronic invasion, why do we not take the matter up with Sony of Japan and maybe we can contract this whole business out to them, Mr. Chairman. Would that be possible? I am serious. Why not contract out to Sony this whole business, which brings to mind the other serious question: Is it true or is it not true that we already have either constructed or under construction a powerful defense or Army or something transmitter in Florida? Is that true, that all this discussion is really idle because the Defense Department has in place or in construction a transmitter that apparently will be utilized for the purposes that this legislation is intended to serve? Is that correct, may I ask the chairman? Is that true? What are we arguing about if that is true?

Mr. FASCELL. Well, the argument, of course, is that you need both an authorization and an appropriation. This is just the authorization bill.

Mr. GONZALEZ. But if the military is already constructing it, they are not worrying about authorization.

Mr. FASCELL. They are constructing it for whatever their defense purposes are. Whether it can be used for Radio Marti or not, remains to be seen. If it can, fine, but it still requires authorization and appropriation for the Board of International Broadcasting to do it. Whether Defense does something or not, what their purposes are, and whether or not they can make it available to the Board of International Broadcasting on a reimbursable basis is a different issue. I am told that the Armed Services Committee has been briefed on that issue. But the gentleman is right, there is an antenna form going up.

Mr. GONZALEZ. That confuses me further, because if the main thrust of

this bill emanates in the Foreign Affairs Committee and is foreign policy, and here we have defense—certainly the Defense Department's policy cannot be wholly separate or antagonistic to due foreign policy.

Mr. FASCELL. I gather the gentleman's thrust, and he makes the point. But that is the very reason that I have fought so hard to be sure that the Congress gets an opportunity to do what it is doing—that we have an authorization bill and we have an appropriation for this purpose—because I will tell the gentleman, there have been times in the past when that never was done.

Mr. GONZALEZ. Then I am afraid here I really am confused now, and kind of apprehensive because it looks as if we are heading for an electronic Bay of Pigs.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield.

Mr. TAUKE. Mr. Chairman, it is interesting first that the gentleman would use that analogy, because of course we did establish Radio Swan, funded by the taxpayers, just prior to the Bay of Pigs in order to broadcast the truth about the Cuban Government to Cuba. But in any event the question the gentleman raised about authorization and appropriation is most interesting, because, as the gentleman from Florida acknowledged, we do have the Defense Department building a facility in Saddle Bunch, Fla.; and of course, as the documents that the Energy and Commerce Committee pointed out, there is adequate evidence to suggest that the intended purpose of that facility is for Radio Marti.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. TAUKE and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. TAUKE. Will the gentleman continue to yield?

Mr. GONZALEZ. I would be delighted.

Mr. TAUKE. Of course, it is appropriate that the Congress act to authorize and appropriate funds. Usually, though, we try to do that before the facility is built and not do it after the facility is erected.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Colorado.

Mr. WIRTH. Just to follow up on that, we inquired of the administration, of course, about building a facility before there was any authorization, and they denied it despite the fact that Comdr. Mark Newhart, who is a Public Affairs Officer for U.S. Caribbean Forces, admitted to a reporter from a Miami paper that the transmit-

ter being built by the Navy was designed for Radio Marti.

The gentleman raises another issue which is very important here, the Defense Department going out and building with no authorization whatsoever either from the authorizing committees or the appropriating committees—going out and building this facility for Radio Marti—and here we are, as the gentleman has correctly pointed out, after the fact arbitrarily authorizing something that has already been built, which is clearly in violation of article I, section 9, clause VII of the Constitution, which requires that no money be spent until Congress acts.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. GONZALEZ. Mr. Chairman, I ask for this time because this is very disturbing. It encapsulates what I consider to be the American dilemma since World War II, and that is this confusion and conflict in policies, basic policies. What can the Defense Department policy be in a powerful transmitter for the purpose of hitting Cuba unless it is pro-American? It certainly cannot be anti-American. What would be the future purposes of this type of legislation if it is not the same way?

But, what are we going to propagandize the Cubans with? Our policy in Latin America? Which one? What policy do we have? What are we going to tell the Cubans to offset what they consider to be their mistaken notions? This is very disturbing because it proves to me that we are just like the old Bourbon kings, we remember nothing and we forget nothing.

I am very concerned because I think we are headed for an electronic or a radio Bay of Pigs. It is going to make us the laughingstock not only of Latin America, but the whole, entire world. What are we going to say to the Cubans that our policy in El Salvador, where we are cheek by jowl with the assassins of archbishops, of nuns, is? The continuation of the oppression of those nations and Latin America? The day has come when that is over with. We are either going to be identified with the aspirations of those people, and that includes Cuba, or we are not.

□ 1730

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. Yes, I will be glad to yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I have been listening to this debate, and I think it has reached high levels and low levels, but I would suggest that what we want to tell the Cubans about is their policy in El Salvador, their

policy in Central America, and their policy in Africa. That is what we want to tell them about, because when they find out about that, they will be shocked because they know what their economic condition is at home.

Mr. GONZALEZ. Mr. Chairman, is the gentleman under the impression that the overwhelming majority, the preponderant majority of Cubans 90 miles away from Florida are not aware of what their policy is? Does the gentleman believe that whatever casualties they have in Angola are not known to them there in Cuba?

Mr. SHAW. Yes. I am certainly not only of that opinion, but we know that from talking to the refugees who come into Florida with the Mariel boat lift. They were absolutely unaware of what their governments adventurism throughout the world, in Central America and Angola, was doing.

Mr. GONZALEZ. That is very unfortunate analogy because that was a Castro victory, not only in propaganda but every other way. Actually what our press has never reported is the motivation behind that exodus, the unloosening of the criminals from the jails and the mass exodus into the United States. It was Castro's answer to our solicitude for Cubans. That would be in my opinion the sorriest source of information. If we have reached that desperate point, we know nothing about Cuba.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

(On request of Mr. SMITH of Iowa, and by unanimous consent, Mr. GONZALEZ was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman asked, What would we propagandize with? Let me give the gentleman a suggestion of one of the things they will propagandize with, and that is broken Spanish.

The State Department has a State Department foreign language school, and they manage to keep it full most of the time, mostly with people who have never spoken the language before. They go there about 6 months, and then they speak that language in kind of a broken way but think they are experts at it.

But the gentleman in the well is an expert bilingualist. He speaks Spanish and American; nobody speaks either one better.

I want to ask the gentleman, what does he think is going to be the effect when Radio Marti broadcasts that broken Spanish into Cuba day after day? Will we build up a generation of bilingual Cubans who speak both Spanish and broken Spanish? What

will the psychological effect be? How effective will it be anyway?

The gentleman is a better expert on that probably than anybody in the House.

Mr. GONZALEZ. Mr. Chairman, I am afraid that if we consider we have lost Cuba, this will insure its irretrievable loss permanently and into the future. I tried to warn all distinguished Americans from President Carter on down to beware of resorting to Spanish, when it is only "pidgin" Spanish. We lose friends and alienate people where we do that.

Mr. DERWINSKI. Mr. Chairman, will my good friend, the gentleman from Texas, yield for a question?

Mr. GONZALEZ. I am delighted to yield to the gentleman from Illinois. Now, there is an expert from the Foreign Affairs Committee.

Mr. DERWINSKI. Mr. Chairman, recognizing the intellectual integrity of the gentleman, I know he will give me a straight answer.

If the great gentleman from Texas were to make the inaugural broadcast on Radio Marti, would not an observant Cuban listener detect a Texan twang in his otherwise good Spanish?

Mr. GONZALEZ. I would doubt it. That is one of the reasons I began what I said with the words I used. Sometimes names like mine give the impression that anybody with a name like mine is an instant Latin American expert. Let me say I am not.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. TAUKE) to the Committee on Energy and Commerce amendment.

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. TAUKE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, nays 277, answered "present" 2, not voting 46, as follows:

[Roll No. 260]

AYES—109

Albosta	Edgar	Kastenmeier
Bedell	Edwards (CA)	Kildee
Bellenson	Edwards (OK)	Kogovsek
Benjamin	Evans (IA)	LaFalce
Bingham	Evans (IN)	Leach
Brown (CA)	Fish	Leland
Burton, Phillip	Fithian	Levitas
Clay	Foley	Lowry (WA)
Collins (IL)	Ford (TN)	Luken
Collins (TX)	Frost	Lundine
Coyne, William	Garcia	Markey
D'Amours	Gejdenson	Martin (IL)
Daschle	Gonzalez	Martinez
Daub	Gray	Matsui
Deckard	Green	Mazzoli
Dellums	Hall (OH)	McHugh
Dicks	Harkin	Miller (CA)
Dingell	Hendon	Mitchell (MD)
Dorgan	Hightower	Mottl
Dowdy	Howard	Myers
Downey	Jacobs	Natcher
Dwyer	Johnston	Nowak
Dymally	Jones (TN)	Oberstar

Ottinger	Schneider	Synar
Parris	Schroeder	Tauke
Pease	Schumer	Tauzin
Pritchard	Seiberling	Vento
Ratchford	Shamansky	Washington
Reuss	Shannon	Waxman
Roberts (SD)	Sharp	Weaver
Roemer	Smith (IA)	Weiss
Rostenkowski	Smith (NE)	Williams (MT)
Roukema	Stark	Wirth
Roybal	Stark	Wolpe
Sabo	Studds	Wyden
Savage	Swift	
Scheuer		

NOES—277

Addabbo	Ertel	Lott
Alexander	Evans (DE)	Lowery (CA)
Anderson	Fary	Lujan
Andrews	Fascell	Lungren
Annunzio	Fazio	Madigan
Anthony	Fenwick	Marlenee
Applegate	Ferraro	Marriott
Archer	Fiedler	Martin (NC)
Ashbrook	Fields	Martin (NY)
Aspin	Findley	Mattox
Atkinson	Florio	Mavroules
Badham	Foglietta	McCloskey
Bailey (MO)	Forsythe	McCollum
Bailey (PA)	Fountain	McCurdy
Barnard	Fowler	McDade
Barnes	Frank	McDonald
Beard	Frenzel	McEwen
Benedict	Fuqua	McGrath
Bennett	Gaydos	McKinney
Bereuter	Gephardt	Mica
Bethune	Gibbons	Michel
Bevill	Gilman	Mikulski
Biaggi	Gingrich	Miller (OH)
Bliley	Glickman	Minish
Boggs	Goodling	Mitchell (NY)
Boland	Gore	Moakley
Boner	Gradison	Mollinari
Bouquard	Gramm	Mollohan
Bowen	Gregg	Montgomery
Breaux	Guarini	Moore
Brinkley	Gunderson	Moorhead
Brooks	Hagedorn	Morrison
Broomfield	Hall, Ralph	Murphy
Brown (CO)	Hall, Sam	Murtha
Broyhill	Hamilton	Napier
Burgener	Hammerschmidt	Nelligan
Butler	Hance	Nelson
Byron	Hansen (ID)	Nichols
Campbell	Hansen (UT)	Oakar
Carman	Hartnett	Ober
Chappell	Hatcher	Oxley
Chappie	Heckler	Panetta
Cheney	Heftel	Pashayan
Clausen	Hiler	Patman
Clinger	Hillis	Patterson
Coats	Holland	Paul
Coelho	Hollenbeck	Pepper
Coleman	Holt	Perkins
Conable	Hopkins	Petri
Conte	Horton	Peyser
Corcoran	Hoyer	Pickle
Coughlin	Hubbard	Porter
Courter	Huckaby	Price
Coyne, James	Hughes	Quillen
Craig	Hunter	Rangel
Crane, Daniel	Hutto	Regula
Crane, Philip	Hyde	Rhodes
Daniel, Dan	Ireland	Rinaldo
Daniel, R. W.	Jeffords	Ritter
Dannemeyer	Jeffries	Roberts (KS)
de la Garza	Jones (OK)	Robinson
DeNardis	Kazen	Rodino
Derrick	Kemp	Roe
Derwinski	Kennelly	Rogers
Dickinson	Kindness	Roth
Donnelly	Kramer	Rousselot
Dougherty	Lagomarsino	Rudd
Dreier	Lantos	Russo
Duncan	Latta	Sawyer
Dunn	Leath	Schulze
Dyson	LeBoutillier	Sensenbrenner
Early	Lee	Shaw
Eckart	Lehman	Sheiby
Edwards (AL)	Lent	Shumway
Emerson	Lewis	Shuster
Emery	Livingston	Simon
English	Loeffler	Skeen
Erdahl	Long (LA)	Skelton
Erlenborn	Long (MD)	Smith (AL)

Smith (NJ)	Thomas	Whittaker
Smith (OR)	Trible	Williams (OH)
Smith (PA)	Udall	Wilson
Snowe	Vander Jagt	Winn
Snyder	Volkmer	Wortley
Solomon	Walgren	Wright
Spence	Walker	Yatron
St Germain	Wampler	Young (AK)
Stangeland	Watkins	Young (FL)
Staton	Weber (MN)	Young (MO)
Stenholm	Weber (OH)	Zablocki
Stratton	White	Zeferetti
Stump	Whitehurst	
Taylor	Whitley	

ANSWERED "PRESENT"—2

Hefner	Rahall
--------	--------

NOT VOTING—46

Akaka	Dornan	O'Brien
AuCoin	Evans (GA)	Pursell
Bafalis	Flippo	Rallsback
Blanchard	Ford (MI)	Richmond
Bolling	Ginn	Rose
Bonior	Goldwater	Rosenthal
Bonker	Grisham	Santini
Brodhead	Hawkins	Siljander
Brown (OH)	Hertel	Stanton
Burton, John	Jenkins	Traxler
Carney	Jones (NC)	Whitten
Chisholm	Marks	Wolf
Conyers	McClory	Wyllie
Crockett	Mineta	Yates
Davis	Moffett	
Dixon	Neal	

□ 1750

Mr. RAHALL changed his vote from "aye" to "present."

So the amendment to the Energy and Commerce Committee amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FASCELL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have had so many Members on both sides want to know how late we are going to be and what we are going to do with respect to this bill. We have tried to be very fair with respect to the opponents being heard on this matter, and I am sure they have no desire to be dilatory, even though they are opposed to the bill. But we have had three amendments that really go to the heart of this concept. The House has worked its will on those very substantially.

There is a budget amendment involved; there is a pending amendment; and there are some others from the gentleman from Iowa (Mr. HARKIN). I believe that with some cooperation and good will we could get through all of those and be heard fairly on them in 2 hours.

Mr. Chairman, I move that all debate on the committee amendment in the nature of a substitute and all amendments thereto end at 8 p.m.

The motion was agreed to.

AMENDMENT OFFERED BY MR. SWIFT TO THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. SWIFT. Mr. Chairman, I offer an amendment to the Committee amendment.

The Clerk read as follows:

Amendment offered by Mr. SWIFT to the Energy and Commerce Committee amend-

ment: Page 3, strike out line 21 through line 23, and insert in lieu thereof the following: "(d) For purposes of providing for radio broadcasting in accordance with subsection (c)—"

Page 4, strike out line 6 through line 10, and insert in lieu thereof the following:

"(2) no Federal agency shall have any authority to select a frequency for such radio broadcasting, and the Board shall not have any authority to operate on a frequency for such radio broadcasting, if such frequency is within the band of frequencies extending from 535 kilohertz to 1605 kilohertz."

Mr. SWIFT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SWIFT. Mr. Chairman, there is no need to take a long time, because this is quite an easy amendment to understand.

When the amendment of the gentleman from Iowa (Mr. HARKIN) was offered some time ago, the major argument against it was that Radio Marti had to be through a Government station. So when that was voted down, an amendment was offered by the gentleman from Iowa (Mr. TAUKE), which made it a Government station. But in order to avoid all of the problems that have been created by this proposal, it was suggested it be put on the short-wave band, and they said, "No, no, no, it has got to be on AM." I am about to offer an amendment that will resolve the problems posed.

I do think there is a central issue here, and this amendment may be able to resolve it. The central issue I am addressing is that the State Department is trying to do something that is laudable by a method that is unnecessarily harmful to American broadcasting.

We have tried an amendment that would have put it into the private sector on AM radio. That failed. And we have tried an amendment that put it on shortwave. I have an amendment that will leave it as a Government station, and the amendment leaves it on the AM band but it avoids the problem that is posed by the way the bill is written now.

Let me explain to the Members how we do that. It is not magic, and it may be a very rational solution to the conflict we have been so long debating.

The AM band runs from 540 kilocycles to 1600 kilocycles. But that is arbitrary. That is the area in which we will license commercial broadcasters on AM in this country. The fact is that the vast majority of the AM receivers will receive beyond those limits by about 10 kilocycles on each end. What my amendment says is that Radio Marti can be placed just outside of what is technically the AM band

but what in fact is receivable by the vast majority of the AM receivers.

That is how we seek to give the proponents of Radio Marti everything they want and avoid the conflict that is growing out of this with American AM broadcasters. And I would heartily commend to the Members that they seriously consider this before they knee-jerk on this vote because they assume that any amendment to this bill is somehow anti-Radio Marti. I am not anti-Radio Marti, and neither is this amendment.

What is the source, the technical source, that I would cite to buttress my claim that there is not going to be difficulty in receiving Radio Marti if it is in these areas? I have a letter from the Electronic Industries Association, from E. M. Tingley, who is the staff vice president in engineering of the consumer electronics group. It points out that "receivers fall into two types: mechanically and electronically tuned. It is standard practice for the mechanical type to tune through 1620 kilohertz."

ELECTRONIC INDUSTRIES ASSOCIATION,
Washington, D.C., July 29, 1982.

Hon. TIMOTHY WIRTH,
Chairman, Subcommittee on Telecommunications, Consumer Protection, and Finance, Rayburn Building, Washington, D.C.

DEAR CONGRESSMAN WIRTH: Information was requested on the ability of the U.S. radio receiver population to receive 1610 kHz. A canvas of manufacturers indicates that substantially all receivers tune in this frequency.

Receivers fall into two types: mechanical and electronically tuned. It is standard practice for the mechanical type to tune through 1620 kHz.

Electronically tuned (frequency synthesis) radios represent a relatively small, but significant, fraction of the receiver population. They were introduced in automobiles around 1978. All makes of early models did not tune to 1610 kHz, however, current models do. One manufacturer mass markets electronically tuned radios for the home. They all have been programmed to receive 1610 kHz.

Should your staff desire further information, contacts at manufacturers will be provided who can give more detail. Likewise, I will be available.

Very truly yours,

E. M. TINGLEY,
Staff Vice President, Engineering,
Consumer Electronics Group.

Here is further technical verification in the form of a staff memo prepared by the National Association of Broadcasters:

AM RECEPTION ON 1610 AND 530 KHz

(By M. C. Rau)

July 29, 1982

SUMMARY

The ability of an AM receiver to adequately receive a signal on 1610 kHz is a common feature. A conservative estimate is that 80 percent to 90 percent of existing AM receivers can receive 1610 with no technical problems.

DISCUSSION

There is one representation within the CRS study of July 28, 1982 that is simply not accurate. Because this factor concerns our industry, I believe it warrants clarification. The "issue" is the extent that AM radios are able to receive 1610 kHz. Referring to frequencies at either end of the AM broadcast band, CRS states: "The argument against using these frequencies is that most radio sets are not designed to receive them, since there are no commercial AM stations in those bands."¹

While it is true there are no commercial stations on 1610 kHz it is manifestly inaccurate to claim that AM receivers are, in general, unable to receive this frequency. In fact, according to Magnavox, it is a "general practice" to design manually-tuned radios (the most common form of receiver) for reception through 1620 kHz.²

In a test of 20 different receiver models, including 10 competitors, conducted by Delco electronics, only 5 were found to be unable to receive 1620 kHz.³ This particular test involved a radio design employing "frequency synthesis"—electronic tuning, rather than manual—which is a design increasing in popularity. Delco estimates that one out of every 6 radios "in the field" currently uses electronic tuning, and that the number is increasing. Delco maintains that 100 percent of manual tuned radios can receive 1610 kHz with no technical problems whatsoever.

The ability to receive 1610 kHz or 530 kHz has been helped by FCC establishment of the Traveler's Information Service (TIS). These stations began operation several years ago.⁴ While I am not aware of how many TIS stations have been built, Delco stated specifically that when the TIS service was established, radio design within Delco changed to insure TIS reception, i.e., before TIS was established, reception of 1610 and 530 was possible and likely, but only as a happenstance of design. After TIS, reception of 1610 and 530 became a Delco criteria for design.

In speaking with Panasonics, a worldwide manufacturer of AM radios, I again found that "the vast majority of AM radios can receive 1610 kHz."⁵

Reception of 1610 kHz is common. On the basis of the discussions mentioned herein, I conservatively estimate that 80 to 90 percent of existing AM receivers can receive 1610 kHz with no technical problems.

This estimate has apparently been arrived at elsewhere. On May 1, 1978, the Williams Sound Corporation ("Williams") filed a Petition for Rulemaking with the FCC (RM-3126) requesting, among other things, the authorization to operate "auditory training devices" on 530 and 1610 kHz.⁶ The FCC re-

sponded with a Notice of Proposed Rulemaking deferring consideration of this particular aspect of the Williams petition.⁷ Two points of interest are here:

(1) Williams assumed 1610 kHz can be received by public AM radios. Without such reception, clearly, his proposal would fail.

(2) The FCC assumed 1610 kHz can be received by public AM radios. In fact, the FCC used this property as one of its reasons for deferring the Williams proposal: "Williams reliance on standard AM radio receivers as an important feature in its proposal may be more of a deterrent than an advantage, because there is a distinct possibility that the easy availability of AM receivers would increase the likelihood of Williams' system being employed for purposes contrary to Commission policy." (emphasis added)—the FCC was concerned that the Williams system might be used for broadcasting on 1610.

Attached is a list of contacts employed in the preparation of this memo. While all discussions have not been incorporated herein, there has been no objections or inconsistency raised with any of the representations.

The reception of 530 kHz at the lower end of the band is equally likely, as the design of AM radios will be symmetrical about the AM band.

□ 1800

I will not read this material, but I have here a study made independently by the NAB, which indicates that the same is true on the low end of the scale as well.

In other words, if we put Radio Marti just above 1600 or just below 540 kilocycles, it can be heard on at least 80 percent of the AM radios in Cuba, and we totally avoid the problem of interference that we have been wrestling with here all today and in previous consideration of this bill.

The CHAIRMAN. The time of the gentleman from Washington (Mr. SWIFT) has expired.

(By unanimous consent, Mr. SWIFT was allowed to proceed for 1 additional minute.)

Mr. SWIFT. It seems to me that this is the ultimate compromise.

I thought the solution of the gentleman from Iowa (Mr. TAUKE) made more sense in terms of national policy. It was voted down.

This, I think, is a rational, considered, thoughtful alternative. And I would strongly urge all Members to not just wrap the flag around the technical aspect of this bill and understand that we can achieve the patriotic, foreign policy purpose in a way that is not going to interfere with American domestic broadcasting.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

having speech or hearing handicaps. See, 47 C.F.R. Sec. 15.4(1).

⁷ "Notice of Proposed Rulemaking," ("Notice"), Gen. Docket 81-786, adopted November 12, 1981, FCC 81-525, 47 Fed. Reg. 216 (January 5, 1982), paragraphs 9 through 12. A "Report and Order" has been recently issued in this Docket, action by the FCC July 22, 1982, FCC 82-331. The text has not yet been issued.

¹ CRS study, page 60.

² Conversation with Mr. Bud McDowell. See page 4. Magnavox, at its height of production, produced 500,000 radios per year.

³ Conversation with Mr. Tom Prewitt. See page 4. Delco manufacturers between 3 and 6 million automobile radios per year.

⁴ The TIS is a base station in the Local Government Radio Service that is used to transmit non-commercial voice information pertaining to local traffic and road conditions, points of interest, and other public information for travelers. See, 47 C.F.R. Sec. 90.242; FCC Rules and Regulations.

⁵ Conversation with Mr. John Marchetti. See page 4. Panasonics is a worldwide manufacturer of AM radios. Although it is not known exactly how many radios Panasonics manufactures each year, estimates are on the order of tens of millions per year.

⁶ An auditory training device is a transmitter or receiver used for instruction by sound of persons

Mr. SWIFT. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

I suspect the argument that will be made against this amendment is that radios cannot pick up below 535 or at the upper end of the scale above 1610. We therefore, in trying to look at the gentleman's amendment, asked the NAB and asked the Electronics Industry Association, and they came back to us with estimates that 90 percent of radio receivers could pick up the frequencies suggested by the gentleman more than 90 percent of radios could pick up radio stations on the frequencies the gentleman is suggesting.

The CHAIRMAN. The time of the gentleman from Washington (Mr. SWIFT) has again expired.

(At the request of Mr. FASCELL and by unanimous consent, Mr. SWIFT was allowed to proceed for 1 additional minute.)

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, I thank the gentleman for yielding.

The gentleman, I gather, intended to offer an amendment to page 5, line 18 of the bill. The Clerk read the amendment to line 21 of page 3; is that correct?

Mr. SWIFT. That is my understanding.

The CHAIRMAN. The gentleman is correct.

Mr. FASCELL. And what the gentleman meant to do was to make his amendment apply to page 5, line 18?

Mr. SWIFT. That is correct.

Mr. FASCELL. I wonder if the Clerk would re-report the amendment correctly.

The CHAIRMAN. Without objection, the Clerk will reread the amendment in the correct form, since it is brief in nature; and without objection, the amendment pending will be considered as modified accordingly.

There was no objection.

The Clerk re-reported the amendment as follows:

Amendment offered by Mr. SWIFT to the Energy and Commerce Committee amendment: Page 5, line 18, insert before the period the following: "except that the Assistant Secretary shall not have any authority to select any radio frequency which is within the band of frequencies extending from 535 kilohertz to 1605 kilohertz".

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, the thrust of this amendment has already been dealt with several times by this House in voting on other amendments, and what it seeks to do is simply to mandate a manner by which the agency shall do the broadcasting.

So let me just refresh everybody's memory about what the bill does. The bill has no mandate on the frequency to be used or the manner in which programs should be broadcast. It says, in order to carry out the purposes set forth in section 2 of this act, the Board is authorized to provide for the open communication of information and ideas through the use of radio broadcasting. The Board may carry out this subsection by means of grants, contracts, subject to availability of appropriations, or such other means as the Board determines will most effectively carry out the purposes set forth in section 2 of this act.

And then it says, "For this purpose the Assistant Secretary shall, after receiving public comment, determine and identify an appropriate frequency or frequencies."

It does not say short-wave, long wave, medium wave. It does not say on the band, off the band, under the band, on top of the band.

Now, it does not make sense for us to, one more time, by another amendment, get at the heart of this bill by saying that you can broadcast all right, broadcasting is fine, but just broadcast at the lower end of the band or the upper end of the band where nobody is listening.

So I would just ask my colleagues to vote this amendment down.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I recognize that we want to move ahead rapidly with this bill, so I will be brief. But once again we have the same type of amendment, an amendment that will in effect gut the bill, an amendment that will make Radio Marti powerless.

When we take a look at the AM band, which, as was stated earlier, goes from 630 to 1610, some receivers may not be able to tune out of band. In addition, Cuba could use a crude, high-powered jammer without jeopardizing Cuba's international relations because that type of jammer would not cut out some of the stations in countries that I mentioned earlier with whom Cuba wants to maintain good relations.

Most serious of all, the out-of-band frequencies are not covered by any international agreements. The United States thus would not even have any ground for legitimate complaints about potential jamming.

For all of those reasons, I oppose the amendment and would urge my colleagues to vote against it.

Mr. EMERY. Mr. Chairman, I move to strike the requisite number of words.

I know a great many Members have come to the well and said, "I really did not intend to speak on this." But I have to say as an electronic engineer that the gentleman from Washington is exactly correct.

I have no particular thoughts on whether or not we should use one part of the band or another part of the band. But when the gentleman says that most receivers, expensive or inexpensive, tune outside of that prescribed band, the gentleman is exactly correct; they do.

I was in Los Angeles a short time ago and I had a chance to ride on one of the throughways on the way to the airport. I happened to notice on the side of the road there was a sign that said, "For traffic information tune to 530 on your AM dial." Well, that frequency is just outside of the AM standard broadcast band, but it is tuneable by probably every radio in every vehicle that ever drove down that throughway. It is exactly the principle that the gentleman is talking about.

Also let me tell my colleagues that the bands are allocated very strictly by international convention. Those regulations go all the way from the lowest frequencies that are used by the military for communication with submarines through "S" band and higher, which are used by satellite navigation and communications for a variety of purposes.

By convention, there is a zone between usable bands in which no broadcasting takes place, so that band separation will occur.

If you went to an electronics store and you took a look at a variety of AM radios you would find that some had 1600 marked on the dial, some would mark frequencies as high as 1640.

In short, it is merely a consequence of design, of the mechanical layout of the radio and a lot of other things that determine how high or how low the radio can tune in fact.

So without taking any strong position on whether or not Radio Marti ought to broadcast on any particular frequency on that band, let me just simply say that technically the gentleman is correct—you certainly could tune either above or below without interfering with any of the existing standard broadcast frequencies.

Most radios in Cuba or anywhere else could pick it up, and it probably is a sensible answer to this problem without bothering anyone at all.

□ 1810

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I would be happy to yield to the gentleman from Florida.

Mr. FASCELL. The chairman knows, of course, that all the frequencies below the band and above the band are not regulated now, and the United States would have a problem in the sense of meeting its obligations in the international forum if it were to use these frequencies. There is an ITU meeting planning to deal with that

problem, but we have not gotten there yet; so I would say to the gentleman, following his line of reasoning, why not leave flexibility in the bill, rather than restrict it?

Mr. EMERY. Well, the point that I wanted to make is simply that this idea is technically practical.

Mr. FASCELL. It can be done.

Mr. EMERY. The gentleman from Washington is technically correct. Now, as far as the allocation of frequencies is concerned, I do not know, frankly, what is regulated by international convention and what is not with regard to jamming.

I rather suspect, though, that at the ends of the standard AM broadcast band there are frequencies that are not used by commercial standard AM broadcast activities, although I am not sure exactly what the actual end-of-band broadcast limitations might be.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I would like to point out what this amendment does is in advance of the creation of Radio Marti, is to tie the hands of those people who will be charged with administering it. This would greatly restrict the administrative flexibility needed to effectively implement this program.

It is an imaginative amendment, I may say to the gentleman from Washington. I respect his motives and his concern; but this amendment would have the practical effect of stopping any effective commencement of this program merely because it would take away the kind of administrative flexibility you must have as you develop this long-overdue radio broadcasting.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Just very briefly, Mr. Chairman, this amendment does not handcuff anybody. What the Swift amendment does in a very careful way is to reconcile the two conflicting goals that we have been talking about all day. On the one hand is the goal for broadcasting to Cuba and on the other hand is protecting domestic broadcasting. Those are the two goals.

The amendment of the gentleman allows Radio Marti by all means to broadcast to Cuba on the AM band, but to do so, as the gentleman from Maine so well pointed out, without interfering with domestic broadcasting. That is all the amendment of the gentleman does.

If our colleagues are concerned about protecting domestic broadcasting, then support the Swift amendment. If you are not concerned about interference with domestic broadcasters, then do not support the Swift amendment.

It is my belief that we should protect the domestic broadcasting industry and I would hope that our colleagues would support the amendment offered by the gentleman from Washington (Mr. SWIFT).

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I would be happy to yield to the gentleman from Washington.

Mr. SWIFT. I just wish to make one more comment and then as far as I am concerned we can go to a vote on this.

What has flawed the Radio Marti concept from the very beginning is that somebody sitting in one agency of Government with a certain area of jurisdiction, the foreign policy of the United States, came up with a good idea, and then proceeded to develop and flesh out and build their idea without talking to anybody else in the Congress or in the Government who had other expertise.

Now, whatever happens here, ultimately I would hope the State Department would learn that just because they spend most of their time worrying about foreign policy, that when they come up with these bright ideas that have direct and harmful impact on domestic policy, that they talk to a few people who know something about domestic policy before they develop it to the point that they have virtually no alternative but to dig their feet in cement and sit there and demand that it has got to be their way or it will not work at all, because that is a load of nonsense.

Mr. WIRTH. Well, I would hope that we would also get the State Department to the point, and I would suspect that many Members would agree with this, at a time when we do have conflicts with the Cubans over the use of the spectrum, of not getting into electronic war with the Cubans, which is only going to harm our domestic broadcasters. Many broadcasters would like to sit down with the Cubans and sort out the problems of interference that exists in southern Florida and which are increasingly going to exist all over the country with the advent of Radio Marti with its enormous power across through our broadcasting areas. That is the responsibility of the State Department to sit down and figure out a solution, just as we did on the subject of hijacking, fishing rights, and other issues. Let us not pretend the Cubans are not there. They are very real problems and let us sit down and work them out rather than get into some kind of a cockamammy scheme that is going to provide real harm to our domestic broadcast industry.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Washington (Mr. SWIFT) to the Energy and Commerce Committee amendment.

The amendment, as modified, to the committee amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN TO THE AMENDMENT OFFERED BY MR. LEACH OF IOWA AS A SUBSTITUTE FOR THE ENERGY AND COMMERCE COMMITTEE AMENDMENT

Mr. HARKIN. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the Energy and Commerce Committee Amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN to the amendment offered by Mr. LEACH of Iowa as a substitute for the Energy and Commerce Committee amendment: At the end of the substitute offered by Mr. LEACH, add the following: Page 3, strike out lines 21 through 23 and insert in lieu thereof the following:

"(d) If radio broadcasting to Cuba under this Act includes any AM frequency broadcasts, such broadcasts may only be carried out on a single AM frequency and—

Mr. HARKIN. Mr. Chairman, basically this amendment was drafted to clarify the intent of the Leach-Bedell substitute. The substitute seeks to have Radio Marti broadcast on the same frequency now used by the Voice of America. There are many reasons why this would be a considerable improvement over the present bill.

As the gentleman from Iowa (Mr. LEACH) said last week in debate, it would considerably reduce the amount of radio interference, interference that the American public would have to face if the substitute were not passed.

It would also save a considerable amount of money. As we face incredible deficits, we should try to save some money in this bill if we can.

Now, quite frankly, what this amendment does, it specifically limits the use of AM frequencies to a single frequency and when the amendment is combined with the Leach-Bedell amendment, the frequency is specified as the Radio Marathon frequency. By requiring that single frequency, we would be limiting the damage to American radio broadcasting. If this amendment is not adopted, the Board would have the power to pick several frequencies.

So while we are trying to get Radio Marti, on Radio Marathon under the Leach substitute, all I am saying is that if the Leach substitute is adopted that we ought to use just one frequency and not several frequencies.

They could set up a series of frequencies as they could under the bill right now and escalate the radio wars even further. Great damage would be done to many different American radio stations.

So, Mr. Chairman, I offer this amendment in good faith to the Leach substitute. It just says that if the Leach substitute is adopted, they would use only one frequency.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. Yes, I would be delighted to.

Mr. LEACH of Iowa. As the author of the substitute to which the gentleman from Iowa is offering an amendment, I would like to reflect that I think it is very constructive and would accept it. Hopefully there will be no need for a vote on this particular amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Iowa (Mr. BEDELL).

Mr. BEDELL. Mr. Chairman, as the coauthor of the amendment offered by the gentleman from Iowa (Mr. LEACH) I also would accept the Harkin amendment.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment and to the substitute.

As the gentleman from Iowa said, the amendment to the substitute requires that any broadcast may only be carried out on a single AM frequency and the substitute, of course, changes the language in the bill.

It makes it mandatory that the only radio frequency that can be used will be the Voice of America at Marathon, Fla. So, in effect, when you read the amendment and the substitute, this is another one of those efforts to direct the agency in this legislation on when, how and where the radio would be operated rather than leave the decision up to the Board for International Broadcasting and the Assistant Secretary of Commerce for Communications and Information, in consultation with the Federal Communications Commission, who shall have the responsibility to identify after receiving public comment an appropriate frequency or frequencies.

Now, in addressing the issue of frequencies, I do not claim to be a technical expert, but it seems to me that if you are going to have a directional antenna on one frequency, it would be rather difficult to build that installation so you could have several frequencies at the same time.

□ 1820

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I will be glad to yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Chairman. I have checked with the radio stations in our district and they tell me that indeed that is no problem; they just put a separate transmitter, comparatively inexpensive, and they can jump from one frequency to another.

Mr. FASCELL. I am sure they can do that. It is not as easy as changing the crystal on your crystal set, but it can be done. I am just suggesting that it is a little more difficult than that.

But there again, it is a question of legislating and mandating. I see no need to do that. Somewhere, somehow, we have to trust some experts to deal with this matter and assume that they are going to have commonsense.

The language in the bill is broad enough, with the guidelines which the Committee on Energy and Commerce put on it, for the Assistant Secretary.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I will be glad to yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Chairman, I want to clarify one point. My amendment restricts it to one frequency only in the AM band. Obviously, if they want to use shortwave, which the gentleman knows they can—they can use any frequency they want. My amendment is only a restriction on the AM band.

Mr. FASCELL. What the gentleman is saying, in effect, and the way I read it is, that such broadcast may only be carried out on a single AM frequency.

Mr. HARKIN. AM frequency, but not shortwave.

Mr. FASCELL. But since it is amending the substitute which mandates that particular radio, it simply means that frequency on that radio.

Mr. DERWINSKI. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I will be brief. I make the basic points that the gentleman from Florida just made.

Here, again, we have had direct and indirect attacks on the effectiveness of the program once Radio Marti is authorized. This would, in fact, be the kind of limitation this House has rejected consistently this afternoon, and earlier when we had the bill on the floor. And since it is an amendment to the Leach substitute, which in itself is a restriction, we are really getting a one-two punch against the very concept we are trying so hard to get approved.

I urge rejection of the amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I would like to clarify something with the chairman of the committee.

Is it correct that it is not the intent of the committee that broadcasts should be going over a number of different frequencies, regardless of what prevails here in our vote?

Mr. FASCELL. I cannot think of any reason why anybody would want to broadcast over several frequencies at the same time.

Mr. BEDELL. I may not understand. Is it correct that it is understood that it is not expected that Radio Marti

will broadcast over several different frequencies, or is it expected that very possibly, if they wish to do so, Radio Marti would broadcast over several frequencies, which would very possibly lead to jamming of a whole number of frequencies?

Mr. FASCELL. I cannot answer the gentleman on that because I think that would depend basically on what the NTIA and FCC decide to recommend. Certainly, however, no frequency will be chosen which produces interference with the operations of other stations. That is fundamental to good broadcasting policy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN) to the amendment offered by the gentleman from Iowa (Mr. LEACH) as a substitute for the Committee on Energy and Commerce amendment.

The amendment to the amendment offered as a substitute for the Energy and Commerce Committee amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. LEACH) as a substitute for the Committee on Energy and Commerce amendment.

The question was taken; and on a division (demanded by Mr. FASCELL) there were—ayes 11, noes 16.

RECORDED VOTE

Mr. LEACH of Iowa. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 271, answered "present" 3, not voting 51, as follows:

[Roll No. 2611]

AYES—109

Albosta	Hall (OH)	Rallsback
Bedell	Hall, Sam	Rangel
Bellenson	Hamilton	Ratchford
Benjamin	Harkin	Reuss
Bingham	Hightower	Roemer
Brown (CA)	Jacobs	Roybal
Burton, Phillip	Jones (OK)	Sabo
Collins (IL)	Jones (TN)	Savage
Collins (TX)	Kastenmeier	Schneider
Conable	Kildee	Schroeder
Daschle	Kogovsek	Schumer
Daub	LaFalce	Seiberling
Deckard	Leach	Shamansky
Dellums	Leland	Shannon
Dicks	Lowry (WA)	Simon
Dingell	Luken	Smith (IA)
Dixon	Lundine	Smith (NE)
Dorgan	Markey	Solarz
Downey	Martin (IL)	Stark
Dunn	Martinez	Studds
Dymally	Matsul	Swift
Edgar	Mazzoli	Synar
Edwards (CA)	McCloskey	Tauke
Erdahl	Miller (CA)	Tauzin
Evans (IA)	Mitchell (MD)	Vento
Evans (IN)	Morrison	Volkmer
Ferraro	Motti	Walgren
Fiedler	Natcher	Waxman
Fish	Nowak	Weaver
Fithian	Oakar	Weiss
Foley	Oberstar	Williams (MT)
Ford (TN)	Obey	Wirth
Garcia	Ottinger	Wolpe
Gaydos	Patterson	Wyden
Gray	Paul	Young (MO)
Green	Perkins	
Hagedorn	Pritchard	

NOES—271

NOT VOTING—51

Addabbo
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
Badham
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Benedict
Bennett
Bereuter
Bethune
Bevill
Biaggi
Billey
Boggs
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Brooks
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelio
Coleman
Conte
Corcoran
Coughlin
Courter
Coynne, James
Coynne, William
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
DeNardis
Derrick
Derwinski
Dickinson
Donnelly
Dougherty
Dowdy
Dreier
Duncan
Dwyer
Dyson
Early
Eckart
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erlenborn
Ertel
Evans (DE)
Fary
Fascell
Fazio
Fields
Findley
Florio
Foglietta
Forsythe
Fountain

Fowler
Frank
Frenzel
Frost
Fuqua
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Goodling
Gore
Gradison
Gramm
Gregg
Guarini
Gundersen
Hall, Ralph
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Heckler
Heftel
Hendon
Hiler
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Johnston
Kazen
Kemp
Kennelly
Kindness
Kramer
Lagomarsino
Lantos
Latta
Leath
LeBoutillier
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (NC)
Martin (NY)
Mattox
Mavroules
McClory
McCollum
McCurdy
McDade
McDonald
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Mineta
Minish
Mitchell (NY)
Moakley

Mollinari
Mollohan
Montgomery
Moore
Moorhead
Murphy
Murtha
Myers
Napier
Nelligan
Nelson
O'Brien
Oxley
Panetta
Parris
Pashayan
Patman
Pease
Pepper
Petri
Peyser
Pickle
Porter
Price
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Rogers
Rostenkowski
Roth
Roukema
Rudd
Russo
Sawyer
Scheuer
Schulze
Sensenbrenner
Sharp
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (AL)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Staton
Stenholm
Stokes
Stratton
Stump
Taylor
Thomas
Udall
Walker
Wampler
Washington
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Williams (OH)
Wilson
Winn
Wortley
Wright
Yatron
Young (AK)
Young (FL)
Zablocki
Zeferetti

ANSWERED "PRESENT"—3

Gonzalez Hefner Rahall

Akaka
AuCoin
Bafalis
Blanchard
Bolling
Bonior
Bonker
Brodhead
Broomfield
Brown (OH)
Burton, John
Carney
Chisholm
Clay
Conyers
Crockett
Davis

Dornan
Evans (GA)
Fenwick
Flippo
Ford (MI)
Gingrich
Ginn
Goldwater
Grisham
Hawkins
Hertel
Hillis
Jeffries
Jenkins
Jones (NC)
Marks
Moffett

Neal
Nichols
Pursell
Richmond
Rose
Rosenthal
Roussetot
Santini
Siljander
Stanton
Traxler
Trible
Vander Jagt
Whitten
Wolf
Wyllie
Yates

□ 1840

Mr. STANGELAND changed his vote from "aye" to "no."

Mr. EVANS of Indiana changed his vote from "no" to "aye."

So the amendment offered as a substitute for the Energy and Commerce Committee amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the first Energy and Commerce Committee amendment.

The Energy and Commerce Committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the remaining Energy and Commerce Committee amendment.

The Clerk read as follows:

Committee amendment: Page 7 line 22, strike out "Board" and insert in lieu thereof "Federal Communications Commission", and insert "instruct the Board to" after "to".

Page 8, line 4, strike out "Board" and insert in lieu thereof "Federal Communications Commission".

Page 8, line 6, strike out "Board" and insert in lieu thereof "Commission".

Mr. WIRTH. Mr. Chairman, I rise in strong support of the Energy and Commerce Committee's amendment to section 6 of the bill. This amendment makes one very minor, but very important, change in the legislation as reported by the Foreign Affairs Committee.

The Foreign Affairs Committee, recognizing the devastating effects Cuban interference can have on domestic broadcasters, authorized the Board for International Broadcasting to compensate those broadcasters forced to take steps to mitigate the effects of Cuban interference. The Board was also authorized to establish the regulations and procedures necessary for the provision of compensation.

The amendment adopted by the Energy and Commerce Committee retains the BIB's discretionary authority and its control over authorized funds, but would enable the Nation's expert telecommunications agency, the Federal Communications Commission, to establish the necessary regulations and procedures, and to instruct the Board to provide such compensation. Very simply, the Board for International Broadcasting is an international

oversight board with responsibility for Radio Free Europe and Radio Liberty. It has absolutely no expertise, responsibility, or jurisdiction with respect to domestic broadcasting and the integrity of the U.S. broadcast system. The FCC, on the other hand, not only has the necessary technical expertise to determine the effects of Cuban interference on U.S. broadcasters, it is the agency charged with maintaining and promoting the integrity of our broadcast system.

If broadcasters are to be compensated, the FCC, not the BIB, should establish the rules and guidelines for such compensation.

I urge my colleagues to support the Energy and Commerce Committee's amendment to section 6.

The CHAIRMAN. The question is on the Energy and Commerce Committee amendment.

The Energy and Commerce Committee amendment was agreed to.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 8, line 7, immediately before the closing quotation marks, insert the following:

In issuing such regulations and establishing such procedures, the Commission may establish criteria to evaluate the financial claims of affected licensees. Such criteria may include (but shall not be limited to) the duration, stability, and extent of alleged Cuban interference, including the establishment of a threshold loss of service prior to any compensation recommendation. The Commission may also establish limits on the type and extent of reimbursable expenses, prorate Cuba's share in situations involving multiple interference sources, and require affected licensees to revert to original station parameters without further compensation whenever Cuban interference ceases.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. As the distinguished subcommittee chairman just pointed out with respect to the committee amendment that came out of his committee, we felt it was necessary that we have some guidelines or instructions with respect to the FCC when they issue the regulations establishing the procedures on the questions of any claims. That is what this amendment does. It simply provides guidance to the FCC in making determinations on whether and how much broadcasters should be compensated for expenses if there are any direct costs with respect to Cuban interference with U.S. broadcasting efforts. So the FCC is given this power under the bill, and this

simply gives them some guidance in drawing up those regulations.

Specifically, Mr. Chairman, section 6(a) of the bill authorizes the Federal Communications Commission to determine whether and how much broadcasters should be compensated for expenses they incur in mitigating the effects on their operations of Cuban radio interference. This amendment would suggest certain criteria which the FCC may use to evaluate the claims of broadcasters and offer guidance to the Commission in implementing section 6(a). Such guidance was felt to be necessary in light of the extent of Cuban interference, the limited amount of funds for the purpose of compensation, the significant amount of expenses for which broadcasters could seek reimbursement, and the lack of legislative guidance in the bill and in legislative history as to how such compensation issues should be resolved. It is my hope that this amendment will prevent increased delays and expense for the Commission in issuing regulations regarding compensation.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment to the Energy and Commerce Committee amendment being offered by the distinguished chairman of the Subcommittee on International Operations, Mr. FASCELL.

Mr. Chairman, this amendment will provide the FCC with criteria for the establishment of procedures for the compensation of those U.S. broadcasters forced to take steps to mitigate the effects of Cuban interference. The criteria include a loss of service threshold level which will trigger broadcaster compensation. I believe the record should show that Congress is deeply disturbed by the effects of Cuban interference on U.S. broadcasters and that this threshold loss of service should be sufficiently low to insure that all legitimate broadcaster claims can be accommodated.

I urge my colleagues to join me in support of this noncontroversial amendment.

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

Mr. Chairman, this demonstrates so clearly the problem we have gotten ourselves into by rushing ahead on the advice of the State Department into areas that they do not understand very well.

If you look specifically at what the FCC is asking for, and I think they need it, and if you look at their justification for it, you can see that what we have here is a tub of worms.

For example, under these provisions what happens if a station is interfered with by Cuban interference and it has to build a new tower? Under provisions

of this amendment it says if that interference should stop, the licensee would be required to revert to the original station for parameters.

At what cost? The new antenna could then be useless—but the station would still have to pay for it. In other words, the very provisions that are designed to protect the American broadcasters are only “now you see them, now you do not” protections.

We have here the FCC saying: “What do you do about the highly intermittent and fluid nature and extent of Cuban radio interference?”

They say: “We need to know the likely significant amount of expenses for which affected broadcasters could seek reimbursement.”

The ask, “What should you do without the substantial impact on all the strained FCC resources,” et cetera, et cetera.

This is another example of where the State Department is storming around like a pregnant hippopotamus in an area that it does not begin to understand, and it is making a thorough mess of itself and of U.S. broadcasting in the process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment was agreed to.

□ 1850

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: On page 8, after line 12, insert the following new section:

SEC. 13. No funds appropriated or authorized under this act shall be expended in violation of section 7 of Public Law 95-435 or until both Houses of the United States Congress have considered an amendment to the United States Constitution mandating a balanced federal budget.

POINT OF ORDER

Mr. FASCELL. Mr. Chairman, I raise a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FASCELL. Mr. Chairman, the amendment is clearly not germane.

The CHAIRMAN. Does the gentleman from Pennsylvania (Mr. WALKER) wish to be heard on the point of order?

Mr. WALKER. Yes, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I think the amendment is entirely germane. All it is, is a limitation of funding under the bill. It simply says that the program could go ahead and be authorized but that the funding must be limited under the provisions of Public Law 94-435. So I think that this is an entirely appropriate limitation of

funding. It does not in any way become nongermane to the bill.

The CHAIRMAN. Does the gentleman from Florida (Mr. FASCELL) wish to be heard further on the point of order?

Mr. FASCELL. I do not think so, Mr. Chairman. I think it is quite clear it is in violation of the rules. The bill is extremely limited. The amendment is extremely broad.

Mr. CHAIRMAN (Mr. RATCHFORD). The Chair is prepared to rule.

The Chair has examined the amendment. The amendment clearly imposes a contingency, the contingency being further action by the Congress of the United States on another subject and, therefore, in violation of House precedents.

The Chair rules that the amendment is not in order.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WALKER. Mr. Chairman, the Chair has ruled on a matter which was not raised in the point of order by the gentleman from the floor. The gentleman from the floor raised only the point of order that it was a nongermane amendment to the bill under consideration.

I would concede the point of order with regard to the question of the contingency on it, but that was not the point of order raised by the gentleman from Florida in his point of order.

The CHAIRMAN. Clearly the ruling of the Chair is based upon the germaneness issue raised and, therefore, the Chair adheres to its ruling.

Mr. WALKER. I thank the Chair.

AMENDMENT OFFERED BY MR. FASCELL

Mr. FASCELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL: Page 6, beginning in line 15, strike out “\$10,000,000 for the fiscal year 1982 and \$7,700,000 for the fiscal year 1983” and insert in lieu thereof “\$10,000,000 for the fiscal year 1983”.

Mr. FASCELL. Mr. Chairman, we said earlier, in opening the discussion on this bill, that I would offer this amendment to comply with the Budget Act.

We strike out the 1982 authorization and simply make the authorization in the bill for fiscal year 1983. Therefore, this amendment would authorize \$10 million for the radio in fiscal year 1983 and drop the request for \$7.7 million.

AMENDMENT OFFERED BY MR. SWIFT TO THE

AMENDMENT OFFERED BY MR. FASCELL

Mr. SWIFT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. SWIFT to the amendment offered by Mr. FASCELL: Strike out “\$10,000,000 for the fiscal year 1983”

and insert in lieu thereof "\$7,500,000 for the fiscal year 1983".

Mr. SWIFT. Mr. Chairman, what this does is reduce the authorization from \$10 million to \$7,500,000, a 25-percent cut.

The reason for that is testimony before the Energy and Commerce Committee which indicated that what we are building here is a gold-plated transmitter on which to broadcast information to Cuba.

I have never yet talked to a technician that indicated that gold-plating the transmitter made it broadcast any better.

The cut specifically does these things. On competent engineering advice, we were told that a transmitter of the type being used here should cost between \$640,000 and \$957,000. We took the high figure. They need two transmitters for this operation. We give them two at the high estimate. That reduces the necessary amount for authorization by \$1.3 million.

They want three studios: one in New York, one in Miami, and one here in Washington, D.C. We eliminated two of the studios, at a budget cut of \$150,000 apiece.

For personnel and operation: if you do not have studios in New York, Miami, or Washington, D.C., whichever two of the three they wish to cut, it reduces personnel. This I must admit is a guess—somewhere in the vicinity of \$900,000. That comes up to a \$2.5 million cut that should give them exactly what they need, at least what they want, but removes the gold-plating.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this issue also came up in our committee, and we inquired about the difference in the cost between this kind of radio and a commercial radio. We found out very quickly that there is a tremendous difference between the two for a lot of reasons.

As far as the cost of the transmitter is concerned, we were advised that the first one would cost about \$1,200,000. This amount accounts for some of the differential between what the gentleman from Washington is offering by way of financing and what is in the bill.

The additional expense, of course, would be for purchasing another site.

There is a difference also in personnel and services that are required for this type of broadcast effort. This is not a commercial operation. You have tremendous research costs, startup costs in building a highly technical operation of this kind.

So when you consider the cost of the personnel required, personnel over and above those required by a commercial station, we find that the total cost comes to \$10 million, and then falls off

after that to just the operating costs thereafter. That covers the administration, the programming, the engineering and construction.

Now, as I have said, we have been advised that the first transmitter, excluding land, would be \$1.2 million. The second transmitter, including land, would cost \$1,900,000. So I think that accounts basically for the differential.

Mr. TAUKE. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Iowa.

Mr. TAUKE. Mr. Chairman, as the gentleman knows, we have talked before about the facility that has already been erected at Saddle Bunch, Fla. Does anything in this amendment preclude the use of that facility?

Mr. FASCELL. Absolutely not. Does the gentleman refer to the amendment of the gentleman from Washington?

Mr. TAUKE. Right.

Mr. FASCELL. No, I think he has the use of that site in mind, as a matter of fact, figuring that there is probably some savings to be realized in such use.

Mr. TAUKE. I noticed the gentleman, in the discussion of the cost of the radio station, was talking about purchase of a site.

Mr. FASCELL. Second site only.

Mr. TAUKE. Second site only?

Mr. FASCELL. Yes. If I did not make that clear, I was talking about the construction and the acquisition of the second site at \$1.9 million, whereas the first site, because the site theoretically would be available and it would be simply reimbursable cost, would be only \$1.2 million.

Mr. TAUKE. So we are going to have another tower erected and another facility?

Mr. FASCELL. That is what this operation contemplates ultimately, because you can only reach the western part of Cuba from the proposed site in Florida, and you would have to build another transmitter someplace else to reach the heavily populated eastern part of Cuba. That is the reason for the added cost.

Mr. TAUKE. Do we have any idea where we would build this second facility?

Mr. FASCELL. Not yet.

Mr. TAUKE. I thank the gentleman.

Mr. FASCELL. That is something that would be left up to the Board and the administration.

I was just trying to point out the difference between what was recommended in the bill and what the administration is seeking to support, in terms of the \$10 million authorization request, and what the gentleman has proposed by way of his amendment.

□ 1900

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Washington made an eloquent case substantively for why this would not be a gold-plated facility. I think there is also a comparative case to be made in terms of the overall Federal budget. The gentleman from Washington is asking that there be a 25-percent cut in the Radio Marti budget. I should point out to members of the committee that we in the United States are spending a grand total of 7 cents per American for facilities to broadcast national public radio, public television and so on. Seven cents per American. Even under the amendment offered by the gentleman from Washington we are going to be spending almost \$1 per Cuban.

I just think the members of the committee ought to know the relative priorities here.

We are in passing this legislation saying that we think Cubans are in effect 15 times more important than Americans are when it comes to communications needs. That is the thrust of the dollars that are involved here. We are spending 7 cents an American for public broadcasting facilities and almost \$1 per Cuban.

The question I wanted to ask of the gentleman from Washington—of the \$7½ million available, will some of that be paid back to the hard pressed Defense Department which has built the facility in Florida already? They have built this for the use of Radio Marti. Will we be paying them back under the authorization?

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

I would assume if there is any way they can sneak by without getting paid back they would do that.

Mr. WIRTH. But there are no specific funds in here to pay back the Defense Department which has already built the facility for Radio Marti without any authorization or appropriation?

Mr. SWIFT. Considering they had no authority to build it in the first place, it may be extremely hard to make a legal expenditure.

Mr. WIRTH. They have illegally built the facility so far without funds or an appropriation. So why are we authorizing this money? We are authorizing a facility but not going to pay back the Defense Department that has already paid for the facility?

Mr. SWIFT. The gentleman understands very clearly.

Mr. WIRTH. I think the gentleman has a sound amendment. I urge our colleagues to pass it.

Mr. HEFTTEL. Mr. Chairman, will the gentleman yield?

Mr. WIRTH. I yield to the gentleman from Hawaii.

Mr. HEFTTEL. I thank the gentleman for yielding.

Having had reasonable experience in what we are constructing, radio studios, radio transmitters, I would have thought that the gold-plated station and/or stations could have been brought in at a cost of about \$4 million and you would have scaled downward from \$4 million. I do not understand why the budget is \$10 million.

I think the gentleman from Washington is being generous in suggesting a cut to \$7½ million. I would be aghast if we do not support the gentleman's amendment, because at \$7½ million we are expending more than is necessary to attain the objective.

Mr. WIRTH. Well, I tend to agree with the gentleman. Most of the testimony that we heard would agree completely with the gentleman's own expert advice and opinion on this. But we split the difference between what would happen in the private sector and what would be gold plated and then found the difference in what the Government would probably do. And that is where I think the \$7½ million came from.

Mr. HEFTTEL. If I could add one more observation. If these are the differentials in the way the rest of the Government is spending money, it is no wonder we are in such trouble, and it seems a shame that we would expend this kind of money unnecessarily where knowledge and experience would tell us you do not need these sums of money.

Mr. WIRTH. As the gentleman I think is pointing out, foolishness is expensive.

Mr. RINALDO. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I will not use the entire 5 minutes. The hour is getting late. But I think it should be pointed out and reiterated that costs for construction, start-up and operation of Radio Marti cannot be compared with the costs for a conventional AM radio station.

I recognize the expertise of the gentleman who just spoke. But I think we also have to understand that Radio Marti must operate with two separate transmitting facilities, one to be constructed in the Florida Keys, broadcasting to western Cuba, and one in the Caribbean, broadcasting to eastern Cuba.

These facilities must operate four-tower, highly directional antenna systems to protect broadcasters in the United States. And that is one of the

arguments that we have been pursuing all afternoon and evening. The complex antenna systems differ greatly from the conventional system and cost several times as much.

It is my understanding, for example, that the Florida antenna alone costs \$1,180,000 and construction costs for the Caribbean facility run in the neighborhood of \$1,930,000.

In addition, the operating costs of Radio Marti will be much higher than for conventional radio stations. And because of its unique position, Radio Marti's programming must be original, cannot be purchased from networks and other news agencies, and the station must maintain its own full-time highly competent paid staff.

While I normally recognize the value of cutting back on Federal spending, under the conditions outlined here today I think it would be a financial impossibility and would defeat the purpose of the legislation.

I urge the defeat of the amendment.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. RINALDO. I yield to the gentleman from Washington.

Mr. SWIFT. I thank the gentleman for yielding.

I just wanted to be sure the gentleman does understand it is a radio station we are voting, not a television station.

Mr. RINALDO. I understand that.

Mr. SMITH of Iowa. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Mr. Chairman, the bill and the report anticipates reimbursement to the Navy for the station they have already illegally built. I think that is pretty clear. And if we do not have a prohibition of some kind against it, and I do not see any, we should reduce the amount of money they want or they certainly are going to give some to the Navy. Also, where can we find \$10 million, \$17 million, or whatever it is out of thin air for 1983. We just reported out of the full committee this morning the appropriations bill that I happened to handle for the Board for International Broadcasting. We approved \$90,300,000. That is for Radio Free Europe, Radio Liberty, and one way or another there is only so much money in the budget. We have used up our allocation.

If we are going to have some money in 1983 for Radio Cuba, just mark it down, it will come out of Radio Liberty and Radio Free Europe. There is no other place to get the money within the budget approved.

Now those of my colleagues who think Radio Liberty and Radio Free Europe are important and that we need them had better pay attention.

There is not any room in the budget to just add \$10 or \$15 million for this new station. The budget has already

been approved for 1983. Our 302 allocation has been given to us. We have used it up.

And so if you vote for more money for this station, what you are doing is voting to take some out of Radio Free Europe and Radio Liberty.

I do not care if it is only \$10 million. Where are we going to get it? That is the real question. You better vote for this amendment if you want to save those other stations from reductions of \$2½ million.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. SWIFT) to the amendment offered by the gentleman from Florida (Mr. FASCELL).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. SCHUMER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FASCELL, AS AMENDED

Mr. SCHUMER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SCHUMER as a substitute for the amendment offered by Mr. FASCELL, as amended: Page 6, strike out lines 9 through 17 and insert in lieu thereof the following:

PRIVATE FUNDING FOR RADIO BROADCASTING TO CUBA

Sec. 4. Section 7 of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2876) is amended by inserting "(a)" immediately after "Sec. 7." and by adding at the end thereof the following new subsection:

"(b) The funds used for radio broadcasting to Cuba under this Act may be derived only from donations and other contributions from nongovernmental sources under this section. No appropriated funds may be used for such broadcasting to Cuba."

Page 7, beginning in line 4, strike out "or, at the direction of the President, without reimbursement".

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

Mr. DERWINSKI. Mr. Chairman, reserving the right to object, we have to identify it first.

Mr. FASCELL. Mr. Chairman, reserving the right to object to whatever the request was, which I did not hear, reserving points of order, and all other kinds of things, I would like to see a copy of the amendment before we start waiving things.

Mr. DERWINSKI. Mr. Chairman, may we have one on this side, please? Do we have one here?

Mr. SCHUMER. Yes.

The CHAIRMAN. The Chair believes we ought to allow the Clerk to read the amendment.

The Clerk will read.

The Clerk continued to read the substitute amendment.

Mr. SCHUMER (during the reading). Mr. Chairman, I ask unanimous consent that the substitute amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1910

The CHAIRMAN. Does the gentleman from Florida (Mr. FASCELL) still reserve a point of order against the amendment?

Mr. FASCELL. No, Mr. Chairman. I withdraw the point of order.

Mr. SCHUMER. Mr. Chairman, this amendment that I am offering today is quite different than the other amendments that we will be debating, because the other amendments speak to technical operations and difficulties of Radio Marti.

This amendment speaks to the question of priorities. The ink on the first budget resolution for fiscal year 1983 is barely dry and each of us in our committees have been pondering how we can fit under the budget ceiling for the second year in a row; yet here we have before us a bill authorizing \$10 million for a foreign policy initiative that may be important, but is hardly essential.

Members will have to decide for themselves whether they think the existence of a station like Radio Marti is worthwhile; but I think we can all ascertain that such a station even if it is worthwhile is hardly a high enough priority to authorize \$10 million on the one hand while we are taking away millions and billions of dollars from other programs; and yet I am sure I will be asked, "Well, if we can't spend \$10 million, can we still have Radio Marti?"

The answer is yes, we can have Radio Marti by setting up the structure for the said-radio station and yet allowing voluntary contributions to fund that station instead of having Government funds fund the station.

We have heard a lot of talk about voluntarism from the President. The President tells us that there are millions of people in the private sector willing to fund worthy governmental endeavors.

I am certain that this kind of radio station would attract the kinds of funds that the President is talking about.

I am not trying to kill the bill. I am not soft on Cuba. I am as anti-Castro as any other Member in this body; but I simply believe that Government-funded foreign policy initiatives should send a clear signal, not muddled ones.

Radio Marti would still survive under my amendment. You can be both anti-Castro and reassert budget priorities by voting for this substitute.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first let me address the budget item. With the adoption of the amendment of the gentleman from Washington, I will say that the \$7.7 million is in the budget for fiscal year 1983 and is within the foreign affairs 150 function. The amount authorized now is below that, because the amendment took it down to \$7.5 million.

Now, as far as voluntary contributions are concerned, I think we had better keep the bill broad enough so that you can have appropriated funds and contributions if you want to, but do not limit it only to contributions.

When we have tried it in the past, we have had sad experiences. We were trying to fool ourselves and fool the world that the United States was operating covert radios and that there was no U.S. money in the operation. Therefore, we tried to get contributions from the public and our efforts on that were really not very good.

I have the figures now on RFE/RL, Inc. So far on voluntary contributions, even under the present operation, it is approximately \$50,000 for 1977; \$64,000 for 1978; \$30,000 for 1979; \$60,000 for 1980, and \$94,000 for 1981.

Now, even when we had covert operations, and I do not want to be held to this figure, but my best recollection is that we never did get above \$2 million at any time and that may even be a high estimate.

Mr. SCHUMER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. Certainly.

Mr. SCHUMER. I just would like to ask the gentleman how he can analogize from the European situation to this Radio Marti situation simply because there is a large segment of people in the gentleman's community and communities throughout the country that are very eager to see this radio station exist.

Furthermore, it seems to have been a pet project of a particular segment of the population of this country, an ideological segment, if you will, for many, many years. These are the same people who have been able to contribute to so many causes.

Mr. FASCELL. Well, let me take my time back.

The answer is that this is a governmental initiative. It is an administration policy request. The U.S. Government does not fund its foreign policy initiatives through voluntary contributions, and that is the answer to the gentleman.

As a governmental function, this ought not to be something done through contributions if we expect it to really work. Therefore, I would hope the amendment would be voted down, Mr. Chairman, because this would effectively kill the whole concept.

Mr. CORRADA. Mr. Chairman, I move to strike the last word. I rise in opposition to this amendment. I know it is well intended, but I believe it will not work.

As you probably know, right now in Cuba they are holding the Central American and Caribbean games. Of course, we have several newspaper men, journalists, from Puerto Rico covering that event of sports significance. Andrew Viglucci, who is the editor of the San Juan Star, a very responsible and serious newspaper in Puerto Rico, is there in Cuba. He just sent a column to his paper in Puerto Rico, "Report from Havana," and I would like to read something from that column of Mr. Viglucci. He is staying at the Havana Libre Hotel, formerly the Havana Hilton. He wandered around the hotel to see if he could get some newspapers about what is going on around the world.

He says:

I have not been able to locate a source of non-Cuban newspapers around the hotel, and I'm told not to waste my time trying. The Cuban newspapers are a numbing experience, heavy with "news" of Government activities and pronouncements.

Thursday's Granma—

And Granma is not Castro's grandmother, this is the official name of the Communist Party newspaper in Cuba, which is, of course, the largest circulating paper in Cuba. Thursday's Granma had the following headline:

West Beirut was converted today into an inferno when Nazi-Zionist aggressors launched a storm of North American firepower.

Now, of course, there is no reference there to Ambassador Habib's concern about arriving at a reasonable settlement of the problem in West Beirut. There is no expression of the deep concern of the people of the United States in seeing that something be done to stop the situation; simply for the Cubans, for Castro, this is North American firepower hitting the people of West Beirut.

Now, I would hope that by voting for this Radio Marti and not allowing it simply to be a voluntary effort and, obviously, Granma's newspaper by Castro is not a voluntary effort on the part of the Cuban Government, they put there all the money they need to get this kind of anti-American propaganda, that a vote for this bill that provides a modest amount to be able to tell the people of Cuba that, no, the North American firepower is not the reason why there is this problem in West Beirut, that the problem is a little more complicated, that we are concerned about that problem and that we stand for peace and a good settlement between the problems of the people of Israel and the people of Lebanon, and I believe that by voting for this bill and rejecting the kind of amendment that the gentleman is pro-

posing, that we are allowing the people of Cuba simply to be informed of the basic most elementary things happening around the world and, by God, I do not want that small Cuban child one day to face my son who is as Puerto Rican as I am and hate his guts simply because of this anti-American propaganda that Castro is feeding to them.

Let us give them the truth, not propaganda. Let us not use Radio Marti to tell any sort of propaganda about anti-Communists, communism or anti-Castroism. Let us use that Radio Marti simply to tell the truth so that the people of Cuba would know what it is and putting \$7 million or \$10 million, rather than just asking volunteers to do it, will do the work.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. SCHUMER) as a substitute for the amendment offered by the gentleman from Florida (Mr. FASCELL), as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SCHUMER. Mr. Chairman, I demand a recorded vote.

Mr. Chairman, I withdraw my demand for a recorded vote.

So the amendment offered as a substitute for the amendment, as amended, was rejected.

□ 1920

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida, (Mr. FASCELL), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. LEACH OF IOWA

Mr. LEACH of Iowa. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEACH of Iowa: Page 3, line 16, insert after the period the following:

"Radio broadcasting to Cuba under this Act shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news, in the same manner as the Voice of America is required to function under its charter."

Mr. LEACH of Iowa. Mr. Chairman, I will be brief.

All this amendment does is make clear that the intent of Congress is for Radio Marti to broadcast responsible news rather than propagandistic perspectives for the purpose of subversion or inciting rebellion.

Time and time again, professionals have pointed out that low-key news is the most effective way of reflecting American values and the American way. All this amendment is intended to do is to establish a legislative mandate for Radio Marti to be responsible rather than subversive.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, the thrust of this language is fine as far as I am concerned. We have written language in the report which we thought addressed this. I can accept this language as long as the language is not read to mean that the mission of BIB with respect to this particular radio shall be the same as the mission of the VOA, because that would be impossible. We cannot do that.

We are concerned with two different charters under the law, and I do not want, by accepting the spirit of this amendment, to confuse the two requirements under the law; that is, the difference between VOA and BIB. So I just wonder if the gentleman from Iowa would clarify that point.

Mr. LEACH of Iowa. Mr. Chairman, I would respond to the gentleman from Florida by pointing out that it is my intent for Radio Marti broadcasting to be done in a manner of straightforward news rather than anything that might be considered subversive. But beyond that, there is no particular intent to make too great a distinction between the two different Government broadcasting efforts.

Mr. FASCELL. I think that helps, because the gentleman does use the language "in the same manner as," and I think that helps clarify the intent.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. LEACH of Iowa. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, I am rather troubled by this. I think we have to read this a little carefully. If, in fact, this amendment is accepted, by indirection we have said Radio Marti shall be a carbon copy of the Voice of America because of the phrase "is required to function under its charter."

The Voice of America has charter restrictions. Now, the reason for that, part of it, is international public relations. We want to be sure that the Voice of America is, like Caesar's wife, "absolutely pure." Probably we have overdone it.

The point here is that if you want to differentiate between the two, I think this is a fine amendment down to the phrase "and comprehensive news."

Mr. FASCELL. Mr. Chairman, will the gentleman yield to me?

Mr. LEACH of Iowa. I yield to the gentleman from Florida.

Mr. FASCELL. I thank the gentleman for yielding.

Mr. Chairman, I was going to ask the gentleman from Iowa about that. Could the gentleman put a period at the end of "news"?

We have no opposition to the guidelines. We agree with the gentleman

thoroughly that it should be "accurate, objective, and comprehensive"; that it should be newsworthy; that it should be honest; that it should not be pure propaganda. The whole success of our operation in VOA, BIB, and RFE and RFL has been the fact that people can rely on what we are saying on the air. So we have no trouble with that.

We do have some serious problems, though, in saying that both BIB and VOA shall have the same mission.

Mr. LEACH of Iowa. Mr. Chairman, with that explanation by the gentleman from Florida, it being registered as clear legislative intent, I would accept an amendment placing a period after the word "news" and would ask unanimous consent that my amendment be revised to reflect the following: In line 3 of the amendment, strike all after the word "news" and insert a period.

Mr. DERWINSKI. Mr. Chairman, could we have the Clerk read the revised amendment?

The CHAIRMAN. The Clerk will report the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. LEACH of Iowa, as modified: Page 3, line 16, insert after the period the following: "Radio broadcasting to Cuba under this Act shall serve as a consistently reliable and authoritative source of accurate, objective, and comprehensive news."

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa to modify the amendment?

There was no objection.

Mr. DERWINSKI. Mr. Chairman, I rise in support of the amendment.

I will be very brief. Let me say to my friend from Iowa that, "Great men always rise to great responsibilities." By this amendment and the acceptance of the minor adjustment, the gentleman from Iowa demonstrates his basic interest in the practicality of truthful radio reporting. Anything that would not be reliable, accurate, objective, would not be in our national interest.

So I commend the gentleman for offering the original amendment, and for accepting the revision of that amendment.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Maine.

Mr. EMERY. I thank the gentleman for yielding.

Mr. Chairman, one of the gentleman's comments sparked a thought. Certainly I agree with the thrust of the amendment and intend to support it, but when we talk about accurate and unbiased—

Mr. DERWINSKI. Objective, comprehensive.

Mr. EMERY. Yes. Does that mean, however, that editorial opinions on an issue might not be broadcast because

they might not be entirely objective or would reflect one person's views of given subjects? I feel we should be able to broadcast such opinions to Cuba.

Maybe we ought to clarify that point for the legislative record.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

Editorial opinion, Mr. Chairman, that is clearly labeled editorial opinion would, of course, be acceptable.

Mr. Speaker, at this time I would like to reiterate an understanding I have with the gentleman from Florida (Mr. FASCELL) and stress the importance and need for reassurance that Radio Marti will, in fact, broadcast accurate, factual information to Cuba. It is my understanding that the purpose of Radio Marti is to promote open communication of information and ideas to Cuba. It is also my understanding that, if Radio Marti is established, programing will consist of honest, straightforward broadcasting of the news as opposed to militant propaganda or broadcasts which are subversive in character. In addition, a number of us are dismayed by the response made by certain midlevel Defense Department officials that the jamming of Radio Marti might constitute an "act of war" and that any such jamming would be countered by "surgically removing their transmitters." I have been reassured by the gentleman from Florida (Mr. FASCELL) that this militaristic response does not reflect congressional intent. If jamming occurs, I would think that such a response would clearly be uncalled for. Finally, Mr. Speaker, I think it would be remiss not to express the greatest alarm that this administration has chosen the route of constructing Radio Marti without congressional authorization or appropriation.

Just as ignorance of the law is no excuse for violation of the law, so constitutional illiteracy is no excuse for violation of the public trust.

The construction of the Navy's facility on Saddlebunch Key is particularly tragic because it implies an abuse of military as well as civil authority.

I do not ask for a response of the gentleman from Florida on this issue because he has been at the forefront of reestablishing a constitutional approach. In fact, I wish to express my appreciation for his sensitivity and leadership on this issue. As is his custom, he has been profoundly fair in allowing critics to make their case. For this, we are all very appreciative.

Mr. EMERY. If the gentleman will yield further, with that legislative record, and with the clear understanding that editorial opinion so labeled are not barred under the gentleman's

language, I think it is constructive and I certainly would support the amendment.

Mr. WIRTH. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. Chairman, am I correct in assuming that the "fairness doctrine" and "equal time" would not apply to Radio Marti?

Mr. DERWINSKI. I detect a glimmer of a satire in the question.

Mr. WIRTH. No, only that related to this bill.

Mr. DERWINSKI. The term "fairness doctrine" immediately triggers in my mind the fairness between American candidates for various offices. Since there is no such thing as a two-party system in Cuba, I assume the fairness doctrine would be more applicable to the objectivity of the broadcasts than anything else.

Mr. WIRTH. That is the point I wanted to make. Since we were not involved with the FCC being involved with the regulation of this station to the extent it should, therefore, the fairness doctrine and related regulatory framework would not apply to Radio Marti or is it the gentleman's intent that it should apply?

Mr. DERWINSKI. No. I think the gentleman from Iowa, who is rising to great heights of statesmanship at this point, makes it very clear, and I quote from his amendment, "reliable, authoritative, accurate, objective and comprehensive." You cannot be more reassured than that.

Mr. SIMON. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I shall not take 5 minutes, and I really am not speaking to the amendment but, rather, to the whole bill and the bigger picture.

I am going to vote for the bill for the reasons outlined by our colleague from Puerto Rico just a few minutes ago. I do not see any harm in seeing that our friends in Cuba can hear another side to things.

□ 1930

But it should be said at some point that our total foreign policy toward Cuba is a disaster. If a half-dozen people had gotten together in Moscow after Castro came to power and said, "How can we design American policy so that Cuba becomes a satellite of the Soviet Union," they could not have designed a better American policy. Cuba today is more of a satellite than is Romania; it is more of a satellite than is Hungary; it is more of a satellite than is, believe it or not, Poland. I can only think of one instance, the Law of the Sea, where Cuba has ever disagreed with the Soviet Union on anything.

The American policy ought to be—much as we disapprove of Castro—our

policy ought to be to woo Cuba away from Soviet dominance, and yet we seem intent on doing just the opposite.

I recognize the political popularity in southern Illinois or New Jersey or any other state represented here to go back home and hit Castro over the head; it is great American politics, just as it is great politics for Castro to hit Uncle Sam over the head—but we ought to be asking ourselves not how we can serve the national passion, but how can we serve the national interest.

The national interest ought to be to say to Cuba, "Let's sell you some soybeans. Let's sell you some medicine. Let's start pulling you away from dependence on the Soviets a little bit."

Again, I am going to vote for the amendment. But I am not really addressing the amendment. I am going to vote for the bill, but in discussing the bill we are talking about something that probably is not going to make one iota's worth of difference in the Cuban-American relationship. At some point what we ought to be talking about is: Is our policy a sound policy? I think it is a fundamentally flawed policy.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding. I agree with him—it is a fundamentally flawed policy, so why perpetuate it with this kind of bill that does just what the gentleman says, pushes Castro and the Cubans further into the Soviet orbit? The very people—not those who are here right now, but the people who originally who thought up this crazy idea, who pushed through Radio Broadcasting to Cuba, Incorporated—are the very people who year after year tried to thwart just what the gentleman has said, namely, all meaningful dialogue and relationships with Cuba to bring them out of the Soviet orbit.

Mr. SIMON. If I could respond to the gentleman, I understand his point of view, and the gentleman may be correct. It does seem to me that whichever way we go on this, it really does not change our policy, and we have this confrontational situation. It is probably good that our friends in Cuba can hear another perspective on things, but I hope one of these days we in Congress will have the courage—and there will be an administration with the courage—to recognize that where we are going right now just does not make any sense at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. LEACH), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. LELAND

Mr. LELAND. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LELAND: Page 6, after line 17, insert the following:

"(2) The funds authorized in paragraph (1) shall not be appropriated by the Congress unless the President proposes and the Congress enacts legislation, subsequent to the enactment of the Radio Broadcasting to Cuba Act, which authorizes the Board to provide accurate information to the people of South Africa (through the use of radio broadcasting) regarding the existence of apartheid and oppression in South Africa."

Page 6, line 13, strike out "(c) There" and insert in lieu thereof "(c)(1) Subject to the provisions of paragraph (2), there".

Page 6, line 17, strike out the quotation marks and the period following the quotation marks.

Mr. LELAND (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. FASCELL. Mr. Chairman, reserving the right to object, I need to know a little bit more about the amendment.

Mr. LELAND. I forwarded a copy to the gentleman.

Mr. FASCELL. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman reserves a point of order on the amendment.

Is there objection to the request of the gentleman from Texas?

Mr. WIRTH. Reserving the right to object, Mr. Chairman—I will object, Mr. Chairman. I think the amendment ought to be read.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk concluded the reading of the amendment.

The CHAIRMAN. The Chair understands that the gentleman from Florida (Mr. FASCELL) has reserved a point of order on the amendment.

The Chair recognizes the gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Chairman, the point of this amendment is both clear and simple. It addresses a fundamental weakness—or perhaps more correctly, a hypocrisy—in the foreign policy on which the Radio Marti legislation is based. By amending this legislation to make South Africa a target, along with Cuba, of the concept embodied in Radio Marti and to make the appropriation of funds under this legislation contingent on the development of a similar broadcast station aimed at South Africa. We will add an element of balance sorely needed in the foreign policy of the Reagan administration.

Examine with me for a moment, the underlying assumptions on which the

Radio Marti legislation is based. The administration is concerned, and properly so, about human rights violations and political deprivations in Cuba. The administration is also clearly concerned about the fact that the Cuban Government is a Communist government * * * one which they see as a vehicle of Soviet influence in Latin America. Their response is to spend \$18 million to broadcast to the Cuban people. They conveniently ignore the fact that we have an existing mechanism for broadcasting the truth to the Cuban people, making the Radio Marti station unnecessary and duplicative. They ignore the fact that the Radio Marti broadcasts will not be heard by the Cuban people, because of the administration's choice of the AM frequency and because of the Cuban intent to jam the signal. They recognize the substantial disruption which will be suffered by domestic broadcasters in 32 States if the Cubans respond to Radio Marti with a high-powered station of their own by offering token financial compensation to the broadcasters.

But they do not ignore what bothers them the most: The Cuban Government is a leftist government. That is a critical point. Our foreign policy, as reflected in the Radio Marti concept, is not to broadcast the truth to the people under authoritarian and restrictive governments. Their concern is with the politics of those governments.

This amendment provides balance for that policy by including, in this effort to broadcast the truth, a glaring, undeniable example of human rights violations and political deprivations by a rightist government, namely the Government of South Africa. By amending the Radio Marti legislation to include not only the administration's pick of the leftist litter, Cuba, but to include a prime example of rightist totalitarianism, we have corrected the administration's oversight in appearing to be deeply concerned about the plight of the Cuban people yet not concerned enough about the plight of the 86 percent of the South African population that is not white and essentially without political rights to create a Radio Marti for them.

If, in fact, what the administration is really concerned about is an effort to offset the stifling impact of political oppression and provide a word of hope to oppressed peoples, they should have no problem with this amendment. Creation of a—and I will take the liberty of suggesting a name: Radio Biko, named for Steve Biko, whose death in the cause of freedom for the nonwhite population of South Africa is known to the world—creation of a Radio Biko for South Africa should appeal to the Reagan administration.

But it will not. This administration has worked quietly and subtly to liber-

alize the relationship between our Government and the Government of South Africa and to relax the embargoes which, in earlier administrations, reflected some outrage at the blatant disregard for human life and political freedom that is the hallmark of white minority rule in South Africa. The administration's eye for totalitarianism is not as sharp when it looks toward South Africa, nor is its love of freedom.

Those of you who support Radio Marti because of a concern for the plight of the people of Cuba should have no problem voting for this amendment. The plight of the people of nonwhite South Africa is at least as grave. They certainly need the truth.

Those of you who oppose Radio Marti can take heart. By requiring the administration to create a radio Biko before they can have their Radio Marti, we have effectively killed Radio Marti. The Reagan administration shows no inclination to take a tough public posture with the rightist Government of South Africa.

But should this administration, at some point, decide to apply its loudly expressed concern for human rights and political freedom to any country where these rights and freedoms are violated and abridged, this Radio Biko amendment will give them a perfect opportunity to implement such a balanced foreign policy.

So that this body does not become a party to the hypocrisy embodied in the Radio Marti legislation, I urge your support of this amendment.

□ 1940

The CHAIRMAN. Does the gentleman from Florida (Mr. FASCELL) insist on his point of order?

Mr. FASCELL. Mr. Chairman, I do insist on the point of order as being in violation under clause 7, rule XVI, as nongermane and has nothing to do with the subject matter of the bill.

The CHAIRMAN. Does the gentleman from Texas wish to be heard on the point of order?

Mr. LELAND. I sure do, Mr. Chairman. If nothing else, on the germaneness of the morality of this ridiculous legislation.

Mr. Chairman, the amendment is germane for two reasons which I will explain.

H.R. 5427 contains two basic proposals, neither of which are specifically related to Cuba.

First, that the foreign policy of the United States seeks to guarantee the human rights of all persons as defined by the Universal Declaration of Human Rights, and in particular article 19 of that declaration. Article 19 says that it is the right of all persons to "seek, receive, and impart information and ideas through any media and regardless of frontiers." That this is

the purpose of the bill is clearly stated in section 2 of H.R. 5427.

Second, that the Board for International Broadcasting (BIB), to carry out that purpose of our foreign policy, is authorized to "provide for the open communication of information and ideas through the use of radio broadcasting." This is clearly stated in section 3 of H.R. 5427, which is the operative clause of the bill. It is the BIB which is being instructed to carry out this part of our foreign policy.

My amendment is perfectly consistent with the operative clause of the bill (section 3), and with the broader foreign policy goals of the bill. Surely it is not the intention of the President and of the gentleman from Florida that article 19 of the Universal Declaration of Human Rights applies only to Cuba.

The CHAIRMAN. Does the gentleman from Florida (Mr. FASCELL) wish to be heard further on the point of order?

Mr. FASCELL. Yes, Mr. Chairman, I certainly do. The main purpose of this bill makes an amendment to the Board for International Broadcasting nothing else primarily, and the limitation on the policy findings are that it is to the people of Cuba and radio broadcasting to Cuba, and nothing else.

The CHAIRMAN (Mr. RATCHFORD). The Chair is prepared to rule.

The point of order raised is on the issue of germaneness and the Chair is persuaded that in spite of the strong arguments from the gentleman from Florida, the amendment, as offered, is not germane.

Let the Chair cite from precedents specifically to a bill authorizing appropriation of funds, an amendment holding the authorization in abeyance pending an unrelated contingency is not germane.

This particular germaneness precedent in the 96th Congress related to the issue of whether or not there could be a condition on fuel assistance, that condition being awaiting the action of the passage of a windfall profit tax. In effect, tonight what the gentleman is attempting to do is condition funding of broadcasting to Cuba, on an unrelated contingency, which is broadcasting to South Africa and, therefore, the Chair is prepared to sustain the point of order as raised by the gentleman from Florida.

PARLIAMENTARY INQUIRY

Mr. LELAND. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. LELAND. The Chairman does, however, agree that on moral grounds this amendment is completely germane?

The CHAIRMAN. The Chair is not acting in the capacity of chaplain this evening.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

I will be very brief. First of all, I ask for this time in order to correct, at least from my vantage point, the record as described by the eloquent gentleman from Texas.

May I state I have full respect for the gentleman from Texas, his integrity, his interest, and his very special concern over development in South Africa. May I say I will not retreat from comparison to any Member of this body in my abhorrence of apartheid, but that is not the issue here.

I think the gentleman, in his eloquence, has tended toward a slight exaggeration of the administration's record on the subject. May I point out that the administration has been very firm, very precise, and very clear in its continued opposition of apartheid. I think the record should so read.

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. Yes, of course I yield.

Mr. LELAND. I would like to point out to the gentleman that to this date we still have a trade embargo imposed on Cuba. The fact of the matter is though that there has been a White House mandate in the past, heretofore in the Reagan administration. The Reagan administration, indeed, lifted the trade restrictions against South Africa. So I think the gentleman's statement is not necessarily correct.

Mr. DERWINSKI. I think it is a matter of how we interpret the practicality of lifting any restrictions, because the facts of life are that within the economy of South Africa, notwithstanding their horrible application of apartheid, the standard of living of the people living in South Africa is substantially better than that of other people of Africa, and substantially higher than, say, in Cuba or probably in any country behind the Iron Curtain.

Mr. LELAND. I would beg to differ with the gentleman, and I think we need to engage in this colloquy at some other point in some other forum.

Mr. DERWINSKI. I think that we should, and in the spirit of good will that we have always demonstrated to each other. I am sure that it would be a mutually informative discussion. I would also like to point out that, according to the 1982 human rights report, South Africa has a particularly "active opposition press which continues to be a vigorous critic of the government and carries extensive reporting and commentary on basic government policies—and the conditions in various racial communities." There are frequent critical articles in the press. I do not believe this applies to Cuba. Furthermore, South Africa does not represent a direct threat to U.S. interests by serving as a proxy for the Soviet Union.

Mr. PEPPER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the solution to the problem of Cuba is not an easy one. If ever the United States were justified in preventing a head of state coming to office, we could have and should have, I think, prevented Castro from coming to power in 1959.

Now the time is late. He is a satellite of the Soviet Union.

We all know and have information here as Members of this House from time to time that there is almost a constant stream of Russian submarines coming by Iceland down the Atlantic Ocean to Cuba, and almost a steady stream of reconnaissance bombers and bombers with weapons aboard coming the same route, taking rendezvous in Cuba.

There was recently open information available, an embarrassment to President Carter that there were Russian troops, units of the Russian Armed Forces that were moving around in Cuba.

We do not know what all they have there.

If the letter of the Monroe Doctrine has not been violated by the establishment of a European system in the Western Hemisphere, certainly the spirit has been violated in Cuba.

□ 1950

Now, Castro is not only a minion, a satellite of the Soviet Union, but he is a cancerous influence in Central America and in the whole of the Western Hemisphere.

Only recently, when the Interparliamentary Union met in Cuba, many of us refusing to go because we anticipated that is what would happen, Castro spent about 2 hours denouncing the United States of America.

Now, what moved us to establish the Voice of America? To try to tell the truth about the news to the people of the world.

Why did we establish Radio Free Europe? To try to tell the people in Eastern Europe, confined in their Communist prisons, as it were, what was going on in their own countries.

What motivated us to establish Radio Liberty? To put the news, the facts about what was going on in Russia before the Russian people.

I say the same reason that actuated us to establish those instrumentalities for the dissemination of information moves us now.

I do not know what the solution is, but I do know that asking the Cuban mother what reason has she to let her son die in Angola or Ethiopia to serve imperialistic purposes of Russia is a touching inquiry to her.

I do know that if we tell those people down in Cuba that a few years ago a lot of people from Cuba fled the

despotism of Castro and came to Miami, Fla., and now the record shows that the average annual income of those Cubans is in excess of the non-Cubans who live in Dade County, Fla. It simply demonstrated that they have come to a free country, they have the right of free enterprise, they can enjoy American liberty. Constantly reminding those people down there still behind of what is over here in America; and their knowing what we are doing in America is a motivation to them to want to throw off the yoke of communistic and Castro tyranny and some time or another return to what was once called with pride the jewel of the Caribbean, Cuba. If they could simply dethrone this communistic imperialism that has been imposed upon them, again this rich isle could become the jewel of the Caribbean. And surely one way to promote the restlessness of the people, the resurgence of the people, demanding that sort of freedom, is to give them the truth about what is being done in their own country.

So I am going to support this bill. I think it is in the national interest to pass it.

● Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of this legislation to authorize radio broadcasts to Cuba. I have long supported all of our international broadcasting efforts through the Voice of America, Radio Free Europe, and Radio Liberty because they are an essential element of our national security. They are non-military, cost effective, and employable now.

One of the problems we have had in dealing with other nations is that we are often misunderstood by their people. The citizens of nations where freedom of the press is denied must rely on information from outside to learn of world events, or even what is happening in their own land. The people of Cuba have access to only one international broadcast targeted especially to their nation: That broadcast is Radio Moscow. The Cuban example graphically illustrates that when truthful information is denied it is far easier to disseminate anti-American propaganda—and have it accepted as truth.

This legislation will authorize a radio that is very similar to Radio Free Europe and Radio Liberty. It is important for Members to understand the difference between these radios, and the Voice of America. RFE and RL broadcast to the people of Eastern Europe and the Soviet Union news about their own nations. They act as surrogate domestic news services to the millions of people behind the Iron Curtain. The Voice of America is completely different. It acts as a worldwide news agency, and also presents a U.S. perspective on current events.

Therefore, news from Czechoslovakia or East Germany or Cuba or any other nation is only reported when it has major international significance. Zeroing in on Cuban news would be totally inappropriate for the Voice of America, and indeed, would violate its charter.

The creation of Radio Marti will provide the truth-starved people of Cuba a desperately needed service of domestic news and information. We do not intend to establish a propaganda agency, but merely relay the truth to Cuba in a strong and clear voice. The truth speaks for itself, and as Americans our ideas and accomplishments have always spoken for themselves. This is the weapon we have that is so much more powerful than arms. It is the weapon the Castro's of the world fear most. As Thomas Jefferson said,

Here, we are not afraid to follow the truth, wherever it may lead so long as reason is free to combat it.

He was speaking of the University of Virginia, but it certainly also applies to our country.

I would also point out to my colleagues that Radio Marti is an integral component of the PrErident's Caribbean basin initiative. Along with our efforts to more closely cooperate economically with our southern neighbors, we must not neglect the need to foster responsible, democratic political development as well.

I do not believe we can say enough about how important international broadcasting is to our national security, and to the millions of people around the world who hunger for the truth. I compliment the committee on its fine work and urge my colleagues to support this important legislation.●

Mr. WEISS. Mr. Chairman, H.R. 5427 would authorize a Government-run radio station to broadcast to Cuba. The intent of the Reagan administration in requesting this authority is to tell the Cubans about life in their own country. This is both presumptuous and senseless, and Radio Marti is a waste of taxpayers' money.

Broadcasting propaganda to Cuba is certain to heighten the antagonism which characterizes our relations with Cuba under the Reagan administration. Cuban President Fidel Castro already has made it clear that Cuba will respond to Radio Marti by counter-broadcasting signals that would jam radio stations in as many as 32 States. This would likely lead to an airwaves stalemate that eventually would force the administration to end its broadcasts, and the money we are being asked today to authorize would be wasted.

What does the President presume to tell the Cuban people? There would be nothing instructional in telling them what to think about the Castro government, which they know far better than we do. It would be of little educa-

tional value to describe to them their own quality of life.

I can only think that the Cubans will recognize Radio Marti propaganda for what it will be, carefully packaged half-truths. The people of Cuba are as intelligent as those of any other nation, and it is a delusion to believe they will be taken in by transparent propaganda.

The stature and role of the United States with the people of the Caribbean and Central America will be diminished by Radio Marti. No one welcomes meddling into their internal affairs, as this station is intended to do. Radio Marti would, in fact, further damage our already unstable policy toward the region.

Our relations with Cuba gradually improved through the 1970's, and we seemed to be approaching an opportunity to ease tensions which have permeated the Caribbean since the 1962 Cuban trade embargo was put in place. The Reagan administration quickly dispelled this hope, however, by shunning contact with the Cubans and launching an international anti-Cuba campaign.

Even suggestions by Cuban officials that an informal dialog between our nations be established were dismissed without consideration by Reagan officials. Cuban officials were denied visas to come to Washington to participate in a seminar that was well attended by Members of Congress, and the opportunity for an exchange of ideas was lost. Most recently, the administration put tight restrictions on American travel in Cuba.

Our own best interests would be met by increasing cultural, social, and technical exchange with Cuba. But Radio Marti is certain to interfere with all such programs. This legislation should be defeated.

PARLIAMENTARY INQUIRY

Mr. WIRTH. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. WIRTH. Mr. Chairman, are we at the point now, at the end of general debate at 8 o'clock, and then thereafter, of offering only amendments that have been printed in the Record?

The CHAIRMAN. Amendments may be offered, but only those printed in the Record; and the author would then be limited to 5 minutes on the amendment. We are at that point.

Mr. WIRTH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I posed the parliamentary inquiry only for the purpose from the perspective of those who oppose this bill, to summarize where we are in the arguments that have been made over the last few weeks.

The gentleman from Florida (Mr. PEPPER) makes a very eloquent statement on behalf of those who advocate

the bill. There are others of us who see the world quite differently in terms of the way in which you approach Cuba, and from the perspective that was reflected by the gentleman from Illinois (Mr. SIMON) earlier, and that is that our policy toward the Cuban Government is fundamentally bankrupt and that all we are doing with Radio Marti is further reinforcing that bankruptcy, pouring more good money after bad.

As I have pointed out on a number of occasions, we have been in a situation in which there is 90 miles off of our coast a government, and we are pretending as if that government is not there. It seems to me that it does not make any sense at all. Those are the foreign policy goals which have been discussed and debated.

Getting back on the domestic side of it, there are a variety of issues here that Members ought to be aware of. First of all, Members should be aware that this radio station, which the FCC and the Voice of America and other analyses that have been done, clearly suggest is going to create very significant interference which will likely lead to interference for over 200 radio stations in 32 States. That is going to cause very, very significant harm. And who is going to pay for that harm? The American taxpayer. Who causes that harm? This silly bill causes that harm. And the taxpayer then goes and bails out what harm has been caused with taxpayer money. It just does not make any sense whatsoever. In terms of spending, the taxpayer loses twice.

The taxpayer also loses in terms of our domestic priorities. We are spending almost \$1 per Cuban to build this facility. We are willing to spend less than 7 cents per American on facilities to bring public broadcasting—such as, "All Things Considered"—and, everything else that one hears on public radio or sees on public television—to the American public.

We have got a gold-plated operation, even cutting it back, as was done by the Swift amendment.

We also have a very anomalous and serious situation in terms of the Constitution. We have a facility under construction right now being built with taxpayers' money, using the umbrella of the Defense Department, with documentation available to all of us that says that yes, the Defense Department is going to turn over this facility for Radio Marti; no authorization, no appropriation. Clearly a violation of what Congress is all about—which is to authorize and appropriate money. This is not a function to be co-opted by the executive branch.

What happens in Cuba? The Cubans are listening to radio from Miami—they are listening to Florida radio all the time. There are dozens of radio stations broadcasting, some in Spanish, some in English, some all over

Cuba, some just in parts of Cuba, and there are some five radio stations from our Guantanamo base, which as a matter of fact, are right in Cuba. We already have radio stations there broadcasting. We have got Radio Marathon, we have got a plethora of outlets.

The whole operation just does not make any sense. It comes out of a deep-felt cold war concern about how you deal with Cuba. That is one perspective, a legitimate perspective, that I do not happen to share, but it is a legitimate perspective. It fuzzes over the nature of our overall relationship with the Cuban Government; fuzzes over the constitutional nature of how we are spending our money; fuzzes over the very significant harm that this legislation is going to have on domestic broadcasting and American radio listeners.

The final insult, Mr. Chairman, comes in calling this Radio Marti. Jose Marti was a great Cuban patriot, I am sure. But he did not have very many nice things to say about the United States of America. I have a number of quotes from him, in which he is referring to the United States, Mr. Chairman, which I include in the RECORD at this point:

May 18, 1895: "It is my duty—inasmuch as I realize it and have the spirit to fulfill it—to prevent, by the independence of Cuba, the United States from spreading over the West Indies and falling, with that added weight, upon other lands of our America. All I have done up to now, and shall do hereafter, is to that end . . . I have lived inside the monster and know its entrails—and my weapon is only the slingshot of David."

1889: "What is apparent is that the nature of the North American government is gradually changing its fundamental reality. Under the traditional labels of Republican and Democrat, with no innovation other than the contingent circumstances of place and character, the republic is becoming plutocratic and imperialistic."

March 23, 1894: "... those structural qualities which, for their constancy and authority, demonstrate who useful truths to our America: the crude, uneven, and decadent character of the United States, and the continuous existence there of all the violence, discord, immorality, and disorder blamed upon the peoples of Spanish America."

Those quotes, Mr. Chairman, are perhaps the final insult to our consideration of this very, very ill-thought through piece of legislation. To call it Radio Marti is an insult not only to the very goal of this legislation, as it has been stated by its proponents today, but also to the taxpayers of this country who are supporting this ill-fated project.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 8, after line 12, insert the following new section:

GENERAL ACCOUNTING OFFICE INVESTIGATION OF POSSIBLE IMPROPER USE OF GOVERNMENT FUNDS

SEC. 7. The preceding provisions of this Act shall not take effect until 30 days (excluding any day on which both Houses of Congress are not in session) after the Comptroller General of the United States has submitted to the Congress a report on the results of an investigation by the General Accounting Office into the possible improper use of Government funds by the Department of Defense or any other Federal agency to build a broadcasting facility, prior to the enactment of this authorizing legislation, for use for radio broadcasting to Cuba.

The CHAIRMAN. Has the gentleman's amendment been printed in the RECORD.

Mr. HARKIN. Yes, Mr. Chairman.

Mr. Chairman, what my amendment would do would say that none of the funds authorized under this act could be expended until 30 days after the Comptroller General of the United States has submitted to Congress a report on the results of an investigation by the GAO into the possible improper use of Government funds by the Department of Defense or any other agency to build a broadcasting facility prior to the enactment of this authorizing legislation.

It is widely known that the Navy has been building a transmitter at Saddlebunch Key, Fla. It is also clear that this will become the Radio Marti transmitter. In spite of the fact that this Congress has not authorized any expenditure for such a facility, under the thinnest veil of national security the Defense Department is falsely using its authorization to build this transmitter.

I am talking about a fundamental question of our Constitution. The Constitution requires that funds not be spent without being first passed, authorized and appropriated by Congress.

Once again, my amendment just requires that this will not take effect until we have a report from the GAO.

Now, some think that we are dealing with just a minor bill here. But I submit that the actions by the executive branch violate article 1, section 9 of the Constitution, upon which the balance of powers of our Government is based: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by law * * * ." Now, on September 18, 1981, Under Secretary of Defense Fred Ikle wrote to the Assistant Secretary of Commerce, Bernard Wunder:

On request of the Assistant to the President for National Security Affairs, the Department of Defense is preparing to provide, upon enactment of authorizing legislation, a medium wave AM transmitter facility for radio broadcasting to Cuba.

That was in September of 1981, saying that they would provide it upon enactment of authorizing legislation.

□ 2000

In this letter, he says that a medium wave transmitter facility for radio broadcasting to Cuba would be built and the National Security Council is attaching considerable urgency to this matter as a key foreign policy matter.

Now, what happened since then? On June 18, 1982, a UPI report from Key West says that, and I will quote:

In Key West, however, Navy officials tell a different story. Lt. Commander Mark Newheart, Public Affairs officer for U.S. Caribbean Forces, said the antennas were designed for Radio Marti. But they won't be used until Congress has given its approval.

I also have a letter written to Congressman TIM WIRTH, a colleague of ours, from Mr. ADDABBO, chairman of the Defense Subcommittee. And I would just quote from this, from his investigation by his Defense Subcommittee staff. It says here:

Originally Radio Marti * * * Department of State was to pay for the facility and DOD would have seizure rights for the classified mission. Funds are included in pending fiscal year 1982 funding request for this purpose. However, as Radio Marti proposal has run into trouble in Congress, the Department of Defense in March 1982 directed that the Navy proceed with construction of a four tower antenna at Saddle Bunch Key, Fla. According to DOD, this decision was made because DOD could not wait any longer to get a facility for its classified function. However, if Radio Marti is authorized, DOD will not be required to reimburse the Navy for the costs incurred in constructing the antenna array.

So clearly what we have is the Department of Defense building an antenna array, expending moneys for Radio Marti before we have had a chance to authorize and appropriate those moneys.

And all I have said in my amendment is none of these funds can be expended until at least 30 days after we receive a report back from the GAO into the possible improper use of Government funds by the Department of Defense.

I urge adoption of the amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

First of all, the gentleman has already read right from the letters from the Defense Department with regard to the DOD necessity, need, and purpose for the classified mission. I am informed that DOD representatives have already advised the Armed Services Committee to their purposes, and I assume is in that committee's budget somewhere.

The main thing that concerns us regarding this authorization is that the administration will not operate Radio Marti until such time as an authorization and appropriation is made available by the Congress of the United States in accordance with the requirements of the Constitution.

Now, the gentleman wants the GAO to examine the proposal for Radio Marti. However, if the Appropriations Committee or the gentleman from Iowa makes a heated request to them for a study, they cannot ignore it. We all know you do not have to write a requirement for such a study in legislation if you want GAO to perform an investigation.

If we legislate this, we simply throw another roadblock, another obstacle, another question into the authorization process.

I do not see any need to do that. If the gentleman is seriously concerned, if the Armed Services Committee is concerned, or the Appropriations Committee is concerned, they can request a study.

This authorization simply says that you will operate, you will expend funds, based on this authorization passed by the Congress.

Mr. DERWINSKI. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I thank the gentleman for yielding.

Mr. Chairman, I support the comments made by the gentleman from Florida and remind all the Members that this radio is a bipartisan measure supported in a very obvious fashion by Members from both sides of the aisle.

In that spirit I urge rejection of the amendment and final passage of the bill.

● Mr. WIRTH. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Iowa (Mr. HARKIN) Iowa to provide for a GAO study.

This amendment will add a new section to the legislation prohibiting the expenditure of any funds until the General Accounting Office has conducted a study into the possible unauthorized construction of Radio Marti prior to the passage of authorizing legislation. As I said 2 weeks ago, it has come to my attention, and the attention of several other Members of Congress, that the facility to be used by Radio Marti has, in fact, already been constructed at Saddlebunch Key in Florida.

It is apparent that the executive branch, under the guise of a national security requirement, has proceeded with the construction of a facility which it planned from the outset to turn over to Radio Marti. In fact, the Defense Appropriations Subcommittee staff conducted an investigation into the matter and concluded that the transmitter facility being built by the Navy in Florida is for use by Radio Marti.

Mr. Chairman, the U.S. Constitution clearly states:

No money shall be drawn from the Treasury, but in consequence of appropriations made by Law.

I am very concerned that the executive branch has not only usurped the powers of Congress, but that it has violated the U.S. Constitution by proceeding with this station months before Congress has acted on authorizing legislation.

Mr. Chairman, this amendment will require Congress watchdog agency, the General Accounting Office, to conduct a thorough investigation to determine if, in fact, funds have been spent to render Radio Marti operational without authorization. If so, these funds should be fully accounted for prior to any additional funding being spent on this project, if we are to act responsibly.

I urge my colleagues to vote to protect the clear separation of powers set forth in the Constitution and to join me in support of this important amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. It is, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 8, after line 12 insert the following:

PROHIBITION ON HIRING OF ADDITIONAL PERSONNEL FOR RADIO BROADCASTING TO CUBA

SEC. 7. (a) Except as provided in subsection (b), functions relating to radio broadcasting to Cuba under this Act may only be carried out by personnel of Federal agencies, and no Federal agency may employ additional personnel for purposes of carrying out any such function.

(b) Nothing in this section precludes the Board for International Broadcasting from utilizing the services of existing news reporting organizations.

Page 3, line 16, strike out "The" and all that follows through the end of line 20.

Mr. HARKIN. Mr. Chairman, I think this is one amendment on which I think we ought to have a vote. Because what this does is to prohibit a great building up of some kind of bureaucracy to operate this radio station.

Let me just read to my colleagues some material from the International Communication Agency, the ICA, which discussed the employment requirement of Radio Marti.

Quite frankly I was amazed. They indicated that 159 employees would be needed. Let me repeat that. One hundred and fifty-nine employees.

Let me just read a portion of that memo.

A daily 14-hour program would require two shifts for a personnel total of 159. Seventy-four editors, commentators, analysts, writers, broadcasters, a program aide/secretary, 15 producers, directors and aides, 16 technicians and aides, nine correspondents assisted by secretary/media/aide, and a technician in Washington, D.C., and a tech-

nician in New York, support personnel would increase accordingly to a research office of six, including a music librarian

How about that—

a music librarian, an executive administrative staff of five, a directorate of six, and transmitter staffs of 24. Back-up research and reference materials would continue to be added and a comprehensive music and sound library established.

Do we really want to hire 159 new bureaucrats to run anything in this Government? I think not.

And we do not want to contract out either.

Now, under the bill as written, they could contract this service out to some kookie organization someplace and they could hire 159 people. But ICA said if they are going to go to this 14-hour broadcasting, like they envision, they need 159 people.

So what my amendment says basically is that if a few employees are needed to run the radio station they will have to come from positions already authorized in the Federal Government.

It would require that the Federal bureaucracies would not be expanded because of this activity. It would not, however, prevent the hiring of news reporting services to do some of the functions of reporting the news to them.

However, my amendment would stop bureaucratic growth. And the amendment does allow, however, transfer of positions from one agency to another.

So basically I just ask my colleagues. Even if you are in favor of Radio Marti, if you would like to keep them from hiring 159 new people, or contracting out to hire 159 new people, I ask the Members' support for this amendment.

They can get existing personnel from Voice of America. They can get existing personnel from the State Department, they got them all over down there. Let them get them from there without hiring 159 new people.

I urge adoption of this amendment.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

I rise in opposition to the amendment.

Mr. Chairman, this is a serious effort to dismantle this bill. And we have come too far to let that happen.

The agencies that the gentleman is talking about—VOA, BIB, and the State Department—I guarantee they are under budget right now. We have cut into their muscle and the bone is shining. I know, because our subcommittee is responsible for those budgets and has fought to increase the budgets or, failing that, to minimize the cuts.

□ 2010

I can tell you right now that they are operating at about a 1959 personnel level. They are hurting. That is point No. 1.

Point No. 2: The kind of trained people we want and need to carry on this operation are not in those agencies now. They would have to be trained. We have to go out and get additional people. Putting this additional duty upon an agency—the Board for International Broadcasting—which already has all they can say grace over now is unconscionable and defeats the purpose of this bill. They would have to pull their people out of Radio Liberty and Radio Free Europe. I do not think that is a wise idea at all. I also do not think it is wise to take them from VOA.

We are not doing enough with those radios now. The main thrust of what we have been saying in this legislation from the very beginning is this: We are in a contest in this world. Let us not make any mistake about it. I am not talking about cold war confrontation mentality and I am not looking under the bed. I am being as cold and as pragmatic and as practical as any Member of this House when I say that we are in a contest of ideas and ideals.

One of the things we had better learn how to do is to get our message across affirmatively and we had better use every tool at our command. It is called clear language, not clear channel, but I will say clear channel also for the fight we have had here today because of the gentleman from Iowa who put up such a wondrous defense against this radio station and the concept of what he believes is a wrong bill. But I will take and we need for this country every conceivable means to get our message across affirmatively: Radio, books, people, television, and any other public diplomacy tools, and I will tell you right now that we are being outspent in that contest about 7 to 1. We do not want any more roadblocks in it.

Let us use this small step to say that we are enhancing our international capability to communicate freely to people about ideas and ideals and let those people make the judgments.

Mr. SHARP. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I would be delighted to yield.

Mr. SHARP. I appreciate the gentleman yielding. I would hope that some of our colleagues who feel intensely about this issue would recognize that a good deal of time has been spent on it in the House and would recognize there have been two or three opportunities already and there will be one more opportunity for people to make clear to the American public where they stand on this issue.

I would hope that we would not have to lock the House up in additional votes on these other amendments because the fact is we have important things that will make a big difference to the lives of my constituents that I want on this agenda.

I think it is time the Congress started dealing with those and I think we ought to conclude this matter. Everybody has had their say. Everybody is getting their say, and we can resolve this once and for all.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to get back to the argument made by the distinguished gentleman from Iowa. You cannot pirate personnel from Radio Free Europe or Radio Liberty. Their expertise is Eastern Europe and the Soviet Union proper.

The CHAIRMAN. All time has expired. Under the previous motion and action of the House, all time on this amendment has expired.

The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

PREFERENTIAL MOTION OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. DELLUMS moves that the Committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

Mr. DELLUMS. Mr. Chairman, I offer this preferential motion simply to provide myself with an opportunity to state my position on the matter before the body.

Mr. Chairman, I rise in opposition to this legislation. I would suggest that with 20 years, experience with Cuba since the overthrow of Batista, we have embarked upon a course of action that in my estimation requires that we move in some radically different way.

For a moment, let us recap history. In 1959, Mr. Chairman, this country attacked agrarian reform which nationalized land holdings in Cuba.

We attacked Cuban relationships with the Eastern bloc.

We attacked the Cuban sanction when Cuba developed a sanctuary for Latin American revolutionaries, we challenged that.

Hostility grew, Mr. Chairman. Washington moved to strangle the economy of Cuba. Cuba then was forced to find a patron.

Mr. Chairman, in the 1960's the development of a policy of hostility on the part of the United States with CIA paramilitary operations, U.S. sanctions supported by OAS; Cuba reacted by supporting Latin American revolution.

In the 1970's we had a U.S. reassessment of American policy toward Cuba. Then President Ford eased the embargo on U.S. subsidiaries. We relaxed OAS sanctions. We dropped the demand that Cuba sever its relationship with the Soviet Union.

The reassessment ended with the introduction of Cuban troops in Angola. In 1977, we had a new reassessment on the part of the Carter administration. Carter was seeking Cuban withdrawal from Angola.

We saw fishing agreements and other mutual concessions, such as stopping U.S. overflights. Cuba released political prisoners. There were Cuban discussions with exiles.

In 1978, normalization between the United States and Cuba collapsed over the misunderstanding of Cuban introduction of troops in Ethiopia.

Further deterioration when we began to believe that the invasion of Zaire in some way included Cuban troops and as I recall history, we never quite proved that.

Then we discovered 23 Soviet Mig's in Cuba.

In 1979 we came to the startling conclusion that there was a Soviet brigade in Cuba and then here we are with the Reagan hard line.

I would suggest, Mr. Chairman, that there is no more likelihood that we will succeed with this hard line than we did 20 years ago over what we have done in the past 20 years.

There are mutual interests that exist between our two countries. Previous sanctions have changed nothing in Cuba.

I do not believe that any of us ought to be naive enough to believe that with this Radio Marti that there will suddenly be some mass response to Cuba, some mass opposition.

I would suggest that those persons who oppose the Cuban Government probably have already left, or are probably here, some of them languishing in some of our manmade, home-made prisons.

Mr. Chairman, at this moment we face two policy options. We can continue our coercive strategy, which I would suggest cannot and will not work, or we can begin to open up the process of communication. It seems to me tragic and ludicrous for a nation not to be in communication with a tiny nation 90 miles off our coast.

While we are asking the Israelis and the Palestinians to communicate, while we are asking Iran and Iraq to communicate, while we are asking a number of countries around the world to communicate, we are now threatening our ability to communicate with another nation. That is not healthy. In the world of the 1980's, Mr. Chairman, America ought to be a beacon of peace. To engage in this absurdity is a waste of resources. It is embarking upon a strategy that cannot and will not work. It is a naive and absurd approach.

As I have said before, the only dignity that this legislation brings is the dignity that the gentleman from Florida brings because of his intellectual and political acumen; but there is no

dignity in this legislation. This is an absurdity. It is a throwback to propaganda. It would seem to me that the role of the United States in the 1980's ought to be to declare a much more helpful and useful role in the world.

Mr. FASCELL. Mr. Chairman, I rise in opposition to the preferential motion and I ask that it be defeated.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from California (Mr. DELUMS).

The preferential motion was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair will ask the gentleman, Is the amendment printed in the RECORD?

Mr. HARKIN. Yes, Mr. Chairman, it is printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "John Foster Dulles Cold War Mentality Memorial Radio Broadcasting to Cuba Act."

□ 2020

Mr. HARKIN. First of all, I just want to say to the gentleman from Indiana who took the floor a little bit ago saying that it was important legislation that affected his constituency, I want him to know that this legislation I consider important, too, not only to my constituents but to the entire country because I believe we are going down the wrong road in this.

Mr. Chairman, I am not spending my time here in this well fighting this bill for no reason, to try to delay or use dilatory tactics. It is because I believe deeply that this bill is the wrong thing to do and I want to do whatever I can to convince these Members that we are going down the wrong track.

I believe it is in the interest of the constituents of the gentleman from Indiana (Mr. SHARP) and mine, too. So, gentlemen, please give me the benefit of that doubt.

I am not standing here just to try to delay this thing needlessly.

Mr. SHARP. If the gentleman will yield—

Mr. HARKIN. I will yield later. I only have 5 minutes.

Mr. Chairman, I only offer this amendment to retitle this bill "The John Foster Dulles Cold War Mentality Memorial Radio Broadcasting to Cuba Act" because that is what it is. The whole concept of this comes out of the 1950's.

The proponents of this bill in the beginning had their credentials deeply rooted in rightwing movements in our present age. The first mention was in the so-called Santa Fe Report of the

Council for Inter-American Security, that ultrarightwing group.

In June of 1981, Senator JESSE HELMS proposed to the Senate Foreign Relations Committee that we have such a thing, and this is his idea, basically. By January of 1982, President Reagan had announced the creation of the Presidential Commission on Broadcasting to Cuba. The Commission has a decidedly rightwing and anti-Castro complexion. It is headed by F. Clifton White, now a public relations specialist in Connecticut.

White ran Senator GOLDWATER's campaign in 1964 and was a senior advisor to Ronald Reagan's campaign in 1980.

ICA Director Charles Zwick is also on it, a lawyer and former Hollywood music promoter who once told Congress that Communist agents are influencing U.S. media.

The same Mr. Zwick also raised \$50 million for the Reagan campaign.

Two Cuban Americans serve on the Commission. Jorge Luis Mas Canosa, president and chief executive officer of Church & Tower of Florida, Inc. He lobbied hard for the Radio Free Cuba idea.

Mas only became a U.S. citizen in November 1981 when it became essential for his appointment as a Commissioner.

The other Cuban American is Dr. Tirso del Junco, chairman of the California Republican Party.

But perhaps the most conservative credentials on the Commission come from personalities long known as in rightwing supporters in the United States: Joseph Coors, who helped launch the Heritage Foundation, and a lot of other rightwing causes yearly. Millionaire Richard Mellon Scaife's philanthropies for the Heritage Foundation and the Forum World Features, which was exposed in 1975 as a CIA-sponsored operation.

The point I am making is this: The personalities who first devised this are right out of the 1950's, and the theoretical base of propaganda and persuasion is also based on the now outdated and wornout concepts of the cold war of the 1950's.

Radio Marti is predicated on the old, outmoded hypodermic needle model of propaganda. According to this theory, all they have to do is inject a foreign audience with our message and their behavior will be shaped according to our desires.

You can find no credible estimate in Washington today that predicts the Cubans are as dissatisfied as, say, the Poles. After all, most of the so-called dissidents have already left Cuba. Those who remain are generally supportive of the Castro regime.

Yet the logic of this station rests on the premise that Radio Marti will be as successful as Radio Free Europe has

been in Poland. And I say that is ridiculous, it is as outmoded as the 1950's.

And the title of this bill really ought to be "The John Foster Dulles Cold War Mentality Memorial Broadcasting to Cuba Act."

Mr. FASCELL. Mr. Chairman, I rise in opposition to the amendment.

I have some clever amendments in mind myself, for the amendment, but I will just keep them to myself and say to my colleagues that the bill has a correct title. We bypassed everything the gentleman is talking about by authorizing an existing Federal agency to do this work, to wit: The Board for International Broadcasting.

I ask my colleagues to vote down the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. It is, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 2, beginning in line 4, strike out "Radio Broadcasting in Cuba Act" and insert in lieu thereof "Radio Broadcasting to Dictatorships in the Caribbean Basin".

Mr. HARKIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Mr. FASCELL. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from Florida reserves a point of order.

Mr. FASCELL. I did not know the gentleman was bringing this one up.

The CHAIRMAN. The gentleman will state his reservation.

Mr. FASCELL. Mr. Chairman, is this the one starting on page 2, beginning in line 4?

Mr. HARKIN. Yes; it is, Mr. Chairman.

Mr. FASCELL. I see.

Mr. Chairman, let me make a point of order against this amendment under clause 7, rule XVI, because this is an amendment which is obviously an attempt to broaden the subject matter of this bill to include dictatorships in the Caribbean basin and to set other parameters that are just not in this bill and, therefore, it is not germane.

The CHAIRMAN (Mr. RATCHFORD). Does the gentleman from Iowa wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair is prepared to sustain the point of order on the basis that the amendment, as proposed, is more general in scope and is not germane to the relatively narrow purpose of the bill.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. Yes, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: PAGE 2, STRIKE OUT LINES 3 THROUGH 5 AND INSERT IN LIEU THE FOLLOWING:

SHORT TITLE

SECTION 1. This Act may be cited as the "Throwing Money at the Castro Problem Through Radio Broadcasting to Cuba Act".

The CHAIRMAN. The gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes in support of his amendment.

Mr. HARKIN. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. DERWINSKI. I object. I would like to hear the request again, Mr. Chairman.

The CHAIRMAN. Does the gentleman reserve the right to object?

Mr. HARKIN. I asked unanimous consent to withdraw my amendment.

Mr. DERWINSKI. I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

PARLIAMENTARY INQUIRY

Mr. DERWINSKI. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DERWINSKI. The gentleman offered his amendment. He has 5 minutes to speak for it?

The CHAIRMAN. That is correct under the rules.

Mr. DERWINSKI. Then there is 5 minutes in opposition presumably?

The CHAIRMAN. That is also correct under the rules.

DERWINSKI. The gentleman could not use his 5 minutes. I would like 1 minute or 2 at this point to say something for the RECORD if the gentleman affords me a technically proper vehicle.

The CHAIRMAN. The gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes.

Mr. HARKIN. I yield to the gentleman from Illinois.

The CHAIRMAN. The gentleman yields back his time and the gentleman from Illinois does not rise to seek time.

The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. Yes, Mr. Chairman, No. 14.

Mr. CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Refugee Recruitment Through Radio Broadcasting to Cuba Act".

Mr. HARKIN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Is the amendment printed in the RECORD?

Mr. HARKIN. Yes, Mr. Chairman, No. 13.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 8, line 12, immediately before the period, insert ", which shall not include either military or paramilitary operations conducted or supported by the United States".

Mr. HARKIN. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

Mr. DERWINSKI. I object.

The CHAIRMAN. Objection is heard.

The gentleman from (Mr. HARKIN) is recognized for 5 minutes.

Mr. HARKIN. I yield to the gentleman from Illinois.

Mr. DERWINSKI. I will take the 5 minutes in opposition to the amendment.

Mr. HARKIN. I yield back the balance of my time.

The CHAIRMAN. The gentleman from Iowa yields back the balance of his time.

The gentleman from Illinois is recognized for 5 minutes in opposition.

□ 2030

Mr. DERWINSKI. Mr. Chairman, I shall not use the 5 minutes, but I think at this point the record should be set clear that some of these amendments could at best be described as overimaginative, and at worst as something less than a good hour for the House of Representatives. This kind of procedure does not lend itself to the respect from the public that this body should have, nor does it lend itself to the respect that we should give to the awesome assignment before us in this bill and many other measures involving foreign affairs.

I suggest to the Members of the House that after they approve of Radio Martí, which I am sure they will

since I have great respect for the Members of this body, they will shortly be called upon to support something called the Caribbean Basin Initiative. There will be a lot of flak about it, but that is a long-overdue initiative that rises far above the present administration and the partisan shots it suffered this afternoon.

The facts of life are that when you debate foreign affairs there ought to be a limit to what is considered a necessary partisanship. Because no President of the United States—and I want to say this in view of the chain of amendments that were offered by the gentleman from Iowa (Mr. HARKIN), no President of the United States approaches foreign affairs with any point of view but what is in the best interests of the United States. Why cannot we in this House of Representatives rise to at least a similar measure of interest and concern for the well-being of our country? Can you show me how this amendment or others offered recently are in the best interests of our country and consistent with the respect the people should have for this body can you show me that?

I would like the record to read clearly that these amendments, if they were not withdrawn, received minimum support as they were shouted down.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment was rejected.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

Section 1. This Act may be cited as the "School Lunch Fund Memorial Radio Broadcasting to Cuba Act".

Mr. HARKIN. Mr. Chairman, I have some 30 or 40 amendments filed in the RECORD. I can get 5 minutes on each. I could ask for votes. I can do all those things. The only reason to do that would be to try to change the bill or to improve it to reflect a different viewpoint or philosophy. However, the votes on the board on the amendments offered so far indicate one very obvious fact: The skids are greased on this bill and it is going to pass intact.

I do not believe, however, that this is due to the compelling nature of the bill, but I believe quite frankly that the support for the bill is due to the personal power and the leadership of the gentleman from Florida, DANTE FASCELL. No one in this body has more personal or professional respect for the gentleman from Florida, DANTE FASCELL, than I do. He is truly one of the best in this House. So, the bill will pass, I believe, because of DANTE FASCELL's leadership.

But, there are two points I would like to make. First, much has been said and implied both in this body and in the administration about the patriotism of Iowans and of radio station WHO in particular; certainly these remarks do not come from the distinguished gentleman managing this bill. I resent those remarks and those implications both on behalf of Iowans and on behalf of radio station WHO.

Second, I want to make it clear that even if this bill had nothing to do with frequency 1040 kilohertz, the clear channel frequency of WHO, I would still be fighting as hard as I am now to defeat this legislation. I am convinced that there is more to this bill than meets the eye. There has to be. If the intent is really to broadcast to the people of Cuba, we would have done it through other means; short-wave, commercial stations, or the Voice of America. Also, I know that the U.S. Navy has already expended money to build the towers at Saddle Bunch, Fla.

I do believe that we need a GAO investigation of this, but the point I want to make is this; that there is more to the bill than just broadcasting to Cuba. I believe, in an unguarded moment, perhaps because they thought they were talking with their ideological soulmates, Mr. James Duncan of the Department of Defense and Kenneth Giddens, the consultant to the Presidential Commission on Broadcasting to Cuba, really let us know what is behind all this: A "game of chicken" with Castro, a "drawing of the line in the sand" across which Castro will not be able to step; that if Castro blocks the broadcast to Cuba it will be an "act of war," and we would be within our rights to "surgically remove" Castro's transmitters.

So, I am compelled to stick my finger in the dike, to make a stand to the bitter end because I feel that strongly about stopping this bill even though my efforts will be futile. On the other hand, vote taken indicate a desire by this House to pass the bill intact without any amendments, and so I will not exercise my parliamentary right to offer my amendments. That is why I was offering these amendments and then withdrawing them, because I wanted to make the point as clearly as I could in the shortest possible time of why I am so opposed to this bill. While I will give up my parliamentary right to offer my amendments, to debate those amendments and to ask for votes on those amendments, I will not give up my opposition to this bill and what it represents. I will continue to write, to speak and to vote against what I consider is a counterproductive policy toward Cuba, Central America, and Latin America.

Someone said earlier in the debate that we seem to learn nothing and remember nothing regarding Latin

America. Also, someone said to me, "All those people in Latin America make a practice of hating us in America."

We know Abraham Lincoln said it best. He said:

There are two ways of getting rid of our enemies. We can kill them or we can make them our friends.

In Latin America and in Cuba we have put too much emphasis on the former and too little on the latter, and so I will not offer any more of my amendments, but I stand on the principle that this legislation is not in the best interests of this country, and notwithstanding my personal and professional high respect for DANTE FASCELL, this bill ought to be defeated.

Mr. DERWINSKI. Mr. Chairman, I rise to oppose the amendment. At this point I wish to compliment the gentleman from Iowa (Mr. HARKIN) for his resourcefulness, for his energy, for his determination and for his imaginative approach to the procedures of the House. But I would like to point out to the Members that this concept should well have been adopted after the missile crisis in 1962. That is how far back we should have discussed this kind of message we intend to send to the people of Cuba.

Let us not forget, of all the people in this hemisphere, the people of Cuba have suffered more in the last 20 years than those of any other country. What we are debating here is not a new ideology of this administration. This is old-fashioned American interest in a country just 90 miles off our shore. I wish there had been enough imagination in previous administrations and previous Congresses to come up with an idea like this.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I want to compliment the gentleman for his remarks. I know there has been a good deal of scoffing and ridiculing on this legislation, but as I see it, what people think is still the most powerful influence in the world.

This year we in this body are going to be spending over \$200 billion on defense, when the most powerful evidence we have in our arsenal is the story of America. It is not being told and we are not utilizing it. It is high time we in America realize we have a story to tell, we are going to tell it.

Mr. Chairman, as I see it, the strongest force in the world is still what people think. And the strongest force in Cuba is "what the Cuban people think." That is basically why Castro is so alarmed and opposed to Radio Marti.

In my opinion, as long as Castro can control what the population in Cuba think—as long as he has thought con-

trol—he can keep the people of Cuba uninformed—that is how long he can control Cuba and only that long. That is why this station is so necessary: It will tell the Cuban people what is happening in their own country.

I take a great interest in the powers represented by the Voice of America, Radio Free Europe, and Radio Liberty. Recently, I had a visitor from Czechoslovakia in my office. He told me that the people of Czechoslovakia listen attentively to the broadcasts from the West. I thought that it was to gain information about happenings in the West; but he corrected me. My visitor told me that Western broadcasts are appreciated because "They give us a chance to learn about what is happening in our own country of Czechoslovakia." This is what Radio Marti can do for the populace of Cuba. The Cuban people do not know what is going on in their own country, yet there is a terrific desire on the part of people living under dictatorships to know what is happening in their own country.

Tight control over information has led to a situation such that the people in one part of Cuba know very little about what is happening only a few miles away from them. This "information void" means that the Communist leadership has been left relatively free to do whatever it wanted. Furthermore, the Castro government has had more than 20 years in which to isolate its population from contact with the world at large, thereby raising up a new generation which has never known anything other than life in a police state.

There is a real vacuum in Cuba about information on Cuba. Because of this vacuum, it became possible for Castro in the early 1970's to launch his nation onto the road of naked imperialism. Had the Cuban people been aware of the facts, I'm convinced Castro would have been more circumspect and his actions would have been nipped in the heels by an outraged Cuban public opinion.

Cubans have been misruled and exploited by Castro—how else can we account for the over-1-million Cubans who have fled to the United States—1 million since 1970—that is 10 percent of the total population.

Castro will have to recognize that we are going to be calling him to account for his actions. All totalitarian governments—all dictatorships—fear uncensored information that is received by their people. This is true of the politburo in Moscow, the satellite states of Eastern Europe and the puppet state of Cuba.

Now, in a "Dear Colleague," we are told that we cannot vote for this station because Radio Marti would be provocative to Castro. Well, let us analyze that contention.

By the very fact that Castro warns us that he will jam these broadcasts,

we have proof-positive that he is hiding the truth from the Cuban people. But critics of Radio Marti tell us "we cannot be provocative."

Well, then, are we to sit here—intimidated, frightened by some dictator who is afraid to let his people know the truth about what is going on in their country?

If we succumb to that argument—the argument that our hands are tied because it could be provocative to the Cuban dictator—then are we truly brave and free? We must not, we cannot, allow ourselves to be intimidated. It is my opinion that in the past, all too often we have allowed ourselves to be intimidated or deterred from the course we knew to be right, taking the easy way out, to the point where our word in foreign affairs is scoffed at and ridiculed by every two-bit dictator around the world.

If America is to continue to stand for something, then we must act. We must stand tall and be willing to proclaim the truth to the world at large. We cannot continue to let the dictators of the world work their way, unchallenged by the truth.

Mr. DERWINSKI. In the spirit of bipartisanship, I also wish to commend the gentleman from Florida, DANTE FASCELL. It is always a privilege and honor and inspiration to work with him, and may I point out this has been a truly bipartisan legislative effort.

Mr. RINALDO. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield.

Mr. RINALDO. Mr. Chairman, I want to take this opportunity to rise in opposition to the amendment, but also to compliment the ranking Republican on the Foreign Affairs Committee for the job that he has done on this bill, and most importantly, the subcommittee chairman, the distinguished subcommittee chairman, for the fine manner in which he handled an extremely delicate and difficult task for the few days we were in session on this piece of legislation.

□ 2040

I want to commend him for his leadership, resourcefulness and patience. He certainly is a credit to this body and has done an exemplary job.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Florida.

Mr. SHAW. I would like to also compliment the ranking member and the chairman of the subcommittee, the gentleman from south Florida. We in south Florida know the spirit and the courage of the Cuban people, and we know that they are people that will be free, but they must be given the truth. They must be told what is going on in the world.

This is the most important piece of legislation and it is legislation that can help set the Cuban people free. The Cuban people will be free from communism and we will see a democracy back on that island.

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. DERWINSKI. I yield to the distinguished gentleman from Florida.

Mr. FASCELL. I just want to say that it has been great working with everyone on this bill, including those who have been opposed. The gentleman from Iowa, the gentleman from Colorado and others have worked very hard and very seriously, and very intelligently and skillfully and, I might add, they have certainly taken me over the ropes. I can say that for them.

But the important thing is this, we have spent 8 hours of very intense discussion on an important policy matter. Some people, of course, are a little bit nervous about that, but I think it was extremely healthy to have that kind of discussion.

This was not just a little old bill and some kind of a discussion about a radio station out in Iowa. That is not what it was all about.

It was very healthy to have this bill go through two committees and come to the Congress rather than have adopted some other subterranean manner of dealing with the issue. The issue ought to be before the Congress and before the American people. It is an important issue.

All of us have made a tremendous contribution to the dialog in this country that is extremely vital, and I hope that my colleagues who have supported us this far would thus vote for the bill on final passage.

Mr. Chairman, in an effort to correct some of the distortions which have accompanied debate on the proposal for Radio Marti, I would like to insert into the RECORD a letter from Mr. William C. Salmon, Acting Coordinator for International Communications and Information Policy, Department of State. This letter refutes the contention that shortwave is the only internationally accepted form of international broadcasting:

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,

Washington, August 2, 1982.

ACTING COORDINATOR FOR INTERNATIONAL COMMUNICATIONS AND INFORMATION POLICY

HON. DANTE B. FASCELL,

Chairman, Subcommittee on International Operations, Committee on Foreign Affairs, House of Representatives.

DEAR MR. CHAIRMAN: It has been brought to my attention that in a May 25 letter to Members and Staff of the Committee on Energy and Commerce I am described by Congressman Wirth as having told the Government Operations Committee last fall that "... shortwave is the internationally accepted form of international broadcasting". The Committee on Energy and Com-

merce Report on the Radio Broadcasting to Cuba Act (Report 97-479, Part 2) repeats this distortion (page 14).

That statement does not accurately quote what I said, nor does it reflect my knowledge of international broadcasting. In my October 23, 1981, testimony before the House Subcommittee on Government Information and Individual Rights, Committee on Government Operations, I stated that "nearly all international broadcasting is conducted in the high frequency (HF) radio bands—roughly 5 to 26 megahertz (MHz)—the so-called shortwave bands".

There is also a considerable amount of medium wave (AM) international broadcasting that has been going on for decades. The BBC has high powered transmitters broadcasting to Western Europe, the Arabic world and Southeast Asia on medium wave. The Federal Republic of Germany broadcasts to Western Europe, Africa, and the Caribbean on medium wave. RFE broadcasts on medium wave to Eastern Europe; the Soviet Union uses high powered medium wave to broadcast to every one of its neighbors, reaching even the Alaskan islands of the United States (a map of Soviet AM broadcasting is enclosed); Cuba broadcasts on medium wave to its neighbors. The Voice of America uses medium wave transmitters, including some of the world's largest, in Europe, the Middle East, the Far East and the Caribbean. In fact, there are many other examples of international medium wave broadcasting, long used by the U.S. and others.

As to Radio Marti, short wave will not accomplish the purpose. All information available to me indicates that few Cubans have shortwave receivers. Only AM can reach Radio Marti's intended audience, the Cuban people.

Sincerely,

WILLIAM C. SALMON.

Mr. DERWINSKI. On that high note, let us pass the amendment and pass the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The amendment is rejected.

The CHAIRMAN. Are there further amendments?

Mr. LEACH of Iowa. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The Chair would indicate to the gentleman from Iowa that under previous action of the Committee that motion is not in order at this time.

Mr. LEACH of Iowa. Mr. Chairman, I ask unanimous consent to enter into a colloquy with the gentleman from Florida.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

Mr. BLILEY. Mr. Chairman, I object.

Mr. FASCELL. Put it in the record.

The CHAIRMAN. The question is on the Foreign Affairs Committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. RATCHFORD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Incorporated, pursuant to House Resolution 529, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WIRTH. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 134, answered "present" 2, not voting 48, as follows:

[Roll No. 262]

AYES—250

Alexander	Cheney	Erlenborn
Anderson	Clausen	Ertel
Andrews	Clinger	Evans (DE)
Annuzio	Coats	Fary
Applegate	Coelho	Fascell
Archer	Coleman	Fenwick
Ashbrook	Collins (TX)	Ferraro
Aspin	Conable	Fiedler
Atkinson	Corcoran	Fields
Badham	Coughlin	Findley
Bailey (PA)	Courter	Fithian
Barnard	Coyne, James	Florio
Barnes	Coyne, William	Foglietta
Beard	Craig	Ford (TN)
Benedict	Crane, Daniel	Forsythe
Bennett	Crane, Phillip	Fountain
Bethune	D'Amours	Fowler
Bevill	Daniel, Dan	Frank
Blaggi	Daniel, R. W.	Frenzel
Bliley	Dannemeyer	Fuqua
Boggs	de la Garza	Gephardt
Boland	Deckard	Gibbons
Bouquard	Derrick	Gilman
Bowen	Derwinski	Gingrich
Breaux	Dickinson	Glickman
Brinkley	Donnelly	Gore
Brooks	Dougherty	Gradson
Broomfield	Dowdy	Gramm
Brown (CO)	Dreier	Gregg
Broyhill	Duncan	Guarini
Burgener	Dwyer	Gunderson
Campbell	Early	Hagedorn
Carman	Edwards (AL)	Hall, Ralph
Chappell	Emery	Hall, Sam
Chapple	Erdahl	Hammerschmidt

Hance	McClary	Rousselot
Hansen (ID)	McCloskey	Rudd
Hansen (UT)	McColum	Sawyer
Hatcher	McDade	Schulze
Heckler	McDonald	Sensenbrenner
Hefel	McEwen	Sharp
Hightower	McGrath	Shaw
Hill	McKinney	Shelby
Holland	Mica	Shumway
Holt	Michel	Simon
Horton	Mikulski	Skeen
Hoyer	Minish	Skelton
Hubbard	Mitchell (NY)	Smith (AL)
Huckaby	Moakley	Smith (NJ)
Hunter	Mollinari	Smith (OR)
Hutto	Mollohan	Smith (PA)
Hyde	Montgomery	Snowe
Ireland	Moore	Snyder
Jeffords	Moorhead	Solomon
Jenkins	Morrison	Spence
Kazen	Murphy	St Germain
Kemp	Murtha	Stangeland
Kennelly	Neeligan	Stanton
Kindness	Nelson	Stenholm
Kramer	Nichols	Stratton
Lagomarsino	O'Brien	Stump
Lantos	Oaker	Tauzin
Latta	Oxley	Taylor
Leath	Pashayan	Thomas
LeBoutillier	Patman	Udall
Lee	Patterson	Vander Jagt
Lehman	Pepper	Walker
Lent	Petri	Wampler
Levitas	Peyster	Waxman
Lewis	Pickle	Weber (MN)
Livingston	Porter	Weber (OH)
Loeffler	Price	White
Long (LA)	Pritchard	Whitehurst
Lott	Quillen	Whitley
Lowery (CA)	Regula	Whittaker
Lujan	Rinaldo	Winn
Lungren	Ritter	Wortley
Madigan	Roberts (KS)	Wright
Marriott	Robinson	Yatron
Martin (NC)	Rodino	Young (AK)
Martin (NY)	Roe	Young (FL)
Martinez	Rogers	Zablocki
Mattox	Rostenkowski	
Mavroules	Roth	

NOES—134

Addabbo	Goodling	Parris
Albosta	Gray	Paul
Anthony	Green	Pease
Bailey (MO)	Hall (OH)	Perkins
Bedell	Hamilton	Rallsback
Beilenson	Harkin	Rangel
Benjamin	Hendon	Ranchford
Bereuter	Hillis	Reuss
Bingham	Hollenbeck	Roberts (SD)
Boner	Hopkins	Roemer
Brown (CA)	Howard	Roukema
Burton, Phillip	Hughes	Royal
Butler	Jacobs	Russo
Byron	Johnston	Sabo
Chisholm	Jones (OK)	Savage
Clay	Jones (TN)	Scheuer
Collins (IL)	Kastenmeier	Schneider
Conte	Kildee	Schroeder
Daschle	Kogovsek	Schumer
Daub	LaFalce	Seiberling
Dellums	Leach	Shamansky
DeNardis	Leland	Shannon
Dicks	Long (MD)	Shuster
Dingell	Lowry (WA)	Smith (IA)
Dixon	Lukens	Smith (NE)
Dorgan	Lundine	Solarz
Downey	Markey	Stark
Dunn	Marlenee	Stokes
Dymally	Martin (IL)	Studds
Dyson	Matsui	Swift
Eckart	Mazzoli	Synar
Edgar	McCurdy	Tauke
Edwards (CA)	McHugh	Vento
Edwards (OK)	Miller (CA)	Volkmer
Emerson	Miller (OH)	Washington
English	Mineta	Watkins
Evans (GA)	Mitchell (MD)	Weaver
Evans (IA)	Mottl	Weiss
Evans (IN)	Myers	Williams (MT)
Fazio	Natcher	Williams (OH)
Frost	Nowak	Wirth
Garcia	Oberstar	Wolpe
Gaydos	Obey	Wyden
Gejdenson	Ottlinger	Young (MO)
Gonzalez	Panetta	

ANSWERED "PRESENT"—2

Hefner Rahall
NOT VOTING—48

Akaka	Flippo	Rhodes
AuCoin	Foley	Richmond
Bafalis	Ford (MI)	Rose
Blanchard	Ginn	Rosenthal
Bolling	Goldwater	Santini
Bonior	Grisham	Siljander
Bonker	Hartnett	Stanton
Brodhead	Hawkins	Traxler
Brown (OH)	Hertel	Tribble
Burton, John	Jeffries	Walgren
Carney	Jones (NC)	Whitten
Conyers	Marks	Wilson
Crockett	Moffett	Wolf
Davis	Napier	Wylie
Dornan	Neal	Yates
Fish	Pursell	Zeferetti

□ 2100

The Clerk announced the following pairs:

On this vote:

Mr. Akaka for, with Mr. Ford of Michigan against.

Mr. Santini for, with Mr. Hawkins against.

Mr. Jeffries for, with Mr. Conyers against.

Mr. Napier for, with Mr. AuCoin against.

Mr. Stanton of Ohio for, with Mr. Richmond against.

Mr. MARTINEZ changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed, H.R. 5427, and specifically to include the colloquy between the gentleman from Iowa (Mr. LEACH) and myself.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. The Chair would have to explain to the gentleman that all those requests are granted without objection, save and except for the request that the colloquy be included in the RECORD, and would have to explain to the gentleman from Florida that a colloquy which was not spoken upon the floor cannot be inserted into the RECORD.

Mr. FASCELL. Mr. Speaker, I will renew my request and leave that out because I can do it under the revision of remarks with no difficulty.

The SPEAKER pro tempore. Without objection, the requests are agreed to.

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT TOMORROW, AUGUST 11, 1982, AND BALANCE OF WEEK, DURING 5-MINUTE RULE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit while the Committee of the Whole is considering legislation under the 5-minute rule tomorrow and for the balance of the week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, reserving the right to object—

The SPEAKER pro tempore. The gentleman reserves the right to object.

The Chair will make clear that the request of the gentleman from Michigan would require 10 objections and no fewer.

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I do so to inquire whether this is to consider the Clean Air Act in the Energy and Commerce Committee.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Michigan.

Mr. DINGELL. It is to consider H.R. 5252, the amendments to the Clean Air Act.

Mr. WAXMAN. Mr. Speaker, I regret the fact I must object because it seems to me we have too many other important items on the floor and our Members ought to be here.

Therefore, Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Those Members objecting will stand. (Messrs. BARNES, MATSUI, WEISS, MINETA, DYMALLY, FAZIO, McHUGH, DIXON, STOKES, LEVITAS, FRANK, ANDERSON, GONZALEZ, and SOLARZ also objected.)

The SPEAKER pro tempore. A sufficient number has objected.

Objection is heard.

CONFERENCE REPORT ON H.R. 5930, EXTENDING AVIATION INSURANCE PROGRAM FOR 5 YEARS

Mr. MINETA submitted the following conference report and statement on the bill (H.R. 5930) to extend the aviation insurance program for 5 years:

CONFERENCE REPORT (H. REPT. No. 97-722)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for 5 years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and

agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That the last sentence of section 303(b)(1) of the Independent Safety Board Act of 1974 (49 U.S.C. 1902(b)(1)) is amended to read as follows: "At any given time, no less than three members of the Board shall be individuals who have been appointed on the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation." The amendment made by the preceding sentence shall not preclude the reappointment of any individual serving as a member of the Board on the date of enactment of this Act.

SEC. 2. Section 306 of the Independent Safety Board Act of 1974 (48 U.S.C. 1905) is amended in subsection (a) by striking "pursuant to subsection (b)" and substituting "pursuant to subsection (b) or (c)" and by adding at the end thereof the following new subsection:

"(c) COCKPIT VOICE RECORDER.—Notwithstanding any other provision of law, the Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions, in whole or in part, of oral communications by and between flight crew members and ground stations, that are associated with accidents or incidents investigated by the Board: Provided, That portions of a transcription of such oral communications which the Board deems relevant and pertinent to the accident or incident shall be made available to the public by the Board at the time of the Board's public hearing, and in no event later than 60 days following the accident or incidents: And provided further, That nothing in this section shall restrict the Board at any time from referring to cockpit voice recorder information in making safety recommendations."

SEC. 3. Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. 1542) is amended by striking out "1982" and inserting in lieu thereof "1987".

SEC. 4. (a) Section 408 of the Federal Aviation Act of 1958 is amended to read as follows:

*"EMPLOYEE ARRANGEMENTS**"DEFINITIONS*

SEC. 408. (a) For purposes of this section—
"(1) the term 'employee' means an employee of an air carrier involved in a qualifying transaction, other than a temporary or part-time employee, who is a member of a craft or class which is subject to the Railway Labor Act (45 U.S.C. 151 et seq.); and

"(2) the term 'qualifying air carrier' means—

"(A) an air carrier providing passenger service with aircraft having a maximum passenger capacity of more than 60 seats,

"(B) an air carrier providing cargo service in foreign air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more, and

"(C) an air carrier providing cargo service in interstate or overseas air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more.

"QUALIFYING TRANSACTIONS

"(b)(1) For purposes of this section, the term 'qualifying transaction' means—

"(A) any consolidation or merger by two or more qualifying air carriers or persons controlling qualifying air carriers of their

properties, or a substantial portion thereof (in cases meeting the standards set forth in paragraph (2) of this subsection), into one person for the ownership, management, or operation of the properties previously in separate ownerships, and any acquisition of control in any manner whatsoever of any qualifying air carrier by another qualifying air carrier or by a person controlling another qualifying air carrier;

"(B) any purchase of, lease of, or contract to operate all of the properties, or a substantial portion thereof (in cases meeting the standards set forth in paragraph (2) of this subsection), of any qualifying air carrier by another qualifying air carrier or by a person controlling another qualifying air carrier; and

"(C) any purchase of, lease of, or contract to operate all of the properties, or any acquisition of control in any manner whatsoever, of any direct air carrier which is not a qualifying air carrier by a qualifying air carrier or by a person controlling a qualifying air carrier, but only if and when the carrier which is not a qualifying air carrier provides passenger service with any aircraft having a maximum passenger capacity of more than 60 seats or provides cargo service in foreign air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more.

"(2) A transaction described in subparagraph (A) or (B) of paragraph (1) of this subsection involving a substantial portion of the properties of an air carrier shall be a qualifying transaction only if—

"(A) the transaction involves aircraft constituting more than 20 percent of the total number, market value, or lift capacity of aircraft owned by the seller or lessor;

"(B) the transaction involves assets other than aircraft constituting more than 20 percent of the total assets of the carrier selling or leasing properties; or

"(C) the transaction involves any purchase of, lease of, or contract to operate properties which directly or indirectly involves the right to operate any route or other equivalent air carrier market (including, but not limited to, any agreement or understanding not to compete on such route or market), and the Civil Aeronautics Board determines, after notice and an opportunity for hearing, that such transaction would cause widespread impact on the employees of an air carrier involved in the transaction, such that labor protective provisions should be imposed to prevent labor strife and disruption that could impair the continued stability and efficiency of the carriers involved.

The Civil Aeronautics Board shall make the determination required by subparagraph (C) not later than 90 days after a request is made in writing, or a court issues an order to the Civil Aeronautics Board, to make such determination. Any transaction which can be a qualifying transaction only under subparagraph (C) shall not take effect before the date on which the Civil Aeronautics Board makes such determination.

"(3) Notwithstanding any other provision of this subsection, no transaction involving only carriers described in subparagraph (C) of paragraph (2) of subsection (a) of this section shall be a qualifying transaction.

"IMPOSITION OF LABOR PROTECTIVE PROVISIONS
"(c)(1) Except as otherwise provided in this section, in the case of any qualifying transaction, the labor protective provisions imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger, 59 CAB 45, shall apply with respect to the employees of

the air carriers who are involved in such transaction.

"(2) Sections 4, 5, 6, 7, 8, 9, and 12 of the Allegheny-Mohawk provisions specified in paragraph (1) of this subsection shall not apply with respect to any qualifying transaction which becomes effective more than five years after the date of enactment of this section.

"(3) In the case of any purchase, lease, contract to operate, or acquisition of control described in subsection (b)(1)(C) of this section, the qualifying transaction shall be considered to have become effective on the date on which service described in such subsection begins, and paragraph (1) of this subsection shall apply only on or after such date.

"(4) Nothing in this section shall preclude any agreement between an air carrier or air carriers (or their assignees or successors in interest) and one or more of the representatives of the employees of such carrier or carriers concerning the manner in which the provisions made applicable by paragraph (1) of this subsection will be implemented, or concerning a limitation on or extension of such provisions. Any such agreement shall apply, in lieu of the provisions made applicable by paragraph (1) of this subsection, with respect to the employees for whom such agreement is made.

"enforcement

"(d) The district courts shall have jurisdiction over any action to enforce this section, any arbitration award resulting from the application of this section, and any agreement applicable under subsection (c)(4) of this section, and any action to enforce any labor protective provisions imposed by the Civil Aeronautics Board under section 408 of the Federal Aviation Act of 1958 (as in effect before the effective date of this subsection), any arbitration award resulting from such provisions, and any agreement reached in lieu of such provisions. Any person with standing (including any labor organization representative of such person) may bring any such action in the appropriate district court, determined in accordance with section 1391 of title 28, United States Code, without regard to the amount in controversy."

(b) Section 409 of the Federal Aviation Act of 1958 is repealed.

(c) That portion of the table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the center heading

"TITLE IV—AIR CARRIER ECONOMIC REGULATION"

is amended by striking out

"Sec. 408. Consolidation, merger, and acquisition of control.

"(a) Acts prohibited.

"(b) Power of Board.

"(c) Interests in ground facilities.

"(d) Jurisdiction of accounts of noncarriers.

"(e) Investigation of violations.

"(f) Presumption of control.

"Sec. 409. Interlocking relationships."

and inserting in lieu thereof

"Sec. 408. Employee arrangements.

"(a) Definitions.

"(b) Qualifying transactions.

"(c) Imposition of labor protective provisions.

"(d) Enforcement."

(d)(1) Section 1601(a)(3) of the Federal Aviation Act of 1958 is amended to read as follows:

"(3) The authority of the Board under section 408 of this Act is transferred to the De-

partment of Transportation on January 1, 1983."

"(2) Section 1601(b)(1)(C) of the Federal Aviation Act of 1958 is amended by striking out "The authority of the Board under sections 408 and 409 of this Act (relating to foreign air transportation), the" and inserting in lieu thereof "The" and by striking out "sections 408, 409, and" and inserting in lieu thereof "section".

(3) Section 414 of the Federal Aviation Act of 1958 is amended by striking out "408, 409, or"

(4) Section 1010 of the Federal Aviation Act of 1958 is amended by striking out "408, 409, 412," and inserting in lieu thereof "412" and by striking out, "except in the case of an application submitted under section 408 of this Act, the Board shall issue its final order or decision not later than the last day of the sixth month after submission".

(e) This section and the amendments made by this section shall take effect on the date of enactment of this section.

And the Senate agree to the same.

JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL

HAMMERSCHMIDT,

Managers on the Part of the House.

BOB PACKWOOD,
HOWARD CANNON,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for five years, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

WAR RISK INSURANCE

House bill

Reauthorizes War Risk Insurance Program through September 30, 1987.

Senate amendment

Same as House bill.

Conference substitute

Same as the House bill.

COCKPIT VOICE RECORDERS

House bill

No provision.

Senate amendment

Provides that, notwithstanding any other provision of the law, the National Transportation Safety Board shall withhold from public disclosure cockpit voice recorder re-

cordings and transcriptions involving flight crew communications that are associated with accidents investigated by the Board. The Board is required to make available to the public those portions of the transcriptions of such communications that the Board deems relevant and pertinent to the accident, at the time of the Board's public hearing on the accident, and in any event no later than 60 days following the accident. In the event that the CVR is not recovered immediately after the accident, the conferees intend that the Board have 60 days after recovery of the CVR before release. The conferees emphasize that this amendment would not affect the Board's current practice of sharing CVR information with parties to the investigation.

Conference substitute

Same as Senate amendment.

QUALIFICATIONS OF MEMBERS OF THE NATIONAL TRANSPORTATION SAFETY BOARD

House bill

No provision.

Senate amendment

Requires the President to appoint individuals to be members of the National Transportation Safety Board upon the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.

Conference substitute

Provides that at any given time no less than three members of the National Transportation Safety Board shall have technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation. Moreover, the conferees believe it would be desirable if future Chairmen of the NTSB possessed these qualifications.

This requirement is not intended to preclude the reappointment of any persons serving as a member of the Board upon the date of enactment.

LABOR PROTECTION PROVISIONS FOR AIRLINE EMPLOYEES

Current Law

Two sections of current law affect the authority to impose labor protection provisions. Under section 408 of the Federal Aviation Act of 1958, the CAB has wide discretion to impose such conditions (including labor protection provisions) as it sees fit on certain transactions among air carriers. Under section 1601(a)(3) of the Act, however, this authority, insofar as it relates to interstate and overseas air transportation, is transferred to the Department of Justice on January 1, 1983. This raised a great deal of uncertainty in the aviation community as to how this broad discretion would be applied by a new agency after January 1, 1983.

House Bill

The House bill did not address the issue of labor protection provisions for airline employees. Thus the effect of the House bill was to permit the authority to impose such provisions to be transferred to the Department of Justice on January 1, 1983 in accordance with current law.

Senate amendment

The Senate amendment sought to address the uncertainty of how the Department of Justice would apply its discretion in the field of labor protection by repealing the

section in existing law which would transfer this authority to the Department of Justice on January 1, 1983 (section 1601(a)(3)). As a result of the amendment, the authority to impose labor protection provisions would remain at the CAB until January 1, 1985 when that agency would be abolished under another provision of existing law. At that time the authority would be transferred to the Department of Justice.

As Senator Kassebaum, the author of the amendment, stated on the floor of the Senate:

If jurisdiction were transferred to the DOJ, it is not clear whether that agency would or could impose the standard Allegheny-Mohawk merger labor protective provisions which have traditionally been employed by the CAB to prevent labor disruption resulting from work force consolidations. The Board's labor protective provisions have been an integral part of the consolidation process. Until the Congress had had an opportunity to consider fully to what extent labor protective provisions should be required after CAB sunset, it is important that jurisdiction remain at the Board with authority to impose them.

Conference substitute

The conference substitute fulfills the intent of the Senate amendment by spelling out how labor protection provisions are to be applied in the future. The thrust of the conference substitute is to maintain the standard Allegheny-Mohawk merger labor protective provisions in accordance with the Senate amendment.

Specifically, the conference substitute requires that labor protective provisions continue to be imposed in the case of certain qualifying transactions. The labor protective provisions which are to be applied to these transactions are those imposed by the Civil Aeronautics Board in the Allegheny-Mohawk merger case, 59 CAB 45, including conforming changes typically made by the Board to tailor these conditions to the various types of transactions which might be involved, such as acquisition of control, or route transfers.

The requirements in the Board's standard labor protective provisions for integration of seniority lists are applicable to qualifying transactions consummated at any time after the effective date. The requirements in the protective conditions for financial benefits to displaced employees or to employees whose compensation is reduced are required only for transactions consummated within five years after the date of enactment.

Labor protective conditions are required for transactions involving two or more qualifying air carriers or persons controlling qualifying air carriers. A qualifying air carrier is (a) an air carrier providing passenger service with aircraft having a maximum passenger capacity of more than 60 seats, (b) an air carrier providing cargo service in foreign air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more, and (c) an air carrier providing cargo service in interstate or overseas air transportation with aircraft having a maximum payload capacity of 18,000 pounds or more. Transactions involving the carriers described in (c) are covered only if a carrier described in (a) or (b) is also party to the transaction.

Qualifying transactions are also covered if the transaction is between an air carrier which is not a qualifying air carrier (such as commuter air carriers operating only aircraft with less than 60 seats) and a qualifying air carrier, only if and when the non-

qualifying air carrier begins providing passenger service with aircraft of more than 60 seats, or cargo service in foreign air transportation with aircraft with a maximum payload capacity of 18,000 pounds or more. In these cases labor protective conditions shall apply only on and after the date on which the non-qualifying carrier becomes a qualifying carrier.

The transactions involving qualifying air carriers in which labor protective conditions are required are consolidations, mergers, acquisitions of control, and purchases, leases, or contracts to operate all of the properties of a qualifying air carrier. Cases involving the purchase lease or contract to operate a substantial portion (but not all) of the properties of qualifying air carrier are subject to specified standards. If a transaction involving acquisition of a substantial portion of a carrier's property does not include the right to operate a route, protective provisions are required if the aircraft in a transaction constitutes more than 20% of the total number, market value, or lift capacity of aircraft owned by the seller or lessor, or if the non-aircraft assets in the transaction are more than 20% of the total assets of the seller or lessor. If in these transactions (i.e. transactions involving acquisition of a substantial portion of a carrier's property where no routes are involved) the foregoing numerical tests are not met, labor protective conditions are not required.

Under these numerical tests, labor protective provisions will be required for certain transactions in which there is a sale or exchange of a substantial portion of a carrier's property and no routes are involved. A majority of the conferees felt that it was desirable to have numerical standards which would give certainty both to airlines and employees so that they could make appropriate contractual and collective bargaining arrangements. Nevertheless, the conferees recognize that Representatives Clausen, Snyder, and Hammerschmidt had and continue to have concerns over the extent to which labor protection provisions as included in the conference substitute change the current CAB policy of considering all these transactions on a case-by-case basis.

In transactions involving the acquisition of a substantial portion of the properties of an air carrier in which the properties involved include the rights to operate routes, the Civil Aeronautics Board is required to determine, after notice and an opportunity for hearing, whether the transaction would cause a widespread impact on the employees of an air carrier involved in the transaction, such that labor protective provisions should be imposed to prevent labor strife and disruptions that could impair the continued stability and efficiency of the carriers involved. The Civil Aeronautics Board is required to make this determination not less than 90 days after a request is filed. The CAB's authority to make these determinations is transferred to the Department of Transportation on January 1, 1983.

The requirements imposed by the conference substitute are not intended to preclude any agreement between an air carrier and one or more of the representatives of the employees of the carrier concerning the manner in which labor protection provisions will be implemented, or concerning a limitation of or extension of such provisions. Any such agreement shall apply, instead of the standard labor protective provisions, with respect to the employees for whom the agreement has been made.

The Conference substitute terminates the requirement that the Civil Aeronautics Board approve specified transactions involving airlines and other aeronautical interests under section 408 of the Federal Aviation Act of 1958 and the requirement that the CAB approve specified interlocking relationships under section 409 of the Act.

JAMES J. HOWARD,
GLENN M. ANDERSON,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
DON H. CLAUSEN,
GENE SNYDER,
JOHN PAUL

HAMMERSCHMIDT,

Managers on the Part of the House

BOB PACKWOOD,
HOWARD CANNON,

Managers on the Part of the Senate.

A TRIBUTE TO OTTO CORUM

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, I speak today in tribute to a longtime friend of mine, Otto Corum, who died last month on July 15 at the age of 71 in Madisonville, Ky.

Corum, who was involved in many diverse and successful business interests, helped to build Madisonville by donating land or selling it half price. His business interests included farming, land development, coal mining, a river boating facility, concrete and paving contracting, a shopping center, motels, a fuel distributing company, an engineering company, and a resort in the Bahamas.

In 1976, Corum was named the Madisonville Lions Club Man of the Year. He was also instrumental in expanding and beautifying the campus of Madisonville Community College. The city's Elks Lodge, the local chamber of commerce, and the Boy Scout Camp at Wild Cat Hollow have dedicated and/or named facilities for him and in his honor.

Corum, a member of the hometown First United Methodist Church, served on the board of Kentucky Wesleyan College, Madisonville Community College, and Associated Industries of Kentucky.

Corum was a self-made man, as well as a generous one. His basic philosophy was to share any assets he had. Many organizations were recipients of his generosity. Most of his donations were anonymous. He was not a man who looked for recognition.

He attended Madisonville High School and earned a B.S. degree in biology and chemistry from Western Kentucky University.

I was very fond of Otto Corum and considered him an outstanding, unselfish, hard working, dedicated American.

His son-in-law, State Senator Kenneth Gibson of Madisonville, was one of many who admired Otto Corum.

Mr. Corum was very helpful to several public officials, including Senator Gibson and me.

Other family survivors are his lovely and talented wife, Martha L. Corum, two children, Ann Gibson and Frank Corum, both of Madisonville, and two stepdaughters, Jean Bohne and Carolyn Chumley, both of Central City.

I extend my sympathy to the survivors and friends of this fine gentleman, who was truly an inspiration to those who knew and respected him.

□ 2110

A TRIBUTE TO THE HONORABLE JONATHAN B. BINGHAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 60 minutes.

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the retirement of our colleague, the Honorable JONATHAN BINGHAM.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. ADDABBO. Mr. Speaker, it is with mixed emotions that I have requested this special order today to honor our dear friend and distinguished colleague, JONATHAN BINGHAM; in extolling the great achievements of our colleague, and sadness in knowing that his service in this House and to the people of his district will end at the end of this session of Congress.

I know that my colleagues share my sentiments and I would like to thank all of you who are joining me in this tribute.

To our great sorrow, Jack will be leaving us at the end of the 97th Congress, but there are very few of us whose lives have not been happily touched in some way by him.

Mr. STRATTON. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Speaker, I want to commend the gentleman from New York (Mr. ADDABBO) for taking this special order to honor one of our senior colleagues, the gentleman from New York (Mr. BINGHAM), who unfortunately is going to be leaving this House as a result of reapportionment. We in New York have suffered more severely from reapportionment than any other State, losing five of our Members as a result of reapportionment, and the House will certainly be the loser as a result.

I have not always agreed with Mr. BINGHAM on some of the matters that have come before the House, but I certainly respect him and he has had a

distinguished career. I can remember at the end of World War II when we were coming back as veterans that he was instrumental in helping to reorganize political activity in New York City with a group of younger leaders. After that, he was an Ambassador to the United Nations.

Perhaps the most important job from the point of view of our association was his service as Secretary to Governor Harriman when Governor Harriman moved into the capitol in the State House in Albany in 1954.

Subsequent to that time, Mr. BINGHAM was elected to Congress in what was regarded as a kind of David and Goliath victory when he defeated the distinguished Charles Buckley of the Bronx and he has been a leading member of the Foreign Affairs Committee and a leader in the House since that time.

We certainly are going to miss him and also his very talented and remarkable wife, June. We want to wish all of them Godspeed.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I, too, would like to speak for a moment about JONATHAN BINGHAM of New York.

We use the word distinguished in this House quite frequently; but of whom can it be said more truly than of this man, whose motives never are questioned by anybody, no matter how one may disagree with him; a straight, an honorable, a high-minded and principled man.

I wanted very much to be on the Foreign Affairs Committee and I so longed to serve with such a person and it has been a fine experience. He is chairman of the subcommittee on which I serve and all of us there have learned to respect and admire him.

We lose people in this House and we cannot afford a loss like this. This is one of the few people that is a real ornament to the Congress of the United States and the House of Representatives.

This is somebody who speaks every day for what we all believe in; honest and courteous dissent. I have never heard him say something beneath the dignity of a human being of his quality.

I could go on, Mr. Speaker, but there are many who want to say another word and so I will only say to JONATHAN BINGHAM and June, Godspeed. You have served your country and all of us well.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Mr. Speaker, I thank the gentleman for yielding and commend him for his initiative in this special order for JONATHAN BINGHAM.

Mr. Speaker, I rise tonight to join with my colleagues in this special order paying tribute to our esteemed colleague and good friend JACK BINGHAM who is retiring after 18 years of exemplary service to the people of the Bronx and the Nation.

It is an especially personal experience for me to participate in this tribute tonight for throughout my 14 years in the Congress it has been my high privilege to have served alongside JACK BINGHAM. I say this both in the sense of serving together in the House—but also geographically for JACK and I represent neighboring districts in the Bronx. As a result JACK BINGHAM and I have worked on so many common initiatives it would be impossible to enumerate them in these remarks.

On this occasion we look fondly on all the good JACK BINGHAM has done in his congressional career. He is the consummate constituent service Congressman. He worked the various neighborhoods of his district helping people from all walks of life cope with the many problems that government can sometimes offer. As a result for the 18 years he served in the House his constituents were provided with the highest quality representation by JACK BINGHAM.

JACK will also be remembered as an effective and principled legislator. His service on both the Foreign Affairs and Interior and Insular Affairs Committees were both distinguished. He is responsible for some of the more progressive export legislation to be produced by Congress in the past several years. JACK is also a staunch supporter of Israel and for human rights around the world.

Yet—JACK may best be remembered for being the pioneer of a movement which has now become national in scope—the so-called nuclear freeze movement. JACK was one of the main authors of the resolution which narrowly was defeated in a vote last week in the House. He had been pointing to the dangers of the nuclear arms race for years—well before others were aware of the hazards. It was my pleasure to join JACK as a cosponsor of the nuclear freeze resolution and hopefully sometime in the near future, as a tribute to men like JACK BINGHAM we can begin to take the steps to reduce our nuclear arms.

JACK BINGHAM will retire from this House with a reputation of being a gentleman—a statesman—a man of high principle and integrity but one who knows how to get things done in Congress. He represents the epitome of what a Member of the House of Representatives should be. He has effectively blended a passion for serving the needs of his constituents with a desire to be an effective legislator. He has succeeded in both.

It was evident that JACK was destined to go into politics having been born into a political family. His father was the late Senator Hiram Bingham of Connecticut. JACK's effectiveness as a member of the Foreign Affairs Committee might have developed its origins from his stint as a reporter for the New York Herald Tribune covering beats in Europe, the U.S.S.R. and the Far East. JACK served with distinction in the military service having enlisted as a private and discharged as a captain in Military Intelligence. Prior to his election to Congress in 1964, JACK amassed an impressive record of public service on the city and State level and a period of service with the United Nations.

JACK BINGHAM was a good friend to me and I benefited from his wisdom and counsel. He set a standard which would be well for this House to maintain. He is a man of extraordinary competence, commitment, and compassion. He has distinguished the career of public service. He has given 18 years of quality work as a member of the House.

As JACK contemplates his retirement—all of his friends and colleagues hope that he will continue to speak out on issues of concern to him. His will be a voice of influence in the future especially with respect to disarmament. His family will no doubt cherish the additional time JACK can spend with them. I convey my warmest sentiments to his lovely and devoted wife June and his four children.

JACK BINGHAM is being honored tonight by those of us who have had the honor to serve with him. We have learned much from him and for that we are grateful. I wish my friend well in the future and hope that his future features good health and happiness and anything else he desires.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Speaker, I appreciate the opportunity to join in this tribute to our colleague, JACK BINGHAM.

As a relatively new Member of the House, I have not had the opportunity of serving with JACK during all or even most of his 18 years in this body. I have a different perspective—that of a new Member coming into the House, looking around, and trying to sense who is effective, who gets things done, who is respected by his peers in Congress and around Washington—who, in short, provides a model for a younger Member seeking to carve out his own role and his own style.

JACK BINGHAM is not a headline grabber. It takes some time to figure out who he is. But after a while, serving with him on the Committee on Foreign Affairs, you find yourself listening when he speaks. One of the reasons you listen when he speaks is that

he does not speak on every issue. He speaks when he has something to say—and when he does, you know that he has thought the issue through carefully, marshalled his facts, and is prepared to make a real contribution to the debate.

Another reason you listen is that he deals with the issues on their merits. JACK BINGHAM is a liberal Democrat and proud of it, but that does not mean that he has a knee-jerk reaction to the issues. JACK BINGHAM approaches each issue seeking to do what is right. He can be a loyal Democrat without being partisan about it; it seems like a contradiction in terms, but my colleagues know what I mean.

JACK BINGHAM is one of the true gentlemen of this House. He is a man of unquestioned integrity. He is unfailingly courteous, never raises his voice in anger, always conducts debate on a high level, never grandstands, never seeks to draw attention to himself, is always gracious both in victory and defeat.

For nearly two decades in Congress JACK has stood foursquare behind certain principles he believes must be followed in the interest of achieving a better world. Among these are the importance of arms control and international development. His name is associated with the "Bingham-Nelson" amendment to the Arms Export Control Act, which provides for a congressional veto to major arms sales, but his contributions to the annual foreign economic aid legislation have been equally important. One of the assets he has brought to the House is broad experience in the executive branch and, in this regard, his experience in the executive branch and, in this regard, his experience as an administrator of our foreign aid program in the 1950's has given him insights that have proven invaluable in the consideration of our foreign aid legislation. He has been a friend of the United Nations, where he also served before coming to Congress. And as all friends of Israel know, he has been a staunch defender of Israel throughout his career in Congress.

In 1975 JACK became chairman of the Subcommittee on International Trade and Commerce, later renamed the Subcommittee on International Economic Policy and Trade. In that capacity, he deepened and broadened his impact on policy. As chairman, he is best known as the author of the Nuclear Non-Proliferation Act, one of the most important pieces of legislation ever produced by the Foreign Affairs Committee. But perhaps not all my colleagues are aware of the other legislation that JACK authored, coauthored, or helped steer through the House: the Export Administration Act of 1979, which is a complete rewrite of the basic law governing U.S. export

policy; the antiboycott legislation, which prohibits U.S. complicity in the Arab boycott of Israel; the International Emergency Economic Powers Act, which provided the authority for the U.S. sanctions against Iran during the hostage crisis; the Deep Seabed Hard Mineral Resources Act, which provides a basis for what I hope will be eventual U.S. participation in cooperative efforts to mine the seabed; the export trading company legislation, which finally passed the House this year after years of effort.

I literally cannot imagine the Foreign Affairs Committee without JACK's voice of reason and compassion. Inescapably, the House will be diminished by his departure.

Fortunately, we know that JACK is not really headed for "retirement," but for a new stage in his career, in which he will continue to contribute to our country and to the causes he believes in. As he leaves, we wish him well, and we thank him for giving us the benefit for 18 years of his example of the highest standards of public service.

□ 2120

Mr. SOLARZ. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Speaker, I have been privileged to serve with JACK BINGHAM in the House for the last 8 years now, and I do not think there is another Member for whom I have more admiration or more affection.

Several of the other Members who have already spoken have talked to the question of JACK BINGHAM's character, his integrity, his intelligence, his decency. Everything that has been said about him in that regard is absolutely true, but I think there are some other things that can be said as well.

All of us, when we make the decisions that confront us in the Congress, try to decide what to do on the basis of what we think is in the best interests of the country. Most of us, of course, also take into consideration political factors which are important in determining whether or not we will be reelected.

I do not think there has been another Member of this institution who has more consistently decided the important issues confronting the Congress on the merits than JACK BINGHAM, and I think that is one of the reasons he enjoyed such widespread respect in this body, because people knew that when JACK BINGHAM spoke, he was not speaking simply on the basis of what his constituents wanted or what would help him to get reelected; but he was speaking on the basis of what he thought was in the best interests of this country.

All of us are going to remember JACK BINGHAM because of his character. We are all going to remember him because of the very special kind of person he was.

But JACK BINGHAM was one of a handful of Members who has really left his imprint on the laws of this land.

My good friend, the gentleman from Maryland (Mr. BARNES) has spoken about several of his achievements, and I would like to mention just a few more.

First, he was clearly one of the leading supporters of Israel in the U.S. Congress, and I say that as someone who not only cares very deeply, personally, about Israel, but who represents what may be the largest Jewish constituency in the country.

JACK BINGHAM was no fair-weather friend. In good times as well as bad, he was willing to speak up on behalf of an American policy that was sympathetic and supportive of the State of Israel, and the friends of Israel all over this country and the world are going to miss him sorely.

I remember in my first year in the House working very closely with JACK BINGHAM on the Arab antiboycott legislation which he was one of the key architects of, and if it were not for his efforts, I doubt that we ever would have passed that historic legislation.

JACK BINGHAM was also, as the gentleman from Maryland indicated, the chief author of the Nuclear Non-Proliferation Act, and I think that we all recognize that JACK BINGHAM carved out nuclear nonproliferation as a special area of expertise. When most of us looked for guidance on that issue, which may perhaps be more important than any other issue confronting our country and the world today, JACK BINGHAM was the Member we looked to because he devoted so much time to understanding the complexities of this question.

JACK BINGHAM was one of the leading supporters and sponsors of the freeze resolution which we debated and voted on just a week ago. While feelings in the House, obviously, ran very high on this question and sentiment was very closely divided, JACK BINGHAM's willingness to take the leadership on this question and the fact that so many Members looked to him for guidance on the issue is once again a tribute to the impact he had on the House.

I do not know how many remember back in 1975 when JACK BINGHAM, as a member of the Steering and Policy Committee, insisted that there be a closed ballot on the question of whom to recommend for committee chairmanships to the Democratic Caucus. It was as a result of his efforts at that time that the complete grip of the seniority system in terms of determining committee chairmanships in the

House was broken. Not every Member may have appreciated his efforts at that time, but I think the great majority of us now recognize that the House is a more open institution and that it is easier for Members to have an impact on what goes on here as a result of his efforts.

Of course, as the gentleman from Maryland mentioned, JACK BINGHAM was the author of the legislation which gave the Congress for the first time the right to disapprove the sale of arms to other countries, thereby significantly enhancing our ability to have an impact on foreign policy.

So, JACK BINGHAM has really left his imprint on this institution. I suspect if the definitive history of this institution is ever written, JACK BINGHAM will rank extraordinarily high on the list of those Members who have emerged from the anonymity of the mass who have served here over the centuries as one of a handful who really made a difference.

I personally will miss him a good deal, not only because he has become a very good friend, not only because he was the one who first strongly suggested that I ask to serve on the Foreign Affairs Committee, which has given me opportunities that I never would have thought I might have enjoyed as a Member of this House, but also for one very special reason. Unlike my very good friend from New York (Mr. STRATTON) the dean of our delegation, who indicated that from time to time he disagreed with Mr. BINGHAM, I have to say that almost invariably I agreed with him. The reason I will miss him is that whenever we have a rollcall, I come in usually through those doors facing the Longworth Building, and the first thing I do when I come up is look on the scoreboard over there under the B's to see how Mr. BINGHAM, the gentleman from New York, has voted. And I find that almost invariably his judgment on the issue before us is very similar to my own.

When I am not really sure about what to do, but I have to make a decision because time is running out, if I see a green light next to the gentleman from New York, I will probably vote yes, and if I see a red light, I will vote no, completely confident that that vote is a vote which will have been cast in the best interests of this Nation.

So I just want to say in conclusion that I consider myself truly privileged to have been able to work with JACK BINGHAM. He will always be an inspiration to me.

Mr. WOLPE. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

I want to thank the gentleman in the well for taking a special order this evening to provide all of us an opportunity to express, however briefly, the enormous meaning that JACK BINGHAM has had for each of us during our time that we have served in this body.

When I arrived in the Congress a few years ago and was appointed to the Foreign Affairs Committee, I began to consult with a number of my new colleagues on the committee with respect to my subcommittee assignments. Almost unanimously, I was urged to seek appointment to the Subcommittee on International Trade and Economic Policy, not so much because of the subject matter that fell within the jurisdiction of that subcommittee, but because of the opportunity it would provide for me to work under the chairmanship of JACK BINGHAM.

I must say that there is no decision that I have regretted less than the one to seek membership on that subcommittee.

□ 2130

During the past 3½ years that I have worked with JACK BINGHAM on that committee, I have learned from him and I have been inspired by him. I have tried to think through, as I have heard the listing of all of the various accomplishments with which his name has been associated in previous remarks this evening, for a common theme that I think runs through all of JACK BINGHAM's work and all of his service to the Nation. I think that fundamentally it is his sense of vision, that he sees a world that ultimately can and must be governed on the basis of mutual respect, a world in which we can each recognize the common humanity that we all share independent of race or color, nationality, ethnic origin, or what have you.

He applies to every one of the legislative initiatives he has undertaken within this body over the past several years that very deep respect for humanity. I think it infuses all of his work and all of his contributions. I think it is that, fundamentally, that has touched each and every one of us.

JACK BINGHAM will be missed by the Congress. His voice, I think, will be missed by the entire Nation, but I know that he will remain active; he will remain involved, and we will continue to hear from him in many other ways as he continues his public service.

I will personally miss JACK BINGHAM. It has been for me one of the greatest privileges of my service in the Congress to have been able to serve with him on the Foreign Affairs Committee.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I thank the gentleman for yielding, and I

thank him for taking this time. I am sort of a casual visitor; I did not know it was the gentleman's intention to do this tonight, but I thank him for doing it.

Unlike the distinguished gentleman from New York (Mr. SOLARZ) I use Mr. BINGHAM's voting record as a benchmark too, but to vote in exactly the opposite way. Nevertheless, I want to join the colleagues bemoaning the departure of the distinguished gentleman from New York, the Honorable JONATHAN BINGHAM, from this august body.

JACK BINGHAM is as described by the previous speakers, a man of decency, a man of humanity, a man of thoughtfulness, and a man of consistency. People on this side of the aisle as well as those of his own good friends in the Democratic Party can recognize those qualities and be impressed by them, and I have never ceased to be impressed by JACK BINGHAM since I first came to the Congress.

He was a man who understood the role of this great country and the position and stature of this great country in our international community. He particularly understood the trade relationships of this country and the position which it should hold. And that was where I knew him best, and I must say that in the bills that JACK brought before this body, in every case they were better as he brought them out of committee than this body sent them on to other disposition.

I hate to see him go. I think the Congress needs JACK BINGHAM's, and I wish that he would stay. On the other hand, I never second-guess a Member's decision. I know that JACK and June are only graduating to some other good purpose and good goal in life, and I know that they will be very useful and that they will be as effective in other roles as they have been in Congress. I wish them the very best, and I thank them for the inspiration and example that they have provided for this House and for me personally.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from New York (Mr. McHUGH).

Mr. McHUGH. Mr. Speaker, I thank my friend for yielding, and especially for the opportunity he has given all of us to express our great respect for JACK BINGHAM and his wife, June.

Long before I was elected to Congress I admired JONATHAN BINGHAM from afar. I was a resident of New York City at one time. At that time, as well as subsequent to my move to upstate New York, I followed JONATHAN BINGHAM career with admiration. I found that not only agreed with most of his votes in Congress, but that he always issued thoughtfully and in a way which ennobled politics and public service. That was no small accomplishment in an age when people were

often skeptical and even cynical about public service and politicians.

Since I was elected to Congress I have gotten to know, JACK personally as a colleague, as a friend, and as a fine example to each of us who serves in the Congress of the United States. In an institution which imposes incredible pressures for self-advancement, JACK BINGHAM has always been self-effacing. In an institution which imposes incredible pressures for coping with the demands and crises of the moment, JACK BINGHAM has always had vision. In an institution which imposes incredible pressures to advance simple nostrums to complicated problems, JACK BINGHAM has been thorough and thoughtful. In these and many other ways JACK BINGHAM has made major contributions to the country, but also to those of us who have worked with and served with him here.

So, it is with mixed emotions that I join with my friends and colleagues in expressing appreciation to JACK for his years of outstanding public service. While cherishing my association with him here, and regretting to see him retire, we know that he and June have earned some respite from the pressures of this frenetic life. We also know this period represents a transition for JACK and June into another productive phase of their lives.

JACK BINGHAM has more energy and resourcefulness at his age than most of us do who are years younger, and we will continue to look to JACK for good example, for the vision and thoroughness and thoughtfulness he has demonstrated to us here.

Again, I want to thank the gentleman from New York for giving us the opportunity to say these few words on behalf of JACK BINGHAM and his wife, June.

Mr. ADDABBO. Mr. Speaker, I yield to the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I thank the gentleman for yielding, and I appreciate his taking this time and giving me an opportunity also to express myself about JACK BINGHAM and his wife June as they leave the congressional Halls and as they embark on other things.

Mr. Speaker, if I were to choose a man who needed to be quiet but forceful, incisive but restrained, of unquestioned integrity but capable of forging compromise, JACK BINGHAM is the man I would turn to.

Having served with JACK for 18 years—most of those shared on the House Foreign Affairs Committee—I have known him to be an individual of remarkable intellectual courage and commitment. When he first arrived here in 1965, I remember being struck by this quiet man from New York whose diplomatic bearing and

thoughtful comments captured my attention, almost by surprise.

But over these past years, I have discovered that I never regretted the time I spent in considering JACK's comments and points of view. Whether the topic be human rights and the need for U.S. policy to reflect our sense of social justice or the need to toughen the House Code of Ethics or the need to reevaluate our nuclear energy policies, JACK has established himself as a voice of reason and intellect.

By taking part in this special order to pay tribute to the gentleman from the 22d District of New York, I salute JACK BINGHAM as committee member, a respected colleague and a valued friend whose counsel and advice I will miss. My best wishes to JACK and June BINGHAM as they undertake new adventures.

□ 2140

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I rise to thank my colleague, the gentleman from New York (Mr. ADDABBO) for arranging this special order, and for the purpose of joining in this tribute to our dear friend, and colleague, the gentleman from New York, JONATHAN BINGHAM.

Mr. Speaker, the redistricting process has dealt many of us from New York blows of various kinds, but I know that we all felt a real sense of loss to learn that Congressman BINGHAM had decided to retire from the House.

JACK BINGHAM came to the House after a distinguished career in public service and at the bar. Besides his 18 years of service in the House of Representatives, he was a journalist, an author, an assistant to a Governor and a secretary of state, and a captain in military intelligence in World War II.

JACK defeated an entrenched incumbent, in a rough primary to gain the privilege of serving in the House. Ever since, he has worked tirelessly to further the welfare of his constituents and to guide our House Foreign Affairs Committee through many a crisis.

JACK's experience in international affairs and military intelligence led him, perhaps inevitably, to serve on the Committee on Foreign Affairs. When I joined the Foreign Affairs Committee, years later, I often looked to him for guidance. We serve together on the Subcommittee on International Economic Policy, where he is my distinguished chairman. We may disagree on some issues, as is natural, but I can tell the Members that no one's voice is more carefully listened to than his.

Some of our earlier speakers have alluded to JACK's devotion to the cause

of peace in the Middle East. He is truly a man of peace, a devotee of peace, a true statesman. He has worked tirelessly to strengthen the ties between this Nation and the State of Israel. Through good times and bad in that relationship, he has taken a stand of constructive action in every respect.

I will miss JACK BINGHAM's presence in our deliberations and activities in connection with the affairs of our State, and I should also allude to his work on his other committee, the Committee on Interior and Insular Affairs, where I know he has been a voice of reason and a voice in favor of preservation of natural resources. The work of that committee does not serve too many accolades for the Members from the East who serve on it. But geographic balance is important, and JACK has served all of us well by keeping an eagle eye on the activities of the Interior Department, sometimes called the Department of the West.

To JACK, and his devoted spouse, June, go our sincere best wishes for good health and happiness in all your future endeavors. This body will miss you.

Mr. WEISS. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding to me and I want to thank him at the outset for arranging this special order to honor our colleague, JACK BINGHAM.

I know that my regret at JACK BINGHAM's retirement is shared by Members on both sides of the aisle. This legislative body at all times and perhaps especially now needs Members with the ability, integrity, and wisdom that have marked JACK's 18-year congressional career.

Of a career filled with many outstanding achievements, I want to touch on just one, his impressive record of leadership on issues concerning international peace.

In 1967 he was 1 of only 18 Members who voted to stop the bombing of North Vietnam. Two years later he was the principal House sponsor for the McGovern-Hatfield bill to end the war.

He began his work to curb nuclear proliferation in the 1970's. He wrote and sponsored comprehensive legislation to place strict control on nuclear exports. He guided the bill through the House and it was enacted in 1978.

This year he has led efforts to strengthen the 1978 legislation on nuclear exports.

He also has been a leader, as we know, and an original sponsor in support of an immediate bilateral nuclear freeze. I chose to highlight his work on nuclear nonproliferation not only because of its overriding importance as an issue, but also because it reveals his

dedication. It is a highly technical and complex issue requiring a mastery of detail.

He does not always get the public recognition he deserves for his work because his style is to work cooperatively and behind the scenes, often without concern for the public fanfare.

On a personal level, I shall always be grateful to JACK BINGHAM for his selfless conduct in this year's reapportionment and redistricting struggles. Last May when the New York State Legislature drew lines in a situation which under the best of circumstances would have been difficult, because five of our Members were going to have to be cut out of districts, the size of our delegation being reduced, JACK, in the most selfless political action that I know of, when he and I were thrown into a district combining our mutual districts, indicated that since he and I had no issue differences, although he would prefer staying in the House, he would not run against someone with whom he had no issue differences.

That was a remarkable act and he accompanied it with a remarkable statement.

The most remarkable thing about it though was that as I went throughout the district, both in the Riverdale area where JACK and June had lived and do live, and throughout the other parts of my district, indeed throughout the city, people who had read that statement came up to me and said, "Isn't that just like JACK BINGHAM. He really demonstrated the tremendous class that we know he has always had."

People were not surprised. They expected of JACK always and got always the very, very finest.

In an era when public regard for Congress has reached an all time low, Members like JACK BINGHAM should receive national acclaim. His constituents have always recognized his excellence.

Since he was first elected in 1964, they have repeatedly voted overwhelmingly to return him to Congress.

The work he has done in Congress will continue to affect Americans across the country and people throughout the world. I will miss him, for he is a thoughtful legislator and an effective leader as well as a good friend. I will be proudest of the fact that as I remain here he and June will continue to be my constituents.

Mr. SHAMANSKY. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Ohio.

Mr. SHAMANSKY. Mr. Speaker, I wish to precede my remarks by thanking the gentleman from New York for arranging this evening.

Mr. Speaker, I rise to pay tribute to our esteemed colleague from New

York, Representative JONATHAN BINGHAM.

JACK BINGHAM's retirement at the end of this Congress, after 18 years of service to the people of his 22d District and the Nation will cost this House not only a knowledgeable, skillful legislator, but a true gentleman as well.

I must at this point say that I am a 55-year-old freshman. That means that I have been around a lot as a businessman and as a business lawyer. I have had a chance to evaluate many people. I can tell you that the impact of JACK BINGHAM upon anyone who first comes upon him is very great. He is a good and rational man, a man of integrity, and to me those are the hallmarks of a leader.

□ 2150

As a lawyer, a journalist, an officer in military intelligence, a diplomat, administrator, author and Member of Congress, JACK BINGHAM's career has, in effect, defined the American ideal of public service.

His father, Senator Hiram Bingham, provided an outstanding example of one who understands civic duty and leadership. JACK BINGHAM followed and extended that example.

It has been my pleasure to serve on the Foreign Affairs Subcommittee on Economic Policy and Trade, which JACK BINGHAM ably and thoughtfully chairs. His leadership last fall of our subcommittee trip to six countries, including Saudi Arabia, proved invaluable.

At this point I would like to mention that on that trip I got to know June Bingham, and it is a delight to see a couple who genuinely like each other. Especially was I amused when I heard June Bingham refer to her husband as "Bingham," and I thought that was fun.

His commitment to strong American-Israeli relationships highlights his understanding and support of America's democratic allies around the world. JACK BINGHAM's exemplary service in Congress and his many contributions to this country stand as an inspiration to all of us. He has earned the thanks and gratitude and best wishes of his colleagues and countrymen.

Mrs. BOGGS. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding, and I thank him so much for taking this opportunity and allowing us the opportunity of being able to pay tribute to our colleague, JACK BINGHAM.

JACK BINGHAM comes from a long tradition of service to our country, and he has accepted his inheritance with such fervor and with such good humor. He has always been associated with everything that is best in this

country and in this body. He has been associated throughout his career first with reporting the news and then making the news and being able to be with the people who meant so much to all of us, being associated with Averell Harriman in New York in State government, being associated with Adlai Stevenson in the United Nations and international government, and then coming to the U.S. Congress in the great 89th Congress and being associated with so many exciting and wonderful people and ideas that really pushed this country forward.

But most of all, he has had a continuing association with an American of such dedication and who has such a beautiful way of sensitively interpreting service of others, not only of others of this country, but leaders of the world—June Bingham; and that, to me, means that together they have not only accepted all of the aspects of their own tradition, but have left their own legacy to this House, to this Nation and to generations to come.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. ADDABBO. I yield to the gentleman from Ohio.

Mr. PEASE. I thank my colleague, the gentleman from New York, for yielding and for organizing this special order.

I know the hour is late so I shall not be long. But I did want to pay tribute to our retiring colleague, JACK BINGHAM.

When I first came to Congress 6 years ago, I asked to be appointed to the Foreign Affairs Committee. In trying to select which subcommittees to seek, I looked more at the subcommittee chairman in each case than really I did the subject matter. Frankly, I selected the Economic Policy Subcommittee specifically because of the reputation of JACK BINGHAM. I must say that in serving on that subcommittee for 4 years I was never once disappointed in my selection.

As a subcommittee chairman, JACK brought to the workings of the Economic Policy Subcommittee something which most Members of Congress cannot, and that is a superb background to serve as a framework within which to fit the pieces of legislation which came before us. Adding strength to that background was his natural capacity and penchant for scholarship, a thoughtful approach to legislating. He was on that subcommittee a voice of reason, very much respectful of facts. Beyond that, he was a careful craftsman. Any bill which went out of our subcommittee was well drafted and we need not have worried about that.

Finally, I think he was always consistent through one administration after another in fashioning policy and in standing for policy, which makes sense for the people of America.

In the full committee, it was really more of the same. I viewed him as a very valuable colleague on the full committee because he brought the same qualities of his work at the committee level. As others have said, he was and is a gentle person but not soft in any respect. He is a person of genuine conviction and determination, and his strength comes from that determination and conviction. Without question, he was a leader on the committee, although certainly not a self-proclaimed one. Having JACK BINGHAM on your side on any controversy within the Foreign Affairs Committee was worth a great deal, not only for his legislative skill, but also for the respect which all members of the committee had for any position that he arrived at.

I think that that respect showed up in the committee and also on the floor in connection with the nuclear freeze resolution which we discussed just last week.

Lastly, I would like to say that I have valued JACK BINGHAM as an example, certainly as an example which I have tried in some small measure to follow, an example which I know he has set for many, many other newer Members of Congress. As I said, he is a true gentleman, a gentle person, self-effacing, genuine, an example of the ability of Members of Congress to be successful without bombast. His commitment to facts, to logic, to reason, and to reasonableness has been a beacon for many, many younger Members of Congress, although probably not enough of them have told him of that fact.

Mr. Speaker, Members come and Members go from this Chamber. I am sure that as JACK BINGHAM retires and goes on his way, others of us will serve as examples for the new Members of Congress yet to come. All I can say is that if we serve as good examples, it will be very largely because we have had the example of JACK BINGHAM to go before. But I am not at all confident, in fact I am quite confident to the contrary, that we will be able to measure up in any significant respect at all as examples of other Members of Congress. Because JACK BINGHAM really is a unique person, it is unlikely that there will be in years to come many new Members who bring to this body the background and the intelligence, the innate good sense and decency which JACK BINGHAM has imparted to us over his many years in Congress.

In closing, I, too, would like to call attention and pay tribute to the contributions made by the team of Bingham and Bingham. June Bingham and JACK BINGHAM have been a team in Congress in Washington for a long time. This is truly a case where they have made a joint contribution.

Again, I thank the gentleman from New York for giving me this opportunity.

● **Mr. BOLAND.** Mr. Speaker, I would like to thank my good friend from New York, **JOE ADDABO**, for arranging this special order in honor of one distinguished and very deserving colleague, **JONATHAN "JACK" BINGHAM**.

In his 19 years as a Member of Congress, Jack has displayed with perseverance and integrity, his deep devotion to the democratic principles which have made this Nation great. Through his many achievements as a scholar and author, a civic leader, as well as his dedicated service in many various government positions before coming to Congress, Jack has enhanced this body with excellence.

As a member of the House Foreign Affairs Committee where he is chairman of the Subcommittee on International Economic Policy and Trade, a member of the Subcommittee on International Security, and a member of the Commission on Security and Cooperation in Europe, Jack has revealed a deep concern for the development of sound U.S. foreign policies. His most recent concerns in this area were evidenced by his introduction of House Joint Resolution 521, calling for a nuclear weapons freeze, approval of the SALT II Treaty and substantial reductions in nuclear weapons. His work on the nuclear freeze resolution both echoed the cries of the public for a solution to the problem of nuclear weapons buildup and opened the eyes of many legislators at home and abroad to the need for an adequate solution to one of the most significant problems of our times.

We are indeed fortunate to have had the pleasure of working alongside this great statesman from New York. I know that his departure from the House does not mark the end of his career of public service. It merely marks a change of forum. I want to join in saying farewell to a fine man and an honorable and distinguished colleague.●

● **Mr. ROSENTHAL.** Mr. Speaker, during the 20 years that I have had the privilege to sit in this Chamber, I have served with many colleagues whom I have come to admire. But in all my years, I can think of no one who I have respected and trusted more than **JACK BINGHAM**. Rarely, do we in Congress have the honor to pay tribute to as distinguished a man as my longtime friend and colleague from New York.

Jack is a very special colleague of mine. Over the years that we have served together in the House, Jack has become a trusted friend and adviser; a person with whom I could always turn to for a sincere, thoughtful, and well-reasoned viewpoint on the often difficult issues which we must all grapple with in these Chambers. We all have

had the opportunity to view Jack's abilities as a legislator: his eloquence, his passionate dedication, his unyielding stamina, his leadership, and his knowledge of the issues. These are the essential qualities for an effective legislator and with them, Jack has become the quintessential legislator, accomplishing goals that few among us could come close to.

But Jack's distinction as a Member of Congress goes beyond his many legislative accomplishments. It is his style that marks his greatness.

During the years that I have served with Jack on the Foreign Affairs Committee, I have been witness to his ability to get things done in a style that contributes to his effectiveness. Quietly, without fanfare, he has staked out a position as a leader for a sane, rational foreign policy: a policy based on diplomacy over militarism, cooperation over confrontation, peace over war. And during his 19-year career he has helped to make these ideals a very real part of our policy.

With Jack's retirement from the House—a retirement due to the quirks of political redistricting, not a weakening of stamina—there will be one less voice to articulate these ideals, one less leader for us to work with, and one less friend for us to admire. I will miss him.●

● **Mr. RODINO.** Mr. Speaker, I want to join all my colleagues in paying tribute to one of the most respected Members of Congress, **JONATHAN BINGHAM**, who is retiring at the end of this term.

The House will greatly miss **JACK BINGHAM** for many reasons. As a friend, I will miss his sharp wit and his intelligent and thoughtful advice on foreign policy issues. The House will especially feel the loss of his expertise on the Foreign Affairs Committee, where, as chairman of the Subcommittee on International Economic and Trade Policy, **JACK BINGHAM** has been an outspoken leader for a more enlightened and forward-looking foreign policy. His deep commitment to the cause of human rights at home and abroad has had a substantial impact on our country's policies. He was in the forefront of opposition to the Vietnam war and he has worked tirelessly for social programs to benefit the poor and minority members of society. His dedication to principle has led him into many battles in his 17 year congressional career, and I have been proud to stand with Jack in many of those fights. I believe his early work to enact effective handgun control measures and a nuclear weapons freeze will bear fruit one day—and we will have **JACK BINGHAM** to thank for pushing these issues to the public forum.

The devotion that **JACK BINGHAM** has shown to helping the citizens of New York and to preserving the best interests of our Nation stands as a shining

example to all those who aspire to public office.

I will miss the wise counsel of my friend from New York. He has brought a great deal of dignity to this House, and we all owe him a debt of gratitude. I am proud to serve with him, and I wish him all the best in the future.●

● **Mr. RANGEL.** I am proud to take part in the special order honoring my distinguished friend and colleague from New York, the honorable **JONATHAN BINGHAM**.

This outstanding legislator has ably represented his Bronx district for the past 18 years, gaining widespread respect for his ability, leadership and acumen here in Washington and at home in New York.

Mr. BINGHAM's work on the House Foreign Affairs Committee has been exemplary. His patience and his knowledge have won the admiration of his colleagues countless times. And his leadership on the International Policy and Trade Subcommittee has fostered an extremely positive influence on American trade policy.

There is no doubt that **JONATHAN BINGHAM** has been one of the House's finest gentlemen. We will sorely miss this great public servant.●

● **Mr. OBERSTAR.** Mr. Speaker, the presence of **JONATHAN BINGHAM** as a Member of this House has enhanced the reputation of this body. When one hears the name of **JACK BINGHAM**, one immediately thinks of integrity, intelligence, and a fierce commitment to progressive domestic and foreign policies.

As a Member deeply concerned about peace and nuclear proliferation, I have personally felt more secure in the course that this House would take because of the presence of **JONATHAN BINGHAM** on the House Affairs Committee.

As I have worked in this House to protect those programs necessary to the very existence of some of the neediest Americans, as I have fought for a progressive, honest tax system, I have regarded **JACK BINGHAM** as an ally and a friend, as I know so many Members have.

He has been a leader in the nuclear arms control debate, a champion of human rights as a basis for U.S. foreign policy, an articulate spokesman for a sane, responsible defense budget, based on legitimate security considerations, and not on wild pursuit of costly, unnecessary and unworkable technologies. As a Member of the House Interior, **JACK BINGHAM** has been relentless in his defense of the environment.

He has tirelessly and effectively represented the people of New York. They have been fortunate to have had him.

JACK BINGHAM leaves this body having earned the respect of his col-

leagues. There are too few like him, and his loss will be felt.●

● Mr. CONTE. Mr. Speaker, it is with a deep sense of regret that I rise to note the retirement of one of this body's most intelligent, respected, and forward-thinking Members, JONATHAN BINGHAM.

In his 17 years in the U.S. House, JACK has established the reputation as the conscience of the Congress in both domestic and international affairs. His compassion for those in need and commitment to the principles of justice have made his record in this body one that many of us could only aspire to attain.

Although JACK has represented areas in and around New York during his tenure in the House, he has always displayed the finest attributes of a Yankee gentleman. Soft-spoken, thoughtful, and gentlemanly, he has always given all sides a fair hearing, but has pursued his chosen course of action with dogged enthusiasm and unrelenting passion.

While JACK and I have worked together on many issues in the past, I consider myself most fortunate to have been shoulder to shoulder with him on one of his last and most important legislative pursuits, our nuclear freeze resolution. As the chief architect of this resolution, JACK's concerns were based on an overriding responsibility for our children and the hope that they be spared the devastation that would certainly result from a continuing, senseless pursuit of super-bomb superiority.

It is on issues like these where we will most miss JACK in the future—issues that demand both compassion and sensibility, qualities that JACK possesses in abundance. His friendship has meant a great deal to me through the years, and I wish him and his lovely wife June luck and Godspeed in whatever path they choose in the future.●

● Mr. SCHEUER. Mr. Speaker, I take great pleasure in joining with the many distinguished Members of this House today in paying tribute to one of our most illustrious colleagues, the gentleman from New York (Mr. BINGHAM).

I must, in candor, Mr. Speaker, admit to some mixed feelings as we gather to review his career, which is so distinguished by his intellectual achievements and his universally recognized and respected integrity. I say mixed feelings because it saddens me that we will be losing him as a force and a presence in this House.

JONATHAN BINGHAM has left his mark in the course of his 18-years of service to the people of New York. His record of service has earned him the warmth and affection of his constituents, his city and his State. Mr. Speaker, his record has also earned him the admira-

tion and appreciation of his colleagues and his country.

Mr. Speaker, I have had the great privilege of knowing Mr. BINGHAM and watching him in action from his days as a courageous reform-minded progressive in the late fifties and early sixties. Our paths have twined and intertwined on more than one occasion. It is from this wellspring that my esteem has grown over the years.

Anyone seeking to highlight the major milestones of his career is surely faced with an embarrassment of riches.

From his early days working with former New York Governor Averell Harriman and then U.N. Ambassador Adlai Stevenson, JACK BINGHAM became a leader in the reform movement that swept New York City in that turbulent decade of the sixties.

Representative JONATHAN BINGHAM has been a reasoned, often eloquent voice in this House on matters relating to the foreign policy of the United States. JACK BINGHAM stood in the well of this House raising his voice for a rational, human rights oriented foreign policy in the days before this was a totally acceptable form of behavior. His voice was heard early in opposition to the war in Vietnam. And he has been a respected advocate of gun control from his first days in the House. Civil rights found an impassioned champion in the gentleman from New York. And more recently his sense of justice found him a key manager in the efforts to establish a freeze on nuclear weapons.

Yes, Mr. Speaker, there are many points in JACK BINGHAM's career that deserve our attention. But perhaps the most enduring monument to his service among us is one which came at the midpoint of his distinguished tenure.

In 1974 he led a movement that has had a most profound effect on this body. He authored a reform of the Seniority system in the selection of Committee chairmen. To us today it seems eminently logical that chairmanships should be awarded on the basis of individual votes, but a decade ago this was regarded as heresy. It is to JACK BINGHAM's credit, and the ultimate benefit of our democratic system, that he ignored conventional thinking and proceeded to do what he thought was the right and honorable thing. He was right in 1974 and the results over the past decade stand as a secure monument to his career.

I am confident that JACK's retirement from active membership in this House will not signal an end to his active contributions to government. We will all welcome the opportunity to avail ourselves of his wise counsel in the years ahead.●

● Mr. MITCHELL of New York. Mr. Speaker, I wish to add my voice to those who have risen today to honor the Honorable JONATHAN B. BINGHAM.

At the end of this session of Congress, JACK BINGHAM will complete his ninth term in the House of Representatives. His 18 years of service have been a distinguished, productive tenure.

JACK is a thoughtful, effective legislator who has certainly left his mark—on the institutional operations of the House of Representatives and the Nation as a whole.

Although he and I have frequently differed on matters of political philosophy, I have always found JACK BINGHAM to be a man of the highest personal integrity. I am proud to have had the opportunity to serve with him as a member of the New York delegation. I know that his colleagues and his constituents will miss his diligent and effective service.●

● Mr. ZEFERETTI. Mr. Speaker, I rise to join in paying tribute to my New York friend and colleague, JONATHAN BINGHAM.

JONATHAN BINGHAM has managed to combine longevity with youthfulness, wisdom with exuberance, and good fortune with an extraordinary sense of public responsibility. Before his exemplary nine-term service in this great body, JONATHAN BINGHAM served his Nation in a variety of foreign service posts under Presidents Truman, Kennedy, and Johnson.

Nevertheless, he will be remembered first and foremost for his leadership in the House of Representatives. In addition to his forceful advocacy and leadership in formulating policy relevant to the Foreign Affairs and Interior Committees, JONATHAN BINGHAM was in the forefront of the successful fight a decade ago to reform the seniority system.

Generations of Americans will remember JONATHAN BINGHAM for his crucial role in preventing both military and civilian modes of nuclear proliferation. As the author of the congressional resolution advancing a mutual and verifiable freeze on nuclear weapons among superpowers, JONATHAN BINGHAM has become the leading advocate of the most critical issue of this generation.

The leadership of JONATHAN BINGHAM will be sorely missed in the 98th Congress. In paying tribute to this fine friend and gentleman, I want to add my personal best wishes for continued health and happiness in the years ahead.●

● Mr. MINETA. Mr. Speaker, I would like to join in this occasion to honor a distinguished colleague and a dedicated public servant, JONATHAN BINGHAM. In his 18 years of service in the House of Representatives, Mr. BINGHAM has earned wide respect among his colleagues and constituents by speaking out with a strong and steady voice for his convictions. Throughout his long career, he has consistently sought solutions to difficult problems with an

admirable sense of fairness and decency. A man who stands quietly but firmly for his principles. Mr. BINGHAM has been a model for us all.

JONATHAN BINGHAM has served a vital role in the area of foreign affairs, where, like a beacon, he guided many of us in the direction he believed was right. Long before such issues were fashionable, he worked to bring the United States back from the brink of nuclear Armageddon through a nuclear freeze and mutual arms reductions. He has long stood out as a champion of human rights and a clean and safe environment.

It is with great regret that we commemorate his intended retirement today, but I wish Mr. BINGHAM the best in any endeavor he may pursue in the future. I know I speak of all Members in thanking Mr. BINGHAM for his years of wisdom and unselfishness, which have given him such a proud history of service in this House.

● Mr. NOWAK. Mr. Speaker, it is a pleasure to join my colleagues in paying tribute to my good friend, Representative JONATHAN BINGHAM, who is completing 18 years' service in the House of Representatives from the Empire State. Mr. BINGHAM recently announced his plans to retire from the House at the completion of the 97th Congress. I would like to salute the Congressman's outstanding record of commitment and service.

Mr. BINGHAM serves on the House Foreign Affairs Committee where he is chairman of the Subcommittee on International Economic Policy and Trade and a member of the Subcommittee on International Security. He is a member of the House Interior and Insular Affairs Committee, with assignments on the Subcommittees on Energy and the Environment, and National Parks and Insular Affairs. He is also a member of the Commission on Security and Cooperation in Europe, which monitors the Helsinki accords, and serves on the steering committee of the Northeast-Midwest Congressional Coalition.

Aside from Congressman BINGHAM's accomplishments as a legislator, he has distinguished himself in other professions such as the law, journalism, the military, and diplomacy. A graduate of Yale College, Phi Beta Kappa 1936, and Yale Law School, Mr. BINGHAM was an occasional correspondent to the New York Herald Tribune from Europe, the U.S.S.R., and the Far East. He was admitted to the New York bar in 1940 where he practiced law at various times and was a member of the Judiciary Committee of New York's City Bar Association.

Mr. BINGHAM's military service was marked by his promotion to Captain of Military Intelligence during World War II.

Our colleague's diplomatic career was an eminent one. He served as:

Deputy Administrator of the Point 4 Program under President Truman, assistant director, Office of International Security Affairs 1951; President of the United Nations Trusteeship Council 1961; U.S. representative on the Economic and Social Council of the United Nations with rank of Ambassador and as principal adviser to Ambassador Adlai E. Stevenson in economic and social affairs, 1963-64.

Congressman BINGHAM's service in the military, diplomatic corp, and as an elected public official has been distinguished by sustained commitment and excellence in the public service of his country.

I would like to extend my best wishes to JONATHAN BINGHAM as he reaches a new milestone in his life. May the future bring him continued success and happiness. He will be sorely missed.

● Mr. RICHMOND. Mr. Speaker, today we honor our colleague, JACK BINGHAM, who has announced his retirement from this House after nine terms of brilliant, dedicated, and effective service to his constituents and the people of the United States.

JACK BINGHAM is a true and conscientious liberal, a great humanitarian, a warm and sensitive individual, a dear and reliable friend and, certainly, one of the most highly respected Members of Congress.

Always at the forefront of legislative efforts to help the poor and downtrodden, JACK has consistently demonstrated how deeply he cares about people. Just last week, JACK spearheaded the effort to gain House approval of the resolution calling for a mutual, verifiable freeze of nuclear weapons—one more of his many actions over the years to reduce the threats to humankind posed by nuclear power.

Through the years that he has served in the House, JACK has been an outspoken foe of rightwing dictatorships, and a great friend of the state of Israel. JACK BINGHAM will long be remembered in this House as an expert in all matters of foreign policy and he ends his congressional career as the chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade.

Mr. Speaker, as he closes out a most distinguished career in Congress, JACK BINGHAM leaves an enviable record of effectiveness and caring. Of our respected colleague, it can truly be said that he has not an enemy in the world. JACK, we will miss you.

● Mr. YATES. Mr. Speaker, JONATHAN BINGHAM is a dear, dear friend, and I love him. His decision to retire from the House after this Congress saddens me greatly and I can only say that there is no one who I will miss more than this wonderful man from New York. JACK and I have worked together on many things over the years and from the very beginning his wisdom,

courage, and bright good humor impressed me, and they still do. The world needs more people like JACK BINGHAM. He is everything a public man should be and I hope very much that his public career will not end with this Congress, and I have a feeling that it will not. But regardless of where the future leads, Addie and I wish June and him all possible happiness and good fortune.

● Mr. HOWARD. Mr. Speaker, I am pleased to participate in honoring our good friend, the distinguished gentleman from New York, JONATHAN BINGHAM. JACK and I were elected to our first term in 1964 and it has been a real pleasure to serve with him for these past 18 years.

Although, JACK will be missed by the Members of this Chamber, the impact of his intellect will not soon be forgotten. His presence on the House Foreign Affairs Committee, and most notably, his leadership as chairman of the Subcommittee on International Economic Policy and Trade, helped instill a commonsense approach to these vital issues.

JACK never sought headlines with flashy rhetoric, but he achieved results through hard work and determination. He was instrumental in making the Congress realize that perhaps nuclear energy was not the best alternative in the development of energy sources.

Of course, all of this praise has been substantiated by the voters of the 23d district. In every election including the first one in 1964, JACK has received over 70 percent of the vote.

Finally, Mr. Speaker, I would also like to pay tribute to JACK's wife, June. She has been very active in various organizations and has made enormous contributions of her own time on behalf of charitable causes.

We are all saddened to see JACK BINGHAM retire, but we wish him and his family all the best of luck in the coming years. For the past 18 years, not only have the residents of the Bronx benefited from his excellent service, but the rest of the Nation as well. His leadership and foresight will be missed by all.

● Mr. GORE. Mr. Speaker, JONATHAN BINGHAM is a man of immense personal integrity, good humor, and intelligence. His commitment to principle and his capacity for leadership put him in a very select group. He is the type of individual that we cannot afford to lose in public life, and he will indeed be sorely missed in Congress.

During my first few years in office, I quickly grew to respect his judgment, especially in the area of foreign affairs. My admiration increased as I saw broader dimensions of JONATHAN BINGHAM—the way he approached and analyzed issues and the way he main-

tained a conscientious regard for the public interest.

Recently, I had an opportunity to work with him on the nuclear freeze resolution. It is a credit to his organizational skills, his perseverance, and his stature that the vote was so close. He deserves much credit for translating this movement into a potent legislative force.

JONATHAN BINGHAM has many skills and many interests and he will find exciting challenges in the days beyond next January. I cannot help but feel that it is the Congress and the people of New York that will feel the deepest loss. We are clearly losing one of our premier defenders of the public interest. With respect and affection, I wish him well.●

● Mr. LONG of Louisiana. Mr. Speaker, the retirement of our respected colleague, and my good friend, JONATHAN "JACK" BINGHAM, a fellow Member of the House, saddens me. Though we all know JACK is going on to other works of importance, I hate to lose him as a trusted fellow Congressman. Since my return to Congress in 1972, I have had the pleasure of serving in the House with this fine and decent man. His quiet intellect and fiery belief in what is just will be missed by all.

JACK's work as chairman of the Subcommittee on International Economic Policy has been both exploring and inventive. But more important than JACK's grasp of international economics, is his deep understanding and concern of how the working men and women of America fair in today's economy. JACK's special interest was not the powerful lobbyist or the giant multinational corporation, but the working men and women of his district.

In the area of preserving our environment, no other Member of Congress could be more aptly described as a conservationist.

After 18 years of loyal service, the House will sorely miss JACK BINGHAM. It is very gratifying to know that JACK will stay active politically, and in his own words, "look forward to devoting a substantial part of my time and energy to helping drive out of office an administration that is 50 years out of date."

I wish JACK good luck and best wishes in his upcoming endeavors. I am sure we will be hearing from JACK for a long time to come.●

● Mr. ANNUNZIO. Mr. Speaker it is a genuine pleasure for me to join my colleagues in paying tribute to the Honorable JONATHAN B. BINGHAM, who came to the Congress with me in 1965. He and I were members of the same class—the 89th Congress. JACK's outstanding dedication to high standards is an inspiration to his friends and fellow citizens, and his record of excellence and creative accomplishments as a citizen, as a public servant, and as a

Member of Congress are most commendable.

He served the United States with honor during World War II, enlisting as a private, and leaving the Army with the rank of captain in military intelligence. He is a man of exceptional writing ability as well, and has authored books as well as magazine and newspaper articles.

Before coming to the House of Representatives, Congressman BINGHAM served our country with great distinction in international relations and foreign affairs. From 1945 to 1946, he was Special Assistant to an Assistant Secretary of State, and in 1951, he served as Assistant Director of the Office of International Security Affairs. He also held the position of Deputy and Acting Administrator of the Technical Cooperation Administration from 1951 to 1953, and was secretary to Governor Averell Harriman of New York from 1955-58.

While serving as the U.S. Representative on the Economic and Social Council for the United Nations, Congressman BINGHAM held the rank of Ambassador. He served as Principal Adviser to United Nations Ambassador Adlai E. Stevenson in economic and social affairs from 1963 to 1964. He also was a member of the U.S. delegation to four United Nations General Assemblies from 1961 to 1963, and the U.S. Representative on the United Nations Trusteeship Council with the rank of Minister and President of the Council during the years 1961 and 1962.

During his tenure in the Congress, JACK has distinguished himself while serving on the important Foreign Affairs Committee. He is chairman of the committee's Subcommittee on International Economic Policy and Trade, where he has compiled a splendid record of achievement, and his diligent efforts as a member of the House Interior and Insular Affairs Committee and the Commission on Security and Cooperation in Europe have been both fruitful and beneficial to the citizens of this Nation.

JACK is a fine legislator, a dedicated and devoted American, and a Congressman of outstanding ability, deep compassion and courage, who has provided exemplary service to his constituents in the 22d District of New York for the last 18 years. He will be missed here in the House of Representatives, especially by those who have had the opportunity to work with him.

I extend to JONATHAN BINGHAM my best wishes for continued success in devotion to highest principles, and for a healthy and happy retirement.●

● Mr. CORRADA. Mr. Speaker, it is with a deep sense of respect and great honor that I join my colleagues today in paying tribute to the distinguished gentleman from the 22d District of

New York, JONATHAN BINGHAM. JACK is retiring at the end of this Congress, after having served for nine consecutive terms as a highly respected Member of the House of Representatives.

His extensive knowledge and expertise in the area of foreign affairs are well recognized and appreciated by his colleagues and will be missed by all of us. JACK has always impressed those who deal with him by his calm and deliberative approach to the issues. JACK is a Member whose even temper has been a steadying force during heated debates.

I have been privileged to serve with him as members of the Committee on Interior and Insular Affairs during the past 6 years. I know I speak for my colleagues in that committee when I say that JACK will be missed by all of us.

I want to wish JACK and his wife June, the very best of health and happiness for the future.●

● Mr. FRANK. Mr. Speaker, JONATHAN BINGHAM's decision to retire at the end of this term, brings to a close one of the most distinguished congressional careers in the postwar period. JACK BINGHAM has been a model Member of Congress. His devotion to world peace, his dedication to social justice, his scholarly approach to the issues in which he has been involved, and his absolute integrity, have contributed enormously to the deliberations of the House of Representatives. On such issues as the fight against nuclear proliferation, support for a strong and independent Israel, and many others, JACK BINGHAM has provided an extraordinary degree of leadership, not only to the House but to the country and to the world.

Moreover, in an era when contentiousness and vitriol have all too often dominated the public debate, JACK BINGHAM has shown through example that it is possible to maintain a sense of dignity and to show respect for both the personality and the ideas of ones adversaries, while still being an extremely effective advocate. By combining a passionate commitment to his ideals, with a profound respect for the democratic process, JACK BINGHAM has provided an example of the way in which a legislator ought to behave in a democratic society. His district, this House and the country will be diminished by his retirement.

When publicity is given to the small minority of Members of Congress who fail to live up to their obligations, people ought to remember the example of individuals like JACK BINGHAM who show what parliamentary democracy can be at its finest.●

● Mr. SUNIA. Mr. Speaker, American Samoa remembers fondly the services and support of the Honorable JONATHAN BINGHAM to the territory of

American Samoa and at this moment we wish to join in the chorus of honors for the Congressman.

On behalf of my district, I want to say thank you for your sensitivity to our needs exemplified through the years you served as a member of the House Interior and Insular Affairs Committee. Because of the pressure of other issues pending before Congress it is difficult for many to give of their time to issues that may not be directly related to their own districts, yet you have often given us of your time and concern.

The association of the Bingham name with American Samoa goes a long way back in the history of the territory. The first congressional delegation ever to visit American Samoa was led by your father. Many of our people have preserved this memory by bestowing the Bingham name on their children. The Bingham name lives on in Samoa today.

I wish you well on your retirement and give my sincere thank you for your contributions to this Congress and those passed. Thank you.●

● **Mr. AuCOIN.** Mr. Speaker, a magnificent gentleman will be leaving Congress at the end of this year. It was with real sadness that I noted the decision from my distinguished colleague from New York, JONATHAN BINGHAM, to retire from this House which he loves so much and which loves him in turn.

As I reflect on Mr. BINGHAM's numerous contributions to the American people, I see a pattern, a harmony in all his actions. This is a man who has a goal which goes beyond personal ambition or gain. His intention is, it seems to me, to instill justice and balance into the lives of as many individuals as possible in all segments of society and in society as a whole. With quiet eloquence, Mr. BINGHAM has tried to smooth the way for those in this world who are oppressed or fearful or just plain outnumbered.

Many of the bills he has authored have helped people in this country. His Citizens' Anticrime Patrol Assistance Act provided \$15 million to organize citizen anticrime patrols. He realizes that policing is not all that is needed to make people feel secure in a world of soaring crime statistics. They have to feel that they have some control over their own lives. His concern for senior citizens led to legislation which provided jobs for 4,800 older Americans, thereby lessening the dependence and feelings of uselessness that mark the lives of too many of our aged.

His hand has been as graciously extended to those in other countries who need his help. He is a leader in the effort to stop oppression of Soviet Jews and was the principal sponsor of legislation providing funds for resettlement of Soviet Jews in Israel. He is a member of the Commission on Secu-

rity and Cooperation in Europe which monitors the Helsinki accords and the many "dear colleagues" from him which come across my desk shows that he takes the post seriously.

With his usual foresight, he was one of the first Members of Congress to oppose the Vietnam war, bravely taking a stand which was unpopular at the time. In fact, only 17 of his colleagues dared vote in 1967 for an end to the bombing of North Vietnam. Most recently, he urged a nuclear freeze because, as a thinking man, he fears the precarious arms race in which we have embroiled ourselves.

Mr. BINGHAM's accomplishments in the 17 years he has served as a Member of Congress, are too numerous to mention individually. He came to this body with a knowledge of the world which is rare. He applied his knowledge in a manner even more rare for its wisdom and humility.

That he is a leader, there can be no doubt. But to lead and still retain one's placidity, one's modesty, and one's dignity is remarkable. Few men in public office can retain all three. Few know Mr. BINGHAM's secret. I wish he could teach it to all those who contemplate entering public office. I only know that all of us who have had the privilege to serve with JONATHAN BINGHAM have benefited from our contact with him. To you, JON, I want to say: we will sorely miss you.●

● **Mr. REUSS.** Mr. Speaker, I am pleased to join in this tribute to my friend and colleague, JONATHAN BINGHAM, who recently announced his plans to retire at the end of this Congress. Since he began his congressional service in 1965, JACK has been a most effective and conscientious Congressman. His constituents have demonstrated their appreciation of his hard work by reelecting him every 2 years by overwhelming margins.

JACK has specialized in foreign affairs during his years in Congress, continuing a life-long effort on behalf of world peace and international cooperation. As the chairman of the Foreign Affairs Subcommittee on International Economic Policy and Trade, he has been a tireless fighter for foreign aid programs that meet real human needs, while actively opposing aid to regimes that deny human rights. His membership on the Commission on Security and Cooperation in Europe, which monitors the Helsinki accords, is symbolic of this commitment.

Before his years in Congress, JACK was the Deputy Administrator of the "Point Four" program, the precursor of the Peace Corps. Later, he served as an Ambassador at the United Nations.

JACK's indefatigable devotion to world peace has placed him at the forefront of the most important issue of all: The nuclear freeze. He is a key sponsor of and campaigner for the nuclear freeze resolution, which he describes as "an important glimmer of

hope in a depressing time." His leadership in the effort to end the current nuclear insanity will be sorely missed in Congress. But I am sure that JACK's voice will continue to be heard advocating a more enlightened and humanitarian American foreign policy.●

● **Mr. BRINKLEY.** Mr. Speaker, it is a privilege to participate in this special order honoring the distinguished congressional career of my good friend JONATHAN BINGHAM, who is retiring at the end of the 97th Congress, after 18 years of exemplary service.

JACK BINGHAM has represented the 22d district of New York with uncommon commitment. As chairman of the House Foreign Affairs Committee's International Economic Policy and Trade Subcommittee and as a member of the Interior and Insular Affairs Committee, JACK has provided our committee system with invaluable economic expertise over the past two decades.

From his Phi Beta Kappa achievements at Yale, to his influential role as U.S. representative on the United Nations Economic and Social Council, to his splendid record in this House, JACK has combined the finest qualities of thoughtful scholar and dedicated public servant. And this is how we will remember him.

But I will remember him, also, in a lighter vein, as a teammate on our Democratic baseball teams of years past. It was my pleasure to play side-by-side with JACK during some of those dry years. HENRY GONZALEZ was our pitcher and he deserved at least a "pair of Jacks," to open. JONATHAN BINGHAM poured out the same energy and perseverance on the baseball field that have hallmarked his years in Congress, and I am grateful for the excellence of his example and the quality of his friendship.●

Mr. ADDABBO. Mr. Speaker, as a wise and thoughtful man, JACK's dedication to humanitarian principles is probably his greatest legacy to us. His efforts to further world peace will always serve as an inspiration. As chairman of the Subcommittee on International Policy and Trade of the House Foreign Affairs Committee, he has diligently sought to foster international cooperation. As a member of the Commission on Security and Cooperation in Europe, which monitors the Helsinki accords, JACK has worked tirelessly for international human rights, especially for oppressed Soviet Jewry. His work on behalf of senior citizens and community crime prevention programs have brought these values and concerns to the grassroots level.

Certainly one of the most important undertakings of JACK's career has been his involvement with the nuclear freeze. His hard work and determination have been instrumental in helping us all see the horror and futility of the arms race. In the days ahead, his

vision and wisdom will be sorely missed.

We will all miss JACK, as friend, mentor, and extraordinary colleague. But I would like to take this opportunity to wish him all the best in his future endeavors, and to thank him for everything he has given us. I know that JACK will continue to have a positive and humanizing influence wherever he goes. I know that he will not just retire with his beautiful family to a life of idleness, but will continue a life of service to the world and our Nation. With his vast expertise—as former Ambassador to the United Nations, as Deputy Administrator of the "Point 4" program under President Truman, as secretary to the Governor of New York State under Averell Harriman, he brings many great ideas and hopes to the world.

JACK and June, we all wish you good health and enjoyment in the many years ahead, and will still look forward to watching your family grow with each beautiful Christmas card we so much enjoy.

Mr. Speaker, JACK's compassion for his fellow colleagues never ends. As the hour grew late this evening, JACK told me he did not wish us inconvenienced and suggested this special order not to be taken and that we only insert our statements for the RECORD. But, JACK, no matter how late the hour, we your colleagues wanted this opportunity to express our admiration for you.

□ 2200

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. SYNAR) is recognized for 5 minutes.

● Mr. SYNAR. Mr. Speaker, on Thursday, August 5, I was in my congressional district on official business and was unable to cast my vote on rollcall. Nos. 248 to 251. Had I been present, I would have voted in this fashion: rollcall No. 248, "yes"; rollcall No. 249, "no"; rollcall No. 250, "no"; and rollcall No. 251, "yes."●

A TRIBUTE TO WRIGHT PATMAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, this last Friday, August 6, was the anniversary of the birth of the tremendously great American who sadly passed on a few years ago, and was a preeminent Member, one of the most outstanding Members that the House of Representatives has ever had in its history since the first one in 1789.

I speak of former Chairman Wright Patman of Texas. May his soul rest in peace.

Wright Patman was born on August 6, 1892, in what has been called through the years Patman's Switch, which clearly reveals the association of Mr. Patman's illustrious forebears in that part of Texas, which is actually in a place near what is known as Hughes Springs in Cass County, Tex., which is up in the eastern, northeast part of Texas.

And Wright Patman studied law. In fact I think he came to Cumberland University in Kentucky, got his license, went back, and served as county attorney for Cass County for a while. Then he served for quite a number of years as district attorney. Then he eventually came to the Congress.

When he came to the Congress back in 1928, the United States was in a very similar period of time as that which we have just come from in the last few years. And as the depression broke, he was in the midst of all of that. He was defined by historians as a populist. But actually Mr. Patman to me symbolizes the bedrock of fundamental strength of this thing that has made and continues to sustain America.

He is what I call the old stock American.

Those of us who are by the very nature of the circumstances of the place and the environment in which we were born into, and bearing names that indicate different origins, find ourselves—and I am of that age where I can cover a pretty good span of history, and therefore can render testimony to this. I can recall when in my part of the country we were actually living in a country within a city. San Antonio became the focal point of a large exodus or mass of people from Mexico during and over the course of a 30-year period of time, the so-called Mexican revolutionary period. It was a turbulent, tough time.

This was back in the days when things were a little bit more crude.

Today, the people that came in in the successive waves, because you had revolution, counterrevolution, counter-counterrevolution and the like. It was bloody. Mexico at that time had a population of less than 14 million. And during the course of that revolutionary struggle over a million died, over a million left the country.

Most of those that left who belonged to the poorer, or those not in the upper classes economically speaking of Mexico, used the main lines of transportation, which were the national railway lines leading into Texas.

The more affluent went into the North and West and into California. All of these are sociological phenomena that have not been written about. The history of all of this has yet to be written.

But those of us born in this context then learned what it was to identify, first self-identification, a process that is still going on in the case of this conglomeration known as the Mexican American, or the American of Mexican descent of the Southwest.

This is reflected by the fact that there is no consensus even as to the descriptive phrase that is proper to cover the area. Today we hear the popular phrase for today, Hispanic American. But even that is inadequate because it does not cover the Portuguese. And Hispanic does not really convey this great, great amalgam of the Southwest known as the Mexican American, which is still the predominant group in this generally labeled class known as Hispanic American.

But its proximity to the mother country, Mexico, does put it in a very special niche or category, so that you find even today, for example, in my district, we have three full-time radio stations in Spanish—100 percent—San Antonio has the first television, a full-time television in the United States, going back quite a number of years, almost from the very inception of TV, which in San Antonio came in 1950.

So this station must have come to San Antonio not more than 4 years later, in the middle fifties.

So that we are talking about an America that is truly a very cosmopolitan country.

But growing up in that environment, one learned what it was to live in a country as this one, pluralistic, many peoples, many creeds, many cultures, and more than one language.

Coming from an environment in which English was not used—I for one had to learn English, for I knew not one word when I went to the first grade, through I was born in San Antonio.

But I soon learned that despite the then crude and abrasive out-and-out discrimination and racial tones of antagonism, that there was an element that my father recognized immediately. My father always inculcated a love and respect for this country, even though he died a Mexican. My mother did not. My mother became a naturalized American citizen, but not my father. And he died at the age of 90.

The reason was that his roots go back into the history of the North American Continent in Mexico—over 450 years. A family house is still standing in the State of Durango, in a mining town known as Mapeno, and it is over 450 years old. It is a historical monument because the Mexican Government has made it a historic site for several reasons, principally because it was there that Benito Juarez, when he was fleeing from the French invaders, stayed at the family house with his Cabinet.

My grandfather was the north Mexican leader of the Juarez forces fighting the French invaders. As a matter of fact, he was one of those that led the charge and successfully defeated the French Legionnaires of Napoleon III and the Emperor Maximilian in the battle known as El Sombrerete, which was a fight as great and important as the Battle of Pueblo of May 5.

So I give this history and personalize it in order for you to understand my eulogy of Wright Patman, because in growing up, I soon recognized this tremendous debt to these great figures that I call, for lack of a better descriptive phrase, the oldstock American.

I have always said, and this has angered some of the activist, ethnic, hot, outspoken leaders who predicate or did predicate their positions on antagonism and hatred of what they called the dominant or the Anglo—why that word, I do not know. I dislike labels. I dislike them now. I have always said that we are either Americans or we are not. And this has infuriated, believe it or not, people from time to time.

But nevertheless, out of the context of that environment, and in deepest appreciation for these figures that I identify with the stalwart, such as Wright Patman, I rise today to evoke his memory, because Wright Patman, had he lived long enough to this period of time, would have probably singlehandedly done more than any other person could have to have either diverted or arrested or at least attenuated the ravages of high interest rates, which he was one of the most fierce opponents of in the history of the American Congress, and who successfully, as chairman of the House Committee on Banking and Finance, as it was known then, or Banking and Currency as it was known then, was the last chairman to successfully get, after great fights, the funds to conduct the studies that since then have not been able to be conducted, and that is the review of just what has been happening to our financial and banking institutions, the things that have been happening that are at the root of this terrible dilemma that this country faces.

□ 2210

Never before have we faced such a challenge and a danger to what we know and take for granted as the American standard of living. The idea that we would ever have reached the point of 20 and 21 percent prime interest rates I am sure has caused this great, venerable preeminent American to turn over in his grave at least 100 times. It is just so unthinkable.

I had the great privilege of getting to know him particularly after I came to the Congress, and he was instrumental in having me assigned to this prime committee. When I was sworn in on January 8, 1962, I was one of

three that were sworn in in the middle of that Congress, the second half of the 87th Congress; but I was the only one that was assigned to a prime standing committee. The others had to wait until the next Congress, and the reason was Wright Patman; but also I had the pleasure in my last year in the State Senate of having welcomed to the board membership of the State senate his son, the Honorable BILL PATMAN, who now is a U.S. Congressman from Texas; so that today I evoke the memory of Wright Patman. His birthday would have been this last Friday, August 6. We were in recess, so I could not speak then; but I do so now in order to, in a very humble way, try to perpetuate his memory, an honorable, distinguished preeminent American, a great Texan, who did more than anyone I know of in the 20th century to maintain that most precious thing, and that is economic freedom, without which our political freedoms in this day and time in the context of our society so structured today is a hollow mockery.

So I evoke this memory and pray to God that his soul may rest in peace and hope I will be around to continue to evoke that great American's name and memory, Wright Patman, from Patman Switch, Tex.

UNITED STATES SHOULD OPPOSE WORLD BANK LOAN FOR BRAZILIAN IRON ORE DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

● Mr. OBERSTAR. Mr. Speaker, yesterday I addressed the House on the subject of an iron ore development in Brazil to be financed by the World Bank. This project is of such far-reaching significance that it deserves more detailed consideration than is possible during a 1-minute speech.

Summing it up: With the help of a low-interest loan from the World Bank, Brazil is about to disrupt world markets in iron ore in a way that will have lasting consequences for both the domestic iron ore and steel industries.

With the help of this very attractive financing, Brazil will be in position to bring on stream the production of iron ore exceeding by more than double the production capabilities of the largest iron ore production facilities in the United States; United States Steel's Minntac facility in Mount Iron, Minn.

The Brazilian ore will be sold at prices substantially below the current domestic prices of Minnesota taconite pellets; and it will be sold to the principal competitors of our domestic steel industry. Ultimately the Brazilian ore will be in direct competition with Minnesota and Michigan ores.

This loan is being processed at a time when devastating unemployment on the Mesabi Iron Range has attracted national attention as expressed in the three news stories which I ask unanimous consent to include in the RECORD at the conclusion of my remarks.

I would now like to describe the Brazilian iron ore project in more detail.

The Carajas project consists of an open pit mine situated in the state of Para and a port on the South Atlantic Ocean in the state of Maranhao. The facility is operated by the Cia Vale Rio Doce—C.V.R.D.

Following testing and commissioning, the facilities of the Carajas project will be physically available for start up in 1984, with exports of iron ore commencing in 1985 and amounting to an estimated 15 million metric tons shipping during that first year. With completion of construction in 1986, the quantity is expected to increase to 25 million metric tons in the second year and then reach initial production capacity of 35 million tons in 1987.

Until 1979 most of Brazil's iron ore was exported. Even with the rapid growth of the steel industry in Brazil over the last decade, domestic consumption of iron ore now accounts for only about 20 percent of production. In 1980, the overall iron ore shipments of CVRD totaled an all-time high of 80 million tons. The principal quantity amounted to 62 million tons exported to world markets and the remaining 18 million tons for consumption in the domestic Brazilian market.

The capital cost of the Carajas iron ore project totals an estimated \$6 billion. The estimated total investment comprises 40 percent equity and 60 percent in the form of loans including those from the Government of Brazil, \$600 million from a consortium of EEC banks, \$500 million from a group of Japanese banks and \$150 million from a West German bank. In addition to its consideration of the \$300 million CVRD loan application, the World Bank has also provided technical feasibility assistance, market research, and financial planning for the project in the part, and will continue.

I would like to point out that the World Bank has loaned the Government of Brazil more than \$300 million over the past 5 years for continued expansion of their steel and iron ore industries at interest rates which clearly would be the envy of our domestic marketplace.

CVRD has negotiated contracts with steel producers in several countries, including Japan, Korea, Belgium, Italy, West Germany, Luxembourg, and France for the sale of Carajas ore. This project will further disadvantage the domestic iron mining industry and enhance the position of our foreign

steel-making competitors with the ready availability of a low-cost, essential raw material to be sold thousands of miles distant from its source, at a price more than 25 percent less than that of U.S. taconite ore.

In short, not only does this project pose an immediate and long-range threat to the crippled domestic iron ore industry, it will also disadvantage basic steel.

I have no problem with a privately financed venture in which the principals are risking their capital and know-how against the forces of an open market. I do have a problem, however, with a venture in which the risks are muted by below market rate financing and the constant protective vigilance of an international lending organization and the presence of government ownership and subsidy of the venture.

United States participation in the World Bank loan for the Brazilian project will be interpreted as a very discouraging and confusing signal to the domestic steel and iron ore industries. On the one hand, this administration is attempting to move aggressively on foreign subsidized or "dumped" steel; but on the other hand, if it votes to approve this loan, it is helping to provide a further unfair advantage to foreign competitors. Consistency, at least, would require a no vote by the U.S. representative to the World Bank.

In conclusion, I urge our World Bank Representative not only to vote no on this loan application but to also urge the Bank to defer any further action on this project at least until we begin to see signs of a worldwide economic recovery and have a better picture of the future of the domestic iron ore and steel industries.

RECESSION SILENCES THE MINES OF THE MINNESOTA IRON RANGE

(By William Serrin)

HIBBING, MINN.—From Babbitt and Biwabik on the east, through Virginia, Mountain Iron and Hibbing, to Calumet and Grand Rapids on the west, a depression has fastened upon the Iron Range and is holding on like a dog to a bone.

Perhaps 11,000 of 12,100 miners are laid off; seven of the range's eight taconite mine operations are closed, and the one left operating, at Eveleth, is on a reduced schedule.

In city after city across the range, an area in northern Minnesota that is steeped in the lore of mines, miners and machines, unemployment is enormous. It is far greater than the national rate on the Iron Range, which provided the basic raw material, iron ore, that in large part fueled America's industrial growth.

It is about 25 percent in Hibbing, in the center of the Iron Range, said James Collins, the Mayor. In other towns, unemployment might be as high as 50 to 60 percent. Unemployment benefits and supplemental benefits are running out. Food banks for unemployed miners have been established. The state has advanced aid to the area, and some government agencies are employing laid-off miners in a range of other jobs.

What happened in autos and then steel has now rippled onto this high plateau of pines and huge mine pits and red-sided waste heaps. Unlike some other areas of the country where people can sometimes find other work, the Iron Range often offers few other employment opportunities.

"Things are pretty bad," said Roger Klander, president of United Steelworkers of America Local 6115, in Virginia, Minn. Only half joking, he said, "When the winter comes, when it gets 32 below and you're trying to keep your house warm, well, I'm not sure there will be a tree in Minnesota."

Some people caution against such icy views, Joe Samargia, president of Local 1938 of the Steel workers, in Virginia, said miners have learned to struggle. He said that he does not believe that mining companies will walk away from their productive mines, even though they will attempt to make operations more efficient.

Bob Umhauer, who has been laid off since last October at his job as a track laborer at the United States Steel Corporation Minntac plant at Mountain Iron, said he knew he would not be called back to work until next spring, at the earliest. But he described himself as "one of the lucky ones," because he has obtained a job at a food distribution agency, where he makes about \$6 an hour, in contrast to about \$10.50 at the mine. "Things will pick up again," he said.

Hibbing contains the largest open pit iron mine in the world. In the glory days of the 1920's and 1930's, 16 companies operated here. Today only one small company is operating. But Mayor Collins said everything is not "gloom and doom." People, he said, are not "in the gutter starving to death."

But Mr. Collins said that the situation was bleak for iron and its ancillary industries, and that the economy of the Iron Range would not recover until the American automobile industry recovered. Even then, he said, many ore companies already have supplies of taconite, a pellet form of low-grade ore that has been the mainstay of the Iron Range since the 1950's after high-grade ore had run out, that can last months and perhaps years.

And if prosperity returns to the range, he said, 10 to 20 percent of the miners will find that their jobs will be permanently gone. "The companies have found they can get along with less people," he said.

Although the area has known distress before, as in the Great Depression, the current conditions seem starker in light of the widespread prosperity that often characterized the Iron Range in the past.

When Hibbing completed its high school in 1921, the building offered a library, two gymnasiums, an indoor running track, forge and foundry shops, a swimming pool and a greenhouse.

Fears that the high-grade ore would give out rose early in this century. The ore lasted, though, and provided a basis for the nation's armaments industry in World War II. Then it ran down, and it was the development of the taconite process, which brought the commercialization of low-grade ores, that saved the Iron Range.

Now, however, many people fear for the future of the range.

"ONE-HORSE ECONOMY"

Jeanne Cadeaux of Virginia, who lost her job as an electrician at the Minntac plant two months ago, lives on \$177 a week in unemployment benefits and works as a volunteer hairdresser at a nursing home. "I'm trying to be real positive, but it's not easy," she said.

Patrick McGauley, a commissioner of the Iron Range Resources and Rehabilitation Board, said, "I perceive a slow recovery, but I do perceive a recovery." He said the future of the Iron Range hinges on diversification of industry, and suggested a heavier reliance on tourism, petting gathering and perhaps copper mining, among others.

He said nothing the state is doing, such as the jobs program for miners, is addressing the region's basic problems of low-priced ore imports from Brazil and inexpensive steel from Japan. "It's scary how these big companies can walk away from multi-million-dollar plants," he said.

"The Range has been through ups and downs before, but there is a little different mind-set on this one," he said. "It's a one-horse economy and that horse is sick."

IN MINNESOTA'S IRON ORE COUNTRY, HIT HARD BY SLUMP, JOBLESS SCRATCH FOR WAY TO GET BY

(By Lawrence Ingrassia)

VIRGINIA, MINN.—On street corners and in bars, at gas stations and in supermarkets, conversations here inevitably start the same way.

"You laid off?" "Any job prospects?" "Are you still working?"

They are questions of people gripped by the recession. This tidy town in the woods of northern Minnesota is a long way from the steel mills of Pittsburgh and the assembly lines of Detroit, but its fate is tied to theirs.

Virginia is in the heart of Minnesota's famed Mesabi Range, whose open-pit mines supply iron ore for the nation's steel mills. But with the steel and auto industries in a slump, there is little mining going on.

Seven of the eight mines on the range are shut down, most until fall and some until winter. About 12,000 of the 14,000 miners have been laid off. All across the range—in Virginia as well as Keewatin and Hibbing, Chisholm and Eveleth, Biwabik and Babbitt—the unemployment rate is 40 percent to 50 percent.

"OLD-TIME MINING TOWNS"

As the mining companies and the miners stop spending money, the entire region feels the effect. "We're like an old-time mining town, only we have sidewalks and street lamps," says Stuart Murray, manager of the Minnesota Job Service office in this town of 12,450. "Half the people work for the mining industry, and the remainder serve the industry or the people who work in the mines."

Hardest hit are the younger miners who were laid off last fall and winter. Many have recently exhausted their unemployment compensation benefits and are applying for public aid. "We never thought we'd see the day that we'd have to go on welfare," says Debbie Perslin, whose husband was laid off from his mining job last February.

What makes this recession shocking to many Rangers (as people hereabouts call themselves) is that the region had enjoyed unprecedented good times for nearly two decades. Until the 1960s, the higher-grade iron ore mines that operated on the range closed every winter. But as those ore deposits were depleted, companies began mining taconite, a low-grade ore that is processed into higher-grade pellets before shipment.

The taconite mines, which are operated year around, ended the seasonal ups and downs. "We've told people here that the taconite industry operates 365 days a year, day and night, and all of a sudden we've

changed. The hardest part is that there hasn't been a turndown in operations for some 20 years," says a spokesman for U.S. Steel Corp.'s taconite mine in nearby Mountain Iron, Minn.

The taconite industry's best year was 1979, when production was 56 million tons of pellets. This year, industry officials estimate, production will be 30 million tons.

It isn't clear when things will pick up. After slowing production for a while, most of the mines shut down early this summer. Nowhere has the effect of the slump been more severe than at U.S. Steel's Mountain Iron mine, the largest on the range. Last October, about 1,600 miners were laid off, and the mine closed—putting another 2,150 out of work—on June 6. The company initially planned to resume operations July 11, but now says the mine will remain closed at least until Aug. 23.

Even then, the workers with the most seniority will be the first called back. Those laid off last October figure they won't return to work before next spring.

"I don't expect to get called back until August of '83," says Thomas Wilson, a U.S. Steel miner who lives in Eveleth. When he was laid off nine months ago, Mr. Wilson began growing a beard and vowed not to shave until he was called back. He recently changed his mind. "If I kept it till then, I'd be walking on it," he says.

Most laid-off miners have given up looking for work. "Nobody's hiring. People are real polite, though. At least they haven't laughed at me," says David C. Anderson. He plans to study electronics at a vocational school using G.I. bill benefits because he's worried that he may never be called back to his mining job.

Many miners aren't interested in taking jobs that pay much less than the \$9 to \$12 an hour they earned mining. But even low-paying jobs are hard to find. Harley Melin tried unsuccessfully to get jobs as a sales clerk and a taxi driver in Duluth, which is an hour's drive from here.

The employment outlook is so bleak that the unemployed are lining up for state public-works jobs that will last just four weeks and pay \$3.50 an hour. "It's kind of a joke. It's not going to go far at all," says Mr. Melin, who nonetheless applied for the work.

LOOKING ELSEWHERE

A few miners have left the range for jobs elsewhere. Most, however, return poorer and even more discouraged. "I've had people call me from almost every state out traveling and looking for jobs. One guy put 1,800 miles on his car and couldn't find anything better than \$3.25 an hour. There is no place in this country that has jobs," says Joe Samargia, president of Local 1938 of the United Steelworkers of America, which represents the U.S. Steel miners.

While waiting for the economy to pick up, most people are learning to get by with less money. That's easier here than in a big city. Stacks of firewood that will be used to heat homes cheaply during the frigid winter sit alongside many dwellings. Rummage sales attract big crowds of bargain hunters. "I've been buying shirts for my children and blouses for myself for 50 cents to 75 cents and jeans for \$1," says Mrs. Perslin, the wife of the unemployed miner. Instead of giving away clothes her children have outgrown, as she usually does, Mrs. Perslin is planning her own rummage sale.

Like many others, unemployed miner John B. Gornick is cultivating an expanded vegetable garden that features everything

from sweet corn and squash to cabbage and cucumbers. He also plans to harvest wild blueberries and kill a deer (the one that nibbles on his vegetable garden.)

Still, now that his unemployment compensation has run out, Mr. Gornick is counting on getting Food Stamps and Aid to Families with Dependent Children to help support his wife and two children. "I was at home when my dad went through layoffs years ago," Mr. Gornick says. "He made it, and I'll make it."

Bankers here, because they know their customers personally, are more willing to let people fall behind on loan payments. "We're going to do everything in our power to keep people in their cars, houses and mobile homes," says Frank McCarthy, president of the First National Bank of Virginia.

Virginia merchants have managed to hold on so far, though they are worried about what will happen as more and more laid-off workers use up their unemployment benefits.

Sales actually are up a bit at a local hardware and auto parts store, as unemployed workers become do-it-yourselfers to save money and pass the time. But down the street, at Palace Clothing, sales have declined. "The layoffs affect all of us," says owner Donald Schibel. "There are some people who have money and are spending, but they aren't spending as easy as they have."

Dick Olson, who owns a service station and bait shop, says gasoline sales are down because people are driving less to conserve cash. And even though people are fishing more, both for fun and food, his bait sales have dropped as well. "A lot of guys are catching their own bait. When they're working, they don't have time, but now they do," Mr. Olson says. In fact, he adds a lot of them have called. "They want to know if we'll buy minnows and worms from them."

[From the News-Tribune & Herald, Aug. 10, 1982]

BRAZIL LOAN A SLAP IN OUR FACE

It would be a slap in the face to this area if the Reagan administration goes along with an application by Brazil to secure a \$300 million World Bank loan for construction of an iron ore production plant in that South American country.

Quite simply, there are far too many North American iron ore production facilities—most of them in this area—that are sitting idle for this country to support construction of major foreign competition.

The World Bank is expected to consider the loan—with an interest rate at a low 11.6 percent—today. U.S. Rep James Oberstar, D-Minn., has strongly recommended to Treasury Secretary Donald Regan that the U.S. oppose the loan when the World Bank leaders assemble. The U.S. provides 21 percent of the funding for the World Bank, allowing it 21 percent of the voting power in the bank's decisions.

Oberstar has said that while the Treasury Department earlier indicated it would oppose the loan, that opposition appears to be waning.

It makes no sense whatever for our country to contribute to this kind of project when its own ore-processing facilities are virtually shut down, its employees out of work and facing an uncertain future.

If the loan is approved, the U.S. contribution to the Brazil project would amount to about \$63 million, and amount that would go far in extending American unemploy-

ment benefits for jobless workers in the mining and steel industries.

If it is approved it would be a slap in the face to those many Americans who pin their hopes on a domestic steel industry recovery for their livelihoods. ●

ELIMINATING THE FEAR OF A FIRST STRIKE: A RESPONSE TO EUREKA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. GORE) is recognized for 30 minutes.

● Mr. GORE. Mr. Speaker, there is an urgent need for the United States to reassess its position and policy on nuclear arms. Millions of Americans appear to have concluded that the only way either we or the Soviets can win the arms race is by ending it. Freeze resolutions, not only in the Congress, but all around the country, attest to the strength of this belief. Last Thursday's razor edge vote on the freeze resolution shows how far this idea has gone, and how closely the Congress is divided at a critical moment. Congress has before it spending bills that will define the scope and pace of U.S. strategic weapons programs for years to come. But without SALT II, and years away from some new agreement with Moscow, there is no agreed framework within which to make these decisions.

The President is urging Members of the Congress to follow his lead in arms control or at least to refrain from actions that would undermine his negotiating position. Unfortunately, his proposals, both for nuclear weapons procurement and for START, have failed to prevent erosion of the bipartisan consensus vital to both. Without significant change in our current policy, requisite unity will be, I fear, unachievable.

Many Members of Congress and much of the public are convinced that the President's overall approach is not viable. Worse still, an apprehension is building that even an occurrence of events along lines preferred by the President, would promote greater tensions and dangers relating to nuclear weapons than ever before.

This skepticism has already manifested itself in a series of close votes not only on the freeze resolution but on the MX missile, and by the rapid House approval of an amendment to the defense appropriations bill, the practical effect of which was to legislate SALT II constraints.

The President cannot afford to ignore what is happening, nor can Congress. If this polarization continues, vital choices about nuclear weapons may be stalemated, and we will have another stillborn negotiating effort with the Soviets.

On the other hand, those who question the current policy and direction

of the President, including advocates of a freeze, cannot welcome the prospect of a deep national division over matters that touch directly on our security and on peace.

Mr. Speaker, this situation can be altered; unity on this urgent matter is not irretrievable. With constructive bipartisan leadership in Congress, and responsive leadership from the President and his party, we can reestablish a common denominator about nuclear weapons and arms control. We need some bedrock level of agreement that permits the President to pursue a course that most of us can, in good conscience, support—if not totally, then at least on basic thrusts.

If this is to be done, however, those of us who disagree with the President must be prepared to acknowledge elements in his approach that have merit, while, hopefully, those who support the President's ideas will concede the existence of faults and the need for correction.

It is my purpose today, Mr. Speaker and my colleagues, to critique the President's proposals and to underscore what I believe to be their strengths but, also, to offer proposals designed to demonstrate how the current approach could be altered, so as to retain its best features and to preserve and enhance the conditions needed for a meaningful halt to the nuclear arms race.

START: WHAT IS RIGHT ABOUT IT

The President's public statements on strategic nuclear arms control have correctly centered on the notion of stability. While we hope for reductions of nuclear weapons, the fact is that even one nuclear submarine contains enough weaponry to ravage a continent. It is crucial, therefore, that at any level of armament, United States and Soviet nuclear forces be designed in a way that avoids a bias toward first use. In some future moment of crisis, the last thing we should want is for decisionmakers on either side to be under a compulsion to launch a nuclear war, for reasons that have to do with the mechanical characteristics of the weapons themselves. On the contrary, we need to make sure, if possible, that weapons in being—in their qualities and in their relationship to each other—do not add to the uncertainties and fears that threaten to drive events out of control in periods of great tension.

Increasingly, however, we seem to be moving in the opposite direction. For a decade, U.S. weapons programs and U.S. approaches to arms control have reflected a deep concern about the vulnerability of our ICBM force to Soviet attack. Today, the Soviet Union possesses enough weapons of the requisite quality to destroy a very large proportion of our ICBM force while using up only a fraction of the Soviet Union's inventory; leaving them with a large

reserve to use for purposes of coercion—the so-called counterforce scenario. Many students of nuclear weaponry doubt that Soviet leaders would ever seriously entertain the idea of such an attack, but their judgment does not offset the fact that the Soviets own the means for carrying it out, and have paid dearly to acquire it for reasons that invite apprehension.

A decade from now, the shoe could be on the other foot. We are moving toward the deployment of two new systems, either of which would give us the means to carry out a full counterforce strike against the Soviet Union's ICBM silos: the MX ICBM and the Trident D-5 submarine-launched ballistic missile. At that time, the Soviets would be even more vulnerable than we are at present, because they have deployed so much more of their nuclear force on land. Nothing could be more detrimental to strategic stability than for both sides to be vulnerable to a first strike. Under those conditions, the side which refrains from using its weapons first must be prepared to gamble, at every instant, its political destiny and perhaps its physical survival.

The fear of a first strike, even if it is persistently labeled as an "irrational" fear, will continue to sustain and nurture the state of mental siege warfare which now exists between the United States and the Soviet Union.

The present psychology of conflict frustrates progress toward our mutual goal of making nuclear war less likely. But this psychology of conflict is unlikely to change until the tangible fear of attack is removed. In turn, the fear of attack cannot be removed so long as the nation which strikes first has what some persist in calling an "advantage."

START: WHAT IS WRONG WITH IT

Although the President's statements have emphasized the goal of enhanced stability, there is reason to doubt whether his specific proposals for arms control, as well as for new weapons, work together as advertised: that is, whether his combined approach is a plausible means for achieving a more stable nuclear balance at lower levels of armament.

Regrettably, the administration has not produced anything to demonstrate that this would be the case. All we know is that, in his Eureka speech, the President announced a proposal for 5,000 ballistic missile warheads for each side, on no more than 850 missiles, with not more than 2,500 of the warheads to be land based. Since then, there has been a regrettable absence of reasoned argument of how the United States and the Soviet Union can find mutual solutions to their strategic problems within this framework. Meanwhile, knowledgeable analysts and thoughtful citizens outside the administration have begun to do their own analytical work, which has led

many to the belief that the President's START proposal would actually diminish, rather than enhance, strategic stability.

In this connection, I want to commend to your attention a recent publication by the Congressional Research Service, entitled "President Reagan's START Proposal: Projected U.S./U.S.S.R. Ballistic Missile Forces." This paper provided the first detailed effort to apply principle to practice in order to produce a logical assumption as to how both we and the Soviets would adapt our strategic forces in accordance with the President's proposal, and how these revised forces would likely relate to each other in terms of stability. Although the paper is a model of impartiality, it is disturbing nonetheless. What the charts in this paper indicate to me is that the President's proposals, even if fully accepted and followed, would result in nuclear arsenals which, though smaller, would be both deadlier and mutually vulnerable. This could be a fatal flaw: it must be avoided.

Stability is not something inherent in the strategic forces of either country taken in isolation. It depends instead on the relationship between the two forces and on how these forces tend to influence decisionmaking when they are played off against each other.

Within the architecture of the President's START proposal, the Soviet Union would retain its ability to launch a first strike on U.S. ICBM silos. Indeed, the ratio of their warheads to our silos would more than double. At the same time, the United States—through the deployment of the MX ICBM and the Trident II D-5 missile—would have acquired the means to target all of the Soviet Union's silos. This result would make nuclear war far more likely than it is today. Mutual fear would increase dramatically.

Obviously, such a situation is intolerable. Some administration spokesmen have already recognized as much by pointing out that it is premature to judge the effect of START reductions on U.S. ICBM forces until the administration announces how the MX is supposed to be based. Their argument is that a secure basing mode, for example the so-called Dense Pack, would give us the means to neutralize the Soviet Union's ability to launch a counterforce attack. That may well be true, although it remains to be seen whether Dense Pack, or any other scheme, will hold water. But assuming this to be the case, we would also be acquiring the means to launch a first strike against the Soviet Union. Our disclaimer of any such intention, however sincere, would hardly dispel the Soviet fear of such a capacity.

Now, if we had a choice between a world in which U.S. forces can be destroyed by invulnerable Soviet weapons, and a world in which it was the other way around, then Americans would obviously prefer to have things arranged in our favor. But that choice does not exist. Any effort to create such a world would ignore its likely impact on Soviet planning and behavior, and consequently, upon the strategic relationship, the prospects for arms control, and upon stability.

It is certain that the Soviet Union will look for remedies to the threat of a U.S. counterforce capability. In so doing, the Soviets will have options involving new strategic deployments, and other options that might be attainable through arms control. With respect to the former, the Soviets would have many alternatives, including: launch on warning (which would greatly increase the risk of nuclear war); deceptive basing (which would sharply reduce prospects for future arms control because of the loss of verifiability); and/or abrogating the ABM Treaty (which would remove the only permanently agreed restraint to all-out competition in nuclear weapons).

In contrast to this rich menu of "hardware" options available to the Soviets, there is very little available to them at present through arms control. So far as I can tell, the President's program in essence invites the Soviet Union to trade down from precisely those significant advantages he has said they enjoy, while allowing the United States to deploy new weapons which would subject them to new forms of risk.

It is important, at this point, to note that the START proposal is entirely silent on the matter of cruise missiles, at a time when the administration has plans for deploying more than 10,000 of them, capable of being launched from the air, the ground, and from the sea. There is a certain technical justification for this omission, based on the internal logic of the START proposal, which is centrally concerned with fast-moving systems suitable for the counterforce attack. There may even be good reason from a negotiator's point of view to let the Soviets make their own case for limits on these weapons. But commonsense and realism require us to know that we cannot reach agreement with the Soviet Union if our position ignores and even violently contradicts that country's security requirements. A recent article in the *New York Times* put it very well:

There is no sure way to verify a cruise missile's range, no way to tell whether it is carrying a conventional or nuclear warhead. And apart from being a potential nightmare for the strategic balance, cruise missiles affect prospects for achieving reductions in other weapons. The Russians will not agree to big cuts in their ballistic missiles and bombers if they must prepare to face thousands of new cruise missiles.

A NONCOUNTERFORCE ALTERNATIVE

It seems to me that what is missing, and what we badly need, is another option: one which will combine a minimum of new weaponry and maximum of arms control in a package which would resolve the fear of a first strike, by eliminating it as a convincing alternative for either side. There is a way to achieve such an outcome, if we and the Soviets are prepared to act boldly while there is still time.

On March 22, I described (and entered into the *CONGRESSIONAL RECORD*) a proposal designed to accomplish this. My suggestion was to go to the root of the problem by phasing out land-based MIRV'd ballistic missiles, in favor of replacements that would carry only a single warhead. I introduced calculations which showed that if such a conversion took place, neither we nor the Soviets would be in a position to attack each other's ICBM silos under conditions that could, by any stretch of the imagination, ever be considered advantageous. It followed from this line of reasoning that, if the Soviets were prepared to dismantle weapons that presently allow them to threaten our ICBM silos, we should agree on to deploy new weapons that would give us the means to carry out a counterforce first strike on the Soviet Union. This meant an immediate agreement not to upgrade existing forces in ways that would make them counterforce weapons, not to move beyond the research and development stage in weapons such as the MX and the D-5, which are in fact counterforce weapons.

Since the President's Eureka speech, I have been undertaking to construct and to rationalize a program by which he could adjust and advance from where he is to where, I am convinced, the President of the United States should be at this critical period. With the aid of experts from the Library of Congress and of other specialists, I have concluded that a promising solution is possible. Today, therefore, I am introducing a proposal by which it would be possible to convert the President's pending proposal into a non-counterforce alternative.

The core of this proposal is the common ceiling of 5,000 ballistic missile warheads, which is, of course, the major component of the President's negotiating offer. What I suggest is that this number of warheads should be reallocated in ways which are inherently stable. Specifically, we and the Soviets should phase out—as I have suggested earlier—all our land-based MIRV'd ICBM's, and retain only that portion of our present ICBM force which is un-MIRV'd; our Minuteman II missiles, and their SS-11's. It so happens, moreover, that these missiles exist in nearly equal numbers, 450 to 518, which provides the basis for parity. However, because each

country regards these missiles as old, I suggest that they be replaced by a new, lightweight ICBM specifically designed to carry just one warhead. The balance of the 5,000 warheads allotted each side would be deployed at sea, thereby continuing a trend in the evolution of both sides' nuclear forces which is salutary, because nuclear weapons at sea are likely to remain relatively invulnerable for the foreseeable future. In sum, the effects of an agreement on these lines would be:

First, no first strike capability for either side. Although both the United States and the Soviets would have weapons with counterforce capabilities—the ability to destroy hardened silos—neither side would have anywhere near enough of these weapons for purposes of a first strike, unless the attacker was prepared to deplete the bulk of all his ballistic missile forces. The fear of a first strike, and its distorting effect on the planning and negotiating behavior of both sides, would be dealt with and neutralized.

Second, all changes would be consistent with the maintenance of essential equivalence. A glance at the tables I am introducing into the *RECORD* will show that both sides end up with equal numbers of ICBM launchers, equal numbers of ICBM warheads, equal SLBM warheads, and equal numbers of ballistic missile warheads, overall—at the 5,000 level proposed by the President. Further calculations would show near equality in ballistic missile throw-weight.

Third, limits on cruise missiles would establish a framework for dealing with the so-called gray area weapons. It should be noted also that Soviet perceptions about intermediate-range weapons, like the Pershing II, may moderate once it is clear that this system could not become part of an integrated U.S. first-strike capability.

Were the Soviets ready and willing to make the necessary major changes in their strategic forces, we should be willing to forego deployment of the MX and the Trident D-5. And both sides should be willing to negotiate meaningful restraints on cruise missiles. In this regard, I suggest again a portion of my earlier proposal, which dealt with air-launched cruise missiles, and add a proposal for limiting them at sea. While I acknowledge that these ideas are bound to be controversial, I venture to advance them in the hope that they will invite and encourage others to come forward with ideas they consider to be better. Serious, enlightened, nonpartisan debate on this most-critical-of-all public issue is urgently imperative.

I believe that the proposal I submit today offers a way to bridge the gap between critics and supporters of the President's proposal. It is consistent with the basic objectives of the freeze

movement, in that it requires a stand-down on the deployment of new counterforce weapons, followed by a phasing out of those which already exist. It is, however, also consistent with the President's view as to an acceptable number of ballistic missile warheads, and it would mandate a reasonable level of activity to continue the development of nuclear weapons designed to replace those whose useful life is ending.

Finally, in my opinion, there is a better chance now than ever before that the Soviet Union may be willing to undertake fundamental changes in strategic weaponry through arms control. They have been showing, for the first time, public concern at the prospect and consequences of first strike capabilities on both sides. If recent leaks to the press from Geneva are correct, they are also hinting at a readiness to contemplate major reductions within the context of an agreement which would adequately address their security needs as they interpret them.

Of course, this is not the first time that the Soviets have made a gesture in the direction of major reductions, and their public talk about the danger of first strike capability could be more for our consumption than theirs. But the purpose of negotiations is to explore, rather than preclude avenues of agreement. We should get to the bottom of what the Soviets mean; we should test their sincerity. The gravity of the developing threat to mankind requires no less.

If we follow the President's proposals we will enter a more dangerous world. With some imagination, however, the President's stated principles can lend themselves to a better, less threatening outcome.

A NONCOUNTERFORCE ALTERNATIVE TO PRESIDENT REAGAN'S START PROPOSAL

PROPOSED GUIDELINES

It is suggested that during the forthcoming strategic arms reduction talks (START) the United States propose the following guidelines to the Soviet Union:

(1) Pending a successful conclusion of the START, the Soviet Union and the United States will:

Continue to abide by the provisions contained in the unratified SALT II Treaty.

Not convert additional ICBM launchers to launchers for MIRVed ICBMs.

Not initiate or continue accuracy-improvement tests of currently deployed types of MIRVed ballistic missiles.

Not impede the verification, by national technical means of verification, of the above provisions.

(2) A new strategic arms reduction agreement would contain the following provisions:

Ceilings

Neither nation will possess more than 5,000 ballistic missile warheads by the end of 1994. Within this ceiling, no more than 500 warheads will be in silo-based ICBMs.

Neither nation will possess MIRVed ICBMs by the end of 1994.

By the end of 1994, the aggregate throw weight of each nation's ICBM force will not exceed the aggregate throw weight of 500 SS-11 or 500 Minuteman II ICBMs, whichever is larger.

Neither nation will possess more than 200 long-range heavy bomber aircraft by the end of 1994. Within this ceiling, no more than 120 bombers will be equipped to launch air-launched cruise missiles (ALCMs).

Neither nation may deploy more than 2,400 ALCMs with their long-range heavy bomber force.

Sea-launched cruise missiles (SLCMs) capable of ranges of over 600 kilometers will not be deployed on surface ships or attack submarines. However, if SLCMs are deployed in ballistic missile-launching submarines (SSBs/SSBNs), the SLCMs must be stowed in and launched from SLBM launching tubes, and each SLCM warhead would be counted as a SLBM-launched warhead.

Reduction process

Starting January 1, 1983, the Soviet Union and the United States will proceed to reduce the number of their strategic offensive weapons launchers (launchers for ICBMs and SLBMs, and heavy bombers) toward the 5,000-warhead ceiling on ballistic missiles and the 200-aircraft heavy bomber ceiling.

The Soviet Union will dismantle the launchers for its MIRVed SS-18, SS-19, and SS-17 ICBMs (in that order), followed in the same order by dismantlement of launchers for the single-warhead versions of these ICBMs. Concurrent to Soviet dismantlement of these ICBM launchers, the United States will retire some launchers for the Poseidon SLBM and launchers for the Minuteman III ICBM (in that order). Each nation will retire at least 80 launchers per annum until all the launchers for MIRVed ICBMs have been retired. However, the retirement of launchers for the Minuteman III will take place after the Soviet Union dismantles 80 launchers of the MIRVed version of the SS-18; and, the United States will be allowed to modify 50 of the Minuteman III ICBM silos to launchers for Minuteman II ICBMs or a new single-warhead ICBM.

As applicable, each nation will reduce the size of its long-range strategic bomber force to 200 aircraft by the end of 1994. Until the 200-aircraft ceiling is met, reductions in the number of long-range heavy bomber aircraft will begin in 1983 at a net rate of no less than 13 aircraft per annum.

New deployments

As the replacement to currently deployed single-warhead ICBMs, both nations are allowed to develop, test, and deploy a new single-warhead silo-based ICBM (without a "bus" to dispense MIRVs) possessing a throw weight no larger than the throw weight of the Soviet SS-11 or the U.S. Minuteman II ICBMs, whichever has the larger throw weight.

Both nations may develop, test, and deploy new ballistic-missile-launching submarines and new long-range heavy bomber aircraft.

As hedges against failure to reach a START agreement, or an abrogation of an agreement, both nations may develop and test, but not produce and deploy, a new MIRVed ICBM and a new MIRVed SLBM.

VERIFICATION OF COMPLIANCE WITH PROVISIONS CONTAINED IN THE ALTERNATE START

The deployment of silo-based ICBMs is verified from overhead photography.

Silos containing MIRVed ICBMs have characteristics (signatures) that are distinct

from silos containing single-warhead ICBMs.

Currently, the numbers and types of SLBMs being deployed is routinely verified by observing the SSBN in which the SLBM is being introduced. Overhead photography and other means of detection are used.

SLCMs deployed in SLBM-launching tubes could be verified in the same way SLBM deployment is now verified.

Verification that ICBM or SLBM launchers are being dismantled is made from overhead photography and other means.

The performance and characteristics of new types of ICBMs and SLBMs is primarily determinable from data intercepted when the missiles are tested.

The accuracy improvements of ICBMs and SLBMs is verified from intercepted test telemetry, and by tracking the missiles during operational tests.

The Soviets would not be able to attain a comfortable degree of confidence in the performance of additional accuracy improvements to their ICBMs and SLBMs without thorough testing of the whole missile system.

Bomber aircraft equipped with ALCMs have observable differences from bombers not equipped to carry these weapons.

The numbers and types of heavy bombers deployed is verified by photographic surveillance of the aircraft production facilities and bomber operational bases.

Significant violations in the number of ICBM and SLBM launchers and bombers deployed would be readily detected.

U.S. STRATEGIC PROGRAMS UNDER THE PROPOSED ALTERNATE START

Reductions

No hard-site ABM defense needed.

No procurement and deployment of the M-X ICBM, and no construction for basing the M-X, but continue its development.

No procurement, production, and deployment of the Trident II SLBM, but continue its development. Consequently, Trident I SLBMs that were recently deployed, and those that will be deployed in the near future, would not be retired prematurely.

No implementation of ballistic missile accuracy improvements (such as stellar-inertial system) to existing ballistic missiles.

No deployment of larger or more lethal re-entry vehicle warheads.

Retirement of the Titan II and Minuteman III ICBM force, and an option to retire the Minuteman II force.

Phased retirement of the B-52D, B-52H, and B-52G bombers.

Reduction in the number of B-52 aircraft that would be modified to carry ALCMs. Without a ceiling on the number of heavy bombers equipped to launch ALCMs, more than 120 B-52 bombers could be converted to ALCM carriers.

Curtailment in the total number of tanker aircraft needed to support the strategic bomber force.

Phased retirement of the Lafayette-class (Poseidon and Trident I) SSBNs from the strategic forces, and the conversion of some of these boats to attack submarines. Some of Lafayette-class boats equipped to launch the Trident I SLBM could be conveyed to Great Britain, as an alternative to the Trident II SLBM.

Curtailment in the total number of ALCMs that would be deployed. Without a ceiling on ALCMs the number of long-range strategic weapons would continue to grow.

Indirect curtailment in the total number of nuclear bombs and short-range attack

missiles (SRAMs) that would be deployed. Without a ceiling on heavy bombers, the number of bomber-deliverable weapons would continue to grow.

Indirect curtailment in the total number of long-range sea-launched cruise missiles (SLCMs) that could be deployed. Unless the number of long-range SLCMs that can be deployed is limited, the number of long-range strategic weapons would continue to grow.

New deployments

If the 450 Minuteman II ICBMs currently deployed are retired, and the U.S. does not deploy in modified Minuteman III silos 50 additional Minuteman IIs now in storage, 500 new single-warhead ICBMs (denoted in tables as MX-2) would be needed.

100 B-1B bomber aircraft (initially tasked to be penetrating bombers, and later phased to ALCM carriers, replacing B-52G CMCs, as the more advanced STEALTH aircraft assume the penetrating role). As an alternative to the B-1B, 100 new cruise missile carrying aircraft could be deployed.

100 STEALTH penetrating bombers or 100 advanced CMCs.

PROBABLE EFFECT ON SOVIET STRATEGIC PROGRAMS UNDER THE PROPOSED ALTERNATE START

Reductions

No expansion of current ABM capabilities. No deployment of a mobile ICBM with a hard-target capability.

No construction for basing of a mobile ICBM.

No deployment of larger or more lethal reentry vehicle warheads.

No deployment of SLBMs with hard-target capability.

No implementation of accuracy improvements to existing MIRVed ballistic missiles.

Retirement of the entire SS-11 ICBM force if 500 units of a new single-warhead ICBM (denoted as SS-X in tables) are deployed to replace the SS-11 missiles.

Retirement of the SS-17, SS-18, and SS-19 ICBMs a few years earlier than anticipated.

Retirement of all the Yankee I SSBNs and the one Yankee II SSBN, or their conversion to attack submarines.

Retirement of SS-N-6 SLBMs on Yankee I SSBNs.

Retirement of the one Golf III SSB, all the Hotel II SSBNs, and the one Hotel III SSBN.

Retirement of SS-N-5 SLBMs on Hotel II SSBNs.

Retirement of the TU-95 Bear and Mya-4 Bison bombers.

Retirement of the Kangaroo air-launched missile.

New deployments

500 New single-warhead ICBMs (denoted in tables as SS-X), if 500 SS-11s are not retained.

200 new heavy bombers (denoted in tables as TU-X SWL and TU-X).

Deployment of ALCMs and SRAMs with the new heavy bombers.

Replacement of Yankee I SSBNs with a new SSBN (denoted in tables as SSBN-X) equipped with 16 launchers for SLBMs.

Continued deployment of Typhoon-class SSBNs.

Continued deployment of SS-N-20 SLBMs on Typhoon-class SSBNs.

Deployment of SS-N-17 SLBMs (or other existing type) on a new SSBN (denoted in tables as SSBN-X) replacing the Yankee I SSBNs.

ESTIMATED TYPE AND NUMBER OF SOVIET AND U.S. SLBM'S IN SSB'S AND SSBN'S

Soviet ballistic-missile-launching submarines (SSBs and SSBNs) are believed to

carry the following number and type of SLBMs: 20 SS-N-20s in Typhoon SSBNs; 16 SS-N-18s in Delta III SSBNs; 16 SS-N-8s in Delta II SSBNs; 12 SS-N-8s in Delta I SSBNs; SS-N-17s in Yankee II SSBNs; 16 SS-N-6s in Yankee I SSBNs; 6 SS-N-8s in Hotel III SSBNs; 3 SS-N-5s in Hotel II SSBNs; and 6 SS-N-8s in Golf III SSBs. A new SSBN (denoted as SSBN-X in tables) is projected would carry 16 SS-N-17s or other existing SLBM.

U.S. SSBNs carry the following number and types of SLBMs: 16 Poseidon or 16 Trident I in Lafayette-class SSBNs; and 24 Trident I in Ohio-class SSBNs.

WARHEAD LOADINGS USED IN PROJECTIONS

Unless otherwise specified in the tables, all other ballistic missiles except the following are estimated or projected to carry a single independently-targetable reentry vehicle (RV):

Soviet—SS-N-20, 10 MIRVs; SS-N-18, 7 MIRVs.

U.S.—Minuteman III, 3 MIRVs; Poseidon, 9 MIRVs (average); Trident I, 8 MIRVs.

Bombers weapon loadings are estimated and projected to be as follows:

Soviet—TU-95 Bear, 1 AS-3 Kangaroo missile or four bombs; Mya-4 Bison, 2 bombs; TU-X SWL, 12 ALCMs (average) plus 4 bombs; TU-X, 6 SRAMs plus 2 bombs.

U.S.—B-52D, 2 SRAMs plus 4 bombs; B-52G/H, 4 SRAMs plus 4 bombs; B-52G CMC, 12 ALCMs plus 4 SRAMs plus 4 bombs through 1985 (thereafter, 348 ALCMs added per year, to replace SRAMs and bombs, until all B-52G CMCs are equipped with 20 ALCMs); B-1B, 8 SRAMs plus 4 bombs; B-1B CMC, 24 ALCMs; Stealth, 8 SRAMs plus 4 bombs.

PROJECTED SOVIET SSB/SSBN INVENTORY UNDER ALTERNATE START PROPOSAL

SSB/SSBN class (SLBM type)	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Typhoon (SS-N-20)	1	3	5	7	9	11	11	11	11	11	11	11	11	11
Delta III (SS-N-18)	15	15	15	15	15	15	15	15	15	15	15	15	15	15
Delta II (SS-N-8)	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Delta I (SS-N-8)	18	18	18	18	18	18	18	18	18	18	18	18	18	18
Yankee II (SS-N-17)	1	1	1	1	1	0	0	0	0	0	0	0	0	0
SSBN-X (SS-N-17)	1	3	5	7	9	11	13	15	17	19	20	21	21	21
Yankee I (SS-N-6)	22	20	18	16	13	11	9	7	5	3	1	0	0	0
Hotel III (SS-N-8)	1	1	1	1	1	0	0	0	0	0	0	0	0	0
Hotel II (SS-N-5)	6	4	2	0	0	0	0	0	0	0	0	0	0	0
Golf III (SS-N-8)	1	1	1	1	0	0	0	0	0	0	0	0	0	0
Golf IV (SS-N-6)	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	70	70	70	70	70	70	70	70	70	70	69	69	69	69

PROJECTED SOVIET SSB/SSBN RETIREMENT UNDER ALTERNATE START PROPOSAL

SSB/SSBN class	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
Yankee II	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Yankee I	2	2	2	3	2	2	2	2	2	2	1	0	0	22
Hotel III	0	0	0	0	1	0	0	0	0	0	0	0	0	1
Hotel II	2	2	2	0	0	0	0	0	0	0	0	0	0	6
Golf III	0	0	0	1	0	0	0	0	0	0	0	0	0	1
Total	4	4	4	4	4	2	2	2	2	2	1	0	0	31

PROJECTED SOVIET NEW SSBN DEPLOYMENT UNDER ALTERNATE START PROPOSAL

SSBN class	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
Typhoon	2	2	2	2	2	0	0	0	0	0	0	0	0	12
SSBN-X	2	2	2	2	2	2	2	2	2	1	1	0	0	20
Total	4	4	4	4	4	2	2	2	2	1	1	0	0	32

PROJECTED U.S. SSBN INVENTORY UNDER ALTERNATE START PROPOSAL

SSBN class (SLBM type)	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
Lafayette:														
Poseidon	19	19	14	13	12	10	8	5	1	0	0	0	0	0
Trident I	12	12	12	12	12	12	12	12	12	12	9	5	2	0
Ohio (Trident I)	2	3	5	6	7	9	11	13	15	16	18	20	22	23
Total	33	34	31	31	31	31	31	30	28	28	27	25	25	23

PROJECTED U.S. SSBN RETIREMENT UNDER ALTERNATE START PROPOSAL

SSBN class	During calendar year—														Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995		
Lafayette:															
Poseidon	0	5	1	1	2	2	3	4	1	0	0	0	0	19	
Trident I	0	0	0	0	0	0	0	0	0	3	4	3	2	12	
Total	0	5	1	1	2	2	3	4	1	3	4	3	2	31	

PROJECTED U.S. NEW SSBN DEPLOYMENT UNDER ALTERNATE START PROPOSAL

SSBN class	During calendar year—														Total
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995		
Ohio	1	2	1	1	2	2	2	2	1	2	2	2	1	21	
Total	1	2	1	1	2	2	2	2	1	2	2	2	1	21	

PROJECTED SOVIET ICBM/SLBM LAUNCHER INVENTORY UNDER ALTERNATE START PROPOSAL

Missile designation	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's:														
SS-18 (10 RV's)	75	75	0	0	0	0	0	0	0	0	0	0	0	0
SS-18 (8 RV's)	175	175	170	90	10	0	0	0	0	0	0	0	0	0
SS-19 (6 RV's)	300	300	300	300	300	230	150	70	0	0	0	0	0	0
SS-17 (4 RV's)	120	120	120	120	120	120	120	120	110	30	0	0	0	0
SS-18 (1 RV)	58	58	58	58	58	58	58	58	58	58	8	0	0	0
SS-19 (1 RV)	60	60	60	60	60	60	60	60	60	60	60	0	0	0
SS-17 (1 RV)	32	32	32	32	32	32	32	32	32	32	32	20	0	0
SS-13	60	60	60	60	60	60	60	60	60	60	60	60	0	0
SS-11	518	518	468	418	368	318	268	218	168	118	68	18	0	0
SS-X	0	0	50	100	150	200	250	300	350	400	450	500	500	500
Subtotal	1,398	1,398	1,318	1,238	1,158	1,078	998	918	838	758	678	598	500	500
SLBM's:														
SS-N-20 (10 RV's) (Typhoon)	20	60	100	140	180	220	220	220	220	220	220	220	220	220
SS-N-18 (7 RV's) (Delta III)	240	240	240	240	240	240	240	240	240	240	240	240	240	240
SS-N-17:														
Yankee II	12	12	12	12	12	0	0	0	0	0	0	0	0	0
SSBN-X	16	48	80	112	144	176	208	240	272	304	320	336	336	336
SS-N-8:														
Delta II	64	64	64	64	64	64	64	64	64	64	64	64	64	64
Delta I	216	216	216	216	216	216	216	216	216	216	216	216	216	216
Hotel III	6	6	6	6	6	0	0	0	0	0	0	0	0	0
Golf III	6	6	6	6	0	0	0	0	0	0	0	0	0	0
SS-N-6:														
Yankee I	352	320	288	256	208	176	144	112	80	48	16	0	0	0
Golf IV	0	0	0	0	0	0	0	0	0	0	0	0	0	0
SS-N-5 (Hotel II)	18	12	6	0	0	0	0	0	0	0	0	0	0	0
Subtotal	950	984	1,018	1,052	1,070	1,092	1,092	1,092	1,092	1,092	1,076	1,076	1,076	1,076
Total	2,348	2,342	2,336	2,290	2,228	2,170	2,090	2,010	1,930	1,850	1,754	1,674	1,576	1,576

PROJECTED SOVIET STRATEGIC BOMBER INVENTORY UNDER ALTERNATE START PROPOSAL

Bomber designation	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
TU-95 Bear	113	113	113	113	113	100	80	60	38	0	0	0	0	0
Mya-4 Bison	43	43	43	43	43	30	20	10	0	0	0	0	0	0
TU-X SWL	0	0	5	20	35	50	65	80	97	120	120	120	120	120
TU-X	0	0	0	0	5	20	35	50	65	80	80	80	80	80
Total	156	156	161	176	196	200	200	200	200	200	200	200	200	200
Of which the following number of aircraft are ALCM carriers (subtotal)	0	0	5	20	35	50	65	80	95	110	120	120	120	120

PROJECTED SOVIET STRATEGIC DELIVERY VEHICLE RETIREMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—														Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995		
ICBM's															
SS-18 (10 RV's)	0	75	0	0	0	0	0	0	0	0	0	0	0	75	
SS-18 (8 RV's)	0	5	80	80	10	0	0	0	0	0	0	0	0	175	
SS-19 (6 RV's)	0	0	0	0	70	80	80	70	0	0	0	0	0	300	
SS-17 (4 RV's)	0	0	0	0	0	0	0	10	80	30	0	0	0	120	
SS-18 (1 RV)	0	0	0	0	0	0	0	0	0	50	8	0	0	58	
SS-19 (1 RV)	0	0	0	0	0	0	0	0	0	0	60	0	0	60	
SS-17 (1 RV)	0	0	0	0	0	0	0	0	0	0	12	20	0	32	
SS-13	0	0	0	0	0	0	0	0	0	0	0	60	0	60	
SS-11	0	50	50	50	50	50	50	50	50	50	50	18	0	*518	
Subtotal	0	130	130	130	130	130	130	130	130	130	130	98	0	*1,398	
SLBM's															
SS-N-17	0	0	0	0	12	0	0	0	0	0	0	0	0	12	
SS-N-8	0	0	0	6	6	0	0	0	0	0	0	0	0	12	
SS-N-6	32	32	32	48	32	32	32	32	32	32	16	0	0	352	
SS-N-5	6	6	6	0	0	0	0	0	0	0	0	0	0	18	
Subtotal	38	38	38	54	50	32	32	32	32	32	16	0	0	394	
Bombers															
TU-95 Bear	0	0	0	0	13	20	20	22	38	0	0	0	0	113	
Mya-4 Bison	0	0	0	0	13	10	10	10	0	0	0	0	0	43	
Subtotal	0	0	0	0	26	30	30	30	38	0	0	0	0	156	
Total	38	168	168	184	206	192	192	194	200	162	146	98	0	*1,948	

* It is assumed that all the SS-11 ICBM's would be retired. However, if the Soviets do not deploy a new single-warhead ICBM (denoted SS-X in this projection), and retain 500 SS-11's, the number of ICBM's retired would be reduced by 500.

PROJECTED SOVIET STRATEGIC DELIVERY VEHICLE NEW DEPLOYMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—														Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995		
ICBM's: SS-X	0	50	50	50	50	50	50	50	50	50	50	0	0	* 500	
SLBM's:															
SS-N-20	40	40	40	40	40	0	0	0	0	0	0	0	0	200	
SS-N-17	32	32	32	32	32	32	32	32	32	16	16	0	0	* 320	
Subtotal	72	72	72	72	72	32	32	32	32	16	16	0	0	* 520	
Bombers:															
TU-X SWL	0	5	15	15	15	15	15	17	23	0	0	0	0	120	
TU-X	0	0	0	5	15	15	15	15	15	0	0	0	0	80	
Subtotal	0	5	15	20	30	30	30	32	38	0	0	0	0	200	
Total	72	127	137	142	152	112	112	114	120	66	66	0	0	* 1,220	

* It is assumed that all the SS-11 ICBM's would be retired and 500 single-warhead SS-X ICBM's would be deployed. However, if the Soviets do not deploy 500 new single-warhead ICBM's the number of ICBM's that would be deployed would be reduced by 500.

* The 12 SS-N-17 SLBM's on the 1 Yankee II SSBN are assumed would be retired. However, if the Soviets redeploy these SLBM's with the postulated SSBN-X boats the total number of additional SS-N-17 SLBM's that would be deployed would be reduced by 12.

* See notes above.

PROJECTED U.S. ICBM/SLBM LAUNCHER INVENTORY UNDER ALTERNATE START PROPOSAL

Missile designation	By end of calendar year—														
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's:															
Minuteman III (MX-12A)	300	300	300	220	140	60	0	0	0	0	0	0	0	0	
Minuteman III (MX-12)	250	250	250	250	250	250	230	150	70	0	0	0	0	0	
Minuteman II	450	450	450	450	450	450	450	450	370	280	200	120	20	0	
Titan II	52	52	52	52	52	45	18	0	0	0	0	0	0	0	
MX-2	0	0	0	0	0	7	34	80	160	240	320	400	480	500	
Subtotal	1,052	1,052	1,052	972	892	812	732	680	600	520	520	520	500	500	
SLBM's:															
Poseidon (Lafayette)	304	304	224	208	192	160	128	80	16	0	0	0	0	0	
Trident I:															
Lafayette	192	192	192	192	192	192	192	192	192	192	144	80	32	0	
Ohio	48	72	120	144	168	216	264	312	360	384	432	480	528	552	
Subtotal	544	568	536	544	552	568	584	584	568	576	576	576	560	552	
Total	1,596	1,620	1,588	1,516	1,444	1,380	1,316	1,264	1,168	1,096	1,096	1,096	1,060	1,052	

PROJECTED U.S. STRATEGIC BOMBER INVENTORY UNDER ALTERNATE START PROPOSAL

Bomber designation	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
B52D	76	76	63	50	37	0	0	0	0	0	0	0	0	0
B52G	157	122	87	53	53	53	14	0	0	0	0	0	0	0
B52H	96	96	96	96	96	96	96	67	25	25	20	15	0	0
B52G CMC	16	51	86	120	120	120	120	120	120	90	54	18	0	0
B-1B	0	0	0	0	0	24	50	80	100	75	45	15	0	0
B-1B CMC	0	0	0	0	0	0	0	0	0	25	55	85	100	100
Stealth	0	0	0	0	0	0	0	0	9	26	54	82	100	100
Totals	345	345	332	319	306	293	280	267	254	241	228	215	200	200
Of which the following number of aircraft are ALCM carriers (subtotal)	16	51	86	120	120	120	120	120	120	115	109	103	100	100

PROJECTED U.S. STRATEGIC DELIVERY VEHICLE RETIREMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's:														
Minuteman III (MK-12A)	0	0	80	80	80	60	0	0	0	0	0	0	0	300
Minuteman III (MK-12)	0	0	0	0	0	20	80	70	0	0	0	0	0	250
Minuteman II	0	0	0	0	0	0	0	80	90	80	80	100	20	450
Titan II	0	0	0	0	7	27	18	0	0	0	0	0	0	52
Subtotal	0	0	80	80	87	107	98	160	160	80	80	100	20	1,052
SLBM's:														
Poseidon	0	80	16	16	32	32	48	64	16	0	0	0	0	304
Trident I	0	0	0	0	0	0	0	0	0	48	64	48	32	192
Subtotal	0	80	16	16	32	32	48	64	16	48	64	48	32	496
Bombers:														
B-52D	0	13	13	13	37	0	0	0	0	0	0	0	0	76
B-52G	0	0	0	0	0	39	14	0	30	36	36	18	0	173
B-52H	0	0	0	0	0	0	29	42	0	5	5	15	0	96
Subtotal	0	13	13	13	37	39	43	42	30	41	41	33	0	345
Total	0	93	109	109	156	178	189	266	206	169	185	181	52	1,893

¹ It is assumed that all the Minuteman II ICBM's would be retired. However, if the United States does not deploy a new single-warhead ICBM (denoted MX-2 in this projection), and retains the 450 Minuteman II ICBM's (in addition to deploying 50 Minuteman II's from storage into Minuteman III silos), the number of ICBM's retired would be reduced by 450.

² Trident I SLBM's are shown as being retired. In reality, however, these SLBM's would be removed from Lafayette-class SSBN's and redeployed with additional Ohio-class SSBN's. Thus, reducing the number of Trident I SLBM's that would be retired by 192 SLBM's.

³ See notes above.

PROJECTED U.S. STRATEGIC DELIVERY VEHICLE NEW DEPLOYMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's: MX-2	0	0	0	0	7	27	46	80	80	80	80	80	20	1,500
SLBM's: Trident I (Ohio)	24	48	24	24	48	48	48	48	24	48	48	48	24	504
Bombers:														
B-1B	0	0	0	0	24	26	30	20	0	0	0	0	0	100
Stealth	0	0	0	0	0	0	0	9	17	28	28	18	0	100
Subtotal	0	0	0	0	24	26	30	29	17	28	28	18	0	200
Total	24	48	24	24	79	101	124	157	121	156	156	146	44	1,204

¹ It is assumed that all Minuteman II ICBM's would be retired. However, if the United States does not deploy a new single-warhead ICBM (denoted MX-2 in this projection) and retains the 450 Minuteman II ICBM's (in addition to deploying 50 Minuteman II's from storage into Minuteman III silos), the number of new ICBM's deployed would be reduced by 450.

² Trident I SLBM's on Lafayette-class SSBN's are accounted to be retired. In reality, however, the SLBM's would be removed from the Lafayette-class SSBN's and redeployed with additional Ohio-class SSBN's. Thus, reducing the number of new Trident I SLBM's that would be deployed by 192 SLBM's.

³ See notes above.

PROJECTED SOVIET AGGREGATE LAUNCHER INVENTORY UNDER ALTERNATE START PROPOSAL

Launcher type	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's/SLBM's	2,348	2,342	2,336	2,290	2,228	2,170	2,090	2,010	1,930	1,850	1,754	1,674	1,576	1,576
Bombers	156	156	161	176	196	200	200	200	200	200	200	200	200	200
Total	2,504	2,538	2,497	2,466	2,424	2,370	2,290	2,210	2,130	2,050	1,954	1,874	1,776	1,776

PROJECTED U.S. AGGREGATE LAUNCHER INVENTORY UNDER ALTERNATE START PROPOSAL

Launcher type	By end of calendar year—													
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM's/SLBM's	1,596	1,620	1,588	1,516	1,444	1,380	1,316	1,264	1,168	1,096	1,096	1,096	1,060	1,052
Bombers	345	345	332	319	306	293	280	267	254	241	228	215	200	200
Total	1,941	1,965	1,920	1,835	1,750	1,673	1,596	1,531	1,422	1,337	1,324	1,311	1,260	1,252

PROJECTED SOVIET DEPLOYED ICBM/SLBM WARHEADS UNDER ALTERNATE START PROPOSAL

Missile designation	By end of calendar year—														
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM warheads:															
SS-18 (10 RV's)	750	750	0	0	0	0	0	0	0	0	0	0	0	0	
SS-18 (8 RV's)	1,400	1,400	1,360	720	80	0	0	0	0	0	0	0	0	0	
SS-19 (6 RV's)	1,800	1,800	1,800	1,800	1,800	1,380	900	420	0	0	0	0	0	0	
SS-17 (4 RV's)	480	480	480	480	480	480	480	480	440	120	0	0	0	0	
SS-18 (1 RV)	58	58	58	58	58	58	58	58	58	58	8	0	0	0	
SS-19 (1 RV)	60	60	60	60	60	60	60	60	60	60	60	0	0	0	
SS-17 (1 RV)	32	32	32	32	32	32	32	32	32	32	32	20	0	0	
SS-13 (1 RV)	60	60	60	60	60	60	60	60	60	60	60	60	0	0	
SS-11 (1 RV)	518	518	468	418	368	318	268	218	168	118	68	18	0	0	
SS-New (1 RV)	0	0	50	100	150	200	250	300	350	400	450	500	500	500	
Subtotal	5,158	5,158	4,368	3,728	3,088	2,588	2,108	1,628	1,168	848	678	598	500	500	
SLBM warheads:															
SS-N-20 (10 RV's)	200	600	1,000	1,400	1,800	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	2,200	
SS-N-18 (7 RV's)	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	1,680	
SS-N-17 (1 RV)	28	60	92	124	156	176	208	240	272	304	320	336	336	336	
SS-N-8 (1 RV)	292	292	292	292	286	280	280	280	280	280	280	280	280	280	
SS-N-6 (1 RV)	352	320	288	256	208	176	144	112	80	48	16	0	0	0	
SS-N-5 (1 RV)	18	12	6	0	0	0	0	0	0	0	0	0	0	0	
Subtotal	2,570	2,964	3,358	3,752	4,130	4,512	4,512	4,512	4,512	4,512	4,496	4,496	4,496	4,496	
Total	7,728	8,122	7,726	7,480	7,218	7,100	6,620	6,140	5,680	5,360	5,174	5,094	4,996	4,996	

PROJECTED SOVIET DEPLOYED STRATEGIC BOMBER WEAPONS UNDER ALTERNATE START PROPOSAL

Bomber and weapon type	By end of calendar year—														
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
TU-95 Bear:															
Kangaroo Bombs	75	75	75	75	75	62	42	22	0	0	0	0	0	0	
Mya-4 Bison Bombs	152	152	152	152	152	152	152	152	152	0	0	0	0	0	
TU-X SWL Bombs	86	86	86	86	86	86	60	40	20	0	0	0	0	0	
ALCM's	0	0	60	240	420	600	780	960	1,164	1,440	1,440	1,440	1,440	1,440	
TU-X SRAM's Bombs	0	0	20	80	140	200	260	320	388	480	480	480	480	480	
SRAM's Bombs	0	0	0	0	30	120	210	300	390	480	480	480	480	480	
	0	0	0	0	10	40	70	100	130	160	160	160	160	160	
Total	313	313	393	633	913	1,234	1,554	1,874	2,224	2,560	2,560	2,560	2,560	2,560	

PROJECTED SOVIET STRATEGIC WARHEAD RETIREMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—														
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	Subtotal	
ICBM's:															
SS-18 (10 RV's)	0	750	0	0	0	0	0	0	0	0	0	0	0	750	
SS-18 (8 RV's)	0	40	640	640	80	0	0	0	0	0	0	0	0	1,400	
SS-19 (6 RV's)	0	0	0	0	420	480	480	420	0	0	0	0	0	1,800	
SS-17 (4 RV's)	0	0	0	0	0	0	0	40	320	120	0	0	0	480	
SS-18 (1 RV)	0	0	0	0	0	0	0	0	0	50	8	0	0	58	
SS-19 (1 RV)	0	0	0	0	0	0	0	0	0	0	60	0	0	60	
SS-17 (1 RV)	0	0	0	0	0	0	0	0	0	0	12	20	0	32	
SS-13 (1 RV)	0	0	0	0	0	0	0	0	0	0	0	60	0	60	
SS-11 (1 RV)	0	50	50	50	50	50	50	50	50	50	50	18	0	518	
Subtotal	0	840	690	690	550	530	530	510	370	220	130	98	0	5,158	
SLBM's:															
SS-N-17 (1 RV)	0	0	0	0	12	0	0	0	0	0	0	0	0	12	
SS-N-8 (1 RV)	0	0	0	6	6	0	0	0	0	0	0	0	0	12	
SS-N-6 (1 RV)	32	32	32	48	32	32	32	32	32	32	16	0	0	352	
SS-N-5 (1 RV)	6	6	6	0	0	0	0	0	0	0	0	0	0	18	
Subtotal	38	38	38	54	50	32	32	32	32	32	16	0	0	394	
Bombers:															
Kangaroo (Bear Bombs)	0	0	0	0	13	20	20	22	0	0	0	0	0	75	
Bear Bombs	0	0	0	0	0	0	0	0	152	0	0	0	0	152	
Bison Bombs	0	0	0	0	26	20	20	20	0	0	0	0	0	86	
Subtotal	0	0	0	0	39	40	40	42	152	0	0	0	0	313	
Total	38	878	728	744	639	602	602	584	554	252	146	98	0	5,865	

¹ It is assumed that all the SS-11 ICBM's would be retired. However, if the Soviets do not deploy a new single-warhead ICBM (denoted SS-X in this projection), and retain 500 SS-11's, the number of warheads retired would be reduced by 500.

² It is assumed that the 12 SS-N-17 SLBM's on the one Yankee II SSBN would be retired. However, the Soviets could redeploy these SLBM's on the postulated SSBN-X boats and thus reduce the total number of retired SLBM warheads by 12.

³ See notes above.

PROJECTED SOVIET STRATEGIC WARHEAD NEW DEPLOYMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's: SS-X (1 RV)	0	50	50	50	50	50	50	50	50	50	50	0	0	1 500
SLBM's:														
SS-N-20 (10 RV's)	400	400	400	400	400	0	0	0	0	0	0	0	0	2,000
SS-N-17 (1 RV)	32	32	32	32	32	32	32	32	32	16	16	0	0	320
Subtotal	432	432	432	432	432	32	32	32	32	16	16	0	0	2,320
Bombers:														
ALCM's (TU-X SWL)	0	60	180	180	180	180	180	204	276	0	0	0	0	1,440
SRAM's (TU-X)	0	0	0	30	90	90	90	90	90	0	0	0	0	480
Bombs:														
TU-X SWL	0	20	60	60	60	60	60	68	92	0	0	0	0	480
TU-X	0	0	0	10	30	30	30	30	30	0	0	0	0	160
Subtotal	0	80	240	280	360	360	360	392	488	0	0	0	0	2,560
Total	432	562	722	762	842	442	442	474	570	66	66	0	0	5,380

¹ It is assumed that all the SS-11 ICBM's would be retired and 500 single-warhead ICBM's (denoted SS-X in this projection) would be deployed. However, if the Soviets retain 500 SS-11's and do not deploy the postulated SS-X's, the number of new warheads that would be deployed would be reduced by 500.

² It is assumed that the 12 SS-N-17 SLBM's on the 1 Yankee II SSBN would be retired. However, the Soviets could redeploy these SLBM's on the postulated SSBN-X boats and thus reduce the total number of new SLBM warheads by 12.

³ See notes above.

PROJECTED U.S. DEPLOYED ICBM/SLBM WARHEAD INVENTORY UNDER ALTERNATE START PROPOSAL

Missile designation	By the end of calendar year—													Subtotal
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
ICBM warheads:														
Minuteman III (3 MK-12A RV's)	900	900	900	900	900	660	420	180	0	0	0	0	0	0
Minuteman III (3 MK-12A RV's)	750	750	750	750	750	750	750	750	690	600	210	0	0	0
Minuteman II (1 RV)	450	450	450	450	450	450	450	450	370	290	210	120	20	0
Titan II (1 RV)	52	52	52	52	52	45	18	0	0	0	0	0	0	0
MX-2 (1 RV)	0	0	0	0	0	7	34	80	160	240	320	400	480	500
Subtotal	2,152	2,152	2,152	1,912	1,672	1,432	1,192	980	740	520	520	520	500	500
SLBM warheads:														
Poseidon (9 RV's average) (Lafayette)	2,736	2,736	2,010	1,872	1,728	1,440	1,152	720	144	0	0	0	0	0
Trident I (8 RV's):														
Lafayette	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,536	1,152	640	256	0
Ohio	384	576	960	1,152	1,344	1,728	2,112	2,496	2,880	3,072	3,456	3,840	4,224	4,416
Subtotal	4,656	4,848	4,512	4,560	4,608	4,704	4,800	4,752	4,560	4,608	4,608	4,480	4,480	4,416
Total	6,808	7,000	6,664	6,472	6,280	6,168	5,992	5,732	5,300	5,128	5,128	5,000	4,980	4,916

PROJECTED U.S. DEPLOYED STRATEGIC BOMBER WEAPONS UNDER ALTERNATIVE START PROPOSAL

Bomber and weapon type	By end of calendar year—													Subtotal
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995
B-52D:														
SRAM's	152	152	126	100	74	0	0	0	0	0	0	0	0	0
Bombs	304	304	252	200	148	0	0	0	0	0	0	0	0	0
B-52G:														
SRAM's	628	488	348	212	212	212	56	0	0	0	0	0	0	0
Bombs	628	488	348	212	212	212	56	0	0	0	0	0	0	0
B-52H:														
SRAM's	384	384	384	384	384	384	384	268	100	100	80	60	0	0
Bombs	384	384	384	384	384	384	384	268	100	100	80	60	0	0
B-52G CMC:														
SRAM's	64	204	344	480	306	132	0	0	0	0	0	0	0	0
Bombs	64	204	344	480	306	132	0	0	0	0	0	0	0	0
ALCM's	192	612	1,032	1,440	1,788	2,136	2,400	2,400	2,400	1,800	1,800	360	0	0
B-1B:														
SRAM's	0	0	0	0	0	192	400	640	800	600	360	120	0	0
Bombs	0	0	0	0	0	96	200	320	400	300	180	60	0	0
B-1B CMC: ALCM's	0	0	0	0	0	0	0	0	0	600	1,320	2,040	2,400	2,400
Stealth:														
SRAM's	0	0	0	0	0	0	0	0	72	208	432	656	800	800
Bombs	0	0	0	0	0	0	0	0	36	104	216	328	400	400
Totals	2,800	3,220	3,562	3,892	3,814	3,880	3,880	3,896	3,908	3,812	3,728	3,684	3,600	3,600

PROJECTED U.S. STRATEGIC WARHEAD RETIREMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's:														
Minuteman III (MK-12A)	0	0	240	240	240	180	0	0	0	0	0	0	0	900
Minuteman II (MK-12)	0	0	0	0	0	60	240	240	210	0	0	0	0	750
Minuteman II	0	0	0	0	0	0	0	80	90	80	80	100	20	1,450
Titan II	0	0	0	0	7	27	18	0	0	0	0	0	0	52
Subtotal	0	0	240	240	247	267	258	320	300	80	80	100	20	2,152
SLBM's:														
Poseidon	0	720	144	144	288	288	432	576	144	0	0	0	0	2,736

PROJECTED U.S. STRATEGIC WARHEAD RETIREMENT UNDER ALTERNATE START PROPOSAL—Continued

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
Trident I (Lafayette)	0	0	0	0	0	0	0	0	0	384	512	384	256	*1,536
Subtotal	0	720	144	144	288	288	432	576	144	384	512	384	256	*4,272
Bombers:														
SRAM's	0	26	26	200	56	80	0	0	64	36	36	36	0	*560
Bombs	0	52	52	226	226	184	52	52	32	28	28	48	0	980
Subtotal	0	78	78	426	282	264	52	52	96	64	64	84	0	*1,540
Total	0	798	462	810	817	819	742	948	540	528	656	568	276	*7,964

¹ It is assumed that all the Minuteman II ICBM's would be retired. However, if the United States does not deploy a new single-warhead ICBM (denoted MX-2 in this projection), and retains the 450 Minuteman II ICBM's (in addition to deploying 50 Minuteman II's from storage into Minuteman III silos), the number of ICBM warheads retired would be reduced by 450.

² Trident I SLBM warheads on Lafayette-class SSBN's are accounted to be retired. In reality, however, the SLBM's and their warheads would be removed from the Lafayette-class SSBN's and redeployed with additional Ohio-class SSBN's. Thus, reducing the number of SLBM warheads that would be retired by 1,536 warheads.

³ The number of SRAM's shown are those projected would be retired. In reality, however, 132 SRAM's are projected would be redeployed and are herein treated as new deployment, thus, reducing the number of SRAM's that would be retired by 132 SRAM's.

⁴ See notes above.

PROJECTED U.S. STRATEGIC WARHEAD NEW DEPLOYMENT UNDER ALTERNATE START PROPOSAL

Delivery vehicle	During calendar year—													Subtotal
	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	
ICBM's: MX-2	0	0	0	0	7	27	46	80	80	80	80	80	20	*1,500
SLBM's: Trident I (Ohio)	192	384	192	192	384	384	384	384	192	384	384	384	192	*4,032
Bombers:														
SRAM's	0	0	0	0	0	0	68	64	0	0	0	0	0	*132
Bombs	0	0	0	0	0	0	0	0	0	0	0	0	0	*40
ALCM's	420	420	408	348	348	264	0	0	0	0	0	0	0	2,208
Subtotal	420	420	408	348	348	264	68	64	0	0	0	0	0	*2,340
Total	612	804	600	540	739	675	498	528	272	464	464	464	212	*6,872

¹ It is assumed that all the Minuteman II ICBM's would be retired. However, if the United States does not deploy a new single-warhead ICBM (denoted MX-2 in this projection), and retains the 450 Minuteman II ICBM's (in addition to deploying 50 Minuteman II's from storage into Minuteman III silos), the number of new ICBM warheads deployed would be reduced by 450.

² Trident I SLBM warheads on Lafayette-class SSBN's are accounted to be retired. In reality, however, the SLBM's and their warheads would be removed from the Lafayette-class SSBN's and redeployed with additional Ohio-class SSBN's. Thus, reducing the number of new Trident I SLBM warheads that would be deployed by 1,536 warheads.

³ The number of SRAM's shown are projected would be new deployments. In reality, however, 132 SRAM's would come from redeployment of SRAM's from retiring aircraft to new aircraft deployed.

⁴ The net new deployment of bombs is shown as zero. However, new bombs could replace older models on a 1-to-1 basis.

⁵ See notes (3) and (4).

⁶ See notes above.

PROJECTED AGGREGATE OF DEPLOYED SOVIET WARHEADS UNDER ALTERNATE START PROPOSAL

Delivery system	By end of calendar year—													1995
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	
ICBM's/SLBM's	7,728	8,122	7,726	7,480	7,218	7,100	6,620	6,140	5,680	5,360	5,174	5,094	4,996	4,996
Bombers	313	313	393	633	913	1,234	1,554	1,874	2,224	2,560	2,560	2,560	2,560	2,560
Totals	8,041	8,435	8,119	8,113	8,131	8,334	8,174	8,014	7,904	7,920	7,734	7,654	7,556	7,556

PROJECTED AGGREGATE OF DEPLOYED U.S. WARHEADS UNDER ALTERNATE START PROPOSAL

Delivery system	By end of calendar year—													1995
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	
ICBM's/SLBM's	6,808	7,000	6,664	6,472	6,280	6,168	5,992	5,732	5,300	5,128	5,128	5,000	4,980	4,916
Bombers	2,800	3,220	3,562	3,892	3,814	3,880	3,880	3,896	3,908	3,812	3,728	3,684	3,600	3,600
Total	9,608	10,220	10,226	10,364	10,094	10,048	9,872	9,628	9,208	8,940	8,856	8,684	8,580	8,516

PROJECTED SOVIET AND U.S. COUNTERFORCE—CAPABLE RV'S UNDER ALTERNATE START PROPOSAL

(Closing the "Window of ICBM Vulnerability")

ICBM designation	By end of calendar year—													1995
	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	
Soviet:														
SS-18 (10 RV's)	750	750	0	0	0	0	0	0	0	0	0	0	0	0
SS-18 (8 RV's)	1,400	1,400	1,360	720	80	0	0	0	0	0	0	0	0	0
SS-19 (6 RV's)	1,800	1,800	1,800	1,800	1,800	1,380	900	420	0	0	0	0	0	0
Total	3,950	3,950	3,160	2,520	1,880	1,380	900	420	0	0	0	0	0	0
United States:														
Minuteman III (3 MK-12A)	900	900	900	900	900	660	420	180	0	0	0	0	0	0
Minuteman III (3 MK-12)	750	750	750	750	750	750	750	750	690	600	210	0	0	0
Total	1,650	1,650	1,650	1,650	1,650	1,410	1,170	930	690	600	210	0	0	0
Strike ratio (RV's/ICBM's): ^a														
Soviet	3.75	3.75	3.00	2.59	2.11	1.70	1.23	0.62	0	0	0	0	0	0
United States	1.18	1.18	1.25	1.33	1.42	1.31	1.17	1.01	0.82	0.79	0.31	0	0	0

¹ The RV's carried by the MIRV's version of the SS-17 are not included. Currently, the MIRV'd SS-17 does not have sufficient accuracy to destroy U.S. ICBM silos with a high degree of probability.

² Assuming 100-percent availability and reliability of the missiles and warheads (an optimistic assumption), a strike ratio equal to or larger than 2 denotes a theoretical capability to target at least 2 reentry vehicles against each silo. Thus, if each of the reentry vehicles has a high single-shot-kill probability (SSKP) of destroying a silo, a strike ratio equal to or larger than 2 signifies a theoretical capability to destroy the opposing ICBM force at their silos.

GOOD SENSE ON CHEMICAL WEAPONRY

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, on July 22, 1982, the House of Representatives rejected by a vote of 251 to 159 the administration's request for production of lethal binary chemical weapons.

Although most people do not realize it, this vote was extraordinarily significant. I would even go so far as to call it historic. For the first time in a decade, the House of Representatives decisively rejected a major defense program, in the face of heavy lobbying by both the White House and Defense Department.

Mr. Speaker, I believe that this unprecedented vote on the binary chemical weapons program was largely a result of the efforts of one man, Congressman CLEMENT J. ZABLOCKI of Wisconsin, the chairman of the House Foreign Affairs Committee.

With the help of Congressman ED BETHUNE of Arkansas Congressman ZABLOCKI succeeded in putting together a bipartisan coalition of Members opposed to binary chemical weapons production. Congressman ZABLOCKI's success in defeating the costly and unnecessary binary program illustrates once again what the esteemed chairman of the House Foreign Affairs Committee can accomplish in this legislative body.

I believe that the people in his district in Wisconsin, the American people and, indeed, the entire world can be proud of Congressman ZABLOCKI for his outstanding work on this most important issue.

I would like to bring to the attention of my colleagues an excellent editorial which appeared in the August 1, 1982, Milwaukee Journal:

GOOD SENSE ON CHEMICAL WEAPONRY

"Rather than expend the American taxpayers' dollars on producing unnecessary additional chemical weapons, the United States must address the widely recognized deficiencies in our chemical protective posture if we are truly to deter a chemical attack by the Soviet Union."

Thus rightly spoke Wisconsin's Clement Zablocki, chairman of the House Foreign Affairs Committee, in leading a successful charge against authorization for new "binary" chemical weapons.

By a vote of 251-159, House members voted to scratch \$54 million from President Reagan's defense proposal to begin production of the new chemical weapons—which ultimately could cost \$10 billion, according to Zablocki. The House did approve expenditure of \$651 million, primarily for desperately needed protective equipment and training in anti-chemical warfare.

Toxic weapons and their indiscriminate deadliness are profoundly repugnant. That is true in degree of all weaponry, to be sure,

but the insidiousness of chemical and biological agents puts them in a special category of the inhumane and the uncivilized.

Zablocki cogently argued that the new chemical weapons might well precipitate a whole new arms race. They also would be viewed by the global community as representing the abandonment of past US policy to eliminate the awful threat of chemical warfare.

He also emphasized a key distinction: An adequate defensive capability can be decisive in determining the outcome of a conflict in which chemical weapons are used. If deterrence can be achieved by enhancing military ability to defend against chemical weapons, why not concentrate resources in that direction?

Unfortunately, the Senate earlier approved the \$54 million to begin binary-chemical production. But the substantial margin against doing so that was reflected in the House vote may prove sufficient to swing final agreement when the two chambers reconcile their versions of the bill.

This is an instance in which morality and practicality coincide. ●

A LETTER TO MENACHEM BEGIN

The **SPEAKER** pro tempore (Mr. GONZALEZ). Under a previous order of the House, the gentleman from California (Mr. DYMALLY) is recognized for 10 minutes.

Mr. DYMALLY. Mr. Speaker, recently I had the privilege of visiting Israel and met the Prime Minister, during which time we had a very lively conversation. I said to the Prime Minister then that I had been a strong supporter of Israel and when I returned to the Congress I was going to send him some material which I had written and which I had participated in having advertised in Los Angeles; so my letter reads as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 10, 1982.
Hon. MENACHEM BEGIN,
Prime Minister, The Knesset, Jerusalem,
Israel.

DEAR PRIME MINISTER: During my recent visit to Israel, with a Congressional delegation, you inquired what critics of the war in Lebanon had done for Israel, in the past, when its security was under attack.

I informed you then that I was a strong supporter of Israel and had been very active as a California Legislator, and Lieutenant Governor working for Israel's security. I also informed you that I would mail some evidence of that support.

Attached please find the following:

(1) A statement by me "Israel Must Live" delivered during my successful campaign for Lt. Governor of California.

(2) An advertisement by the California Legislative Black Caucus, which appeared in the Los Angeles Times, Friday, March 22, 1974 and was sponsored by the "Youth Committee for Peace and Democracy in the Middle East", which was co-chaired by my present Chief of Staff, Kenneth M. Orduna.

On leaving your office I asked that you acknowledge receipt of this information.

With best wishes for Peace in the Middle East.

Respectfully,

MERVYN M. DYMALLY,
Member, House Committee
on Foreign Affairs.

ISRAEL MUST LIVE

(By Senator Mervyn M. Dymally, Chairman, California Senate Majority Caucus, to B'nai B'rith, San Francisco, November 7, 1973)

I have come before you this evening for the purpose of expressing my concern about the need to galvanize public opinion and commitment in every sector of the American public concerning the survival of Israel and building an enduring peace in the Middle East.

I have not come here tonight to ask you for your votes or support for any public office I may seek. There will come a time, and I hope there will be an opportunity later on, when that will be an appropriate topic for us to consider together. But this is not the time.

From its birth in 1948, the growth, prosperity, and most of all, the survival of Israel have been matters of central concern to the people of the United States, particularly for those people whose interest in human rights and human liberties is especially strong.

While the existence of Israel as an organized political State dates back only 25 years, its existence as a dream in minds of the Jewish people goes back many centuries. Anything which threatens the survival of Israel threatens something deep within the soul of every person of the Jewish faith. But it also threatens something which I believe to be of the greatest importance for everyone of us, Jew and Gentile, White and Black. The extinction of the only democratic state which now exists, or to my knowledge has ever existed, in the Middle East, would be a profound tragedy for the whole world. America's longstanding commitment that this shall not take place must now be backed with solid and sensible policy decisions.

In a few days, I expect to be leaving for my second trip to Israel, at the invitation of the Israeli Government. My first visit to Israel took place shortly after the events of the Six Day War had changed attitudes toward Israel, not only in outsiders like me, but among the Israelis themselves. No longer was Israel the small, embattled nation of pioneers almost pathetically vulnerable to the numerical superiority of her hostile neighbors. Rather she had become a formidable military power, able to defend herself.

While I was in Israel six years ago, the Israeli Government was calling for direct negotiations with her Arab neighbors which included negotiation concerning withdrawal from Arab territories occupied in the war as part of a permanent peace settlement. As you know, those direct negotiations never took place.

It is indicative of the frustrating nature of the situation in the Middle East that Israel is once again asking for direct negotiations with a renewed offer to withdraw from Arab territories as a part of the peace settlement. I think we all hope this time those negotiations will take place.

I mentioned earlier the change in attitude toward Israel resulting from the Six Day

War. That new attitude is understandable, but it may also have been damaging because it gave many Americans an unrealistic confidence that Israel could not defend herself unaided.

Some of the seeds of the present hostilities were surely planted in 1971 when the United States deferred commitments to sell Phantom jets to Israel. It was about that same time that President Sadat adopted a more aggressive attitude toward Israel, as if he sensed that the American willingness to provide military assistance was crumbling. That is just one clear indication of how critical is the military balance of power in the Middle East. The United States must never again give cause for the slightest suspicion that we will allow that balance to tip in favor of the Arab states.

As events have proved, the October 25th military alert called by the President was an act in defense of Israel. But that praiseworthy act was followed a few days later by yet another White House effort that is symptomatic of the moral blindness that is destroying the Nixon Administration.

A representative of the President, using the Middle East situation as an excuse, went to Congress to ask that the Jackson-Mills-Vanik amendment guaranteeing free emigration for Soviet Jews and all others who wish to exercise the right to leave be removed from the East-West trade agreement legislation.

I am hopeful that the Congress will repudiate this attempt to use a crisis in one part of the world as an excuse for the continued denial of freedom to people in another part of the world. I believe that we must have a trade bill including the Jackson-Mills-Vanik amendment, and that the Soviet Union will be forced to coldly weigh its economic needs against its outworn and vicious emigration policy, and will very quietly opt for most favored nation status on our terms.

After all, it is the American people who must subsidize the trade agreements favoring the Soviet Union. We pay in higher taxes for credit and investment guarantees, and we pay in higher prices for commodities as basic as food, as last year's wheat deal with Russia proved. When we are paying such a cost for trade agreements, we have a right to demand a return in the form of concessions. There can be no more vital concession than one protecting the rights of our fellow human beings. The right to emigrate is an international issue, not an internal one. The granting of most-favored-nation treatment to any government is also an international question. Both the United States and the USSR are signatories of the United Nations Human Rights covenant which guarantees the right of free emigration. This has the force of a treaty.

The legal fiction that somehow international agreements cannot be used to relieve the suffering of oppressed people is, perhaps, best refuted by the words of Alexander Solzhenitsyn in the Nobel Lecture he was not free to deliver. The great author pointed out that in matters of human rights, "there are no internal affairs left on our crowded earth."

The Nixon Administration and others who oppose the Jackson amendment must answer some questions: If the trade bill is not the right vehicle to secure freedom to emigrate for Soviet Jews, what is the vehicle? If the United States is not the world power to demand respect for human rights, who is that power? And if now is not the time to end the suffering of an oppressed people, when will that time come?

Admittedly, the plight of Soviet Jewry and the war in the Middle East are not high on the agenda of concerns of most American Blacks. We are still struggling for an end to poverty, for jobs, for decent housing and schooling, and for equality in all phases of our society. But throughout that struggle, Blacks have had the strong support of American Jews.

The founding of the National Association for the Advancement of Colored People (NAACP) early in this century was roughly coincident with the founding of the B'nai B'rith Anti-Defamation League, and other Jewish organizations concerned with civil rights and human liberties. The coincidence in time soon became a coincidence in purpose. Throughout the long struggle to obtain our rights, freedoms and economic justice, Blacks have been able to count on the wholehearted support of many courageous American Jews.

To be sure, anti-Israel voices have been raised in the Black community. Some Black nationalists openly identify with the cause of the Arab states in the Middle East based on a misunderstanding of their African heritage, which overlooks the fact that Arabs were among the most active traders of Black slaves in world history. Others merely include Jews in their general, paranoid criticism of all whites. But these are not representative voices in the Black community, nor are they the voices of the future.

American Blacks are very much aware of their friendship with American Jews, who have always fought beside us in the civil rights movement. The Jewish passion for justice has produced a much stronger commitment to the struggle for equality than most white Americans have been led to make. Black America will never forget the friendship of our brothers and sisters of the Jewish faith.

And it is because of our long, mutual dedication to freedom and justice that American Blacks must be more concerned than other non-Jews with the crisis that Jews face today. We join you in speaking out against the oppression of Soviet Jews as one more statement of human rights like the statements we made together in the past against Jim Crow laws. We join you in insisting that Israel must live, just as we insisted together in the past on full access for Blacks to the political system.

As individuals committed to the cause of freedom, concerned with the fate of racial ethnic and religious prejudice and discrimination, dedicated to civil rights and human progress for all, we feel a particular sense of solidarity with Israel's struggle to survive as a democracy in security and peace.

We share Israel's aspirations to integrate people from vastly different backgrounds and to provide them all—including Arab and Jew alike—with the benefits of an advanced social system. The realization of that aspiration can be seen in Israel today, in vastly improved educational levels for Arabs citizens of Israel, equal access to all the economic benefits available to Jews, membership in the same trade union movement and full rights of freedom of speech for Arabs, including the right to oppose Israeli government policy. Arabs in Israel serve at all levels of government, including the Knesset.

As the day nears for my visit to Israel, I find myself thinking of what has occurred since the Egyptian sneak attack across the Suez Canal on Yom Kippur. On that bleak day Israel was once again faced with the very real prospect of being overrun by her

hostile, numerically superior and very well equipped neighbors. Now that outbreak of hostilities, like the one which occurred in 1967, has been brought to an end with a fragile cease fire, at a time when Israel's armies were again on the threshold of electrifying military victories.

But the price Israel has paid for its military success has been terribly high. In these first weeks of the Yom Kippur War, Israel lost 1,854 soldiers, with 1,800 hospitalized. Let me put that into perspective. Israel is about the size of Los Angeles. It is as if Los Angeles were to lose over 3,600 young men during a few weeks of war. This staggering loss must not have been suffered in vain.

My experience in state government does not give me a position from which to speak as an authority on international affairs, and these remarks tonight must be judged in that light. However, I have hope that by the time the parties to the conflict and others in the international community, who have taken an interest in the Middle East, move toward creating a more permanent resolution to the military crisis in the Middle East, one fundamental principle will be adopted. And most importantly, I believe the United States should take the lead in insisting upon this principle, instead of joining with other nations in urging the abandonment of the principle.

That principle is that before Israel is asked to give up one square mile of territory purchased with the blood of its soldiers, either in 1973 or in 1967, a necessary and fundamental first step must be a recognition of Israel's existence as a State in some permanent fashion by its Arab adversaries. Neither the performance of their armies nor the moral force of their arguments place the Arab States in a position where they can continue to insist that Israel does not exist and some day will be wiped off the face of the map.

Our task together is to galvanize the broadest possible support among the American people of every race and religion for American solidarity with Israel in its struggle to insure its survival.

This means: (1) guaranteeing Israel's access to arms, (2) guaranteeing her right to face-to-face negotiations with her Arab neighbors, and (3) guaranteeing her right to secure and defensible borders based on a permanent peace treaty.

This will not be an easy task, but it is one to which I have been committed in the past and remain committed to today. Perhaps there is something in the experience of a race which has been abused and discriminated against for many centuries which leads to a better understanding of the feelings, concerns and aspirations of another people who also have been abused and discriminated against for many centuries. In any event, that is my commitment and will remain my commitment.

It will be a joyous day of all Blacks, whose fate is inseparably linked with the fate of the Jews, when Israel is free of all threats to her integrity. We have learned in our struggle for dignity and equality that no minority is safe if any minority is threatened, and that freedom is not the separate privilege of some people, but the inalienable right of all people.

Thank you very much for this opportunity.

[Advertisement from the Los Angeles Times, Mar. 22, 1974]

"BEHOLD HOW GOOD AND HOW PLEASANT IT IS FOR BRETHREN TO DWELL TOGETHER IN UNITY." PSALMS 133

As Black elected officials we feel impelled to speak out on the seemingly endless tensions, alarms, and bloody collisions in the Middle East. We speak with compassion for the ordeal of Arabs and Jews caught in the continuing hostilities. We speak in the certainty that this may be the decisive period for establishing the future pattern of war or peace in that area—with far-reaching implications for the future of America and the world.

The agonies of the Israelis and Arabs will only be prolonged, and world peace jeopardized, by continuing armed violations such as that of the Yom Kippur war.

The existence of Israel as a sovereign state must be affirmed with finality by the world. Israel's right to secure and viable boundaries must be recognized by her Arab neighbors. Differences between them must be resolved by face to face negotiations. There is clearly no other road to enduring peace.

As Black Americans who have suffered disadvantage and discrimination and inequality, we feel a particular identity with Israel's aspirations to bring together people from vastly different backgrounds and to provide them all—including Arab and Jew alike—with the benefits of democracy and an advanced social system.

Out of our own experience in the world we understand the nature of oppression and racism. Forces of genocidal racism have encompassed the mass murder of six million Jews and have driven Jews from many lands. Similar tides of racism have swept over Blacks on every continent down through history.

We must never permit Israel to be destroyed. The Soviet Union has employed its vast power to stir dissension, incite violence, and arm aggressive groups to spill more blood in the Middle East.

To counter this, the United States' role should be to provide all necessary material aid to Israel, to insist upon recognition of Israel by her neighbors, to encourage their face to face negotiation and to propose constructive solutions.

As Black legislators we will work through American institutions to press for this policy. We appeal to all Americans to join with us in support of Israel's struggle to live and be free.

Yvonne B. Burke, Member of Congress, 37th District.

Mervyn M. Dymally, Senator, Co-Chairman, Nat'l Conference of Black Elected Officials.

Frank Holoman, Assemblyman, Vice-Chairman, Committee on Government Operations.

Willie Brown, Assemblyman, Assembly Ways & Means Committee.

Bill Greene, Assemblyman, Chairman, Assembly, Select Committee on Manpower Development.

John Miller, Assemblyman, Chairman, California Black Legislative Caucus.

Julian C. Dixon, Assemblyman, California Conference of Black Elected Officials.

Augustus F. Hawkins, Member of Congress, 21st District.

Leon Ralph, Assemblyman, Chairman, L.A. Conference of Black Elected Officials.

Sponsored by the "Youth Committee for Peace and Democracy in the Middle East", 1506 Sargent Pl., Los Angeles, CA 90026.—

George Curtin, Chairman; Ken Orduna, Co-Chairman.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. HUTTO (at the request of Mr. WRIGHT), after 5 p.m. today, on account of a medical emergency in the family.

Mr. FORD of Michigan (at the request of Mr. WRIGHT), for today, on account of a necessary absence.

Mr. CARNEY (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HILER) to revise and extend their remarks and include extraneous material:)

Ms. FIEDLER, for 60 minutes, August 17.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. SYNAR, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. OBERSTAR, for 5 minutes, today.

Mr. GORE, for 30 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. FASCELL, for 5 minutes, today.

Mr. DYMALLY, for 10 minutes, today.

Mr. HUBBARD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. WEISS, immediately preceding vote on H.R. 5427, today.

(The following Members (at the request of Mr. HILER) and to include extraneous matter:)

Mr. CONTE.

Mr. DAUB.

Mr. YOUNG of Alaska.

Mr. SCHULZE.

Mr. RUDD.

Mr. GILMAN in three instances.

Mr. DERWINSKI in three instances.

Mr. LAGOMARSINO.

Mr. CARMAN.

Mr. MARLENEE.

Mr. SHUMWAY in two instances.

Mr. PARRIS.

Mr. EVANS of Iowa.

Mr. HUNTER.

Mrs. MARTIN of Illinois.

Mr. DREIER.

Mr. COLLINS of Texas in two instances.

Mr. HAGEDORN.

Mr. PORTER.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. OBERSTAR.

Mr. GORE in two instances.

Mr. SOLARZ.

Mr. MOFFETT in two instances.

Mr. SHELBY in two instances.

Mr. McDONALD in six instances.

Mr. EDGAR in three instances.

Mr. PEYSER.

Mr. RANGEL.

Mr. GARCIA.

Mr. LUNDINE.

Mr. CLAY.

Mr. OTTINGER.

Mr. FRANK in two instances.

Ms. OAKAR.

Mr. D'AMOURS.

Mr. MARKEY.

Mr. WEISS.

Mr. HUBBARD.

Mr. MATSUI.

Mr. NOWAK.

Mr. MAZZOLI.

Mr. GAYDOS.

Mr. DINGELL.

Mr. VENTO.

Mr. BONIOR of Michigan.

Mr. DYSON.

Mr. ERTOL.

Mr. AU COIN.

Mr. RAHALL.

ADJOURNMENT

Mr. DYMALLY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to: accordingly (at 10 o'clock and 16 minutes p.m.), the House adjourned until tomorrow, Wednesday, August 11, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4566. A letter from the Clerk, U.S. House of Representatives, transmitting his quarterly report of receipts and expenditures for the period April 1 through June 30, 1982, pursuant to section 105(a) of Public Law 88-454, as amended (H. Doc. No. 97-223); to the Committee on House Administration and ordered to be printed.

4567. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-238, "D.C. Theft and White Collar Crimes Act of 1982", pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4568. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Army's proposed lease of defense articles to Australia (Transmittal No. 15-82), pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 4230. A bill to facilitate the transportation of coal by pipeline across Federal and non-Federal lands; with an amendment (Rept. No. 97-423, Part II). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. Report on allocation of budget totals for fiscal years 1982 and 1983 (Rept. No. 97-703). Referred to the Committee of the Whole House on the State of the Union.

Mr. SAM B. HALL, JR.: Committee on the Judiciary. H.R. 6204. A bill to amend title 28 of the United States Code and related statutes with respect to the appointment and jurisdiction of the Supreme Court Police; with amendments (Rept. No. 97-704). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. Report of the Committee on Education and Labor pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 97-705). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 555. Resolution providing for the consideration of H.R. 5543, a bill to establish an Ocean and Coastal Resources Management and Development Fund and to require the Secretary of Commerce to provide to coastal States national ocean and resources management and development block grants from sums in the Fund (Rept. No. 97-706). Referred to the House Calendar.

Mr. BONIOR of Michigan: Committee on Rules. House Resolution 556. Resolution providing for the consideration of H.R. 6666, a bill to amend the joint resolution of October 19, 1965, to provide additional authorization for the Library of Congress James Madison Memorial Building (Rept. No. 97-707). Referred to the House Calendar.

Mr. HALL of Ohio: Committee on Rules. House Resolution 557. Resolution providing for the consideration of H.R. 6786, a bill to amend Public Law 96-432 relating to the U.S. Capitol Grounds to authorize additional funds for the acquisition of certain property for addition to the U.S. Capitol Grounds (Rept. No. 97-708). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6419. A bill to direct the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University; with amendments (Rept. No. 97-709). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6029. A bill to authorize the Secretary of the Interior to acquire by exchange certain lands within the Indiana Dunes National Lakeshore in the State of Indiana; with an amendment (Rept. No. 97-710). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5627. A bill to direct the Secretary of the Interior to release certain restrictions contained in a previous con-

veyance of land to the State of Florida and to allow the State of Florida to purchase the mineral interests of the United States in such land; with amendment (Rept. No. 97-711). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5536. A bill to authorize the Secretary of the Interior to engage in feasibility studies of water resource development and for other purposes in the Central Platte Valley, Nebr.; with amendment (Rept. No. 97-712). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6188. A bill to authorize the Secretary of the Interior to participate with the State of Nebraska in studies of Platte River water resource use and development, and for other purposes; with an amendment (Rept. No. 97-713). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLAND: Committee on Appropriations. H.R. 6956. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-720). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee on Appropriations. H.R. 6957. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-721). Referred to the Committee of the Whole House on the State of the Union.

Mr. MINETA: Committee of Conference. Conference Report on H.R. 5930 (Rept. No. 97-722). And ordered to printed.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FISH: Committee on the Judiciary. S. 215. An act for the relief of Lourie Ann Eder (Rept. No. 97-714). Referred to the Committee of the Whole House.

Mr. SAM B. HALL, JR.: Committee on the Judiciary. S. 167. An act for the relief of Juan Esteban Ramirez (Rept. No. 97-715). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 684. A bill for the relief of Kang Ok Boon; with amendments (Rept. No. 97-716). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 1481. A bill for the relief of George Herbert Weston and Mabel Gregson Weston; with amendments (Rept. No. 97-717). Referred to the Committee of the Whole House.

Mr. FISH: Committee on the Judiciary. H.R. 2193. A bill for the relief of Berendina Antonia Maria van Kleeff; with amendments (Rept. No. 97-718). Referred to the Committee of the Whole House.

Mr. MAZZOLI: Committee on the Judiciary. H.R. 6811. A bill for the relief of Alejo White and Sonia White (Rept. No. 97-719).

Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WHITE (for himself, Mr. STRATTON, Mr. MOLLOHAN, Mr. DAN DANIEL, Mr. ASPIN, Mr. MAVROULES, Mr. ROBERT W. DANIEL, JR., and Mr. NELLIGAN):

H.R. 6954: A bill to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense; to the Committee on Armed Services.

By Mr. JONES of Oklahoma:

H.R. 6955: A bill to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress); which was considered and passed.

By Mr. BOLAND:

H.R. 6956. A bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. SMITH of Iowa:

H.R. 6957. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes.

By Mr. COLLINS of Texas:

H.R. 6958. A bill to amend title 18 of the United States Code to permit the plea and verdict of guilty but mentally ill in Federal criminal cases, and to establish the consequences of such a verdict; to the Committee on the Judiciary.

By Mr. EVANS of Iowa:

H.R. 6959. A bill to amend the Internal Revenue Code of 1954 to exclude from the Federal estate tax 50 percent of the value of farmland having no significant degradation of agricultural productivity in each of the 5 years ending before the date of the decedent's death; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 6960. A bill to amend chapter 207 of title 18 of the United States Code to provide that the safety of other persons and the community can be considered in the setting of conditions of release before trial in Federal criminal cases, to provide for detention before trial in certain cases, and for other purposes; to the Committee on the Judiciary.

Mr. LAGOMARSINO:

H.R. 6961. A bill to disallow the Secretary of the Interior from issuing oil and gas leases with respect to a geographical area located in the Pacific Ocean off the coastline of the State of California; to the Committee on Interior and Insular Affairs.

By Mr. MILLER of California (for himself, Mr. FROST, Mr. BEVILL, Mr. RATCHFORD, Mr. ECKART, Mr. D'AMOURS, Mrs. SCHROEDER, Mr. MATTOX, Mr. HUGHES, Mr. BONIOR of Michigan, Mr. FAZIO, Mr. VENTO, Mr. GORE, Mr. AKAKA, Mr. LUNDINE, Mr. HARKIN, Mr. WILLIAM J. COYNE, Mr. STARK, and Mr. SMITH of Iowa):

H.R. 6962. A bill entitled "The Pay As You Go Balanced Budget Act of 1982"; jointly, to the Committees on Rules and Government Operations.

By Mr. ROEMER:

H.R. 6963. A bill to redesignate the building known as the Veterans' Administration Medical Center in Shreveport, La., as the "T. Overton Brooks Memorial Veterans' Administration Medical Center"; to the Committee on Veterans' Affairs.

By Mr. SKELTON:

H.R. 6964. A bill to amend title II of the Social Security Act to provide for the establishment of appropriate accounting procedures to deal with social security benefit checks which are not negotiated within 36 months; to the Committee on Ways and Means.

By Mr. ANDERSON (for himself, Mr. HOWARD, Mr. CLAUSEN, and Mr. SHUSTER):

H.R. 6965. A bill to authorize for fiscal year 1983 appropriations for construction of certain highways in accordance with title 23, United States Code, for highway safety, mass transportation in urban and rural areas, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. MILLER of California (for himself, Mr. BARNES, Mr. BEDELL, Mr. BEILSON, Mr. BIAGGI, Mr. BINGHAM, Mrs. BOGGS, Mr. BOLAND, Mr. BONIOR of Michigan, Mr. BRODHEAD, Mr. JOHN L. BURTON, Mr. CORRADA, Mr. DELLUMS, Mr. DOWNEY, Mr. EDGAR, Mr. EDWARDS of California, Mr. FAUNTROY, Ms. FERRARO, Mr. FOGLIETTA, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FRANK, Mr. GUARINI, Mr. HARKIN, Mr. HOYER, Mr. HUGHES, Mr. KASTENMEIER, Mrs. KENNELLY, Mr. KILDEE, Mr. LANTOS, Mr. LEHMAN, Mr. LOWRY of Washington, Mr. McDADDE, Mr. McHUGH, Mr. MATSUI, Ms. MIKULSKI, Mr. MINETA, Mr. MOFFETT, Mr. OBERSTAR, Mr. OTTINGER, Mr. PATTERSON, Mr. PEPPER, Mr. PERKINS, Mr. PEYSER, Mr. RICHMOND, Mr. RODINO, Mr. ROYBAL, Mr. SCHUEER, Mrs. SCHNEIDER, Mrs. SCHROEDER, Mr. SHAMANSKY, Mr. SIMON, Mr. SOLARZ, Mr. STARK, Mr. STOKES, Mr. STUDDS, Mr. VENTO, Mr. WALGREN, Mr. WASHINGTON, Mr. WEISS, Mr. WIRTH, Mr. WYDEN, and Mr. YATES):

H.J. Res. 567. Joint resolution concerning changes in regulations for the special supplemental food program for women, infants, and children of the Child Nutrition Act of 1966; to the Committee on Education and Labor.

By Mr. BIAGGI (for himself, Mr. RICHMOND, Mr. WEISS, Mr. BRODHEAD, Mr. FITHIAN, Mr. PEPPER, Mr. McGRATH, Mr. MARKEY, Mr. HORTON, Mr. BEDELL, Mr. SMITH of New Jersey, Mr. SANTINI, Mr. MOAKLEY, Mr. WON PAT, Mr. HOYER, Mr. FORD of Tennessee, Mr. STARK, Mr. RODINO, Mr. DOWNEY, Mr. BINGHAM, Mrs. CHISHOLM, Mr. ADDABBO, Mr. GEJENSON, Mr. HOPKINS, Mr. RATCHFORD, Mr. WOLPE, Mr. EDGAR, Mr. GILMAN, Mr. GORE, Mr. MILLER of California, Mr. ROE, Mr. PEYSER, Mr. FOGLIETTA, Mr. BONER of Tennessee, Mr. MARTINEZ, and Mr. WORTLEY):

H. Res. 558. Resolution expressing the sense of the House of Representatives that regulations recently proposed by the Secretary of Education under the Education of

the Handicapped Act should not be permitted to take effect; to the Committee on Education and Labor.

MEMORIALS

Under clause 4 of rule XXII,

455. The SPEAKER presented a memorial of the House of Representatives of the Northern Marianas Commonwealth, relative to trusteeship agreement for the former Japanese mandated islands; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. RUDD introduced a bill (H.R. 6966) for the relief of Theda June Davis, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1937: Mrs. FENWICK.
H.R. 2500: Mr. BEDELL.
H.R. 3252: Mr. DONNELLY.
H.R. 3269: Mr. GARCIA, Mr. HATCHER, Mr. ERDAHL, and Mr. HUTTO.
H.R. 3760: Mr. RATCHFORD.
H.R. 3781: Mr. ANTHONY, Mr. AU COIN, Mr. BEDELL, Mr. BEVILL, Mrs. BOGGS, Mr. BROWN of California, Mr. JOHN L. BURTON, Mrs. CHISHOLM, Mr. COATS, Mr. COELHO, Mr. CONTE, Mr. COURTER, Mr. CROCKETT, Mr. DASCHLE, Mr. DAUB, Mr. DECKARD, Mr. DIXON, Mr. DORNAN of California, Mr. DOUGHERTY, Mr. EARLY, Mr. EMERY, Mr. ERTTEL, Mr. FARY, Mrs. FENWICK, Mr. FLIPPO, Mr. FOLEY, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FORSYTHE, Mr. FUQUA, Mr. GARCIA, Mr. GINGRICH, Mr. GRAY, Mr. GUNDERSON, Mr. HAGEDORN, Mr. HAMILTON, Mr. HANSEN of Idaho, Mr. HERTEL, Mr. HILER, Mr. HOLLAND, Mrs. HOLT, Mr. HORTON, Mr. JONES of Tennessee, Mr. JONES of Oklahoma, Mr. KEMP, Mr. KILDEE, Mr. LEE, Mr. LEVITAS, Mr. LEWIS, Mr. LIVINGSTON, Mr. LOWRY of Washington, Mr. LUKEN, Mr. LUNDINE, Mr. MCCOLLUM, Mr. MARRIOTT, Mr. MILLER of Ohio, Mr. MORRISON, Ms. OAKAR, Mr. OTTINGER, Mr. PANETTA, Mr. PATMAN, Mr. PETRI, Mr. PORTER, Mr. RAHALL, Mr. ROBERTS of South Dakota, Mr. SAWYER, Mrs. SCHROEDER, Mr. SHAMANSKY, Mr. SOLARZ, Mr. SWIFT, Mr. TAUKE, Mr. WAXMAN, Mr. WHITEHURST, Mr. WHITTAKER, Mr. WIRTH, Mr. WOLF, Mr. BONKER, and Mr. HUGHES.

H.R. 3984: Mr. FINDLEY.
H.R. 4009: Mr. SHELBY.
H.R. 4091: Mr. KILDEE and Mr. WOLPE.
H.R. 4147: Mr. GRISHAM, Mr. SIMON, Mr. LENT, Mr. HUNTER, Mr. LOWRY of Washington, and Mr. BEDELL.
H.R. 4164: Mr. SHAMANSKY, Mr. DE LUGO, Mr. BROWN of California, and Mr. BEARD.
H.R. 4657: Mr. RODINO.
H.R. 4829: Mrs. SNOWE.
H.R. 5092: Mr. SEIBERLING.
H.R. 5133: Mr. ALEXANDER.
H.R. 5573: Mr. GREGG, Mr. DENARDIS, Mr. CONTE, and Mr. MOAKLEY.
H.R. 5584: Mr. BENJAMIN.
H.R. 5666: Mr. WASHINGTON.
H.R. 5828: Mr. HARKIN.
H.R. 5839: Mr. JOHNSTON.
H.R. 5884: Mr. JOHNSTON.

H.R. 5918: Mr. ROBERT W. DANIEL, Jr., Mr. BENNETT, and Mr. HANCE.

H.R. 6045: Mr. GREEN.

H.R. 6092: Mr. MITCHELL of Maryland, Mr. BARNES, and Mr. FRANK.

H.R. 6124: Mr. HOLLENBECK.

H.R. 6135: Mr. SKEEN and Mr. ROBERT W. DANIEL, Jr.

H.R. 6165: Mr. EVANS of Indiana.

H.R. 6311: Mr. LUNDINE.

H.R. 6467: Mr. MATSUI, Mr. NOWAK, Mr. PEYSER, Mr. McEWEN, and Mr. JEFFRIES.

H.R. 6512: Mr. SANTINI.

H.R. 6529: Mrs. SCHROEDER, Mr. PRITCHARD, and Mr. WIRTH.

H.R. 6591: Mr. MURPHY.

H.R. 6674: Mr. FRANK.

H.R. 6722: Mr. EVANS of Georgia, Mr. WHITEHURST, Mr. GINGRICH, Mr. HORTON, Mr. LAGOMARSINO, Mr. WILSON, Mr. ROE, Mr. LEBOUTILLIER, Mr. MILLER of Ohio, Mr. PORTER, Mr. WHITLEY, Mr. YATRON, Mr. JACOBS, Mr. HAGEDORN, Mr. MITCHELL of Maryland, and Mrs. SNOWE.

H.R. 6729: Mr. EDGAR, Mr. EVANS of Delaware, Mr. GORE, Mr. HARKIN, and Mr. MITCHELL of Maryland.

H.R. 6745: Mr. BUTLER, Mr. DUNCAN, Mr. BARNES, Mr. WHITTAKER, Mr. EVANS of Georgia, Mr. YATRON, and Mr. BINGHAM.

H.R. 6774: Mr. DYMALY, Mr. ECKART, Mrs. HECKLER, Mr. WASHINGTON, Mr. MITCHELL of Maryland, and Mr. SHAMANSKY.

H.R. 6775: Mr. DYMALY, Mr. ECKART, Mrs. HECKLER, Mr. WASHINGTON, Mr. MITCHELL of Maryland, Mr. SHAMANSKY, and Mr. LAFALCE.

H.R. 6783: Mr. SEIBERLING, Mr. ERTTEL, Mr. MITCHELL of Maryland, Mr. FAUNTROY, and Mrs. SCHROEDER.

H.R. 6793: Mr. ENGLISH.

H.R. 6885: Mr. PEYSER, Mr. EVANS of Indiana, Mr. WYDEN, Mr. BARNES, Mr. FOGLIETTA, Mr. ERDAHL, Mr. STOKES, Mr. RODINO, Mr. WEISS, and Mr. WORTLEY.

H.R. 6886: Mr. EDGAR, Mr. FISH, and Mr. RATCHFORD.

H.R. 6919: Mr. FITHIAN, Mr. FORSYTHE, Mr. COATS, Mr. WEAVER, Mr. ASPIN, Mr. BINGHAM, Mr. WILLIAMS of Ohio, Mr. MINETA, Mr. KASTENMEIER, Mr. ROE, Mrs. FENWICK, Mr. HUBBARD, and Mr. BENJAMIN.

H.J. Res. 172: Mr. BONER of Tennessee, Mrs. HECKLER, Mr. HOWARD, Mr. FRENZEL, Mr. MURTHA, Mr. UDALL, and Mr. WIRTH.

H.J. Res. 183: Mr. SIMON and Mr. RATCHFORD.

H.J. Res. 420: Mr. SPENCE, Mr. CONTE, and Mr. BREAUX.

H.J. Res. 430: Mr. UDALL, Mr. WIRTH, Mr. FOWLER, Mr. SMITH of New Jersey, Mr. HALL of Ohio, Mr. ADDABBO, Mr. AKAKA, Mr. BOWEN, Mr. BROWN of California, Mr. ALEXANDER, Mr. DONNELLY, Mr. DELLUMS, Mr. BINGHAM, Mr. MATSUI, Mr. HEFNER, Mr. HEFTTEL, Mr. JONES of North Carolina, Mr. HARKIN, Mr. MCCLOSKEY, Mr. ANDERSON, Mr. MOAKLEY, Mr. LOWRY of Washington, Mr. VENTO, Mr. OTTINGER, Mr. BEILSON, Mrs. COLLINS of Illinois, Mr. YATES, Mr. ALBOSTA, Mr. AU COIN, Mr. ASPIN, Mr. BRODHEAD, Mrs. CHISHOLM, Mr. VOLKMER, Mr. SMITH of Pennsylvania, Mr. SOLARZ, Mr. SUNIA, Mr. WON PAT, Mr. YATRON, Mr. GUARINI, Mr. HOWARD, Mr. HUGHES, Mrs. KENNELLY, Mr. McHUGH, Mr. MATTOX, Mr. MURPHY, Mr. MAVROULES, Mr. MURTHA, Mr. DIXON, Mr. DOWNEY, Mr. EDGAR, Mr. FOGLIETTA, Mr. COURTER, Mr. DELUGO, Mr. ANTHONY, Mr. PHILLIP BURTON, Mr. CROCKETT, and Mr. CONYERS.

H.J. Res. 453: Mr. HALL of Ohio.

H.J. Res. 460: Mr. EDGAR, Mr. HARTNETT, Mr. SCHUMER, Mr. BOWEN, Mr. HEFTTEL, Mr.

HOWARD, Mr. MARKEY, Mr. PATTERSON, Mr. LELAND, Mr. BEILSON, Mrs. KENNELLY, Mr. MAVROULES, Mr. DASCHLE, Mr. KASTENMEIER, Mr. LEHMAN, Mr. CONYERS, Mr. EVANS of Delaware, Mr. FARY, Mr. KEMP, Mr. DUNN, Mr. BAILEY of Pennsylvania, Mr. KILDEE, Mr. GRADISON, Mr. BREAUX, Mr. BRODHEAD, Mr. BOLAND, Mr. FINDLEY, Mr. DENARDIS, Mr. WEBER of Minnesota, Mr. CROCKETT, Mr. FOLEY, Mr. SOLARZ, Mr. PEYSER, Mr. HAMILTON, Mr. HUBBARD, Mr. STARK, Mr. HUGHES, Mr. CORCORAN, Mr. JONES of North Carolina, Mrs. HOLT, Mr. JEFFORDS, Mr. PEPPER, Mr. PRITCHARD, Mr. WYDEN, Mr. AKAKA, Mr. ANDERSON, Mr. FLORIO, Mr. HARKIN, Mr. MURPHY, Mr. FOUNTAIN, Mr. ADDABBO, Mr. BEDELL, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CORRADA, Mr. DELLUMS, Mr. DONNELLY, Mr. DOWNEY, Mr. FAZIO, Mr. FISH, Mr. LONG of Maryland, Mr. LONG of Louisiana, Mr. MOFFETT, Mr. OTTINGER, Mr. WALGREN, Mr. WASHINGTON, Mr. FUQUA, Mr. SAVAGE, Mr. DINGELL, Mr. CLINGER, Mr. SMITH of Iowa, Mr. ASPIN, Mr. ATKINSON, Mr. BONKER, Mr. BROWN of California, Mr. CLAY, Mr. DOUGHERTY, Mr. RINALDO, Mr. HORTON, Mr. WHITEHURST, Mr. HOLLAND, Mr. SWIFT, Mr. JONES of Tennessee, Mr. STANGELAND, Mr. SNYDER, Mr. JAMES K. COYNE, Mrs. CHISHOLM, Mr. ERDAHL, Mr. RATCHFORD, Mr. HOPKINS, Mr. MATTOX, Mr. GILMAN, Mr. CLAUSEN, Mr. WYLLIE, Mr. VOLKMER, Mr. FITZHIAN, Mr. SILJANDER, Mrs. MARTIN of Illinois, Mr. BINGHAM, Mr. DOWDY, Mr. HERTEL, Mr. MINISH, Mr. WEAVER, Mr. MCHUGH, Mr. COURTER, Mr. FORD of Tennessee, Mr. COELHO, Mr. STOKES, Mr. FRENZEL, Mr. EDGAR, Mr. VENTO, Mr. WOLPE, Mr. SHANNON, Mr. LANTOS, Mr. WON PAT, Mr. WAXMAN, Mr. SUNIA, Mr. MARRIOTT, Mr. GUARINI, Ms. OAKAR, Mr. CORCORAN, Mr. AU COIN, Mr. PORTER, Mr. RANGEL, Mr. PANETTA, Mr. BEREUTER, Mr. SHAMANSKY, Mr. GINGRICH, Mr. CHAPPIE, Mr. TRAXLER, Mrs. SCHNEIDER, Mr. UDALL, Mrs. BYRON, Mr. CONABLE, Mr. DYSON, Mr. HOLLENBECK, Mr. MADIGAN, and Mr. PARRIS.

H.J. Res. 557: Mr. ADDABBO, Mr. ANNUNZIO, Mr. BEDELL, Mr. BEILSON, Mr. BRODHEAD, Mr. PHILLIP BURTON, Mr. CONTE, Mr. DERWINSKI, Mr. DOUGHERTY, Mr. DWYER, Mr. FORSYTHE, Mr. FROST, Mrs. HECKLER, Mr. HORTON, Mr. HOYER, Mr. KEMP, Mr. LANTOS, Mr. LEHMAN, Mr. LENT, Mr. LONG of Maryland, Mr. MATSUI, Mr. MINETA, Mr. MITCHELL of New York, Mr. MOLINARI, Mr. O'BRIEN, Mr. PATTERSON, Mr. PEYSER, Mr. ROBINO, Mr. ROE, Mr. SMITH of New Jersey, Mr. SOLARZ, Mr. WAXMAN, Mr. WEISS, Mr. WINN, Mr. WON PAT, Mr. WORTLEY, Mr. WYDEN, Mr. YATES, Mr. ZABLOCKI, and Mr. WILLIAMS of Ohio.

H. Con. Res. 303: Mr. HOWARD, Mr. MOAKLEY, Mr. YATES, Mr. GILMAN, Mr. AKAKA, Ms. FERRARO, Mrs. KENNELLY, Mr. FLORIO, Mr. PRITCHARD, Mr. SHARP, Mr. MINETA, and Mr. FORD of Michigan.

H. Con. Res. 387: Mr. HOWARD.

H. Con. Res. 392: Mr. BEDELL, Mr. WEAVER, and Mr. MINETA.

H. Res. 424: Mr. AU COIN, Mr. BARNES, Mr. BEDELL, Mr. BONIOR of Michigan, Mr. BROWN of California, Mrs. CHISHOLM, Mr. CONTE, Mr. CONYERS, Mr. CORRADA, Mr. DASCHLE, Mr. DOUGHERTY, Mr. DOWNEY, Mr. DWYER, Mr. EDGAR, Mr. ERDAHL, Mr. FAUNTROY, Mr. FINDLEY, Mr. FRANK, Mr. HARKIN, Mr. KILDEE, Mr. LEACH of Iowa, Mr. MARKEY, Mr. MAVROULES, Mr. MINISH, Mr. MITCHELL of Maryland, Mr. NEAL, Mr. NELLIGAN, Ms. OAKAR, Mr. OTTINGER, Mr. PEYSER, Mr. PRITCHARD, Mr. SOLARZ, Mr. STOKES, Mr. WASHINGTON, Mr. WEAVER, Mr. WOLPE, Mr. WYDEN, and Mr. YATES.

H. Res. 466: Mr. BURGNER.
H. Res. 553: Mr. PEPPER, Mr. ROSENTHAL, and Mr. YATES.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 6070: Mr. WEAVER.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

558. By the SPEAKER: Petition of Southold Town Board, Southold, N.Y., relative to nuclear freeze referendum; to the Committee on Foreign Affairs.

559. Also, petition of Baltimore County Council, Towson, Md., relative to nuclear arms freeze; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5203

By Mr. MCHUGH:

—Page 40, line 14, insert "(a)" after "Sec. 4."

Page 41, line 12, strike out "and" and insert in lieu thereof the following new paragraph:

(3) striking out "(ii) a request for a hearing is made by a person adversely affected by the notice," and inserting in lieu thereof "(ii) a request for a hearing is made by any interested person, including any person adversely affected by the Administrator's failure to propose action providing for greater restrictions on the use of the pesticide involved, for a more rapid phasing out of its registration, or for a change in its classification."; and

Page 41, line 13, strike out "(3)" and insert in lieu thereof "(4)".

Page 42, after line 2, insert the following new subsection:

(b) The first sentence of section 6(e)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by striking out "a person adversely affected by the notice," and inserting in lieu thereof "any interested person, including any person adversely affected by the Administrator's determination with respect to the disposition of existing stocks."

By Mr. LEVITAS:

—Page 42, strike out line 3 and all that follows through line 20 on page 52, and insert in lieu thereof the following:

DISCLOSURE OF INFORMATION TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS

SEC. 5. (a) Section 10(g) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Before allowing such person to inspect data, and before disclosing such information to a person under section 552 of title 5, United States Code, or any other law, the Administrator shall require the person in-

volved to submit a written request for inspection or disclosure and a signed affirmation specified in subparagraph (D).

"(B) The Administrator shall transmit a copy of the request and affirmation to the applicant or registrant who submitted the data or information with respect to which inspection or disclosure is requested. During the 30-day period beginning on the date such copy is transmitted, such applicant or registrant may submit to the Administrator evidence that such person is ineligible under this subsection to inspect such data or receive such information.

"(C) After the expiration of such 30-day period, the Administrator may allow such inspection of data, and may disclose such information, as authorized by other provisions of law only if the Administrator determines that such person is eligible under this subsection to inspect such data or receive such information. For purposes of making such determination, the Administrator may refer to the Attorney General for investigation, the matter of such person's eligibility.

"(D) For purposes of complying with this subsection, the Administrator may accept only the following affirmation:

"I have requested access to information submitted by an applicant or registrant under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to the Environmental Protection Agency. I hereby affirm:

"(1) That I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or its agents or employees; and

"(2) That I will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employers.

"I am aware that I may be subject to criminal penalties under 18 U.S.C. 1001 if I have made any statement of material facts knowing that such statement is false or if I willfully conceal any material fact.

Signature _____

Name _____

Address _____

Organization or Affiliation _____

Client _____

(b) Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

Page 52, line 21, strike out "(7)" and insert in lieu thereof "(1)".

Page 53, line 2, insert "involving the production, registration, distribution, or sale of a pesticide" after "purpose".

Page 53, line 10, insert "and" at the end thereof.

Page 53, line 11, strike out "(8)" and insert in lieu thereof "(2)".

Page 53, line 22, insert a period at the end thereof.

Page 55, beginning on line 11, strike out "or under regulations promulgated under section 10(d)(2)".

Page 61, beginning on line 17, strike out "Notwithstanding the provisions of section 10(g)(2) of this Act, but subject" and insert in lieu thereof "Subject".

Page 73, after line 21, insert the following new section:

STUDY OF DISCLOSURE OF SUBMITTED INFORMATION

SEC. 17. The Administrator of the Environmental Protection Agency shall enter

into an agreement with the National Academy of Sciences, which provides that the National Academy of Sciences—

(1) shall conduct a study to determine with respect to the disclosure of information under section 10(d) of the Federal Insecticide, Fungicide, and Rodenticide Act—

(A) the type and volume of information disclosed under such section;

(B) the type or volume of information which the Administrator refused to disclose under such section;

(C) the economic result of the disclosure of information under such section on the submitter of such information;

(D) the effects of the refusal to disclose information under such section on competition among pesticide producers;

(E) the effects of the disclosure of, and the refusal to disclose, information under such section on research and development of pesticides and pest control methods; and

(F) the extent to which the refusal to disclose information under this section has reduced the capacity of scientists to make accurate determinations with respect to any adverse effects of a pesticide on health and the environment; and

(2) shall submit to the Commission on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report, not later than 2 years after the date of the enactment of this Act, stating its—

(A) findings with respect to the matters described in paragraph (1); and

(B) any legislative and administrative recommendations based on such findings.

Page 74, strike out line 1 and all that follows through line 23 on page 84.

By Mr. GLICKMAN:

—On page 53, delete all after the word "violation" on line 4 through the word "violation" on line 7.

By Mr. SMITH of Alabama:

—Delete the period after the word "farmworkers"

On page 71, line 14 add the following: "and members of their families including their unborn children from the moment of conception who are exposed to pesticides. The Congress hereby further finds and declares that it is a fundamental principle of American law to recognize and affirm the intrinsic value of all human life and that each human life exists from conception and that the administrator shall carefully consider the intrinsic value of all human life in considering the safe use of pesticides."

By Mr. BARNES:

—Page 84, after line 23, insert the following new section:

REPORT ON IMPACT OF RESTRICTIONS ON DISCLOSURE OF CERTAIN INFORMATION TO FOREIGN GOVERNMENTS

SEC. 18. (a) Not later than 300 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall publish a document in the Federal Register which contains proposed findings and conclusions of the Administrator with respect to the following:

(1) The nature and extent of the impact which the prohibition imposed by section 10(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act on disclosure of information described in paragraphs (1)(A), (1)(B), (1)(C), and (3) of section 10(d) of such Act to foreign governments and international organizations of countries has on the Administrator's ability—

(A) to obtain information from such governments and organizations which is necessary to effectively carry out the Administra-

tor's responsibilities under such Act, especially the Administrator's responsibilities with respect to protecting humans and the environment from unreasonable adverse effects of pesticides; and

(B) to cooperate with such governments and organizations with respect to the development of pesticide research and regulations.

(2) The willingness of persons associated with the pesticide industry to disclose, or to consent to the disclosure of, such information to such governments and organizations in cases in which such disclosure is necessary to protect humans and the environment from unreasonable adverse effects of pesticides.

(b) During the 60-day period beginning on the date of the publication of the document described in subsection (a), the Administrator of the Environmental Protection Agency shall allow interested persons to submit written comments with respect to the proposed findings and conclusions contained in such document.

(c) Not later than 30 days after the end of the period described in subsection (b), the Administrator of the Environmental Protection Agency, after considering any comments submitted under such subsection, shall submit to the President of the Senate and to the Speaker of the House of Representatives a report containing final findings and conclusions of the Administrator with respect to the matters specified in subsection (a).

H.R. 5595

By Mr. PARRIS:

—Page 2, line 8, insert ". Of any funds appropriated for the fiscal year ending on September 30, 1983, under the authorization contained in this section, not less than \$14,300,000 must be paid to the District of Columbia Retirement Board to eliminate any deficits in the District of Columbia Teachers' Retirement Fund and the District of Columbia Police Officers and Fire Fighters' Retirement Fund" after "the sum of \$361,000,000".

H.R. 6046

By Mr. ZABLOCKI:

—Page 12, strike out line 7 and all that follows through line 13 on page 13 and insert in lieu thereof the following:

"(2) For the purposes of this section, a political offense does not include—

"(A) an offense within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft (signed at The Hague on December 16, 1970);

"(B) an offense within the scope of the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (signed at Montreal on September 23, 1971);

"(C) a serious offense involving an attack against the life, physical integrity, or liberty of internationally protected persons (as defined in section 1116 of this title), including diplomatic agents;

"(D) an offense with respect to which a multilateral treaty obligates the United States to either extradite or prosecute a person accused of the offense;

"(E) an offense that consists of the manufacture, importation, distribution, or sale of narcotics or dangerous drugs;

"(F) rape; or

"(G) an attempt or conspiracy to commit an offense described in subparagraphs (A) through (F) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"(3) For the purposes of this section, a political offense, except in extraordinary circumstances, does not include—

"(A) an offense that consists of homicide, assault with intent to commit serious bodily injury, kidnapping, the taking of a hostage, or a serious unlawful detention;

"(B) an offense involving the use of a firearm (as such term is defined in section 921 of this title) if such use endangers a person other than the offender; or

"(C) an attempt or conspiracy to commit an offense described in subparagraph (A) or (B) of this paragraph, or participation as an accomplice of a person who commits, attempts, or conspires to commit such an offense.

"Page 13, line 14, strike out "(3)" and insert in lieu thereof "(4)".

—Page 13, immediately after line 23, insert the following:

"(C) In determining the application of subparagraphs (A) and (B) of this paragraph, the Secretary of State shall consult with the appropriate Bureaus and Offices of the Department of State, including the Bureau of Human Rights and Humanitarian Affairs.

—Page 18, at the end of line 18, insert the following: "The Secretary of State, in ordering the surrender of a person extraditable under this chapter, shall make every effort to ensure that the requesting state will comply with relevant international law, including international law relating to the protection of human rights."

H.R. 6100

By Mr. HAGEDORN:

—Page 28, line 16, strike out "All" and insert in lieu thereof "(a) Except as provided in subsection (b), all".

Page 29, after line 5, insert the following:

(b) If, on any portion of a project assisted by the Secretary under this Act, the lowest bid on construction work, not based on paying wages in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), is at least 10 percent less than the lowest bid based on paying wages for such work in accordance with such Act, and the bid of the contractor or subcontractor whose bid, not based on paying wages in accordance with such Act, is accepted, subsection (a) of this section shall not apply to such construction work.

H.R. 6214

By Mr. PATTERSON:

—Page 24, after line 22, add the following new section:

PROHIBITION ON CONSTRUCTION OF HOUSING UNITS AT LOS ALAMITOS ARMED FORCES RESERVE CENTER

SEC. 206. None of the housing units authorized by section 204(c) to be constructed for the Long Beach Naval Station, Long Beach, California, may be constructed at the Los Alamitos Armed Forces Reserve Center, Los Alamitos, California.

By Mr. DELLUMS:

—Page 29, strike out lines 13, 14 and 15.

—Page 29, line 15, strike out "\$103,000,000" and insert in lieu thereof the following: "\$36,700,000".

By Mr. HARKIN:

—At the end of the bill add the following new section:

RESTRICTION ON CONSTRUCTION OF AIR FIELDS IN HONDURAS

SEC. 806. None of the funds appropriated pursuant to an authorization contained in

this Act may be obligated or expended to improve, expand, extend, acquire, construct, convert, rehabilitate, or install a permanent or temporary air field or air base (including any facility in connection with an air field or air base) in Honduras.

H.R. 6308

By Mr. MATSUI:

(To the amendment in the nature of a substitute.)

—Page 2, lines 3 and 4, strike out “amended by adding at the end a new subsection as follows:” and insert in lieu thereof the following:

amended—

(1) by amending subsection (h)(1) to read as follows:

“(h)(1)(A) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue initial rules, regulations, orders, and standards as may be necessary to insure that the construction, maintenance, and operation of railroad passenger equipment maximize safety to rail passengers. The Secretary shall, as a part of such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary.”;

(2) by redesignating subsection (h)(2) as subsection (h)(1)(B);

(3) by striking out “subsection” in subsection (h)(1)(B), as redesignated by paragraph (2) of this section, and inserting in lieu thereof “paragraph”;

(4) by inserting after subsection (h)(1)(B), as so redesignated, a new paragraph as follows:

“(2) The Secretary shall, within two years after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue initial rules, regulations, orders, and standards as may be necessary to require initial and periodic subsequent training of on-board railroad operating and service personnel in evacuation procedures and the use of emergency equipment. The Secretary shall, as a part of such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary.”;

(5) by redesignating subsection (h)(4) as subsection (h)(5);

(6) by inserting after subsection (h)(3) a new paragraph as follows:

“(4) The Secretary shall submit to the Congress a report—

“(A) within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under paragraph (1) of this subsection, and

“(B) within two years after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under paragraph (2) of this subsection,

which describes any rules, regulations, orders, and standards issued or to be issued under this subsection, explains the reasons for their issuance, and compares them to comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration.”; and

(7) by adding at the end a new subsection as follows:

H.R. 6324

By Mrs. SMITH of Nebraska:

—At the end of title II, add the following new section:

Sec. 205. (a) The Secretary of Commerce (hereinafter in this section referred to as the “Secretary”), at least 60 days before making a determination as to the necessity for the closing or consolidation of any Weather Service Office (whether such determination is made pursuant to the plan described in section 2204(3) or is made without regard to such plan), shall provide adequate public notice of his intention to make such a determination in order to ensure that all persons served by such Office will have an adequate opportunity to present their views.

(b)(1) The Secretary, in deciding whether or not to close or consolidate a Weather Service Office, shall take fully into account any views expressed by persons served by such Office during the 60-day period described in subsection (a), and shall specifically consider—

(A) the effect of such closing or consolidation on the community served by such Weather Service Office;

(B) the effect of such closing or consolidation on employees of the National Weather Service employed at such Office;

(C) the economic savings to the National Weather Service resulting from such closing or consolidation; and

(D) such other factors as the National Weather Service determines are necessary.

(2) In making a decision under paragraph (1) the Secretary may hold such hearings as he deems necessary.

(3) The Secretary shall compile a written record including or reflecting all views presented and information received or developed in the course of his consideration of the matters involved in making such a decision, whether or not hearings are held with respect thereto as authorized by paragraph

(2). The Secretary shall retain all written materials received or developed in the course of such consideration, for possible use by the Federal Committee for Meteorological Services and Supporting Research under subsection (e).

(c) Any decision of the Secretary to close or consolidate a Weather Service Office shall be in writing and shall set forth the findings of the Secretary with respect to the matters set forth in subparagraphs (A) through (D) of subsection (b)(1) along with a statement of the reasons for such findings and of the basis on which the decision was made. The Secretary's decision shall be made available to persons served by such Weather Service Office.

(d) The Secretary shall take no action to close or consolidate a Weather Service Office until 60 days after his written decision is made available to persons served by such Office as required by the last sentence of subsection (c).

(e) A decision of the Secretary to close or consolidate any Weather Service Office may be appealed by any person served by such Office to the Federal Committee for Meteorological Services and Supporting Research within thirty days after such decision is made available under the last sentence of subsection (c). The Committee shall review such decision on the basis of the record compiled by the Secretary under subsection (b)(3) in the making of such decision; and in the course of such review the Committee may obtain and inspect the written materials retained by the Secretary under the last sentence of subsection (b)(3). The Committee shall make a determination based upon such review no later than one hundred and twenty days after receiving any appeal under this subsection. The Committee shall set aside any such decision which is found to be—

(1) arbitrary, capricious, and abuse of discretion, or otherwise not in accordance with the law;

(2) without observance of procedure required by law; or

(3) unsupported by substantial evidence on the record.

The Committee may affirm the decision of the Secretary or order that the entire matter be returned for further consideration, but the Committee may not modify the decision. The Committee may suspend the effectiveness of the decision until the final disposition of the appeal (within the time prescribed by the third sentence of this subsection) in any case where the closing or consolidation involved might otherwise occur before the Committee's determination under this subsection can be made.

(f) Any determination or decision made by the Administrator of the National Oceanic and Atmospheric Administration with respect to the closing or consolidation of a Weather Service Office shall be considered for purposes of this section to have been made by the Secretary.

EXTENSIONS OF REMARKS

SPECIAL WARFARE ASSAULT CRAFT AND FORCES: AN INTERNATIONAL PERSPECTIVE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. McDONALD. Mr. Speaker, special warfare units of the United Kingdom played a crucial role in the British success in the Falklands. Since Vietnam, our own special warfare units have been reduced and little notice has been given to them, except for a brief flare of publicity over the ill-fated rescue attempt in Iran. David Fitzgerald, himself a former SEAL, has written an article on special warfare that appeared in *Military Technology* magazine for May 1982. In my view, this type of warfare needs more attention from our military leaders, and Mr. Fitzgerald's article provides a good forum for discussion of the naval aspects of special warfare. The article follows:

SPECIAL WARFARE ASSAULT CRAFT AND FORCES: AN INTERNATIONAL PERSPECTIVE
(By David Fitzgerald)

(America's war in Vietnam has increasingly been a topic for analysis among those scholars and analysts who are attempting to draw some conclusion from that unfortunate experience for future U.S. military operations, both with respect to strategy and tactics. Most of the military analysis to date has focused on the large issues such as the effectiveness of the pacification programs, the costs and benefits of Vietnamization or the utility of the bombing campaign in the north.)

Unaddressed as yet, however, have been some special military issues, one of which was dramatized by Francis Ford Coppola in "Apocalypse Now," an updated rendition of Joseph Conrad's classic *Heart of Darkness*, that is riverine warfare and special operations. While perhaps a sideshow of the major conflict, the U.S. devoted significant assets to controlling the Mekong River with somewhat greater success than in other areas of the war.

The American experience with riverine warfare in Vietnam is not so important as an aspect of that war, but it does hold some significance in that it would well reflect an important dimension of naval warfare in the future. Although the British fleet has been dispatched to the Falkland Islands in a naval exercise reminiscent of traditional naval missions, the British effort in the South Atlantic could well be the exception to the rule in the future. If, as seems likely, the majority of conflicts witnessed by the world during the next decade will be in those of irregular warfare and in areas of the globe defined as the Third World. Large scale naval encounters of the World War II variety, let alone Trafalgar, will not occur. The most likely will be the use of smaller, unconventional naval forces in specialized

roles. During the last decade, technology has combined with geopolitical change, such as a new law of the sea regime, to propel a proliferation of missile-armed fast patrol craft around the globe. For the most part, these vessels are used for routine patrol activities. In some cases, however, small naval craft are being developed for specialized tasks that, in some military confrontations in the Third World especially, could spell the difference between naval success and failure. It is this Special Warfare and its implications for naval technology that the remainder of this essay is addressed.

Special Warfare is a limited, but dangerous, activity. Those trained for Naval Special Warfare are highly motivated and prepared for unconventional military actions in and near hostile waters to reconnoiter and clear beaches, blow up bridges, attach mines by swimmer attack to docked ships in enemy areas, and generally conduct direct highly sensitive missions against an unsuspecting enemy. Most usually they are organized into underwater demolition teams as frogmen or, in the U.S. case at least, into SEAL (Sea-Air-Land) Teams.

It is important to understand what Special Warfare is not. By Special Warfare, one is not referring to amphibious assault, the capability for forcible entry into hostile areas from the sea by large numbers of marines. Amphibious assault remains an important naval mission and an amphibious capability is a vital component for any navy seeking the ability to project power. It differs from Special Warfare, however, in that the goal of an amphibious assault is often the direct defeat of enemy forces whereas the goal of Special Warfare differs significantly. Special Warfare is often designed to have an indirect impact by disrupting the enemy's ability to conduct military operations through attacks on his logistical pipeline and political and military infrastructure. Amphibious assault is frequently straightforward; Special Warfare often uses deception and capitalizes on unique intelligence, equipment, and experienced personnel. The difference can be seen in alternative plans that have been put forward for the British recapture of the Falkland Islands. Some have suggested an over-the-beach assault by British marines to defeat entrenched Argentine troops. Others have suggested first inserting special commando squads of royal marines at night which could engage in special operations to disrupt Argentine capabilities prior to a British assault.

Special Warfare must also be distinguished from the new tasks imposed on maritime forces as a consequence of the changing maritime environment flowing from the establishment of 12-mile territorial waters, 200-mile Exclusive Economic Zones and so on. Many countries of the world have procured or are procuring a variety of small attack craft to protect their newly found maritime resources from encroachment. There is also concern in some countries, especially in the Third World, that they need some capability to protect themselves against power projection by superpower navies or neighbors with relatively strong naval capabilities. Consequently, the small craft that are being procured are often

equipped with a relatively significant destructive capability in their surface-to-surface missiles. These craft, however, are not usually conceived to be employed in the rather specialized tasks associated with Special Warfare.

The number of navies that actually design or can adapt vessels for Special Warfare is actually quite small. Not surprisingly, they are navies of nations with considerable naval capabilities across the board, that are concerned with the projection of naval power, and/or that have the industrial resources that can be devoted to such a specialized task.

THE UNITED STATES

In many ways, the United States has been the leader in conceptualizing the requirements for Special Warfare from the naval perspective. Since its experience in Vietnam, in particular, the U.S. Navy has explored alternatives for the conduct of these specialized tasks.

The American experience has been based in part on its use of the PBR (Patrol Boat River) that was first introduced into Southeast Asia in 1966. Designed for high speed patrol of rivers in hotly contested areas, the PBR was heavily armed and crew areas were given additional protection with ceramic armor. Extremely maneuverable, the PBR combined a fiberglass reinforced hull with pump jet propulsion so that it could operate in shallow, debris-filled waters. In order to achieve maximum patrol, guidepost and insertion capabilities the PBR was equipped with engine silencing and limited radar. They were often used to support SEAL Team operations which required a craft for effective insertion and extraction in enemy controlled areas of interest.

The United States built more than 500 PBRs between 1967 and 1973, attesting to its ruggedness, versatility and popularity. Most of the boats were subsequently transferred to South Vietnam with a few sent to Thailand. The Thais continue to use them for duty on the Mekong River. In Vietnam, however, the PBRs, totaling almost 300, are listed as "non-operational."

A second important development by the U.S. Navy was the PB (Patrol Boat) series, the MK I version of which was constructed by Sewart Seacraft of Beswick, Louisiana. The MK III was constructed by Peterson Builders in Sturgeon Bay, Wisconsin.

The 65-foot PB was designed to be a high speed weapons platform for naval inshore warfare (NIW) forces. Using a modular design concept, the PB represents an extremely flexible platform that could be used for a number of missions, especially in rivers, harbors and coastal environments, although open sea performance would also not be ruled out. Initial missions for which the craft was designed included patrol, surveillance, interdiction, fire support against targets both ashore and afloat and insertion extraction of NIW units. Future mission capabilities that were considered possible when the craft was designed included ASW and mine-laying, detection of sweeping.

The main deck of the all-aluminum craft was reinforced to provide the capability for these additional tasks once the appropriate hardware systems became available. Other

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

design features worthy of note are the low silhouette, low radar cross section and low acoustic noise levels to avoid detection and reasonable stability in heavy seas that, together with good communication and radar capabilities, allows for all weather, day or night operations. It is interesting to note that in moving from the MK I to MK III version, the pilot house was offset to starboard to provide additional space for weapons on the port side, thereby further enhancing the craft's flexibility.

A third vessel produced by the United States with applicability in Special Warfare operations is the MINI Armored Troop Carrier (ATC). As the PB, the MINI is constructed of an all-aluminum hull with a low silhouette for difficult detection (made even more so by the craft's extreme quiet). As the earlier PBR, it is equipped with ceramic armor and pump jet propulsion. In addition to making the ACT effective in shallow waters laden with debris, the propulsion system also allows for effective beaching operations. This is especially important for the MINI since it is designed to transport 15 combat equipped troops. It could also carry frogmen swimmers or SEALs, or, in lieu of troops, 4400 pounds of cargo.

Like the PB and PBR, the MINI's mission is high speed patrol and interdiction in rivers, harbors and protected coastal areas. Its unique feature, obviously, is an assault capability for these restricted areas. The MINI would likely be less than totally effective in a traditional amphibious assault operation given its small size (36 feet, 15 tons displacement). In restricted environments, however, it could well fill an important need for the U.S. Navy, which currently has 22 ATCs in its inventory.

The newest American vessel contributing to the naval dimension of special warfare is the SEAFOX, developed after the Chief of Naval Operations advised in 1975 of the need for a craft especially for Special Warfare missions. Specifications that developed following the CNO's statement defined requirements for a craft that was to be small and light so as to be air-transportable, liftable by standard Navy davits and transportable over highways on its own trailer. At the same time, it had to be large enough to carry at least 10 frogmen or SEALs with their equipment, carry sufficient fuel for an endurance of 200 nautical miles at speeds in excess of 30 knots and be equipped with a wide range of electronics including radar, a variety of communications equipment, IFF, depth sounders and ESM. Additional requirements were the ability to operate at high speeds in sea state 3 and low detectability (that translates into low heat signature and radar signature as well as quiet engines).

SEAFOX, the first of which was undergoing final testing in late 1981, has yet to prove conclusively that it can meet these rigorous requirements. Nevertheless, it can meet its design reflects a variety of unique features making it especially suited to special warfare needs. Among these are the craft's dark grey finish to decrease detectability at night, a tailgate for frogmen egressing the stern when the craft is moving at high speeds, and easily folding canopies and removable hinged masts to facilitate transportability. The craft's size (36 feet, 13 ton displacement) should make it transportable by air.

SEAFOX has chalked up several "firsts" in its development. Among these are the fact that, in addition to being air-transportable, SEAFOX is the first naval craft to

apply an IFF system developed for aircraft, to use the latest DOD standard secure voice system and to install a new series of high reliability General Motors engines.

The SEAFOX represents the first major development in the area of light naval forces that could be applied to Special Warfare since 1976-1977 when the Navy phased out its other small craft, such as Assault Support Patrol Boats and Swimmer Support Craft. Clearly, the Navy does not apply to the development of this kind of capability as high a priority as it does to other missions.

Some critics contend that this position reflects an attitude held more generally throughout the services that Special Warfare is not receiving the attention it deserves since effective capabilities can be developed in areas of Special Warfare at limited costs. They argue that these capabilities could be particularly effective in Third World contingencies in which the conflict situation is often ambiguous and military confrontation likely to be limited in scope. Some key Reagan administration officials appear set on revitalizing Naval Special Warfare forces including Navy Secretary John Lehman. With the exception of Vietnam, the United States has yet to experience such a situation directly, with the exception of the hostage crisis in Iran in which naval power was rendered irrelevant. Nevertheless, the Falkland Islands crisis demonstrates that such contingencies could arise. In such a situation, the SEAFOX could prove to be a valuable addition to the American inventory.

THE SOVIET UNION

The Soviet Union has emerged during the last 15 years as a blue water Navy, prior to which its primary function was protection of the homeland and surrounding seas. As a consequence, the Soviet Union has not provided great evidence of paying great attention to the naval dimension of Special Warfare. However, they do understand the effectiveness and economy of highly trained naval KGB personnel who carry out sabotage and political operations. They often utilize the traditional means of covertly entering and leaving a target country. Within their inventory they do have some classes of vessels that could be used in support of special operations roles.

One such class is the ZHUK coastal patrol craft. First seen in 1976, these craft, of which 30 are in service in the Soviet Union, are manned primarily by the KGB. At 60 tons displacement, the ZHUK class is rather large for special warfare operations, although it is large enough for a complement of 17 men, but probably fewer if fully equipped. Nor is the ZHUK class designed for the insertion/extraction mission, although with two 14.5 mm guns and a 12.7 mm gun it has some armament for the interdiction role. The ZHUK has been a popular export item for Moscow which has sent it to at least 10 countries since 1976. These include Angola, Cuba, Iraq, Vietnam and both North and South Yemen among others.

Another Soviet light vessel that might be mentioned is the SHMEL class river patrol craft. Built between 1967 and 1974, the SHMEL class boats measure 92 feet and displace 80 tons fully laden. They are attached to the Black Sea and Pacific Fleets for riverine operations on the Danube, Amur and Ussuri Rivers. They are also part of the Soviet Navy's flotilla in the Caspian Sea.

Most of the other naval vessels of the Soviet Union usually classed as light forces

are well over 100 tons displacement, demonstrating that the Soviet Union defines its light forces more for the traditional role of coastal protection than any kind of Special Warfare role. The widespread distribution of the ZHUK class patrol boats around the world and the experience with the SHMEL suggests that in the future the Soviet Union could move in that direction, if only to fill out its naval capabilities.

Little is known about the Soviet irregular swimmer forces. However, training is thought to be comparable with that of their U.S. counterparts. Moscow appears particularly interested in this type of investment as they reportedly employ more than 200,000 military personnel in their Special Purpose forces under the KGB.

PEOPLE'S REPUBLIC OF CHINA

The Chinese experience has been similar to that of the Soviet Union's in that it has concentrated on the development of light naval forces. Unlike the Soviet Union, however, it has not enjoyed the resources to allow major expansion into blue water regions. Consequently, the Chinese Navy has perhaps the largest force of light craft in the world, operating almost 20 different classes of light vessels for fast attack coastal and river patrol. As with the Soviet Union, however, none were designed specifically for the specialized missions associated with Special Warfare. The four major classes of ships designed for riverine duties were built in the 1950's and 1960's and some are soon to be removed from service.

Over one third of the Peoples Republic of China's light craft are various types of the SHANGHAI class patrol boat. A conventional general purpose craft, the SHANGHAI class vessels are mainly intended for coastal patrol work. With combinations of 37 mm, 25 mm and 57 mm guns depending on the type, they carry a powerful complement of light weapons. Whether they could be used for Special Warfare missions beyond interdiction and fire against some select targets afloat or on shore remains an open question. The Chinese are known to have a frogman team which could be supported by various types of boats in the Chinese inventory depending upon the particular coastal mission.

ISRAEL

Given its unique military requirements and innovative strategy, it should not be surprising that Israel has produced a system that exhibits characteristics adaptable to Special Warfare missions. The DABUR class is a small (65 feet, 35 ton displacement) coastal patrol craft with an aluminum hull. Initially, twelve of the craft were built in the United States and the balance of the 37 now in service were produced by the RAMTA division of the Israeli Aircraft Industries. Deployed in both the Mediterranean and the Red Sea, the DABUR class boats have been praised for their good rough weather performance and the flexibility in armaments of which there are several variations. The DABUR can carry two 20 mm. guns or twin machine guns. It can also be equipped with two launchers for MK. 48 torpedoes or depth charges. Some reports also indicate that the vessel will be equipped with GABRIEL surface-to-surface missiles.

A particularly interesting feature of the DABUR class system is that it has been designed for overland transport, suggesting a flexibility in employment that dovetails with Israel's emphasis on exploiting the maximum from limited resources.

It should be noted that in 1978 Israel transferred 4 DABUR class vessels to Argentina. Israel has also been developing a somewhat larger version of the class and armed it with GABRIEL missiles. This DVORA class boat is 71 feet and 47 tons displacement. While it represents the smallest missile craft built thus far, its larger size and standard armaments limits its flexibility and potential for use in Special Warfare roles. Israeli special swimmer forces are an elite group of highly trained men who have perfected their warfare.

Special Warfare from the naval perspective is a narrowly defined mission which most navies of the world have little call to seek. As a consequence, few naval platforms are specifically designed to facilitate the performance of tasks associated with Special Warfare such as small landings in hostile territory of under circumstances intended to surprise the potential adversary. This is not to say that the myriad variety of patrol vessels and fast attack craft now in service with virtually all of the navies in the world could not be used for such missions should specific circumstances dictate the need. Perhaps they could, but unless they are used with great creativity, these vessels will not be as effective as craft, like the SEAFOX, designed specifically for that mission. It should not be surprising that in addition to the United States, which has had the resources to explore exploiting Special Warfare, one country that seems to have given some attention to the possibilities is Israel, a nation that has had to make up in innovative strategy and tactics what it lacks in resources and physical military power. The other is the Soviet Union. Special Warfare has been a neglected realm of military combat in the last decade. Perhaps we could learn a lesson from these two countries. ●

SCIENTISTS FROM 36 STATES SEEK ACID RAIN CONTROLS

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MOFFETT. Mr. Speaker, I insert for the RECORD a statement endorsed by 100 scientists from 36 States calling for acid rain controls. Their remarks are timely, particularly in light of the decision by the Commerce Committee to resume work on Clean Air Act legislation.

[News release of the National Wildlife Federation, June 28, 1982]

100 EXPERTS SUPPORT ACID RAIN CONTROLS, ACCORDING TO NATIONAL WILDLIFE FEDERATION— POSITION REFUTES ADMINISTRATION POLICY

100 acid rain scientists across the country say there's a need for immediate control of the pollutants that cause acid rain, according to the National Wildlife Federation, a leader in the ongoing debate over congressional reauthorization of the Clean Air Act.

The scientists have endorsed an NWF position statement which concludes that control of acid rain-causing pollutants is called for by existing scientific evidence.

The statement refutes the Reagan administration's stand on acid rain, which claims that further study is necessary before control measures can be designed and implemented.

"Our position statement, endorsed by so many scientists, lends important weight to our contention that most knowledgeable scientists consider the evidence in support of acid rain control to be ample and compelling," said Dr. Jay D. Hair, executive vice president of the NWF.

The NWF mailed the position statement to over 400 acid rain specialists in late May, seeking their endorsement. Ninety-three percent of those responding agreed to publicly identify with the statement. Of those who declined to sign the statement, many claimed to have a governmental affiliation that prevented them from taking a public stand that contradicted their employing agency. Only seven took issue with the statement's premise.

Scientists from the following states endorsed the NWF statement:

Arizona 1	New Hampshire 3
California 5	New Jersey 2
Colorado 3	New Mexico 1
Connecticut 3	New York 12
District of Columbia 1	North Carolina 4
Florida 5	Ohio 3
Georgia 2	Oregon 4
Idaho 2	Pennsylvania 4
Illinois 4	South Carolina 1
Indiana 1	Tennessee 1
Kansas 1	Texas 2
Kentucky 1	Utah 1
Maine 4	Vermont 1
Maryland 3	Virginia 4
Massachusetts 3	Washington 1
Michigan 4	West Virginia 1
Minnesota 3	Wisconsin 2
Mississippi 2	Wyoming 1

POSITION STATEMENT ON ACID DEPOSITION

Overwhelming circumstantial evidence indicates that the primary cause of acid precipitation in the eastern United States is fossil fuel emissions of sulfur and nitrogen oxides. As these emission products are transported by wind and air mass movements, they are further oxidized into acidifying compounds and hydrogen ions before falling back to earth in either wet or dry form.

Acid deposition stresses aquatic ecosystems, particularly poorly buffered ones, and can kill sensitive plant and animal populations, either directly or by creating food web imbalances. In addition, acid precipitation promotes the loss of soil nutrients and cations in a manner which may be irreversible. Leaching of ions from soils can be damaging to both the soil and to aquatic organisms. Acid deposition also destroys man-made materials by accelerating metal corrosion, by blistering painted surfaces, by destroying surface cohesion of sandstone and limestone, and by eroding statues and stone structures.

As has been concluded recently by two panels of acid rain specialists, slowing the rate of deterioration of sensitive freshwater ecosystems would require a reduction of 50 percent in deposited hydrogen ions (i.e., an achievement in precipitation pH levels to no lower than 4.6 to 4.7) (NAS, 1981) and a possible even greater reduction in wet sulfate deposition (U.S.-Canada Work Group I, 1982). Although uncertainties regarding the kinetics of atmospheric transformation processes make precise predictions impossible, it can be anticipated that a significant reduction in sulfur and nitrogen oxide emissions will produce significant (although perhaps not directly corresponding) reductions in acid deposition.

Accordingly, a plausible acid rain control strategy should seek to begin reducing emis-

sions of sulfur and nitrogen oxides—especially in the eastern U.S. where most sources and receptors are concentrated—by an amount on the order of 50 percent. Since control of sulfur dioxide and nitrogen oxide emissions from new electrical generating plants would be insufficient to accomplish this, restrictions on older plants must be considered.

Although gaps remain in our knowledge of acid precipitation and further research is needed to fill these gaps, we the undersigned scientists believe that what is already known about acid deposition justifies and requires immediate legislative steps to begin abating sulfur and nitrogen oxide emissions, particularly in the eastern half of the United States.

SCIENTIST SIGNERS OF ACID DEPOSITION STATEMENT

Professor Quintus Fernando, University of Arizona.

Bruce R. Appel, Group Leader, California Dept. of Health Atmospheric Research.

Professor Robert E. Connick, University of California.

John Harte, Senior Scientist at U.C. Berkeley.

C. Ray Thompson, Biochemist, University of California.

W. Williams, Petaluma, California's Black Apple Institute.

Jill Baron, Bellevue, Colorado.

John Heasley, systems Ecologist, Colorado State University.

Karl Zeller, FC-ERT-LSC, Fort Collins, Colorado.

Meredith Colket, III, Ph.D., United Technologies in Conn.

Thomas G. Siccama, Forest Ecologist, Yale at New Haven, Connecticut.

Hideo Okabe, Chemist, National Bureau of Standards.

Professor Robert S. Braman, University of South Florida.

Professor Patrick L. Brezonick, University of Florida at Gainesville.

Alistair C.D. Leslie, Oceanography, Florida State Univ., at Tallahassee.

Hans W. Rudolph, Project Manager, NASA at Kennedy Space Center, Fla.

Curtis R. Jackson, Assoc. Director, University of Georgia Experiment Station.

Professor Jack Winnick, Georgia Institute of Tech., at Atlanta.

Prof. Sherry O. Farwell (Chemistry), Univ. of Idaho at Moscow, Idaho.

Karl A. Gebhardt (State Hydrologist), Bureau of Land Management, Boise, Idaho.

Prof. William Buck, University of Ill., Urbana, Ill.

P.T. Cunningham, Chemical Engineering Division, Argonne National Laboratory, Illinois.

H. Sievering, Ph.D., Rickton Park, Ill.

John Stockham, Manager Fine Part. Res., 11T Research Institute at Chicago, Ill.

Orle Loucks, Science Director, The Institute of Ecology, Indianapolis, Ind.

Thomas W. Lester, Assoc. Professor, Kansas State Univ., Dept. of Nuclear Eng., Manhattan, Kansas.

Hugh T. Spencer, Sc.D., Professor of Env. Eng., Univ. of Louisville.

Samuel S. Butcher, Bowdoin College.

Ass't Prof. Chris. Cronan, University of Maine at Orono.

Professor Ronald B. Davis, University of Maine at Orono.

Stephen A. Norton, Chairman of Geographical Sciences, University of Maine at Orono.

Prof. John W. Winchester, Florida State University Oceanography Dept., Tallahassee, Florida.

Robert D. Conkright, Maryland Geological Survey at Baltimore.

Dr. Fred Davis, Meteorologist, National Weather Service, Baltimore, Maryland.

Charles L. Mulchi, Associate Prof., Univ. of Maryland Agronomy Dept., College Park, Maryland.

Lyle E. Craker, Assoc. Prof., UMASS at Amherst.

Professor William A. Feder, Univ. of Mass. at Waltham.

Professor Michael B. McElroy, Harvard University, Cambridge, Mass.

Prof. Paul O. Fromm, Phytology Dept., Michigan State Univ.

Prof. Stephen G. Shetron, Michigan Technological Univ., L'Anse-au-Loup, Michigan.

Douglas G. Sprugel (Ass't Prof.), Forestry Dept., Michigan State Univ.

Donald H. Stedman (Assoc. Prof.), Univ. of Michigan at Ann Arbor.

Steven J. Eisenreich (Assoc. Prof.), Univ. of Minn. at Minneapolis.

Kenneth E. F. Hokanson, Res. Biologist, U.S.E.P.A. at Monticello, Minnesota.

Prof. James A. Zischke (Biology), St. Olaf College, Northfield, Minnesota.

Prof. C.H. Kuo (Chemical Engineering), Mississippi State University.

William M. Vaughan, Vice-President, Environmental Measurements, Inc., University City, Miss.

Prof. Noye Johnson, Geo. Dept., Dartmouth College, Hanover, New Hampshire.

Charles F. Thoits, Chief, Inland Fisheries, New Hampshire Fish and Game, Concord, New Hampshire.

Prof. Ida Leon, Dept. of Plant Path., Cook College at New Brunswick, N.J.

Nathan M. Reiss, Dept. of Meteorology, Rutgers at New Brunswick, N.J.

John Trijonis, President, Sante Fe Research Corp., New Mex.

James K. Edzwald, Assoc. Prof. at Clarkson College, Potsdam, New York.

Michael Coughenour, Syracuse University, New York.

John E. Gannon, Assoc. Director, SUNY at Oswego, New York Res. Center.

Ronald J. Hall, Reserach Scientist, Cornell Univ. at Ithaca, New York.

George R. Hendrey, Environmental Sciences Groups, Brookhaven Nat'l Lab, Upton, N.Y.

Prof. Gene Likens, Cornell Univ. Ithaca, New York.

Richard H. Mandl, Assoc. Env. Biol., Cornell University, Ithaca, N.Y.

Dudley Raynal, Assoc. Prof., SUNY at Syracuse, New York.

Roy A. Schroeder, U.S. Geological Survey, Albany, New York.

Roger L. Tanner, Chemist, Brookhaven Nat'l Lab., New York.

Professor Dwight A. Webster, Cornell University at Ithaca, N.Y.

Roy T. Gorman, Env. Scientist, Raleigh, N.C.

Prof. Parker C. Reist, Univ. of N.C. at Chapel Hill.

Hugo H. Rogers, Assoc. Prof., N.C. State University at Raleigh.

Robert S. Wright, Env. Scien., Research Triangle Inst., Research Triangle Park, N.C.

Dean Patrick Dugan, Biological Sciences at Ohio St., Columbus, Ohio.

Professor David Nielson, Ohio Ag. Research Center, Wooster, Ohio.

William D. Ross, Monsanto Corp., Dayton, Ohio.

Ruth Fredricksen, USDA Forest Service, Corvallis, Oregon.

Arthur McKee, Instructor, Oregon State University, Blue River, Oregon.

James Pankow, Ass't Prof., Oregon Grad. Center, Beaverton, Ore.

Danny L. Rambo, Northrop Services, Inc., Corvallis, Oregon.

L. R. Archmoody, Northeastern Forest Exp. Stat., Warren, Pa.

Dr. John M. Skelly, Head, Penn. St. Plant Path. Dept.

Professor David Dewalle, Penn State Univ.

William F. Sharpe, Penn State Univ.

Prof. Ulysees S. Jones, Clemson University, Clemson, S.C.

Raymond C. Matthews, National Park Service, Gatlinburg, Tenn.

Dr. A. Rachel Laird, New Braunfels, Texas.

Ronald Matthews, Assistant Prof., University of TX, at Austin.

Prof. Gene L. Wooldridge, Utah State Univ. at Logan, Utah.

Prof. Richard Klein, University of Vermont at Burlington.

James Galloway, University of V.A. at Charlottesville.

Dale A. Furlong, V-P, ETS, Inc., Roanoke, Va.

Prof. J. L. Hudson, Chair, Dept. of Engineering, U.V.A., Charlottesville, Va.

Fred Ordway, Vice-President, Artech Corp., Falls Church, Va.

Halstead Harrison, Assoc. Prof., Univ. of Wash., at Seattle.

Anthony C. Tomkowski, Ass't Prof., West Va. University, Morgantown, W. Va.

Prof. T. T. Kozlowski, Biotron Director, Univ. of Wis., at Madison.

Prof. John Howatson, University of Wyoming at Laramie.

Lloyd A. Schairer, Bio. Dept., Brookhaven Nat'l Lab., Upton, New York.

Michael Steinmaus, Muscatine, Iowa.

J. H. Gibson, Ecology Lab, Colorado State at Fort Collins.

Bob Martini, DNR, Rhinelander, Wis.

Thomas B. Sheffy, Chair., Wis. Task Force on Acid Rain, Madison, Wis.●

McADORY WILL BE MISSED

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SHELBY. Mr. Speaker, I would like to share with my colleagues in the House of Representatives an editorial that appeared in the Independent Advertiser on Tuesday, July 27, 1982. The article written by the editorial board of the newspaper is a tribute to the late Louis McAdory.

It's difficult to say goodbye to a friend. But yesterday, Chilton County had to say goodbye to a real friend when Louis McAdory, retired air force colonel, was buried.

His obituary is located elsewhere in this edition. It contains the essentials that all obituaries should: his age, date of death, survivors and funeral arrangements. But it says very little about the man who spent his entire life in the service of his country.

For more than 30 years, that span three wars, Col. McAdory fought for his country. He could have retired earlier, but there was still a job to be done and he knew his duty to his country.

After retiring and moving to Chilton County, he began a new career. It was a

career of working long hours for no pay to help make this county a better place to live for everyone.

He worked day and night for the Chilton County Cattlemen's Association and has served the past several years as its president. He served on the state level as vice president of the Cattlemen's Association and has served the past several years as its president. He served on the state level as vice president of the Cattlemen's Association and treasurer of the Alabama Beef Cattle Improvement Association as well as president of the Central Alabama Feeder Calf Association.

He is immediate past president of the Chilton County Chamber of Commerce and was named Man of the Year in 1981 for his untiring efforts to improve the chamber and attract new jobs for the unemployed in this county.

In addition to the many organizations he served, he was willing to take on additional responsibilities when asked, no matter how busy he actually was.

He was a man who lived to serve, expecting nothing in return.

At the time of his death, he had offered his services again to the people of this county.

His hopes of becoming probate judge here were founded on the idea that he could help lead this county unselfishly into a new era where the government took an active, energetic role in attracting new jobs here. A goal that all candidates for that office would do well to adopt.

To say Col. Louis McAdory will be missed is not sufficient. Very few people in the recent history of this county have worked so hard for no pay just because he believed wholeheartedly in paying his civic rent.

He was a man that touched the lives of many thousands of people through his civic work. His efforts will continue to help people here for years to come.

Chilton Countians are fortunate that he chose to make this county his home. And now it is his final resting place. That is only proper for a man who did so much, for so many, for so little in return.

Mr. Speaker, not many people achieve the measure of admiration and respect that Louis McAdory enjoyed. He earned that admiration and respect because he genuinely cared about people and about the welfare of his community.

His life should serve as a memorial to him for all his time in Chilton County, for he truly devoted it to serving the people that he loved and cared for.

It is indeed an honor for me to share this tribute with my colleagues in the House of Representatives. He will be deeply missed by me and all others who were touched by his life.●

NEW FEDERALISM

HON. PETER A. PEYSER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. PEYSER. Mr. Speaker, homeowners of this country who have been faced with steadily increasing property

taxes are now sitting on a time bomb that is set to go off in the next 2 or 3 years unless we do something about it. The Reagan administration's proposed New Federalism will have the effect of increasing property taxes at the local level by at least 20 to 30 percent.

For 8 years before coming to the Congress, I served as mayor of a suburban community. I know firsthand what the loss of revenue sharing, highway, water and sewer moneys will do to local taxes. I also know what the Federal cuts in education will do to property taxes. These homeowners, who are the providers of most of our tax dollars at both the Federal and State levels, are going to be hit with outrageous and unfair increases.

In 1983, we must move to restore sanity to our tax program and utilize our Federal dollars to help local communities rather than hurt them. The Federal Government does have a role to play and can do it and still lower interest rates and decrease the national deficit. ●

A THOUGHT-PROVOKING COMMENTARY ON NUCLEAR NON-PROLIFERATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. LAGOMARSINO. Mr. Speaker, on August 3, the Subcommittees on International Economic Policy and Trade and International Security and Scientific Affairs held a hearing on proposals to amend the Nuclear Non-proliferation Act of 1978. Our colleague, the Honorable MARILYN L. BOUQUARD, appeared as a witness at that hearing offering some valuable insights into the issues facing the administrations and this Congress on the subject of nuclear nonproliferation.

I urge my colleagues to consider the thought-provoking comments of Mrs. BOUQUARD.

The statement follows:

PREPARED STATEMENT OF MARILYN L. BOUQUARD BEFORE THE SUBCOMMITTEE ON INTERNATIONAL SECURITY AND SCIENTIFIC AFFAIRS AND INTERNATIONAL ECONOMIC POLICY AND TRADE

Chairman Zablocki and Chairman Bingham, I want to thank you for the opportunity to testify before your Subcommittees this first day of the House Committee on Foreign Affairs' hearings to consider amending the Nuclear Non-Proliferation Act (NNPA) of 1978.

Undoubtedly, the most visible and controversial problem in the international nuclear power arena is that of weapons proliferation. The international market for trade in nuclear power facilities has become increasingly competitive, and a growing number of nations have active nuclear programs—some signatories of the Nuclear Proliferation Treaty (NPT) and some not. As we are all aware, controversy is particularly wide-

spread over the domestic development and international marketing of sensitive enrichment and reprocessing technologies and the breeder reactor.

The link between civilian nuclear power and nuclear weapons is an inescapable fact of nature because nuclear power reactors simultaneously generate heat, which is converted into electricity, and plutonium. It is this inevitable consequence of civilian nuclear power which causes much concern about proliferation—a concern we all share. In fact, I have just briefly recessed the first of two days of hearings on nuclear safeguards research and development in our Committee on Science and Technology. The Subcommittee on Energy Research and Production, which I chair, is hearing from DOE, ACDA, the Department of State, and NRC on this technology and its implementation.

While the aforementioned link is indeed of legitimate concern, it should be made clear that it is neither inevitable, nor even probable, that a nation's civilian nuclear power program will lead to a nuclear weapons program. Japan and West Germany are but two of a number of nations which have developed peaceful uses of the atom while renouncing all intentions of developing nuclear weapons even though it is clearly within their technical capability. This lack of inevitability of such a route to nuclear weapons development is also reinforced by examining the historical record.

No nation has yet developed nuclear weapons from materials diverted from a civilian nuclear powerplant. From 1945 to today, the 5 weapons states and India exploded nuclear devices while civilian nuclear power went from being nonexistent to well over 140,000 megawatts of capacity in 22 countries. In addition, for each of the five nuclear weapons states, the explosion of their first nuclear weapon preceded the operation of their first prototype commercial powerplant.

The historical record, then, does not suggest a casual relationship between the expansion of civilian nuclear power reactors and the development of nuclear weapons. The reason for this is basic economics. It is relatively simple, and quick to produce and extract nuclear weapons grade materials in small, specialized facilities. Constructing but one civilian nuclear power reactor, however, requires the expenditure of well over \$1 billion as well as a considerable amount of time to nurture and build a complex technological infrastructure.

While the historical record does give us comfort, we must not, of course, allow it to make us overly sanguine concerning the future. Clearly, we all agree that we should do what we can to minimize the risks of proliferation. Where we disagree, of course, is on the methods and techniques which should be employed to minimize these risks.

I have long been on the record as opposing the previous Administration's misguided and bankrupt approach to nuclear energy in general, and to nuclear nonproliferation in particular. President Carter's April 1977 decision to postpone indefinitely the commercial reprocessing of spent fuel in the United States and to propose to stop work on the Nation's breeder reactor at Clinch River has been accurately characterized by the famous French scientist, scholar, and statesman, Dr. Bertrand Goldschmidt, as an "extraordinary and unique act of self-mutilation." As Dr. Goldschmidt points out in his recently published masterpiece on the political history of nuclear energy entitled "The Atomic Complex:" "an already declining American nuclear industry was to become

paralyzed in two key sectors of future development, fuel reprocessing and breeder reactors, precisely the sectors in which the United States was already between 5 and 10 years behind the Soviet Union and western Europe, in particular, France."

The Carter administration's unfortunate approach to nonproliferation was totally counterproductive. It stimulated a proliferation of nuclear suppliers worldwide while simultaneously causing us to lose significant nuclear export business and lessening our ability to influence the nuclear policy of other nations. This message has been reinforced time and time again to me during my discussions with leaders of other nations with active nuclear programs. In particular, I wanted to share with you the comments I received during discussions I participated in during June 1981 with officials in Spain, Denmark, Finland, the United Kingdom, and France. I summarized the major findings and recommendations of my trip report in a letter to President Reagan in July 1981. With your permission I would like to append this letter to my prepared remarks today and briefly note the views of the Spanish and the United Kingdom officials. Spanish officials were left in a state of quiet rage as a result of their treatment by the Carter administration in terms of nuclear nonproliferation policy. They felt that the United States had effectively blackmailed them into adopting retroactive measures with respect to their nuclear program and as a result they went to the Soviet Union and other suppliers for nuclear fuel enrichment services.

United Kingdom officials felt that the Carter nonproliferation policy convinced many nations that they could not rely on the United States. They urged that the United States distinguish between potentially real proliferation offenders and those who wish to pursue civilian nuclear power programs—a position which I wholeheartedly endorse. I believe that if this Nation is to maintain a major leadership role in the nuclear proliferation arena in the years ahead, we must adopt a genuinely selective approach which distinguishes between our friends and real proliferation risks. Cooperation, not denial, should be the main thrust of our nonproliferation policy.

Unfortunately, the NNPA enshrined into law too much of the Carter approach, based on the faulty premise that other nations would remain dependent indefinitely on U.S. nuclear assistance. A nonproliferation strategy emphasizing technology denial which reduces confidence among importing states about access to nuclear materials and services will undoubtedly speed the development abroad of indigenous fuel cycle capabilities, including reprocessing. The NNPA, while well-meaning, is flawed and in need of improvement.

I would like to conclude my remarks with what I propose should be done. As I stated earlier, I believe that the main thrust of our nonproliferation policy should be cooperation, not denial. I would recommend that the NNPA be amended to incorporate this principle by ending its retroactive effect and substituting the presumption that cooperation with the other nations should continue as long as there has been no change in the proliferation risk. I would further recommend that programmatic approvals take the place of case by case exercise of U.S. consent rights regarding transfers of spent fuel. I also believe that we must pursue vigorously the internationalization of reprocessing and waste management to discourage the

further development of indigenous national programs. Further, we must do all we can to strengthen the international safeguards system. Finally, we must as a nation, recognize our obligations under article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and vigorously pursue serious strategic arms control negotiations. Moderation of vertical proliferation would aid greatly in our efforts to control horizontal proliferation.

I believe this set of recommendations amounts to a sensible approach. Thank you very much, Mr. Chairman, for this opportunity to express my views.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 15, 1981.

The President,
The White House,
Washington, D.C.

MR. PRESIDENT: I have just returned from an oversight trip during which I had discussions on international energy issues in Spain, Denmark, Finland, the United Kingdom, and France. My particular interest in these discussions was nuclear energy development and, more specifically, the question of U.S. nuclear nonproliferation policy. As you know, I have concluded that the Carter Administration's unfortunate approach to nonproliferation was counterproductive such that it caused a proliferation of nuclear suppliers worldwide and resulted not only in the loss of significant U.S. nuclear export business but also a lessening of the related ability of our country to influence the nuclear policy of other nations.

As you might expect, of the nations we visited those most interested in the prospects for change in U.S. nuclear nonproliferation policy were Spain and the United Kingdom. I carried with me the April letter from Under Secretary Buckley which responded to my own query as to what we could expect in terms of a shift in U.S. policy. I can assure you that Mr. Buckley's statement, "... we plan to support rather than interfere with the nuclear programs of our key allies and to focus our nonproliferation efforts on countries of real proliferation concern," was well received and seemed to provide a basis for some assurance among our friends that the unfortunate policy of recent years will be turned around. I urge you to make a statement on nonproliferation policy at the earliest possible date to begin the process of recovering the reputation of the United States as a reliable supplier with genuine concerns about nuclear weapons control.

I have attached the major nuclear findings and recommendations of my trip report which will be sent to the whole House of Representatives next month.

As you can see, if Europe is a microcosm of such views there is a positive international climate for you to make a policy pronouncement. However, its implementation will require, as the British noted, "extreme statesmanship" on your part.

I would respectfully request the opportunity to discuss these matters in detail with you and I am looking forward to working with, Mr. Buckley, and Mr. Malone in reshaping U.S. policy and its implementation. I hope that the Foreign Affairs Committees in the House and Senate will not use the events of recent weeks as a basis for suggesting an arbitrary and counterproductive tightening of export controls for nuclear shipments to our friends as well as any potential weapons threats. I hope we shall

have the opportunity to achieve a genuinely selective approach which distinguishes between our friends and such real proliferation risks as Pakistan and Iraq.

Sincerely,

MARILYN L. BOUQUARD,
Chairman, Subcommittee on Energy
Research and Production. ●

REMARKS OF ARIEL MELCHIOR, SR., AT THE COMMENCEMENT EXERCISES OF THE COLLEGE OF THE VIRGIN ISLANDS

HON. CHARLES B. RANGEL

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Tuesday, August 10, 1982

● MR. RANGEL. Mr. Speaker, I want to bring to the attention of my colleagues the remarks of Ariel Melchior, the former publisher and owner of the Virgin Island Daily News, made at the recent commencement exercises of the College of the Virgin Islands. Mr. Melchior's remarks review the history and progress of the College of the Virgin Islands from its inception in 1962 as a 2-year college to its full accreditation as a 4-year institution of higher learning.

The College of the Virgin Islands has served as a cornerstone for the education of the young people of the islands, many of whom have gone on to participate in the developing economy of the islands.

Mr. Melchior's words serve as an inspiration to the graduating class of 1982, and I believe, deserve to be brought to my colleagues' attention for a better understanding of the Virgin Islands.

The text of Mr. Melchior's remarks follows:

COMMENCEMENT ADDRESS BY ARIEL MELCHIOR, SR.

Dr. Arthur A. Richards, Acting Governor Henry Millin, Honorable Elmo Roebuck, members of the Board of Trustees, Members of the Faculty and Administrative staff, graduating seniors, their parents, their relatives and all other members of our beloved Virgin Islands community, good evening.

I am deeply honored to have this opportunity to address the 1982 graduating class of the College of the Virgin Islands.

Since it opened its doors in 1963, this college has been a reservoir of hope for young men and women from the Virgin Islands and from across the Caribbean who have come here eager and thirsting for knowledge and academic excellence. The College of the Virgin Islands has met their needs and met them well.

When it began, and the first student walked this campus, the college was only a two year institution. But with expanding programs and increasing numbers of students, it quickly developed into a thorough four year scholastic program. Today, it is one of the premier institutions of its type in the Caribbean and in the nation.

Under the leadership of its first president, Dr. Lawrence Wanlass and its current president, Dr. Arthur A. Richards, the college of

the Virgin Islands has brought disciplined and devoted higher education to these shores. In its brief life, it has made an earnest contribution to our community.

It has been like a fountain, each year providing our community with fresh young minds, possessing new and exciting ideas. It has stood for academic excellence and intellectual honesty and maturity. It has played and will continue to play a most vital and vibrant role here.

The college has provided us with scholars when we most needed them; vision when it was required; and it has served as a cultural center, enriching our lives through theater, concerts and art exhibits.

(Its significance and importance has been recognized by the Congress of the United States. As Dr. Richards mentioned earlier, the college has been identified by federal authorities in Washington as a seat of learning. Young men and women from the Eastern Caribbean will be coming here for cultural, technical, and scientific training. This will be a major step in the life of the college and in the life of the entire Caribbean.)

We have needed this institution, and as we move further into the 1980's, we shall need it, and the quality graduates that it will provide even more.

The role that the College of the Virgin Islands will continue to play will require greater financial support from both the public and private sector.

We must make a greater financial investment in this institution. We must see to it that its monetary resources are increased and that its fiscal future is made more secure. The consequences of failing to do so could have a retarding effect on its growth.

Yes, during the last two decades, we have progressed. Of course, we have had our share of problems, but imagine for just one moment where we might be today without the presence of the College of the Virgin Islands in this community.

Graduates of the class of 1982, today in the Virgin Islands, we stand at a critical point in our development, requiring a choice between irreconcilable courses.

We stand at a political crossroad. We stand at an economic crossroad. We stand at a spiritual crossroad.

Our community is deeply troubled. It is searching for its soul. We seem to be in the midst of chaos and misunderstanding. As a people we are indifferent towards one another and the plights of our neighbors.

As we walk the streets, we can see a look of hopelessness and despair of the faces of many of our young people.

They seem to be without purpose or a reason for living. Some of them have declared that they have little or no faith in this society, their society.

They are our lifeline to the future, but large numbers of them have turned against us. They have become embittered, frustrated, and angry. We must remember that when we look at them, we are looking at ourselves.

They stand at the crossroads with us, side by side. Their fate is interwoven with the very fabric of a society that we cherish, one that we love and one which must endure.

As a community, our fate, a collective fate, is in our own hands and only a common belief in the goodness of our people, and the sacredness of our ideals will keep us from coming apart.

We find people asking themselves, in despair, why should I live through this misery. We find people asking themselves why

should I contribute to a community when so few seem to care.

But we must remember the words of the noted French philosopher, Albert Camus, who once said that the very purpose of life, itself, was to bring about change. And change we must bring about here; not later, but now; not tomorrow, but today; not with complacency, but with compassion and determination.

And even though we stand at a crossroad and our future appears uncertain, we must remember and acknowledge that our very existence we owe to those who came before us, those who shaped this society and to whom we owe a tremendous debt.

Yes, our ancestors before us stood at crossroads. They survived because they had the will to maintain a sense of themselves. They moved forward because they addressed their problems honestly. They endured because they refused to bow to the pressures of a confused society, nor to the greed that temps all men and all women in life.

During the Great Depression, when we stood at what seemed to be the very abyss of life, we pulled together. We pulled together as young and old, we pulled together regardless of race, we pulled together as people—people who had very little in the way of material goods, but who had an abundance of heart and a desire to strengthen and maintain the Virgin Islands. We pulled together then, and because of that effort we are here today.

Some might say that is is unfair to the class of 1982 to present them with a society that appears so bleak and where there is little apparent hope. I disagree! There is hope, the future is not bleak. We shall endure, but first we must recognize and understand that we stand at crossroads.

The class of 1982 did not create the myriad of problems that we are faced with today. You are innocent by-standers, who, if you chose to, can walk away from it all, and live lives of relative comfort. But we know that you choose to be concerned.

Let you are misinformed, having a college degree does not mean that this community of which you are a part owes you something. Let me tell you here and now, it owes you nothing! It has provided you with an opportunity to excel in your chosen fields of endeavour, use that opportunity wisely.

Your obligation is to support your alma mater so that others who will follow you will enjoy the same advantages that you enjoy today.

The times that we live in call for young men and women who will confront the dilemmas that face this community. It is most important that you not become part of the problem, but you must become architects of the solutions.

Sitting here today are young men and women, who, if they have the will and vision, will feed the needs that we have. This class will be called upon to share its wealth of information not only with these islands, but with the region and the world.

From this class will come the leaders of tomorrow in science, engineering, medicine, law, art, agronomy, and writing.

From this class must not only come scholars but men and women of high personal integrity with a strong commitment to social justice and respect for law. Keep in mind that every right you enjoy carries with it a corresponding obligation.

To put it frankly, we need you and we need you desperately. And you will find that despite the level of your education, you will need those whom you will serve.

You will need them for moral support, you will need them for spiritual support, you will need them as allies as we all face the crossroads together.

Do not be afraid to go it alone when those around you are pursuing their fantasies. This class must not forsake the righteous cause.

This class must not stand silently on the sidelines of life while the vast majority of the less fortunate of our people are being battered about in their daily struggle to survive in an environment in which the prices of the basic necessities for living are unreasonable and unaffordable.

You must help us in our search for answers. More than one-third of our population lives in substandard and unfit housing.

We will need your expertise in the area of housing development. What we have now is inadequate. The answer, and I think that you will agree with me, is not in high-rise institutionalized apartments, but in sufficient individualized dwellings where people can develop a sense of family and a sense of pride and build their lives around a home they love and cherish.

Additionally, we cannot afford to close our eyes to the fact that there are racial tensions in this community and they are mounting daily.

There is a direct relationship between those tensions and the economic imbalance that exists here. If there is going to be sustained progress, all levels of our society must share in that progress.

Unfortunately, the resources of our growth do not seem to be distributed reasonably. Therein, lies one of the many causes for discontent. It is a situation that we all know exists and to which we should all address ourselves with candor.

Is it any wonder that many of us are confused, bewildered, frustrated and angry, given such a situation. We live in constant fear. People are afraid to walk the streets at night and murders and assaults are committed in broad daylight with impunity.

We have retreated to our homes and our businesses, and even there we are not able to enjoy the safety and comforts that flow from life.

Yes, we are troubled. Yes, the waters are not still. There are divisions between factions, between classes, between races. There are even divisions over ideas and directions. Leadership is lacking. All is not well.

However, this is not a time for us to throw our hands up in the air. It is a time for us to come together and work towards viable and practical solutions.

We must learn to grow our own food, and become self-sustaining. If the state of Israel can grow food in the desert for its own consumption, certainly we can grow food in this land of plentiful green foliage.

The same methods that were used in that hardened desert can be used here. The same type of expertise that was applied there can be applied here. But first we must begin to think in bold terms.

As a community of Islands, we must find new ways to determine our own destiny. We must not allow ourselves to be held hostage to the economic contingencies that we do not control.

There is every reason that we should be looking forward to, and planning for the day when we produce, here, many of the things that we now import.

It is hoped that many of you will decide to serve in positions of leadership in government, business, religion, education, and other fields.

The people who assume these roles must command the public trust. If they are going to represent us, they must be people of dignity, honesty, unselfishness and courage. They must be above scheming and petty bickering, they must deport themselves in an exemplary manner, discharge their sworn duty with efficiency, decorum, dedication and sincerity of purpose. They must conduct the people's business in no less a manner than they would conduct their own. They must lead, follow or get out of the way.

It is no secret that selfishness, greed, lawlessness, and wide spread disrespect are symptoms of a society that is not totally well. A society begins to deteriorate when the people leave their futures to chance and to fate.

This class, the class of 1982, must reach for new heights. It must establish formidable goals. Its members must reject deception. Each of you must give fresh meaning to life. It will not be any easy task, but for us, with our meager resources, it has never been easy.

At this crossroad, we must make an investment in our futures and the futures of those who are still unborn.

Currently, we are mortgaging the lives of future generations of Virgin Islanders to pay for the ego trips that a power hungry leadership is enjoying today.

The economic philosophy, which is in vogue today, can only lead to disaster. We must stop living beyond our means and halt the fraudulent practice of writing bad checks that the next generation will be called upon to honor. You should be concerned about this situation.

The class of 1982 can help turn things around. It must think and act in bold and daring terms. None of you can afford to be indifferent to the presence of crime just as you cannot afford to accept waste, dishonesty, and corruption in government as a way of life.

As individuals you must be self-reliant. You must be firm yet compassionate. You must be willing to endure pain when necessary and make sacrifices for the good of the community when called upon to do so.

Your formal educations will be tested each day of your lives. Do not give up. Rekindle the sparks of determination with new vigor and even greater conviction.

Remember always the great sacrifices that some of your parents and loved ones made so that you might attend school. Remember that some of them scrubbed floors and worked tirelessly so that you could receive an education.

Remember that they sometimes worked an extra job so that you could buy books, and that without them this moment would not have been possible.

You are our hope! We need you now more than ever! Together we stand at the crossroad. Together we shall confront the irreconcilable courses and together we shall go forward.

Each of you must consider what you can do for the Virgin Islands in return for what the Virgin Islands has done for you. If you are diligent and faithful, time and events will record your contributions.

It is my personal conviction that if you set standards in your life, consistent with the high standards that the college has set in its twenty year history, you shall not fail and consequently, we shall not fail.

I leave you this evening with this final thought. Live your lives in such a manner that in the twilight of your years, when all

is said and done, you may look back on your life with pride and a sense of satisfaction.

Give of yourselves each day for the betterment of the Virgin Islands. Help make it the land in which you want to live and raise a family. Inspire other generations. Leave a legacy that they will want to pass on to their children.

God bless each and every one of you. May you realize your dreams. May your accomplishments be many and may you come to know the real joy of living!

Thank you.●

BRIGHTON BEACH BATHS CELEBRATES 75 YEARS OF SERVICE TO BROOKLYN FAMILIES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SOLARZ. Mr. Speaker, this month in my district in Brooklyn, a community institution, the Brighton Beach Baths, will celebrate its 75th year of operation as a family-centered recreational facility.

In 1907 the Brighton Beach Baths began as a beach club. Then situated in the wilds of Brooklyn on 30 acres of land, it has survived and flourished as a recreational oasis in the now highly urbanized Brighton Beach section of New York City. Its membership of 6,000 probably makes it one of the largest beach clubs in the country.

The baths, as it is fondly known, has served as a home away from home to literally millions of people over the years. Some of its members have belonged to the club for over 60 years, and it is a common sight to see families spanning three and four generations enjoying its lovely open spaces, salt water air, and unsurpassed recreational facilities and programs. Open 10 months a year, the baths offers dancing, entertainment, sports, nursery, and day camp programs in addition to swimming in three pools.

The baths is ably managed by Hy Cohen, a remarkable and energetic man, who has seen to it over the years that the baths plays an active role in the civic and charitable activities of the area. Hy has made the baths accessible to numerous organizations for fundraising activities and opened its doors to provide much needed recreational opportunities for organizations like the Vacations and Community Services to the Blind, so that they could provide several days or recreation activities for the elderly blind in the community. The baths has hosted field days for children from local public schools, provided free medical screening to its members and even hosted State of Israel bond rallies.

The baths has been an integral part of the shore front community for the past 75 years and is indeed a community institution of which we can all be proud. Today I would like to take the

opportunity to salute the baths, its exceptional management, staff, and above all, its wonderful members who have made it such a marvelous place to visit and a source of enjoyment for literally thousands and thousands of New Yorkers.●

SOVIET PRISONERS FOR GAS PIPELINE

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. McDONALD. Mr. Speaker, the question of forced-labor utilization in the construction of the Yamal pipeline has again arisen. This time the question came up in West Germany. It will be recalled that I mentioned this matter in the CONGRESSIONAL RECORD Of July 13, 1982, pages 16054 and 16055. The London Daily Telegraph of August 1, 1982, states information reaching Bonn, Germany, is that an estimated 100,000 political prisoners are working on the U.S.S.R. pipeline. Perhaps this news of forced-labor participation in the project will give pause to those Germans who are rushing to make money and not thinking about the other aspects of this matter. France has instructed its Moscow Embassy to inquire about the use of slave labor on the pipeline also, according to the Wall Street Journal of August 9, 1982. The two news items follow:

[From the Sunday Telegraph, Aug. 1, 1982]

SOVIET PRISONERS "FOR GAS PIPELINE"

(By Michael Farr in Bonn)

West German conservative MPs are pressing for a Bonn investigation into claims that Russia was putting tens of thousands of political prisoners to work on the controversial Siberian-West European natural gas pipeline.

One Christian Democratic MP, Herr Heinz Landre, said that the International Society for Human Rights has estimated that 100,000 Russian prisoners sentenced to terms of hard labour were working on the construction of the 3,500-mile pipeline, which has been strongly opposed by President Reagan.

Herr Landre said the prisoners, the majority of whom were serving terms for political or religious reasons, were being housed in primitive conditions in railway stock.

He urged West German politicians, bankers and businessmen involved in the multi-million project—billed the largest-ever between East and West—to take these facts into account.

APPEAL TO SCHMIDT

In answer to a question from another Christian Democrat, MP, Frau Ingeborg Hoffman, the Bonn Foreign Ministry said it has not yet been able to find out definitely whether and how many political prisoners may have been put to work on the pipeline.

The Frankfurt-based human rights society said recently that civil rights activists in the Soviet Union had informed the group that the prisoners were being forced to work on the pipeline in appalling conditions.

The society said it was appealing to Chancellor Schmidt to end West German involvement in the project because of the Russian use of forced labour.

But with West German companies winning contracts for pipeline worth millions of pounds and several thousand German jobs at stake, Bonn has remained firmly committed to the deal despite American disapproval.

[From the Wall Street Journal, Aug. 9, 1982]

FRANCE PROBES REPORTS INVOLVING SLAVE LABOR ON SIBERIAN PIPELINE

PARIS—France said it has instructed its Moscow embassy to investigate reports that the Soviet natural gas pipeline to Western Europe is being built with slave labor.

The International Association for Human Rights, based in West Germany, previously had warned European countries involved in the controversial project that tens of thousands of Soviet political prisoners had been pressed into slave gangs to work on the mammoth project.

The humanitarian organization has issued a list of political prisoners who, it asserted, were forced to work on the pipeline. They included dissident psychiatrist Semyon Gluzman and Ukrainian writer Zinovi Krasinski.●

RAY FITZGERALD: FONDLY REMEMBERED, SORELY MISSED

HON. ANTHONY TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MOFFETT. Mr. Speaker, although I never met Ray Fitzgerald, I feel as though I knew him well. And, I know that he had a positive effect on me during many of my formative years.

As a sports-minded young person in Suffield, Conn., I read the Springfield, Mass. Union, a morning newspaper. Ray Fitzgerald was their main sports writer.

He kept me interested in sports, perhaps kept me thinking more positively than I might have otherwise.

I feel good about those years. And, I feel good about what Ray Fitzgerald contributed to many of us in those years. More recently, I have read his columns in the Boston Globe. I have looked forward to them.

To the end, Ray Fitzgerald remained a breath of fresh air.

We will miss him greatly, even those of us who did not have the honor of knowing him personally.

The article follows:

[From the Boston Globe, August 4, 1982]

RAY FITZGERALD, AT 55 . . . WONDERFUL WRITER AND MAN

(By Neil Singelais)

Globe sports columnist Ray Fitzgerald died early yesterday in Brigham and Women's Hospital in Boston after a long illness. He was 55.

During the last 16 years, the words of Ray Fitzgerald had been a fixture on the sports pages of The Globe, to which he came from

the Westfield Advertiser, in 1966. He covered virtually every sport for The Globe in that time, writing with versatility when assigned to report events and, later, with a special flair and wit when, upon the retirement of the veteran columnist Harold Kaese in 1975, he moved into the lead columnist's chair.

Said Globe sports editor Vince Doria of Mr. Fitzgerald: "Anyone who has read The Globe sports pages over the years knows what a wonderful writer Ray Fitzgerald was. He was an equally wonderful man. He was a tremendous talent, yet he never let ego get in the way. He couldn't say no to anyone. If an aspiring journalism student sought his advice, Ray would make time for that student. At the end of a bad day, you could always stop by Ray's desk, where his humor would remind you that things could be worse. I'll miss his writing greatly, but I'll miss his friendship more."

Mr. Fitzgerald came to the Globe in 1966, at the invitation of sports editor Jerry Nason, with an assist from Ernie Roberts. Roberts now executive sports editor, was rejoining The Globe that spring after six years in the Dartmouth College athletic department.

"I was still in Hanover when I received a call one morning from Nason," Roberts recalled. "Do you know a writer in Springfield named Fitzgerald? He's interested in a job with us, preferably with your afternoon sports page," said Nason.

"Sign Ray on as fast as possible," I answered. "Fitz is not only an exceptional writer but an outstanding person and asset to any paper." We both arrived the same day and found The Globe closed by a strike. "Figured," said Ray with his crooked grin. "It's April Fool's Day."

Mr. Fitzgerald's desk always drew a crowd when he was in the office. He had both humor and modesty, an unusual parlay among prominent columnists. He also had an Irish temper, most apparent when one of his lefthanded tee shots would fly into the woods at Marshfield. On vintage Fitzgerald days his lefthanded driver shortly would follow the golf ball.

Ray Fitzgerald made a habit of winning the Massachusetts Sportswriter of the Year Award, taking down the honor an unprecedented 11 times in balloting by sportswriters throughout the state.

But what set Mr. Fitzgerald apart from most of his colleagues was his ability to laugh at himself. No crusader, he lived and worked to entertain his readers while regarding himself as "just another working stiff in The Globe's sandbox."

To copy editors, all Ray Fitzgerald copy was a dream, something to be enjoyed, not worked over.

Mr. Fitzgerald was widely recognized as a master of the quick quip and the one-liner. He possessed the rare ability to apply a gentle but inoffensive needle, still he didn't hesitate to spice the humor with a dash of satire when the situation required it.

Mr. Fitzgerald's tongue-in-cheek humor never failed him. When asked several years ago to fill out a biographical sketch, his answer to a question about activities in public or social service was: "Borrowing money from the South Shore National Bank to pay for kids in college." Another blank sought information on "Miscellaneous Facts." He scribbled, "Constantly broke."

After joining The Globe's staff, Mr. Fitzgerald covered the Red Sox, Celtics and Patriots until he became a fulltime columnist in 1975. He began his newspaper career as a

writer with the Schenectady Union-Star, working there from 1949 to 1951. He then took a public relations job with the General Electric Co. for two years before resuming his journalistic career with the Springfield Union in 1953. In 1965, he left the Springfield paper to become part owner of the Westfield Advertiser, but he left that job a short time later to come to The Globe.

A graduate of Westfield High School in 1944, Mr. Fitzgerald excelled there in three sports—baseball, basketball and football. In baseball, Mr. Fitzgerald starred as a left handed pitcher-first baseman. In basketball, he attracted attention as a good-shooting guard. And in football, he did a fine job as a defensive end. His baseball ability earned for him a scholarship to Notre Dame. He was graduated from there in 1949.

In the immediate post-Notre Dame years, he and his wife, Barbara, concentrated on raising their lively family of two boys and two girls. A voracious reader, he put aside time for the books which, when money and time were so precious, filled his need to learn as much as he could about the world. In later years, when the young Fitzgeralds had gone their own ways, Ray and Barbara hit the road often, touring Ireland several times and visiting classical sites in Greece. Relaxation meant activity for Mr. Fitzgerald; a standout bowler and golfer through the years, he visited the lanes and the links often with family and friends.

Still, baseball remained his first love. In the 1950s, he played professionally for two years with Brattleboro in the Northern League before hanging up the spikes for good. Or so he thought. Some 10 years later, while he was working for the Springfield Union, the urge returned and he joined the semipro Holyoke Allies of the Two-County League for a brief time. In his first mound appearance he went the distance, and won.

His athletic talents surely were inherited in great part from his father, Raymond Fitzgerald, a minor league power hitter in the 1920s who played for teams in the Eastern and International Leagues. The elder Fitzgerald also played pro basketball during that era in the Interstate League.

Springfield (Mass.) Union executive sports editor Garry Brown, who for many years worked alongside Mr. Fitzgerald, said he remembers the late Globe columnists as "a good humor guy. We never had anyone here with such a wit. He was so enjoyable to be with."

Mr. Fitzgerald leaves his wife, Barbara S. (Gray); two sons, Kevin, of Boston, and Michael Fitzgerald of Quincy; two daughters, Karen Murphy of Southwick, and Dr. Eileen Fitzgerald of Clinton, Ark.; a brother, John; two sisters Marie Gallo and Claire Case; and his mother, Katherine (Halloran) Fitzgerald, all of Westfield; and a grandson.

A funeral Mass will be said Friday at 9 a.m. in St. Francis of Assisi Church, South Braintree. Graveside services will be held at 2 p.m. Friday in St. Mary's Cemetery, Westfield. ●

SENATE JOINT RESOLUTION 58

HON. RICHARD C. SHELBY

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SHELBY. Mr. Speaker, I wish to congratulate the Senate for favorably voting on Senate Joint Resolu-

tion 58, the balanced budget/tax limitation constitutional amendment.

It is encouraging that two-thirds of the U.S. Senate rose above partisanship and agreed to this historic resolution. Democrats and Republicans joining together have made a solemn commitment to the American people that deficit spending must end.

It is imperative that the House move swiftly to bring the balanced budget/tax limitation amendment to the floor for full and fair debate. The Representatives of the American people have an obligation to act promptly on Senate Joint Resolution 350. This bipartisan issue affecting all Americans must be given a fair hearing by Representatives of all the people. ●

NEW EXTRADITION LEGISLATION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. EDGAR. Mr. Speaker, I would like to call to the attention of my colleagues some excerpts from an analysis of new extradition legislation prepared by a group concerned about the rights of Filipino dissidents in the United States. In light of the fact that we will be considering the new bill—H.R. 6046—in the House soon, and in light of the upcoming visit of Philippines President Marcos, I believe that this information is valuable. Members should also be aware of the relationship of this legislation with the United States-Philippine Extradition Treaty pending in the Senate.

NATIONAL COMMITTEE TO OPPOSE THE U.S.-PHILIPPINE EXTRADITION TREATY

THE STRUGGLE AGAINST REPRESSIVE EXTRADITION LEGISLATION: THE NEW PHASE

A brief study of the origins, purposes, and provisions of the bill shows, that it carries substantial threats to constitutional rights and traditional judicial protections.

The push to revise U.S. extradition law began in 1979 and was initially sparked by the legal difficulties faced by the Carter State Department in extraditing three individuals that it was under heavy pressure to return: the Irishmen Peter McMullen and Desmond Mackin and the Arab Ziad Abu-Eain.

In May 1979, a U.S. court ruled that McMullen, a member of the Irish Republican Army (IRA) was not extraditable to Great Britain because the crime for which he was sought—assaulting British troops—was a political offense, and proceeded to grant him political asylum. More recently, Desmond Mackin, another member of the IRA, was also declared non-extraditable after a magistrate took extensive evidence on political conditions in Northern Ireland and upheld Mackin's claim that the wounding of a British soldier was a relative political offense.

Frustrated by these appeals to the political offense exception, the State Department threw all its resources at preventing Ziad

from doing the same. Its tactic was to paint the young Palestinian—who was dubiously linked to a bombing incident in the West Bank in the twice recanted testimony of an alleged accomplice—as a “terrorist” and deny any political motivation or political context for the alleged offense. While it was successful in winning Ziad’s extradition to Israel, the State Department was nevertheless frustrated by the fact that it took more than two years for the judicial process to yield Ziad.

How H.R. 6046 makes extradition law more repressive

An even cursory examination of H.R. 6046 reveals that beneath the liberal rhetoric, there is a radical move away from traditional U.S. extradition practice.

First, it contains a very restrictive definition of the political offense exception. Under the Hughes Bill, only “pure” political offenses like treason would qualify for the exception. “Relative” political offenses—that is, crimes of violence committed in connection with a political objective—are to be treated as common crimes. All such offenses would thus be extraditable, except under “extraordinary circumstances.”

This constitutes a dangerous abridgement of the political offense exception, which has been traditionally regarded as one of the virtues of U.S. extradition law. To give an indication of how profoundly illiberal the proposed restriction is, it should be pointed out that the House Bill would make extraditable nearly all the important leaders of liberation movements in the last 200 years—persons like George Washington, William Connolly of Ireland, Garibaldi of Italy, Simon Bolivar of Latin America, Bernardo O’Higgins of Chile, Jose Marti of Cuba, Andres Bonifacio of the Philippines, to name but a few. Elimination of the concept of relative political offense institutionalizes a bias against members of freedom and independence movements—movements which almost invariably involve widespread violence against repressive regimes.

H.R. 6046 and the U.S.-Philippine Extradition Treaty

With the likely passage of H.R. 6046, the State Department is now floating the line that the U.S. Philippines Extradition Treaty—with the Hughes Bill’s key provision incorporated into it—is now acceptable. As Rep. Hughes has recently revealed, “The Administration has indicated to me informally that in the event that the House version of the Extradition Reform Act passes that the proposed extradition treaty with the Philippines will not be submitted until the decisionmaking authority on the political offense question has been changed to preserve the vote of the Courts.”

However, the reality we are in fact confronted with is that H.R. 6046, though reserving nominal authority over the exception for the courts, virtually emasculates it by severely restricting its application. This makes it all the more imperative, then, to oppose the ratification of the Philippine Treaty and other treaties—particularly those with repressive regimes, since their application will be guided by new laws which shall have essentially obliterated a traditional and vital keystone of U.S. extradition practice.

More important, however, the opposition to the U.S.-Philippine Extradition Treaty has never been solely—or even principally—based on the issue of who has jurisdiction over the political offense exception. A more vital concern has been the fact that it is po-

litically unethical to have an extradition agreement with a regime which has no independent judiciary and whose judicial proceedings amount to no more than kangaroo courts employed to condemn political dissenters—a fact documented by Amnesty International, the International Commission of Jurists, the Task Force for Detainees, and other human rights agencies.

The rationale for this concern as been aptly put by Republican Congressman James Jeffords of Vermont:

Traditionally, the U.S. has negotiated extradition treaties with foreign governments that apply their laws in an equitable and consistent manner. If we did not, we would create a repressive environment in our own country for those persons who want to express openly a dissatisfaction with their country of origin.●

PRESERVE HEALTH AND NUTRITIONAL ASPECTS OF THE WIC PROGRAM

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MILLER of California. Mr. Speaker, I am introducing legislation to protect one of our most effective programs, the special supplemental feeding program for women, infants and children—WIC—from an assault by the U.S. Department of Agriculture. Sixty-two of my colleagues have joined me in seeking to maintain the WIC program’s proven success.

No one in this Congress will forget USDA’s planned alchemy to convert ketchup into a vegetable in school meal programs. This year, the same administration is considering a new proposal to weaken safeguards for low-income pregnant women and infants at risk of retardation and birth defects.

The administration’s proposals would erode the high-protein food package which supplements the diet of 2.2 million vulnerable pregnant, postpartum and breast-feeding women, infants and children who have been certified by health professionals to be at nutritional risk.

Why should we tamper with, or possibly undermine, such a tremendously successful program? The successes and cost-effectiveness of the WIC program have been amply documented by reputable governmental and private studies.

Last year, the Massachusetts State Health Department completed a study of 12,000 WIC participants which showed that the WIC program significantly decreases the mortality rate of newborns by increasing infant birthweight. Low birthweight is currently the eighth leading cause of death in the United States. A low birthweight infant is 20 times more likely to die than a normal birthweight infant.

This large-scale study follows others which have indicated the savings

reaped by the WIC program. A 1979 Harvard University School of Public Health study demonstrated that every dollar spent on WIC’s prenatal component alone results in a savings of \$3 in averted medical costs for low birthweight babies. Treating low birthweight after birth is three times more expensive than preventing it through WIC.

The U.S. Department of Agriculture, which is now suggesting that we severely alter the WIC diet, has itself estimated a \$450-million savings in averted hospital care required to bring low birthweight babies up to normal weight in fiscal year 1980 alone. USDA further estimated that, at WIC’s fiscal year 1980 program level, the Federal savings in medicaid, SSI, and special education would be approximately \$260 million. If the program reached all eligible pregnant women, the Federal savings in aid programs would reach \$600 million to \$1.2 billion.

Why does this administration insist upon tampering with these repeatedly proven successes? To please selected segments of the food industry?

My resolution requires that, before proposing changes in the WIC food package, the Secretary of Agriculture make a finding that the proposed changes will be beneficial to the health and nutritional status of WIC participants. This finding, together with supporting evidence, must be submitted to the Congress before any such changes are made.

We in Congress cannot afford to sit idly by and watch the erosion of the WIC program by administrative fiat. Senator Hubert Humphrey and I wrote the legislation to extend this program in 1975 in response to testimony from the March of Dimes and other health groups that this country had the knowledge and skills to prevent retardation and birth defects. We now have evaluations of WIC which show clear and dramatic results in improving children’s chances for healthy development, saving lives and saving money. The WIC program represents one of those rare moments in the Congress when we design something to respond to a serious problem in the country, and the program actually works in solving the problem. In fact, its successes have far exceeded even our best hopes.

I urge you to join me in cosponsoring legislation to preserve and continue the health and nutritional benefits of the WIC program, and to send a message to the USDA that Congress will not stand for unnecessary and destructive tampering with this proven, cost-effective program.

H.J. RES. 567

Joint resolution concerning changes in regulations for the special supplemental food program for women, infants, and children of the Child Nutrition Act of 1966

Whereas the Special Supplemental Food Program for Women, Infants, and Children (WIC) was created to prevent occurrence of health problems and improve the health status of pregnant, post-partum and breast-feeding women, infants and young children from families with inadequate income who are at special risk to their physical and mental health by reason of inadequate nutrition or health care, or both;

Whereas repeated evaluations of the WIC program by the United States Department of Agriculture, the Center for Disease Control, State public health departments and university schools of medicine and public health have demonstrated that participation in the WIC program has decreased infant mortality rates, decreased the incidence of low birth-weight babies (low birth-weight is directly associated with increased deafness, blindness and retardation), and decreased the incidence of anemia;

Whereas cost-benefit analysis has proved that the WIC program is one of the most effective programs initiated by the Federal Government;

Whereas the Secretary of Agriculture placed in effect regulations which meet the goals of that program, the implementation date for which has been delayed until December 31, 1982; and

Whereas the Secretary of Agriculture has under consideration changes in regulations for the WIC program which would not contribute to improving the health status of WIC participants: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States in Congress assembled, That:

SECTION 1. The Secretary of Agriculture may not place in effect any rule pursuant to Section 17 of the Child Nutrition Act of 1966 which would not maintain or enhance the nutritional integrity of the supplemental foods made available under the Special Supplemental Food Program for Women, Infants and Children of the Child Nutrition Act of 1966.

SEC. 2. (a) The Secretary of Agriculture shall make a finding that any changes subsequent to enactment of this resolution in rules governing supplemental foods provided to WIC participants shall be beneficial to the nutritional status of those participants; and

(b) Such finding, and any supporting documentation, made pursuant to subsection (a) shall be submitted to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate at least 14 days prior to issuance of proposed rules in the Federal Register.

SEC. 3. The Secretary of Agriculture shall implement the rule effective on November 12, 1980, concerning supplemental foods made available under the Special Supplemental Food Program for Women, Infants and Children (WIC), no later than December 31, 1982.

COSPONSORS FOR "WIC RESOLUTION"

Mr. Barnes, Mr. Bedell, Mr. Beilenson, Mr. Biaggi, Mr. Bingham, Mrs. Boggs, Mr. Boland, Mr. Bonior of Michigan, Mr. Brodhead, Mr. John L. Burton, Mr. Corrada, Mr. Dellums, Mr. Downey, Mr. Edgar, Mr. Edwards of California, Mr. Fauntroy, Ms. Ferraro, Mr. Foglietta, Mr. Ford of Tennessee,

Mr. Ford of Michigan, Mr. Frank, Mr. Guarini, Mr. Harkin, and Mr. Hoyer,

Also, Mr. Hughes, Mr. Kastenmeier, Mrs. Kennelly, Mr. Kildee, Mr. Lantos, Mr. Lehman, Mr. Lowry of Washington, Mr. McDade, Mr. McHugh, Mr. Matsui, Ms. Mikulski, Mr. Mineta, Mr. Moffett, Mr. Oberstar, Mr. Ottinger, Mr. Patterson, Mr. Pepper, Mr. Perkins, Mr. Peyser, Mr. Richmond, Mr. Rodino, and Mr. Roybal,

Also, Mr. Scheuer, Mrs. Schneider, Mrs. Schroeder, Mr. Shamansky, Mr. Simon, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Studds, Mr. Vento, Mr. Walgren, Mr. Washington, Mr. Weiss, Mr. Wirth, Mr. Wyden, and Mr. Yates.●

AN UNWARRANTED PATENT STRETCH

HON. ALBERT GORE, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GORE. Mr. Speaker, the following editorial from the New York Times of August 7, 1982, provides a forceful argument against H.R. 6444, the patent-term extension legislation. I commend it to the attention of my colleagues in the House.

AN UNWARRANTED PATENT STRETCH

The pharmaceutical industry is about to receive an extraordinary favor from Congress: the right to extend the patent protection of new drugs up to seven years beyond the conventional period of 17. Congress has let itself be persuaded, after a hasty review, that the extension is fair and will foster innovation. But the drug industry's case is dubious.

Its chief premise is that extension will restore the time unfairly lost from patent life by having to prove to the Government that new drugs are safe and effective. But the testing of drugs in animal and clinical trials is something that any responsible company would wish to do anyway.

Besides, the complaints gloss over the common practice of "evergreening"—filing a patent application early, so as to beat any rival, but then filing new applications that modify or extend the original to postpone the time at which patent life actually starts.

For example, the original patent for the tranquilizer Valium was first filed in 1959 and gained the Food and Drug Administration's market approval in 1963. But because of a series of renewed applications, as well as a rival claim, the patent was not issued until 1968. When it expires in 1985, the drug will have enjoyed 22 years of protection.

The eight best-selling drugs in the United States in 1980 enjoyed an exceedingly healthy average patent life of 15.1 years, according to statistics kept at the Office of Technology Assessment. Even when a brand-name drug comes off patent, companies can still protect its market share by advertising; one study of off-patent drugs showed that half retained a 97 percent market share against companies selling the identical chemical under different names.

The industry contends that effective patent life time has been dropping, from 14 years for pre-1965 patents to 10 years or less for those now being issued. But the law did not intend to guarantee every inventor a clear 17 years of market monopoly. Many inventions, not just drugs, enjoy less patent

protection because of obstacles on the path to market. The drug companies complain that Government delays hold them back. But the bills that have passed both Senate and House committees grant an extension that goes far beyond any delay attributable to Government review.

The companies also contend that reduced patent life has discouraged investment in research and development. But figures from the technology assessment office show that the industry's investment in R & D has increased every year from 1965 to 1978, and has remained a strikingly constant percentage of sales. There is no proof that the windfall profits from a patent extension would in fact be plowed back into research. Even if research were in decline, Congress has many other means, like tax incentives to reverse it.

The pharmaceutical industry is efficient, profitable and healthy. It has no demonstrable need for any special break. The patent system as a whole may need reform, but that is a different issue. Monopoly rights should not be doled out to anyone with a hard-luck story, as Congress seems to believe. The proposed extension is unjustified, unsuited to the stated purpose of increasing research and offensive to the basic principle of a free economy.●

JOB TRAINING PARTNERSHIP ACT

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 4, 1982

● Mr. DAUB. Madam Chairman, unemployment—the Nation's most serious domestic problem—is draining our human potential and devastating the lives of millions of Americans. The Job Training Partnership Act which we have passed in the House of Representatives provides a new approach to this national problem. Years of Federal involvement and billions of dollars have not noticeably affected chronic unemployment. This does not mean that we cannot affect it; it simply means that our efforts to date have failed and it is time for a change. The Job Training Partnership Act embodies that change.

On September 30, the CETA manpower and training program will expire. Passage of this new legislation, H.R. 5320, represents a profound effort to eliminate what went wrong with CETA and to maintain the subprograms which succeeded. This legislation is truly a job training measure, not a public works job creation bill for local governments. A program that focuses on short-term placement of people in dead-end jobs is of less value to the individual and society than one that takes somewhat longer, but prepares the individual for jobs with a future.

The principles and values in the Job Training Partnership Act first represent a new trust in the decisions of local and State officeholders, and less

Federal involvement. Although we could have gone even further in this regard; this increased recognition in the abilities of local officials to define their own local problems and local needs is itself a long-needed improvement. In the past, local governmental units have been responsible for developing employment programs for their labor market areas without a great deal of coordination at the State level. Very little was done to develop linkages between local prime sponsors within the State; to develop a comprehensive plan to match available workers with available jobs in other parts of the State, and to retain skilled workers who have been displaced because of changing conditions in the economy.

Second, they represent a new trust in the contributions which local businessmen and women can make in this effort. Eighty-five percent of available jobs are in the private sector, and private employers already are spending \$40 to \$100 billion annually on training activities. The House of Representatives has used this opportunity to enlarge the role played by private enterprise and enlist the experienced executives who expend these dollars from the very start. The improvement of skills and abilities of our labor force is an enormous task—a task in which many sectors of our economy must play an active role. The primary role, by necessity, belongs to private enterprise and Congress must insure that Government policies do not inhibit private investment training. Since the intended outcome of training is in fact an unsubsidized job in the private sector, it is time that we involve these employers in decisions which will be meaningful to them and to our national economy years from now.

Third, they represent a recognition of the fact that our Nation's educational system can also be an effective partner in the effort to help our young people become employable. In June 1982, youth unemployment was at 19.2 percent, with black unemployment at 52.6 percent. To allow these statistics to go unnoticed would be to continue to relegate an entire generation to low productivity and dependency on the Federal system. We can make these young people productive, as I am convinced they want to be, only if we invest in them. Educational assistance is one way and job training is another. A country which invests in its human capital will yield tremendous rewards in terms of increased economic benefits. And, rather than create new, separate institutions for training, existing educational institutions can play an important role. From a local perspective, I have been well aware of a local community college, Metropolitan Community Technical College, which is actively seeking the challenge to fill this need. Vocational

education leaders in Nebraska have been to my offices telling me that they are willing and wanting to contribute in this partnership. The Job Training Partnership Act involves the education community, and I look forward to their input.

Fourth, it represents less tolerance for those who are feeding at the Federal trough, and more compassion for those who truly want to be trained for future, nonsubsidized, private employment.

Fifth, it represents a Federal program which finally is results oriented, rather than procedure oriented. Accountability is built right into the legislation. Performance standards will be set up. A program's effectiveness will be measured by the increase in earnings, the reductions in cash welfare payments or the placement of participants in private employment.

And sixth, it represents the knowledge that huge administrative overheads will no longer be tolerated by this Congress. We have restricted the percentage of Federal funds which can be utilized for this purpose to assure that the moneys get funneled for the purpose for which the program is intended—job training of disadvantaged and displaced workers.

The Job Training Partnership Act represents a new kind of Federal program; one that gives Americans a handup, rather than a handout. It represents the faith we should have in local officials and local business leaders in solving local problems, and it holds them accountable to do what they say they will do. Although further steps at improvement could still be taken, I am confident that this marks the beginning of a better, more humane approach to the serious problem of unemployment in America.●

PROVIDING VISION FOR GOVERNMENT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BROWN of California. Mr. Speaker, the need for governments to anticipate crises is universally accepted. In traditional national security planning, that is, military planning, we spend hundreds of billions of dollars for future contingencies that we hope will never happen. But for intelligence gathering or prevention of the causes of war we spend a pittance.

There are ways to improve our vision and provide the tools for seeing future problems. U.S. policymakers need these tools if they are to make intelligent judgments about the future. Unfortunately, the Reagan administration seems determined to reverse the process begun in previous administra-

tions to improve U.S. capabilities to understand and act on global resource problems.

I am pleased that some Members of Congress are acting in spite of the attitude of the administration. Our colleague from Massachusetts, Mr. MAVEROUKES, has introduced a House concurrent resolution which would address some of these issues, including the need for foresight in the management of national resources. Similar legislation has been introduced in the other body.

As the following essay by Dr. Russell Peterson, one of the leading advocates of a Global 2000 perspective, describes, we can hardly act too soon.

The article follows:

[From the Christian Science Monitor, July 29, 1982]

SEEING TOMORROW'S WORLD TODAY

(By Russell W. Peterson)

In this day and age, it is inexcusable that the US federal government does not have an organized and coordinated "foresight capability" to aid policymakers in understanding the global population, resource, and environmental trends that shape the world in which we exist.

The United States and its leaders are beset by crises which cannot be understood, much less resolved, without an appreciation of their causes beyond our borders and their consequences beyond the next decade or even the next election. Yet, if anything, since the "Global 2000 Report to the President" two years ago first documented the federal government's lack of foresight capability, the situation has deteriorated.

In its simplest terms, foresight capability is a matter of sound data, coordinated projections of global trends, analysis of their interactions, and informed policymaking. Based on the work of the 13 federal agencies and departments which went into the preparation of "Global 2000," the Council on Environmental Quality (CEQ) and the State Department concluded that "the executive agencies of the US government are not now capable to presenting the President with internally consistent projections of world trends . . . for the next two decades."

Just what does this mean for US policymaking? Misinformation and misperception.

For example, the health of the economy, at home and abroad, is currently the most politically pressing problem in the U.S. Yet at a time when our economic interdependence with other countries is greater than ever (the third world alone accounts for more than 25 percent of our overseas investment, more than 35 percent of our exports, and more than 45 percent of our imports), "Global 2000" found that the government's measure of worldwide economic health—GNP—is based on questionable assumptions. Among other things, federally used projections assumed major expansion in agricultural production as a result of stepped up fertilizer use. But they didn't consider possible changes in climate or explicit environmental impacts. They did assume unlimited water availability at constant real prices and no deterioration of the land resulting from urbanization.

I believe the government's lack of foresight capability exists at three levels—data analysis, projections coordination, and political commitment. And I am convinced that

at every level we are witnessing serious setbacks. The quality of government data, particularly the already limited global data, is being undercut dramatically by budget reductions in federal resource agencies.

Efforts to ensure consistency of assumptions and data, which go into projections for different sectors, are almost impossible without clear coordination. The only existing mechanism for coordination, the Office of Management and Budget's Statistical Policy Branch, has been eliminated. Political commitment to calling attention to issues that look across jurisdictions and beyond elections is vital. But despite its theoretical potential, the administration's "Interagency Global Issues Working Group" chaired by CEQ has thus far failed to respond substantively to even the problems of technical coordination so basic to providing useful foresight capability. I know of no instance in which the President personally has used his office to call attention to this problem.

Such setbacks are totally out of sync with growing public interest, both at home and abroad. Since the publication of "Global 2000," countries such as Japan, Canada and Mexico have begun their own Global 2000 inquiries. In the U.S., 56 separate organizations, including the National Audubon Society, the League of Women Voters, the Overseas Development Council, and the Planned Parenthood Federation of America, have joined together in the new Global Tomorrow Coalition to call attention precisely to the need for understanding global interdependence. Their initial action supported unanimously has been to call out for the creation in the Executive Office of the President of "an improved capacity to coordinate and analyze data collected by federal agencies and other pertinent sources on the long-term interactions of trends in population, resources, and environment—and their relationship to social and economic development."

Clearly, this is not a question of government "planning for the world." It is the question of whether the right hand of the government knows what the left is doing. That requires central coordination and communication, backed up by commitments to improve agency resources and educate officials on a regular basis. Congress has begun to explore the issue of foresight capability—reports on government computer projections are being prepared; House hearings have examined the problem conceptually; and three bills touch upon it legislatively.

In the Senate, S. 1771 includes among its requirements an interagency Council on Global Resources, Environment, and Population, to be chaired by CEQ and funded by the member departments. It would coordinate agencies' biennial production of long-term projections of global population, resource, and environment trends; encourage their analysis, particularly in light of current policy; and report regularly to Congress on these efforts. The fact that this bill is authored by Sen. Mark Hatfield and co-sponsored by such senators as Charles Mathias, Slade Gorton, Alan Cranston, and Bill Bradley is proof of serious congressional concern about foresight capability.

The time for action is now. S. 1771 is pending before the Governmental Affairs Committee, chaired by Sen. William Roth whose experience with the problems and relations of federal, state and local governments should be helpful in focusing on the problems that permeate and plague the global community. The Governmental Af-

fairs Committee should undertake during the summer the kind of critical debate this issue and this bill warrant.

Its goal should be Senate enactment of legislation on foresight capability in 1982, signaling to both the administration and the nation that we cannot afford even in an election year to lose sight of global population, resource, and environment trends and their impacts on social and economic factors.

(Russell W. Peterson, chairman of the President's Council on Environmental Quality during the Nixon and Ford administrations, is president of the National Audubon Society and chairs the board of directors of the Global Tomorrow Coalition.)

THE 200TH ANNIVERSARY OF THE ORDER OF PURPLE HEART

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

• Mr. GILMAN. Mr. Speaker, last Saturday, August 7, 1982, was a glorious day in the Mid Hudson Valley of New York, and for our Nation.

Two hundred years prior to that day, General George Washington, Commander-in-Chief of the Revolutionary forces, created and presented the first "Badge of Merit" for valorous service to the American cause.

This badge, a heart-shaped purple insignia, later became one of the most famous and most honored military decoration in the U.S. military . . . the order of the Purple Heart.

The "Purple Heart" was founded by General Washington while he was headquartered in Newburgh, N.Y., overlooking the majestic Hudson River, with its breathtaking view of that river winding its way through the Highland Mountains.

Last weekend, the National officers and members of the Military Order of the Purple Heart held ceremonies at Washington's Headquarters in Newburgh marking this Bicentennial occasion. It was further commemorated by the issuance of an embossed envelope by the Postal Service honoring the Purple Heart and the brave defenders of our freedom who have received this badge of merit.

At the Washington Headquarters ceremonies, I had the honor of introducing as keynote speaker our former colleague, the Secretary of the Army John O. Marsh, Jr., whose remarks were so impressive that I would like to take this opportunity to share his words of inspiration with my colleagues. Accordingly, Mr. Speaker, I ask that Secretary Marsh's speech be inserted at this point in the RECORD:

REMARKS BY THE HONORABLE JOHN O. MARSH, JR., SECRETARY OF THE ARMY

Two centuries ago this day, our War for Independence was in its twilight days.

Past was Valley Forge and Saratoga, behind was Cowpens, Trenton and Ticonder-

oga; over was Bunker Hill, Brandywine, and Kings Mountain.

Even Yorktown was a memory.

The American Army that encamped here—the Continental line—was the finest light infantry in the world.

In Washington's Army had marched men who stood their ground at Lexington Green and stunned the British army at Bunker Hill.

In seven years of war this Army had become a mosaic of colonial America. The battlefield and the campaign trail forged a sense of nationhood as regiments for former colonies served together and suffered together in a common cause.

Among its soldier-patriots were Rangers who had marched to Boston with Dan Morgan of Virginia—clad in buckskin, their long rifles and aimed fire made the difference at Saratoga.

The great marbleheaders, watermen from New England, who not only rowed Washington across the Delaware to attack Trenton, but with their seafaring skills had saved his Army at Manhattan.

Some had marched in sleet and snow to Valley Forge in '77, and through sheer will survived the terrible winter. A historian wrote:

"Nothing much happened in the lines at Valley Forge. Men simply set their teeth and stayed alive and thus kept alive the Army which was the active expression of their cause, quite unaware of the deep glory of what they did there."

One of those who suffered by the campfires at Valley Forge was a young officer named John Marshall who would one day become the Chief Justice of the Republic he fought to establish.

Another Valley Forge officer was a 20-year old Major from Virginia who had crossed the Delaware with Washington—was severely wounded at Trenton leading a reconnaissance unit. History knows him better as James Monroe, the Fifth President of the United States.

These were tough, lean, combat-trained veterans who had marched from Canada to Georgia and crossed the Hudson, the Delaware, the Susquehanna, Potomac, the James, the Rappahannock and the Dan. Many had felt the pain of shrapnel—some had wept bitterly as they searched a battlefield in late evening for the body of a brother or a close friend. They had known the despair of being out-numbered, out-equipped, out-clothed, barely fed and rarely paid.

Yet in the ranks of these Regiments were men who in silent formation stood on Yorktown's Surrender Field and watched Cornwallis' soldiers lay down their arms.

They were the victors.

In the hour glass of history, over seven years of war had run. The sands of time:

Had seen the lanterns hung from the steeple of Old North Church.

Saw fired the shot heard round the world—whose sound echoes into the 20th century.

Saw drafted and signed a Declaration of Independence.

Saw created an Army, a Navy and Marine Corps.

Saw forged an alliance with France.

Saw come together a fledgling Nation under the Articles of Confederation.

Here on the banks of the Hudson, in the Highlands of New York, near the Tappan Zee, close to the Palisades and the legends of Sleepy Hollow, it is hard to imagine that 200 years ago this was the bitter ground—torn between patriot and loyalist, where old

and new allegiances divided families and destroyed friendships.

For an infant nation that nearly died aborning, these grains in the hour glass of time were not sand—they were gold.

Moments of our national greatness were expressed in documents and in deeds—in the political courage of statesmen, and the sacrifices of those who bore arms for their country.

Shakespeare wrote that "all the world's a stage . . ." Across the stage of the American Revolution marched a host of Americans who changed forever the human experience.

Near the western reaches of the American frontier—hardly a backwater to the parlor society of Western Europe—Newburgh, 200 years ago was at the center of this drama.

Here had come into confluence both duty and tribute. A duty to recognize the deeds of the enlisted soldier to achieve the declaration's promises of Life, Liberty, and the Pursuit of Happiness, and a tribute to his valor.

The Revolution had its Valhalla of heroes and warriors—Washington, Green, Wayne, Dan Morgan, Ethan Allen, Knox, Nathan Hale and Marion, the Swamp Fox—but, in this, as in all wars, they are won by the combat soldier who bears the brunt of battle. Unsung, they were then, and still are, the anonymous heroes of freedom.

This Bicentennial Ceremony marks a tradition that began with American arms to give a place of honor to those who marched in the ranks and served with uncommon valor.

It is fitting that in an Army of a free people purple should be the color of this decoration. It is the symbol of royalty. It denoted that among the brave and courageous there is an equality that bears no relationship to rank or station.

The event we commemorate today confirms the debt we owe to really just a few people. So it has often been in times of great national trial. Washington's army in Newburgh was barely more than 12,000 soldiers. Our infant Navy and Marine Corps were only a hand full when compared to their counterparts in the great powers of the world.

Three soldiers of the Continental Line were to win this decoration. All had served for more than seven years. All were sergeants—all were from Connecticut. We should call their names this day.

Sergeant Elijah Churchill, of the 8th Connecticut and 2d Continental Light Dragoons, cited for gallantry in action at Fort St. George, Coran and Tarrytown, New York.

Sergeant William Brown, 5th and 8th Connecticut Regiments for gallantry in the night bayonet assault on Redoubt 10, Yorktown, Virginia, October 14th, 1781.

Sergeant Daniel Bissel, Jr., of the 8th, 5th and 2d Connecticut Regiments, for his successful and courageous action in a clandestine intelligence operation behind enemy lines in New York City, upon the request of the Commander-in-Chief.

A half century ago, as a part of the commemoration of the 200th anniversary of Washington's birth, this Revolutionary award was designated the Purple Heart. It has since been presented to those in the Armed Forces of our country who have received wounds in battle.

In honoring these three sergeants of Connecticut, we pay tribute to the tens of thousands of our fellow countrymen who have suffered and sacrificed for this great Nation.

Referring to the Battle of Agincourt, Shakespeare wrote:

"We few, we happy few, we band of brothers;

For he today that sheds his blood with me Shall be my brother."

Those who wear the Purple Heart belong to an American Brotherhood.

Let us remember that freedom is never free. It is one thing to declare independence, it is another to achieve it.

The last line of the Declaration is a pledge that was kept through the efforts of a comparatively few people in order that promises of Life, Liberty, and the Pursuit of Happiness would have meaning. That line reads:

"And for the support of this declaration, with a firm reliance on the protection of divine providence, we mutually pledge to each other our lives, our fortunes and our sacred honor."

This pledge was kept by a small and gallant Army whose sacrifices gave us freedom and independence.

Your Army will keep it today.

If we all so dedicate ourselves, we shall ensure that 100 years hence our countrymen will again assemble at Newburgh to honor those who bear the wounds of battle for their service to America.●

CANADA IS THE ECONOMIC BENEFICIARY OF ACID RAIN

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. RAHALL. Mr. Speaker, recently, information has come to my attention which casts a shadow over much of the Canadian Government's efforts to see that an acid rain control program is initiated in this country. Ever since the Congress began work on the reauthorization of the Clean Air Act, my office has been bombarded with reports, studies, and letters from Canadian Government officials outlining environmental horrors of acid rain and calling for mitigating actions.

However, these entreaties are suspect, and I am beginning to believe they are founded in economic rather than environmental concerns.

A number of electric utilities in New England are continuing with efforts to reduce oil consumption in keeping with the national goal of increasing energy independence from foreign suppliers. Many of the utilities are considering converting oil boilers to coal produced in Pennsylvania, West Virginia, and Kentucky. Indeed, Consolidated Edison of New York is in the process of trying to convert its Arthur Kill 2 and 3 and Ravenswood 3 units to coal. United Illuminating Co. is on schedule in the conversion of its Bridgeport Harbor 3 unit to coal, Central Maine Power Co. is considering plans to convert three small units to coal, and Boston Edison is contemplating a number of coal conversions to name a few.

Yet some of these same utilities, under the threat of new and costly

controls aimed at reducing acid rain, are now studying the feasibility of purchasing power from Canada. A number of coal conversion plans have been dropped and a few of these utilities may be forced to buy Canadian power.

The chief economic beneficiary of an acid rain control program would be Hydro-Quebec's James Bay Hydro Complex now under construction in Canada. It is my understanding that this project of approximately 5,000 megawatts would have excess capacity and the firm is aggressively marketing this capacity in the Northeastern region of the United States.

Boston Edison, for one, may consider the purchase of Canadian hydro power as a means to reduce oil consumption. The United Illuminating Co. is also expressing an interest in Canadian power. And, it is my understanding that the Maine Public Utility Commission is giving favorable response to a New England Power Pool purchase agreement for 690 mw of Canadian power from Hydro Quebec. Central Main Power Co. would receive a portion of this imported power.

Mr. Speaker, while these activities are taking place there is evidence that at least one major source of pollution in Canada, Ontario Hydro, is backing away from plans to install acid rain controls. According to a report sent to my office by the chairman of the Subcommittee on Acid Rain in the Canadian House of Commons in September 1981, entitled "Still Waters: The Chilling Reality of Acid Rain," emissions from Ontario Hydro can produce acid rain in parts of the United States. The subcommittee in its report applauded "the decision by the corporation to effect an emission reduction of more than 40 percent by 1990. We believe, however, that even greater reductions in emissions are feasible and affordable." Nonetheless, according to a statement made in the Canadian House of Commons by a Member from Hillsborough on July 22, 1982: "Earlier this week Ontario Hydro announced that it is going to shelve plans to install acid rain controls on its plants in Ontario."

This information in my mind undermines the concerns of the Canadians over the impacts of acid rain for environmental reasons. There is more to the acid rain story, Mr. Speaker, than the Canadians are telling us.●

INHERITANCE TAX RELIEF FOR CONSERVATION FARMERS

HON. COOPER EVANS

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. EVANS of Iowa. Mr. Speaker, in order to provide an inducement, in ad-

dition to those that presently exist, and to install and maintain conservation practices which will protect the soil from the ravages of soil erosion, I am introducing legislation which would exclude from Federal estate tax 50 percent of the value of farmland on which there was no significant degradation of agricultural productivity in each of the 5 years prior to the death of the owner.

The problem our Nation faces with respect to the deterioration of our land resources is more than a passing one. It has tremendous long-term implications for our ability both to meet the food needs of people around the world and to contribute to a favorable balance of trade for the United States. Currently, soil erosion exceeds tolerable levels, that is, levels that would result in sustained productivity over the long term, on nearly 120 million acres, or more than 25 percent of our cropland. This situation exists in spite of excellent achievements in soil and water conservation over the past 50 years by our Department of Agriculture.

We have been slow to realize that all of our people share the responsibility for stewardship of our soil. Future generations are the major benefactors of our erosion control work. But there is not time to wait for future generations to solve the problem. If we fail to control erosion, future generations will pay dearly for that failure. We have expected the farmer to shoulder more than his share of the cost of soil and water conservation. Today his profits and ability to pay for soil conservation work are squeezed by increasing production costs and decreasing prices of his products. Society must help.

Existing Federal estate taxes have been a hardship on many farm families. Numerous cases have come to our attention where farms which have been owned by a family for several generations were divided and a portion sold in order to pay these taxes. This legislation would relieve a part of this burden for farmers who do a good job of protecting their soil for future generations. Mr. Speaker, these farm families are the backbone of our Nation's productivity and I urge my colleagues in this body to join ranks in providing them the support they need to carry out effective soil conservation work on their farms.●

THE RIGHT TO EMIGRATE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. FRANK. Mr. Speaker, Tzalo and Khaya Lipchin have been waiting

almost 4 years to be reunited with their son Leonid, who lives in Brookline, Mass. His parents live 9,000 miles away in Leningrad, and they have been denied exit visas since they first applied to leave almost 4 years ago. Now 35 years old, Leonid was allowed to leave the Soviet Union in 1978 after his 16-day hunger strike embarrassed Soviet authorities into granting him an exit visa. Unfortunately, the Soviets have denied that same right to his parents.

Since March 1981, I have been in contact with Dr. Sergey Chetverikov, Counselor of the Soviet Embassy, urging that his government grant exit visas to the Lipchins so that their family may be reunited. Several times I have requested the assistance of the Counselor in facilitating the Lipchins departure. Unfortunately the Soviet Government has been unwilling to grant the Lipchins exit visas, which would be in compliance with international accords which the U.S.S.R. has signed.

I am deeply concerned with the current emigration situation of Soviet Jews and the role of the American Government in helping to alleviate this problem. The rate of emigration has dropped sharply and reports of harassment of refuseniks has increased. Clearly, the Soviet Government is trying to break the will of Soviet Jews, who have pursued their goal of emigrating from the Soviet Union to practice their religion in freedom.

Over the past decade, the United States played an integral role in opening the doors of the Soviet Union for thousands of Jews seeking to emigrate. As discussions on various issues of mutual concern continue, it is essential that we reaffirm to the Soviets the American commitment to human rights and that adherence to the Helsinki accords is vital to an improvement in the relations between our nations.

Mr. Speaker, it is known that an active concern on the part of the U.S. Government is important in assisting individuals like Leonid Lipchin who is seeking to be reunited with his retired father and ailing mother. We must express our concern for the welfare of individuals wishing to emigrate, and support the basic human right of Soviet Jews to emigrate. I commend Leonid Lipchin for his efforts to reunite his family, and I hope my colleagues will continue to press the Soviet Union to honor the international agreements it has signed which guarantees the right to emigrate.●

PARRIS JOINS WITH PRINCE WILLIAM RESIDENTS IN EXTENDING ROYAL INVITATION

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. PARRIS. Mr. Speaker, I would today like to commend the Board of County Supervisors, the governing body of Prince William County, Va., on their congratulatory and thoughtful recognition of the birth of Prince William, the Prince of Wales.

I deeply share the kind words of their letter to Prince Charles and Princess Diana. In it, they write:

The Board of County Supervisors is thrilled that you have chosen to name your son Prince William, and we hope that as he grows to manhood, he will always feel a close friendship to the United States, the Commonwealth of Virginia, and particularly, Prince William County.

These remarks are very significant, for it is believed that Prince William County, Va., is the only county in the United States bearing that name. This distinction is also shared by at least 50 area organizations and business firms. In addition, many of the 146,000 inhabitants of Prince William County are of English descent.

I am particularly proud of Prince William County, the only county in Virginia that stretches from the mountains in the West to the Coastal Plain in the East. Discovered by Capt. John Smith in 1608, it is rich in cultural heritage and is the site of many historical landmarks. Its residents benefit from a national forest and park, a chamber of commerce, a tourism council, and symphony orchestra which is celebrating its 10th anniversary this season. Presently underway is the Prince William summer festival, and the Prince William County fair which is scheduled to open August 14.

Mr. Speaker, because this is a great occasion for the residents of Prince William County and the Nation, I join with the Board of County Supervisors in extending a standing invitation to the royal couple and their new son, to visit Prince William County whenever their travels bring them to the United States. I believe such a visit would be a prodigious and joyful event that could be shared by all.

For my colleagues use and information, I would like to insert at this time into the CONGRESSIONAL RECORD the contents of the letter from the Board for Prince William County of Virginia.

The letter follows:

COMMONWEALTH OF VIRGINIA,
COUNTY OF PRINCE WILLIAM,
Manassas, Va., July 14, 1982.

His Royal Highness Prince and Princess of Wales,

Buckingham Palace, London SW1 England

DEAR PRINCE AND PRINCESS OF WALES: On behalf of the citizens of Prince William County, Virginia, United States of America, congratulations on the birth of your son, Prince William. The Governing Body of Prince William County, the Board of County Supervisors, is thrilled that you have chosen to name your son Prince William. We hope that as he grows to manhood, that he will always feel a close friendship to the United States, the Commonwealth of Virginia and particularly, Prince William County.

Prince William County is located in the Washington Metropolitan area, approximately 30 miles southwest of our Nation's Capital. The County has 345 square miles and is inhabited by 146,000 people, many of whom are of English descent. The County seat is Manassas.

Captain John Smith discovered Prince William County in 1608, although, there is some evidence that the Spanish were in this area as early as 1565. There were various divisions of land into counties between 1653 and 1759 affecting Prince William County and the latter year, Prince William became an independent county with boundaries that exist today. Prince William County is the only county in Virginia that stretches from the mountains in the west to the coastal plain in the east.

The citizens of Prince William County are quite excited that you have chosen the name Prince William for your son. On behalf of the Board of County Supervisors and the citizens of Prince William County, we wish for your son good health, a long, productive and happy life filled with every success. When your travels bring you to the United States of America we hope that you and your son will visit Prince William County.

Yours Sincerely,

KATHLEEN K. SEEFELDT,
Chairman,
Board of Supervisors.

RESOLUTION

Whereas, the Royal Highness, the Duke and Duchess of Wales, have given birth to a son and named him Prince William; and

Whereas, the citizens of Prince William County, Virginia, United States of America and its governing body, the Board of County Supervisors, are thrilled with the birth of the Prince and with the selection of William as his name; and

Whereas, it is the desire of the governing body of Prince William County, Virginia, United States of America, to note the birth of Prince William and to congratulate his parents, Prince Charles and Princess Diana; and

Whereas, it is the desire of the Board of County Supervisors to extend a standing invitation to the Duke and Duchess of Wales and their son, Prince William, to visit Prince William County whenever their travels bring them to the United States; and

Whereas, it is the hope of Prince William County, Virginia that Prince William will always feel a close kinship with the County and visit it whenever he can; and

Whereas, the Board of Supervisors sends its fond greetings to his parents, Prince William and the people of England and commend them all on the birth of Prince William;

Now therefore, be it resolved by the Board of County Supervisors of Prince William County, Virginia, United States of America that this resolution be read among the official minutes of the meeting on July 6, 1982 and that the Chairman of the Board is hereby authorized and directed to communicate with the Royal Highness, the Duke and Duchess of Wales, commending them on the birth of their son Prince William.●

NOT GUILTY BY REASON OF INSANITY

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. HUBBARD. Mr. Speaker, just after the jury's verdict of "not guilty by reason of insanity" in the John Hinckley trial, I received an excellent letter from one of my constituents, Randall W. Shaffer of Paducah, Ky. Mr. Shaffer's letter is indicative of the cries of outrage that were heard throughout the entire country with regard to this defense plea. As the Congress works with changes in the laws dealing with the insanity defense, I would like to share Mr. Shaffer's comments with my colleagues. The letter follows:

PADUCAH, KY., June 22, 1982.

HON. CARROLL HUBBARD,
Rayburn Office Building,
Washington D.C.

DEAR CARROLL: I've just heard the jury's verdict of "not guilty by reason of insanity" given John Hinckley for the terrible crimes he has committed.

I was shocked, stunned and then upset. The very idea of the possibility of him being turned loose on innocent victims again frightens me. What have we come to in this country? How can we call this the "land of the free" when soon we will all be prisoners in our own homes, afraid to get out for fear of being killed by a so-called insane person?

I wonder if Jim Brady would rather be shot by a sane person instead. Sane or insane, what's the difference? They kill just as deadly and should be locked up.

Please, I realize this is written in haste, but maybe it's time we acted with haste to protect ourselves from all the rationalities that so-called "puritans" and "save those who can't help themselves, do-gooders" promote.

Please use your influence to do whatever is necessary to deal with these matters. If what I'm suggesting is unconstitutional, call for an amendment; if a law needs to be written or changed, do it; whatever, get this thing turned around.

I'm sorry, but I had to yell at someone. But, you or I may be a Jim Brady or one of the others some day.

Most sincerely,

RANDALL W. SHAFFER.●

BUDGET REDUCTION

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SHUMWAY. Mr. Speaker, during the past weekend in California I met with constituents to discuss pending legislation. Particular concern was focused on my views of the tax bill which will raise \$100 billion in taxes over the next 3 years. I explained to my constituents that, in my opinion, the recession will not be solved through tax increases, and that I would not vote for the tax bill without some assurance that Congress can uphold the budget reductions approved earlier this summer.

Unfortunately, I am not confident of the ability of the House to do so, or even to abide by the budget process. This lack of resolve was strikingly illustrated last week by the passage of H.R. 6862, the reconciliation bill of the Post Office and Civil Service Committee.

The first concurrent fiscal year 1983 budget resolution instructed this committee to achieve savings of \$376 million in fiscal year 1983. These savings were to be achieved through the imposition of a 4 percent COLA cap on Federal annuities, and through other administrative changes in the civil service retirement system. Instead of being submitted to the Budget Committee to be combined with the other committees' reconciliation bills, H.R. 6862 was granted a rule so that the bill could be voted on separately.

The bill the committee reported achieved only \$32 million of the mandated \$376 million in savings for fiscal year 1983—a shortfall of \$244 million. It did not cap COLA's, and provided for outlay reductions of only \$113 million for fiscal year 1983-85, or only 3.5 percent of the \$3.2 billion savings that the committee was instructed to achieve. This was the first major test of the budget process, yet partisan political considerations were clearly more important to the committee than the integrity of this process.

Unfortunately, the bill passed by a vote of 268-128. A motion to return the bill to committee with instructions to achieve the mandated savings failed by a vote of 160-236. How can we convince the financial markets of our sincerity in reducing Federal spending when at the first major test of the budget process, our resolve crumbles? How can we justify a tax increase when we cannot even hold to the spending levels we approved 2 months ago?

Good arguments were made both for and against capping COLA's for Federal retirees, and my votes for the motion to recommit and against H.R.

6862 were difficult for me personally. But COLA's were not the issue in this case. The issue is the budget process and congressional commitment to it. These are not normal economic times. Unless we have the courage to stand by the budget process—imperfect as it may be—we are never going to reduce spending. I continue to feel that the financial recovery of this country is our first priority, and that healthy economy cannot but improve the lot of all Americans, particularly retirees living on fixed incomes for whom inflation is the cruelest punishment.

Of course the final determination will rest with the Appropriations Committee. Yet the passage of H.R. 6862 signals that Congress will make only superficial efforts to control spending, and will not have the courage to uphold them when difficult political choices arise. If the budgetary capitulations embodied by the passage of H.R. 6862 continue, I predict a rough road for the tax bill.●

A CONGRESSIONAL WELCOME FOR CYCLISTS TO END WORLD HUNGER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GILMAN. Mr. Speaker, today, I was pleased to join a number of my colleagues on the Capitol steps in welcoming to Washington, teams of Cyclists to End World Hunger. These marathon participants, who departed from Atlanta, Ft. Lauderdale, and Denver, arrived in Washington yesterday and will soon begin the final leg of their journey to the United Nations in New York. The cyclists crossed 15 States, met with State and local officials, and brought their message about the need to intensify our commitment to alleviating hunger to millions of citizens.

The riders, in addition to raising a considerable sum of money to directly assist those suffering from hunger, compiled over 10,000 signatures from individuals alining themselves with efforts to end hunger. Those names, together with the more than 3,000 signatures collected during a bike marathon last year, were placed in the "Presidential Book," a document, presented today to my colleagues and I, which contains the names of more than 2.2 million individuals firmly committed to working to resolve the critical problem of hunger and malnutrition.

Mr. Speaker, the Presidential Commission on World Hunger, of which I was a member, recognized that raising public awareness about hunger and generating the political will to resolve that problem, is the primary prerequisite if our Nation is to develop new

comprehensive antihunger policies. I commend these dedicated cyclists, and the many individuals and private organizations who helped to make the bike marathon possible, for their important contribution to raising the consciousness of the public and policymakers about the urgent need to resolve the world hunger problem.●

PAY AS YOU GO BALANCED BUDGET ACT OF 1982

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MILLER of California. Mr. Speaker, I am today introducing the Pay as You Go Balanced Budget Act of 1982. The legislation is a statutory form of the "Pay As You Go" process which I offered to the House in May during consideration of the first budget resolution for 1983. It is my hope and my intention that the House will consider this legislation as a rational and preferable alternative to the proposed balanced budget amendment to the Constitution, and at the appropriate time, I will offer this legislation as a substitute.

Mr. Speaker, the proposed cynical and ineffective amendment would simultaneously abuse the amendatory process and attempt to deceive the people of the United States who vigorously—and understandably—want Congress to take action to reduce the deficit and balance the budget.

The constitutional amendment will not achieve those goals, as some of its chief proponents have openly confessed:

"Frankly, it doesn't do a thing."—Majority Leader Senator HOWARD BAKER.

"I don't think it would have any practical effect."—Finance Chairman Senator ROBERT DOLE.

"I think that the whole exercise on this constitutional amendment is the ultimate confession of failure on the part of the Congress of the United States . . . This is a matter that should not really be in the fundamental law of this land."—Senator JOHN G. TOWER.

Yet Congress need not fail to enact legislation which will realistically and surely move us toward a balanced budget immediately, instead of declaring our constitutional intention to reach that goal at some indeterminate time in the future.

The pay-as-you-go budget procedure is a proven means for radically reducing the deficit in 1983 and 1984, and balancing the budget by 1985, according to the Congressional Budget Office. The pay-as-you-go budget plan would, in fact, achieve a balanced budget before the proposed amendment would even be ratified. Pay as you go is the means of balancing the budget in the mid-1980's; the constitu-

tional con, as the Washington Post has termed the proposed amendment, is a vague promise to try by the mid-1990's.

Pay as you go was considered by the House during the budget debate in May. It received 181 votes, including 80 percent of the Democrats voting, and the highest proportion of votes of any budget plan presented that week.

Yet pay as you go is not a Democratic, nor a Republican, plan. Nor is it conservative or liberal.

Pay as you go requires that whenever Congress decides to increase spending above the 1982 baseline amount for any program, we simultaneously agree to raise an equivalent amount in revenues or cut back spending elsewhere.

If we follow this straightforward process, as 39 States currently do, the CBO projects a \$27.5 billion surplus by 1985.

By contrast, the current budget resolution, supported strongly by those who now call upon us to pass the constitutional amendment, would raise \$225 billion in new taxes, add perhaps \$600 billion to the national debt, and still come nowhere close to balancing the budget.

In addition, implementation of pay as you go would save about \$100 billion on interest payments on the debt over the next 3 years as a result of deficit reductions. This is the kind of budget program that will persuade the business and investment communities that we in Congress are serious about achieving a balanced budget. Simply passing an amendment declaring our commitment to a balanced budget will fool no one in the financial community.

It is obvious that merely mandating a balanced budget is not enough. If Congress cannot find the courage to enact a budget balancing process like pay as you go, how could we ever find the backbone to construct a balanced budget itself?

I urge you to consider the Pay as You Go Balanced Budget Act of 1982 and support its enactment in lieu of any ill-advised and ineffectual tampering with our Constitution. I believe it provides what the American people, and the majority of the Congress, truly want: Not a balanced budget amendment, but a balanced budget.

John Chancellor, the distinguished NBC News commentator, recently compared the attractiveness of the "pay-as-you-go" balanced budget process to the ineffectual constitutional amendment. I would like to place Mr. Chancellor's commentary in the RECORD at this point:

JOHN CHANCELLOR, NBC NEWS

A lot of people including the President are beating the drum this week for a constitutional amendment that some day, maybe, would sort of require a balanced budget.

There's a better way: a plan floating around the Congress that would balance the budget in three years. Guaranteed.

It's the "Pay As You Go" budget proposal, offered to the House of Representatives by George Miller, Democrat of California, and ingenious and practical plan.

Here's how it would work: first, it would freeze government spending at its present level. So if the Congress wanted to spend more on defense, it would have to spend less on something else, such as spending on social programs. Or if the Congress wanted to spend more on defense and social programs, it would have to reduce non-defense spending. All within a frozen total budget. If the Congress wanted to spend more than that, it would be forced to bite the bullet and raise taxes. Fiscally sound, if politically dangerous.

The beauty of this is that it would make Members of Congress directly accountable for the money they spend. Everybody would have to stand up and be counted. And, with spending frozen, the natural growth of the economy would increase tax revenues and balance the budget.

The Congressional Budget Office confirms that the plan would lower the deficit by fiscal 1984, and produce a glorious surplus of 27 billion dollars in 1985. Think of that.

Congressman Miller's "Pay As You Go" budget plan was defeated in the House last May, voted down by most Republicans and a few Democrats. Senator Christopher Dodd is going to ask the Senate to approve it instead of the constitutional amendment to balance the budget.

"Pay As You Go" is a better way than tinkering with the Constitution. Let's see what the Senate does with it.

Unfortunately, Mr. Speaker, the Senate did not take heed of Mr. Chancellor's comments, and as a result passed an amendment which even the Republican leaders of the Senate confess publicly to be a fraud and an abuse of the constitutional amendatory process. Let the House not follow suit in such a cynical and meaningless fashion.

Mr. Speaker, I submit to the RECORD a column by Washington Post syndicated columnist Mark Shields on the pay-as-you-go budget process. Mr. Shields is well known and highly respected for his insightful and barded commentary on political activities in Congress. I would hope that each member of the House would review this column before voting on the balanced budget question.

[From the Washington Post, June 25, 1982]

A BUDGET WITH A BACKBONE

(By Mark Shields)

During the recent congressional budget fight, there occurred a verifiable sighting of something the Democrats have been frantically in search of since being run out of office in 1980: an authentic new idea. It was California Rep. George Miller's "pay-as-you-go" budget plan, which won the support of four-fifths of voting House Democrats, but not House passage.

Upon closer scrutiny, some of those House Democrats might not have been so enthusiastic about the budget plan with the attractive label. Miller, a fourth-term liberal with an independent streak, proposed that Congress freeze all federal spending at the 1982 level and only allow itself to increase any

spending program—Medicare or MX—by first coming up with the revenues to pay for that increase. Those new revenues could be obtained either by cutting other existing programs or by increasing taxes. Those are the only two options. No more rigged projections of rosy revenue increases in 1988, thank you. Miller allows for no exemptions from the freeze. Social security, too, would be subject to the pay-as-you-go formula.

Unlike the administration's 1981 tax-cut plan, which promised instant and ouchless prosperity by next Tuesday, the Miller plan offers some political pain, especially for his congressional and party colleagues. No longer would members of Congress—of both parties—be able to finance their favorite untouchable programs through the federal deficit. Congress would be required to make real choices among competing interests and constituencies. Republicans who have simultaneously favored big defense spending boosts and big tax cuts would be exposed, just as quickly as those "no-choice" Democrats who have appeared constitutionally incapable of saying no to any appropriations scheme remotely mentioning "old" or "small." What Miller is suggesting is nothing less than a congressional vertebrae transplant, without benefit of anaesthetic.

According to the Congressional Budget Office, alone of all the budget proposals, the pay-as-you-go plan would have produced a federal budget surplus of \$27 billion by 1985. Furthermore, as its sponsor conceded, the plan would "put politics back on the floor of the House. I want to find out what Republicans—and Democrats—are really willing to pay for," says Miller.

To the criticism that pay-as-you-go would not allow for any future economic stimulus through planned public deficits, the California responds. "A \$4 billion program may mean something when the debt is \$10 billion, but not when our annual deficit is \$140 billion."

Mr. Speaker, reducing our Federal deficit, ending our mindless reliance on the debt, and balancing the Federal budget are the major goals of this Congress. If we fail to take serious actions to achieve these popularly supported goals, all of our other efforts to revive the economy are bound to fail.

The American people expect more of this Congress than partisan brick-throwing. They want answers. And to provide those answers demands a new budget process.

The people we represent, Mr. Speaker, do not expect miracles from the Congress. But they do expect the truth. We owe them an honest response to their reasonable demand for a balanced budget, and the pay as you go balanced budget process is a workable, understandable, and effective means of reducing our debt and revitalizing our economy.

The text of the act follows:

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That (a) (1) notwithstanding any other provision of law, and except as provided in paragraph (2), it shall not be in order in the Senate or the House of Representatives to consider any concurrent resolution on the budget for any fiscal year beginning after September 30, 1982, or any amendment thereto or any conference report thereon if—

(A) the adoption of such concurrent resolution as reported;

(B) the adoption of such amendment; or

(C) the adoption of the concurrent resolution in the form recommended in such conference report, would cause—

(i) the appropriate level of total budget outlays set forth in such concurrent resolution for such fiscal year to exceed the appropriate level of total budget outlays set forth for the preceding fiscal year in the most recently agreed to concurrent resolution on the budget for that preceding fiscal year; or

(ii) the recommended level of Federal revenues set forth in such concurrent resolution for such fiscal year to be less than the recommended level of Federal revenues for the fiscal year preceding that fiscal year set forth in the most recently agreed to concurrent resolution on the budget for that preceding fiscal year.

(2) Notwithstanding paragraph (1), a concurrent resolution on the budget for a fiscal year may—

(A) provide for an amount of budget outlays for such fiscal year in excess of the appropriate level of total budget outlays for the fiscal year preceding that fiscal year set forth in the most recently agreed to concurrent resolution on the budget for that preceding fiscal year if the concurrent resolution on the budget for such fiscal year also—

(i) provides for an amount of revenues for such fiscal year in addition to an amount of revenues equal to the recommended level of Federal revenues for the fiscal year preceding that fiscal year set forth in the most recently agreed to concurrent resolution on the budget for such preceding fiscal year, which is not less than such amount of excess budget outlays; and

(ii) identifies the source of such additional amount of revenues and proposed changes in law to achieve such additional amount of revenues; or

(B) provide for a reduction in the recommended level of Federal revenues for such fiscal year below the recommended level of Federal revenues for the preceding fiscal year set forth in the most recently agreed to concurrent resolution on the budget for that preceding fiscal year if the concurrent resolution on the budget for such fiscal year also—

(i) provides for a reduction in budget outlays for such fiscal year below the appropriate level of total budget outlays for the fiscal year preceding such fiscal year set forth in the most recently agreed to concurrent resolution on the budget for such preceding fiscal year, in an amount not less than the amount of the reduction in revenues for such fiscal year; and

(ii) identifies the program or activity in which such reduction in budget outlays is to be made and proposes changes in law to accomplish such reduction in budget outlays.

(3) Any additional amount of revenues contained in a concurrent resolution on the budget pursuant to paragraph 2 (A) (i) shall only include additional revenues which will result from proposed changes in law. Any reduction in budget outlays contained in a concurrent resolution on the budget pursuant to paragraph 2 (B) (i) shall only include reductions in budget outlays which will result from proposed changes in law.

(b) Subsection (a) may be waived by a two-thirds vote of the Members of each House of Congress, duly chosen and sworn.

Sec. 2. (a) Notwithstanding any other provision of law and except as provided in sub-

section (b), the Budget transmitted pursuant to section 201 (a) of the Budget and Accounting Act, 1921, for the ensuing fiscal year shall not contain—

(1) an estimate of total budget outlays for such ensuing fiscal year which exceeds the appropriate level of total budget outlays for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress; or

(2) an estimate of total revenues for such ensuing fiscal year which is less than the recommended level of revenues for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress.

(b) Notwithstanding subsection (a), the Budget transmitted pursuant to section 201(a) of the Budget and Accounting Act, 1921, for the ensuing fiscal year may—

(1) contain an estimate of budget outlays for such ensuing fiscal year in excess of the appropriate level of total budget outlays for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress if such Budget also—

(A) contains an estimate of revenues for such ensuing fiscal year in addition to an amount of revenues equal to the recommended level of Federal revenues for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress, which is not less than the amount of such excess budget outlays; and

(B) identifies the source of such additional estimated revenues and proposes changes in law to achieve such additional estimated revenues; or

(2) contain an estimate of a reduction in revenues for such ensuing fiscal year below the recommended level of Federal revenues for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress if such Budget also—

(A) contains an estimate of a reduction in budget outlays for such ensuing fiscal year below the appropriate level of total budget outlays for the fiscal year in progress set forth in the most recently agreed to concurrent resolution on the budget for such fiscal year in progress, in an amount not less than the amount of the reduction in revenues for such ensuing fiscal year; and

(B) identifies the program or activity for which such estimated reduction in budget outlays is proposed and proposes changes in law to achieve such estimated reduction in budget outlays.

(c) Any additional estimated revenues which, pursuant to subsection (b)(1)(A), are contained in the Budget transmitted pursuant to section 201(a) of the Budget and Accounting Act, 1921, shall only include additional estimated revenues which will result from proposed changes in law. Any estimated reduction in budget outlays, which, pursuant to subsection (b)(2)(A), are contained in any such Budget shall only include estimated reductions in budget outlays which will result from proposed changes in law.

SEC. 3. For purposes of this Act—

(1) the term "budget outlays" has the same meaning as in section 3(1) of the Congressional Budget and Impoundment Control Act of 1974; and

(2) the term "concurrent resolution on the budget" has the same meaning as in section 3 (4) of such Act.

SEC. 4. (a) The provisions of the first section and section 3 of this Act are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.●

LET'S "OPEN UP THE SKIES" AT UNISPACE '82

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BROWN of California. Mr. Speaker, last month the Pugwash Conference had its 25th anniversary meeting. Pugwash, probably the most respected nongovernment association of scientists, has its origins in the most sensitive scientists our society has known. While scientific ideas in the past have threatened the structure of civilization and reshaped our understanding of religion, Albert Einstein's discoveries posed a new threat, that of destroying the world. Painfully aware of this, Einstein spoke out of his concerns which lead to the founding of the Pugwash Conference in 1957. The conference has promoted important concepts involving nuclear testing, arms limitation and verification, and other proposals for addressing the problems we face in the nuclear age.

If Einstein were alive today I think he would have mixed feelings about how the products of the nuclear age are responding to the threat of nuclear war. On the one hand, he would be alarmed at the capability we have developed to destroy the world many times over; our nuclear arsenal has never been so great. But he would be pleased to see the heated public debate going on in more public arenas than ever before; the nuclear freeze resolution will be on the ballot in seven States this fall. And the nuclear freeze proposal voted on by the House last week lost by only two votes. The discussion is becoming more serious both on a political level as well as on a technical level.

One proposal I am pleased to see attention given to is a proposal offered by my colleague the gentleman from Kansas (Mr. WINN). This proposal, which has been of great interest to me since I first heard about it, would begin the dismantlement of the mystique and secrecy that surrounds the two nuclear superpowers, the United States and the U.S.S.R. The proposal is for an international peacekeeping satellite which would be part of a

larger United Nations satellite monitoring agency. "Peacesat", as it has been referred to, would serve to monitor military activities over the globe and aid in arms control verification. I plan to promote this concept at the upcoming Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space (Unispace '82) in Vienna this week. Although the two superpowers will try to avoid discussion of this issue, many developing nations as well as Western European nations will want to discuss this peacekeeping satellite which is sometimes referred to as the "French proposal".

Mr. Speaker, I truly believe that one of the most serious threats to world peace is uncertainty and the fear that uncertainty leads to. Fear provokes aggression. I often wonder what such a great nation as ours has to fear so much that we need the capability of destroying the world. This may be naive, but I think we should promote what our country stands for, and not just concentrate on destroying what is different from us. I hope the public outcry will lead us to listen to ourselves and to our own fears. A constructive step toward eliminating some of the uncertainty would be the adoption of a peacekeeping satellite.

Mr. Speaker, the following article discusses how fear is a fuel for nuclear arms buildup, and that the unknown is often a cause for fear. A peacekeeping satellite would alleviate some of this problem by "opening up the skies" to the world and help in the monitoring and decisionmaking in arms limitation activities.

The article follows:

[From the New York Times, July 18, 1982]

MORE SPIES IN THE SKY

(By Floria Lewis)

PUGWASH, NOVA SCOTIA, July 17.—There has been a strange cycle of public indifference and militant activity against the danger of nuclear arms since the first two were dropped. Distressed at failure to understand, Bertrand Russell and Albert Einstein issued a dramatic manifesto in 1955.

That led to a meeting of top scientists from East and West at the boyhood home of Cyrus Eaton, the late U.S. industrialist, in 1957. So was founded the Pugwash Conference.

For its 25th anniversary, the conference is here again. The two signatories of the Russell-Einstein document still alive, Linus Pauling and Joseph Rotblat, noted that all those years, marches and U.N. conferences later, the threat is greater than ever.

And people are stirring again. The peace movement has never had broader support. Once again, East-West relations are cold and angry. The U.S. and the Soviets are talking in Geneva about breaking the arms race, and sustaining it at home.

Time is running out on even the chance of arms control, the scientists say, because science itself has made possible new weapons so much more accurate, so much faster, so much harder to detect that agreements may become meaningless.

There isn't much point in calling for trust. If there were trust, there would be no need for verifiable agreements, no excuse for having atomic weapons at all.

Nor has public pressure yet brought tangible response. The words are there, but who knows what they mean. Soviet Chairman Leonid Brezhnev announced a unilateral freeze on deployment of SS-20's (after the program was virtually complete). A few months later, the United States said a number of additional Soviet missiles had been deployed facing Western Europe. Moscow said that this was a lie.

There has been no explanation. The same problem weakens the call for an American pledge of "no first use" of any atomic weapon, which Mr. Brezhnev has proclaimed. How can you tell, until it's too late?

Mr. Pauling, a twinkly-eyed veteran of declarations for disarmament supported by fellow Nobel laureates, urged a unilateral freeze on all nuclear arms by both the United States and the Soviets until they get around to a binding treaty. But nobody has defined the proposal. The United States would presumably abandon not only MX, all cruise missiles and Pershings in Europe, but planned Trident submarines and Minuteman improvements. What would the Russians do?

It is the underlying fear of discarding the nuclear shield that makes it so hard to blunt the nuclear sword. The numbers game of balancing off missile for missile to set a level of security is clearly nonsense in a world that stocks 50,000 warheads with more than a million times the power of the Hiroshima bomb.

Any yet, the awesomeness of the bomb has maintained nuclear ceasefire in a world that hasn't stopped fighting since 1945. This morning's news reported on three full-scale wars (in Lebanon, Iraq and Somalia), two long, bloody guerrilla campaigns (in Northern Ireland and the Basque country) and a shattering new spy scandal in Britain. Peace is not at hand. Declarations aren't settlements.

The dilemma of fear remains. In an early attempt to confront it, President Eisenhower proposed an "open skies" program so the United States and Soviets could see for themselves what the other was doing. Moscow refused. It happened anyway, with satellites and electronic intelligence. But nobody is reassured.

So the issue comes back to information, a way to know and judge what is being prepared, in order to weigh the self-serving official counter-declarations.

One of the most hopeful ideas engaging some of the Pugwash scientists is what Australia's Sir Mark Oliphant calls "technological spying" by the middle powers. A lot of countries are now advanced enough to compete with the United States and Russia in monitoring preparations for war if they pool scientific and economic resources, though none could do it alone.

A group including delegates from Canada, Australia, France, Britain, Germany, Japan, Austria, Sweden, among others, is to meet in October to work on further details, already set out in an experts' report to the U.N. The European satellite launcher Ariane would put their own spies in the sky.

The U.S. has opposed the idea on the grounds that ambiguous intelligence could be politically abused to confound the world even more. Given experience, Washington has a point if it's to be a U.N. operation. But the countries capable of participating could set up their own structure. An objective

(which doesn't mean neutral) verification of superpower agreements and menacing moves would go a long way toward easing the question of what to believe. Then unilateral restraints could be monitored and the argument of balance better judged. It's something concrete to do quickly, worth more than talk. ●

AGE IS ACTIVITY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GARCIA. Mr. Speaker, age has long been a topic of interest and concern in every culture and society. We respect our elder citizens because of their age, but we sometimes overlook the fact that most are active and productive members of society.

I am submitting an article from the newsletter of the Vacations and Community Services for the Blind, in which they honor one active centenarian of my district.

Maximo Gomez, a member of the Hunts Point Aged Program, located at 750 Failla Street, and a long time VCB client, reached his 102nd birthday late in 1981. It is true that 102 is quite old, but Maximo still comes twice weekly to the Failla Street Center, joins discussions, exercises, and, in fact, whatever may be happening at the Center.

It gives the Bronx Advisory Board of VCB tremendous pleasure to honor Maximo Gomez at a June 17 wine and cheese party at the Snuff Mill of the New York Botanical Gardens. Maximo is honored not only because of his age, but because of his incredible will to live and live completely. His failing vision and occasional bouts with pneumonia cannot keep him down.

Congratulations, Maximo, for showing everyone how to live.

And thank you for showing us that "age is activity." ●

THE IMPORTANCE OF HOUSE PASSAGE OF H.R. 5540

HON. STAN LUNDINE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. LUNDINE. Mr. Speaker, I wish to call attention to a bill that will be coming to the House floor for consideration in the very near future, the Defense Industrial Base Revitalization Act (H.R. 5540). As we begin one of the largest military buildups in our history, passage of this legislation could prove to be one of the most significant actions of the 97th Congress. In his recent book, "The Defense Industry," Jacques Gansler, whose association with the defense industrial base spans 25 years, including service as a Deputy Assistant Secretary for Defense wrote:

The defense industry's ability to rapidly expand production is an essential part of

the overall defense posture. There are many reasons for believing that this capability has been eroding badly in the U.S. over the last few decades, owing to the nature of the equipment as well as the problems within the defense industrial base. * * * Surprisingly, the U.S. government has taken no steps to address this problem. Brief studies that have been done have shown that current programs are largely ineffective and expensive. * * * The major cause of economic inefficiency in the defense industry is the rapid decline in the number of suppliers at these lower (the subcontractor) levels, which reduces competition and causes extraordinary price increases.

The industrial decline that plagues America is the foremost threat to our national security. H.R. 5540 takes an important step toward addressing this problem through creation of a program to revitalize thousands of small- and medium-sized businesses that contribute to defense production. Under the provisions of this bill, these firms would be eligible to enter into arrangements with the Federal Government for Government loan guarantees, purchase agreements, price guarantees, and arrangements for direct loans to modernize their equipment, which will greatly increase our domestic capability to produce critical and strategic materials and hardware for national defense.

In addition, the bill establishes a program to train, retrain, and upgrade workers' skills in occupations in short supply needed by defense-related industries. This continuous capability to upgrade worker skills is essential in the high-paced technological world of defense production.

This legislation has received enthusiastic support from a broad variety of organizations, including labor unions, business groups, trade associations, and vocational, and higher education organizations. An excellent summary article on this bill which appeared in the July 5 edition of Nation's Cities Weekly follows for your information, along with a letter sent to Members of Congress by the Industrial Union Department, AFL-CIO. As you will note, among other things, a recent Department of Defense internal memo from Deputy Defense Secretary Frank Carlucci and a letter from Defense Secretary Caspar Weinberger highlight the need for an effective program to address the problems of our ailing defense industrial base.

[From Nation's Cities Weekly, July 5, 1982]

TRAINING, REVIVAL AID URGED FOR DEFENSE-LINED ECONOMY

(By Frank Shafroth)

A bill is moving quietly through Congress to piggyback onto the nation's defense readiness efforts a \$6.75 billion, five-year program to revitalize smaller industries.

Included in the proposal is \$250 million a year for job training aid through state agencies and \$100 million a year for professional training through higher education institutions.

Though city governments would have no direct role in obtaining funds or running any of these programs, analysts believe that the program would benefit those that have been victimized by economic woes because of outmoded manufacturing and industrial bases. The state-supported training would be aimed at labor surplus areas.

States would have to share the training costs—10 percent in the first year, increasing to 50 percent.

Over the five years, \$5 billion would be authorized for loans and loan guarantees, price guarantees and purchase agreements with small and medium sized businesses in a number of priority industries. The industries would be designated by the Defense and Commerce departments, and the eligible businesses would be those that currently manufacture and supply defense materials and components, or are likely to do so in time of emergency or war.

Proponents of the bill [HR 5540] say the program would help modernize the nation's defense industrial base, ease manpower shortages in critical jobs by training new workers and help industries keep pace with technological changes.

It is sponsored by Rep. James J. Blanchard (D-Mich.) and has a bipartisan list of 70 cosponsors. The legislation awaits House floor action after being cleared by the Banking Committee and the Education and Labor Committee.

Though the bill does not say which federal agency would spend the money, it says the president should set up a cooperative effort among the Defense, Commerce and Interior departments and the Federal Emergency Management Agency.

The proposals would amend the 1950 Defense Production Act, which gives the president basic authority for peacetime stockpiling of materials and civil defense programs as well as the authority to mobilize a wartime economy.

The administration opposes the bill because of its cost, according to a letter from Budget Director David A. Stockman to Rep. J. William Stanton (R-Ohio), ranking minority member of the Banking Committee and a cosponsor of the bill. Instead, Stockman urged a simple 5 year extension of the Defense Production Act.

However, supporters of the proposal have published high-level internal administration memos suggesting strong support for efforts to shore up the defense-related industrial base and to reduce dependence on foreign sources of equipment.

This includes a March 6 memo from Deputy Defense Secretary Frank A. Carlucci III to the department's leadership warning of the consequences of continued deterioration of the industrial base and a March 20 letter from Secretary Caspar A. Weinberger to Stockman.

In that letter, Weinberger told the budget director that even with an optimistic view of President Reagan's economic recovery program, the recovery will take "several years and may not provide sufficient incentives for expansion of the industries which are subject to predatory pricing from unstable foreign sources and are critical to the production of national security systems."

INDUSTRIAL UNION DEPARTMENT,
AFL-CIO,

Washington, D.C., July 15, 1982.

DEAR REPRESENTATIVE: The Industrial Union Department, AFL-CIO strongly endorses H.R. 5540, the Defense Industrial Base Revitalization Act, which is scheduled

for a Floor vote in the near future. This bill, which enjoys bipartisan support in the House, will provide a key element in revitalizing our industrial base, which is crucial to our nation's economic future. The revitalization program set forth in this legislation not only would improve productivity and lessen our dependence on foreign imports, but also would strengthen our security and provide hundreds of thousands of job opportunities at a time when the nation's unemployment rate is at its highest level since World War II.

Of Particular interest to us are the bill's training provisions, to be administered at the state and local level, to train and upgrade workers' skills in areas currently in short supply and needed by defense-related industries. In the next few years, hundreds of thousands of high skill jobs will be created in skill shortage occupations—machinists, computer technicians, tool and die makers, mechanics, etc.—jobs that have application to the civilian economy as well as for defense. The training program will provide workers with the skills needed for those jobs, particularly via retraining workers laid off in depressed industries such as auto and steel. The training program is crafted to complement, not duplicate, existing job training and apprenticeship programs, and will encourage participation of women and minorities.

We understand that Representative Erlenborn intends to offer an amendment to strip the Davis-Bacon provision included in the bill. This prevailing wage standard, which has been in effect since 1935, is one of the nation's most important labor provisions that protects workers in the construction industry and insures the highest quality of work on federal construction projects. We urge you to vote against this and any other weakening amendments.

We strongly urge you to support H.R. 5540, which addresses many of our country's underlying economic problems—obsolete machinery, shortages of skilled labor in crucial industries, and a severely deteriorating industrial base. Enactment of this legislation will be an important first step in revitalizing the American economy.

Sincerely,

BRIAN TURNER,
Director of Legislation.●

ARCHITECT OF THE CAPITOL

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. CARMAN. Mr. Speaker, one of the greatest antidotes to overwork, or just about any other malady affecting those of us on Capitol Hill is the special tour of the Capitol dome. Recently, members of my staff and I took advantage of this opportunity and made the long walk to the top of the dome. It was an exhilarating and moving experience.

My staff and I were directed through the winding passageways and over the climbing catwalks by Mr. Kevin O'Connor, one of the extremely capable, knowledgeable, and personable members of the Architect's staff. In addition to informing us of the background and history of the art and

construction of the dome, Mr. O'Connor conveyed a sense of his own enthusiasm and pride in this symbolic centerpiece of American democracy, the U.S. Capitol. I am very grateful and appreciative of Mr. O'Connor's warm personality and outgoing manner.

Although this is not the first time I have taken this special tour, it left me with the same sense of awe and excitement that I experienced on my first visit. My staff were also encouraged and renewed after getting a closer and more detailed look at an important aspect of their own history.

I encourage my colleagues to make the trip to the top. It is a great experience, and a trip well worth the time. In addition, it is a terrific view of a terrific city.●

STRATHMORE PAPER CO.
HONORED

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. CONTE. Mr. Speaker, I am pleased to inform my colleagues today of an important event in the First District of Massachusetts. The Strathmore Paper Co. of Westfield, Mass., was a recent winner of the prestigious American Paper Institute and National Forest Products Association Award for the most effective air pollution control program in the paper industry in 1981. This award is one of six given by a panel of environmental and energy experts from outside the industry for significant environmental achievements.

Strathmore won this award for its innovative use of technology at its Woronoco No. 2 plant to reduce emissions. The company's dry flue gas desulfurization installation, the first in North America, enables Strathmore to burn high sulfur coal with lower emission levels than were achieved earlier with low sulfur oil. Moreover, the company has saved \$1.5 million by burning 70 tons of coal a day at the plant rather than thousands of gallons of costly fuel oil.

Strathmore's achievement is especially significant since it was the first company in New England to switch back to coal burning. Its accomplishment will thus inspire other companies in New England and across the United States to help decrease our country's dependence on imported oil by switching their plants from use of costly foreign oil to plentiful American coal, without many of the environmental problems previously associated with the use of coal.

Mr. Speaker, this example shows what can happen when American industry uses American know-how to solve a problem. I heartily commend

the Strathmore Paper Co. for its concern for the beautiful environment of western Massachusetts and for its imagination and hard work in effectively harnessing coal in this new way. I trust that its example will inspire others to explore new ways of solving our energy problems while protecting the environment. My congratulations go to Strathmore president John Gallup and to all the officers and employees of the Strathmore Paper Co. on the occasion of this well-deserved award.

Thank you Mr. Speaker. ●

TAX BILL KNOCKS REAGAN OFF COURSE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SHUMWAY. Mr. Speaker, this morning's Los Angeles Times carried an article by the Times Board of Economists entitled "Tax Bill Knocks Reagan Off Course." It is an articulate explanation of economic reality, one which draws an analogy between supply-side economics and a three-legged stool. To be sturdily used, the stool must consist of personal tax cuts, business tax cuts, and Government spending cuts. I commend the article to my colleagues' attention as a graphic presentation of what occurs when one of the legs is removed.

The article follows:

[From the Los Angeles Times, August 10, 1982]

TAX BILL KNOCKS REAGAN OFF COURSE

The bipartisan coalition, in effect since 1954, that believed that business tax cuts were good for investment and hence for the economy appears to have been shattered beyond repair by the Senate tax bill.

In testimony before Congress concerning the 1981 tax package, most leading Democratic economists testified that the problem with the Reagan tax bill was that it was skewed far too heavily to individuals, leaving too little for capital formation. Indeed, the Reagan tax package gave business only 21 percent of the total cut over the 1982-86 period compared to the 33 percent that business received during the first five years of the Kennedy-Johnson tax cuts.

Now, however, the imbalance is much more pronounced. Senate Finance Committee figures show that by 1986 about 64 percent of the business tax cuts will be wiped out, while over the 1982-86 period business will receive only 12 percent of the total tax cuts. The combined tax legislation of 1981 and the 1982 has created the most skewed tax bill in history.

If one word could be used to characterize this tax cut, it would be antisaving. Not only will the increase in business taxes reduce corporate saving and cash flow, but the withholding on interest and dividends, the reduction of pension funding, the corporate minimum tax and the disallowance of municipal bond proceeds for "private" capital formation will all contribute to reduced saving in future years.

The tax bill will have virtually no effect on the economy for 1983 for three reasons. First, the effect of tax changes on investment always lags a year or more. Second, investment decisions are generally not affected by changes in the tax laws in either direction in the middle of recessions when operating rates are 70 percent or lower. Third, the decrease in the budget deficit is offset by the decrease in corporate saving. Net saving is unchanged, and thus on balance so are interest rates.

The net effect of the Reagan programs so far—including the increase in interest rates—has been to reduce capital spending by about \$15 billion in 1982. The tax incentives incorporated in the 1981 act raised fixed business investment by about \$10 billion per year; that is, \$10 billion in 1982, \$20 billion in 1983, and so on until the bill was fully implemented in 1986. However, the increase in interest rates reduced capital spending by about \$25 billion. Now, the Senate has passed a tax increase that takes away about 60 percent of the benefits originally embodied in the 1981 tax legislation, yet without reducing interest rates.

NEGATIVE EFFECT BY INCREASES

Furthermore, the figures quoted above for changes in investment hold during times of equilibrium, but not in the middle of recessions. Thus, the negative effect of these tax increases will become more apparent once the economy does start to recover and interest rates move down. In the past, it has been under these conditions that the benefits of lower corporate taxes have always induced greater investment. However, with most of the tax benefits wiped out, we will have only a moderate increase in investment during the period of recovery. Ironically, it will not be until the Democrats come back into power and vote more business tax cuts that the increase in investment will lead the economy back to higher productivity growth.

Assuming no further changes in the bill, the net effect of this tax increase by 1986 will be to lower investment by about \$30 billion with no offsetting decline in interest rates. Gross national product will total roughly \$4.2 trillion in 1986, so the tax increase will reduce investment by 0.7 percent; with the normal multiplier effect of 2, GNP will be about 1.4 percent lower by 1986. At current levels, each reduction of one percentage point in GNP increases the deficit by about \$10 billion, so about half the tax increase will disappear because of slower economic growth.

The conclusion would be quite different if government spending were to be cut, because national saving would then increase, monetary policy would ease, and interest rates would decline, thereby stimulating economic growth. But we certainly cannot expect such expansionary effects to occur when any increase in public-sector saving is fully offset by reduction in the private sector. That is why a tax increase designed almost exclusively to diminish private-sector saving is peculiarly inappropriate at a time when the total national saving rate is already at a postwar low.

The only parts of the tax bill that do not have harmful implications for saving are two very minor parts: the increase in the floor for medical and casualty deductions and the increase in excise taxes. The deductions for medical expenses and casualty losses were originally put into the code for reasons of equity: Someone who had suffered extraordinary expenses should receive some partial offset in the form of lower

taxes. For the most part, however, these deductions gravitated into methods of reducing taxes even for routine medical expenses and casualty losses. This tax can be raised without destroying any incentives to save, and from an economic point of view can be considered the opposite of a rebate.

Previous studies have shown that, while most of a rebate is saved during the first quarter, most of it has been spent by the end of the year. In the same manner, we would expect these tax increases to come out of consumption rather than saving. As a result, total national saving will increase and interest rates should thereby be reduced. However, the magnitudes are very small—only about \$4 billion per year once the tax increases are completely phased in—and hence unlikely to make much of a dent in interest rates.

COST-OF-LIVING PAYMENTS

The analysis of the excise tax is slightly more complicated because it has an added dimension—one of inflation. The tax increases are once again very small, but are duly reflected in the consumer price index for cigarettes, telephone calls, airplane travel, and various boat and fishing equipment. Once again the amount involved is only about \$5 billion per year. However, the CPI will rise proportionately by this amount, and hence all cost-of-living payments in both the private and public sector will increase apace. Since about half of government expenditures are either formally or informally linked to the cost of living, about \$2.5 billion of that increase in revenue will be reflected in higher government expenditures. The other \$2.5 billion will serve to increase saving and lower inflation.

It is more difficult to quantify the effect of the 10 percent withholding on interest and dividend income. The fact that the government gets the money a little sooner only changes the rate of return by about 0.1 percent; besides, most large taxpayers with large interest and dividend income are already required to file quarterly. It is instead more a question of the nuisance value, even though exempting most small savers from the withholding requirement reduces that problem. The net effect will be to drive savers into tax-sheltered investment, possibly even creating a net loss of revenue to the Treasury.

The amount of tax collected by the IRS could be increased substantially if institutions paying interest and dividend income—and any other source of income not subject to withholding—were more vigilant about issuing Form 1099 for all such income; issuance has heretofore been very lax. In addition, the IRS has been inept in matching 1099 information with the proper 1040 forms. Thus a breakdown in information transmission has occurred at both ends.

It would have been much more sensible to fix the defects in the existing system than to move to a withholding pattern that is likely to drive an increasing number of taxpayers into tax-free or tax-sheltered investments. However, in any case the amounts are small compared to the damage done by the business tax increases.

Properly structured, supply-side economics can be likened to a three-legged stool: personal tax cuts, business tax cuts and government spending cuts. Remove one of the three legs and the entire stool collapses. Until now, the reason for failure of the Reagan programs had been that the overall level of government spending in real terms grew faster in fiscal 1982 than it did during

the average of the last 20 years. However, I had thought that the other two legs of the stool would still remain in place.

It now appears that the second leg of business tax cuts has also been knocked to the ground. Reagan and the Republicans have thus reduced themselves to formulating economic policy on a one-legged stool. I can only intensify my speculation that it will prove to be both an economic and a political disaster. ●

SECTION 936 NEEDS REFORM, NOT REVENUE

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SCHULZE. Mr. Speaker, among the revenue-raising proposals to be considered this week by the House and Senate conferees on H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, is one that would drastically cut back the tax incentives mainland corporations receive for investing in new plants and creating new jobs in Puerto Rico. This Senate Finance Committee proposal, if enacted, would have a devastating effect on the economy of Puerto Rico, already suffering from an unemployment rate of 23 percent. Also, this provision of H.R. 4961 is in direct contradiction with the administration's efforts to provide tax and other incentives for investment in the Caribbean Basin countries in order to bolster their economies and foster political stability.

Mr. Speaker, this issue is explored in a cogent article in the Wall Street Journal of Monday, August 9, 1982, by former Under Secretary of the Treasury Norman B. Ture. In his article, "Puerto Rico: Hostage to U.S. Tax Reform," Dr. Ture explains that the conferees are considering also a modification of the Senate Finance Committee proposal that has been presented by the Treasury Department. But Treasury's proposal, says Dr. Ture, would also largely erode the tax incentives for investment in Puerto Rico.

What is most alarming, though, is Dr. Ture's assertion that still other suggestions for dealing with IRS section 936—suggestions that would preserve incentives for investment in Puerto Rico and raise even more tax revenues than would be raised under the original Senate Finance Committee proposal—are not being given due consideration by the administration or the conferees.

Mr. Speaker, in the interest of the economy of Puerto Rico and its people, and in the strategic interest of the United States in preserving a healthy Puerto Rico as an American outpost in the Caribbean, I ask the House and Senate to give due consideration to all proposals for modifying the tax incentives provided by IRS section 936, known in Puerto Rico as

Operation Bootstrap. I also ask unanimous consent that, the thoughtful article, "Puerto Rico: Hostage to U.S. Tax Reform," by Dr. Norman B. Ture be printed in the RECORD.

[From the Wall Street Journal, Aug. 9, 1982]

PUERTO RICO: HOSTAGE TO U.S. TAX REFORM (By Norman B. Ture)

All obscure provision of the Senate-passed tax-increase bill would, if enacted, heavily damage American policy in the Caribbean and cripple our efforts to promote economic development there through private initiative.

This provision would in effect cancel Puerto Rico's "Operation Bootstrap," a set of tax provisions, accommodated by a provision in the U.S. Internal Revenue Code, which creates significant incentives for U.S. companies to set up affiliates and to produce in Puerto Rico. The Senate provision would deal a stunning blow to Puerto Rico's economy, already reeling from the U.S. recession and from the setback to new investment resulting from the IRS's tax-audit policies and its litigation against several major U.S. firms with affiliates in Puerto Rico.

A FAILURE BEFORE IT BEGINS

The legislation would be construed throughout the Caribbean as a lack of firm commitment by the U.S. to fostering private-sector initiatives as the vehicle for economic development. The Reagan administration's Caribbean Basin Initiative, in which Puerto Rico was to be the linchpin, would fail before it began. Puerto Rico could no longer serve as a model for the region; it could no longer demonstrate what can be achieved when the private sector takes the lead in promoting economic progress.

The effects of the Senate action in overturning this important foreign policy initiative vastly outweigh any gains in the form of tax-policy niceties. The elimination of an alleged "tax abuse" and the supposed pick-up of a small amount of tax revenue would be purchased at the extraordinary price of forgone economic advances and political stability in Puerto Rico and throughout the Caribbean.

The "tax abuse" to which the Senate provision is directed is difficult to identify, even in the terms of the most zealous old school tax reformers. The principal charge against the offending Internal Revenue Code Section 936 is that it affords U.S. mainland companies with Puerto Rican affiliates too much U.S. tax forgiveness, considering the number of jobs these companies provide in Puerto Rico. The tax revenue loss to the U.S. Treasury is alleged to be well over \$40,000 per created job. The same number of jobs, the critics maintain, could be provided at a lower cost by direct federal outlays such as those under CETA. The "abuse," then, turns out to be the charge that the tax incentive is inefficient.

There is far less in this charge than meets the eye. The estimated tax revenue loss to the Treasury presupposes that in the absence of the tax credit, there would be the same amount of investment, employment, output and income in Puerto Rico (or that there would be an equal amount of investment, employment, output and income added in mainland U.S. operation) as there is under the present powerful incentives afforded by very nearly full tax exemption. This obviously is not true.

Even the most severe critics of Section 936 concede that a very substantial amount of U.S.-company investment in Puerto Rico is in response to the highly favorable tax treatment. Repeal or serious curtailment of Section 936 would result in prompt major disinvestments by U.S. companies in Puerto Rico and in the flight of capital to non-U.S. tax-haven jurisdictions. The revenue "loss" attributed to Section 936 is very largely fictitious; so, too, therefore, is the revenue "gain" from the Senate action or any significant cutback on the tax benefits for Puerto Rican-produced income. The revenue loss per job created in Puerto Rico is nowhere near the extraordinary figure that is bandied about; it is, in fact, much closer to zero.

Even if one were to accept the revenue loss estimate upon which the Senate's proposal appears to depend, it doesn't follow that Section 936 is inefficient. The large amount of tax dollars per job reflects large capital returns per job which, in turn, reflect large capital investment per job. In the course of its development since Operation Bootstrap got underway in the late 1940s, the Puerto Rican economy has progressed from emphasis on agriculture and low-productivity, labor-intensive industries to capital-intensive, technologically advanced industries. This change has been associated with a rapid advance in the skill, productivity and real wage rates of an increasing number of Puerto Rican workers. If that's not what economic policy aims to achieve, if that's not the very essence of economic progress, if that's not what economic development is all about, what is?

Indeed, isn't that just what we're looking for in the mainland U.S. as the achievement of the Reagan program? A large (putative) tax revenue loss per worker should, if anything, be taken as a measure of the success of Section 936 in making Operation Bootstrap an effective device for economic development initiated by the private sector.

It appears that the administration has some reservations about the Senate's proposed cutbacks of Section 936. The Treasury has offered a proposal that it claims would deal adequately with the uncertainties arising from the IRS's current audit policies and litigation stance, while raising substantial tax revenues. In fact, the Treasury proposal would erode much of the tax incentives for investment in Puerto Rico.

TREASURY'S VENGEFUL PURSUIT

The administration's concern about the adverse effects of the Senate bill on the Puerto Rican economy has not been substantial enough to persuade the Treasury to forgo its vengeful pursuit of a relative handful of high-technology companies in favor of tax changes that would restore economic stability to Puerto Rico by continuing the demonstrably successful incentives of Section 936. Several suggestions for modifying Section 936, recently presented to the Treasury, the White House and the Senate and House conferees on the tax bill, would accomplish that result while providing a significant increase in U.S. tax revenues—substantially more than the amount estimated as raised by the Senate bill. These suggestions have been shunted aside by the administration.

One must hope that the conferees will give them careful consideration and will reject both the Senate and the Treasury proposals. If they do so, there may still be a reasonable chance for the Reagan administration to realize a successful Caribbean

Basin Initiative, led by a thriving Puerto Rico.●

REAGAN'S EL SALVADOR CERTIFICATION IS CONTRARY TO THE FACTS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. OTTINGER. Mr. Speaker, I rise to strongly protest President Reagan's recent certification that El Salvador has complied with economic and human rights reforms. I have cosponsored legislation introduced by my good friend from Massachusetts, Representative GERRY STUDDS, declaring that certification null and void.

The Americas Watch Committee and the American Civil Liberties Union have published a remarkable report on the current situation in El Salvador which clearly refutes the administration's dubious claim that the Salvadoran Government has met the standards included in the certification process. Calling the administration's certification a "misrepresentation of the Salvadoran reality," the report points out:

No serious examination of conditions in El Salvador and of U.S. law can lead to the conclusion that any of the requirements for certification have been satisfied.

The first requirement, that the Government of El Salvador has made a "concerted effort to comply with internationally recognized human rights" has not been met—it has been flaunted. The Government and its security forces remain involved in a pattern of systematic human rights abuses, including violations of the rights to personal liberty, humane treatment, free speech, free assembly, due process of law, and fair trial. El Salvador remains under a state of siege imposed on March 6, 1980. Decrees remain in effect which permit arbitrary and limitless detention and torture.

The second requirement of certification, that the Salvadoran Government achieve "substantial control over all elements of its own armed forces so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens by these forces" also cannot be reasonably certified. An estimated 34,000 civilians have been murdered in El Salvador for political reasons since 1979. Since Reagan's first certification, over 3,000 civilians have been killed, according to the Legal Aid Office of the Archdiocese in El Salvador.

In March an election was held, as required to be under the certification, yet its legitimacy is now in doubt as evidence of electoral fraud is uncovered. The elections did not alter the armed forces dominance of policy. Nor did it result in the hoped-for moderation of the Salvadoran Government. Rather, it invested great power in the

EXTENSIONS OF REMARKS

hands of one of El Salvador's most brutal human rights violators, Roberto D'Aubisson. Meanwhile, there has been no movement whatsoever toward negotiations with all parties to the conflict, violating an explicit requirement for certification.

The agrarian reform program is in shambles. The Americas Watch/ACLU report notes:

While pledging to restore the land reform, (the Government) has abrogated the law that affected El Salvador's most valuable lands under Phase II of the reform and has sent a signal to land owners that it opposes the redistribution of land to El Salvador's tenant farmers and share-croppers.

Nine thousand and six hundred peasants have been evicted from their land, and some 140,000 intended beneficiaries are still without provisional titles.

For the families of the Americans killed in El Salvador, the most distressing aspect of certification concerns the investigation of those deaths. We have seen a highly dubious investigation plagued with uncertainties and delays. Five suspects await trial, yet abundant evidence collected by the Lawyers Committee for International Human Rights and other groups suggest that responsibility goes well beyond the five individuals charged. Our own Government has displayed an astounding attitude of unresponsiveness and delay which seems to border on complicity with Salvadoran authorities. Last month, I initiated a letter to four Federal agencies demanding the release of pertinent documents under the Freedom of Information Act. I am still waiting for two of those agencies to respond.

Facing a situation more dangerous and unstable than ever, President Reagan has once again sought to escalate United States military involvement in El Salvador by ignoring the facts and falsely certifying compliance with human rights and economic reforms. The result of this policy will be increased instability as we hand Moscow a victory it could not otherwise contemplate. As the former Ambassador to El Salvador, Robert White, recently wrote in the New York Times:

Each time the Salvadoran military invades a poor neighborhood in San Salvador with United States-furnished weapons, hundreds of recruits and sympathizers are recruited into the revolutionary movement.

Ambassador White correctly noted that by ignoring the aspirations of liberty that countless Salvadoran's hold, and by attributing their desire for change to Marx and Lenin while siding with the military elite, the United States assumes the role of counterrevolutionary power and abandons to Cuba and communism the sponsorship of change.

The President's certification on El Salvador marks the absolute failure of his policies there and throughout Cen-

August 10, 1982

tral America. I urge my colleagues to reject the attempts to continue allying us with the forces of repression, and to support legislation to prohibit further U.S. assistance to El Salvador by declaring the certification null and void.

RELIEF OF THEDA JUNE DAVIS

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. RUDD. Mr. Speaker, I rise today to introduce a private bill to correct an injustice that has been done to a constituent of mine while working for a program funded and supervised by the Federal Government.

Mrs. Theda June Davis of Phoenix, Ariz. is a schoolteacher who was hired by a federally funded job training program known as SER-jobs for progress in 1970-71.

During the course of her employment, Mrs. Davis was passed over for promotion. She filed a claim against jobs for progress for discrimination based on sex, and was successful in that claim. In addition, she was awarded some \$35,000 compensatory damages by a Federal court.

While jobs for progress is a fully federally funded grant program, it cannot, by law, use its funds to pay claims. The Federal Government supervises this program, funds this program, makes all the rules for this program. Yet, Mrs. Davis, who has been wronged by this program, cannot be compensated at this time. The bill that I am introducing would not right the wrong that has been committed, but it will compensate Mrs. Davis for her hardship, and carry out the lawful award given her by a Federal court for damage done to her by a Federal program.

H.R. 6966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury shall pay to Theda June Davis of Phoenix, Arizona, out of any money in the Treasury not otherwise appropriated, the sum of \$35,499.25 plus interest thereon calculated at the rate of 6 percent per year from December 1, 1976, to April 3, 1980, and at the rate of 10 percent per year from April 4, 1980, to the date the sum is paid. Such sum is the amount of a court judgment in favor of Theda June Davis against a non-profit Arizona corporation based upon a finding of sex-based discrimination. The Arizona corporation is totally funded by federal grants from the Department of Labor.

Sec. 2. No part of the amount provided for in the first section of this Act in excess of 10 percent thereof shall be paid to or received by an agent or attorney on account of services rendered in connection with the claim described in the first section, and the payment or receipt in excess of 10 percent of

the amount provided for in the first section shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed \$1,000.●

FISHERMEN WARN CONGRESS TO BE CAREFUL OF LAW OF THE SEA TREATY

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. YOUNG of Alaska. Mr. Speaker, on a number of previous occasions, I have warned my colleagues of the problems that the U.S. fishing industry might face if the United States were to sign the Law of the Sea Treaty. In reply, at least one treaty supporter has suggested that my concerns are fanciful and that the opposition of the U.S. fishing industry to the treaty is manufactured rather than genuine.

Recently, the New England Fisheries Development Foundation, Inc., submitted (unsolicited) some comments on the treaty and its potential interaction with existing U.S. law regarding the fishing industry. Mr. Kenelm Coons, the executive director, and Mr. Ralph Gillis, the general counsel, provided my office with a copy of these comments. Because the document is too long to print in the RECORD in its entirety, I have included only the two introductory paragraphs and the concluding pages here. I would be happy to supply a copy of the entire document to any Member who is interested in reading it.

LAW OF THE SEA HEARINGS

On behalf of the New England Fisheries Development Foundation, Inc., (Foundation), the following comments are raised for your consideration at the ongoing Committee on Merchant Marine and Fisheries' hearings to evaluate the status of the United States position in the law of the sea negotiations. These comments are presented neither in support of, nor in opposition to the United States signing the Convention on the Law of the Sea (Convention). Whether to sign the Convention involves questions of law and policy beyond the scope of this letter. The Foundation's comments are intended only to bring forward points of possible significance for persons reviewing our national law of the sea policy.

The Foundation is a trade association consisting of over 100 seafood companies, cooperatives and local associations in the New England fishing and seafood business. The Foundation draws its membership from the maritime communities of New England, and has its office in Boston, Massachusetts. Its primary activity is fish and seafood marketing, for both domestic and export markets, as well as research and development

projects. As a trade association, the Foundation is able to undertake projects that its ordinary members cannot.

In conclusion, the Foundation notes that the FCMA states that Congress has found the fishery resource to be a contributor to the food supply, economy, and health of the nation and a source of recreation. 18 USC 1801(a)(1). The Convention does not mention coastal state interests in fishery conservation and management as being at all associated with recreation. And yet, Congress found in the FCMA that commercial and recreational fishing was a major source of employment. 18 USC 1801(a)(3).

It was the intent of Congress, expressed in the FCMA, that the fisheries be conserved and maintained to achieve optimum yields on a continuing basis. 18 USC 1801(a)(5). And the Convention in Articles 61 and 62 complements the objective of developing and maintaining optimum sustainable yield. But the criteria for use of the optimum sustainable yield set out by Congress in the FCMA include primarily domestic interests to be secured under a "national" conservation and management plan (18 USC 1801(a)(6)) and a "national" program for development of under- and non-utilized species "for citizens to benefit from the employment, food supply, and revenue" (18 USC 1801(b)(7)). Thus, the idea of the fishery conservation zone, since its 1976 inception, has been to promote domestic commercial and recreational fishing, as well as to obtain optimum yield from each fishery for domestic use, pursuant to the establishment of the zone as an area where the United States is to assume exclusive fishery management authority. 18 USC 1801(b).

In evaluating the national law of the sea policy toward the Convention on the Law of the Sea, the Foundation suggests that consideration be given to the effect of the Convention's Articles 56, 61, 62, 63, 64, and 70, both in vesting a legal right in other states to fish the surplus catch within the EEZ, and in setting out criteria which provide how the priority of states to fish in the EEZ will be set. The effect of these articles at a minimum could well be to delay or cause unnecessary pressure on fishery or other negotiations with which the United States is involved. In addition, the Convention's compulsory conciliation mechanism has the potential for built in delays which could be implemented adversely to the best interests of the United States, which is not to ignore the possibly undesirable exposure which compulsory conciliation and mandatory arbitration could install against even-as-yet undetermined interests of the United States.

The concern of the Foundation is that the immediate effect of adverse results from application of the Convention to matters involving the United States would impact directly on the fishing industry, especially in New England. Therefore, the Foundation asks that any decision to change the applicability of the FCMA by ratification of the Convention be carefully reasoned and made to assure the protection of United States interests at many levels and from a variety of perspectives, but including the needs of the New England fishing and seafood industries.

Respectfully submitted.

KENELM W. COONS,
Executive Director.
RALPH J. GILLIS,
General Counsel.●

WITHHOLDING FLIMFLAM

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. D'AMOURS. Mr. Speaker, the interest and dividend withholding proposal is as much "flimflam" today as it was when the Wall Street Journal criticized the President's original proposal this January. If anything, the provisions included in the Senate tax bill are even more complex and burdensome than the original proposal.

Mr. Speaker, this is not and should not be a partisan or ideological issue. Interest and dividend withholding has been opposed by a wide range of Members from both parties. A nearly unanimous House rejected withholding 401 to 4 under President Carter and it should do so again under President Reagan.

Interest and dividend withholding simply makes no sense when we can achieve the same compliance goal through other, less burdensome, means such as better processing of existing 1099 forms on interest and dividend earnings.

I invite my colleagues to join me in cosigning the following letter to the House Rules Committee asking for a separate vote on this issue when the conference report on the tax bill comes back to the full House. Members who wish to cosign the letter should call my office at 5-5456.

[From the Wall Street Journal, Jan. 29, 1982]

WITHHOLDING FLIMFLAM

In an effort to puff up revenue projections for the February 8 budget message, the Treasury Department is proposing a 5 percent withholding tax on dividend and interest income. The proposal makes no economic sense, and hasn't a ghost's chance of passage through Congress, something the Treasury must surely have known.

After all, we've been down this track many times before. Similar withholding tax proposals have been rebuffed in Congress in 1942, 1943, 1950, 1951 and 1962. On an appropriations rider in August 1980, the House of Representatives voted by 401-to-four to prevent the Internal Revenue Service from even studying the idea of a withholding tax on interest and dividends. This year's proposal is opposed by powerful members of the President's own party, including Representative Barber B. Conable Jr., ranking Republican on the House Ways and Means Committee, who says the committee won't approve the measure.

And with good reason. For fairly minimal gains in revenues—Treasury is estimating an extra \$2 billion for fiscal 1983, less afterwards—a withholding tax would impose heavy paperwork burdens on banks, savings and loans and brokerages, among others. In a study commissioned before the American Bankers Association, the accounting firm Arthur Young & Co. estimated that the Carter administration's 1980 withholding proposals would cost a bank with \$100 mil-

lion in deposits roughly \$200,000 in startup costs and \$80,000 in annual operating costs.

A withholding tax on interest and dividends, moreover, would lower the effective yield on savings and stock ownership. And many of the withholding payments would most likely be drawn from interest-bearing accounts. At a time of enormous fear of "crowding out" by government borrowing in the capital markets, it makes no sense to reduce the deficit by reducing personal saving.

The IRS says it needs a withholding tax to prevent underreporting of interest and dividend income. But what it really means is that its computer programs and management are so sloppy that it can't match interest and dividend reports filed by corporations and banks with individual tax returns. The answer is for the IRS to put its own house in order, rather than to transfer an enormous administrative burden to the private sector.

Since the withholding measure has little hope of passage, its major purpose is to allow the Treasury to pretend that it will be collecting \$2 billion more next year than it actually will. The window dressing wasn't worth the cost in budget credibility.

HOUSE OF REPRESENTATIVES,
Washington, D.C.

Hon. RICHARD BOLLING,
Chairman, House Rules Committee, the
Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: You will soon be asked to approve a rule for the consideration of the Conference Report on H.R. 4961, a minor House-passed tax bill to which the Senate has appended many substantive changes in U.S. tax law. We ask that you approve a rule allowing a separate vote or motion to strike from the Conference Report any provisions requiring withholding on interest and dividend earnings.

We realize that this is an unusual request but we believe that this is a most unusual situation in which the facts warrant a separate vote on this issue. First, the House was never given an opportunity to consider and vote on the individual issues contained in the Senate tax bill. Second, only two years ago an overwhelming bipartisan majority of the House voted 401-4 to reject a similar proposal made by the Carter administration. Third, by properly processing existing 1099 forms the IRS can achieve the same compliance objective without burdening millions of taxpayers, financial institutions, and businesses. Fourth, the imposition of interest and dividend withholding would act as a disincentive to savings and investment and would impede economic recovery. Fifth, the original Senate vote to impose interest and dividend withholding was very close, 47-50.

For these reasons, and on behalf of the many millions of our constituents who will otherwise be adversely affected by interest and dividend withholding, we ask that you approve a rule permitting a separate vote on this important issue.

Sincerely,

STEWART MCKINNEY.
FRANK HORTON.
CLARENCE E. MILLER.
NORMAN E. D'AMOURS.
FERNAND ST GERMAIN.
DOUG BARNARD, Jr.●

JOB TRAINING HELP NEEDED FOR TRADE WAR VICTIMS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. GAYDOS. Mr. Speaker, the Japan Economic Institute of America recently circularized the Congress with an economic monograph that acknowledged that 2 million American jobs have been lost to imports in recent years.

The essay on trade failed to note that many of these goods were unfairly traded, but I will make that notation.

Unfair trade is the way the world works in these days of economic war on a pacifistic and still complacent America, which is the largest market in the world for everything made in the world.

Furthermore, that these goods worth 2 million American jobs can be unfairly traded—traded in violation of international agreements and law—is a policy of the U.S. Government from administration to administration.

Therefore, these 2 million jobs were lost as a matter of Government policy.

And those injured as a direct result of Government policy ought to be helped, also by the Government and also as a matter of policy.

By the way, these lost jobs equal about 20 percent of our present unemployment rate.

In this connection, the debate on the Job Training Partnership Act (H.R. 5320) mentioned 1.2 million workers in declining industries. Declining industries generally are those targeted for penetration by one of our trading partners or another.

In one recent decline, an American automobile manufacturer closed a plant in New Jersey not long ago—closed it permanently.

After 18 months, 56 percent of the workers who did not choose to retire were still unemployed.

The trade adjustment programs are insufficient and they are used far too sparingly.

So, the Government is injuring people and it isn't helping them.

And that is wrong!

So, the \$1 billion the Training Act seeks to direct toward displaced workers speaks strongly in its favor. I think we ought to be doing more in this regard, and that events will compel us to do more. But getting this bill out of the House is a start and it will be \$1 billion more than we have now—if the Senate will accept it and if the administration will let it become law.

In addition, the act seems to be free of the potential for manipulation and abuse that gave the CETA program so much trouble. And that, too, is in its favor.●

LET US GET ON WITH THE BUSINESS OF REAUTHORIZING A STRONG, FLEXIBLE CLEAN AIR ACT

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. WYDEN. Mr. Speaker, on April 28, the Energy and Commerce Committee overwhelmingly adopted an amendment I offered to reform and streamline the prevention of significant deterioration (PSD) program of the Clean Air Act.

Enacted in 1977, the PSD program budgets the amount clean air is allowed to deteriorate in our Nation's parks, wilderness areas and other areas of our Nation whose air is cleaner than the national ambient health standards.

The PSD amendment adopted by the committee was the product of a fair and open debate, as reflected by the consensus support behind it.

Yet, after a 3-month hiatus on the consideration of any clean air amendments, the Energy and Commerce Committee will soon be asked once again to reconsider the PSD section of the Clean Air Act.

Committee members will be asked to support amendments designed to remove new national parks, wilderness areas and other national treasures—less than 4 percent of the continental United States—from the protections of their clean air budget under the PSD.

The PSD program has been criticized as being too complex. My amendment responded to those legitimate concerns by making specific changes to reduce that complexity.

The 25-to-13 vote to adopt this amendment suggests it is an acceptable compromise that addresses head-on the concerns many of us share about the existing PSD program, while preserving the emphasis on keeping our clean air areas clean and protecting our national parks and other treasures.

My amendment reduced the need for complicated modeling of air quality impacts that both States and industry have complained are complicated and unworkable. The amendment streamlines the PSD permitting process and reduces the number of sources that come under PSD permitting review. For national parks, wilderness areas and other national treasures the PSD budget protections remain. For all other PSD areas, however, States may elect to "opt-out" of the PSD budget protection, thereby allowing pollution up to the level of the national ambient health standards.

This Congress knows that the American people want us to live within budgets. Given this budget-conscious

mood, it is ironic that once again the Energy and Commerce Committee will markup amendments intended to undercut the clean air budget and reconciliation process known as the prevention of significant deterioration program.

Mr. Speaker, an important part of the business of this Congress is to reauthorize a strong, flexible Clean Air Act.

Let us quit covering old ground and move on to the many other important issues that must be resolved before the committee can report out a clean air bill. ●

COURT WATCH PROJECT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MAZZOLI. Mr. Speaker, I believe that judges typically are too lenient on the criminals who come before them, and I hope the Court Watch Project, in today's parlance, raises judicial consciousness on the need to match the penalty to the crime.

The following article is well worth reading:

[From the Washington Post, Aug. 5, 1982]

COURT WATCH GROUP PUTS PRESSURE ON

"LENIENT" JUDGES

(By Ruth Marcus)

The sentences raise eyebrows:

A Wisconsin judge gave three years probation to a man convicted of sexually assaulting a 5-year-old girl because, he said, the girl was a "sexually promiscuous young lady."

A California judge reduced a first-degree murder conviction to second degree because he said the slayer did not act in a "premeditated and deliberate" way when he stabbed his victim 130 times.

A Pennsylvania judge put an armed robber—out on bail for a previous conviction when he committed the crime—on probation for five years, because prisons are "inhumane and degrading."

Such court decisions prompted the Washington Legal Foundation, one of a new breed of conservative "public interest" law firms, to launch the Court Watch Project, asking its 80,000 members across the country to monitor judges and report any who appeared to be giving criminals slap-on-the-wrist sentences.

"We have hit a nerve," said WLF head Daniel Popeo of the project, which began last year. "We got bags and sacks of letters and support."

Complaints and newspaper clippings about judges who are soft on crime are now pouring into the group's headquarters here at the rate of "10 a day, six days a week," he said.

"There is a tremendous breakdown in the public's mind of the effectiveness of the criminal justice system," Popeo said. Court Watch was needed, he said, to counteract the "tremendous pro-criminal lobby" made up of liberal organizations like the American Civil Liberties Union, which he calls the American Criminal Lovers Union.

After reading Court Watch reports, the Washington Legal Foundation selects the most egregious cases, and writes letters asking the judges involved to justify their actions. It has written more than 500 letters so far.

The campaign would bear special significance for judges who are elected rather than appointed. According to the National Center for State Courts, about 30 states elect lower state court judges, the judges who sentence in most criminal cases. But the threat is equally as weighty for those judges who are appointed for set terms.

One letter was fired off Monday to a Missouri judge who made headlines when he sentenced a university professor who had killed his wife with a hammer to 60 days in jail.

Another sentence in which a Massachusetts judge freed on bail a doctor accused of raping two women patients, even though he had been convicted earlier of raping a nurse, drew a sharp response. "The court's action can accurately be labeled an outrage," the foundation charged in a letter.

In a local case, the foundation asked D.C. Superior Court Judge Henry H. Kennedy Jr., who sentenced a man to 18 to 54 months in jail after he pleaded guilty to killing a 20-month-old girl, "By what strange reasoning or process did you arrive at such a lenient sentence?"

"In our view, the sentence dangerously approaches the level of judicially sanctioning child abuse and infanticide," the group said. "The Washington Legal Foundation believes that if you are unable or are unwilling to mete out appropriate sentences for violent crimes, you should seriously consider resigning from the bench."

If the group doesn't receive a satisfactory response from a judge, it files a complaint with the state judicial review commission. Six complaints are currently pending, and the foundation is about to lodge another five.

Apparently, however, when the Washington Legal Foundation talks, many judges listen.

"I have tried many murder cases, and this is the first time I've ever reduced a first-degree murder conviction in my 10 years on the Superior Court," California Judge Peter S. Smith told the group, noting that he was appointed to the bench by former governor Ronald Reagan and has "a reputation as a hard sentencer."

Legal Foundation lawyers believe their letters make a difference. "In the next case, that judge is going to be a little more sensitive to the victim and the public, and that's a beneficial effect," said lawyer Nicholas E. Calio.

In an expansion move, the foundation is about to expand the Court Watch program. It has printed 50,000 copies of a "Court Watch Manual" to send to various groups detailing how to set up local court-monitoring programs.

The manual suggests activities for "concerned citizens" who want "to hold judges, parole boards, prosecutors and other criminal justice personnel accountable for their actions." Such groups are already active in California and Illinois.

Recommendations include monitoring court proceedings, recall drives; letters to newspapers complaining about lenient judges or parole boards; demonstrations in front of courthouses; newspaper advertisements criticizing a judge's handling of a case, and a "worst judge" award to those too lenient with criminals and who disregard the rights of victims.

Some critics say the Court Watch project represents a dangerous attack on judicial independence.

"I never thought it was proper for judges to sentence out of fear," Vermont Supreme Court Chief Justice Albert W. Barney, chairman of the Conference of Chief Justices, said of the project. "If that's the way they're going to do business it's somewhat extortionate."

Barney noted that judges are often hamstrung by pre-existing legal rules or errors by police that keep evidence from being introduced, and are unable to explain seemingly lenient sentences because of confidentiality requirements.

"The judge gets blamed for all of these things," he said, "I don't really think that it's very satisfactory to key in on whether a sentence appears to the outsider to be lenient."

John Shattuck of the American Civil Liberties Union, argued that "judges need to be kept apart from lobbyists."

"Maybe members of Congress have to take the heat," Shattuck said, "but judges should be making their decisions based on the evidence before them, and not on letters coming in from any political group of whatever stripe."

"We've never received a nasty letter from a judge," Popeo countered. "We feel we are really protecting the judicial establishment from the attacks of the ACLU and the rest of the criminal defense lobby." ●

INSANITY DEFENSE

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. COLLINS of Texas. Mr. Speaker, earlier this year, a Washington jury found John Hinckley "not guilty by reason of insanity" of shooting President Reagan and three other men last March. I believe that we must take a very hard look at what the insanity defense has become. A man should not shoot the President in front of millions of people on television and then be eligible to be released in as little as 50 days because of the insanity defense.

Now is the time for reform. In many areas of the Nation, criminals are escaping punishment by use of the insanity defense. In Michigan, during the 1970's, 223 criminals escaped punishment by claiming they were insane. Of these 223, 124 were released after only a 60-day hospital stay. This is the type of thing that has to end.

Recently, a Georgia man was twice released from hospitals after two juries found him insane. After he left the hospital the last time, he walked into a hotel lounge and killed his wife and two bystanders.

The insanity defense appeals particularly to defendants with no other defense. Hinckley was able to hire three psychiatrists to try to justify his actions to a jury. Then the jury of laymen was forced to make a decision

on Hinckley's sanity on which expert psychiatrists could not agree.

I believe that a good solution would be legislation similar to that enacted by several States which creates a verdict of "guilty but mentally ill." This verdict would result in criminals being sent to prison after treatment for mental illness rather than being released into the public. Today, I am introducing a bill that would create such a verdict in Federal cases.

There is something very wrong when a man can shoot the President and three other men and then escape punishment by hiring three psychiatrists to say that he was insane. The worst part is that he could soon hire other experts to say that he is now sane and should be released.●

MILITARY CONSTRUCTION AUTHORIZATION SUPPORT FOR MALMSTROM AFB

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MARLENEE. Mr. Speaker, on Wednesday the House will consider H.R. 6214, the military construction authorization bill. I support this legislation as a much needed step toward upgrading our military facilities.

I am particularly concerned with the present condition of our housing on our military bases. Many of our bases are struggling to provide adequate housing for our military personnel, and this includes one base in my district, Malmstrom Air Force Base. In fact, 82 percent of the Strategic Air Command's existing dormitory spaces do not meet current Air Force standards. Our Nation must invest in this area and make substantial quality of life improvements as an incentive for our military personnel.

I am gratified, and appreciative, of the actions by the Committee on Armed Services to include \$5.1 million to upgrade unaccompanied enlisted personnel housing at Malmstrom as well as its actions to include funds for a heat plant there.

This Nation cannot continue to allow housing at our military bases to deteriorate as it has been and I join with the military personnel at Malmstrom Air Force Base in Great Falls, Mont., in thanks for the actions of the House Armed Services Committee.●

BUFFALO'S UKRAINIANS KEEP MEMORY, DREAM OF FREEDOM FOR HOMELAND

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. NOWAK. Mr. Speaker, Ukrainian-Americans during the month of August will celebrate the 100th anniversary of the establishment of their community in the Buffalo, N.Y., area.

The Buffalo Chapter of the Ukrainian Congress of America is the vehicle by which their heritage and appreciation of freedom are communicated to our community and beyond. Mrs. Dasha Procyk, who was a 4-year captive of the Nazi's Auschwitz concentration camp during World War II, is the president of Buffalo's local chapter. Mrs. Procyk spoke of local Ukrainian-American groups as striving to "teach their children a love for their homeland and at the same time a love for their American heritage and an appreciation of the freedoms they have here."

Ukrainian dreams of freedom were trounced when the revolt against czarist Russia failed. To this day the policy of "Russification" continues in Ukraine with a ban on the teaching of the Ukrainian language, the imprisonment of dissidents, religious persecutions, mass postwar deportations, and manmade famines.

The Buffalo Chapter of the Ukrainian Congress Committee of America has "adopted" jailed dissidents and sent food to their homeland in an effort to alleviate human suffering.

The following appeared August 2, 1982, in the Buffalo Courier Express: "Buffalo's Ukrainians Keep Memory, Dream of Freedom for Homeland".

[From the Buffalo Courier Express, Aug. 2, 1982]

BUFFALO'S UKRAINIANS KEEP MEMORY, DREAM OF FREEDOM FOR HOMELAND (By Bill Osinski)

It was only a local ethnic fair, but the organizers committed the diplomatic blunder of putting a flag with a hammer and sickle over the Ukrainian booth.

Dasha Procyk told the festival people there would be no Ukrainian booth until the flag of the Soviet Union was replaced with a blue-and-yellow one symbolizing the independent Ukraine.

"To us, the cause is maybe a little more burning than to other captive nations," said Mrs. Procyk, president of the Buffalo Chapter of the Ukrainian Congress Committee of America and a member of that organization's national board. "But the Ukrainians were the first victims of Russian expansion and the most forgotten, so we have to be the loudest."

This month about 30,000 Ukrainian-Americans in the Buffalo area mark the 100th anniversary of the establishment of their community here. To many of them, it is more than an ethnic milestone: it is a chance to demonstrate a national identity of a home-

land that most of the world recognizes only as the westernmost cave of the Russian bear.

To Ukrainians, the Ukraine is part of the Soviet Union only on political maps. It was from their homeland that the Cossacks rebelled against the czar in the 18th century, and that Ukrainian patriots mounted an army of hundreds of thousands to fight both the Communists and Fascists in World War II.

Now that the Ukraine has once again been absorbed by Russia—this time into the Union of Soviet Socialist Republics—it falls to the Ukrainians in the United States to keep alive the concept that the Ukraine is a distinct land, with its own religious, social and political tradition.

"We feel we must speak for those who cannot speak on their own behalf," Mrs. Procyk said. "We have a sacred duty."

Even those who are three or four generations removed from their homeland feel, to some degree, that same responsibility, she said.

"Some people think once you emigrate, you should forget," said Mrs. Procyk. "I am an American, but an American who doesn't know what is going on in the world isn't a good American."

On the local level, Ukrainian food and folk arts will be the featured attractions at the 10th Annual Ukrainian Day Celebration, to be held Aug. 15 at St. Basil the Great Church on Walden Avenue.

On the international political level, the Ukrainians are perhaps the most active bloc in the National Captive Nations Committee, an advocacy group for the national groups—not 31—that are under Soviet domination, she said.

By federal law, since 1959 the third week in July has been designated as Captive Nations Week in the United States. Mrs. Procyk participated in a ceremony in the White House Rose Garden last month as part of the 1982 commemoration of the Captive Nations cause.

Representatives of the various nations believe they have a strong friend in President Reagan, she said, but most of the strength of their cause comes from personal convictions.

For Mrs. Procyk, those convictions were forged during four years she spent as a captive in a Nazi concentration camp.

"My foremost thought was, 'Does anybody care, does anybody know I'm here?'" she said. Her own antipathy toward the Soviets was hardened, she said, when the Soviets took control of her camp, Auschwitz, and treated the Ukrainians almost as poorly as the Nazis had.

Because she could speak Russian, she could understand the talk among the soldiers of eventually marching to London and Washington, D.C., she said.

Marian Boraczok uses artistic language to make his statement on the Ukrainian spirit.

He had been trained in the Ukraine and Poland as an artist, but when he came to America the only work he could find was in the steel mills of Lackawanna. He remembers reporting for his first day of work at the mill in a ski outfit. But the end of the day his hands were blistered from pushing a coal-laden wheelbarrow, and the seat of his pants had been eaten away by chemical fumes.

"That was like in the hell," Boraczok said of his first impressions of working in his new country. "All the time I was thinking I was in my beautiful country."

Boraczok continued to work in the mills for 18 years, but his mind's eye continued to be filled with visions of his homeland.

His artistic works, done in oils, wood sculptures and ceramics, consist almost entirely of Ukrainian folk themes, from impressionistic paintings of country life to the traditional Ukrainian ceramic plates and Easter eggs.

Boraczok helped start a scout troop for Ukrainian youths and participated in the fund-raising drive to get a summer camp for the troop in the late 1950s.

He also used his free time to come to the community center that the Ukrainians had purchased on Genesee Street and to paint most of the frescoes that practically cover the walls of the center's main hall.

But the heart of Boraczok's contribution to his community is a large room in the center in which he displays his collection of Ukrainian art and lesser memorabilia.

Because the center does not have a separate staff for the room, Boraczok's collection can be viewed only by appointment with Boraczok. The eclectic collection includes some non-Ukrainian items, but most it is Boraczok's statement on the national identity of his homeland.

There are tributes to Ukrainian artists and patriots, mannequins dressed in traditional costumes, and pieces of old Ukrainian currency. The room also holds things that have mostly personal value, such as the threadbare piece of Ukrainian embroidery that an immigrant woman carried on an odyssey through three continents, and a photo of a weeping Ukrainian woman, whom Boraczok later discovered was the mother of a Buffalo man.

"Here is my blood," Boraczok said in explaining why he maintains the collection. "I want people from the third and fourth generation to come here and say 'I am proud to be Ukrainian.'"

Monsignor Paul Iwachiw, pastor of St. Nicholas Ukrainian Catholic Church, said most Ukrainian-Americans believe they have a duty to act as "ambassadors before the world of freedom of religion, because they know their brothers in the Ukraine don't have it."

The Soviet government allows some external expressions of national identity—such as language and folk arts—to all the republics, he said. But expressions of religion that go against the essential atheistic nature of communism are harshly repressed, he said.

This is one reason why people from lands such as the Ukraine are among the most ardent supporters of the American way of life, he said.

"Yes, we have crime here in America, but it is not the same kind of crime as we saw in Europe (the parts of Europe dominated by communism), where a man did not have the right to call himself who he is," Msgr. Iwachiw said.

"We want to be not a dead body but alive," he said, referring to Ukrainians both in their homeland and abroad.

To illustrate the determination of this spirit, Msgr. Iwachiw translated from a letter he received from a friend in the Ukraine, a man who is forced to perform his priestly functions only in secret gatherings:

"We are washed by waves of atheism in a sea of falsehoods, but we do not drown; we are knocked down to the ground, but we are not conquered." ●

A TRIBUTE TO DR. W. LLOYD JOHNS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MATSUI. Mr. Speaker, it is my pleasure to rise in tribute to an outstanding educator in my district, Dr. W. Lloyd Johns, president of California State University, Sacramento.

I join with alumni, friends, faculty, students, and staff at "Sac-State" University who will be celebrating Dr. Johns' continued service at a special reception on Sunday, August 29. As president of the State capital campus of the California State University system since 1978, Dr. Johns presides over an \$80 million annual budget, with a faculty and staff of 2,000 and a student population of 23,000.

He is an educator with over 30 years' experience in classroom teaching and administration at all levels, including elementary, secondary, and postsecondary. But Dr. Johns' interests and activities extend far beyond his profession. He is a recognized management consultant, and accomplished public speaker with a fine sense of humor, a published author, and a professional musician.

The Sacramento area and the entire State of California is indeed fortunate to continue to enjoy his service and benefit from his leadership.

I am sure my colleagues—and particularly my colleagues from the State of California—will join me in extending appreciation and best wishes to Dr. W. Lloyd Johns for his outstanding contributions to higher education. ●

AMERICAN JEWS WHO OPPOSE THE ISRAELI INVASION

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Ms. OAKAR. Mr. Speaker, many varieties of groups have courageously spoken out against the Israeli invasion in the interest of world peace. They do not condemn the Israeli people. However, they do condemn the leaders of the Israeli Government who have promoted this invasion and victimized so many innocent people.

On my recent congressional tour of the Middle East, I found many Israelis who also oppose the invasion of Lebanon. These people want to live in harmony with their Arab brothers and sisters.

Can we do less as an American Government? Why are we so mysteriously silent when it is our weapons that are responsible for this devastation of a country and her peoples?

The following inserts are messages from two groups of Americans who

care about the people of the Middle East.

STATEMENT OF WASHINGTON AREA JEWS OPPOSED TO THE ISRAELI INVASION OF LEBANON

As American Jews, we are deeply saddened by Israel's invasion of Lebanon. The death and destruction wrought by the Begin/Sharon government are a betrayal of the vision of Israel's founders and the historical commitment of Jewish people to human rights.

Israel's long-term security is jeopardized, not enhanced, by poisoning the political atmosphere of the Middle East with excessive and senseless violence against civilians.

The violence against Israeli citizens must also be ended so that Israelis can be freed from their legitimate fears—but this must be accomplished by political and diplomatic means, not by subjecting other civilians to even more terrible devastation.

The dream of a peaceful homeland will never be realized so long as Israel denies the legitimate national aspirations of the Palestinian people.

We call on the Israeli government to withdraw from Lebanon, to respect the territorial integrity of all her neighbors and to let the Lebanese decide the fate of their country.

We join hands with the thousands of Israelis who are demanding: Peace Now.

This statement has been endorsed by over one hundred Jewish citizens of the Washington area as well as the "Washington Area Jews Opposed to the Israeli Invasion of Lebanon" and the "New Jewish Agenda". Among the signatories are Rabbi Harold White of Temple Sinai in Washington, Ken Giles of "New Jewish Agenda" and journalist I. F. Stone.

Denise Abrams, Andrea Barron, Samuel D. Beck, Sarah Bencich, Barbara Bick, David Bine, Alan Bloom, Jonathon H. Bloom, Horst Brand, Geraldine Brittain, Mark P. Cohen, Sarah L. Cohen, Gabrielle S. Edgcomb, Addie Efron, Ev Ehrlich, Joan Eisenberg, Fred Feinstein, Kenneth Feldman, Rachel Fershko, Robert Pink.

Judith Freeman, Jill Gay, Lynne Gelzer, Laura Ginsburg, Deb Goldman, John Goodman, Dan Gordon, Gloria Green, Larry Greenfield, Dr. John Gregor, Casey Gurewitz, Helen Gurewitz, Linda Hassberg, Richard Healy, Gloria Helfand, Alex Hershaft, Max Holland, Daniel Hooper, Helen Hoops, Todd Kaplan.

William Kaplan, Bob Kasen, Jack Kasofsky, Carolyn Kazdin, Peter Kornbluh, Sharon Levy, Barbara Lewis, Silvia Lichtenstein, E. James Lieberman, Robert A. Manning, Michael S. Marcus, Carl Mayer, David Melnick, Bill Montross, James M. Morowitz, Amy Oppenheimer, Florence Orbach, Mark N. Paster, Steven Pearlman, Ray Pinkson.

Ruth Pinkson, Nancy D. Polikoff, Rich Pollock, Joe Rail, Barbara Raskin, Marcus Raskin, Sheldon L. Richman, Moe Rodenstein, Lori Rolnick, Ken Rothschild, Matt Rothschild, Meyer Samals, Selma Samals, Margerie Schuman, David Schwartzman, Judith Seckler, Jerome Segal, Dana A. Seidenberg, Helen Sharnoff, Phil Sharnoff.

Ellen Siegel, M. Silverton, Wendy Simmons, G. C. Simon, Deborah Slavin, Deborah Smith, Curtis Seltzer, Patricia Weiss, Stanley Weiss, Barry Wells, Ross E. Wells, Ruth L. Wells, Bernard Welt, Ronald Wynne, Suzan Wynne, Adria Zeldin, Leslie Zeldin, Adrien Zubin.

(Telegram)

AUGUST 4, 1982.

President RONALD REAGAN,
Hon. GEORGE SHULTZ,
Secretary of State,
Hon. WILLIAM CLARK
Director of the National Security Council.

Israel's latest offensive coupled with Beirut's serious food shortage caused by Israeli troops blocking supplies of water, food, and medical supplies to the city is beyond the bounds of human decency.

That a half million civilians should be held hostage to Israel's seeking revenge on 6,000 PLO members indicates an insensitivity to world opinion on the part of Israel which exceeds our ability to comprehend. Common humanity demands immediate action.

Because of Israel's special relationship to the United States, it is imperative that the Administration publicly make clear its concern over Israel's siege in a manner that cannot be misunderstood: We should tell Israel that if the siege is not lifted it is our intention to supply food by means of the Sixth Fleet.

JAMES H. COSTEN,

Moderator,

WILLIAM P. THOMPSON,

Stated Clerk,

United Presbyterian Church in the U.S.A.●

INTEGRATION OF THE CENTAUR INTO THE SPACE SHUTTLE

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. HUNTER. Mr. Speaker, I regret that a good colleague of mine has recently inserted a statement into the CONGRESSIONAL RECORD which contains several substantive errors. I sincerely believe that my colleague is quite concerned about the Space Shuttle system and the type of upper stage which will be used in the Shuttle. I am impressed by the sincerity of his concern. Unfortunately, my colleague's statement is confusing because it is in total variance with other statements he has made on this exact same subject. As the ranking minority member of the Space Shuttle, Science, and Applications Subcommittee of the House Science and Technology Committee, my colleague vociferously criticized the administration for including the interim upper stage—IUS—for two important NASA science missions.

There are errors in my colleague's extended remarks that must be set straight.

In spite of the fact that the Boeing Co. has built and delivered eight IUS units at a cost in excess of \$700 million for a solid fuel upper stage for the military and civilian spacecraft.* * *

On this point my distinguished colleagues is correct. The IUS was initial-

ly supposed to cost the taxpayer \$150 million and now is costing the taxpayer \$700 million * * * a 500-percent cost increase.

Congress has passed legislation (urgent supplemental) forcing NASA to pay the losing contractor \$150 million over the next 2 years.

The money which will be expended for the Centaur system over the next 2 years will mean that the taxpayer will not have to pay for the IUS vehicle for the Galileo and International Solar-Polar missions. Additionally, the Centaur is a high-energy upper stage and its inclusion into the Shuttle will save the taxpayer an investment of in excess of \$1 billion that would be required to develop a brand-new high-energy upper stage. Such an expenditure would only be necessary if the Centaur is not used for these missions "To build and develop a system that does the same thing."

The Centaur does not do the same thing as the IUS. The Centaur has in excess of twice the lift capability of the IUS. The Centaur also provides an operational flexibility not provided by the IUS which will be of greater value to our intelligence community, scientists, and commercial users.

This was the same system that was rejected by NASA because its design allegedly made it far too dangerous to put aboard the Space Shuttle.

NASA does not maintain that the Centaur poses a safety problem to the Space Shuttle. In fact, the ability of the Centaur to expel its propellants makes it less of a safety concern than the IUS solid propellant could cause the Shuttle to have to operate an abort maneuver with increased weight in the Shuttle bay.

Now I have learned that the switchover back to the Centaur upper stage will cost an additional \$1.4 billion.

This statement is incorrect. It appears my colleague was multiplying when he should have been subtracting.

This is for a system that is untried and untested. If NASA had been allowed to use the Boeing IUS for the planetary flights to Jupiter and the Solar Polar Mission flight, the IUS would have been tested a dozen times before. Now NASA is faced with flying half-billion-dollar spacecrafts on Centaur Upper Stages that have never been flown before.

The Centaur upper stage has flown before. In fact, the last 44 Centaur flights have been 100 percent successful. I am sorry to note that it is the IUS vehicle that has never flown before. The first IUS flight will be an operational flight. A failure on a flight such as this would not only destroy a similarly expensive space payload but would leave the Galileo and ISPM missions without a backup were it not for the now planned integration of Centaur into the Space Shuttle.

Deciding on what system to use for a booster rocket should not be determined by politicians, but should be left to the discretion of the technical experts.

If this is true, one might ask my colleague why he has reintroduced this matter into the political realm. As for the "Technical Experts," I would urge my colleague to dial his telephone, call NASA and ask them what they think because I agree with them. Let us examine what the "Technical Experts" have said on this issue.

Letter from Verne Orr, Secretary of the Air Force and Hans Mark, Deputy Administrator of NASA to Chairman FURQUA of House Committee on Science and Technology:

NASA should undertake the adaptation of the Centaur to be used in the Shuttle to support the near-term Galileo mission and the projected mid-term high energy requirements of NASA, DOD, and commercial users.

Report to the Congress from the Defense Department and NASA entitled, "Upper Stage Alternatives for the Shuttle Era":

An IUS Galileo, combined spacecraft mission, case 5 in Section 5.3.1.3, utilizing the IUS on a Delta-VEGA trajectory was also analyzed with development of preliminary cost figures. Based on preliminary mission analysis, this option provided, at best, major compromise to the mission which would have to be subjected to detailed review by the scientific community. Further mission analysis, while possible, to identify other mission options would involve much more detailed weight and CG location for a Galileo combined spacecraft with kick stage would represent a load to the generic IUS which is greater than design limits. This fact would require, as a minimum, structural modifications to stiffen that upper stage. The implications of such a modification and the cost and schedule consequences as well as risks are not well understood at this time. In summary, while it is apparent that a mission with a combined Galileo spacecraft can be accomplished with upper stage performance characteristics equivalent to an IUS, it is not clear that such a mission could be accomplished without major science compromises as well as high costs and schedule risks which would make a single launch in 1985 undesirable.

Consequently, as this portion provided for extremely high technical risk and a low mission accomplishment reliability factor, the assessment and cost analysis was discontinued.

I hope that my good colleague from New Jersey will join me and his other colleagues in Congress who agreed with his earlier view that this decision has turned out as it should have. Integration of the Centaur into the Space Shuttle will save the taxpayer millions if not billions of dollars. It will provide an increase in capability and will make the Galileo mission, as well as many future missions, much more certain and much more effective.●

IN HONOR OF JAMES A. COLE

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. ATKINSON. Mr. Speaker, I would like to take this opportunity to congratulate one of my constituents, the Honorable James A. Cole, who celebrated his 75th birthday on the 28th of July 1982. Mr. Cole was born in and has been a life long resident of Wexford, Pa., where his family is one of the oldest and most revered in the community.

He holds degrees from Duquesne University in both accounting and law.

Mr. Cole's life has been dedicated to community service. His contributions and accomplishments are many and varied. The following are but a few of his significant achievements:

Forty-four years as a district justice and justice of the peace;

Over 50 years service as a notary public;

Forty years employment with Duquesne Light Co. of Pittsburgh. During the last 15 years with the company, he was president of Local 149 I.B.E.W., as well as president of the joint board of all the Duquesne Light Co. locals. In addition he was an officer in both Duquesne Light Co. Credit Union and Pittsburgh Officers Credit Union for many years;

Mr. Cole spent more than 30 years as a director of Farmer's Mutual Fire Insurance Co. of Pennsylvania and was its president for the past 10 years—an office he continues to hold;

Mr. Cole has been an active member of the Wexford Volunteer Fire Co. and is now a life member. This service covers more than 50 years with the fire company.

Mr. Cole is still an active member of Perry Highway Lions Club. He has just completed a third term—not consecutive—as president of this group. He has also served as district officer in International, Pennsylvania, District 14B of the Lions Club.

Mr. Cole has been and is a life long member of St. Alphonsus Roman Catholic Church. He has been an active participant in many congregational duties. In addition, he now serves as eucharistic minister.

The Honorable Mr. Cole has performed outstanding community service. He has profound respect for law and the office he served as justice of the peace. He never allowed personal feelings, friendships, nor favoritism to interfere with due process of the law.

Though he is retired from office, he continues to do what comes naturally to him—serve his fellow man.●

TRIBUTE TO GIUSEPPE PREZZOLINI

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. Mr. Speaker, I would like to pay tribute to the late Giuseppe Prezzolini an internationally known author, journalist, and scholar who passed away recently. My good friend Dr. Peter Sammartino, founder-president and chancellor of Fairleigh Dickinson University was especially close to Professor Prezzolini especially during the latter's tenure at Columbia University. Dr. Sammartino together with Sister Margherita, a renowned authority on Italian-American culture and history issued a statement paying tribute to Professor Prezzolini which I would like to place into the RECORD at this point.

PREZZOLINI, A WORLD CITIZEN

MORRISTOWN, N.J.—Giuseppe Prezzolini passed away in Lugano, Switzerland, a few days ago. He was a highly productive scholar and journalist whose intellectual alertness lasted to the very end. What he has been and will remain, as a scholar and a man, lives in countless books and articles written in several languages and which have been since translated into many more languages.

A Nobel Prize candidate, Giuseppe Prezzolini was the founder and first editor of *La Voce* (1908-1914). He may be called "an impresario of culture," as he said of himself. He has been instrumental in bringing foreign literatures to Italy, interpreting them to his audience, and then sharing with the rest of the world the rich outpouring of Italian literary and cultural achievements. These accomplishments were the direct result of his spadework and unceasing labors in the cause of introducing modern thought to the literary and artistic community.

Of himself Prezzolini wrote in 1922 (*Amici*, Vallecchi, p. 8):

I am not a writer, I have no originality as a philosopher, and I mistrust those who would like to do over the universe. But it seems that I possess a certain clarity of ideas, the capacity to grasp the character of a man or of a movement, the strength of soul to refuse to be seduced by friendships or to be upset by hatreds in evaluating merits and in measuring defects. At a certain point in my life, having buried the romantic turmoils and aspirations. I decided to become the "useful man" for others; to clarify certain ideas to Italians, to indicate their inferiorities in order to overcome them, to characterize foreign people and foreign movements, to translate from different languages, to reveal promising young men, to point out hidden greatness; that is what one calls work of culture. It is very much like building ditches, plowing the soil, planting trees, pruning, sowing, weeding, trimming, and all the operations of a good agriculturalist. Yes, I have always wanted to be useful. I don't say I have always succeeded, but that was my intention. I have always put myself at the service of a man who needed to be known, of an idea that needed conquering, of a propaganda that needed dissemination. This was the principal char-

acter of the *Voce* but it is in a way the character of all my works.

Prezzolini—Columbia University Professor Emeritus of Italian—was an internationally-known author, journalist, scholar, critic, teacher who, while directing the Literary and Information Department of the Bureau for Intellectual Cooperation funded by the League of Nations in Paris, was invited to become director of Casa Italiana in 1930.

A man of culture made for study, but also for action and responsibility, Prezzolini won the trust of the University and its administrators and was much appreciated by colleagues and students. At the outbreak of World War II he became an American citizen and for another decade continued to teach, to study, and to write at Columbia University.

Intellectual stimulation, moral integrity and the spiritual values exemplified in his own life were characteristics of Prezzolini's teaching, not only at Columbia University, but throughout his life. His writings, whether scholarly or journalistic, are delightful because of his clear, precise, well-balanced style. He has a great variety of interests and his pen ranges from German mysticism to an erudite history of spaghetti, with biography, criticism, philosophy, scholarship, reportage, allegory, religion, and psychology filling the gap.

For the past 20 years he lived in Italy and Switzerland, where he continued his literary scholarship and journalistic endeavors. He recently prepared the manuscript for a sequel to his most popular book: "God is a Risk" (*Dio è un rischio*), which will soon be published. His lucidity and keenness of mind can well be attested to by the hundreds of interviews which appeared in newspapers and magazines throughout the world, and by the many radio and TV programs on which he appeared during the celebrations honoring him on his 100th birthday.

In July 1971, in recognition of his contribution to Italian culture, the President of the Republic of Italy bestowed on him the Italian government's highest honor, and in January 1982, he received the Penna d'Oro Award from President Sandro Pertini.

Prezzolini will live on in his works which include over 60 books, with an additional 50 new editions, as well as over 70 anthologies, volumes of correspondence and translations. He wrote for over 175 newspapers and magazines to which he contributed articles during the past century in Italy, France, Germany, India, Yugoslavia, Holland, Switzerland, Venezuela, Spain, England, Sweden, Belgium, and the United States.

Prezzolini's impressive contribution to the growth, spread, and development of Italian thought and literature will never be forgotten, for he has been the catalyst whose skillful blending of literary and philosophical developments with Italian genius brought forth a new Italian renaissance in the early years of the twentieth century.

Dr. Peter Sammartino, Founder-President and Chancellor of Fairleigh Dickinson University remembers Professor Prezzolini at Columbia University: "It was the period of the greatest ebullience and of the most important thrust forward, intellectually, of Italian Studies. Never in the history of American universities had so much been accomplished in a relatively short time. The Casa Italiana, one of the most beautiful buildings on any campus, shone as a beacon light of Italian culture in America."

An inscription carved on the facade of Casa Italiana of Columbia University reads:

"Italy Mother of Arts Thy Hand Was Once Our Guardian and Is Still Our Guide" (Lord Byron's *Childe Harold*, 4.47). It will always be applied by countless Columbia University graduates to Prezzolini: "Whose hand was once our guardian and is still our guide." ●

TENN-TOM INVESTIGATION

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. EDGAR. Mr. Speaker, I would like to bring to the attention of the House information contained in news reports filed by WSMV-TV in Nashville concerning allegations of criminal activity relating to the Tennessee-Tombigbee navigation project in Mississippi and Alabama. This Corps of Engineers project, which has been the subject of considerable controversy in the past, will need fiscal year 1983 funding this year. I anticipate offering an amendment affecting Tenn-Tom's funding, and I believe Members should be aware of the information reported in Nashville before they decide how to vote on this project.

I also believe that the reports emanating from Nashville deserve congressional attention. Therefore, I have requested that the House Public Works and Transportation Committee to investigate this issue. Excerpts from last week's news reports and my letter requesting an investigation follow:

[WSMV-TV News, Aug. 2, 1982]

Channel Four News has learned a federal grand jury in Nashville is investigating possible charges of fraud in the construction of the Tennessee-Tombigbee Waterway . . .

The waterway is planned to connect 234 miles of canals, locks, dams, and lakes. But it is this stretch in upper Northeast Mississippi that is the subject of this story. The Corps of Engineers calls this the greatest single construction feat of the Tenn-Tom . . . A manmade canyon 27 miles long through what's called the Tennessee divide, and it is a bigger earth-moving job than the digging of the Panama Canal. But a Nashville grand jury suspects that one of the projects contractors may have cheated the taxpayer out of millions of dollars.

The contract to cut through the first part of the divide was awarded in 1976. . . The contract's title was "Divide Cut Section 4-A—its price was \$21 million. But with the contract more than half done the original contractor went broke and the job was given to a subcontractor already doing the work—Paul Bosco and Sons from Detroit.

Bosco finished the job in January of 1979. And by the time it was finished the cost had skyrocketed from the original \$21 million to \$39 million. Since then two Bosco foremen have been indicted for allegedly lying to the Nashville grand jury investigating divide cut section 4-A. . .

The cost overruns Apparently raised a red flag to the Army's Internal Audit Agency because they came here to what used to be the offices of the Corps of Engineers in Iuka, Mississippi to get records of the Bosco contract. They studied these records from

March through August of 1980. They discovered this single change order alone—Modification No. 3—added \$12 million to the cost of the contract.

The auditors, along with the Army's Criminal Investigation Division and the FBI began questioning foremen, engineers, and officials involved in the Bosco contract. Two of the people they questioned told Channel Four the Army suspected Bosco had overcharged the Corps for the equipment it used and possibly tried to slow the project down.

Last summer the US Department of Justice joined the probe and a Nashville grand jury here began questioning some of the same people who had been grilled by the Army and the FBI. Two of the people are scheduled to be tried here in September for allegedly lying to the grand jury—Former Bosco foremen Lewis Cass and Robert Douglas Holt, both of Mississippi.

In the indictments of the two men, the grand jury states it was conducting an investigation to determine whether violations of the mail false claims, false statements, and other criminal statutes of the United States had been committed in connection with the divide cut Section 4-A of the Tennessee-Tombigbee Waterway. . . .

[WSMV-TV News, Aug. 3, 1982]

Alabama Representative Tom Bevill is chairman of the committee responsible for oversight on water projects like Tenn-Tom. But Bevill said he did not know about the grand jury probe until Channel Four told him about it last week.

He said no congressional investigation is needed because the Department of Justice is taking care of it. Bevill said the Corps of Engineers, which is building the Tenn-Tom, is cooperating with the Justice Department 100 per cent. But he claimed even if indictments and conviction result from the grand jury probe, the project will still be finished. . . .

[WSMV-TV News, Aug. 4, 1982]

The contract, being worked by Paul Bosco and Sons, specified the earth would be sandy, like this. But instead, according to the Corps, Bosco ran into wet, mucky soil like this—soil that is harder to move.

According to the Corps, Bosco had the right to demand extra time to finish the job, but the Corps did not want to extend the deadline. So Area Engineer said the Corps decided to pay Bosco more money so he could meet his original deadline. The Corps did not know how much the so-called changed conditions would cost. So Bosco started working around the clock and no price was agreed upon in advance.

The work was put on a cost plus basis. Bosco told the Corps what the work cost him plus a certain percentage profit. Corps Engineer said the Corps avoids cost plus situations wherever possible because they put all the risk on the government.

The final cost of the Bosco contract was \$18 million more than the original price. And the federal grand jury here in Nashville apparently suspects the Corps took a risk and lost.

The grand jury indicted two former Bosco foremen for perjury in answers to questions about the Bosco contract. One indictment read: "Lewis Cass knew that he told certain heavy equipment operators to slow down because they were in cost plus.

Paul Bosco himself is now working in Dallas. He told Channel Four he feels he is being targeted by authorities. He would make no further comment except to say

someday he will have a story of his own to tell. . . .

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 3, 1982.

HON. JAMES J. HOWARD,
Chairman, House Public Works and Transportation Committee Rayburn House Office Building.

DEAR JIM: I have recently learned of allegations of criminal activity relating to the Army Corps of Engineers Tennessee-Tombigbee project. I believe that this information merits the attention of our committee, and I am writing to request that the committee conduct a further investigation of this matter.

Let me briefly outline the allegations that have been made public thus far. Last night, Nashville television station WSMV reported that a federal grand jury has been investigating one of the contractors of the Tennessee-Tombigbee Waterway project over the past year. The investigation specifically concerns the divide-cut portion of the project in northeast Mississippi. The investigation focused on a portion of the divide-cut for which the original contract in 1976 was \$21 million. In 1979 the original contractor went bankrupt before completing its obligations and the contract was given to a subcontractor, Paul Bosco, Co. of Detroit.

With Bosco doing the work, costs on this portion of the project gradually escalated to \$39 million. It is this \$18 million escalation under the new contractor that the allegations specifically concern. Two men working for Bosco have been indicted for allegedly lying to the grand jury. It is my understanding that the questions they were asked by the grand jury involved whether they had deliberately slowed work and deceived the Corps in order to escalate their "cost plus" contract. The investigation is still continuing, and either the investigation or the trial of the two men, set for September, may turn up new facts.

I believe this episode could have implications for the whole project and perhaps even for the whole Corps of Engineers program. The suspicion that a contractor may have hidden as much as \$18 million in fraud from the Corps is extremely serious. Presumably, the alleged fraud may have gone undiscovered without the eventual involvement of the Federal Bureau of Investigation and the Justice Department which brought an investigation to the grand jury. Given the Corps' close working relationship with Congress and our committee and congressional reliance on the Corps for facts and oversight on projects, I feel that we have a responsibility to look into this matter further.

As you know, the Tennessee-Tombigbee is the largest and most expensive project the Corps has ever undertaken. I and many other colleagues have opposed the project in the past on its merits, but I believe that both supporters and opponents of the project are shocked by allegations of criminal activity connected with this federal project. As the Public Works Committee moves along with further activity on the authorization of projects and examination of the Corps program, I believe it is essential that we address the questions which are raised by the activities of the Nashville grand jury. I hope that you agree that a committee investigation is appropriate and that we can discuss this matter further at your convenience.

Sincerely,

ROBERT W. EDGAR. ●

SENATE—Wednesday August 11, 1982

(Legislative day of Monday, July 12, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Righteousness exalteth a nation
* * *—Proverbs 14: 34.

Lord God of righteousness and justice, there is in each of us a spirit of self-interest which inclines us to pragmatism as a way of life. We deceive ourselves by rationalizing less than honorable action on the grounds that our purpose is good. Help us to resist the expediency that the end justifies the means. Help us to understand that means are as important to Thee as ends, that a righteous purpose does not sanctify an evil process.

Protect the Senators from the subtlety of self-deception. Give to each wisdom to examine his plans in the light of Thy truth; sensitize the conscience of each to Thy holy will; and grant courage to do what his God-enlightened conscience dictates. For the sake of God and country, we pray. Amen.

RECOGNITION OF THE
MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

REASON NO. 11: THE
PERCENTAGE GAME

Mr. BAKER. Mr. President, on this day in 1937, Ernest Hemingway punched Max Eastman in the nose in Maxwell Perkins' office. Events, such as they are, do not necessarily repeat themselves. But to guarantee that the pugilistic spirit of Members of the Congress is not similarly excited, I urge that we consider the necessity of completing the must list of legislative activity and recessing on August 20.

So, Mr. President, today I wish to assert reason No. 11 of my 18 reasons why we should push forward and

recess on the 20th. Reason No. 11 is the percentage game. My guess is, that should the Senate fail to take advantage of the next 10 days, thus necessitating sessions during the week of the 22d through the 27th, a great many Senators, nonetheless, will stick by their plans and leave this city and this Chamber on the 20th, notwithstanding the entreaties of the leadership and the announcement of formal sessions of the Senate.

However, I urge that they consider that if they do so—if they leave on the 20th and we have not yet completed the must list—embedded in that act is both good news and bad. The good news is that they will be out of the city; they will be home with their families; they will be on vacation, perhaps, or wherever. But the bad news—and I now apologize to my colleagues from Georgia for this remark—is that their voting record is going to look like the record of the Atlanta Braves during the past 2 weeks, because we are not going to sit here and have idle quorum calls for a week.

If we have not finished the must list of legislation, I remind Senators that the adjournment date is August 27; and if we are in session for that extra week in order to complete the must list, I can assure them that we will not be sitting idly by, that there will be votes, that there will be votes after votes. There will be votes enough to make even the heartiest voting record fall into shambles.

Mr. President, I have no further need for my time under the standing order; and in the absence of any other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the Senator yield, so that I may make a statement?

Mr. NUNN. I yield to the majority leader, although I do so with great trepidation, having heard by the grapevine that there have been certain disparaging analogies relating to the record of the Atlanta baseball team.

Mr. BAKER. Mr. President, I was careful to point out that no disparagement was intended toward the two Senators from Georgia. However, the

rapid plummet in standings of the Atlanta Braves inspired me to make certain analogies to the slow pace with which the Senate has acted.

Mr. NUNN. I say to my friend and colleague from Tennessee that it should be noted that if the U.S. Senate were only one-half game behind, we would probably have improved our record.

Mr. BAKER. As usual, the Senator and I agree.

Mr. President, I ask unanimous consent that the time remaining to me and the time allocated to the distinguished minority leader under the standing order, as abbreviated this morning, may be reserved for our use at any time during the course of this day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, is there an order for the transaction of routine morning business to follow the execution of the special order?

The PRESIDENT pro tempore. There is. The first order is for the Senator from Georgia, for 5 minutes. Then there will be a period for the transaction of routine morning business, not to extend beyond 10 a.m., with statements therein limited to 2 minutes each.

At 10 a.m., the Senate will resume consideration of the pending business, H.R. 6863.

Mr. BAKER. I thank the Chair.

RECOGNITION OF SENATOR
NUNN

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

THE CRIME CONTROL ACT OF
1982: TITLE IV—HABEAS
CORPUS REFORM

Mr. NUNN. Mr. President, in our criminal justice system the writ of habeas corpus has been flagrantly abused by career criminals for decades upon decades. Such blatant misuse of habeas corpus has enabled hundreds of convicted wrongdoers to wait years after their conviction, then successfully file petitions on the basis of a vague technicality in their original trial. This improper and unfortunate mistreatment of habeas corpus has generated substantial criticism of the system by many legal scholars and au-

thorities as well as the public. Senator CHILES and I are aware of the growing concern over such abuse. As a result, we have been addressing this Congress for over 2 months about the urgent need to correct this longstanding abuse of habeas corpus.

To illustrate this problem, the case of Henderson against Kibbe serves as yet another excellent example. On December 30, 1970, Barry Warren Kibbe and a friend encountered a thoroughly intoxicated man named Stafford in a bar in Rochester, N.Y. After robbing Stafford of over \$200, they drove him to a nearby town and abandoned him on an unlighted, rural road in a state of partial undress, and without his coat or glasses. The temperature was near zero, visibility was obscured by blowing snow, and snow banks flanked the roadway. At about 10 p.m., while helplessly seated in a traffic lane about a quarter mile from the nearest lighted building, Stafford was killed by a pickup truck.

Kibbe and his accomplice were subsequently convicted in a New York trial court of grand larceny, robbery, and second-degree murder. His conviction was upheld by the Appellate Division of the New York Supreme Court. On his appeal, the New York Court of Appeals rejected his argument that the truck driver's conduct constituted an intervening cause that relieved the defendants of criminal responsibility for the victim's death.

Kibbe then filed a habeas corpus petition in U.S. District Court for the Northern District of New York which refused to review his attack on the sufficiency of the judge's advice to the jury. They held that his petition failed to raise a question of constitutional dimension. However, the U.S. Court of Appeals for the Second Circuit reversed on the ground that failure to instruct the jury on the essential element of causation violated due process standards. On certiorari, the U.S. Supreme Court reversed the U.S. Court of Appeals decision. In an opinion by Justice Stevens joined by Justices Brennan, Stewart, White, Marshall, Black, and Powell, the Court held that the trial court's failure to instruct the jury on causation was not constitutional error in violation of due process standards. The evidence at the trial was more than sufficient to prove beyond any reasonable doubt that Kibbe's conduct had caused the victim's death.

When one considers the strong factual record in the State courts, the Kibbe case stands out as another illustration of time-consuming and needless relitigation of issues by the Federal courts. The Federal appellate court granted Kibbe's petition on the basis of an objection to a jury instruction which Kibbe had never even raised in the State court despite every opportunity to do so. Even more disturbing is

the appellate court's acceptance of his argument that the jury did not consider the issue of causation because of the lack of a specific instruction on the issue. Even a cursory review of the trial record showed that the causation issue was the central argument placed before the jury, time and again, both in trial evidence and counsel's argument. Fortunately, the Supreme Court was not so easily misdirected from the true facts by Kibbe's petition, which they eventually denied, after much needless and costly Federal litigation.

This type of situation contributes to the ever-increasing backlog of cases in our criminal justice system. Senator CHILES and I have presented this Congress with S. 2543, the Crime Control Act of 1982, which contains necessary reforms in habeas corpus proceedings. It would require the Federal courts to pay more deference to State courts' decisions. For too long, the Federal courts have been granting habeas corpus petitions despite strong factual findings by the State courts to the contrary. Our proposed legislation would give more weight to State court decisions, thus helping to eliminate needless, costly, and time-consuming Federal litigation.

Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. GARN). Under the previous order there will now be a period for the transaction of routine morning business not to extend beyond the hour of 10 a.m. with statements therein limited to 2 minutes each.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I have just instructed the Republican cloakroom to issue a hotline notice that the vote will occur at 10 a.m.; that all time has expired on the Symms amendment; that after that vote the remaining amendments qualified under the unanimous-consent agreement to section 6 will be voted on.

It is the hope of the leadership that all action on chapter VI, which is the foreign assistance section of the supplemental, can be disposed of by noon; that after that we will proceed to consider the remainder of the bill, with the hope that we can finish that bill

sometime at a reasonable hour this afternoon or this evening.

The hotline also notified Senators on this side of the aisle, however, if we have not finished the bill by normal recess or adjournment hour this afternoon or this evening that we will continue late into the evening. It is the intention of the leadership to finish this bill today if it is possible to do so, and I believe it is.

The bill will be followed then, Mr. President, on tomorrow by the immigration bill.

I wish to make that statement on the floor so that all Members will be aware of the fact that tonight is perhaps a late night, and even perhaps a very late night, in order to finish this bill.

Mr. President, may I further announce that I have an indication from the manager of the bill on this side that he wishes to finish this bill and that he will object to any window for lunch or for dinner, as we have sometimes done. So Senators should also be on notice that the voting pattern will be continuous during the day today without any interruption.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

All time for morning business has expired.

Mr. HELMS. I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESPONSE OF FRED C. IKLE CONCERNING FIDEL CASTRO

Mr. HELMS. Mr. President, shortly we will be voting on the Symms amendment. It has been suggested that instead of drawing a clear line of demarcation we should pursue a course of moderation and friendship with Fidel Castro. It is asserted that such a policy will give positive results.

Earlier this year, I made inquiry of Dr. Fred C. Ikle, the Under Secretary of Defense for Policy. Dr. Ikle's response to my questions are significant in terms of the argument that is being made that it is safe for us to discard the Monroe Doctrine.

I ask unanimous consent that my questions and the answers given by Dr. Ikle be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator HELMS. It has been suggested that Fidel Castro is merely reacting to the hostile

ity displayed by the United States, and that a more moderate and flexible US policy might give him an alternative to relying almost exclusively on Moscow. Do you find any merit in this reasoning?

Mr. IKLE. I think that question is adequately answered by Castro's actions in response to varying US policy shifts during the past six years under several Administrations. You will recall that about six years ago Cuban military forces were just beginning their military buildup in Angola. President Ford and Secretary of State Kissinger made strong public statements that the United States would not tolerate such conduct, and for a period of time in December 1975, the Soviet airlift of Cuban troops and equipment to Angola was halted. Then the Congress passed the Tunney/Clark Amendment, tying the President's hands by prohibiting further assistance to the non-communist elements in Angola. The Soviet-Cuban airlift resumed immediately, and within two weeks the number of Cuban troops in Angola had doubled. It continued to increase gradually in the following year, so that at the end of the Ford Administration there were estimated to be about 14,000 Cubans in Angola.

President Carter's Administration took a more sympathetic approach to the Cuban problem, and made a significant effort to improve US relations with the Castro government. For example, the Carter Administration:

Opened an "interest section" in Havana, and permitted the Cuban Government to do the same in Washington.

Relaxed the travel restrictions on Cuban diplomats at the United Nations and in Washington.

Encouraged increased cultural exchanges between the two countries.

Lifted the restrictions on vessels which had previously called at Cuban ports allowing them to subsequently visit US ports.

Lifted the ban on travel by US citizens to Cuba.

Permitted the resumption of charter flights between Cuba and the US.

It is worth recalling the response of Mr. Castro to these friendly overtures. During the Carter Administration, Cuba:

Increased the number of Cuban military personnel in Angola from about 14,000 to 20,000.

Increased the Cuban presence in Ethiopia from 0 to a height of 17,000 in 1978 and in Nicaragua from 0 to 500.

Initiated a massive effort to subvert non-communist regimes in Latin America. Cuba provided military assistance to Nicaragua to include advisors, weapons such as surface to air missiles, anti-aircraft guns and light arms. In the case of Grenada, Cuba provided advisors and anti-aircraft weapons and began construction of an airfield which would have military utility.

Denounced the United States at the summit meeting of the Non-Aligned Movement in Havana in September 1979. Castro charged that Latin America had historically suffered greatly from U.S. aggression, colonialism, and neo-colonialism.

These actions hardly support the contention that a more conciliatory approach by the U.S. to U.S.-Cuban relations will make Castro our friend.

The U.S. is not looking for a confrontation with Cuba. Nevertheless, we are unwilling to sit idly by while Fidel Castro and his Soviet bosses subvert and seek to overthrow the less powerful non-communist governments of the region. If Castro truly desires

peace and improved relations with the U.S., he should begin such a rapprochement by stopping his aggression and permit other States to live in peace. We assure you that a halt in Cuban efforts to subvert other countries would not go unnoticed by this Administration.

However, so long as Fidel Castro continues his aggressive policies in Latin America, Africa, and other regions of the world, we will continue to regard him as a serious threat to international peace and stability. We believe—and the history of the 1975 Tunney-Clark Amendment suggests—that the credibility of our deterrent rests in large part on Congressional attitudes; and thus the need to resort eventually to the use of U.S. military forces will be determined in part by Castro's perception of Congressional views. Unless the Congress is perceived to be supportive of the President's strategy, no U.S. action short of actual military force is likely to have much influence on Cuban policy.

Senator HELMS. What effect do you believe knowledge of the fact that the Joint Chiefs have contingency plans to meet Cuban aggression in the region will have on Cuban decision makers?

Mr. IKLE. Unfortunately, history demonstrates that peace is not furthered by failing to respond effectively to the threat or use of armed force. We believe it is important that Fidel Castro be put on notice that the United States is capable of responding to continued aggression with a wide range of flexible options aimed at making the costs of aggression and subversion greatly outweigh any perceived benefits.

If Mr. Castro wants to promote the security of Cuba, he should cease his efforts to undermine and overthrow the governments of other states. We hope that by alerting him to our deep concerns, and our strong commitment to the cause of freedom, he will appreciate the wisdom of ceasing his subversion of other States.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The PRESIDING OFFICER. Under the previous order, the hour of 10 a.m. having arrived, the Senate will now resume consideration of the pending business, H.R. 6863, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The Senate resumed consideration of the bill.

VOTE ON AMENDMENT NO. 2020

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho (Mr. SYMMS). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Connecticut (Mr. DODD), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Maryland (Mr. SARBANES), are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 68, nays 28, as follows:

(Rollcall Vote No. 306 Leg.)

YEAS—68

Abdnor	Garn	Melcher
Andrews	Goldwater	Metzenbaum
Armstrong	Gorton	Mitchell
Baker	Grassley	Murkowski
Bentsen	Hatch	Nickles
Boren	Hawkins	Nunn
Boschwitz	Hayakawa	Pressler
Brady	Hefflin	Quayle
Burdick	Heinz	Randolph
Byrd	Helms	Rudman
Harry F., Jr.	Hollings	Sasser
Byrd, Robert C.	Humphrey	Schmitt
Cannon	Jackson	Simpson
Chiles	Jepson	Specter
Cochran	Johnston	Stafford
Cohen	Kassebaum	Stennis
D'Amato	Kasten	Stevens
DeConcini	Laxalt	Symms
Denton	Levin	Thurmond
Dole	Long	Tower
Domenici	Lugar	Wallop
East	Mattingly	Warner
Exon	McClure	Zorinsky

NAYS—28

Baucus	Ford	Packwood
Biden	Glenn	Pell
Bradley	Hart	Percy
Bumpers	Hatfield	Proxmire
Chafee	Inouye	Pryor
Cranston	Kennedy	Riegle
Danforth	Leahy	Tsongas
Dixon	Mathias	Weicker
Durenberger	Matsunaga	
Eagleton	Moynihan	

NOT VOTING—4

Dodd	Roth
Huddleston	Sarbanes

So Mr. SYMMS' amendment (No. 2020) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, under our unanimous-consent agreement reached last night, we have two more amendments pending on this chapter, one by Senator PERCY, and two others, one by Senator MATTINGLY and one by Senator MOYNIHAN.

Mr. BUMPERS. Will the distinguished floor manager yield?

Mr. HATFIELD. Yes, I yield.

Mr. BUMPERS. What is the agreement as far as the rest of the bill goes?

Mr. HATFIELD. There are no agreements on the other chapters pending. The only agreement we had was on chapter VI dealing with foreign operations.

Mr. BUMPERS. Under the existing agreement, we must go to the next two amendments, is that correct?

Mr. HATFIELD. That is correct.

Mr. BUMPERS. But after that, it is a la carte?

Mr. HART. That is correct. We do have a list of Members, and we are

trying to maintain some equality between both sides on Senators offering amendments. If the Senator from Arkansas wishes to be on the list, we shall be happy to put him on.

Mr. BUMPERS. Only to this extent: I apologize to my colleagues and my constituents for not being here during the debate on the amendment we just adopted. I wanted some time, maybe 5 minutes, to engage the sponsor of the amendment in a colloquy on its meaning.

Mr. HATFIELD. I shall be happy to accommodate the Senator.

Mr. BUMPERS. I thank the Senator.

Mr. HATFIELD. Mr. President, I noticed with some interest and concern an article in this morning's Post which stated, in part:

The major "must" item in the measure is funds to cover the military and civilian government pay raises that have been paid since last October. But Senate sources said the money is not needed until late next month...

Mr. President, I do not know who these unnamed Senate sources might be, but I trust they are not associated with the Appropriations Committee. It is our understanding that the pay supplemental in this measure is urgently required, particularly for the military. In that regard, I ask unanimous consent that a letter to Senator STEVENS, chairman of the Defense Subcommittee, from Secretary of the Army John Marsh be printed in the RECORD at the conclusion of my remarks. I emphasize for my colleagues that the Secretary informs us that the pay supplemental is required by August 20 in order to pay the troops beyond that date.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE ARMY,
Washington, D.C., July 16, 1982.

Hon. TED STEVENS,
Chairman, Subcommittee on Defense, Committee on Appropriations, U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the funds we have requested in the 1982 Supplementals are essential to our continued operation for the rest of this fiscal year. This is especially true in military pay accounts where the supplemental funds required are so great that we really cannot absorb them. We have just completed a comprehensive review of our military pay accounts which shows that the funds to pay our soldiers—Active, National Guard and Reserve—will be exhausted in the 20 August timeframe. Unless legislation is provided, we cannot continue to pay our troops after that date. From the Department's perspective, the best course of action would be passage of the supplementals in their full amounts. This would not only resolve our fiscal dilemma but also provide a clear signal of Congressional support to our soldiers and their families around the world.

If, for some reason, the supplemental could not be enacted before 20 August, we would need special Congressional action to pay our troops. Some piece of legislation that is signed into law must contain a provi-

sion to allow us to obligate and disburse funds for the increases in pay and personnel entitlements in anticipation of the supplementals. Since we would still require the approval of our supplemental requests, this approach would appear to add to the already heavy Congressional workload.

We are absolutely committed to continuing to pay our military personnel in an orderly fashion. While we recognize the issue must be resolved in the context of overall defense funding, we feel that we cannot lose sight of the fact that the issue touches all of our people and our credibility with them. We appreciate the assistance and support that you and your committee have given us in the past. We solicit your backing for the enactment of the supplementals before our current funds are exhausted.

An identical letter is being sent to the Chairman, Subcommittee on Defense, Committee on Appropriations, House of Representatives. If I or members of my staff can assist further in this process, please let me know.

Sincerely,

JOHN O. MARSH, JR.

Mr. HATFIELD. Mr. President, I only add that over 80 percent of this supplemental has immediate outlay requirements for this current fiscal year.

Mr. PROXMIRE. Will the Senator yield?

Mr. HATFIELD. I yield.

Mr. PROXMIRE. I support the manager of the bill. He is absolutely correct. I do not know, either, who in this Congress indicated to the Washington Post that the funds included in this bill would not be needed until late next month, but if we wait that long to act on it, only 10 or 15 days will remain in the fiscal year. As I indicated in my opening statement on Friday; and as the manager just said, 82 percent of the money in the bill will be spent in the next 2 months. That is \$7.4 billion, most of which will be needed for the military.

Anyone who thinks that the Defense Department is being shortchanged by this bill, incidentally, should understand that 57 percent of the budget authority contained in the bill as reported by the Senate Appropriations Committee goes to the Defense Department. To be more precise, of the total budget authority of \$8.98 billion in the bill as reported, \$5.72 billion will be dedicated to our national defense.

The table in question also indicates that the bill is below the Appropriations Committee's allocation under the budget resolution by \$8.7 billion in budget authority and \$1.3 billion in outlays. However, further economies can and, hopefully, will be made, either on this floor or when we go to conference. For example, I believe we should strike the \$355 million the committee added to the bill for the Caribbean Basin Initiative.

Given the state of the Nation's economy, particularly the history-making budget deficits everyone agrees we are facing in fiscal year 1982 and beyond, I particularly hope that my colleagues

will restrain the impulse to add money to the bill as reported. Although many worthy programs are short of funds, nothing could be more devastating to the health of our economy than an orgy of budget add-ons at this point in time. The bill, as reported, is a good one in most respects and we should do our best to cut, not add to, the totals recommended by the Appropriations Committee.

I ask unanimous consent that a table on the back of the committee report headed Budgetary Impact of H.R. 6863, showing how much of this fund will be needed over the next 2 months, be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

BUDGETARY IMPACT OF H.R. 6863

(In millions of dollars)

	Budget authority		Outlays	
	Remain- ing	In bill	Remain- ing	In bill
Comparison of amounts in the bill with the amount remaining under the revised budget resolution for 1982		8,979		7,404
Scoring impact	10,743	12,001	1,987	1,672
Projections of outlays associated with budget authority recommended in the bill:				
1982				7,404
1983				1,304
1984				232
1985				61
1986 and future year				5
Financial assistance to State and local governments for 1982 in the bill		348		13

¹ Adjusted for mandatory amounts in bill already counted in amount remaining under revised budget resolution.

Prepared by the Congressional Budget Office Pursuant to sec. 308(a), Public Law 93-344.

Mr. HATFIELD. I thank the Senator.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I advise all Senators that it is possible we would have a rollcall vote very quickly on the amendment that I will offer.

UP AMENDMENT NO. 1206

Mr. PERCY. Mr. President, I send to the desk an amendment that I discussed in some detail last night and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) proposes an unprinted amendment numbered 1206.

Mr. PERCY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I believe we should have the amendment read, if the Senator does not object.

The PRESIDING OFFICER. Will the Senator from North Carolina repeat that? The Chair did not hear the Senator without his microphone.

Mr. HELMS. I apologize to the Chair.

If the Senator from Illinois, my good friend, would not mind, I would like to have the amendment read by the clerk.

Mr. PERCY. It might take 10 minutes, but certainly if the Senator wishes it read, I would be happy to have it read. I could summarize it in 2 minutes.

Mr. HELMS. Let us have a bit of it so we get the flavor.

Mr. PERCY. My concern is I am not sure how many are listening anyway, but if the Senator would like it read, I have no objection at all.

The PRESIDING OFFICER. The clerk will report.

Mr. HELMS. I thank the Senator.

The assistant legislative clerk read as follows:

On page 31, strike lines 15 to 19 and insert in lieu thereof the following:

"be available only for Jamaica: *Provided*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first. The Senate reaffirms that it is the policy of the United States in the Western Hemisphere, in cooperation with all like-minded states, and in accordance with the obligations under the Inter-American Treaty of Reciprocal Assistance, the Charter of the Organization of American States, the Additional Protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America, the North Atlantic Treaty, and the United Nations Charter,

To support—
the principles of non-intervention in the affairs of nations of this hemisphere by external powers which have been historically defended under the Monroe Doctrine;

the peaceful resolution of disputes between states and of conflicts within states;

the right of individual and collective self-defense consistent with the Charter of the United Nations;

the self-determination of the peoples of all states—

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, reserving the right to object on that, I make a parliamentary inquiry. I ask the question to the distinguished chairman of the Foreign Relations Committee, this says: "On page 31, strike lines 15 to 19." Is the Senator not amending something that has already been amended in the bill?

Mr. PERCY. The procedure that I had outlined has been checked with the Parliamentarian. The Parliamentarian assures me that this procedure is the only way that it can be done now and is perfectly acceptable so far

as parliamentary procedures are concerned.

Mr. SYMMS. I thank the Chair. I reserve a point of order.

The PRESIDING OFFICER. Does the Senator from Idaho object to the reading being dispensed with?

Mr. SYMMS. No; I withdraw my objection. I reserve a point of order on the amendment.

The amendment is as follows:

On page 31, strike lines 15 to 19 and insert in lieu thereof the following:

"be available only for Jamaica: *Provided*, That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first. The Senate reaffirms that it is the policy of the United States in the Western Hemisphere, in cooperation with all like-minded states, and in accordance with the obligations under the Inter-American Treaty of Reciprocal Assistance, the Charter of the Organization of American States, the Additional Protocols to the Treaty for the Prohibition of Nuclear Weapons in Latin America, the North Atlantic Treaty, and the United Nations Charter,

To support—
the principles of non-intervention in the affairs of nations of this hemisphere by external powers which have been historically defended under the Monroe Doctrine;

the peaceful resolution of disputes between states and of conflicts within states;

the right of individual and collective self-defense consistent with the Charter of the United Nations;

the self-determination of the peoples of all states and territories in the hemisphere by means of democratic, internationally respected procedures which allow for fair and reasonable participation by all political groups;

the economic development of all countries and regions of the hemisphere by expanding opportunities for trade and investment, providing reasonable assistance, promoting individual initiatives, and broadening the opportunities for all persons to share in the benefits of such development;

the human rights of all people in the hemisphere, especially the rights to political expression and participation and to be free from officially sponsored or other acts of terrorism, preemptory judicial or extra-legal proceedings, and cruel or excessive punishment;

the control and reduction of conventional armaments into and within the hemisphere; reasonable and humane standards and procedures for the temporary and permanent movement of people within the hemisphere; and

To oppose—
the threat or use of force by any state within or outside the hemisphere against the territorial integrity or political independence of any state or territory within the hemisphere in violation of the Charter of the United Nations;

the acquisition of territory or resources within the hemisphere by the threat or use of force;

the establishment of military bases or other hostile, unprovoked military presence in the hemisphere by states outside the hemisphere in contravention of the historic policy of the United States to resist external interference into the affairs of the hemisphere; and

the development or acquisition of nuclear weapons by any other state in the hemi-

sphere, the stationing of nuclear weapons in any state or territory within the hemisphere by a state outside the hemisphere, or the threat or use of nuclear weapons by any state within or outside the hemisphere against any state or territory within the hemisphere: Now, therefore, be it

Declared by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That the United States reaffirms its longstanding determination—

(a) to prevent in Cuba the stationing of nuclear weapons by the Soviet Union, the development or acquisition of nuclear weapons, or any other externally supported military capability endangering the security of the United States;

(b) to resist efforts by Cuba to extend its Marxist-Leninist ideology or political system in the hemisphere by force or the threat of force in violation of the Charter of the United Nations;

(c) to pursue any diplomatic opportunity, including those afforded by the Organization of American States, with a reasonable prospect of leading to the reduction of aggressive or subversive activities by Cuba or any other state in the hemisphere; and

(d) to work through the Organization of American States and with peoples throughout the hemisphere to achieve peaceful and democratic self-determination in Cuba and in all states and territories of the hemisphere.

SEC. 2. Nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended, the Foreign Assistance Act of 1961, as amended and the War Powers Resolution of 1973. This Act does not constitute the specific statutory authorization for introduction of United States Armed Forces contemplated in sections 2(c) or 8(a) of the War Powers Resolution. Consideration of such extraordinary measures must include the required consultations by the President with the Congress in light of the particular future circumstances and possible justifications for any such action.

MILITARY ASSISTANCE PROGRAM

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, \$16,987,999, to remain available for—

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I had hoped to offer my amendment as a substitute to the Symms amendment, but the parliamentary situation precluded that. As a result, I have drafted this amendment to supersede the Symms amendment. The Senate has voted to support what appears to be a very attractive amendment by Senator Symms. It is a restatement of the Monroe Doctrine and current law passed in 1962.

Furthermore, it is very tough on Cuba. I can certainly understand why a majority of my colleagues voted for it. There is one fundamental problem with the Symms resolution which I ask all of my colleagues to consider. This was a problem that was considered by the Foreign Relations Committee in the many hearings held on this subject, in hours of deliberation,

and that resulted in a resolution, the substance of which is the amendment that I have offered. It was adopted by the Foreign Relations Committee by a vote of 14 to 1. That was after months of consideration by the committee.

The problem that we discovered and that I wish to point out now to my colleagues is that the Symms resolution might be considered a Gulf of Tonkin resolution for Cuba. The Symms resolution states that the United States is "determined to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere."

This language may be interpreted as an authorization for the use of U.S. Armed Forces against Cuba. The Symms resolution has no reference in it to the 1973 War Powers Resolution. Since we would be reenacting this 1962 provision after passage of the war powers resolution, there might be a serious legal question as to whether this amendment constitutes the congressional authorization required under the War Powers Resolution.

Certainly if Senator Javits, one of the coauthors of the War Powers Act, were here, he would have argued strongly with the committee on this step being taken by the Congress today.

We might look back, not knowing what can happen in our hemisphere and under what conditions—just take into account the Falkland Islands and what happened down there—a year ago would anyone had envisioned that kind of action. But what if some kind of action were taken? The law would stand that the President of the United States would resist with any means necessary, including the force of arms, any spread of a Marxist-Leninist philosophy anywhere, to any part of the hemisphere.

I think those decisions should be subject to the War Powers Act which we debated for over a year, and we finally overrode the Presidential veto. We felt strongly that the Constitution of the United States gives the power to the Congress and only to the Congress to make war. The problem is we have had a series of wars through the years, the Korean war, the Vietnamese war, other wars where no war has been declared. We make war but we do not declare it. That is a clear evasion of the intent of the Constitution.

I also point out that Senator STENNIS, who was chairman of the Armed Services Committee and the coauthor of the War Powers Act, voted to table the Symms amendment last night. No one could accuse Senator STENNIS of ever being soft on communism. No one is going to attack him in Mississippi for not standing up against a Communist threat. But Senator STENNIS has

great respect for what this Congress did. They passed a War Powers Act, and we decided only the Congress has the power to send troops into combat.

That is why the Senate Foreign Relations Committee almost unanimously, with one exception, was very concerned about the precedent that we might set in reenacting into law a provision passed in 1962 at the time of the Cuban missile crisis when the security of the United States of America was at stake. Then, in 1962, we spoke strongly and we spoke with force. Then subsequent to that, we enacted the War Powers Act.

Let me just read one paragraph of the Foreign Relations Committee report relating to this problem:

With an open-ended mandate to use force such as is provided in the language of the 1962 Cuban resolution, the President will be much less inclined to consider congressional and public sensitivities in any given set of circumstances. Thus Congress will have foregone one of the principal virtues of the war powers framework, an insistence on case-by-case consultation which assures that congressional input into such decisions will be keyed to particular circumstances and not provided in general terms once and for all.

Let me take a very practical case, and I hope that a number of the Members of this body or their staffs are listening to this, because if they vote on this blindly they are going to regret it, just as many regretted the Gulf of Tonkin Resolution that was overwhelmingly passed without consideration and thought and then followed by 10 years in which many regretted the blank check given to the President of the United States.

Just think what would have happened if we had passed a resolution of this kind and just took out the Western Hemisphere and substituted the Middle East—allowing the President, with force of arms, to resist any aggressive actions in the Middle East. Certainly, he would have been empowered to send 1,000, 2,000, 5,000, 10,000 troops into Lebanon now. Would Congress have allowed that? Absolutely not.

Look at the sensitivity that came from the entire United States when the President just mentioned that we may send 800 or 1,000 troops there.

Look at the conditions that have been laid down in conversations with the President. Look at the conditions the President has accepted to make certain that we were not involving ourselves unnecessarily and exposing American Forces unnecessarily, or without great thought ahead of time.

Mr. BIDEN. Mr. President, will the Senator yield for a question?

Mr. PERCY. I yield.

Mr. BIDEN. I wonder whether the Senator will agree with me. If we want to be tough—we are all tough guys and tough women around here, in the Senate—and if we are going to show

everybody how strong we are, I am thinking of a different amendment. Instead of having "Cuba" in it, let us have "Russia" in it. If we want to be tough, let us get tough with the big guys. Let us be hardnosed about this. Let us put in there "to prevent Russia from stationing nuclear weapons anywhere outside their territory." Let us talk about resisting efforts by "Russia" to extend its Marxist-Leninist ideology and political system, and so forth.

If we want to get tough, let us get tough; but if we want to be practical, let us be practical. Let us understand that what the Senator from Illinois is saying is accurate.

The fact is, do we want to say to the President of the United States: "When you feel like it, you go ahead and send troops, go ahead and make the decision"? I thought we went through a decade of debate on that issue, which fundamentally shifted or clarified the relationship between the President and the legislative branch on the question of whether or not and under what circumstances troops could be committed.

We are all a bunch of weak-kneed folks around here, running around in an election year, whether it is constitutional amendments or Cuba, talking about how we are going to be so tough.

The fact is that what the Senator from Illinois is saying is accurate. We are not changing our policy. We are not coming along and suggesting that we encourage Cuba to move out. That is not the issue—Cuba. The issue is whether or not and under what circumstances the President has what authority.

Again, if we want to show our resolve, why do not any of the folks around here ever get tough with Russia in Poland? We get tough with the Poles. Why do we not get tough with Russia? In the Middle East. In the Far East.

I do not see my colleagues standing up and wanting to declare war. If we want to get really tough let us pick on the guy who is causing the problems. Let us go after the big guy. Let us not fool around. Let us pick on somebody our own size. Let us show the American people our resolve.

As some of us in this Chamber say, the train has already left the station, and hysteria has set in, and we are all rushing to show that we are tough.

The Senator from Illinois is dead right: If you can strip away the emotion and look at what we are talking about here, we are talking about whether or not the President of the United States has the authority, on his own, to decide to send troops.

In 1984, if I am fortunate enough to be a candidate for reelection to the U.S. Senate from Delaware, if my opponent, whoever he or she is, comes to

me about how BIDEN is soft on Cuba, I will ask him or her did they want to send troops to El Salvador—did they vote at that time or would they have supported at that time the sending of troops? Some here would. Some are straightforward about it.

I do not suggest that everyone here is doing this purely for political reasons, but I know that many of us are. I know that some of us are afraid to stand up on this thing.

Think of this—and I am also speaking to those who are listening in their offices: On the merits, the Senator from Illinois is correct. But beyond all the politics, that may not be as good as some think it is, because the down side of this, the other side of this, is that the people who vote for this may be opposed on the ground that they voted to send American men to Latin America to shed their blood, when, if you look at those polls, the overwhelming number of American people are not really crazy about that. The politics of voting for being a tough guy or a tough woman in this Chamber at this time is not all "up."

As I said, one of these days we may decide to get tough with the outfit that is the one we have the most to worry about. The only problem there is that that may be a nuclear holocaust, but that is another question.

Mr. KASTEN addressed the Chair.

Mr. PERCY. I have the floor, and I should like to respond.

I should like to respond to two points made by my distinguished colleague, a valued member of the Foreign Relations Committee, who sat there for the hours and hours of debate we had.

He will recall very vividly our substituting, as he has today, other words for it—Russia. Would anyone want to give a blank check to the President, any President—I do not care who the President is—a blank check that would have existed, so that Jimmy Carter, as President of the United States, could have sent troops ahead of time, with authorization of Congress, into Afghanistan? A blank check that would have allowed any President to send troops into Ethiopia, to send them into any other areas, such as Angola, where the Soviet Union has taken the Marxist-Leninist philosophy? Anyplace in the world?

What are we doing? I can remember very vividly that though I never spoke personally against my beloved colleague and former professor, Paul Douglas, on issues, we had one big issue. He was a hawk. He was defending the Vietnam war in a State where that war was not becoming very popular in 1966, after the Gulf of Tonkin Resolution of 1964, for which he voted.

It was not a very good thing. It appeared that it was starting to turn sour. It was costing a lot of American

lives. It was not in our own national security interests at that particular time. Yet, for 10 years we struggled with it.

What did Congress do? They abdicated their responsibility.

We had the benefit of the War Powers Act, through the wisdom of Senator Javits and Senator STENNIS, who for months worked over it and honed it to bring back to the U.S. Congress the constitutional authority given it by the Framers of the Constitution. The only trouble is they used the words "declare war"; and, as Senator STENNIS has aptly pointed out many times on this floor, it is now out of style to declare war. No one declares war anymore. You just make war.

I do not know of a declaration of war by Israel on Lebanon, but they are at war. Ask anyone on the ground there or any place whether a war is going on. Yet, it is not a declared war as such. We, ourselves, have not declared wars. We have gone to war. We have sent machines and troops.

Therefore, all we are talking about is not only politics. Those up for election in 1982 or 1984 or 1986 should remind themselves that someone may attack them for the blank check and the abdication of responsibility and the fact that they did not really read the bill that they just passed this morning. How many actually read every word of that bill? Not too many, probably. How many really thought through the implications of that authority? How many thought through the committee principle? I do not pretend to read every word of every bill that comes along. I have a lot of confidence in the committee system. That really works through the years. That committee and staff have poured over the bill.

When we come out with a committee report, 14 to 1, overwhelmingly, after debating this issue, after holding hearings on this issue, for the Senate then, at 9 o'clock at night, to override it by a 2-to-1 vote—I am beginning to think that not a lot of them thought it all the way through.

That is why this debate this morning is an important debate because this debate will be heard years from now if we pass this and give a blank check to go anyplace anytime with the Armed Forces of the United States without the advice and consent of Congress anytime Marxist-Leninist philosophy is introduced by Cuba into some area.

I wish to ask my colleagues this question: Do they intend to enact what may be interpreted as the Gulf of Tonkin resolution for Cuba in the absence of a crisis similar to the Cuban missile crisis which served on the occasion for this original resolution in 1962?

I do not believe that the Senate intends to take such action today.

Mr. PELL. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield to my distinguished colleague, the ranking minority member of the Foreign Relations Committee, who sat throughout the debate and in hearings and deliberations that we had in our committee on the Symms amendment.

Mr. PELL. Mr. President, I thank my colleague from Illinois and I am very glad to support his measure. It is basically a modification of an amendment that passed through our committee, as has been pointed out, in a 14-to-1 vote. The original measure was fuller. It contained a portion on El Salvador. But the Senator from Illinois has dropped that portion in order that we may focus on the question of Cuba which is what we are concerned with at this time.

I think we should bear in mind, also, that this measure reinforces the War Powers Resolution by making it clear that the policy in this resolution does not—I repeat does not—legally constitute an authorization for the use of force under the War Powers Resolution.

The President has a clear obligation under the War Powers Act to consult with Congress prior to any future decision to commit combat forces. Without this, we really are giving a kind of blank check.

I remember the time of the Gulf of Tonkin there were only two of us, and I regret to say I was not one, who had the gumption to vote against that resolution. Both of those were later defeated, I hope not because of that.

But we did not see the danger that was in that resolution at the time. I think that, by the same token, in the measure that we passed last night we give kind of a blank check, a Tonkin Gulf kind of check for similar actions in escalations in the future. I hope that the Senate and my colleagues will take the opportunity of this amendment offered by the Senator from Illinois and vote for it.

Mr. PERCY. I thank my distinguished colleague. I did mention earlier in my remarks that if they vote for this amendment they would be voting in a way consistent with what I very strongly believe Senator Javits would have urged us.

I was very pleased, indeed, that Senator STENNIS last night voted to table the Symms amendment because of his concerns about the War Powers Act.

Just as my distinguished colleague has read some of the language from the resolution, I urge every single Senator and I urge staff to bring to the attention of the Members of this body that, before a vote is cast, that they take 3 or 4 minutes to simply read the resolution that was crafted over a period of weeks and months by the Foreign Relations Committee. I would

deem that probably not 10 Senators beyond the Foreign Relations Committee have yet read this amendment. It is before us. It would have been brought up in due time because it has been voted out overwhelmingly by the committee. This seemed an appropriate time to offer it simply because of the Symms amendment.

Let me turn to this amendment and review it for just a moment. In very many ways it is similar to the Symms amendment, which it would supersede.

It is a very tough policy statement against Cuban aggression. It reaffirms the Monroe Doctrine. Let me reiterate that again. It reaffirms the Monroe Doctrine and speaks in very tough language against Cuban aggression about which we all feel very strongly. It is a comprehensive statement of U.S. policy toward Cuba. It is a 1982 statement. It is not a 1962 statement. We have not turned back the clock two decades. We are now evaluating it in the light of today's circumstance and how this will be interpreted in the hemisphere.

Are we a paper tiger or not? What do we mean when we say we are going to resist with arms, military force, and personnel? When we say that in law and the President signs it, I can just imagine that Castro would take up the dare and do something that would fall within the province of law and then wonder whether the United States is going to follow its law and send troops, personnel, and armaments and beat down that attempt to infiltrate through aggressive tendencies.

We are not going to find a military solution to every problem and certainly not to political philosophy. We decided that years ago and we have the statement of the President of the United States who says that the Communist world is crumbling of its own weight. It is debt-ridden. It cannot produce enough food. Its system has broken down. It has dissension within its own ranks. It has a Romania that goes an independent foreign policy route. It has a Poland that is resisting every effort to suppress Solidarity and the union movement and the workers movement in Poland. There are cracks and chinks appearing all over that world.

We have not had to go in with American military forces. There are better ways to do this, more intelligent ways to do it and by challenging with force of arms; daring someone to do something, we are likely to provoke them to do it and call our bluff. Then, how do we look if we have a Gulf of Tonkin resolution, in effect authorizing the President to use force of arms, if he decides to either use them without our permission, and we have abdicated our responsibility; or if he uses them with the consequences that result and without our having had anything to do with it? How does it look?

Anyone who votes for that power is overriding the War Powers Act in the area of this world most sensitive to us, the entire Western Hemisphere.

Mr. PROXMIRE. Mr. President, will the Senator from Illinois yield very briefly?

Mr. PERCY. I am happy to yield.

Mr. PROXMIRE. May I say to my good friend—

The PRESIDING OFFICER. If the Senator will withhold, there is no control of time and the Senator from Illinois can only yield for a question.

Mr. PERCY. I yield for a question.

Mr. PROXMIRE. May I ask the Senator if he would not consider the fact that I voted with him last time against the Symms amendment? Would he not consider that we have a situation here where the great majority of Senators voted on the other side? My question is, is it not consistent for Senators who voted for the Symms amendment at this time to support the Percy amendment on the grounds that what the Percy amendment does is simply to provide Congress shall have a voice in determining whether or not we keep our troops in military action for a period of days which we have set forth before in the War Powers Act? In other words, what it does is defend the War Powers Act without rescinding much of what Senator SYMMS has persuaded the Senate to adopt; is that correct?

Mr. PERCY. Absolutely. That is why the amendment was crafted this way.

As the distinguished Senator from Rhode Island read into the record, the crux of the amendment, the amendment simply says that "nothing in this section shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947 as amended, the Foreign Assistance Act of 1961 as amended, and the War Powers Resolution of 1973."

In other words, we are reaffirming that. We are standing behind laws we have already passed. We are making eminently clear that the years of work done by Senator STENNIS and Senator JAVITS and others who worked with them on the War Powers Act is not being overridden summarily.

This section does not constitute the specific statutory authorization for introduction of U.S. Armed Forces contemplated in sections 2(c) or 8(a) of the War Powers Resolution. Consideration of such extraordinary measures must include the required consultations by the President with the Congress in light of the particular future circumstances and possible justifications for any such action.

Without that language, the blank check has been written. If the vote that passed this morning stands, it will be a source of embarrassment and concern every day, every night for every

Senator if something happens. And the control is placed in the hands of Castro. We placed in his hands the power to do something that would trigger the law authorizing the President to do something. Moreover, this is not a Percy amendment. I offered the amendment. It is the Foreign Relations Committee amendment sent to the floor with a vote of 14 to 1.

Mr. HATFIELD and Mr. HELMS addressed the Chair.

Mr. PERCY. I would like to make one last critical point, and that is the point raised by my distinguished colleague from Wisconsin, which I hope all of my colleagues will give serious consideration to.

Voting for the pending amendment, which is a modified version of the committee amendment passed 14 to 1, is not inconsistent with a vote for the Symms amendment.

Let me repeat that for the benefit of those listening. A vote for the Foreign Relations Committee amendment, the so-called Percy amendment, now before us is not a vote inconsistent with a vote for the Symms amendment.

In many ways it is quite consistent with a vote for the Symms amendment. By voting for the pending amendment a Senator can once again register his or her strong concerns about Cuban aggression in this hemisphere. We can also once again reaffirm the Monroe Doctrine, but you can do it without legislating a Gulf of Tonkin resolution for Cuba. You can do it by reaffirming that the law of this land is the War Powers Act in the most important single power given the Congress of the United States by the Constitution. We should be strict constructionists on the Constitution, but amplified with this change that the power to make war is the same as the power to declare war.

By letting the vote stand to give away that power, you override then the War Powers Act, and that is why Senator STENNIS, in his wisdom and with the deep background he has had and the study he gave to the issue, voted to table the Symms amendment.

We can have tough language against Cuba. We can reassert the Monroe Doctrine, but we also reenact the powers of the War Powers Act.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

The Senator indicated earlier he thought we could get to a vote on this rather soon.

I wonder if the Senator would consider, now that he has used up about 30 minutes to make his case, entering into a time agreement to provide 30 minutes for opposition comments, and then a 10-minute closing equally divided for those who may wish to make some remarks at the end? Would the

Senator be willing to enter into that kind of an agreement?

Mr. PERCY. Yes. I was quite willing to enter into an agreement of 10 minutes equally divided, but I thought we had to review the entire issue again.

Mr. HATFIELD. Yes.

Mr. PERCY. I would be happy to do that providing that at the conclusion, if any points need to be responded to, I would like to reserve 5 minutes.

Mr. HATFIELD. Yes.

TIME-LIMITATION AGREEMENT ON PERCY AMENDMENT

Mr. HATFIELD. Mr. President, I ask unanimous consent then to enter into a time agreement for 30 minutes to be allocated for those who would speak in opposition to the Percy amendment to be controlled by the Senator from Idaho (Mr. SYMMS) and for a 10-minute closing period to be equally divided between the proponents and the opponents.

The PRESIDING OFFICER (Mr. HUMPHREY). Is there objection? The Chair hears none, and it is so ordered.

Mr. HATFIELD. I thank the Senators for agreeing to the time limitation.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. HELMS. Mr. President, will the Senator from Idaho yield to me briefly?

Mr. SYMMS. I yield to the Senator such time as he may consume.

Mr. HELMS. Mr. President, I thank the able Senator.

I want to join my distinguished chairman and my good friend from Illinois, Mr. PERCY, in urging Senators who may be near their loudspeakers in their offices or their staff members to listen to what I am about to say.

Mr. President, do you know what the amendment of Senator PERCY proposes to do? It proposes to overrule the President of the United States who supports the Symms amendment. It proposes to overrule the Secretary of State, Mr. Shultz, with whom I have just talked, who supports the Symms amendment. What the Percy amendment now pending will do is to wipe out the approval of the Symms amendment which the Senate has just voted by more than two to one.

Who voted for the Symms amendment, Mr. President? Sixty-nine Senators voted for it; 27 against. Senator STENNIS, whom I revere, as does my friend from Illinois, voted for the Symms amendment. The majority leader of the Senate, Mr. BAKER, voted for the Symms amendment. The minority leader of the Senate, Mr. ROBERT C. BYRD, of West Virginia, voted for the Symms amendment. The able assistant majority leader, Mr. STEVENS, voted for the Symms amendment. Mr. LUGAR, a member of the Foreign Relations Committee, voted for the Symms amendment. Senator BAKER, of course, is also a member of

the Foreign Relations Committee, the ranking member.

Senator BOSCHWITZ voted for the Symms amendment. Senator HAYAKAWA voted for the Symms amendment. Senator KASSEBAUM—

Mr. PERCY. Mr. President, will the distinguished Senator yield on my time for just 30 seconds?

Mr. HELMS. Certainly.

Mr. PERCY. I would like to add one more vote in there. Senator STENNIS voted to table the Symms amendment, this morning he voted for the Symms amendment. Senator STENNIS intends to vote for the Foreign Relations Committee amendment, the so-called Percy amendment, because it is not, in his judgment, inconsistent. He just wants to make absolutely certain the war powers provision is protected.

Mr. HELMS. I will say to the Senator from Illinois that my friend and his friend from Mississippi is capable of making up his mind, and if he understands that what the amendment of the Senator from Illinois will do is wipe out the Symms amendment just approved by the Senate, fine, let the Senator from Mississippi vote that way. I will continue to respect him, but I will not understand such an up-and-down vote.

Now, let me reiterate, I have just talked to Mr. Shultz, the Secretary of State, and he says, "We are in favor of the Symms amendment."

So who does that leave against it? That leaves Mr. BAUCUS, Mr. BIDEN, Mr. BRADLEY, Mr. BUMPERS, Mr. CHAFEE, Mr. CRANSTON, Mr. DANFORTH, Mr. DIXON, Mr. DURENBERGER, Mr. EAGLETON, Mr. FORD, Mr. GLENN, Mr. HART, Mr. HATFIELD, Mr. INOUE, Mr. KENNEDY, Mr. LEAHY, Mr. MATHIAS, Mr. MATSUNAGA, Mr. PACKWOOD, Mr. PELL, Mr. PERCY, Mr. PROXMIER, Mr. PRYOR, Mr. RIEGLE, Mr. TSONGAS, and Mr. WEICKER.

Let the loudspeakers proclaim so that the Senators or their staffs who may be listening to this debate can hear that what Senator PERCY would do would be to wipe away the Symms amendment, period, end of paragraph.

I have the most respect in the world for my distinguished chairman, but let us engage in no obfuscation. What we will be doing if we do not table the Percy amendment—and a motion in that connection will be made—is, we will be backing away from the Monroe Doctrine, we will be backing away from the position of the President of the United States, the Secretary of State, the chairman of the Senate Armed Services Committee, and the ranking minority member of the Senate Armed Services Committee.

There have been some confusing statements made about the War Powers Act, Mr. President. The War Powers Act allows the President—any President—to send troops for 60 days without the approval of Congress, so it

is not an act of declaring war for this Senate to say, as it has said, "We believe in the Monroe Doctrine and we are going to stop pussyfooting around. We are not starting any war, but it is time that America started acting like America again."

I put in the RECORD just a little while ago, Mr. President, the results of all of the efforts by the distinguished previous President of the United States, Mr. Carter, to appease Mr. Castro, as summarized by the very distinguished and able Under Secretary of Defense, Dr. Fred C. Ikle. And just so it will be clear, I ask unanimous consent that the series of questions and answers between the Senator from North Carolina and Dr. Ikle be printed in the RECORD again at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator HELMS. It has been suggested that Fidel Castro is merely reacting to the hostility displayed by the United States, and that a more moderate and flexible U.S. policy might give him an alternative to relying almost exclusively on Moscow. Do you find any merit in this reasoning?

Mr. IKLE. I think that question is adequately answered by Castro's actions in response to varying U.S. policy shifts during the past six years under several Administrations. You will recall that about six years ago Cuban military forces were just beginning their military buildup in Angola. President Ford and Secretary of State Kissinger made strong public statements that the United States would not tolerate such conduct, and for a period of time in December 1975, the Soviet airlift of Cuban troops and equipment to Angola was halted. Then the Congress passed the Tunney/Clark Amendment, tying the President's hands by prohibiting further assistance to the non-communist elements in Angola. The Soviet-Cuban airlift resumed immediately, and within two weeks the number of Cuban troops in Angola had doubled. It continued to increase gradually in the following year, so that at the end of the Ford Administration there were estimated to be about 14,000 Cubans in Angola.

President Carter's Administration took a more sympathetic approach to the Cuban problem, and made a significant effort to improve U.S. relations with the Castro government. For example, the Carter Administration:

Opened an "Interest section" in Havana, and permitted the Cuban Government to do the same in Washington.

Relaxed the travel restrictions on Cuban diplomats at the United Nations and in Washington.

Encouraged increased cultural exchanges between the two countries.

Lifted the restrictions on vessels which had previously called at Cuban ports allowing them to subsequently visit U.S. ports.

Lifted the ban on travel by U.S. citizens to Cuba.

Permitted the resumption of charter flights between Cuba and the United States.

It is worth recalling the response of Mr. Castro to these friendly overtures. During the Carter Administration, Cuba:

Increased the number of Cuban military personnel in Angola from about 14,000 to 20,000.

Increased the Cuban presence in Ethiopia from 0 to a height of 17,000 in 1978 and in Nicaragua from 0 to 500.

Initiated a massive effort to subvert non-communist regimes in Latin America. Cuba provided military assistance to Nicaragua to include advisors, weapons such as surface-to-air missiles, anti-aircraft guns and light arms. In the case of Grenada, Cuba provided advisors and anti-aircraft weapons and began construction of an airfield which would have military utility.

Denounced the United States at the summit meeting of the Non-Aligned Movement in Havana in September 1979. Castro charged that Latin America had historically suffered greatly from U.S. aggression, colonialism, and neo-colonialism.

These actions hardly support the contention that a more conciliatory approach by the United States to U.S.-Cuban relations will make Castro our friend.

The United States is not looking for a confrontation with Cuba. Nevertheless, we are unwilling to sit idly by while Fidel Castro and his Soviet bosses subvert and seek to overthrow the less powerful non-communist governments of the region. If Castro truly desires peace and improved relations with the United States, he should begin such a rapprochement by stopping his aggression and permit other states to live in peace. We assure you that a halt in Cuban efforts to subvert other countries would not go unnoticed by this Administration.

However, so long as Fidel Castro continues his aggressive policies in Latin America, Africa, and other regions of the world, we will continue to regard him as a serious threat to international peace and stability. We believe—and the history of the 1975 Tunney-Clark Amendment suggests—that the credibility of our deterrent rests in large part on Congressional attitudes; and thus the need to resort eventually to the use of U.S. military forces will be determined in part by Castro's perception of Congressional views. Unless the Congress is perceived to be supportive of the President's strategy, no U.S. action short of actual military force is likely to have much influence on Cuban policy.

Senator HELMS. What effect do you believe knowledge of the fact that the Joint Chiefs have contingency plans to meet Cuban aggression in the region will have on Cuban decisionmakers?

Mr. IKLE. Unfortunately, history demonstrates that peace is not furthered by failing to respond effectively to the threat or use of armed force. We believe it is important that Fidel Castro be put on notice that the United States is capable of responding to continued aggression with a wide range of flexible options aimed at making the costs of aggression and subversion greatly outweigh any perceived benefits.

If Mr. Castro wants to promote the security of Cuba, he should cease his efforts to undermine and overthrow the governments of other states. We hope that by alerting him to our deep concerns, and our strong commitment to the cause of freedom, he will appreciate the wisdom of ceasing his subversion of other states.

Mr. HELMS. Mr. President, I do not think we ought to take up very much more time. I think we ought to proceed and see whether the Senate is going to march up the hill and down

the hill and up the hill and down the hill. We ought to have a motion to table and see where we stand, whether it is halfway up the hill or halfway down the hill or on top of the hill, and be done with this. But let it be clear that the purpose, the intent of the Percy amendment, is to kill the Symms amendment. No other face could be put on it.

I thank the Senator for yielding.

Mr. SYMMS. I thank the Senator from North Carolina very much.

Mr. President, I just want to make one point. The distinguished chairman of the Foreign Relations Committee has made the point over and over again about the War Powers Act. I want to make the point very clear that the present law of the land is what is in the language in the Symms amendment and the State Department has so advised me that it is not inconsistent with the War Powers Act. Senator HELMS made that point.

The President of the United States can engage American troops for 60 days right now and he can do it if Senator PERCY's amendment is passed. But Senator PERCY's amendment, I regret to say, will be perceived, in my opinion, as a weakening of America's posture in the Caribbean Basin.

I think one of the reasons the administration supports my position is to reaffirm a strong, clear, concise picture of the United States so that we can go in with the Caribbean Basin Initiative and be successful.

The Symms amendment would reaffirm U.S. policy with regard to Cuba be reenacting verbatim an existing law (Cuba resolution, Public Law 87-733). Senator PERCY has proposed an amendment to the Symms resolution, specifying that nothing therein shall affect the standards and procedures of the War Powers Resolution or constitute a specific authorization for the introduction of U.S. Forces as contemplated by the War Powers Resolution. Senator PERCY contends that in the absence of his amendment enactment of the Symms amendment resolution might be construed as statutory authorization for the President to commit U.S. Forces in hostilities with Cuba without further action by the Congress. In this regard, the Symms resolution reiterates existing law, which states that the United States is determined:

to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from introducing the forces or the threat of forces its aggressive or subversive activities to any part of this hemisphere. . . .

The Percy amendment is unnecessary. The Symms amendment could constitute authorization for President to introduce U.S. Forces only if it is so intended by Congress.

Section 8(a)(1) of the War Powers Resolution provides that such authority shall not be inferred from any provision of law unless such provision specifically authorizes such an introduction "and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution. . . ."

Legislative history of this requirement of War Powers Resolution makes clear it was intended to preclude reliance by President upon area resolutions—such as Cuba resolution—as authority to commit U.S. Forces to hostilities.

In 1970, more than 3 years before enactment of War Powers Resolution, Department of State advised SFRC that provisions of the Cuba resolution and other area resolutions were not considered as "evidence of congressional authorization have all acquiesced in any new military efforts"

In view of past executive branch interpretation and requirement of specificity in the War Powers Resolution, reenactment of Cuba resolution, as proposed by Symms amendment, could not be regarded as specific authorization for the President alone to introduce U.S. Forces into hostilities. Such authorization could be inferred only if Congress clearly manifested an intention to supersede War Powers Resolution. No such manifestation of intent has been indicated.

When this issue was considered by SFRC in April during the markup of the foreign assistance authorization bill, the Office of the Legal Adviser provided a memorandum to the committee reaching these same conclusions.

I ask unanimous consent that the memorandum be printed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

MEMORANDUM—RELATIONSHIP OF THE WAR POWERS RESOLUTION TO THE SYMMS AMENDMENT TO S. 2179

Amendment No. 1334 to S. 2179 (the Symms Amendment) would reaffirm the policy of the Government of the United States in its relations with the Government of Cuba, as set forth in Senate Joint Resolution 230 of October 3, 1962 (the Cuban Resolution).¹ The question has been raised whether the enactment of the Symms Amendment, which would reenact the Cuban Resolution, would have any legal consequences with respect to the operation of House Joint Resolution 542 of November 7, 1973 (the War Powers Resolution).² For the reasons discussed below, it is the opinion of this Office that the enactment of the Symms Amendment would have no consequences for the operation of the War Powers Resolution.

¹ Public Law 87-733, 76 Stat. 697.

² Public Law 93-148, 87 Stat. 555.

The War Powers Resolution established a system for involving the Congress in decisions to use the Armed Forces of the United States in hostilities. The basic elements of this system are set forth in sections 3, 4 and 5 of the Resolution, concerning consultations with, reporting to and action by the Congress, respectively.

Section 3 of the War Powers Resolution provides that the President shall consult with Congress in every possible instance before introducing U.S. Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and that he shall consult regularly following such an introduction. The operation of this section is not dependent upon any other legislation. Congress could, of course, enact exceptions to section 3 of the War Powers Resolution. However, no such exception, express or implied, is contained in the Symms Amendment.

Section 4 of the War Powers Resolution provides that the President must report in writing to Congress within 48 hours, and periodically thereafter, after U.S. Armed Forces are introduced into hostilities or into a situation where imminent involvement in hostilities is clearly indicated by the circumstances. Section 4 also requires a report when U.S. Armed Forces are introduced into foreign territory, waters or airspace while equipped for combat, with certain specified exceptions. According to section 4, these reporting requirements apply "in the absence of a declaration of war. . . ." No other type of legislation affects these reporting requirements under the terms of the War Powers Resolution. Obviously, the Symms Amendment does not constitute a declaration of war. Nor does it contain any express or implied exception to the reporting requirements of the War Powers Resolution.

Section 5 of the War Powers Resolution provides, with certain specified qualifications and exceptions not material to the present analysis, that U.S. Armed Forces introduced into hostilities or a situation of imminent hostilities must be withdrawn within 60 days unless Congress "has declared war or has enacted a specific authorization for such use of United States Armed Forces. . . ." Section 5 also provides that Congress may at any time compel the removal of U.S. Armed Forces from hostilities outside the United States in the absence of a declaration of war or specific statutory authorization.⁴

The War Powers Resolution provides (in section 6) for special, expedited procedures for bills or resolutions intended to provide a declaration of war or specific statutory authorization as described in section 5. These special procedures appear to contemplate that such legislation would normally be introduced after U.S. Armed Forces had been introduced into hostilities or situations of imminent hostilities. However, the War Powers Resolution does not preclude the enactment of a declaration of war or specific statutory authorization before U.S. Armed Forces are so introduced.

If a statute were enacted that constituted specific statutory authorization for the

President to use the U.S. Armed Forces in hostilities, section 5 of the War Powers Resolution would then cease to apply, according to its terms, with respect to the authorized activity. If U.S. Armed Forces were thereafter introduced into hostilities within the scope of the specific statutory authorization, the President would remain obliged to consult with Congress in accordance with section 3. He would also remain obliged to report to Congress in writing in accordance with section 4. However, the President would not be obliged to terminate the use of U.S. Armed Forces after 60 days and Congress would have no power to compel the removal of U.S. Armed Forces from hostilities by concurrent resolution under section 5.

Because the existence of specific statutory authorization would have the effect of superseding the limitations that would otherwise obtain under section 5 of the War Powers Resolution, it is necessary to consider whether the Symms Amendment would constitute such a specific statutory authorization.

An analysis of this question must begin with the rule of interpretation set out in section 8(a)(1) of the War Powers Resolution:

"Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred . . . from any provision of law (whether or not in effect before the date of enactment of this joint resolution) . . . unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution. . . ."

The legislative history of this provision makes clear that it was intended to apply to area resolutions such as the Cuban Resolution. The Senate bill⁵ had provided that authority to introduce U.S. Armed Forces could not be inferred "from any provision of law hereinafter enacted" unless it met specificity requirements comparable to those contained in section 8(a)(1) as finally enacted, quoted above. The report of the Committee on Foreign Relations noted the existence of several area resolutions (including the Cuban Resolution) and expressed the intention that "any future area resolutions, to qualify under this bill as a grant of authority to introduce the armed forces in hostilities, or in [hostile] situations . . . must meet carefully drawn criteria—as spelled out in the language of [the bill]."⁶ In conference, the rule of interpretation was expanded to cover any provision of law "whether or not in effect before the enactment of this joint resolution." Thus, there can be no question that the War Powers Resolution precludes the interpretation of the Cuban Resolution as an authorization to introduce U.S. Armed Forces into hostilities or into situations of imminent involvement in hostilities. It is equally clear that the War Powers Resolution was intended to preclude such an interpretation of a future reenactment of any generally-worded resolution similar to the Cuban Resolution.

The interpretation of the Cuban Resolution by the Executive branch has been fully compatible with the interpretation thereof

that is now compelled by section 8(a)(1) of the War Powers Resolution. The Executive branch has consistently regarded the Cuban Resolution as a statement of policy toward Cuba, and not as an authorization for the President to take any particular action. It has never been relied upon as the legal basis for any action. Even President Kennedy's proclamation of October 23, 1962, on interdiction of the delivery of offensive weapons to Cuba⁷ relied upon the authority conferred upon the President "by the Constitution and statutes of the United States," and noted only that this action was "in accordance with" the Cuban Resolution. In 1970 the Department of State advised the Senate Committee on Foreign Relations that the Cuban Resolution and other area resolutions "contain significant recitals of basic principles of our policies in the affected areas" but that they were not considered as "evidence of Congressional authorization for or acquiescence in any new military efforts. . . ."

In view of the past interpretation of the Cuban Resolution by the Executive branch and the rule of interpretation specified in section 8(a)(1) of the War Powers Resolution, a reenactment of the Cuban Resolution, as proposed by the Symms Amendment, could not in itself be regarded as a specific authorization to introduce U.S. Armed Forces into hostilities or situations of imminent hostilities. Of course, the Congress is not bound by the War Powers Resolution to use a particular form of words in enacting a future statutory authorization. Congress could manifest its intent in some manner. However, Congress would certainly be presumed to have legislated with knowledge of the standards it had adopted in the War Powers Resolution and with knowledge of the hitherto consistent interpretation of the Cuban Resolution as a statement of policy rather than as statutory authority for military actions. Accordingly, in the absence of a very clear and unambiguous indication of Congressional intent to depart from these standards and this past interpretation, the enactment of the Symms Amendment could not be construed as a statutory authorization to do that which had not been authorized by the identically-worded Cuban Resolution.

For the foregoing reasons, we conclude that enactment of the Symms Amendment would have no effect upon the President's duties to consult with and report to the Congress under sections 3 and 4 of the War Powers Resolution or on the rights and duties of the President or the Congress under section 5 of the War Powers Resolution.

Mr. SYMMS. In my visits to El Salvador, every single troop commander in the Salvadoran Army, when I asked them the question of what they needed the most, in addition to the very, very simple equipment, like boots and 782 web gear and rifles and so forth, they said:

The one problem we have more than any other problem is the supply of the guerrillas, the continual supply coming into the country.

⁵ Proc. No. 3504, 27 Fed. Reg. 10401.

⁶ Letter from the Acting Assistant Secretary of State to the Chairman of the Committee on Foreign Relations dated Mar. 12, 1970.

⁴ Declarations of war have historically taken the form of joint resolutions of Congress. See e.g., 40 Stat. 1, 429 (1917); 55 Stat. 795, 796, 797, (1941); 56 Stat. 307 (1942).

⁵ This memorandum is limited in its scope to the consideration of issues of statutory interpretation. Accordingly, it does not address any constitutional issues with respect to the War Powers Resolution.

⁶ S. 440, 93d Cong., 1st Sess. (1973).

⁷ S. Rep. No. 220, 93d Cong., 1st Sess. (1973), pp. 23-24.

Where is it coming from? Coming from Cuba.

My good friend from Delaware makes the point about how we have to show we are tough guys. I do not think it would be that difficult for the United States to insist on stopping this flow of arms from Cuba to Nicaragua and on into El Salvador. It is a matter of us having the political courage to do it and the will to do it. It is not a matter of whether or not we have the military might and strength to do it. It is a question of whether we have the will.

If we back down the hill, as Senator HELMS pointed out, and only go halfway up on this vote, we are sending a clear signal: Go right ahead, Castro, just keep on sending all the guns and equipment you want, and we will just keep taking tax dollars and try to offset it.

That is not the right way to do it. We have to make a decision here. If we cannot control our destiny 90 miles off our own coast, how in the world can we control our destiny in the Far East, in the Middle East, in Europe, or wherever? How can we have an impact on it, Mr. President?

I would say it is very, very important, in my opinion, first, that Senators recognize that the Symms amendment that we have already voted on is not inconsistent with the War Powers Act. That has already been stated by Assistant Secretary Bosworth when he testified before the Foreign Relations Committee. He said that, in their opinion, the administration finds the resolution is consistent with our policy and we support it. The legal opinion is that it is not inconsistent with the War Powers Act.

Any change of this, as Senator HELMS has said, a vote for the Percy amendment will be wiping out what the Senate just did. I think that would be very difficult for all of us to explain why we went up the hill and then retreated back halfway back down the hill.

Mr. BUMBERS. Will the Senator yield for a question?

Mr. SYMMS. I am happy to yield for a question.

Mr. BUMBERS. Does the Senator consider this to be authority for the President to take any overt military action?

Mr. SYMMS. I would say to my good friend from Arkansas that it is.

Mr. BUMBERS. I am talking about the Senator's amendment which the Senate has just adopted.

Mr. SYMMS. The amendment only reasserts what the present authority of the President of the United States has right today as we are standing here, whether or not this amendment would have been passed by the Senate. It only reaffirms the 1962 language. It

is not inconsistent with the War Powers Act.

Mr. BUMBERS. Why is it necessary to reaffirm anything?

Mr. SYMMS. I think that the reason for it is because, as the 20-year period has gone by since that time, it seems that we have forgotten what President Kennedy's admonition to this country was: That if we cannot control what is happening right here in our front yard in Cuba 90 miles off of our coast—

Mr. BUMBERS. Why did the Senator's amendment not simply state that we reaffirm the language that was adopted in 1962?

Mr. SYMMS. That was what the Senator's amendment did, was simply reaffirm the language. I introduced the original language, with some 20 cosponsors, earlier this year and that is really what this amendment did.

Mr. President, I want to reserve the remainder of my time. How much time do I have remaining?

Mr. BUMBERS. Are we under a time agreement?

Mr. SYMMS. Yes.

The PRESIDING OFFICER. The Senator has 18 minutes and 24 seconds remaining.

Mr. SYMMS. Mr. President, did the Senator from South Carolina wish some time?

Mr. THURMOND. Will the Senator yield me a few minutes?

Mr. SYMMS. I yield to the Senator from South Carolina.

Mr. BIDEN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Will the Senator from Idaho yield for a parliamentary inquiry?

Mr. SYMMS. I am happy to yield.

Mr. BIDEN. How is the time divided, and who controls the time?

The PRESIDING OFFICER. The Senator from Idaho controls 18 minutes, after which there will be 10 minutes equally divided between the Senators from Idaho and Illinois.

Mr. McCURE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. Will the Senator from Idaho yield for a parliamentary inquiry?

Mr. SYMMS. I am happy to.

Mr. McCURE. Is it not correct that the Senator from Illinois has already consumed a portion of his 10 minutes?

The PRESIDING OFFICER. The Senator from Illinois has consumed 21 seconds of his 5 minutes.

Mr. McCURE. I thank the Chair.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the Percy amendment. Last evening, the Senate went on record with a very strong vote endorsing the Symms amendment. The

Symms amendment is a strong statement of what I think our attitude should be toward Cuba. I brought out last night, in the few remarks I made, that Soviet military shipments to Cuba tripled in 1981 over 1980 and are increasing again this year, 1982. This places Russian military exports to Cuba at their highest level since 1962.

Also, Mr. President, I would remind the Senate that Soviet-made heavy bombers of the Tu-95 class, based west of Havana, fly reconnaissance missions along our very own Atlantic coast daily. Recently, a second squadron of Mig-23 ground attack fighters was uncrated in Cuba, and they are being manned by Soviet pilots. These intercontinental aircraft allow Castro to maintain an air force second only to the United States in the Western Hemisphere.

Mr. President, these are facts that I think caused the administration—this administration, the Reagan administration—to come out in favor of the Symms amendment. These are facts that have caused Secretary Shultz, the Secretary of State, the man primarily responsible for our foreign policy, to come out in favor of the Symms amendment.

Secretary Shultz told Senator HELMS today, this morning—within the last hour—that he favors the Symms amendment.

Mr. President, there is some talk that there is no conflict between the Symms amendment and the Percy amendment. The Percy amendment simply waters down the Symms amendment. I want the Senate to understand that. If they wish to water down the Symms amendment, vote for the Percy amendment. If they wish to stand for a strong policy against Cuba, then stand by the Symms amendment and vote against the Percy amendment. It is just that simple.

Mr. President, we know that Castro has exported his subversion in the past. Cuba has supplied arms to Nicaragua which has caused that country to come into the Communist orbit; Soviet arms went to Cuba and then went to Nicaragua; Cuba is now supplying arms to the rebels in El Salvador; Cuba is supplying arms to Honduras; Cuba is supplying arms to Guatemala—for what? To take away the freedom of the people in those countries.

When are we going to wake up? When are we going to understand the danger of Cuba? Cuba is the very epitome of the Soviet Union on a small scale. They are the agents of the Soviet. Their efforts are directed at trying to help the Soviets take over this continent.

I say, let us be firm, let us be resolved, and stand by the Symms amen-

dent and vote against the Percy amendment because that weakens the Symms amendment. I hope the Senate will see fit not to undo what they did last night. If they vote for the Percy amendment they will undo the Symms amendment. They will weaken the Symms amendment.

Let us do what the President wants. Let us do what the Secretary of State wants. Let us do what Judge Clark, who is head of the National Security Council wants. All of them favor the Symms amendment, and are not in favor of the Percy amendment. I hope the Senate will reject the Percy amendment.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. SYMMS. I reserve the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Will the Senator from Illinois yield me 1 minute?

Mr. PERCY. I am happy to yield.

Mr. BIDEN. I will only take 1 minute, in the interest of time. Let me summarize by making three points.

The Senator from Arkansas asked a very cogent question, Why the Symms amendment? I would suggest the reason why the Symms amendment is because obviously this is an indictment of the administration. If the administration is doing what they all say they want to do, the Senator from South Carolina and everybody else, they do not need this authority to make the statements and do what they want to do.

Second, I think this is all about El Salvador and not about Cuba.

The concern about the War Powers Act has already been raised. I have yet to hear anybody tell me what in the Percy amendment, specifically what language, they disagree with.

In terms of what is covered and not covered, the Percy language covers the stationing of nuclear weapons. I do not see any reference to that in the Symms language.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. BIDEN. I yield the floor.

Mr. HATFIELD. Mr. President, how much time remains to Senator SYMMS?

The PRESIDING OFFICER. Twelve minutes and fifty-two seconds.

Mr. HATFIELD. Plus the 5 minutes of the closing time?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. I wonder if the Senator from Idaho would be willing to yield back the remainder of his time except for the closing time.

Mr. SYMMS. The distinguished senior Senator from Idaho wishes to present some remarks. I yield to Senator McClure.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, I take this time only for a couple of points that I wish to make.

First of all, as the Senator from Idaho has already indicated, my colleague who sponsored the amendment which the Senator from Illinois seeks to overturn, there is the issue of the War Powers Act.

I do not read the resolution to override the War Powers Act. I think the War Powers Act is still in effect, even with the adoption of the Symms amendment.

While the Senator from Illinois and others have raised the issue as whether it is or is not, I think legislative history ought to be very clear on that point. While the Senator from Illinois and others may fear it, the RECORD should be very clear that this resolution does not override the limitations of the War Powers Act.

It would require a strained reading of it to suggest that it does. The only point I make is that I believe that the Foreign Relations Committee, in looking at this, has tried to raise a red herring for quite different reasons. They have tried to raise an issue that was not there, not because they fear it was there but because they do not like the resolution.

The Senator from Idaho, my colleague, is correct, that all we are restating in this action that the Senate has already taken is that which was thought to be wise policy when it was adopted 20 years ago and from which some people have strayed. It seems to me the reason the committee objects to the Symms language is they want it to be apparent that we have strayed from the position that was taken when President Kennedy took the strong position that he did with respect to Cuba.

If indeed you want to move away from that strong position taken by past administrations and reaffirmed by this one, then vote for the Percy substitute. But make no mistake about it, it is not to cure the War Powers Act question; it is to make certain that we have softened our position on Cuba. That is the only issue before us. The War Powers Act is a red herring.

I was amused earlier, and my friend from Delaware often amuses me, when the Senator was talking about macho, being tough. I observed the speech the Senator from Delaware made a few weeks ago on the Falkland Islands. I never heard a tougher speech, a more macho guy willing to go to—I almost said willing to go to war. But no, it was for Great Britain to go to war. "We will hold your coat. You go fight them."

Well, that was a good speech.

Mr. BIDEN. If the Senator will yield, that is also pretty good policy, to let Britain fight their own wars.

Mr. McCLURE. That is right. "Go fight them. Go fight them. Use force."

But Cuba, that is different. Let them use force and we will not say anything about that.

I think it is time for us to say something about that.

I thank my colleague for yielding.

Mr. SYMMS. I thank the distinguished Senator from Idaho. I think the point was made very well by Senator THURMOND, Senator McCLURE and Senator HELMS. There is not much more I can offer.

Mr. President, I shall submit for the RECORD some captured PLO documents which show the PLO training people in Cuba and Nicaragua and helping to train Salvadoran revolutionaries. They show the vital link that is taking place in the world that is coming out of the Soviet Union.

Mr. President, I mentioned the fact that I have in my possession documents from the Palestine Liberation Organization (PLO), which were captured recently by Israeli defense forces operating in South Lebanon. These captured PLO documents reveal that the PLO is involved in fomenting Marxist-Leninist revolutionary war in the Caribbean. Specifically, the captured PLO documents indicate that the PLO was training El Salvadoran and Haitian revolutionary guerrillas in South Lebanon during 1982. Further, another captured PLO document indicates that in 1979, a PLO guerrilla was trained in Cuba. There is additional and extensive documentary evidence that the Soviet Union has been actively supporting, financing, training, and controlling the PLO.

Accordingly, Mr. President, I request that these PLO documents captured by the Israelis be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PAGES FROM CALENDAR FOUND IN TYRE ABOUT COURSES FOR TERRORISTS FROM VARIOUS COUNTRIES

1. An African group, 10 men from Malawi, arrived (11 June).
2. The course for the Malawi comrades began (16 May).
3. The comrades from Southern Africa left (16 May).
4. Final examinations for the El Salvador course (26 February).
5. Abu Hamid—Damascus, 446408 (29 April).
6. The course for the Haitian comrades began (6 April).
7. A group of 5 comrades from Turkey arrived (4 June).
8. The course for the comrades from Turkey began (8 June).
9. The course for the comrades from Turkey completed (4 July).
10. The group from Turkey left us (6 July).

LIST OF COURSES WHICH OFFICERS AND NCO'S OF THE "SEPTEMBER MARTYRS BATTALION"/CASTEL BRIGADE/FATAH TOOK IN FOREIGN COUNTRIES

No.	Military ID No.	Rank	Name	Date present rank received	Course, date, place
1.	31487	"Raid" staff officer	Faisal Muhamed Alsheich Yusuf		1. Military academy, China; 2. Battalion commanders course, Moscow; 3. Staff officers, Pakistan, 1979.
2.	44552	"Nakib"	Jamal Yakov Jadan	Feb. 1, 1976	1. Fadayin commander, Moscow 1972; 2. Armor, Hungary, 1980.
3.	41054	"Mizam Awal"	Fahal Muhamed Otman	1975	1. Platoon commander, Moscow 1975-76; 2. Company commander, Vietnam, 1977-78.
4.	44818	"do"	Muhammed Abd Allah Siamah	Jan. 1, 1976	1. Company commander, China, 1977; 2. Armor company commanders, Moscow.
5.	32242	"do"	Joad Ahmed Hamid Aloony	"do"	1. Military academy, Algeria, 1969; 2. Political training, China, 1978-79.
6.	31492	"Mizam Tani"	Rateb Mussa Mahmud	1975	1. Infantry company commander, Moscow, 1977; 2. Armor, Hungary, 1979.
7.	31281	"do"	Yassin Hatcher Muhamed	Sept. 1, 1976	1. Armor, Hungary, 1980; 2. Armor company commander, Moscow.
8.	13644	"do"	Ahmed Mustafa Hamdan	June 1, 1977	1. Commando course, Algeria, 1972; 2. Military academy, Algeria, 1975-76; 3. Armor company commander, Pakistan, J.T.A., 1978.
9.	51009	"do"	Ibrahim Shachda Amar	"do"	1. Military academy, Algeria, 1975-76; 2. Armor company commander, Pakistan, 1978; 3. Armor communication, Pakistan, 1979.
10.	74709	"do"	Said Ibrahim Alazi	"do"	1. Military academy, Algeria, 1976-76; 2. Armor company commander, Pakistan, 1978; 3. Armor, Hungary, 1979.
11.	46897	"do"	Haled Issa Abd Hassan	"do"	1. Military academy, Algeria, 1975-76; 2. Armor (preparatory course), Pakistan, 1979; 3. Armor, Hungary, 1980; 4. Armor company commander, Pakistan.
12.	52524	"do"	Hassin Muhamed Ahmed Said	Apr. 27, 1978	Armor, Hungary, 1979.
13.	13463	"do"	Zaki Muhamed Ibrahim Alsheich	"do"	"do"
14.	15361	"do"	Mustafa Hassan Mustafa Kandell	"do"	1. Social studies, Bulgaria, 1979; 2. Armor, Hungary, 1980.
15.	31708	"do"	Ahmed Hassin Ahmed Ja'Aber	"do"	Armor, Hungary.
16.	15372	"do"	Ibrahim Raja Zalah Alhamzat	"do"	"do"
17.	73937	"do"	Ahmed Muhamed Ahmed Mari Alsharkawi	"do"	A/A company commander, Moscow.
18.	22029	"do"	Ahmed Fazal Muhamed Abu Halil	"do"	Armor, Hungary.
19.	21008	"Mas'Ad"	Sha'Ar Mustafa Ibrahim Mustafa	Mar. 1, 1977	1. Armor platoons, Pakistan, 1978; 2. Armor, Hungary, 1980.
20.	53477	"do"	Abd Alrahman Ahmed Hassin Alsharif	Apr. 6, 1977	1. Armor, Hungary, 1980; 2. Military academy, Cuba, 1979.
21.	24767	"do"	Zabar Abd Hadid	Apr. 1, 1977	Armor, Hungary, 1979.
22.	13149	"do"	Abd Allah Waffi Daud Yusuf	"do"	Armor, Hungary.
23.	22298	"Rakib Awal"	Hassin Muhamed Mahmud	Mar. 1, 1977	Radio-operator, Hungary, 1979.
24.	22585	"do"	Mustafa Abd Alrahim Muhamed	"do"	Armor, Hungary, 1980.
25.	24469	"do"	Shitui Ibrahim Shitui	"do"	"do"
26.	24551	"do"	Ahmed Mussa Ahmed Paroh	"do"	Armor, Hungary, 1979.
27.	31753	"do"	Hassin Daud Saad	"do"	"do"
28.	32429	"do"	Muhammed Kassem Kablawi	"do"	Armor, Hungary, 1980.
29.	31498	"do"	Abd Allah Ali Abd Allah Alsaed	Oct. 1, 1976	Armor, Hungary, 1979.
30.	43021	"do"	Mahmud Hassin Fatchili Ali	Sept. 1, 1975	"do"
31.	48102	"do"	Majed Marshad Muhamed Alrajob	Jan. 1, 1978	"do"
32.	52012	"do"	Muhammed Rasek Abu Tarki	Mar. 1, 1977	Armor, Hungary, 1980.
33.	25136	Fighter	Salim Muhamed Fallah	1976	"do"
34.	25313	1976	Muhammed Diab Ahmed	"do"	"do"
35.	27877	1976	Siff Alladin Zadek Alali	"do"	Armor, Hungary, 1979.
36.	27898	1976	Habri Hamed Marsal	"do"	Armor, Hungary, 1980.
37.	32032	"do"	Jaber Saliman Ibrahim Tabal	1969	"do"
38.	32784	"do"	Kamal Said Muhamed Alabed	1974	"do"
39.	76048	"do"	Amad Ibrahim Saliman	1977	"do"
40.	"do"	"do"	Ham Zadek Abdallah	1980	Security and intelligence—U.S.S.R., Administration—U.S.S.R.
41.	43945	"Rakib Awal"	Zabar Taber Ahmed	Jan. 1, 1978	Armor, Hungary, 1981.

Note.—The original list includes courses taken in Arab countries, too.
Source: Handwritten list captured in Sidon.

Mr. SYMMS. I think we should recognize that these are big stakes in Latin America. Now the emphasis is to try to disrupt a continuation of civil policy in the Western Hemisphere, if you will. There is a great effort being made. The concentration is not El Salvador, it is not Granada. The target of the Cubans and the Soviets is Mexico. That is where they want to go. That is where they want to disrupt things. That is where they want to get terrorism started. That is where they want the revolution to start. The target is Mexico.

So we are talking about right in our backyard.

For us to not vote to table the Percy amendment, in my opinion, will be sending a very, very weak signal because if we change the language that is now in the law of the land, it will be giving a green light to our adversaries in the Caribbean Basin that the United States is not going to do anything.

I am prepared, Mr. President—

Mr. HATFIELD. Will the Senator yield back the remaining period of his half-hour leaving 5 minutes for closing?

Mr. SYMMS. I yield back the remaining part of the half hour.

Mr. HART. Will the Senator yield for a question?

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. Mr. President, we have 5 minutes left, is that correct, for the closing on the SYMMS side, and 4 minutes left for Senator PERCY?

The PRESIDING OFFICER. The Senator from Idaho has 5 minutes; the Senator from Illinois has 3 minutes 36 seconds.

Mr. HART. Will the Senator from Idaho yield for a question?

Mr. SYMMS. I am happy to yield to my friend from Colorado.

Mr. HART. The question is on the subsection of the amendment which the Senate just adopted, subsection (b), "to prevent in Cuba the creation or use of an externally supported military capability."

Mr. SYMMS. I could not hear the question.

Mr. HART. I read subsection (b) of the Senator's amendment. My question is What means may the United States, under this amendment, take to prevent anything in Cuba?

Mr. SYMMS. Mr. President, I reserve the remainder of my time.

I think the answer is that is a question we cannot decide in this Chamber. We have a system here where we have a Commander in Chief, we have an executive branch. They have access to all the information. We do not need 535 Secretaries of State, 535 quarter-backs to run the program. We have a system here where the President will have to make those determinations.

Our part will be consent under the War Powers Act on under the appropriations process of the Congress supporting the administration actions.

I am just not going to get into an argument here of what actions are going to be taken.

The Senator from Colorado, being on the Armed Services Committee, knows very well what the answer to that question is.

Mr. HART. Mr. President, the Senator does not know. The Senator is asking the Senator from Idaho.

Mr. SYMMS. The Senator knows very well what the ability of the United States would be if we show the will of resolve. Probably there would be no necessity of military action. It would be a matter of having a convincing, a reliable position and posture on the part of the United States so we could have not only the confidence of our allies, but have the respect of our adversaries. That is what we have failed to have in the last several years.

I reserve the remainder of my time.

Mr. HART. Will the Senator yield for a question?

Mr. SYMMS. I reserve the remainder of my time.

Mr. HART. Mr. President, I would like the record to show the Senator did not answer my question.

Mr. BIDEN. I ask if the Senator from Illinois will yield me 36 seconds?

Mr. PERCY. I yield 36 seconds.

Mr. BIDEN. Mr. President, it is not a wonder that the administration endorsed the Symms resolution.

Mr. President, on its face, the amendment offered by Mr. SYMMS which reaffirms the so-called Cuba resolution of 1962, may have certain political appeal. However, we should recognize the amendment for what it is—President Reagan's Gulf of Tonkin resolution for Latin America.

In 1973, the Congress overrode a Presidential veto to enact the war powers resolution into law. By that action, the Congress determined the appropriate balance between the executive and legislative branches in the area of the warmaking powers of our Government. The administration endorsed the resolution offered by the distinguished Senator from Idaho, which is not inconsequential when placed in the context of the Senator's clearly stated intention when he introduced Senate Joint Resolution 158. On March 18, 1982, the Senator from Idaho stated: "Presidential powers in the realm of foreign and military affairs as guaranteed by the Constitution were eroded considerably with passage of the War Powers Act. I have always opposed the War Powers Act."

Thus, significant credibility must be given to the concern expressed by many of us. The so-called Cuba resolution of 1962 now antedates the war powers resolution. Enactment of the war powers resolution brought every prior law under the purview of this act, including the Cuba resolution of 1962.

This brings the concern over the resolution offered by the Senator from Idaho into sharper focus. This resolution, which the administration publicly supports contains a provision which stipulates the following: "... the United States is determined (a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of the hemisphere."

Under the war powers resolution, the President can commit U.S. combat troops abroad for up to only 60 days unless the Congress "(1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period * * *

Since the administration has claimed that Cuba has provided significant material support for the insurgents in El Salvador, and since the administration has maintained repeatedly that it will go to the source of that support, the executive branch could maintain that the Symms resolution gives it the authorization required by the war powers resolution to commit

U.S. combat forces either to El Salvador, or against Nicaragua or Cuba.

During testimony before the Senate Foreign Relations Committee on May 4, 1982, the distinguished Democratic leader of the Senate, ROBERT C. BYRD, warned:

Recent history should be a lesson for us. In the course of the Vietnam War, the Johnson Administration reconfirmed the Executive's claim to unilateral authority in the use of U.S. armed forces. In August, 1967, Under Secretary of State Nicholas Katzenbach contended that the Gulf of Tonkin Resolution was "as broad an authorization for the use of armed forces for a purpose as any declaration of war so-called could be in terms of our internal constitutional processes."

In essence the viability of any policy is directly related to its consistency of application. Certainly, the events in the South Atlantic involving Great Britain and Argentina have called into question the desirability of invoking policy pronouncements which are only selectively applied.

The resolution offered by the Senator from Idaho establishes a double standard which will not be lost on Latin America. William D. Rogers, who served as Assistant Secretary of State for Inter-American Affairs during the Nixon administration, made that very point during testimony before the Senate Committee on Foreign Relations earlier this year. In taking note of the Falkland Islands/Malvinas dispute, Mr. Rogers stated:

The key question in that dispute is Argentina's unilateral use of force to settle its ancient grievance. A ringing affirmation of the 1962 Cuba Resolution would be misunderstood in Latin America, either as a vindication of the principle that resort to arms is appropriate if the case is serious enough, or alternatively that we accept the use of force by big powers but not by small.

Therefore, if the resolution offered by the distinguished Senator from Idaho is to be judged on its merits, it must meet two tests. First, is it good policy? Will congressional passage of the resolution enhance in any way U.S. foreign policy in the hemisphere? Does it demonstrate a particular resolve to accomplish a particular goal? If so, how is this to be achieved and what commitment of U.S. resources over what period of time will be required?

Second, how does it impact upon the executive-legislative branch relationship in the exercise of the warmaking powers of our Government? Is it the responsibility of the executive branch to come to Congress and justify our Government's need to commit U.S. Armed Forces abroad to meet a particular threat to the national security of this country? Or is it the responsibility of the Congress to direct the President to utilize U.S. Armed Forces in any way he deems necessary without having to justify such a commitment to the Congress or to the American people?

In effect, by passing the Symms resolution we have voted the President to use the Armed Forces of the United States anywhere in the hemisphere where he sees a direct or indirect threat from Cuba. Notwithstanding protestations to the contrary, this resolution is not a simple restatement of policy enacted by the Congress two decades ago. It is a resolution directing the President to take action.

Make no mistake, Mr. President, this amendment is about the War Powers Act.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. PERCY. Mr. President, I would like simply to indicate or recommend strongly to my colleagues the position that Senator STENNIS has taken. You can have the best of all worlds. If you did vote for the Symms amendment, you can now vote for the Percy amendment as Senator STENNIS intends to do. That preserves the War Powers Act.

Let me say it is no surprise that the administration will support the Symms amendment, because, after all, President Nixon voted to veto the war powers resolution. As has been demonstrated, Senator SYMMS has always been against the war powers resolution.

All we are saying is that whatever happens in this hemisphere or any place else, the prerogatives of Congress must be preserved. The people of this country expect it, whether it is troops to Lebanon or troops to any place in the hemisphere.

Senator HELMS has indicated that it is time for Americans to be Americans again. I say it is time to be Americans with the Congress, not without the Congress. This resolution would exclude the Congress.

Senator HELMS said we are backing away from the Monroe Doctrine. That is absolutely not true. Let me repeat from the Percy amendment: To support "the principles of nonintervention in the affairs of nations of this hemisphere by external powers, which have been historically defended under the Monroe Doctrine."

The Percy language is even tougher than the Symms. Where in the Symms resolution is there any mention of the fact that the United States affirms its longstanding determination—quoting from the Percy amendment—"to prevent in Cuba the stationing of nuclear weapons by the Soviet Union, the development or acquisition of nuclear weapons, or any other externally supported military capability endangering the security of the United States"?

Then we have added this language, which is certainly tough enough:

To resist efforts by Cuba to extend its Marxist-Leninist ideology or political system in the Hemisphere by force or the

threat of force in violation of the Charter of the United Nations.

We have here a resolution that is a tough resolution but a determined resolution, shaped to events in 1982, fully taking into account the War Powers Act and preserving those rights, which are waived by the Symms resolution.

No administration wants any restraints on it. Lyndon Johnson did not want restraints, other Presidents have not wanted restraints. This Congress overwhelmingly voted to reaffirm the powers of the War Powers Act, preserving the powers of Congress. We would be wiping those out if we do not adopt the pending resolution that is up for a vote now.

I yield the remainder of any time to my distinguished colleague from Rhode Island.

Mr. PELL. Mr. President, as I see it, there are two essential differences here. One, the Percy amendment brings in reference to the nuclear danger on which the Symms amendment is silent. Second, the Percy resolution drops those key words—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PELL [continuing]. "Including the use of arms."

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I shall be very brief. I just want to reiterate, despite the comments of my good friend from Delaware (Mr. BIDEN)—it is true, and I will say that—that in the other body, I did support President Nixon's position and I opposed the War Powers Act, that the War Powers Act is now the law of the land. There is no way you can interpret the 1962 language, which we have already voted on, that it is in any way in conflict with the War Powers Act. This Senator certainly upholds the law of the land. The War Powers Act is part of it. In no way would I want to offer language that is not in this language that in any way avoids our responsibilities.

Senator HELMS is about to offer a motion. I want all my colleagues to know that the administration favors tabling the motion.

I think Senator HELMS, in his comments earlier, made it very clear that if you vote to pass the Percy amendment, you have negated what we have just done. So Congress has climbed up the hill, made a strong position, then retreated halfway back down the hill and given up the high ground, which is so important in international diplomacy, that we have a firm, clear, simple, understandable position on the part of the United States so our adversaries can understand where we are coming from. Then we shall have a much better arena for our diplomats to have true diplomacy, which will last toward peace in this world instead of this constant turmoil we have. I yield the remainder of my time to the

distinguished Senator from North Carolina.

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER. One minute 37 seconds.

Mr. HELMS. Mr. President, let me say again that the effect and the purpose of the Percy amendment is to wipe away the Symms amendment, which this Senate just approved by 69 to 27. A minute and 37 seconds does not allow time to correct the erroneous statements that have been made. But we are talking about the law as it existed and as explained and advanced by John F. Kennedy. The central issue here is the question of freedom in this hemisphere. Do we stand for freedom? Do we really believe that Cuba can be free again? Do we believe that Cuba must be stopped as a center of subversion against all the nations of the Americas? President Kennedy summed it all up when he said:

The evidence is clear—and the hour is late. We and our Latin friends will have to face the fact that we cannot postpone any longer the real issue of the survival of freedom in this hemisphere itself. On that issue, unlike perhaps some others, there can be no middle ground. Together we must build a hemisphere where freedom can flourish and where any free nations under outside attack of any kind can be assured that all of our resources stand ready to respond to any request for assistance.

That is the issue here, not the War Powers Act.

Indeed, even under the War Powers Act, the President is allowed to send troops for 60 days without congressional consent. The Symms amendment is not going to send us to war. I move to table the Percy amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered. The PRESIDING OFFICER. The question is on agreeing to the motion to table. The clerk will call the roll. The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—48

Abdnor	Garn	Murkowski
Armstrong	Goldwater	Nickles
Bentsen	Grassley	Pressler
Boschwitz	Hatch	Quayle
Burdick	Hawkins	Randolph
Byrd	Hayakawa	Rudman
Harry F., Jr.	Heflin	Schmitt
Chiles	Heinz	Stafford
Cochran	Helms	Stevens
Cohen	Humphrey	Symms
D'Amato	Jepsen	Thurmond
DeConcini	Kasten	Tower
Denton	Laxalt	Wallop
Dole	Long	Warner
Domenici	Lugar	Zorinsky
East	Mattingly	
Exon	McClure	

NAYS—51

Andrews	Ford	Metzenbaum
Baker	Glenn	Mitchell
Baucus	Gorton	Moynihan
Biden	Hart	Nunn
Boren	Hatfield	Packwood
Bradley	Hollings	Pell
Brady	Huddleston	Percy
Bumpers	Inouye	Proxmire
Byrd, Robert C.	Jackson	Pryor
Cannon	Johnston	Riegle
Chafee	Kassebaum	Sarbanes
Cranston	Kennedy	Sasser
Danforth	Leahy	Simpson
Dixon	Levin	Specter
Dodd	Mathias	Stennis
Durenberger	Matsunaga	Tsongas
Eagleton	Melcher	Weicker

NOT VOTING—1

Roth

So the motion to lay on the table was rejected.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, the question is on the adoption of the amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. THURMOND. Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. The Chair will correct itself. The yeas and nays have been ordered.

The question is on agreeing to the amendment of the Senator from Illinois.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Delaware (Mr. ROTH) is necessarily absent.

The PRESIDING OFFICER (Mr. LAXALT). Are there any other Senators wishing to vote?

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—47

Andrews	Glenn	Metzenbaum
Baucus	Gorton	Mitchell
Biden	Hart	Moynihan
Boren	Hatfield	Nunn
Bradley	Hollings	Packwood
Bumpers	Huddleston	Pell
Byrd, Robert C.	Inouye	Percy
Cannon	Jackson	Proxmire
Chafee	Johnston	Pryor
Cranston	Kassebaum	Riegle
Danforth	Kennedy	Sarbanes
Dixon	Leahy	Specter
Dodd	Levin	Stennis
Durenberger	Mathias	Tsongas
Eagleton	Matsunaga	Weicker
Ford	Melcher	

NAYS—52

Abdnor	Burdick	D'Amato
Armstrong	Byrd	DeConcini
Baker	Harry F., Jr.	Denton
Bentsen	Chiles	Dole
Boschwitz	Cochran	Domenici
Brady	Cohen	East

Exon	Kasten	Sasser
Garn	Laxalt	Schmitt
Goldwater	Long	Simpson
Grassley	Lugar	Stafford
Hatch	Mattingly	Stevens
Hawkins	McClure	Symms
Hayakawa	Murkowski	Thurmond
Heflin	Nickles	Tower
Helms	Pressler	Wallace
Helms	Quayle	Warner
Humphrey	Randolph	Zorinsky
Jepsen	Rudman	

NOT VOTING—1

Roth

So the amendment (UP No. 1206) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. May we be in order, please?

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to propose some unanimous-consent requests.

The PRESIDING OFFICER. Will the Senate please be in order so the Senator can be heard?

Mr. HATFIELD. Mr. President, I have discussed the remaining amendments with the authors, as we now understand the list. I would at this time like to ask unanimous consent that for Senator LEVIN's amendment there be a 40-minute time agreement, equally divided between Senator LEVIN and Senator SCHMITT. I have checked this out with the author, Senator LEVIN, and it is satisfactory with him. So I ask unanimous consent, Mr. President, that a 40-minute time limitation be given on the Levin amendment relating to student benefits, to be equally divided between the Senator from Michigan and the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. HATFIELD. Mr. President, we have an amendment that will be offered by the Senator from Rhode Island (Mr. CHAFEE) relating to Buy America, as it relates to coal. I have checked with the Senator from Pennsylvania, Senator SPECTER, who will oppose the amendment and it is agreeable that 40 minutes, equally divided will be sufficient to handle the Chafee amendment. Mr. President, I ask unanimous consent that there be a time limitation of 40 minutes to be equally divided between Mr. CHAFEE and the opposition, Mr. SPECTER.

Mr. PROXMIRE. Mr. President, reserving the right to object. Would the manager of the bill go ahead with his other requests, because on that one I am waiting for a Member to respond?

The PRESIDING OFFICER. Will the Senator suspend for a moment? Let us be in order.

The Senator from Oregon.

Mr. HATFIELD. Mr. President, there is an amendment to be offered by the Senator from New Mexico (Mr. SCHMITT) relating to copper with an hour time limitation, to be equally divided.

Mr. PROXMIRE. Mr. President, will the Senator also permit the minority to find out about that one?

Mr. HATFIELD. Yes.

Mr. President, I will make no more unanimous-consent requests at this point, but I am hopeful that we can get some time agreements in order to finish up at a decent hour.

Mr. PROXMIRE. Mr. President, I certainly want to cooperate as much as I possibly can. I just have some Members who are concerned about those two amendments.

The PRESIDING OFFICER. Who wishes to be recognized?

Mr. MATTINGLY addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

UP AMENDMENT NO. 1207

(Purpose: To prohibit the availability of economic support fund assistance for certain countries which do not cooperate in preventing the entry into the United States of narcotic drugs)

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY) proposes an unprinted amendment numbered 1207.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 31, line 15, before the period insert a colon and the following: "Provided further, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully."

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the distinguished Senator from Florida (Mrs. HAWKINS), the distinguished Senator from New York (Mr. MOYNIHAN), and the distinguished Senator from Florida (Mr. CHILES) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. Mr. President, I support the President's Caribbean Basin initiative. I believe that it is an important program that will strengthen U.S. interests in that strategically vital part of the world.

However, I believe that it is just as important to our Nation to insure that the recipients of this assistance join the battle which we are waging against the importation and sale of illicit drugs in our country.

I have been working closely with the Vice President's Task Force on Drugs. The task force has performed a valuable service but the problem that it is combating is enormous. Additionally, I have been pleased to work with my colleague from Florida, Senator HAWKINS, and other Senators on the newly established Senate Drug Enforcement Caucus. This caucus has helped to raise the awareness of my colleagues about the serious drug problem facing our Nation.

It is estimated that in 1980, the sale of illegal drugs totaled \$79 billion in this country. That is an increase of more than 20 percent from 1979.

The Georgia Bureau of Investigation estimates that more than 50 percent of the illegally imported marijuana and cocaine moves through the States of Georgia, Florida, and South Carolina. Georgia has become a distribution funnel through which this deadly merchandise reaches the other parts of the country. It is estimated that there are more than 500 airports in Georgia, a State with 159 counties. A large percentage of these airports are used for clandestine drug operations. Mr. President, our International Narcotics Bureau, our Justice Department, and the American people need our help to stop the drug problem in America.

My amendment merely stipulates that countries receiving assistance under this program should assist the United States with its efforts to curb the importation of illegal drugs. The President does not have to certify that such assistance is being rendered before the financial assistance is made available. Rather, the economic assistance made available in this provision is not hindered or stopped in any way until the President finds that a particular country is not assisting with control efforts and he so certifies to the Congress. The provisions of my amendment are similar to those contained in section 502 of the Trade Act of 1974 which also limits assistance to any nation which is not cooperating in the fight against drug trafficking.

I believe it is in our country's best interests to conclusively demonstrate our serious intention to combat the drug problem and that we expect those nations that we are assisting to help us with this effort.

I hope my colleagues will support this important amendment.

I yield to my colleague from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mrs. HAWKINS. Mr. President, as chairman of the Senate Drug Enforcement Caucus and a cosponsor of the Mattingly amendment, I want to take this opportunity to urge my colleagues to join in this initiative to link the U.S. economic assistance to drug eradication.

The statistics that Senator MATTINGLY has related regarding the DEA's estimation of the illicit drug value in this country and its tremendous increase in 1981 over 1980 is absolutely staggering. A recent study by the National Institute on Drug Abuse found that 243 addicts committed 500,000 crimes over an 11-year period in this country.

Drug enforcement experts agree that the most cost-effective means of stopping drugs is through foreign eradication. On February 24, 1982, I introduced Senate Resolution 324 which urges the President and the Secretary of State to:

Express U.S. concern to the governments of nations that fail to adequately control the production, and exportation to the United States, of illegal narcotics; to urge foreign governments to take appropriate measures to eliminate production and exportation of illicit narcotics to the United States; solicit from such governments recommendations for U.S. actions that will assist their efforts to control production and exportation of illicit narcotics, and consider the desirability of imposing sanctions on nations which continue production and exportation of illicit narcotics.

I believe it is vital that this Senate support making drug eradication a foreign policy priority by passing the Mattingly amendment. U.S. foreign assistance must be used as a preventive tool for stopping crime on our streets and drug abuse in our communities. I therefore urge my colleagues to join Senator MATTINGLY and me in this effort to destroy drugs before they reach our children and the shores of our communities. We must consider foreign aid and trade in a broader context than we have in the past. Illegal drugs destroy American lives and we must not continue business as usual. While our foreign policy interests with these countries are broad, none of these interests should supersede our desire for Americans to live free from crime related to illegal narcotics.

We should consider no nation our friend that takes a cavalier attitude toward its contributions to one of the most serious domestic problems facing this country, and we certainly should not use taxpayer dollars to help those countries that are unsympathetic and unresponsive to this country's legitimate concerns and fail to cooperate in a solution to the No. 1 problem facing this country today.

I commend my colleague, Senator MATTINGLY, for his timely amendment, and yield back my time.

Mr. MATTINGLY. I thank the Senator.

Mr. President, I might add that the distinguished Senator from Florida has been an outstanding leader in the U.S. Senate, serving as chairman of the Drug Caucus and has brought the drug problem to a high level of awareness here in the Senate, as has the President and Vice President.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I rise to congratulate my colleague, the Senator from Georgia, for his offering this amendment, and which he has allowed me the opportunity to cosponsor.

I will detain the Senate for just a very few moments on this question.

The distinguished Senator from Florida has said that no nation should be considered our friend which involves itself in the international drug traffic in a complacent or uncooperative way.

May I say, simply for background, I believe it to be the case that, as assistant to the President of the United States for urban affairs in 1969, I was the first person to propose a systematic way within the U.S. Government that the international drug traffic be put on the agenda of American foreign policy. These were measures which led to the creation of the present operations in the Department of State, and, in their first case, led to the effort to put an end to the production of poppy in Turkey and its manufacture into heroin in Marseilles.

In 1969, I was sent as the Presidential emissary to Turkey and to Paris to begin the negotiations, which in the end were successful.

This is not meant to divert the Senate with personal reminiscences but rather to state at the time, and in fear of invoking him in a way in which he might not wish to be, I found at the time the then Secretary of Labor, the now Secretary of State, our distinguished friend George Shultz, very much agreed with this point.

At the time we were well aware that if we were able to break the French connection and persuade the Turks to control the growth of poppy and the manufacture into opium, that we would then only divert the heroin traffic to other sources, it being too lucrative an effort to put an end to permanently. Further, that the task would be the task of a generation or two, as indeed it had been a problem for at least three previously.

We did not set out one set of diplomatic relations, but we set out to put a process in place.

With respect to heroin, that diversion has now occurred. It was first diverted to Mexico, but most recently, in the most dramatic terms, it has been diverted to Southwest Asia, and to Pakistan specifically.

At present, the committee with a rather curious name, the National Narcotics Intelligence Consumers Committee, which is our basic source of data, estimates that roughly 60 percent of the heroin coming into this country comes from Pakistan, Southwest Asia in the generic term. It does not come from India where very careful controls which have always been imposed are maintained. It is useful for us to remember that the world would be very much the worse off without morphine.

If I could give you quickly the ratios from the newest narcotics intelligence estimate, 57 percent of the heroin consumed in Atlanta, Ga., comes from Pakistan, 64 percent of that in Chicago, 50 percent of that in Los Angeles, 67 percent of that in Washington, D.C., and some 78 percent in New York City.

It is within the capacity of drug analysts not so much to put signatures on these products but to identify them by chemical variants.

Mr. President, in the space of 3 years, the Pakistanis have become the largest source of heroin exported to the United States. Heroin is actually manufactured in Pakistan, a country perfectly capable of that kind of chemistry.

This year, this administration negotiated a \$3 billion aid package to Pakistan and never mentioned the heroin traffic when it did so.

The Senator from Florida has made the point that no nation can be our friend and involve itself in such enterprise. But here is a nation pouring poison into the base of the American society and we are proposing a \$3 billion aid package.

The amendment of the Senator from Georgia alerts the administration to our concern and encourages those involved to be heard, or it gives them an opportunity to be heard, by their superiors. A Presidential report is an important form of influence in the executive branch.

I have introduced more comprehensive legislation which will have to await a more propitious time, but I certainly support the amendment before us.

I wonder if I could ask my friend from Georgia if he would accept a proposed modification.

As he knows, the supplemental legislation is dealing with the remainder of this fiscal year, really not much more than 3 months, and unless we express some urgency in this matter, that time can go by, the amendment lapse, and there would be no response at all.

Would he not agree that it might be useful if we were to say on line 6 of his amendment, after the word "certify" to include the word "monthly," so it would be certified monthly? We would have in prospect at least the three reports before the amendment expires as does the appropriation.

Mr. MATTINGLY. The Senator from New York and I have talked about this previously. I agree. Mr. President, I so modify my amendment to add the word "monthly."

Mr. MOYNIHAN. I thank the distinguished Senator from Georgia.

Mr. MATTINGLY. Also, I think this makes the amendment stronger.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On Page 31, line 15, before the period insert a colon and the following: "Provided further, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully."

Mr. CHILES. Mr. President, I rise to support the amendment offered by Senator MATTINGLY of Georgia and co-sponsored by myself and several other Members.

Included in the supplemental bill pending before the Members is over half of a billion dollars of foreign assistance. These funds are associated with the President's Caribbean Basin initiative and other foreign aid funding sought by the administration.

If the Senate gives approval to this foreign aid proposal it seems appropriate to ask for some assistance in return from the recipient nations in combating the drug epidemic that exists in this country today. My State of Florida seems to be the gateway for the foreign drug invasion. Over 70 percent of the drugs that enter this country do so through south Florida. But this is not just a Florida problem, it is a problem of national significance.

We have learned that the single most important step we can take to curtail the flow of drugs into this country is to stop illegal drugs at their source, in the countries where the drugs themselves are grown. Just last year, Congress adopted and passed into law my proposal to once again allow our foreign assistance funds to be used for drug crop eradication programs overseas. With this new provision on the books, we have the tool we need to attack illegal drugs at their source. But that tool will only be

useful if the United States wants to make it work. In other words, unless we insist on making drug control programs a key element in our foreign relations with other countries where drugs are grown, we will fall short in our efforts to curtail the drug trade, and the crime and violence it creates.

The amendment before us would require foreign governments receiving our aid to take adequate steps to cooperate with the United States as a precondition for receiving this aid. Friendship and international cooperation is a two-way street. We can no longer afford to ignore the refusal of other nations to take action or only token or minimal action to stop the flow of these foreign drugs into our country.

For these reasons I am pleased to co-sponsor the amendment now pending before the Senate and urge its adoption.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, the amendment offered by the Senator from Georgia (Mr. MATTINGLY) and others, simply provides that none of the funding for the CBI may go to any country that the President has certified is not taking adequate steps to cooperate with the United States in the prevention of drugs entering the United States.

Mr. President, as chairman of the subcommittee, I have also checked with the ranking minority member, the Senator from Hawaii, and we can accept this amendment. I believe it is entirely consistent with current U.S. policy.

I congratulate the Senator from Georgia on his amendment.

The PRESIDING OFFICER. Who wishes to be recognized?

Mr. HATFIELD. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1207) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. MATTINGLY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

REQUEST TO CHANGE OF POSITION ON VOTE

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. HATFIELD. Yes, I yield.

Mr. MOYNIHAN. Mr. President, on the previous amendment by the distinguished Senator from Idaho, the one several times preceding, I voted "yea." I ask unanimous consent to change my vote to "nay"; it being the case that this will not change the outcome of the vote.

The PRESIDING OFFICER. Is there an objection?

Mr. HATFIELD. Reserving the right to object, Mr. President, yesterday, the Senator from Colorado (Mr. HART) made a similar request. I happened to be on the floor at the time, at which the majority leader rose to address the request by asking the Senator from Colorado two questions that were in the precedent of the Senate well established by the Chair's rulings. I believe the majority leader at that time indicated that it would be required to fulfill these two points: No. 1, was the Senator misrecorded in his vote; No. 2, did the change of the vote change the outcome of the issue? I believe that that constituted the two requirements. Is that correct? I am asking the Chair for that information.

The PRESIDING OFFICER. That is the Chair's recollection of the discourse yesterday, yes.

Can the Senator from New York meet those requirements as stated by the Senator from Oregon?

Mr. MOYNIHAN. No, Mr. President, the Senator from New York does not meet those requirements, it being his understanding that during the day in which the vote was cast, the recorded vote could be changed if that change would not change the outcome of the vote. The Senator could not say that he was misrecorded. He was not.

I should be happy to—

The PRESIDING OFFICER. The fact of the matter is that without any further discussion, a Senator, by unanimous consent, may change his vote.

Mr. HATFIELD. Mr. President, I wish the Senator from New York would withhold his request because, under the present circumstances, as acting majority leader at this moment, I would have to object based upon my understanding of what the majority leader (Mr. BAKER) made as a statement of precedent and rules governing this question, well established by the Senate.

Mr. MOYNIHAN. Mr. President, there would be no circumstances of a request by the Senator from Oregon in which I would imagine myself not honoring that request. I do stand and state that it is not my understanding of the precedents that one has to be misrecorded in order to change a vote. We shall resolve that.

Mr. HATFIELD. I may be wrong, Mr. President, but I would like to have the majority leader present.

Mr. MOYNIHAN. May I say, I do this, Mr. President, only in the aftermath of the failure of the amendment by the distinguished Senator from Illinois, the chairman of the Committee on Foreign Relations. In the context of the failure of that amendment, I could not support the earlier one. That is the only reason I trouble the Senate.

The PRESIDING OFFICER. If the Senator will withhold the request

pending a conference with the majority leader by Senator HATFIELD. Is that acceptable?

Mr. HATFIELD. It is acceptable, Mr. President. I should like to do everything I can to aid the Senator from New York to change that vote, because, as one who believes deeply in redemption, I believe the Senator from New York does have an opportunity for this redemption.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. Mr. President, I believe this vote now concludes the work on chapter VI of the supplemental.

The PRESIDING OFFICER. The Senator is correct.

Mr. KASTEN. Mr. President, the recommendation contained under chapter VI of the supplemental fall under the jurisdiction of the Foreign Operations Subcommittee, which I chair. The foreign assistance recommendations before the Senate are a result of a compromise fashioned by the ranking member of the subcommittee, Senator INOUE, and myself. Except for two minor housekeeping items, payments to the retirement and disability fund, a mandatory request, and the provision of U.S.-owned foreign currency for overseas training in India, our recommendations fall into three categories. Those three categories are as follows:

First, emergency assistance to Lebanon;

Second, the economic assistance portion of the Caribbean Basin Initiative; and

Third, a small amount of military assistance, including emergency forgiven loans to Sudan, MAP assistance to El Salvador, Somalia, and Honduras, and loan guarantees to several selected countries which are vital to U.S. security.

Unquestionably the most controversial item in this chapter is the provision of assistance to El Salvador. However, the committee has taken a rather strong position with respect to economic assistance to that country by providing the full request as part of the Caribbean Basin Initiative. I think that there was a general consensus that this economic assistance is, in fact, desperately needed. With respect to military assistance to El Salvador, the committee, by a vote of 21 to 1, approved a reduction from the requested \$35 million to \$20 million. The committee rejected an attempt to eliminate all military assistance by a vote of 19 to 4.

The Appropriations Committee recognizes the concern many Members have expressed with respect to various actions in El Salvador, and that, at least partially, explains the reasons for our action reducing the military assistance request. We know that these concerns are held sincerely, and we hope that the administration will

understand that we must take those criticisms and critics of our policy and of Salvadoran Government policy seriously. I, and I know Senator INOUE does likewise, want to work together with the critics of our policy and to endeavor to improve it. At any rate, we believe the Appropriations Committee action strikes a good balance, one which the Senate can support.

ASSISTANCE TO LEBANON

We are recommending \$50 million in emergency assistance to Lebanon. This is identical to what was requested by the administration, but we are following House action in providing it through a transfer of excess funds under the migration and refugee assistance account. By doing so, we save \$50 million, while still providing the needed assistance. The committee has included a legislative earmarking of \$10 million for the American University of Beirut, including the hospital, which has undergone substantial financial losses as a result of the crisis.

The committee expects that these funds will be disbursed as soon as possible after enactment of this legislation. The committee has also included report language, suggested by Chairman HATFIELD, which makes sure that this assistance is spent first on humanitarian needs.

We have also included report language which suggests that some of this funding be made available to the Beirut University College, which has sustained significant damage, and subsequent to committee action we have learned that the International College, a preparatory secondary school associated with the American University of Beirut, has likewise sustained significant damage, and I hope, of course, that the administration would consider supporting this institution as well. In calling special attention to these institutions, it is important to point out that they have been the focus of U.S. assistance in Lebanon for some time, in fact virtually the only assistance which has gone to that country.

CARIBBEAN BASIN INITIATIVE

The Appropriations Committee is recommending approval of the administration's economic assistance portion of the Caribbean Basin Initiative, including an add-on of \$5 million for Honduras—that \$5 million add-on being offset by a similar reduction in the military assistance request for that country. The CBI is the single most important program the administration has suggested for Latin America and represents the most comprehensive economic cooperation package since the Kennedy administration's Alliance for Progress 20 years ago. The CBI will provide badly needed budget and balance-of-payments support for the economies of several important countries in the Caribbean. The committee has included language which

would make these funds available should authorizing legislation fail to be taken up, a prospect which seems likely in the House of Representatives. An attempt in the committee to reject this approach was defeated 20 to 3.

The committee makes this recommendation fully mindful of the prerogatives of the Foreign Relations Committee. In fact, we fashioned the language so that when the authorizing legislation passes, it will be the controlling law, not only on policy, but on country distribution. The committee feels this approach is essential for not to include this language would be to put the entire Caribbean Basin Initiative economic assistance package in jeopardy. Perhaps most importantly—surely most practically—is the fact that further delay of the CBI will bring the outlays associated with it into fiscal year 1983.

As my colleagues know, outlays for the international affairs function are already squeezed, and to add another \$269 million to \$300 million could severely and adversely affect other foreign assistance programs. It is crucial that we fund this as quickly as possible so that the outlays are scored in the current fiscal year. The Caribbean Basin Initiative is a top priority of the administration, as indicated in a letter from Secretary Shultz to the majority leader.

I cannot emphasize enough the urgency of this funding. The President personally attaches the highest priority to each of these initiatives. Failure to provide the resources that are contained in the Foreign Operations portion of H.R. 6863 will seriously cripple the President's ability to implement his foreign policy agenda and would erode his credibility with friend and foe alike.

MILITARY ASSISTANCE

The administration has requested an appropriation of \$115,500,000, together with loan guarantees of \$186 million, and language which limits obligations of the special defense acquisition fund. The committee's recommendation cuts the military assistance program by 48 percent. I repeat, we make a reduction in the military assistance program of 48 percent. The committee recommends approval of the \$50 million forgiven loan under the FMS program for the Sudan, and approval of the \$186 million increase in FMS guarantees, which are to be used for additional programs in Korea, Thailand, Spain, Portugal, Morocco, Tunisia, and Turkey. As one can see, the programs we are approving under the FMS guarantees relate to those countries with which we have vital and important base agreements.

The committee is recommending a limitation on obligations from the special defense acquisition fund of \$250 million, a reduction of \$50 million from the request. It is important to point out that this particular action results in minimal budgetary impact,

and the action we take here today does not result in the transfer of any foreign assistance to any country. The special defense acquisition fund is a revolving fund which is set up to acquire defense articles which may be needed in the future by friendly foreign countries. The idea behind this fund is that by having such a separate stockpile, we avoid either a drawdown of U.S. stockpiles or an interruption in production schedules should urgent foreign requests be made.

Mr. President, to sum up for chapter VI, the committee is recommending the appropriation of \$426,531,000, a reduction of \$90 million from the administration's request. While our recommendation compares unfavorably to the House action, it is important to keep in mind that an amendment, which had wide bipartisan support, and which would have added \$402 million, was thrown out on a point of order on the House floor. But for that point of order, our recommendation would be very nearly the same as the House.

Mr. President, before concluding, I should like to pay special tribute to the very distinguished ranking member of the Foreign Operations Subcommittee, the senior Senator from Hawaii (Mr. INOUE). Without his leadership, advice, and assistance, this package for chapter VI could not have been put together. Senator INOUE continues to demonstrate those qualities that he is known for: patience, cooperativeness, and leadership. I also thank the senior Senator from Oregon (Mr. HATFIELD), the chairman of the full Appropriations Committee, for his support and counsel.

Mr. President, I ask unanimous consent that the full text of the letter of August 10 from George P. Shultz to Senator BAKER be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., August 10, 1982.
Hon. HOWARD H. BAKER, Jr.,
U.S. Senate.

DEAR SENATOR BAKER: As the full Senate begins its consideration of the Omnibus Supplemental Appropriations Bill (H.R. 6863), I wish to advise you that this legislation contains funding for the Caribbean Basin Initiative, a modest amount of urgent security assistance, and emergency relief for Lebanon. These items were proposed and accepted in a bipartisan compromise fashioned by Senators Kasten and Inouye during the Senate Appropriations Committee's markup on August 3.

The funds proposed by the compromise are essentially those requested by the President to meet urgent foreign policy requirements and the Administration would, therefore, oppose any floor amendments to reduce or delete funding for these initiatives.

The President's Caribbean program seeks to address and resolve an unprecedented

economic crisis in the Caribbean Basin. The security assistance element addresses key strategic interests in the Middle East, Asia and the Caribbean. In Lebanon, the overwhelming need for immediate relief and rehabilitation assistance is clear.

I cannot emphasize enough the urgency of this funding. The President personally attaches the highest priority to each of these initiatives. Failure to provide the resources that are contained in the Foreign Operations portion of H.R. 6863 will seriously cripple the President's ability to implement his foreign policy agenda and would erode his credibility with friend and foe alike. Accordingly, I ask that you give favorable consideration to the funding proposals contained in the Kasten/Inouye compromise and ensure their speedy adoption.

Sincerely,

GEORGE P. SHULTZ.

The PRESIDING OFFICER. The Senator from Oregon.

COMMITTEE AMENDMENT

Mr. HATFIELD. Mr. President, I move the adoption of the pending committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The pending committee amendment beginning on page 30, line 23, through page 33, line 17, was agreed to.

Mr. KASTEN. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the second excepted committee amendment.

Mr. HATFIELD. Mr. President, I ask unanimous consent to lay this pending committee amendment temporarily aside in order that the Senator from New Mexico may call up an amendment relating to unemployment compensation.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1208

(Purpose: Provide funding, subject to enactment of authorizing legislation, for a federal supplemental benefits program)

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, on behalf of myself and Senators DANFORTH, DOMENICI, INOUE, LUGAR, DURENBERGER, CHAFEE, PACKWOOD, and SPECTER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT), for himself, Mr. DANFORTH, Mr. DOMENICI, Mr. INOUE, Mr. LUGAR, Mr. DURENBERGER, Mr. CHAFEE, Mr. PACKWOOD, Mr. SPECTER, Mr. LEVIN, Mr. PERRY, and Mr. STEVENS proposes an unprinted amendment numbered 1208.

On page 50, after line 24, add the following:

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", \$20,000,000, to remain available until September 30, 1983; to be used only for necessary administrative expenses for carrying out a federal supplemental benefits program, subject to enactment of authorizing legislation.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For "Advances to the Unemployment Trust Fund and Other Funds", such sums as may be necessary, to remain available until September 30, 1983, for non-repayable advances for a federal supplemental benefits program subject to enactment of authorizing legislation.

Mr. SCHMITT. Mr. President, this amendment is a modification in words but not in kind to printed amendment numbered 2013, which was introduced a few days ago. The amendment provides necessary appropriations bill authority to carry out a Federal supplemental benefits program now being considered by the conferees on the reconciliation tax bill. Funding for the necessary benefit payments and administrative costs is made subject to enactment of authorizing legislation, presumably legislation that would be agreed to by the Congress and the President as part of the reconciliation tax bill.

The purpose of this amendment is to avoid any possible delay in getting the supplemental benefits program implemented once the substantive legislation is enacted. It appears to be only a matter of time before such legislative changes are enacted, although the question of that legislative vehicle may still be up in the air.

Such changes would both modify the existing 13-week extended benefit program and provide a further extension of unemployment compensation up to, perhaps, a total of 52 weeks. However, the exact details of such a program are yet to be decided by the conference or action in the authorizing committees. There appears to be sufficient funding available.

If I may interject here, I think it is clear from the action of the Senate and of the House of Representatives in the context of the reconciliation tax bill that there is significant majority sentiment in both Houses to proceed with an extension of the unemployment extended benefit program. In that context, there appears to be sufficient funding available to cover the array of possible legislative changes being considered to this regular extended benefits program.

Under the terms of the fiscal 1982 continuing resolution, existing appropriations can be used to fund modifications to the extended benefits law and sufficient funds appear to remain

available to the extent that federally funded advances will be needed.

However, there is currently no appropriation authority to make payments for a new Federal supplemental compensation program even if authorizing legislation were enacted.

The amendment that we have introduced in no way prejudices or attempts to influence the negotiations which are in progress on the tax bill, negotiations which concern a mix of legislative changes between the extended benefit program and the proposed new supplemental compensation program. It merely removes the roadblock in the appropriations process so we will not have to come back later and enact another appropriations bill for what are essentially mandatory costs anyway. By acting now, we will give the States maximum leadtime to plan for this new program as well as to begin hiring needed staff for effective administration.

Mr. President, I think there are strong signs and a general belief among many economists as well as Members of the Senate and House that the recession has bottomed. I do not think there is a feeling that we are going to have a rapid recovery from our current economic doldrums, but nevertheless I think there is a general feeling that recovery is on its way.

In that context as well as in the context of what is best for our unemployed previously working population, these unemployed workers need more time before the recovery from recession creates the jobs that past inflation and the resulting high interest rates have cost them. In that context I think it is entirely appropriate that the Senate enact this enabling appropriations language so that whatever action the Congress may take relative to extended and supplemental benefits can be rapidly implemented.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Who wishes to be recognized? The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I congratulate my good friend from New Mexico, the chairman of our subcommittee. I happen to be the ranking member of that subcommittee. He does a great job. I congratulate him on this particular amendment, because we all know we have the highest unemployment rate since the Great Depression, far more people out of work

than we have had in more than 40 years. Obviously, we have to do what we can to provide extended unemployment that will be demanded by hundreds of thousands of people, perhaps millions of people, who will be out of work for more than 39 weeks and would not be covered otherwise. This is not only a matter of compassion and concern for people who lose their jobs, it is a matter of using unemployment for the purpose it was designed when it was first passed, to provide a floor under our economy so we do not snowball into a depression. I think this is a very essential action, and I certainly support it.

However, I ask my good friend from New Mexico why it is necessary under these circumstances to have an open-ended appropriation, which is most unusual? We have open-ended authorizations but there is no limit on the amount here.

The Senator does have a sort of suggested figure of \$100 million, but then he says "or such funds as may be necessary." Why is that?

Mr. SCHMITT. The amendment was modified and sent to the desk to be even more open ended than the Senator imagined. That is primarily because we do not know what sums will be authorized in whatever legislative vehicle eventually comes forward. There is a general assumption, as the Senator is aware, that the conference report on the reconciliation tax bill will contain the necessary authorizing legislation, and from that we would know the cost of the extended benefit program.

We will have another opportunity to apply an appropriations-generated cap if we so desire. Frankly, at this point, that cap would be whatever your best guess is that a conference is going to decide or what another legislative vehicle will decide.

Mr. PROXMIRE. What bothers me is that this is a supplemental appropriation bill, and it is a bill, therefore, which is confined largely—not entirely, but very largely—to 1982, this fiscal year. But this particular amendment would run until September 30, 1983.

So, whatever funds would be required to carry out this extended unemployment program through September 30, 1983, would be made available by this action. Is that not right?

Mr. SCHMITT. That is correct; the Senator's interpretation is correct.

There are two points, however. There already are unspent funds within the advances to the unemployment trust fund and other funds account, and we would authorize the use of those funds for the purpose of this Federal supplemental benefits program, and then we see what has actually been created by the authorizing legislation in consideration of our regular fiscal year 1983 bill, either as a regular bill or as part of a continuing

resolution. We can move to cap, to put on an actual figure. I do not believe we have lost any of those prerogatives as a committee by this legislation. All we have done is to make clear that there is, at the moment of implementation, no appropriations roadblock to moving forward with the benefits.

Mr. PROXMIRE. One of the concerns about this bill, as the Senator knows, is the possibility of a veto. Has the administration—OMB—taken a position on this open-ended provision for unemployment compensation?

Mr. SCHMITT. They have not, specifically. But it is this Senator's understanding that the administration was deeply involved in the negotiations of the instructions or guidelines that the Senate provided to the Finance Committee for the conference on this issue. It would be my guess that they would have no problem with this, since they are involved, to the extent the administration can be involved, in the settlement of that conference issue.

The Senator will recall that during floor debate on the instructions the Finance Committee received from the Senate—guidelines might be a better term—the number \$1.3 billion was discussed. The original amendment that the Senator from New Mexico filed on this matter used that number. However, as I and the staff went more deeply into the issue and saw how uncertain the deliberations of the conference were, we figured that, rather than using a specific number, it would be better to start out with, as the Senator described it, open-ended appropriations, but obviously reserving the clear right to cap that on the next appropriations vehicle if we felt that was necessary.

Mr. PROXMIRE. Will the Senator yield to permit me to obtain the yeas and nays on this? A Member on our side is anxious for the yeas and nays—not this Senator, but another Senator.

Mr. SCHMITT. I have no problem with that.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER (Mr. ABDNOR). Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. PROXMIRE. I will do that later.

Mr. SCHMITT. I will protect the Senator's right.

Mr. MATSUNAGA. Mr. President, will the Senator from New Mexico yield for a question?

Mr. SCHMITT. I am happy to yield to the distinguished junior Senator from Hawaii.

Mr. MATSUNAGA. Under the Senator's amendment, will the unemployed of all States be eligible for the extension?

Mr. SCHMITT. This amendment proposed by the Senator from New Mexico is silent on that. That, of course, would be determined by the authorizing legislation. But I would be most surprised, as I am sure the Senator from Hawaii would be surprised, if that authorizing legislation, reported back as a conference report or some other vehicle, would in any way discriminate against any State. That would be inappropriate, and I am sure the Senator would join me in opposing such discrimination.

Mr. MATSUNAGA. As I understand it, there is presently a requirement that within the State, the unemployed rate must be 6 percent or 6.5 percent before one is eligible for it.

Mr. SCHMITT. As I understand the current formula, the insured unemployment rate must average at least 4 percent for the most recent 13-week period, as well as exceed 120 percent of comparable 13-week periods for the 2 preceding years; but as a consequence of the reconciliation bill of 1981, that figure will go to 5 percent on September 25.

So, in that sense, there would be discrimination, depending on the level of unemployment.

It is a catch-22 situation, in that you will not be eligible for the extended benefits under the existing program, having nothing to do with this amendment. But you will not be eligible under the existing program unless the unemployment rate among insured workers reaches 4 percent today, and as of September 25, it will have to reach 5 percent.

It is one of those situations in which you benefit one way if unemployment goes up, but nobody benefits with a rising unemployment rate.

Specifically answering the Senator's question, this amendment does not in any way try to predetermine or determine the authorizing legislation that might come before this body, in whatever form that might be.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, will the Senator from New Mexico yield for a question?

Mr. SCHMITT. I am happy to yield to the distinguished junior Senator from Arizona.

Mr. PROXMIER. Mr. President, the majority leader is here, and if the Senator will permit me, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I do not want to go over what the Senator from Hawaii may have asked, but I

just walked in on the discussion of 5 percent versus 4 percent on the insured. Does this provide funds if that trigger is lowered?

Mr. SCHMITT. Again, it is silent on whatever authorizing action Congress may take. It merely provides an opportunity for whatever supplemental benefit program is enacted by Congress for appropriations to be available for whatever Federal fund advances are required.

Mr. DECONCINI. So I can take it that if that trigger were lowered by Congress before the 25th, or whatever it is, this would cover the appropriation.

Mr. SCHMITT. It is the understanding of the Senator from New Mexico that if that trigger is lowered, it is already allowed. This amendment would apply only to any modification of the extension of the existing extended benefit program.

Mr. DECONCINI. So, to answer the question, I understand that it would not affect—

Mr. SCHMITT. It would not affect that.

Mr. DECONCINI. Even if the trigger were lowered, it would not affect it. This really applies to the extension.

Mr. SCHMITT. This applies to the extension. If the trigger were changed, the existing appropriations authority would apply, and the funds currently available in the unemployment trust fund, including whatever Federal fund advances were needed in the event trust funds were depleted, could be applied to that changed situation.

Mr. DECONCINI. Mr. President, if the Senator will yield for a unanimous-consent request, I ask unanimous consent that the junior Senator from Arizona (Mr. DECONCINI) be listed as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I also thank the Senator from New Mexico for bringing this to the Senate's attention. I think it is very important for the State of Arizona with the depressed copper industry and unemployment now close to 9 percent in the State of Arizona.

Mr. SCHMITT. Mr. President, I appreciate the Senator's cosponsorship.

I might add this is not entirely unrelated to the efforts he has joined me and others in to try to convince the administration that some steps must be taken to prevent the loss of that basic industry through purchases for the stockpile or other such remedial measures.

In this case for the copper workers we are providing an additional cushion that gives us time in order to implement what those measures might be.

It is absolutely clear to this Senator that the copper industry as well as other basic industries in this country are under serious threat that is a new

threat. We have seen cycles in the copper industry many times. I know both Senators from Arizona have grown up with the copper industry as I have. They cannot claim to have been born in a copper pit as I can. But, nevertheless, they have grown up with it, and we have seen cycles based generally on supply and demand fluctuations and occasionally on labor-management difficulties.

But in the current situation we are seeing the gradual erosion of a basic industry which is copper production, smelting, and refining, as a consequence of a world market situation over which we have currently almost no control.

It is a situation where many nations are producing copper at whatever the price may be in order to keep the cash flow into the treasuries. The oversupply that we have in the world market in addition to the recessionary trends in this country at the present time are practically destroying the industry and I have a great fear will destroy the industry if allowed to continue unchecked.

In addition to that because of other laws and other problems with which our smelting and refining industry is faced we have seen a gradual migrating of smelting and refining activities abroad.

All of these are part of a package affecting the copper industry and other industries in different ways for which this extension of benefits will provide an additional cushion and buy us a little bit of time so that we can come to grips with these more fundamental problems affecting basic industry.

Mr. President, I ask unanimous consent that Senator PERCY be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I apologize for keeping the Senate waiting, but we are in conference on the tax reform bill, and it is my hope when we complete our conference on the tax reform bill that we will have a provision with reference to unemployment compensation.

I might suggest, I think I can say accurately, that we have been negotiating with Senators on both sides of the aisle, have been negotiating with the administration, we have been negotiating with the AFL-CIO, and it has been discussed with the chairman of the

House Ways and Means Committee, Chairman ROSTENKOWSKI.

We are sincere in our efforts, and we want to accommodate many Senators who have indicated an interest. I see Senator DIXON on the floor, Senator METZENBAUM, Senator KENNEDY, and others; Senator LEVIN and, obviously, Senator SCHMITT, who has this amendment, Senator HEINZ and others, who are interested, and we moved as quickly as the distinguished minority leader, Senator ROBERT C. BYRD, asked us to do.

We had hearings. Then last week we had the Metzenbaum-Schmitt resolution which, in effect, asked the conferees to make provision in the conference on the Revenue and Reduction Act for unemployment compensation.

As I understand this amendment, it would indicate that we have the funds, contingent appropriation for the funds, needed for supplemental unemployment compensation benefits and for the administration of such a program. The amendment does not mandate such a program. It does, however, clear one hurdle. If the House-Senate conference would agree on a FSUB program, it will be included in the conference report on H.R. 4961.

So it is a good amendment and it should be adopted. We support the amendment.

Again I would suggest that for all those Senators who feel strongly about unemployment compensation, whether it is supplemental benefits or extended benefits, we are going to try to accommodate the concerns of every Senator. We hope we can accommodate the concerns of every Senator. But again I would indicate that, without trying to pass the buck, so to speak, it is a matter of great concern also to the chairman of the Ways and Means Committee, and that is where it would normally originate, in the Ways and Means Committee.

It is my hope he can be persuaded. He certainly is not opposed to it. I think at the present time he is studying the matter, and I am prepared to say that if Chairman ROSTENKOWSKI offers an amendment or offers a proposal in the conference, certainly the Senator from Kansas will not only consider but will probably accept it. I have not seen it yet.

Mr. DIXON. Mr. President, I wonder if my friend from Kansas will yield for a moment?

Mr. DOLE. Yes.

Mr. DIXON. I want to thank my distinguished friend from Kansas for enlightening us on this question.

The Senator from Illinois has this concern: Last Friday our Governor called me on the phone about noon and suggested that we were going to trigger off this past Monday with reference to our extended unemployment compensation benefits. I am happy to say later on Monday afternoon we re-

ceived word that that had not occurred; that through some calculation errors which were discovered over the weekend we have not yet triggered off. But I am assured by the Governor and everyone in our State administration that the occurrence is imminent, within a matter of days, and not in excess of a maximum of 2 weeks, probably a shorter period of time, so that the concern of the Senator from Illinois is, What can we do here to address an emergency situation involving over 55,000 individuals in my State who would fall off unemployment compensation benefits unless we can quickly find a vehicle?

I appreciate everything the Senator from Kansas is saying, and I understand the problems and the complications of the conference committee of the two Houses. I am trying to find some way here to get some assurance for my State, and those who are desperately concerned about the emergency nature involved, about how we can quickly address this problem, and particularly from the standpoint I am concerned about in the whole country, but particularly from the standpoint of a grave emergency in my State.

Mr. DOLE. Mr. President, if the Senator will yield, the Senator from Kansas is aware of the problem in Illinois and which has been called to his attention by the distinguished Senator from Illinois and also Senator PERCY. We will take care of the Illinois problem. In every proposal I have seen that will be done, and I can almost assure the Senator it will be done. In my view, the earliest vehicle, the vehicle that is most likely to pass this Congress, even though it is controversial and the one that will offer the quickest relief to all the States concerned, is the bill now in conference, the Revenue and Spending Reduction Act.

We will finish our work—we had hoped to finish it tonight and now it appears maybe tomorrow night. There is every hope the House will act on that provision next Wednesday and the Senate will act on Thursday or Friday of next week. Once that is done it is done if, in fact, we have this provision in it. If not, the next opportunity will be the debt ceiling extension which was reported from the Senate Finance Committee this morning.

Mr. DIXON. Mr. President, will the Senator from Kansas yield for just a moment? I hear what the Senator is saying. I agree with what the Senator is saying that the best vehicle is the bill in the conference committee. But, of course, my distinguished friend would be the first to concede that that still is a little iffy, the passage of that bill successfully in both Houses is still iffy, and should that not become a reality, the Senator from Illinois would like his distinguished friend to know that the debt limit bill may be too late for my State. So I need some kind of

assurance for the people of our State about something we can do that is a reality, that they can attach to with some sense of security.

Mr. DOLE. Well, there is some question about the Revenue and Spending Reduction Act which is now in conference, but I see the momentum going in the direction of passage. The President now is using the full force and impact of his office and his personal efforts on that bill.

I just left a meeting with the chairman of the Ways and Means Committee, your colleague from Illinois, DAN ROSTENKOWSKI, with BARBER CONABLE, the ranking Republican on the Ways and Means Committee, with the distinguished Senator from Louisiana, Senator LONG, the ranking minority member on the Senate Finance Committee; with Jim Baker from the White House, Don Regan, the Treasury Secretary, and other administration officials with reference to the revenue and spending reduction package.

It is our hope this will be acted on favorably before a week from this coming Friday, and to me that would provide rather urgent relief needed in the State of Illinois and other States.

Mr. DECONCINI. Mr. President, will the Senator yield for a question?

Mr. DOLE. I cannot predict today that this bill will pass. Well, I will predict it is going to pass. I may be wrong, but I will predict it is going to pass.

Mr. DIXON. My distinguished friend, if my friend from Arizona will let me pursue it one moment further, I would like to see us put on this bill, and other vehicles around, the necessary assurance for the people of my State and others that can be momentarily similarly situated through some kind of legislation that will protect us, because while I respect very much the political judgment of my distinguished friend from Kansas, I would have to suggest that there is some respected thought that the issue is still in doubt, and I say for the people of my State they do not want this question to be in doubt concerning honorable, hard-working people who are entitled to be protected in these difficult economic times.

Mr. DOLE. Can I say in response that I would hope—and again I know the urgency of it—that I understand the urgency of it. I discussed it again with the chairman of the Ways and Means Committee. In my view, if something happens and the conference falls apart or it appears the bill cannot pass, that is all going to be known in the next 3 or 4 days. That would still give the Ways and Means Committee time—in fact they have a bill ready to bring up and pass in the House of Representatives rather quickly, and we could pass it on its own which, I think, is the second-best solution. But I hope we do not leave

on any recess until we have acted on an unemployment compensation provision, and I am prepared to stay here to do that.

Mr. DIXON. I thank the Senator from Kansas.

Mr. DeCONCINI. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. DeCONCINI. I first want to thank the Senator for enlightening us on his feeling toward the conference and adopting the additional unemployment compensation.

I want to know if the Senator from Kansas is prepared to also enlighten us on his feelings if the conferees were to consider an amendment that would lower the 5-percent trigger down to 4 percent on the insured compensation? Is that a possibility or does the Senator care to express his views?

Mr. DOLE. You are looking at permanent changes?

Mr. DeCONCINI. It is my understanding, and I will stand corrected if the Senator can enlighten me on it, that sometime in September the figure goes to 5 percent from 4 percent.

Mr. DOLE. Right.

Mr. DeCONCINI. And I wonder if, during the conference, the Senator also was inclined at all to leave that at 4 percent.

Mr. DOLE. We are looking at that problem. We would hope to make some permanent change in the law, in effect, grandfather some of the States that might be affected. It is my hope—and, again, it is only a hope—the chairman of the Ways and Means Committee really has original jurisdiction here and I do not want to trespass into his prerogatives. But that certainly is one of the considerations and we would hope that any changes we make would go up until April 1 of next year to give the Congress some time to respond in 1983.

Mr. DeCONCINI. If the Senator would yield, I take from that that the Senator from Kansas is not at all ill at ease about considering that as a possibility, at least grandfathering it or extending it for some period to time.

Mr. DOLE. The Senator from Kansas is not. In fact, I suggested a proposal that I know the AFL-CIO is looking at and many other people are looking at. We believe we made a lot of progress in the last few weeks.

Mr. DeCONCINI. I thank the Senator.

Mr. DOLE. I yield the floor.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the distinguished Senator from Oregon, Senator HATFIELD, be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, will the Senator yield for a question?

Mr. SCHMITT. I am happy to yield to the Senator from Wisconsin.

Mr. PROXMIRE. As the Senator knows, I have raised a question of this being open ended on an appropriation, which is most unusual and which concerns this Senator and I am sure concerns others because it could be an enormous amount since it runs all through next year. Would it be the Senator's intent to recommend a specific dollar appropriation at the earliest opportunity, say, on the continuing resolution, if we have one, or on the 1983 appropriation?

Mr. SCHMITT. I think it is entirely appropriate for us to do that. But, as you can see from the preceding colloquy, there is a great deal of uncertainty on what that dollar figure might be, based on the authorizing legislation.

But I would say, as soon as the Congress has acted or it appears that it is certain to act, I think the Appropriations Committee should review it and see what the maximum dollar figure ought to be.

Mr. PROXMIRE. So as soon as the authorizing committee—the Finance Committee in this case—provides us with the basis for our calculations, the Senator would recommend a limitation?

Mr. SCHMITT. I think that is entirely appropriate and, yes, this Senator would certainly do that.

Mr. PROXMIRE. I thank the Senator.

● Mr. LEVIN. Mr. President, I rise in support of the amendment offered by the Senator from New Mexico to provide funds for additional unemployment benefits for those individuals who have been unemployed for more than 39 weeks.

Last week when the Senate instructed the conferees to the Tax Equity and Fiscal Responsibility Act to formulate a program which would provide for between 10 and 13 weeks of additional unemployment benefits the unemployment rate was at 9.5 percent. Since then, the unemployment figures have been updated for July, with the result that an additional 300,000 Americans are known to be out of work, and the unemployment rate is up to 9.8 percent.

What this means is that the need for a Federal supplemental unemployment benefit program is clearer now than ever before. As more and more people exhaust their first 39 weeks of unemployment benefits, they are going to be entering a job market where unemployment is still on the rise. The likelihood, then, is that there will be no paycheck to follow the cutoff in unemployment benefits. For people who have already been unemployed for 39 weeks and who have already gone through some, if not all, of their savings, there may simply be nowhere for them to turn.

In my State of Michigan, the unemployment rate rose from 14.3 percent to 14.4 percent in July. This adds one

more month to the string of over 30 months of double-digit unemployment. So far this year, almost 50,000 residents of Michigan have exhausted their first 39 weeks of benefits. That number is sure to rise in the months to come, and the need for a Federal supplemental benefits program will increase. It is totally right that the Government offer a hand to these individuals to keep their lives intact when Federal policies helped to create the unemployment in the first place, and when current national policies consciously accept unemployment as a weapon against inflation.

I urge my colleagues to support this amendment, as I urge the conferees to the tax bill to act quickly and develop a Federal supplemental benefits program.●

Mr. KENNEDY. Mr. President, last week on reconciliation, the Senate voted 83 to 14 for a combined program of extended and supplemental unemployment benefits to protect the long-term unemployed.

Many of us are concerned that the proposal now being considered by the tax conferees fall short in two important respects.

First, too many States that deserve assistance will be denied participation in the supplemental benefits program.

Second, a cutoff date of April 1, 1983, for both the extended and supplemental benefits is unfair, because it will shut off this help arbitrarily, regardless of the unemployment rate.

I intended to offer an amendment to Senator SCHMITT's amendment that would have expressed the sense of the Senate on these issues.

My amendment contained two significant provisions to deal with the defects in the Finance Committee proposal.

First, every State that qualifies for extended unemployment benefits would also have qualified for the new supplemental benefits program.

Second, the cutoff for the program would be based on the unemployment rate, not an arbitrary date. The rate specified in my amendment was 8.7 percent, which is the rate assumed in the budget resolution for the first quarter next year. In other words, if the unemployment rate meets the 8.7-percent target assumed in the budget resolution, the supplemental benefit program would trigger off at the same time specified in the Finance Committee proposal. But if unemployment continues high, the program would continue, as it should.

My amendment would have insured that up to 52 weeks of unemployment benefits would have been paid in 37 States until the national unemployment rate dropped below 8.7 percent. The Finance Committee proposal would have paid supplemental benefits in just 7 States between now and De-

ember 31 according to Department of Labor experts and in 15 additional States between January 1 and March 31, 1983.

I decided against offering this amendment at this time because of the important and sensitive negotiations going between the House and Senate conferees on the reconciliation and tax bill.

However, I want to let my colleagues know that I intend to follow the developments in the conference very closely.

I hope the conference produces an unemployment benefits program I can support. But if they do not I intend to press ahead on this issue at every opportunity until we have a program that will really help the unemployed working men and women in this country.

Mr. HATFIELD. Mr. President, in a moment Senator KENNEDY wishes to be heard on this bill. I ask unanimous consent that we temporarily set aside this amendment to act upon the committee amendment and get that out of the way and then come back to this in order to provide Senator KENNEDY an opportunity to speak and then, of course, to vote on it.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT

Mr. HATFIELD. Mr. President, I believe we have a committee amendment pending. I, therefore, move the adoption of the committee amendment.

The PRESIDING OFFICER. The clerk will report the committee amendment.

The legislative clerk read as follows:

On page 104, beginning on line 16, strike down through line 2 on page 107 and insert new language.

Mr. HATFIELD. Mr. President, this has been cleared on both sides of the aisle that this would be acceptable to the minority and the majority. I move the adoption of the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, could you indicate how many committee amendments we have remaining to act upon?

The PRESIDING OFFICER. It is the understanding of the Chair that that was the last committee amendment.

Mr. HATFIELD. That is the understanding of the managers. So that all

committee amendments have been acted upon, the first group was adopted en bloc and then we have acted upon the remaining exemptions, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. So that all we have left on this bill are the amendments to be offered by the individual Members?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. I thank the Chair.

Mr. President, I wish to announce again that at this point in time we have an amendment to be offered by Senator ARMSTRONG; possibly two amendments, one more from Senator SCHMITT; an amendment by Senator CHAFFEE, an amendment by Senator MATTINGLY, an amendment by Senator LEVIN, an amendment by Senator DURENBERGER, an amendment by Senator HELMS, an amendment by Senator BUMPERS, an amendment by Senator DECONCINI, and possibly an amendment by Senator JOHNSTON.

I really believe, if we can keep these amendments moving, that we can finish at a very reasonable hour this evening. We are working on time agreements on all of them and so far we have been able to have an expectation of getting a time agreement on most of them. It would appear that we may have about 3½ hours of amendments and whatever time would be required for the votes and that we could finish this bill up, as I say, at a decent hour.

I am very hopeful that all Senators will restrain themselves from offering amendments in addition to those I have read. It is certainly not in any way to cut off any rights of a Senator, but I have found in the past that if we can get an idea of where we are with what amendments are being considered it tends to expedite the handling of the bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE AMENDMENT

Mr. HATFIELD. Now, Mr. President, according to the clerk, we have a technical matter here that I would like to clear up. That is, when we had the unanimous-consent agreement last night on the matter of chapter VI relating to foreign operations, we had adopted, in effect, only part of the committee amendment. Now I would like to move to adopt the remaining part of the committee amendment under chapter VI. That is on page 33,

beginning on line 18, and over to page 34, line 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask that we continue to set aside temporarily the amendment of the Senator from New Mexico in order that the Senator from Colorado may engage in a colloquy with the ranking minority member of the committee, the Senator from Wisconsin (Mr. PROXMIRE), which will possibly avoid an amendment by the outcome of the colloquy.

I yield to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I appreciate the courtesy of the Senator from Oregon. I do want to discuss at least briefly the housing provisions of the bill. Upon the conclusion of my own remarks and those of others, it may be that I shall want to offer an amendment.

To put the question of housing subsidy in some sort of historical perspective, I would remind my colleagues that since 1937, Congress has committed more than \$250 billion to Federal housing subsidies. Of this amount, \$140 billion has been committed since 1974 alone. At the present time, 3.3 million American households, about 8 million people, receive Federal housing subsidies without committing a single additional dollar; 550,000 housing units are waiting to be built or occupied. Their funding has already been authorized or appropriated by Congress.

Mr. President, I do not intend to labor these points. I merely state them, and at the proper moment I will be glad to elaborate or discuss in detail the philosophy underlying our housing program. I do want to make one additional point just to set a frame of reference for the question which I want to propound to the managers of the bill.

The point is this: The record of subsidized housing in this country is one of the sorriest, most miserable record of one failure after another that anybody can imagine. The section 8 program, which we are now getting out of, or we are phasing out, was put in to get rid of the 235 and 236 programs which did not work out very well, and they, in turn, came into existence because the old public housing program was not working out very well. After it had been in place a few years everybody agreed it was a failure. We have had one failure after another. Each time a failure was perceived, we created a new program. It is alarming to me that instead of terminating the programs which had failed, we have simply brought new programs on-stream. That is just so much philosophy.

I would like to get to the factual basis of the situation as I see it. The

1981 reconciliation bill authorized \$17.3 billion in new fiscal year 1983 assisted housing spending authority. On February 5, 1982, President Reagan proposed eliminating from the fiscal year 1982 budget some \$9.3 billion, which was to fund new section 8 unit construction. That request was later amended and the President sought to reduce section 8 new construction spending by \$5.9 billion. The President also proposed recapturing \$7.4 billion in budget authority previously authorized by Congress but had not yet been used. Some unused budget authority had been authorized by Congress as far back as 1959.

Recaptured budget authority, it is my understanding, can be recycled, meaning that the recaptured funds can be used to finance other projects. In previous years Congress has committed funds to build and occupy housing but a variety of delays prevent unit construction and occupancy. Units not completed or not occupied comprised the so-called pipeline in the Department of HUD. Right now, as I understand it, there are 550,000 units in the so-called pipeline.

Many of these, about 70,000, are new section 8 units for which funds have been authorized by Congress but are not built. They cannot be built because interest rates and cost overruns have increased so much that neither tenants nor the Government can afford the high rents which are necessary to pay the costs associated with those units if they were to be built at the present time.

President Reagan proposed additional financing and cost subsidies to finance and help pay for the 70,000 units in HUD's pipeline. Specifically, \$6.35 billion in new interest rates and building cost subsidies were proposed.

As I understand it, and I want to be sure I am not misstating the facts, these new subsidies are in addition to the deep rental subsidies that paid as much as 90 percent of the unit rents, 20-year rental contracts, tax writeoffs which are more generous than in some other kinds of construction, and HUD technical assistance. The new subsidies are in the form of interest rate buy down, the financing adjustments factor, and payments for cost overruns that occur from the time the unit is authorized and the time it is actually built.

To pay for this pipeline buy out, HUD proposed using part of the recaptured budget authority and, if necessary, section 8 new construction funds not rescinded.

Mr. President, I believe that that brief explanation brings us up to where we were at the time of the supplemental appropriation which passed the Senate in July of this year. I believe I have accurately stated the facts, although I will admit that the details are somewhat hazy and I want

to be sure that I have not inadvertently gotten something out of sequence.

The question I would like to focus on is this: First, what did Congress do in response to the President's proposals, and, second, how does the current bill, that is, the latest supplemental, the one that is now before us, relate to what we have previously done?

In finally passing the supplemental appropriation bill in July, we rescinded \$4.09 billion in budget authority for new starts under section 8, which was \$2 billion less than was requested, and we appropriated \$19.59 billion for assisted housing in 1982 and 1983 including funds for new starts, Indian housing, public housing rehabilitation, moderate income rehabilitation, public housing operating subsidies, interest rate subsidies, and cost overruns.

Under that bill, as I understand it, of the \$19.59 billion, HUD must defer \$1.75 billion of budget authority until 1983.

This mandate could be waived if HUD failed to capture \$5 million in unused budget authority which, in turn, was to be used to provide money for interest rate subsidies.

As I understand it—and I apologize to the managers for propounding my question in such lengthy fashion, but it seems to be important that the record be clear and that at least the Senators on the floor have a clear understanding of what we are doing. My question is this: Am I correct that the bill now before us mandates that \$1.75 billion of budget authority that, at HUD's authority, could have been spent in 1983 must now, on the passage of this legislation, be spent in 1982? If that is, in fact, the case, I would like to be clear on why that is necessary and why it would not be better to delete that provision from the bill.

Mr. GARN. Mr. President, the Senator is correct that this bill does mandate that the money be spent in fiscal year 1982 rather than fiscal year 1983. The Senator from Colorado propounded a rather lengthy explanation. I will take only a few moments to answer his question.

First, Mr. President, I want to give a little background, before I get to the specifics of his question on what has taken place in housing since January of 1981. President Carter recommended assisted housing units of 225,000. President Reagan's initial budget for fiscal year 1982 requested 175,000 units of assisted housing. The Senate Banking Committee reduced that even further to 150,000 units of subsidized or assisted housing. Then, in the negotiations in September, and the rescissions proposed after the HUD-Independent Agencies appropriation bill was enacted into law, and the vetoes of the urgent supplemental bills, we reduced the number of units even further. On a whole then, 52 percent of

all the rescissions in the 1981 budget came out of housing.

I am not talking about all of the budget dealing with Housing and Urban Affairs, I am talking about the rescissions coming directly from housing. A further example is in 1982, 82 percent of all the rescissions came out of housing.

Mr. President, I am not suggesting that there is not room for more savings. I am suggesting that, at least in this short period of time, housing has certainly taken more than its fair share of the budget cuts. There are 12 other subcommittees within the Appropriations Committee. If they had done as well, we would have been much closer to a balanced budget.

Mr. President, I give that explanation just so all our colleagues know what role housing has played in the discretionary cuts to achieve the cuts mandated by the budget reconciliation in the last 2 years and what has been requested by the President.

To get specifically back to this question of the \$1.75 billion, on April 15, the Secretary of HUD announced that the administration would support completion of approximately 70,000 housing units in the pipeline by requesting the use of \$3,700,000,000 for financing adjustment and \$2,650,000,000 for cost amendments. The administration's plan assumed the availability of approximately \$7,400,000,000 in recaptured authority.

When the urgent supplemental was enacted, Congress assumed that only \$5 billion of recaptures would be available to fund the planned buyouts of the pipeline and, consequently, reduced the amount rescinded.

Due to the uncertainties associated with the recapture estimates, we even provided that an additional \$1.75 billion of fiscal 1982 funds could be merged with recaptures to assure sufficient resources. It now appears that, despite our best efforts, OMB intends to defer rather than release this \$1.75 billion, even though recaptures to date are only approximately \$2.4 billion—way below their estimates.

The availability of the additional \$1.75 billion would assist approximately 34,000 housing units. Since we now know that recaptures will be insufficient to fund the proposed buyout, I proposed bill language that would eliminate OMB's option of deferring the \$1.75 billion.

I say further that this is not new money. It was appropriated in the 1982 bill of December 1981.

It seems to me with these dramatic cuts in housing, which I supported and pushed for, when we have eliminated new starts in the section 8 program and with the housing industry in the trouble that it is in—we certainly defeated here, with the President's veto, the so-called Lugar bill—at least it is

reasonable to make certain that this \$1.75 billion of previously approved money is made available to assist those 34,000 units. It does not have impact as far as new money being appropriated.

The simple answer to the Senator's question, with all that background, is, yes, that is exactly what I am requesting in this bill, to overturn OMB's decision to defer that money until next year.

Mr. ARMSTRONG. Mr. President, I am grateful to the Senator from Utah, the distinguished chairman, for his explanation. I want to comment on it briefly and then propound one additional question, which I think will be properly addressed to him.

My comment is, while it is true that the bill before us does not provide for additional budget authority, it does move that budget authority forward from 1983 to 1982. The implication, it seems to me, is that additional money will be spent. That is argumentative, depending on later expenditure. But it does have an effect on this year's spending and the borrowing which will have to take place in fiscal year 1982. I am sure the Senator will agree.

Mr. GARN. I agree that it does change it by 1 month, because we are at the end of fiscal 1982. That is all we are talking about. If we are in this building season and we move into that pipeline, that makes sense. The basic disagreement is will it be spent in 1983 or 1 month sooner, at the end of 1982?

Mr. ARMSTRONG. I think the Senator will agree it might be more than a month. It might be as little as a day but it might be as much as 364 days. In fact, if subsequent developments indicate the need to rescind those funds, say in January of next year, if they had not been spent, they would still be available for further consideration.

Mr. GARN. Let me correct myself. When I say spend, I should not have used that term. I should say committed.

Mr. ARMSTRONG. I know exactly that point.

Mr. President, I also want to acknowledge before I move on to the question which I want to propound in addition, that there is, in my judgment, no committee of the Senate which has a better track record of actually curtailing some of these programs than the Senate Banking Committee under the chairmanship of Senator GARN. He is absolutely correct in his observations about the drastic reductions in the rate of increase in the section 8 housing program which he has outlined earlier.

I do think it is important to keep in mind that, while the number of units is declining year to year, that is the number of new units being constructed. All of the units built in 1975, 1976, 1977, 1978, and so on, remain and will remain to be subsidized by the taxpay-

ers of this country for many, many years to come. Indeed, those units which are built in 1982, some of them, may be under taxpayer subsidy for as much as the next 39 years.

So we are not talking, in any case, even if we did not build one single new unit, of reducing the amount of section 8 subsidized housing. The question is how fast should we increase it?

Mr. President, I just observe in passing that I think the section 8 housing program is one of the most scandalously abused programs which has ever been enacted. I say that fully cognizant of programs like food stamps, in which there are alleged to be serious abuses; of cost overruns in the Defense Department, of which there are well-documented instances of abuse; of the allegations of corruption in the construction of highways and public works projects, and all of the other ripoffs which have come to light over the years. I still say that, in my own personal view, after careful investigation over the last 5 or 6 years, there is no program that I personally know of which has been as scandalously abused as the section 8 housing program, or which has larger and more profound and less understood cost implications. What we do is authorize in that program and appropriate for something which will be tiny the first year but which continues for 40 years thereafter. That is how, with low outlays, we have committed nearly \$150 billion in section 8 spending in the last 8 years.

My view, contrary to what the Senator from Utah has said, is that we should never build another section 8 unit in this country, not even one, as far as I am concerned.

Now, I do not say that where we have made a commitment for the many, many units that have been committed in the last 8 years we ought not to keep those commitments, and it is in recognition of that that two things have happened. First, we have decided to cut this off and only build the pipeline units. Second, that last year, I believe on August 13, there was signed into law legislation which contained some very extensive amendments to the statute requiring substantive reforms of the section 8 program.

I call those reforms to the attention of the Senator from Utah and ask if he is aware of the status of implementation of those reforms by the Department of Housing and Urban Development. I am referring to those provisions which were included in last year's bill, such things as increasing tenant's contribution, limiting the Secretary's discretionary fund, eliminating preference for tandem financing, providing payments for unoccupied units, getting out the illegal aliens who are presently in many units. We have had testimony of a huge number of illegal aliens in section 8 subsidized housing units. And on and on, all of

those reforms. Is the Senator aware of whether or not those have been implemented?

Mr. GARN. First of all, let me respond to the Senator's comment about going ahead with previous commitments.

I agree with the Senator on that completely, and I do not intend at all to recommend for 1983 any new starts under any circumstances for the section 8 program. I agree with the Senator. It has been an incredibly wasteful program. There would have been no new starts in 1982 had we passed the rescission earlier. I will not get into all that detail, but when I talk about the size of the rescissions it is not just that we are cutting off new starts in the future. We have rescinded a great deal of previously appropriated money and only because the Congress did not act on my recommendations on the rescission in 1982, that we will get some new starts in 1982. It was simply a matter of not acting rapidly enough and some of the rescissions then could not be implemented.

As far as the changes, concerning tenant contributions and other changes to the housing programs, I think the Senator from Colorado knows very well I supported his amendments, I offered them myself, I fought for them in conference with the House, and, finally, we were able to get a number of them through last year.

HUD has been able to implement what they can. It is up to us now, in the 1983 authorization bill and subsequently then in the appropriations bill, whether we give HUD the tools to implement these changes. However, they can only go so far. As the Senator knows, we do not have a 1983 housing authorization bill yet. I wish we did. The politics of 1982 are quite different. Last year, I had the first authorization bill passed and the first appropriations bill passed. This year we have virtually no authorization bill passed and no appropriations bills have passed either body.

So I can only answer the Senator's question that HUD will do what we tell them to do in the 1983 budgets.

Mr. ARMSTRONG. Mr. President, I am not greatly reassured by that response because in August of last year, 1 year ago, this Congress not only told HUD to take certain actions, a statutory enactment of the Congress of the United States signed into law by the President required HUD to take certain actions which today have not yet been taken.

I have a letter under the date of August—

Mr. GARN. If the Senator will yield, I do not disagree with that. I do not think HUD administratively has been moving as rapidly as they could. But, the point I want to make is that in the

1983 budget assumptions—and again we do not have an authorization bill yet—the savings are figured in the recommendations from HUD in their budget request. What I am trying to indicate to the Senator is that if we stick to the budget request, they will have no choice. They will not have the money. But I cannot promise what this body will do. I will do everything I can, as I have in the past, to make sure that those budgets are not exceeded either in the authorization process or in the appropriations process.

Mr. ARMSTRONG. Mr. President, it seems to me that the straightforward way for us to handle this is to simply condition further expenditures from the section 8 program on the implementation of the regulations which were passed 1 year ago.

I have a letter of August 2 of this year from the Secretary of HUD and, frankly, his response to my repeated inquiries about why the regulations have not been implemented comes down to this: "Look, the issues are complex. We have a lot of offices and we are busy."

That is no doubt why it took from May to August to answer my letter.

Well, I understand the issues are complex. I have spent years studying them. The General Accounting Office has studied them. Congress has studied them. Congress enacted approximately two dozen quite specific reforms. These were not recommendations. They were not reports of managers. These are not committee reports. These are the statutes of the United States, the law, I suggest to the Senator that since they have not been implemented I do not think we ought to go on and spend another nickel in section 8 money unless we have to until those are implemented.

Mr. President, for two reasons I am going to send an amendment to the desk and it is going to do two things. The amendment has this effect. First of all, it says that the extra \$1.75 billion which will be spent in 1982 over and above what would have been required under prior legislation will not be required to be spent, and, second, it says, and I will just quote:

That none of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance prior to the issuance of final regulations pursuant to the housing and community development amendments of 1981 and prior authorization acts.

In other words, first, we are not going to advance the spending of nearly \$2 billion into this fiscal year. Second, we are not going to let them get by without issuing the regulations which they are required to issue under prior statutory enactments of this body.

UP AMENDMENT NO. 1209

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1209.

Mr. ARMSTRONG. Mr. President, the amendment is brief, but there is really no need to have it read, and I ask unanimous consent to dispense with the reading of it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning with "and inserting" on page 34, line 10, strike out everything through page 35, line 2, and insert the following: by striking "\$870,969,000" and inserting "\$770,877,000" and by striking "\$15,228,518,000" and inserting "\$13,478,518,000" in the second proviso under this heading: *Provided further*, That none of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance prior to the issuance of final regulations pursuant to the Housing and Community Development Amendments of 1981 and prior authorization Acts.

Mr. GARN. Mr. President, I would like to have a copy of the amendment if I could, and I should like to respond to the Senator from Colorado on his amendment.

At times like this, I get a little bit frustrated, because the Senator from Colorado and I do not disagree on what we want to achieve. We are in total agreement on the waste and inefficiency that has occurred in section 8. I tried to indicate before that we have made remarkable strides. As a matter of fact, I doubt that anybody in January of 1981 believed that we could have made those changes because we tried for years and we failed over and over again.

I think this amendment goes too far. First of all, I feel very strongly that previously appropriated money ought to be spent. I think for the matter of a month of making those commitments I would oppose it. If the Senator wants to propose an amendment which would send a very strong signal to the Department that "they better do this or else"—I would support the Senator and recommend the managers of the bill accept it.

However, the second part of the amendment of the Senator goes far beyond what we have been talking about concerning section 8. The Senator is talking about people who are already living in homes before he and I were here and had anything to do with housing programs. The Senator is talking about the operating subsidy which I would like to see diminished, if not totally eliminated, at some time in the future. However, the kind of mandate the Senator is putting in this amendment is going to tell us that

until HUD can go through the process of getting to their final recommendations people are going to be kicked out on the streets.

As much as I agree with the goals of the Senator, I think his amendment is far too restrictive, and would upset HUD far beyond the intent of what the Senator wants to accomplish.

(Mr. SYMMS assumed the chair.)

Mr. ARMSTRONG. I say to the Senator that first I think he is mistaken as to the effect of my amendment. Certainly, if it has the effect that he suggests, I would withdraw it.

Mr. GARN. As the Senator stated it to me, that was the impression.

Mr. ARMSTRONG. No. It says that additional funds may not be obligated. It does not say that where we have people who are already in subsidized housings, we cannot get out of that, even where we have made bad deals. We have made some horrendous deals around the country. We have to honor the deals we have made. The question is, Should we make long commitments? My view is that we should not.

Second, the Senator said that my amendment would withhold the expenditure of funds until the recommendations of HUD can come up. At this point, I am not looking for recommendations. I am looking for them to follow the law. We are not talking about something somebody sent them in a letter or that is from a committee or a speech on the floor. We are talking about the law.

That is what we implemented last year, after years of struggle. As the Senator pointed out, Congress, thoughtfully and laboriously, and after hearings and markups and extensive consideration on the floor and in conference, wrote into law certain requirements about how these housing programs would be administered, and they are just ignoring us down there. They are stalling and not getting the job done, and I am not satisfied.

Mr. GARN. In reading the Senator's amendment, I think it would do what I have said.

None of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance.

I agree with the Senator and would like to cut even more. But, in my opinion the language in the bill goes too far. That is not just a 2 by 4 between the eyes. It is a sledgehammer in cutting off the use of funds for housing assistance.

The Senator said he is interested only in future commitments, not previous commitments. This amendment refers to previous commitments, also.

Mr. ARMSTRONG. The Senator from Colorado did not write those words. They were written by the Legislative Counsel. I cannot believe that they have that effect. I do not read it that way. But if the Senator wishes to

suggest different words which he thinks would more precisely express the intent, I will be glad to accept any reasonable amendment.

Mr. GARN. Neither the Senator from Colorado nor I are attorneys. But this does not need an attorney's interpretation. It is straightforward. It simply says, "None of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance," period.

I do not see any interpretation there at all. I suggest that possibly the best course of action rather than continuing the debate is to vote.

Mr. ARMSTRONG. Mr. President, in view of the question the Senator has raised about whether the language accomplishes its intended purpose, I inquire of the manager how he would like me to proceed.

I will be happy to modify my amendment or withdraw the amendment and reoffer it in a different form.

I do not believe that the legislative counsel's language will have the effect that the Senator has suggested. If it did, it would not be a responsible amendment, and I would not wish to offer it.

If the Senator wishes to suggest corrective action, I will be happy to take it or to seek legal advice.

Mr. HATFIELD. Mr. President, if the Senator is asking me, I suggest to the chairman of the subcommittee, Senator GARN, and to Senator ARMSTRONG that possibly the Senator from Colorado withdraw his amendment at this time, permitting us to take up some other noncontroversial amendments, and work out a modification that would satisfy the chairman of the subcommittee, Mr. GARN. I think that would be the most expeditious way. Then we can bring the amendment back.

Mr. GARN. The problem with that is that this is a two-part amendment. Even if we could solve the second part with some language, I still am opposed to the \$1.75 billion being eliminated. That is why I suggested that perhaps we should go ahead and vote.

Mr. HATFIELD. I will defer to the Senator's judgment.

Mr. ARMSTRONG. Mr. President, as the conversation develops, I ask unanimous consent to withdraw the amendment, and I shall resubmit it as two separate amendments. I hope the second half will enjoy the support of the Senator from Utah; and for the first part, I will have to look for support in other quarters.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment.

The amendment is withdrawn.

The question occurs on the amendment of the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amend-

ment of the Senator from New Mexico be temporarily set aside.

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I do not have an amendment, and I will take only about 5 minutes of the Senate's time.

I support H.R. 6863, the fiscal year 1982 supplemental appropriations bill. This bill is well within the budget ceilings established by the fiscal year 1982 revised second budget resolution. Chairman HATFIELD and the chairmen of the various appropriations subcommittees should be commended for this effort.

H.R. 6863, as reported by the Appropriations Committee, provides an additional \$9 billion in budget authority and \$7.4 billion in outlays for fiscal year 1982. If this bill is enacted, Federal spending will still be below the budget ceilings by \$8.3 billion in budget authority and \$1.3 billion in outlays. Obviously, this Senator is not complaining about that. I am merely stating a fact.

The bulk of the funds appropriated in this bill, \$6.1 billion in budget authority and \$5.8 billion in outlays, pay for the cost of the October 1981 pay raise for Federal employees. The remainder provides supplemental appropriations for individual programs, including the economic assistance funds for the President's Caribbean Basin Initiative, employment, education, and transportation programs.

H.R. 6863 contains less money than the President's request. The Senate bill is \$1.7 billion below the President's fiscal year 1982 request in budget authority and \$1.5 billion below that request in outlays. This bill provides \$1.6 billion less than the President's request for defense, and provides more money than the President requested for education and transportation programs. I think the distinguished chairman has already explained the committee's reasoning in that regard.

The Senate bill is higher than the House companion bill by \$0.2 billion in budget authority and \$0.1 billion in outlays. In comparison to the House bill, the Senate bill provides more money for defense, less money for transportation programs, and slightly more than the Presidential request for the Caribbean Basin Initiative. The House bill provided no funds for the Caribbean Basin Initiative.

In closing my remarks, Mr. President, I would like to urge my colleagues to support H.R. 6863. I note, however, that we still must continue to exercise fiscal restraint and control the size of the deficit. I urge my colleagues to resist any amendments that would increase the cost of this bill. I compliment the chairman and other members of his committee for resisting amendments to this point.

Mr. President, I ask unanimous consent that a table showing the relation-

ship of the reported bill to the fiscal year 1982 budget resolution be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

H.R. 6863, FISCAL YEAR 1982 SUPPLEMENTAL

[In billions of dollars]

	Budget authority	Outlays
Revised second budget resolution.....	777.7	734.1
Current level.....	766.9	732.1
Action underway (ADAP in H.R. 4961).....	.4	
Amount remaining.....	10.3	2.0
H.R. 6863 as reported in Senate ¹	9.0	7.4
Less items already in current level.....	-6.7	-6.4
Less offsetting receipts affected by appropriations action.....	-3	-3
Net impact of H.R. 6863.....	2.0	.7
Amount remaining.....	8.3	1.3
President's request ¹	10.7	8.9
House-passed ¹	8.8	7.3

¹ Reflects Senate Budget Committee scoring of CCC borrowing authority.

Mr. HATFIELD. Mr. President, I wish to express my deep gratitude to the chairman of the Budget Committee, the Senator from New Mexico (Mr. DOMENICI), for his remarks.

I think it strengthens our hand a great deal to have the full and unqualified support of the chairman of the Budget Committee of the Senate. It is indicative of the new era wherein two committees, which historically have been at loggerheads or have been antagonists, have worked very closely in these days when we are trying to get control of Federal spending. It is only because of statesmanship such as that exhibited by the Senator from New Mexico that this has been accomplished.

It is interesting to note—and I should like to underscore one point—that the Senator from New Mexico is correct in stating that the Senate bill as reported is under the President's request by \$1.7 billion in fiscal year 1982 funds.

Also correct is the report accompanying the bill that indicates that the bill as reported is under the request by \$2.1 billion for a total fiscal year 1982 funds and other obligational authority.

At first blush, that may seem to be a contradiction, but there is no discrepancy. The budget figure does not include the President's request for defense reappropriation by \$346 million, which, in their scorekeeping, counts as fiscal year 1983 budget authority.

I wanted to make that one clarification, because it may appear to a casual reader that there are two sets of figures here. Really, there is only one set. It is only a matter of scorekeeping.

Does the Senator care to comment on that?

Mr. DOMENICI. Mr. President, I understand that discrepancy. It is just

a difference in the way of scoring new budget authority compared to the scoring of certain reappropriations of budget authority.

Before I yield the floor, I commend the distinguished chairman, not only for this bill. In the past 18 months, it would have been impossible for us to proceed, using the Budget Act in this institution and in the House, without the extreme cooperation and willingness to help exhibited by the chairman and the ranking minority member of the Appropriations Committee.

I thank them both for it.

We all know it is very tedious and difficult to use the Budget Act, and if they had not been cooperating, it would have been almost impossible. Then we all know we have left appropriations to the appropriators in terms of meeting targets, and I can say to this point they have done an admirable job.

Mr. PROXMIRE. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I yield.

Mr. PROXMIRE. Mr. President, there is one other caution of which we should be aware, and that is in the unemployment compensation amendment it is open ended, and we can guess at what it will be, but it extends into 1983 and it could be several hundred million dollars, depending, of course, on what the Finance Committee and the Ways and Means Committee work out. It is an entitlement. We simply have to go on with it. It is not included in this supplemental.

Mr. DOMENICI. I thank the Senator for bringing that to my attention. I did not intentionally ignore it. Obviously I will be speaking to that when the tax bill, which will include it, comes to the Chamber. I make no commitments.

Mr. PROXMIRE. The reason I raise that point here is the appropriation for it is in this particular bill.

Mr. DOMENICI. There is a great deal of discussion taking place, I say to my good friend, the ranking minority member, by that conference that they are going to attempt to change tax laws with reference to treatment of unemployment compensation in the country in terms of the tax laws of the country such that any increase will be paid for. I do not hold them to that commitment. I merely say that I did not mention it because that is the expressed intention. If it does not work that way I will be in the Chamber saying we should do it anyway, I believe, because it is urgent, but we will say how much they have failed to fund it by changing the tax laws and by how many dollars, and we will call that to the Senate's attention.

I thank the Senator for reminding the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I ask unanimous consent again to set aside

temporarily the Schmitt amendment in order for the Senator from Minnesota to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1210

(Purpose: To express the sense of the Senate that certain Federal agencies should set aside more research time and funding to develop and validate alternative nonanimal testing procedures)

Mr. DURENBERGER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) for himself, Mr. DOLE, Mr. TSONGAS, Mr. PERCY, Mr. LEVIN, Mr. ROTH, Mr. JEPSEN, Mr. D'AMATO, Mr. LEAHY, Mr. HEINZ, Mr. STAFFORD, Mr. GORTON, Mr. RIEGLE, Mr. ABDNOR, Mr. MITCHELL, Mr. MOYNIHAN, Mr. FORD, Mr. LUGAR, Mr. BRADY, and Mr. SPECTER proposes an unprinted amendment numbered 1210.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

Whereas Federal regulations require the Draize rabbit eye irritancy test for predicting human ophthalmic response in pesticides and household products; and

Whereas since development of this painful test over thirty-five years ago there has been enormous scientific innovation while the Draize test remains basically unchanged; and

Whereas the reliability of the Draize test has been called into question: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Consumer Product Safety Commission, the Environmental Protection Agency, and the Food and Drug Administration set aside research time and funding to develop and validate an alternative nonanimal testing procedure.

Mr. DURENBERGER. Mr. President, on February 6, 1981 I was joined by Senators DOLE, TSONGAS, PERCY, DeCONCINI, and LEVIN in the introduction of Senate Resolution 65. Senators RIEGLE, JEPSEN, ROTH, ABDNOR, MITCHELL, MOYNIHAN, D'AMATO, LEAHY, HEINZ, STAFFORD, KASTEN, FORD, LUGAR, and GORTON have joined the original sponsors of the resolution which would allow the Federal Government to set aside time to research and develop an alternative nonanimal testing procedure to replace the Draize eye irritancy test.

For decades the Federal Government has supported animal research which benefits the health and welfare of humans. Although most researchers strive to give the animals the most comfortable living conditions, there is one test, the Draize eye irritancy test, that raises legitimate questions about

cruelty to the albino rabbits on which it is performed.

Over the past year, both the public and private sectors have made great strides toward alternatives to the Draize test. In the private sector, Revlon has pledged \$750,000, over a 3-year period, to Rockefeller University to fund exploratory research into nonanimal eye irritancy test alternatives. In addition, the Cosmetic, Toiletry and Fragrance Association (CTFA) has established a \$1 million fund, Avon has pledged \$750,000, Estee Lauder \$250,000, and the New England Anti-Vivisection Society has awarded \$100,000 to Tufts University—all for research to develop an alternative to the Draize test.

The public sector has also taken some encouraging steps in this area. The Consumer Product Safety Commission has expressed the need for alternatives to the Draize test, and if such alternatives were developed, the Commission would endorse the replacement of the Draize test. CPSC guidelines have recently reduced the number of rabbits used by about half. Although I am convinced that nothing short of total elimination of the test is necessary to halt the unnecessary pain albino rabbits are subjected to, I find the CPSC position to be a step in the right direction.

Unfortunately, Congress has been unwilling to go on record as being supportive of Federal Government efforts to devote additional research time and funds to develop an alternative to the Draize test. This amendment, Senate Resolution 65, has no budgetary impact, is supported by industry and consumer groups alike, and is worthy of every Member's support. Every day animals are subjected to cruel testing techniques. Certainly the Federal Government has a responsibility and obligation to work with private industry to find new testing procedures to not only insure the safety of consumers, but to also protect the rights of animals.

Mr. MOYNIHAN. Mr. President, I am most pleased to join with Senator DURENBERGER in cosponsoring an amendment to the Supplemental Appropriations Act, 1982 (H.R. 6863) expressing the sense of the Senate that the Consumer Product Safety Commission, the Environmental Protection Agency, and the Food and Drug Administration set aside research time and funding to develop and validate an alternative nonanimal testing procedure to replace the Draize eye irritancy test.

Several years ago, a number of thoughtful and concerned citizens, among them the Coalition To Stop Draize Rabbit Blinding Tests, brought to my attention the cruelty of laboratory tests being used to determine the eye irritancy potential of various cos-

metics and drugs. New products are tested in the eyes of rabbits and the rabbits are observed over a period of a week or more. The products are then graded for irritancy according to the degree of harm inflicted upon the rabbits' eyes. This procedure is known as the Draize test. Thousands of rabbits are used each year for this painful test which is administered without any anesthetic or other pain reliever.

On April 30, 1980, I asked all cognizant Federal agencies to look into alternatives and to encourage the companies which conduct the Draize test to work cooperatively toward finding painless, reliable and cost-effective alternatives. On May 21, 1981, I joined with Senator DURENBERGER in cosponsoring a sense-of-the-Senate resolution (S. Res. 65) calling upon the appropriate Federal agencies to specifically set aside research time and funding to develop an alternative to the Draize test. It is essentially this resolution that we introduce today as an amendment to H.R. 6863.

Since 1980 some progress has been made. On January 8, 1982, Carlos L. Perez, Acting Associate Executive Director for Compliance and Administrative Litigation, U.S. Consumer Product Safety Commission, wrote to Mr. Henry Spira of the Coalition To Stop Draize Rabbit Blindness Tests. Mr. Perez concluded his letter as follows:

I have requested our scientific staff to closely monitor this ongoing industry research. In the event that a reliable alternative test method for eye irritancy is developed, we will immediately take steps to replace the Draize test.

This is an encouraging sign.

It is most appropriate therefore for Congress to go on record at this time in favor of devoting additional Federal resources to finding an alternative to the Draize test. We can do this by adopting the amendment offered today by Senator DURENBERGER and myself.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I send to the desk a technical modification of the amendment.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

At the appropriate place, insert the following:

Since Federal regulations require the Draize rabbit eye irritancy test for predicting human ocular response in pesticides and household products; and

Since development of this painful test over thirty-five years ago there has been enormous scientific innovation while the Draize test remains basically unchanged; and

Since the reliability of the Draize test has been called into question: Now, therefore,

It is the sense of the Senate that the Consumer Product Safety Commission, the Environmental Protection Agency, and the Food and Drug Administration set aside research time and funding to develop and validate an alternative nonanimal testing procedure.

Mr. HATFIELD. Mr. President, I have discussed this amendment with the Senator from Minnesota, and we have arrived at an accommodation. I would, therefore, move the adoption of the amendment.

The amendment (UP No. 1210), as modified, was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we are just about ready to move to third reading. I have no other amendment at this moment.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Schmitt amendment be temporarily laid aside in order for the Senator from North Carolina (Mr. HELMS) to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1211

(Purpose: To prohibit United States Government funds from going to meet the debts of insolvent communist countries which have not yet been declared to be in default of their debts)

Mr. HELMS. I thank the Senator from Oregon. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1211.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 108, after line 19, insert the following new section: "Notwithstanding any

other provision of this Act, no funds shall be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual, partnership, corporation or association in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, the Socialist Republic of Romania, or any other signatory of the Warsaw Pact military alliance, while such country has not been declared to be in default of its debt to such individual, partnership, corporation or association. No interest on any claim against the United States Government or Government corporation arising under any loan guarantee programs with respect to loans made to a signatory of the Warsaw Pact military alliance shall accrue while that country has not been declared to be in default of its debt giving rise to that claim.

Mr. HELMS. Mr. President, I discussed this amendment with the manager of the bill. It relates to the Polish debt situation which has been discussed fully on this floor on previous occasions and the Senate has acted upon an amendment similar to this.

I am not going to go through the arguments. I will just ask the able manager of the bill if he has had an occasion to examine the amendment and if he finds it acceptable.

Mr. HATFIELD. Mr. President, I say to the Senator from North Carolina that I have examined the amendment and we are making a couple of checks with two other interested parties. I think we might be able to accept the amendment, depending on the clearance.

Mr. HELMS. I thank the Senator. In the meantime, while the check is being made, let me comment briefly.

Mr. President, there being so much violence and oppression around the world, it occurs to this Senator that it would be useful to remind ourselves, as well as the American people, of the continuing oppression of the liberties of the Polish people by the Polish Government.

And the best reminder would be for this Senate to take a position forthrightly because the brutal Communist martial law regime of General Jaruzelski remains in place. The Polish Government admits that at least 1,200 Polish citizens are imprisoned as a result of martial law, including virtually all the leaders of Solidarity. Independent estimates of the number of noncriminal Polish internees imprisoned by the martial law regime run as high as 4,000 to 6,000. Solidarity remains banned, and its leaders languish in prison for the heinous crime of demanding a modicum of freedom in a Communist country.

Even while this oppression of the Polish people by their government was continuing, American taxpayers were being forced to foot the bill for loans which the Polish Government cannot

now, and probably never will be able to pay back. Recently we passed the Kasten amendment to Public Law 97-216 which put an end to this abuse of the taxpayers. But the Kasten amendment only applied to fiscal year 1982. On October 1, the taxpayers could once again become subject to this unjustifiable imposition.

Currently, the Polish debt to Western banks stands at between \$26 and \$28 billion, depending on one's source. No one seriously maintains that Poland will ever be able to make good on these debts. According to most experts, it has been clear for at least 5 and possibly 7 years that Poland would never be able to repay its foreign debts. This was abundantly clear on hearings which I chaired before the Agriculture Committee some weeks ago. Yet, our Government, through the Commodity Credit Corporation, has continued to insure loans to Poland even after it was clear that Poland could never make up its existing debt.

This Senator has never been able to understand the reasoning behind our Government's policy of guaranteeing loans to Communist countries in the first place. It seems to me that if we are going to carry on trade with Communist countries at all, it ought to be on a strictly cash basis. But if that is not enough, it appears that the U.S. Government has been making good on these bad Polish debts without even requiring that the banks or exporters involved formally declare the Polish Government to be in default of its loans.

Specifically, the Commodity Credit Corporation of the Department of Agriculture paid out over \$500 million to various U.S. banks and exporting institutions to cover principal and interest due on loans by these banks to Poland over the period from August, 1981 to July 18, 1982. Yet no formal declaration of default has been made, as both Commodity Credit Corporation regulations and commonsense demand.

Mr. President, it seems to me to be just plain commonsense that if a nation cannot pay the debts which it owes that that nation is in default. The American taxpayer has been paying the debts of the tyrannical Polish military regime which, according to the Wall Street Journal and virtually all other credible observers, cannot now and never will be able to repay its debts to Western banks. Yet the Federal Government refuses to acknowledge the obvious—that Poland is in default. Why not?

Mr. President, I do not know the answer to that question. I do not know if anyone in the administration knows the answer. I do know, however, that the recognition by the U.S. Government of the reality that Poland is in default and a declaration to that effect would not in any way affect Po-

land's obligation to pay the debts it owes. International debts do not operate on the same principles as domestic bankruptcy proceedings. Before Poland could ever hope to regain credit internationally, it must first satisfy the debts it owes its current obligees. A declaration by the United States that the Polish Government is in default would be nothing more than a statement of the obvious. It would allow the United States to seize Polish assets and protect the American taxpayer by recovering at least some portion of the massive debt owed the United States by Poland.

The administration's persistent failure to declare Poland in default has produced three unfortunate results:

First, it has perpetuated the myth that Poland will someday be able to pay its debts;

Second, it has allowed bank presidents in both the United States and Europe to postpone the day of reckoning with their stockholders, when they will have to explain why they made massive loans to Poland when it was quite clear that Poland could not pay them back; and

Third, it has encouraged the massive refinancing of current Polish debts, which is just an exercise in throwing good money after bad.

Moreover, any delay in declaring Poland in default can only be a temporary one. The Wall Street Journal, in an editorial of August 2, 1982, explains why the pyramid of debt is bound to come crashing down soon enough, no matter how long an official declaration of default is delayed. It is better to recognize the reality of default now than to allow creditors to continue to pour money down the Polish drain through rescheduling.

Mr. President, I ask unanimous consent that the Journal editorial on this subject, entitled "Polish Debt Cover-Up," be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. HELMS. Mr. President, this body recently passed an amendment offered by my distinguished colleague and good friend from Wisconsin (Mr. KASTEN). That legislation, recently signed into law by the President, prohibits any Government payments during fiscal year 1982 for the purpose of reimbursing any insured creditor who has bad loans outstanding from Poland unless and until Poland has been declared in default of its debt to that creditor or unless the President issues a statement explaining in detail why such payments, absent a declaration of default, are in the national interest of the United States.

Mr. President, for the reasons stated above and in the Wall Street Journal article, I doubt very seriously that the administration can come up with a

strong justification as to why such payments should continue. No such justification has to my knowledge been given by the administration. However, as I already indicated, the Kasten amendment only applies to fiscal year 1982; the American taxpayer will once again be subsidizing the Polish tyranny as of October 1 unless additional legislation is enacted.

This amendment applies not only to the military regime in Poland, but to all of the regimes of the Warsaw Pact. There are two outstanding characteristics of all Warsaw Pact nations; the first characteristic is the brutality of each regime toward its own people, and the virtual absence of personal liberty and human rights. The second is the chronic economic weakness of these countries. Either characteristic is reason enough for the United States not to be subsidizing such nations, particularly by the means of paying off their debts while avoiding a declaration of default.

Plainly and simply, this amendment prohibits the paying off of any loan guarantee by the U.S. Government or any Government corporation to any domestic individual or institution on loans made by that institution or individual to a Warsaw Pact nation until such time as that nation is declared to be in default of its debts. It really should not be necessary for us to offer this type of amendment in the first place, as loan guarantees, at least according to my understanding of Commodity Credit Corporation regulations, are meant to be collected only upon default of the nation to which credit was extended. At any rate, this amendment will clarify the situation by making it illegal, once and for all, to have funds from a Government loan guarantee program go to pay the debts of Poland or any other Warsaw Pact country unless and until that country has been declared to be in default of its loans. I hope my colleagues will adopt this sound and necessary measure.

EXHIBIT 1

POLISH DEBT COVER-UP

For some time it has been obvious that Poland is never going to repay the \$26 billion or so it owes Western banks and governments. At least not in our lifetimes. And there is no chance at all that the Polish regime will pay the \$10 billion in principal and interest due this year alone. So what are the Western banks doing about it? Negotiating some new credits for Warsaw.

That may sound like a funny way of doing business. But bankers, after all, have been known to throw good money after bad, especially if the customer is already into them for a pile. And like anybody else, bankers hate to admit mistakes. They prefer to cover them up as long as possible in the hope that the day of reckoning can be avoided.

A cover up seems to be just what is shaping up in current negotiations between Poland and the 460-odd European and

American banks that hold Polish debt. The bankers are portraying the emerging plan as a breakthrough in their efforts to wring debt repayments out of the collapsed Polish economy. To us, it looks more like a scheme that would allow the banks to defer increasing their reserves for bad loans.

At the least, we hope that bank regulators will cast a critical eye on the deal. Failure to face reality now, however painful to the banks, will only place the financial system in further jeopardy in the long run.

Under current proposals Poland would pay the \$900 million in interest it owes this year, and the banks would immediately send back a large part of the money to Poland in the form of short-term export credits. Just how much would be lent back is being negotiated; the banks reportedly want to limit it to 50 percent, while the Poles are holding out for 70 percent to 80 percent.

Obviously there are two ways of looking at a deal like this. One, favored by bankers, is that at least the West would be getting some of its money back. In addition, they argue, new credits are necessary to enable the Polish economy to recover; otherwise, there really will be no chance of Poland paying off its loans.

But \$500 million or so isn't going to do much for the Polish economy. It will disappear as into a black hole, and soon the Poles will be squeezing the banks for more—even optimists say it would take tens of billions to get the Polish economy back on its feet. But even that is an illusory goal. Communist economies simply don't work, as we should have learned in the first place from the Polish experience.

So while the banks might get some money back, at least in the short run, we suspect their real motivation is something else. Under the 1981 debt rescheduling agreement with Poland, the Polish debt due this year must be rescheduled by Sept. 10 (known ominously in banking circles as "cross-default day"). Otherwise even the 1981 agreement would fall apart, and the probabilities would greatly increase that either Poland would declare a debt moratorium or a Western creditor would finally lose patience and declare a default. Some creditors are already known to be eager to write off their Polish loans so they can apply the losses against taxes.

But for most banks this is an unpleasant prospect. They would have to charge off the loans against earnings, which would be embarrassing in the extreme for management. Warsaw and Moscow understand this perfectly well and have been playing on the bankers' fears to extract the best terms. Promise us new credits, they wheedle, and we'll help you maintain the fiction that interest is being serviced. Rescheduling of the rest of the debt can go forward. Pain will be avoided.

But of course the pain can't be avoided. Capitalizing the interest on the Polish debt, which is what's really being talked about here, will literally compound the problem. Sooner or later the debt pyramid will come crashing down.

Even in the short run there will be pain. Imagine the reaction of the money markets when they learn that the banks are going back into Poland. Can Western governments, which hold more than half the Polish debt, be far behind? Many would dearly love to return to the good old days of detente. The prospect of resuming large-scale financing of East bloc deficits as well as those of the West is not likely to bode well for interest rates.

If the banks really want to cut this deal, that's between them and their stockholders. But the public has a legitimate interest in seeing that the banks be forced to label the transaction for what it is: a cover-up of the Polish debt problem.

The bottom line of this deal is that if it goes through it will be an outright admission that Poland can't meet even its interest payments except by virtue of new credits. Bank regulators only recently got around to reclassifying the Polish loans from "substandard" to "doubtful" according to our sources. If the banks cave in to the Polish regime in the current negotiations, the next step should be to force the banks to speed up, not slow down, their setting aside of reserves for the losses that are sure to come.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I rise in support of the amendment offered by the distinguished Senator from North Carolina. The United States can no longer stand idly by while the Polish people struggle for political and economic freedom. There is no chance at all that Poland will make good on the approximately \$10 billion in principal and interest it owes the West this year. Yet the U.S. Government continues to bail out the Polish military regime by paying millions of dollars to commercial banks to prevent a declaration of Polish default.

Now some banks want to pour even more money down the Communist sinkhole and extend \$500 million in additional credits to Poland. This is despite the January agreement among governments in the West that Poland's 1982 debts would not be rescheduled until martial law was lifted, Lech Walesa was released, and the Polish Government resumed talks with Solidarity. If Poland's 1982 debts are not rescheduled by September 10, banks will have the option of calling in the Polish debt. The U.S. Senate should take the lead by voting today to prohibit payments to banks until they face reality and declare the Polish military regime in default.

Mr. President, nearly 8 months have passed since martial law was imposed in Poland. Our wait-and-see policy has not produced results. Solidarity leaders are now calling for mass demonstrations at the end of this month to mark the second anniversary of Solidarity's founding, and to pressure the Polish Government for real political and economic reform. Let us vote to support the people of Poland in their struggle by voting in favor of the amendment before us today.

Mr. President, I ask unanimous consent that three articles on the subject of the Polish debt be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

POLISH DEBT COVER-UP

For some time it has been obvious that Poland is never going to repay the \$26 bil-

lion or so it owes Western banks and governments. At least not in our lifetimes. And there is no chance at all that the Polish regime will pay the \$10 billion in principal and interest due this year alone. So what are the Western banks doing about it? Negotiating some new credits for Warsaw.

That may sound like a funny way of doing business. But bankers, after all, have been known to throw good money after bad, especially if the customer is already into them for a pile. And like anybody else, bankers hate to admit mistakes. They prefer to cover them up as long as possible in the hope that the day of reckoning can be avoided.

A cover-up seems to be just what is shaping up in current negotiations between Poland and the 460-odd European and American banks that hold Polish debt. The bankers are portraying the emerging plan as a breakthrough in their efforts to wring debt repayments out of the collapsed Polish economy. To us, it looks more like a scheme that would allow the banks to defer increasing their reserves for bad loans.

At the least, we hope that bank regulators will cast a critical eye on the deal. Failure to face reality now, however painful to the banks, will only place the financial system in further jeopardy in the long run.

Under current proposals Poland would pay the \$900 million in interest it owes this year, and the banks would immediately send back a large part of the money to Poland in the form of short-term export credits. Just how much would be lent back is being negotiated; the banks reportedly want to limit it to 50 percent, while the Poles are holding out for 70 percent to 80 percent.

Obviously there are two ways of looking at a deal like this. One, favored by bankers, is that at least the West would be getting some of its money back. In addition, they argue, new credits are necessary to enable the Polish economy to recover; otherwise, there really will be no chance of Poland paying off its loans.

But \$500 million or so isn't going to do much for the Polish economy. It will disappear as into a black hole, and soon the Poles will be squeezing the banks for more—even optimists say it would take tens of billions to get the Polish economy back on its feet. But even that is an illusory goal. Communist economies simply don't work, as we should have learned in the first place from the Polish experience.

So while the banks might get some money back, at least in the short run, we suspect their real motivation is something else. Under the 1981 debt rescheduling agreement with Poland, the Polish debt due this year must be rescheduled by Sept. 10 (known ominously in banking circles as "cross-default day"). Otherwise even the 1981 agreement would fall apart, and the probabilities would greatly increase that either Poland would declare a debt moratorium or a Western creditor would finally lose patience and declare a default. Some creditors are already known to be eager to write off their Polish loans so they can apply the losses against taxes.

But for most banks this is an unpleasant prospect. They would have to charge off the loans against earnings, which would be embarrassing in the extreme for management. Warsaw and Moscow understand this perfectly well and have been playing on the bankers' fears to extract the best terms. Promise us new credits, they wheedle, and we'll help you maintain the fiction that interest is being serviced. Rescheduling of the

rest of the debt can go forward. Pain will be avoided.

But of course the pain can't be avoided. Capitalizing the interest on the Polish debt, which is what's really being talked about here, will literally compound the problem. Sooner or later the debt pyramid will come crashing down.

Even in the short run there will be pain. Imagine the reaction of the money markets when they learn that the banks are going back into Poland. Can Western governments, which hold more than half the Polish debt, be far behind? Many would dearly love to return to the good old days of detente. The prospect of resuming large-scale financing of East bloc deficits as well as those of the West is not likely to bode well for interest rates.

If the banks really want to cut this deal, that's between them and their stockholders. But the public has a legitimate interest in seeing that the banks be forced to label the transaction for what it is: a cover-up of the Polish debt problem.

The bottom line of this deal is that if it goes through it will be an outright admission that Poland can't meet even its interest payments except by virtue of new credits. Bank regulators only recently got around to reclassifying the Polish loans from "sub-standard" to "doubtful," according to our sources. If the banks cave in to the Polish regime in the current negotiations, the next step should be to force the banks to speed up, not slow down, their setting aside of reserves for the losses that are sure to come.

[From the Wall Street Journal, Aug. 2, 1982]

POLISH CREDITORS SEEK DEBT ACCORD BEFORE SEPT. 10, WHEN DEFAULT COULD BE CALLED

(By Frederick Kempe)

FRANKFURT, West Germany.—Western bankers are rushing to reach agreement on Poland's 1982 debt rescheduling ahead of Sept. 10, known among bankers as "cross default day."

That date appears in the small print of the rescheduling agreement for Poland's 1981 debts that was set last April. It essentially provides that if Poland hasn't kept principal and interest payments current, or if a rescheduling agreement covering 1982 doesn't appear at hand, any of Poland's creditor banks can withdraw its support for the agreement and call in Polish debt, attach Polish property or at least demand that payments be accelerated.

Bankers have tried to play down the importance of the Sept. 10 deadline. But interviews with West European and American bankers indicate that bankers are increasingly worried that if some kind of preliminary agreement on rescheduling 1982 debt isn't reached by then, the fragile alliance among Poland's Western creditors could fall apart and a declaration of default by some smaller banks might follow.

A PROMINENT DAY

"We wouldn't like to see this date appear anywhere in the press," one West European banker says, adding, "It is a prominent day and the reason we are all feeling under pressure."

Although most bankers contend that no bank would risk unraveling the agreement, a U.S. banker says lack of progress by that date could be a possibly "precipitating event which will make it hard for people not to take some kind of action."

It was with this date clearly in mind that a small group of bankers representing Po-

land's 503 Western commercial creditors met under secrecy Thursday and Friday in London to determine what negotiating position they would take when they met with the Poles. One West European banker said the group also set a day for the start of negotiations with Poland, which he said could come as early as this week and certainly within the next 10 days.

West German bankers indicate that their greatest worry is that the bankers' unity could be broken by small, regional U.S. banks who, they argue, don't realize the possible wider ramifications of a Polish default on the international banking system.

At a meeting of West German banks last Tuesday, even the smallest of Poland's German creditors agreed to the newest proposal for solving rescheduling problems, which provides that if Poland pays its 1982 interest, it will receive from banks half that amount in the form of fresh, short-term trade credits.

However, the parallel U.S. bankers' meeting in New York was poorly attended by the smaller, regional banks. One U.S. banker frets this might indicate that some U.S. banks aren't fully committed to the rescheduling course.

"We always have the worry that one of the small banks with a very tiny exposure might jump off after seeing that what we are doing doesn't seem to be working," one West German banker remarks.

Nevertheless, U.S. and West German bankers say they are thus far in agreement on their negotiating position with the Poles. They say they are in accord because they realize the necessity to reach some agreement quickly and because findings of Western economists visiting Poland indicate that the Poles haven't the resources to pay 100 percent of their 1982 interest due.

Banking sources drew an outline of the Western banks' negotiating stance. Although some of the details might change somewhat as Polish intentions become more clear, bankers say the framework won't be altered.

The banks will offer that if Poland repays some \$900 million due in 1982 interest to banks, the banks will then extend half of that amount in fresh, short-term trade credits. The banks would then also probably reschedule 100 percent of some \$2.5 billion in 1982 principal, even though they rescheduled only 95 percent of principal last year.

Otherwise, however, the terms would be almost identical to those of the agreement on 1981 debt, when Poland had \$2.4 billion in principal rescheduled over 7½ years with a four-year grace period, at 1½ points above the London interbank offered rate and including a 1 percent rescheduling fee.

This offer is still far from Poland's current wishes. West German bankers say the Poles are demanding that they get 80% instead of 50% of their repaid interest back in the form of short-term trade credits. The Poles want to receive this money in bits and pieces as they make partial payments instead of in a lump sum after all their interest is paid. Moreover, Poland has also asked for an additional \$300 million as a finance credit from banks, which one U.S. banker calls "a nonstarter."

SETTING LIMITS

"The Polish side has put forward some extreme requests and now we are setting our limits," one West German banker says. He explains that the only way Poland would get more than 50 percent of its interest payments back in the form of fresh loans is if it agrees to a rescheduling of less of its princi-

pal. For instance, the banks might give Poland 60 percent of its interest in loans, if it agrees to only 95 percent rescheduling of debts instead of 100 percent.

The most prominent factors in the negotiations will be how the two sides react to conflicting pressure. The bankers face the threat of a moratorium on repayment if Poland doesn't get fresh credit. West German bankers say this threat hasn't ever been explicitly expressed, but it is nonetheless clear to all of Poland's creditors.

"I don't want to say that the Poles are blackmailing us, but they won't begin their interest payments before they know the banks will give them a percentage in fresh loans," he says.

On the other hand, the Poles face the threat if they declare a moratorium that all of Eastern Europe will be cut off by Western financiers and that they themselves will be surrendering the last chance they have of eventually getting more money from banks and Western governments.

A West German banker says Poland has significantly improved its liquidity situation at his bank and other institutions. He believes Poland will easily have enough money to pay the second installment of some \$45 million on the unrescheduled 5 percent of 1981 principal, which will fall due Aug. 15. He says he "has no doubts" Poland will make the payment.

Moreover, the latest figures from the Bank for International Settlements, a sort of central bank for central bankers, show Poland held accounts in Western banks totaling \$640 million at the end of March, down from \$720 million a year earlier. Clearly, the banker said, statistics show Poland is withholding 1982 interest payments so far this year not because it doesn't have some, albeit limited, resources, but because it intends to use nonpayments as leverage to get the best agreement possible out of Western banks.

[From the Wall Street Journal, Aug. 6, 1982]

WESTERN BANKS, POLES TO DISCUSS DEBT PLAN IN WARSAW NEXT WEEK

FRANKFURT, WEST GERMANY.—Western bankers plan to travel to Warsaw next week to discuss with Polish officials a proposal for deferring Poland's 1982 commercial debt.

Banking sources said representatives of national agent banks managing Poland's debt would be accompanied by advisors from the London-based law firm, Coward Chance Solicitors. Coward Chance also assisted Western banks during 1981 Polish debt talks.

Western bankers said the meetings with Poland's foreign trade bank, Bank Handlowy, and Polish Finance Ministry officials would take place some time next week, depending on when preparations are completed. They weren't more specific.

The proposal was discussed by Western banks in a flurry of meetings last week in London, New York and Frankfurt. It envisions recycling into new short-term trade credits 50 percent of Warsaw's roughly \$900 million in 1982 interest arrears once the payments are made.

The plan aims to clear the way for rescheduling probably 100 percent of Poland's roughly \$2.5 billion in 1982 principal falling due this year.

As in 1981, the banks are insisting that interest due this year be paid before any agreement deferring the principal can be

signed. West German bankers have said the financially strapped Poles haven't made any payments on its interest or principal debt so far this year.

Western banks are rushing to reach an initial agreement with Warsaw on the 1982 rescheduling agreement before Sept. 10, known as "cross default day." If some arrangement isn't reached by that date, which appears in the small print of the accord deferring Poland's 1981 debts, creditor banks can withdraw from negotiations and call in Polish debt or claim Polish assets. "We are mainly worried about how smaller banks will behave if the deadline isn't met," one banker said.

Worried by the time factor, bankers also noted that Bank Handlowy has posed some additional demands. The Poles are reportedly asking that 80 percent of their interest payments be turned around in the form of fresh credits. Moreover, Bank Handlowy was reported to be requesting an additional \$300 million credit line from the consortium of 503 Western banks.

Mr. KASTEN. As chairman of the Subcommittee on Foreign Operations, I am prepared to accept this amendment. This amendment is very similar to amendments which we have brought forward on the floor on two or three different occasions. Although it has slight modifications and variations, I think it continues to bring the issue of the problems of the Polish debt before the Senate and therefore before the administration.

In previous times, I have had to work with the other body on some kind of compromises on language, and it may well be that I will have to do that once more. But I think that the intention of the amendment and the importance of the issue, means that this amendment ought to be accepted. I am pleased on behalf of the Foreign Operations Subcommittee to say that we should accept this amendment.

Mr. PROXMIRE addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I have great sympathy for this amendment, and I am sure it has solid merit. But I am very reluctant, as the minority manager, to simply go ahead and let us vote on it without having an opportunity to discuss this with other Members of the minority party who may feel differently about the amendment and should have an opportunity to study it and make their decision on it.

It is my understanding that some members of the Foreign Relations Committee, who I think would be very interested, do not even know about the amendment.

I am very sorry about that, because I am as anxious as the manager is to get moving and to get out of here at a reasonable hour tonight and to do our business in an orderly and cooperative way. But I do think I have an obligation to make sure that Members of the Democratic Party who are interested in this amendment would at least have a chance to know about it.

For that reason, I would suggest the absence of a quorum unless somebody else wishes to speak. I yield the floor.

Mr. KASTEN. Will the Senator withhold for just a moment?

Mr. PROXMIRE. Yes.

Mr. KASTEN. I would just like to suggest to my senior colleague from Wisconsin that this issue is on the list of amendments. It says, "Helms amendment on Polish debt" and the issue has been on that list for at least 8 hours.

Mr. PROXMIRE. Yes; I know that.

Mr. KASTEN. So nobody is trying in any way to sneak anything through.

Mr. PROXMIRE. I understand that.

Mr. KASTEN. Senators have had an opportunity to review the issue and review the amendment.

Mr. PROXMIRE. As I am sure my colleague understands, we have been moving in a kind of unscheduled way. We did not know when these things were coming up. I would hope it would only take a few minutes to make sure that they are aware of it. That is all.

Mr. HELMS. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield.

Mr. HELMS. I am perfectly willing to do that. I did furnish the Senator with a copy of the amendment early today. I put it on his desk. I assumed that the staff examined it. I did the same thing with the majority side.

But the Senator is exactly right. He is obliged to check. I can understand that.

I would suggest that we set aside this amendment and call up another one and proceed further at the appropriate time.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily set aside Senator HELMS' amendment in order to proceed with Senator MATTINGLY's amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I am reaching very closely to the end of my patience. I can assure the Senate that we have done our very best to accommodate every Member of this Senate, but unless the Members are willing to be on the floor to offer their amendments, I do not think it is a very equitable arrangement to ask of us who are managers to do as we did last Monday and to sit around here all afternoon and not have any business.

We are going to finish this bill tonight. I must say that I will call for third reading if there are no more amendments to be offered sometime later in the day, because we could get out of here between 6 or 7 o'clock tonight if we can move these amendments along.

We are already backed up with a request of the Senator from Massachusetts (Mr. KENNEDY) to wait until 3 o'clock for a possible amendment. We are already backed up on a Schmitt

amendment. Now we are backing up on a Helms amendment, and we have six other amendments to go.

And it is not an arbitrary matter that we have to finish this tonight. We have to finish it because we have only tomorrow to go to conference with the House of Representatives.

I urge Members on my side—in fact, I would ask the majority leader and possibly at his behest the minority leader to send out a hotline to Members of both sides of the aisle who have amendments to offer to be on the floor to offer their amendments, because I do not think we can finish this bill in a reasonable time otherwise.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. HATFIELD. I yield.

Mr. BAKER. Mr. President, I absolutely agree with the distinguished manager of the bill. It is really unfair to the managers of the bill and to all Senators to waste the middle of the afternoon. If our previous experience proves a guide to what happens when you do that, you will end up at 7, 8, or 9 o'clock tonight with a string of amendments, people anxious to get votes, and unduly prolonging the session of the Senate.

I urge Senators who have amendments to come to the floor and offer them now and not to wait. If they do not do so within a reasonable time, and I would say 3:15 or thereabouts, if they do not indicate to us that they are prepared to do that, if the manager of the bill calls for third reading I will support him in that call or in that motion.

Mr. President, I would urge that Senators take heed. I will put out a notice on our hotline in the Republican cloakroom insisting that Senators who have amendments or who wish to speak on this bill come to the floor and do so.

Mr. HATFIELD. I thank the Senator.

The PRESIDING OFFICER. Is there objection to temporarily setting aside the amendment? Without objection, it is so ordered.

Mr. EXON. Mr. President, I will hold the floor temporarily for the manager of the bill on this side. I will simply say that I certainly agree with the statements made by the chairman of the Appropriations Committee and the majority leader. It seems to me we do great injustice to not only the institution but to our colleagues by what we conceive as continual delay and delay and delay. I have made the suggestion previously in jest to the majority leader that what we should do when we convene the Senate, at whatever time we come in, is we should immediately set the clock up to 10 o'clock at night. It would seem to me if we follow that procedure we would move more expeditiously. My heart

goes out to the majority leader because in all good conscience I know he tries to move things ahead.

For those on my side of the aisle who may be listening somewhere in the building, I would encourage them to come to the floor immediately to offer any amendments they have. If not, I would be pleased, as one on this side, to entertain third reading of the bill by 3:15. In fact, it might be a very good idea.

Mr. HATFIELD. I thank the Senator from Nebraska. He always impresses me as a man who expedites the business of the Senate whenever he participates.

Mr. President, I ask unanimous consent again to temporarily lay aside the Schmitt amendment and the Helms amendment in order that Mr. MATTINGLY may be privileged to offer an amendment at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, while we are waiting, I might observe that Senator BUMPERS of Arkansas a little earlier this afternoon shared with me a very interesting study that has been made by one of the Senator's office, which indicated that up to this time during this session one-third of the time that we have been in session has been in quorum calls. I am not in a position to verify that study except to indicate that that was his understanding of the study. If that is true, and I suppose it surprises me and yet it does not surprise me, I think that is a further indication of the matter of how not to do the public business.

Mr. EXON. Mr. President, while we are wasting time here, I might try and correct one impression that one might draw from the statements just made by the distinguished chairman of the Appropriations Committee. I have heard of that report. I believe it is accurate. I think, though, that it says that for one-third of the time that the Senate supposedly has been in session since the first of the year, we have been in session through quorum calls or on official recesses, and I think the recesses should be calculated into that. I think it does not say much for making good use of our time.

Mr. HATFIELD. Mr. President, I yield the floor to the Senator from Georgia.

UP AMENDMENT NO. 1212

(Purpose: To provide for the fixing of the wages of Government Printing Office employees in accordance with the Prevailing Rate System and the General Schedule, and for other purposes.)

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY) for himself, Mr. ARMSTRONG, and Mr. ZORINSKY, proposes an unprinted amendment No. 1212.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, between lines 2 and 3, insert the following new section:

Sec. 108. (a) Subsection (a) of section 305 of title 44, United States Code, is amended to read as follows:

"(a) The Public Printer may employ such persons as are necessary for the work of the Government Printing Office. He may not employ more persons than the necessities of the public work require."

(b) Section 5342 (a) (1) of title 5, United States Code, is amended by inserting "and the Government Printing Office" after "Executive agency".

(c) Section 5349 of title 5, United States Code, is amended—

(1) by striking out "the Government Printing Office," in subsection (a); and

(2) by striking out "section 305 of title 44," in subsection (b).

(d) Clause 9 of subsection (c) of section 5102 of title 5, United States Code, is repealed.

Mr. MATTINGLY. Mr. President, today Senator ARMSTRONG and I offer an amendment to the legislative branch section of H.R. 6863. It is language which is already included in title 44, section 305. It deletes, however, other language in current law relating to the method of establishing GPO, Government Printing Office, wages.

Under current law, the Public Printer is required to have a conference with representatives of the employees and work out an agreement on salaries and other compensation. If there is a disagreement, either side may appeal to the Joint Committee on Printing. The decision of the Joint Committee is final. The result is that in years when disputes arise, the Joint Committee on Printing simply sets the wages of GPO employees.

This language is all deleted. Employee salaries would be set by the prevailing rates of the Federal wage system.

Mr. President, what Senator ARMSTRONG and I are attempting to do is to change a policy that is not fair, that is inequitable. We seek to give the Public Printer, who has responsibility for operating the Government Printing Office, the authority to manage that office in the most efficient manner.

The Public Printer is appointed by the President of the United States and confirmed by the U.S. Senate. He should have the latitude to operate his business just as a manager in private business does.

The problem that has been identified in the Government Printing Office stems from the salary structure. I cite just a few of the findings which have been released by the GPO.

The salaries of the craft and industrial workers at GPO are on a mean average 22 percent higher than salaries paid to other Federal workers performing the same or similar tasks in other agencies who are paid under the prevailing rates of the Federal wage system.

The magnitude of this wage problem in certain divisions of GPO has been spelled out in a study of the 1981 earnings done by the GPO's own labor-management office. That study shows that over 55 percent of those who work in the composing division made in excess of \$30,000 a year annually, and that 55 percent of those in the electronic photocomposition department made in excess of \$35,000 a year annually. Those figures do not include salaries of supervisory personnel.

Mr. President, in comparison to those in the private sector, in 11 other cities, and based on figures researched by the Printing Industries of America, GPO pressmen earn up to \$6.48 an hour more—\$6.48 an hour more—than their private sector counterparts in Boston. GPO bookbinders earn \$16.68 as compared to \$8.46 an hour in Dallas.

In all the cities checked, the GPO workers earned substantially more than the private sector average for those particular occupations.

I might add, Mr. President, that they average more than anybody in the area surrounding Washington, D.C. Something is wrong and it needs to be rectified.

One survey found GPO bids 113 percent higher than private sector estimates for the same job. Personnel costs for in-plant production at GPO account for over 80 percent of the expenses as compared to 40 or 50 percent in the private sector.

Part of the wage problem in the existing GPO craft system is that nonrelated occupations, such as plumbers and compositors, are tied together for wage purposes. Thus, a plumber is paid a certain percentage of a compositor journeyman wages, although there is no discernible connection between the two jobs. The prevailing wage classification system proposed under this amendment would sever this connection and each occupation would be paid on its own merits. Such a pay structure would also do away with many of the barriers to entry and discriminatory aspects of the existing system at GPO.

Mr. President, the issue is simple. Mr. Danford Sawyer, the Public Printer, came before hearings held this spring by the legislative branch Appropriations Subcommittee, which I chair, and told of the costs that could be controlled in the Printing Office. He spoke of the high wage rates that were being paid and over which he had no control.

This needs to be corrected. The President appointed Mr. Sawyer and Mr. Sawyer must have the authority to run his own business.

Mr. President, there is nothing wrong with people getting paid exactly what they earn and should earn, a rightful and equitable wage scale. But, good grief, is there equity in a wage scale which is 22 percent higher than that paid other employees of the Federal Government doing the same work?

I have heard my colleagues on the floor of the Senate talk about the Davis-Bacon Act for years. This is the Davis-Bacon Act in reverse. This needs to be corrected. That is what this amendment is all about, fairness and equity within the Federal Government. Wages that will be comparable not only with the private sector but also with other wage earners within the Federal Government.

Mr. ARMSTRONG. Mr. President, I have heard it said there are three kinds of people in this world—people who make things happen, people who watch things happen, and people who always wonder what happened. I find myself somewhat in the latter category here. I am not sure what happened, but I want to congratulate my colleague from Georgia (Mr. MATTINGLY) for bringing to the attention of the Senate a problem of the utmost seriousness, which far transcends in its ultimate impact the dollar amount. That is the question of what is going on over at the GPO.

Mr. President, I am eager to speak in support of the amendment, of which I am proud to be a cosponsor. But I am not much inclined to do so until we can locate the presence of the Senator from Maryland (Mr. MATHIAS). He has a legislative interest in this matter, and out of courtesy to him, I would be very loath to proceed at this time until he has had a chance to be notified.

We have been trying to get together for several hours and have simply not had an opportunity to do so. Pending his arrival, Mr. President, I shall yield the floor, I have some remarks I want to make, but I would like the Senator from Maryland to be present. Then if my understanding of the circumstances is not factually correct, he will be in a position to set the record straight.

Mr. SARBANES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Schmitt amendment be temporarily laid aside;

I ask unanimous consent that the Helms amendment be set aside temporarily; and that the Mattingly-Armstrong amendment be set aside temporarily in order for the Senate to consider an amendment by the Senator from Arizona (Mr. DECONCINI).

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

UP AMENDMENT NO. 1213

(Purpose: To prohibit the expenditure of funds for the remodeling, redecorating, or refurbishment of the office of the Commissioner of IRS and the General Counsel of IRS)

Mr. DECONCINI. Mr. President, I thank the chairman of the Committee on Appropriations. I send an amendment to the desk on behalf of myself and Mr. ABDNOR and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DECONCINI), for himself and Mr. ABDNOR, proposes an unprinted amendment numbered 1213.

On page 74, after line 22, insert the following:

ADMINISTRATIVE PROVISION

None of the funds provided in this Act or Public Law 97-161 shall be used for the redecoration, refurbishment, or remodeling of the office of the Commissioner of the Internal Revenue Service or the office of the Chief of the Internal Revenue Service.

Mr. DECONCINI. Mr. President, I was shocked and outraged this morning to pick up the morning paper and read that the Commissioner of the Internal Revenue Service plans to spend \$85,000 to redecorate and remodel his personal office and the office of the IRS Chief Counsel, Mr. Ken Gideon. According to the article—and I had my staff confirm the numbers today—the Commissioner would spend \$5,650 to replace white modern chairs in his office with 10 mahogany and leather armchairs; \$5,617 for new blue carpet to replace the existing beige carpet; \$1,966 for a new conference table; \$4,015 for an additional door for his secretary; and \$886 for a remote-control device to open his door. These frivolous extravagances are bad enough, Mr. President, but to add insult to injury, the Commissioner wants to install a new and expanded kitchen for his office suite at a cost of over \$20,000, including \$15,000 to breakdown the walls to expand his existing kitchen facilities. The Commissioner wants to spend \$1,213 for a microwave cooking center, \$3,596 for new cabinets, and \$1,296 to cover the cost of a dishwasher, refrigerator, garbage disposal, and hot water heater. Commissioner Egger's existing kitchen has an electric range, under-the-counter refrigerator, and cabinets.

Mr. President, my amendment is simple. It would prohibit the use of any funds provided in this supplemental appropriations bill or in the con-

tinuing resolution for fiscal year 1982 (Public Law 97-161) for the redecoration, remodeling, or refurbishment of the Commissioner's office and the office of his General Counsel. The supplemental appropriations bill that we are considering today contains \$111.6 million for additional IRS activities, including the first major down-payment on the President's initiative to collect outstanding tax debt that is owed the Federal Government. The continuing resolution contains the regular fiscal year 1982 funding for the Internal Revenue Service.

Mr. President, my initial reaction to the news of this wasteful spending plan by the Commissioner was to hold up the IRS supplemental until we receive a commitment from IRS that they will not go through with this remodeling effort. But I support the President's effort to get started on a program for going after the hundreds of billions of identified tax debt owed the Government. We need to do that. But we do not need to stand idly by and allow the Commissioner of IRS slap the taxpayers of this country in the face and move ahead on a project to "goldplate" his own office at a price that most people pay to purchase a small, modest three-bedroom townhouse.

Mr. President, if this was the first instance of a top-ranking Government official spending thousands of dollars on furniture, redecorating, or remodeling, perhaps I would not be so shocked or critical. But it is not the first case, as we all know. Just a few short weeks ago, it was revealed that the Administrator of the Veterans' Administration had spent over \$50,000 to redecorate his personal office suite, including \$8,477 for a private bathroom and shower even though there was a bathroom just 30 feet down the hall; \$3,000 to refinish the floors of his office, and then decided to cover these same floors with carpet at a cost of \$6,085; \$3,520 for a judge's chair; and \$700 for prints from a Texas art museum. Then, in May, Senator ABDNOR, chairman of the Treasury, Postal Service, and General Government Subcommittee, on which I am ranking minority member, received testimony from the Federal Labor Relations Authority that its members had approved the expenditure of \$150,000 to purchase expensive desks, credenzas, and patio furniture for three offices at a time when their own storerooms were brimming over with unused furniture—some still in the packing crates.

Now we have the head of an agency responsible for collecting taxes going on a year-end shopping spree for new furnishings, new carpet, and a new kitchen that would cost as much as the average Arizona homeowner would probably spend on a small room addition to his house.

Mr. President, the American taxpayers are fed up with this type of wasteful expenditure of their tax dollars. How can we expect the citizens of this country to make the tough financial sacrifices to balance their own household budgets in the wake of deeper and more severe Federal budget cuts when our top Government officials cannot say "no" to the temptation to turn their business offices into quarters fit for a king? How can we look our constituents in the eye and say we are trying to hold down Federal spending when top Government officials are spending as much on their own offices as most people spend on a home?

Mr. President, yesterday was a golden opportunity for the Senate to tell the taxpayers that we will not spend \$736,400 for a third Senate gymnasium. We failed to do that by the narrowest of margins. Now, the next day, we have another golden opportunity to tell the American taxpayers that we will not allow our No. 1 tax collector to spend \$85,000 to redecorate and remodel his own offices. Let us not let this opportunity slip away.

I urge the adoption of the amendment.

Mr. PROXMIRE. Mr. President, will the distinguished Senator from Arizona yield?

Mr. DeCONCINI. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I congratulate my good friend from Arizona. I think this is an excellent amendment. The Senator certainly is to be commended for being so alert and so prompt and so timely and appropriate. I think he might agree with me that Commissioner Roscoe Eggers is a very able public servant, intelligent and efficient, but this is ridiculous, \$85,000 to decorate an office.

I can tell the Senator that in most cities in my State of Wisconsin that would be the biggest house in town, \$85,000. And then \$50,000 for the assistant to fix up "his digs," as they say, so that it adds up to a ridiculous and insulting amount, particularly coming from the head of the Internal Revenue Service, which, of course, is necessarily the group that collects taxes from 100 million Americans every year.

I congratulate the distinguished Senator and say that I am delighted to support his amendment. Speaking for my good friend, the Senator from Oregon, we are happy to accept the amendment. I will do all I can to see that it sticks in conference.

Mr. DeCONCINI. I want to thank the ranking member of the Appropriations Committee (Mr. PROXMIRE). He has led the charge on the floor on many occasions, and I have had the pleasure of joining him. I appreciate his support on this amendment, and also that of the Senator from Oregon.

I am prepared to vote on the amendment, Mr. President, and yield back the remainder of my time.

Mr. HATFIELD. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (UP No. 1213) was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New Mexico.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment of the Senator from New Mexico be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment by the Senator from North Carolina be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the pending amendment, I believe, is the amendment of the Senator from Georgia (Mr. MATTINGLY) and the Senator from Colorado (Mr. ARMSTRONG). Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment of the Senator from New Mexico be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I ask unanimous consent that the amendment of the Senator from North Carolina be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe the Mattingly-Armstrong amendment is pending.

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1212

Mr. ARMSTRONG. Mr. President, President James Garfield once made the observation that things do not turn up in this world unless somebody turns them up. I think the issue which has been turned up by the distin-

guished Senator from Georgia in the amendment he has offered, in which I am proud to join as a cosponsor, raises an issue of very, very great significance—significance far beyond the multimillion-dollar cost implications which are engendered.

A few minutes ago, prior to the arrival of the Senator from Maryland, I delayed my remarks so that he could be present when I made them, and specifically so that if I am not in possession of all the facts about the operation of the Government Printing Office, he would be in a position to correct me, so that there would not be any misunderstanding.

At that time, when I spoke for just a moment earlier in the afternoon, I expressed my belief, which I hold very strongly, that the issue involved in the GPO goes far beyond the dollar implications because the Government Printing Office is a legislative agency. It is an agency which is under the direct management and control of Senators.

We are in the process of going through budget after budget. The Appropriations Committee is looking right in the eye of the head of every agency and saying, "Look here. This is a year when we have to tighten our belts, when we have to get things under control and do with less."

Mr. President, when the press begins to carry reports that a legislative agency is being operated in a less than economical manner; that, in fact, there may be substantial extravagance, substantial waste, unnecessary personnel; that the salaries may be out of line in a legislative agency, that is a cause for concern that goes beyond the dollars, even though they may be significant, because it should be up to Congress itself to set an example of prudence and responsibility in the handling of taxpayer funds.

It has been brought to my attention by sources which I believe to be well informed that personnel costs comprise nearly 80 percent of the total in-house printing costs at the GPO, compared with something like 40 or 50 percent in private sector printing business.

I am told that employees of the GPO are paid at excessively high rates. In fact, it was brought to my attention this afternoon that the Comptroller General of the United States has issued a report under date of July 2, 1982, in which, among other things, it is reported that at the Government Printing Office, craft and industrial workers receive wages some 22 percent higher than other Federal employees with the same jobs.

Furthermore, the average GPO employee is paid \$11.78 per hour, compared with only \$8.39 per hour for the same workers in the private sector.

In addition, GPO compositors earn \$14.35 per hour, compared to \$11.91 in the private sector.

Offset pressmen and other workers in the GPO are paid not only more than the private sector, but also, according to information which has been brought to my attention, are paid more than workers in comparable Government operations.

In recent months, the work done by the GPO has been declining, thanks in part to the efforts of the administration and Congress to reduce the burden of paperwork. Whether or not this is a permanent or temporary phenomenon remains to be seen, but certainly a reduction in the amount of paperwork is a goal we all share.

The money that the GPO produces from its sales of documents is supposed to offset a portion of the cost of operating the Government Printing Office. During the previous 3 years, the net losses to the GPO on such sales, I am told, is in excess of \$20 million.

The President has appointed, and the Senate has confirmed, Danford L. Sawyer as the Public Printer of the United States. In this office, Mr. Sawyer has been required by law to reduce the costs of GPO so that the agency will operate on a break-even basis. He has, I believe, attempted to follow these instructions. He has reduced unnecessary overtime. He has proposed reducing the work force by early-out retirement for eligible employees. He is closing some of the inefficient operations around the country.

In addition, I am told that Mr. Sawyer is seeking to bring GPO wages in line with those of other Federal employees.

A controversial court case recently brought home the question of whether or not some of the actions which the Public Printer has taken or proposes to take are fully consistent with the statute and with the direction of the Joint Committee on Printing.

That case, while I do not have it before me, in brief, revolves around the issue of whether or not the policy of furlough, the reductions in force, and so forth, was within his discretion. The court held that it was not within his discretion, as the result of a resolution recently adopted by the Joint Committee.

That is a source of concern, because the result of this sequence of events is that there have been widespread press reports that the Government Printing Office is not operating efficiently, that we are paying too much per employee, and that we have too many employees on board.

Yesterday, I met briefly on two occasions with the staff of the Joint Committee, and the information they gave me indicates that, as in most controversies, there are two sides to the story.

I do not know all the facts. My disposition is to believe the information with respect to the salary issue, which has been discussed by the report of the Comptroller General, that perhaps there is some need for reform in the payment of salaries at this agency. Possibly there is a reason why the salaries at GPO are out of line with other legislative agencies and the private sector, but at least my instinctive feeling is that that is not the case.

In addition, there is the question of the overall staffing of the agency.

Mr. President, it is for that reason that I have joined in sponsoring this amendment, and I have under consideration other amendments which would lead to reform of this situation.

In support of that, I submit for the RECORD a summary of the events which has been prepared by GPO, outlining the facts I have mentioned and which I think would be worthwhile for the Senate to have in its record, in entirety. It deals not only with the narrative of the appointment and management practices of the Public Printer, but also with the question of the volume of printing being done at GPO, the hiring freeze, the early-out retirement, the closure of bookstores, the proposal for wages which has been put forward by the Public Printer, the court case I have referred to, the action by the Joint Committee on Printing, and a comparison of the earnings of various GPO employees with the private sector and with other Government employees.

Mr. President, I send that summary to the desk and ask unanimous consent that it be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF EVENTS

The U.S. Government Printing Office (GPO) is a legislative branch agency created by Congress in 1860. GPO's original mission was to provide printing and binding services to the Congress. Over the years its mission has expanded, and today the agency provides printing for all three branches of government, and is also responsible for the distribution and sale of government documents. The GPO's main plant is located at North Capitol and H Streets in Washington, D.C. It also has six regional printing plants, thirteen regional printing procurement offices, and twenty-seven bookstores scattered throughout the continental United States. The agency employs 6,200 people, and in 1981, produced \$181 million worth of printing in-house, and procured over \$464 million commercially. The head of the GPO, the Public Printer, is appointed to an indefinite term by the President of the United States with the advice and consent of the Senate.

In August 1981, Danford L. Sawyer, Jr., a successful publisher and advertising executive from Sarasota, Florida, was confirmed as Public Printer. Mr. Sawyer recognized that the GPO, since it is basically a manufacturing and distribution organization, was one government agency where sound business principles could be utilized to lower costs and increase productivity. During his

first year in office, Mr. Sawyer has sought to bring the rising costs associated with government printing under control.

Both before and after his confirmation, Mr. Sawyer spent months studying closely all aspects of the operation of GPO, and conferred at length with former Public Printers and other former, and present, GPO officials. In addition he familiarized himself with studies prepared by private management consultants regarding GPO operations, and by the General Accounting Office and the Department of Defense relating to GPO and federal wage scales. During this intensive study, the Public Printer found:

GPO PRINTING COSTS TOO HIGH

The in-plant printing costs at GPO are excessively high, and Congress and customer agencies are being overcharged for printing. For example, in a recent sampling over a one-month period, one-time bids for work over \$5,000 totaled \$495,064 from the private sector, as compared to \$1,053,507 from the Government Printing Office for the same jobs. The GPO bids were 113 percent higher.

One reason for this disparity between GPO bids and private sector bids is that personnel costs for in-plant production at GPO account for over 80 percent of expenses, as compared to 40-50 percent in the private sector.

SALARIES FOR CRAFT AND INDUSTRIAL WORKERS EXCESSIVE

The salaries of craft and industrial workers at GPO are, on a mean average, 22 percent higher than salaries paid to other Federal workers performing the same or similar tasks in other agencies who are paid under the prevailing rates of the Federal Wage System. The magnitude of the wage problem in certain divisions at GPO is spelled out in a study of 1981 earnings done by GPO's Labor Management Office. That study shows that over 55% of those who worked in the Composing Division made an excess of \$30,000 annually and that 55% of those in the Electronic Photocomposition Department made an excess of \$35,000 annually. Those figures do not include salaries of supervisory personnel.

In comparisons to the private sector in 11 other cities, and based on figures researched by Printing Industries of America, GPO pressmen earn up to \$6.48 an hour more (\$17.53 per hour as compared with \$11.05 per hour) than their private sector counterparts in Boston. GPO bookbinders earn \$16.68 as compared to \$8.46 an hour in Dallas. In all the cities checked, the GPO workers earned substantially more than the private sector average for those particular occupations. It should be noted that this excludes newspaper rates which do not apply to demand print shops, such as the GPO. It is also the case that other GPO craft workers, such as carpenters, earn higher wages (\$14.35 compared to FWS Scale in other Federal agencies of \$11.32 per hour), while GPO painters earn \$14.35 versus other Federal painters who earn \$10.76 per hour. Indeed, there are not any skilled craftsmen or industrial workers at GPO who do not earn more than their counterparts elsewhere (Attachments #2 and #3).

According to figures from the General Accounting Office, the GPO is higher than the FWS rate, ranging anywhere from 8.8 percent for forklift operators to 28.8 percent higher for carpenters. Even janitors make 21.4 percent more at the GPO. Compositors make 18.7 percent more, and bookbinders

earn 10.8 percent more. Comparisons to the regular wage scale were made at Step 5, which is the highest step of the FWS pay schedule. Step 5 is 12 percent higher than Step 2, which is the average prevailing private sector rate (Attachment #4).

GPO'S CRAFT SYSTEM CREATES NUMEROUS PROBLEMS

The legislation now being proposed includes provisions which would require the reclassification of all GPO workers under either the prevailing wage or general schedule classification system, and the payment of wages in accordance with those systems. For the white-collar General Grade workforce at the GPO the reclassification would have only a minimal impact, if any, since the GPO now follows the general schedule in its classification practices. However, for the GPO craft and industrial workers, reclassification under the prevailing wage system (and its printing and lithographic scales) would be a major alteration of the present journeyman craft system at GPO.

Part of the wage problem in the existing GPO craft system is that non-related occupations, such as plumbers and compositors, are tied together for wage purposes. Thus a plumber is paid a certain percentage of compositor journeyman wages—although there is no discernible connection between the two jobs. The prevailing wage classification system would sever this connection, and each occupation would be paid on its own merits. The prevailing wage classification would also do away with many of the barriers to entry and discriminatory aspects of the existing system at GPO.

OTHER LEGISLATIVE BRANCH AGENCIES FOLLOW PREVAILING RATE SYSTEM

Other legislative branch agencies, which have a significant number of blue collar workers, have adopted the prevailing rate Federal Wage Grade system to compensate those employees. The Architect of the Capitol has opted to follow the Wage Grade System for approximately 1800 of its employees, while the pay of the remaining 100 to 200 employees follows that of the General Schedule (GS). The Library of Congress pays approximately 2450 of its employees in accordance with the General Schedule. Over 2000 of their blue collar workers are paid under the Wage Grade prevailing rate system, while approximately 30 to 50 of their employees are paid in accordance with the Lithographic and Printing Wage Schedule. This utilization of the prevailing wage system by these various legislative branch agencies was required by the Congress when it enacted 5 U.S.C. § 5349, although this requirement does not presently apply to GPO.

LEGISLATIVE AND EXECUTIVE PRINTING VOLUME DOWN

The demand for printing by Congress and Executive branch agencies is diminishing; the latter because of a requirement by the Office of Management and Budget (Bulletin No. 81-16; 4-21-81) that the department and agency heads justify the need for every government publication. For example, Agriculture, one of the biggest purchasers of government printing, will go down from 16.4 million dollars to 16.2 million within the next two years; Education from 3.8 million dollars to 2.3 million, and, in total, Executive Branch printing will go down from 145.2 million dollars to 134 (Attachment No. 5). In addition, the volume of work done for Congress has decreased dramatically (Attachment No. 6).

Since becoming Public Printer, Mr. Sawyer has taken the following steps to

make the operation of the Government Printing Office more cost-effective and efficient:

1. He imposed a hiring freeze which resulted in the loss of 430 employees due to attrition or retirement since September, 1981.

2. He requested that the Office of Personnel Management authorize an "early out" retirement for eligible employees. If approved, the "early out" could reduce the payroll by as many as 500 workers.

3. He proposed to close twenty-three bookstores (Estimated net savings to the government—\$1 million) and developed an aggressive marketing campaign to promote mail order sales to the general public.

4. He rescinded a sixteen percent (16 percent) price increase for printing. There has been no price increase at GPO for more than two years.

5. He proposed a twenty-two percent cut in the wages paid to GPO's craft and industrial workers over a three year period. This would save GPO some \$18,000,000. (GPO Unions have proposed a 20.5 percent increase over a two year period which would cost the taxpayers an additional \$20,664,102.)

6. He proposed a nationwide study of printing needs of the federal government with special emphasis on rejustifying nearly 300 independent agency printing plants authorized by the Joint Committee on Printing.

7. He proposed to furlough the entire workforce at GPO for six days to help offset a \$4.9 million deficit in the Printing and Binding operation resulting to a large degree from the fall-off in printing orders from Executive and Legislative Branch agencies in the first five months of fiscal year 1982.

8. He raised the sales price on all government documents in order to fully recover the cost for printing those documents, and he emptied GPO warehouses of over \$11 million worth of unsaleable government documents and sold them as scrap for \$760,000.

While the Public Printer has successfully implemented many long overdue changes at GPO, a number of his initiatives have been stymied by opposition from the congressional committee which oversees the GPO: the Joint Committee on Printing (JCP). The JCP is composed of the chairman and four members of the House administration committee and the Chairman and four members of the Senate Rules and Administration Committee. The Chairmanship rotates each Congress between the chairmen of the Senate and House Committees. The JCP exercises broad oversight powers under Title 44 of the United States Code, which also gives the committee authority over some specific GPO operations, and the JCP has used this authority to prevent the Public Printer from taking a number of measures he considers necessary for the responsible and cost-effective operation of GPO.

FURLOUGH LAWSUIT

Four GPO employees, claiming to represent all other GPO employees, and nine GPO unions sued Public Printer Sawyer to prevent him from conducting a planned six-day furlough of all GPO employees over the last seven months of this year. The unions sought an injunction against the furloughs, a declaratory judgment that the Public Printer could not furlough in the face of a JCP resolution which prohibited him from taking any adverse personnel actions whatsoever, and a mandamus with-

drawing the Public Printer's furlough notices.

The primary arguments put forth by the unions were: the JCP had extraordinary control over GPO management because of the statutory scheme of Title 44, United States Code; the JCP had jurisdiction over personnel matters because of its rate of wage setting authority under the Kiess Act; and the furlough was a change of wages which must be approved by the JCP. The Public Printer maintained that: the head of the GPO has had the authority to furlough since the agency was established in 1860 and he has exercised that authority many times since that date; a furlough is not a change in the rate of wage (dollars per hour worked) under the Kiess Act, and thus the JCP need not approve the furlough; that the Kiess Act required him to conduct the furlough because it prohibits him from employing more people than necessary to do the agency's work, and that the Civil Service Reform Act clearly retains for management the exclusive right to determine when a furlough is necessary.

Judge Gasch issued an opinion which ordered the Public Printer not to conduct the planned furloughs as long as the May 11 resolution was in effect. The judge found that the Public Printer has the authority to furlough, and that the Kiess Act appears to require him to do so under the present circumstances. However, the judge also determined that since the JCP has some authority over personnel matters under the Kiess Act, the furlough works a change in compensation, and the JCP is empowered to prevent waste at the GPO, the JCP could stop the furlough by means of the resolution.

In light of the decision, the July furlough date was cancelled. The Solicitor General of the Department of Justice is now considering appeal of the decision to the U.S. Court of Appeals, for the District of Columbia.

ATTACHMENT NO. 1

1981 EARNINGS

Gross compensation	Number of employees	Percent of total
Composing Division		
\$45 to \$49,999	0	0
\$40 to \$44,999	23	5.7
\$35 to \$39,999	104	25.7
\$30 to \$34,999	108	26.7
\$25 to \$29,999	57	14.1
\$20 to \$24,999	44	10.9
\$15 to \$19,999	10	2.4
\$10 to \$14,999	15	3.7
\$5 to \$9,999	44	10.8
Total	405	100.0
Electronic Photocomposition		
\$45 to \$49,999	29	4.1
\$40 to \$44,999	180	25.5
\$35 to \$39,999	180	25.5
\$30 to \$34,999	173	24.6
\$25 to \$29,999	72	10.2
\$20 to \$24,999	25	3.6
\$15 to \$19,999	27	3.8
\$10 to \$14,999	16	2.3
\$5 to \$9,999	3	0.4
Total	705	100.0
Press Division		
\$45 to \$49,999	1	0.2
\$40 to \$44,999	53	8.7
\$35 to \$39,999	104	17.1
\$30 to \$34,999	116	19.0
\$25 to \$29,999	54	8.9
\$20 to \$24,999	173	28.4
\$15 to \$19,999	75	12.3
\$10 to \$14,999	25	4.1
\$5 to \$9,999	8	1.3
Total	609	100.0

1981 EARNINGS—Continued

Gross compensation	Number of employees	Percent of total
Binding Division		
\$45 to \$49,999	0	0
\$40 to \$44,999	4	0.5
\$35 to \$39,999	60	7.7
\$30 to \$34,999	72	9.3
\$25 to \$29,999	79	10.2
\$20 to \$24,999	329	42.4
\$15 to \$19,999	197	25.4
\$10 to \$14,999	20	2.6
\$5 to \$9,999	15	1.9
Total	776	100.0

ATTACHMENT 2—SURVEY OF PRIVATE INDUSTRY—UNION PRINTING WAGES IN SELECTED CITIES

In developing the Survey, we used the hourly wage and then computed the value of the holidays, vacation, and pension which were provided to the employees based on their contracts.

The following dollar figures for pressmen are thus a composite of both wage rates and these benefits:

GPO	\$17.53
Baltimore	11.81
Boston	11.05
Detroit	14.87
Houston	12.49
Minneapolis	15.42
Philadelphia	11.22
Pittsburgh	11.55
St. Louis	14.27
San Francisco	16.37
Washington, D.C.	14.81
Chicago	12.73

The average excluding GPO of the eleven cities was \$13.33. We did not have information for Dallas or New York at the time of the study.

For strippers, based on GAU contracts, the rates were:

GPO	\$17.53
Baltimore	12.22
Boston	13.69
Dallas	11.38
Detroit	16.41
Houston	13.12
Minneapolis	17.57
Philadelphia	18.90
Pittsburgh	16.53
St. Louis	14.30
San Francisco	16.96
New York	15.78
Chicago	16.14

The average excluding GPO of twelve cities was \$15.25.

Bookbinders:

GPO	\$16.68
Baltimore	10.47
Dallas	8.46
Detroit	13.41
Houston	12.50
Minneapolis	15.20
Philadelphia	10.77
Pittsburgh	11.37
St. Louis	12.73
San Francisco	15.28
Washington, D.C.	14.88
Chicago	15.42

The average excluding GPO of the eleven cities was \$12.77.

Compositors:

GPO	\$16.94
Baltimore	10.72
Boston	13.31
Detroit	13.41

Houston	12.11
Minneapolis	13.31
Philadelphia	11.45
Pittsburgh	13.49
St. Louis	11.82
San Francisco	18.31
Washington, D.C.	13.43
New York	20.07
Chicago	16.83

The average excluding GPO of twelve cities was \$14.02.

Journeymen Bindery Workers:

GPO	\$10.86
Baltimore	10.47
Dallas	6.30
Detroit	10.36
Houston	7.87
Minneapolis	10.78
Philadelphia	6.82
Pittsburgh	6.42
St. Louis	7.60
San Francisco	11.75
Washington, D.C.	10.47
Chicago	11.36

The average excluding GPO of eleven cities was \$9.11.

The American Newspaper Publishers Association report on wages as of February 1982, indicates that the average salary for twenty (20) cities for:

Compositors \$11.86;
Pressmen \$11.51;
Photoengravers \$11.77; and
Mailers \$11.17.

EXHIBIT 4

	Current GPO rates	Federal wage system or lithographic wage schedule rates
Carpenters	\$14.35	\$11.32
Painters	14.35	10.76
Electricians	14.35	11.32
Stationary engineers	14.35	11.32
Elevator mechanics	14.35	11.32
Masonry mechanics	14.35	11.32
Pipefitters	14.35	11.32
Sheetmetal mechanics	14.35	11.32
Pressmen	14.84	12.46
Offset press feeder/assistants	9.65	8.10
Offset press assistant	10.39	8.72
Offset strippers	14.84	12.79
Offset photographers	15.18	13.45
Offset platemakers	14.84	13.13
Bookbinders	14.11	11.80
Journeyman bindery workers	9.03	7.45
	9.29	7.67
	10.09	8.34
Compositors	14.35	12.12
Monotype castersmen	10.05	8.49
Saw operators	10.34	8.73
Slide bank operators	10.48	8.85
Sorts castersmen	10.48	8.85
Spool deskmen	11.05	9.33
Matrix keepers	11.05	9.33

COMPARISON OF GPO AND FWS WAGE RATES¹

(Attachment 4)

Occupation	GPO pay rate	FWS rate ²	Differences	
			Dollars	Percent
Bookbinder	\$27,230	\$24,573	\$2,657	10.8
Compositor	27,685	23,320	4,365	18.7
Carpenter	27,419	21,286	6,133	28.8
Electrician	27,419	22,410	5,009	22.4
Forklift operator	18,009	16,559	1,450	8.8
Janitor	14,600	12,028	2,572	21.4

¹ Because of differences in the number and timing of wage adjustments, we determined annual earnings by computing a weighted average hourly wage rate and multiplied it by 2,080 hours, the number of hours in an 8-hour day, 260-day work year.

² Bookbinder and Compositor were compared to the FWS "Lithographic and Printing Plant Wage Schedule" and the other occupations were compared to the FWS regular wage schedule. Comparisons to the regular schedule were

made at step 5 which is the highest step of the FWS pay schedule. Step 5 is 12 percent higher than step 2 which is the average prevailing private sector rate.

TABLE 2—TOTAL SPENDING ON PERIODICALS AND PAMPHLETS (PUBLICATIONS), 1981–83

(Obligations in millions of dollars)

Department or other unit	1981 actual	1982 estimate	1983 estimate
Executive Office	1.2	0.9	1.0
Agriculture	16.4	16.3	16.2
Commerce	6.0	6.0	6.1
Defense	30.5	30.0	31.2
Education ¹	3.8	2.8	2.3
Energy ²	17.2	17.5	13.2
Health and Human Services	(21.6)	NA	NA
Housing and Urban Development	5	8	9
Interior	7.4	6.5	6.3
Justice	1.8	1.6	1.7
Labor	5.4	5.3	5.3
State	1.8	1.9	1.8
Transportation	7.4	5.6	5.6
Treasury	11.4	11.6	11.9
Environmental Protection Agency	4.1	3.5	3.6
National Science Foundation	3.1	2.6	2.8
Veterans Administration	1.4	1.5	1.5
Other Independent Agencies:			
ACTION	1.1	.8	.7
Agency for International Development	4.0	2.9	2.7
Consumer Product Safety Commission	.8	.3	.5
General Services Administration	4.2	4.6	4.4
National Aeronautics and Space Administration	3.4	3.3	2.9
Office of Personnel Management	4.2	3.7	3.4
Small Business Administration	.9	1.1	1.0
All other independent agencies	7.2	7.0	7.0
Total	145.2	138.1	134.0

¹ The President's budget proposes dismantlement of the Department of Education (DEd) effective October 1, 1982. FY 1983 funding for activities currently performed by DEd will be transferred to the Foundation for Education Assistance, the Depts. of Defense, HHS, Interior, Justice, and Treasury and to other independent agencies.

² The President's budget proposes dismantlement of the Department of Energy (DOE) effective October 1, 1982. FY 1983 funding for activities currently performed by DOE will be transferred to the Departments of Commerce, Interior, and Justice and to the Federal Energy Regulatory Commission.

Central office printing and binding operations gains and losses—first 5 months of each fiscal year

1973 ¹	\$964,727
1974 ¹	234,309
1975 ¹	-2,470,807
1976 ¹	1,684,807
1977	-4,680,536
1978	3,906,138
1979	-442,194
1980	1,905,403
1981	2,143,193
1982	-4,912,200

¹ October to February was used for fiscal year 1973 thru fiscal year 1976 to be comparable with the other fiscal years.

Scale of Prices Changes:
September 16, 1974—12 percent surcharge to January 1, 1973 scale.

October 1, 1975—New scale of prices, 10 percent increase.

April 1, 1977—5 percent surcharge on October 1, 1975 scale.

July 25, 1977—20 percent surcharge on Divisions 4 and 5.

January 1, 1978—New scale of prices, 6 percent increase.

May 1, 1979—13 percent surcharge on Division 5.

March 1, 1980—15 percent surcharge on Division 7.

March 1, 1982—New scale of prices, 16 percent increase.

Congressional workload billed

Fiscal year:	Pages
1973	345,198
1974	516,877
1975	399,627
1976	593,763
1977	358,867

1978.....	429,969
1979.....	440,565
1980.....	452,901
1981.....	434,380
1982.....	343,548

Mr. ARMSTRONG. Mr. President, before I yield the floor, and I am hopeful that the Senator from Maryland, who is the chairman of the committee, can enlighten us on this because this is a matter on which he is more knowledgeable than I and perhaps there are factors of which I am not aware and I hope that that is the case because superficially at least it appears to me we have a problem that needs to be coped with.

But before I do that I also send a communication from the International Typographical Union addressed to CTU members to the desk and ask unanimous consent that it also be printed in the RECORD at this point, simply so that we have some flavor of both sides in the RECORD.

There being no objection, the communication was ordered to be printed in the RECORD, as follows:

U.S. GOVERNMENT PRINTING OFFICE
CHAIRMEN'S CHAPEL,
Washington, D.C., August 10, 1982.

To: CTU Members.

From: Communication From President Boardman.

President Boardman just called from the Hill to tell me that Senator Mattingly is attaching an amendment to Appropriation Bill H.R. 6863 to cut our wages by 22 percent and destroy collective bargaining at G.P.O. This bill will be co-sponsored by Senator Armstrong and Senator Zorinsky.

This bill was supposed to go on the floor of the Senate tonight but President Boardman with the help of a few Senators postponed it until tomorrow, so it gives us a little time to regroup.

Bill asked me to get the message to all members that it is imperative that each member contact his or her Senator tomorrow morning (Aug. 11, 1982) and ask them to vote against this amendment. Not only would this be a great monetary loss it would be the end of collective bargaining and I think we all know what that would mean at the Government Printing Office.

Below are the local Senators and their numbers:

Virginia: Harry F. Byrd, Jr., 224-4024; John W. Warner, 224-2023.

Maryland: Paul S. Sarbanes, 224-4524.

West Virginia: Robert C. Byrd, 224-3954; Jennings Randolph, 224-6472.

Pennsylvania: John Heinz, 224-6324; Arlen Specter, 224-4254.

I cannot stress the importance of contacting your Senators. Anyone wishing numbers of other Senators ask me and I will get you his number.

EARL SHIRKEY.

Mr. ARMSTRONG. Mr. President, the letter which at my request has been printed in the RECORD is in my judgment and I think the judgment of other Senators counterproductive to the effort to resolve this issue and, in fact, my own decision to offer an amendment here today arises directly from the circulation of this letter. I have been considering, as have other

Senators for some time, the question of whether or not this was the moment at which this issue should be raised on the floor, and I had decided that perhaps this could be something that could be delayed; however, since all Senators or at least many Senators had received a letter indicating that the Senator from Georgia and I were considering an amendment I thought since one side of the issue had been raised in that way I at least would want to go ahead and bring the issue more fully into public disclosure.

So, Mr. President, that is the question. There is a report by the General Accounting Office that indicates these employees are overpaid. The Public Printer says he could get by with a substantially smaller work force. The court has ruled that he lacks the authority to take these management actions. And the question I think that the Senate needs to address itself to is where do we go from here?

The PRESIDING OFFICER. The question is on the amendment of the Senators from Georgia, Colorado, and Nebraska.

Mr. MATHIAS. Mr. President, I welcome the amendment that these three distinguished Senators have brought to us. I will welcome it even more if it passes, because, if it passes, it will make it unnecessary for the Joint Committee on Printing to do any more work. I do not think anyone around here is looking for extra work, and the work of the Joint Committee on Printing is, of course, in addition to everything else that we do here in the Senate. So I hope the Senator from Colorado will prevail today and let the whole Senate take over the work of the Joint Committee on Printing.

I think that would have many salutary effects, especially on the Senator from Maryland, because night after night I sit in my office and sign contracts to procure the paper, the ink, the glue, and the other supplies that keep the Government Printing Office in operation. I would be happy if the Senate would take over that task.

Maybe whoever is presiding in the chair could take over the job, if he is not too interested in the debate as it goes along, and sign those procurement contracts, because that really is what this amendment proposes: That the Senate take over the operation of the whole vast worldwide, farflung printing empire that is operated by the U.S. Government.

The Senator from Colorado says that the salaries are out of line. I must say at the outset on that question, Mr. President, that I cannot testify firsthand because I have only been a member of the Joint Committee on Printing for less than 2 years and I do not know from personal experience what the contract negotiations have been, but I am aware of the record.

I believe the record is that my predecessors on the Joint Committee on

Printing have never granted a wage increase greater than that which was offered by the Public Printer. Of course, it may be that the Public Printers have been way out of line, but it will take a lot of research to study that question.

But the Joint Committee on Printing has never gone beyond what the Public Printer thought was fair, what the Public Printer thought was the market rate, what the Public Printer thought was the prevailing wage in the industry.

When you talk about this industry, I think you also have to recognize that GPO is not a normal commercial printing plant. We have some of its products here in the Chamber today. We have committee reports. We have the CONGRESSIONAL RECORD.

I take this opportunity to salute the people, the men and women, who work in the Government Printing Office and who somehow or other manage to get the CONGRESSIONAL RECORD out almost every day, even though the sessions of the Senate and the other body may last until midnight or longer. They work under unusual conditions. They do not just have a contract operation where they are publishing a magazine or a book on a regular basis, month in month out, year in year out. They have to do special things. They work under special conditions.

Just to make the record about whether or not these salaries are out of line, in 1972 the Public Printer offered a 7-percent increase, which was based upon a 5.5 percent Federal Pay Board guideline plus a 1.5-percent increase which was authorized pursuant to the President's wage-price stabilization program. The photoengravers appealed to the Joint Committee claiming that the traditional formula for calculating wage rates would have provided for an 11-percent increase. The Joint Committee denied the appeal and they granted the 7 percent, which was all that had been recommended by the Public Printer.

The next negotiation—again, Mr. President, I make the point that I was not there; I am reading from the record—was 1973. The Public Printer offered an 8.5-percent increase, when the 17-city formula from the Bureau of Labor Statistics would have provided for an 11.7-percent increase, and the local private sector scale would have provided for a 14-percent increase. But the Joint Committee on Printing ratified the 8.5-percent increase that had been recommended by the Public Printer.

In 1974 the Public Printer, ignoring the traditional formula, offered a 12-percent increase, which was accepted by the employees. The traditional formula in that year would have yielded an increase of somewhere between 17 and 20 percent. The Joint Committee

on Printing ratified the 12-percent increase.

In 1975 the Public Printer offered a 10.5-percent increase. The local area wage settlement in the private sector was 9 percent. The national average was 12.5 percent. At the Bureau of Printing and Engraving the personnel received increases ranging from 10 to 16 percent. The Joint Committee ratified the 10.5-percent offered by the Public Printer.

Now, in 1976, the Public Printer offered a 7.2-percent increase. The local Washington settlement in the private sector was a 9-percent increase. The Joint Committee ratified the offer made by the Public Printer.

Well, Mr. President, I will go on if the Senator from Colorado and the Senator from Georgia and the Senator from Nebraska would like me to go on, but it is very difficult to see the justification for saying that the wages they earn are out of line. Whether they are out of line at the moment is a matter that is currently being determined by a factfinder who has been appointed by the Joint Committee on Printing, with the approval of the Public Printer and with the approval of the representatives of the employees.

The factfinder, who is a trained mediator, was provided in a list offered by the Federal Mediation and Conciliation Service, will shortly render to the Congress his recommendations on what the wages ought to be, and I presume they will not be out of line. They will be in line with other people who do comparable work under comparable working conditions. The Joint Committee on Printing will then confer with the Public Printer, with the employees; and, as required by law, we will make some determination. It will not be a determination that is out of line with similar work in this area.

Again, as I say, I am happy to continue this narrative right up to the current time, but I think this historical background has at least set the stage for what we are trying to do.

There are some questions about general staffing, which the Senator from Colorado has raised, and the committee is going to look into those questions of general staffing. For example, the Public Printer has increased the administrative payroll by about \$1.5 million in less than a year. He has upgraded or modified different positions and has created 37 new administrative positions. These may be entirely justified in the interest of more efficient practices. I am not saying they are or not. I am going to give the Public Printer the benefit of the doubt for the moment.

At the proper time, we will inquire of him why he felt it was necessary to raise administrative costs and to establish 37 new administrative positions. But in the meantime, I have to assume he is carrying out his charge to oper-

ate the Government Printing Office as efficiently and as effectively as possible.

I can assure the Senator from Colorado that we will be pursuing the question of general staffing, including new administrative positions.

I said I welcomed this amendment, and I do for more than the reasons I already stated, because I think it does give us an opportunity to discuss briefly the special situation of the Government Printing Office.

It is an enormous enterprise. It has offices all over the Nation. It does printing and publishing for every department of the Government. I am in constant correspondence with the Secretary of the Navy, the Secretary of the Army, the Secretary of the Air Force, and with other officials about the printing that goes on within their establishments.

Some of this printing is done on Government presses; a great deal of it is done on contract by private printers. It is a very delicate mix as to how much is done in-house and how much is done out-of-house on contract; and, of course, the number of employees needed to be carried on the Government payroll is affected by how much is done in-house and how much is done by contracts by private-sector printers.

Also, of course, it is a Government activity that is affected by technology. When the Joint Committee on Printing was established in 1860, the only way to communicating ideas was with paper and ink, if you were beyond the range of a given voice. Today we have a great deal more than the vocal chords and paper and ink with which to communicate. We can transmit by satellite, we can transmit by wires, we can have microfiche or microfilm; we can have word processors, computers; we can store and retrieve information electronically, and all of these are the ways we can communicate facts and ideas today. All of these are methods that the U.S. Government should be using to communicate vital facts and ideas to people who want and need them.

This is the interest of the Joint Committee on Printing.

Mr. HATFIELD. Mr. President, will the Senator yield for a question?

Mr. MATHIAS. I am happy to yield.

Mr. HATFIELD. Is there any possibility that we can work out a time agreement between the Senator from Colorado and the Senator from Maryland on the remaining period for this amendment?

Mr. MATHIAS. May I say to the distinguished chairman of the Appropriations Committee there is no possibility.

Mr. HATFIELD. No possibility.

Mr. MATHIAS. No possibility of a time agreement.

Mr. HATFIELD. May I ask the Senator from Maryland another question?

The Senator from Maryland realizes that we have about eight or nine other amendments to handle here so that we can finish this bill tonight, because it is required to go to conference in the morning, Thursday, in order to complete the conference on Thursday to get this bill back to the Senate to act upon before the recess, along with many others that are stacked in sequence, according to the leadership schedule?

Mr. MATHIAS. Let me say to the distinguished chairman of the Appropriations Committee, I would like to paraphrase a great general, we will fight it out on this line if it takes all summer.

Mr. HATFIELD. The Senator is very discouraging in his responses to my questions. I hope that perhaps I can pose this question again.

Mr. MATHIAS. Let me say to the Senator from Oregon, the distinguished chairman of the Appropriations Committee, the manager of this bill, that this is a fight I did not choose to make.

Mr. HATFIELD. I see. I thank the Senator from Maryland. I would like to rephrase my question for the same purpose a little later on in the afternoon.

Mr. ARMSTRONG. Mr. President, would the Senator from Maryland yield to me?

Mr. MATHIAS. I would be happy to yield for a question, if I may do so without losing my right to the floor.

Mr. ARMSTRONG. I believe I would like to direct two or three questions to the Senator. First, on the question of salaries: In the discussion of how salaries are set, the amount of salaries, there was sort of an undercurrent that, there was speculation that, these salaries were out of line with comparable salaries in the private sector and in the Government sector. I am under the impression—and I would like to pin that down because if that is a speculative issue, then I have been misled—I am under the impression that, in fact, the General Accounting Office study of July 1982 asserts that GPO employees are paid substantially larger amounts than their counterparts either in Federal service elsewhere or in the private sector. If I am mistaken about that, then that would greatly change my view of the entire situation.

Mr. MATHIAS. Well, as I said to the Senator from Colorado, I have had no previous experience in these wage negotiations. I am coming on this question de novo, and my first exposure will be the current one which we are in the middle of now, and for which we have appointed a factfinder. I can only assure the Senator from Colorado that when we get the report of the factfinder, we will look at salaries in the industry generally, we will look at

comparable salaries in Government, and we will look at the record.

Mr. ARMSTRONG. Mr. President, I do not mean to be unduly insistent and, of course, if the Senator would like to reserve his response to my questions for another occasion I will be understanding, but I want to pin this down. I have been led to believe by the GAO in their report of July 1982, not Mr. Sawyer, not the newspapers, not Jack Anderson but the GAO, which has issued this report of July 1982, that it finds that salaries are significantly higher, several thousand dollars per position higher, than prevailing wages in Federal service or comparable jobs in other agencies or in private sector employment.

I want to make it absolutely clear that I am not familiar even with how we got into this situation, if it exists, and I certainly do not lay that at the doorstep of the Joint Committee or the distinguished chairman or any particular person.

My concern is that this raft of newspaper articles, which has begun to appear, has created the impression that Congress is insensitive to that, but first I want to know if, in fact, it is true, and whether we can straighten it out if it is.

Mr. MATHIAS. Well, of course, the raft of newspaper articles that we have seen are appearing because the Public Printer has been going around making speeches and creating the articles. In fact, the Congress has been working very hard to try to have the most efficient, effective operation possible. And if we could work cooperatively, if we had the cooperation of the Public Printer, I think that process would proceed more rapidly and more successfully.

When the Senator propounded his question, I started to describe briefly what we have been doing to get at these very questions.

Let me just say that I see the Senator has in his hand that blue-backed folder, which looks to be like a report from the Comptroller General. Perhaps, so that the point he has just made can be abundantly on the record, he would like to put that report, or such portions of it as he thinks are pertinent, in the RECORD at this time. I have no objection to that.

Mr. ARMSTRONG. If the Senator would yield briefly, I will send the report to the desk and ask unanimous consent that it appear in the RECORD at this point.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[Report by the Comptroller General of the United States]

COMPARISON OF COLLECTIVELY BARGAINED AND ADMINISTRATIVELY SET PAY RATES FOR FEDERAL EMPLOYEES

(Approximately 643,000 Federal employees who collectively bargain for wages are

paid more than their Federal Wage System and General Schedule counterparts. Both collective bargaining and Federal Wage System employees have received cumulative percentage pay increases over the past 5 to 9 years that are substantially larger than pay raises granted General Schedule employees. As a result, agencies are having difficulty preserving a pay differential between General Schedule supervisors and collective bargaining and Federal Wage System blue-collar employees.)

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C.

HON. MARY ROSE OAKAR,
Chair, Subcommittee on Compensation and Employee Benefits, Committee on Post Office and Civil Service, House of Representatives

DEAR MADAM CHAIR: In response to your March 16, 1981, letter, we have compared the compensation of Federal employees, who collectively bargain for wages, with General Schedule and Federal Wage System employees. We also examined the history and extent of collective bargaining for wages in State and local governments.

As requested by your office, we did not obtain agency comments on this report. Also, as arranged with your office, unless you publicly announce this report's contents earlier, we plan no further distribution of this report until 10 days from its issuance date. We will then send copies to interested parties and make copies available to others upon request.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General
of the United States.

[Comptroller General's Report to the Subcommittee on Compensation and Employee Benefits, Committee on Post Office and Civil Service, House of Representatives—Comparison of Collectively Bargained and Administratively Set Pay Rates for Federal Employees]

JULY 2, 1982.

DIGEST

Comparability with the private sector is generally the guiding principle for setting Federal employee pay rates. For the systems covering most Federal employees—General Schedule for white-collar employees and Federal Wage System for blue-collar employees—pay rates are reviewed and adjusted each year through administrative processes. Pay rates for certain other Federal employee groups are determined by collective bargaining.

At the request of the Chair, Subcommittee on Compensation and Employee Benefits, House Committee on Post Office and Civil Service, GAO reviewed and compared the compensation of Federal employees who collectively bargain, with those whose pay is set administratively. The Chair also asked GAO to obtain information on collective bargaining in State and local governments.

Federal employees who bargain for pay usually are paid more than their General Schedule and Federal Wage System counterparts. In 46 of 48 (96%) comparisons covering 17 occupations, GAO found that bargaining employees earned from \$491 to \$13,583 more in fiscal year 1981 than their Federal Wage System counterparts. Also, postal letter carriers covered by the Postal Service bargaining agreement were paid \$5,490 more in fiscal year 1981 than their General Schedule counterparts.

Over the past 9 years, cumulative percentage pay increases for nonpostal collective bargaining employees have been comparable to Federal Wage System employees' increases but have far outpaced General Schedule employees' pay raises. Postal letter carriers have received pay increases of 123 percent; nonpostal collective bargaining employees 108 percent; Federal Wage System employees 111 percent; and General Schedule employees 70 percent. In comparison, the Consumer Price Index increased 113 percent over the 9-year period.

Because of differences among the pay systems, agencies are having difficulty preserving a pay differential between General Schedule supervisors and nonpostal collective bargaining and Federal Wage System blue-collar employees. More and more supervisors find themselves supervising blue-collar employees whose basic pay surpasses their own.

At the State and local government level, there has been an increase in collective bargaining for wages. In 1959, only one State permitted public employees to negotiate wages. Today, 30 States and the District of Columbia permit wage negotiations for about 3.3 million public employees. Negotiated wage settlements, however, are subject to budgetary and legislative approval.

At the Subcommittee office's request, GAO did not obtain agency comments on this report.

CHAPTER 1—INTRODUCTION

At the request of the Chair, Subcommittee on Compensation and Employee Benefits, House Committee on Post Office and Civil Service, we reviewed collective bargaining in Federal, State, and local governments and compared the compensation of Federal employee groups, who bargain for wages, with their Federal counterparts under the General Schedule and Federal Wage System.

The Federal civilian work force numbers about 2.5 million full-time employees with an annual payroll of about \$76 billion in fiscal year 1981. These employees are in many occupations and geographic areas. As of October 1, 1981, there were about 1.4 million General Schedule employees, about 445,200 Federal Wage System (FWS) employees, and approximately 643,000 Federal employees whose wages are set through collective bargaining.

Pay-setting procedures for general schedule and Federal wage system

The Federal Salary Reform Act of 1962 established the principle that white-collar employees' salary rates under the General Schedule (GS) should be comparable with the national average private enterprise rates for the same levels of work. The law, as amended, prescribes a method for the President to adjust salaries annually on the basis of a national survey that compares Federal salaries with those paid for similar work in private industry. The Bureau of Labor Statistics (BLS) conducts the survey and collects salary data on 102 work-level categories covering 23 occupations. BLS visits about 3,500 private establishments in 7 industry divisions. The minimum size of establishments surveyed varies from 50 to 250 employees, depending on the industry.

BLS provides this data to the President's Pay Agent consisting of the Directors of the Office of Management and Budget and the Office of Personnel Management and the Secretary of Labor. The Pay Agent analyzes the data and submits an annual report to the President comparing the GS Federal

pay rates with the pay rates for the same levels of work in the private sector. The report includes the Pay Agent's recommendations for adjusting pay to achieve full comparability. If the President believes that a full comparability adjustment is not warranted because of "national emergency or economic conditions affecting the general welfare," the President can send the Congress an alternative plan proposing a different adjustment. In 5 of the last 7 years, Presidents have proposed, and the Congress has approved, alternative plans that provided GS employees smaller pay raises than called for by the comparability process.

The Federal Prevailing Rate Systems Act of 1972 established the principle that blue-collar employees' pay rates under FWS will be fixed and adjusted according to local prevailing rates. Under this system, the Government conducts 135 locality wage surveys annually to determine the prevailing rates for similar occupations in the private sector.

FWS surveys cover establishments in the manufacturing, transportation, communications, and wholesale trades industries which employ 50 or more persons. Twenty-two occupations must be surveyed, and 29 others are surveyed on an optional basis when (1) employment in these occupations is substantial, both in the local Federal installations and local private establishments and (2) wage data for the optional jobs are considered essential to the wage-fixing process for the area.

On the basis of these surveys, executive branch agencies establish regular pay schedule for each wage area. Special pay schedules are established when prevailing private sector rates for specific types of jobs are above the maximum rates of the regular FWS wage schedules. Without special schedules, agencies would be seriously handicapped in recruiting and retaining qualified employees at the regular schedules rates.

Unlike the GS process, the President does not have authority to propose alternative pay rates that differ from locality survey results. However, during the last 3 years, the Congress has held FWS employee pay raises to the same pay increases granted General Schedule employees.

Collective bargaining for wages in the Federal Government

Labor organizations have existed in the Federal sector since the 19th century. However, it was not until 1924 that a Government agency—the Government Printing Office (GPO)—used collective bargaining as a method for determining wages. Since that time, 19 other agencies have obtained authority to negotiate wages. About 643,000 employees now bargain for wages. The Postal Service and Tennessee Valley Authority (TVA) employ about 98 percent of these employees—581,000 and 50,550, respectively. Other than the Postal Service and some TVA employees, collective bargaining is generally limited to blue-collar employees.

The statutes which allow employees in these two agencies to bargain for wages also require that the rates paid be comparable with rates paid in the private sector. Other agencies are also required to negotiate and set pay comparable to local prevailing rates.

Agencies that collectively bargain have broad discretion in determining prevailing rates. For example, as part of the negotiation process, some agencies meet with collective bargaining units to discuss and develop survey specifications for measuring private sector wage rates. The agreement negotiated on the survey specifications—industrial,

occupational, and geographical coverage—is critical because survey results are used to determine wage rates.

Objectives, scope, and methodology

The objectives of this review were to (1) compare the compensation (excluding premium pay and benefits) of Federal employees who collectively bargain for wages, with GS and FWS employees and (2) examine the history and extent of collective bargaining for wages in State and local governments. Our review was conducted from July 25, 1981, to January 1, 1982, in accordance with our Office's current "Standards for Audit of Government Organizations, Programs, Activities, and Functions."

Of the 20 Federal agencies that collectively bargain, we selected 8 to review: Postal Service, TVA, GPO, Bureau of Engraving and Printing, Bonneville Power Administration, International Communication Agency, National Park Service, and Bureau of Reclamation. We selected these agencies because they employ 99 percent of the Federal collective bargaining work force in various localities in the country.

For occupational comparisons, we compared the Postal Service PS-5 letter carrier to a GS-5, which was the pay linkage before the Postal Service became an independent Government corporation in 1970. We selected 17 representative blue-collar occupations in the other 7 agencies (10 of the 17 occupations were common to several agencies), and with the assistance of agency officials and OPM classification personnel, we matched these occupations to comparable FWS occupations in the same locality. This comparison involved an analysis of written duties and not an actual onsite job review of specific job characteristics. We compared a total of 48 jobs in the 17 occupations.

In our analysis, we used the journeyman wage rate for occupations covered by collective bargaining and compared it to the FWS wage rate at the step 2 and 5 level. These two steps were used because step 2 reflects the prevailing rate for the area, and step 5 is the rate most FWS employees receive.

The pay schedules (GS, FWS, and bargaining) differed in the number and timing of wage adjustments during each year. The GS is adjusted at the beginning of the fiscal year, and each of the 135 FWS wage schedules are adjusted at intervals throughout the year. Collective bargaining wage agreements have regular annual pay increases, and some also provide for annual or semiannual cost-of-living increases. Therefore, to provide a uniform basis for comparison, we determined annual earnings by computing a weighted average hourly wage rate and multiplying it by 2,080 hours (the number of hours in an 8-hour workday, 260-day work-year).

After computing annual earnings for each pay schedule, we compared fiscal year 1981 earnings between collective bargaining employees and their nonbargaining counterparts. Second, we compared collective bargaining wage increases to nonbargaining wage increases over a 5- or 9-year span ending September 30, 1981. The 5-year earnings analysis was made for all 48 wage comparisons, and the 9-year earnings analysis was made for 33 wage comparisons where 9 years of wage information was available. Finally, we compared these pay increases with the inflation rate as measured by the Consumer Price Index (CPI) for Urban Wage Earners.

To determine the history and extent of collective bargaining in the public sector, we reviewed pertinent legislation and records

and interviewed officials at the Office of Personnel Management (OPM). Also, we researched and obtained published reports, including those from OPM, the Departments of Labor and Commerce, TVA, and the Postal Service.

CHAPTER 2—FEDERAL WAGES DETERMINED THROUGH COLLECTIVE BARGAINING ARE HIGHER THAN WAGES SET THROUGH ADMINISTRATIVE PROCESSES

Although the comparability principle for setting Federal pay rates applies to both bargaining and nonbargaining employees, bargaining employees generally have been paid more. In our fiscal year 1981 occupational wage comparisons, 46 of 48 (96 percent) bargaining employees were paid \$491 to \$13,583 more than their FWS counterparts, and in only two comparisons did bargaining employees earn less than FWS employees. Postal letter carriers were paid \$5,490 more in fiscal year 1981 than their GS counterparts.

From 1972 to 1981, however, nonpostal collective bargaining and FWS employees have received relatively equal percentage pay increases of 108 percent and 111 percent, respectively. Thus, most of the wage differences occurred before FWS was established in 1972. Postal letter carriers' pay increases were somewhat higher at 123 percent while GS employees were lower at 70 percent. The consumer price index increased 113 percent over this time period.

Pay differences among the various pay systems have exacerbated the pay inversion problems Federal agencies are having with some white-collar supervisors being paid less than their blue-collar subordinates.

BARGAINING EMPLOYEES PAID MORE THAN OTHER FEDERAL EMPLOYEES

The fiscal year 1981 wage difference between collective bargaining employees and their FWS counterparts averaged 26 percent, or \$4,857. In 46 of 48 comparisons (96 percent), bargaining employees were paid \$491 to \$13,583 more than the prevailing wage rate for similar occupations.¹ In 36 of 46 comparisons, bargaining employees earned more than the highest step of the comparable FWS grade.

The largest wage rate differences occurred in agencies located in Washington, D.C. The International Communication Agency radio broadcast technicians and radio master control broadcast technicians were paid \$32,192 and \$35,586, respectively, during fiscal year 1981, or \$12,187 and \$13,583 more than the \$20,005 and \$22,003 annual prevailing rate for comparable positions in the Washington, D.C., area. The pay rates negotiated for the International Communication Agency's technicians are based on a survey of similar occupations at the 3 major broadcasting networks in the Washington, D.C., area whereas FWS rates cover several major industries and at least 22 different occupations.

At GPO, compositors were paid \$4,365 more during fiscal year 1981 than their FWS counterparts under the Lithographic and Printing Plant Special Schedule for Washington, D.C. GPO maintenance crafts—carpenters and electricians—earned \$27,419 during fiscal year 1981; however, the prevailing rate for FWS was \$19,006 for car-

¹ FWS is a five-step rate schedule. Step 2 reflects the average private sector or prevailing rate. There is a 4-percent differential for each successive step. Thus, FWS employees at the step 5 level, where the majority of workers are grouped, earn a 12-percent hourly wage premium.

penters and \$20,005 for electricians in the Washington, D.C., area. Historically, these maintenance journeymen crafts have received the same hourly pay rates as the compositor craft, even though the occupations are dissimilar.

At the Bureau of Engraving and Printing, plate printers earned \$8,556 more in fiscal year 1981 than the rates paid under the FWS Lithographic and Printing Plant Special Schedule for Washington, D.C. Bureau plate printers receive the same percentage pay increase negotiated by engravers and plate printers employed by the American Bank Note Company in New York. This private company has been the sole source of the Bureau's prevailing rate data for 40 years. All other Bureau bargaining employees are paid the same wage rates as similar occupations in GPO.

Before the Postal Reorganization Act of 1970, Postal letter carriers (Postal Service Schedule PS-5) were linked to GS-5. In 1969, both PS-5 letter carriers and GS-5, step 4 employees had annual salaries of \$7,202. As a part of the reorganization, the Congress authorized an immediate 8-percent increase for Postal Service employees. Since October 1971, letter carriers' pay increases have been close to twice the rate of their former GS counterparts (123 percent compared to 70 percent). During fiscal year 1981, a letter carrier earned \$5,490 more than a GS-5, step 4 employee, and the difference in cumulative percentage increases was 53.16 percent. With a fiscal year 1981 salary of about \$18,980, a PS-5 letter carrier now makes the equivalent of a GS-9, step 1 employee.

COMPARISON OF POSTAL AND GS PAY

Fiscal year:	U.S. Postal Service Letter-carrier PS-5 pay gains			General schedule GS-5, step 4 pay gains		
	Annual earnings	Annual percentage increase	Cumulative percentage increase	Annual earnings	Annual percentage increase	Cumulative percentage increase
1972	\$8,514	(1)	(1)	\$7,946	(1)	(1)
1973	9,255	8.71	8.71	8,466	6.54	6.54
1974	10,258	10.83	20.48	8,859	4.64	11.49
1975	11,444	11.57	34.42	9,350	5.54	17.66
1976	12,349	7.91	45.05	9,820	5.03	23.58
1977	13,301	7.71	56.23	10,234	4.22	28.79
1978	14,380	8.11	68.50	10,955	7.05	37.87
1979	15,271	6.20	79.36	11,556	5.49	45.44
1980	17,144	12.26	101.36	12,368	7.02	56.65
1981	18,983	10.73	122.97	13,493	9.10	69.81

¹ Base year.

Comparison of pay increases for major Federal pay systems

From fiscal year 1975 through 1981, non-postal bargaining and FWS employees received relatively equal percentage pay increases of 46.2 percent and 45.5 percent, respectively. Postal letter carriers' pay increases were somewhat higher at 53.7 percent while GS employees' pay increased 39 percent. The CPI increased 57.4 percent over this time period.

Going back to fiscal year 1972, the experience was similar except that postal letter carriers' cumulative pay increase of 123 percent exceeded the CPI increase of 113.1 percent. Nonpostal bargaining employees and FWS employees, on the average, closely matched the CPI increase; however, GS employees received increases of 70 percent.

Differences in pay increases create pay inversion problems

Agencies are having difficulty preserving a pay differential between supervisors and

blue-collar employees (bargaining and FWS). Both FWS and bargaining employee pay increases over the last 10 years have outpaced GS salary increases. More and more GS supervisors are facing pay inversion—that is, they find themselves supervising blue-collar employees whose basic pay surpasses their own. As a result, within-grade pay increase for GS supervisors have accelerated to prevent pay inversion problems. For example, 16 GS supervisors at the Sacramento Air Logistic Center, McClellan Air Force Base, California, received accelerated salary increases between January 1980 and January 1982 at an annual cost of \$40,000.

The law (5 U.S.C. 5333) authorizes agencies to adjust GS supervisor salaries to rates above those of their highest paid blue-collar subordinates. This administrative remedy cannot be applied, however, once a supervisor's pay has been adjusted to the maximum pay rate for the grade. Several agencies are finding that administrative pay adjustments are no longer sufficient to preserve supervisor-subordinate pay differentials. Situations at the Bonneville Power Administration and the Bureau of Reclamation illustrate the problem between GS supervisor pay and negotiated subordinate wages.

Bonneville will soon be facing serious pay inversion problems. As of October 1981, Bonneville had adjusted the pay of 49 of 81 (60 percent) GS employees who supervise nearly 1,200 bargaining employees. Eighteen supervisors have reached the top pay rate for their grade, and 4 of them are paid less than their subordinates. Bonneville anticipates an 8.4-percent March 1982² pay increase for bargaining employees which, following pay adjustment, will put 52 of the 81 supervisors at the top pay rate for their grade. With an increase of 8.4 percent, 50 of these supervisors will experience pay inversion.

In July 1980, Bonneville urged OPM, through the Department of Energy, to seek a legislative change increasing maximum pay rates for GS supervisors. Bonneville has rejected other administrative remedies as inappropriate. For example, Bonneville officials contend that regrading or reclassifying supervisors' jobs solely to avoid pay inversion would violate the Classification Act of 1949. Its managers also believe that limiting bargaining employees' pay to GS supervisor pay levels could violate the agency's legal requirement to pay rates prevailing in the private sector. Because their pay cannot be adjusted like their co-workers who supervise bargaining employees, other GS personnel consider the pay adjustment policy inequitable.

The Bureau of Reclamation at Grand Coulee Project is also experiencing severe pay inversion problems. As of October 1981, the Bureau had adjusted the pay of 11 of 14 (79 percent) GS employees who supervise more than 300 bargaining employees in the Pacific Northwest Region. Ten of these supervisors have reached the top pay rate for their grades, and 8 of them are experiencing pay inversion. During 1981 wage negotiations, Bureau officials decided not to pay bargaining employees higher basic wage rates than their GS supervisors. However, an arbitrator ruled against the Bureau's position in February 1982.

² As of April 1982, Bonneville had not completed its contractual wage adjustment. Whatever percentage pay raise is negotiated will be retroactive to March 14, 1982.

CHAPTER 3—COLLECTIVE BARGAINING PAY-SETTING PRACTICES IN SIX FEDERAL AGENCIES

Federal agencies and collective bargaining employees usually negotiate wages on the basis of a mutually agreeable locality survey of private sector pay rates. In some cases, the survey results are used to set the wage rates; in other cases they are used as guidelines for negotiations. The collective bargaining wage surveys are generally not as comprehensive in industrial and occupational coverage as pay surveys conducted for GS and FWS employees.

A number of agencies which are authorized to collectively bargain are industrial operations generating their own revenues. Also, negotiated wage settlements generally are not subject to budgetary and legislative oversight. Furthermore, the procedures followed in resolving bargaining impasses vary among the agencies.

A description of the collective bargaining practices found in the six largest agencies included in our review follows:

U.S. Postal Service

The Postal Reorganization Act of 1970 requires the Postal Service to achieve and maintain compensation levels comparable to those paid in the private sector. Before the Postal Reorganization Act, postal employees' pay increases were linked to General Schedule increases. The act also requires the Postal Service to negotiate wages and fringe benefits (including retirement) as well as provide reasonable pay differentials between craft employees and supervisory management employees.

The Postal Service has a total work force of about 678,000 and negotiates wages with labor organizations representing approximately 581,000 employees. Most of these employees are clerks, mail handlers, and letter carriers covered under the Postal Service Salary Schedule. Supervisory and managerial personnel are excluded from the collective bargaining process, but have consultation and participation rights in developing their pay policies and benefits. Their pay is administratively determined and allows for pay differential over subordinates' pay rates.

Before negotiation, the Postal Service conducts a wage survey in approximately 100 to 110 selected companies employing 5,000 or more employees in 7 manufacturing industries (automobile, basic steel, brewery, metal can, paper and allied products, tire, and printing) and 7 service industries (trucking, airline, telephone and telegraph, electric and gas utilities, mail order houses, banking, and insurance). These surveys are not intended to be the basis of negotiation but are available as information to negotiators and to third parties if the settlement reaches an impasse.

If the Postal Service and a union are unable to reach a collective bargaining agreement or if they have a dispute under an existing agreement which they cannot resolve, either party may request mediation. The Director of the Federal Mediation and Conciliation Service may direct the establishment of a fact-finding panel of three persons. If agreement cannot be reached, an arbitration board is empowered to render a final binding decision. Postal employees by law are not permitted to strike, but the threat of a postal work stoppage exists, as evident from employee walkouts in the past.

TVA

The TVA Act of 1933 established TVA as a Government corporation engaged in power

generation, flood control, reforestation, industrial development, and navigability programs of the entire Tennessee River watershed. The TVA Act gave the Board of Directors discretion to develop its own employee relations policies and not be subject to the terms and provisions of civil service laws. Section 3 of the TVA Act provided that pay rates would be no less than the prevailing rate paid for similar occupations within TVA's geographic area. The act also gave TVA authority to collectively bargain over wages, salaries, and terms and conditions of employment.

Of the 54,800 total work force, TVA negotiates wages for 50,500 employees and administratively sets the salaries of the remaining 4,300 management employees. The Tennessee Valley Trades and Labor Council, consisting of representatives from 15 unions, negotiates wages for 33,500 blue-collar employees. TVA also bargains with the Salary Policy Employee Panel—which consists of representatives from 5 employee organizations—over salaries for 17,000 white-collar employees.

In 1935, the TVA Board adopted an Employee Relationship Policy for setting pay rates for blue-collar employees through wage conferences. The Joint Wage Data Committee, consisting of representatives from TVA and the Trades and Labor Council, develops the wage survey scope and tabulates the wage data collected by management and union representatives. The Joint Negotiating Committee negotiates separate contracts for operations and maintenance employees and construction employees. The negotiated agreements and wage rates are submitted to the TVA Board of Directors for final approval. If a dispute over the prevailing wage rates occurs, the TVA act provides that the Secretary of Labor will make the final decision.

TVA and the Trades and Labor Council have a basic agreement in which TVA pays a single, uniform rate of pay for each class, grade, and type of work performed anywhere in the TVA geographic area. Survey data reflects composite pay rates of specific occupations in 14 localities agreed upon by both TVA and the Council. However, according to TVA, no specific formula has been established for determining prevailing rates for the survey data. The most controversial issue in wage negotiations has been what wage data should constitute the prevailing rate, not the wage facts themselves.

TVA and the Salary Policy Employee Panel conduct wage conferences to negotiate the pay rates for white-collar employees (clerical, administrative, and technical). TVA management conducts an annual salary survey of 30 regional and local employers, including the Postal Service, several public utilities, and national multiplant companies. Also, TVA provides the Panel an opportunity to review and comment on the survey data. Other data used in the wage conferences are the BLS annual National Survey of Professional, Administrative, Technical, and Clerical Pay and the BLS Collective Bargaining Settlements report. Occasionally, a bargaining impasse on salary rates occurs. If mediation fails, either TVA or the Panel may invoke advisory arbitration.

Finally, no TVA employee may be paid more than a member of the Board of Directors, and strikes are prohibited.

GPO

GPO, established in the 1860's, is a Government printing facility under the legislative branch. The Kiess Act of 1924 requires

the Public Printer to hold wage conferences with committees selected by trades having more than 10 employees. In the event of a disagreement, the trades or their representatives can appeal to the congressional Joint Committee on Printing whose decision is final. The Joint Committee on Printing must approve the proposed wage rates before they become effective.

During the first 24 years after the enactment of the Kiess Act, there was no systematic procedure for determining wage changes for crafts and trade employees. In 1948, the Public Printer and the employee organizations agreed on a formula. The formula established pay based on the average rate for local union craft journeymen in printing establishments in the Washington, D.C., area or the weighted average of such rates in printing establishments in the 24 largest U.S. cities, whichever was higher. The survey scope was reduced to 17 cities in 1970 and the formula was discontinued in 1978.

GPO employs 6,070 employees in Washington, D.C., as follows: 2,950 blue-collar bargaining employees (1,650 craft journeymen and 1,300 printing plant workers); 420 blue-collar supervisors who are paid from 105 to 130 percent of the negotiated journeyman rate, and 50 printing plant worker supervisors; and 2,650 white-collar administrative and clerical employees who do not bargain. They are paid under the GPO General Graded pay system which is similar to the General Schedule system in its classification, grades, and pay rates.

Since 1978, GPO has negotiated with the Joint Council of Unions over wages paid to craft occupations and has used the wage survey data as an informational base in negotiations. Compositors who set type, proofread, and operate video display terminals are the largest craft group. All maintenance craft groups, such as electricians and carpenters, are linked to the wage rate paid to compositors and receive the same percentage pay increase granted compositors. The central office printing plant workers include laborers, truck drivers, warehouse workers, and other semiskilled and unskilled workers. Their wage rates are negotiated, and under the current agreement, they receive the same percentage increases received by all GPO crafts.

Bureau of Engraving and Printing

The Department of Treasury's Bureau of Engraving and Printing designs, engraves, and prints U.S. paper currency, treasury bonds and securities, and postage stamps. The Bureau employs 2,570 employees—1,870 collective bargaining employees and 700 administrative, technical, and protective service GS employees. The Bureau has a long history dating back to the 1920s of administratively setting and adjusting the wages of its blue-collar craft employees. When the prevailing rate system was established by Public Law 92-392, August 19, 1982, the Bureau was excluded from FWS under section 5349 and allowed to continue its administrative wage-setting practices.

The Bureau's 1,870 bargaining employees are represented by 16 unions. About 434 printing and craft employees and approximately 1,240 noncraft employees' wages are set according to GPO's wage rates. The pay rates were originally linked with GPO because the Bureau formerly recruited printers from the GPO employment registers. The Bureau's 196 engravers and siderographers wages are adjusted on the basis of wage rates paid by the American Bank Note Company in New York. Since 1948, the

Bureau has used this private company as the sole source of wage data because other companies doing comparable work would not provide wage information.

Bonneville Power Administration

In 1937, the Congress established the Bonneville Power Administration to market power from a single U.S. Army Corps of Engineers hydroelectric project on the Columbia river. Today Bonneville transmits the electrical output of 30 Federal dams, numerous non-Federal dams, and other power plants in Washington, Oregon, Idaho, and western Montana. Bonneville employs approximately 3,000 employees—1,200 blue-collar bargaining employees and 1,800 GS employees.

In 1945, Bonneville sought and received expanded pay-setting authority from the Congress under the Bonneville Project Act which provided discretionary authority to establish pay levels for craft and other blue-collar workers. Since the enactment of those amendments in 1945, Bonneville has negotiated wages, working conditions, and premium payments with the Columbia Power Trades Council which includes 11 unions representing 1,200 blue-collar employees.

Bonneville and the Council have, since 1967, defined prevailing rates by surveying the same eight large Pacific Northwest utility companies: four privately owned, two public utilities, and two municipally owned utilities. The results of these surveys generally are applied as follows: (1) an average journeymen electrician/linemen wage rate is computed from survey results, (2) this rate is compared to Bonneville's previous journeymen electrician rate and a percentage increase is determined, and (3) this percentage increase is also applied across the board to other wage-bargaining classifications.

When the Council and management cannot agree on the rates of pay, the contract provides for mediation followed by binding arbitration. Arbitration has been infrequent at Bonneville. When needed, a tripartite arbitration panel is established consisting of members appointed by Bonneville and the Council and a third neutral arbitrator. Currently, the majority decision of the arbitrators is binding. However, before November 1980, wage arbitration decisions were subject to approval by Bonneville's administrator. The administrator rejected the June 1979 general wage arbitration award of 8.53 percent and acted on the Presidential memorandum which imposed the 5.5 percent pay cap granted GS employees.

Bureau of Reclamation—Grand Coulee Project

The Bureau's Grand Coulee Project in Washington has 300 blue-collar bargaining employees who operate and maintain dam and power-generating facilities on the Columbia River. In 1946, the Bureau's commissioner was concerned that Bonneville's blue collar employees' wages were higher than the wages the Bureau paid employees for similar work. As a result, the Bureau requested and received authority from the Department of Interior to collectively bargain for wages, hours, and working conditions with labor organizations representing the Bureau's blue-collar employees. This authority was preserved after the passage of the Prevailing Rates Systems Act of 1972 and Civil Service Reform Act of 1978.

Grand Coulee employees are represented by a consortium of 10 unions called the Columbia Basin Trades Council. Prevailing

rates are determined through a mutually acceptable survey of the same eight Pacific Northwest utilities surveyed by Bonneville. Wage bargaining is based on the survey results, but, unlike Bonneville, no strict wage formula relationship exists. In recent years, wage disputes have been frequent. When this happens, either party may submit a request to the Office of Arbitration Services of the Federal Mediation and Conciliation Service. The decision of the arbitrator is binding on the parties as permitted by law. In February 1982, an arbitrator rules that Grand Coulee Project must negotiate on the basis of prevailing wage rates in spite of supervisory pay inversion.

CHAPTER 4—COLLECTIVE BARGAINING IN STATE AND LOCAL GOVERNMENTS

During the past two decades, collective bargaining in State and local governments has increased significantly. In 1959, Wisconsin was the first State to authorize collective bargaining for its employees. Today, 39 States and the District of Columbia have collective bargaining or meet-and-confer laws covering approximately 5 million employees.

According to information developed by the Labor-Management Services Administration of the U.S. Department of Labor, 30 States and the District of Columbia permit comprehensive collective bargaining for about 3.3 million State and local government employees. Comprehensive bargaining laws require negotiation in which both the public employer and employee representatives are equal legal parties in negotiating wages, hours, and other terms and conditions of employment. Most bargaining results in a contractual agreement for a period usually covering 1 to 3 years. Also, the laws usually specify methods of resolving impasses, the most common methods being mediation, fact-finding, and arbitration.

The comprehensive bargaining laws in 11 of these 30 States cover all public employees, and 19 States allow wage negotiations only for certain groups of public employees. For example, Iowa allows all State and local employees to bargain for wages; whereas, Illinois allows collective bargaining for all State employees, but only firefighters may bargain at the local government level.

Six States permit collective bargaining over hours and conditions of employment but do not have comprehensive laws covering all bargaining. Three States have only meet-and-confer laws in which the public employer may consent to discuss labor relations matters with representatives of employee organizations. If these parties come to an agreement, it is written in a memorandum of understanding. The State, however, is not legally bound to enter into these discussions, nor is it bound to abide by any resulting memorandum of understanding.

In the 11 States that have not enacted collective bargaining statutes, courts have decided both for and against the right to bargain. In Colorado, for example, the Supreme Court declared that specific statutory authority was not necessary for school boards to enter into bargaining agreements. On the other hand, the Virginia Supreme Court held that local government bodies or school boards have no implied power to collectively bargain and may not negotiate or enter into binding agreements without specific statutory authority.

Negotiated Wages Subject to Budgetary and Legislative Controls

States that allow collective bargaining have established budgetary or legislative controls over negotiated agreements. For example, in Hawaii, the Office of Collective Bargaining assists the Governor by coordinating the negotiations between the public employers and employee representatives on matters of wages and other negotiable issues. The statute provides that all cost items are subject to appropriations by the State legislature or other appropriate legislative bodies. In Oklahoma, the collective bargaining law, which covers fire and police, states that whenever wages or other matters require funding, it is the bargaining agent's obligation to serve written notice on the municipal authorities 120 days before the last day on which monies can be appropriated.

The costs of collective bargaining agreements are under constant scrutiny by State legislative bodies or municipal authorities. Most State governments exercise direct control over negotiated wage agreements, whereas the Federal Government budget process generally does not directly affect the results of negotiated agreements.

According to information reported by BLS, the average annual wage increase for major State and local government collective bargaining settlements reached in 1980 was 7.5 percent and those in the first half of 1981 averaged 7.3 percent. This data was based on bargaining units with 5,000 employees or more and covers one-fourth of all State and local government employees under negotiated wage agreements. In 1980, 85 percent of the employees were under agreements negotiated by local governments, and 15 percent by State jurisdictions.

Several alternatives available to resolve impasses

No common legal framework exists which governs State and local government labor relations. Most collective bargaining does end in agreement at the negotiating table. However, occasionally, the parties cannot reach an agreement. If the agreement is rejected by the employee organization or does not receive required legislative or budgetary approval, renegotiations are started. Several alternatives are available to resolve an impasse. Many State and local government statutes provide impasse procedures that include mediation, fact-finding, and arbitration—all of which involve outside parties.

Mediation is the most common method of resolving impasses and is used by most jurisdictions. In mediation, a neutral individual or panel experienced in labor negotiations attempts to get management and labor to resolve their differences through compromise. While the mediators cannot impose decisions on the parties, they meet with each party and discuss the points of disagreement and possible areas for compromise. Finally, they offer suggestions and advice for settlement.

Fact-finding is a variation of the mediation process. In fact-finding, the neutral third party conducts a formal investigation of the issues in dispute and submits a written report. In some States, the report must be made public with the intent of pressuring the parties to resolve their differences. The final decision on all issues affecting costs is made by the appropriate legislative bodies.

In binding arbitration, the neutral third party has the authority to impose a settlement, or in the case of advisory arbitration, is called on to recommend a solution. In the process of arbitration, the arbitrator does

much the same work as a mediator or fact-finder in providing assistance for an equitable solution. Some States have specific factors that arbitrators must consider in reaching a decision. These may include the public employer's financial ability to meet proposed costs, the employees' present overall compensation, and prevailing wage rates in the public and private sectors. Of the 27 States which have arbitration for certain groups of public employees, arbitration is mandatory in 10 States. Also, the parties usually share the costs for any necessary impasse procedures.

Strike policies may prohibit but not prevent strikes

If an impasse is not resolved, employees may decide that a strike is in order. However, strikes by public employees are prohibited by statutes in 37 States and the District of Columbia, and 4 States have not established a statutory strike policy for public employees. In nine States, strikes are permitted by law on a limited basis and only in situations which do not threaten the health, safety, and welfare of the general public. This limited right to strike is permitted only for certain types of employees and only after all other mediation procedures have failed. Police, fire, hospital, and correctional facility personnel usually are excluded from the right to strike.

According to the most recent information compiled by the Departments of Labor and Commerce, State and local governments experienced 553 work stoppages involving over 200,000 employees in 1979. The largest number of work stoppages occurred in school districts, and the major cause (80 percent) concerned disputes over compensation and/or hours of work. States such as Alaska, Vermont, and Wisconsin, which permit a limited right to strike, experienced only a few work stoppages. The States having the largest number of work stoppages were Ohio, with no collective bargaining statutes; California, with both meet-and-confer and comprehensive bargaining laws; Illinois and Michigan, with comprehensive bargaining laws; and Pennsylvania, with both a comprehensive bargaining law and limited right to strike.

COMMITTEE ON POST OFFICE AND CIVIL SERVICE,

Washington, D.C., March 16, 1981.

Mr. MILTON J. SOCOLAR,
Acting Comptroller General, General Accounting Office, Washington, D.C.

DEAR MR. SOCOLAR: As part of its program to reduce the Federal budget, the Administration is proposing major changes to the Federal pay systems. As a result, we anticipate that certain Federal employee groups will be seeking collective bargaining rights for wages and benefits. As you know, several Federal employee groups already have this authority. Therefore, we are interested in determining how their compensation compares with General Schedule and Federal Wage System employees. Also, we would be interested in any information you can obtain on the impact of collective bargaining for wages in any State and local governments.

Your assistance in this matter will be greatly appreciated. If you have any questions, please contact Tom DeYulia or Marlene Kaufmann at 225-6831.

Sincerely,

MARY ROSE OAKAR, Chair,
Subcommittee on Compensation
and Employee Benefits.

APPENDIX II.—FEDERAL AGENCIES THAT NEGOTIATE WAGES

Agency	Negotiating authority	Bargaining units	Number of employees
Government controlled corporations:			
Postal Service	Public Law 91-375	16	581,144
Tennessee Valley Authority	16 U.S.C. 831	20	50,552
Legislative agencies: Government Printing Office	44 U.S.C. 305	11	2,943
Executive agencies:			
Department of Commerce: National Oceanic and Atmospheric Administration	5 U.S.C. 5348 ¹	13	491
Department of Treasury: Bureau of Engraving and Printing	5 U.S.C. 5349	16	1,870
Department of the Interior:			
Seattle Liaison Office/USMU N. Star II	5 U.S.C. 5348 ¹	1	40
Bureau of Indian Affairs	Sec. 9(b) of Public Law 92-392 ²	6	234
Bureau of Mines	Sec. 9(b) of Public Law 92-392 ²	3	163
Bureau of Reclamation	Sec. 9(b) of Public Law 92-392 ²	16	1,305
Geological survey	Sec. 9(b) of Public Law 92-392 ²	2	39
National Park Service	Sec. 9(b) of Public Law 92-392 ²	2	64
Department of Navy: Military Sealift Command	5 U.S.C. 5348 ¹	5	1,534
Department of Transportation:			
Alaska Railroad	43 U.S.C. 975; 49 U.S.C. 1655(i)	5	542
U.S. Coast Guard	5 U.S.C. 5348 ¹	2	60
St. Lawrence Seaway Development Corporation	Sec. 9(b) of Public Law 92-392 ²	1	70
Department of Energy:			
Alaska Power Administration	Sec. 9(b) of Public Law 92-392 ²	1	11
Western Area Power Administration	Sec. 9(b) of Public Law 92-392 ²	1	394
Southwestern Power Administration	Sec. 9(b) of Public Law 92-392 ²	1	64
Bonneville Power Administration	16 U.S.C. 832(i)	1	1,196
U.S. International Communication Agency	Sec. 9(b) of Public Law 92-392 ²	1	155
Total		124	642,871

¹ 5 U.S.C. 5348 covers the maritime industry and provides that pay of officers and crew members of vessels be fixed and adjusted from time to time, consistent with public interest and according to prevailing rates and practices in the maritime industry.

² Sec. 9(b) of Public Law 92-392 (5 U.S.C. 5341) authorized wage grade employees who were negotiating pay prior to the passage of the Prevailing Rate Systems Act of 1972 to continue the collective bargaining practice. For other wage grade employees, the 1972 act provides that wages be fixed and adjusted according to prevailing rates in local wage areas.

APPENDIX III.—OCCUPATIONS AND PAY SCHEDULES USED IN COMPARISONS BY AREA, AGENCY, AND UNIT

Job title	National USPS	Washington, D.C.			Pacific Northwest region						Nashville TVA	Total
		GPO	BEP	ICA	BPA	BOR-GC	BOR-HH	BOR-BM	BOR-Y	NPS-CDNRA		
Letter carriers	X											1
Compositors		X	X									2
Bookbinders		X	X									2
Plateprinters			X									1
Electricians		X	X		X	X	X	X	X		X	8
Carpenters		X	X		X	X					X	5
Janitors		X	X		X	X	X	X			X	8
Laborers					X	X	X	X			X	5
Forklift operators		X	X									2
Machinists					X	X		X	X			3
Hydro plant mechanics							X	X	X			3
Craftsmen, electrical equipment					X	X	X					3
Hydro plant operators											X	1
Senior hydro plant operators											X	1
Unit operators											X	1
Steamfitters											X	1
Radio broadcast technicians				X								1
Radio master control technicians				X								1
Total	1	6	7	2	6	6	5	4	2	3	7	49

USPS—U.S. Postal Service—compared to General Schedule.

GPO—Government Printing Office—compared to FWS regular schedule and Lithographic and Printing Plant Wage Schedule for the Washington, D.C., locality.

BEP—Bureau of Engraving and Printing—compared to FWS regular schedule and Lithographic and Printing Plant Wage Schedule for the Washington, D.C., locality.

ICA—International Communications Agency—compared to FWS regular schedule for the Washington, D.C., locality.

BPA—Bonneville Power Administration—compared to FWS regular schedule for the Portland, Oreg., locality and Pacific Northwest Power Rate Schedule.

BOR-GC—Bureau of Reclamation—Grand Coulee Project—compared to FWS regular schedule for the Spokane, Wash., locality and Pacific Northwest Power Rate Schedule.

BOR-HH—Bureau of Reclamation—Hungry Horse Project—compared to FWS regular schedule for the Great Falls, Mont., locality and Pacific Northwest Power Rate Schedule.

BOR-BM—Bureau of Reclamation—Boise-Minidoka Project—compared to FWS regular schedule for the Boise, Idaho, locality and Pacific Northwest Power Rate Schedule.

BOR-Y—Bureau of Reclamation—Yakima Project—compared to FWS regular schedule for the Southeastern Washington-Eastern Oregon locality and Pacific Northwest Power Rate Schedule.

NPS-CDNDR—National Park Service—Coulée Dam National Recreation Area—compared to FWS regular schedule for the Spokane, Wash., locality.

TVA—Tennessee Valley Authority—compared to FWS regular schedule for Nashville, Tenn., locality.

APPENDIX IV.—SELECTED OCCUPATIONAL WAGE COMPARISONS BY AGENCY

FWS comparables			Fiscal year 1981 earnings			Percentage pay increases ^a					
Regular schedule ¹	Special schedule ²	Bargaining	FWS		Bargaining		FWS regular		FWS special		
			Regular	Special	5 yr	9 yr	5 yr	9 yr	5 yr	9 yr	
GPO (2,943 bargaining employees):											
Bookbinder	NA	Bookbinder: 21/2	\$27,230	NA	\$24,573	42.0	104.8	NA	NA	39.8	95.9
Compositor	NA	Compositor: 19/2	27,685	NA	23,320	37.5	98.6	NA	NA	39.6	97.0
Carpenter	Washington, D.C. area: WG9-5	NA	27,419	\$21,286	NA	36.2	96.7	44.2	122.5	NA	NA
Electrician	Washington, D.C. area: WG10-5	NA	27,419	22,410	NA	36.2	96.7	44.4	123.6	NA	NA
Forklift operator	Washington, D.C. area: WG5-5	NA	18,009	16,559	NA	42.5	121.0	40.6	111.8	NA	NA
Janitor	Washington, D.C. area: WG1-5	NA	14,600	12,028	NA	42.4	121.0	36.9	101.3	NA	NA
Bureau of Engraving and Printing (1,870 bargaining employees):											
Bookbinder	NA	Bookbinder: 21/2	\$27,230	NA	\$24,573	42.1	104.8	NA	NA	39.8	95.9
Plate printer	NA	Plate printer: 27/2	36,873	NA	28,317	39.7	119.2	NA	NA	39.9	93.6
Compositor	NA	Compositor: 19/2	27,708	NA	23,320	37.6	98.8	NA	NA	39.6	97.0
Carpenter	Washington, D.C. area: WG9-5	NA	27,708	21,286	NA	37.6	98.8	44.2	122.5	NA	NA
Electrician	Washington, D.C. area: WG10-5	NA	27,708	22,410	NA	37.6	98.8	44.4	123.6	NA	NA
Forklift operator	Washington, D.C. area: WG5-5	NA	18,009	16,559	NA	42.5	140.4	40.6	111.8	NA	NA
Janitor	Washington, D.C. area: WG1-5	NA	13,860	12,028	NA	42.3	141.8	36.9	101.3	NA	NA
International Communications Agency (155 bargaining employees):											
Radio broadcast tech-3	Washington, D.C. area: WG10-5	NA	\$32,192	\$22,410	NA	47.0	96.7	44.4	123.6	NA	NA
Radio master control tech-3	Washington, D.C. area: WG12-5	NA	35,586	24,638	NA	46.7	95.3	44.9	124.9	NA	NA

APPENDIX IV.—SELECTED OCCUPATIONAL WAGE COMPARISONS BY AGENCY—Continued

FWS comparables			Fiscal year 1981 earnings			Percentage pay increases ^a					
Regular schedule ¹	Special schedule ²	Bargaining	FWS		Bargaining		FWS regular		FWS special		
			Regular	Special	5 yr	9 yr	5 yr	9 yr	5 yr	9 yr	
TWA (33,476 blue-collar bargaining employees and 17,076 white-collar bargaining employees):											
Machinist (B)	Nashville area: WG10-5	NA	20,673	19,934	NA	51.1	103.4	48.6	125.0	NA	NA
Electrician (B)	Nashville area: WG10-5	NA	20,673	19,934	NA	51.1	103.4	48.6	125.0	NA	NA
Steamfitter (B)	Nashville area: WG9-5	NA	20,673	19,017	NA	51.1	103.4	48.2	125.4	NA	NA
Unit operator (D-7)	Nashville area: WG10-5	NA	21,802	19,934	NA	50.5	100.1	48.6	125.0	NA	NA
Senior hydro operator (D-8)	Nashville area: WG11-5	NA	23,505	20,863	NA	50.5	99.3	48.9	124.1	NA	NA
Hydroplant operator (D-7)	Nashville area: WG10-5	NA	21,802	19,934	NA	50.5	100.1	48.6	125.0	NA	NA
Janitor (SF1-3)	Nashville area: WG1-5	NA	* 12,657	11,972	NA	35.2	85.9	44.9	116.9	NA	NA
Bonneville Power Administration (1,196 bargaining employees): ⁵											
PS electrician	Portland area: WG10-5	PS electrician: I	28,255	23,426	26,162	52.0	118.9	47.1	NA	44.0	105.6
Janitor	Portland area: WG2-5	Janitor: A	* 16,396	16,672	15,692	26.1	81.7	45.1	NA	46.1	97.6
Laborer	Portland area: WG3-5	Laborer: B	20,068	17,715	17,280	52.2	118.9	47.0	NA	43.1	94.9
Carpenter	Portland area: WG9-5	Carpenter: G	26,681	22,590	24,207	52.0	118.7	47.0	NA	44.0	103.7
Machinist	Portland area: WG10-5	Plant mechanic: I	28,255	23,426	26,162	52.0	118.9	47.1	NA	44.0	105.6
Craftsman	Portland area: WG11-5	Craftsman: K	32,472	24,242	28,790	52.0	118.8	47.3	NA	44.0	104.0
Bureau of Reclamation—Grand Coulee Project (319 bargaining employees): ⁵											
PS electrician	Spokane area: WG10-5	PS electrician: I	27,417	23,758	26,162	52.2	113.6	53.9	NA	44.0	105.6
Janitor	Spokane area: WG2-5	Janitor: A	17,273	17,363	15,692	56.1	NA	54.2	NA	44.1	NA
Laborer	Spokane area: WG3-5	Laborer: B	19,108	18,154	17,280	52.1	NA	54.0	NA	43.1	NA
Carpenter	Spokane area: WG9-5	Carpenter: G	25,304	22,969	24,207	50.9	NA	53.9	NA	44.0	NA
Machinist	Spokane area: WG10-5	Plant mechanic: I	27,329	23,758	26,162	51.7	NA	53.9	NA	44.0	NA
Electronic equipment mechanic	Spokane area: WG11-5	Craftsman: K	31,047	24,567	28,790	50.0	NA	53.8	NA	44.0	NA
Bureau of Reclamation—Boise-Minidoka project (79 bargaining employees): ⁵											
PS electrician	Boise area: WG10-5	Electrician: I	\$23,492	\$20,676	\$26,162	44.7	NA	45.4	NA	44.0	NA
Janitor	Boise area: WG1-5	Janitor: A	11,622	13,606	15,692	34.3	NA	38.8	NAD	44.1	NA
Laborer	Boise area: WG3-5	Laborer: B	11,558	15,143	17,280	33.6	NA	40.1	NA	43.1	NA
Plant mechanic	Boise area: WF10-5	Plant mechanic: I	23,492	20,676	26,162	49.7	NA	45.4	NA	44.0	NA
Bureau of Reclamation—Hungry Horse project ⁷ (17 bargaining employees): ⁵											
PS electrician	Great Falls area: WG10-5	Electrician: I	26,496	23,244	26,162	47.9	107.8	55.5	NA	44.0	105.6
Janitor	Great Falls area: WG2-5	Janitor: A	15,902	16,417	15,692	61.9	NA	52.1	NA	44.1	NA
Laborer	Great Falls area: WG3-5	Laborer: B	15,902	* 17,267	17,280	61.9	NA	52.6	NA	43.1	NA
Plant mechanic	Great Falls area: WG10-5	Plant mechanic: I	26,496	23,244	26,162	47.7	NA	55.5	NA	44.0	NA
Electronic equipment mechanic	Great Falls area: WG11-5	Craftsman: K	27,748	24,095	28,790	47.2	NA	55.9	NA	44.0	NA
Bureau of Reclamation—Yakima project (14 bargaining employees): ⁵											
PS electrician	Southeast Washington—East Oregon: WG10-5	Electrician: I	\$24,487	\$22,141	\$26,162	37.5	NA	49.1	NA	44.0	NA
Plant mechanic	Southeast—East Oregon: WG10-5	Plant mechanic: I	24,487	22,141	26,162	37.5	NA	49.1	NA	44.0	NA
National Park Service—Coulee Dam National Recreation Area (31 bargaining employees): ⁵											
Janitor	Spokane area: WG2-5	NA	17,273	* 17,363	NA	56.1	NA	54.2	NA	NA	NA
Laborer	Spokane area: WG3-5	NA	19,108	18,154	NA	52.1	NA	54.0	NA	NA	NA
Carpenter	Spokane area: WG9-5	NA	25,304	22,969	NA	50.9	NA	53.9	NA	NA	NA

¹ Comparisons were made to step 5 which is the highest step of the FWS pay schedule. (See p. 3.) This step is 12 percent higher than step 2, which reflects the prevailing average private sector pay rate.

² Lithographic and printing plant wage schedule for Washington, D.C., area.

³ 5-yr comparison is from 1977 to 1981 and 9-yr comparison is from 1973 to 1981.

⁴ Omits mitigation adjustment.

⁵ Pacific Northwest regional power rate schedules used by the U.S. Army Corps of Engineers Pacific Northwest Division to compensate employees involved in operating and maintaining hydroelectric generating facilities throughout the region.

⁶ Higher rates are earned by incumbents due to grandfather provisions after a spot adjustment.

⁷ This unit decertified its union in June 1981, but negotiated rates of pay remained in place through fiscal year 1981.

⁸ The step 2 rate was \$15,411 and is less than the bargaining rate.

⁹ The step 2 rate was \$15,506 and is less than the bargaining rate.

APPENDIX V.—STATE AND LOCAL COLLECTIVE BARGAINING ARRANGEMENTS

		Collective bargaining provisions ¹	Comprehensive labor laws ²	Employee coverage ³	Scope of bargaining ⁴	Impasse procedures ⁵	Strike policy ⁶	Percent of public employees represented by bargaining units by 1979	
								State	Local
Alabama	2	F, T	W, C	M, A	P			7.0	6.6
Alaska	1	X	S, L, T	W, H, C	M, A	LR		59.5	61.3
Arizona	3								32.4
Arkansas	3								8.9
California	1	X	T	W, H, C	M, FF	P			27.2
	2		S, L	W, H, C	M, FF	P			38.2
Colorado	3								35.7
Connecticut	1	X	S, L, T	W, H, C	M, FF, A	P		88.2	65.0
Delaware	1	X	S, L, T	W, H, C	M, FF	P		43.8	66.0
District of Columbia	1	X	All	W, H, C	M, A	P			72.2
Florida	1	X	All	W, H, C	M, FF	P		44.3	44.2
Georgia	2		F	W, H, C	FF	P			2.5
Hawaii	1	X	All	W, H, C	M, FF, A	LR		69.3	64.8
Idaho	1	X	F, T	W, H, C	M, FF	LR			29.7
Illinois	1	X	S, F	W, H, C	M, FF, A	P		36.7	33.5
Indiana	1	X	T	W, H, C	M, FF, A	P		4.2	35.6
Iowa	1	X	All	W, H, C	M, FF, A	P		29.4	40.9
Kansas	1	X	T	W, H, C	M, FF	P		17.2	23.8
	2		All	W, H, C	M, FF	P			6.8
Kentucky	1	X	F, P	W, H, C	M, FF	P			16.5
Louisiana	3							11.0	9.1
Maine	1	X	S, L, O	W, H, C	M, FF, A	P		38.8	41.1
Maryland	1	X	T, O	W, H, C	M, FF	P		2.4	59.0
Massachusetts	1	X	All	W, H, C	M, FF, A	P		79.4	65.4
Michigan	1	X	S, L	W, H, C	M, FF, A	P		42.3	62.5
Minnesota	1		All	G, H, C	M, A	LR		36.6	55.2
Mississippi	3								1.1
Missouri	2		All except P, T	W, C		P		20.4	20.4
Montana	1	X	All	W, H, C	M, FF, A	LR		32.8	36.9

APPENDIX V.—STATE AND LOCAL COLLECTIVE BARGAINING ARRANGEMENTS—Continued

	Collective bargaining provisions ¹	Comprehensive labor laws ²	Employee coverage ³	Scope of bargaining ⁴	Impasse procedures ⁵	Strike policy ⁶	Percent of public employees represented by bargaining units by 1979	
							State	Local
Nebraska	1	X	All	W, H, C	M, FF, A	P	16.7	12.2
Nevada	2		T	W, C	FF	P		23.4
New Hampshire	1	X	L	W, H, C	M, FF, A	P		68.9
New Jersey	1	X	All	W, H, C	M, FF, A	P	49.8	32.4
New Mexico	1		All, F, P	G, C, W, H, C	M, FF, A	P	61.1	57.1
New York	1		S	C	M, FF	P	14.7	27.2
	1	X	All except some T, O	W, H, C, G	M, FF, A	P	74.4	78.2
North Carolina	3					NP		
North Dakota	1	X	T	W, H, C	M, FF	P	4.2	24.5
Ohio	3					P	21.5	46.4
Oklahoma	1		O	C	FF	P		18.3
	2		F, P	W, H, C	FF	P		7.8
Oregon	1	X	All	W, H, C	M, FF, A	LR	52.0	61.4
Pennsylvania	1	X	All	W, H, C	M, FF, A	LR	66.7	58.1
Rhode Island	1	X	S, L, T	W, H, C	M, FF, A	P	68.2	77.5
			F, P					
South Carolina	3					P		6
South Dakota	1	X	All	W, H, C	A	P	7.9	30.7
Tennessee	1	X	T	W, G, C	M, FF	P	.2	24.4
Texas	1		F, P	W, H, C	M, A	P		1.6
	2		T	C		P		
Utah	3					P	19.3	49.7
Vermont	1	X	S, L, T	W, H, C	M, FF, A	LR	54.0	37.5
Virginia	3					P		
Washington	1	X	L, T, S	W, H, C	M, A	P	37.4	61.7
			G, C					
West Virginia	2		O	W, C	M, FF	P		3.2
Wisconsin	1					NP		5.2
	3	X	S, L, T	W, H, C	M, FF, A	LR	44.5	53.7
			F, P					
Wyoming	1		F	W, C	A	NP		24.0

¹ Collective bargaining provisions (1) statute or executive order which establishes the duty to collectively bargain, (2) meet and confer statute or (3) no collective bargaining law.

² Comprehensive labor laws establish the duty to collectively bargain between a public employer and an exclusive bargaining agent for all employees in a unit on wages, hours, and other terms and conditions of employment. They establish an independent administrative agency and procedures for unit and representation determinations. They specify methods for resolving impasses and many define unfair labor practices and grievance procedures. Also, in some States, these laws may cover only certain groups of employees.

³ Employee coverage: All—All public employees; S—State employees; L—Local employees; T—Teachers; F—Firefighters; P—Police; and O—Others.

⁴ Scope of bargaining: W—Wages; H—Hours; C—Conditions of employment; and G—Grievance procedures.

⁵ Impasse procedures: M—Mediation; FF—Fact finding; and A—Arbitration.

⁶ Strike policy: P—Prohibited; LR—Limited right to strike; and NP—No policy.

Note: Listing of States "with laws" and "without laws" may differ. Sometimes States are viewed as not having a "law" if the statute does not contain enforcement provisions or provide an administrative body to regulate the conduct of the parties.

Mr. MATHIAS. When the current Congress convened last year, and we were beginning our organization, it was apparent to me that the Joint Committee on Printing, which has now gone on for 122 years without substantial change, had really reached the point where we had to examine the whole structure. The tasks before us now are obviously more than had been contemplated in 1860, when the work was taken out of the hands of the various printing jobbers around town and put in a central office so the Congress could get reliable and dependable printing work done during the session.

We now have a national operation that affects all branches of Government. It is reaching toward a billion dollars in expenditures and it should be operated in the most efficient and cost effective way possible.

One of the first things I did when I became the chairman of the Joint Committee on Printing was to seek out someone from the private sector with vast publishing and printing experience who could help us structure the kind of management study which would be necessary. Unfortunately, the expert we were able to obtain was stricken and had a fatal illness, so that

we were unable to have the benefit of his wisdom.

But we have gone forward with that process. In fact, we are now working cooperatively with the Public Printer, and I am glad to say we do have his cooperation in this matter, to develop a comprehensive study to define the role of the Government Printing Office, not just in the light of conditions as they exist in August 1982, but as we see the needs of the Government developing, as we see the technology of communication developing, so that the most effective, the most economical, and the most efficient systems can be used.

I think it is clear that the Government Printing Office has not been quick to adjust to technological changes over the years. What we have been doing in the last 12 to 18 months has been to try to make positive and forward-looking revisions in the structure.

When we get the results of this study—and it will be a very complex study that will take some time—we will evaluate the results to determine the policy that will serve the interests of the American people and their need to have information from Government that will serve the needs of the Government itself and that will serve the

taxpayers who have to pay for the whole operation in the long run.

Now that is our goal.

Mr. ARMSTRONG. Will the Senator yield briefly for a question?

Mr. MATHIAS. I am happy to.

Mr. ARMSTRONG. I am very much interested in the study which the Senator has outlined. It seems to me it has substantial merit. I am wondering what the projected date for the completion of that study would be?

Mr. MATHIAS. Well, we are at this very moment defining the parameters of the study. I had hoped that we might have the results in January. I am now advised that that is an optimistic hope; that it is not likely that we could complete a study of this magnitude by January. But I would certainly hope that by this time next year we could have a total study that would look at technological changes that must occur, administrative changes that ought to be made and—

Mr. ARMSTRONG. Salary schedules.

Mr. MATHIAS. Salary schedules, it seems to me, should not be addressed in this study itself, but the institutions by which salaries are fixed ought to be addressed—the relationship of the Government Printing Office to the

Congress. The Joint Committee on Printing is not only a congressional oversight committee. It is actually the board of directors of the Government Printing Office.

I think we have to ask ourselves whether or not Members of either House of Congress should actually be operating a very big business in the course of their legislative duties. It is not a legislative function. Perhaps the Congress, in its wisdom, will decide it wants to continue that arrangement. But after 122 years, I think it is time to at least look at it.

Mr. ARMSTRONG. Mr. President, if the Senator would yield briefly, his response is most helpful to me and I am sure of interest to all Senators. I have two additional questions which I can state sort of as a double-barreled question and perhaps the Senator could enlighten us on those as well.

One is, there is an allegation that a study of the cost of work to user agencies by the GPO shows, on some number of jobs, that the GPO costs compared to bids from the private sector was approximately double.

My other question is a question of staffing which relates to the issue of declining volume. As I understand it, the Public Printer sought to furlough some employees and in fact under the Kiess Act was not only permitted to do so but was required to do so, in the finding of Judge Gasch, were it not for the intervening of the Joint Committee in its May 11 resolution, which according to the court superseded the ordinary Kiess Act procedures.

So my questions are, first, is there any truth to this business that printing is costing agencies twice as much if it comes through the GPO as the private sector and, second, is there something we do not understand about why he was not permitted to furlough people that would otherwise have been furloughed?

Mr. MATHIAS. Let me address the Senator's second question first. The question of how many people you need to have working at GPO is affected by the demand for the product, like any other business be it Government or private. Government printing tends to be somewhat seasonal. Obviously, when the Congress is not in session, there is no CONGRESSIONAL RECORD; and I could go on with other examples of how the activities in Government itself affect the need for the consumer's products.

Now, when the Congress is in session 5 days a week and sometimes for 18 or 20 hours a day, the need for the product goes up. And in the operation it would be not only heartless but it would be uneconomical to fire people and rehire them. You have to have a stable work force.

It may be that in slack periods they could reduce the work force, but in

heavy periods they need more people than they have.

So you try to work out some kind of reasonable average, some kind of prudent mean, by which you keep the force stable and effective.

There was a difference of opinion between the Joint Committee on Printing and the Public Printer as to what was that happy medium, where should you fix that average between what you need in your periods of slack work and what you need in your periods of greatest demand.

The law imposes that decision on the Joint Committee on Printing. It simply exercised its judgment in that respect. We may be right or we may be wrong, but when we get to the larger study of how the whole system operates, I think we will find a better way in this modern climate to make those decisions. We did the best we could. I think we did the right thing, but all of that will be reviewed in the larger management study.

As to the question of whether or not some materials are more expensive and could be purchased cheaper on the private market, I have no doubt they could. If you took the CONGRESSIONAL RECORD and told a private printer that you did not need delivery until a month after the date of the session of Congress and, therefore, he had the opportunity to review in a leisurely way and a programmed way the material as it came in, he had a couple of weeks to set the type, a couple of weeks to read the galley proofs, and a couple of weeks to make deliveries, I am sure you could cut the cost of the CONGRESSIONAL RECORD way down.

But when you say to the employees of the Government Printing Office, "We want the CONGRESSIONAL RECORD and we want it on our desk at 9 o'clock tomorrow morning. We do not care whether the Senate was in session until 3 in the morning we still want it, and we are going to have it, and we do not care what it costs," then I say to the Senator from Colorado, you are going to pay a little more for that service.

We could contract out the CONGRESSIONAL RECORD, which would lengthen the production time, and we could get it cheaper. But that is a decision, I think, that Congress itself will have to make.

This is the kind of thing that has to be looked at in this study. For example, committee reports: do they have to be done by the Government Printing Office? Could they be contracted out if we accept whatever delays are involved, whatever inconveniences in having congressional printing done at a greater distance from the committee staffs, and the lack of ability to make last-minute changes and corrections? All of that is part of the kind of study that we are about to do.

Mr. ARMSTRONG. If the Senator will yield to me, I am prepared to conclude the consideration of this matter very quickly, and I would like to do so first by thanking the distinguished chairman, the Senator from Maryland, for a most interesting report on not only the activities of the committee but particularly I have found extraordinary his plans for the future, the fact that he is going to look into technology, that he has a consultant coming on board to look into these issues. I believe him to be 100 percent correct.

I am not without some experience in the printing industry. I have been through the process he described of taking over and subsequently modernizing a printing operation in a much smaller field, of course, than the GPO. I am no longer in that business, I will make clear. But I have an appreciation of the facts he has mentioned. I wish him well in that effort. It is very important.

Second, I want to acknowledge one thing he mentioned in passing, and that is the fine people in the GPO. I do not know all of them, but I know a few of them. The ones I have come into contact with, including Mr. Sawyer, have impressed me.

It does seem to me that some very serious questions have been raised by the Public Printer who says that Federal employees at the GPO are paid substantially more than those in comparable positions elsewhere in the private sector and in the Federal Government. The General Accounting Office, in substance, agrees with him. There is the question of whether or not agencies overpaid for work at the GPO. Then there is the question of furloughs.

Underlying all of this is the broader gage management issue which the Senator has addressed in a thoughtful way.

Here is what I would like to do, Mr. President, because I am conscious of the desire of the Senator from Oregon to get on with the bill. I think it has been useful to bring this matter to the attention of the Senate this afternoon. In a moment, with the concurrence of the Senator from Georgia, I would propose to withdraw the amendment. Not to take it down for all time but simply to lay it aside for consideration after we have all had a chance to reflect on what has been said here and upon the issues, and even to read in detail the General Accounting Office report. I think perhaps I am the only Senator who has had an opportunity to do that thus far, and also to read some of the other material which has been included in the RECORD to this point.

Mr. President, I do ask unanimous consent that there be printed in the RECORD at this point a report entitled

"Cutting Waste and Fraud at the Government Printing Office," a document distributed by the Public Service Research Council. It is a compendium of clippings about this matter from U.S. News & World Report of July 12, a report entitled "When a Federal Fat-Trimmed Wields His Knife;" from the Columbus Dispatch, April 30, 1982, "Uncovering Waste at the GPO;" from the Pittsburgh Press, under date of June 1, 1982, an article by the distinguished columnist Donald Lambro, headlined "A National Scandal in Printing;" from the Washington Times of June 18, an article entitled "GPO Bureaucracy Presses On;" from the Chicago Tribune, June 8, 1982, "Federal Printers' Big Wages Rapped by Boss;" from the New York Times of May 10, 1982, "Printing Office Keeps Eye on Bottom Line;" another article from the Washington Times; an editorial from the Holland, Mich., Sentinel; an article by James J. Kilpatrick, which appeared in many papers but is reproduced here from the Baltimore Sun; from the Paducah, Ky., Sun, of June 23, 1982, an editorial entitled "Why It's Hard To Cut the Budget;" and a number of others which are contained in this report. They are serious, thoughtful questions which deserve to be dealt with in a serious, thoughtful way.

There being no objection, the document was ordered to be printed in the RECORD, as follows:

[Cutting Waste and Fraud at the Government Printing Office]

DANFORD L. SAWYER VS. THE UNIONS AND THE JOINT COMMITTEE ON PRINTING (As Seen By The Nation's Press)

[From the Washington Times, June 15, 1982]

A RAGING DEBATE

In the looming showdown over runaway government printing costs, Congress itself must decide whether or not to pull in the reins on one of its most cherished perks . . . The bottom line is that the Public Printer has uncovered incredible waste and inefficiency in the GPO, and the responsible Congressional Oversight Committee has refused to act responsibly in response to those findings and has, in fact, worked against Sawyer's recommendations.

Congressman JOHN LeBOUITILLIER.

[From the Enterprise News Service]

The average GPO employee makes a salary of \$25,000 a year. GPO craft employees earn a mean average of 22% more than their compatriots in both the federal sector and in the private sector . . . The end result is that the typical job produced by the Government Printing Office costs about twice what it would if we produced it in the private sector.

DANFORD L. SAWYER, JR.

[From the Congressional Insight, July 11, 1982]

Public Printer goes after costs . . . and finds a hornet's nest. The GPO chief had planned on furloughs as part of a cost-cutting effort at his agency. But the congressional panel with oversight over GPO ob-

jected . . . Sawyer isn't afraid to make waves . . . He says there's collusion between unions and printing committees. Campaign donations encourage key panel members to agree to union demands.

[From the Pittsburgh Press, May 3, 1982]

Due to a cozy—some would say incestuous relationship over the years between Congress Joint Committee on Printing and GPO's 22 unions, the wages paid to the agency's 6200 workers are the highest anywhere in the industry . . . Over the years, whenever an impasse was reached in bargaining talks, GPO's unions usually went to the committee, where its sympathetic . . . members—many of whose campaigns are supported by these very unions—went along with their demands.

DONALD LAMBRO.

[From the Washington Report]

The GPO, which prints most congressional and executive branch documents, is required by law to operate in the black. But when Danford L. Sawyer was named chief of the office by President Reagan . . . he feared that it would be difficult to comply with the law . . . The Sarasota, Fla., publisher found that the GPO was a scene of "extraordinary waste and inefficiency." Sawyer learned that his predecessors had turned a profit by charging Congress and the agencies—and ultimately taxpayers—inflated prices for the GPO's work.

[From the Kiplinger Washington Letter, May 21, 1982]

The Government Printing Office is a big, wasteful, overstaffed place, riddled with unions and political cronies who earn more than commercial printers pay their help. Reagan's appointee at GPO is trying to run it like a business . . . cut waste and deadwood. But a congressional committee disapproves, claiming that it's in charge of GPO. Reagan's man refuses to knuckle.

[From the Columbus Dispatch, Apr. 30, 1982]

SAWYER SWINGS AX IN PRINTING OFFICE (By Donald Lambro)

Danford Sawyer, the nation's 18th Public Printer, inherited a scandal when he took office over the Government Printing Office—an agency victimized by featherbedding, overtime abuse, inefficiency and what Sawyer terms "unconscionable" pay scales.

Established by Congress in 1860 to print its verbose debates, hearing records and reports, as well as other government publications, the GPO is Congress' ultimate sacred cow. Overseen by the Joint Committee on Printing, whose members campaigns are heavily bankrolled by organized labor, the GPO's 22 labor union's have for years been generously catered to by the committee.

The bill for such congressional paternalism is a fat \$160 million in payroll and benefits; GPO printers earn an average of \$11.78 an hour, compared to \$8.29 for the printing industry nationwide. Overall, GPO workers average \$25,000 a year, significantly even more than their counterparts elsewhere in the government.

This is in large part why GPO's inhouse printing and binding budget has grown to more than \$181 million a year.

Sawyer—a feisty 42-year old professional cost accountant who ran a successful advertising and publishing company in Sarasota, Fla., before Ronald Reagan picked him to run GPO—has attacked the agency's costs

with a vengeance. He has slashed overtime, moved to reduce its 6,200 workforce through attrition and early retirement, and closed down some of the agency's money-losing regional bookstores. But what has the unions and their congressional benefactors screaming is Sawyer's unprecedented proposal for a 22 percent pay cut.

"GPO is overpriced, overstaffed, overpaid and inefficient," Sawyer said in an interview in his exquisitely paneled office. What angers him is GPO's printing prices, which are "generally twice what the private sector would do it for."

Says Sawyer, "If there is always somebody out there willing to do the job on that basis, why do we do anything inhouse? Why do we burden ourselves with an operation that has a payroll of \$160 million a year? Why do we pay the highest wages in the Western world for the classes of work done here?"

In recent years, GPO has been agonizingly inching its way into the modern printing era—a move the printers' unions, fearful of job losses, have not exactly championed.

"We still have these linotype machines," complains Sawyer. "We're still training people as monotype operators and castersmen," throwbacks to the days of William Randolph Hearst, instead of swiftly changing over to all-electronic photocomposition—which Sawyer says, could be done in six months.

"If someone were to ask me how many people could you RIF (reduction in force) out of here, I'd say 800 to 2,000," Sawyer says.

The Florida millionaire, who sold his business enterprises before accepting his present job, has taken some controversial steps to clean up the agency and cut costs. He has reduced overtime by a minimum of \$500,000 and possibly by as much as \$900,000. Before he got there, "overtime was being used on an unbelievable scale," he says. He has pushed for furloughs to curb an excessive payroll that consumes more than 80 percent of its in-house budget.

Sawyer, who says, "I don't take orders very well," isn't flinching from the heat he's getting from powerful congressional barons who want to preserve the status quo at GPO. Not known for mincing words, Sawyer thinks "quite frankly, the whole operation could be done by the private sector." Yet he believes that, within limits, there is a need for a GPO.

But he also thinks that government printing that costs taxpayers up to twice what is charged in the private sector, "is a scandal."

[From the U.S. News & World Report, July 12, 1982]

WHEN A FEDERAL FAT-TRIMMER WIELDS HIS KNIFE

(By Joseph P. Shapiro)

Marches on the Capitol, protests from lawmakers, court suits—the reaction to cost cutting in one agency is widespread and furious.

A Reagan appointee who expected to bring business efficiency to government is discovering it is far easier to spot public waste than to correct it.

Former businessman Danford L. Sawyer, Jr., is hitting one roadblock after another in trying to curb the "extraordinary waste" he says permeates the 670-million-dollar-a-year Government Printing Office, which he has headed for a year.

Some 1,000 angry GPO workers marched on the Capitol on June 29 to protest, among

other things, Public Printer Sawyer's attempt to bring down their wages.

The same day Sawyer was called before the House District of Columbia Committee for a tongue-lashing from members opposed to his idea to save money by closing down GPO for six days. GPO's 6,200 employees on July 2 won a court order blocking the plan.

Sawyer also is under orders from the Congressional Joint Committee on Printing, which oversees the agency, not to proceed with another proposal to close 23 of GPO's 27 bookstores.

"I don't want to sound like a revolutionary, but if the American taxpayers knew the kind of screwing they were getting in this operation, they'd all pick up a rifle and march on this place," the blunt-talking, former Florida advertising man and publisher told a columnist.

Sawyer's chief target is the agency's "scandalous" labor costs. GPO craft and industrial workers are paid an average 22 percent more than those in comparable jobs in government and the private sector, Sawyer says. As a result, a typical printing job done by the GPO costs about twice as much as a private printer charges for the same work.

What's more, Sawyer contends that GPO is saddled with too many employees, antiquated equipment "dating back to William Randolph Hearst" and management policies that would make a private-sector executive cringe.

Comments Representative Eugene Johnston (R-N.C.), who formerly ran a printing company: "If GPO were a private printing establishment, it would have collapsed long ago."

The GPO was established by Congress in 1860. Now the largest agency within the legislative branch, it publishes the daily *Congressional Record*, hearing transcripts and reports as well as other documents. It operates from a revolving fund established by Congress and is required to charge other agencies and the public for its products. The agency is projected to run 5 million dollars in the red this year.

Not all of Sawyer's cost-cutting measures have been thwarted.

In the past year, hiring has been frozen, overtime pay cut sharply and a request is pending to offer "early out" retirement to senior workers. Over all, attrition has reduced GPO's payroll by 400—far short of the 1,700 Sawyer wants to cut within three years.

GPO also has begun farming out more printing to private firms. It has canceled plans for a new 268.8-million-dollar plant and tightened purchasing procedures. Thousands of slow-moving GPO publications have been scrapped, including *Culture of Sugar Cane for Sugar Production* in the Mississippi Delta, which sold two copies in 1981.

During recent contract bargaining, Sawyer shocked unions with a final offer of a 22 percent pay cut over two years to bring salaries in line with those at other federal agencies.

Employees in 22 GPO unions around the country heatedly dispute Sawyer's figures. "Antiworker propaganda," says William J. Boorman, president of the Columbia Typographical Union, whose own figures show GPO wages comparable to those in similar union jobs elsewhere. The unions are asking an average 20 percent wage increase.

Meanwhile, GPO employees are working without a contract while Congress, the final arbiter in such disputes, waits for the recommendations of a fact finder.

What finally brought Sawyer's cost-cutting rampage to a halt—at least temporarily—was his plan to lay off all GPO employees for six days.

That was too much for the Joint Committee on Printing. The committee prizes its record of maintaining harmony between unions and the public printer. When the unions complained, the panel quickly passed a resolution forbidding Sawyer to impose any "furloughs, reductions in force or other adverse personnel actions." Says Staff Director Thomas J. Kleis: "The basic issue is who's in charge."

IS IT LEGAL?

Sawyer, questioning the legality of the committee's action, vowed to go ahead with the furlough plan. "The real economic impact of this is that [employees] are not going to be able to go to Pizza Hut on Friday night," he says. "They're all screaming like pigs. It's absurd."

The unions averted the layoffs, at least for now, with their federal court victory. Sawyer says an appeal is being considered.

Although relations are strained between Sawyer and members of the printing committee, he has become a hero to others in Congress. Supporters in both houses are pushing resolutions endorsing his efforts and calling for legislation to strengthen his hand. "Either we want to control government spending or we don't," asserts Senator William Armstrong (R-Colo.), a Sawyer backer.

[From the Pittsburgh Press, June 1, 1982]

A NATIONAL SCANDAL IN PRINTING

(By Donald Lambro)

Federal agencies are needlessly operating printing plants around the country, churning out hundreds of millions of dollars in printing that costs up to 16 times that of commercial companies.

My continuing investigation into the government's multibillion-dollar printing business reveals a nationwide scandal for which taxpayers have been paying for decades.

But instead of cleaning up the problem, Congress has let it grow to the point where there are now nearly 300 federal printing facilities across the nation, 50 of them in Washington, D.C., alone.

The result: an inefficient, overpaid and little-known printing empire that each year contributes substantially to the government's mounting debt.

The Government Printing Office, an arm of Congress, is by law the government's printer. Yet it processes—prints in-house or procures commercially—only about one-third of the estimated \$2 billion to \$3 billion in government printing.

However, as government grew, many agencies demanded their own printing plants. Congress' Joint Committee on Printing complied by granting waivers from the law.

My inquiry into the Government Printing Office shows that its printing costs are often about twice those of commercial firms. But a study last year by the General Accounting Office showed that costs in federal printing shops elsewhere have been up to eight times those of the GPO.

Although in recent years more government printing has been done commercially, the GAO says "little has been done" to economize.

"The net effect," says GAO, "is that the agency printing structure has remained relatively intact," even though commercially procured printing has risen and use of government copying systems (which reduce printing needs) has escalated sharply.

The controversial new chief of the Government Printing Office, Danford Sawyer, pushed last year for a complete rejustification of these agency printing outfits, believing that most were unneeded.

With taxpayers losing \$71 million a year, at a minimum, he said, Congress could no longer "sit idly by and let such neglect, delay, duplication and waste continue."

Mr. Sawyer pressed for a survey by various groups, including the Joint Committee on Printing, chaired by Sen. Charles Mathias of Maryland. But he balked at the idea.

"We ran into a great deal of resistance" from the committee, says an official of the Government Printing Office. "Frankly, they don't want their record in this area examined. If this stuff is exposed to the light of day, it's going to be rather embarrassing."

[From the United Features Syndicate, June 11, 1982]

MILLIONS LOST TO FEATHERBEDDING

(By Donald Lambro)

A secretary is asked by an agency supervisor to type the text of an annual report on a computer tape that is sent over to the Government Printing Office for publication.

The tape is to be run through an electronic photocomposition typesetting system, through which the type size and other display details are punched into the computer and the machine does the rest. In this way, the government saves the considerable time and expense of having the copy "set" by highly paid GPO workers.

Yet instead of using these prepunched tapes sent in from the agencies, GPO printers have been destroying them and repunching the copy, according to officials in the legislative branch agency. The reason: to provide work for GPO's overstuffed army of printers.

"Quite a few agencies are sending us these tapes," says a top official, "but to preserve the jobs of the Columbia Typographical Union members, the printers have been destroying the tapes and resetting the stuff here."

GPO Chief Dan Sawyer, the hard-charging Reagan administration appointee who has been shaking up the agency and challenging Congress' blank-check policies toward it, says GPO "is overstuffed, overpaid and grossly inefficient." He is known to be "looking into the (union contract) legalities" behind the tape-destroying scandal, but in the meantime, the practice continues.

"The difference in pay on this is staggering," says a GPO executive. "While a secretary who can easily type up the tape may earn \$15,000 a year, some of the people over here are being paid \$33,000 to \$35,000." The average annual GPO salary is \$25,000.

Further examples of union featherbedding, officials say, can be found in GPO's proofreading operations. "We have two proofreaders for every printing job," says Sawyer. "They don't do that in the commercial world anymore, but they still do it here."

These and other costly and wasteful practices—which contribute to GPO's swollen \$180 million-a-year budget—have been condoned and nurtured by Congress' Joint Committee on Printing (JCP), which has historically given GPO's workers pretty much what they have wanted.

While auto, meatpacking and other recession-hit industries have been swallowing wage concessions to keep their jobs, GPO's unions are demanding a 20 percent raise

over the next two years. Sawyer has shocked the unions and JCP members by proposing a 22 percent pay cut over the next two years. This would save \$18 million a year and bring the agency's 6,200 workers in line with private-sector salaries.

However, the JCP appears unconcerned by the agency's excesses and abuses, as witness their adoption of a resolution on May 11 which declared, "That no furloughs, reductions in force or other adverse personnel actions shall be imposed upon GPO employees." Instead, in true bureaucratic fashion, the JCP wants "a study of the long-range printing needs" of the government "to determine the future technological and personnel requirements of the GPO."

During an unusual closed door session on the resolution, JCP members were seen huddling outside the committee room with union officials who demanded quick congressional action to stop Sawyer's cost-cutting efforts.

In particular, Reps. Augustus Hawkins, D-Calif., and Joseph Gaydos, D-Pa., whose campaigns are generously supported by GPO's unions, were seen talking several times with William Boarman, president of the CTU, the most militant of GPO's 22 unions.

Nonetheless, the gutsy Sawyer, a former Florida publishing executive, plans to furlough all GPO workers for a total of six days over the remaining year. Citing "serious losses in our printing and binding operations," Sawyer says he has the legal authority to carry it out.

At the same time, Sawyer has been quietly campaigning on Capitol Hill for his pay reductions. His goal: congressional rejection of the JCP's expected approval of a hefty wage hike for GPO, which is being demanded in the midst of the biggest federal deficit in history.

GPO's controversial new chief quietly pushed last year for a complete rejustification of agency printing outfits, believing that most were uneeded.

Sawyer pressed for a survey by GPO, the Office of Management and Budget, and the JCP, chaired by Sen. Charles Mathias of Maryland. But Mathias balked at the idea, not wanting OMB, an executive agency "looking over our shoulder," Sen. Wendell Ford of Kentucky agreed, saying, according to the minutes of the meeting, "As long as we can keep OMB out, the better off we are going to be."

"We ran into a great deal of resistance" from the committee, conceded a high GPO official. Frankly, they don't want their record in this area examined, if this stuff is exposed to the light of day, it's going to be rather embarrassing."

Thus, instead of the 50-state review Sawyer demanded, the JCP agreed only to a watered down pilot study of facilities in New York City. Not surprisingly, the confidential report arising from that inquiring recommended that virtually all of plants examined be closed down and their work processed through the regional GPO office in that area.

But the bulk of the scandal remains.

[From the Oakland (Calif.) Press, May 20, 1982]

REMARKABLE INEFFICIENCY WINS STAMP OF APPROVAL

(By Joe Grimm)

It is a textbook tale of government waste. In recent weeks, columnist Donald Lambro has reported on practices in the

U.S. Government Printing Office (GPO) that defy belief.

For example:

The Federal government pays nearly twice as much to do its own printing as it would pay if private business did the work.

The average GPO wage is \$11.74 an hour compared to the \$8.39 an hour paid to people doing the same jobs for private business.

On average, GPO employees are paid 22 percent more than their counterparts in the federal government.

Nearly a third of the GPO's 6,200 employees are not even needed. While the rest of the world uses photocomposition, the federal government trains new hires to operate antiquated linotype machines.

\$11 million worth of GPO publications were recently sold for scrap because none of the titles were selling even 50 copies a year.

This week, next week, every week, the equivalent of one tractor-trailer load of published material is hauled into warehouses because the federal government will not pay to mail it out but refuses to turn off the presses.

The story was to have a happy ending, though.

Danford Sawyer, a former advertising executive and now the man in charge of the GPO, planned to gut the waste and inefficiency from his department.

Beginning June 1 and continuing for seven months, he planned to give GPO employees six days off without pay.

To bring employee's salaries in line with the salaries of other federal employees, he planned a 22-percent wage cut.

Although he has not made any firm proposals, Sawyer has hinted he will do something about reducing his surplus of 2,000 employees.

Here was an opportunity to save millions of tax dollars without cutting a single food stamp or welfare payment. Here was a man who was in the position and the frame of mind to do it.

It may never come to be.

The House Joint Committee on Printing stands in the way with a five-paragraph resolution.

The first paragraph notes, "Whereas . . . it has always been the policy of the Joint Committee on Printing . . . to supervise and conduct government printing business on a cost-effective and efficient basis."

The last paragraph concludes, "... No furloughs, reductions in force or other adverse personnel actions shall be imposed on GPO employees . . . until a study of the long-range printing needs of the federal government has been conducted. . ."

Who is on this Joint Committee on Printing that is so reckless with our wallets?

It has five Republicans and five Democratic senators or representatives who, for the most part, receive heavy contributions from the 22 unions that represent almost all GPO employees. For example Sen. Charles Mathias, R-Md., committee chairman received \$46,000 from GPO unions for his 1980 campaign.

It is likely the committee's authority to tell Sawyer how to do his job will be decided in court—at our expense.

Urge your elected senators, your congressman and the president to pressure the committee to allow Sawyer to do the job we all want him to do.

GPO BUREAUCRACY PASSES ON

(By Phyllis Schlafly)

Who will win the battle? Ronald Reagan in his valiant attempt to make the federal government less costly? Or the bureaucracy that wants to perpetuate its sinecure of high pay, vast power and generous perks?

A classic confrontation, pitting these two irreconcilable goals against each other, is taking place today in the Government Printing Office.

Danford L. Sawyer, Jr., a successful Florida businessman and cost accountant, was appointed by President Reagan to head the GPO. He moved swiftly to make this \$700 million agency with 6,200 employees more efficient and economical. The bureaucracy has counterattacked with a vengeance.

What brought the issue to a head was Sawyer's decision to reduce some of the agency's losses by furloughing GPO employees for six days during the last seven months of 1982. Since some 9 million Americans are currently "furloughed" indefinitely (laid off and unemployed), it doesn't seem unreasonable for some government employees to take six days without pay, especially when the six days are spread over seven months and tied to periods when the GPO printing plant will be shut down for lack of work.

Many other reasons exist for requiring GPO employees to bite the bullet during this recession, as so many other U.S. workers have to do.

The average hourly earnings of GPO employees are \$11.78, compared to \$8.39 in the printing industry as a whole. GPO compositors receive a \$14.35 per hour; but private-sector compositors receive only \$11.91 per hour. GPO employees get an average wage of \$25,000 per year, more even than their counterparts in other federal departments.

The Government Printing Office can hire private-sector printers to do the government's printing at about 50 percent of the GPO's printing cost. As a result, about 70 percent of the GPO's printing volume is contracted out to private printing companies.

Sawyer says the GPO is "overpriced, overstuffed, overpaid and inefficient." He doesn't understand why the GPO should pay the highest wages in the world for work that can be done in the private sector at half the cost.

When public printer Sawyer started to implement his cost savings, the nine unions that represent GPO employees ran to their friends in Congress and got the Congressional Joint Committee on Printing to pass a resolution May 11 forbidding Sawyer to impose any "furloughs, reductions in force or other adverse personnel actions." The committee didn't bother to consult with Sawyer before passing this resolution.

Sawyer believes the resolution is illegal because it amounts to a committee resolution attempting to contravene two congressional statutes. The Civil Service Reform Act of 1978 permits the GPO management to implement a furlough, and 44 U.S.C. No. 305 prohibits the public printer from employing more persons than are absolutely necessary.

Others have challenged the propriety of the committee action because of an alleged "incestuous" relationship between the Joint Committee and the GPO's unions. The Joint Committee has wage-setting authority and the unions make heavy campaign contributions to the congressmen on the committee.

Sawyer has already implemented other cost savings since he took command. After discovering a heavy abuse of overtime, he cut overtime costs by \$500,000 to \$900,000. He reduced the number of GPO employees through a hiring freeze, attrition and retirement. He thinks the GPO force should be reduced by another 800 to 2,000 employees. He raised the sales price of publications that were underpriced.

The Government Printing Office has three main functions. It does in-house printing of documents for Congress (such as the Congressional Record); it arranges to have printing done for other federal agencies; and it sells some documents through the Superintendent of Documents division.

The sales program is mandated to operate on a break-even basis, but it lost \$20 million in the last three years of the Carter administration. Under Sawyer's efficient management, it made a \$2 million profit in the first four months of fiscal 1982. Sawyer cleaned out the GPO warehouses of publications that were not selling and sold them as wastepaper for \$760,000.

When private businesses experience a decline in orders and an excess of personnel, they reduce employees or they go bankrupt. When the Government Printing Office experiences these problems, it should not be permitted to load its deficits onto the taxpayers.

[From the Chicago Tribune, June 6, 1982]

FEDERAL PRINTERS' BIG WAGES RAPED BY BOSS

(By James Coates)

WASHINGTON—Danford Sawyer Jr., whose duties as Public Printer of the U.S. include publishing virtually every official word uttered into a Capitol Hill microphone, wants to slash the wages of the employees who set his type, run the presses and bind the books.

At the Government Printing Office (GPO), these members of the printing trades—as well as electricians, carpenters and sheet metal workers—are earning thousands of dollars a year more than those in similar union jobs elsewhere, according to Sawyer, a Florida advertising executive before joining the Reagan administration.

For this reason, he says, it costs twice as much each day to pay unionized government workers to print such documents as the Congressional Record or the Federal Register as it would if the work were done by a unionized private printing firm.

"The average GPO employee makes a salary of \$25,000 a year," Sawyer said in a speech before an anti-union group, the Public Service Research Council, based in suburban Virginia.

Sawyer draws these comparisons between the federal printing operation and those in the private sector:

GPO craft employees earn an average of 22 percent more than their fellow craftsmen in both the federal and the private sector.

The high labor costs at GPO account for 80 percent of the operation's overhead, whereas printers' wages in the private sector are about 40 to 50 percent of overhead. As a result, "the typical job produced by the Government Printing Office costs about twice what it would be if we procured it in the private sector," Sawyer says.

77 percent of the costly GPO printing is done for Congress, which last year spend \$181 million to produce complete texts of all House and Senate debates, transcripts of all congressional committee hearings, along with accompanying exhibits, and the Feder-

al Register, which prints all rules and regulations issued by the government each business day.

Sawyer and his associates are busily lobbying on Capitol Hill in an effort to cut back wages at the GPO and initiate other economies after the current union contracts expire June 18.

The Public Service Research Council, a private group that draws heavily on the support of the New Right direct-mail fundraiser, Richard Viguerie, and similar sources, has become a major advocate for Sawyer's position, said George Bevel, the council's senior vice president.

The critics point out that although the GPO spent \$646 million on printing last year, \$465 million was spent hiring outside printers to produce books, pamphlets and other items for federal agencies. Most of the GPO's printers worked directly for Congress, doing \$181 million worth of printing for its 535 members.

One list of wages Bevel and Sawyer are circulating on Capitol Hill indicates that GPO typesetters are paid \$14.35 an hour while their counterparts at newspapers and magazines published here average \$11.91. Typesetters in nearby Baltimore, however, are paid only \$9.52 an hour and in Philadelphia \$10.05.

The GPO pressmen are paid \$14.84 an hour, while Washington pressmen earn \$13.09, those in Baltimore \$10.45, and Philadelphia \$9.91.

In a recent letter to Sen. John Warner (R. Va.), Congress' General Accounting Office (GAO) reported that the GPO's work force also earns substantially more than do other federal workers in most government jobs.

The reason for the higher GPO wages, the GAO study says, is that the print shop's unions bargain collectively with the Public Printer and Congress, while most federal workers have their income set, administratively under the Federal Wage System (FWS).

As a result, the GAO said the electricians hired at the GPO earn \$27,419 a year, while other government electricians earn \$22,410. Similar differences were noted for carpenters, janitors, forklift drivers and others.

During bargaining sessions with representatives of nine major unions last week, Sawyer demanded that the workers accept an average pay cut of \$5,500 a year, or 22 percent. That would bring the GPO scales down to the FWS level, he argued.

Sawyer also demanded that the unions agree to take six "furlough" days off without pay in coming months to recover \$4.2 million that could be applied to the agency's operating losses.

The unions, including the International Typographical Union and the Sheet Metal Workers, rejected these demands. The unions proposed that instead of taking a cut they be given a 20 percent pay increase of \$5,000 a year.

"Needless to say, we are at an impasse," said the GPO's lobbyist, Judith Morton. "There are more, than 40 percentage points between our offer and their demand."

As a result, she said the Congressional Joint Committee on Printing will take over bargaining with the workers. The panel could seek a compromise, side with Sawyers or accept the union demand.

"If you look at the make-up of the committee, I don't think Mr. Sawyer stands a snowball's chance," said Bevel of the Public Service Research Council.

The Chairman of the committee is Sen. Charles Mathias, a Republican from Mary-

land, where 2,929 of the 6,000 GPO employees live. The vice chairman is Rep. Augustus Hawkins (D., Calif.), an outspoken labor advocate.

Mathias has said he wants to delay any sweeping changes at the GPO "until a study of the long-range printing needs of the federal government has been conducted."

In early May the joint committee of House and Senate members voted a resolution to reject an earlier economy move proposed by Sawyer that would have required all GPO printers to take the Tuesday after Memorial Day as an unpaid holiday.

"Let me point out that most of the furlough days are wed to holiday weekends," Sawyer said. "Many employees would not show up anyway, and we have also taken into account the fact that the Congress would not be in session at these times either."

The GPO officials said they did not have a Memorial Day furlough only because Congress stayed in session later than expected in a failed effort to vote a budget resolution. The GPO will insist on a July 4 furlough, however, Morton said.

A major activity of the GPO is to produce the daily Congressional Record, a volume of about 200 pages that includes virtually all House and Senate floor discussions.

One of Sawyer's complaints, Morton said, is that the GPO pays two proofreaders to check each page while most private printing concerns use only one proofreader. The GPO proofreaders earn an average of \$33,000 a year.

Morton disagreed with Bevel's assessment that the proposed cutbacks "don't have a snowball's chance." She said that recently a number of powerful conservatives have come to the GPO management's aid and urged their colleagues on the Joint Committee on Printing to order economies.

Morton said the GPO has enlisted Sens. Strom Thurmond (R., S.C.), John East (R., N.C.), Mack Mattingly (R., Ga.), Bill Armstrong (R., Colo.), and Rep. Robin Beard (R., Tenn.) to lobby for cuts.

"With that kind of help from distinguished members (of Congress) and with the national mood for economy in government spending, I think we have much more than a snowball's chance," she said.

[From the New York Times, May 10, 1982]

PRINTING OFFICE KEEPS EYE ON 'BOTTOM LINE'

(By Ann Crittenden)

WASHINGTON, May 9.—All over Washington, conservative Republican-businessmen are attempting to remake huge Federal agencies in the image and likeness of the Reagan ideal, the corporation. Nowhere is the experiment going on more quietly or more aggressively than up on Capitol Hill in a red-bricked complex with 33 acres and more than 6,000 employees under its roof.

Danford L. Sawyer Jr., who until recently was running a large advertising agency in Sarasota, Fla., has already transformed the sales operation of the 122-year-old Government Printing Office into a profitable business. Though officially he is the public printer, Mr. Sawyer, in his own mind, is guided by what he frequently refers to as "the bottom line."

"It's no secret that the overwhelming majority of the people Reagan appointed are businessmen," the amiable 42-year-old Mr. Sawyer said in an interview. "And there is a philosophical clash going on between the businessman's viewpoint and the idealists'

viewpoint on how best to serve the American public."

The G.P.O. has three main functions. By law, it does in-house printing of documents, such as the Congressional Record, for Congress. It procures printing for other Federal agencies, although budget cutbacks at those agencies have meant a drop in business. Finally, the agency sells some of these documents through its Superintendent of Documents division. Last year the Government Printing Office sold 41.8 million publications, out of more than 4.8 billion printed, for \$50.6 million.

\$2 MILLION PROFIT

The sales program is mandated to operate on a break-even basis, but in Mr. Sawyer's hands, it earned a \$2 million profit in the first four months of the fiscal year 1982, after losing \$20 million in the three previous years. "That figure was enough to upset my stomach," said Mr. Sawyer.

To put "SupDocs," as G.P.O. employees call the documents division, in the black, Mr. Sawyer has drastically reduced the number of publications offered to the public. "We were stocking about 22,000 titles in the Superintendent of Documents division when I arrived last August," he said. "By this August we'll be down to 15,000 titles".

"We are putting fewer new titles into the sales program, but we expect them to be best sellers," said Judith B. Morton, the agency's public affairs officer.

EYE ON BOOKSTORES

In reducing its offerings, SupDocs "cleansed its warehouses" by destroying some \$11 million worth of publications that were not selling more than 50 copies a year or earning more than \$1,000 a year. The millions of volumes were sold as wastepaper for \$760,000.

A few copies of most titles have been kept in stock, Mr. Sawyer said and some may still be obtained free from Congress or the agency that produced the publication. Basically, however, a person looking for one of the destroyed publications will be told to find it in one of 1,357 depository libraries around the country.

In addition, Mr. Sawyer wants to close most of the 27 G.P.O. bookstores, serving more than 450,000 customers around the country. The bookstore operation lost \$9.7 million in 1981.

The public printer denies allegations that his economy measures will restrict public access to Government publications. On the contrary, he said, he has instituted a marketing campaign that he believes will increase public awareness of the agency.

"I've asked for a \$475,000 appropriation for a marketing campaign to make the public aware of the depository libraries," said Mr. Sawyer. He has called on the major television networks to discuss public service announcements on the agency's new catalogue, and asked the Advertising Council in New York City to take on part of the library program for a fee.

"This is the first time anything like this has been done," said Mr. Sawyer. "It totally flies in the face of the criticism that we are attempting to restrict public access. We're just trying to do things in a logical and businesslike manner."

[From the Washington Times, June 15, 1982]

FROM THE HILL . . .
(By John LeBoutillier)

In the looming showdown over runaway government printing costs, Congress must decide whether or not to pull in the reins on one of its most cherished perks.

On the one hand is the U.S. Government Printing Office, a hotbed of featherbedding, overtime abuses and over-paid staffers. On the other hand is Danford Sawyer, 18th Public Printer of the United States, who is committed to eradicating waste and inefficiency at the GPO.

Since taking over the GPO in August 1981, Sawyer has cut overtime, requested furloughs for the over-staffed agency and closed money-losing, regional federal bookstores.

As might be expected, he has been accused by union representation and career bureaucrats of everything short of poisoning the water fountains at the GPO's main office in Washington.

Sawyer has been sued by several unions, been the target of vicious, unsigned letters sent to local newspapers and been subject to harassment games and personal intimidation by his opponents. Despite this smoke-screen of less than honorable, but predictable activity, certain facts shine through.

The GPO employs 6,200 people with an average salary of \$25,000 a year. GPO craft employees earn a mean average of 22 percent more than their private industry counterparts. Eighty percent of GPO overhead costs, for in-plant production, are personnel expenses (compared to 40-50 percent in the private sector).

Of particular note is that 77 percent of GPO production is for Congress. GPO passes its high personnel costs on to Congress, and the taxpayer foots the final bill.

To date, Sawyer has cut overtime from as "little" as \$500,000 to as much as \$900,000 per month. Staff has been reduced by 400 through attrition with no adverse effect on output.

However, when six furlough days were proposed over a seven-month period (as a direct result of the volume decrease brought about by Reagan administration cuts) the ink hit the fan.

The Joint Committee on Printing—the congressional protector of the GPO—went so far as to pass a resolution forbidding any furloughs or reductions in force (RIF). Fortunately, the resolution is not legally binding. In addition the GPO's 22 bargaining units have requested a 22 percent wage increase over two years in recent wage negotiations.

The bottom line is that the Public Printer has uncovered incredible waste and inefficiency in the GPO, and the responsible Congressional Oversight Committee has refused to act responsibly in response to those findings and has, in fact, worked against Sawyer's recommendations.

Only Congress can deal effectively with this outrageous situation. Whether or not Congress chooses to clean up this flagrant waste of taxpayer dollars remains to be seen.

[From the Roll Call—The Newspaper of Capitol Hill, May 24, 1982]

FLASH: AGENCY WANTS LESS \$\$
(By Rich Burkhardt)

Although most of the groups that appear before the legislative branch committees at this time of year frequently come request-

ing more staffing and supplemental funding to cover pay increases, the Government Printing Office (GPO) proved to be a dramatic exception to that rule.

Danford Sawyer, head of the GPO, said May 10 at a Senate Legislative Branch Appropriations Subcommittee hearing that although the budget they had originally planned to submit totaled \$135,727,000 including \$303,000 for a pay supplemental, he has since taken several steps that would eliminate approximately \$12.1 million from that request, including the pay supplemental.

Sawyer said that much of the savings could be attributed to rescinding of a 16 percent price increase GPO had enacted in March in an attempt to recoup a \$4.9 million loss in the printing and binding operation during the first five months of FY 82. The previous method of regaining such losses had always been to increase prices.

"It quickly became apparent, however, that since we had become far more expensive than the private sector, we were, in effect, pricing ourselves out of the market," he said. "It was clear that the only way to assure GPO's competitive stance was to follow the path of the private sector, that is, to cut costs and prices and improve efficiency. By rescinding this 16 percent increase, we will save Congress approximately \$10.7 million in fiscal year 1983."

Sawyer also said that in order to recoup the losses, all GPO employees would be furloughed for 6 days during the last seven months of FY 82. He said that five of the furloughs would be scheduled for days preceding or following a three-day weekend, and that one other is adjacent to a weekend.

Sawyer said that he had originally thought about furloughing half the employees for 13 days, but by choosing times when Congress was not in session for the furloughs to occur, GPO could close its plant completely and spread the furlough time cut evenly.

Although Sawyer said that the furloughs should recoup most of the losses, he said that "unless we are able in the next six months to solve the long term problems which confront the GPO," drastic job reductions are a good possibility.

One of those problems, Sawyer said, is that GPO wages are an average of 22 percent higher than those in either other government printing plants or the private sector, a factor which drastically increases personnel costs. Sawyer said that efforts are being made to lower the GPO salaries to parity with others in the printing industry, and that if they are successful, savings of \$9 million for Congress and another \$9 million for the rest of the government would result.

Another problem in the GPO is an excess of personnel, Sawyer said. To alleviate this problem he has taken several steps, including requesting authority for early retirement for GPO employees and contracting a study to determine GPO's staffing requirements for the next decade.

Sawyer said that technical changes, such as the conversion from hot type to photo offset for publications, and an elimination of little requested publications from the inventory would also result in savings, and that and increased emphasis is being made on marketing GPO publications to the general public in order to raise more revenue.

Subcommittee chairman Mack Mattingly (R-Ga.) lauded the GPO for their efforts in cutting funding requirements, calling the presentation "a breath of fresh air."

[From the Baltimore Sun, June 24, 1982]
DANFORD SAWYER'S WILLIES
 (By James J. Kilpatrick)

WASHINGTON.—Danford L. Sawyer, Jr., holds an ancient and honorable title. He is the nation's Public Printer. He is also down with the Washington willies.

This is a familiar affliction, but Mr. Sawyer's case seems unusually severe. The gentleman is 42, a multimillionaire who made his bundle in publishing and advertising down in Florida. Before he came to Washington last summer, he was politically as innocent as a newborn calf. The President named him Public Printer; the Senate confirmed his appointment; and Mr. Sawyer assumed his office in a mood to Get Things Done.

Heaven knows that he found plenty of things that needed doing. The Government Printing Office is among the most sacred cows in the national feedlot. It employs 6,200 persons, most of them union printers; it does three-quarters of a billion dollars worth of printing a year, most of it for the sacred Brahmins of the U.S. Congress. Such is the unions' cozy relationship with Capitol Hill that the GPO printers are the highest paid printers in the country, if not on the planet Earth. Until just a few years ago, they were setting all their type on Mergenthaler Linotypes; they were composing display matter by hand.

Into the GPO's musty red brick building came the eager new executive, breathing efficiency, full of the old sis-boom-bah, bringing a management team with him. Mr. Sawyer swiftly discovered what the General Accounting Office long ago disclosed, that the GPO is overstaffed, overpaid, and in many of its operations woefully unprofitable. He proposed to cut the printers' salaries by 22 percent. He proposed to close 23 government bookstores around the country. He proposed greatly to reduce overtime. He proposed to send more of the work out for private contract. He proposed to impose six days of unpaid furloughs. The gentleman was bursting with ideas—most of them excellent ideas.

Then our subject discovered something else. He discovered that making progress in the Washington bureaucracy is like walking through sludge. He encountered the Joint Committee on Printing (JCP), which is like encountering the Chinese Army, a force that with great subtlety does not defeat its enemies but merely absorbs them. He made the mistake of antagonizing Senator Mathias, chairman of the JCP. And now our Pilgrim finds himself in the Slough of Despond.

Nothing much has happened at the GPO, and Mr. Sawyer has the Washington willies.

Patience, I would counsel him. Patience! Senator Mathias has been in politics for 30 years, 22 of them on Capitol Hill. He is a man of engulging amiability. He and Mr. Sawyer, in point of fact, are not far apart on the reforms that are needed at the GPO. Both of them want to accelerate the transition to new printing technology. Both are agreed on a reorganization of the office that would free Mr. Mathias from the ridiculous burdens now imposed on the JCP chairman. Under present law, Mr. Mathias must personally sign every contract the GPO enters into. Not a gross of envelopes can be ordered without his say so. It is absurd. Mr. Mathias raises no objection to closing the unprofitable bookstores and replacing them with an efficient mail-order operation.

But in the nature of life in Washington, these things take time. The printers' con-

tract is now headed toward arbitration. The proposed furloughs have been put on hold. In order to abolish the existing structure of the GPO, bills must be drafted, studies must be made, hearings must be held, committee reports must be prepared, et cetera, et cetera, et cetera.

I do not mean to sound complacent about Mr. Sawyer's problems. I mean to sound philosophical. Life in government is not like life in private business. It never can be made so. The decisions of a private executive can be as quick and clean as a pole vault—up and over and the thing is done. Here decisions require all the ritual bows and turns and arm-in-arm formalities of a minuet. We confer, we consult, we reach a consensus. Shall we reorganize the GPO? By all means. But maybe next year. Or maybe the year after that.

[From the Holland (Mich.) Sentinel, May 19, 1982]

PRINTER WITH IDEAS

Danford L. Sawyer, Jr. is not a household word.

Maybe it ought to be.

What he is doing in Washington is getting some notice and his latest move is sure to draw comment.

Danford L. Sawyer, Jr. runs the 122-year-old Government Printing Office. In a few words, he's the government printer. In operating such an agency, he upset some people but is determined to cut costs at the GPO and at the same time make money for a government unit.

When Ronald Reagan came to Washington, he sought to trim the extras from government spending. Sawyer, who was running a large advertising agency in Sarasota, Fla., was picked to carry out the GOP assignment.

He has.

That's why he's in hot water with some of the labor unions, the congressional joint committee on printing, and certain other members of Congress.

He proposes:

1. Furloughs for all GPO employees for six days over the next seven months to reduce a five month deficit of \$4.9 million.

2. A 22 percent pay cut for GOP employees who are members of 13 bargaining units to bring salaries in line with that of other federal agencies.

3. Reduction-in-force: In this area, the public printer says he has the right to decide whether or not to implement RIFs. It is estimated that GOP has a surplus of 1,500 employees.

Last week, the joint committee passed a resolution, in closed session, halting Sawyer's moves without the committee's "study and approval."

Undaunted, the 42-year-old Sawyer is moving full speed ahead. That's the direction he should take. Other governmental agencies should take a lesson.

Since last August he has drastically reduced publications and saved money. In the Superintendent of Documents division alone, the 22,000 titles docketed when Sawyer arrived have been chopped to 15,000. The housecleaning destroyed some \$11 million worth of publications that were not selling more than 50 copies a year or earning more than \$4,000 a year. Those volumes, sold as waste, brought in \$760,000. Aware of people asking for destroyed publications, people are told there are copies in one of 1,357 libraries throughout the nation.

A profit of \$2 million was realized in the first four months of fiscal year 1982 after

\$20 million had been lost in the three previous years. Seeking additional savings, Sawyer would close 27 GPO bookstores serving 450,000 people around the country. This operation lost \$9.7 million last year.

Many Holland residents have received government publications from Rep. Guy Vander Jagt. GPO has been a congressional plaything, necessary, but certainly misused.

The GPO has three main functions, the New York Times reports. By law, it does in-house printing of documents, such as the Congressional Record. It procures printing for other federal agencies and sells some documents. Last year 1.8 million publications were sold out of more than 4.8 billion printed, for \$50.6 million.

Sawyer's problem is the philosophical clash between the businessman's viewpoint and the realists' viewpoint on how best to serve the American public.

Attempting to run GPO like a business, Sawyer's concern with the bottom line is gratifying. But he hasn't heard the last from Congress, especially people like Sen. Charles Mathias of Maryland, joint committee chairman. Mathias has 2,529 GPO employees living in Maryland and he received \$46,000 in his 1980 campaign from GPO unions plus a \$5,000 maximum from the AFL-CIO.

See why it's difficult for somebody to streamline a government business. The bureaucrats don't want it corrected and finds ways to introduce stumbling blocks.

The American people should applaud the GPO chief.

Keep it up, Danford L. Sawyer, Jr.

[From the Paducah (Ky.) Sun, June 23, 1982]

WHY IT'S HARD TO CUT THE BUDGET

You'd think, wouldn't you, that at a time when congressmen profess alarm about budget deficits they would look closely at the biggest single item in their own budget, the one that governs spending for the operation of Congress.

Here's one place where Congress can act directly to trim that horrendous deficit that is forecast. It's a perfect place to seek ways to get along with less.

Well, if this is what you'd think, you'd be wrong.

The biggest single item in Congress' own budget is the Government Printing Office. It's a \$2.5 to \$3 billion business. It has a boss, Public Printer Danford L. Sawyer Jr., who has found ways to cut its spending sharply without any reduction in efficiency or service.

Instead of the glad cries of gratitude and commendation you might expect from the Congress, however, Mr. Sawyer has been opposed vigorously and bitterly by his bosses, the Joint Committee on Printing, one of whose 10 members is Sen. Wendell Ford of Kentucky.

Mr. Sawyer, instead of bowing meekly to the committee, has taken his case to the full Congress. He made a talk to a group of them last month in which he pleaded eloquently to be allowed to cut costs.

"The Joint Committee has met twice in the year I have been public printer," Mr. Sawyer told them. "In both cases, the end result of those meetings was to turn back or to try to turn back initiatives under way at the Government Printing Office designed to increase that agency's cost-effectiveness and efficiency and to save the taxpayers money."

Why would any group of congressmen object to efficiency and saving the taxpayers money?

Well, the root of the problem is that the GPO is governed by the Kless Act, which requires the government to bargain collectively with GPO labor unions, and the unions have considerable political clout.

The result is that the average GPO employee makes a salary of \$25,000 a year, about 22 percent more than workers in the private sector.

Eighty percent of GPO costs are personnel costs, compared with 40 to 50 percent in the private sector.

And the result of all that is that a typical printing job at the GPO costs about twice what the same job would cost if done by a private firm. And 77 percent of all the work done by the GPO is for the Congress.

Mr. Sawyer has initiated some cost-cutting measures. He has cut overtime, he has reduced payroll by attrition, and he has started a waste management program that he believes can save \$1 million a year.

Mr. Sawyer's most controversial plan for cutting costs has been a plan to furlough all GPO employees six days over seven months. The unions have protested vigorously. They have filed suit in the federal court in Washington.

The furlough idea wasn't conceived recklessly or without consideration for the employees. The alternative was to "RIF" several hundred employees, that is, to dismiss them by "reduction in force."

Most of the furlough days were tied to holiday weekends. Many employees wouldn't show up anyway, and also to times when Congress will not be in session.

The Joint Committee on Printing adopted a resolution forbidding Mr. Sawyer to order the furloughs. He has denied the committee's right to issue such an order and in effect, appealed to the full Congress, and indirectly to the voters.

There are some in Congress who agree with Mr. Sawyer and are serious about cutting this expenditure, which it can control directly. These congressmen are considering offering a resolution to the full Congress which would:

1. Call for parity between the pay of government printers and other federal employees.
2. Call for fixing wages of GPO employees in accordance with the wage system that applies to other federal employees.
3. Call for clarification of the joint committee's relationship to the public printer, who is charged with the duty to "take charge and manage" the office.

This will be one test of how serious Congress is about cutting the government deficit.

[From the Washingtonian, July, 1982]

DANFORD L. SAWYER JR.—SOME CALL IT PRESTIGE; HE CALLS IT GARBAGE

(By Vera Glaser)

He has been head of the Government Printing Office less than a year. He sits there, a mild-mannered guy drinking a Tab, the Muzak playing, saying things that would curl your hair: "I don't want to sound like a revolutionary, but if the American taxpayers knew the kind of screwing they were getting in this operation, they'd all pick up a rifle and march on this place." Dan Sawyer, a 42-year-old New Yorker, made millions in Florida advertising and publishing, while also working in three Reagan campaigns. Now he's overhauling the GPO amid screams from Capitol Hill.

"It upset my stomach," Sawyer said, to learn that the agency, which prints and sells federal publications, lost \$20 million over the last three years. He kicked GPO into the black in a few months by discontinuing 7,000 publications. Managing the place isn't difficult, he says. The big headache is GPO's unions, Sawyer says they "are paid 22 percent more than anybody comparable in the Western World." Trimming that means confronting "the same labor unions that have cut down some of our most successful newspapers. Their record for intransigence is well documented." To make matters worse, Sawyer says that some congressmen on the Joint Committee on Printing, which oversees the GPO, are persecuting him at the behest of unions that give them campaign money.

Sawyer, his wife Ruth Anne, and their three children enjoy country living in Oakton, Virginia. "I don't want to sound egotistical, but I've got a Jaguar, an MG, two station wagons, a thoroughbred, and two quarter horses sitting out there. I'm supporting two households. I retired before I came up here. I need this garbage like a hole in the head." Nevertheless, Sawyer says he'll "stick it out for a while."

[From the St. Louis Globe-Democrat, June 14, 1982]

FEDERAL PRINTING MANIA

Charges are being hurled back and forth in a heated controversy at the Government Printing Office.

The heart of the dispute centers around a proposal calling for a 22 percent wage cut over a three-year period, which unions at the facility have rejected.

Public Printer Danford Sawyer Jr., who heads the GPO, says it costs twice as much to pay unionized government workers to print documents such as the Congressional Record or the Federal Register than if the work had been done at a unionized private printing plant.

Another version is given by John F. Leyden, executive director AFL-CIO Public Employee Department, who acknowledges the GPO's costs are higher but puts the blame on "a top heavy management structure."

Labor costs at the government facility account for 80 percent of the operation's overhead, while wages for printers in the private sector are only about 40 to 50 percent, according to Sawyer.

Sawyer and his aides are lobbying Congress in an effort to cut back wages and initiate other economies when the current union contract expires June 18. Typesetters at the GPO are paid \$14.35 an hour while their counterparts on newspapers and magazines published in the Washington area get \$11.91 hourly, according to Sawyer. The pay at private plants is lower in Baltimore and Philadelphia. A similar situation exists in pay scales for pressmen.

GPO's biggest customer is Congress, which accounts for 77 percent of the printing jobs that cost \$181 million last year. The GPO appears to be a toy for Capitol Hill. Although the GPO spent \$646 million on printing last year, \$465 million of that sum went for hiring outside firms to print assorted items for federal agencies.

Leyden has urged Sen. Charles McC. Mathias Jr., R-Md., who is chairman of the Joint Congressional Committee on Printing, to hold hearings on the issue. Since Congress has a vested interest in GPO, perhaps some other body should take a look to air out the matter in fair fashion.

Better yet, since most of the printing already is being farmed out, why not allow private enterprise to do it all?—especially if the cost would be lower. Taxpayers wouldn't object. Then an effort should be made to reduce the federal government's massive printing projects to a sensible level.

[From the Washington Times, June 24, 1981]

WAR OF WORDS BEING WAGED ON THE GPO

What more appropriate backdrop for a war of words than the Government Printing Office?

Involved in the dispute are Public Printer Danford L. Sawyer Jr., who is allied with Rep. Eugene Johnston, R-N.C., and 50 other House members, against Sen. Charles McC. Mathias Jr., R-Md., chairman of the Congressional Joint Committee on Printing, and Rep. Michael Barnes, D-Md.

Among charges in the dispute are that Maryland and Virginia lawmakers are using the printing office as a political plum to get re-elected.

Also at stake is a proposal by Sawyer and the group of House lawmakers to make the printing office more cost-effective and to put workers here on a pay scale on par with other federal employees.

The printing office employs 6,200 workers and has annual personnel costs of \$160 million. Their wages exceed by nearly 29 percent the amount paid to other workers in the government in similar jobs, the General Accounting Office reported.

Sawyer, who has come under fire in recent weeks from printers' unions and others, also has charged feather-bedding by workers at the printing office, a charge disputed by Barnes but supported by Johnston.

"The biggest expense incurred by Congress is government printing," said Johnston, a printer himself. "The GPO is a political fiefdom pampered by Maryland and Virginia politicians as part of their constituents to get re-elected," he charged.

The charge is "political rubbish," an aide to Mathias told The Washington Times, saying Sawyer and the others are "straining for arguments" to justify efficiencies.

"You cannot apply ironclad business principles used in the private sector to the GPO, as Mr. Sawyer is doing," the aide said.

Also disputed was a report that Mathias was out to have Sawyer fired because of the union disputes.

"If the senator were out to fire Mr. Sawyer," the aide said, "why then did he vote for his confirmation when he was appointed?"

Sawyer and the others maintain that, if he were given free rein, he could save the taxpayers \$30 million by furloughing workers and canceling scheduled pay increases and early retirement.

Mathias' panel has disputed this argument, providing data that vary sharply with the figures used by Sawyer.

Barnes is expected to hold a news conference today to offer a measure countering Johnston's resolution.

Also expected today is a resolution in the Senate from Sen. William Armstrong, R-Colo., who said, "Congress has little taste for saving the taxpayers' money and for reform." He said he supports Sawyer's efforts.

[From the Washington Post, June 28, 1982]

HEAD OF GPO IS A HERO TO SOME, BUT . . .

SAWYER UPSETTING TO HILL, UNIONS

(By Nicholas D. Kristof)

Dan Sawyer thought his opponents were being selfish. He was the businessman's businessman, come to clean up the Government Printing Office for the Reagan administration, and all the unions could do was snipe.

Referring to the furloughs he has ordered for the GPO's 6,000 workers, Sawyer said, "The real economic impact of this is that they're not going to be able to go to Pizza Hut on Friday night. They're all screaming like pigs. It's absurd."

But from the point of view of the unions and the congressional committee that watches over GPO, the absurdity and bad faith are Sawyer's. They charge he has disobeyed Congress, distorted statistics and hired his own retinue.

A clash of wills, ideals and rhetoric reverberated throughout the federal government when President Reagan's lieutenants arrived in Washington. But rarely was the din as loud as when Danford L. Sawyer Jr. became the nation's "public printer" and took command of the GPO.

A former Florida advertising executive, a millionaire and a Reagan supporter since 1968, Sawyer said he was appalled by what he found at the GPO when he arrived last August. He told one columnist, "I don't want to sound like a revolutionary, but if the American taxpayers knew the kind of screwing they were getting in this operation, they'd all pick up a rifle and march on this place."

Blaming the Joint Committee on Printing, which oversees GPO, for condoning a taxpayers' nightmare did not endear him to the committee, particularly its chairman, Sen. Charles McC. Mathias Jr. (R-Md.). The result has been a turf battle over the GPO between Sawyer and the committee, complicated by the peculiar system in which a presidential appointee directs an agency that serves Congress.

Sparks flew early when Sawyer announced he would close 23 of the GPO's 27 bookstores because they were losing money. The committee in two resolutions advised Sawyer he needed its approval before any bookstores could be closed or any furloughs ordered. Sawyer has postponed action on the stores, but he argues that furloughs and similar personnel decisions are his alone to make. A dismayed staff member on the committee asked, "If he doesn't work for the Congress, whom does he work for?"

In the meantime, Sawyer has become a darling of conservative columnists and editorial writers because of his attacks on waste at GPO and his efforts to end what he sees as a drain on taxpayers. One editorial was headlined "Danford and Goliath" and began, "It's hard to find a hero these days. But . . ."

In his speeches and interviews, Sawyer has argued that the GPO's employees are overpaid and inefficient. He cites figures showing that GPO craft workers are paid 22 percent more than workers in comparable private-sector jobs or in other parts of the government. That figure was widely publicized in the media, and Sawyer stunned the GPO unions this spring by making a "final offer" of a 22 percent wage cut over three years in talks on a contract to replace the one that expired two weeks ago. Union spokesmen argued that Sawyer's figures are distorted. The joint committee staff said

Sawyer's figures are faulty because in some cases they include wages for supervisory personnel in the GPO, but not in the private sector; because they include wages for nonunion labor in the private sector, and because the GPO uses sophisticated equipment and thus requires well-trained workers.

William J. Boarman, president of the Columbia Typographical Union, cites statistics that show the wage for GPO typesetters, \$14.35 an hour, is somewhat less than they earn in the private sector. Boarman also said that if GPO pays some craft workers more than the average private-sector worker, it must, to attract and keep the best employees. The importance of the work, Boarman said, makes it necessary for the GPO to have the best employees—and to have two proofreaders for every document, another custom that Sawyer has attacked as costly and inefficient.

In this battle of statistics, with flurries of wage data pouring in from each side, no peace with honor seems at hand. In addition to seeking the pay cut, Sawyer has ordered that all employees be furloughed for six days, usually close to holidays.

The unions responded with a request for a 13.2 percent wage increase over two years, plus cost-of-living increases of up to 3 percent each year, although George E. Lord, chairman of the joint council of unions at GPO, admitted the request was "a little high." In addition, the unions are seeking an injunction to prevent the furloughs from taking place, in a hearing scheduled today in U.S. District Court here.

The House District of Columbia Committee, meanwhile, is scheduled to hold hearings tomorrow on the furloughs and other personnel actions planned by Sawyer. The unions also plan a "truth march" beforehand from the GPO to the Capitol.

But Sawyer, too, has his reinforcements. Seven senators and 87 representatives have cosponsored resolutions in support of his actions, and he is regularly plugged in the Congressional Record. Sawyer hopes this legislative support will be translated into legislation abolishing the Joint Committee on Printing and creating a GPO board of directors in its place. But he concedes that is an unlikely prospect.

Sawyer did not win many friends at GPO when \$234,000 worth of refurbishing was ordered for its eighth floor, where the public printer has his offices, while Sawyer was saying that the agency was strapped financially. And although the GPO previously did not have any Schedule C (political) appointees except for Sawyer, he has hired 11, to provide secretarial staff and to run a new marketing campaign for government documents, he said.

Some employees were also surprised when Sawyer, a shooting enthusiast, was deputized a special officer in the GPO police force. He said he does not carry a gun but has access to guns in the building if he needs one for security.

[From the Federal Times, June 21, 1982]

GPO UNIONS FILE SUIT OVER FURLOUGH PLAN

(By Winston Wood)

Government Printing Office workers have taken their boss Danford Sawyer to court in the increasingly bitter dispute over who sets pay policy at the legislative agency—Congress or the presidentially-appointed Public Printer.

Nine of 22 unions representing GPO employees filed suit in U.S. District Court in

Washington, saying Sawyer has interfered with their "right to work." They seek an injunction to block scheduled furloughs that would put GPO's 6200 workers on leave without pay for six days this year.

A union attorney said he will ask the court to act before the next furlough date, July 6. Sawyer postponed a June 1 furlough because of an increase in printing order from Capitol Hill.

Before business picked up at the financially-strapped agency, Sawyer had been set to order the June furlough in defiance of a joint congressional committee edict.

GPO officials expressed no reaction to the suit other than that it was expected. Labor and management have engaged in an escalating war of words over the furlough plan since it was announced in March.

The controversy also has soured contract negotiations at GPO, where employees may bargain collectively on wages. Relations worsened when Sawyer called for a 22 percent salary cut over three years. That issue will soon go to arbitration.

George Lord, president of GPO's Federal Printing Workers local and spokesman for the unions, said the lawsuit had been under consideration for some time. He said employees decided to go to court when Sawyer persisted with his furlough plan despite a cease and desist order from the Joint Committee on Printing, the legislative panel with jurisdiction over GPO.

The panel passed a resolution May 11 telling Sawyer that no furlough or other personnel action should be made without committee review and approval.

Attorneys familiar with the suit, filed June 2, say the conflict arises from overlapping authority granted GPO management and the congressional panel by two different laws.

The 1924 Keiss Act granted GPO workers the right to bargain over compensation issues, with disputes to be resolved by the JCP. Under the law, the panel's decision on such issues is final. The union's suit claims Sawyer has violated the Keiss Act by ignoring JCP's order not to conduct the furlough.

GPO officials, however, cite the 1978 Civil Service Reform Act as granting management increased authority in such matters. They note with irony that JCP chairman Sen. Charles Mathias, R-Md., was one of the act's primary sponsors. They say it is hypocritical of him to deny the increased management prerogatives he once strongly favored.

Printing office officials also say furloughs have been used commonly in the past to save money. Furloughs are needed now more than ever if the agency is to check financial losses caused by high labor costs and a serious drop in printing orders from other government agencies, they say.

Union attorneys say the law is clear. "This is a compensation matter and the Civil Service Reform Act doesn't cover compensation at all," said George Driesen, the lawyer who filed suit for the unions and four named plaintiffs. "The JCP handles that [compensation] and they have ruled. Now we're trying to get him [Sawyer] to obey the law."

Workers have taken the Public Printer to court before and won, Driesen added. A 1951 case involving premium pay on holidays went all the way to the Supreme Court, with the unions prevailing at every level, he said.

Additional court papers are expected to be filed by both sides before U.S. District Judge Oliver Gasch sets a hearing date.

[From the Washington Post, June 30, 1982]
4,000 GPO EMPLOYEES MARCH ON CAPITOL HILL

An estimated 4,000 employees of the Government Printing Office staged an angry but peaceful march on Capitol Hill yesterday to protest management proposals to save money by cutting their pay and putting them on furlough for six days.

Many of the marchers came off the midnight-to-8 a.m. shift at the huge North Capitol Street plant, assembled at nearby Gonzaga High School and were led to the Hill by Mayor Marion Barry. At the Capitol, the marchers were addressed by friendly members of Congress.

The GPO, with 6,000 employees, is the largest industrial-type employer in the city.

Public Printer Danford Sawyer Jr., a Florida millionaire and a Reagan nominee (although the GPO is an arm of Congress), has contended GPO workers are paid 22 percent more than private industry employees, a claim challenged by the printers' union.

The furlough proposal has put Sawyer in direct conflict with Sen. Charles McC. Mathias Jr. (R-Md.) chairman of the GPO-supervising congressional Joint Committee on Printing. Many GPO workers are Mathias constituents.

[From the Washington Post, July 3, 1982]
 (By Nicholas D. Kristof)

HEAD OF PRINTING OFFICE LOSES FIGHT ON FURLONGS

A federal judge here ruled yesterday that the head of the Government Printing Office lacks authority to furlough its 6,000 employees for six days without pay.

Public Printer Danford L. Sawyer Jr. had ordered the furloughs as part of a controversial campaign that he said would save the government millions of dollars. A congressional oversight committee, however, told Sawyer to postpone any furloughs until it had studied the issue, and U.S. District Court Judge Oliver Gasch agreed, ruling that the GPO must obey the congressional committee.

Sawyer, who has battled the Joint Committee on Printing and the GPO's unions in his attacks on policies he considers wasteful, said he was disappointed with yesterday's ruling but would comply with it.

He said there would be responses "at several different levels"—possibly an appeal and probably legislation to strengthen the hand of the public printer.

A millionaire advertising executive who came from Florida to head the GPO in the Reagan administration, Sawyer has enjoyed support on the Hill. Nine senators and 89 House members have cosponsored concurrent resolutions supporting his position, and Sawyer said a joint resolution with the force of law might be introduced in place of the concurrent resolutions.

Sawyer wants legislation that would give the public printer clear authority in personnel matters and make him subject to a board of directors rather than the Joint Committee on Printing.

William J. Boorman, president of the Columbia Typographical Union, said yesterday, "This is a great day for the rule of law. . . . Rather than continuing his propaganda attack on the GPO employees, we hope [Sawyer] will come to the collective bargaining table."

George E. Lord, Chairman of the joint council of unions at the GPO, said the unions would lobby Congress against a joint resolution giving new powers to the public

printer, and he said he doubted such legislation would pass.

Sawyer has said the furloughs are necessary because the GPO is losing money and because of the amount of printing scheduled has declined this year. He said each furlough would save \$600,000.

Union spokesmen said yesterday that for each day the GPO is not working, it loses a \$2.5 million payment from Congress. Instead of saving \$600,000, each furlough would lose \$1.9 million, they said.

Sawyer called that reasoning "black magic economics." "What they're saying is 'just charge it to the taxpayer and don't worry about it.'"

[From the Human Events, May 15, 1982]
MATHIAS, UNIONS CONSPIRE AGAINST GPO SAVINGS

When Danford L. Sawyer Jr. was appointed by President Reagan to head the Government Printing Office (GPO) last year, he walked into a taxpayer's nightmare. The agency—which is the largest single printer of congressional and executive branch documents—was plagued by inefficiency and vastly overstaffed. In addition, Sawyer discovered a history of overtime abuse at GPO and a pay scale that was completely out of line with the cost of similar work anywhere else in the printing industry.

In past years, such practices have gone virtually unchallenged, thanks in large measure to an extremely close relationship between the GPO's labor unions and key members of Congress' Joint Committee on Printing (JCP), which is charged with "oversight" of the agency.

The chairman of the JCP, for example, is Sen. Charles McC. Mathias (R-Md.), a liberal who received \$46,000 for his 1980 campaign from unions directly involved with GPO, including the \$5,000 legal maximum from the AFL-CIO. The panel's vice chairman, Rep. Augustus Hawkins (D-Calif.), has similarly close ties to labor, as do such other members as Sen. Howard Cannon (D-Nev.), Sen. Wendell Ford (D-Ky.) and Rep. Joseph Gaydos (D-Pa.).

The law requires GPO to be self-supporting. But rather than putting a lid on waste, the unions at GPO and their allies on the JCP have favored another approach. As costs skyrocketed, they simply raised the agency's printing fees, and Congress anted up the extra cash in the form of supplemental appropriations. While the taxpayers have borne the brunt of this arrangement, Sawyer's predecessors have tended to go along meekly, rather than cross swords with the combined might of the labor-JCP alliance.

All of this changed abruptly, however, when Sawyer arrived on the scene. A tough conservative scrapper who ran his own publishing firm in Sarasota, Fla., before assuming command at GPO, Sawyer was appalled by the utter lack of cost-consciousness at the congressional agency. To remedy the mess, he instituted a hiring freeze and sharply reduced overtime. The latter move alone has saved at least \$500,000 and possibly as much as \$900,000.

In another cost-cutting move, the public printer has implemented a one-day-per-pay-period furlough program for 3,100 of the agency's 6,500 employees. Sawyer announced that he would give back 5 percent of his own salary during this six-month furlough and that all top management will be similarly affected.

While these and other moves have drawn flak from the unions and members of the

JCP, what really has them fuming is Sawyer's proposal during the current round of wage bargaining of a 22 percent pay cut.

In an interview with Human Events, Sawyer insisted that such a cut is fully justified. "Our craft workers," he explained, "are being paid on an average 22 percent more than their compatriots in the federal sector and also the private sector. And we're not comparing them to wages being paid in lower wage areas in the South. We're comparing them to wages being paid in major metropolitan areas of the country. They are the highest-paid craft workers in the Western world."

As an illustration of the excessive wages being paid, Sawyer noted that some proofreaders at GPO are getting well over \$30,000 a year. By contrast, he noted that a "proofreader in the private sector would be happy to get \$15,000 a year, and in many cases they aren't getting that."

As a result, says Sawyer, GPO is charging twice what it would cost the government to get the same printing done in the private sector, and the public is the clear loser.

Yet reform will not be easy. For under the law, the JCP, with its heavy pro-union membership, is the final arbitrator of GPO wage disputes. The unions have repeatedly received overly generous pay settlements from the committee in the past, and Sawyer expects them to try again once this year's bargaining period ends on May 18.

To Sawyer, this arrangement presents a blatant conflict of interest and should be stopped. "If you check the members of the committee, the Democratic and Republican members, but primarily the Democrat members," he told columnist Donald Lambro last week, "you will find AFL-CIO funding of their campaigns to a very large degree." Yet, he said, GPO records show "a pattern of continuing meddling on the part of these members in the wage negotiations procedures."

"If Charles Mathias . . . were being judged by the same standards that I was judged by going through the confirmation process, he wouldn't be allowed to be chairman of the committee," said Sawyer. "Here's the senator from the neighboring state representing a substantial number of his own constituents who work here, involved in the setting of their wages, and then turning around and receiving financial and soldier-type support from these people. These people provide muscle in his campaign. And the AFL-CIO helps provide the money. He should disqualify himself or the Senate should have the good sense to keep him off the damned committee to begin with." Sawyer added that other committee members with close union ties are equally guilty.

Sawyer told HUMAN EVENTS that he did not want to make a personal attack on these committee members. "Instead of getting personal," he said, "I'd rather say that everyone would be better served if there were some kind of interface between Congress and the GPO. I don't think it's a healthy situation at all where the employees can go to the Hill and go around management."

"And there's absolutely no question that's going on," he continued. "On every small issue, medium-sized issue, and large issue, they go to Congress. They go to their own congressmen, they go to the JCP, and they apply a lot of political pressure. They have, in effect, emasculated management's ability to fulfill its mission."

What has been happening, Sawyer said, "is whenever the agency wasn't making ends

meet, it has simply raised prices to Congress and to the agencies. Work a lot of overtime, run the costs through the roof, make it look like we're making a lot of money—that has been the pattern and that is what the unions recommend we do now . . .

"They've said that in writing. Raise prices and work a lot of overtime. Run the cost up. They're saying Congress will pay the bill no matter how high the cost, so run the price up."

Sawyer acknowledges that, under the law as it now stands, the JCP has the final say on the GPO pay scale. Given the inherent tendency to politicize the decision, he is not optimistic about the final outcome of this year's pay negotiations. "If the public cares," he says, "they should address letters to the Joint Committee on Printing."

In other areas, however, Sawyer believes excessive interference by the committee is making it difficult for him to carry out his own responsibilities under the law. One example was a vote by the panel to at least temporarily block the public printer from saving \$1 million a year by consolidating 23 regional bookstores into an efficient toll-free, telephone ordering service. Another is the contention of some committee members that he has no right to implement a furlough policy—a position he vigorously disputes.

"The area of contention," he said, "is whether we have the right to furlough or not. To us it's clear-cut. Title 44 [of the U.S. Code, which governs the operations of GPO] is quite clear. We have a lengthy general counsel's report on this, and the Office of Personnel Management concurs. Bluntly, what is boils down to is if I have a right to furlough, then I have a right to RIF [reduction in force]. They see that as a power they don't want me to have for fear that I will actually exercise it."

"I've already made the statement that GPO is overstuffed and in many cases overpaid. They fear that I'll take remedial action. As far as we're concerned, we're going ahead. The first furlough day is June 1. We've stated our position; they've stated theirs. Nothing can deter us from proceeding."

Sawyer explained that he has no current plans for a RIF. But, he explained, "our position is that we have a right to RIF. That's one of the powers that goes with this office, and that's not a decision that we should or do have to share with Congress."

Noting that Title 44 mandates that the public printer "take charge and manage" GPO, Sawyer said: "How in the name of heaven can I take charge and manage, operate this place on a breakeven basis, if on such minor things as a furlough or whether we RIF 10 people or 20 people or 100 people, I have to get involved with Congress in a highly politically charged atmosphere where the pressure of the unions and other impacted parties can be brought to bear on the decision? Those are management decisions; they should be made by management in a non-political atmosphere."

"I want to make this point clear. I'm not trying to overstep my bounds. I'm not running out of control. I'm not following orders from the Executive Branch. I'm doing what Congress mandated to be done to begin with."

In short, Sawyer is just carrying out the law—if Mathias and the unions will let him.

[From the Newsweek, June 14, 1982]

THE MAN WHO STEPS ON TOES

He emptied government warehouses of classics such as "Breads, Cakes and Pies in

Family Meals," "Wild Mushrooms" and about 7,000 others, boosted prices dramatically on the thousands of remaining Government Printing Office (GPO) titles and recommended closing the agency's 27 bookstores. But it was the proposal by GPO chief Danford L. Sawyer Jr. to furlough all 6,200 employees for long, unpaid weekends and his take-it-or-leave-it offer to unions of a 22 percent pay cut over three years that caused the row on Capitol Hill.

Sawyer charges that pro-union congressmen have created a "high-priced Federal elite" by accelerating GPO wages far ahead of other government rates. "The American public is getting screwed," says Sawyer. He argues that his draconian measures are needed to offset a multimillion-dollar deficit and to make the GPO, which publishes the wordy emanations of Congress and the Federal bureaucracy, competitive with private printers: "The average job coming out of this place costs twice as much as it does in the private sector." Sawyer's efforts have so enraged the Congressional Joint Committee on Printing that last month it passed a resolution forbidding his furlough plan. Georgia Rep. Newt Gingrich, a Republican committee member, says that GPO head might succeed if he can bypass the committee and precipitate a floor fight, but counsels, "He's already stepped on more toes than he should have in one year."

The unions, which have sued to halt the planned furloughs, concede that their wages exceed those of other government workers. But they insist the differential is fair compensation for specialized skills and the irregular hours they work to produce the daily Congressional Record when Congress is in session. William Boorman, head of the typographical union, argues that Sawyer is playing number games and that the GPO traditionally has an early-year deficit that is offset after the spring peak period. "This guy is trying to build a reputation for himself at the expense of one very fine agency and a lot of very good people," he said. Others say Sawyer's energies would be better spent improving the technological capacity of the agency, which is only now abandoning ancient linotype machines.

Sawyer may not be winning popularity contests in the GPO's aging red-brick building, but the White House is delighted with his efforts. "He's trying to put modern management into an ancient encrusted institution," says Presidential counselor Edwin Meese III. Meanwhile, Sawyer, a former Sarasota, Fla., publishing executive, seems amused by the union contention that he is mounting the "worst attack on organized labor in a century," and suggests, somewhat disingenuously, "If a little boy from Sarasota can give them this much of a problem, then everybody else has been too damn easy on them."

[From the Washington Report, July 27, 1982]

GPO CONGRESS STALLS EFFORTS TO CUT AGENCY'S COSTS

(By Harry Bacas)

As Congress struggles to curb the rising costs of government, it has found it must defend itself against charges of wastefulness in its own backyard.

The Government Printing Office, which Congress directly oversees, has been accused of spendthrift ways, and administration efforts to correct them have been stalled by Congress itself.

The problem is dual accountability. The head of the GPO, the public printer, is ap-

pointed by the president. But all GPO operations are subject to review by Congress' Joint Committee on Printing.

The current public printer, Danford L. Sawyer, has tried to make the operation more efficient in the last year. The GPO, which employs more than 6,200 persons with a payroll of \$160 million, is estimated to have overspent \$20 million in the last three years, largely because of inflated salaries.

The average salary at the GPO is more than \$25,000—28 percent higher than that for other federal employees doing similar jobs. It has been estimated that work done by the GPO costs twice as much as work contracted to private printers. GPO unions bargain directly with Congress to keep salaries high.

In an effort to economize, Sawyer has instituted a hiring freeze, cut back \$900,000 a month in overtime expenses, dropped 7,000 publications and adopted other spending controls.

GPO unions sued to halt some of Sawyer's actions and appealed to the Joint Committee on Printing. The panel ordered Sawyer to drop plans to reduce the agency's deficit by temporarily furloughing some employees.

Since then, Rep. John N. Erlenborn (R-Ill.) has collected 84 co-sponsors for a bill proposing parity between salaries of GPO workers and those of other federal employees doing similar work.

Rep. James T. Broyhill (R-N.C.) said he signed the bill because "there has been too much documented waste and overpayment of workers in this agency. . . . Millions of taxpayers' dollars can be saved."

[From the Review of the News, July 7, 1982]

U.S. PUBLIC PRINTER DANFORD SAWYER

(By John Rees)

An Exclusive Interview With The Head of The U.S. Government Printing Office On How He Is Fighting Waste.

DANFORD SAWYER was confirmed by the Senate as Public Printer of the United States in August 1981. He heads the U.S. Government Printing Office (G.P.O.) which, with more than 6,000 employees, is the largest industrial employer in the nation's capital.

After attending the University of the South at Sewanee, Tennessee, Mr. Sawyer started his business career as a cost accountant for a Tampa, Florida, contracting company. He later became advertising manager for a Sarasota newspaper and radio station, establishing his own firm, Sawyer and Associates, in 1964. Sawyer was president of Area Guides, Inc., a publisher of tourist literature, and founded a community newsmagazine, *Sarasota South*, both of which he sold after being appointed chief of the Government Printing Office.

Dan Sawyer is a Conservative who served on the board of the Florida Young Americans for Freedom and was a delegate to the 1980 Republican National Convention.

Q. Mr. Sawyer, what was the situation at the Government Printing Office when you became Public Printer?

A. I arrived at the G.P.O. in May 1981 to act as a consultant for 90 days while my confirmation process was being completed. We had 6,700 people on the payroll, 500 more than today. It took at least six months to get a feel for the operation. The more I learned, the more I realized there was to get in hand.

Q. Such as what?

A. The transition from private management to government is quite a shock. For instance, I found that the average G.P.O. employee makes \$25,000 a year. Our craft workers, our journeymen, our printers, our bindery workers and so on, make a mean average of 22 percent more than their counterparts in either the federal or private sector. What we have here is a high-priced federal elite. Eighty percent of our overhead costs for in-plant printing are personnel costs. That compares to 40 to 50 percent in the private sector.

Q. Then G.P.O. costs are substantially higher than for private printing companies?

A. The average printing job produced here costs about twice what it would if we produced it in the private sector. Last week I had our production department do a random sampling of jobs and price them. One example was an order for 200,000 copies of a 20-page, self-cover booklet, saddle stitched, with paper size 5 1/4 by 8 inches. The low bid from private companies for this job was \$7,200. Our G.P.O. price was \$12,831.

Q. If that is typical the G.P.O. certainly wouldn't last long in a free market.

A. The excessive cost at G.P.O. is staggering. A million copies of an ordinary face and back folded form could be had on low bid from a private printer for \$6,720; but from G.P.O. it costs the taxpayers \$12,061.

Then we asked private companies what they would charge to print and bind 3,000 copies of a 720-page book, sewn and case-bound. The low bid was \$16,297; but, incredibly, the same job cost \$33,297 from the Government Printing Office. In other cases, the G.P.O. cost was three times what it was for the private sector.

Q. In fairness, were there any cases in which G.P.O. prices came in under the low bids from the private sector?

A. On only one job estimate of the dozen sampled. Averaging it out, I'd say that the rule of thumb is that G.P.O. work costs twice as much as that by a private company.

Q. What are the problems?

A. We have a whole series of them. Some go back to the Dark Ages—and I mean that literally. One of our main difficulties dates back to medieval Europe. We are still suffering from the survival of the ancient craft guild system of masters, journeymen, and apprentices.

We have several different categories of workers inside this building. Some of them are classified in the same manner as everyone else working for the federal government and are paid the same rates. This is the well-known Government Service schedule. But then we have craft workers who are union people in addition to being federal employees. They negotiate for wages. And they are all paid well out of proportion to reality, in my opinion, when judged by the criteria of either federal or private wage scales.

Let me be specific. A G.P.O. compositor earns \$27,685 a year. The highest level of the Federal Wages System (F.W.S.) Lithographic and Printing Plant Wage Schedule (which is itself 12 percent above the average prevailing private-sector rate) is \$23,230. In other words, a G.P.O. compositor earns 18.7 percent above the prevailing industry average.

Q. Doesn't having a dual wage scale system create employee problems?

A. You bet it does. The fact that we have Wage Board people working alongside craft people creates the problem of lawsuits demanding equal pay for equal work. We have

had some classic lawsuits against G.P.O. One of these was decided recently by a federal appeals court. The suit was brought by a group of female bindery workers who were doing essentially the same things as unionized male bindery workers. Paid at a very much lower scale, the non-union workers sued on the grounds that they deserved equal pay for equal work and won. The damages awarded, charged to the U.S. taxpayers, are just staggering.

Q. How are you working to remedy that?

A. Our solution is to classify all G.P.O. workers in the same way, consistent with the way everyone else who works for the federal government is classified, and to pay them the same wage scale. This would eliminate the disparities and lawsuits, and would bring down the craft wages. That is the direction in which we are moving.

Q. What is the wage differential for craft workers?

A. As I testified to a Senate Appropriations Subcommittee, merely by lowering the wages of G.P.O.'s craft workers to the level of wages paid other federal government workers, the American taxpayers could save \$18 million a year. The G.P.O. printers earn an average of \$11.78 an hour, compared to \$8.39 for comparable workers in the private-sector printing companies of the Washington area.

Q. Can you do this on your own authority?

A. No. This agency is part of the legislative branch of government. The G.P.O. is therefore directly impacted by a whole variety of political and societal forces. We are accountable to an oversight committee—the Joint Committee on Printing. The voting majority on that Committee is highly pro-union is philosophy. And it acts as the final arbitrator of wages. The unions negotiate with us, but if that process ends in an impasse then they go on appeal to the Joint Committee on Printing. The Joint Committee acts as the final arbitrator of wage disputes, and can in fact set wages when it chooses to do so.

The union and political involvement together have given us the situation we have today. Our wage schedule for craft workers is over the norm and, as a result, our prices are way out of line.

Q. Sounds like a taxpayers' nightmare.

A. The taxpayers are certainly the ones who are ultimately paying. Most of our work in-house is for the United States Congress. We bill the Congress and the Congress gets its funds from the American taxpayers. The money being wasted is yours.

Q. What do you print for the Congress?

A. Our work includes the *Congressional Record*, the *Federal Register*, and the *Code of Federal Regulations*. If you classify them as congressional work, and I do, 77 percent of what we produce here in-plant is for the Congress.

And every time we get into economic trouble from the outrages I have described we just raise our schedule of rates. There's no accountability. It's strictly an arbitrary management decision. That is, the G.P.O. doesn't have to ask for approval of its rate changes.

Q. What role do the House and Senate Appropriations Subcommittees play?

A. For each Fiscal Year we give them our best guess of what their printing needs are going to be. They then authorize an appropriation. But if we are wrong, and we underestimate, G.P.O. just makes it up in a supplemental request and appropriation. So there's absolutely no limitation. The situa-

tion is out of control and without accountability.

Q. Has the Joint Committee on Printing been of any help in your efforts to achieve economies?

A. The Joint Committee has met twice in the year I've been here. On both occasions, they met to roll back or to try to roll back initiatives we had under way to save tax money. The Committee staff and the Chairman, Senator Mac Mathias (R.-Maryland), and the Vice Chairman, Representative Augustus Hawkins (D.-California), have in some ways been helpful, if for no other reason than they have not tried to stop me on certain economy moves. But where we have been in head-on conflict on the desires and wishes of the unions, which to them are constituent issues, they have attempted to intervene and to stop us.

Q. Let's get down to it: Are most of the Committee members backed by organized labor?

A. Many are. I recently saw an article stating that the Chairman received \$46,000 for his 1980 re-election campaign, to quote the clipping, "from unions directly involved with the G.P.O."

Q. If that's not illegal it should be. Whose responsibility is it to cut waste at G.P.O.? Is it yours as Public Printer, or is it theirs?

A. The Committee's charter calls on it to seek out waste and inefficiency and to take whatever steps are necessary to correct it. We are the ones who are finding the waste and inefficiency and bringing it to their attention. And they are the ones stopping us from doing something about it.

Q. Are all the members of the Joint Committee on Printing joining with the Chairman and Vice Chairman?

A. No, but a voting majority on that Committee is doing so. To me, their actions seem a total perversion of their role. Imagine trying to run an efficient shop and having to deal with problems like this!

Q. You said the Committee meets only rarely. Is the big difficulty the fact that its members take too little interest in G.P.O.'s problems?

A. We do suffer from that. The Joint Committee on Printing is low on the priority list of its members. In fact it is probably the least important Committee assignment any of them have, whether they are Republicans, Democrats, "Liberals," or Conservatives. They have little time for it, and I do not know whether they really understand the issues.

Q. What would you do to correct this?

A. My solution is a thorough clarification of the relationship between the Joint Committee on Printing and the G.P.O., strengthening the authority of the Public Printer "to take charge and manage" without infringing on the Committee's oversight responsibilities.

I'm not saying I should run G.P.O. alone, but the G.P.O. "board of directors" should act like the board of a private company, meeting regularly, setting up subcommittees, paying some real attention to what's going on, setting policy, having a role in choosing the chief executive officer of G.P.O., and being accountable. Frankly, accountability is the key. You know very well that if you sit in on the board of directors of a bank or savings and loan institution, and there are financial problems, you can be held personally liable. You can be sued if something goes wrong. There's no accountability here, and there's too little interest. The result is a nightmare with which I must wrestle constantly.

Q. Do you see any prospect for reform with the present makeup of Congress?

A. Yes, I do. Our appropriations are handled by two separate Legislative Appropriations Subcommittees, one in the House and one in the Senate, not just the Joint Committee on Printing. On the Senate side, Senator Mack Mattingly of Georgia is Chairman. He is strongly supportive of our position. On the House side, Representative Vic Fazio is the Chairman, and several members of that Committee have expressed support, including Carroll Campbell of South Carolina, and Jerry Lewis and Clair Burgener of California. They have all expressed concerns about the bottom line and have been supportive of efforts to bring about reform and dollar savings.

Q. Your biggest problem is with the unions and unrealistic wage scales. How did it come about that the unions at G.P.O. are getting 22 percent more than printers elsewhere in Washington; and doesn't that have a damaging impact on the whole private printing industry?

A. It is terrible. If you take the printing and publishing industries together, you are talking about the sixth-largest business in the United States. We are sitting here creating wage trends that are raising the salary level for the sixth-largest industry in the United States. We are contributing in a substantive way to inflationary pressures. Private-sector printing and publishing companies are forced to increase artificially the wages paid their employees.

Q. Isn't a position with G.P.O. about the softest federal job in town?

A. It is, if featherbedding and overpayment are your criteria! If you are a carpenter or an electrician working for G.P.O., you are paid \$27,419. For the carpenter, that is 28.8 percent over the top F.W.S. rate, and for the electrician it amounts to 22.4 percent more.

Q. Does this sort of overpayment go all the way down the line?

A. It does. Even a G.P.O. janitor is at \$14,600 getting \$2,572 a year more—21.4 percent—than what is paid under the regular F.W.S.

Q. Have printing industry companies commented on this?

A. We've received a lot of complaints from the industry—from both union and non-union shops. And the accounting arm of Congress, the General Accounting Office, agrees that the G.P.O. should not be a wage trendsetter. The G.A.O.'s position is that G.P.O. should offer the average for the industry.

Q. Have printing-industry complaints been made directly to the Committees?

A. The industry complaints are legion, John. They have focused not only on the wages G.P.O. pays, but also on the staffing levels at G.P.O. We have too many people operating our equipment and they are not using that equipment to maximum efficiency.

Q. What is being done to increase efficiency?

A. The very notion of efficiency is something new at G.P.O. The transition from old technology to new technology has taken forever. For example, the G.P.O. has been making the transition from hot metal to electronic photo-composition for the last six years.

Q. But newspapers and magazines convert in a month or so.

A. You're right. In the private sector, in a small shop, you can do it in 30 days; in a moderate-sized shop in 60 days; and, in a

large shop, in 90 days. But for the Government Printing Office it's taken six years and is still under way. In fact, we are talking about another 12 to 18 months to finish. Is there any wonder that in the first five months of Fiscal Year 1982 (October 1, 1981, through February 1982), the G.P.O. managed to lose nearly \$5 million?

Q. Why can't you just take things in hand and clean house?

A. Because of the strength of the unions and their political pull through the Joint Committee on Printing.

Q. Will you give us some specifics?

A. All right, let's take the pressmen. The Pressmen's Union talks in terms of a four-year apprenticeship; but you can train a pressman in 30 days. In fact, newspapers do that all over the country all the time. Not here. Not where strong unions have such pull on the Joint Committee.

Look, John, I'm not anti-union. But what's happened here is that what started out as progressive forces to benefit the working man have become reactionary forces. Now they retard progress. We've had constant complaints that there are really three kinds of discrimination—by color, by sex, and by whether or not you are a union member.

The role of unions in fighting for good working conditions and wages has been turned around. Now, in many cases, unions are the reactionary forces, opposing technological advances, protecting outdated jobs, and fighting to preserve an inefficient status quo. In many cases, unions are reactionary forces holding their finger on the working man, creating artificial situations that benefit no one but the hierarchy in the unions themselves.

Q. What do you expect will be the next step in the union attempt to stop your cost-cutting efforts at G.P.O.?

A. The unions have filed a lawsuit against me personally, and in my capacity as Public Printer, asking the federal court to issue an injunction preventing me from furloughing G.P.O. employees. This suit was scheduled to be heard on June 29th. In addition, the House Committee on the District of Columbia asked me to appear at a Hearing on that date. They asked me to testify as to the economic impact of the furlough plan on the metropolitan Washington area. Imagine! This furlough plan involves only six days over a period of seven months.

Q. Obviously as Public Printer you were expected to be in two places at once! How much support in your cost-cutting efforts are you getting from the Administration?

A. That is touchy because I am not the head of an Executive branch agency but of a Legislative agency. Any breaches of the separation of powers can provoke an uproar. I work under the direction of Congress, and Members of Congress are the ones who have ultimate say. I'm a strong supporter of the President and his program; but Administration staff do not offer instructions, recommendations, or advice.

Q. Hasn't any of your cost-cutting had congressional support?

A. I have received support for many cost-cutting efforts, including a hiring freeze which has brought a six percent decline in the G.P.O. work force. We have also reduced overtime, primarily because Congressional Committees have cooperated in the timely submission of copy. But there is a great deal more to be done.

Q. Meanwhile, most of the general public only know about G.P.O. through these ads for government publications that say,

"Write to the Superintendent of Documents."

A. That program was carrying in print more than 23,000 titles produced by a wide range of federal agencies. I've managed to cut the listing back to approximately 18,000 titles. This program had lost \$20 million in the three years prior to any appointment; but it earned a \$2 million profit in the first four months of Fiscal 1982.

Q. Obviously your approach is increasing efficiency. Do you think Congress will back your efforts to get G.P.O. wages into line with standard federal salaries?

A. As long as there is strong citizen pressure for getting the maximum bang for the federal buck, Congress will respond. Actually, G.P.O. reform is one area in which our Congressmen could show leadership by getting the Legislative branch in order. The problem is in making sure the issue is seen clearly, and that it is not misrepresented as an "anti-union" issue. It is not. The issue is good government.

My goal is to do the things government needs, and do them in a cost-effective and efficient manner. Everything I am doing here in Washington is aimed at that.

Mr. ARMSTRONG. Mr. President, with that I am going to yield the floor and leave to my colleague from Georgia, who is the principal sponsor of this amendment, of which I am proud to be a cosponsor, as to his determination. It would be my determination that we not press it to a conclusion today; that having raised the issue I think there are many Senators who will want to become well informed on this and whose final determination of it no doubt will depend on the subsequent course of events.

Mr. MATHIAS. Mr. President, I want to thank the Senator from Colorado in particular for putting the column by James Jackson Kilpatrick into the RECORD. It is a column that is thoughtful and useful and also very gratifying to the Senator from Maryland. I take this opportunity to express publicly my appreciation to Mr. Kilpatrick for all of the nice things that he said in the column.

Let me also say on a more serious note to the Senator from Colorado that I do not want to comment on the Government Accounting Office report on wages, because that is one of the issues before the factfinder at this very moment; but I will assure him that the Government Accounting Office report will be one piece of evidence to be considered by the factfinder as part of the general mediation process.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, in light of the comments made by the senior Senator from Maryland, it is clear, that this amendment comes at a very inopportune time and should be withdrawn. First of all, there is already an independent arbitrator appointed by the Joint Committee on

Printing in accordance with the law looking into the entire issue of wages and we should await his report instead of taking precipitate action.

Second, as the senior Senator from Maryland, the chairman of the Joint Committee on Printing, has pointed out, the Joint Committee on Printing has under way plans for a study which would examine a number of the questions raised about the operations of the GPO and would provide a factual basis on which the Congress can make sensible decisions.

Third, it is important to note that the amendment proceeds on the premise that the Public Printer ought to be given complete authority and control over GPO employees and wages. I must say that my perceptions of the Public Printer on the basis of his action so far raise serious questions about his own sensitivities and his understanding of the congressional role with respect to the activities of the GPO and the important contribution rendered by GPO employees.

Recently a court had to rule that in fact the Public Printer did not have the furlough power which he sought to exert in direct conflict with the official actions of the Joint Committee on Printing. This is the man who said when complaints came from GPO workers with respect to the furlough policy: "The real economic impact of this is that they're not going to be able to go to Pizza Hut on Friday night. They're all screaming like pigs. It's absurd."

The Public Printer, according to published reports, has ordered about a quarter of a million dollars to refurbish the eighth floor of the GPO where he has his own office at the same time he was saying the agency was strapped financially. In addition, under Mr. Sawyer's regime, there has been a marked increase in administrative personnel at the GPO. For all of these reasons it seems clear that this is neither the time nor the circumstance to repose full and unlimited authority in the Public Printer as these amendments seek to do.

A most constructive statement made on the floor today on this matter was that of my colleague from Maryland, pointing out the projected study by the Joint Committee on Printing. I think such a responsible study is the sensible way to approach the various allegations that have been raised with respect to the Printing Office.

Mr. President, I think, on close examination, we may come to a fuller appreciation of the enormous responsibilities placed on the workers at GPO, of the tight deadlines they must meet and the high quality of the product they regularly turn out. I think they have performed that job, over the years, with admirable responsiveness to the needs of the Congress, and the

other branches of the Federal Government.

Mr. President, I hope we can address this situation in a more calm and orderly fashion than would be the case if this amendment were to be adopted. Mr. President, I therefore hope that the sponsors of this amendment would withdraw it.

Mr. HATFIELD. Mr. President, do I understand that the Senator from Colorado and the Senator from Georgia wish to make a statement?

Mr. MATHIAS. Mr. President, I am not exactly sure where we are from a procedural point of view.

Mr. HATFIELD. That is what I am trying to clarify.

Mr. MATHIAS. I think we have an orderly process underway. We are pursuing a thorough analysis of the policies that have governed the Federal printing program and ought to govern it. If the amendment is withdrawn—it is of no personal moment to me whether it is or is not, but if it is withdrawn, I can assure the sponsors of the amendment that that orderly process of evaluation will go forward. I think that they will be pleased with the kind of recommendations that will result from it.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MATTINGLY. Mr. President, I appreciate the remarks of the Senator from Maryland and the Senator from Colorado, and I shall withdraw the amendment. I would like to make one last comment.

The reason for the amendment being offered was the utter frustration of an appointee such as the Public Printer of the Government Printing Office who has very little latitude to do his job. I agree that we need to go in an orderly process. I do question, if we are going to be 1 more year from today waiting on a study to get that orderly process, it is no wonder that he is frustrated. I hope the dialog we have had today will be an impetus to take action as far as the Public Printer and the Government Printing Office and all are concerned, that we shall move in a faster rate than we have in the past. I know the Senator from Maryland has cooperated entirely in this.

With that, the Senator from Colorado and I withdraw the amendment.

The PRESIDING OFFICER. The Senator from Georgia has that right.

The amendment (UP No. 1212) was withdrawn.

● Mrs. HAWKINS. Mr. President, I rise today in support of Senator MATTINGLY's amendment. This discussion has stemmed from the diligent efforts of the Government Printer, Danford L. Sawyer, Jr. to bring the costs of operating the Government Printing Office down to earth. Mr. Sawyer came here a little over a year ago from

the State of Florida to take on a difficult job, and he has done it well.

Mr. Sawyer has identified real problems at the GPO. Among these are an excessive number of workers, excessively high wages for printer and craftsman, and overclassification of workers. I will not outline once again the wide disparities between the wages paid printers and craftsmen in the private sector and those paid the same workers at the GPO. Senators MATTINGLY and ARMSTRONG have done this for us very effectively. I will say that these disparities are symptomatic of the problem that Mr. Sawyer is trying to address at the GPO.

I realize the importance of the GPO's responsibility for preparing the documents that we use here in this body on a daily basis. I realize that this special responsibility requires a certain amount of staffing flexibility within the agency to handle especially active days in the Congress. But Mr. Sawyer understands that too. He came to Washington, D.C. to do the best job that he possibly can, not to compromise the quality of the work at the GPO. He also needs flexibility to carry out his responsibilities efficiently and effectively. He does not have that flexibility now.

By delaying Senate consideration of Senator MATTINGLY's amendment until a later date, we further hinder Mr. Sawyer's ability to make what I am sure we will find to be necessary reforms at the GPO. In that it has been decided that we all need more time to study the matter. I want to assure Senators MATTINGLY and ARMSTRONG of my interest and support for their effort to bring this matter to the attention of our colleagues today and my hope that we will address this matter soon again on the Senate floor.●

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from New Mexico.

The Senator from Virginia is recognized.

Mr. HATFIELD. Mr. President, I—

The PRESIDING OFFICER. I had recognized the Senator from Virginia. Does the Senator from Oregon wish him to yield?

Mr. HATFIELD. If he will, Mr. President.

Mr. HARRY F. BYRD, JR. I yield, Mr. President.

Mr. HATFIELD. Mr. President, we are back on the amendment. I was going to clear the decks so we could do others. I do not think there is any other business to do until we do that. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARRY F. BYRD, JR. What is the Senator's request?

Mr. HATFIELD. I have no request, Mr. President.

THE DEBT LIMIT

Mr. HARRY F. BYRD, JR. Mr. President, the Senate Finance Committee met this morning. A hearing was held in regard to increasing the limit on the public debt. A representative of the Treasury Department testified. Under questioning by the Senator from Virginia, the representative of the Treasury Department stated that the public debt as of July was \$1,090,000,000,000. The Senator from Virginia queried him as to what the Department of the Treasury estimates the public debt will be on September 30, 1983, namely, a year and 1 month from now. The reply was that the public debt is estimated to be \$1,290,000,000,000.

What that means, Mr. President, and what the representative of the Treasury Department substantiated when I queried him, is that the Government will be spending \$200 billion more than it takes in during the period of 14 months.

The Government will be spending \$200 billion more than it takes in during the short period between August 1982 and October 1983. To the Senator from Virginia, that is deeply alarming. It is one which, I feel, indicates irresponsibility on the part of those handling public funds, the Congress of the United States.

It was also established today that the national debt will total \$1.533 trillion by September 30, 1985. To put it another way, the public debt will increase by 44 percent during the 3 years and 5 months ending September 30, 1985, this huge increase in the public debt is stated in the budget resolution approved by the Congress.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The Senate continued with the consideration of H.R. 6863.

Mr. HATFIELD. Mr. President, I ask unanimous consent temporarily to lay aside the Schmitt amendment.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object—I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I ask unanimous consent that we temporarily lay aside the Helms amendment.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe we are clear for the presentation of another amendment.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HATFIELD. I yield to the Senator from Colorado.

UP AMENDMENT NO. 1214

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1214.

Mr. ARMSTRONG. Mr. President, ordinarily, I would ask unanimous consent to have reading of the amendment dispensed with but, in this case, I think it is better to have it read because it is explanatory to the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

On page 35, line 2, strike the "." and add the following "": Provided further, none of the funds available to the Department of Housing and Urban Development may be obligated for housing assistance pursuant to contracts entered under Section 8 of the U.S. Housing Act of 1937, as amended, after the date of enactment of this Act prior to the issuance of final regulations pursuant to the Housing and Community Development Act Amendments of 1981 and prior authorization Acts."

Mr. ARMSTRONG. Mr. President, this is the third and I trust final chapter in the presentation of an amendment to try to slow down and/or reform the spending for section 8 housing, that is, chapter 3 to date. It is about chapter 300 in the episodes that the Senator from Utah and I have been through over recent years to try to bring order out of chaos to this program.

I congratulate the Senator from Utah for his unstinting efforts to somehow bring this housing program under some kind of control.

Earlier this afternoon, Mr. President, I presented a double-barreled amendment which would have taken the \$1.7 billion which is drawn out of 1983 back into 1982 spending by the bill and pushed it back into 1983 and, second, said that in any event section 8 housing could not go forward with any more new starts, any more new reservations until the Department had complied with the requirements of the bill which was passed last year.

All Senators, I am sure, will recall that last year we adopted approximately 20 amendments to reform various provisions of this much-abused program.

To date, the Department, after 1 year, has not succeeded in getting those in place. It is my feeling that we simply should not permit any more reservation of funds under the section 8 program until all of the requirements of the law are met.

After all, the law is the law. I will not repeat my earlier statement. I think I made it clear why such reforms are necessary.

Mr. President, I ask unanimous consent that there appear in the RECORD at this point a GAO report which summarizes department action during the past 12 months in implementing the requirements of the August 13, 1981, legislation.

There being no objection, the GAO report was ordered to be printed in the RECORD, as follows:

APPENDIX I.—STATUS (MAY 1982) OF HUD'S RESPONSE TO SELECTED PROVISIONS OF THE HOUSING AMENDMENTS ENACTED AUG. 13, 1981—HUD'S IMPLEMENTING ACTIONS

Provision of the law	Section of 1981 act	Type of action	Status	Final implementation date: actual or estimated
Designing modest housing.....	324	Administrative procedure.....	Field notices were issued in November 1981 and March 1982 on modest housing.	HUD field offices have been implementing the revised policies since issuance.
Increasing tenants' contributions.....	322	Regulation.....	Interim rules were published in May 1982 for sec. 8 and public housing. Changes to the HUD handbooks and forms are in process.	A House committee has delayed HUD from implementing the interim rules for 90 days.
Limiting the Secretary's discretionary fund.....	321	Regulation.....	The interim rule will be published in June 1982.	According to an agency official, HUD is already complying with this provision.
Restricting assistance to certain classes of aliens.....	329	Regulation.....	A proposed rule was published in May 1982. Changes to forms used by prospective tenants, and to the HUD handbooks, are in process.	The final rule should be effective later this year. HUD is drafting forms and handbooks to implement the changes concurrently with the effective date of the final rule.
Eliminating preference for Tandem-financed, partially assisted projects.....	325	Regulation.....	A proposed rule cleared HUD in March 1982 and will go on to OMB early in June 1982.	Although HUD does not have a rule to implement the law, HUD officials explained that the intent of the provision is being met.
Providing payments for unoccupied units.....	(*)	Report.....	A report to the Congress is being prepared covering the results of a HUD study. An interim report was sent to the Congress in April 1982.	The final report, which was due in June 1982, is under internal review at HUD. An agency official said that HUD expects to transmit the report to the Congress in August 1982.
Assuring the availability of sec. 8 for occupancy by eligible families.....	325	Administrative procedure.....	HUD's handbook on occupancy was revised to specify the limit on admitting ineligible tenants. The revised handbook was issued in November 1981.	HUD field personnel are becoming familiar with the revised guidance. Assistance contracts will be amended to incorporate this change.
Limiting participation by families with incomes between 50 and 80 percent of median area income.....	323	Regulation.....	A draft proposed rule has been at OMB since March 1982.	Assuming the proposed rule is published in June 1982, HUD estimates that field implementation will occur about 6 to 8 months later.

APPENDIX I.—STATUS (MAY 1982) OF HUD'S RESPONSE TO SELECTED PROVISIONS OF THE HOUSING AMENDMENTS ENACTED AUG. 13, 1981—HUD'S IMPLEMENTING ACTIONS—
Continued

Provision of the law	Section of 1981 act	Type of action	Status	Final implementation date: actual or estimated
Limiting eligibility to lower income families	322	Regulation.....	A draft proposed rule has been at OMB since March 1982.....	Assuming the proposed rule is published in June 1982, HUD estimates that field implementation will occur about 6 to 8 months later.
Defining tenants' income	322	Regulation.....	A draft proposed rule has been at OMB since March 1982.....	Assuming the proposed rule is published in June 1982, HUD estimates that field implementation will occur about 6 to 8 months later.
Changing the basis for rent increases in sec. 8 projects.....	324	Regulation.....	A proposed rule has been drafted and is in internal review at HUD. Changes to the HUD handbook will not be started until HUD has firmed up the rule.	HUD expects to have a rule effective in October 1982, when the initial contracts signed under the provision will be subject to rent increases.
Determining the plans for early withdrawal of sec. 8 owners.....	326	Administrative procedure	Studies are in process to determine (1) the extent of early withdrawals of owners and (2) any methods available to recapture front-end investment subsidies from these owners.	HUD expects to send the results of both studies to the Congress in August 1982.
Prohibiting financial profit by Government officials..	326	Regulation.....	An interim rule has been drafted and is in internal review at HUD ..	HUD already has the prohibition in effect through a clause in the section housing assistance contracts. HUD would not estimate the target date for publishing the interim rule; in part because HUD must coordinate with the Department of Justice before publishing the rule.

¹ Office of Management and Budget.

² The House and Senate conferees required a report on this issue.

APPENDIX II: SUMMARIES OF SELECTED PROVISIONS OF THE HOUSING AMENDMENTS OF 1981 AND HUD'S RESPONSE THROUGH MAY 1982

DESIGNING MODEST HOUSING (SECTION 324)

Provision of 1981 amendments

Newly constructed housing in the section 8 program must be modestly designed.

Background

We concluded that newly constructed housing was not modest; units were larger than necessary and projects contained costly amenities.¹ We also reported that efficiencies are more cost effective than 1-bedroom units for the single elderly. We recommended that HUD's Secretary explicitly define "modest housing" and house the single elderly in efficiencies.

S. 1074 proposed that HUD exclude unnecessary amenities. As proposed by the Senate, S. 1197 required HUD to limit unit sizes to no more than 10 percent above the Federal minimum property standards, reduce the types and numbers of amenities, and assure that not less than 25 percent of the units for the elderly or handicapped are efficiencies.

The conference report, accompanying the 1981 amendments, directs the Secretary to (1) preclude unnecessary amenities, (2) review the extent to which room sizes can be reduced to the minimum property standards, and (3) encourage an appropriate use of efficiencies.

HUD actions

HUD directed its field offices to—

Implement several cost containment and modest housing measures for the section 8 program (Nov. 1981);

Exclude unnecessary amenities when computing fair market rents for multifamily housing (Dec. 1981); and

Give cost containment and modest design features a maximum weight of 30 out of 100 points when selecting elderly and handicapped housing projects in fiscal year 1982 (Mar. 1982).

Target dates

HUD told us that it would continue to press for modest housing and cost containment in the Section 8 New Construction Program. As discussed below, HUD also plans to apply additional modest housing requirements to its public housing program.

¹ "How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-81-54, Mar. 6, 1981).

Discussion

Officials in four HUD field offices said that some of their projects must be reviewed to comply with the November 1981 directive. These offices also explained that the directive was sent to project sponsors, developers, mortgage companies, and others.

HUD's November 1981 directive, while a step in the right direction, still permits the construction of units substantially above the minimum property standards. We told HUD in March 1982 that the room size ceilings appear to be of limited value in the Department's efforts to reduce production costs. For example, had the directive's maximum square footages for 2- and 3-bedroom units been in effect at the time of our 1981 study of projects in California, Ohio, Pennsylvania, and Washington, D.C., very few of the units would have been affected.

In our March 1982 letter, we also told HUD that its maximum square footage for a 1-bedroom unit for the elderly was too large and limitations appeared to be needed in the design of public housing.

In its April 30, 1982, response, HUD agreed with our observations on public housing but disagreed with our views on downsizing of section 8 units.

INCREASING TENANTS' CONTRIBUTIONS
(SECTION 322)

Provision of 1981 amendments

This provision made the method of determining tenant rent contributions uniform between the public housing and section 8 programs.

The provision also requires that families pay whichever of the following amounts is highest:

30 percent of monthly adjusted gross income;

10 percent of monthly gross income; or

The designated shelter payment received by welfare tenants.

Background

S. 1074 stated that tenants were sometimes paid to live in federally assisted housing because of allowances for high utility costs. The proposal sought to establish a minimum rent contribution for section 8 recipients.

As proposed by the Senate, S. 1197 rejected the proposed minimum rent provision but required the 30/10 or designated shelter payment discussed above.

HUD actions

In May 1982 the interim rules were published in the Federal Register.

HUD is revising certain handbooks and forms to implement the interim rule.

Target dates

A House committee has delayed HUD from implementing the interim rules for 90 days.

Discussion

HUD program officials decided that all the provisions of sections 322 and 323 could be released in December 1981 as an interim rule, effective January 1982. However, HUD's Office of General Counsel decided to separate section 322's provision on higher contributions from all the other provisions. General Counsel then rewrote the interim rules on higher tenant contributions. Program officials calculated Federal subsidies for part of fiscal year 1982 on the basis of higher tenant contributions beginning in January 1982, whereas the effective date of the interim rules will probably be September 1982—some 8 months later.

The section of the provision directing welfare tenants to contribute the designated shelter payment is applicable in eight States and Puerto Rico; welfare families in the other States do not receive a designated shelter payment.

Although the interim rules were published in May 1982, the House Committee on Banking, Finance and Urban Affairs passed two "resolutions of disapproval" which prohibited HUD from implementing the plans for an additional 90 days.

LIMITING THE SECRETARY'S DISCRETIONARY FUND (SECTION 321)

Provision of 1981 amendments

This provision limits the fund to 15 percent of housing assistance and specifies that the fund can only be used for (1) unforeseeable housing needs, (2) handicapped or minority enterprise, (3) assisted housing provided as a result of litigation, (4) small research and demonstration projects, (5) lower income housing needs described in housing assistance plans, and (6) innovative or alternative programs.

Background

S. 1074 proposed eliminating the fund because of the wide latitude with which these funds could be used.

HUD action

An interim rule was sent to the Federal Register on May 27, 1982.

Target dates

A HUD official told us that the Secretary has implemented the new limits on the amount and uses of the fund.

Discussion

Although an interim rule was drafted in September 1981, HUD officials said disagreement within HUD occurred over the funding allocation provisions of this rule. The Secretary's Discretionary Fund was not debated since it simply repeated the statutory language. There were many nonconcurrents by the divisions and offices within housing which had to be resolved.

The discretionary fund has been estimated at \$98 million for fiscal year 1982. A HUD official said that, as of April 1982, approximately \$20 million has been allocated for projects under the discretionary fund. The Office of Housing Operations and Field Monitoring accounts for the expenditures through and internal report, which is updated as each item is approved for funding.

RESTRICTING ASSISTANCE TO CERTAIN CLASSES OF ALIENS (SECTION 329)*Provision of 1981 amendments*

This provision limits financial assistance in federally assisted housing programs to certain classes of aliens lawfully residing in the United States.

Background

We inquired into HUD's policies and procedures to exclude illegal aliens from receiving Federal housing subsidies. Our research suggested that illegal aliens were residing in selected federally supported projects. HUD told us in April 1980 that legislation authorizing its programs did not specifically address the issue of illegal aliens.

S. 1074 proposed that illegal aliens be prohibited from receiving Federal housing rental assistance. S. 1197 was essentially the same as S. 1074.

HUD actions

The proposed rule was published in May 1982.

HUD is preparing the necessary handbook changes and revising tenant certification/recertification forms.

Target dates

One HUD official estimated that receiving and analyzing public comment, publishing the final rule, and preparing the implementing guidance for field offices' use will take 3 to 5 months.

Discussion

According to a HUD official, the Department of Agriculture's alien eligibility criteria was modified to fit HUD's program needs.

HUD's "best guess" is that 500,000 units of subsidized housing are occupied by ineligible aliens. It estimates the annual subsidy for these units at \$900 million.

ELIMINATING PREFERENCE FOR TANDEM-FINANCED, PARTIALLY ASSISTED PROJECTS (SECTION 325)*Provision of 1981 amendments*

This provision eliminates a preference to partially assisted projects with Tandem financing.

Background

HUD encouraged an economic mix of low-income families with middle- and upper-income families through the funding of partial section 8 projects. However, the use of Tandem financing provided deep subsidies for the many nonpoor families in these projects. We characterized the concept as a

large rent reduction for middle-income renters.²

S. 1074 proposed to prohibit priority funding to partially assisted projects. The Senate report accompanying S. 1197 was essentially the same as S. 1074.

HUD actions

HUD said that it is including this provision in its consolidation of rules 880 and 881. The proposed rule cleared HUD in March 1982 and will go to the Office of Management and Budget (OMB) early in June 1982.

Target dates

HUD did not provide us with a target date.

Discussion

HUD explained that it was implementing the intent of this provision even though a rule has not been published.

The six area offices that we contacted said that they had not given a preference in the selection process to any projects planned for Tandem financing. Two offices told us that partially assisted projects, previously selected, had received Tandem financing in 1982.

HUD is considering using 11(b) tax-exempt financing with partial projects. We told HUD that such a combination could result in subsidies which are much more costly than any other financing method yet used.³

PROVIDING PAYMENTS FOR UNOCCUPIED UNITS (SECTION 324)*Provision of 1981 amendments*

The House and Senate conferees required a report to the Congress by January 1, 1982, on HUD's payments for unoccupied section 8 units. The Congress directed HUD to report on (1) the extent to which such payments have been made, (2) the cost to the Federal Government, and (3) the impact on owners and investors of limiting such payments in the future.

Background

Current law permits Federal subsidies for vacant units at 80 percent of the contract rent for 60 days, along with the vacant unit's portion of the project's debt service for an additional 12 months. Concern was expressed in S. 1074 that this policy was too generous.

S. 1074 and the report accompanying S. 1197 would have prohibited subsidy payments for vacant section 8 units beyond 30 days.

HUD action

HUD transmitted an interim report to the Congress in April 1982.

A final report, which was due to the Congress on June 1, 1982, has been drafted and is being reviewed within HUD.

Target date

HUD expects to transmit the final report to the Congress in August 1982.

Discussion

The interim report findings are based upon a 15-percent sample of the section 8 inventory within the Cleveland Area Office's jurisdiction. The final report will be based upon sample data from Cleveland and three additional area offices (Baltimore, Seattle, and Hartford). One HUD official explained that the data necessary for such an

analysis was not available in HUD's computer system and that a full-scale study would require about 2 years. We did not examine HUD's report methodology because of the short time frame for our review.

HUD concluded, in the interim report, that withdrawing or limiting vacancy claims under the Section 8 New Construction or Substantial Rehabilitation Program would result in a substantial risk of default during the initial rent-up period, with a lesser risk during continued occupancy. An official in HUD's Office of State Agency and Bond Financed Programs noted that the present vacancy payment provision is attractive to the financial market. For example, some projects have a unique need for vacancy payments longer than 30 days because of severe weather conditions during the initial rent-up period.

A HUD official told us that the final report will show that, for the New Construction and Substantial Rehabilitation Program, 28 percent of the claims are for 31 to 60 days and 72 percent are for 30 days or less. The final report will also show an estimate for vacancy payments of \$53.5 million for all programs, with \$50.9 million, or 95 percent, for the New Construction and Substantial Rehabilitation Program.

ASSURING THE AVAILABILITY OF UNITS FOR OCCUPANCY BY ELIGIBLE FAMILIES (SECTION 325)*Provision of 1981 amendments*

This provision states that owners of section 8 newly constructed or substantially rehabilitated housing shall make available for occupancy by eligible families the number of units for which assistance is committed under the contract.

Background

In April 1981 we reported that occupancy by ineligible households was a significant and costly problem.⁴ We concluded, in this report, that the program rules were too lenient and that some owners ignore them. In its response to our report, HUD said that it was considering changing the section 8 regulations to more explicitly state the owner's obligation to rent to section 8-eligible tenants. To date, HUD has not decided to change the regulations.

S. 1074 would have prohibited renting any section 8 unit to individuals with incomes above the eligibility standards.

S. 1197 would have prohibited renting vacant units in a section 8 project to ineligible tenants unless the number of occupant-eligible families equals or exceeds the number to be available during the initial rent-up period.

HUD action

This provision was handled by a revision in November 1981 to the handbook on "Occupancy Requirements of Subsidized Multifamily Housing Programs."

Target dates

HUD field staff are beginning to implement the change.

Discussion

HUD officials told us that this provision did not require a regulation and was adequately handled by the handbook revision.

This handbook revision states that:

An owner may not lease any section 8 unit to any applicant above the income eligibility

²"Evaluation of Alternatives for Financing Low and Moderate Income Rental Housing" (PAD-80-13, Sept. 30, 1980).

³Letter report on Section 11(b) Financing Used With Partially Assisted Section 8 Projects (CED-Feb. 17, 1982).

⁴"Lenient Rules Abet the Occupancy of Low Income Housing by Ineligible Tenants" (CED-81-74, Apr. 27, 1981).

limit unless he or she makes a "good faith effort" to attract income-eligible applicants and finds they are not available;

Before admitting an over-income applicant, the owner must certify in writing that—

(1) He or she made all assisted units committed under the contract available for occupancy by eligible families;

(2) He or she took all reasonable steps to attract income-eligible applicants; and

(3) No income-eligible applicants were available when the over-income applicant was selected for admission;

An owner may not lease more than 10 percent of the section 8 units to over-income tenants without HUD approval, except in older projects where the contract allows up to 20 percent.

We asked the following four HUD area offices about field implementation of this handbook change: Los Angeles, Milwaukee, Minneapolis, and Chicago. HUD field officials said that they are implementing the revised handbook procedures and that project owners have complied with the good faith criterion for attracting income-eligible applicants.

LIMITING OCCUPANCY BY FAMILIES WITH INCOMES BETWEEN 50 AND 80 PERCENT OF MEDIAN AREA INCOME (SECTION 323)

Provision of 1981 amendments

This provision states that of public housing or section 8 units available for occupancy before October 1, 1981, and leased on or after that date, only 10 percent may be leased to individuals with incomes between 50 and 80 percent of the median area income.

Of the additional or new units that become available after October 1, 1981, no more than 5 percent may be leased to individuals with incomes between 50 and 80 percent of median area income.

Background

Both S. 1074 and S. 1197 would have changed the section 8 eligibility level from 80 percent to 50 percent of median income to target individuals most in need.

HUD actions

By December 1981 program officials had developed an interim rule incorporating the provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on increasing the tenant's contributions as an interim rule. The remainder of the regulation, including the limits on occupancy section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

Target dates

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impact but declined to give further information on it.

One HUD official estimated that field implementation could begin 6 to 8 months after the proposed rule was published.

Discussion

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

A HUD official said that the draft rule did not contain the 10-percent limitation on

units available before October 1, 1981. The rationale for this exclusion is that it will prevent disruption of established housing patterns and that—

Currently, only 11 percent of section 8 and 10 percent of public housing households are above the 50-percent median.

Rent increases which will occur under another provision are expected to cause many families above the 50-percent median to move out of assisted housing into the private market, and

HUD monitoring procedures will be established to assure that the 10-percent limit is not exceeded.

Regarding the 5-percent limit on new or additional units, HUD expects to give priority to certain types of projects where the mix of tenant incomes up to 80 percent is appropriate, such as bond-financed section 8 projects and projects that must be rehabilitated to avoid displacing tenants.

LIMITING ELIGIBILITY TO LOWER INCOME FAMILIES (SECTION 322)

Provision of 1981 amendments

This provision limits eligibility for public housing and section 8 programs to lower income families, defined as those families with incomes not exceeding 80 percent of the median for the area, with adjustments for family size. The Secretary is given discretionary authority to establish higher or lower ceilings where justified by higher prevailing construction costs or unusually high or low family incomes.

Background

Both S. 1074 and S. 1197 would have changed section 8 eligibility level from 80 percent to 50 percent of median area income. This provision was proposed because of disagreement with a HUD policy to place eligible families with higher incomes ahead of those with lower incomes in awarding section 8 subsidies.

HUD actions

By December 1981 program officials had developed an interim rule incorporating the tenant rent payments and the income provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on the tenant's rent to income ratio as a proposed rule. The remainder of the regulation, including the lower income eligibility section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

Target dates

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impacts but declined to give further information on it.

Discussion

The proposed rule restates the wording of the provision and prescribed, for the first time, income limits for the public housing program.

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

DEFINING TENANTS' INCOME (SECTION 322)

Provision of 1981 amendments

According to this provision, income is defined as that from all sources of each house-

hold member, determined according to criteria prescribed by the Secretary of HUD. Adjusted income is the income remaining after deductions prescribed by the Secretary.

Background

S. 1074 would have instituted a statutory definition of income for all Federal rental assistance programs which would include sources previously ignored, such as food stamps, unemployment compensation, and income earned by minors.

The House and the Senate bills were similar, with the House provision incorporated into the 1981 amendments; that is, requiring the Secretary to prescribe criteria for defining income.

HUD actions

By December 1981 program officials had developed an interim rule incorporating the income and tenant rent payment provisions of sections 322 and 323 of the 1981 amendments.

The Office of General Counsel retained the portion of the regulation on the tenant's rent-to-income ratio as an interim rule. The remainder of the regulation, including the definition of income section, was developed into a proposed rule. The proposed rule was sent to OMB on March 24, 1982.

Target dates

A HUD official was unable to estimate when the proposed rule would be published. While we were advised by HUD and OMB that disagreement about an issue must be resolved before the rule is cleared by OMB, neither agency would identify the issue. An OMB official told us that the issue in question had substantial budgetary impact but declined to give further information on it.

One HUD official estimated that field implementation could begin approximately 6 to 8 months after the proposed rule was published.

Discussion

The draft rule specifies the uniform income sources to be included in calculating income for both the public housing and section 8 programs. This proposed rule also lists certain types of income to be excluded such as (1) earned income of minors and foster children, (2) payments for the care of foster children, and (3) benefits from other programs such as food stamps, energy assistance, and youth employment and training.

Procedures, in the form of handbook changes, are expected to be ready for the HUD field offices at about the time the final rule becomes effective.

CHANGING THE BASIS FOR SECTION 8 RENT INCREASES (SECTION 324)

Provision of 1981 amendments

This provision limits contract rent increases for newly constructed or substantially rehabilitated projects. The increases cannot exceed the amount of operating cost increases of comparable rental units in the same market area.

Background

HUD bases allowable rent increases for section 8 units on annual adjustment factors computed for standard metropolitan statistical areas. In an earlier report,⁵ we ques-

⁵ "How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-84-54, Mar. 6, 1981).

tioned this method and recommended that HUD use annual certified financial statements to help measure the reasonableness of annual rent increases.

S. 1074 would have limited increases in contract rents to actual cost increases for the specific project.

S. 1197 proposed essentially the same provision that was enacted in the 1981 amendment.

HUD actions

A proposed rule has been drafted and is in internal review.

Target dates

HUD hopes to have a rule in effect by October 1982.

Discussion

HUD has concluded that the change in calculating annual rent increases will apply only to those contracts signed under the provision of the 1981 amendments.

DETERMINING THE PLANS FOR WITHDRAWAL BY SECTION 8 OWNERS (SECTION 326)

Provision of 1981 amendments

By August 1982 HUD must conduct a survey to determine the number of projects owned by developers with 5-year contracts who plan to (1) withdraw from the program at contract expiration and (2) increase rents beyond a level current tenants can afford.

HUD is also required to report by August 1982 on alternative methods which could be used to recapture front-end Federal subsidies on units removed from the section 8 program.

Background

After their initial 5-year contract expires, owners may want to remove some or all of their units from section 8 coverage. To encourage renewals, we had earlier recommended that HUD study the feasibility of economic incentives and contractual sanctions.⁶

S. 1074 and S. 1197 proposed essentially the same provision that was enacted in the 1981 amendments.

Although the second report has not been started, a HUD representative said that HUD has found no methods for recapturing the investment costs. He believes that contracts signed before October 1, 1981, are "untouchable" regarding recouping investment costs.

Target dates

HUD expects both reports to go to the Congress in August 1982.

Discussion

A HUD official thought that only a few owners would withdraw 100 percent of their units from the program, with the remaining owners withdrawing only some of their units. He also said that HUD will try to provide affected tenants with certificates for other rental housing.

PROHIBITING FINANCIAL PROFIT BY GOVERNMENT OFFICIALS (SECTION 326)

Provision of 1981 amendments

This provision instructs HUD to develop regulations to prevent conflicts of interest arising from participation in section 8 projects by Federal, State, and local government officials. The regulations were to become effective within 180 days of the enactment of the 1981 housing amendments (Feb. 13, 1982).

Background

Both S. 1074 and S. 1197 specifically prohibited State and local housing officials from having a direct financial interest in the development of section 8 projects.

HUD action

A draft interim rule was developed in the Office of General Counsel in April 1982.

Target dates

The Office of General Counsel official who drafted this regulation could not estimate time frames for the regulation's clearance. He said that the regulation would have to be approved by the Justice Department and would probably be reviewed by several representatives of the Assistant Secretary for Housing and within the Office of General Counsel.

Discussion

Section 8 contracts already contain a clause prohibiting financial profit by State and local officials. Thus, for such officials, this interim rule will put into regulatory form a policy already effective in the section 8 program. A HUD official told us that under this rule, "federal officials" is expanded to include cabinet members and agency officials as well as Congressmen and women.

According to a HUD official, no Government official could be brought to trial under this provision because conflicts of interest are not violations of the criminal code. Rather, the complaint would be handled through administrative actions by the HUD field office. Examples of these actions include requiring Government officials to remove themselves from the board of the section 8 project and disallowing the costs which represent profit to the officials.

Mr. ARMSTRONG. President, with that word of explanation, I am ready for a vote on my amendment which will simply say, "No more section 8 housing until they implement the reform regulations."

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, I will not repeat the earlier debate. I think the Senator from Colorado and I discussed this at great length, and I cannot agree with his amendment. I would rather shift the burden to the bureaucrats who have not performed on what the Congress told them to do last year rather than on the recipients of the aid.

UP AMENDMENT NO. 1215

Mr. GARN. Mr. President, I send to the desk an amendment in the form of a substitute for the Armstrong amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1215.

Mr. GARN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be inserted, insert the following: "Provided further, That not withstanding any other provision of law the Department of Housing and Urban Development shall obligate not more than 1/4 of the amount appropriated for personnel compensation and benefits during each month beginning on January 1, 1983 until October 1, 1983, until the Department issues final regulations pursuant to the Housing and Community Development Amendments of 1981 and prior authorization Acts"

Mr. GARN. This amendment simply makes HUD salaries in the future on a reduced amount per month unavailable for expenditure unless and until they come up with the amendments the Senator from Colorado is talking about.

I think that is all we need to say about it. It is very self-explanatory.

I believe the Senator from Colorado accepts this amendment, and the manager of the bill also accepts it.

Mr. ARMSTRONG. Mr. President, as usual, while others are shilly-shallying and charging about in all directions, the Senator from Utah has gone directly to the heart of the matter. I believe that he has provided the perfect solution to this problem. I am pleased to accept his amendment. I dare not ask whether or not, if enacted, this would become a precedent-setting approach to such problems, but perhaps I could entertain the hope that on other occasions when agencies are not responsive we might handle it in the same way. I congratulate the Senator on his ingenuity in coming up with this approach to the problem. It sounds all right with me and, if it is orderly, I will be glad to accept his amendment.

Mr. GARN. I thank the Senator from Colorado. I ask the managers of the bill if my understanding is correct that they would be willing to accept the amendment?

Mr. HATFIELD. That is correct. The majority will accept it.

The PRESIDING OFFICER. The Senator from Colorado has the right to modify his amendment by accepting the amendment of the Senator from Utah.

Mr. ARMSTRONG. With the utmost pleasure, I do so.

Mr. HATFIELD. I move the adoption of the amendment.

The PRESIDING OFFICER. The amendment of the Senator from Colorado is in fact modified.

The question is on agreeing to the amendment of the Senator from Colorado, as modified by the amendment of the Senator from Utah.

The amendment (UP No. 1214), as modified, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

⁶"How to House More People at Lower Costs Under the Section 8 New Construction Program" (CED-84-54, Mar. 6, 1981).

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, we have now reverted to the Schmitt amendment?

The PRESIDING OFFICER. The Senator from Illinois.

Mr. HATFIELD. Mr. President, I yield 1 minute to the gentleman from Illinois for brief remarks, and then we will go immediately to a vote.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. Mr. President, I rise in support of this effort to again address this most critical problem of unemployment benefits.

The recent unemployment figures in Illinois indicate that an already critical situation is now even worse. Illinois is now suffering 12.3 percent unemployment and is on the brink of triggering off extended benefits in the very near future—perhaps as early as next week. It is unconscionable that a State such as Illinois, which ranks second among the 10 largest industrial States, would not qualify for the maximum benefits allowable under the current law.

Monday, in a statement I made which appeared in the RECORD, I indicated that Governor Thompson informed me that Illinois was going to trigger off extended benefits on August 9. This was in error. Tuesday, I received a letter from the administrator of employment security of the Illinois Department of Labor, indicating that the information which was furnished to me was premature. Illinois is, therefore, still eligible for the extended benefits program, but the shut-off date is still very close. I ask unanimous consent to include a copy of the letter I received at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 1.)

Mr. DIXON. I ask unanimous consent to include a telegram that Governor Thompson and several other Governors sent to Senator DOLE, urging prompt action to address the unemployment compensation problem we are facing.

The PRESIDING OFFICER. Without objection, it is so ordered. (See Exhibit 2.)

Mr. DIXON. In conclusion, I urge the support of all Senators for this amendment. We cannot lose sight of the millions of people in our Nation who have little hope left, save what we will do to come to their aid.

EXHIBIT 1

DEPARTMENT OF LABOR,
BUREAU OF EMPLOYMENT SECURITY,
Chicago, Ill., August 10, 1982.

HON. ALAN DIXON,
U.S. Senator, Dirksen Office Building,
Washington, D.C.

DEAR SENATOR DIXON: We regret that information that you received regarding the Extended Benefit Program triggering "off" in Illinois was premature.

Preliminary figures received on a daily basis showed that we were some 20,000 claims behind the prior week. However, a heavy influx late in the week coupled with agent state claims, which are received on Monday, brought the Illinois rate to 5.0%.

We want to again thank you for all your efforts and dedication in pursuing an issue which affects some 50,000 Illinois residents. Should we be of any assistance in the programs administered by this agency, please do not hesitate to call. We will make every effort to provide the information that is being requested.

Sincerely,

AGALIECE W. MILLER,
Employment Security Administrator.

EXHIBIT 2
(Mailgram)

WASHINGTON, D.C., August 4, 1982.

(This mailgram is a confirmation copy of the following message:)

Senator ROBERT DOLE,
U.S. Senate,
Washington, D.C.

We are writing to call to your attention an urgent problem in our States with respect to unemployment insurance and to ask for your understanding and support.

Thousands of jobless receiving benefits are in immediate danger of losing this critical financial support. Changes in Federal law made last year have precipitated this unfortunate and inequitable situation. In particular, we are affected by amendments made by the Omnibus Budget Reconciliation Act of 1981 which has prevented the continuation of unemployment benefits to thousands of jobless workers.

The National economic recovery is slower than anticipated. We know the return to work always lags behind an upturn in the economy. Enacting unemployment insurance legislative changes now can provide a transition for the unemployed which is essential to their economic well-being. The current policy of the National Governors' Association recognizes the unemployment insurance system as the first line of defense against economic downturn. The policy also calls for a Federal supplemental benefits program to assist long-term jobless workers. We encourage your support for such a supplemental program. We urge you to give it special consideration.

Sincerely,

Governor James Thompson, State of Illinois; Governor Christopher Bond, State of Missouri; Governor Robert Orr, State of Indiana; Governor William Winter, State of Mississippi; Governor Lee Sherman Dreyfus, State of Wisconsin; Governor Albert Quie, State of Minnesota; Governor Frank White, State of Arkansas; and Governor Harry Hughes, State of Maryland.

Mr. BAKER addressed the Chair.

Mr. BAKER. Mr. President, will the Senator yield?

Will the Senator permit me to intervene for a moment for the purpose of

attempting to provide for the appointment of conferees on the second reconciliation package?

Mr. HATFIELD. I would be happy to yield.

OMNIBUS RECONCILIATION ACT
OF 1982

Mr. BAKER. Mr. President, I understand the minority leader is on the way to the floor, and I would prefer to await his arrival to proceed, because what I am about to do will require the unanimous consent of the Senate. I observe the presence of the distinguished chairman of the Budget Committee, the distinguished chairman of the Commerce Committee, and others who may be directly involved in this procedure. I believe that what we are about to do has been cleared on all sides.

However, I have a statement that I would like to make at this point which would set out certain of my reviews in respect to the procedure we are about to follow, so while I am awaiting the arrival of the minority leader, I will go ahead with that statement.

Mr. President, this reconciliation bill which I am about to ask the Chair to lay before the Senate includes provisions which would place a 4-percent ceiling on cost-of-living adjustments in Federal retirement programs under the jurisdiction of four different Senate committees. Under existing law the COLA's for foreign service retirees, military retirees, Coast Guard retirees and Public Health Service retirees are linked to COLA's for Civil Service retirees.

In other words, a change in the law which limits civil service COLA's will automatically make the same change in the other four programs.

The reconciliation bill now going to conference contains for the programs other than civil service retirement cross references to the COLA provisions on civil service retirement.

To simplify the conference on the reconciliation bill, no Senate conferees are being appointed from the Armed Services and Foreign Relations Committees. In addition, the conferees for the Commerce, Science and Transportation Committee are being appointed for portions of the bill other than the cross reference pertaining to Coast Guard COLA's.

This means that the Senate will rely on the conferees from the Governmental Affairs Committee, with the support of the conferees from the Budget Committee, to handle the COLA negotiations during the conference with the House.

I want to make it crystal clear that the decision not to appoint conferees on COLA issues from the other three committees in no way implies a change

in jurisdictions over any of the affected programs.

I also want to make clear that the Senate reserves the option of appointing additional conferees on COLA issues should development in the reconciliation conference make this desirable.

Finally, I expect that as the conference proceeds, the conferees from the Governmental Affairs and Budget Committees will work with the leadership of the other three Senate committees which have a stake in the COLA negotiations.

Mr. President, I understand that the distinguished Senator from Oregon and the distinguished Senator from New Mexico, the chairman of the Commerce Committee and the Budget Committee, respectively, may have other statements to make.

Before I yield for that purpose, Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 6955.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6955) to provide for reconciliation pursuant to the First Concurrent Resolution on the Budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress).

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. BAKER. Mr. President, I ask unanimous consent that all after the enacting clause be stricken, that the text of S. 2774 as passed by the Senate be inserted in lieu thereof, that the bill, as amended, be passed, that the Senate insist upon its amendments, request a conference with the House on the disagreeing votes and, that the Chair be authorized to appoint conferees on behalf of the Senate.

Mr. ROBERT C. BYRD. Mr. President, there is no objection. This matter has been cleared on this side.

Mr. BAKER. I thank the minority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appointed the following conferees on the part of the Senate:

From the Committee on the Budget: Mr. Domenici, Mr. Armstrong, Mrs. Kassebaum, Mr. Boschwitz, Mr. Tower, Mr. Hollings, Mr. Chiles, Mr. Johnston, and Mr. Exon.

From the Committee on Agriculture, Nutrition and Forestry, for Title I: Mr. Helms, Mr. Dole, Mr. Hayakawa, Mr. Lugar, Mr. Cochran, Mr. Huddleston, Mr. Leahy, Mr. Melcher, and Mr. Zorinsky.

From the Committee on Banking, Housing and Urban Affairs, for Title III: Mr. Garn, Mr. Tower, Mr. Lugar, Mr. Riegle, and Mr. Proxmire.

From the Committee on Commerce, Science and Transportation, for Sections 402 and 403 of Title IV: Mr. Packwood, Mr. Goldwater, Mr. Stevens, Mr. Cannon, and Mr. Ford.

From the Committee on Governmental Affairs, for Title VI: Mr. Roth, Mr. Stevens, Mr. Mattingly, Mr. Eagleton, and Mr. Pryor. From the Committee on Veterans' Affairs, for Title VII: Mr. Simpson, Mr. Thurmond, Mr. Stafford, Mr. Cranston, and Mr. Randolph.

Mr. BAKER. Mr. President, do I correctly understand that a colloquy is about to ensue between the Senator from Oregon and the Senator from New Mexico?

Mr. PACKWOOD. There is.

Mr. President, if I may direct my attention to the Senator from New Mexico, I want to make sure that we have a clear understanding as to how the budget conferees appointed to the conference will operate in relation to the conferees appointed to the so-called miniconferences.

The reason I raise this point is to make sure that we do not run the risk of Budget Committee conferees swamping the miniconferences that are in the jurisdiction of other committees.

The reason I raise this point is that at the meeting of the House and Senate conferees for the organizational purposes just a few minutes ago, Representative LATTI, one of the House conferees, upon looking at those who would be conferees, said, "We can simply gang together and outvote the conferees of these miniconferences."

I will rise in defense of the Senator from New Mexico, who indicated at that time that that is not the way we do things in the Senate.

So I want it clearly understood, if I correctly understand our agreement in the Senate, that the members of the Senate Budget Committee, who are in essence conferees on all the miniconferences, will not participate and will not vote in those miniconferences unless they are asked to participate and vote by the chairman of the Senate authorizing committee.

Mr. DOMENICI. I assure the Senator that we have no intention of swamping anybody, certainly not our own miniconferences, which are made up of distinguished chairmen of our standing committees, including Senator Packwood, who will chair the Commerce section, as the majority leader described.

The rules we tentatively adopted this afternoon, to which the Senator from Oregon alluded, when Representative LATTI spoke, are the same rules with reference to this issue as we adopted last time with reference to the overall conference.

We had an understanding—which I reiterate for the Senate—that so far as the Senate conferees are concerned, as well as this Senator, who is chairman of the subconferences, our job at this point is to push and prod and see that we expedite the conclusion of this conference. We have no intention to break with tradition. In fact, we

intend to follow it—that is, we do not vote, we do not interfere with your substantive deliberations, unless you, as chairman, ask us to do that, in which event we are at your disposal for discussion, for bringing up issues, for assuring those, including House conferees, who might want to delay that we are there to assist you in arriving at decisions.

We will cast our votes as we see fit, but only after you have invited us to be one of your conferees. I would hope that at that point we would be casting our votes as you would want them cast. I cannot say that for the conferees, but that is our goal.

Mr. PACKWOOD. I understand that. I appreciate the assurances of the Senate Budget Committee that you will not be uninvited guests and that only when the chairman of the authorizing committee invites you as a guest, you will come and participate.

Mr. DOMENICI. The Senator can be sure of that.

Mr. PACKWOOD. I thank the Senator from New Mexico.

Mr. DOMENICI. I thank the Senator for his cooperation, and I thank the majority leader for helping us expedite this matter. I thank Senator HATFIELD for yielding for this purpose.

SUPPLEMENTAL APPROPRIATIONS ACT, 1982

The Senate continued with the consideration of H.R. 6863.

VOTE—UP AMENDMENT NO. 1208

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from New Mexico (UP No. 1208). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 3, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—96

Abdnor	Danforth	Hawkins
Andrews	DeConcini	Hayakawa
Armstrong	Denton	Heflin
Baker	Dixon	Heinz
Baucus	Dodd	Hollings
Bentsen	Dole	Huddleston
Biden	Domenici	Inouye
Boren	Durenberger	Jackson
Boschwitz	Eagleton	Jepsen
Bradley	East	Johnston
Bumpers	Exon	Kassebaum
Burdick	Ford	Kasten
Byrd, Robert C.	Garn	Kennedy
Cannon	Glenn	Laxalt
Chafee	Goldwater	Leahy
Chiles	Gorton	Levin
Cochran	Grassley	Long
Cohen	Hart	Lugar
Cranston	Hatch	Mathias
D'Amato	Hatfield	Matsunaga

Mattingly	Pressler	Specter
McClure	Proxmire	Stafford
Melcher	Pryor	Stennis
Metzenbaum	Quayle	Stevens
Mitchell	Randolph	Symms
Moynihan	Riegle	Thurmond
Murkowski	Roth	Tower
Nickles	Rudman	Tsongas
Nunn	Sarbanes	Wallop
Packwood	Sasser	Warner
Pell	Schmitt	Weicker
Percy	Simpson	Zorinsky

NAYS—3

Byrd, Helms
Harry F., Jr. Humphrey

NOT VOTING—1

Brady

So Mr. SCHMITT's amendment (UP No. 1208) was agreed to.

Mr. SCHMITT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER (Mr. RUDMAN). The Senate will please be in order. The Senate is not in order.

TIME-LIMITATION AGREEMENT ON SCHMITT
AMENDMENT NO. 2014

Mr. HATFIELD. Mr. President, I ask unanimous consent that on the Schmitt amendment dealing with copper that there be a half-hour time limitation equally divided. That has been checked with Mr. TOWER of Texas, who opposes it, Mr. SCHMITT, and the majority and minority side.

Mr. BUMPERS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I ask unanimous consent to temporarily set aside the pending Helms amendment.

Mr. BRADLEY. Mr. President, reserving the right to object—

The PRESIDING OFFICER. Is there objection?

Mr. BRADLEY. I ask the distinguished chairman of the Appropriations Committee and Senator HELMS—in fact I ask unanimous consent that prior to the disposition of the Helms amendment that the Senator from New Jersey be allowed to speak for up to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, point of order. I believe there is a pending request.

Mr. HATFIELD. Mr. President, reserving the right to object, is the Senator asking for—first of all, Mr. President, may I inquire of the Chair the pending amendment is the Helms amendment on the Polish debt?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. The Senator wishes to be heard on that amendment for a period of not exceeding 15 minutes.

Mr. BRADLEY. That is correct, prior to the disposition of the amendment.

Mr. HATFIELD. But not necessarily at this moment. I would have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. Is there objection to the previous request?

Mr. HATFIELD. Mr. President, we have now set aside the Helms amendment temporarily. I believe the Senator from Louisiana has an amendment to offer.

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Will the Senator withhold? The Chair wishes to consult the Parliamentarian.

Is there objection to the previous request by the Senator from Oregon? Without objection, it is so ordered. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I believe the Senator from Louisiana had asked for recognition.

The PRESIDING OFFICER. That is correct.

UP AMENDMENT NO. 1216

(Purpose: To direct the Justice Department to locate an alien detention center in Allen Parish, Louisiana.)

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1216.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the period at the end of line 20 on page 12 and insert the following: ", and provided that the first alien detention facility to be constructed with such funds be located in Allen Parish, Louisiana."

Mr. STENNIS. Mr. President, may we have quiet and order, more quiet, so we can hear?

The PRESIDING OFFICER. The Senator from Mississippi is correct. The Senate is not in order. The Senate will be in order, and those Senators wishing to converse will retire to the cloakrooms.

The Senator from Louisiana.

Mr. JOHNSTON. The committee included \$17 million for the construction of one of the two alien detention centers requested by the Department of Justice.

Mr. President, we put language in the committee report directing that the Department of Justice and the Bureau of Prisons particularly look at Allen Parish—a parish being the Louisiana counterpart of county—as a site for this alien detention center, first, because it was close to the areas where aliens would come from, particularly

the Mexican illegal aliens and, second, and most important, because Allen Parish has unemployment at the rate of 26.8 percent, which is one of the very highest rates in the entire Nation.

Mr. President, what this amendment would do would be to direct that the Bureau of Prisons locate this first alien detention center in Allen Parish, La. I am wondering if my friend from Connecticut would look favorably upon such an amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I appreciate the Senator's interest in the location of the detention center for which funds are provided under chapter II. As you are aware, there has been considerable opposition to locating the center in Petersburg, Va. There have also been some questions raised about the suitability of El Reno, Okla.—the other proposed site. The Appropriations Committee recognized these concerns and directed the Department of Justice to give an equal priority to Oakdale, La. However, I do not believe it responsible to dictate the selection of any particular site for this facility. There are too many issues to be considered. First, the Department must carefully weigh the location in light of the fact that we are approving funds for only one detention center. Access to highways and airports for ease of transporting detainees is another matter.

The size of the facility and cost of land acquisition and construction are other factors. Obviously, there are some advantages to location of the facility at the site of another Federal installation. However, to my mind this is not necessarily the most important criteria and, it should not disqualify consideration of any particular place.

UP AMENDMENT NO. 1217

(Purpose: To prohibit the Department of Justice from refusing to locate an alien processing facility at a site solely because it is not presently owned by the Federal Government.)

Mr. JOHNSTON. Mr. President, I have enormous respect for the Senator from Connecticut and he has been very sympathetic to this problem in Allen Parish. He was willing to accept our language in the committee, and I do not want to push this matter too far.

Therefore, Mr. President, I withdraw the amendment and send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The Senator has a right to withdraw his amendment. The amendment is withdrawn.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an unprinted amendment numbered 1217.

Strike the period at the end of line 20 on page 12 and insert the following: "and provided that sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently federally owned," and provided further that the building to house aliens be constructed separate and apart from an existing Bureau of Prisons building housing Federal prisoners.

Mr. JOHNSTON. Mr. President, one of the problems we have had is that the committee language, the language adopted by the committee in its report, seems to have fallen on deaf ears at the Bureau of Prisons. They were considering three sites, one in Virginia, one in El Reno, Okla., and this site in Oakdale, Allen Parish, La.

It seems that it has been very difficult to get them to consider Oakdale for the reason that there is no Federal prison now in Oakdale and they seem to be taking the view that the facility ought to be located in conjunction with a Federal prison.

Now, it happens, Mr. President, that the penologists, and particularly the Department of Justice, think it is bad policy to locate one of these prisons as part of a Federal prison facility.

Associate Attorney General Rudolph W. Giuliani testified before the Judiciary Committee in this respect. He said:

While aliens who await processing in BOP facilities are segregated from the general inmate population, we do not believe it is advisable to house administrative detainees in correctional facilities with those convicted or accused of crimes. Moreover, this use of BOP space puts additional strain on our already-taxed Federal prisons.

So, Mr. President, what this language does is simply give life to the wishes of the Department of Justice as expressed by Associate Attorney General Giuliani by saying, first, that a site may not be excluded from consideration because it is not presently federally owned and, second, that the building to house the aliens be constructed separate and apart from an existing Bureau of Prisons building housing Federal prisoners, which is exactly what the proper penology theory ought to be and exactly what the Department of Justice has stated it wants.

The counsel for the committee has cleared this, I am advised by the Department of Justice, and I would ask for its favorable consideration.

I would say to my friend from Oklahoma that it does not exclude El Reno and it does not include any particular site. If the site is built at El Reno pursuant to this language, you would simply have to build a separate building. In other words, it cannot be as part of the existing Federal prison. It could be on the property owned as part of that prison, but it could not be as part of it connecting to it.

Mr. NICKLES. Will the Senator yield?

Mr. BOREN. Will the Senator yield?

Mr. JOHNSTON. Mr. President, if I may yield first to Senator NICKLES.

Mr. NICKLES. I thank the Senator from Louisiana.

Mr. President, having looked at the Senator's amendment, I assume this is the same amendment that we have previously discussed.

Mr. JOHNSTON. That is correct.

Mr. NICKLES. Mr. President, I have discussed this with Norman Carlson, who is the Director of the Bureau of Prisons. My personal reservation is possibly, I would like to see them have some flexibility in deciding where the prison location would be so they could pick the site that would most suit their desires and needs and economies and all the various factors included.

Certainly in looking at the Senator's amendment I do not find anything wrong with certainly the first part of it nor the second part of it as long as I think we are talking about the same things.

He did mention some reservations about the words constructed separate and apart, not knowing what and apart would be. For example, the center that they are also considering in Oklahoma has a great deal of land. We have something like 1,800 acres of land that the Federal Government owns right next to the prison center area. That separate and apart, would that mean it would have to be some distance apart, could not be adjacent to, or what would that mean?

Mr. JOHNSTON. As I read this language—and I did not write this language, this language was worked out between the counsel and between the Department of Justice—but I think the meaning is clear, and that is that the buildings cannot be connected, they cannot be part of the same facility. You cannot just put a little addition on an existing prison because, as the Assistant Attorney General said, it is not appropriate to keep people who are in administrative detention housed in the same building, in the same facility, with those charged with rape, murder, homicide, and other kinds of crimes. So it would not exclude the property at El Reno.

Mr. NICKLES. Will the Senator yield just a second further?

Mr. JOHNSTON. Yes.

Mr. NICKLES. I asked Mr. Carlson, the Director of the Bureau of Prisons, if there is any intention whatsoever to intermix the illegal aliens with the Federal prisoners. He said, "None whatsoever." He said they would be separate buildings.

Would the Senator be agreeable in his amendment to delete the two words and apart just so we would not have any ambiguity or misconstruction about how close they could be to those adjacent buildings? He did state

they would be talking about new, different, separate buildings, but that idea of how far apart leaves a little bit in question. If we could delete those two words, I think it would take any confusion out of the Senator's amendment.

Mr. JOHNSTON. Mr. President, I would say to my friend from Oklahoma that this colloquy, which constitutes part of the legislative history, would make it perfectly clear that we are not talking about long distances when we say apart but we are talking about the physical separation between the two. In that sense, I would not want to take out apart. There ought to be a separation.

Mr. NICKLES. Will the Senator yield further?

Mr. JOHNSTON. I yield.

Mr. NICKLES. If you have a district Federal prison, are we talking about 100 yards. I do not want to handicap them if they determine they would like to have it be adjacent to. What does adjacent to mean? There is a lot of confusion.

Senator BOREN, the Senator from Louisiana, and I have discussed earlier what was the meaning of apart. The Senator has said it would not prohibit locating the new detention center on existing land, and I am appreciative of that. Certainly, that would mean that El Reno would still be eligible. I would not want to say that, yes, they can do it somewhere on the land, but one interpretation would be that it would have to be a quarter mile away or a half mile away.

Mr. JOHNSTON. I think this makes it perfectly clear. If you took out apart, there would be housing on the second floor, and you would have rapists on the first floor and thieves on the third floor. I think taking it out would take the life out of the amendment. It is clear that by apart we are not specifying a particular distance, but we do mean that there ought to be a real separation, and it can be on the same piece of property.

Mr. NICKLES. The Senator's desire is to just make sure that it is a different building, is that correct?

Mr. JOHNSTON. That is correct.

Mr. NICKLES. The Senator does not really care if it is adjacent to existing buildings as long as it is a different building.

Mr. JOHNSTON. When the Senator says adjacent to, if that means physically connected, I would think that would violate the amendment.

Mr. NICKLES. As the Senator may know, it is presently against the law to house illegal aliens in the same physical structure as it is to integrate those persons into existing Federal prisons. I have been assured by the Bureau of Prisons that it is not their intention. They will keep them in separate facilities, but they do not want an interpre-

tation to come up saying, "You have to have a certain distance between these particular facilities," and thereby limit their flexibility in locating sites or construction.

Mr. JOHNSTON. We do not intend to limit them.

Mr. HATFIELD. Mr. President, I wonder if we can lay this amendment aside temporarily, letting the two Senators get together to work out the difficulties.

Mr. JOHNSTON. I think we have clarified it.

Mr. BOREN. I believe we are close to an understanding on this.

Mr. HATFIELD. If the Senators could work it out in private, it would save a lot of time and we could get other business done. Perhaps we can let the chairman and the interested parties work out the problem.

Mr. JOHNSTON. I will say to the chairman I think it is worked out. If the chairman wants me to pull it down, I will pull it down.

Mr. WEICKER. Is the distinguished Senator from Oklahoma prepared to accept the amendment as it now is?

Mr. BOREN. I think we can clear it up. I just want to ask two or three questions. I think if I could ask the author of the amendment or the distinguished chairman two questions, it would clear it up, if the Senator from Louisiana wants to proceed.

Mr. JOHNSTON. I think I have language that surely can satisfy my colleagues.

Mr. HATFIELD. I am trying to be helpful. I did not want us to hammer out a bill on the floor. I would much rather have it done in private and then come to the floor when it is completed.

Mr. JOHNSTON. Mr. President, the amendment is changed to say that the building to house aliens be constructed in a separate building from the existing Bureau of Prison building housing Federal prisoners.

UP AMENDMENT NO. 1218

(Purpose: To prohibit the Department of Justice from refusing to locate an alien processing facility at a site solely because it is not presently owned by the Federal Government.)

Mr. JOHNSTON. Mr. President, I ask unanimous consent to withdraw the instant amendment and I send another amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) for himself, Mr. LONG, and Mr. WARNER proposes an unprinted amendment numbered 1218.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike the period at the end of line 20 on page 12 and insert the following: "and provided that sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently federally owned," and provided further that the building to house aliens be constructed in a separate building from an existing Bureau of Prison building housing Federal prisoners.

Mr. JOHNSTON. Mr. President, I believe I have explained the amendment thoroughly.

Mr. BOREN. Mr. President, under this amendment, we would not be ruling out any particular site.

Mr. JOHNSTON. We are not ruling out El Reno, Okla. That is exactly correct.

Mr. BOREN. And it would mean that while we could not use the fact that the land was not federally owned, it would not rule it out by the other side, it would not be ruled out by the Federal prisons as long as it was separately constructed.

Mr. JOHNSTON. Absolutely.

Mr. BOREN. Mr. President, I think the Senator from Louisiana has taken a proper approach. This is a selection that should only be made by the Department of Justice. I think they should consider such factors as unemployment, the cost of the facility, and many other factors as well. This amendment is certainly one which I would have no reason to oppose.

Mr. JOHNSTON. I thank the Senator.

Mr. WEICKER. Mr. President, the amendment, as modified by the distinguished Senator from Louisiana, is acceptable to the chairman of the committee. I would have to point out that before any statements are made as to the Justice Department approval or disapproval, I would only like to reserve the right of the department to review what it is that we pass here on the floor tonight prior to the conference. I am sure they will have their final position to state. I do not see any difficulty in that area. I just want to be certain that it is understood that the language agreed to here was not that presented to the Justice Department.

Mr. President, I have no problems with the amendment, and I agree to it.

Mr. JOHNSTON. That is clearly understood. I thank my colleague, my chairman, and also my colleague from Oklahoma.

Mr. NICKLES. Mr. President, I wish to thank the Senator from Louisiana also for this cooperation and his effort. I have no objection to the amendment.

Mr. LONG. Mr. President, as a cosponsor to the Johnston amendment I strongly support this effort to have proposed alien processing center located in the Allen Parish, La. area. I am personally aware of the near unani-

mous support for this facility in that area. In addition I direct my colleague's attention to three factors of particular importance.

Allen Parish is currently experiencing 28.3 percent unemployment. The construction of the Center, and its operation, would provide jobs desperately needed in this area. I believe that this project's potential for unemployment relief is a major reason for its location in Allen Parish.

The Allen Parish community has overwhelmingly supported the project. On April 7, 1982, at a town meeting held in Oakdale, La., 700 citizens applauded INS officials as they described the project. Surely, the Center will not be given as supportive a reception at any other site under consideration.

The Allen Processing Center has strong support among local officials. The close relationship between Federal officials administering the facility and local officials will be extremely important to its efficient operation.

Mr. HATFIELD. Mr. President, I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1218) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1219

Mr. BUMPERS. Mr. President, on behalf of Mr. PERCY, Mr. BRADLEY, Mr. PELL, Mr. DURENBERGER, Mr. MATHIAS, Mr. MOYNIHAN, Mr. PROXMIRE, Mr. SYMMS, and myself, I send an amendment to the desk and ask for its immediate consideration.

Mr. HATFIELD. Mr. President, I believe this amendment is out of order. I raise a point of order. I ask unanimous consent to set aside temporarily the Helms amendment in order for this amendment to be offered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS, for himself, Mr. PERCY, Mr. PELL, Mr. BRADLEY, Mr. DURENBERGER, Mr. MATHIAS, Mr. MOYNIHAN, Mr. PROXMIRE, Mr. SYMMS and Mr. DeCONCINI, proposes an unprinted amendment numbered 1219.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

"Nothing in this act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the war powers resolution of 1973. This act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the war powers resolution."

Mr. BUMPERS. Mr. President, I ask unanimous consent that this amendment be temporarily laid aside in order that the Senator from New Mexico (Mr. SCHMITT) may offer an amendment. I understand he was next on the list. I did not know that. I apologize.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I believe we have a half-hour time agreement on the amendment of the Senator from New Mexico.

The PRESIDING OFFICER. The Senator is correct.

The Senator from New Mexico.

UP AMENDMENT NO. 1220

(Purpose: To appropriate certain moneys in the National Defense Stockpile Transaction Fund for the acquisition of copper that is mined and smelted in the United States)

Mr. SCHMITT. Mr. President, I send an amendment to the desk on behalf of Senator DOMENICI, Senator LAXALT, Senator DECONCINI, Senator BAUCUS, Senator CANNON, and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT), for himself, Mr. DOMENICI, Mr. LAXALT, Mr. CANNON, Mr. DECONCINI, and Mr. BAUCUS, proposes an unprinted amendment numbered 1220.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, between lines 2 and 3, insert the following

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

All moneys that—

(1) are received from the sale of materials sold from the National Defense Stockpile (as defined in the second sentence of section 3(a) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98b(a)) after July 31, 1982, and before October 1, 1983; and

(2) are covered into the National Defense Stockpile Transaction Fund under section 9(b) of the Strategic and Critical Materials Stockpiling Act (50 U.S.C. 98b(d)), and appropriated for the acquisition of copper that is mined and smelted in the United States after July 31, 1982. Section 301 of this Act shall not apply to the appropriation made by the first sentence of this paragraph.

Mr. SCHMITT. Mr. President, a vital New Mexico industry and an American industry is in very severe trouble. Copper is mined and refined

in this country in extremely large quantities throughout many, many States of the Union. The use of this metal pervades nearly every aspect of our daily experience, for the plating on the humble penny to the wires on the giant dynamos which supply power to our cities. Copper is important to the building industry, the transportation industry, the information processing industry, and many other industries, all of which underpin our national security.

Today, the copper industry is operating at 50-percent capacity, and going down fast. Not only is it expected to decline further in the near future, but the subsidiary of one mining corporation will close its operation at Superior, Ariz., on Sunday of this week.

The reasons for this decline include a cyclical reduction in primary domestic demand, but, more importantly, severe overproduction by international producers flooding world markets with cheap copper.

There has been a fundamental change in the world market situation in contrast to the world cycles that copper and other base metals have seen through the years. For copper mines in the United States to stay open, a price of over 90 cents a pound is needed. In February 1980, the price of copper was roughly \$1.20 a pound. Since that time, the price of copper has declined precipitately. In July of this year, copper was selling for 53 cents a pound. There was a brief rally, but just this week, it has dropped again to 57 cents.

Mines, smelters, and refineries have closed or are operating at greatly reduced capacity. The resulting unemployment is as high as 40 percent in some areas of the country that are dependent almost entirely on copper production.

Copper has always been a cyclical industry subject to the winds and vagaries of the capricious metal market when we were operating in a more or less free market situation. However, there have been drastic changes in the world marketplace. For the first time, employees in the copper industry face the prospect of never returning to work in that industry. So, in the mining, smelting, and refining towns all over the United States, the unemployed wait for their savings and other resources and their unemployment benefits to run out.

Economic recovery will bring with it increased demand for copper; higher prices will result. Imports will increase and maybe some mines will reopen. Other mines, however, will be too costly to reopen, because they will have been closed too long and will have to compete with cheap foreign imports and some of the miners will have moved on to other industries. Net imports of copper will increase and the United States will become more de-

pendent on foreign sources for these strategic materials.

As we all know, the strategic stockpile was established in order to provide for a temporary source of materials in the event of war.

The Federal Emergency Management Agency sets goals for units of materials in the stockpile and, also establishes priorities for acquisition of materials for the stockpile. The priorities for acquisition are classified—the goals for materials are not.

The goal for copper is 1 million tons. As of June 30, 1982, there were only 28,444 tons of copper in current inventory in copper. The strategic stockpile is not even within 3 percent of its own goal for copper, yet mines are closing and miners are sitting idle, and this basic strategic industry disappears.

Mr. President, I can simply not understand the administration's position on this. What are we waiting for? The price is low, the need is great. The stockpile has several materials in excess. As we know, Congress gives authority to the General Services Agency—GSA—to sell commodities which are in excess. Congress has given authority for several commodities. Authorizations total well over \$700 million. The appropriations at this time total about \$150 million. For instance, over \$300 million in sales authority exist for stone diamonds, tin, and tungsten. The total value of the materials in excess in the stockpile is over \$3.6 billion.

Sales of excess materials are ongoing. GSA conducts sales on a regular basis and attempts to maintain an orderly market in doing so. The proceeds of the sales are placed into the National Defense Stockpile Transaction Fund, where they are appropriated through Appropriations Committee action for further purchases of materials for the stockpile.

Current law requires that the fund can only be used for purchase to the stockpile. A recent GAO report, however, that was requested by Senator LEVIN demonstrated that GSA is going ahead with sales but failing to proceed on purchases. The budget is being balanced improperly from sales of the strategic stockpile without corresponding purchases. The transaction account will approach \$300 million this fiscal year and it can only be used for stockpile purposes and for no other purpose.

Mr. President, my amendment does simply this: It will mandate that any proceeds for sales from materials in the strategic stockpile be used to purchase domestic copper mined and smelted after July 31, 1982. This will open mines and smelters rather than buying existing inventory at suppliers and refineries.

Suppliers and refiners in this country are subsidizing foreign producers.

The \$300 million currently in the transactions account will not be touched. Planned purchases of high-priority materials could proceed as planned. Cobalt, bauxite, and titanium could still be added to the stockpile.

FEMA has established priorities for materials acquisition, and this amendment does violate these priorities. FEMA's priorities demonstrate the need for materials in wartime. Mr. President, in peacetime, we need to maintain our industrial capacity so that in wartime we will not have to rely exclusively on the stockpile or unavailable imports or be subject to threats that we shall have to so rely. My amendment does just that at no cost to the Treasury.

Mr. President, I ask unanimous consent that a list of States in which mines, smelters, and refiners exist be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

States with—		
Smelters ¹	Refineries ²	Mines
Montana	Washington	Arizona
Arizona	New Jersey	Colorado
Texas	Montana	Idaho
Washington	Texas	Michigan
Tennessee	Illinois	Missouri
Nevada	Arizona	Montana
New Mexico	New Mexico	New Mexico
Utah	Utah	Tennessee
Michigan	Maryland	Utah
	New York	California
	Georgia	Pennsylvania ³ (1973)
	Michigan	Maine ³ (1977)
		Oregon ³ (1979)

¹ 16 in 9 States.

² 14 in 12 States.

³ No longer producing.

Mr. SCHMITT. Mr. President, I urge my colleagues to support this amendment. It is an extremely important signal to send to the administration as well as important to the country's long-term strategic needs.

We did that in 1981 and 1982 with purchases of Jamaican bauxite in order to shore up that failing economy. We bought 1.6 million tons of Jamaican bauxite at that time. It seems to me more than appropriate that we now buy copper in order to shore up a very basic industry in our own land.

I yield at this time 1 minute to my senior colleague.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I join in asking the Senate to support this amendment. It is not often that the United States is presented with an opportunity to do what has been suggested by this amendment. We have an essential American mining industry with 40 to 50 percent unemployment nationwide, smelters closing down. If we do not get them started, some may be permanently lost. In New Mexico and Arizona, unemployment reaches 60 percent in this industry. Some of them will be closed long enough to be

lost forever from our inventory and capability.

The distinguished Senator has indicated that we shall use money that the stockpile fund has under existing law to purchase new copper for the foreseeable future, and to see if we cannot get those copper miners back to work. We must help that mining industry get started again so we will have it, if it is ever needed in a national emergency. Especially since we choose as a nation to help Jamaican bauxite, I think the argument that we ought not help American copper does not hold water. I think the Senate ought to send a signal that where they find an easy way to help a strategically important industry, such as this, with relatively little budget authority in fiscal 1982 or no budget authority in fiscal 1983, we stand ready to do it.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, let me say that I certainly applaud the Senator from New Mexico for trying to take care of a very serious situation in his State; namely, about a 40 percent unemployment rate in the geographical area where copper is mined.

But, I must oppose the amendment for the simple reason that the national defense stockpile just simply cannot be used to create employment.

I will vote for a jobs program to help the people in New Mexico. I will vote for a job program to help people anywhere, but the Strategic and Critical Materials Stockpiling Act is the law under which we stockpile critical materials for the Defense Department—titanium for example, which is becoming increasingly critical, and we do need to increase our stockpile of titanium. Copper is currently experiencing a glut on the market in this country. That is the reason that we have an excess capacity and that is the reason that we have such high unemployment rates.

However, I think it would be a terrible mistake and crippling to this program if we adopt this amendment which says in effect—and I hope my colleagues will listen to this—that all money that we receive from the sale of materials sold from the national defense stockpile as defined in the Strategic and Critical Materials Stockpiling Act is hereby appropriated under this amendment for the acquisition of copper that is mined and smelted in the United States.

That obviously cripples the Defense Department significantly. It means that as they sell anything in the stockpile that they consider excess, they have to take that money and buy copper, whether they need copper or not, and regardless of whether they need something else desperately.

For those reasons—and that is all I have to say in opposition, Mr. President—I must resist the amendment.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon.

Mr. HATFIELD. Mr. President, I yield myself 3 minutes time from the opposition side.

I very reluctantly rise to oppose the amendment offered by the Senator from New Mexico. I do so fully understanding his thesis that the copper industry is in deep difficulty. I can appreciate that because I come from a State where the timber industry is in even worse difficulty, but I also come from a State which has a number of exotic metals. I have frequently been asked by the industry representing the exotic metal of titanium to offer a similar amendment to require some purchase and stockpiling of titanium. I have resisted that request from my constituents.

I think it would be very difficult to get into one of these programs where everyone representing certain particular metals or certain particular stockpiled material could make a good case for further stockpiling.

Frankly, I also feel that the whole stockpile issue should be very carefully reviewed. I do not think there is very much rhyme or reason today to the whole stockpile program. I am not sure they even know where it is. I do not know where there is a complete inventory that anybody can put their finger on today of what we have stockpiled in this country. We have all kinds of reports running around, but when I have talked to some of the people involved in this business they have not been able to answer my questions.

As I say, I am very reluctant to rise in opposition, but having taken this position in relation to my own constituent groups in the field of titanium and other exotic metals, it would be difficult for me now to support an issue raised on behalf of copper. I want to make that record to keep a consistency, although I am not sure that represents any virtue. I am not suggesting that. But I do feel, to be consistent where I have turned down these requests from my own constituents, I will have to oppose this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I understand the comments of the two Senators very well, but that is the reason we drafted this amendment and, in fact, crafted the amendment so

that we would only deal with copper in the new sales from the stockpile; that there would remain approximately \$300 million in the transaction account which the administration could apply to these "high priority items."

Copper is a high priority, and I would debate and have debated with the administration on how they set their priorities. One of the reasons it is high is because we can be self-sufficient if we do not destroy that industry, and we are in the process of destroying it. Some day it will become a higher priority because we will have no industry in which to refine copper.

When you pick something like titanium, which should be purchased, the administration should have a strategy. They do not. They are trying to use the transaction account to balance the budget. It should not be used for that purpose. The GAO study is very clear on that. It can only be used for one purpose, and this administration as well as others has refused to properly manage the stockpile. That is why I hope both Senators who have spoken in opposition will join in cosponsoring the bill that I have introduced that is before the Armed Services Committee to set up an independent commission for management of the stockpile.

Mr. BUMPERS. addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I yield myself 1 minute.

I say to the Senator that it is with extreme reluctance that I oppose this amendment, but the unemployment rate in the aluminum industry in my State is 50 percent. We all have those very unique problems to particular industries in our States, as the Senator from Oregon has with the timber industry. However, I think that the defense stockpile is the wrong place to solve an employment problem. It is with great reluctance that I must oppose the amendment.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, this is far more than just trying to solve an unemployment problem. It is a very big issue with the management of the strategic stockpile.

I will yield 3 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DeCONCINI. Mr. President, I am pleased to join Senator SCHMITT, my distinguished colleague, as a cosponsor of this amendment.

No one who has visited our part of the country can doubt that a real depression exists in the copper industry. The mines and with them whole towns have closed down completely. And

over 8,000 miners in my home State of Arizona alone are out of work.

Mr. President, I recognize that the stockpile is not intended to be used for economic stabilization purposes. And I agree that materials critical to our national security should be carefully managed with that end and that end alone in mind. However, we would be foolish to forego this opportunity to acquire at current bargain basement prices what the administration has on numerous occasions identified as a prime requirement in our overall national defense stockpile strategy. Indeed, the most recent estimates are that we have on hand less than 2 percent of the copper that would be necessary in a national emergency. There are currently only 28,000 tons of copper actually in the stockpile. The goal for copper is 1 million tons. At 72 cents a pound, which is among the lowest prices in history for domestic copper, we could move a long way toward meeting our stockpile objectives at very low cost.

Now, Mr. President, on April 22, of this year I introduced S. 2429, with Senator DOMENICI as an original cosponsor. My bill directs the Administrator of GSA to use \$150 to \$180 million of the \$300 million currently available in the transaction fund to purchase copper as soon as possible. I ask unanimous consent that the statement that I made on introducing S. 2429 be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

By Mr. DeCONCINI (for himself and Mr. DOMENICI):

S. 2429. A bill to direct the Administrator of General Services to acquire copper for the national defense stockpile; to the Committee on Armed Services.

COPPER STOCKPILE PURCHASE

Mr. DeCONCINI. Mr. President, we are today introducing legislation which addresses our national security concerns and at the same time our deteriorating economic conditions. We believe we have a rare opportunity to actually take advantage of currently depressed markets while improving economic conditions which have caused the declines.

Our specific concern is with the depleted state of the national defense materials stockpile. For example, we have a long-established stockpile goal of 1 million tons of copper, but we have on hand less than 30,000 tons of copper. I repeat, Mr. President, we have an existing national stockpile goal of 1 million tons. The need to stockpile copper for strategic purposes for national security is firmly established and undisputable.

It is also beyond dispute, Mr. President, that it is in the Nation's interest to operate the stockpile—to buy and sell commodities—in an economically responsible manner. Economic health is no small part of national security, and is totally compatible with military access to strategic materials.

What we are proposing—myself and other cosponsors—is very direct. Copper is now

selling at about 72 cents a pound and even lower in certain quantities. There is up to \$300 million available in the transaction fund established by Public Law 96-41, the Critical and Strategic Stockpile Revision Act. The administration is currently recommending that \$120 million be appropriated from this fund to finance the purchase of critical and strategic materials in conformity with the established priorities. The fiscal year 1983 budget request is now being considered by the appropriate committees. Even if the full amount of the President's budget request is appropriated by the Congress, \$150 to \$180 million will still be available in the fund.

Mr. President, these moneys are the proceeds from the sale of excess commodities from the stockpile. These funds are earmarked by law, for the purchase of needed materials and can be used for no other purpose. This bill directs the General Services Administration to use these additional funds, the \$150 to \$180 million, to purchase copper as soon as possible.

It is estimated that the sum which will be available to the fund, in addition to that amount requested by the President for purchases of other commodities, will buy 200,000 to 225,000 tons. Although it is only one-quarter of the established goal, it is probably the realistic quantity which could be purchased in a short period of time.

When additional purchases are feasible, we believe moneys could be shifted to the fund from other accounts; preferably from the aggregate request for foreign assistance, and without burdening the American taxpayer by raising the deficit. In the meantime I will ask the General Accounting Office to study the relationship between the need to stockpile certain commodities and our foreign assistance priorities.

Mr. President, we suggested this bill would also improve domestic economic conditions. The price of copper, adjusted for inflation, is at its lowest level in decades. It is for this reason that copper right now is a good buy. But it is also for this reason that the copper industry is in its worst shape since the depression in the thirties. When we say "industry" we, of course, mean people. It is the people who are employed by the industry, and the towns they live in, which are devastated. In Arizona alone, over 8,000 copper workers are out of work. The impact of this disaster on top of other crippling blows to our economy, such as the virtual collapse of the housing industry, and the greatest number of business failures since the Great Depression year of 1932, will send a paralyzing shock wave through many of our communities and will have a multiplier effect throughout the Southwest.

However, the purchase of 225,000 tons—and eventually a million tons—to meet our stockpile of domestic copper at this time with funds already on hand, or to be shifted from foreign assistance or other places, without increasing the deficit, will prevent the possible collapse of the copper industry and put thousands of workers back on the job. This, Mr. President, is the essence of our national security.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2429

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "National Defense Stockpile Copper Acquisition Act of 1982".

Sec. 2. (a) The Administrator of General Services shall acquire such quantities of copper from domestic producers as may be acquired for the amount of funds available for such purpose under section 9(d) of the Strategic and Critical Materials Stock Piling Act (as added by section 3 of this Act) (50 U.S.C. 98h (d)).

(b) The acquisition of copper under authority of subsection (a) shall be made in accordance with subsection (b) of section 8 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e), but without regard to the provisions of subsections (c) and (d) of such section.

(c) Copper acquired under authority of subsection (a) shall be added to and made a part of the National Defense Stockpile described in section 3(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(a)).

Sec. 3. Section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) is amended by adding at the end thereof the following new subsection.

"(d)(1) Notwithstanding subsection (b) and (c), the moneys in the fund shall be available to carry out section 2 of the National Defense Stockpile Copper Acquisition Act of 1982 in an amount calculated as provided in paragraph (2).

"(2) For the purpose of paragraph (1), the amount available shall be the greater of—

"(A) the amount necessary to acquire 200,000 short tons of copper, or

"(B) the excess of the amount of moneys in the fund on the effective date of this subsection over \$120,000,000."

Mr. DECONCINI. This amendment takes a slightly different approach but is aimed at the same objectives. We can debate the merits of different approaches another day. But it is imperative that we move to acquire the copper that our Nation needs and to put copper workers back to work without delay. I urge adoption of our amendment.

Mr. President, I want to point out also that this is not an economic recovery effort. This is a good buy for the taxpayer, and it falls right in line with our military and national security needs.

That is why it is different than some other minerals and certainly different than the lumber industry. If there was a stockpile for lumber, I would be glad to support it for lumber if there was a national security measure.

We have an objective to accumulate a million tons in the strategic stockpile and only 30,000 tons are there to date.

Now, what better time, when you can buy copper at less than 70 cents a pound, to start filling that stockpile than today?

It is very important to both Senators from New Mexico that something help the industry, but that is not the prime purpose and I do not think ever really was intended in this bill or S. 2429 introduced by myself and Senator DOMENICI some months ago. It is a great opportunity to fill our strategic needs. It is a tremendous buy, and under this bill the money is not appropriated; it

is taken right out of the existing stockpile.

I urge the Senate to adopt this as an indication that the Senate is on record for doing something about filling our strategic stockpile needs and also willing to do it when the cost is right. This may not occur again in a long, long time.

I thank the Senator from New Mexico.

The PRESIDING OFFICER. Who yields time?

Mr. HATFIELD. I yield 5 minutes to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I should like to address this amendment in my capacity as chairman of the Subcommittee on Preparedness of the Committee on Armed Services, which subcommittee has jurisdiction over the national defense stockpile.

I do not relish opposing the Senator from New Mexico on this issue. I understand his distress and that of his constituents. Nevertheless, the stockpile has been the subject of abuse in past years for a number of purposes, none of which was consistent with national defense.

I am speaking of abusing the stockpile for budgetary and fiscal purposes, and now it seems for purposes of addressing unemployment, although I am sure the Senator from New Mexico does not see it in that light. It is adding another bad precedent to the list.

Recently, the administration has been attacked for using the defense stockpile for budgetary purposes—that is, the acquisition fund for budgetary purposes—instead of the purposes intended; and there seems to be some truth to that criticism, although it is nothing new. It has been done by many administrations.

In any case, copper is in the third category of priority for acquisition by the stockpile. It is not one of the commodities urgently needed. The reason it is in the third category is that in time of national emergency, we can probably procure enough domestically to avoid getting into a tight spot. That is not the case with many other minerals.

I must join the chairman of the Committee on Armed Services, Senator TOWER, in urging my colleagues to vote against the Schmitt amendment.

Mr. SCHMITT. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 2 minutes and 22 seconds.

Mr. SCHMITT. I yield myself 1 minute.

Mr. President, I appreciate very much the comments of the Senator from New Hampshire. They do have jurisdiction. But in 1979 and 1981, the Committee on Armed Services authorized a total of \$772 million for appropriations for purposes such as those in the amendment I have offered. To

date, only \$158 million has been appropriated under these appropriations. Another \$120 million is requested as appropriations in the fiscal year 1983 budget, for a total of \$278 million.

The essential issue is that the administration is not moving to do what even the Armed Services Committee has told it to do, and that is to replenish the stockpile. We have given it the authority, and now is the time for them to move, or Congress will designate what they are supposed to do, as we do in this amendment.

Mr. LEVIN. Mr. President, I am sympathetic to this amendment for two reasons. First, as I indicated when I released a GAO report on this subject earlier this week, I believe we very much need to meet our strategic stockpile needs. This amendment would be a step in that direction. Second, I know all too well that the copper industry is in a depressed state. The mines in Michigan are not working. I would like to see more jobs and more activity in those mines—and while it is not at all likely that the copper this amendment directs us to purchase is the kind we produce in Michigan. Activity in the industry as a whole would be desirable.

Despite all that, Mr. President, I oppose this amendment because it goes too far. By directing purchases exclusively at copper, I believe this amendment would subvert the goal of developing a balanced and adequate stockpile, including copper certainly, but not limited to it.

I hope, should the amendment pass, that we can work, in our conference with the House, to make changes in this amendment which will make it more consistent with both our security and economic needs, including copper.

Mr. HATCH. Mr. President, I am delighted to cosponsor this amendment and I am pleased that the Senator from New Mexico has offered it at this time. This amendment comes at a time when the copper industry in this Nation is experiencing severe difficulty. The purpose of this amendment is to try and give this industry a shot in the arm while at the same time accomplishing one of the primary goals of our strategic policy. I think it does this very well.

As I am sure my colleagues know, many items currently in the strategic stockpile are in excess of the required amounts. It has been the policy of this Government to sell off those items which are in excess at times when such a sale would not harm the market of that commodity. At present we have excesses in such commodities as tin, tungsten, stone diamonds, and silver. The Government will now be able to sell some of these items and by doing so accumulate the necessary cash to purchase the needed copper.

Specifically this amendment will require that copper to be purchased to be copper that has been domestically produced and mined and smelted after July 31, 1982. It is estimated that we may buy up to 180,000 metric tons of newly mined copper. This will have the effect of opening mines that at the present time are idle. This will be done at no cost to the Treasury.

Mr. President, I support this amendment. It is a thoughtful way of dealing with the problem and in fact solves another issue at the same time, that being the unemployment problem of the copper industry. I hope that my colleagues will join with us in the passage of the amendment before us.

Mr. PERCY. Mr. President, I wish to make an inquiry of the floor manager. What would be the next pending amendment following disposition of the Schmitt amendment?

Mr. HATFIELD. Mr. President, as soon as the Schmitt amendment is disposed of, the Percy-Bumpers amendment becomes the next item. It has already been called up, and I understand that a brief explanation will be made of it, and then a vote will follow soon thereafter.

Is that correct?

The PRESIDING OFFICER. The Chair advises the floor manager of the bill that the Helms amendment is still pending.

Mr. HATFIELD. Yes, the Helms amendment will be set aside temporarily in order to complete work on the Percy amendment.

Mr. PERCY. I wish to consult Senator BUMPERS to see what time limitation we may be able to set. Earlier, we discussed 15 minutes. I think it can be reduced to a precedent-setting 5 minutes, equally divided to each side, and a rollcall vote. I understand that a rollcall vote has been requested by some sponsors of the original Bumpers amendment, and a rollcall vote would be agreeable to the Senator from Illinois.

Mr. BUMPERS. I would be willing to accept that, but I think the Senator from New Jersey would like as much as 5 minutes on this amendment.

Mr. BRADLEY. Five minutes would be fine.

Mr. BUMPERS. Could we make it 15 minutes, equally divided? Everybody is going to speak in behalf of the amendment, and that will give everybody 15 minutes.

Mr. PERCY. Fifteen minutes, equally divided, with a rollcall vote.

Mr. SCHMITT. Mr. President, can we complete action on this amendment?

Mr. HATFIELD. Mr. President, let us complete the action, if we can, on the pending amendment. In the meantime, we will work out the time on the other amendment.

I yield back the remainder of my time on the Schmitt amendment.

Mr. SCHMITT. I yield back the remainder of my time, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY), is necessarily absent.

The PRESIDING OFFICER (Mr. MURKOWSKI). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—55

Abdnor	Garn	Mattingly
Andrews	Goldwater	Melcher
Baker	Gorton	Murkowski
Baucus	Hatch	Packwood
Boren	Hawkins	Pressler
Byrd, Robert C.	Hayakawa	Pryor
Cannon	Heflin	Quayle
Chiles	Heinz	Randolph
Cochran	Helms	Roth
Cohen	Huddleston	Rudman
D'Amato	Inouye	Sasser
Danforth	Jackson	Schmitt
DeConcini	Jepsen	Simpson
Denton	Johnston	Specter
Dole	Kassebaum	Stafford
Domenici	Kasten	Stevens
Durenberger	Laxalt	Thurmond
East	Mathias	
Ford	Matsunaga	

NAYS—44

Armstrong	Glenn	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Pell
Boschwitz	Hatfield	Percy
Bradley	Hollings	Proxmire
Bumpers	Humphrey	Riegle
Burdick	Kennedy	Sarbanes
Byrd	Leahy	Stennis
Harry F., Jr.	Levin	Symms
Chafee	Long	Tower
Cranston	Lugar	Tsongas
Dixon	McClure	Wallop
Dodd	Metzenbaum	Warner
Eagleton	Mitchell	Welcker
Exon	Moynihan	Zorinsky

NOT VOTING—1

Brady

So Mr. SCHMITT's amendment (UP No. 1220) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Helms amendment be temporarily laid aside.

The PRESIDING OFFICER. The Senate is not in order. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Helms amendment, the pending Helms amendment, be temporarily laid aside in order to do other business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1219

The PRESIDING OFFICER. The question recurs on the Bumpers amendment.

Mr. HATFIELD. The next amendment is the Percy-Bumpers amendment. I have checked with Senator BUMPERS, Senator PERCY, Senator BRADLEY, Senator HELMS, and other interested parties, and it has been understood we would ask now unanimous consent for a 10-minute time limitation on the amendment to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. MCCLURE. Mr. President, reserving the right to object—and I shall not object—I wonder if the sponsors of the amendment would include the senior Senator from Idaho (Mr. McCLEURE) as a cosponsor of the amendment?

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MCCLURE. I withdraw my reservation.

The PRESIDING OFFICER. Is there objection to the request for the time-limitation agreement?

Mr. HATFIELD. Mr. President, the majority leader wishes to be recognized momentarily for just a very short order of business, and he is on his way, and I suggest the absence of a quorum.

Mr. HELMS. Mr. President, will the Senator withhold?

Mr. HATFIELD. I withhold.

Mr. HELMS. Did the Senator state who would be in control of the time equally divided?

Mr. HATFIELD. Mr. President, the control of the time is such that I doubt very much if there will be anyone speaking against the amendment. But I would control that part of the time, and the sponsors of the amendment, Senators PERCY and BUMPERS, would control the time for the proponents.

Mr. HELMS. I would ask only that I have two or three questions I would like to ask the distinguished Senator from Illinois, and I want to be sure that I will have enough time.

Mr. HATFIELD. Mr. President, I would be very happy to yield control of the time to the Senator from North Carolina. He would have to be in opposition, although he is not in opposition because of the formation of the motion the time for and against equally divided. I was trying to remain in the neutral position of taking care of the time of the opponents, but I would be happy to guarantee the Senator 2 minutes.

Mr. HELMS. I thank the Senator.

Mr. BRADLEY. Mr. President, will the Senator from Oregon yield for a question?

Mr. HATFIELD. I would be happy to yield.

Mr. BRADLEY. Can the Senator from Oregon assure the Senator from New Jersey that he would have adequate time now that he is not in control of the time in opposition?

Mr. HATFIELD. My understanding is that there may be three or four Senators who wish 1 minute each and Senator HELMS would like 2 minutes. I would be very happy to yield 2 minutes or 3 minutes or however many minutes I have left to the Senator from New Jersey.

Mr. BUMPERS. Mr. President, could the Senator from North Carolina give us any idea of how long he thinks his colloquy with the Senator from Illinois might last?

Mr. HELMS. Three minutes tops.

Mr. BUMPERS. Let me suggest we up the time to 15 minutes to be sure nobody gets hurt.

Mr. HATFIELD. I ask unanimous consent that we increase the time limitation from 10 to 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. Reserving the right to object, and I will not object, I did not understand that this amendment was going to apply to the War Powers Act. If it is, I do not think we are giving it enough time, because I could go on for a day on that.

The PRESIDING OFFICER. Is there objection to the request?

Mr. GOLDWATER. Mr. President, I have not changed my mind a bit yet.

Mr. HATFIELD. I withhold my request for increasing the time limitation. The time limitation remain now 10 minutes.

Mr. GOLDWATER. I will not object.

The PRESIDING OFFICER. The question is now on the Bumpers amendment. Who yields time?

Mr. HATFIELD. Mr. President, what is the pending question?

The PRESIDING OFFICER. The Bumpers amendment.

Mr. HATFIELD. Mr. President, I am willing to start the time. The majority leader will be delayed until after this is over.

Mr. SYMMS. Would the Senator from Arkansas yield me 30 seconds?

Mr. BUMPERS. Mr. President, let me restate it. The Senator from Arizona says he will not object. To make sure any Senator who wishes to speak 1 or 2 minutes on this is not deprived, let me ask unanimous consent that we increase the time to 15 minutes with the time to be equally divided.

The PRESIDING OFFICER. Is there objections?

Mr. GOLDWATER. The Senator would object. I spent 1 week speaking about this 3 years ago, and I intend to speak at great length again, but I will not do it tonight.

Mr. BUMPERS. I yield 30 seconds to the Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I just want to say for all of my colleagues that right prior to the vote on the Percy amendment earlier today, I inserted in the RECORD as part of my written materials the letter I have from the legal adviser of the U.S. State Department, dated April 23, 1982, that talks about how the Symms amendment was not inconsistent with the War Powers Act.

And in my opinion, the Percy amendment, which I cosponsor, is consistent with what was done here earlier today, and there is no problem with respect to those who are concerned about the War Powers Act and that is in the RECORD.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. BUMPERS. I thank the Senator for his comments.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Would the Senator from Oregon yield to the Senator from North Carolina in order to engage in a colloquy?

Mr. HELMS. I think I have control of the time.

The PRESIDING OFFICER. The Senate is not in order.

The Senator from North Carolina.

Mr. HELMS. Mr. President, this amendment, as I read it, borders on being almost innocuous. Certainly, nobody can oppose the amendment. But let me be sure my interpretation is correct.

Let me ask the Senator from Illinois or the Senator from Arkansas, or both: Will you assure me that this language of the pending amendment adds nothing to current law that is not already in the law?

Mr. PERCY. It does not add anything to current law.

Mr. HELMS. Can I be assured that the language in this amendment cannot be interpreted as expanding the scope or the authority of the War Powers Act or other statutes mentioned?

Mr. PERCY. The Senator is assured.

Mr. HELMS. With all due respect to the authors of the amendment, I think it is legally redundant.

Is the distinguished chairman aware of the memorandum just referred to by the distinguished Senator from Idaho (Mr. SYMMS). A memorandum dated April 23, 1982, prepared by the legal adviser of the Department of State which includes the following:

We conclude that enactment of the Symms amendment would have no effect upon the President's duties to consult with and report to the Congress under sections 3 and 4 of the War Powers Resolution or on the rights and duties of the President or the Congress under section 5 of the War Powers Resolution.

Is the Senator familiar with that?

Mr. PERCY. Yes; and I would like to just simply clarify why the amendment seems necessary. It was necessary in my judgment and that of Senator PELL because of the debate this morning. We must now unequivocally reaffirm that there is no change in the law. It was very important to Senator BUMPERS and to Senators BRADLEY, DURENBERGER, MATHIAS, and MOYNIHAN, who had a comparable amendment of confirmation drawn up this morning. When they discovered that Senator PELL and I were proposing an amendment that would be supported by many members of the Foreign Relations Committee and that it was a little more comprehensive, covering not only the War Powers Act but the National Security Act of 1947 and the Foreign Assistance Act of 1961, for clarification, they decided to become cosponsors of our amendment.

Senator SYMMS himself recognized that there was concern on the part of a number of Members of this body as to whether or not there had been any change at all in the War Powers Act. And a reaffirmation of that act at this point seemed, for clarification purposes, absolutely essential. That was the main thrust of my comments this morning, my main concern. My amendment would lay aside any concerns that I and others had then in this regard.

Mr. HELMS. I thank the Senator.

Let me say to my colleagues that I share the concerns that Senator GOLDWATER has expressed about the War Powers Act, and at some future time, I will join him in some extended discussion about that.

But the point has been made for the RECORD by the responses of the Senator from Illinois that this language in this amendment adds nothing to current law that is not already in the law.

Mr. PERCY. That is correct.

Mr. HELMS. I have no objection to the amendment.

Mr. McCLURE. Will the Senator yield to the senior Senator from Idaho?

Mr. HELMS. Yes.

Mr. McCLURE. I asked that I be added as a cosponsor of this amendment in spite of the fact that I earlier today opposed the amendment of the Senator from Illinois (Mr. PERCY). I did not believe then, and I do not believe now, that the Symms amendment would necessarily be in conflict with the War Powers Act. But I agree with the Senator from Illinois that, in light of the debate this morning, in which it was alleged that it would, it is well for us to adopt this amendment at this time to remove any question so that when this is all done, that we are all in agreement that this amendment, this enactment does not abridge the provision of existing law. I think the

Senator from North Carolina is exactly right in his colloquy and the responses to it are also correct.

Mr. HELMS. I thank the Senator.

Mr. McCURE. I thank the Senator for yielding.

Mr. HELMS. I reserve the remainder of my time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I yield 3 minutes to the Senator from New Jersey (Mr. BRADLEY).

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I joined in the cosponsorship of this amendment with the Senator from Arkansas. I do not believe that those who voted earlier today for the Symms amendment intended to weaken the War Powers Resolution nor to provide any special exceptions to it. I agree with the premise of the Symms resolution, which is that we must oppose Communist subversion at every point, and without excluding any means. But I did not vote for the resolution because it did not make clear that the War Powers Act governs any and all use of force by the President contemplated under the Symms resolution, just as it governs all uses of force within the meaning of the War Powers Act's provisions. Therefore, I voted for the Percy resolution, rather than the Symms resolution, because the Percy resolution stated our resolve to oppose Communist subversion, including by means of force, while making clear that the use of force would be subject to the War Powers Act.

I think the debate clearly revealed that the Symms amendment was ambiguous on a critical point of U.S. law, and that is that the use of force must be subject to the provisions and procedures of the War Powers Act.

I would suggest that although the Symms amendment itself was ambiguous on this point, the later action on the Percy amendment makes this amendment absolutely necessary.

In the Percy amendment, there was a specific provision that stated that "Nothing in this resolution shall be deemed to change or otherwise affect the standards and procedures provided in the War Powers Resolution of 1973."

The Senate rejected the Percy amendment. By approving the Symms amendment, which is ambiguous on the point, and then rejecting the Percy amendment, which was clear in stating that the Symms amendment should not violate the War Powers Act, I think the question was raised sufficiently so that we need, beyond any reasonable doubt, to dismiss the possibility that there is a special exception created by the Symms amend-

ment—and that is what the amendment by the Senator from Arkansas does. That is why I am pleased to cosponsor the amendment.

Mr. BUMPERS. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. Four minutes.

Mr. BUMPERS. I yield 1 minute to the Senator from Delaware.

Mr. BIDEN. Mr. President, I will not take 1 minute. I rise to support the amendment and only to say that we could have saved ourselves a lot of time if we had just voted for the Percy amendment. That is what it was all about.

Mr. BUMPERS. Mr. President, this morning, as we debated the Symms amendment, I heard the Senator from Idaho say that he saw no contradiction or inconsistency between his amendment and the War Powers Act, and that he intended none. He has restated essentially the same proposition this afternoon. And yet, the War Powers Act was an act that was debated at length. There was a highly controversial debate here. Some people on this floor now, and others in this body, probably still do not agree with many of the terms of that act. Yet consideration of the resolution was deliberate, it was very thoughtful, and in the end, we adopted it. I personally thought that there was the possibility of a contradiction between the War Powers Act and the Symms amendment.

All we seek to do by this amendment—and I want to thank all of those who helped in its formulation and who now support it—is to state, without equivocation, that the amendment we adopted this morning does not violate, abridge, amend, alter, or in any other way affect the efficacy of the War Powers Act. That is simply all the amendment says. I think it is an essential clarification that we should put on the record here and now.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Mr. President, I yield the remainder of my time to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, sometimes an amendment comes along that presents for us a "motherhood" question. This is such an amendment. The War Powers Resolution was approved nearly a decade ago over Presidential veto. Still, we do need to reaffirm this law of the land in order to make sure there can be no misunderstanding of the effect of the Symms amendment. During this morning's debate on that measure, many Senators expressed concern that the forceful language of the amendment might be incorrectly

interpreted to provide specific authorization for the President to make military commitments under the War Powers Resolution. Without exception, Senators debating the measure stated that it could not constitute such an authorization. This amendment unequivocally establishes that fact. Accordingly, I am cosponsoring this necessary, clarifying amendment and urge its adoption.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Mr. Exon and Mr. MITCHELL be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BUMPERS. I yield such time as I have remaining to the Senator from Illinois.

Mr. PERCY. Mr. President, I wish to extend my appreciation to Senator SYMMS. As I said this morning, I favor the intent and purpose of the Symms amendment, but I was concerned about the war powers aspect of it and the implications that the Symms amendment may involve. I believe that the amendment before us now makes it clear that the Symms resolution could not possibly become a Gulf of Tonkin resolution as concerned us this morning.

I want to also express my deep appreciation to my distinguished colleague, Senator PELL, with whom I have worked very closely on so many issues, and also to Senator BUMPERS for his initiative this morning, together with his colleagues, Senators BRADLEY, MATHIAS, MOYNIHAN, and PROXMIER, for initiating and then merging together this language into one resolution which will clarify the issue and greatly improve the Symms amendment in the judgment of many of us. Once again, we have demonstrated how effectively the Senate can operate. We sometimes have sharp differences of opinion but many times ultimately come together and unify on a strong position. I hope the amendment will be supported by everyone in the Senate. I appreciate the fact that we have been able to clarify the issue in this way.

The PRESIDING OFFICER. Who yields time?

SEVERAL SENATORS. Vote! Vote!

Mr. HELMS. Mr. President, how much time remains?

The PRESIDING OFFICER. Two minutes, fifty-seven seconds.

Mr. HELMS. Mr. President, I have no objection to this amendment. It does not expand or alter the War Powers Act. This is what we said this morning, repeatedly. I do not think this amendment is necessary, but I would have no objection if the Senate voted unanimously for it. I will support the amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Arkansas. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 2, as follows:

(Rollcall Vote No. 311 Leg.)

YEAS—97

Abdnor	Garn	Mitchell
Andrews	Glenn	Moynihan
Armstrong	Gorton	Murkowski
Baker	Grassley	Nickles
Baucus	Hart	Nunn
Bentsen	Hatch	Packwood
Biden	Hatfield	Pell
Boren	Hawkins	Percy
Boschwitz	Hayakawa	Pressler
Bradley	Heflin	Proxmire
Bumpers	Heinz	Pryor
Burdick	Helms	Quayle
Byrd	Hollings	Randolph
Harry F., Jr.	Huddleston	Riegle
Byrd, Robert C.	Humphrey	Roth
Cannon	Inouye	Rudman
Chafee	Jackson	Sarbanes
Chiles	Jepsen	Sasser
Cochran	Johnston	Schmitt
Cohen	Kassebaum	Simpson
Cranston	Kasten	Specter
D'Amato	Kennedy	Stafford
Danforth	Laxalt	Stennis
DeConcini	Leahy	Stevens
Denton	Levin	Symms
Dixon	Long	Thurmond
Dodd	Lugar	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	McClure	Weicker
Exon	Meicher	Zorinsky
Ford	Metzenbaum	

NAYS—2

East Goldwater

NOT VOTING—1

Brady

So Mr. BUMPERS' amendment (UP No. 1219) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, the pending amendment is still the Helms amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. HATFIELD. Mr. President, I yield to the majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. I thank the Senator for yielding.

CHANGE OF VOTE—ROLLCALL NO. 306

Mr. BAKER. Mr. President, earlier on today the distinguished Senator from New York (Mr. MOYNIHAN) attempted to change a vote of the permanent RECORD by unanimous consent. The distinguished chairman of the committee (Mr. HATFIELD) on my behalf very properly asked the Senator from New York to postpone that based on his understanding of my request on yesterday that votes not be changed except in those cases where it is alleged by the Member that there had been a mistake and that the change would not affect the result. I was under the impression on yesterday that that was virtually the unbroken precedent of the Senate; that is the basis on which votes were changed. Indeed, I put a parliamentary inquiry to the Chair whether or not that was a correct statement of the precedent. The Chair responded in the affirmative.

I freely confess it is my fault then for not asking the followup question: "Is that the only basis on which these requests have been granted?" Because apparently then the Chair would have indicated that there have been other cases where changes were made by unanimous consent simply on the basis of a request by the Senator without the allegation that a mistake had been made in the form of a vote but that it did not change the result of the rollcall.

Mr. President, rule XII allows that a Senator may change or withdraw his vote by unanimous consent for "sufficient reason." "Sufficient reason" in the past has been interpreted to mean that a mistake was made in tallying the vote, that a misunderstanding existed as to whether the vote was up or down or tabling, that the Senator misunderstood, but in a number of cases in the past it has simply been on the basis that the Senator wished to change it.

Mr. President, I believe that is the precedent. Therefore, I will have no objection if the Senator from New York wishes to renew his request at this time.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. May I thank the majority leader for a characteristically gracious and openminded response to my request. It is those qualities which endear him to us and make him the leader he is.

Accordingly, Mr. President, I ask unanimous consent that the first vote I cast today on the amendment offered by the distinguished Senator from Idaho be changed from "yea" to "nay," with the understanding that this would not affect the outcome of the vote.

The PRESIDING OFFICER. Is there objection?

Mr. MATSUNAGA. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. I confirm the statement made by the majority leader. I was at one time under similar circumstances; I did make a unanimous-consent request to have my vote changed from "yea" to "nay" or vice versa and gave no reason whatsoever, with a statement that the switch would make no difference in the final result, and such unanimous consent was granted.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, I should like to ask a question if I may, reserving the right to object.

I have been here, too, when Senators have changed their vote. It has always made me a little nervous, not saying anything, because it seems to me that we can get into a sticky precedent.

I ask the majority leader, is this going to become a sort of custom now, that with no explanation at all, so long as it does not change the result, the gentlemanly rules will be that people can go back—I presume only that day—and change their votes?

Mr. BAKER. Mr. President, I say to the Senator that that is a precedent now. Indeed, votes have been changed, I understand, according to the precedent, as late as 30 days after the event.

I might say, by the way—and this has nothing to do with the request of the Senator from New York, and I hope the Chair will grant that request, so long as there are not further reservations or objections—that I intend to ponder this subject; because I, too, am concerned. It may be that I will wish to propose that the Senate consider some other interpretation of rule XII dealing with sufficient reason.

However, I will not do that without giving the opportunity to Senators to think about it, and I do not want to take Senators by surprise.

So I hope the Senator will not object. I assure him that I will try to have a further statement to make as to my views on this subject and the implications in the future.

At the moment, I should like to accommodate the request of the Senator from New York, which is perfectly proper.

The PRESIDING OFFICER. Is there objection?

Mr. CHAFEE. Mr. President, still reserving the right to object, I, for one, look forward to that clarification by the majority leader, because it seems to me that this can lead to untold problems.

People may think of the ramifications of the vote they took that morning, or whenever it was. I did not know

it went back 30 days. I should like to review my own record and take a look and see what I have done. We have had an awful lot of votes around here.

In any event, I will not object, because I know how accommodating the senior Senator from New York is on many things.

Can we look forward to this clarification fairly soon?

Mr. BAKER. Yes, Mr. President, I plan to talk to the Republican caucus next Tuesday about it. I certainly will do it promptly, and I will confer with the distinguished Senator from Rhode Island.

Mr. CHAFEE. I thank the Senator.

Mr. MOYNIHAN. I want my friend from Rhode Island to know that it had been my understanding that the first amendment would be followed by the amendment of the distinguished chairman of the Foreign Relations Committee and that that would be adopted, too, in which event I felt free to vote as I did. When that was not adopted, I felt that the situation required me to do what I have now asked to do.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BRADLEY. Mr. President, may I ask the majority leader a question?

Mr. BAKER. If the Senator from Oregon will permit it.

Mr. HATFIELD. I yield.

Mr. BRADLEY. I ask the majority leader this: In a case such as the one that has just developed with reference to the precedents of the Senate, the precedents of the Senate conveyed that this was perfectly proper. I ask the majority leader that if a committee has a set of rules that does not specifically cover this point, do the precedents of the Senate as a whole adhere in the committee?

Mr. BAKER. Mr. President, I have used this statement so often that it is threadbare, but it comes to mind again.

I recall the first lawsuit I tried and made my final argument to the jury and sat down. I turned to my father and said, "How did I do?"

He said: "In the future, you should guard against speaking more clearly than you think." [Laughter.]

To tell the Senator the truth, I do not know the answer to the question. If the Senator will give me a little time, I will be glad to look into it and confer with him on that subject.

Mr. BRADLEY. I thank the majority leader for his clarity.

(Rollcall vote No. 306, as printed in today's RECORD, has been changed to reflect the foregoing order.)

The Senate continued with the consideration of H.R. 6863.

Mr. LEVIN. Mr. President, it had been my intention, together with Senators WEICKER, SASSER, BUMPERS, CRANSTON, and about 18 other cosponsors to offer an amendment to pre-

serve for 1 year a student benefit under social security for the children of deceased workers, disabled workers, and soldiers who were killed in Vietnam. I had planned to offer that amendment tonight.

I understand that my amendment would be subject to a point of order unless a colloquy which I had about a month-and-a-half ago was clearly indicative of a waiver of such a point of order. In my opinion, it was; in the opinion of others, it is not clear enough so that a point of order should be waived.

My question of the majority leader is this: In the event that I do not offer this amendment tonight on my behalf and on behalf of those cosponsors, would the majority leader use his best efforts to assure me that the amendment would be heard early in the debate on the debt ceiling—if possible, no later than immediately after an amendment relative to abortion, assuming there is a consent agreement reached on such an amendment?

Mr. BAKER. Yes, Mr. President, I do now give that assurance to the Senator from Michigan. I recall vividly the colloquy he and I had on this subject, when I urged him not to offer that amendment to the temporary debt limit, the small debt limit, as it is called. The Senator from Michigan kindly obliged by not offering it.

Frankly, I think that the better part of discretion is to offer his amendment—which I fully expect him to do—to a measure which will not provide a point of order; and the debt limit, which I intend to call up on Monday next, is such a vehicle. I have no objection to that whatever. I urge the Senator to do that. I give him my assurance that, to the full extent I am able to do so, I will schedule that amendment early in that deliberation and as soon after the debate on abortion as it is humanly possible.

Mr. LEVIN. Is it the intention of the majority leader to conclude action on the debt ceiling bill prior to going out for the recess?

Mr. BAKER. Yes; it is.

Mr. LEVIN. I thank the Senator.

In that event, to solve the problem of the floor manager, it is not my intention to offer this amendment tonight.

Mr. HATFIELD. I thank the Senator from Michigan.

Mr. BAKER. I thank the Senator.

UP AMENDMENT NO. 1211 (AS MODIFIED)

(Purpose: To prohibit U.S. Government funds from going to meet the debts of insolvent Communist countries which have not yet been declared to be in default of their debts.)

Mr. HELMS. I thank the floor manager of the bill. I hope we can be brief on this.

Mr. President, earlier today when I offered my amendment, Senator PROXMIRE, who was then managing

the bill on his side of the aisle, suggested that he wanted to check further with Senators on his side. Questions were raised about the amendment, one question being that the amendment now at the desk mentions specifically the Socialist Republic of Romania, and there was some concern—with which I do not agree—that perhaps Romania should not be singled out, even though it is a member of the Warsaw Pact.

However, to accommodate the concerns of one or two colleagues, I send to the desk an unprinted amendment in the nature of a substitute.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. I say to any interested Senator that the substitute is identical to the original amendment, except for the deletion of Romania by name.

The PRESIDING OFFICER. The Chair will remind the Senator from North Carolina that the Senator still retains the right to modify his amendment.

Mr. HELMS. I understand that, but I prefer to do it this way.

The PRESIDING OFFICER. The Senator does not have a right to propose an amendment to it.

Mr. HELMS. Why is that?

The PRESIDING OFFICER. The Senator is suggesting that he modify his amendment?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have resolved the problem and I ask that the amendment be modified as proposed in the substitute which I just sent to the desk.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The modified amendment is as follows:

On page 108, after line 19, insert the following new section: "Notwithstanding any other provision of this Act, no funds shall be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual, partnership, corporation, or association in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government

with respect to loans made and credits extended to the Polish People's Republic, or any other signatory of the Warsaw Pact military alliance, while such country has not been declared to be in default of its debt to such individual, partnership, corporation, or association. No interest on any claim against the United States Government or Government corporation arising under any loan guarantee programs with respect to loans made to a signatory of the Warsaw Pact military alliance shall accrue while that country has not been declared to be in default of its debt giving rise to that claim.

Mr. HELMS. Let me say, Mr. President, I have already spoken at some length on the amendment. I will not consume the time of the Senate, but let me reiterate my intention is to cut off a requirement that the taxpayers of the United States subsidize the credit rating of Communist regimes wherever they may be, but I am specifying Warsaw Pact countries with this amendment.

The American people must be forgiven for not understanding why the big banks of their country continue to prop up the failing economies of these countries. Socialism and Marxism do not work because they destroy personal freedom. It is just that simple.

I must confess, Mr. President, that I cannot myself understand why these banks feel that any economic venture in a Marxist country, a Socialist country, is economically justified.

A Socialist economy just cannot produce in the long run. It can run only if it gets continual infusions of money from the West. In this country those infusions will be backed up by Government loan guarantees which in most cases will be paid by the taxpayers of the United States of America.

After I offered this amendment earlier today, I began to get calls from some of the big banks who have put out loan money to the countries involved. They do not want to see this privilege of theirs removed, the privilege being to bloodsuck the American taxpayers to subsidize bad loans that they have made to these Marxist countries. But they want to pretend that they are not bad loans by avoiding a formal declaration of default.

Mr. President, I say to you that these bankers are big boys. They went into this thing with their eyes open. They counted on being able to rely upon the Government of the United States to require the taxpayers to prevent them losing their money. Of course, the American taxpayers are going to pay no matter what, but why subsidize the Communist credit rating?

I hope in the future we will stop insuring loans to Communist countries.

Let the bankers stand on their own feet. If they want to lend money to Marxist nations, Warsaw Pact nations, any nation, let them do it with their eyes wide open, realizing that the

American taxpayer should not be sucked into this little deal.

We see now what has happened in Poland. We see what is happening in Romania. There is little freedom in Romania, economic or otherwise. Right now, for example, the Romanian Government is the most Stalinist, the most authoritarian of the Eastern European Soviet satellites in the Warsaw Pact bloc. And Romania is on the verge of bankruptcy.

The purpose of this amendment, the motivation of this amendment, is to serve notice that the American people deserve a chance to see how Senators will vote up or down on the question of cutting off taxpayers' funds to provide guarantees on loans to Communist-Marxist nations, without declaring default as required in law.

Mr. MATHIAS. Mr. President, will the Senator yield for several questions about his amendment?

Mr. HELMS. I am delighted to yield.

Mr. MATHIAS. In the first place I am wondering if the Senator from North Carolina can advise us how the President of the United States feels about this proposal?

Mr. HELMS. I have not discussed it with the President of the United States. I do not know how he feels on it. But even as much as I respect the President, as strongly as I supported him, if he were to disagree with me on this point, I am sorry. He would be wrong.

Mr. MATHIAS. I am merely inquiring of the Senator what the President's attitude is.

Mr. HELMS. I do not know.

Mr. MATHIAS. It would, of course, reduce the flexibility with which the President of the United States can address an important foreign policy issue. And is it the desire of the Senator from North Carolina to constrict the President's freedom of action in this respect?

Mr. HELMS. I do not know that the President of the United States has any freedom of action when he deals with a Marxist nation. I have not perceived, I will say to my friend from Maryland, any inclination of cooperation by the Warsaw Pact nations and I say to the Senator we cannot buy friends in any case but what we are talking about is subsidizing the banks, and subsidizing Communist credit ratings.

Mr. MATHIAS. I think this brings us to a very important point. The Senator said he thought the bankers were big boys who ought to go in these transactions with their eyes wide open.

Mr. HELMS. Certainly.

Mr. MATHIAS. It looks to me as though the bankers were big boys who had their eyes fully open and as a result of what the Senator is proposing in his amendment the bankers are going to get their money back. Could the Senator tell us if his amendment is adopted and becomes law how much

money the U.S. bankers could immediately go downtown to the Commodity Credit Corporation and demand to get back, these wide-eyed big boy bankers?

Mr. HELMS. The export credits to Poland we have insured are \$540,171,000. Export guarantees are \$840,355,000—over a billion and a half total. Romanian export credits are \$41,524,000 and export guarantees are \$48,981,000. Hungary is \$2,553,000, and insofar as I know there are no export guarantees insofar as Hungary is concerned.

Mr. MATHIAS. Let us just address ourselves to Poland for a moment as a case.

Mr. HELMS. All right.

Mr. MATHIAS. Is it not true that if the Senator's amendment becomes law, these grown-up bankers can just troop downtown and collect \$650 million from the taxpayers?

So it is not the bankers who are going to lose. The Senator's amendment is not going to work any hardship on the bankers. It is going to work a hardship on the taxpayers of the United States who have to foot the bill and make up the guarantees which have already been entered into. So the Senator is really imposing a hardship on the country. He is going to increase the deficit, which he and I certainly agree is big enough already, too big already.

Mr. HELMS. The Senator obviously has not read the amendment, and I will not really apply old Mark Twain's statement to the Senator, but I am reminded of what he said about a fellow editor one time. He said, "That gentleman regards truth as precious, which is why he uses it so sparingly."

Let me read the amendment and see if the Senator has any concern or if there is any basis for his concern:

Notwithstanding any other provision of this Act, no funds shall be paid out of the Treasury of United States or out of any fund of a Government corporation to any private individual, partnership, corporation or association in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended,

and so on.

Mr. MATHIAS. Yes, sir, I have great concern with that language. Many years ago I read the opinion of the Supreme Court in a case argued by one of our distinguished predecessors, Daniel Webster, the Dartmouth College case, in which it said that the Congress cannot pass any law which vitiates or violates or alters the terms of a contract. The United States has entered into a contract with these bankers to pay back the money if Poland defaults, and even the Senator from North Carolina, with all of his persuasive powers, cannot propose any

law here which is going to upset the Dartmouth College case.

So what the Senator says there does disturb me. It does disturb me very much because he is going to increase the deficit of the United States at this desperate moment in history by over \$1 billion.

Mr. HELMS. Mr. President, I am not going to yield until I can answer that statement at the time it is being made. Again I say—

Mr. MATHIAS. I am merely asking the Senator for his opinion as to how he is going to get around the Dartmouth College case.

Mr. HELMS. I will explain to the Senator.

Mr. MATHIAS. I am anxious to hear it.

The PRESIDING OFFICER. The Senator from North Carolina has the floor.

Mr. HELMS. It is a little bit like Tennyson's brook—the Senator from Maryland reminds me of Tennyson's brook—which flows on and on. He takes a false premise, and I wish the Senator had read the amendment before he began raising his question. All of the preceding that I read will be applicable "while such country has not been declared to be in default of its debt to such individual, partnership, corporation, or association."

That is what we are talking about, keeping them afloat. They are in de facto, default as of this minute. Let them go into formal default, and then we will put an end to this business of propping up these Communist governments and banks, no serious international economist maintains that Poland will ever be able to pay off these loans. We had extensive testimony before the Agriculture Committee on this point. This amendment forces us to face the obvious.

I do not understand how the Senator from Maryland can oppose the amendment.

Mr. MATHIAS. Is that a question?

Mr. HELMS. No; I am just answering the Senator's question.

Mr. MATHIAS. If that is a question, if the amendment is to have any meaning at all, it has to challenge the sanctity of contracts which have been entered into by the U.S. Government.

Mr. HELMS. It has got nothing to do with it, Senator.

Mr. MATHIAS. When you say "notwithstanding any other provision of this act no funds shall be paid out of the Treasury in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the U.S. Government with respect to loans made and credits extended to the Polish People's Republic"—

Mr. HELMS. Go ahead and continue to read.

Mr. MATHIAS (continuing). "The Socialist Republic of Romania"—

Mr. HELMS. We struck that.

Mr. MATHIAS. That is stricken—"or any other signatory of the Warsaw Pact military alliance, while such country has not been declared to be in default of its debt"—

Mr. HELMS. There is the meat of the coconut.

Now, Mr. President, I do not know whether my friend from Maryland fully understands the purpose of the Commodity Credit Corporation. I happen to be chairman of the Senate Committee on Agriculture, and I know a little bit about it. The purpose of the Commodity Credit Corporation program is to insure loans which may be defaulted upon. Without a declaration of default no moneys can lawfully be paid out, under title 7, section 1493.9 of the Code of Federal Regulations. This law has been circumvented. All this amendment does, I will say to my friend from Maryland, with all due respect and affection for him, all this amendment does is to reinforce Commodity Credit Corporation regulations, which provide that "CCC shall only honor claims for losses on amounts not paid as scheduled."

Mr. MATHIAS. How can it reinforce the Commodity Credit Corporation regulations when it prohibits—and let me be perfectly frank with the Senator, I have not read all of the outstanding obligations that the Commodity Credit Corporation has entered into, and I am not aware of all of the things they have agreed to guarantee, wisely or not wisely. I do not argue that question with the Senator. I merely say that for the United States to at this point renege—

Mr. HELMS. In no way. We are not reneging.

Mr. MATHIAS. Then of what value is the Senator's amendment?

Mr. HELMS. I will tell the Senator what the value is.

We are sending a message, we are recognizing reality finally around this place, and the banks had better wake up and smell the coffee and consider what they are doing when they make such loans, and seek to avoid the consequences.

The present law, I will say to the Senator from Maryland, requires a declaration of default, and that default is being circumvented by what is going on right now.

Mr. MATHIAS. My concern, and I reiterate, the Senator is sending a message all right, but the message is we are going to default on our agreement.

Mr. HELMS. In no way, no.

Mr. BRADLEY. Mr. President, will the Senator from North Carolina yield for some questions that are slightly different in direction than those of the Senator from Maryland?

I must say, first, that I approve of the Senator's intent here. I approve of efforts to sanction the Polish Govern-

ment for declaring martial law and suppressing the Solidarity movement. But, the question is whether you will actually have the effect you intend, and whether it would not come at the greater expense of the stability and security of the economies of the allied nations. I want to be sure that we have protected ourselves against the dangerous repercussions of default on our own economies.

The Senator has said that there will be no reimbursement to any private entity, for example, a bank, unless there is a declaration of default.

Mr. HELMS. That is correct.

Mr. BRADLEY. Does the Senator know what cross-default clauses are?

Mr. HELMS. I must confess I cannot hear the Senator.

Mr. BRADLEY. They are included in many of the loans that have been extended to Eastern bloc countries as well as other countries around the world by consortia of private banks. Each bank makes the loan under the provision that if the borrower defaults to any one bank in the consortia, it will be considered in default to all of them. That is the nub of what cross-default means.

Does the Senator know what happens when there is a declaration of default?

Mr. KASTEN. Mr. President, will the Senator from New Jersey yield on that?

Mr. BRADLEY. I would like to finish the questions and I would be pleased to yield to the Senator from Wisconsin. I just want to get to this line of questioning.

Mr. HELMS. If I may ask the Senator to go a little bit further with his question, what happens to whom?

Mr. BRADLEY. If a country is declared in default or if a bank declares that country *x* is in default, what does that bank do? Let me answer that. What that bank will do, whether the borrower is a country or your neighborhood grocery store, is move in to attach the assets of that person or country because they are in default on a loan. The bank wants the money it cannot get because the borrower has been declared in default.

Now, if you are dealing with a country that is clearly on the brink of revolution or catastrophe, or if you are dealing with a grocery store that is clearly near bankruptcy, and you have 35 creditors that simultaneously are declaring default, what is going to happen? They are all going to run in and try to attach the assets of the defaulting party. If the lenders are banks that are holding these now worthless loans and those banks cannot all attach enough assets to cover their losses, nor persuade their depositors that their holdings are completely safe, then those banks may be

put in jeopardy. And then the whole house of cards may tremble.

Mr. HELMS. May I interrupt the Senator?

Mr. BRADLEY. Certainly. I hope that the Senator from North Carolina can reassure me that that could not happen.

Mr. HELMS. The Senator from North Carolina does not have to assure you. Let me give you the words of the Administrator of National Banks of the Comptroller of the Currency. He wrote to me on March 11 of this year. The pertinent paragraph of his letter, in response to the Senator's question, reads as follows:

In our opinion, the safety and soundness of any U.S. bank would not be threatened by a Polish default. We believe it is unlikely that all nonguaranteed U.S. bank loans to Eastern bloc countries would simultaneously become frozen and uncollectable assets of the U.S. banking system.

I think that answers the Senator's question.

Mr. BRADLEY. I would argue with the Senator that it does not answer the Senator's question because this Senator has heard those same vague assurances from any number of officials, from members of the Federal Reserve to the Comptroller of the Currency. But he has yet to see a contingency plan that has been developed by this Government or any other government that specifically explains why you would not have a house of cards falling in the event of a series of cross-defaults, or how the system would operate to prevent it. Indeed, every time you ask a question about safeguards, you discover more and more holes in the system.

The point I want to make here is that when you start to play around with economic warfare in the form of defaults, you better have a contingency plan, because if you do not have a workable contingency plan, you are going to be jeopardizing the national security of this country. You are not going to be penalizing a repressive Eastern bloc government, such as that of Poland, or the Soviet Union, which is something I would like to do.

So I would hope that the Senator would join with me in calling on the administration to present to the Congress, as representatives of the people, some plan that could give us confidence that what the Comptroller of the Currency wrote to you indeed is true.

I will say to the Senator that in the last year, in conversations with various central bankers in other countries, bankers in this country, even some experts in the administration, there surfaced grave concern that there is not in place a mechanism that could assure that the house of cards would not fall should it be precipitated by certain default scenarios even if default was precipitated because of

whatever admirable reasons that the Senator might have. I have raised some of these scenarios in statements in the CONGRESSIONAL RECORD over the last few weeks, and plan to continue speaking in the RECORD on this subject.

I raise this issue here only so that you would join with me and we might pause before we precipitate something whose final result we cannot predict at this time, and where at least there remains a logical possibility that the end result could be disastrous.

Mr. MATHIAS. If I could just ask a question on the point of the Comptroller of the Currency.

Mr. HELMS. Mr. President, I retain the floor, but I would be glad to yield to the Senator from Maryland.

Mr. MATHIAS. The Senator from North Carolina read a letter from the Comptroller. And I am just wondering whether there was an assumption underlying the Comptroller's rather sanguine view that the Government would in fact reimburse the lending banks and that is why they could weather the storm.

Mr. BOSCHWITZ assumed the chair.

Mr. HELMS. No, there is nothing of that sort in the letter. It is just a factual statement.

Mr. MATHIAS. But he does not say that the banks would not be reimbursed, does he?

Mr. HELMS. Not until the country was declared in default.

Mr. KASTEN. Will the Senator yield?

Mr. HELMS. I will be glad to yield to the distinguished Senator from Wisconsin, but first let me say to my friend from New Jersey, Senator BRADLEY, that I expect the finest way to get the administration—any administration, for we do not have but one at a time—to trot up here with precisely what the Senator needs is to pass this amendment.

Now, the State Department, and Treasury which have been encouraging this kind of lending, of course, they are not going to come up with a game plan until they run into a legislative brick wall. I have no problem with the Senator's point that they ought to have a game plan. I will certainly join him in saying to the administration, "Let us have it."

I think the best way to do it is to pass this amendment because then we will be answering some significant questions that should have been faced a long time ago around this place—do we have any interest in propping up the Communist economic system? Why not make it tougher for them? Why not put a greater strain on the economies of the Soviets and Soviet bloc countries?

Mr. President, let me make one additional point at this time. While it is clear that many banks are reschedul-

ing loans to both the Polish and Romanian Governments, I do not know if any American banks are foolish enough to still be extending credits to either of those two countries. However, if any American banks are currently engaged in this practice, they should be on notice that they may be in violation of U.S. criminal law and subject of felony penalties, including fines of up to \$10,000, or imprisonment for as long as 5 years, or both. Title 18 of the United States Code, section 955, provides that no institution or individual may extend credit, except for a renewal or adjustment of existing indebtedness, to any government which is in default in the payments of its obligations, or any part thereof, to the United States.

In my judgment, for the purposes of this criminal statute, both Poland and Romania are in default to the United States. American banking institutions and bankers should be on notice that they are subject to prosecution should they be foolish enough as to extend additional loans to the insolvent governments in Poland or in Romania.

Mr. President, the evidence that Poland cannot pay back its loans is overwhelming. I can see no justification for the refusal to declare the Polish Government officially in default, particularly in light of the brutal oppression of the Polish people by that same government. The situation is only slightly better in the other countries.

I yield to the distinguished Senator from Wisconsin.

Mr. KASTEN. I thank the Senator for yielding. I would just like to respond to one of the points that the Senator from New Jersey brought up.

First of all, I think it is important to recognize that there are cross-default clauses in these various loans. But the cross-default clauses are not automatic. The cross-default clauses do not necessarily force this linking that you are talking about.

In fact, what happens is each bank must determine for themselves if they want to participate in this link. If one bank declares default, in other words, there is nothing mandating that the house of cards, as you would envision it, comes down. Each individual bank is going to have to make their own decision.

Mr. BRADLEY. Will the Senator yield at that point?

Mr. KASTEN. Let me make one other point because the Senator might want to respond to both of my points.

The other point is that a country going into default is not like a grocery store going into default, any more than it is like an individual going into personal bankruptcy. A country going into default is something we have had very little experience at. The closest

example is the Sudan and that was for a very limited period of time.

What the Senator from North Carolina and others are maintaining is that a country going into default, unlike a grocery store or an individual, would not be able to declare bankruptcy, somehow protect itself from the debt that it has, and then go on as if that had never happened before. In fact, what we are envisioning here is if, in fact, the country did go into default, the Soviet Union as the mother or the overall guarantor of the Eastern bloc countries, would be forced, in order for Poland to get one more nickel at any bank anywhere in the world, to divert hard currency from defense into the Polish Government to shore it up so that Poland would once more be able to go out and get a loan at a bank or a country or whatever.

So those two analogies, No. 1, that the house of cards is automatic, it is not, and a country is not a grocery store or an individual.

Mr. BRADLEY. Let me respond to the Senator's two points. First, he is correct in saying that the cross-default clauses are not automatically triggered. But they can be triggered by any one bank—any one bank. True, default is not automatic, but if you are one in a consortium of 70 banks, and you see other banks in that consortium declaring default, and know that they will be shopping around for property to attach to cover their lost assets, then you are not likely to sit back and hope you will get paid off eventually. Nor are you likely to collect on a loan for which your borrower has already been declared in default by a major bank. Certainly your depositors and creditors are not likely to think you will get paid back.

So while it is true that cross-default is not automatic, commonsense is likely to make it occur, particularly if default is a condition of collecting on Government loan guarantees. That appears to put the approval of the U.S. Government behind the default declaration.

So I think that that should give us reason to pause.

On the second point, that a country is not like a grocery store, I agree. A country is not like a grocery store. If a grocery store goes down, the family is on the street. If a country goes down, you have millions of people hungry and on the street. I agree. Further, we have experience with defaults by grocery stores. We do not have experience with large sovereign defaults, and we do not know what they could do to the system.

What should that mean? That means that we have to be very, very careful that if a country defaults we have a mechanism to protect those of us here and in allied countries who may be the victims of a sovereign default.

I would like to try to bring this issue into dimensions that all of us deal with daily; what would you do as a Senator, as a citizen, as a corporate president—and I would say this not as a question to be answered but as a rhetorical question for the Senator from North Carolina and the Senator from Wisconsin to consider—what would you do if you had money in the bank and suddenly that bank was threatened by a default? What would you do? Would you put more money in the bank? Would you put more and more money in the bank? Or would you say at one point, "Gee, I better take the money out of that bank. It might not be so stable because of all the loans to Poland, or wherever, are likely to be declared in default because of a default requirement under action taken by the U.S. Congress."

I probably would take the money out of the bank. But that is where the final catch is. Once that process begins, everybody runs to find a safe place and the house of cards may collapse. And remember, it is very difficult to find a truly safe place in an international economy as interdependent as this one is.

I say this only to emphasize that you cannot take precipitate action to retaliate without some concern for a certain contingency plan that will prevent you, your country, your family, from ultimately bearing the brunt of that economic collapse.

Mr. KASTEN. If I could briefly respond, I want to make two points. The analogy between a bank and a country is a little twisted. What we are saying is that the country will not, in fact, go into default. What, in fact, will happen is that they need to divert hard currency to shore up the economy, that currency coming from Russia.

A number of people have argued in the past that the declaration of default would endanger the Western banking system. But of Poland's \$25 billion of debt to banks, only about \$2 billion is owed to U.S. banks. The largest owed to any one bank is \$100 million to \$200 million. Our largest banks are well able to handle that, even total writeoffs if those would be necessary. We do not believe they would be. In fact, a number of banks, as the Senator is probably aware, even a number of banks in his area, have already provided considerable reserves for such an event. In other words, they have already begun anticipating because they are not sure what is going to happen on September 10 when this next installment may be due.

The real problem is the German banks. Even there, our Ambassador, Arthur Burns, wrote back to the State Department saying, yes, there could be a problem. But according to Arthur Burns the problem could be manageable even for the German banks. Banks

which made imprudent loans would be hurt, but there would be no collapse of the international banking system and there would be no collapse of the German banking system, according to Arthur Burns, who I am sure the Senator from New Jersey and I would agree would be a pretty good judge of that question.

I do not intend to debate this issue at length. In fact, I hope we can soon wrap up this debate. But I think it is important to recognize that the Western banking system would not collapse. In fact, they have already built in reserves, and the individual exposure of any one bank is quite limited. One expert, at least, one whose opinion I would value, Arthur Burns, suggests that the German banking system would not collapse either. That is where the greatest amount of exposure is.

Mr. BRADLEY. Let me say in response that I would like to see one detailed study that has been done on the economic effects of a series of defaults. I would like to see one contingency plan, one game plan, one dry run. That would reassure me greatly. I have not seen that.

I would like to say further that it is somewhat of an illusion to say our exposure to Poland is only \$2 billion and, therefore, we are all right. But what you forget is that there is a Euro-currency market, nearly \$1 trillion by some estimates and a large chunk of it is located in the banks of the various countries around the world to which U.S. banks are directly and indirectly linked. We have loans to foreign banks and they have loans to us. So I do not think we can be so smug, and I do not mean to characterize the Senator as smug, in the position that everything is going to be OK because we only have this little exposure. It is not that way any more. The world does not work that way any more. It is an interdependent world.

As a final point, although I have a great deal of respect for Arthur Burns—what was the date of that letter, by the way?

Mr. KASTEN. I do not have the letter before me.

Mr. BRADLEY. Was it a month or so ago?

Mr. KASTEN. The date was some time in the late spring.

Mr. BRADLEY. Arthur Burns was one of the participants in the 1975 Central Bank agreement that said that the Central Bank of a particular country was responsible for all of its subsidiaries around the world if they got into trouble. But something has happened recently. I am sure the Senator has read about it in the newspaper. The Bank Ambrosiano has had some troubles. It has had troubles with its Luxembourg holding company, problems with its Panamanian sub-

sidaries. What has the Central Bank of Italy said? "We are not responsible. We are not responsible."

If the Central Bank of Italy is not responsible, that is a reversal of what Arthur Burns and others negotiated at a time of great crisis, in 1975 after the collapse of the Herstatt Bank. This should give us all some pause about reassurances from those who are more experienced than we in these matters. Ultimately, it is the U.S. Senate, the representatives of the people, who have ultimate responsibility to protecting the American people from the dangers to our economy.

I think this debate has been productive. I see the Senator from Oregon looking up expectantly so that we might move on.

I might say to the Senator from North Carolina that I appreciate his willingness to join with me. He can be assured that I will follow up on that generous offer.

Mr. President, I yield the floor.

Mr. MATHIAS addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. I do not want to delay this further, but I want to briefly state exactly where we are. I understand the proposal of the Senator from North Carolina is a very skillful and adroit instrument to accomplish his purpose. The Senator from North Carolina is skillful and adroit.

What he is doing by prohibiting any payments out of Government funds prior to a default is prohibiting the servicing of the debt, which, in turn, of course, would bring about a demand on the principal due and would have the practical effect of precipitating a default. My objection is that that does alter an obligation of the U.S. Government. It alters the terms of a contract in a way which I believe is clearly unconstitutional.

Any dispute that the Senator from North Carolina and I may have on the policy involved is different. I believe that he could lawfully accomplish his purpose as far as future contracts are concerned by simply saying that these payments should not be made prospectively or agreements made after this date, because those terms are written into the contract.

I do have a disagreement with the Senator from North Carolina as to the question of what his purpose is. I do find myself in disagreement on that because, clearly, he will bring about a default on Eastern European loans. The consequences of that, as the Senator from New Jersey has said, are incalculable. I hope the Senate will defeat this amendment.

Mr. HATFIELD. Mr. President, I thank the Senators for their cooperation. I think the colloquy has brought to light a number of concerns and issues involved in this particular amendment. We shall have it in con-

ference. The Senator from Wisconsin, the subcommittee chairman, has agreed to accept the amendment. I agree to accept the amendment. Therefore, I move adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 1211), as modified, was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, I yield to the Senator from Maryland and the Senator from New York for a brief colloquy. I yield the floor.

UP AMENDMENT NO. 1221

Mr. MATHIAS. Mr. President, I make a point of order against that portion of the pending bill on page 25, beginning at line 1 and continuing to page 26 to and including line 21, on the ground that this is legislation on an appropriation bill.

Mr. D'AMATO. Mr. President, will the distinguished Senator from Maryland yield?

Mr. MATHIAS. Yes, I yield.

Mr. D'AMATO. Though he has raised that point of order, we have not had an opportunity to discuss this situation. I believe he may be correct on the point of order. I would further like to explain, and think it is important—

The PRESIDING OFFICER. Will the Senator from Maryland withhold his point of order inasmuch as a point of order is not debatable?

Mr. MATHIAS. Yes, Mr. President, I shall withhold it pending the remarks of the Senator from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I certainly would not like to engage in a jurisdictional battle with the distinguished Senator from Maryland. I would like to propose an amendment to the bill language that might be acceptable if the chairman of the authorizing committee agrees.

I suggest that we limit the time period of the proposal, creating hearing commissioners in the District of Columbia Superior Court, to September 30, 1983. Let me indicate that our committee record does indicate that there is an emergency. There is a very dire emergency. At the present time, the Superior Court of the District has a caseload backlog of some 40,000 cases. That is excluding landlord and tenant cases. At the present time, there are pending 1,851 felony cases. That is a one-third increase since the first of the year, on top of a 23-percent increase last year.

We are talking about an increase of more than 50 percent in the last year and a half. However, I recognize that the chairman of the Subcommittee on Governmental Efficiency and the District of Columbia has been laboring to bring about a comprehensive court reform package. That package is necessary so as not to impede the work of the D.C. courts. It is for the purposes of seeing to it that this provision is not an instrument to impede legitimate court reform, but, rather, an emergency provision so that many ministerial acts can be performed by these commissioners and free up judges to try these felony cases—indeed, that is what Chief Judge Moultrie has indicated to me he would like to do—that we would proceed in this manner. For these reasons, I think emergency legislation at this point in time is absolutely necessary. I hope the distinguished chairman would consent to that. If he would, I shall send this amendment to the desk.

Mr. MATHIAS. First, Mr. President, let me say that I welcome the interest of the Senator from New York in these vital problems of the District of Columbia. In the relatively short time in which he has been involved in District matters as chairman of the District Appropriations Subcommittee, he has shown himself to be not only interested but able in addressing some of the serious problems of the Nation's Capital. So I first want to thank him for that interest and for that concern.

I also thank him for the proposal he has made here, because there is no secret he is the author of the language contained on pages 24 and 25. The contribution he has made to this proposal is a useful one. I certainly have no objection to it in substance. In fact, it could be a proposal which would be helpful as we address the larger problem of the judicial system in the District of Columbia to have a test run, a pilot program, using examples.

If we could limit this in time so it does not impede other efforts that are being made in the courts, I would have no further objection to it.

Mr. LEAHY. Mr. President, I should like to commend the work the distinguished chairman of the subcommittee has done, having aged rapidly during my tenure as chairman of that subcommittee, going from the bloom of my youth to an aged and bald-headed man while trying to wear the mantle of leadership that descends uniquely upon the shoulders of the chairman of the D.C. Appropriations Subcommittee. It is a position that thrusts one into the limelight of the city but, at the same time, one which may be questioned by one's own constituents as they wonder exactly why you spend so much time there. It is perhaps best described, perhaps most charitably described as a thankless job

to be chairman of that subcommittee. I speak from experience, as does the distinguished Senator from Maryland.

I join him, in all seriousness, in complimenting the Senator from New York for the work he has done.

He has worked very hard on this, has handled some difficult matters at a continuing difficult time for the city. I applaud what he has done on this amendment. I think it is a good amendment, and I certainly support him, and I support the Senator from Maryland in the efforts that he has made in making this a workable law.

UP AMENDMENT NO. 1221

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an unprinted amendment numbered 1221. On page 26 after line 21 insert the following new subsection "(d) the provisions contained in this section shall remain in effect until September 30, 1983."

Mr. D'AMATO. Mr. President, let me first express my deep appreciation and thanks for the constant support and guidance by the distinguished Senator from Vermont (Mr. LEAHY), the former chairman of the subcommittee.

Let me also thank Senator MATHIAS, my distinguished colleague from Maryland, for his help in establishing what I hope will be a pilot program that leads ultimately to a permanent solution in dealing with the criminal justice system of the Nation's Capital. I thank him for his support in this matter.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (UP No. 1221) was agreed to.

Mr. HATFIELD. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATHIAS addressed the Chair. The PRESIDING OFFICER. The Senator from Maryland.

Mr. MATHIAS. In light of the comments of the distinguished Senator from New York and the action he has taken to provide that the use of the hearing examiners or commissioners is limited for about a year, until September of next year, I will not press the point of order that I had previously proposed against this amendment.

I want to express my appreciation to the Senator from New York and to the Senator from Vermont for their continuing interest in the District.

Mr. D'AMATO. Mr. President, let me once again reiterate my thanks to

the Senator from Maryland for making possible this accommodation which I think will benefit the people of the District of Columbia in particular and shows some very great credit to this body.

Mr. WEICKER addressed the Chair. The PRESIDING OFFICER. The Senator from Connecticut.

UP AMENDMENT NO. 1222

(Purpose: To maintain orderly reprogramming procedures with respect to appropriated funds)

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) for himself and Mr. HOLLINGS proposes an unprinted amendment numbered 1222.

Mr. WEICKER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

"Sec. . Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193, an 'Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communications Agency and the Board of International Broadcasting, and for other purposes,' unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate."

Mr. WEICKER. Mr. President, the amendment which Senator HOLLINGS and I have sent to the desk is meant to maintain orderly procedures for the reprogramming of appropriated funds. As you know, each year agencies of the Government find it necessary to reprogram funds to meet unforeseen exigencies. Because these actions affect the purposes for which funds were originally provided, they are subject to the procedures of the Committees on Appropriations of the House and the Senate. The procedures which govern reprogrammings proposed by the agencies under the jurisdiction of the Subcommittee on State, Justice, Commerce, the Judiciary and Related Agencies are outlined in section 508 of H.R. 4169, as reported in the Senate on October 1982—Senate Report 97-265. These procedures are used jointly by the House and Senate committees as stated in the statement of the floor managers on House Joint Resolution 370.

The conference agreement on S. 1193 provides that the Department of State reprogram funds to reopen cer-

tain consulates. That report also authorizes the Director of the U.S. Information Agency to use funds appropriated for certain educational exchange programs for other purposes. Neither of these provisions in the conference report require the approval of the Committees on Appropriations. We are told that the authorizing committee did not intend to assume responsibility for reprogrammings or to contravene appropriations acts, this amendment will clarify that any reprogrammings under section 103 or transfers from exchange funds under section 305 cannot be made except as provided under the reprogramming procedures of the Appropriations Committees. There is no objection from the Foreign Relations Committee.

The PRESIDING OFFICER. Is there any further debate on the amendment? The question is on agreeing to the amendment.

The amendment (UP No. 1222) was agreed to.

Mr. WEICKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

UP AMENDMENT NO. 1223

(Purpose: To make technical and clarifying corrections)

Mr. HATFIELD. Mr. President, I have two technical amendments now to the bill which have been cleared with the minority side of the aisle. The first one is that there is a printing mistake on page 78. It should be \$1.9 million rather than \$6.9 million.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. HATFIELD) proposes an unprinted amendment numbered 1223:

On page 78, line 24, strike out "\$6,975,000" and insert in lieu thereof: "\$1,975,000".

Mr. HATFIELD. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1223) was agreed to.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the amendment offered by the Senator from the State of Alaska (Mr. STEVENS), unprinted amendment numbered 1194, which was agreed to by the Senate yesterday, be inserted in the bill after line 21, on page 64, rather than at the

end of the bill as the amendment was originally drafted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, I am very disturbed about language in this supplemental appropriations bill that appears on page 22, lines 3 through 7, where it states—and it is brief so I will read it—

None of the funds available to the Department of Defense during the current fiscal year shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at the U.S. defense facilities in Europe when coal from the United States is available.

Mr. President, what that is is a buy American provision. Of course, it flies right in the teeth of the Government's procurement code which we passed in this body in 1979 and which, of course, is now law.

The danger, as I see it, in that provision is that it just invites retaliation from foreign nations with whom we are trying to obtain contracts with their governments.

I might say that this is a new provision since the enactment of the Government procurement code. By that, I mean whether it was in existence prior to the enactment of the code, I do not know, but it is the first time it has appeared since the enactment of the code.

Mr. President, it is a *prima facie* violation of the code, and even though it has the qualifying phrase "when U.S. coal is available," it does not eliminate the code violation because the procurement practice remains discriminatory.

Mr. President, because of the fact that this language is only for the current fiscal year, it is my present intention not to press the matter. However, I would like some discussion on this to hear what the chairman of the committee has to say on it and others who care to voice their views.

We are really getting into very heavy weather I believe, Mr. President, if we persist with this type of language in legislation. As I say, there are 6 weeks left and presumably not much coal is going to be bought in that time, but I would not want anybody to be under the impression that if language like this appears in the future, there would not be a very earnest and vigorous attempt on my part, and I hope by others, to eliminate language to that effect.

It goes far deeper than what is happening to coal. What it means is that the earnest efforts that have been made over many, many years to make foreign government markets available

to U.S. suppliers would be completely undercut. It is a classic example of the United States shooting itself in the foot for a modest sale of coal. This amounts to some \$75 million a year, and it is my understanding that it is less than 5 percent of the total anthracite sales of the United States. It runs the chance of endangering over \$2 billion in U.S. coal exports to Europe as well as all the other telecommunication devices and a myriad of products that we are attempting to sell to foreign governments.

Ambassador McDonald has written a letter to the majority leader on this subject. I believe Ambassador McDonald is the acting Special Trade Representative. This is what he said in his letter to the majority leader, dated August 10, which was yesterday:

The timing of this legislation makes it particularly unfortunate. We are currently working toward negotiations to expand the scope of the code. Through these negotiations, we hope to expand the scope of the code to cover a number of foreign government agencies which are major purchasers of goods for which we have a substantial export potential, such as telecommunications, power-generating and transportation equipment.

If we were to violate the code, it will have a serious adverse effect on our chances of success. Countries will not wish to enter into new obligations with us if we do not respect our existing obligations.

There we are, Mr. President, I must say that I am worried. I do not want to flatly commit myself not to submit that amendment tonight, but I would be glad to hear any discussion others have on this subject and what they might do to relieve the legitimate concern I am expressing—not just for myself and not just for products from my State, but for the overall exports of the United States.

Mr. HATFIELD. I say to the Senator from Rhode Island that the Committee on Appropriations looked at this language—which was sent from the House—on page 22, lines 3 to 7. There was a fairly mandatory instruction, and the Senate committee decided that it should be modified to the degree in which we have added the words on line 7: "when coal from the United States is available."

We felt that rather than mandate this purchase from the United States—the coal from the United States, as it was in the House bill—that it put us into a kind of box, so to speak, that in case we did not have available coal, we would be mandating something we did not have available. So we felt that it was necessary to modify it to include those words.

Further, I say to the Senator from Rhode Island that he will note that this is also confined to the current fiscal year. In effect, we are talking about 6 weeks because of the fact that the current fiscal year ends on September 30. So whatever decision is

made on this provision, we are really making a decision for about a 6-week period of time.

Third, we really are addressing a larger subject than even that which involves coal. As the Senator realizes, we are really raising an issue here of what was commonly referred to as a Buy American type of requirement. I understand the concerns expressed by the Senator from Rhode Island. I share some of his concerns as well.

I have had a long chat with Ambassador Arthur Burns, who is now our Ambassador to West Germany. He has expressed some concern about this type of policy. Others serving in foreign posts have likewise expressed to me some concern.

However, I say to the Senator that I do not feel that this, in effect, has really put us in any kind of bind, either as to the supply of coal or as it would relate to our coal exports and the continuation of those exports.

First of all, we realize that there is somewhat of a coal glut at the present time on the world market—at least, there is a plentiful supply of coal on the market. I do not think we are in any kind of supply situation at the moment.

Therefore, in effect, I suppose I would say that I would minimize what I think would be the impact of this particular wording on page 22 of the bill. Of course, we will be facing the possibility of this on the fiscal year 1983 bill or of a continuing resolution if we do not have a defense bill by the time October 1 comes about; and the Senator from Rhode Island would be free to raise this question as it relates to whatever vehicle this may appear on in the future.

I express my great appreciation—if I understand the Senator's remarks—that he will restrain himself from raising an amendment at this time, on this particular bill, which deals with only 6 weeks, and without in any way prejudicing the Senator's rights or the Senator's position to raise the issue at the time we are dealing with a fiscal year 1983 vehicle, whether it be a bill or a continuing resolution. I have no way to predict what vehicle it might be.

However, I also suggest to the Senator that we should raise the general issue in full debate sometime in the near future, about the entire Buy American philosophy as it relates to our exports and our imports and retribution or potential retribution, and so forth. I would hate to see that subject debated on this very narrow base at this time.

Mr. CHAFEE. Mr. President, I appreciate the remarks of the distinguished Senator from Oregon.

There are some other Senators I wish to contact who have an interest in this matter and who plan to come

to the floor. So, unfortunately, we cannot wind this up right now.

However, I did want to express my concern, and I did not want to be estopped in any way. I know it is not a legal estoppel, but I would not want anybody to be flying under the premise that because we do not battle here on this issue, it is only because there are 6 weeks. The hour is late, and everybody seems to want to go home. But when it comes up, on whatever vehicle—presumably, the 1983 defense appropriation bill—if that language is in there, there will be a long, long, drawnout battle on this floor. I hope it is not long, drawnout, because I hope the other side will not contest it. It is my understanding that it was knocked out in the 1983 authorization legislation.

Mr. HATFIELD. I thank the Senator.

Mr. President, we are ready for third reading of the bill.

Mr. CHAFEE. I cannot quite agree to that yet, because a couple of other Senators want to speak. We just contacted one Senator.

Mr. HATFIELD. Mr. President, is there any Senator who wishes to speak on this point?

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ARMSTRONG). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, that completes my thoughts on this matter.

Again, I just say that this is bad language. It should not be in the bill. It has only 6 weeks to go. We are accepting it rather than go through a long, drawnout fight here tonight. However, if there is language as that again in the continuing resolution, in the 1983 appropriations, in the 1983 authorizations, anywhere, I, for one, will do everything I can to eliminate it, and I certainly hope I will have the support of my colleagues.

I thank the chairman of the committee for his help.

Mr. HATFIELD. I want to thank the Senator from Rhode Island for his cooperation, and I want to assure him he will get full and ample opportunity. I will do everything possible in my power to debate this issue if it should reappear on some future vehicle.

Now, Mr. President, we are just about ready to go to third reading. There is one final amendment that we will have ready in just a moment on behalf of the Senators from Vermont (Mr. STAFFORD and Mr. LEAHY), and then we are ready for third reading.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. Mr. President, the last amendment we have before third reading is ready to be offered by the Senator from Vermont.

UP AMENDMENT NO. 1224

Mr. STAFFORD. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration. It would occur on page 57 at line 20, to add the following additional language.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont (Mr. STAFFORD) proposes an unprinted amendment numbered 1224:

On page 57, line 20, before the period, insert the following: "Provided further, That of the amounts that shall remain available for obligation under Part B of Title III of the Higher Education Act, \$300,000 shall be for two institutions of higher learning in Vermont under Part A of Title III of that Act."

Mr. STAFFORD. Mr. President, this adds no additional funding to the moneys currently in the bill. I move the adoption of the amendment.

The PRESIDING OFFICER. Is there further discussion on the amendment?

The amendment (UP No. 1224) was agreed to.

Mr. STAFFORD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I recognize that H.R. 6863 has elements of urgency about it, that it is within the budget targets, and that it will make available funding for needed programs and for payment of salary increases for the remainder of fiscal year 1982.

I do have considerable concern, however, that this measure has the effect of bypassing the Committee on Foreign Relations and appropriating hundreds of millions of dollars for foreign assistance without an authorization. More specifically, it, in effect, authorizes the Caribbean Basin Initiative effective September 15 and in a manner that quite frankly contravenes the approach the Committee on Foreign Relations has voted upon.

So, Mr. President, I do object to the end around the proper authorizing committee that is contained in this measure. I must protest this irregular procedure even though I will vote for

the bill out of recognition of the need for many of its provisions.

Mr. GRASSLEY. Mr. President, I oppose this supplemental bill for two reasons. First of all, it is poor budget practice to simply raise the lid on Federal spending whenever money runs out. This practice creates a disincentive to total budget planning and to living within the boundaries of what has been planned. Funds should be appropriated according to our ability to pay for them. The nature of supplemental spending, particularly when supplementals occur year after year, runs absolutely contrary to good budget policy.

There is a more proximate reason though, Mr. President, for why I oppose this bill. We are in the midst of perhaps our worst economic predicament since the 1930's. We are caught in a transition zone between stagnation and recovery. We have reversed both monetary policy and tax policy. We have yet, however, to reverse spending policy. This failure to curb spending is causing current and out-year deficits to swell and the economy to remain inactive. It is interfering with our efforts to stimulate productivity. The attitude in Congress continues to reflect a desire to raise taxes and ignore the growth in Federal spending.

This supplemental bill increases Federal spending for this fiscal year by \$9 billion. Despite recent predictions by the administration, by CBO and by private forecasters that deficits will now be larger than originally projected, we appear once again to want to move ahead blindly on a spending binge.

Mr. President, we simply do not have the money. The Treasury has to raise a record \$50.5 billion this quarter to finance its borrowings, and up to \$110 billion over the last 6 months of this year. Personal savings in this country last year amounted to only \$108 billion, meaning the Federal Government will absorb 100 percent of last year's personal savings in just 6 months. We cannot tolerate this performance.

Mr. President, does it seem unreasonable to ask when we are going to wake up and be fiscally responsible? Must we wait until our current predicament becomes a crisis? Fiscal responsibility demands recognition that a crisis is imminent unless we stop spending money we do not have. This Congress is setting a poor example for the rest of the Nation: We spend money before we have it. We borrow instead of save or plan.

Businesses and family households have learned their lessons.

They have retrenched at this difficult time. Individuals have paid off debt at incredible rates for a recessionary period. Businesses are cutting out fat and overhead, and paying back

loans. When is the Federal Government going to follow suit? When is Congress going to realize that high interest rates are a reflection of high taxes and uncontrolled spending?

Mr. President, we will be faced with serious economic problems in the near future if these irresponsible budgetary practices continue. The spending savings in the first budget resolution for 1983 and beyond are already in jeopardy. Congress inclination remains to tax and spend. That inclination, that pervasive attitude must be cracked if we are ever going to get a handle on the spending problems. Unless we replace that inclination with a deep understanding of the consequences of uncontrolled spending and its adverse impact on interest rates, our current economic problems will look mild compared to what we are headed for.

CARIBBEAN BASIN INITIATIVE/EL SALVADOR

Mr. MITCHELL. Mr. President, I will support the supplemental appropriation on final passage, because the bill includes funds for essential programs. I was particularly pleased that it funded the Economic Development Administration, a program for which I have fought since the beginning of 1981. Economic development assistance is crucial at an economically depressed time such as the present. I support the additional unemployment compensation funds. With well over 10 million Americans out of work, additional Federal unemployment compensation funds are essential to make sure that people who lose their jobs do not become destitute. And I am pleased to see the necessary \$30 million in Coast Guard funding included in this measure. The money is desperately needed, and the President's veto of the original emergency funding bill led to the deletion of that money. Its restoration in this measure will help resolve the Coast Guard's operating funds shortfall for the current year.

But, I have one very serious reservation about this bill. It contains \$355 million in fiscal 1982 funds for the administration's Caribbean Basin Initiative; \$128 million of that amount is intended for El Salvador.

The delays which have surrounded the administration's pursuit of legislation for this Caribbean Basin Initiative mean that it has not, as yet, been approved by the Congress. There is no authorizing legislation. The Finance Committee on which I serve is still considering the trade implications of the proposal. The House of Representatives rejected this appropriation because no authorizing enactment exists.

Despite the lack of an authorizing act, and with just 1 month to go before the end of the fiscal year, the administration is demanding a full-year appropriation of \$355 million for the economic aid portion of the Caribbean Basin Initiative.

The grant of a full year's funding—\$355 million—at a time when the 1982 fiscal year has just one more month to run is not necessary for the pursuit of the Caribbean Basin Initiative. It is irresponsible in terms of the Congress duty to responsibly allocate tax dollars. The fiscal year 1982 budget deficit will be over \$100 billion. We face \$100 billion deficits down the road. It is wasteful to appropriate these tax dollars today, when they obviously cannot be well spent within the space of 1 month.

I very much regret that Senator DODD's amendment to halve that funding did not prevail. It seems clear to me that end-of-year, hurry-up spending of this kind is precisely not the way to encourage fiscal responsibility, but the Senate majority decided otherwise.

Halving the 1982 funding, particularly within 1 month of the end of fiscal 1982, would not have undermined the administration's ability to credibly pursue its foreign policy goals. But it would have preserved a degree of congressional oversight over the development and implementation of that policy which is now totally absent.

There is serious controversy over the pursuit of the administration's policy in El Salvador which could not have been resolved in a debate on a supplemental appropriations bill. But, by the same token, an emergency supplemental is not the right place to finance the expansion of an unexamined policy, either.

I am sorry the administration chose to pursue its policy by having the Senate include an appropriation that the House of Representatives has already rejected. That is not the best way to gain bipartisan support for our Nation's foreign policy, either in the Congress or in the Nation.

All Americans were heartened by the fortitude of El Salvador's voters, who braved threats and bullets to cast their ballots in the election. But applause of that bravery does not alter the fact that the progress of reforms in the country has slowed.

Most important, it does not alter the fact that the leaders of El Salvador's economic community—the private sector in that country—are deserting its economy by withdrawing their capital from El Salvador.

Our national policy should be to make certain that El Salvadoran resources are used in the nation's economic development before the tax dollars of American workers are donated to aid that country.

On March 18, the New York Times reported that:

Faced with a loss of confidence, capital flight, political uncertainty, and outright destruction, the economy of El Salvador is surviving only through international aid, most of it American, that will be pouring into the tiny nation this year.

Under the Caribbean Basin Initiative, fully half the economic aid money will be divided between just two countries, El Salvador and Honduras. El Salvador would receive \$128 million in economic assistance. The assistance is intended to allow El Salvador to repay its existing foreign debt, and to make up foreign exchange shortages which have occurred because of balance-of-payments short-comings.

The president of the Central Bank of El Salvador, Alberto Benitez Bonilla, has stated that if his country does not receive substantial foreign aid from the United States, "almost all our industries would stop, and we would have at least 20-percent negative growth."

The seriousness of the situation is not in question. The uncertain political situation in El Salvador, coupled with international market conditions in recent years, has contributed to the perilous condition of its economy.

But the actions of El Salvador's own citizens are also a highly significant contributing factor.

U.S. Ambassador, Deane Hinton, as well as El Salvador's Planning Minister both attribute the perilous economic condition of El Salvador to the massive flight of capital which has left the country. Ambassador Hinton estimates that in the last 3 years alone, \$740 million was sent out of the country. Atilio Veitez, the Planning Minister, puts the amount at nearly \$1.5 billion.

In other words, the private sector in El Salvador is hoarding its money outside the country, rather than using it as working capital within El Salvador. Much of that money is now in the form of capital deposits in bank accounts in Miami.

Because of this capital outflow, El Salvadoran businessmen do not have the money to purchase basic imports to operate their industries. So U.S. aid money is used to make up that lacking capital. While the wealth of El Salvador is secure in U.S. banks, and earning its owners a substantial return, the administration is asking the American taxpayer to replace that capital in El Salvador.

Why should the American taxpayer demonstrate, through foreign aid dollars, a greater confidence in the future of the El Salvadoran economy than El Salvadoran businessmen are willing to demonstrate?

AID's report for 1983 confirms that the El Salvadoran balance-of-payments position has been significantly weakened because of the huge amounts of capital removed from the country.

AID now says its development strategy is aimed at preventing the collapse of the El Salvadoran private sector and restoring its productive capacity.

But surely, before our taxpayers are asked to help buildup the economy of El Salvador, a similar commitment ought to be made by the citizens of El Salvador themselves.

Last year, AID gave El Salvador \$44.9 million in economic support funds to finance the import of raw materials and intermediate goods. This year, \$28.4 million will be provided in the regular foreign aid program for the same purpose. AID is asking for \$77 million next year, to continue paying for these imports. An additional \$26.5 million is slated to be used for the Industrial Recovery I program, to reopen and rehabilitate industries in El Salvador.

It is ironic that, at a time when the survival of so many domestic firms is threatened, the same administration which staunchly opposes even modest economic development aid to alleviate economic distress in the United States, is asking our taxpayers to bail the private sector of El Salvador out of a problem which is largely of its own making.

If the private sector of El Salvador kept its capital in the country, the United States would not have to provide financial assistance of this magnitude just to keep its industries operative. What is actually the case is that the business community of El Salvador is unwilling to risk its own capital. It is unwilling to place its resources behind its own government. But both the business community and the government are more than ready to let the American taxpayer take that risk and foot that bill.

AID is now assuring us that steps are being taken to stop U.S. tax dollars ending up in Salvadoran bank accounts in Miami. Money will supposedly be tied to specific transactions and transferred electronically to the seller, rather than given to the buyer. But this will be only a cosmetic solution. The President of El Salvador's Central Bank has said, "... this could bar capital flight only in the 'first disbursement.' After that ... we lose control."

News reports indicate that El Salvadorans have accomplished much of this hoarding of money outside their country by setting up dummy U.S. companies, and submitting products to multiple invoicing. These businessmen buy or sell the same items twice on paper to make certain the proceeds can be deposited outside the country.

The Government of El Salvador has done nothing to prevent capital flight. El Salvadoran banks are nationalized, not private entities. The Government could impose currency controls. Honduras, a neighboring nation, has done so to halt capital flight. Why cannot El Salvador do the same thing?

It is obvious that neither the private sector nor the El Salvadoran Government will take any steps to change the

situation as long as American dollars are available to make up the capital needs of the country. But the effect of this is to let El Salvadoran businessmen make a profit at the expense of the American taxpayer and then recycle that profit in American banks, not in their own nation's economy.

I do not believe the administration should include El Salvador in the Caribbean Basin initiative as long as this problem remains unresolved. Nor do I believe the Senate should have approved a blank check for this policy decision.

If the El Salvadoran Government undertakes vigorous currency controls to stem capital flight, the appropriateness of more economic aid can be reviewed. But in the first instance, the El Salvadoran business community ought to make a commitment to the future stability and economic health of their country, not the American taxpayer.

The administration should make it crystal clear that our Nation will not stand idly by while our tax dollars are used to bail out the El Salvadoran economy and El Salvadoran dollars are siphoned out of the country for the private comfort and protection of some of its most privileged citizens.

It is apparent from its actions that the El Salvadoran business community lacks confidence in the return of stability to its country. This massive capital flight is simply a case of individual businessmen hedging their bets. That may be an acceptable position from a purely financial perspective, but it is not a basis on which American tax dollars should be spent, or a solid foundation for American foreign policy.

It is ironic that the pursuit of American policy with regard to El Salvador has been ardently defended as a way to protect and preserve the private ownership economy which is inseparable from a free democratic society. It should be obvious that we cannot protect democracy and human rights in El Salvador when the nation's own economic leaders are unwilling to support even the basic economic foundation of their own country's future.

If the El Salvadoran Government loses its war against the present insurgency, what will the El Salvadoran business community have risked? Virtually nothing, because those individuals will leave El Salvador comforted by the knowledge that their capital is secure in U.S. banks. Why should the American taxpayer be asked to fund this conscienceless activity?

This is not the time or the forum to debate in detail differences over U.S. policy toward El Salvador. But one very basic fact should be evident without debate. If the Salvadorans themselves, particularly that economic class which has the means to make a difference in the country's future are unwilling to stake their own property in

that future, anything the United States can do will have only the most marginal effect on the security and stability of El Salvador.

Although Senator Donn's amendment was narrowly rejected on a procedural vote yesterday evening, I hope the Senate debate, coupled with the House's rejection of all funding, will send a clear message to the administration that its unexamined and questionable policy on El Salvador cannot continue.

Mr. JEPSEN. Mr. President, I should like to point out the need for supplemental funds for the reclamation of abandoned mine land as provided for in the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87.

During the oil embargo of 1972 this country immediately looked to coal as one of its most available alternative energy sources. Coal reserves in this country provide one of the largest available sources of hydrocarbon fuels.

Thousands of acres of land laid waste to surface mining prior to this period. However, since the price of crude oil has skyrocketed, during the last 10 years we have seen a dramatic increase in the alteration of the countryside as a result of surface mining.

There are an estimated 1.1 million acres of land in 29 States laying waste with severe erosion problems caused by surface mining. The erosion and acid mine drainage from these abandoned mines have caused serious problems in water quality, increased flooding, loss in food fiber production, and a degradation of the environment in terms of fish and wildlife habitat.

Congress in its wisdom in 1977 saw the need to address the deterioration of these land and water resources through the Surface Mining Control and Reclamation Act.

A great amount of time has been invested in the careful development of this law. This investment resulted in a good law that can adequately provide both the technical and financial assistance to State and local soil and water conservation districts to improve these land areas. This legislation uniquely provided for funding to be derived from the industry causing the problem without adding a tax burden to the citizens of this country.

The law contains several principal features which I wish to address. First, the law is designed to fund the activities designated through general supporting revenues from the coal industry. This provision has been carried out in good faith by the participating coal companies.

Section 401 of the act established the abandoned mine reclamation fund administered by the Secretary of the Interior. All coal-mining operators pay into the fund at a rate of 35 cents per ton of coal produced from surface

mining and 15 cents per ton of coal produced by underground mining. These payments represent income to the Government of approximately \$200 million per year.

I am extremely concerned that fees collected from coal-mine operators and deposited with the Treasury are being inadequately used to carry out the intent of the Congress as expressed in sections 401 and 406 of that act.

In good conscience I cannot stand idle and see these funds continue to be collected from the coal operators, and deposited with the U.S. Treasury never to be seen again. This is wrong. It breaks faith with the intent of Congress and it breaks faith with the coal-mining operators who are forced to pay into the fund. Why should Congress impose a requirement on private industry that it is not willing to abide by in the same law? We should decide whether to carry out the intent of the law or change the law.

I think the law is good. We should support its provisions and let it serve its intended functions.

Section 406 established the rural abandoned mine program—RAMP—to control and prevent erosion and sediment damages from unreclaimed mined lands.

The rationale for having RAMP was to provide assistance to States through an existing local, State, and Federal delivery system while States developed their regulatory programs and reclamation plans as required by the act to qualify for the grants program. The RAMP program is administered by the Secretary of Agriculture through long-term contracts with the owners of abandoned coal-mine land. The Secretary promulgated rules for the program on October 2, 1978, and in those rules gave highest priority to those lands which, in addition to being sources of sediment, represent a hazard to public health and safety. The Department of Agriculture—USDA—has identified 1.1 million acres in 29 States—377 counties—as eligible for treatment under the program. USDA received 3,009 applications for assistance; 1,812 of those are high priority based on the public hazard criteria.

The Secretary of the Interior is authorized by section 401(c) to transfer up to 20 percent of the fund to the Secretary of Agriculture for the rural abandoned mine program. Based on the estimated fee collections (\$200 million per year), the Secretary of Agriculture could receive \$40 million. A total of \$102.2 million was appropriated for reclamation in fiscal year 1982; however, only \$5.1 million was designated for RAMP.

Because of underutilization, the fund has continued to grow until by the end of fiscal year 1982 it will approach \$500 million. At the same time, requests for increased assistance under

the rural abandoned mine program have increased, demonstrating a strong interest on the part of landowners to solve their abandoned mine land problems. Today, there is a backlog of \$13.25 million in unfunded contracts ready to sign and another \$84 million for which planning has started and could be completed within a few months. The appropriation of \$5.1 million for fiscal year 1982 did not permit the Secretary of Agriculture to execute a single one of these contracts. The entire appropriation was used up in carrying out 244 contracts entered into in previous years.

RAMP is designed to reclaim small scattered parcels of abandoned mine lands in rural areas. Many of the owners of these lands neither consented to nor participated in the mining process, yet now are left with land that is a liability rather than an asset—they pay taxes but derive no income. The States will have a heavy workload on the larger public and privately owned areas and may not be able to provide assistance to many of these small parcels for many years.

It will take the States additional time to develop the internal capability, to hire the staff, and develop the necessary expertise and procedures to actually start reclamation work. As soon as this is done States could assume the full responsibility for this program.

In the meantime, reclamation work that could be done under RAMP, work that would provide much needed jobs in the coal-mining area, sits on the shelf.

A large investment of personal time and funds have gone into completing 45 plans now ready for contracting. Funds needed to implement these plans are estimated at \$13,250,000. Iowa has 6 of the 45 plans with an estimated cost of \$1,963,000. These plans are located in Marion County and Mahaska County.

The House of Representatives provided \$13,250,000 in the general supplemental for the rural abandoned mine program. If these funds were approved jobs would be created, and the protection of these land and water resources could proceed without delay. The machinery is in gear. All that is needed is support to fulfill the intent of the act. This can be done without asking the taxpayers for additional revenue.

The Soil Conservation Service and the Soil and Water Conservation Districts have done an excellent job of addressing these problems. I commend the work performed by these agencies and their example of Federal, State, and local cooperation.

I think it would be wise to capture the significant investment that has gone into these plans now ready for contracting.

I urge the conferees to take a close look at the House recommended sup-

plemental appropriation. Favorable consideration of this matter will be highly appreciated.

Mr. SPECTER. Mr. President, I wish to join my colleagues Senators HUBLESTON and JEPSEN in speaking about the rural abandoned mine program (RAMP). This program is of great significance to my State of Pennsylvania, which has over one-third of the abandoned mine land in the country, as well as the numerous other States which mine coal.

The rural abandoned mine program was established in 1977 with the passage of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87. Section 401 of that act established the abandoned mine reclamation fund to be funded by a 35-cent tax per ton on surface mining and a 15-cents per ton on deep mining. Section 406 authorizes the Secretary of Interior to transfer "up to 20 percent" of the funds to the Secretary of Agriculture for the RAMP program.

RAMP projects are designed to restore lands which have been scared by previous mining ventures. Unproductive land is returned to lush farmland and acres of pockmarked, brown, and muddy areas are returned to rolling green hills. In addition, this program creates jobs and stimulates the economy. Most importantly, these benefits can be achieved without reaching into the Treasury for funds, for the RAMP program has almost \$100 million available which has not been appropriated.

Therefore, Mr. President, I was dismayed to learn that the Subcommittee On Interior did not include the \$13.251 million supplemental appropriation provided in the House bill.

Since 1977 when the law was enacted, through fiscal year 1981, \$680 million has been collected from coal operators. It is estimated that \$200 million will be collected in each of the next 2 fiscal years. Pennsylvania alone has contributed \$78.9 million to the abandoned mine reclamation fund.

As I stated previously, up to 20 percent of this fund is authorized for the RAMP program, but historically this figure has been much less. Indeed, in fiscal year 1982, \$5.1 million was appropriated and, according to the Department of Agriculture, this entire amount was used for contracts entered into in previous years—thus perpetuating a growing backlog of projects.

I believe that a supplemental appropriation is needed to fund the 45 projects, 15 of which are in my State, which have been approved by the Soil Conservation Service. These are priority 1 projects—projects which represent a hazard to public health and safety.

The distinguished chairman of the subcommittee has indicated that the administration intends to remove the Federal Government from the RAMP

program and let the States administer it. I do not disagree that the States should set their own priorities for funding; however, I do take issue with the amount of money made available and the method of distributing it to the States. As I understand it, it is the intention of the administration to combine the RAMP funds with the State grants. If this is the proposal, I would like to ask the chairman the following questions: One, how will the RAMP funds be distributed and two, will there be a separate line item within the State grants?

I raise this issue because under the current arrangement Pennsylvania receives a larger percentage of total RAMP funds than its percentage of the total State grant funds.

In other words, can you assure me that Pennsylvania will not lose money if the existing program is changed?

Mr. President, the coal-mining industry is paying millions of dollars into this trust fund for the sole purpose of reclaiming scarred land so that future generations will not have to pay the price for our misuse. It is our duty to appropriate the available funds—and I reiterate these are not taxpayer funds, but money which rightfully belongs to the States which contributed to it. In the give and take of the conference with the House, I hope that my colleague, Senator McCURE, will join me in supporting a supplemental appropriation.

Mr. McCURE. I say to the Senator from Pennsylvania that if the Appropriations Committee combines the RAMP program with the State reclamation grant program—and thereby consolidate the reclamation program in the States—the State of Pennsylvania should not receive less funds than they would otherwise receive under two separate programs. It should, however, be understood that the States themselves would have the responsibility—as they should have—to determine the priority of these RAMP projects in the same manner as all other State reclamation projects. And while no separate line item within the State grant activity is contemplated, it is my hope we can strongly encourage the States to utilize the expertise of Soil Conservation Service in carrying out the needed reclamation activities they by law are charged to do.

Mr. HUDDLESTON. Mr. President, I appreciate the opportunity to join my friend from Pennsylvania, Senator SPECTER, the distinguished Senator from Iowa, Senator JEPSEN, and the chairman of the Interior Appropriations Subcommittee, Senator McCURE, in discussing the lack of funding in the legislation before us for the rural abandoned mine program (RAMP) administered by the Soil Conservation Service (SCS) of the Department of Agriculture.

Senator SPECTER has given a thorough overview of the purposes of RAMP and the basis for its authority and funding as authorized by the Surface Mining Act. With the fear of being slightly repetitious I would reiterate my long-term concern over the large balances that continue to build up in the abandoned mine fund (AML) from whence comes RAMP funding as well as the moneys for the State reclamation program. For example, in Kentucky where the need for reclamation grants is great and coal mine operators have paid upward of \$140 million in fees, only in the neighborhood of \$30 million worth of projects of all types—Federal, State, and RAMP—have been approved.

Coal mine operators have been paying the fees imposed by the Surface Mining Act for about 5 years now. Yet, for the most part RAMP for reasons we can explore in a moment, a truly viable reclamation program, has been woefully underfunded. As a result numerous high-priority reclamation projects endangering human health and safety have not been undertaken. Of course many important Federal projects have been implemented. However, with a balance of over \$500 million in the AML and many State reclamation programs just recently being approved, Kentucky's just this May, it is clear more could have and should have been done with RAMP in the past.

All of this leads me to the point of why we should consider now, on this supplemental, the House addition of \$13,251,000 for RAMP which has been deleted by the Appropriations Committee.

Section 406 established the rural abandoned mine program to control and prevent erosion and sediment damages from unreclaimed mined lands. That program is administered by the Secretary of Agriculture through long-term contracts with the owners of abandoned coal-mine land. The Secretary promulgated rules for the program on October 2, 1978, and in those rules gave highest priority to those lands which, in addition to being sources of sediment, represent a real hazard to public safety and health. The Department of Agriculture (USDA) has identified 1.1 million acres in 29 States (377 counties) as eligible for treatment under the program. USDA has received 3,009 applications for assistance: 1,812 of those are high priority, based on the public hazard criteria. The \$13 million we are talking about would address 45 of these high-priority projects nationwide, 12 of which are in my State. And, most important to note is the immediate nature of the relief that would be provided. Design work is complete and all that needs be done is the actual letting of the contracts to do the work.

I think we would all agree that as the States are ready, they should assume the leadership in reclaiming abandoned mined land and the Federal involvement decreased. Perhaps at this time there could be a melding of RAMP into a single reclamation program run by the State. However, it is my belief we have some 45 high-priority reclamation projects that can, with the \$13,251,000 appropriated by the House, in this supplemental, be undertaken right away. We have high unemployment in the coal fields, idle equipment, and land that needs to be restored. Action now is necessary.

Let us consider these points:

To be ready just to apply for reclamation grants, States have had to do two things: Develop a regulatory program and a State reclamation plan, and get them approved by the Office of Surface Mining. Most States are just now getting to this point;

It will take the States additional time to develop the internal capability to hire the staff and develop the necessary expertise and procedures to actually start reclamation work;

RAMP is designed to reclaim small scattered parcels of abandoned mine lands in rural areas. Many of the owners of these lands neither consented to nor participated in the mining process, yet now are left with land that is a liability rather than an asset—they pay taxes but derive no income. The States will have a heavy workload on the public and privately owned areas and may not be able to provide assistance to many of these small parcels for many years.

In the meantime, reclamation work that could be done under RAMP, work important to environmental improvement and work that would provide much needed jobs in the coal-mining areas, sits on the shelf.

The rationale for having RAMP as authorized by section 406 of the act was to take advantage of a fine-tuned, workable, existing, local, State, and Federal delivery system that has a 45-year record of excellence. The system provides technical and financial assistance for conservation work by the Soil Conservation Service through the 3,000 locally run soil conservation districts.

As we move toward an amalgamation of all the reclamation programs, and again this is something I believe can be worked on, we should not lose sight of SCS's valuable role.

So, Mr. President, I would close by urging that the distinguished chairman of the Interior Appropriations Subcommittee as well as the authorizing committee having jurisdiction over the Surface Mining Act, Senator McCURE, keep in mind the above facts as we proceed to the conference deliberations on this matter. In so

doing, I would ask my good friend just one or two questions.

First, is it fair to say that this course of proceeding to conference on the RAMP issue, keeping in mind both the possible future consolidation of reclamation programs as well as the emergency nature of the pending projects, is the best way to go forward at this point?

Second, I would welcome the chairman's comments on the importance of SCS's work in rural reclamation and the need to continue these very valuable services in some form in the future.

Mr. McCURE. Mr. President, I believe the Senator from Kentucky is correct, the best way to proceed at this point is to take the issue to conference. As the Senator has stated, the House of Representatives included in their bill \$13.2 million for 45 RAMP projects and I think it most prudent to proceed to conference to determine the final disposition of this matter.

With respect to the Senator's question on the importance of the Soil Conservation Service's reclamation work, I have long felt that the SCS can and should have an integral role in carrying out the reclamation activities so important to this Nation. While I believe the States should be responsible for conducting their own reclamation programs—which, in fact, is the intent of the Surface Mining and Reclamation Act—the expertise of the SCS should not go unused, and I would strongly urge the States to use the SCS and other affiliated conservation personnel to the greatest degree possible.

Mr. MATTINGLY. I wish to draw the attention of the distinguished chairman of the Education Subcommittee to a matter which I believe deserves the attention of the Congress. The Atlanta University is a graduate institution of higher education located in Atlanta, Ga. For almost 12 decades it has trained young, black Americans for leadership roles in our society and indeed, throughout the world.

Its graduate program, offering masters and doctoral degrees, has a long and distinguished history. In fact, its School of Business Administration was, until 1981, the only accredited graduate school of business in the black community in America.

However, this university remains ineligible for Federal assistance under title III of the Higher Education Act of 1965. This act, which has as one of its original purposes, the goal of providing assistance to historically black colleges and universities, now contains eligibility requirements which prevent participation by the Atlanta University's graduate program.

I do not believe that it was the intent of the authors of the assistance program to exclude this institution from eligibility for assistance. It is my

hope that the subcommittee will carefully review this situation during its deliberations on funding for fiscal year 1983 and examine steps that are necessary to insure that this prestigious institution will be eligible for participation under all parts of title III.

Mr. SCHMITT. I understand the concern of my friend and colleague, the Senator from Georgia and I appreciate him taking the time to draw this matter to my attention. I confess that I have a number of concerns regarding title III assistance and the existing eligibility mechanisms. I can assure him that the subcommittee will assemble all relevant information pertaining to the problem he cites and that we will consider doing whatever we possibly can to rectify this legislative oversight, with the full consultation of the distinguished chairman of the Education Authorizing Subcommittee, Senator STAFFORD.

Mr. MATTINGLY. I thank the chairman for his pledge. I find it difficult to understand why this fine institution has been excluded from participation in a program which was created to provide assistance to historically black colleges and universities. I look forward to working with him during the next few months in order to correct this matter.

Mr. PROXMIER. Mr. President, I wish to engage the Senator from Idaho (Mr. McCURE) in a brief colloquy on funding for the solvent refined coal project, SRC-1 in Kentucky.

During the last session this project was the subject of an amendment I offered to the Interior appropriations bill. In addition the project is also the subject of a rescission message, R 82-30 sent to Congress by President Reagan, on July 28.

I understand that a total of \$257.1 million has been appropriated for this project. The Department of Energy reported that \$138 million had been obligated as of the end of June. President Reagan recommended rescinding \$83.5 million, leaving \$35.6 million for termination costs and limited post-baseline work.

Mr. McCURE. That is correct.

Mr. PROXMIER. However, ICRC, the company set up to carry out this project, claims that the rescission would not leave them with enough money to fund their current commitments including termination, baseline studies and post-baseline work. I understand that the Senate Appropriations Committee has given SRC-1 \$55.1 million which is \$19.5 million over the amount which was requested by the Reagan administration.

Mr. McCURE. That is partially correct. Let me point out that of the \$55.1 million, \$22 million is for actual termination costs and \$5 million is for DOE administration costs.

Mr. PROXMIER. I am concerned that these funds will not be the last

obligated by the Department of Energy on this project and that ICRC will be back again next year for more of the \$64 million which remains or will ask for new appropriations.

During our debate on the project last year, supporters of the project assured me that funds were only going to be used to complete the baseline study.

Could the Senator assure me that no other funds than those specified in the amendment adopted by the committee will be used for this project?

Mr. McCURE. Let me say to the Senator from Wisconsin that there is no intention to use any of the remaining \$64 million—or any other available funds—for any further work on the SRC-1 project.

I know of no planned or desired work outside of that included in the postbaseline workplan which the Congress will be asked to fund, and I fully intend to either rescind the \$64 million at a later date or use the funds for other purposes altogether.

Mr. PROXMIER. Could the Senator also assure me that no funds will be used for construction or construction-related activities such as site preparation?

Mr. McCURE. Yes, that is correct. No funds will be used for activities related to construction.

Mr. PROXMIER. I intend to offer language in conference to clarify the point that these are the last Department of Energy funds available for this project. Will the Senator support me on this in conference?

Mr. McCURE. Yes, I will, to the extent I have just outlined.

Mr. HATFIELD. Mr. President, third reading.

The PRESIDING OFFICER. If there are no further amendments to be proposed, the question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed for a third reading, and were read the third time.

The PRESIDING OFFICER. The question is, Shall the bill pass?

The bill (H.R. 6863), as amended, was passed.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. PROXMIER. I move to lay that motion on the table.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon will withhold for just a moment. The Senate will be in order. It is difficult to hear and the Senator from Oregon is seeking recognition.

Mr. HATFIELD. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. ARMSTRONG) appointed Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. PROXIMIRE, Mr. STENNIS, Mr. INOUE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, and Mr. DECONCINI conferees on the part of the Senate.

Mr. HATFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, after all these years and after several hours of debate and a number of record votes, this bill has passed by voice vote, and I have to confess I doubted an effort to do that. I went downstairs to get a bite of dinner and was told just now that the bill passed by voice vote, which proves, of course, that if I leave the room things go much better, but I hope no one finds that out.

Mr. President, I congratulate the distinguished Senator from Oregon (Mr. HATFIELD) and the distinguished Senator from Wisconsin (Mr. PROXIMIRE) for the management of this bill in near record time. It was an important bill that was filled with controversy and it was handled in a skillful way on both sides and by the staff on both sides.

I wish to express my personal appreciation, and I am sure that of all Senators, for their expeditious management and successful passage of this measure.

Mr. ROBERT C. BYRD. Will the majority yield?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I wish to associate myself with the remarks that have just been made by the distinguished majority leader with respect to the skill that was demonstrated by the distinguished Senator from Oregon (Mr. HATFIELD) and the skill that was demonstrated by the distinguished Senator from Wisconsin (Mr. PROXIMIRE). They have done an excellent job. It has been long hours and I am thankful to them and in their debt.

Mr. HATFIELD. Mr. President, I thank the leadership for their remarks.

Mr. BAKER. The record should note that the Senator did that on his way out the door. (Laughter.)

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 9 p.m. in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I wish to announce there will be no more record votes tonight and also that either tonight or perhaps as soon as we convene tomorrow it is the intention of the leadership to ask the Senate to proceed to the consideration of the immigration bill.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEED FOR EFFECTIVE ENFORCEMENT AGAINST ILLEGAL IMMIGRANTS EMPLOYED IN AGRICULTURE

Mr. SIMPSON. Mr. President, the basic purpose of S. 2222, the Immigration Reform and Control Act of 1982, is implicit in the bill's title—to reform our legal immigration system and to improve control over illegal immigration to this country.

Although absolute data on the occupations of illegal immigrants is difficult to obtain, it was made clear through the long series of hearings held on this bill that the harvesting of American agriculture, particularly in the West, is currently heavily dependent on the labor of illegal immigrants.

The Census Bureau found that the population of U.S. migrant farmworkers decreased from 400,000 in 1960 to 200,000 in 1970. The Department of Labor actively encourages U.S. citizens and permanent residents to leave seasonal agricultural work for more permanent employment with greater upward mobility.

Conversely, the Department of Agriculture estimated that there are about 300,000 to 600,000 illegal migrant farmworkers now doing these jobs, clearly dominating this labor market. Illegal immigrants are indeed therefore disproportionately concentrated in agricultural harvest work, and immigration enforcement efforts should be targeted accordingly, while providing farmers and ranchers with a legal source of workers if Americans cannot be found to do these jobs.

Unfortunately, an amendment has been introduced to S. 2222 by my respected colleague Senator HAYAKAWA which would result in a severe curtailment of this needed enforcement by instituting a requirement that the border patrol obtain search warrants before conducting farm and ranch checks.

While I recognize that Senator HAYAKAWA and his cosponsors have offered this amendment with the very best intention, I must voice my strong opposition because I believe that this is basically an antienforcement measure when the whole purpose of immigration reform is to increase enforcement.

Furthermore, the bill, (S. 2222), provides for an expedited H-2 program to provide a legal avenue of needed workers to agricultural employers. If there is not sufficient enforcement to insure that illegal workers are not hired, there will be no incentive for these employers to go through the H-2 program.

The courts have consistently ruled that searches of the open fields do not constitute a violation of the privacy rights protected by the 4th amendment.

I have asked the Immigration and Naturalization Service to answer various questions regarding the potential effect that a search warrant requirement would have on enforcement operations. I would urge my colleagues to carefully read the response of Alan Nelson, the INS Commissioner. I ask unanimous consent that my original letter and Mr. Nelson's response be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 4, 1982.

Hon. ALAN C. NELSON,
Commissioner of Immigration and Naturalization, Washington, D.C.

DEAR AL: As you know, Senator S. I. Hayakawa and others have introduced an amendment to S. 2222, the Immigration Reform and Control Act of 1982, that would forbid an officer or employee of the Immigration and Naturalization Service from entering on the premises of a farm or other agricultural operation without "a properly executed warrant."

The companion amendment in the House, introduced by Congressman Dannemeyer, et al., reads: "... without consent of the owner (or agent thereof) or a properly executed warrant for the purpose of interrogating a person believed to be an alien as to his right to be in the United States."

With respect to these amendments, would you please provide us with replies to the following questions:

1. Concerning the principal issue, equal protection under the Fourth Amendment against warrantless or unreasonable searches, why is a place of business, for example, a plant or factory, different from a farm or ranch operation? Or, put another way, why is the consent of owner or a

search warrant more justified in one place than the other?

2. Specifically, what would be the special problems or difficulties associated with obtaining: (a) a "properly executed warrant" to search agricultural lands or premises, or (b) the consent of the owner or agent?

3. On what statute or case law does the INS base the right of immigration officers to search open agricultural fields for illegal aliens beyond the 25-mile border zone without a warrant or the consent of owner?

4. According to current immigration law or practices, what areas on agricultural premises may not be searched without a warrant or the consent of owner?

5. Would the proposed amendments affect the special search authority of the INS within the 25-mile border zone?

6. What might be the adverse effects of the proposed amendment on the farm and ranch operations of the U.S. Border Patrol beyond the 25-mile border zone?

7. If the farm and ranch checks of the Border Patrol and INS investigators were curtailed in the interior, what effects might this have on control of the internal migration of illegal aliens?

8. To what extent, if any, would the proposed amendment limit the capability of immigration enforcement offices to pursue illegal aliens by foot, jeep, helicopter, or other means, over farm and ranch properties more than 25 miles from the border?

9. What effect, if any, would the proposed amendment have on INS anti-smuggling activities?

10. Would the proposed amendment hinder the enforcement of employer sanctions with respect to agricultural employers? If so, please explain.

11. Senator Hayakawa has stated the following in support of his amendment:

"INS statistics show us that 8 percent of the illegal aliens employed in the United States are working in agriculture. However, almost 50 percent of undocumented alien workers apprehended are in agriculture."

"These statistics reflect a bias in the enforcement activities of INS . . . selectively enforcing the law by going to the industry where it is simplest and most cost effective to carry out the law."

Question. Is there a bias in the enforcement activities of the INS with respect to agricultural labor checks? If not, what is the explanation for the figures cited by Senator Hayakawa?

Thank you.

Best personal regards.

Most sincerely,

ALAN K. SIMPSON,
Chairman.

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,

Washington, D.C., August 10, 1982.

HON. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of August 4, 1982 regarding the amendment proposed by Senator Hayakawa to S. 2222, the Immigration Reform and Control Act of 1982, that would forbid an officer or employee of the Immigration and Naturalization Service to enter on the premises of a farm or other agricultural operation without "a properly executed warrant".

Set forth below are specific responses to the questions you raised concerning the anticipated impact on Service enforcement efforts should that amendment be adopted.

1. Section 287(a)(2) of the Immigration and Nationality Act grants Immigration Officers the authority, without a warrant, to arrest aliens who in the officer's presence or view are attempting to enter the United States in violation of the immigration laws, or are reasonably believed to be in the United States in violation of the immigration laws.

Farm and ranch operations normally are conducted in open areas providing unrestricted avenues of escape to individuals wishing to evade the detection of immigration officers. It was the intent of present statutes in such circumstances to enable Service officers to apprehend aliens who are in their presence or sight and who are in violation of the immigration laws before they are able to abscond.

The circumstance of violations occurring in plain view is, of course, not normally present in factory situations where employees usually are enclosed within a confined area and not observed. Moreover, in such situations, if owner consent is sought and refused, exits may be monitored by Service officers while a search warrant is sought, to prevent aliens from absconding.

2. (a) The special problems associated with obtaining a warrant to search agricultural lands arise from the practiced difficulties in obtaining a warrant in time to respond to an observed violation. Present standards require a "particularized description" of the location to be searched, as well as of the evidence or person to be sought. The probable cause necessary to support these standards, in most cases, necessitates between four and six hours to process a routine warrant. This includes travel between the site to be searched and the U.S. Attorney's office, clerical requirements to complete the warrant and supporting documents, approval by a magistrate, etc.

Agricultural work crews, who are usually in the employ of a labor contractor under contract to several farms are extremely mobile moving rapidly from field to field and farm to farm. By the time a valid warrant could be secured, these crews likely will have moved to another location, rendering the warrant invalid. Countless resources would be wasted by repeated attempts to re-write warrants under constantly changing conditions.

(b) Regarding the proposal to obtain consent of the owner or agent, it is presently Service policy for officers, whenever possible, to inform the owner of their presence when entering on private lands. However, where the owner is not available or not known, as frequently is the case when farm land is leased or sublet, it is often difficult to locate the individual with legal control over the land. By the time such notification could be sought and secured, the aliens likely will have been alerted to the presence of immigration officers and will have departed.

Furthermore, if the receipt of consent were mandated by legislation, it is unlikely that such consent would ever be granted by an owner with the knowledge that the alternative for the Service is a search warrant which probably could not be effectively executed.

3. The authority of immigration officers to enter onto open lands without a warrant or consent to enforce the immigration laws is based on Section 287(a)(2) of the Immigration and Nationality Act which provides for the arrest without warrant of aliens

who, in the officer's presence or view, are reasonably believed to be in violation of the immigration laws.

Furthermore, it is well-settled law that the Fourth Amendment does not bar entry onto so-called "open fields" by a law enforcement officer in the performance of his official duties. The term "open fields" has been interpreted to include private lands but not including dwellings or the immediately surrounding area. (See *Hester v. U.S.*, 265 U.S. 57 (1924)).

In *Katz v. U.S.*, 389 U.S. 347 (1967) the Supreme Court determined that "the Fourth Amendment protects people, not places." In *Hester*, the court decided that the special protection accorded to people by the Fourth Amendment is not extended to the open fields. Passage of the proposed amendments would extend procedural requirements well beyond what the Supreme Court has determined the constitution requires to protect the people from unreasonable searches.

4. Consistent with outstanding case law, the dwellings and curtilage (an area of domestic use immediately surrounding a dwelling) on agricultural premises may not be entered by Service officers without consent or a valid search warrant.

5. The present proposed amendments apparently would not affect INS authority within 25 miles of the border. ("Notwithstanding any other provision of this section other than paragraph (3) subsection (4) . . .")

6. The proposed amendment, if passed, would definitely adversely affect the ability of the Immigration and Naturalization Service, particularly the Border Patrol, to enforce the immigration laws. Farm and Ranch operations presently account for the apprehension of approximately 60,000 employed illegal aliens annually. Passage of the proposed amendment would drastically reduce these apprehensions. Although it is difficult to know the precise extent to which this number would be decreased, the proposed legislation would seriously curtail Farm and Ranch Operations as an effective enforcement tool.

7. Should farm and ranch checks by Service officers be substantially curtailed, there could be serious additional ramifications on the migration of illegal aliens to the interior.

The ineffectiveness of Service Farm and Ranch enforcement resulting from passage of the proposed amendment would tend to create a type of "free zone" for illegal aliens in the agricultural areas of the interior, as it would be extremely difficult or impossible to effect their apprehension and removal. This would tend to stabilize the status of these individuals, which, in turn would encourage them to bring in other family members—spouses, children, etc., in light of the reduced risk of Service detection. Internal migration could be expected to increase resulting in added burdens to American social and educational systems within the rural areas of the interior.

8. The proposed amendment would seriously reduce the Service officers' capability to effectively track and pursue large groups of smuggled aliens or other illegal entrants who are enroute from border areas to interior locations. Presently the INS enters into long-term agreements with landowners outside the 25 mile limit in order to maintain continuity of surveillance and tracking across private lands. The Hayakawa amendment would discourage such agreements and

possibly render existing agreements invalid by requiring entry only with a warrant.

Such circumstances would result in smuggling groups traveling virtually unchecked across private lands and into the interior where they would be undetected.

9. The effect of the proposed amendments on Service anti-smuggling activities is in part related to INS officers' ability to track and detect smugglers and smuggling groups across open areas into the interior. If this activity were seriously restricted by warrant or consent requirements, the overall result could be expected to be fewer smuggling groups detected, less smuggling information and intelligence gathered, and fewer smugglers apprehended and prosecuted.

Furthermore, the owners and management personnel of farms or other agricultural related businesses (e.g., labor contractors) are, in some cases, principals in felony investigations involving alien smuggling, harboring, and transporting. It would be virtually impossible to effectively implicate such individuals if the consent or warrant requirements were legislated.

10. The proposed amendment could be anticipated to have a definite adverse effect on the enforcement of employer sanctions provisions in agricultural areas. Because warrants would be rendered ineffective [§2(a)] and consent would infrequently be granted, it would be impossible to effect the apprehension of illegal aliens employed in these areas. Cases against notorious employers of illegal aliens would be difficult, effectively placing these employers outside the range of sanctions enforcement.

11. The INS does not selectively enforce the immigration laws with regard to agricultural areas. In support of his amendment, Senator Hayakawa has cited a statistic that almost 50 percent of undocumented alien workers apprehended by INS are in agriculture. Actually, of the approximately one million Service apprehensions annually (953,475 in fiscal year 1981), only 8 percent are located in agricultural occupations.

Of the one million illegal aliens apprehended yearly by Service officers, approximately 168,000 (in FY 1981) are located after they have entered the United States and secured employment. Half of these employed aliens are located in agriculture, including almost 60,000 which are apprehended as a result of Farm and Ranch checks.

It should be remembered however, that Farm and Ranch Operations are conducted by the Border Patrol which represents this Agency's greatest enforcement presence, with jurisdiction predominantly in agricultural areas along the Southern and Northern borders of the United States. It is not unreasonable to expect that of the number of employed aliens apprehended by the Border Patrol, the majority would be working in agricultural occupations.

The Immigration and Naturalization Service maintains that a more accurate reflection of Service resource allocation for enforcement in agricultural areas is the percentage of actual enforcement time devoted to such activity rather than the apprehensions which result. The overall percentage of INS field enforcement man-hours devoted solely to effect the apprehension of illegal aliens in agricultural occupations in Fiscal Year 1981 was 2.0 percent.

In conclusion, it is our opinion that the hyper-technical requirements mandated by the Hayakawa amendment would have a definite adverse impact on the enforcement capabilities of INS and, in essence, would be antagonistic to the basic thrust of S. 2222—

which is to control illegal immigration into this country.

Please do not hesitate to contact me if I can provide further information on this matter. And congratulations on your success in bringing this important legislation to the floor of the Senate.

Sincerely,

ALAN C. NELSON,
Commissioner.

Mr. BAKER. Mr. President, I have certain requests that I believe have been cleared by the minority, and I would like to state them now for the consideration of the minority and other Senators.

CORRECTION TO S. 537—STATE JUSTICE INSTITUTE

Mr. BAKER. Mr. President, I ask unanimous consent that the effective date in S. 537 on page 26, line 22, be corrected to read "October 1, 1982."

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 6128 BE HELD AT THE DESK

Mr. BAKER. Mr. President, I have another request that I also think has been cleared.

Mr. President, I ask unanimous consent that H.R. 6128 be held at the desk until the close of business on Thursday, August 12.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR THURSDAY

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR CHILES ON TOMORROW

Mr. BAKER. Mr. President, on tomorrow after the recognition of the two leaders under the standing order, I ask unanimous consent that the distinguished Senator from Florida (Mr. CHILES) be recognized on a special order of not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special order there be a brief period for the transaction of routine morning business in which Senators may speak for not more than 3 minutes each to extend no longer than 10:45 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 2222

Mr. BAKER. Mr. President, I am about to put a request that, at 10:45

a.m., the Chair lay before the Senate S. 2222, the so-called immigration bill. I have discussed this matter with the minority leader who indicates that there are certain clearances that he wishes to pursue before that decision is final.

I am going to ask the Chair in a moment to lay that measure before the Senate and make it the pending business, but subject to an objection by the minority leader on tomorrow, in which case the measure will be laid aside.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

Mr. BAKER. Mr. President, I ask unanimous consent that the Chair now lay before the Senate S. 2222; that at 10:45 a.m. tomorrow the Senate resume consideration of that bill subject to an objection by the minority leader.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I will not object, I know of no objection on this side of the aisle to proceeding. However, as the distinguished majority leader has stated, the clearances have not been fully obtained. I do not anticipate objection. I have no objection to laying it down now under those conditions. I should state for the record that if there were an objection, of course, the majority leader would have his right to move to proceed. I say that for my own side.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the majority leader? Hearing none, it is so ordered. The bill be stated by title.

The legislative clerk read as follows:

A bill (S.2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

The Senate preceded to consider the bill which had been reported from the Committee on the Judiciary with an amendment to strike out all after the enacting clause, and insert the following:

SHORT TITLE; REFERENCES IN ACT

SECTION 1. (a) This Act may be cited as the "Immigration Reform and Control Act of 1982".

(b) Except as otherwise specifically provided in this Act, whenever in this Act an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

TABLE OF CONTENTS

Sec. 1. Short title; references in Act.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

Sec. 101. Control of unlawful employment of aliens.

Sec. 102. Fraud and misuse of certain documents.

PART B—ENFORCEMENT AND FEES

Sec. 111. Immigration and Naturalization Service enforcement activities.

Sec. 112. Unlawful transportation of aliens to the United States.

Sec. 113. Fees.

PART C—ADJUDICATION PROCEDURES AND ASYLUM

Sec. 121. Inspection and exclusion.

Sec. 122. United States Immigration Board and establishment of immigration judge system.

Sec. 123. Judicial review.

Sec. 124. Asylum.

Sec. 125. Effective dates and transition.

Sec. 126. Technical and conforming changes.

PART D—ADJUSTMENT OF STATUS

Sec. 131. Limitations on adjustment of non-immigrants to immigrant status by visa abusers.

TITLE II—REFORM OF LEGAL IMMIGRATION

PART A—IMMIGRANTS

Sec. 201. Numerical limitations.

Sec. 202. Preference and nonpreference allocation systems.

Sec. 203. Labor certification.

Sec. 204. G-4 special immigrants.

Sec. 205. Effective dates and transition.

PART B—NONIMMIGRANTS

Sec. 211. H-2 workers.

Sec. 212. Students.

Sec. 213. Visa waiver for certain visitors.

TITLE III—LEGALIZATION

Sec. 301. Legalization.

TITLE IV—REPORTS TO CONGRESS

Sec. 401. Reports to Congress.

TITLE I—CONTROL OF ILLEGAL IMMIGRATION

PART A—EMPLOYMENT

CONTROL OF UNLAWFUL EMPLOYMENT OF ALIENS

SEC. 101. (a)(1) Chapter 8 of title II is amended by inserting after section 274 (8 U.S.C. 1324) the following new section:

"UNLAWFUL EMPLOYMENT OF ALIENS

"SEC. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section—

"(A) to hire, or for consideration to recruit or refer, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment, or

"(B) to hire for employment in the United States an individual without complying with the requirements of subsection (b).

Subparagraph (B) shall not apply to a person or entity which employs three or fewer employees.

"(2) It is unlawful for a person or other entity who, after hiring an alien for employment subsequent to the date of the enactment of this Act and in accordance with paragraph (1), continues to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the requirements of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1)(A) with respect to such hiring, recruiting, or referral.

"(4) As used in this section, the term 'unauthorized alien' means, with respect to the employment of an alien at a particular time, that the alien is not at that time either

(A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(b) Except as provided in subsection (c), the requirements referred to in paragraphs (1)(B) and (3) of subsection (a) are, in the case of a person or other entity hiring, recruiting, or referring an individual for employment in the United States, that—

"(1) the person or entity must attest, under penalty of perjury and on a form established by the Attorney General by regulation, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in accordance with subsection (a)(1)(A) by examining the individual's—

"(A) United States passport, or

"(B)(i) social security account number card (issued by the Social Security Administration under section 205(c)(2)(B) of the Social Security Act and in such secure form, if any, as the Administrator of Social Security has made available) or United States birth certificate, and

"(ii)(I) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens and designated for use for this purpose,

"(II) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds sufficient for purposes of this section, or

"(III) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in subclause (II), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification;

"(2) the individual must attest, under penalty of perjury and on the form established by the Attorney General for purposes of paragraph (1), that the individual is a citizen or national of the United States, an alien lawfully admitted for permanent residence, or an alien who is authorized under this Act or by the Attorney General to be hired, recruited, or referred for such employment; and

"(3) after completion of such form in accordance with paragraphs (1) and (2), the person or entity must retain the form and make it available for inspection by officers of the Service or of the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending on the later of five years after such date or, in the case of the hiring of the individual, one year after the date the individual's employment is terminated.

A person or entity has complied with paragraph (1) with respect to examination of a document if the document reasonably appears on its face to be genuine.

"(c)(1) Within three years after the date of the enactment of this section, the President shall implement such changes in or additions to the requirements of subsection (b) as may be necessary to establish a secure system to determine employment eligibility in the United States, which system shall conform to the requirements of paragraph (2).

"(2) Such system shall be designed in a manner so that—

"(A) the system will reliably determine that a person with the identity claimed by an employee or prospective employee is eli-

gible to work, and that the employee or prospective employee is not claiming the identity of another individual;

"(B) if the system requires an examination by an employer of any document, such document must be in a form which is resistant to counterfeiting and tampering, unless the President and the Judiciary Committees of the Congress have determined that such form is unnecessary to the reliability of the system;

"(C) personal information utilized by the system is available to Government agencies, employers, and other persons only to the extent necessary for the purpose of verifying that the individual is not an unauthorized alien;

"(D) a verification that an employee or prospective employee is eligible to be employed in the United States may not be withheld for any reason other than that the employee or prospective employee is an unauthorized alien;

"(E) the system shall not be used for law enforcement purposes (other than for enforcement of this section or section 1546 of title 18, United States Code); and

"(F) if the system requires individuals to present a card or other document (designed specifically for use for this purpose) at the time of hiring, recruitment, or referral, then such document may not be required to be presented for any purpose other than under this section (or enforcement of section 1546 of title 18, United States Code) nor to be carried on one's person.

"(d)(1)(A) In the case of a person or entity which violates paragraph (1)(A) or (2) of subsection (a) and which—

"(i) has not previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of \$1,000 for each unauthorized alien with respect to which the violation occurred, or

"(ii) has previously been determined (after opportunity for a hearing under paragraph (4)(A)) to have violated either such paragraph, the person or entity shall be subject to a civil penalty of \$2,000 for each unauthorized alien with respect to which the violation occurred.

"(B) In the case of a person or entity which has engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the person or entity shall be fined not more than \$1,000, imprisoned not more than six months, or both, for each violation.

"(2) Whenever the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment, or referral in violation of paragraph (1)(A) or (2) of subsection (a), the Attorney General may bring a civil action in the appropriate district court of the United States requesting such relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

"(3) A person or entity which violates subsection (a)(1)(B) shall be subject to a civil penalty of \$500 for each individual with respect to which such violation occurred.

"(4)(A) Before assessing a civil penalty under this subsection against a person or entity, the Attorney General shall provide the person or entity with notice and the opportunity to request a hearing respecting the violation. Any hearing so requested shall be

conducted before an immigration officer designated by the Attorney General.

"(B) If the person or entity against whom a civil penalty is assessed fails to pay the penalty within the time prescribed in such order, the Attorney General shall file a suit to collect the amount in any appropriate district court of the United States. In any such suit or in any other suit seeking to review the Attorney General's determination, the suit shall be determined solely upon the administrative record upon which the civil penalty was assessed and the Attorney General's findings of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(e) In providing documentation or endorsement of authorization of aliens (other than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or refer or recruit for employment, unauthorized aliens.

"(g) The President shall monitor the implementation of this section (including the effectiveness of the verification system described in subsection (b) and the status of the development and implementation of the secure verification system described in subsection (c)) and the impact of this section on employment of citizens and aliens in the United States, on the illegal entry of aliens into the United States, and on the failure of aliens who have legally entered the United States to remain in legal status. For the purpose of conducting such monitoring and beginning development of the system described in subsection (c), there are authorized to be appropriated \$10,000,000 for fiscal year 1983."

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(B)(i) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the six-month period beginning on the first day of the first month beginning after the date of the enactment of this Act, the Attorney General shall notify such person or entity of such belief and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(ii) Where the Attorney General has reason to believe that a person or entity may have violated subsection (a) of section 274A of the Immigration and Nationality Act during the subsequent six-month period, the Attorney General shall, in the first instance of such a violation (or violations) occurring during such period, provide a warning to the person or entity that such a violation or violations may have occurred and shall not conduct any proceeding, nor impose any penalty, under such section on the basis of such alleged violation or violations.

(C) During the year beginning on the date of the enactment of this Act, the Attorney General, in cooperation with the Secretaries of Commerce, Labor, and Agriculture and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing

employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act. For the purpose of carrying out this subparagraph, there are authorized to be appropriated \$10,000,000 for fiscal year 1983.

(b) The table of contents is amended by inserting after the item relating to section 274 the following new item:

"Sec. 274A. Unlawful employment of aliens."

(c) The Farm Labor Contractor Registration Act of 1963 is amended—

(1) by amending paragraph (6) of section 5(b) (7 U.S.C. 2044(b)) to read as follows:

"(6) has been found to have violated paragraph (1)(A) or (2) of section 274A(a) of the Immigration and Nationality Act;"

(2) by striking out paragraph (f) of section 6 (7 U.S.C. 2045); and

(3) by striking out subsection (c) of section 9 (7 U.S.C. 2048).

FRAUD AND MISUSE OF CERTAIN DOCUMENTS

SEC. 102. (a) Section 1546 of title 18, United States Code, is amended—

(1) by amending the heading to read as follows:

"§ 1546. Fraud and misuse of visas, permits, and other documents";

(2) by striking out "or other document required for entry into the United States" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(3) by striking out "or document" in the first paragraph and inserting in lieu thereof "border crossing card, alien registration receipt card, or other document prescribed by statute or regulation for entry into or as evidence of authorized stay or employment in the United States";

(4) by striking out "\$2,000" and inserting in lieu thereof "\$5,000";

(5) by inserting "(a)" before "Whoever" the first place it appears, and

(6) by adding at the end the following new subsection:

"(b) Whoever without authority of the issuing agency and with unlawful intent—

"(1) photographs, prints, or in any manner makes or executes any engraving, photograph, print, or impression in the likeness of—

"(A) any document presented to satisfy a requirement of the Immigration and Nationality Act or regulations issued thereunder, or

"(B) any document presented to obtain a required document described in subparagraph (A);

"(2) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, an engraving, photograph, print, or impression in the likeness of a document described in subparagraph (A) or (B) of paragraph (1);

"(3) alters any document described in subparagraph (A) or (B) of paragraph (1) relating to another person; or

"(4) sells, transfers, distributes, presents, or uses, or possesses with the intent to sell, transfer, distribute, present, or use, any document described in subparagraph (A) or (B) of paragraph (1) relating to another person, whether or not altered,

shall be fined not to exceed \$5,000 or imprisoned not more than five years, or both."

(b) The item relating to section 1546 in the table of sections of chapter 75 of such title is amended to read as follows:

"1546. Fraud and misuse of visas, permits, and other documents."

PART B—ENFORCEMENT AND FEES

IMMIGRATION AND NATURALIZATION SERVICE ENFORCEMENT ACTIVITIES

SEC. 111. (a) It is the sense of Congress that an essential element of the program of immigration control and reform established by this Act is an increase in border patrol and other enforcement activities of the Immigration and Naturalization Service in order to prevent and deter the illegal entry of aliens into the United States.

(b) In order to do this in the most effective and efficient manner, it is the intent of Congress to provide, through the annual authorization of appropriations process for the Department of Justice, for a controlled and closely monitored increase in the level of the border patrol and of other appropriate enforcement activities of the Immigration and Naturalization Service to achieve an effective level of control of illegal immigration.

UNLAWFUL TRANSPORTATION OF ALIENS TO THE UNITED STATES

SEC. 112. Section 274 (8 U.S.C. 1324) is amended—

(1) by striking out "Provided, however" and all that follows up to the period at the end of subsection (a), and

(2) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States such alien by himself or through another in any manner whatsoever, regardless of whether or not fraudulent, evasive, or surreptitious means are used and regardless of any official action which may later be taken with respect to such alien, shall, for each transaction constituting a violation of this subsection (regardless of the number of aliens involved)—

"(1) be fined an amount equal to \$2,500, the imposition of which may not be suspended by the court, plus, in the court's discretion, an additional amount not to exceed \$2,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed one year, or both, or

"(2) in the case of a second or subsequent offense, an offense done for the purpose of commercial advantage or private gain, an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer, or an offense during which either the offender or the alien with the knowledge of the offender makes any false or misleading statement or engages in any act or conduct intended to mislead any officer, agent, or employee of the United States, be fined \$2,500, the imposition of which may not be suspended by the court, plus, in the court's discretion, an additional amount not to exceed \$7,500 for each such alien in respect to whom a violation of this subsection occurred, or be imprisoned not to exceed five years, or both."

FEES

SEC. 113. (a) Section 281 (8 U.S.C. 1351) is amended—

(1) by amending the title to read as follows:

"NONIMMIGRANT VISA FEES AND BORDER FACILITY FEES"

(2) by inserting "(a)" after "SEC. 281."; and

(3) by adding at the end the following new subsection:

"(b) The Attorney General, after consultation with the Secretary of State, shall impose fees for an alien's use of border facilities or services of the Service in an amount necessary to make the total of such fees substantially equal to the cost of maintaining and operating such facilities and services."

(b) The item in the table of contents relating to section 281 is amended to read as follows:

"Sec. 281. Nonimmigrant visa fees and border facility fees."

PART C—ADJUDICATION PROCEDURES AND ASYLUM

INSPECTION AND EXCLUSION

SEC. 121. Section 235(b) (8 U.S.C. 1225(b)) is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(b)(1) If an examining immigration officer at the port of arrival determines that an alien does not have the documentation required to obtain entry into the United States, does not have any reasonable basis for legal entry into the United States, and has not applied for asylum under section 208, such alien shall not be admissible and shall be excluded from entry into the United States without further inquiry or hearing."

"(2) If an examining immigration officer at the port of arrival determines that an alien (other than an alien crewman and except as otherwise provided in subsection (c) of this section and in section 273(d)) is otherwise not clearly and beyond a doubt entitled to land, such alien shall be detained for a hearing on exclusion of alien to be held before an immigration judge."

(2) by designating the sentence beginning "The decision" as paragraph (3), and

(3) by adding at the end the following new paragraphs:

"(4) The Attorney General shall establish procedures, after consultation with the Judiciary Committees of the Congress, which assure that aliens are not excluded under paragraph (1) without an inquiry into their reasons for unlawfully seeking entry into the United States."

"(5) In the case of an alien who would be excluded from entry under paragraph (1) but for an application for asylum under section 208, the exclusion hearing with respect to such entry shall be limited to the issues raised by the asylum application."

UNITED STATES IMMIGRATION BOARD AND ESTABLISHMENT OF IMMIGRATION JUDGE SYSTEM

SEC. 122. (a) Title I is amended by adding at the end the following new section:

"UNITED STATES IMMIGRATION BOARD; USE OF IMMIGRATION JUDGES"

"SEC. 107. (a)(1) There is established in the Department of Justice a United States Immigration Board (hereinafter in this section referred to as the 'Board') composed of a Chairman and eight other members appointed by the Attorney General in accordance with regulations respecting appointments in the competitive service."

"(2) The term of office of the Chairman and all other members of the Board shall be six years except that—

"(A) of the members first appointed under this subsection, three shall be appointed for

a term of two years, three shall be appointed for a term of four years, and three shall be appointed for a term of six years,

"(B) a member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term, and

"(C) a member may serve after the expiration of his term until his successor has taken office."

"(3) Members of the Board (other than the Chairman) are entitled to receive compensation at the rate now or hereafter provided for grade GS-17 of the General Schedule, under section 5332 of title 5, United States Code. The Chairman is entitled to receive compensation at the rate now or hereafter provided for grade GS-18 of the General Schedule, under section 5332 of title 5, United States Code."

"(4) The Chairman shall be responsible on behalf of the Board for the administrative operations of the Board and shall promulgate rules of practice and procedure for the Board and immigration judges."

"(b)(1) The Board shall hear and determine appeals from—

"(A) final decisions of immigration judges under this Act, other than a determination granting voluntary departure under section 244(e) within a period of at least thirty days if the sole ground of appeal is that a greater period of departure time should have been fixed;

"(B) decisions on applications for the exercise of the discretionary authority contained in section 212(c) or section 212(d)(3)(B);

"(C) decisions involving the imposition of administrative fines and penalties, including mitigation thereof;

"(D)(i) decisions on petitions filed in accordance with section 204, other than petitions to accord preference status under paragraph (1) or (2) of section 203(b) or petitions on behalf of a child described in section 101(b)(1)(F), and (ii) decisions on requests for revalidation and decisions revoking approval of such petitions under section 205; and

"(E) determinations relating to bond, parole, or detention of an alien under sections 242(a) and 242(c).

"(2) Three members of the Board constitute a quorum of the Board, except that the Chairman (or any member of the Board designated by the Chairman) is empowered to decide nondispositive motions."

"(3) The Board shall act in panels of three or more members (as designated by the Chairman in accordance with the rules of the Board). A final decision of such a panel shall be considered to be a final decision of the Board."

"(4) The Board shall review the decision of an immigration judge based solely upon the administrative record upon which the decision is based and the findings of fact in the judge's order, if supported by substantial evidence on the record considered as a whole, shall be conclusive."

"(5)(A) A final decision of the Board shall be binding on all immigration judges, immigration officers, and consular officers under this Act unless and until otherwise modified or reversed by the Attorney General under subparagraph (B) or by a court of the United States."

"(B) If the Attorney General determines that it is necessary for the national interest of the United States, the Attorney General may, within thirty days after the date of a final decision of the Board on a case, pro-

vide that the case be certified to him for his review, and the Attorney General shall render a decision on the case within thirty days. The determination of the Attorney General on such case shall be considered for other purposes of this Act to be the final decision of the Board on that case. If the Attorney General shall not have rendered a decision within thirty days, the final decision of the Board shall be considered final and not subject to further review by the Attorney General."

"(c)(1) The Attorney General shall, in accordance with procedures and regulations governing appointment and, except as provided in this paragraph, compensation in the competitive service—

"(A) appoint immigration judges, except that not more than seventy judges may be appointed and hold office under this section at any time;

"(B) set the rate of compensation for such judges at a rate not to exceed the rate now or hereafter prescribed for grade GS-16 of the General Schedule, under section 5332 of title 5, United States Code; and

"(C) designate one such judge to serve as chief immigration judge, who shall be entitled to compensation at the rate now or hereafter prescribed for grade GS-17 of such General Schedule."

"(2) In accordance with the rules established by the Board, the chief immigration judge—

"(A) shall have responsibility for the administrative activities affecting immigration judges, and

"(B) may designate any immigration judge in active service to hear and decide any cases described in paragraph (3)."

"(3) Immigration judges shall hear and decide—

"(A) exclusion cases under sections 236 and 360(c),

"(B) deportation and suspension of deportation cases under sections 242, 243, and 244,

"(C) rescission of adjustment of status cases under section 246,

"(D) with respect to judges designated to hear such cases, applications for asylum under section 208, and

"(E) such other cases as the Attorney General may provide by regulation."

An immigration judge may not hear or decide the case of an alien excluded from entry under section 235(b)(1).

"(4) In considering and deciding cases coming before them, immigration judges may administer oaths and receive evidence, shall determine all applications for discretionary relief which may properly be raised in the proceedings, and shall exercise such discretion conferred upon the Attorney General by law as the Attorney General may specify for the just and equitable disposition of cases coming before such judges."

(2) The table of contents is amended by inserting immediately after the item relating to section 106 the following new item:

"Sec. 107. United States Immigration Board; use of immigration judges."

(3) Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following new paragraph:

"(43) The term 'immigration judge' means such a judge appointed under section 107."

(4) Section 101(b) (8 U.S.C. 1101(b)) is amended by striking out paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) The first sentence of section 236(b) (8 U.S.C. 1226(b)) is amended by striking out "From a decision" and all that follows through "Attorney General" and inserting in lieu thereof the following: "Within fifteen days after the date of a decision of an immigration judge excluding or admitting an alien, the alien or the immigration officer in charge at the port where the hearing is held, respectively, may file an appeal of the decision with the United States Immigration Board in accordance with rules established by the Chairman of the Board."

(c) Section 242(b)(4) (8 U.S.C. 1252(b)(4)) is amended by striking out "reasonable, substantial, and probative" and inserting in lieu thereof "substantial".

(d) Section 242 (8 U.S.C. 1252) is amended by adding at the end the following new subsection:

"(i) Except as otherwise provided in section 291, in any deportation proceeding under this Act the burden of proof shall be upon the Attorney General to establish deportability by a preponderance of the evidence."

JUDICIAL REVIEW

SEC. 123. (a) Subsection (a) of section 106 (8 U.S.C. 1105a) is amended—

(1) by striking out "AND EXCLUSION" in the heading and inserting in lieu thereof "EXCLUSION, AND ASYLUM";

(2) by striking out "six months" in paragraph (1) and inserting in lieu thereof "forty-five days";

(3) by striking out "Attorney General's findings of fact" in paragraphs (4) and (6) and inserting in lieu thereof "findings of fact in the order";

(4) by striking out "(4) except as provided in" in paragraph (4) and inserting in lieu thereof "(4)(A) except as provided in subparagraph (B) and in";

(5) by striking out "reasonable, substantial, and probative" in paragraph (4) and inserting in lieu thereof "substantial";

(6) by adding at the end of paragraph (4) the following new subparagraph:

"(B) the court shall not review the order to the extent that the order relates to an application for asylum";

(7) by adding "and" at the end of paragraph (7);

(8) by striking out "and" at the end of paragraph (8) and inserting in lieu thereof a period, and

(9) by striking out paragraph (9).

(b) Subsection (b) of such section is amended to read as follows:

"(b)(1)(A) Notwithstanding any other provision of law (except as provided under subparagraph (B)), there shall be no judicial review of a final order of exclusion or a final order respecting an application for asylum.

"(B) Where the Attorney General has reviewed and either reversed or modified a determination of the United States Immigration Board under section 107(b)(5)(B), judicial review of such determination shall be available in the same manner, and to the same extent, as a final order of deportation may be reviewed under subsection (a).

"(2) Nothing in this section shall be construed as limiting the right of habeas corpus under the Constitution.

"(3) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction to review determinations of immigration judges or of the United States Immigration Board respecting the reopening or reconsideration of exclusion or deportation proceedings or asylum determinations outside of such proceedings, the re-

opening of an application for asylum because of changed circumstances, the Attorney General's denial of a stay of execution of an exclusion or deportation order, or the exclusion of an alien from the United States under section 235(b)(1)."

(c) Subsection (c) of such section is amended by striking out "deportation or of exclusion" and inserting in lieu thereof "an immigration judge".

(d) Section 279 (8 U.S.C. 1329) is amended by striking out "The district courts" in the first sentence and inserting in lieu thereof "Except as otherwise provided under section 106, the district courts".

(e) In the case of a final order of deportation entered before the date of the enactment of this Act, a petition for review with respect to that order may in no case be filed under section 106(a)(1) of the Immigration and Nationality Act later than the earlier of (1) thirty days after the date of the enactment of this Act, or (2) of the date (if any) such petition was required to be filed under the law in existence before the date of the enactment of this Act.

(f) Section 279 (8 U.S.C. 1329) is amended by inserting "(a)" after "Sec. 279.", and by adding at the end the following new subsection:

"(b) An action for judicial review of any administrative action arising under this Act, or regulations issued pursuant to this Act, other than final order of deportation as provided in section 106(a) of this Act, may not be filed later than thirty days after the date of the final administrative action or from the effective date of this section, whichever is later."

ASYLUM

SEC. 124. (a)(1) Subsection (a) of section 208 (8 U.S.C. 1158) is amended to read as follows:

"(a)(1)(A) Except as provided in subparagraph (B), any alien physically present in the United States or at a land border or port of entry may apply for asylum in accordance with this section.

"(B)(i) An alien against whom exclusion or deportation proceedings have been instituted may not file a notice of intention to apply for asylum more than fourteen days, nor perfect such application for asylum more than thirty-five days, after the date of the service of the notice instituting such proceedings unless the alien can make a clear showing, to the satisfaction of the immigration judge conducting the proceeding, that changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence), between the date of notice instituting the proceeding and the date of application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(ii) An alien who has previously applied for asylum and had such application denied may not again apply for asylum unless the alien can make a clear showing that changed circumstances in the country of the alien's nationality (or, in the case of the alien having no nationality, the country of the alien's last habitual residence), between the date of the previous denial of asylum and the date of the subsequent application for asylum, have resulted in a change in the alien's eligibility for asylum.

"(2) Applications for asylum shall be considered before immigration judges who are specially designated by the United States Immigration Board as having special training in international relations and international law. An individual who has served as

a special inquiry officer under this title before the date of the enactment of the Immigration Reform and Control Act of 1982 may not be designated to hear applications under this section.

"(3)(A) A hearing on the asylum application shall be open to the public, unless the applicant requests that it be closed to the public. To the extent practicable, the hearing shall be conducted in a nonadversarial, informal manner, except that the applicant is entitled to be assisted by counsel (in accordance with section 292), to present evidence, and to examine and cross-examine witnesses. A complete record of the proceedings and of all testimony and evidence produced at the hearing shall be kept. The determination of the immigration judge shall be based only on the evidence produced at the hearing.

"(B)(i) The Secretary of State shall on a continuing basis make available to the Attorney General and to immigration judges who hear applications under the section information on human rights in all countries. The immigration judges shall use such information, if available without delay to the proceedings, as general guidelines in making the asylum determination.

"(ii) The Attorney General shall provide notice to the Secretary of State whenever an application for asylum is filed under this section. The Secretary of State may submit comments to the immigration judge on such application, but the immigration judge shall not delay the proceeding in order to receive such comments.

"(4) The Attorney General may, in his discretion, grant an alien asylum only if the immigration judge determines that the alien (A) is a refugee within the meaning of section 101(a)(42)(A), and (B) does not meet a condition described in one of the subparagraphs of section 243(h)(2).

"(5) The burden of proof shall be upon the alien applying for asylum to establish the alien's eligibility for asylum.

"(6) After making a determination on an application for asylum under this section, an immigration judge may not reopen the proceeding at the request of the applicant except upon a clear showing that, since the date of such determination, changed circumstances in the country of the alien's nationality (or, in the case of an alien having no nationality, the country of the alien's last habitual residence) have resulted in a change in the alien's eligibility for asylum."

(2) Subsection (b) of such section is amended by inserting "(1)" after "determines that the alien" and by inserting before the period at the end the following: "or (2) meets a condition described in one of the subparagraphs of section 243(h)(2)".

(3) Such section is further amended by adding at the end the following new subsection:

"(d) The procedures set forth in this section shall be the sole and exclusive procedure for determining asylum."

(b) Section 243(h) (8 U.S.C. 1253(h)) is amended by adding at the end the following new paragraph:

"(3) An application for relief under this subsection shall be considered to be an application for asylum under section 208 and shall be considered in accordance with the procedures set forth in that section."

EFFECTIVE DATES AND TRANSITION

SEC. 125. (a)(1) Except as otherwise provided in this section, the amendments made by this part take effect on the date of the enactment of this Act.

(2)(A) Except as provided in subparagraph (B), the amendments made by this part (other than those made by sections 121(a), 123(a)(2), 123(a)(5), 123(a)(9), and 124(b)) shall not apply to—

(i) any exclusion or deportation proceeding (or administrative or judicial review thereof) which was initiated before the hearing transition date (designated under subsection (c)(1)(A)), or

(ii) to any application for asylum filed before the asylum transition date (designated under subsection (c)(1)(B)).

In the case of such proceedings and such applications initiated before such dates which continue after such dates, the United States Immigration Board shall provide that immigration judges may assume and perform such functions of special inquiry officers as may be appropriate and consistent with their duties as immigration judges.

(B) Paragraphs (1)(B), (3), (4), and (6) of section 208(a) and section 208(b) of the Immigration and Nationality Act (as amended by section 124(a) of this part) shall apply to applications for asylum made after the date of the enactment of this Act, except that—

(i) in the case of an alien against whom exclusion or deportation proceedings have been instituted as of the date of the enactment of this Act, the restriction of paragraph (1)(B)(i) of section 208(a) of the Immigration and Nationality Act (as so amended) shall apply to asylum applications made more than fourteen days after the date of the enactment of this Act (rather than the date of the service of the notice of such exclusion or deportation proceeding), and

(ii) references in the last sentence of paragraph (3) and in paragraph (6) of such section to an immigration judge shall be deemed (before the asylum transition date) to be a reference to a special inquiry officer conducting the asylum hearing.

(3) The amendments made by section 121(b) shall apply to deportation proceedings pending on or commenced after the date of the enactment of this Act.

(b)(1) The Attorney General shall appoint the Chairman and other members of the United States Immigration Board (hereinafter in this section referred to as the "Board") not later than forty-five days after the date of the enactment of this Act.

(2) The Chairman, in consultation with the Attorney General, shall designate a date, not later than forty-five days after the Chairman and a majority of the members of the Board are appointed, on which the Board shall assume the present functions of the Board of Immigration Appeals (under existing rules and regulations).

(3)(A) The Chairman shall provide promptly for establishment of interim final rules of practice and procedure which will apply to the Board (when not acting as the Board of Immigration Appeals under paragraph (2)) and immigration judges under the Immigration and Nationality Act, after the hearing transition date or asylum transition date, designated under subsection (c)(1), as the case may be.

(B) Not later than sixty days after the date such interim final rules are established, the Attorney General shall appoint at least ten immigration judges who are qualified to be designated to hear asylum cases under section 208 of the Immigration and Nationality Act. The Board shall provide for such special training of these immigration judges as it deems appropriate.

(c)(1) In order to provide for the orderly transfer of proceedings from the existing

special inquiry system to the immigration judge system, the Board, in consultation with the Attorney General, shall designate—

(A) a "hearing transition date", to be not later than forty-five days after the date interim final rules of practice and procedure are established under subsection (b)(3)(A), and

(B) an "asylum transition date", after the establishment of interim final rules of practice and procedure respecting applications for asylum and after the appointment and designation of immigration judges under subsection (b)(3)(B).

(2) During the period before the hearing transition date or the asylum transition date (in the case of asylum hearings), any proceeding or hearing under the Immigration and Nationality Act which may be conducted by a special inquiry officer may be conducted by an individual appointed and qualified as an immigration judge in accordance with all the rules and procedures otherwise applicable to a special inquiry officer's conduct of such proceeding or hearing.

(d) Individuals acting as special inquiry officers on the date of the enactment of this Act and on the hearing transition date may (without regard to other provisions of law) assume the duties of an acting immigration judge after such transition date during the period ending two years after the date of the enactment of this Act. If such individuals remain in such capacity through the end of such period and have not been appointed to the United States Immigration Board or as immigration judges, then they shall be deemed, for purposes of continuing employment in the Department of Justice, to have been employed by the Department as special inquiry officers during such period.

(e)(1) The enactment of this part shall not result in any loss of rights or powers, interruption of jurisdiction, or prejudice to matters pending in the Board of Immigration Appeals or before special inquiry officers on the day before this Act takes effect.

(2) Under rules established by the Chairman of the United States Immigration Board, with respect to exclusion and deportation cases pending as of the hearing transition date and applications for asylum pending as of the asylum transition date, the United States Immigration Board shall be deemed to be a continuation of the Board of Immigration Appeals and immigration judges shall be deemed to be a continuation of special inquiry officers for the purposes of effectuating the continuation of all existing powers, rights, and jurisdiction.

(f) The Attorney General shall provide that in the case of members of the Board of Immigration Appeals who—

(1) have served for a period of at least three years,

(2) are not appointed as members of the United States Immigration Board or as immigration judges, and

(3) continue to be employed by the Attorney General after the date the functions of the Board of Immigration Appeals are assumed by the United States Immigration Board,

there shall be no reduction in grade or compensation for one year after the date of termination of the individual's membership on the Board of Immigration Appeals.

(g) In order to implement the amendments made by this part, there are authorized to be appropriated \$20,000,000 for fiscal year 1983.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 126. (a) The first sentence of section 234 (8 U.S.C. 1124) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(b)(1) Subsection (a) of section 235 (8 U.S.C. 1225) is amended—

(A) by striking out "special inquiry officers" in the first sentence and inserting in lieu thereof "immigration judges",

(B) by striking out "including special inquiry officers" in the fourth sentence and inserting in lieu thereof "and any immigration judge",

(C) by striking out "including special inquiry officers" in the sixth sentence,

(D) by striking out "and special inquiry officers" in the sixth sentence and inserting in lieu thereof "and immigration judges", and

(E) by striking out "special inquiry officer" each place it appears in the seventh sentence and inserting in lieu thereof "immigration judge".

(2) Subsection (b) of such section is amended by striking out "a special inquiry officer for further inquiry" in the second sentence and inserting in lieu thereof "an immigration judge for an exclusion hearing".

(3) Subsection (c) of such section is amended—

(A) by striking out "the special inquiry officer during the examination before either of such officers" in the first sentence and inserting in lieu thereof "during the examination or an immigration judge during an exclusion hearing",

(B) by striking out "no further inquiry by a special inquiry officer" in the first sentence and inserting in lieu thereof "no further examination or exclusion hearing",

(C) by striking out "inquiry or further inquiry" in the first sentence and inserting in lieu thereof "examination or hearing",

(D) by striking out "any inquiry or further inquiry by a special inquiry officer" in the second sentence and inserting in lieu thereof "any examination or hearing", and

(E) by striking out "an inquiry before a special inquiry officer" in the third sentence and inserting in lieu thereof "an exclusion hearing before an immigration judge".

(c)(1) Sections 106(a)(2), 236, and 242(b) (8 U.S.C. 1105a(a)(2), 1126, 1252(b)) are each amended by striking out "A" and "a" each place either appears before "special inquiry officer" and inserting in lieu thereof "An" and "an", respectively.

(d)(1) Sections 106(a)(2) and 236 (8 U.S.C. 1105a(a)(2), 1126) are each amended by striking out "special inquiry officer" and inserting in lieu thereof "immigration judge" each place it appears.

(2) Subsection (a) of section 236 (8 U.S.C. 1126) is amended—

(A) by amending the first sentence to read as follows: "An immigration judge shall conduct proceedings under this section.",

(B) by striking out "for further inquiry" in the second sentence and inserting in lieu thereof "for an exclusion hearing",

(C) by striking out "at the inquiry" in the third sentence and inserting in lieu thereof "at the hearing",

(D) by striking out the fourth sentence,

(E) by striking out "regulations as the Attorney General shall prescribe" in the fifth sentence and inserting in lieu thereof "rules as the Chairman of the United States Immigration Board shall establish", and

(F) by striking out "inquiry" in the seventh sentence and inserting in lieu thereof "hearing".

(3) Subsection (b) of such section is amended by striking out "Attorney General" in the fourth sentence and inserting in lieu thereof "United States Immigration Board" and by striking out the third sentence.

(4) Subsection (c) of such section is amended by striking out "to the Attorney General".

(e) Section 242(b) (8 U.S.C. 1252(b)) is amended—

(1) by striking out "special inquiry officer" each place it appears in the first, second, third, fifth, sixth, and seventh sentences and inserting in lieu thereof "immigration judge";

(2) by striking out "shall administer oaths" and all that follows through "Attorney General," in the first sentence,

(3) by striking out "Attorney General shall prescribe" in the second sentence and inserting in lieu thereof "Chairman of the United States Immigration Board shall establish";

(4) by striking out "In any case" and all that follows through "an additional immigration officer" in the fourth sentence and inserting in lieu thereof "An immigration officer" and by striking out "in such case such additional immigration officer" in that sentence,

(5) by striking out the fifth and sixth sentences,

(6) by striking out "such regulations" and all that follows through "shall prescribe" in the seventh sentence and inserting in lieu thereof "rules as are established by the Chairman of the United States Immigration Board";

(7) by striking out "Such regulations" in the eighth sentence and inserting in lieu thereof "Such rules"; and

(8) by striking out "Attorney General shall be final" in the tenth sentence and inserting in lieu thereof "immigration judge shall be final unless reversed on appeal".

(f) The last sentence of section 273(d) (8 U.S.C. 1323(d)) is amended by striking out "special inquiry officers" and inserting in lieu thereof "immigration judges".

(g) Section 292 (8 U.S.C. 1362) is amended—

(1) by striking out "In" and all that follows through "proceedings," and inserting in lieu thereof "In any proceeding or hearing before an immigration judge and in any appeal before the United States Immigration Board from any such proceeding"; and

(2) by inserting "and at no unreasonable delay" after "Government".

(h) Section 360(c) (8 U.S.C. 1503(c)) is amended—

(1) by inserting "(and appeals thereof)" in the first sentence after the word "proceedings"; and

(2) by striking out the second sentence.

(i) Any reference in section 203(h) of the Immigration and Nationality Act, as in effect before March 17, 1980, to a special inquiry officer shall be deemed to be a reference also to an immigration judge under section 101(a)(43) of such Act.

PART D—ADJUSTMENT OF STATUS

LIMITATIONS ON ADJUSTMENT OF NONIMMIGRANTS TO IMMIGRANT STATUS BY VISA ABUSERS

SEC. 131. (a) Section 245(c)(2) (8 U.S.C. 1255(c)(2)) is amended by striking out "hereafter continues in or accepts unauthorized employment prior to filing an application for adjustment of status" and inserting in lieu thereof "has failed to maintain continuously a legal status since entry into the United States".

(b) The amendment made by subsection (a) shall apply to applications for adjustment of status filed before, on, or after the date of the enactment of this Act.

(c) For amendment prohibiting certain nonimmigrant students and visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

TITLE II—REFORM OF LEGAL IMMIGRATION

PART A—IMMIGRANTS NUMERICAL LIMITATIONS

SEC. 201. (a) Subsection (a) of section 201 (8 U.S.C. 1151) is amended to read as follows:

"(a) Exclusive of special immigrants defined in section 101(a)(27), immigrants born to permanent resident aliens during a temporary visit abroad, immediate relatives specified in subsection (b) of this section, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens who are admitted or granted asylum under section 207 or 208, aliens provided records of permanent residence under section 214(d), and aliens whose status is adjusted to permanent resident status under section 245A, aliens born in a foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence are limited to—

"(1) family reunification immigrants described in section 203(a) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(a), in a number not to exceed in any fiscal year the number equal to (A) three hundred and fifty thousand, minus (B) the sum of (i) the number of immediate relatives specified in subsection (b) of this section who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, (ii) the number of immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, (iii) the number of immigrants born to permanent resident aliens during a temporary visit abroad, and (iv) the number of aliens who in the previous fiscal year were provided records of permanent residence under section 214(d), plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (2) during the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year, and

"(2) independent immigrants described in section 203(b) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), in a number not to exceed in any fiscal year the number equal to (A) seventy-five thousand, minus (B) the number of special immigrants (other than those described in section 101(a)(27)(A)) who in the previous fiscal year were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence, plus (C) the difference (if any) between the maximum number of visas which may be issued under paragraph (1) during

the prior fiscal year and the number of visas issued under that paragraph during that year, and not to exceed in any of the first three quarters of any fiscal year 27 per centum of the numerical limitation for all of such fiscal year."

(b) Section 202(a) (8 U.S.C. 1152(a)) is amended—

(1) by striking out "(a) No person" and inserting in lieu thereof "(a)(1) Except as specifically provided in paragraph (2) of this subsection and in section 101(a)(27), 201(b), 203, and 214(d), no person";

(2) by striking out "except as specifically" and all that follows up to the period at the end, and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the total number of natives of any single foreign state who are issued immigrant visas or may otherwise acquire the status of an alien lawfully admitted for permanent residence under subsections (a) and (b) of section 203 or who are admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under subsection (a) or (b) of section 203 shall not exceed in any fiscal year—

"(i) twenty thousand, in the case of any foreign state other than a foreign state contiguous to the United States, or

"(ii) forty thousand (or the number determined under subparagraph (C)), in the case of any foreign state contiguous to the United States.

"(B) If in a fiscal year the total number of immediate relatives specified in section 201(b), immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative, aliens provided records of permanent residence under section 214(d), and special immigrants defined in section 101(a)(27) (other than those described in subparagraph (a) thereof) who were issued immigrant visas or otherwise acquired the status of aliens lawfully admitted to the United States for permanent residence who are natives of a particular foreign state exceeded twenty thousand, then the numerical limitation applicable to that state in the following fiscal year under subparagraph (A) shall be reduced by the amount of such excess.

"(C) If in any fiscal year the number of aliens chargeable to a contiguous foreign state who are issued immigrant visas or otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence is less than forty thousand, then in the following fiscal year the number to be used in clause (ii) of subparagraph (A) for the other contiguous foreign state shall be forty thousand plus the amount of the difference."

PREFERENCE AND NONPREFERENCE ALLOCATION SYSTEMS

SEC. 202. (a)(1) Section 203 (8 U.S.C. 1153) is amended—

(A) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively, and

(B) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) PREFERENCE ALLOCATION FOR FAMILY REUNIFICATION IMMIGRANTS.—Aliens subject to the numerical limitation specified in section 201(a)(1) for family reunification immigrants shall be allotted visas as follows:

"(1) UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—Qualified immigrants who are the unmarried sons or daughters of citizens of

the United States shall be allocated visas in a number not to exceed 15 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (4).

"(2) **SPOUSES AND CHILDREN OF PERMANENT RESIDENT ALIENS.**—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence or who (A) as of March 1, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in this paragraph as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 65 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (1).

"(3) **MARRIED SONS AND DAUGHTERS OF CITIZENS.**—Qualified immigrants who are the married sons or married daughters of citizens of the United States shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) and (2).

"(4) **PREVIOUS FIFTH PREFERENCE.**—Qualified immigrants who (A) as of March 1, 1982, had received approval of a petition made on their behalf for preference status by reason of the relationship described in paragraph (a)(5) as in effect on such date, and (B) continue to qualify under the terms of the Act as in effect on such date shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3).

"(b) **PREFERENCE AND NONPREFERENCE ALLOCATION FOR INDEPENDENT IMMIGRANTS.**—Aliens subject to the numerical limitation specified in section 201(a)(2) for independent immigrants shall be allocated visas as follows:

"(1) **ALIENS OF EXCEPTIONAL ABILITY.**—Qualified immigrants who because of their exceptional ability in the sciences, arts, professions, or business will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States, shall be allocated visas in a number not to exceed such numerical limitation. The Attorney General may, when he deems it to be in the national interest, waive the requirement of the previous sentence that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States. In determining under this paragraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning, or of a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

"(2) **SKILLED WORKERS.**—Qualified immigrants who are capable of performing skilled labor, not of a temporary or seasonal nature, for which qualified workers are not available in the United States, shall be allocated any visas not required for the classes specified in paragraph (1).

"(3) **INVESTORS.**—Qualified immigrants who have invested, or established to the Attorney General their intention to invest, substantial capital (in an amount set by the Attorney General and not less than \$250,000) in an enterprise in the United States of which the alien will be a principal

manager and which will benefit the United States economy and create full-time employment for not fewer than four eligible individuals (as defined in section 214(c)(3)(D)), other than the spouse or children of such immigrant, shall be allocated any visas not required for the classes specified in paragraphs (1) and (2), but in a number not to exceed 10 per centum of such numerical limitation.

"(4) **NONPREFERENCE ALIENS.**—Visas authorized in any fiscal year under section 201(a)(2), less those required for issuance to the classes specified in paragraphs (1) through (3), shall be made available to other qualified immigrants in the chronological order in which they qualify. No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States, and (B) the child has been irrevocably released for immigration and adoption: Provided, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.

An immigrant visa shall not be issued to an immigrant under paragraph (1), (2), or (4) until the consular officer is in receipt of a determination made by the Secretary of Labor pursuant to the provisions of section 212(a)(14). The provisions of sections 212(d)(11) shall apply with respect to any alien petitioning to be classified as a preference immigrant under paragraph (1).

"(c) **GUIDE FOR ALLOCATION BETWEEN PREFERENCE SYSTEMS.**—Where it is determined that the maximum number of visas will be made available under section 202(a)(2) to natives of any single foreign state (defined in section 202(b)) or any dependent area (defined in section 202(c)) in any fiscal year, in determining whether to provide for visas to such natives under the preference system described in subsection (a) or that described in subsection (b), visa numbers with respect to natives of that state shall be allocated (to the extent practicable and otherwise consistent with this section) in a manner so that the ratio of—

"(1) the sum of (A) the number of family reunification immigrants described in subsection (a), and (B) the number of immediate relatives specified in section 201(b), immigrants born to permanent residents during a temporary visit abroad, immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent who is such an immediate relative or under section 203(a), and aliens provided records of permanent residence under section 214(d), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, to

"(2) the sum of (A) the number of independent immigrants described in subsection (b), and (B) the number of special immigrants defined in section 101(a)(27) (other

than those described in subparagraph (A) thereof) and immigrants admitted under section 211(a) on the basis of a prior issuance of a visa to their accompanying parent under section 203(b), who are natives of such state and who are issued immigrant visas or otherwise acquire the status of aliens lawfully admitted to the United States for permanent residence in that fiscal year, is equal to 4.65 to 1.

"(d)(1) A spouse or child as defined in subparagraph (A), (B), (C), (D), or (E) of section 101(b)(1) shall, if not otherwise entitled to an immigrant status and the immediate issuance of a visa under subsection (a) or (b), be entitled to the same status, and the same order of consideration provided in the respective subsection, if accompanying or following to join, his spouse or parent.

"(2) Waiting lists of applicants for visas under this section shall be maintained in accordance with regulations prescribed by the Secretary of State."

(2) Subsection (e) of such section, as so redesignated, is amended—

(A) by inserting "or under subsection (b)" after "subsection (a)" the first place it appears, and

(B) by striking out "subsection (a)" the second place it appears and inserting in lieu thereof "the respective subsection".

(b) Section 202 (8 U.S.C. 1152) is amended by striking out subsection (e), section 204 (8 U.S.C. 1154) is amended by striking out subsection (f), and section 245(b) (8 U.S.C. 1255(b)) is amended by striking out "202(e) or".

(c)(1)(A) Subsection (f) of section 203 (8 U.S.C. 1153), as redesignated by subsection (a)(1), is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or pursuant to paragraphs (1) through (3) of subsection (b)".

(B) Subsection (g) of such section, as so redesignated, is amended by striking out "paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "subsection (a) or paragraphs (1) through (3) of subsection (b)" each place it appears.

(2)(A) Subsection (a) of section 204 (8 U.S.C. 1154) is amended—

(i) by striking out "paragraph (1), (4), or (5) of section 203(a)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(a)",

(ii) by striking out "section 203(a)(3)" and inserting in lieu thereof "paragraph (1) or (3) of section 203(b)", and

(iii) by striking out "203(a)(6)" and inserting in lieu thereof "203(b)(2)".

(B) Subsection (b) of such section is amended by striking out "section 203(a) (3) or (6)" and inserting in lieu thereof "paragraph (1) or (2) of section 203(b)".

(d) Section 241(a)(9) (8 U.S.C. 1251(a)(9)) is amended—

(1) by inserting "(A)" after "(9)", and

(2) by inserting "; or" after "such status", and

(3) by adding before the semicolon the following new subparagraph:

"(B) was admitted as an independent immigrant described in paragraph (3) of section 203(b) and by the end of the one-year period following the date of entry failed to invest substantial capital in an enterprise in the United States as required in such paragraph or, having made such investment, has failed without good cause to maintain such an investment for a period of at least one year after the date of such entry or after the date such substantial investment was made, whichever date was later."

LABOR CERTIFICATION

SEC. 203. (a) Paragraph (14) of section 212(a) (8 U.S.C. 1182(a)) is amended by striking out "(A)" and all that follows through the end and inserting in lieu thereof the following: "(A) there are not sufficient qualified workers available in the United States in the occupations in which the aliens will be employed; (B) sufficient workers in the United States could not within a reasonable period of time be trained for such occupations by (or through funds provided by) potential employers; and (C) the employment of aliens in such occupations will not adversely affect the wages and working conditions of workers in the United States who are similarly employed. In making such determinations the Secretary of Labor may use labor market information without reference to the specific job opportunity for which certification is requested. An alien on behalf of whom a certification is sought must have an offer of employment from an employer in the United States. The exclusion of aliens under this paragraph shall only apply to preference immigrants described in section 203(b) (1) and (2) and to nonpreference immigrants described in section 203(b)(4). Decisions of the Secretary of Labor made pursuant to this paragraph, including the issuance and content of regulations and the use of labor market information under this paragraph, shall be reviewable by an appropriate district court of the United States, but the court shall not set aside such a decision unless there is compelling evidence that the Secretary made such decision in an arbitrary and capricious manner;"

(b) Section 212(d) (8 U.S.C. 1181(d)) is amended by adding at the end the following new paragraph:

"(11) The requirement in paragraph (14) of subsection (a) relating to an offer of employment from an employer in the United States may be waived with respect to any alien seeking to enter the United States as an immigrant under section 203(b)(1), if the Attorney General deems it to be in the national interest."

G-4 SPECIAL IMMIGRANTS

SEC. 204. (a) Section 101(a)(27) (8 U.S.C. 1101(a)(27)) is amended by striking out "or" at the end of subparagraph (G), by striking out the period at the end of subparagraph (H) and inserting in lieu thereof "; or", and by adding at the end of the following new subparagraph:

"(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, or of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and eighteen years, and (II) applies for admission under this subparagraph no later than his twenty-fifth birthday or six months after the date this subparagraph is enacted, whichever is later;

"(ii) an immigrant who is the surviving spouse of a deceased officer or employee of any such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least

fifteen years prior to the death of such officer or employee, and (II) applies for admission under this subparagraph no later than six months after the date of such death or six months after the date this subparagraph is enacted, whichever is later;

"(iii) an immigrant who is a retired officer or employee of such an international organization, and (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv), has resided and been physically present in the United States within seven years of the date of application for admission under this subparagraph and for a period or periods aggregating at least twenty years prior to the officer or employee's retirement from any such international organization, and (II) applies for admission under this subparagraph (i) on or before December 31, 1992 and (ii) no later than six months after the date of such retirement or six months after the date this subparagraph is enacted, whichever is later; or

"(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired officer or employee as a member of his immediate family."

(b) Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amended by striking out "or" at the end of subparagraph (L), by striking out the period at the end of subparagraph (M) and inserting in lieu thereof "; or", and by adding at the end the following new paragraph:

"(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(I)(i), but only if and while the alien is a child, or

"(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(I) (ii), (iii), or (iv)."

EFFECTIVE DATES AND TRANSITION

SEC. 205. (a) The amendments made by sections 201, 202, and 203 shall apply to the admission of aliens to the United States on and after October 1, 1983. The amendments made by section 204 shall take effect on the date of the enactment of this Act.

(b)(1) In the case of a petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1983, such petition shall be deemed, as of such date, to be a petition for the new corresponding preference or nonpreference status (as defined in paragraph (2)), and the priority date for such petition shall remain in effect.

(2) For purposes of paragraph (1), the term "new corresponding preference or nonpreference status" means, in the case of a petition for a—

(A) preference status described in section 203(a)(1) of the Immigration and Nationality Act (as in effect on September 30, 1983), the preference status described in such section as in effect after such date;

(B) preference status described in section 203(a)(2) of such Act (as in effect on September 30, 1983), the preference status described in such section as in effect after such date;

(C) preference status described in section 203(a)(3) of such Act (as in effect on September 30, 1983), the preference status described in both paragraphs (1) and (2) of section 203(b) of such Act as in effect after such date;

(D) preference status described in section 203(a)(4) of such Act (as in effect on September 30, 1983), the preference status described in section 203(a)(3) of such Act as in effect after such date;

(E) preference status described in section 203(a)(5) of such Act (as in effect on Septem-

ber 30, 1983), the preference status described in section 203(a)(4) of such Act as in effect after such date;

(F) preference status described in section 203(a)(6) of such Act (as in effect on September 30, 1983), the preference status described in section 203(b)(2), in the case of skilled labor, or the nonpreference status described in section 203(b)(4), in the case of unskilled labor, of such Act as in effect after such date; and

(G) nonpreference status described in section 203(a)(7) of such Act (as in effect on September 30, 1983), the preference statuses described in both paragraphs (3) and (4) of section 203(b) of such Act (as in effect after such date) in the case of investors or the nonpreference described in section 203(b)(4) of such Act (as in effect after such date) in the case of noninvestors.

(c) When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1983, makes application for admission, his admissibility under paragraphs (20) and (21) of section 212(a) shall be determined under the provisions of law in effect on the date of the issuance of such visa.

PART B—NONIMMIGRANTS

H-2 WORKERS

SEC. 211. (a) Paragraph (15)(H) of section 101(a)(8 U.S.C. 1101(a)) is amended by striking out "to perform temporary services or labor, if unemployed persons capable of performing such service or labor cannot be found in this country" in clause (ii) and inserting in lieu thereof "(a) to perform agricultural labor or services, as defined by the Secretary of Labor in regulations, of a temporary or seasonal nature, or (b) to perform other temporary services or labor".

(b) Section 214 (8 U.S.C. 1184) is amended—

(1) by adding at the end of subsection (a) the following new sentences: "An alien may not be admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii)(a) for an aggregate period of more than eight months in any calendar year, except in the case of agricultural labor or services which the Secretary of Labor, before the date of the enactment of the Immigration Reform and Control Act of 1982, has recognized require a longer period, which may exceed one year. An alien who was admitted to the United States as a nonimmigrant under section 101(a)(15)(H)(ii) during the last five-year period may not be admitted under that provision if the alien violated the terms of any such previous admission. The Attorney General shall provide for such procedures for the entry and exit of nonimmigrants described in section 101(a)(15)(H)(ii) as may be necessary to carry out this section."

(2) by inserting "(1)" after "(c)" in subsection (c),

(3) by adding at the end of subsection (c) the following new paragraphs:

"(2)(A) A petition to import an alien as a nonimmigrant under section 101(a)(15)(H)(ii) may not be approved by the Attorney General unless the petitioner has applied to the Secretary of Labor for a certification that—

"(i) there are not sufficient workers who are able, willing, qualified, and who will be available at the time and at the place needed to perform the labor or services involved in the petition, and

"(ii) the employment of the alien in such labor or services will not adversely affect the wages and working conditions of workers in

the United States who are similarly employed, and such certification has been issued. The Secretary of Labor may require by regulation, as a condition of issuing the certification, the payment of a fee to recover the reasonable costs of processing applications for certification.

"(B) The Secretary of Labor may not issue a certification under subparagraph (A) if—

"(i) there is a strike or lockout in the course of a labor dispute which, under the regulations, precludes such certification; or

"(ii) the employer, during the previous two years, employed nonimmigrant aliens admitted to the United States under section 101(a)(15)(H)(ii) and the Secretary of Labor has determined, after notice and opportunity for a hearing, that the employer during that period substantially violated an essential term or condition of the labor certification with respect to the employment of domestic or nonimmigrant workers or has not paid a penalty (or penalties) for such violations which may be assessed by the Secretary of Labor. Provided further, That no employer may be denied certification for more than one year for any such violation.

"(3)(A) In the case of an application for a labor certification under section 101(a)(15)(H)(ii)(a)—

"(i) the Secretary of Labor may not require that such an application for labor certification be filed more than eighty days before the first date the employer requires the labor or services of the alien;

"(ii) the Secretary of Labor shall make, not less than twenty days before the date such labor or services are first required to be performed, the certification described in paragraphs (2)(A) (i) and (ii) if an employer has complied with the criteria for certification, including the recruitment of eligible individuals as prescribed by the Secretary, and the employer does not actually have, or has not been provided with referrals of, qualified eligible individuals who have agreed to perform such labor or services on the terms and conditions of a job offer which meets the requirements of the Secretary and who are otherwise available. Provided, That the terms of such labor certification shall remain effective only if the employer continues to accept for employment, until the date the aliens depart for work with the employer, qualified eligible individuals who apply to the employer or are referred to the employer; and

"(iii) the petition, or the application for a certification, may be filed by an association representing agricultural producers who use agricultural labor or services. The filing of such a petition or application on a member's behalf does not relieve the member of any liability for representations made in such petition or application unless the association is the sole employer of all alien agricultural labor or services, in which case only the association shall be liable for representations made in such petition or application.

"(B) The Secretary of Labor shall provide for an expedited procedure for the review of a denial of certification under paragraph (2) in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a), or at the applicant's request, a de novo administrative hearing.

"(C) The Secretary of Labor shall expeditiously make a new determination on the request for certification in the case of a nonimmigrant described in section 101(a)(15)(H)(ii)(a) if qualified eligible individuals are not actually available at the time such labor or services are required and

a certification was denied in whole or in part because of the availability of qualified eligible individuals. If the employer asserts that any eligible individuals who have been referred are not qualified, the burden of proof is on the employer to establish that the individuals referred are not qualified because of employment-related reasons.

"(D) For purposes of this paragraph, the term 'eligible individual' means, with respect to employment, an individual who is not an unauthorized alien (as defined in section 274A(a)(4)) with respect to that employment.

"(4) The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, shall annually report to the Congress on the certifications provided under this subsection, the impact of aliens admitted pursuant to such certifications on labor conditions in the United States, and on compliance of employers and nonimmigrants with the terms and conditions of such nonimmigrants' admission to the United States.

"(5) There are authorized to be appropriated for each fiscal year, beginning with fiscal year 1983, \$10,000,000 for the purposes (A) of recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants described in section 101(a)(15)(H)(ii), and (B) of monitoring terms and conditions under which such nonimmigrants (and domestic workers employed by the same employers) are employed in the United States. The Secretary of Labor is authorized to take such actions, including imposing appropriate penalties and seeking appropriate injunctive relief and specific performance of contractual obligations, as may be necessary to assure employer compliance with terms and conditions of employment under this subsection.", and

(4) by adding at the end the following new subsection:

"(e) The provisions of subsections (a) and (c) of this section preempt and State and local law regulating admissibility of nonimmigrant workers."

(c) The amendments made by this section apply to petitions and applications filed under section 214(c) of the Immigration and Nationality Act on or after the first day of the sixth month beginning after the date of the enactment of this Act.

(d) The Attorney General in consultation with the Secretary of Labor and, in connection with agricultural labor or services, the Secretary of Agriculture, shall approve all regulations to be issued implementing the amendments made by this section. Notwithstanding any other provision of law, final regulations implementing the amendments made by this section shall be issued, on an interim or other basis, not later than the first day of the sixth month beginning after the date of the enactment of this Act.

STUDENTS

Sec. 212. (a) Section 212(e) (8 U.S.C. 1182(e)) is amended—

(1) by inserting "(1)" after "No person",

(2) by inserting after "training," the following: "or (2) admitted under section 101(a)(15) (F) or (M) or acquiring such status after admission," and

(3) by striking out "clause (iii)" in the second proviso and inserting in lieu thereof "clause (1)(iii) or clause (2)".

(b) Section 245(c) (8 U.S.C. 1255(c)) is amended by striking out "or" before "(3)" and by inserting before the period at the end the following: ", or (4) an alien (other than an immediate relative specified in section

201(b)) who entered the United States classified as a nonimmigrant under subparagraph (F) or (M) of section 101(a)(15) or who was admitted as a nonimmigrant visitor without a visa under section 212(l)."

(c)(1) The amendments made by subsection (a) apply to aliens admitted to the United States after the date of the enactment of this Act.

(2) The amendments made by subsection (b) apply to aliens without regard to the date the aliens enter the United States.

VISA WAIVER FOR CERTAIN VISITORS

SEC. 213. (a) Section 212 (8 U.S.C. 1182) is amended by adding at the end thereof the following new subsection:

"(1)(1) The Attorney General and the Secretary of State are authorized to establish a pilot program (hereinafter in this subsection referred to as the 'program') under which the requirement of paragraph (26)(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly and in accordance with this subsection, in the case of an alien who—

"(A) is applying for admission during the pilot program period (as defined in paragraph (5)) as a nonimmigrant visitor (described in section 101(a)(15)(B)) for a period not exceeding ninety days;

"(B) is a national of a country which—

"(i) extends (or agrees to extend) reciprocal privileges to citizens and nationals of the United States, and

"(ii) is designated as a pilot country under paragraph (3);

"(C) before such admission completes such immigration form as the Attorney General shall establish under paragraph (2)(C) and executes a waiver of review and appeal described in paragraph (2)(D);

"(D) has a round trip, nonrefundable, non-transferable, open-dated transportation ticket which—

"(i) is issued by a carrier which has entered into an agreement described in paragraph (4), and

"(ii) guarantees transport of the alien out of the United States at the end of the alien's visit and

"(E) has been determined not to represent a threat to the welfare, safety, or security of the United States;

except that no such alien may be admitted without a visa pursuant to this subsection if the alien failed to comply with the conditions of any previous admission as a nonimmigrant.

"(2)(A) The program may not be put into operation until the end of the thirty-day period beginning on the date that the Attorney General submits to the Congress a certification that the screening and monitoring system described in subparagraph (B) is operational and that the form described in subparagraph (C) has been produced.

"(B) The Attorney General in cooperation with the Secretary of State shall develop and establish an automated data arrival and departure control system to screen and monitor the arrival into and departure from the United States of nonimmigrant visitors receiving a visa waiver under the program.

"(C) The Attorney General shall develop a form for use under the program. Such form shall be consistent and compatible with the control system developed under subparagraph (B). Such form shall provide for, among other items—

"(i) a summary description of the conditions for excluding nonimmigrant visitors from the United States under subsection (a) and this subsection,

"(ii) a description of the conditions of entry with a waiver under this subsection, including the limitation of such entry to ninety days and the consequences of failure to abide by such conditions, and

"(iii) questions for the alien to answer concerning any previous denial of the alien's application for a visa.

"(D) An alien may not be provided a waiver under this subsection unless the alien has waived any right (i) to review or appeal under the Act of an immigration officer's determination as to the admissibility of the alien at the port of entry into the United States or (ii) to contest, other than on the basis of an application for asylum, any action for deportation against the alien.

"(3)(A) The Attorney General and the Secretary of State acting jointly may designate up to five countries as pilot countries for purposes of this subsection.

"(B) For the period beginning after the thirty-day period described in paragraph (2)(A) and ending on the last day of the first fiscal year which begins after such thirty-day period, a country may not be designated as a pilot country unless the sum of—

"(i) the total number of refusals during the fiscal year ending immediately before such thirty-day period of nonimmigrant visitor visas for nationals of that country, and

"(ii) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such fiscal year as a nonimmigrant visitor,

was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such fiscal year.

"(C) For each fiscal year (within the pilot program period) after the period specified in subparagraph (B)—

"(i) in the case of a country which was a pilot country in the previous fiscal year, a country may not be designated as a pilot country unless the sum of—

"(I) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor, and

"(II) the total number of nationals of that country who were admitted as nonimmigrant visitors during such previous fiscal year and who violated the terms of such admission,

was less than 2.0 per centum of the total number of nationals of that country who applied for admission as nonimmigrant visitors during such previous fiscal year, or

"(ii) in the case of another country, the country may not be designated as a pilot country unless the sum of—

"(I) the total number of refusals during the previous fiscal year of nonimmigrant visitor visas for nationals of that country, and

"(II) the total of the number of nationals of that country who were excluded from admission or withdrew their application for admission during such previous fiscal year as a nonimmigrant visitor,

was less than 2.0 per centum of the total number of nonimmigrant visitor visas for nationals of that country which were granted or refused during such previous fiscal year.

"(4) The agreement referred to in paragraph (1)(D)(i) is an agreement between a carrier and the Attorney General under which the carrier agrees, in consideration of the waiver of the visa requirement with re-

spect to a nonimmigrant visitor under this subsection—

"(A) to indemnify the United States against any costs for the transportation of the alien from the United States if the visitor is refused admission to the United States or remains in the United States unlawfully after the ninety-day period described in paragraph (1)(A)(i),

"(B) to notify the Attorney General when the carrier has transported such a visitor to the United States and upon the expiration of the ninety-day period described in paragraph (1)(A)(i) if the visitor has not used the return portion of the ticket within such ninety-day period, and

"(C) to submit daily to immigration officers any immigration forms received with respect to nonimmigrant visitors provided a waiver under this subsection.

The Attorney General may terminate such an agreement with five days' notice to the carrier for the carrier's failure to meet the terms of such agreement.

"(5) For purposes of this subsection, the term 'pilot program period' means the period beginning at the end of the thirty-day period referred to in paragraph (2)(A) and ending on the last day of the third fiscal year which begins after such thirty-day period."

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by adding at the end the following new sentence: "No alien admitted to the United States without a visa pursuant to section 212(l) may be authorized to remain in the United States as a nonimmigrant visitor for a period exceeding 90 days from the date of admission."

(c) For amendment prohibiting nonimmigrant visitors entering under visa waivers from adjusting their status to immigrants, see section 212(b) of this Act.

(d) Section 248 (8 U.S.C. 1258) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and" and by adding at the end thereof the following new paragraph:

"(4) an alien admitted as a nonimmigrant visitor without a visa under section 212(l)."

TITLE III—LEGALIZATION

LEGALIZATION

SEC. 301. (a) Chapter 5 of title II is amended by inserting after section 245 (8 U.S.C. 1255) the following new section:

"ADJUSTMENT OF STATUS OF CERTAIN ENTRANTS BEFORE JANUARY 1, 1982, TO THAT OF PERSON ADMITTED FOR TEMPORARY OR PERMANENT RESIDENCE

"SEC. 245A. (a) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for permanent residence if—

"(1) the alien applies for such adjustment during the one-year period beginning on the date of the enactment of this section,

"(2)(A) the alien establishes that he entered the United States prior to January 1, 1978, and has resided continuously in the United States in an unlawful status since January 1, 1978,

"(B) if the alien entered the United States as a nonimmigrant before January 1, 1978, the alien's authority to remain in the United States as a nonimmigrant expired before January 1, 1978, and

"(C) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that

requirement or received a waiver thereof; and

"(3) the alien—

"(A) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(B) has not been convicted of any felony or of three or more misdemeanors committed in the United States, and

"(C) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(b)(1) The Attorney General may, in his discretion and under such regulations as he shall prescribe, adjust the status of an alien to that of an alien lawfully admitted for temporary residence if—

"(A) the alien applies for such adjustment during the one-year period beginning on the date of the enactment of this section;

"(B)(i)(I) the alien establishes that he entered the United States prior to January 1, 1982, and has resided continuously in the United States in an unlawful status since January 1, 1982;

"(II) if the alien entered the United States as a nonimmigrant before January 1, 1982, the alien's authority to remain in the United States as a nonimmigrant expired before January 1, 1982; and

"(III) if the alien was at any time a nonimmigrant exchange alien (as defined in section 101(a)(15)(J)), the alien was not subject to the two-year foreign residence requirement of section 212(e) or has fulfilled that requirement or received a waiver thereof; or

"(ii) the alien as of the date of the enactment of this section, has the status of a Cuban/Haitian entrant (status pending) and has resided continuously in the United States since the date such status was granted; and

"(C) the alien—

"(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2),

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States, and

"(iii) has not assisted in the persecution of any person or persons on account of race, religion, nationality, membership in a particular social group, or political opinion.

"(2) During the period an alien is in the lawful temporary resident status granted under paragraph (1)—

"(A) the Attorney General shall, in accordance with regulations, permit the alien to return to the United States after such brief and casual trips abroad as reflect an intention on the part of the alien to adjust to lawful permanent resident status under paragraph (3);

"(B) the Attorney General shall grant the alien authorization to engage in employment in the United States and provide to that alien an 'employment authorized' endorsement or other appropriate work permit;

"(C) the alien is not eligible for any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government, except that this subparagraph shall not apply—

"(i) in the case of an alien described in paragraph (1)(B)(i),

"(ii) in the case of such assistance provided to aliens who are determined (in accordance with regulations prescribed by the Attorney General) to require such assistance because of age (in the case of aliens sixty-five years of age or older), blindness, or disability, and

"(iii) in the case of medical assistance provided to aliens who are determined (in accordance with regulations prescribed by the Attorney General) to require such assistance in the interest of public health or because of serious illness or injury; and

"(D) a State or political subdivision therein may, to the extent consistent with subparagraph (C), provide that the alien is not eligible for programs of financial assistance furnished under the law of that State or political subdivision.

For the purposes of section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

"(3) The Attorney General, in his discretion and under such regulations as he may prescribe, may adjust the status of any alien provided lawful temporary resident status under paragraph (1) to that of an alien lawfully admitted for permanent residence if the alien—

"(A) applies for such adjustment during the six-month period beginning with the first day of the twenty-fifth month that begins after the date the alien was granted such temporary resident status;

"(B) establishes that he has continuously resided in the United States since the date the alien was granted such temporary resident status;

"(C)(i) is admissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), and

"(ii) has not been convicted of any felony or three or more misdemeanors committed in the United States; and

"(D) can demonstrate that he either (i) meets the requirement of paragraph (1) of section 312 (relating to minimal understanding of ordinary English), or (ii) is satisfactorily pursuing a course of study (recognized by the Attorney General) to achieve such an understanding of English.

"(4) The Attorney General shall provide for termination of temporary resident status granted an alien under this subsection—

"(A) if the alien commits an act that (i) makes the alien inadmissible to the United States as an immigrant, except as otherwise provided under subsection (c)(2), or (ii) is convicted of any felony or three or more misdemeanors committed in the United States; or

"(B) at the end of the thirty-first month beginning after the date the alien is granted such status, unless the alien has filed an application for adjustment of such status pursuant to paragraph (3) and such application has not been denied.

"(c)(1) The Attorney General shall provide that applications for adjustment of status under subsection (a) and subsection (b)(1) may be made to and received, on behalf of the Attorney General, by qualified voluntary agencies which have been designated for such purpose by the Attorney General, as well as to the Attorney General.

"(2) The provisions of paragraph (14), (20), (21), (25), and (32) of section 212(a) shall not be applicable in the determination of an alien's admissibility under subsections (a)(3)(A), (b)(1)(C)(i), (b)(3)(C)(i), and (b)(4)(A)(i), and the Attorney General, in

making such determination with respect to a particular alien, may waive any other provision of such section other than paragraph (9), (10), (23) (except for so much of such paragraph as relates to a single offense of simple possession of thirty grams or less of marihuana), (27), (28), (29), or (33), for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.

"(3) During the six-month period beginning on the date of the enactment of this section, the Attorney General, in cooperation with qualified voluntary agencies designated under paragraph (1) and the Secretary of Labor, shall broadly disseminate information respecting the benefits which aliens may receive under this section and the requirements to obtain such benefits.

"(d) In order to carry out this section (including the making of arrangements with qualified voluntary agencies under subsection (c)(1) and the dissemination of information under subsection (c)(3)) there are authorized to be appropriated \$10,000,000 for fiscal year 1983."

(b) The table of contents for chapter 5 of title II is amended by inserting after the item relating to section 245 the following new item:

"Sec. 245A. Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for temporary or permanent residence."

(c) Public Law 89-732 (approved November 2, 1966) is repealed.

TITLE IV—REPORTS TO CONGRESS

REPORTS TO CONGRESS

SEC. 401. The President shall submit the following reports to the Committees on the Judiciary of the Senate and of the House of Representatives:

(a) Reports on the implementation of section 274A of the Immigration and Nationality Act (relating to unlawful employment of aliens), which shall include—

(1) an analysis of the adequacy of the verification procedure set forth in subsection (b) of that section;

(2) the status of the development and implementation of a more secure verification system as provided in subsection (c) of that section; and

(3) the impact of that section on—
(A) the employment, wages, and working conditions of United States workers,

(B) the number of aliens entering the United States illegally,

(C) the violation of terms and conditions of nonimmigrant visas by foreign visitors,

(D) discrimination against citizen and permanent resident alien members of minority groups; and

(E) the paperwork and recordkeeping burden on United States employers.

Reports concerning the matters described in paragraphs (1), (2), and subparagraphs (A), (B), and (C) of paragraph (3) shall be submitted every six months from the date of the enactment of this Act and a report concerning the matters described in subparagraphs (D) and (E) of paragraph (3) shall be submitted not later than three years after the date of the enactment of this Act.

(b) A report on the general legal admissions under the Immigration and Nationality Act, which shall include—

(1) the number of aliens admitted during the forty-two months after the date of the enactment of this Act as immediate relatives and other permanent residents, refugees, asylees, and parolees, and

(2) the impact of the admission or parole of such aliens on the economy of the United States and the employment of citizens and aliens in the United States.

This report shall be submitted not later than four years after the date of the enactment of this Act.

(c) A report on the implementation of the temporary worker program (popularly known as the "H-2" program), which shall include—

(1) the impact of the program on the labor needs of the United States agricultural employers and on the wages and working conditions of United States agricultural workers,

(2) the development of regulations with respect to the program,

(3) recommendations for modifications of the program, including—

(A) improving the timeliness of decisions regarding admission of temporary foreign workers under the program,

(B) removing any economic disincentives to hiring United States citizens or permanent resident aliens for jobs for which temporary foreign workers have been requested, and

(C) improving cooperation among government agencies, employers, employer associations, workers, unions, and other worker associations to end the dependence of any industry on a constant supply of temporary foreign workers.

The report shall be submitted not later than two years after the date of the enactment of this Act.

(d) A report on the pilot program established under section 212(l) of the Immigration and Nationality Act, added by section 213(a) of this Act, (popularly known as the "visa waiver program"), which shall include—

(1) an evaluation of the program including its impact on the control of alien visitors to the United States, consular operations in the countries designated under section 212(l)(3)(A) of the Immigration and Nationality Act, and the impact of the program on the United States tourism industry, and

(2) recommendations on the extension of the program and the expansion of the number of countries which may be designated under such section.

The report shall be submitted not later than two years after the commencement of the program.

(e) A report on the population whose status is legalized under the legalization program established under section 301 of this Act, which shall include—

(1) geographical origins and manner of entry of these aliens into the United States,

(2) their demographic characteristics,

(3) their patterns of employment,

(4) their participation in social service programs, and

(5) a general profile and characteristics of the population legalized under the program.

The report shall be submitted not later than two years after the date of the enactment of this Act.

Mr. BAKER. Mr. President, I understand the distinguished chairman of the Veterans' Affairs Committee, the Senator from Wyoming, will make an opening statement. There will be no votes on this measure or other action taken tonight. Indeed, there should not be because of the arrangement which has now been formalized with the minority leader. It is anticipated

there will be votes tomorrow. I would expect the Senate to be in session for a full day tomorrow. The time when the Senate will conclude its activities on tomorrow will depend upon the consultations I have with the Senator from Wyoming, the minority leader, and others.

Mr. President, may I add this: Having completed the supplemental appropriations bill and having now laid down the immigration bill, we have done all of the items on the must list except for the debt limit and conference reports as and when they are received, and other matters of an urgent nature as they may be presented. That is excellent progress, in my view. As we continue with the immigration bill, we materially improve our chances for going out on August 20.

Mr. SIMPSON. Mr. President, I will not make an opening statement this evening. I shall do that tomorrow.

I want to thank the minority leader for his courtesy to me on this matter, and thank the majority leader very much for bringing this matter to the floor and laying it before the body.

We are working, indeed, on time agreements on various amendments, and negotiations are pending at a brisk pace. There is no prospect of extended debate from either the subcommittee ranking minority member, Senator KENNEDY, or those involved in the legislation. That does not mean that there will not be spirited debate.

I thank the Chair and I very much thank the majority leader for listening to the haunting refrain of the Senator from Wyoming as we completed our work on this legislation and brought it before the body.

Hopefully, we can receive some good results from an important piece of legislation.

I thank very much the Senator from Tennessee. He has been more than courteous, more than helpful, and more than patient.

Mr. BAKER. Mr. President, I thank the Senator. I can say I do not remember in my recent memory anybody who has been more persistent than the Senator from Wyoming in seeing that this amendment is indeed brought before the Senate. I am glad it has worked out this way.

Mr. SYMMS. Mr. President, I thank the majority leader.

S. 2792, OCS REVENUE SHARING LEGISLATION FOR COASTAL STATES

Mr. HOLLINGS. Mr. President, I want to begin by correcting the RECORD for July 29, 1982, regarding the introduction of our bipartisan legislation, S. 2792, OCS Revenue Sharing Legislation for Coastal States.

Several original cosponsors were left off the list when the bill was introduced. Mr. President, I ask unanimous

consent that the list of original cosponsors be corrected to read as follows: Mr. STEVENS, Mr. MURKOWSKI, Mr. HOLLINGS, Mr. HAYAKAWA, Mr. MITCHELL, Mr. INOUE, Mr. GORTON, Mr. CHILES, Mr. PACKWOOD, Mr. CRANSTON, Mr. SARBANES, Mr. RUDMAN, Mr. RIEGLE, Mr. COHEN, Mr. JOHNSTON, and Mr. D'AMATO.

In addition, Mr. President, I ask unanimous consent that the Senator from Indiana (Mr. QUAYLE) be added as a cosponsor.

I want to begin by recognizing the contribution that Senator GEORGE MITCHELL of Maine has made to this legislation. Senator MITCHELL actually led the way for all of us who worked on S. 2792, and was the first to introduce an OCS revenue sharing bill in the Senate, S. 2129. Having pioneered the legislation, he has graciously assisted and supported the development of a compromise bill which seeks to serve the broadest possible set of objectives, and embraces both efforts to develop OCS and coastal energy resources, while at the same time preserving the necessary coastal management activities, renewable resources such as our fisheries, and research efforts required to maintain the viability of our coastal areas.

Mr. President, the Congress has long recognized the need to provide equitable compensation to States for federally initiated development. With the Mineral Leasing Act of 1920 States have received 50 percent of the Federal revenues derived from leasing on Federal lands. Forest Service stumpage payments, grazing fees, and payment in lieu of taxes all have been shared or given to States so that the Federal Government may be seen as a responsible partner in land development. For coastal States, no such reliable, dependable revenue source has existed from OCS related development despite the fact that the OCS receipts are the second largest source of revenue to the Federal Treasury.

The Congress has wisely included the States as a partner in the management of our coastal and ocean resources. Both the OCS Lands Act and the Coastal Zone Management Act give significant role and authority to States to participate in coastal development and protection decisions. The Congress has wisely included the States as a partner in the research of the pressing coastal and oceans issues of the day. The Commercial Fisheries Research and Development Act, the Anadromous Fish Conservation Act, and the sea grant program all recognize the importance and contribution of States to ocean and coastal research.

But now, in the face of unprecedented expansion of coastal development from population increases, coal exports, harbor expansions, dredging, filling, recreational demands, and the

proposed 5-year OCS oil and gas lease sale schedule, the Nation is in danger of being left without the resources to accomplish the urgent research and management tasks to absorb this development ge without destroying our precious coastal heritage. And coastal States, Mr. President, are being asked—no, being told—by the administration, to go it alone as far as impact assistance is concerned.

This is no way for a partnership to be conducted. This is no way for the Federal Government to efficiently, wisely, and fairly develop its OCS oil and gas resources.

Properly constructed revenue sharing of a modest portion of OCS receipts can do many things, Mr. President. It can establish equity for coastal areas with the more fairly treated inland States. It can insure that Coastal States have enough money to discharge their research and management responsibilities. It can allow States to anticipate and prepare for impacts from the Federal development decisions of the OCS as well as other necessary energy requirements—so that responsible cooperation replaces unfortunate but understandable antagonism. It can facilitate needed and proper coastal development without abdicating environmental sensitivity or factual decisionmaking.

The legislation we are introducing today accomplishes this. We include all Coastal States, including the Great Lakes so that common coastal concerns are given a baseline minimum treatment. A proximity to oil and gas is not the only requirement that a Coastal State must be fortunate enough to have in order to be part of the team to which our complete coastal heritage has been entrusted.

A range of specific purposes for use of the funds is detailed in our legislation. Coastal States have the prerogative to establish priorities for funding so that coastal issues most pressing in their areas are addressed. This is not an income tax transfer measure, Mr. President. We are using a small portion of nonrenewable coastal resource revenues to insure the healthy utilization of all our national coastal resources. Yet existing new concepts of State/Federal power sharing are incorporated as well so that Federal oversight focuses on policymaking, not administrative details.

One cannot shy away from the fiscal implications of this legislation, Mr. President and I will not do so here. OCS revenues are the source of this Fund. In order for the Fund to have any dollars to share with Coastal States, the OCS must be developed as a revenue source. The recently adopted schedule of the Secretary of the Interior has already been challenged by three States. More opposition can be anticipated. The previous Secretary's

schedule, "modest" as it appears now in retrospect, was successfully challenged by States. We had better do something to enhance and to continue the State/Federal partnership on the OCS, a partnership which I believe to be appropriate and to be suffering from neglect by this administration.

Mr. President, I will conclude by saying, in summary, that by establishing a properly constructed OCS revenue sharing Fund, we will be cognizant of the legitimate needs of States adjacent to OCS oil and gas activity, establish equity with inland States, insure that all coastal and ocean resources receive the proper research and management attention, and incorporate the spirit of a new Federalism.

HUMANITARIAN AID TO LEBANON

Mr. KENNEDY. Mr. President, over the past months all Americans have watched with mounting concern over the violence in Lebanon and the humanitarian needs that have been created.

Whatever the final accounting may be, we know today that thousands of persons have been killed, and that hundreds of thousands of civilians have been made homeless.

From the outset, I have supported our Government's efforts, in concert with the international and voluntary agencies and other Governments, to respond to the urgent humanitarian needs in Lebanon. I have met with representatives of Catholic Relief Services and other agencies working in the field, as well as with Mr. Peter McPherson, Administrator of the Agency for International Development (AID), when he returned from Lebanon.

It is clear to me that the \$15 million already allocated, and the \$50 million now being considered, is essential for both urgently needed relief supplies as well as longer term rehabilitation and reconstruction assistance.

Mr. President, the tragedy suffered by the Lebanese people will not soon go away. But we can relieve the suffering by offering the food, medicines, and other supplies that will help meet their basic human needs.

In voting for emergency assistance to Lebanon today, we stand ready, as I know the American people do, to offer our helping hand in assisting the Lebanese to rebuild their land when peace finally comes—as it must—within the coming weeks.

U.S. INVOLVEMENT IN HONDURAS: INCREASING THE POTENTIAL FOR CENTRAL AMERICAN WAR

Mr. PELL. Mr. President, while the concern of the Nation has been focused on West Beirut these past

weeks, very serious and disturbing events involving U.S. military activity in Honduras have gone virtually unnoticed. The United States is becoming heavily involved in a military relationship with Honduras that is contributing to the rapidly heating tensions between Honduras and Nicaragua. I fear that a climate is being developed, fueled in large part by U.S. actions, for provoking Nicaragua into retaliatory action similar to the way in which PLO acts of terrorism provoked Israel into retaliation beyond reasonable bounds.

In the past months, tensions have increased between Honduras and Nicaragua, countries that have had traditional rivalries long before the Sandinistas came to power. Incursions into Nicaragua by former Somoza national guardsmen together with dissident Miskito Indians take place almost daily in the border areas. Fighting has also taken place on Nicaragua's Atlantic coast, resulting in mounting military casualties. Although it is difficult to maintain total control because of the terrain, there are disturbing reports that the Honduran military is openly cooperating with these anti-Sandinista forces providing them with training and ammunition and protecting them when they return to Honduran territory fleeing Nicaraguan troops.

For their part, the Hondurans fear the Sandinista government in Nicaragua for many reasons including what they see as a military buildup, Cuban influence in Nicaragua and the prospect that Nicaraguans will eventually acquire Soviet Migs.

As if this alone is not enough to spark a major conflagration, enter the United States into this tinderbox, starting with reports of U.S. covert activity in aiding the former Somoza national guardsmen and other dissidents in destabilizing activities on the border. The reported 30 Argentine military advisers in Honduras have been associated with these reports of covert operations. U.S. military assistance to Honduras doubled this year to over \$10 million, \$15 million is slated for next year, the administration has requested an additional \$17 million for a fiscal year 1982 supplemental, and \$15 million is slated for next year. It has been reported that the Hondurans have requested about 12 F-5's from the United States. As of last week 119 U.S. military personnel were in Honduras. What is most alarming is the fact that this U.S. military involvement and presence in Honduras is proceeding at a more rapid pace than it did in El Salvador.

U.S. military advisers are operating in the Atlantic coast area near the Nicaraguan border. According to the August 5 New York Times, U.S. advisers are helping to assemble Huey helicopters, and are unloading large quan-

ties of U.S. weapons and ammunition at a major Honduran port on the Atlantic coast. U.S. advisers are also helping to construct a Honduran military base about 25 miles from the Nicaraguan border. The United States also has been conducting joint military exercises with the Hondurans on the Atlantic coast near the Nicaraguan border. This is happening at the very time that the Nicaraguans are involved in heavy fighting with the Somocistas and dissident Miskitos on the Atlantic coast.

Over a month ago, on June 30, I expressed my concern over the increasing U.S. military role in Honduras through an amendment to the military construction bill. My amendment would have stopped a \$21 million project designed to improve three airfields to make them capable of landing tactical aircraft. Twenty-eight of my colleagues voted with me because they shared my concern that this project had grave foreign policy implications, not the least of which was the potential for involving the United States even more deeply into the Central American turmoil. They shared the concern that given the administration's present stance on Nicaragua, its hard-line rhetoric, and discussions of options the airfield improvement project would send a signal to those in Central America and the Caribbean that the United States is indeed preparing for deeper involvement, including direct military intervention. I dare say that if the sequence of events would have been reversed—if we would be considering my amendment now, after the events of the past month which I have just recounted—many more of you would have voted to stop the \$21 million airfield project.

I fear that the United States, by increasing its military relationship with Honduras, is sending the wrong signals to the Honduran Government and at the same time fueling the perceptions of threat that Honduras and Nicaragua feel from each other. The situation between Honduras and Nicaragua is dangerously close to a war that is waiting to happen. The Nicaraguans consider themselves in virtually a war status now. Miscalculations by one side or another, decisions to attack or provoke an attack now or later, could result in a war that eventually could spread beyond the borders of Honduras and Nicaragua to El Salvador, where Honduran troops already are involved, to Guatemala, and perhaps the rest of Central America. One can certainly see the specter of Cuban and United States involvement into this potential escalation.

The United States must back away from increased military participation in Honduras. We should be encouraging the Hondurans and the Nicaraguans to begin talking—certainly a

better alternative than shooting. We must begin the process, however, by ourselves opening a dialog with the Nicaraguans—a dialog that has been on dead center for too many months.

The consequences of staying on the present course of expanding U.S. military participation in Honduras are much too grave and serious. Reason must prevail.

THE FIRST ISSUE OF THE U.S. POSTAL SERVICE'S PURPLE HEART EMBOSSED ENVELOPE

Mr. THURMOND. Mr. President, last week, I had the privilege of attending a ceremony at the Pentagon in which the U.S. Postal Service dedicated its new envelope commemorating the Purple Heart.

Joining me at that ceremony were my distinguished colleagues Senators DENTON, DOLE, HEFLIN, INOUE, MELCHER, and Congressmen MICHEL and NICHOLS, who have also received this most distinguished award—our military's honor to those men and women who died or were wounded in the defense of our country.

Mr. President, the Purple Heart has been awarded to our Nation's military personnel as a high tribute for their service since George Washington was the commander of our troops in the Revolutionary War. Since then, it has remained an honor to those men and women who were ready to lay down their lives for the cause of liberty.

The Postal Service's new envelope is a handsome tribute to this prestigious military award. During last week's ceremony, I was extremely proud to be among those chosen to participate in the dedication of the first issue of this envelope.

I want to publicly thank each of those persons in attendance at the ceremony for their work in making this tribute to the Purple Heart a lasting one for all Americans. In undertaking this project, the Postal Service is preserving for generations to come the pride, honor, and great debt of gratitude we all feel for those killed and wounded on the battlefield.

Many have received the Purple Heart and know the great value our Nation places on this award. Others, who made the supreme sacrifice in battle by giving their lives in the defense of freedom, will be remembered again in this tribute by the Postal Service.

Mr. President, the remarks made at last week's ceremony by the distinguished Postmaster General of the United States, William F. Bolger, are an inspirational tribute to the Purple Heart and those persons who received that high honor.

I ask unanimous consent that Mr. Bolger's remarks be included in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

REMARKS OF POSTMASTER GENERAL WILLIAM F. BOLGER

Thank you, and good morning, distinguished guests, ladies and gentlemen. I am delighted to be able to share this occasion with you.

Uncommon valor was a common virtue. Admiral Chester Nimitz said this about the sacrifice and experience of the United States Marines at Iwo Jima. The same might well be said of the group of men and women who over the years have earned the Purple Heart . . . and it is indeed an honor and a pleasure for me to represent the Postal Service today as we dedicate the Purple Heart Envelope to all who have served our country honorably with commitment and courage.

Many of you in this audience earned a Purple Heart. Many more have made the supreme sacrifice, giving their lives for their country. And, with others here and throughout our country, you remember other individuals who responded to their country's call with a sense of duty and determination.

While the primary mission of the Postal Service is to deliver the Nation's mail—we are proud of our 207-year history of doing so—we also value the opportunity to provide the Nation with stamps and postal stationery items that are meaningful as well as attractive.

We recognize the very nearly universal visibility of postage stamps and postal stationery items. We know that—although the size of a postal design is not great—its sphere of influence is. In the coming months, the Purple Heart Envelope—so handsomely designed by John Boyd—will travel around the world. It will serve as a graphic reminder of our Nation's gratitude to those who shed blood to protect and preserve this Nation and the noble ideals upon which it was founded.

Even in this age, when it is popular to downplay talk about patriotism and patriots, we know that portrayal of a subject on a stamp or envelope frequently encourages people to engage in research with regard to that particular subject. And this is precisely what I hope happens in this instance.

While this audience is probably more familiar with the history of this cherished medal than any other I could address, many other people throughout the country will probably be surprised to learn that the Purple Heart Medal is the world's second oldest military decoration still in use . . . that it was initiated by General George Washington on August 7, 1782, during the struggle for independence, and that after a lapse of some 150 years, it was revived on February 22, 1932, as part of the bicentennial celebration of the birth of Washington out of respect to his memory and military achievements.

I want more people to know that when the Father of our Country awarded the first Purple Heart Medal, it was also the first United States military award for valor with out regard for rank.

This is extremely important in my opinion and also reflects the measure of Washington's greatness.

Honesty, integrity, a sense of duty and devotion, dignity, perseverance and faith—all these were characteristic of the man who inspired his troops with the will to endure.

General Washington bore vast burdens and suffered hardships, the full dimensions

of which can only be imagined because he was loath to complain—except where the welfare of this soldiers was involved.

And, when it came to his soldiers, he recognized their burdens, their hardships and their sacrifices—regardless of rank. Perhaps that was one of the most important ingredients that marked his gift for leadership—his ability to see his men both as a group to be led and as individuals to be both inspired and recognized.

Long before motivational techniques were being taught in management courses, General Washington realized how important it was to recognize individual courage and bravery. He encouraged worthy ambition in his troops as well as meritorious action. He wanted them to know that "glory in a patriot army and a free country" was open to all.

Washington believed that a tangible symbol of recognition would remind the recipient of the Nation's gratitude long after the battles were over, and that such a symbol would become part of the legacy of patriotism from one generation to the next.

Fifty years ago, on February 22, 1932, when President Hoover addressed a joint session of the Congress opening the celebration of the bicentennial of Washington's birth and reestablishing the Purple Heart Medal with Washington's image upon it, he said that the Nation needed, . . . "To renew in our people the inspiration that comes from George Washington as a founder of human liberty, as the father of a system of government, as the builder of a system of national life," and "To refresh to the remembrance of the American people the great tests and trials of character of the men who founded our republic."

We believe that the Purple Heart Envelope will help remind Americans of our rich patriotic heritage. It is also our hope that it will recall to everyone the sacrifices of those who have served our country in more recent times.

Thus, it is with great satisfaction that I dedicate the Purple Heart Envelope as the Postal Service's visible commendation to the patriotic individuals whose valor have made it so meaningful.

Thank you.

Now, it is my pleasure to present several albums containing the Purple Heart Envelope to the following distinguished persons:

The first, by tradition, goes to the President of the United States, and Mr. Reagan's will be delivered to the White House.

SOUTH DAKOTA HAS FIVE NATIONAL WINNERS

Mr. PRESSLER. Mr. President, an unusual historic situation which reflects well on my home State of South Dakota exists this year. South Dakota is the home of five young women who have achieved recognition as queens in national competitions. Our research indicates that never in history has one State had five national queens at the same time. South Dakota can be proud. Four of these South Dakotans are national winners of rodeo competitions. Another young South Dakotan is the 1981 recipient of the national Miss Indian America title. This record of five national titles held by South Dakotans is a tribute to the talents and abilities of our South Dakota young people. I want to take a

moment to commend each one of them individually.

Diane McKaben of Rapid City, S. Dak., holds the current title of Miss World Rodeo. Diane, the daughter of Mr. and Mrs. John Patten of Belle Fourche, is a student at Black Hills State College and is working on a degree in political science. Diane's family boasts another rodeo queen, Leslie Patten, who is the current National High School Rodeo Queen. Leslie plans to pursue her education in the engineering field. Both Diane and Leslie have been very active in rodeo competitions for a number of years.

Robin Ball, daughter of Mr. and Mrs. A. R. Ball, Jr., is a 20-year-old Buffalo, S. Dak. resident and the current Miss National College Rodeo. A dental hygiene student at South Dakota State University, Robin has been the winner of several other youth rodeo events and is a former Junior Miss from her hometown.

The current Miss Rodeo America is Donna Keffler, whose parents, Mr. and Mrs. Ralph Keffler, live in Sturgis, S. Dak. Donna is also a student at Black Hills State but is spending this year in Colorado Springs as a representative for the Professional Rodeo Cowboy Association, where she is gaining valuable experience in the field of public relations.

Miss Jerilyn LeBeau, daughter of Mr. and Mrs. Wesley LeBeau, Eagle Butte, S. Dak., is the 1981 Miss Indian America. I had an opportunity to visit with Jerilyn when she came to Washington a few months ago. I was very impressed with this poised young lady who is such a fine representative for the Native American culture and heritage.

I strongly believe that my State's greatest resource is its young people. They are a credit to their families and their communities. We must encourage young South Dakotans to perform and achieve to the best of their abilities. These five young women represent everything that is best about South Dakota. I want to commend them for their admirable success. We are all very proud of their achievements and wish them the very best of luck in their future endeavors.

THE SPACE STATION: AN IDEA WHOSE TIME HAS COME

Mr. CANNON. Mr. President, on July 4 of this year the National Aeronautics and Space Administration (NASA) successfully completed the fourth and final test flight of the Space Shuttle. All Americans can take great pride in that accomplishment. The Shuttle is a prime example of U.S. technological leadership and how that leadership can provide this Nation with major scientific, economic, national security, and international prestige benefits.

The Space Shuttle demonstrates that we have the capability to reach and return from space on a routine basis. That capability will generate significant returns as we learn better how to utilize the great frontier of space. That capability logically also raises some questions about follow-on activities in space and specifically what should be the role of man in space. In the discussions we hear a great deal of enthusiasm for the goal that the United States, through its civilian space agency NASA, should develop a space station.

It was President Reagan on July 4 who stated, "We must look aggressively to the future by demonstrating the potential of the Shuttle and establishing a more permanent presence in space." I would assume from this that he is considering a space station development, possibly in the course of the fiscal year 1984 or 1985 budget review process.

There are others in the administration who are evaluating the space station proposal. Mr. James Beggs, Administrator of NASA, has spoken on a number of occasions about space stations as our next logical step. Dr. George Keyworth, the President's science adviser, is also reviewing the rationale for space stations.

Thus, just 25 years after the launch of Sputnik, the United States is considering the development of a relatively permanent presence in space through either a manned or unmanned space station. Such a development could be of vital significance to U.S. interests, both domestically and internationally. It could also have a major impact on our scientific and technical community.

There are many questions that need to be addressed before this Nation proceeds to develop a space station. I think it is very healthy and productive that the administration is actively exploring these questions. For example, NASA has initiated a number of studies that would assess the rationale for and mission requirements of a permanent space station.

Mr. President, I believe it would be most appropriate that the Congress also participate in this exploratory and analytical process. Toward that end, I am pleased to report that the Office of Technology Assessment Board, on which I serve, today approved a study on space stations requested by the Committee on Commerce, Science, and Transportation, where I serve as the ranking Democratic member.

The OTA study will be an 18-month project and should be a valuable complement to other studies under way. I would expect that the OTA effort will help Members of Congress by addressing such questions as: Why a space station; why now; how expensive will it be; what would be its technological

characteristics; how would its development affect other elements of the U.S. space program; what would be the benefits to space science and applications; what would be the commercial and national security implications; and what impact would it have on our scientific and technological base?

In conclusion, I would hope that the OTA study, the administration studies, future congressional hearings and other efforts would all help in informing the U.S. public and its elected officials and representatives about the benefits and costs of a space station. In essence, we need to know are space stations an idea whose time has come.

RESOLUTION URGES GRAIN AGREEMENT WITH SOVIET UNION

Mr. PRESSLER. Mr. President, I recently received a resolution passed by the Grain Terminal Association regarding agricultural trade from Gordon H. Matheson, chairman of the GTA Board. The resolution expresses the problems of farmers being forced to pay the cost of foreign policy decisions and the need to let American agriculture have free access to world markets. The resolution also calls for a negotiation of a new 5-year grain agreement with the Soviet Union to help boost domestic farm prices. I believe the resolution does a good job of expressing the sentiment of farmers regarding agricultural trade and I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

GRAIN TERMINAL ASSOCIATION,
St. Paul, Minn., August 6, 1982.

HON. LARRY PRESSLER,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR: The GTA Board of Directors, at a meeting held on August 4, 1982, adopted the following resolution to be sent to The President of the United States, The Secretary of Agriculture, The Secretary of State, and Senators and Representatives from the States of Minnesota, Montana, North Dakota, South Dakota, Idaho, Iowa, Oregon, Washington and Wisconsin:

American foreign policy, rather than farm policy, is costing the American farmer and his cooperatives dearly. Without free access to world markets denied by present foreign policy, American agriculture will become chronically, if not terminally, ill.

The stances taken by President Reagan on trade with Russia and China, and the Carter, Ford and Nixon embargoes have been persistent obstacles to market development and stability for American agriculture's largest potential markets in East Europe and Asia. Farmers have been a pawn without compensation in such policies.

The most sensible policy for the United States is to establish regular trade with the Russians by means of a new five-year, variable-price agreement. In the 1970's, Soviet imports differed widely from year to year. The result was large swings in world prices

and in American farm income. A new grain sales agreement setting minimum and maximum quantities, and purchased at negotiated prices, would help stabilize the U.S. export business with the Soviet Union and would help raise U.S. farm income.

When the first trade agreement was made with the Soviet Union in 1972, farmers overnight found themselves in a global economy. They expanded to meet the economy's needs. Today farmers are in difficulty because that economy is soft and there's no demand for their expanded production. This situation is not likely to change if politics continues to play a negative role. What need is there for farmers to grow and promote their products if the State Department refuses to let them sell those products?

We urge the government not to let this situation continue. The one-year extension of the expired trade agreement, while disappointing, has bought time to negotiate a new five-year, variable-price agreement. Negotiated prices are a must in this new agreement for better farm prices are needed, not only from the farm but also from the national economic standpoint. Improved farm income is one of the first steps in helping the nation out of the present recession.

Sincerely yours,

GORDON H. MATHESON,
Chairman of the Board.

GENOCIDE CONVENTION USURPS NO DOMESTIC AUTHORITY

Mr. PROXMIRE. Mr. President, as a result of the holocaust against the Jews in Germany during the Second World War, the United Nations General Assembly, on December 11, 1946, unanimously passed a resolution declaring genocide an international crime. U.S. representatives played an important role in drafting the treaty which resulted from the resolution, and this treaty was approved by the General Assembly in 1948. The treaty defined genocide as the systematic destruction of any racial, ethnic, racial, or religious group. The United States has not ratified the Genocide Treaty despite its initial support and despite the overwhelming support and ratification by 88 other countries.

Opponents of the treaty argue that the Genocide Convention usurps the constitutionally prescribed methods of legislating new law by allowing a treaty rather than Congress to establish domestic criminal law. But the Convention itself is not self-executing and does not establish genocide as a crime within our Federal Criminal Code. Rather, the Genocide Convention requires that the treaty be implemented through the regular legislative process of amending the Federal Criminal Code to include the crime of genocide. Opponents of the treaty who argue that the treaty usurps the law-making powers of the Congress are simply wrong as the treaty is only effective if Congress passes the proper legislation to enact the purposes of the treaty.

In addition to being mistaken about the implementation of the treaty, op-

ponents of the treaty are also incorrect in assuming that the issue of genocide is a domestic concern that should not be dealt with in an international treaty. The crime of genocide involves the systematic destruction of a large ethnic or racial group. It is a crime worse than murder because of its sheer magnitude. Because genocide is usually carried out by national governments against a segment of their population, domestic criminal codes defining murder are ineffective in administering justice against those practicing genocide.

Mr. President, I ask the Senate to give its advice and consent for ratification of the Genocide Convention. We must overcome the rhetoric of opponents who argue that the Convention would subordinate domestic law to the advantage of international treaties. The fears of those opponents are unsound when one examines the text of the Convention and the practicalities of the situation.

NEED FOR A COMPREHENSIVE NUCLEAR TEST BAN

Mr. PROXMIRE. Mr. President, recently Averell Harriman, Clark Clifford, and Paul Warnke made an eloquent plea in support of the Kennedy-Mathias resolution to prevent nuclear testing. I ask unanimous consent that an excerpt from that statement by these wise American statesmen be printed at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

FOR THE RECORD

From a statement by W. Averell Harriman, Clark Clifford and Paul Warnke in support of the Kennedy-Mathias Senate resolution to prevent nuclear testing:

The goal of a comprehensive nuclear test ban must be a priority for the security of our nation and all nations.

A comprehensive nuclear test ban would restrict the development of new nuclear weapons and help restrain the nuclear arms race; it would enhance our security; and it would set an example to the rest of the world that the nuclear powers are serious about controlling nuclear arms * * *.

Ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties would send a positive message and a message of seriousness as we proceed to solve the very different problems before us of controlling nuclear arms in the decade to come. Negotiated by Republicans, signed by Republicans, supported by Republicans and Democrats, these treaties—ratified—can help reestablish the momentum of arms control as well as maintain the bipartisan consensus for a balanced prudent national security program of arms and arms control.

These treaties were negotiated and signed more than a half decade ago by two presidents. It is in our interest to demonstrate to others, particularly the Soviets, that agreements signed will be agreements ratified, and therefore agreements kept, letter and spirit * * *.

Today, with nearly 50,000 weapons deployed, the threat of nuclear war overshadow-

ows every other threat we face. Today, American leadership is needed more than ever—for our allies in Europe who want arms control as well as arms, and for nations around the globe who will decide in the decade ahead to fashion a future with or without nuclear arms * * *.

CODIFICATION OF AIRLINE LABOR PROTECTIVE PROVISIONS

Mrs. KASSEBAUM. Mr. President, tomorrow, we will probably be voting on Conference Report 97-722 to the war risk bill, H.R. 5930. At that time, I intend to raise a point of order because the conference report introduces new matter not committed to the conference by either House. This new matter is a significant substantive amendment to the Federal Aviation Act which alters dramatically labor management relationships in the airline industry. The amendment incorporates by reference the labor protective provisions imposed in the Allegheny-Mohawk Merger, 59 CAB 19 (1972).

The amendment we are considering will make mandatory in many inter-carrier transactions labor provisions which were applied as a matter of discretion by the Civil Aeronautics Board. Moreover, while the CAB would modify the provisions to reflect the factual nuances of each case, this amendment requires verbatim the 1972 language—much of which was created for the railroads in 1936.

Since the amendment only refers to the provisions being enacted, I have attached to this statement a copy of the Allegheny-Mohawk provisions so my colleagues will have an opportunity to see what is actually being considered. I also want to point out that in addition to the policy and procedural issues raised by the proposed amendment, incorporation of an out-of-date regulatory order—intended for a specific case—raises several legal questions not considered by the conference committee. The legal questions include the following:

The labor protective provisions incorporated by reference in the Allegheny-Mohawk case dealt specifically with a 1972 merger. The amendment would now apply these provisions generally and would broaden them to cover sales of equipment, route transfers and other actions to restructure and make a carriers' operations more efficient. There are a number of serious questions as to how provisions designed to address the factual circumstances of a merger will be applied to other transactions.

The provisions incorporated by reference apply specifically to Allegheny, to Mohawk and to their employees. In this case and in all other cases in which labor protective provisions have been imposed, the CAB has modified and varied from the standard LPP's to meet the realities of specific transactions. However, new subsection 408(c)(1) states that these provisions are now being made applicable to all "qualifying transac-

tions." Many direct conflicts would be created if the specific terms of this 1972 CAB order were made applicable to all qualifying transactions and all qualifying air carriers.

The labor protective provisions of the 1972 CAB opinion which the Conference Report seeks to codify is in express conflict with the purpose and intent of the LPP amendment added to the Conference Report. Section 1 of the labor provisions of the CAB opinion provides as follows:

"Section 1. The fundamental scope and purpose of the conditions hereinafter specified are to provide for compensatory allowances to employees who may be affected by the proposed merger of Allegheny Airlines, Inc., and Mohawk Airlines, Inc., approved by the attached order, and it is the intent that such conditions are to be restricted to those changes in employment due to and resulting from such merger. Fluctuations, rises and falls, and changes in volume or character of employment brought about by other causes are not covered by or intended to be covered by these provisions."

The amendment, on the other hand, seeks to cover more than "mergers." It would cover purchases, leases, contract arrangements, and route transfers. How is this conflict to be resolved? What is it that Congress intends if it adopts this amendment? Are fluctuations in employment that are brought about "by other causes" covered or not? The Conference Report amendment appears to intend this. But, the CAB opinion adopted by the amendment clearly and unequivocally states that employment changes brought about by other causes are not covered.

Finally, Mr. President, I would like included in the RECORD a copy of a July 16 New York Times editorial titled "Frozen in the Cockpit?"

There being no objection, the material was ordered to be printed in the RECORD, as follows:

APPENDIX B

LABOR PROTECTIVE PROVISIONS

Section 1. The fundamental scope and purpose of the conditions hereinafter specified are to provide for compensatory allowances to employees who may be affected by the proposed merger of Allegheny Airlines, Inc., and Mohawk Airlines, Inc., approved by the attached order, and it is the intent that such conditions are to be restricted to those changes in employment due to and resulting from such merger. Fluctuations, rises and falls, and changes in volume or character of employment brought about by other causes are not covered by or intended to be covered by these provisions.

Section 2. (a) The term "merger," as used herein means joint action by the two carriers whereby they unify, consolidate, merge, or pool in whole or in part their separate airline facilities or any of the operations or services previously performed by them through such separate facilities.

(b) The term "carrier" as used herein refers to either Allegheny or Mohawk or to the corporation surviving after consummation of the proposed merger of the two companies.

(c) The term "effective date of merger" as used herein shall mean the effective date of the amended certificates of public convenience and necessity transferred to Allegheny pursuant to the approval granted in the attached order.

(d) The term "employee" as used herein shall mean an employee of the carriers

other than a temporary or part-time employee.

Section 3. Insofar as the merger affects the seniority rights of the carriers' employees, provision shall be made for the integration of seniority lists in a fair and equitable manner, including, where applicable, agreement through collective bargaining between the carriers and the representatives of the employees affected. In the event of failure to agree, the dispute may be submitted by either party for adjustment in accordance with section 13.

Section 4. (a) Subject to the applicable conditions set forth herein, no employee of either of the carriers involved in the merger who is continued in service shall as a result of the merger be placed in a worse position with respect to compensation than he occupied immediately prior to his displacement so long as he is unable in the normal exercise of his seniority rights under existing agreements, rules, and practices to obtain a position producing compensation equal to or exceeding the compensation of the position held by him immediately prior to such date, except, however, that if he fails to exercise his seniority rights to secure another available position, which does not require a change in residence, to which he is entitled under the working agreement and which carries a rate of pay and compensation exceeding those of the position which he elects to retain, he shall thereafter be treated for the purposes of this section as occupying the position which he elects to decline.

(b) The protection afforded by the foregoing paragraph is hereby designated as a "displacement allowance" which shall be determined in each instance in the manner hereinafter described. Any employee entitled to such an allowance is hereinafter referred to as a "displaced" employee.

(c) Each displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee and his total time paid for during the last 12 months in which he performed service immediately preceding the date of his displacement (such 12 months being hereinafter referred to as the "test period") and by dividing separately the total compensation and the total time paid for by 12, thereby producing the average monthly compensation and average monthly time paid for, which shall be the minimum amounts used to guarantee the displaced employee; and if his compensation in his current position is less in any month in which he performs work than the aforesaid average compensation, he shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that he is not available for service equivalent to his average monthly time during the test period, but he shall be compensated in addition thereto at the rate of the position filled for any time worked in excess of the average monthly time paid for during the test period.

(d) The protection afforded herein shall apply only to displacements occurring within a period of 3 years from the effective date of the merger (referred to herein as the claim period); and the period during which this protection is to be given (referred to herein as the protective period) shall extend for a period of 4 years from the date on which the employee is displaced.

Section 5. (a) Any employee of either of the carriers participating in the merger who is deprived of employment as a result of said merger shall be accorded an allowance

(hereinafter termed a "dismissal allowance"), based on length of service, which (except in the case of an employee with less than 1 year of service) shall be a monthly allowance equivalent in each instance to 60 percent of the average monthly compensation of the employee in question during the last 12 months of his employment in which he earned compensation prior to the date he is first deprived of employment as a result of the merger. This dismissal allowance will be made to each eligible employee, while unemployed, by Allegheny during a period beginning at the date he is first deprived of employment as a result of the merger and extending in each instance for a length of time determined and limited by the following schedule:

Length of service (years):	Period of payment (months)
1 and less than 2.....	6
2 and less than 3.....	12
3 and less than 5.....	18
5 and less than 10.....	36
10 and less than 15.....	48
15 and over.....	60

In the case of an employee with less than 1 year of service, such employee shall not be covered by the benefits provided in this section, but shall receive such benefits, and only such benefits, as are provided by section 7.

(b) for the purpose of these provisions, the length of service of the employee shall be determined from the date he last acquired an employment status with the employing carrier, and he shall be given credit for 1 month's service for each month in which he performed any service (in any capacity whatsoever) and 12 such months shall be credited as 1 year's service. The employment status of an employee shall not be interrupted by furlough in instances where the employee has a right to and does return to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization, he will be given credit for performing service while so engaged on leave of absence from the service of the carrier: *Provided*, That in calculating the dismissal allowance for such an employee, such allowance shall be based upon the compensation paid such employee by the carrier during his last 12 months of service on the company payroll and not on the compensation he may have been paid by the employee representative organization.

(c) An employee shall not be regarded as deprived of employment in case of his resignation, death, or retirement on account of age or disability in accordance with the current rules and practices applicable to employees generally, dismissal for justifiable cause in accordance with the rules, or furlough because of reduction in forces due to seasonal requirements of the service; nor shall any employee be regarded as deprived of employment as the result of the merger who is not deprived of his employment within 3 years from the effective date of said merger.

(d) Each employee receiving a dismissal allowance shall keep Allegheny informed of his address and the name and address of any other person by whom he may be regularly employed.

(e) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished while he is absent from service, he will be entitled to the dismissal

allowance when he is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance on the basis of said position until the regular employee is available for service and thereafter shall revert to his previous status and will be given a dismissal allowance accordingly if any is due.

(f) An employee receiving a dismissal allowance shall be subject to call to return to service after being notified in accordance with the working agreement, and such employee may be required to return to the service of the employing carrier for other reasonably comparable employment for which he is physically and mentally qualified and which does not require a change in his place of residence, if his return does not infringe upon the employment rights of other employees under the working agreement.

(g) If an employee who is receiving a dismissal allowance returns to service the dismissal allowance shall cease while he is so reemployed, and the period of time during which he is so reemployed shall be deducted from the total period for which he is entitled to receive a dismissal allowance. During the time of such reemployment, however, he shall be entitled to protection in accordance with the provisions of section 4.

(h) If an employee who is receiving a dismissal allowance obtains other employment, his dismissal allowance shall be reduced to the extent that the sum total of his earnings in such employment plus his allowance and any unemployment insurance benefit (or similar benefit) exceed the amount upon which his dismissal allowance is based: *Provided*, That this shall not apply to employees with less than 1 year's service.

(i) A dismissal allowance shall cease prior to the expiration of its prescribed period in the event of—

1. Failure without good cause to return to service after being notified of a position for which he is eligible and as provided in paragraphs (f) and (g);
2. Resignation;
3. Death;
4. Retirement or on account of age or disability in accordance with the current rules and practices applicable to employees generally;
5. Dismissal for justifiable cause.

Section 6. An employee affected by the merger shall not during the applicable protective period be deprived of benefits attaching to his previous employment, such as hospitalization, relief, and the like.

Section 7. Any employee eligible to receive a dismissal allowance under section 5 hereof may, at his option at the time of merger, resign and (in lieu of all other benefits and protections provided in these provisions) accept in a lump sum a separation allowance determined in accordance with the following schedule:

Length of service (years):	Separation allowance (months' pay)
1 and less than 2.....	3
2 and less than 3.....	6
3 and less than 5.....	9
5 and over.....	12

In the case of employees with less than 1 year's service, 5 days' pay, at the straight time rate per working day of the position last occupied, for each full month in which they performed service will be paid as the lump sum.

(a) Length of service shall be computed as provided in section 5.

(b) One month's pay shall be computed by multiplying by 30 the calendar daily rate of pay received by the employee in the position last occupied prior to the time of the merger.

Section 8. (a) Any employee who is retained in the service of the carrier surviving the merger (or who is later restored to service from the group of employees entitled to receive a dismissal allowance) who is required to change the point of his employment as a result of such merger and is therefore required to move his place of residence shall be reimbursed for all expenses of moving his household and other personal effects and for the traveling expenses of moving his household and other personal effects and for the traveling expenses of himself and members of his family, including living expenses for himself and his family and his own actual wage loss during the time necessary for such transfer and for a reasonable time thereafter (not to exceed 2 working days) used in securing a place of residence in his new location. The exact extent of the responsibility of the carrier under this provision and the ways and means of transportation shall be agreed upon in advance between the carrier and the affected employee or his representative. No claims for expenses under this section shall be allowed unless they are incurred within 3 years from the effective date of the merger, and the claim must be submitted within 90 days after the expenses are incurred.

(b) Changes in place of residence subsequent to the initial change caused by the merger which grow out of the normal exercise of seniority in accordance with working agreements are not comprehended within the provisions of this section.

Section 9. (a) The following provisions shall apply, to the extent they are applicable in each instance, to any employee who is retained in the service of the carriers involved in this merger (or who is later restored to such service from the group of employees entitled to receive a dismissal allowance) who is required to change the point of his employment as a result of such merger and is therefore required to move his place of residence.

1. If the employee owns his own home in the locality from which he is required to move, he shall at his option be reimbursed by the carrier for any loss suffered in the sale of his home for less than its fair value. In each case the fair value of the home in question shall be determined as of a date sufficiently prior to the merger to be unaffected thereby: *Provided, however*, That if the home shall be determined as of a date as closely related to the date of sale as possible, with an agreed-upon adjustment being made to exclude any effect of the merger on such fair value. The carrier shall in each instance be afforded an opportunity to purchase the home at such fair value before it is sold by the employee to another party.

2. If the employee is under a contract to purchase his home, the carrier shall protect him against loss to the extent of the fair value of any equity he may have in the home and in addition shall relieve him from any further obligations under his contract.

3. If the employee holds an unexpired lease of a dwelling occupied by him as his home, the carrier shall protect him from all loss and cost in securing the cancellation of his said lease.

(b) Changes in place of residence subsequent to the initial change caused by the merger which grow out of the normal exer-

cise of seniority in accordance with working agreements are not comprehended within the provisions of this section.

(c) No claim for loss shall be paid under the provisions of this section which is not presented within 3 years after the effective date of the merger.

(d) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under contract for purchase, loss and cost in securing termination of lease, or any other question in connection with these matters, it shall be decided through joint conference between the employee or his representative and the carrier, and in the event they are unable to agree, the dispute may be referred by either party to a board of three competent real estate appraisers, selected in the following manner: One to be selected by the employee or his representative and one by the carrier, respectively; these two shall endeavor by agreement within 10 days after their appointment to select the third appraiser or to select some person authorized to name the third appraiser; and in the event of failure to agree, then the Chairman of the National Mediation Board shall be requested to appoint the third appraiser. A decision of the majority of the appraisers shall be required, and said decision shall be final and conclusive. The salary and expenses of the third or neutral appraiser, including the expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the salary of the appraiser selected by such party.

Section 10. If either carrier, on or after May 5, 1971, shall rearrange or adjust its forces in anticipation of the merger, with the purpose or effect of depriving an employee of benefits to which he should be entitled under these provisions as an employee immediately affected by the merger, these provisions shall apply to such an employee as of the date when he is so affected.

Section 11. Allegheny and Mohawk shall jointly or severally give at least 45 days' written notice containing a full and adequate statement of the proposed changes to be effected by the merger, including an estimate of the number of employees of each class, craft, or field of endeavor affected by the intended changes. Such notice shall be posted on bulletin boards or other conspicuous places convenient to the employees of said carriers, and a copy of the notice shall be sent by registered mail to all authorized representatives of any of the employees of both carriers.

If requested in writing by any employee or employees of either carrier or the authorized representative of such employee or employees, the date and place of a meeting between said employees or their representatives and the representatives of the carriers to settle problems of the rearrangement of such employees arising out of and because of the merger shall be agreed upon within 10 days after such request is received by the carrier. The meeting shall commence within 30 days from the date the request is received by the carrier.

In the event of a failure to agree upon a settlement of a problem or of problems presented at the meeting, the unsettled problems may be submitted by either party for adjustment in accordance with section 13.

Section 12. No employee of either carrier shall, as a condition of eligibility for the protection afforded by the terms of this order, be required to accept employment with the surviving carrier that is not within

the class, craft, or field of endeavor in which he was employed by either carrier on the date of the attached order.

Section 13. (a) In the event that any dispute or controversy (except as to matters arising under section 9) arises with respect to the protections provided herein which cannot be settled by the parties within 20 days after the controversy arises, it may be referred by any party to an arbitrator selected from a panel of seven names furnished by the National Mediation Board for consideration and determination. The parties shall select the arbitrator from such panel by alternatively striking names until only one remains, and he shall serve as arbitrator. Expedited hearings and decisions will be expected, and a decision shall be rendered within 90 days after the controversy arises, unless an extension of time is mutually agreeable to all parties. The salary and expenses of the arbitrator shall be borne equally by the carrier and (i) the organization or organizations representing the employee or employees or (ii) if unrepresented, the employee or employees or group or groups of employees. The decision of the arbitrator shall be final and binding on the parties.

(b) The above condition shall not apply if the parties by mutual agreement determine that an alternative method for dispute settlement or an alternative procedure for selection of an arbitrator is appropriate in their particular dispute. No party shall be excused from complying with the above condition by reason of having suggested an alternative method or procedure unless and until that alternative method or procedure shall have been agreed to by all the parties.

ORDER

(72-4-31)

A full public hearing having been held in the above-entitled proceeding and the Board, upon consideration of the record, having issued its opinion containing its findings, conclusions, and decision, which is attached hereto and made a part hereof;

It is ordered—

1. That, subject to the conditions specified below, the joint application of Allegheny Airlines, Inc. (Allegheny), and Mohawk Airlines, Inc. (Mohawk), in docket 23371 for approval of the agreement of May 5, 1971, as amended and restated as of August 5, 1971, and October 15, 1971, providing for a merger of these two companies and for approval of the transfer to Allegheny of the certificates of public convenience and necessity issued to Mohawk for routes 72 and 94 and all exemption authority held by Mohawk be and it hereby is approved;

2. That the approval granted herein is subject to the condition that for ratemaking or other regulatory purposes the approval granted herein shall not in any manner be relied upon as the basis for augmenting the investment value of the certificates, property, and other assets to be acquired by Allegheny, nor shall such approval be deemed a

[From the New York Times, July 16, 1982]
FROZEN IN THE COCKPIT?

Feudalism is an economic system long dead—except in the psyche of the airline unions. They want to attach airline workers to their planes and check-in counters, the way medieval serfs were tied to their land.

Under proposed legislation, airlines would have to guarantee equivalent jobs (or severance payments as high as \$190,000) to any

employee affected by merger, sale or lease of facilities. The airlines argue, correctly, that Government should not impose rigid labor protection rules on their now-deregulated industry. If employees are more eager to win such costly protection than, say, higher wages, let them bargain for it.

Before the industry was deregulated in 1978, the Civil Aeronautics Board insisted that jobs be protected in mergers and route swaps. Where equivalent work was not available, workers could get 60 percent of their wages for five years.

Such broad Government protection for airline labor was only fair, the board argued, because airline management was benefitting from valuable Government-protected franchises.

But now the franchises are gone, and so is the regulators' rationale for "labor protection provisions." That is why the pilots and airline machinists' unions are pressing Congress for a law to accomplish the same thing.

Such legislation would make little sense even in good times. To adjust to market conditions, airlines need the flexibility to buy, sell and merge facilities. They could, if they wished, barter that flexibility for lower wages or reduced fringe benefits. But as Wallace Hendricks, a University of Illinois labor economist, points out, no airline union has valued protection provisions highly enough to pay the necessary price.

In any case, these are not good times. A half-dozen airlines are already in trouble; others will probably need to dump routes, merge facilities or lease out aircraft. No airline can afford to pay labor protection costs that might run as high as \$6 million for the sale of a single jumbo jet.

No hearings have been held on this labor protection provision. Neither the House nor the Senate voted to put such a provision in its version of an aviation insurance bill. Supporters will simply tack it on in conference committee next week, provided that influential conference members do not object. That, in effect, leaves it up to the senior uncommitted conferee, James Howard of New Jersey.

Representative Howard, chairman of the House Transportation Committee, is known both for his affection for organized labor and his practical commitment to airline deregulation. May his mind win out over his heart.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT ON MINE HEALTH AND SAFETY ACTIVITIES—MESSAGE FROM THE PRESIDENT PM 162

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 511(a) of the Federal Mine Safety and Health Act of 1977, as amended (30 U.S.C. 958(a)), I transmit herewith the Fiscal Year 1980 annual report on mine safety and health activities during the previous Administration as submitted by the Secretary of Labor.

RONALD REAGAN.

THE WHITE HOUSE, August 11, 1982.

FISHERIES AGREEMENT BETWEEN THE UNITED STATES AND KOREA—MESSAGE FROM THE PRESIDENT PM 163

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, pursuant to Public Law 94-265:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 USC 1801), I transmit herewith a governing international fishery agreement between the United States and the Republic of Korea, signed at Washington on July 26, 1982.

This agreement is one of a series to be renegotiated in accordance with that legislation to replace existing bilateral fishery agreements which are due to expire this year. I urge that the Congress give favorable consideration to this agreement at an early date.

RONALD REAGAN.

THE WHITE HOUSE, August 11, 1982.

PRESIDENTIAL APPROVAL

A message from the President of the United States announced that on August 6, 1982 he had approved and signed the following act:

S. 2706. An act to amend title 28, United States Code, to modify the bar membership requirements for United States magistrates.

ENROLLED BILL PRESENTED

The Secretary reported that on today, August 11, 1982, he had presented to the President of the United States the following enrolled bill:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:21 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker had signed the following enrolled bill:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 5:19 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

The message also announced that the House had passed the following bill, in which it requested the concurrence of the Senate:

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance."

HOUSE BILL HELD AT DESK

By unanimous consent the following bill was ordered held at the desk until the close of business on August 12, 1982:

H.R. 6128. An act to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ROTH (for Mr. Stevens), from the Committee on Governmental Affairs, with amendments:

H.R. 3620. An act transferring certain Federal property to the city of Hoboken, N.J. (Rept. No. 97-521).

By Mr. DOLE, from the Committee on Finance, with an amendment in the nature of a substitute and an amendment to the title:

H.J. Res. 520. Joint resolution to provide for a temporary increase in the public debt limit.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Robert H. Phinny, of California, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Kingdom of Swaziland:

Nominee: Robert H. Phinny.

Post: Ambassador to Swaziland.

Contributions, amount, date, donee.

1. Self, \$1,000, 1980, Gerald R. Ford New Leadership Comm.; \$1,000, 1981, same as above.

2. Spouse, None.

3. Children and spouses: a. Gay M. Phinny, None. b. Stephen D. Phinny and wife, Katherine, \$15, 1978, Comm. for Senator Griffin; \$20, 1979, GOP Victory Fund; \$20, 1980, Lou Brock Republican Campaign Fund; \$10, 1981, Republican Party of Texas. c. Dody S. (Phinny) Gates and husband, Lathrop, \$50, 1980, Bond for Governor; \$50, 1980, McNary for Senate Comm.; \$25, 1980, United Citizens for Kemper; \$50, 1981, Danforth for Senate Comm.; \$25, 1981, United Citizens for Kemper; \$50, 1981, Missouri Republican Finance Comm.; d. Peter T. Phinny, \$50, 1978, Friends of Roche; \$30, 1979, National Republican Congressional Comm.; \$25, 1979, Republican National Comm.; \$30, 1980, GOP Victory Fund; \$50, 1981, Gerald R. Ford New Leadership Comm.

4. Parents (Robert Phinny): Mother and Father deceased. Parents (Sally G. Phinny): Father deceased; Mother—Dorothy S. Gerber, \$200, 1978, Americans against Union Control of Government; \$500, 1978, National Conservative Political Action Comm.; \$200, 1978, Young Americans For Freedom; \$200, 1978, Mich. Right To Work Comm.; \$300, 1978, The Conservative Caucus; \$400, 1978, Newaygo Co. Republican Comm.; \$350, 1978, National Right To Work Comm.; \$220, 1978, National Right To Work Foundation; \$400, 1978, People for Arthurhultz; \$70, 1978, American Security Council; \$350, 1978, GOP Victory Fund; \$200, 1978, Sawyer for Congress; \$50, 1978, The Ad Hoc Committee; \$250, 1978, Michigan Republicans; \$100, 1978, Young Republicans; \$500, 1978, Conservative Victory Fund; \$650, 1978, Comm. for Sen. Griffin; \$1,250, 1978, Helms for Senate; \$150, 1978, Senate Republican Emergency Fund; \$20, 1978, Fund To Stop Strikes Against Public; \$500, 1978, Institute of American Relations; \$50, 1978, Comm. For Survival of Free Congress; \$80, 1978, National Small Business Association; \$100, 1978, Milliken for Michigan Comm.; \$700, 1979, Americans Against Union Control of Government; \$600, 1979, National Conservative Political Action Comm.; \$350, 1979, Young Americans For Freedom; \$700, 1979, National Republican Senate Comm.; \$200, 1979, Michigan Right To Work Comm.; \$200, 1979, The Conservative Caucus; \$500, 1979, Newaygo Co. Republican Comm.; \$200, 1979, National Right To Work Comm.; \$60, 1979, Fry for Guy; \$50, 1979, National Right To Work Foundation; \$100, 1979, People for Arthurhultz; \$520, 1979, American Security Council; \$1,400, 1979, GOP Victory Fund; \$100, 1979, The Ad Hoc Committee; \$1,000, 1979, Michigan Republicans; \$1,500, 1979, Reagan for President; \$1,000, 1979, Young Republicans; \$1,000, 1979, Congressional Club; \$200, 1979, Citizens for Republic; \$1,000, 1979, National Republican Congressional Comm.; \$150, 1979, Conservative Vic-

tory Fund; \$550, 1980, Republican National Comm.; \$1,000, 1980, Fund for Conservative Majority; \$300, 1980, Americans Against Union Control of Government; \$1,500, 1980, National Conservative Political Action Comm.; \$300, 1980, Young Americans For Freedom; \$1,100, 1980, National Republican Senate Comm.; \$200, 1980, Mich. Right To Work Comm.; \$600, 1980, The Conservative Caucus; \$200, 1980, Newaygo Co. Republican Comm.; \$200, 1980, National Right To Work Comm.; \$60, 1980, Fry for Guy; \$40, 1980, People for Arthurhultz; \$200, 1980, Senate-House Rep. Dinner; \$105, 1980, GOP Victory Fund; \$300, 1980, Citizens for Hal Sawyer; \$500, 1980, Hal Sawyer Campaign; \$150, 1980, Hal Sawyer's Spring Fling; \$100, 1980, The Ad Hoc Committee; \$850, 1980, Michigan Republicans; \$500, 1980, Americans for Reagan; \$400, 1980, Reagan for President; \$150, 1980, Bill's Birthday Beef Steak; \$100, 1980, Young Republicans; \$400, 1980, The Unity Comm. (Republican President); \$500, 1980, Congressional Club; \$100, 1980, C.S.F.C.; \$200, 1980, N.R.S.C./1980 Target Democratic Program; \$50, 1980, Pink Sheet On Left; \$300, 1980, I.A.R.-Foreign Affairs Council; \$35, 1980, CALL; \$25, 1980, Citizens for Republic; \$325, 1981, Republican National Comm.; \$575, 1981, Fund For A Conservative Majority; \$100, 1981, Americans Against Union Control of Governments; \$800, 1981, National Conservative Political Action Comm.; \$175, 1981, Young Americans For Freedom; \$150, 1981, National Republican Senate Comm.; \$200, 1981, Mich. Right To Work Comm.; \$25, 1981, The Conservative Caucus; \$100, 1981, Newaygo Co. Republican Comm.; \$200, 1981, National Right To Work Comm.; \$60, 1981, Fry For Guy; \$50, 1981, National Right To Work Foundation; \$40, 1981, Senator Phil's Bar-B-Q; \$25, 1981, Public Advocate; \$50, 1981, Senate-House Rep. Dinner; \$2,500, 1981, GOP Victory Fund; \$500, 1981, Citizens For U.S. Rep. Hal Sawyer; \$535, 1982, Republican National Comm.; \$100, 1982, National Conservative Political Action Comm.; \$200, 1982, Mich. Right To Work Comm.; \$100, 1982, The Conservative Caucus; \$100, 1982, Newaygo Co. Republican Comm.

5. Grandparents (Robert Phinny): Grandparents deceased. (Sally Phinny) Grandparents deceased.

6. Brothers and Spouses (Robert Phinny): Charles Phinny, \$15, 1980, GOP Victory Fund. (Sally Phinny): Daniel Gerber, Jr. and wife, Virginia, \$40, 1980, People for Arthurhultz; \$250, 1980, John Otterbacher; \$60, 1981, John Otterbacher.

7. Sisters and Spouses (Robert Phinny): Marian P. Grant, None. (Sally Phinny): Scottie Merrill and husband Ralph, \$60, 1978, VanderJagt Campaign; \$60, 1979, Fry for Guy; \$60, 1980, 1980 Fry for Guy; \$50, 1980, 1980 GOP Victory Fund; \$60, 1981, Fry for Guy; \$100, 1981, National Republican Congressional Comm. Gay Cummings and husband, Peter, \$300, 1978, Citizens for Republic; \$300, 1978, Fund for Conservative Majority; \$250, 1978, Conservative Victory Fund; \$100, 1978, Newaygo Co. Republican Comm. \$50, 1979, Citizens for Republic; \$250, 1979, Reagan for President; \$250, 1980, Fund for Conservative Majority; \$20, 1980, Dues in American Conservative Union; \$250, 1980, Americans for Reagan; \$100, 1980, Citizens for Buckley; \$150, 1980, Leonard Somers; \$60, 1980, Fry for Guy; \$50, 1980, Blacks for Reagan; \$250, 1980, Reagan for President; \$100, 1980, Citizens for Reagan; \$80; \$100, 1980, Christians for Reagan; \$250, 1980, Americans for Reagan; \$150, 1980, National Republican Senatorial Comm./1980

Target Democratic Program. Paula Gerber Warm and husband, David Warm, Unable To Verify.

Richard H. Ellis, of Virginia, for the rank of Ambassador during the tenure of his service as the United States Commissioner on the U.S.-USSR Consultative Commission:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard H. Ellis.

Post: Rank of Ambassador (U.S. Commissioner-US/USSR Standing Consultative Commission).

Contributions, amount, date, donee.

1. Self, None.

2. Spouse, Margaret Parry Ellis, None.

3. Children and Spouses: Richard H. Ellis, Jr., None; Josiah O. Wolcott III, None; Mary Ellis Shea (Husband, Daniel), None.

4. Parents: Wilbur P. Ellis (deceased), None; Elsie C. Ellis (deceased), None.

Grandparents: Edward P. and Sarah Ellis (deceased), None. Charles and Deborah Hastings (deceased), None known to me.

6. Brothers and Spouses: Donald B. Ellis (deceased), None; Joseph C. (deceased) and Emogene P. Ellis, none known to me; W. Pierce and Dortha and Maggie Ellis, None.

7. Sisters and Spouses: No Sisters.

(The above nominations were reported by the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the

nominees commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following report(s) of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, EXPENDED BETWEEN JULY 1 AND SEPT. 31, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
James P. O'Mara:									
El Salvador	Colones	167	66.80	20	8.00				74.80
United States	Dollar				661.00				661.00
Total			66.80		669.00				735.80

JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, May 4, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN JUNE 5 AND NOV. 3, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Dwight Dyer:									
France	Franc	2,332	424.00					2,332	424.00
Wayne Schroeder:									
France	Franc	2,332	424.00					2,332	424.00
Frederick W. Rhodes:									
France	Franc	1,728	288.00					1,728	288.00
Netherlands	Guilder	621	225.00					621	225.00
Denmark	Kroner	2,291	297.00					2,291	297.00
Norway	Kroner	3,068	520.00					3,068	520.00
Senator Jake Garn:									
Germany	Mark	198.90	90.00					198.90	90.00
England	Pound	218.70	405.00					218.70	405.00
Senator Robert Kasten:									
England	Pound	224.84	416.00			112.43	200.40	337.27	616.40
Total			3,089.00				200.40		3,289.40

MARK O. HATFIELD,
Chairman, Committee on Appropriations, June 10, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
James D. Bond:									
Hong Kong	Dollar		95.00						95.00
Burma	Dollar		150.00						150.00
Thailand	Dollar		348.00						348.00
Malaysia	Dollar		188.00						188.00
Singapore	Dollar		212.00						212.00
Indonesia	Dollar		231.00						231.00
Philippines	Dollar		525.00						525.00
United States	Dollar				3,061.52				3,061.52
Senator Mark Hatfield:									
Mexico	Peso	16,473.60	624.00					16,473.60	624.00
Senator Robert Kasten:									
Germany	Deutsche mark	580.56	246.00					58.56	246.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			2,619.00		3,061.52				5,680.52

MARK O. HATFIELD,
Chairman, Committee on Appropriations, June 10, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Richard Collins:									
Italy	Lira					246,821	174.00	246,821	174.00
Israel	Shekel					21,137	1,109.00	21,137	1,109.00
Jordan	Dinar					50	142.00	50	142.00
Egypt	Pound			149	144.00	400	385.00	549	529.00
Greece	Drachma			91,410	1,460.00	44,139	705.00	135,549	2,165.00
United States	Dollar				1,763.00				1,763.00
James D. Bond:									
Italy	Lira					246,821	174.00	246,821	174.00
Israel	Shekel					21,137	1,109.00	21,137	1,109.00
Jordan	Dinar					50	142.00	50	142.00
Egypt	Pound			149	144.00	400	385.00	549	529.00
Greece	Drachma			91,410	1,460.00	44,139	705.00	135,549	2,165.00
United States	Dollar				1,763.00				1,763.00
Senator Robert W. Kasten:									
Italy	Lira					246,821	174.00	246,821	174.00
Israel	Shekel					21,137	1,109.00	21,137	1,109.00
Jordan	Dinar					50	142.00	50	142.00
Egypt	Pound			149	144.00	400	385.00	549	529.00
Greece	Drachma			83,272	1,330.00	44,139	705.00	127,411	2,035.00
United States	Dollar				1,763.00				1,763.00
Jane McGhee:									
Italy	Lira					246,821	174.00	246,821	174.00
Israel	Shekel					21,137	1,109.00	21,137	1,109.00
Jordan	Dinar					50	142.00	50	142.00
Egypt	Pound			149	144.00	400	385.00	549	529.00
Greece	Drachma			91,410	1,460.00	44,139	705.00	135,549	2,165.00
United States	Dollar				1,763.00				1,763.00
Total					13,338.00		10,060.00		23,398.00

MARK O. HATFIELD,
Chairman, Committee on Appropriations, June 13, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Gary Hart:									
United Kingdom	Pound	116.56	208.00					116.56	208.00
Rhett Dawson:									
Panama	Dollar		150.00		863.00				1,013.00
El Salvador	Colon	366	146.40					366	146.40
Total			504.40		863.00				1,367.40

JOHN TOWER,
Chairman, Committee on Armed Services, July 20, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William M. Diefenderfer:									
Korea	Won	266,960	376.00					266,960	376.00
United States	Dollar				2,506.00		182.48		2,688.48

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William D. Phillips:									
Japan	Yen	196,200	872.00	67,850	301.55	9,850	43.78	273,900	1,217.33
Korea	Won	265,080	376.00					265,000	376.00
United States	Dollar				1,455.00				1,455.00
Peter A. Friedmann:									
Korea	Won	331,350	470.00						470.00
United States	Dollar				2,940.00				2,940.00
Total			2,094.00		7,202.55		226.26		9,522.81

BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, Apr. 23, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION, EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ward H. White:									
Brazil	Cruzeiro	56,543.08	461.23					56,543.08	461.23
United States	Dollar				2,890.00				2,890.00
Total			461.23		2,890.00				3,351.23

BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, Apr. 23, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, EXPENDED BETWEEN APR. 10 AND JUNE 17, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Paul A. Sivley:									
Japan	Yen	48,306	194.00					48,306	194.00
Michael D. Hathaway:									
France	French franc	1,435.10	238.00		3,282.00			1,435.10	3,520.00
Howard S. Useem:									
Canada	Dollar		212.50		259.42				471.92
Total			644.50		3,541.42				4,185.92

JAMES A. McCLURE,
Chairman, Committee on Energy and Natural Resources, June 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, EXPENDED BETWEEN MAY 7 AND MAY 22, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Philip T. Cummings:									
Kenya	Shilling	9,391.50	900.00		1,823.00			9,391.50	2,723.00
Josephine Cooper:									
Kenya	Shilling	9,391.50	900.00		1,823.00			9,391.50	2,723.00
Katherine Cudlipp:									
Kenya	Shilling	9,391.50	900.00		1,823.00			9,391.50	2,723.00
Total			2,700.00		5,469.00				8,169.00

ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, June 8, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Charles Mathias:									
France	Franc	2,976	496.00					2,976	496.00
Austria	French franc	1,152	192.00					1,152	192.00
France	Franc			929	154.00			927	154.00
United States	Dollar				1,515.00				1,515.00
Senator Claiborne Pell:									
El Salvador	Colon					75	30.00	75	30.00
Nicaragua	Cordoba	900	90.00					900	90.00
Mexico	Peso	2,075	78.00					2,075	78.00
Senator Larry Pressler:									
Mexico	Peso		172.00		276.00				448.00
Italy	Lira	310,335	255.00					310,335	255.00
Poland	Zloty	23,451.70	291.00	2,037,000	2,527.00			2,060,451.70	2,818.00
United States	Dollar				1,763.00				1,763.00
Senator Edward Zorinsky:									
France	Franc	2,219.03	403.46					2,219.03	403.46
Patrick Balestrieri:									
Greece	Drachma	13,612.50	225.00					13,612.50	225.00
Turkey	Lira	32,377.50	225.00					32,377.50	225.00
Italy	Lira	433,500	340.00	24,800	19.45			458,300	359.45
United States	Dollar				1,666.00				1,666.00
Graeme Bannerman:									
Israel	Dollar		270.00						270.00
Jordan	Dollar		252.00						252.00
Egypt	Pound	187,130	225.00					187,130	225.00
Sudan	Pound	427,115	476.00					427,115	476.00
Kuwait	Dollar		157.00						157.00
Saudi Arabia	Riyal	1,363	402.00					1,363	402.00
Oman	RO.	142,830	414.00					142,830	414.00
UAE	DHS	521.57	142.00					521.57	142.00
Bahrain	Dinar	57	152.00					57	152.00
London	Dollar		54.00						54.00
Lebanon	Dollar		75.00						75.00
United States	Dollar				2,594.00				2,594.00
Robert G. Bell:									
Belgian	Franc	3,753	93.00					3,753	93.00
Netherlands	Guilder	233.95	178.00					233.95	178.00
Federal Republic of Germany	Deutsche mark	425.42	178.00					425.42	178.00
United Kingdom	Pound	118.15	216.00					118.15	216.00
United States	Dollar				1,001.00				1,001.00
Charles M. Berk:									
United States	Dollar				1,149.15				1,149.15
Switzerland	Swiss franc	1,083	570.00	49.70	26.15			1,132.70	596.15
Austria	Schilling	4,275.05	258.00	597.60	36.00	71.64		4,872.65	365.64
Johannes Binnendijk:									
Germany	Deutsche mark	812	242.00					812	242.00
Belgium	Belgian franc	3,753	93.00					3,753	93.00
Britain	Pound	177	324.00					177	324.00
Netherlands	Guilder	233	89.00	86	34.00			319	123.00
United States	Dollar				717.00				717.00
Gerald Connolly:									
El Salvador	Colon					150	60.00	150	60.00
Nicaragua	Cordoba	678	67.80					678	67.80
Mexico	Peso	2,075	78.00					2,075	78.00
Peter Galbraith:									
Switzerland	Swiss franc	946	497.90					946	497.90
Austria	Schilling	4,275.05	258.00					4,275.05	258.00
United States	Dollar				1,114.00				1,114.00
Margaret Hayes:									
Jamaica	Dollar	100	100.00			66	66.00	166	166.00
Dominican Republic	Peso		504.00		137.52		120.00		761.52
Haiti	Gourdes		144.50				60.00		204.50
United States	Dollar				776.00				776.00
Claude Pomerleau:									
El Salvador	Colon					200	80.00	200	80.00
Nicaragua	Cordoba	880	88.00					880	88.00
Mexico	Peso	2,075	78.00					2,075	78.00
John B. Ritch:									
Netherlands	Guilder	646	249.00					646	249.00
France	Franc	2,160	360.00					2,160	360.00
United States	Dollar				1,156.00				1,156.00
Robert W. Russell:									
France	Franc	576	96.00	1.93	32.00			769	128.00
Belgium	Belgian franc	2,906	72.00	1,024	26.00			3,930	98.00
Germany	Mark	310	130.00					310	130.00
Italy	Lira	324,870	255.00					324,870	255.00
United States	Dollar				1,804.00				1,804.00
Barry Sklar:									
Jamaica	Dollar		450.00						450.00
Dominican Republic	Peso	510	510.00		137.52				647.52
Haiti	Gourdes	750	150.00					750	150.00
United States	Dollar				776.00				776.00
Diana Smith:									
United States	Dollar				1,185.00				1,185.00
Britain	Pound	58.40	110.96	28	53.20			86.40	164.16
Federal Republic of Germany	Mark	438	183.03						183.03
Belgium	Belgian franc	7,507	186.00	946	23.44			8,453	209.44
France	Franc	2,913.60	480.00					2,913.60	480.00
Total			12,675.65		20,698.43		487.64		33,861.72

CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, June 15, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Alice Milder:									
United States	Dollars				538.00				538.00
Portugal	Escudos	5,680	320.00	13,277	748.00				1,068.00
United Kingdom	Sterling pound	176.70	312.00	27.75	49.00				361.00
Total			632.00		1,335.00				1,967.00

STROM THURMOND,
Chairman, Committee on the Judiciary, July 6, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON LABOR AND HUMAN RESOURCES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Renn M. Patch:									
Senegal	Franc	26,575	91.00					26,575	91.00
Liberia			92.00			10.00			102.00
Ivory Coast			98.00						98.00
Nigeria			231.00						231.00
Zaire	Zaires	2,334.50	426.00					2,334.50	426.00
South Africa	Rand	315.79	300.00	414	385.02			729.79	685.02
Zimbabwe	Dollar	57.73	78.00					57.73	78.00
Kenya	Shilling	799	93.75					799	75.00
Ethiopia			119.00						93.75
Sudan			85.00						119.00
Switzerland	Franc	172.75						172.75	85.00
United States	Dollar				2,761.00				2,761.00
Total			1,688.75		3,146.02		10.00		4,844.77

ORRIN G. HATCH,
Chairman, Committee on Labor and Human Resources, July 6, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, EXPENDED BETWEEN MAR. 21 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Bruce Bartlett:									
United States	Dollar		1,668.00		1,814.65		150.00		3,632.65
Mexico	Peso			6,921.82	168.83			6,921.82	168.83
Brazil	Cruzeiro			5,748	104.99			5,748	104.99
Richard F. Kaufman:									
United States	Dollar		1,151.00		1,905.00		100.00		3,156.00
Kent H. Hughes:									
United States	Dollar		1,373.00		1,938.00		100.00		3,411.00
Total			4,192.00		5,931.47		350.00		10,473.47

HENRY S. REUSS,
Chairman, Joint Economic Committee, June 29, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL HATFIELD, EXPENDED BETWEEN AUG. 13 AND AUG. 27, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Paula Hawkins:									
New Zealand	Dollar	182.72	152.00					182.72	152.00
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	133.50	75.00					133.50	75.00
Senator Mark O. Hatfield:									
New Zealand	Dollar	171.52	142.68					171.52	142.68
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	208.00
William F. Hildenbrand:									
New Zealand	Dollar	129.52	107.74					129.52	107.74
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	208.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL HATFIELD, EXPENDED BETWEEN AUG. 13 AND AUG. 27, 1981—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Howard S. Liebgood:									
New Zealand	Dollar	182.72	152.00					182.72	152.00
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	308.00
J. Walter Stewart:									
New Zealand	Dollar	149	124.04					149	124.02
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	208.00
Gerald W. Frank:									
New Zealand	Dollar	182.72	152.00					182.72	152.00
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	208.00
Joanne Novins:									
New Zealand	Dollar	170.72	142.04					170.72	142.04
Australia	Dollar	328.10	386.00					328.10	386.00
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	308.00
Melinda Baskin:									
New Zealand	Dollar	168	139.76					168	139.76
Australia	Dollar	317.60	373.65					317.60	373.65
People's Republic of China	Yuan	400.50	225.00					400.50	225.00
Hong Kong	Dollar	1,233.40	208.00					1,233.40	308.00
Delegation expenses (including in-flight expenditures, reciprocal entertainment, stationery supplies, telephone calls, etc.)								9,284.77	
Total			7,293.91					9,284.77	16,578.68

MARK O. HATFIELD, Chairman.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL BAKER, EXPENDED BETWEEN JAN. 2 AND JAN. 14, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ernest F. Hollings:									
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
William F. Hildenbrand:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Howard S. Liebgood:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Senator Howard H. Baker, Jr.:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Senator Paul Laxalt:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Senator Ernest F. Hollings:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Howard S. Liebgood:									
Mexico	Peso	4,095	156.00					4,095	156.00
G. Cranwell Montgomery:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Chile	Peso	10,452	268.00					10,452	268.00
Peru	Sol	77,400	150.00					77,400	150.00
Mexico	Peso	4,095	156.00					4,095	156.00
Tom Griscom:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,425	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Sam Ballenger:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Ashley Thrift:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL BAKER, EXPENDED BETWEEN JAN. 2 AND JAN. 14, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Mary Drape:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Patricia McNally:									
Panama	Dollar		225.00						225.00
Argentina	Peso	4,410,000	420.00					4,410,000	420.00
Peru	Sol	77,400	150.00					77,400	150.00
Chile	Peso	10,452	268.00					10,452	268.00
Mexico	Peso	4,095	156.00					4,095	156.00
Delegation expenses: ¹									
Panama									5,004.29
Argentina									3,184.91
Chile									3,637.98
Peru									2,505.54
Mexico									4,236.40
Total			13,409.00				18,569.22		31,978.22

¹ Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(B) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 27, 1977.

HOWARD H. BAKER, JR.,
Majority Leader.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Patrick Leahy:									
Europe									897.00
Michael Chokas:									
Europe									1,113.00
Edward Bryn:									
Europe									793.00
Senator Walter Huddleston:									
Mideast									3,216.00
John Elliff:									
Mideast									1,636.34
Roshann Parris:									2,070.00
Total									9,725.34

¹ Mr. Bryn is detailed from the State Department to the Senate.

BARRY GOLDWATER,
Chairman, Select Committee on Intelligence, June 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), SPECIAL COMMITTEE ON AGING, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Frank McArdle:									
Austria	Shilling	13,239	779.45	1,335	78.59	3,386	199.35	17,960	1,057.39
Austria	Dollar				1,529.00				1,529.00
Total			779.45		1,607.59		199.35		2,586.39

JOHN HEINZ,
Chairman, Special Committee on Aging, June 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), MAJORITY LEADER, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sammy D. Ballenger:									
Saudi Arabia	Riyal	1,790.10	526.50					1,790.10	526.50
Lebanon	Lebanese pound	1,206.55	243.75					1,206.55	243.75

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), MAJORITY LEADER, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jordan	Dinar	88.20	252.00					88.20	252.00
Israel	Shekel		288.00						288.00
United States	Dollar				4,124.00				4,124.00
Cranwell Montgomery:									
Saudi Arabia	Riyal	1,790.10	526.50					1,790.10	526.50
Lebanon	Lebanese pound	1,206.55	243.75					1,206.55	243.75
Jordan	Dinar	88.20	252.00					88.20	252.00
Israel	Shekel		288.00						288.00
United States	Dollar				4,124.00				4,124.00
George F. Murphy, Jr.:									
Switzerland	Franc	499.80	255.00					499.80	255.00
Belgium	Franc	17,261	395.00					17,261	395.00
United States	Dollar				1,650.00				1,650.00
Senator Steve Symms:									
El Salvador	Colon		375.00						375.00
Panama	Balboa		150.00						150.00
Philip Reberger:									
El Salvador	Colon		375.00						375.00
Panama	Balboa		150.00						150.00
Total			4,320.50		9,898.00				14,218.50

HOWARD H. BAKER, JR.,
Majority Leader, June 30, 1982.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), MAJORITY LEADER EXPENDED BETWEEN OCT. 1 AND DEC. 31, 1981

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Jeff M. Bingham:									
England	Pound	159.30	295.00	21.60	40.00	12.42	23.00	193.32	358.00
Turkey	Lira	31,467	255.00			4,936	40.00	36,403	295.00
Greece	Drachma	6,812.50	125.00	1,090	20.00	272.50	5.00	8,175	150.00
Germany	Mark	298.35	135.00	33.15	15.00	11.05	5.00	342.55	155.00
Total			810.00		75.00		73.00		958.00

HOWARD H. BAKER, JR., Majority Leader.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), CODEL BAKER, EXPENDED BETWEEN MAY 28 AND JUNE 10, 1982

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Howard H. Baker, Jr.:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
William F. Hildenbrand:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
J. Stanley Kimmitt:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Thomas Griscom:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
G. Cranwell Montgomery:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Jan Novins:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Alan Porter:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Ruth Edmondson:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Mary Dreape:									
Peoples Republic of China	Yuan	1,215	675.00					1,215	675.00
Hong Kong	Dollar	1,229.6	212.00					1,229.6	212.00
Delegation expenses: ¹									
Peoples Republic of China						2,688.74			2,688.74
Hong Kong						4,367.67			4,367.67
Total			7,983.00				7,056.41		15,039.41

¹ Delegation expenses include direct payments and reimbursements to State Department and Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

HOWARD H. BAKER, JR.,
Majority Leader, Aug. 11, 1982.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOMENICI:

S. 2824. A bill to provide for the reinstatement of an oil and gas lease in Eddy County, New Mexico; to the Committee on Energy and Natural Resources.

By Mr. THURMOND:

S. 2825. A bill to increase the land acquisition and authorized development ceilings for the Congaree Swamp National Monument; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2826. A bill to redesignate public land in Alaska to allow hunting; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2827. A bill to provide compensation to Sport Hunting Guides in Alaska affected by the Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. LEAHY, Mr. INOUYE and Mr. KENNEDY):

S. 2828. A bill to authorize a demonstration program to provide for housing for older Americans; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DIXON:

E.J. Res. 229. Joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item appropriations; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 2824. A bill to provide for the reinstatement of an oil and gas lease in Eddy County, N. Mex.; to the Committee on Energy and Natural Resources.

REINSTATEMENT OF AN OIL AND GAS LEASE

● Mr. DOMENICI. Mr. President, today I introduce a bill which instructs the Department of the Interior to act upon a petition from Getty Oil Co. that deals with an oil and gas lease in New Mexico. This lease was issued effective April 1, 1971, and covered some 2,280 acres in Eddy County, N. Mex. By a subsequent assignment in 1973, Getty Oil acquired the title to 1,000 acres of that land.

The lease remained in full force and effect for its primary term of 10 years by the timely and proper payment of rentals. Under a communization agreement in February of 1981, Getty dedicated a portion of the lease and commenced drilling on March 30, 1981, and the lease was extended for an additional 2 years. The communization agreement was approved by the U.S. Geological Survey on May 15, 1981.

Through error and inadvertence, delay rentals in the amount of \$500

were not timely paid for the 11th year. Because of then existing shortage of drilling rigs, drilling did not take place as it normally would and the well was not completed until May 28, 1982, at a cost in excess of \$2.9 million. It is now shut-in pending a pipeline connection.

Once again, due to error and inadvertence, delay rentals were paid late for the 12th year of the lease commencing on April 1, 1982.

In May 1982, the Bureau of Land Management terminated the existing lease under the provisions of Public Law 555 83d Congress (30 U.S.C. 188).

Although Getty Oil obviously made mistakes in relation to this lease, they have acted in good faith and have invested a large amount of money in this operation. Therefore, I believe that the Secretary of the Interior should receive, consider and act on a petition from Getty for reinstatement of the lease. ●

By Mr. THURMOND:

S. 2825. A bill to increase the land acquisition and authorized development ceilings for the Congaree Swamp National Monument; to the Committee on Energy and Natural Resources.

CONGAREE SWAMP NATIONAL MONUMENT

Mr. THURMOND. Mr. President, today I am introducing legislation to increase the land acquisition and authorized development ceilings for the Congaree Swamp National Monument.

In October of 1976, then President Ford signed Public Law 94-545, authorizing the establishment of the Congaree Swamp National Monument. This legislation provided land acquisition and authorized development ceilings of \$35.5 million and \$500,000, respectively. It also directed the Secretary of the Interior to develop and transmit to Congress a general management plan for the use and development of the monument by October of 1979.

Mr. President, little progress toward the beneficial use and enjoyment of this monument has been made since the enactment of this legislation. Three tracts, consisting of approximately 360 acres, were acquired by declaration of taking in October of 1977. The vast bulk of the property within the monument was not acquired until February of 1980, however, when a declaration of taking was filed against some 14,665 acres commonly known as the Beidler tract.

On March 10 of this year, a court-appointed commission recommended a fair market value of \$47,009,000 for this tract alone. While this issue has since been recommitted to the commission for the correction of certain alleged computational errors, it is clear that the previously authorized land acquisition ceiling would be insufficient to pay a comparable award if ordered

by the court. The principal purpose of this bill, therefore, is to increase the land acquisition ceiling so as to provide for any such award, including interest which may accrue from the date of taking to the date of final judgment.

This measure would also increase the authorized development ceiling in light of current estimates by the National Park Service. Although the general management plan for the monument, which is now almost 3 years overdue, has yet to receive final approval by the Park Service, the Denver Service Center has estimated that it will cost \$1.5 million to provide the necessary access and facilities. Accordingly, this bill would provide a corresponding increase in the authorized development ceiling.

Mr. President, the Congress Swamp National Monument encompasses one of the few virgin hardwood forests remaining in the Southeast. It would be a disgrace for us not to take every action within our power to expedite the beneficial use and enjoyment of this national treasure. The enactment of this measure would remove significant roadblocks now standing in the way.

Mr. President, I call upon my colleagues to carefully consider the merits and necessity of this measure. I ask unanimous consent that this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(a) of the Act entitled "An Act to authorize the establishment of the Congaree Swamp National Monument in the State of South Carolina, and for other purposes", approved October 18, 1976 (Public Law 94-545) is amended by—

- (1) striking out "\$35,500,000" and inserting in lieu thereof "\$60,500,000"; and
- (2) striking out "\$500,000" and inserting in lieu thereof "\$1,500,000".

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 2826. A bill to redesignate public land in Alaska to allow hunting; to the Committee on Energy and Natural Resources.

S. 2827. A bill to provide compensation to Sport Hunting Guides in Alaska affected by the Alaska National Interest Lands Conservation Act; to the Committee on Energy and Natural Resources.

CHANGES IN ALASKA NATIONAL INTEREST LAND CONSERVATION ACT

Mr. STEVENS. Mr. President, today I am introducing with my colleague Senator MURKOWSKI two bills designed to remove inequities which occurred as a result of passage of the

Alaska National Interest Lands Conservation Act of 1980.

The Alaska Lands Act designated 24.6 million acres of new national parks and monuments to be added to the already 7.5 million acres of parks that existed prior to 1980. These lands, roughly one-third the size of the State of California, are closed to sport hunting, but open to subsistence hunting. There are less than 30 million acres of parks closed to sport hunting in the entire lower 48. All the lands covered by our bill were open to hunting until President Carter's 1978 Antiquities Act withdrawals which closed 41 million acres of land. Although the intent of the Carter withdrawals and subsequent congressional designation of these parks was to preserve Alaska lands use by all Americans, Congress actually abolished a long history of hunting which had no adverse impacts on the lands, and apparently did not impair the suitability of these lands for inclusion in the park system. In fact, hunting goes on in these areas today. Subsistence hunting is still allowed under the bill in all these areas. What Congress did in the lands bill was not to protect areas from hunting, but to limit the type of hunting allowed.

The limitation on hunting in these vast areas appears to have been motivated by two factors: Antihunting sentiment, and a belief that park visitation and sport hunting are two uses which conflict. Although it is difficult to counter the former, the latter belief is clearly erroneous. This is an example of an issue which Alaskans have faced since territorial days albeit somewhat wearily. Some Federal Government representatives still believe that they can balance wildlife and recreational needs better than a State whose tradition and history in wildlife management, is unsurpassed. Alaska is more in tune and knows the needs, and uses of its wildlife and land infinitely better than a Government whose seat of power lies 5,000 miles away from the areas it wishes to control. The debate on the Alaska lands bill covered minerals, access, land selections and a host of issues that left hunting on the short end. In fact, in the only vote to expand hunting in the Senate debate, our amendment easily passed only to be subsumed by a complete substitute bill, that is the act we live under now.

It is important to note that our measure will not modify use in the parks except for sport hunting purposes. No roads will be built, nor is there expansion of any oil or mineral resource development under this legislation. The land will remain under Park Service control. I repeat, it will be in park/preserve status which adds only sport hunting as an allowed use.

As I stated, this use and other recreational uses on the now limited areas existed for years with little or no conflict. Nonhunting visitation occurs in June, July and August. In direct contrast, most hunting begins in September with the exception of the pursuit of Dall sheep which begins in August. However, very few backpackers, and other nonhunting visitors ever venture up into sheep country. Consequently, prospects for conflict between these two users are minimal. In fact, the potential for any such conflict exists today since subsistence hunting is allowed. Yet, we have heard no hue and cry from recreational users objecting to this form of hunting.

In addition, nonhunting visitation to the vast majority of lands is insignificant when one compares acreage in these parks to the number of visitors. For example, last year in the 13 million acre Wrangell-St. Elias Park/Preserve visitation was approximately 3,000 people, and most of these users congregate within two developed areas. We are not suggesting opening areas such as old McKinley Park where hunting has not been permitted for years and where visitor usage is high. Our amendment affects only a portion of the park areas created in the Alaska Lands Act.

It is patently inequitable that a handful of visitors in these parks are effectively granted the exclusive right to use vast multimillion acre areas purportedly set aside for the benefit of all Americans. Alaskans bring meat to their dinner tables from hunting and many many visitors travel to Alaska to enjoy the experience and challenge of a big game hunt. They should be permitted equal status to other users of these huge acreages.

In my second piece of legislation introduced today, I am seeking compensation for hunting guides in Alaska who were displaced by the passage of the Alaska Lands bill.

Nearly 100 guides were severely affected by Federal designation of lands on which they are operated their businesses. Many years of hard work, and large sums of money were invested to construct cabins and other facilities which were lost when lands were set aside, excluding sport hunting.

These guides must be compensated in order to maintain a viable guiding industry in Alaska. Guides are required by Alaska law for out-of-State hunters for many game species, and very often provide the sole method for reaching a secluded area where hunting is allowed. It is important that the Federal Government recognize its responsibility to address this issue and provide reparation to those individuals deprived of their livelihood by act of Congress.

Finally, much discussion has occurred that this bill will reopen the entire Alaska lands issue. I disagree, because we are only seeking to rectify a specific inequity that discriminates against sport hunting. As I stated, we adjust ownership patterns not at all, nor do we expand upon uses in the park/preserves beyond sport hunting. I am merely seeking an opportunity for a pure vote on the merits of this issue, not reopening the entire bill.

I believe a pure debate on both these issues will lead to positive results. Traditional use of Alaska's lands and commonsense demonstrate that all Americans can use these areas without conflict.

I ask that these bills be printed in the RECORD in their entirety.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2826

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Public Law 96-487) is amended by striking out "one million and thirty-seven thousand acres of public land. Approximately three hundred and eight thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered 90,0007, and dated July 1980" and inserting in lieu thereof "Approximately one million three hundred forty-five thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

SEC. 2. Section 201(4)(a) of such Act is amended by striking out "Seven million fifty-two thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately nine hundred thousand acres of Federal lands, as generally depicted on map numbered GAAR-90,011, and dated July 1980" and inserting in lieu thereof "one million nine hundred fifty-three thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately four million eight hundred twenty-four thousand acres of Federal lands, as generally depicted on map numbered AK-100, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

SEC. 3. Section 201(8)(a) of such Act is amended by striking out "six million four hundred and sixty thousand acres of public lands, as generally depicted on map numbered NOAT-90,004, and dated July 1980" and inserting in lieu thereof "Seven million six hundred thirty-five thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

SEC. 4. Section 201(7)(a) of such Act is amended by striking out "two million four hundred thirty-nine thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million

two hundred and fourteen thousand acres of public lands, as generally depicted on map numbered LACL-90,008, and dated October 1978" and inserting in lieu thereof "one million four hundred fourteen thousand acres of public lands, and Lake Clark National Preserve, containing approximately two million two hundred thirty-nine thousand three hundred fifty acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 5. Section 201(9) of such Act is amended by striking out "eight million one hundred and forty-seven thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of public lands, as generally depicted on map numbered WRST-90,007, and dated August 1980" and inserting in lieu thereof "five million eight hundred twenty-five thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately six million four hundred ninety-three thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 6. Section 202(3)(a) of such Act is amended by striking out "two million four hundred and twenty-six thousand acres of public land, and approximately one million three hundred and thirty thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA-90,007, and dated July 1980" and inserting in lieu thereof "nine hundred thousand acres of public land, and approximately two million eight hundred fifty-six thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 7. Section 202(5) of such Act is amended by striking "Kenai Fjords National Park containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered KEFJ-90,007, and dated October 1978" and inserting in lieu thereof "Kenai Fjords National Preserve containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 8. Section 202(1) of such Act is amended by striking out "five hundred and twenty-three thousand acres of Federal land. Approximately fifty seven thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered GLBA-90,004, and dated October 1978" and inserting in lieu thereof "three hundred nine thousand acres of public land. Approximately two hundred seventy-one thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered AK-1000 and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 9. Section 201(1) of such Act is amended by striking out "one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, contain-

ing approximately three hundred seventy-six thousand acres of public lands, as depicted and on map numbered ANIA-90,005, and dated October 1978," inserting in lieu thereof "fifty thousand acres of public lands, and Aniakchak National Preserve, containing approximately four hundred sixty-four thousand acres of public lands as generally depicted on map number AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

S. 2827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) a person who was a registered or master guide licensed by the State of Alaska on December 2, 1980, and who held a lawfully issued permit from the State of Alaska for an exclusive or joint-use guide area located wholly or partially within an area established as a unit of the National Park System in Alaska under the Alaska National Interest Lands Conservation Act (Public Law 96-487), may apply to the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") for monetary compensation for his loss of income from guiding in the area as a result of restrictions on hunting in the area imposed under Public Law 96-487, in accordance with the terms of this section.

(b) In order to be eligible for compensation for lost income a guide must, at the time of application—

(1) have complied with any minimum use requirements for the area as of December 2, 1980, as provided by Alaska law;

(2) present evidence of his income derived from guiding within the area during the five years before December 2, 1980 or, if the area was closed to sport hunting by Presidential Proclamation on December 1, 1978, the five years before December 1, 1978;

(3) not have had the guide area revoked by the State of Alaska for illegal hunting or guiding activities; and

(4) file an application for compensation with the Secretary no later than December 31, 1984.

(c) The Secretary shall, within one year from receipt of an application for compensation for lost income, remit to the applicant full compensation or a portion of full compensation. The applicant's compensation shall be determined by calculating the applicant's average annual income from guiding in the area for the number of years the area was used during the five years before December 2, 1980, or before the area was closed to sport hunting by Presidential Proclamation on December 1, 1978. The amount of average annual income from guiding shall be remitted to the applicant either annually for a five-year period beginning no later than one year after the Secretary receives an application, or at the applicant's choice, in one lump sum payment of an amount equal to five times the average annual income, within one year from the date of application. Notwithstanding any other provision of law, the compensation remitted by the Secretary shall be exempt from Federal taxation by the Internal Revenue Service.

(d) If the Secretary determines, after notice and an opportunity for the applicant to supplement the application, that the applicant is not eligible for compensation under this section, he shall so notify the applicant, in writing, within six months after receipt of the application, stating his rea-

sons for rejection of the application. An aggrieved applicant may thereafter, in accordance with sections 554 and 556 of title 5 of the United States Code request an adjudicatory hearing before an administrative law judge. A final determination of the Secretary shall be appealable to the Federal district court.

Sec. 2. (a) In addition to compensation for lost income, a person who was, on December 2, 1980, a registered or master guide licensed by the State of Alaska, and who held a permit from the State of Alaska for an exclusive or joint-use guide area located wholly or partially within an area established as a unit of the National Park System in Alaska under Public Law 96-487, and who owned, as of December 2, 1980, improvements within that area that were used primarily for guiding, may apply to the Secretary for monetary compensation for improvements.

(b) In order to be eligible for compensation for improvements a guide must, at the time of application—

(1) have complied with any minimum use requirement for the area as of December 2, 1980, provided by Alaska statute or regulation;

(2) present evidence of his ownership of, and the existence of, improvements as of December 2, 1980, and evidence of the value of the improvements to his guiding business and income;

(3) not have had the guide area revoked by the State of Alaska for illegal hunting or guiding activities; and

(4) file an application for compensation with the Secretary no later than December 31, 1984.

(c) The Secretary shall, within one year from receipt of an application for compensation for improvements, pay the applicant full compensation for the loss of market value of the improvements as a result of the Federal restrictions on sport hunting in the area. This amount shall be equal to the fair market value of the improvements immediately before the area was closed to sport hunting by Presidential Proclamation on December 1, 1978, or by Public Law 96-487, minus the fair market value of the improvements after the area was closed to sport hunting by Public Law 96-487 on December 7, 1980. The compensation paid by the Secretary shall be exempt from Federal taxation by the Internal Revenue Service.

(d) The fair market value of the improvements shall be determined by agreement between the applicant and the Secretary. If the parties cannot agree on a figure, the fair market value shall be determined by a Federal administrative law judge, in accordance with sections 554 and 556 of title 5 of the United States Code. A final determination by the Secretary shall be appealable to the Federal district court.

(e) With respect to the applicant's eligibility for compensation for improvements and any appeal by the applicant, the provisions of subsection (d) of the first section shall apply.

(f) As used in this section, the term "improvement" means any home, cabin, lodge, tent-frame, air strip, boat landing or other structure or improvement reasonably incident to guiding activities.

Sec. 3. The Sport Hunting Guide Compensation Fund is established to provide compensation as provided in this Act. There are hereby authorized to be appropriated \$20,000,000 beginning after the fiscal year 1982, to be deposited in the fund to be disbursed by the Secretary.

SEC. 4. The provisions of this section apply notwithstanding the provisions of section 1303 of Public Law 96-487 (16 U.S.C. 3193).

Mr. MURKOWSKI. Mr. President, I am joining my colleague from Alaska, Senator TED STEVENS, in introducing legislation to amend the Alaska National Interest Lands Conservation Act of 1980. The "Alaskan Lands Act" passed in the 96th Congress and we have had almost 2 years of experience with the statute. I was not a member of the U.S. Senate when this body considered the act but as an Alaskan, I remember vividly the heated debate over this issue. Many of the members will recall the unusual legislative process by which this bill became law.

One of the issues that was largely overlooked and was not considered in a realistic perspective, was the issue of sports hunting. Sports hunting is recognized as a valuable tool of wildlife management employed and recognized by both the State and Federal Government. In fact, the Endangered Species Act, which recently passed the U.S. Senate by dropping certain language in the act, recognized that sports hunting should not be cast in a dark light.

The Alaskan Lands Act substantially reduced hunting opportunities in the State of Alaska. I do not believe Members of this body intended such action. When the D-2 legislation was considered the sports hunting issue became a victim of trying to solve a much bigger question. The Alaska Lands Act created approximately 26 million acres of National Parks and 19 million acres of park preserves in Alaska. Those are in addition to the 7.6 million acres of parks that already were present in the State prior to the act. To put this in perspective it is interesting to note that only 1.8 million acres of land are privately owned. In contrast, 76 million acres of Alaska are designated National Wildlife Refuges, of which 18.5 million acres is classified as wilderness. Twenty million acres in south central and southeast Alaska are National Forest lands. Twenty-six rivers crisscrossing Alaska are designated as wild and scenic rivers. Eventually, when land conveyances are completed and this process will take over 10 years, the Natives of Alaska will have 44 million acres as part of the Native Claims Settlement Act. In addition, the Statehood Act which passed in 1959 directed the approximately 104 million acres become State lands. One hundred and thirty-one million acres were placed in a protective land status as a result of the Alaskan National Interest Lands Conservation Act of 1980. The figure does not include the lands controlled by the Bureau of Land Management and protected by the Federal Land Management Policy Act.

The only difference between a park and park preserve is that sports hunting is permitted in a park preserve. Let

me put this situation in context. No new mining areas or new roads would be authorized as a result of our proposed legislation. The management of the lands would remain the responsibility of the National Park Service. The priorities for the areas would remain the same, this is to protect the areas for our generations yet to come.

It is not the situation that no hunting is allowed in the new parks. The Lands Act permitted subsistence hunting in the newly created parks and hunting is occurring. Wildlife management is a complex and detailed responsibility that is best handled on the local level through the State's Department of Fish and Game. Our legislation will help resolve some of the areas of confusion between the Federal Government and State government for wildlife management. Our bill would return only the management of wildlife to the State of Alaska in the expansion of park preserves.

Park superintendents now report that they are unable with the limits on budget and personnel to effectively manage the vast areas created by the Lands Act. Poaching does occur on those lands. Part of this is happening because people are unaware they are in the new areas and in part because many of the areas precluded from sports hunting by the act were some of the best hunting in the State or the Nation. I am not condoning these actions but raising it as an illustration that by restoring the State management of wildlife, Federal resources could be better allocated to the chores that must be done to implement the Lands Act.

The amendments I am seeking with my colleagues from Alaska are specifically sports hunting amendments. We are not seeking additional changes in the Alaskan National Interest Lands Conservation Act. This is an issue which the Senate should consider on its merits, not one burdened with other major issues and land use trade offs.

The amendments we are introducing today do not seek to open any of the park areas that were designated prior to the Lands Act. The areas we are addressing are areas which some members will recognize the names. The areas that we seek to modify from the current park status to become a park preserve are: Lake Clark National Park and Park Preserve, Denali National Park and Preserve, Wrangell-St. Elias Park and Preserve, Gates of the Arctic National Park and Preserve, Glacier Bay National Park (Expansion), Aniakchak National Park and Preserve, and the Kenai Fjords National Park.

Again, I state that the amendments we are seeking are limited and specifically targeted to opening areas to sports hunting. We are not changing land management or land manage-

ment agencies. The National Park Service will still be in charge of the areas. Finally, let me say that this bill will provide Members to express their commitment to sports hunting and the rights of sportsmen in this country.

By Mr. DODD (for himself, Mr. LEAHY, Mr. INOUE, and Mr. KENNEDY):

S. 2828. A bill to authorize a demonstration program to provide for housing for older Americans; to the Committee on Banking, Housing, and Urban Affairs.

OLDER AMERICANS HOUSING DEMONSTRATION ACT OF 1982

● Mr. DODD. Mr. President, today I am introducing a bill authorizing a demonstration program to explore new ways to meet the special housing needs of our senior citizens. I am pleased to have Senator LEAHY, Senator INOUE and Senator KENNEDY join me in sponsoring the "Older Americans Housing Demonstration Act of 1982."

Mr. President, everyone knows that our senior citizens have special housing needs exacerbated by their often limited, fixed incomes. In today's tight housing market, these needs are rarely met.

While chairing a Senate Aging Committee hearing in Connecticut a few months ago, I learned that 69 percent of all retired residents in my State are homeowners. The nationwide figure is even higher, or some 75 percent.

Far too many of these retired homeowners find themselves to be "house-rich" but "cash-poor." Their limited monthly incomes often make it impossible for them to repair or pay for the upkeep of the house they own outright. Others cannot afford to pay the rapidly skyrocketing costs of heating and lighting their homes. From 1973 to 1980, the average cost of home-heating oil jumped from 25 cents to \$1.05 per gallon and the average cost of residential electricity jumped from 2.61 cents to 5.2 cents per kilowatt hour. Thus, many senior homeowners must now choose between spending more and more of their limited income on utilities and less on other essentials like food.

Despite that fact that millions of retired homeowners are faced with the prospect of choosing between paying utility or food bills, the vast majority do not wish to leave their home. During the hearing I chaired in my State, I discovered that of all 522,000 Connecticut senior residents, homeowners and renters included, only 15 percent or some 78,000 expressed any inkling of a desire to move. The percentage of older homeowners in the State who wish to leave their homes is even lower than that.

We must find ways to help those homeowners who need to convert

some of their house riches into cash to pay the bills. Home equity conversion programs offer us one possible option, provided full consumer safeguards are put into place.

Home equity conversion programs include reverse annuity mortgages, deferred-payment loans, and split-equity arrangements. Split-equity or sale-leaseback arrangements would assist seniors to sell their homes to investors who in turn would lease the property to the owner rent free. Under reverse annuity mortgages, lenders could pay cash to older homeowners periodically in exchange for a portion of the value of the home in question. Another program, deferred-payment loans, would allow homeowners to borrow money to pay repair and maintenance bills. The seniors would not have to pay back the principal nor the interest from such loans, however, until they vacated their homes.

These programs need careful study to insure that they meet the needs of senior homeowners. At the same time, we have to concentrate on finding new ways to help senior homeowners and renters who wish to move. New programs include home-sharing arrangements where older Americans rent out rooms to others and accessory apartments where separate living quarters are built into family homes. Other options range from elder cottages—separate units built behind family homes—to such special projects as congregate housing.

The bill I am introducing today, Mr. President, calls for a HUD demonstration project to explore all these ways to meet the unique housing problems of senior citizens. Existing HUD research and subsidy moneys would be used to fund this demonstration project.

Last month, the health coordinating council in my State reported that Connecticut could be spending nearly \$1 billion a year on nursing home care by 1990 unless alternative housing for seniors is available. It would be tragic indeed if we failed to do all we could to prevent retired homeowners and renters from being institutionalized simply because they cannot afford to modify their homes to accommodate a wheelchair, guardrail, or other self-help needs. In the same manner, none of us want to see older Americans forced to choose between heating and lighting their homes and buying food.

The demand for alternative housing options for our senior citizens is clear. I urge my colleagues to join with me in sponsoring this bill to find such alternatives.●

● Mr. KENNEDY. Mr. President, I am pleased to join in sponsoring the Older Americans Housing Demonstration Act of 1982.

This bill authorized the Department of Housing and Urban Development to develop alternatives for elderly hous-

ing and to demonstrate the practicality of these alternatives. HUD would use funds already appropriated for research activities to support these programs.

The housing problems facing all Americans have been well-publicized and certainly recognized by this Congress. For the elderly, the problems are exacerbated by their special needs. Many depend heavily on a fixed income and so cannot easily adjust to the skyrocketing costs of the repair and upkeep of their homes. They are faced with the choice of spending their limited funds to prevent their homes from deteriorating or to buy food, clothing, and heat.

Other older Americans find the cost of living at home too expensive—forcing them into nursing homes and other institutions. Ultimately the cost to the public of such a forced existence is excessive. The cost to the individual is even more devastating. There is little that is more discouraging for many elderly Americans than such a forced institutionalization. Too few effective and practical alternatives exist to private housing or nursing homes. But many elderly desire an alternative and many possibilities have been suggested. This bill would allow these possibilities to be explored and developed.

America owes too much to its older generations to force such terrible dilemmas upon them. These people built this country and raised its citizens. They made this Nation strong and respected. They deserve a comfortable and dignified retirement. This bill will help make that possible. I commend my colleague from Connecticut, Senator Donn for developing this legislation.●

By Mr. DIXON:

Senate Joint Resolution 229. A joint resolution proposing an amendment to the Constitution authorizing the President to disapprove or reduce an item of appropriations; to the Committee on the Judiciary.

ITEM-VETO RESOLUTION

Mr. DIXON. Mr. President, last week the Senate passed Senate Joint Resolution 58, the balanced-budget constitutional amendment. We did so because the necessary two-thirds majority agreed that Federal spending needs to be restrained and that our budgetary problems are so severe that only a constitutional change will bring Federal budgets back under control. I know the Senate did not take this step lightly. I agree that a constitutional amendment is a remedy of last resort, to be used only when no other alternative will do the job.

I believe that Federal budget problems are so severe that a constitutional solution is warranted. I therefore supported Senate Joint Resolution 58 in the Senate. While I fully support the objectives of that amendment,

however, I am concerned that it may not prove to be effective if it is enacted in its current form. I believe it lacks the flexibility to deal with economic emergencies in a timely and effective manner, and that it fails to bring the President fully into the budgetmaking process.

The constitutional amendment I am proposing today is an attempt to provide more institutional restraint in our budgetmaking procedures. I believe it provides a mechanism that will serve to institutionalize fiscal restraint in a more effective manner than proposed by Senate Joint Resolution 58. It is a flexible approach and one that puts the President into the budget process in a more meaningful way.

Simply stated, I am proposing giving the President an item veto—the power to veto or reduce individual items of appropriation. This is not a new idea. It has been around since the Civil War era. Forty-three States have included item-veto provisions in their State constitutions since then. It is time to take advantage of this State experience at the Federal level.

The resolution I am introducing is modeled after the item-veto provision in the Illinois constitution. It would permit a President to veto or reduce any item of appropriations, with the exception of items affecting the legislative or judicial branches, as an alternative to vetoing an entire appropriations bill. The procedure for override on a bill would not be changed. Vetoes or reductions of individual items of appropriation, however, would be able to be overridden by a constitutional majority—a majority of the Members duly chosen and sworn—rather than the two-thirds vote required to override the veto of a bill.

It is the override provisions, Mr. President, that distinguishes the Illinois item-veto provision, and it is the constitutional majority override provision in this resolution that helps to insure that Congress power over the budget is preserved.

When I offered this resolution as an amendment to Senate Joint Resolution 58, a number of my colleagues argued that I was proposing to diminish the power of the Congress and, effectively, to give the President an unlimited impoundment power. To the contrary, this resolution does not diminish the power of Congress in the least. What it does do is to restore the President's veto power, a power that is as old as the Constitution itself.

When our Constitution was drafted, the President was given the power to veto a bill. In that era, however, the omnibus bills that are so prevalent now were virtually unknown. A bill ordinarily covered only a single subject. The President, therefore, effectively had an item veto. According to information provided me by the Congress-

sional Research Service, it was only around the time of the Civil War that the practice of passing appropriations bills covering a variety of issues arose, and it was that change in legislative practice that provided impetus for the item veto.

Legislative logrolling, and the packaging of items a President opposes with "must" items, undermines the veto power of the President. The item veto is nothing more than an attempt to restore the balance between the branches that the framers intended. It does not make the President stronger at the expense of the Congress.

In fact, Mr. President, the argument can be made that it gives the Congress more power than the drafters of our Constitution intended. The ability of Congress to override an item veto by a constitutional majority effectively gives Congress more power vis-a-vis the President than the existing two-thirds requirement to override a bill does. If you define a bill as our Founding Fathers understood it—covering only one subject—the item-veto resolution I am introducing effectively diminishes the President's veto power.

What the item veto does is to allow the President to focus the attention of Congress and the country on those particular items of appropriations he believes are wasteful, inappropriate, or unwise. Congress would then have to decide, as it does now, whether to insist on the particular spending proposal, the objections of the President to the contrary notwithstanding. However, it would not take a two-thirds vote to do so. A simple constitutional majority would be sufficient.

Most importantly, the debate would be focused on the spending items truly in dispute. "Must" items not in controversy would no longer have to be held hostage to disputes over unrelated matters. In the future, for example, a President would be free to sign social security measures—unless he opposed them—without having to agree to a number of provisions he opposed at the same time. Legislative travesties, like the last urgent supplemental appropriations bill, could be avoided. Social security checks would not be endangered by disputes over a housing stimulus package, or other equally unrelated matters. The President would not have to veto the entire bill twice, throwing thousands of Government employees temporarily out of work and seriously disrupting many essential Government activities, to focus attention on those few items truly in dispute.

It is also worth noting, Mr. President, that an item veto is not the functional equivalent of impoundment. Impoundment, if permitted, is an extremely broad power. It gives the President the ability to withhold the funds for any program, and to spend only for purposes the President con-

siders desirable, rather than what the law requires. It effectively gives the President the ability to rewrite the law unless Congress intervenes.

The item veto, however, is much more limited. Established veto procedures would continue to apply. A President would not, for example, be able to refuse to spend funds while Congress was in recess. Items would continue to become law without a President's signature after 10 days. Further, Presidents would not be able to use an item veto to effectively rewrite authorizing legislation. It would not be possible, for example, for a President to reduce spending for mass transit operating assistance by approving spending for some cities but not others. Legislative determinations as to the manner of spending would continue to apply.

However, Mr. President, the reason an item veto is so necessary is not what it does not permit, but what it helps accomplish. And what it works powerfully to help accomplish is a greater sense of fiscal discipline. Forty-three States, as I stated earlier, have item-veto provisions in their constitutions. They have them because they think they are needed, because they work, and because they strengthen the budgeting process. An item-veto provision in the Federal Constitution would have similar results.

An item-veto provision helps to reduce logrolling and reduces the number of riders on appropriations bills. I know these practices are near and dear to the hearts of many Members of Congress, but they work to undermine the ability of Congress to budget in a fiscally sound and effective manner. Given the scope of the budgetary problems facing us today, we can no longer afford—if we ever could—the kind of "pork barrel," "you scratch my back, I will scratch yours" spending that currently characterizes too much of what Congress does in the appropriations area. Reform is essential.

Amending the Constitution to give the President an item veto is an effective and efficient way to provide that necessary reform. The President's veto power needs to be restored if we are to solve our overriding fiscal problems.

An item veto will work to eliminate the prospending bias that seems to have characterized recent Congresses. It can save billions of dollars annually. It provides additional fiscal discipline, but is flexible and does not work to undermine Congress power over the budget.

I realize that this proposal is not noncontroversial and will require careful study. I urge the Senate to begin the process of analysis quickly. I believe the provision is badly needed and that we cannot afford lengthy delay. I am sure that a close examination of the merits of the item veto will prove

to be convincing to a majority of the Congress, as it has already convinced an overwhelming majority of the States.

Mr. President, I ask unanimous consent that a copy of the joint resolution be printed in the RECORD at this point.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES 229

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"The President may reduce or disapprove any item of appropriation in any bill or joint resolution, except any item of appropriation for the legislative branch or the judicial branch of the Government. If a bill or joint resolution is approved by the President, any item of appropriation contained therein which is not reduced or disapproved shall become law. The President shall return with his objections any item of appropriation reduced or disapproved to the House in which the bill or joint resolution containing such item originated. The Congress may, in the manner prescribed under section 7 of article I for bills disapproved by the President, reconsider any item disapproved or reduced under this section, except that only a majority vote of each House shall be required to approve an item which has been disapproved or to restore an item which has been reduced by the President to the original amount contained in the bill or joint resolution."

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. CHAFFEE, the names of the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1782

At the request of Mr. WEICKER, the name of the Senator from Louisiana (Mr. JOHNSTON) was added as a cosponsor of S. 1782, a bill to amend section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes.

S. 1814

At the request of Mr. JEPSEN, the name of the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 1814, a bill to amend title 10, United States Code, to require the Secretary concerned to comply with

the terms of certain court orders in connection with the divorce, dissolution, annulment, or legal separation of a member or former member of a uniformed service and which affect the retired or retainer pay of such a member or former member, and for other purposes.

S. 1929

At the request of Mr. HATCH, the name of the Senator from Vermont (Mr. LEAHY) was withdrawn as a cosponsor of S. 1929, a bill to amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice, and for other purposes.

S. 2617

At the request of Mr. HEINZ, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2617, a bill to amend the Age Discrimination in Employment Act of 1967 to eliminate mandatory retirement and other forms of age discrimination in employment.

S. 2632

At the request of Mr. WEICKER, the name of the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 2632, a bill authorizing the Government of American Samoa to issue bonds and other obligations, and for other purposes.

S. 2700

At the request of Mr. CANNON, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2700, a bill to amend title XVI of the Social Security Act to exclude from resources burial plots and niches and certain funds set aside for burial or cremation expenses for purposes of the supplemental security income program.

S. 2776

At the request of Mr. RIEGLE, the names of the Senator from North Dakota (Mr. BURDICK), the Senator from Hawaii (Mr. INOUE), and the Senator from Nevada (Mr. CANNON) were added as cosponsors of S. 2776, a bill to provide that disability benefits under title II of the Social Security Act may not be terminated without evidence of medical improvement, to limit the number of periodic reviews, and to provide that benefits continue to be paid through a determination by an administrative judge.

S. 2781

At the request of Mr. DECONCINI, the names of the Senator from Maine (Mr. COHEN), the Senator from Pennsylvania (Mr. SPECTER), the Senator from Alabama (Mr. HEFLIN), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 2781, a bill to amend the Export-Import Bank Act of 1945.

S. 2784

At the request of Mr. DECONCINI, the names of the Senator from Texas (Mr. TOWER) and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the name of the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 188

At the request of Mr. INOUE, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of Senate Joint Resolution 188, a joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day".

SENATE JOINT RESOLUTION 209

At the request of Mr. LEVIN, the names of the Senator from California (Mr. CRANSTON), the Senator from Washington (Mr. JACKSON), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Florida (Mrs. HAWKINS) were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating the week beginning September 5, 1982, as "National Adult Day Care Center Week".

SENATE JOINT RESOLUTION 227

At the request of Mr. D'AMATO, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Joint Resolution 227, a joint resolution to establish National Firefighters Week.

SENATE RESOLUTION 444

At the request of Mr. DANFORTH, the name of the Senator from Arkansas (Mr. BUMPERS) was added as a cosponsor of Senate Resolution 444, a resolution expressing the sense of the Senate that President Reagan should submit to the U.S. Senate a clear and comprehensive report on the administration's policy for minimizing the risk of nuclear war.

AMENDMENT NO. 2020

At the request of Mr. SYMMS, the names of the Senator from North Carolina (Mr. HELMS), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of amendment No. 2020 proposed to H.R. 6863, a bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. McCURE. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Committee on Energy and Natural Resources to receive testimony on acid precipitation and the use of fossil fuels. The hearing will be held on Thursday, August 19, beginning at 10 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify and who wish to submit written statements for the hearing record should write to the Committee on Energy and Natural Resources, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510. Witnesses should submit 50 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee.

For further information regarding this hearing you may wish to contact Ms. Terri Sneider of the committee staff at 224-2366.

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, August 12, at 10 a.m., to consider intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Wednesday, August 11, at 10 a.m., to hold a markup on the clean air amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, August 11, at 2 p.m. for the purpose of conducting hearings on the following nominations:

Mr. William M. Acker, Jr., of Alabama, to be U.S. District Judge for the Northern District of Alabama;

Professor Robert A. Destro, of Wisconsin, to be a Member of the Commission on Civil Rights;

The Reverend Constantine N. Dombalis, of Virginia, to be a Member of the Commission on Civil Rights; and

Dr. Guadalupe Quintanilla, of Texas, to be a Member of the Commission on Civil Rights.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee of Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 12, at 2:30 p.m. to consider the nomination of Charles W. Greenleaf, Jr., to be Assistant Administrator for Asia of the Agency for International Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

UNITED STATES POPULATION

● Mr. PACKWOOD. Mr. President, I wish to report that according to the latest U.S. Census Bureau approximations, the total population of the United States on August 1, 1982, was 231,653,622. This represents an increase of 184,679 since July 1, 1982. Since this time last year, our population has grown by an additional 2,183,404.

In 1 short month we have added enough people to our population to more than fill the city of Grand Rapids, Mich. Over the past year, our population has increased enough to fill the city of Jacksonville, Fla., more than four times.●

NEW EVIDENCE IN SUPPORT OF ANTITRUST CERTIFICATION PROVISION OF EXPORT TRADING COMPANY LEGISLATION.

● Mr. HEINZ. Mr. President, a recent amendment by former Secretary of Commerce Philip Klutznick sheds some new light on business community views of our antitrust laws and lends new support to the Senate version of S. 734, the Export Trading Company Act. During his tenure at the Commerce Department, Secretary Klutznick was a dedicated and thoughtful supporter of a more aggressive export policy. Those of us who have been working on trading company legislation since 1979 owe much to his creative assistance. I hope my colleagues in the House and Senate will heed his advice now.

Mr. President, I ask that Secretary Klutznick's statement and news release be printed in the RECORD at this point.

The material follows:

NEWS RELEASE OF SECRETARY KLUTZNICK'S STATEMENT

Philip M. Klutznick, Secretary of Commerce in the previous Administration, today announced that a recent survey found more than half of the businessmen questioned believe that antitrust laws have more than a minimal negative impact on their ability to export. Klutznick said, "This information is critical now as the Congress is about to decide the fate of the Export Trading Company Bill—a bill that could help solve this problem.

Klutznick said, "I hope these survey results will clear up some misunderstandings on Capitol Hill about a joint Department of Commerce (DOC) and United States Trade Representative (USTR) study during my tenure at the Department. This study was incorrectly interpreted as evidence that antitrust laws have only a minimal impact on U.S. export trade. In that study no specific question was asked as to the effect of antitrust laws on their exports. Nevertheless, the study observed that "the extraterritorial reach of U.S. antitrust laws and their application to certain types of international transactions also concern exporters, but no specific instances were shown of the laws unduly restricting exports."

"The Congressional misunderstanding was based on the fact that the antitrust impediment was voluntarily cited by only about 10 percent of the businessmen who responded to a 1980 DoC/USTR request for comments about export promotion and export disincentives that appeared in the Federal Register. The survey by the Washington Coordinating Council on Productivity covered all 248 who had previously responded to the original DoC/USTR request for comments. This survey specifically asked their opinion of the effect of antitrust on their ability to export. Fifty-three percent of these respondents indicated that the impact was greater than minimal."

Klutznick said, "During my service in government from time to time since Franklin Roosevelt I have seen the commercial situation change radically. Many of our laws and practices have not kept up with the changes. We must recognize that American companies—workers and management—are now fighting for survival in a highly competitive world market. One need only look at American autos, steel, motorcycles, televisions, etc. We cannot tie one arm behind our back in this struggle. If we do not adjust quickly more industries could go."

"For every one billion dollars of added exports 30,000 to 40,000 new American jobs are created. We must do all we can to assist American industry to be more competitive internationally," Klutznick added.●

SUPPORT OF SECRETARY WATT

● Mr. GOLDWATER. Mr. President, Secretary of the Interior Jim Watt has, in the past, received quite a lot of scurrilous press. There are certain environmental and conservation groups which have become, in my opinion, overzealous in their subjective attempts to discredit the work of this concerned man. No public servant is without his critics; but, in the case of Secretary Watt, not many have bothered to publicize the Secretary's positive and successful efforts.

Recently, there appeared in the Arizona Republic two editorials supportive of Secretary Watt and I would like to take this opportunity to present this other side. Mr. President, I ask that these two editorials be printed in the RECORD.

The editorials follow:

WATT'S PLAN FOR OIL

Interior Secretary James Watt is under fire again, this time for opening up one billion acres of offshore coastal areas for oil and gas drilling leases over the next five years.

Environmentalists and others filing suits could keep parts of the plan tied up in the courts for years.

California has brought two cases that would ban drilling anywhere off its coastline.

Watt's decision comes 16 months after he began complex negotiations with 22 governors and environmental groups.

Watt made changes because of opposition, particularly in Alaska.

Critics charge the plan leases too rapidly over too wide an area and would jeopardize environmentally fragile areas along the coast.

Despite the uproar, Watt's arguments are persuasive.

He points out that Congress has yet to forge a comprehensive national energy program, even this long after the 1973 Arab oil embargo.

He also fears an interruption of oil supplies from the Middle East because of the current fighting between Iran and Iraq.

Watt makes another point—that virtually every oil spill is not caused by drilling, but by the transfer of oil from tankers to shore.

Drilling techniques have advanced and improved since the 1969 oil spill in the Santa Barbara channel.

Critics are trying to create the assumption that oil companies cannot be trusted to protect the environment. Yet, the Audubon Society receives 16 percent of its annual income from oil drilling at its Rainey sanctuary in Louisiana.

Only a minor part of the one billion coastal acres will actually be drilled in the next five years.

It takes years for companies to gear up.

The United States stands to gain from Watt's decision—billions of dollars in leasing fees and additional royalties to the federal government, hundreds of thousands of new jobs, and greater security against foreign oil cuts.

WATT IS RIGHT

Interior Secretary James Watt just can't escape criticism from the environmentalists even when he's right.

The environmental movement's hardliners have attacked him again on Capitol Hill over his program of national park improvements.

They insist Watt isn't spending federal funding in the right places.

The National Park Service is spending more than \$76 million this year to upgrade roads, water and sewer lines, buildings and make other improvements.

Watt maintains this is essential because the number of park visitors across the nation have increased every year while facilities have deteriorated.

Serious safety and health problems have resulted.

The environmentalists want Watt to buy more acreage for the park system and spend some improvement funds to ward off threats to parks' natural resources.

Watt has not ignored the resource problem.

Interior is spending about \$75 million this year—funding almost equal to its improvement programs—to meet it.

As for buying more parkland, Interior cannot competently manage what it now holds. And there is no rush by developers in these recession days to purchase potential parkland.

Deterioration of the national park facilities has become scandalous. Environmentalists know this.

Yet, they snipe at Watt with full knowledge he is addressing the parks' most critical needs.

Hardline environmentalists would be a lot more credible if they gave Watt a pat on the back when he deserves it.

And he does in this case.■

CAPITAL PUNISHMENT

● Mr. HATFIELD. Mr. President, the events of last evening at the Mecklenburg State Penitentiary have further eroded the sacred value this society places on human life. It is a disgrace for this country to sanction such legalized extermination, and until capital punishment is abolished, the spirit and soul of our country will have to bear the stains of vindictive savagery which attend the imposition of the death penalty.

To oppose capital punishment does not mean to condone the brutal acts of murderers. Those individuals who fiercely seize the lives of innocent men, women, and children will be left to account before God for their moral depravity. But man is not God, and we must resist the very human temptation to requite murder with murder. Retribution of the magnitude of capital punishment can serve no human purpose. Indeed, as Justice Brennan pointed out in the case of Furman against Georgia, "If the deliberate extinction of human life has any effect at all, it more likely tends to brutalize our values." This is the case with abortion and war, and it most certainly is the case with the death penalty.

Capital punishment is a cruel and unusual punishment abhorrent to the dignity of man and the sustenance of civilized man. I am not swayed by the arguments that cite deterrence and legitimate retribution as reasonable justification for electrocuting prisoners. No studies have shown that executing murderers deters crime. Murderers are not deterred by anything. They do not give detached, introspective reflection to the consequences of their acts. They are persons ruled by impulses, and the evil they spread is the product of demented, disturbed minds. I have no problem with secluding these convicts from society. But the line must be drawn when it comes time for society to take these prisoners' lives.

That line must be drawn because it is all too apparent that capital punishment, for the aforementioned reasons, is ineffective. But more importantly, the line must be drawn because capital punishment is contrary to a basic understanding of the Scriptures. We are called to be a forgiving people. We are called to leave the judging to the Almighty, as pointed out in the placard outside of Mecklenburg which said, "Let Him Without Sin Throw the Switch".

Mr. President, Frank Coppola will never shake the chains of responsibility for the death of Murial Hatchell. We as a people had the opportunity to break this circle of violence and hate and to rise to the higher instincts to which we are called. Unfortunately, all of our hands were on that switch last evening, and until we do away with the laws which allow this savage form of vengeance, our hands again will be on that switch.

I learned a very painful lesson back in 1959 when, as Governor of Oregon, my moral opposition to the death penalty was allowed to be compromised by the will of the people by my allowing an execution. The lesson that I learned was that capital punishment, like abortion and every other life-taking institution that is sanctioned by society, is dead wrong. I pray that we as a people will dispose of the panoply of justifications which commission our acts of violence toward the sanctity of life, and will embark on the higher road to which we are called.■

DON GEVIRTZ

● Mr. HART. Mr. President, one of America's most progressive minded business leaders, Mr. Don Gevirtz, was profiled in last Sunday's New York Times. He is a true entrepreneur in every sense of the word—both in the world of business and finance and in the world of ideas.

Having proven over and over again that his entrepreneurial instincts work well in getting thriving businesses started, he has turned these same instincts, in the past few years, to the task of developing economic policies that will get America on the road to a thriving economy. I find his thinking to be right on target.

Specifically, Mr. Gevirtz has both written and spoken out vigorously in support of the following major new economic ideas and initiatives: the development of an explicit, coherent industrial policy as the new centerpiece of economic policy formulation; the critical need for consensus rather than confrontation on both broad national goals and industry specific modernization goals; a decentralized entrepreneurial capitalism; the exciting potential of high technology industries in revitalizing our more mature manufacturing industries as well as enabling our large and growing service sector to become more productive; the need to instill long-range vision in both the Federal Government and our corporations.

These ideas constitute a true economic agenda for America's future. They build on today's economic realities and America's strengths while at all times looking ahead for the new economic agenda and the challenges and opportunities they will present.

I encourage my colleagues to listen closely to the wise, fresh, and creative ideas coming from Mr. Don Gevirtz and other progressive business leaders like him.

Mr. President, I ask that the New York Times article be printed in full in the RECORD.

The article follows:

[From the New York Times, Aug. 8, 1982]

SILICON VALLEY'S FINANCIER: DON L. GEVIRTZ—HELPING TO TURN DEMOCRATIC POLICY IN FAVOR OF SMALL BUSINESS

(By Thomas C. Hayes)

Don L. Gevirtz has jockeyed his way into conspicuous arenas since his glory days as a forward on the Kokomo, Ind., high school basketball team 36 years ago. The Foothill Group Inc., the company he co-founded 12 years ago to lend money to small businesses, is the nation's third-largest commercial finance concern and, in a difficult year, is the fastest-growing.

In addition, bearing the unlikely credentials of a hard-nosed financier and millionaire former Marine, the 54-year-old Mr. Gevirtz has grasped the levers of political machinery at state and national levels in an attempt to influence the Democratic Party's inchoate search for an economic program that voters will favor over the Reagan Administration's policies in 1984.

"The Reagan program was doomed because it was tilted toward big business and the dying industries," Mr. Gevirtz said. As he proposes alternatives, he offers ideas that meet with skepticism not only from Republicans, but from other theorists within his own party.

Mr. Gevirtz (pronounced geh-VERTS) is an avid advocate of small business. It creates far more jobs and new products than big companies he argues, especially in the high-technology industries that abound in California, Colorado and Texas. Most of the Foothill Group's 12,000 borrowers are in those three states.

Ronald Reagan was the favorite candidate of small business in 1980, but Mr. Gevirtz asserted that high interest rates and spreading bankruptcies have revealed Mr. Reagan's campaign promises extolling entrepreneurship to be "just rhetoric." The Democratic Party can effectively court that constituency, he is convinced, if it moves away from the New Deal concept of wealth redistribution in favor of wealth- and job-creation policies tilted toward small business.

He is pushing that notion in several Democratic forums. He is co-chairman, along with Lester C. Thurow, the economist, of the Democrats' panel of economic policy advisers. He helped draft the budget strategy that key Democrats in Congress may adopt after the November elections.

He was a matchmaker in the discussions between Silicon Valley executives and Senator Gary Hart, Democrat of Colorado, on the contents of a high-technology trade bill sponsored by Mr. Hart. And he has been a close adviser on tax and industrial policies to Gov. Edmund G. Brown, Jr., of California, who is running for the Senate this fall, and Walter F. Mondale, a likely 1984 Presidential candidate.

Mr. Mondale describes Mr. Gevirtz as "an old friend" who has been his consultant and adviser on entrepreneurship over the past year.

"It's true that he's new to a lot of leaders," the former vice president said. "But

there is a growing realization in this country and within our party that much of the economic problems of slow growth and unemployment can be answered by enhancing the position of small business in matters like trade and seed capital."

"It's an area where he is skilled and experienced and where many of us have a way to go to get up to speed," Mr. Mondale added. "He's an expert on an issue whose time has come."

Mr. Gevirtz favors tax cuts for businesses that reinvest profits and Federal subsidies to retrain unemployed workers—in the steel industry, for instance—for jobs in growth fields such as semiconductors, bioengineering and computers.

This, in a word, is "targeting," or providing Federal incentives to particular industries through taxes and subsidies. Since the Japanese and French Governments have long promoted such policies in high-technology industries, Mr. Gevirtz said, the United States must take a similar path. Without it, he said, American companies will shrink in global importance and politicians will be under pressure to enact trade barriers.

"There is no such thing as free trade," he argued. "The question is either adjustment or protectionism."

Such strong views are sure to conflict with those of powerful economic advisers elsewhere within the Democratic Party. For instance, Felix Rohatyn, the Lazard Frères investment banker and long-time adviser to Democrats, said that he categorically opposed national planning, a concept advocated by Mr. Gevirtz. Mr. Rohatyn, who has endorsed what he calls a Reconstruction Finance Corporation to bring Federal aid to the cities, said, "I don't think that one should be dreamy or romantic about high technology. High technology alone is not going to save this country."

Mr. Gevirtz's affinity for small business came early. His father, trained as a dentist, owned several retail stores in small Indiana towns during the Depression. After graduating from the University of Southern California in 1950, where he attended on a basketball scholarship, Mr. Gevirtz became a partner with his father in a successful label-printing business.

He later managed and acquired several businesses as an executive for Litton Industries and as a vice president of the Republic Corporation. Both were mushrooming conglomerates that typified the go-go years of American business in the 1960's.

He recalled that he became disenchanted with Republic's acquisition binge and left there in 1969.

With John F. Nickoll, a 47-year-old Brown University law graduate who had managed his family's commercial finance company for nearly 10 years, Mr. Gevirtz organized a similar company in 1970 in California to lend money to small- and medium-sized businesses.

The Foothill Group, named for the Beverly Hills street where Mr. Gevirtz resided when it was formed, earned \$9.5 million in the fiscal year 1982 that ended May 31, and 83 percent gain from the \$5.2 million it earned in the previous year. Revenues climbed 63.4 percent, to \$59.3 million. Foothill reported \$299.3 million in assets at the end of its 1982 fiscal year.

Foothill's main business is lending money—it lends exclusively to businesses, most with sales of \$5 million to \$50 million. It also leases equipment and finances accounts receivable at interest rates five to eight percentage points above prevailing bank rates.

Foothill matches the rates of its assets, such as loans and leases, with its liabilities, such as bank debt or consumer savings deposits from its thrift units, "better than anybody else," said J. Richard Fredericks, a partner in Montgomery Securities, a San Francisco brokerage firm.

Last year, for example, the spread between Foothill's cost of money and its lending revenues was 11.3 percent, the fifth consecutive year in which the figure topped 10 percent. That gave Foothill a 3.8 percent return on assets, compared with an average of about five-tenths of 1 percent for major banks. "Their outlook is extremely favorable," Mr. Fredericks said.

Mr. Gevirtz, who is Foothill's chairman and chief executive, said that choosing smart partners has been central to his business success and he and Mr. Nickoll, who is president, say they strive to keep things equal.

Mr. Gevirtz and Mr. Nickoll each earned \$300,000 from the company last year, including the maximum bonus of \$180,000. Each also owns slightly less than 5 percent of Foothill's common stock—with Mr. Nickoll holding 335,435 shares, and Mr. Gevirtz 291,602 shares. When he started the Foothill Group, Mr. Gevirtz said that he hired a professor from the University of Southern California to tutor him in corporate finance, especially in uses of preferred stock and debentures. "I was embarrassed," he said, "but it paid off."

Away from Foothill's headquarters in the triangular 44-story Century City Towers, Mr. Gevirtz often is surrounded by politicians, writers and scholars. They are visitors to his 10-acre homestead overlooking the Pacific Ocean in Montecito, a small town south of Santa Barbara and about 40 miles south of President Reagan's ranch.

In his idle hours by the swimming pool and tennis courts near the 10-room, 65-year-old English country house made of Santa Barbara sandstone, Mr. Gevirtz is working on the manuscript of a book, tentatively titled, "A Business Plan for America."

Mr. Gevirtz said he has grown increasingly pessimistic about the economy over the last several months. The Republicans are likely to lose "about 30" seats in the House this November largely because of continuing recession, he said. But Mr. Gevirtz said he expected new policy changes from President Reagan in the wake of such a defeat.

"The Reagan Administration has no contingency plans," he said. "We're seeing a further escalation in the deficit and further deterioration in the economy. I think the outlook is very bad for the next two or three years."

He is urging Congressional Democrats to erase the 10 percent personal tax cut set for the fiscal year 1984, pare military spending and end automatic cost-of-living increases for Social Security recipients. "There will be some action after the elections" on Social Security, he predicted.

Mr. Gevirtz wrote Jimmy Carter's position papers on small-business tax incentives after the 1976 election. But the Carter Administration's record on deregulation and eliminating capital gains taxes was "disappointing," he said. Moreover, the Small Business Administration was "totally ineffectual," he added.

"But I feel like less of an oddball now than I did a few years ago," he said. "There is a brush fire of conversation and thinking about these subjects among democratic leaders. I feel strongly that a Democratic Congress can carry them out." ●

PUBLIC EMPLOYEES' PENSION PLAN REPORTING AND ACCOUNTABILITY ACT OF 1982 (PEPPRA)

● Mr. HATCH. Mr. President, the Utah State Legislature, at its second special session, approved a resolution in opposition to H.R. 4928, H.R. 4929, S. 2105, and S. 2106, relating to Federal regulation of State and local pension plans.

This legislation would impose Federal reporting, disclosure, and fiduciary requirements in an area that is clearly within the province of State and local governments.

In addition to the Utah State Legislature, the following organizations have also informed me of their opposition to the legislation: The National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, the U.S. Conference of Mayors, the International City Management Association, the Municipal Finance Office Association, and the Council of State Governments. These organizations are unanimous in their strong opposition to this legislation as inappropriate, unnecessary, and counterproductive.

I have recently sent a letter to President Reagan informing him of my position and urging him to oppose these legislative proposals.

Mr. President, I ask that a copy of the resolution of the Utah State Legislature, a copy of a letter to President Reagan, an article by Congressman LARRY CRAIG of Idaho and a factsheet relating to the bills be printed in the RECORD.

The material follows:

RESOLUTION No. 2

Be it resolved by the Legislature of the State of Utah, the Governor concurring therein:

Whereas, legislation to regulate state and local pension plans in the form H.R. 4928 and H.R. 4929 and S. 2105 and S. 2106 were introduced in Congress, respectively, on November 10, 1982, and February 11, 1982;

Whereas, this legislation is premised on the perception that adequate and accurate information on state and local pension plan operations is not available and that these governmental entities refuse to properly manage the plans under their jurisdiction;

Whereas, the contemplated federal control of state and local pension plans intrudes upon the rights of state and local governments and is possibly contrary to the Constitution of the United States and the current federal theme of deregulation;

Whereas, Congress should devote its attention to the proper operation and funding of federal plans, thereby encouraging state and local plans to follow its example;

Whereas, current studies document that deficiencies in state and local pension plans are limited primarily to local plans covering a small percentage of employees;

Whereas, the states under their own initiative are addressing deficiencies in plans covering public employees in comprehensive manner; and

Whereas, federal regulation of these plans will add to the administrative cost of these plans and serve no useful purpose.

Now, therefore, be it resolved, that the Utah Congressional Delegation is urged to oppose the federal regulation of state and local pension plans and save the taxpayers of this state the unnecessary cost which attends federal control.

Be it further resolved, that the Lieutenant Governor send copies of this resolution to each member of the Utah's Congressional Delegation.

UNITED STATES SENATE,
COMMITTEE ON LABOR AND HUMAN
RESOURCES,

Washington, D.C., July 30, 1982.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: During this Congress two bills have been introduced in the Senate which would establish certain federal regulation of state and local retirement plans. These bills, S. 2105 and S. 2106, and their counterparts in the House of Representatives, were each originally titled the "Public Employee Retirement Income Security Act" (PERISA). Recently, they have been renamed the "Public Employees' Pension Plan Reporting and Accountability Act of 1982" (PEPPRA).

This proposed legislation would impose federal reporting, disclosure and fiduciary requirements on state and local pension plans and would transfer regulatory power to a federal agency. This represents a new and unprecedented intrusion of the federal government upon state and local government's authority in administering and overseeing state and local retirement systems. Thus, the intent of the bills runs counter to the goal of returning power and responsibility to the appropriate level of government.

The objectives of your administration to bring government closer to our individual citizens, to reduce unnecessary federal intervention and to eliminate burdensome regulations would be seriously harmed by the proposed legislation. Further, the proposed legislation is not needed. State and local administrations have been actively involved in initiating reforms of state and local systems and have a successful record of improvement in their plans.

At a time when your administration and the Congress have made concerted strides to reduce regulatory burdens on state and local governments, the proposed legislation would require additional levels of bureaucracy and substantial compliance costs. I urge you to strongly oppose these legislative proposals.

Warmest personal regards,

ORRIN G. HATCH, *Chairman.*

FEDERAL BILLS WOULD STIFLE LOCAL PENSION REFORM

(By Representative LARRY CRAIG)

It is not my intention to discredit the goals of this proposed legislation, which are laudable. Instead, I believe that the bills are fundamentally unnecessary, inappropriate and counterproductive. In addition, the federal record in managing its own pension systems has been less than satisfactory.

The unfunded liability of the federal pension systems exceeds \$1 trillion. That liability exceeds the national debt and is growing at a faster rate. Most federal pension plans are funded on a "pay as you go" basis, which is cited by pension experts as not acceptable.

State and local pension systems are generally funded on an approved actuarial basis, which assures adequate advanced funding of promised benefits. Many state and local plans which had, like the federal government, been funded on a "pay as you go" basis have converted to actuarial funding. However, this new funding method must be phased in over a number of years so that one generation of workers and taxpayers is not unfairly burdened by the transition. State and local governments need flexibility to make the necessary changes in the pension plans without prescriptive, rigid federal regulation.

COUNTERPRODUCTIVE

There is a real danger in passing this legislation believing that it will solve the basic problems of some of the public pension plans. It would be a comfortable illusion to think that these federal reporting, disclosure and fiduciary standards will cause state and local governments to move any faster than they are now doing to reform their own systems.

A second real danger is that state and local governments, the taxpayers and the participants will be lulled into a false sense of security that the federal government is protecting and guaranteeing public pension benefits. This is simply not the case. The message should be clear that state and local governments themselves are ultimately responsible for the pension benefits of their employees.

The level of government that is accountable for services or obligations should have the responsibility and authority to oversee and regulate those areas. State governments now are responsible for the pension benefits of their systems and those of their political subdivisions.

The passage of PEPPRA legislation would add a plethora of new regulations, requirements and paperwork mandates that would increase the costs, burdens and complexity of pension administration for state and local governments.

The government would be flooded with a barrage of additional reports, documents and surveys that would require more federal staff, costs and bureaucracy systems. We do not believe that the federal government should extend its regulatory tentacles into this major new pension area when we do not fully understand and agree on how the existing regulatory and guarantee network should work.

State and local government reforms would be stifled rather than promoted through this legislation and the resulting bureaucracy. This would promote unnecessary and counterproductive uniformity and compliance with prescriptive and often inappropriate national standards. Each state has different needs, requirements and characteristics which need to be explored and adopted.

INAPPROPRIATE

Congress and the administration have recently initiated deregulation, decentralization and block grant approaches that vest more authority and responsibility with state and local governments. We are sending a contradictory message that state and local governments are capable of funding and administering a broad range of domestic programs and policies, and yet not capable of overseeing and administering their own pension plans.

I admit that not all state and local pension plans are perfect—there are some serious problems with some plans, such as some of the small programs. However, we believe

that the federal role should be to act as a model employer in the administration of its own pension plans, encourage state and local governments to reform their own systems, and clarify that the basic responsibility for the funding, structure and administration of their pension systems is with the state and local governments themselves.

UNNECESSARY

State and local governments have made considerable progress over the past few years in reforming their own retirement systems. At last report, about half of the states had formed task forces or commissions to study and recommend reforms of their state and local government pension plans. Some of the states which have recently reformed and/or consolidated retirement programs in their states include California, Florida, North Carolina, Wisconsin, Texas, Maryland, Idaho and Rhode Island.

According to two recent studies commissioned by the federal government, there are extensive reporting and disclosure requirements in large state-administered systems, which contain about 90 percent of all state and local pension participants. The proposed federal legislation would duplicate these requirements and cause unnecessary changes in state requirement where they do not meet the "substantially equivalent" test required by H.R. 4928 and 4929.

To date there have been no defaults in state and local pension benefits due or promised to participants. No public employee has ever lost benefits due to him or her.

In addition, there are bond rating and national accounting standards which provide controls and incentives toward sound administration and funding of state and local pension systems.

All of the major national organizations which represent state and local governments are unanimously and strongly opposed to this legislation.

SUMMARY

I oppose H.R. 4928 and H.R. 4929 as unnecessary, inappropriate and counterproductive federal legislation. While I endorse the ultimate goal of reforming state and local pension plans where necessary, I believe these reforms should and must be made by the state and local governments themselves, based on their local needs and priorities, and without the inappropriate intrusion of the federal reforms in retirement systems already under our authority—Social Security, federal government employee pensions, and private sector pensions as governed by ERISA legislation.

Whether you call it PERISA or PEPPRA, the fact remains that the federal government should not be in the position of regulating and guaranteeing the basic state and local government responsibility of providing pension benefits for their own employees.

PERISA/PEPPRA: THE FACTS

BILLS

Public Employee Pension Plan Reform Act (PEPPRA), H.R. 4928; 4929 (Erlenborn, P. Burton); Public Employee Retirement Income Security Act (PERISA), 2105, 2106 (Chafee).

MAJOR PROVISIONS

All four bills require all public pension plans to report information to the state and/or federal government. Each bill requires that certain information be disclosed to participants on a regular basis. Basic fiduciary and administrative requirements are contained in all bills. Two of the bills (H.R.

4928 and S. 2105) provide automatic tax qualification upon PERISA/PEPPRA compliance with the Internal Revenue Service (IRS).

REPORTING

Requires a summary plan description, amended as needed, an annual report, a financial statement, an actuarial statement, audit reports and insurance coverage.

DISCLOSURE

Requires details on how plan administrators must inform participants about their plans, enforcement procedures, rights of participants, special individual disclosures and property right access.

FIDUCIARY STANDARDS

Provides standards for the establishment of plan provisions, establishment of trusts, liabilities of administrators, restrictions on investments, definition of fiduciaries, prohibited transactions, bonding, limitations on actions and other issues.

TAX QUALIFICATION

Although not generally enforced, the IRS has some authority to rule on the tax qualification of public plans. Two of these bills would provide for automatic IRS qualification when the act's standards are met.

OTHER PROVISIONS

Three of the bills allow for a partial exemption if a state certifies that all plans are "substantially equivalent" to requirements in the act. Substantial equivalency would be determined through future regulation. The bills also provide for an advisory council on government plans, studies and reports to Congress, and a phase-in period.

COSTS

The Congressional Budget Office (CBO) estimates that the cost to the federal government would not be substantial. No cost estimates for state and local government compliance are provided. According to a recent survey of state retirement plan administrators, the annual added costs would average \$3 per active member for the 12 million participants. Thus, the added cost of PERISA or PEPPRA would be about \$36 million annually.

HOUSE STATUS

The Education and Labor Committee reported out H.R. 4928 and 4929 by voice vote on May 11. H.R. 4928 was referred to the Ways and Means Committee for consideration, and H.R. 4929 awaits floor action in the Rules Committee. Final House action on H.R. 4929 could occur at any time.

SENATE STATUS

The Senate Finance Committee held one day of hearings on S. 2105, 2106 in late March. The Labor and Human Resources Committee is scheduled to mark up ERISA amendments July 20 and 21, and PERISA/PEPPRA may be considered at that time.●

DISAPPROVING FINAL REGULATIONS FOR ECIA

● Mr. STAFFORD. Mr. President, yesterday, the Senate considered and passed House Concurrent Resolution 388, recently passed by the House of Representatives. This resolution disapproves regulations recently issued by the Department of Education for chapter I and chapter II of the Education Consolidation and Improvement Act of 1981.

Mr. President, the Committee on Labor and Human Resources has the authority to review regulations issued by the U.S. Department of Education. Having reviewed the regulations promulgated as a result of passage of the Education Consolidation and Improvement Act (ECIA), Senators HATCH, KENNEDY, and PELL joined me in introducing Senate Concurrent Resolution 115, which disapproves those regulations and is identical to the companion House Resolution (H. Con. Res. 388).

We believe there are several reasons why these regulations merited rejection by the Congress. One major point of contention is the Department's assertion that the General Education Provisions Act (GEPA) is inapplicable to ECIA. This is a position which I and my colleagues who cosponsored Senate Concurrent Resolution 115 categorically reject.

Yet, before I explain more fully our objections, I ask the indulgence of my colleagues so that I can explain the urgency for having asked the Senate to approve this resolution of disapproval.

Section 431 of GEPA provides Congress the power to review regulations issued by the U.S. Department of Education. In accordance with this review process, final regulations published in the Federal Register shall not become effective unless Congress has had at least 45 days to review these regulations. Furthermore, Congress, through passage of a concurrent resolution, can find those regulations inconsistent with the act from which they derive their authority.

In this case, the Department published its regulations on July 29, 1982, and provided that the final regulations become effective on August 12, 1982. By any count, the rules issued by the Department fail to provide Congress with the 45-day review period required by law.

While I oppose the Department's contention that its regulations can take effect on August 12, it is important, in the views of this Senator that Congress expressed its disapproval of the Department's disregard for the law governing congressional review of regulations and other departmental interpretations of ECIA prior to the August 12 date.

Beyond just the Department's failure to provide for at least a 45-day review, there are still other aspects of the final regulations for ECIA which merit disapproval. Prominent among these is the Department's claim that GEPA is inapplicable to the provisions of ECIA.

As my colleagues know, GEPA is a body of laws which are generally applicable to all education laws passed by Congress and administered by the Department of Education unless specific exemption is made. In fact, section 400(B) of GEPA states specifically:

Except where otherwise specified, the provisions of this title shall apply to any program for which an administrative head of an education agency has administrative responsibility as provided by law or by delegation of authority pursuant to law.

Secretary Bell, for erroneous reasons, has chosen to disregard this provision in expressing the view that GEPA, except where specifically provided by ECIA, is inapplicable to the new law. In sum, his view was expressed as follows in the Federal Register on July 29, 1982:

The Secretary believes that Congress did not squarely resolve the GEPA issue and that in absence of such congressional resolution, given the thrust of ECIA, he should refrain from imposing, by regulation, conditions which Congress did not clearly impose by statute.

As chairman of the Subcommittee on Education, Arts and Humanities, I clearly reject the contention that Congress did not resolve the GEPA issue as the Secretary contends.

As my colleagues know, the extraordinary circumstances of last year's reconciliation procedure meant that Congress suspended its normal legislative pace and procedures in order to enact numerous and urgent revisions in Federal law. In accordance with the demands of that process, certain legislative revisions were made by fewer legislative participants than might normally have been the case.

As chairman of the Education Subcommittee, I had to shoulder enormous responsibility for the revision of hundreds of Federal education provisions, and I was able to share that responsibility only with very few other Members of the Senate and the House.

In passing the Education Consolidation and Improvement Act, I relied particularly on the late Congressman John Ashbrook, who was the principal author of ECIA, and also quite frequently I called upon Senator HATCH, chairman of the Labor and Human Resources Committee, for assistance.

Let me relate to my colleagues what we, as the major participants in ECIA's passage, felt regarding GEPA's applicability.

First, at no time did we state any intention that GEPA would not apply to ECIA. Certainly, some modifications were made in certain GEPA provisions, but no recommendations were made or contemplated to terminate GEPA's general applicability to ECIA.

In fact, on October 6, 1981, Congressman ASHBROOK made this statement regarding GEPA at an oversight hearing on ECIA held by the House Subcommittee on Elementary, Secondary, and Vocational Education:

The General Education Provisions Act is applicable, in whole, to the Education Consolidation and Improvement Act, unless (1) a provision is made inapplicable by specific reference in ECIA or (2) there is a provision or requirement in ECIA which supersedes a similar requirement in GEPA.

Furthermore, in a July 15, 1982, letter to Secretary Bell, Senator HATCH insisted that section 400 of GEPA required the Secretary's administrative authority over ECIA by writing:

Surely a program such as ECIA which is federally funded and which places upon the Secretary the duty to monitor State and local activities to insure that the money is spent in accordance with the requirements of Federal law, broad as they may be, is sufficient to vest administrative authority in the Department.

Under this contract, GEPA remains applicable to ECIA under the Secretary's administrative authority.

Lastly, this Senator, during the July 19 confirmation hearing for Undersecretary-designate Gary Jones, clearly and specifically stated that the Department's assertion of GEPA's inapplicability was erroneous.

Given this record, I fail to understand how the Secretary could assert that Congress had not squarely resolved the GEPA issue. The three instances I mentioned all took place prior to the July 29 issuance of these final regulations. These communications were made to the Secretary by three of the legislators primarily responsible for ECIA's passage. I repeat, therefore: How could the Secretary assert that Congress had not resolved this matter?

Given these facts and this background, I appreciate that my colleagues supported passage of this resolution of disapproval.●

RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no other matter to be dealt with by

the Senate tonight. Therefore, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 tomorrow morning.

The motion was agreed to; and, at 8:45 p.m., the Senate recessed until tomorrow, Thursday, August 12, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate August 11, 1982:

DEPARTMENT OF STATE

William Schneider, Jr., of New York, to be Under Secretary of State for Coordinating Security Assistance Programs, vice James L. Buckley.

Robert John Hughes, of Massachusetts, to be an Assistant Secretary of State, vice Dean E. Fischer, resigned.

HOUSE OF REPRESENTATIVES—Wednesday, August 11, 1982

The House met at 10 a.m.
The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Almighty God, from whom comes every good gift, bless, we pray, all those who turn to You with open hearts and souls. Encourage with Your love those who serve You in word and deed, and cause us to know that when we serve others, we serve You. May Your renewing spirit give encouragement to people who are weighted down by the pressures of life, and may Your grace give us purpose and direction in all good works. Be with those who wait upon You and may Your blessing be upon us all. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MILLER of California. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 337, nays 26, answered "present" 2, not voting 69, as follows:

[Roll No. 263]

YEAS—337

Addabbo	Bennett	Burgener
Albosta	Bereuter	Burton, Phillip
Alexander	Bethune	Byron
Anderson	Bevill	Carman
Andrews	Biaggi	Chappell
Annunzio	Bingham	Chapple
Anthony	Bliley	Clausen
Archer	Boggs	Clinger
Ashbrook	Boland	Coelho
Aspin	Boner	Coleman
Atkinson	Bonker	Collins (IL)
Badham	Bouquard	Collins (TX)
Bailey (MO)	Bowen	Conable
Bailey (PA)	Breaux	Conte
Barnard	Brinkley	Corcoran
Beard	Broomfield	Coyne, William
Bedell	Brown (CA)	Craig
Beilenson	Brown (CO)	Crane, Daniel
Benjamin	Broysbill	Crane, Philip

D'Amours	Holt	Panetta
Daniel, Dan	Hopkins	Parris
Daniel, R. W.	Horton	Pashayan
Dannemeyer	Howard	Patman
Daschle	Hoyer	Patterson
Daub	Hubbard	Paul
de la Garza	Huckaby	Pease
Deckard	Hughes	Pepper
Dellums	Hunter	Perkins
DeNardis	Hyde	Petri
Derrick	Jeffords	Peyster
Dickinson	Jones (OK)	Pickle
Dicks	Jones (TN)	Porter
Dingell	Kastenmeier	Price
Dorgan	Kazen	Pritchard
Dougherty	Kemp	Quillen
Dowdy	Kennelly	Rahall
Downey	Kildee	Rallsback
Dreier	Kindness	Rangel
Duncan	Kogovsek	Ratchford
Dunn	Kramer	Regula
Dwyer	LaFalce	Reuss
Dymally	Lagomarsino	Rhodes
Dyson	Lantos	Rinaldo
Early	Latta	Ritter
Eckart	Leach	Roberts (KS)
Edgar	Leath	Roberts (SD)
Edwards (AL)	Lee	Robinson
Edwards (CA)	Lehman	Rodino
Edwards (OK)	Leland	Roe
Emery	Lent	Rogers
English	Levitas	Rostenkowski
Erdahl	Livingston	Roukema
Erlenborn	Long (LA)	Rousselot
Evans (DE)	Long (MD)	Roybal
Evans (GA)	Lott	Rudd
Evans (IN)	Lowery (CA)	Russo
Fary	Lowry (WA)	Sawyer
Fasell	Lujan	Scheuer
Fazio	Lundine	Schneider
Fenwick	Lungren	Schulze
Ferraro	Madigan	Schumer
Fiedler	Markey	Seiberling
Findley	Marriott	Sensenbrenner
Fithian	Martin (IL)	Shamansky
Florio	Martin (NC)	Shannon
Foglietta	Martin (NY)	Shaw
Foley	Martinez	Shelby
Fowler	Matsui	Shumway
Frank	Mavroules	Shuster
Frenzel	Mazzoli	Simon
Frost	McClory	Skeen
Fuqua	McCollum	Skelton
Garcia	McCurdy	Smith (AL)
Gaydos	McDade	Smith (IA)
Gephardt	McDonald	Smith (NE)
Gibbons	McEwen	Smith (NJ)
Gilman	McGrath	Smith (OR)
Gingrich	McHugh	Smith (PA)
Glickman	McKinney	Snowe
Gonzalez	Mica	Snyder
Gramm	Michel	Solarz
Gray	Miller (CA)	Spence
Green	Mineta	St Germain
Guarini	Minish	Stangeland
Gunderson	Mitchell (NY)	Stanton
Hagedorn	Moakley	Stark
Hall (OH)	Mollinari	Staton
Hall, Ralph	Mollohan	Stenholm
Hall, Sam	Montgomery	Stokes
Hamilton	Moore	Stratton
Hance	Moorhead	Studds
Hansen (ID)	Morrison	Stump
Hansen (UT)	Motti	Swift
Hatcher	Myers	Synar
Hawkins	Natcher	Tauke
Heckler	Neal	Tauzin
Hefner	Nelligan	Taylor
Hendon	Nelson	Thomas
Hightower	Nichols	Tribble
Hillis	Nowak	Udall
Holland	O'Brien	Vander Jagt
Hollenbeck	Oaker	Vento
	Obey	Volkmer
	Oxley	Walgren

Wampler	Whitley	Wyden
Watkins	Whittaker	Wyllie
Waxman	Whitten	Yatron
Weaver	Williams (MT)	Young (FL)
Weber (MN)	Williams (OH)	Young (MO)
Weber (OH)	Winn	Zablocki
Weiss	Wolpe	Zerfetti
White	Wortley	
Whitehurst	Wright	

NAYS—26

Barnes	Harkin	Murphy
Clay	Hiler	Roemer
Coats	Jacobs	Rose
Coughlin	Johnston	Sabo
Derwinski	LeBoutillier	Schroeder
Evans (IA)	Lukens	Sharp
Forsythe	Mattox	Solomon
Geldenson	Miller (OH)	Walker
Goodling	Mitchell (MD)	

ANSWERED "PRESENT"—2

Oberstar	Ottiger
----------	---------

NOT VOTING—69

Akaka	Donnelly	Lewis
Applegate	Dornan	Loeffler
AuCoin	Emerson	Marks
Bafalis	Ertel	Marlenee
Benedict	Fields	McCloskey
Blanchard	Fish	Mikulski
Bolling	Flippo	Moffett
Bonior	Ford (MI)	Murtha
Brodhead	Ford (TN)	Napier
Brooks	Fountain	Pursell
Brown (OH)	Ginn	Richmond
Burton, John	Goldwater	Rosenthal
Butler	Gregg	Roth
Campbell	Grisham	Santini
Carney	Hammerschmidt	Savage
Cheney	Hartnett	Siljander
Chisholm	Hefelt	Traxler
Conyers	Hertel	Washington
Courter	Hutto	Wilson
Coyne, James	Ireland	Wirth
Crockett	Jeffries	Wolf
Davis	Jenkins	Yates
Dixon	Jones (NC)	Young (AK)

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On July 20, 1982:

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

On July 27, 1982:

H.R. 4935. An act to amend title 11, United States Code, to correct technical errors, and to clarify and make substantive

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

changes, with respect to securities and commodities; and

H.J. Res. 225. Joint resolution to designate the week beginning June 5, 1983, and ending June 11, 1983, as "Management Week in America."

On July 28, 1982:

H.J. Res. 444. Joint resolution to authorize and request the President to designate August 14, 1982, as "National Navaho Code Talkers Day"; and

H.R. 4688. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from \$15,000 to \$25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that act.

On August 2, 1982:

H.R. 6663. An act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure; and

H.J. Res. 526. Joint resolution authorizing and requesting the President to issue a proclamation designating the week of August 1, 1982, through August 7, 1982, as "National Purple Heart Week."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 388. Concurrent resolution disapproving certain regulations submitted to the Congress on July 29, 1982, with respect to the Education Consolidation and Improvement Act of 1981.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 901. An act to preserve and protect the Georgetown waterfront for the recreational use of the public.

PERMISSION FOR SUBCOMMITTEE ON ADMINISTRATIVE LAW AND GOVERNMENTAL RELATIONS OF COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE ON TODAY, WEDNESDAY, AUGUST 11, 1982

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that the Subcommittee on Administrative Law and Governmental Relations of the Committee on the Judiciary be permitted to sit on Wednesday, August 11, 1982, while the House is considering amendments under the 5-minute rule. The purpose of the subcommittee meeting is to mark up S. 823, the tris bill and to consider private bills.

The minority has been consulted, and they are in agreement.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. KINDNESS. Mr. Speaker, reserving the right to object, and I shall not object, I take the reservation of objection in order to assure that there is no objection on the part of the minority. We would like to proceed with the markup of these bills.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON SCIENCE AND TECHNOLOGY TO SIT DURING 5-MINUTE RULE ON TODAY, WEDNESDAY, AUGUST 11, 1982

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology be permitted to sit this afternoon while the House is considering amendments under the 5-minute rule for the purpose of marking up some routine bills.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so simply to ask the distinguished gentleman from Florida whether or not this has been cleared with the gentleman from Kansas (Mr. WINN).

Mr. FUQUA. Mr. Speaker, if the gentleman will yield, I have attempted to locate the gentleman from Kansas (Mr. WINN) today. I have not been able to, but the matter was announced last week and there has been no objection to it reported to me.

Mr. WALKER. Mr. Speaker, as a member of the committee I have heard no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

INVALIDS AND RETARDED DIE OF STARVATION IN WEST BEIRUT

(Mr. RAHALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAHALL. Mr. Speaker, this morning's Washington Post has again carried a story in regard to the tragic human suffering that has been inflicted upon innocent Lebanese civilians, including aged, handicapped, and babies, due to Israel's war in Lebanon.

The hospital that was the subject of this morning's story was visited by five of our six-man delegation I recently led to six Middle Eastern countries, including West Beirut. We toured every floor of this hospital and saw for ourselves the heartless destruction that has occurred therein.

In our subsequent press conferences both in Beirut and Jerusalem and other cities in the Middle East, we tried to relay to the world what we had witnessed in this hospital. Instead, and unfortunately, the national media

chose to focus upon and entirely distort another one of our visits in West Beirut with Chairman Yasser Arafat, and neglected the human suffering we had indeed witnessed for ourselves and tried to relay.

This hospital for the mentally retarded and invalid was brought this morning to the attention of U.S. AID Administrator Peter McPherson during a breakfast sponsored by the Peace Through Law Education Fund. I relayed to him the consequences of the barbaric, inhumane conditions that exist in this hospital. He agreed that he would look into it.

Had world attention been focused on this type of destruction during our trip, perhaps the deaths by starvation and lack of medical supplies that have occurred since our visit, would have been prevented.

The SPEAKER pro tempore (Mr. MOAKLEY). The time of the gentleman from West Virginia has expired.

SOCIAL SECURITY

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, since I joined my colleagues in the House I have been seriously concerned with a provision in the social security law which expires this November—that is the exception clause to the Government pension offset contained in the Social Security Amendments of 1977.

I am introducing today a bill to continue the exception clause for an additional 5 years so that spouses of insured workers would not have their dependent or survivor benefits reduced by the pension offset provision. In addition, this bill extends eligibility for dependent's benefits to those divorced spouses covered by the exception clause due to the reduction in the marriage duration requirement from 20 to 10 years. This brings consistent treatment to social security law.

I commend the work of other Members in seeking this extension, and hope my demonstration of support will add momentum to our efforts. Five years is not a generous transition period for a major change in a retirement system, and it is only fair that the transition period be extended. Moreover, this legislation will carry the exception clause beyond the time needed for the President's National Commission on Social Security Reform to make its report on solutions to the financial problems of the social security system and for Congress to analyze the report and make its own recommendations. I do not believe we should foreclose the possibility of benefits to 5,000 individuals annually immediately prior to the report of the

Commission when it is clear that benefits of this group of retirees is deserved and needed.

MILITARY CONSTRUCTION AUTHORIZATION ACT, FISCAL YEAR 1983

(Mr. DYSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DYSON. Mr. Speaker, today the House completes consideration of H.R. 6214, the Military Construction Authorization Act for Fiscal Year 1983.

This legislation is the result of weeks of hearings during which each of approximately 1,000 military construction projects proposed by the military services were thoroughly examined by the Subcommittee on Military Installations and Facilities. Under the expert leadership of our distinguished chairman, JACK BRINKLEY, the primary concern was to assure that the project was not only essential to meet a valid and urgent military need, but also represented the most feasible and cost-effective method for achieving the objective.

Careful attention was given to the development of a balanced level of facilities support for important new programs and initiatives such as the MX, Indian Ocean/Persian Gulf access for the Rapid Deployment Force, and deployment of new weapon systems. At the same time, the essential needs of NATO and the maintenance of readiness in Europe, Korea, Japan, and other overseas areas had to be met.

Also included in this bill are funds for much-needed improvements in family housing, barracks, and other quality of life facilities for military personnel and their families. High national priority requirements such as energy conservation, pollution abatement, and occupational safety and health standards were also addressed.

The result, we think, is a carefully balanced construction program that will enhance the military posture and readiness of the Active Forces and their Guard and Reserve components.

Mr. Speaker, this bill provides for construction of military facilities and military family housing worldwide. It is a very vital part of the overall Defense program yet it only amounts to about 4 percent of the total Defense budget.

The passage of this bill will authorize construction to field a variety of new weapons systems to modernize our Armed Forces, provide important staging facilities in the Persian Gulf-Indian Ocean region so the Rapid Deployment Force can defend our interests there, improve U.S. readiness in Europe and the Pacific area, and upgrade some of the poor living and working conditions of our military personnel at home and abroad.

I urge my colleagues to vote for H.R. 6214.

IMMIGRATION CONTROL AND REFORM ACT OF 1982

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I would like to tell my colleagues in the House that this is a red letter day. Today the other body will take up consideration of the bill entitled, the Immigration Control and Reform Act of 1982. Under the excellent leadership of the junior Senator from Wyoming, the other body will consider one of the premier and important pieces of legislation for this congressional session.

This is the bill which the junior Senator and I have had the pleasure of working with and introducing. It is a bill which I hope will reach the floor of this body soon after we return from our August district work period.

If any of the Members have any queries or inquiries concerning the bill, I would certainly offer the help of our committee staff in answering any questions and in helping the Members with constituent letters.

It is a fair and balanced and equitable and human bill. It is a bill which should pass, and I hope that it will receive the support of this body when it reaches the floor soon after our return from the recess.

□ 1030

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING THE 5-MINUTE RULE ON TODAY AND FOR THE REMAINDER OF THE WEEK

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit while the House is in the Committee of the Whole under the 5-minute rule on today and for the remainder of the week.

The SPEAKER pro tempore. (Mr. MOAKLEY). Is there objection to the request of the gentleman from Washington?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I wish to inquire whether this is to consider the Clean Air Act, the most controversial issue before our committee, which will delay Members from being on the floor to consider the controversial items here. Is this to consider the Clean Air Act?

Mr. SWIFT. Mr. Speaker, if the gentleman will yield, as the gentleman well knows, of course it is.

Mr. WAXMAN. Then I do object, Mr. Speaker.

The SPEAKER pro tempore. Objection is heard. The Chair will state that

it takes 10 Members or more to object, and the Clerk will please note the names of the Members who were standing.

(Messrs. EDGAR, SCHEUER, MILLER of California, EDWARDS of California, MATSUI, McHUGH, PEASE, and PATTERSON, Ms. FERRERO, Mr. ECKART, and Mr. LUNDINE also objected.)

The SPEAKER pro tempore. More than 10 Members having arisen, objection is heard.

PUERTO RICANS EMBARRASSED BY GESTURE OF OLYMPIC COMMITTEE PRESIDENT

(Mr. CORRADA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORRADA. Mr. Speaker, I am shocked by a photograph in today's Washington Post showing German Rieckehoff, the president of the Puerto Rico Olympic Committee, presenting a Puerto Rican team cap to Cuban dictator Fidel Castro, which Castro seems to be wearing with relish and probably surprise.

I strongly repudiate the gesture of Mr. Rieckehoff which certainly goes way beyond what the people of Puerto Rico would expect from him in heading the Puerto Rican team to the Central American and Caribbean Games. One thing is participating in a sports activity in Cuba or any other Communist country and another thing is acting foolishly to the great embarrassment of the overwhelming majority of Puerto Ricans who are proud of their American citizenship, fully committed to the principles of democracy and freedom and strongly opposed to the tyranny in which Fidel Castro has kept the people of Cuba over the last 22 years.

Puerto Rico and the U.S. Virgin Islands, as U.S. possessions in the Caribbean, have been participating in the Central American and Caribbean Games for many years. In fact, the games were held in San Juan back in 1966 at which time several members of the Cuban delegation defected and asked for political asylum in Puerto Rico. The Puerto Rican team and delegation to the games traveled there after obtaining a special license from the U.S. Government. However, about 200 fans accompanying the team traveled to Cuba in spite of restrictions imposed by the U.S. Government. Some of those 200 individuals may in fact be sports fans who believe that such travel restrictions are unconstitutional or unwarranted in a democratic society such as ours. Others, however, may be motivated by political ideologies including members of the Puerto Rico Independence Party and the Puerto Rico Socialist Party, who have acted in concert with the Castro government

to gain support at the United Nations for Puerto Rican independence. Naturally, these individuals resort to the United Nations and to the support of the Cuban Government after repeated failures to persuade the Puerto Rican people to support independence for the island. During the last several elections in Puerto Rico the two parties advocating independence for the island have been able to poll less than 6 percent of the vote.

Mr. Rieckehoff's gesture not only is an affront to our people in Puerto Rico but also a mockery to the plight of more than 50,000 Cuban residents in Puerto Rico who had to flee Cuba shortly after the Castro takeover and who have been the cruel victims of Communist repression. I deplore Mr. Rieckehoff's gesture which in no way represents the true feelings of the Puerto Rican people.

VIOLENT ACTS IN PARIS DENOUNCED BY ARAB LEAGUE

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, I am deeply saddened and indeed find it deplorable that recent civilians were killed in a Jewish delicatessen in Paris. Only cowards filled with prejudice and hate commit these violent acts. When will the world come to its senses and renounce violence against innocent people. I was pleased to see the Arab League denounce this violence. Let us join hands in love and peace, and forgive—this is the only answer to our children's future.

SUBCOMMITTEE HEARINGS ON FLIGHT WEATHER INFORMATION WILL BE RESUMED

(Mr. ROEMER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. ROEMER. Mr. Speaker, the tragic loss of life in the recent crash of Pan American Airways' flight 759, just after departing the New Orleans Airport, has raised several questions relating to weather information available to pilots and the proper role of the FAA in bad weather situations. As a member of the Subcommittee on Investigation and Oversight of the Committee on Public Works and Transportation, I have a special interest in the postcrash investigation.

The gentleman from Georgia (Mr. LEVITAS), the distinguished and able chairman of the subcommittee, has assured me of his interest in the matter and his willingness to resume the subcommittee's hearings on the dissemination of real-time weather information to flight crews in the near future. Such hearings will be a continuation of those held by our subcommittee during the spring of 1981.

As our hearings of over 1 year ago demonstrated, much more can be and must be done regarding air safety and weather information.

As Capt. T. E. Shephard, chairman of the Air Traffic Control Committee of the Airline Pilots Association, said at those hearings, and I quote:

Pilots today are still not getting accurate and timely information in the cockpit about the weather right around them.

Since that time, the Pan Am tragedy and two others have occurred.

Mr. Speaker, how much longer must we, who use the airways have to wait for the FAA to catch up with existing technology?

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON DE- PARTMENT OF DEFENSE MILI- TARY CONSTRUCTION BILL

Mr. HEFNER. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight tonight to file a privileged report on a bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes.

Mr. REGULA reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

THE HUMAN TRAGEDY IN BEIRUT

(Mr. FINDLEY asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, I am grateful to the gentleman from West Virginia, (Mr. RAHALL) and the gentleman from Ohio, (Ms. OAKAR) for voicing moral outrage at the human tragedy that is unfolding in Beirut. But where are the voices of outrage, of moral outrage, from the administration?

We may say, "Well the PLO is guilty of dreadful deeds" and that is true. But no one has ever accused the United States of being in complicity with the PLO, and the entire world sees the United States smeared with guilt for the unfolding tragedy in Beirut. We are charged with complicity with Israel in its military operations in Beirut.

Today's Washington Post thunders the message, and I hope the President and First Lady take a look at that dreadful picture of an infant starving to death because of the siege in Beirut.

Mr. Speaker, let us here in this Chamber realize that we individually have a responsibility under the law to

see that our laws are faithfully executed, and if we had done our duty, the arms shipment to Israel would have been stopped long ago and this tragedy would not have occurred.

CHANGING ONE'S MIND

(Mrs. MARTIN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Speaker, some have accused this administration of being insensitive to issues and remarks about women. In fact, they have suggested that recent remarks by my namesake fulfill and increase that lack.

I would suggest the opposite. Perhaps the press has misconstrued what was said. Indeed it was a compliment. While it is true that women would generally try to make up their minds before going public, we will forgive that male aberration. It is also true that women are not locked into emotional corners, as is so often the case with the opposite sex, but will rationally look at new information. Therefore, perhaps the remarks made by the Presidential adviser mean that for the first time the administration is realizing those strengths of women.

Mr. Speaker, since the administration, I suspect, wants to pass this tax bill, they had better hope that a lot of people, both men and women, change their minds.

PROGRESS TOWARD PEACE IN THE MIDDLE EAST

(Mr. DENARDIS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DENARDIS. Mr. Speaker, we are encouraged by the news today that the major parties in the Middle East are close to an agreement on an operational plan to remove the Palestine Liberation Organization from West Beirut.

Based on my visit to Israel and Lebanon exactly 1 year ago this week, I have felt that there was a certain inevitability to Israel's invasion of Lebanon with the intent of smashing the military power of the PLO, and seeing that its remnants are removed from that unhappy land. That attack was one very violent and short episode in a state of war that has existed many years.

The United States is presently attempting to keep the violence in Beirut to a minimum and to facilitate the removal of the PLO to as yet undetermined countries. I applaud what America is trying to do through the leadership President Reagan and Ambassador Habib, just as I applaud our long and arduous efforts to find that

elusive peace which has escaped the Middle East for so long. The peace process, of which the Camp David accords and the return of the Sinai to Egypt are the crowning jewels, can and should be extended to the problem of displaced Palestinians. It is possible that the invasion of Lebanon can lead to that extension.

We know the PLO had to flee Jordan in 1970 after an unsuccessful attempt to overthrow King Hussein. The PLO has gradually established a state within a state in Lebanon, literally leading to the wrecking of that country which was once called the jewel of the Middle East. With the removal of the PLO, it is possible that the many factions in Lebanon will seize the opportunity to recreate the government it had before the PLO arrival. The United States should do its part in promoting such an effort, because Lebanon can be a democratic, Western-oriented country.

The attack also means that the PLO is seriously weakened in its ambition to become the recognized spokesman for the Palestinians, and that weakness could lead to greater progress with negotiations on the Palestinian question. The PLO has so far refused to participate in the negotiations and has threatened to assassinate any Arab who does participate in the process. I believe it is in the best interests of the West to promote the emergence of nonterrorist, non-Marxist, and non-pro-Soviet leaders among the Palestinian people.

We know that the PLO is very active in the international terrorist network, and the military blows it has suffered in recent weeks ought to be hailed because those blows should reduce international terrorist activities. The PLO is a tool of the Soviet Union and serves as a mechanism to prevent the resolution of the Palestinian question. The ultimate resolution of the problem of Palestinian refugees will involve Israel and nearly all of the Arab States, especially Israel's neighbors, Jordan, Egypt, Lebanon, and Syria. The ability of the PLO to threaten the peace process may now be substantially weakened for years to come.

Certainly we are all appalled at the loss of life in Lebanon, particularly among civilians. Unfortunately, the PLO buries its military operations among the civilian population, including women and children; and this reprehensible and uncivilized practice has caused the civilian casualties and is one of the principal reasons the PLO is having difficulty finding a new home in the Arab world. In contrast to PLO tactics, the Syrian military forces in Lebanon painstakingly took up positions away from civilian concentrations.

American policy should now reach beyond the immediate task of ending the Lebanon conflict and to fulfill Pal-

estinian settlement hopes. Most Israelis feel this issue must be dealt with fairly and once the PLO is defanged, I believe that it will be.

THE FIGHT TO CUT GOVERNMENT SPENDING IS LOSING GROUND

(Mr. GINGRICH asked and was given permission to address the House and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, yesterday the House passed an agriculture bill that was over budget. The Appropriations Committee reported out two bills that were both over budget. The simple fact is that we are losing the fight to cut Government spending. We are slowly drifting back to the policy of taxing and taxing, spending and spending.

It is in this setting that we must look at the proposed 5-year \$228 billion tax increase, and that is according to page 414 of the Senate Finance Committee report.

We in the House agreed only to a \$20.8 billion 1-year tax increase, and that is on page 15 of the budget conference report. Any tax bill larger than \$20.8 billion in the current spending binge would be a defeat of our effort to cut Government spending and return to a smaller Government.

In fact, a \$228 billion tax increase should have with it \$684 billion in spending cuts if we were to meet the administration's goal of \$3 in spending cuts for every dollar of tax increase.

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND THE REPUBLIC OF KOREA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97-224)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries, and ordered to be printed.

(For message, see proceedings of the Senate of today, Wednesday, August 11, 1982.)

FISCAL YEAR 1980 REPORT ON MINE SAFETY AND HEALTH ACTIVITIES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and together with the accompanying papers, without objection, referred to the Committee on Education and Labor.

(For message, see proceedings of the Senate today, Wednesday, August 11, 1982.)

CONFERENCE REPORT ON S. 1193, INTERNATIONAL COMMUNICATIONS AGENCY AND BOARD FOR INTERNATIONAL BROADCASTING AUTHORIZATIONS, 1982-83

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 548 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 548

Resolved, That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes, and all points of order against said conference report for failure to comply with the provisions of clause 3, rule XXVII are hereby waived.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. HALL) is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 minutes to the gentleman from Tennessee (Mr. QUILLLEN), for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 548 makes in order the consideration of the conference report on S. 1193, the authorization for the Department of State, the U.S. Information Agency, the Board for International Broadcasting, and the Inter-American Foundation for fiscal years 1982 and 1983.

It waives points of order against the conference report for failure to comply with the provisions of clause 3 of rule XXVIII. This is the rule prohibiting matter beyond the scope of the positions of both Houses as committed to the conference.

In the case of the conference report on S. 1193 there are 13 provisions which might be considered in violation of the rule governing the scope of a conference. For the benefit of my colleagues, I shall list these provisions:

Provisions of the conference report on S. 1193 which may be in violation of clause 3 of House Rule XXVIII ("scope"):

First, section 103(a) reprograms and mandates the use of certain funds for the expenses of operating and maintaining certain U.S. consulates. The corresponding Senate provision only earmarked funds for this purpose; and the House did not have a corresponding funding provision.

Second, section 105 mandates nondeferred payment of U.S. assessed contributions to the Organization of American States, the Pan American Health

Organization (PAHO), and the Inter-American Institute for Cooperation on Agriculture (IICA). The corresponding Senate provision earmarked certain funds for payment of assessed contributions and did not apply to contributions to PAHO or IICA; and the House did not have a provision on this issue.

Third, section 107 earmarks funds for assistance for the resettlement in Israel of refugees from the Soviet Union, Eastern Europe, and other countries. Both the House and Senate provisions on assistance for refugees resettling in Israel were limited to refugees from the Soviet Union and Eastern Europe.

Fourth, section 111 authorizes funds for both fiscal year 1982 and fiscal year 1983 for the Asia Foundation. The corresponding Senate provision did not include authorization for fiscal year 1983; and the House had no provision on this issue.

Fifth, section 124 provides authority to establish basic salary rates for the Senior Foreign Service. Neither the House nor the Senate had a provision on this subject.

Sixth, section 126, relating to scientific exchange activities with the Soviet Union, requires a report on certain exchange activities conducted during fiscal years 1981 and 1982. The corresponding House provision required this information with respect to fiscal years 1979, 1980, and 1981; and the Senate had no provision on this issue. This section also requires annual reports from the Secretary of State listing Soviet nationals participating in certain exchange activities. The corresponding House provision prohibited the use of funds for these exchanges; and the Senate had no provision on this issue.

Seventh, section 202, relating to foreign missions, differs in several respects from the corresponding House provision, and the Senate had no provision on this issue (i.e., made no change in existing law):

The conference substitute designates by law certain areas in the District of Columbia in which chanceries can be located as a matter of right. The House provision created a District of Columbia Foreign Missions Commission which was directed to establish the areas in which chanceries could be located as a matter of right.

The conference substitute authorizes the President to designate certain Federal officials to serve on the D.C. Zoning Commission in lieu of the Director of the National Park Service during Commission proceedings relating to chanceries. The corresponding House provision established by law who would sit on the Commission responsible for zoning decisions affecting chanceries in the District, and the Senate made no change in the existing laws governing the membership of the relevant D.C. agencies.

The conference substitute expands the definition of international organization beyond that contained in the House amendment.

The conference substitute expands the authority of the United States to intervene in judicial proceedings, to obtain compliance with the foreign missions provision beyond that contained in the corresponding House section.

The conference substitute requires the Secretary of State to advise agencies and businesses whether transactions they propose to enter into with a foreign mission are prohibited under this legislation. The House amendment had no corresponding provision.

The conference substitute provides that the authorities of the Secretary of State relating to foreign missions shall be exercised under Presidential guidelines. The House amendment had no corresponding provision.

Eighth, section 302 authorizes \$559,000,000 for the fiscal year 1983 for the U.S. Information Agency—as so redesignated by this legislation. Both the House and Senate had authorized \$482,340,000 for the fiscal year 1983 for that agency.

Ninth, section 304(e), to the extent it relates to the use of fees from USIA's English-teaching programs has no corresponding provision in either the Senate bill or the House amendment.

Tenth, section 305(d) earmarks USIA funds for fiscal year 1983 for certain exchange-of-persons activities. Neither the Senate bill nor the House amendment contained such earmarkings.

Eleventh, section 501(c), relating to interest earned by Inter-American Foundation grantees, does not correspond to any House or Senate provision.

Twelfth, section 504, relating to the International Code of Marketing of Breastmilk Substitutes, does not have any congressional findings corresponding to those contained in both the Senate and House provisions on this issue.

Thirteenth, the conference substitute does not contain an earmarking for an ex gratia payment for Yugoslav national injured in the United States. The House and Senate had identical provisions on this subject.

Mr. Speaker, this legislation is the result of lengthy consideration, and it enjoys bipartisan support. In addition, it is supported by the administration.

I am not aware of any opposition to granting this waiver of clause 3 or rule XXVIII so that this conference report can be considered. I would urge my colleagues to adopt this rule.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from Ohio (Mr. HALL) has ably described the resolution. I know of no opposition

to the rule. When we get down to the debate on the conference report, there may be some difference of opinion.

Mr. Speaker, it is time for action not only on this measure but on other measures which require consideration before adjournment, hopefully in early October.

I have no requests for time, and I yield back the balance of my time.

□ 1045

Mr. HALL of Ohio. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. SMITH) for purposes of debate only.

Mr. SMITH of Iowa. Mr. Speaker, I want to point out that this rule waives all points of order. Why are the points of order necessary to be waived?

It is because the authorization bill contains an appropriation matter. It is a reappropriation of appropriations that were appropriated when the appropriations bill went through the House. If you do not know where it is, it is section 103(a).

This involves consulates. We appropriated the money for the State Department last year. For some time there has been some argument about whether or not they should have consulates in certain cities. What happened was that in 1980 they closed a number of consulates and hired local agents to take their place, just like airlines sometimes close the local airline offices that have salaried people and they hire a travel agent to sell tickets for them.

In this case, these responsibilities are being paid for at an annual cost of \$75,000. The annual cost for opening up these consulates would be \$1,800,000.

I do not know where they are going to get the other \$1,700,000. We have asked and not received information, but certainly there is going to be in Western Europe the firing or transferring of probably 20 or 30 people out of other embassies and consulates to make up this money.

But the main thing I want to point out is that here we have a rule that waives points of order against an appropriations matter. If we are going to have appropriations matters in authorizations bills then I do not see why the Appropriations Committee should continue to resist, as we have, authorization matters in appropriation bills.

We have tried to cooperate with the committee and resist all of those that they did not approve. But if they are going to put appropriation matters in their authorization bill I do not know why we should not do the same thing in reciprocation.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. FASCELL. Mr. Speaker, I call up the conference report on the Senate bill (S. 1193) to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of August 3, 1982.)

The SPEAKER pro tempore. The gentleman from Florida (Mr. FASCELL) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. DERWINSKI) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

Mr. FASCELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report to the State Department, U.S. Information Agency, and the Board for International Broadcasting authorization act for fiscal years 1982 and 1983. This bill contains a total authorization of appropriations of \$2.8 billion for fiscal year 1982 and \$2.9 billion for fiscal year 1983, broken down as follows:

First, \$2,281,207,000 for fiscal year 1982 and \$2,253,127,000 for fiscal year 1983 for the Department of State;

Second, \$494,034,000 for fiscal year 1982 and \$559 million for fiscal year 1983 for the U.S. Information Agency;

Third, \$86,519,000 for fiscal year 1982 and \$98,317,000 for fiscal year 1983 for the Board for International Broadcasting; and

Fourth, \$12 million in fiscal year 1982 and \$12.5 million in fiscal year 1983 for the Inter-American Foundation.

The House and Senate versions of this bill passed their respective Houses on October 29 and June 18 of last year. The House version reflected the President's budget request—including the 12-percent cut which the President made in September 1981. This bill largely reflects those figures. However, subsequent to floor action, the executive branch requested a supplemental authorization for the International Communication Agency to increase that Agency's 1983 budget from \$494 million to \$644 million. Because the conference on the bill was pending for such an extended length of time, the conferees decided to include the legislative authorities in the supplemental and to accept some, but not all, of the administration's supplemental funding request for ICA in 1983. This addition-

al funding was necessary to insure support for ICA's educational and cultural exchange programs. Let me assure you that we have been able to fund these programs and still recommend a total budget ceiling which is well within the budget resolution and below the original executive branch request for these agencies which was submitted over a year ago. In fact, this budget authorization is \$12 million less than the original executive branch request for 1982 and approximately \$100 million less than the executive branch request for 1983.

This conference report is the product of careful deliberation of the conferees during 3 days of meetings. It provides for the reopening of seven U.S. consulates in various parts of the world; provides for payment of our assessed contributions for the United Nations and other international organizations; and provides for assistance to refugees. In general, it allows for the sound conduct of U.S. foreign policy through the funding of our State Department and public diplomacy efforts such as those conducted by the International Communication Agency and through the broadcasts of the Voice of America and Radio Free Europe/Radio Liberty.

Perhaps one of the most important sections of this bill is title II which relates to foreign missions. This foreign missions act would promote a more sensible administration of our foreign policy effort by establishing an Office of Foreign Missions within the Department of State to review and control the operations of foreign missions in the United States and to regulate the benefits available to these missions. Such regulation would be based on the concept of reciprocity and our international legal obligations. In other words, the office would insure that services and benefits be provided to foreign missions operating in the United States under conditions or limitations similar to those place upon U.S. missions operating overseas.

The committee of conference, though in agreement regarding the need for such an office, paid special attention to the section of this provision regarding the location of chanceries in the District of Columbia. After consideration of two compromise proposals, the conference committee agreed to a procedure which balanced both the Federal and municipal interests in choosing sites where foreign chanceries may locate in the District of Columbia. I feel that this legislation represents a good compromise which will allow the Office of Foreign Missions the power it needs to take reciprocal action on all matters relating to the establishment and operations of an overseas mission, while recognizing the understandably strong interest in the District of Columbia in controlling their city plan.

In other provisions, this legislation prohibits the use of funds appropriated for U.S. payments to international organizations which would provide political benefits to the Palestine Liberation Organization; provides assistance for refugees settling in Israel; earmarks funds for the International Committee of the Red Cross for the assistance of political detainees; and provides that no funds may be used for payment of the U.S.-assessed contribution to UNESCO if that organization implements policies which would restrict the free flow of information worldwide or impose codes of journalistic practice or ethics.

In addition, the bill would extend the life of a passport from 5 to 10 years; redesignate the International Communication Agency (ICA) as the U.S. Information Agency (USIA); earmark funds to be used for grants for the Fulbright programs, Humphrey fellowships, and other academic exchange programs; provide for the merger of the Board for International Broadcasting and the Board of Directors of Radio Free Europe/Radio Liberty, Incorporated; and requests three executive branch reports—one on the costs to the United States of local efforts to assist refugees and Cuban and Haitian entrants to the United States in fiscal years 1981 and 1982. Other reports request: First, an analysis of U.S. participation in UNESCO; and second, a report from the Secretary of State assessing the risk of transfer to the Soviet Union of technology through research and educational exchanges.

This legislation contains many well-thought-out provisions which I feel are essential to our foreign policy efforts. I urge my colleagues to support this conference report.

Mr. Speaker, I also wish to note that the fiscal year 1983 authorization figure for the Department of State is slightly lower than the fiscal year 1983 appropriation request which is currently pending. This is due to the unusual circumstances which left the fiscal year 1982-83 authorization bill pending in conference until recently. Therefore, to clarify the legislative history on this matter, as well as on other matters relating to the fiscal year 1983 supplemental authorization request for the International Communication Agency (soon to be the U.S. Information Agency), I wish to insert portions of the report of the Committee on Foreign Affairs on H.R. 5998, whose provisions are included in the conference report pending before us:

The Committee on Foreign Affairs, to whom was referred the bill (H.R. 5998) to provide additional authorizations of appropriations for the fiscal year 1983 for the International Communication Agency, and for other purposes, having considered the same, report favorably thereon without

amendment and recommend that the bill do pass.

COMMITTEE ACTION

On March 18, 1962, the Director of the U.S. International Communication Agency, Hon. Charles Z. Wick, sent to the Speaker of the House of Representatives Executive Communication 3463 which contained a draft bill to provide additional authorizations of appropriations for the fiscal year 1983 for the International Communication Agency, and for other purposes. On March 25, 1982, the Assistant Secretary of State for Congressional Relations, Hon. Powell A. Moore, sent to the Speaker of the House of Representatives Executive Communication 3520 containing draft legislation to amend 22 U.S.C. 2653 as well as the executive pay schedule in order to make certain changes in administrative authorities which would confirm, in law, existing practice regarding the treatment of the rank of Counselor within the Department of State. These communications were referred to the Committee on Foreign Affairs, and on March 23 and 30, respectively, the chairman, Hon. Clement J. Zablocki, referred them to the Subcommittee on International Operations.

The Subcommittee held a hearing on March 17, 1982, during which testimony was received from representatives of the Department of State and the International Communication Agency. Among the witnesses were the following: Hon. Richard T. Kennedy, Under Secretary of State for Management; Hon. Charles Z. Wick, Director of the International Communication Agency; and Mr. James Conkling, Director of the Voice of America.

The subcommittee held an open markup session on March 25, 1982, on the draft legislation and reported to the full committee a draft bill in the form of a committee print. The full committee, on March 31, held an open markup of the draft bill and agree to the introduction of a clean bill. H.R. 5998 was subsequently introduced by Hon. Dante B. Fascell, chairman of the Subcommittee on International Operations, and 15 cosponsors. On April 1, 1982, H.R. 5998 was ordered favorably reported by voice vote.

PURPOSE OF THE BILL

The principal purpose of H.R. 5998 is to provide additional authorization of appropriations for fiscal year 1983 for the International Communication Agency to enhance the U.S. public diplomacy effort—the manner in which the United States can transmit its message worldwide, facilitate the free flow of information, and promote understanding and acceptance of U.S. positions through both its broadcasts and international education and cultural exchange programs.

OTHER PROVISIONS OF THE BILL

The bill also contains provisions which make certain changes in administrative authorities which have been requested by the agencies or recommended by the committee. These provisions would accomplish the following:

- (1) Permit the International Communication Agency to credit tuition fees and other payments received in connection with the agency's English teaching programs to ICA's applicable appropriation; and
- (2) Exempt Inter-American Foundation grantees from the obligation to return to the U.S. Treasury interest earned on advances of appropriated funds.

COMMITTEE COMMENT

The committee considered a request to amend section 804(1) of the United States

Information and Educational Exchange Act of 1948 (22 U.S.C. 1474(1)) to clarify ICA's authority to employ aliens for translation and narration or preparation and production of foreign language programming. ICA requested an amendment to the law to enable the Agency to employ aliens when "equally or better" qualified U.S. citizens were not available.

Under existing law, ICA may employ aliens when "suitably" qualified U.S. citizens are unavailable for employment. The phrase "suitably qualified" has, because of the lack of legislative history on the issue, been interpreted by the Agency as "minimally qualified," mandating the employment of U.S. citizens over more highly skilled foreign nationals. The Senate report on the Foreign Relations Authorization Act for fiscal years 1980 and 1981 states that, "By law, should a qualified U.S. citizen apply for a position held by an alien, the American citizen would be given the position." On the other hand, the House report language offers a different, more flexible description, citing the severe problems encountered by ICA in recruiting U.S. citizens and recognizing that a number of tasks "can properly be performed by alien employees who are qualified and have the proper security clearances" when suitably qualified U.S. citizens are not available. The more specific dictates of the Senate report appear to require VOA to terminate the employment of a qualified alien (or to move that person laterally to a potentially less important job within the Agency) in order that a lesser or "minimally" qualified U.S. citizen be employed or promoted. In fact, the committee does not view the language in the House and Senate reports as contradictory, provided the term "suitably qualified U.S. citizen" is interpreted sensibly. The term should be interpreted to mean in effect that the person who best fulfills the job requirements would be hired, and that only in those cases where the American and the foreign national are equally qualified should preference be given to an American. Moreover, the committee sees no reason why an alien should be separated from employment or transferred to another position because of the availability of a U.S. citizen, on the basis of citizenship alone.

USICA's present interpretation apparently protects only a few employment opportunities for Americans. This is done to the detriment of the quality of VOA's programming overseas. In view of the U.S. Government's large investment in its international broadcasting effort, it is not in the interest of the United States or of U.S. citizens to jeopardize the quality of such programming in order to insure that "minimally qualified" Americans fill every possible position. The ability to communicate information accurately in a foreign language hinges on language capability which includes an idiomatic grasp of the language, not just textbook knowledge. International broadcasting is a competitive field which requires the best possible staff to attract and maintain an overseas audience. The quality of U.S. broadcasts reflects the quality of the message and the seriousness of our intent in broadcasting. Mistakes hamper our effectiveness and our competitiveness, and may offend our intended audience. Indeed, the committee has, over the years, been aware of criticisms of VOA broadcasts which indicate that some VOA broadcasters have not possessed an adequate grasp of the necessary language.

It is the view of the committee that the phrase "suitably qualified" is adequate to

reflect the staffing needs of VOA, if interpreted correctly. In fact, "suitable" in itself means "qualified" and should be applied to those who are able to present a quality product. A suitably qualified person does not mean one who is qualified under minimum standards, but a person whose skills match the demands of the position as well as the demands of the Agency. Such an interpretation should allow ICA more flexibility in obtaining the staff needed to fulfill its . . .

The committee notes that this bill contains no fiscal year 1983 supplemental authorization request for the Department of State. The committee has decided that additional authorization is unnecessary at this time, given the unusual circumstances which have left the fiscal year 1982-83 authorization bill pending in conference. The following letter from Hon. Richard T. Kennedy, Under Secretary of State for Management, explains the fiscal year 1982-83 budgetary situation, which assumes enactment of the pending authorization bill:

UNDER SECRETARY OF STATE FOR
MANAGEMENT,

Washington, D.C., March 24, 1982.

HON. DANTE B. FASCELL,
Chairman, Subcommittee on International
Operations, Committee on Foreign Af-
fairs, House of Representatives.

DEAR DANTE: I very much appreciate appearing before your Subcommittee last week to explain the Department of State's 1983 budget. As always, we value your strong support, most especially during this long legislative process. I trust my testimony gave a clear picture of our adjusted 1982 and 1983 requirements.

As a matter of practice to avoid confusion, the initial authorization bill has traditionally been presented at the same funding levels as our initially proposed appropriations. However, there have been many subsequent changes to the 1982 and 1983 budgets. Since the bill pending before the Congress covers two years, I would like to review its relationship to the revised 1982 budget figures and the new 1983 appropriation request.

In the context of this review, the 1982 and 1983 amounts authorized for the Department in the pending bill, when combined with existing permanent authorities, are sufficient to cover the revised appropriation requirements. These permanent authorities entail international peacekeeping activities, increases for American salaries, Foreign Service National wages, and the Foreign Service Retirement Fund. I will elaborate further on these authorities below.

For 1982, the bill contains ample authorization to cover the Department's appropriation levels in the Continuing Resolution, as well as for pending and proposed supplemental appropriations. As can be seen from the table at Attachment 1, we would have \$68 million more authorization than appropriations in the House version of our bill and \$225 million more in the Senate version. In this table we have included \$13 million for 1982 supplemental requests (primarily for the United States-Iranian Claims Tribunal, the United States-Canada Maine Boundary dispute, and the Foreign Service Retirement Fund) and \$22 million for Federal salary increases (which OMB has not yet transmitted to the Congress). Not included is \$10 million in supplemental requests pending at OMB for protective security of U.S. diplomatic personnel overseas and of foreign diplomatic personnel in the United States following increased terrorist

attacks on these two groups. However, even after adding these pending supplemental requests, I believe the bill provides sufficient authority in 1982 to meet the Department's requirements.

Concerning 1983, the amounts authorized for the Department in the House or Senate version of our authorization bill, when considered in conjunction with provisions of permanent authority contained in existing law, will provide sufficient authorization to meet our current and anticipated 1983 budget requirements. Specifically, Attachment 2 indicates there is \$123 million in existing authorization above the funding levels for 1983 authorized by either the House or Senate from: Peacekeeping (\$60 million); pay supplementals (\$25 million); wages (\$23 million); and Foreign Service Retirement Fund (\$15 million).

This will cover the \$40-47 current 1983 authorization "shortfall" indicated in Attachment 1, and also will provide authority to meet additional requirements not in our 1983 Congressional budget. The new items will total up to \$70 million for such needs as increased overseas and domestic security (\$48 million—a continuation of our 1982 supplemental request), peacekeeping (\$10 million) and further Blair House renovations (\$8 million).

Although this approach has been taken this year in view of the unusual circum-

stances involving the authorization legislation, the Department fully intends to continue to include these items in future fiscal year requests to the Committee. This unusual approach, of course, presupposes enactment of the fiscal year 1982-83 authorization legislation now pending in conference. As you know, the Department is eager to obtain a viable 1982-83 authorization bill, and I will make every effort to work closely with you to obtain it.

Sincerely,

RICHARD T. KENNEDY.

Attachments: Retained in Committee files.

COUNSELOR OF THE DEPARTMENT OF STATE

Executive Communication 3520 requesting that the position of Counselor of the Department of State be upgraded from Executive Level IV to Executive Level III was submitted to Congress and jointly referred to the Committee on Foreign Affairs and Post Office and Civil Service on March 30, 1982. The Department of State further requested that such a provision be included in H.R. 5998.

During consideration of H.R. 5998, the committee noted that approval of the executive branch request on this matter would have the effect of increasing the number of level III positions in the Department of State at a time when the Department and

other Federal agencies are undergoing severe personnel cuts and are making other budget sacrifices. In view of these reductions, the committee agreed that upgrading the position of Counselor of the Department without eliminating an existing level III position would be inappropriate at this time.

SECTION-BY-SECTION ANALYSIS

SECTION 1—ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1983

This section amends the International Communication Agency Authorization Act, fiscal years 1982 and 1983, which is currently in conference, to authorize an additional appropriation of \$157,660,000 for fiscal year 1983 to carry out the Agency's international communication, education, and cultural exchange functions. The following table provides a comparison of the executive branch fiscal year 1983 supplemental request with amounts contained in the Senate-passed bill, S. 1193, and the House amendment thereto, which is the fiscal years 1982 and 1983 authorization bill for the Department of State, the U.S. International Communication Agency, the Board for International Broadcasting, and the Inter-American Foundation.

U.S. INTERNATIONAL COMMUNICATION AGENCY—COMPARISON OF 1983 BUDGET REQUEST WITH AMOUNTS IN H.R. 4814 AND S. 1193

(In thousands of dollars)

Account	1981 request fiscal year 1983 ¹	1982 supplemental request for fiscal year 1983 ²	Increase (+) or decrease (-)
Salaries and expenses:			
Overseas missions	146,194	150,777	+4,583
Broadcasting service	106,669	117,391	+10,722
Educational and cultural affairs	92,380	100,600	+8,220
Program coordination and support	39,456	46,664	+7,208
Agency direction and management	33,412	37,665	+4,253
Administrative support from other agencies	34,076	42,346	+8,270
Special foreign currency program	11,451	11,327	-124
Total, salaries and expenses	463,638	506,770	+43,132
Acquisition and construction of radio facilities	1,822	115,000	+113,178
Center for Cultural and Technical interchange between East and West	16,880	18,230	+1,350
Total 1983 request	482,340	640,000	+157,560

¹ Submitted in March 1981 and approved in the House and Senate versions of the ICA fiscal year 1983 authorizations currently pending in conference (H.R. 4814 and S. 1193).

² Submitted on Mar. 18, 1982.

The Soviet Union presently outspends the United States by about 7 to 1 in international broadcasting and information efforts around the world, not to mention the additional millions of dollars it spends jamming U.S. broadcasts to the Soviet Union. The United States even ranks below some of its Western allies in broadcast hours around the world.

ICA's product is an important element in the U.S. national defense, a critical weapon in the war of ideas. Mutual understanding is a key element in the peace process and the effort to make information about the United States available to the world must be pursued vigorously if the United States is to maintain and promote the world's information balance.

Though U.S. arsenals of defense are stocked with state-of-the-art weaponry, the United States has neglected the technology of broadcasting and has relaxed this Nation's message on transmitters which were "state of the art" in 1938. Therefore the committee feels that this supplemental request is not only justified, but overdue. Indeed, this new executive branch request approximates the committee's original fiscal year 1983 recommendation. The bulk of the

supplemental (approximately \$113.2 million out of \$157.7 million) would be allocated to ICA's account for the acquisition and construction of radio facilities. Principally, these funds would be used to complete the construction of transmitting facilities for the Voice of America in Sri Lanka and Botswana, for broadcasting to Asia and Africa respectively, to reequip and modernize domestic broadcast studios, and to finance construction of a VOA-owned satellite network.

In addition to needed budget increase for plant and equipment and improvements in broadcast technology, the remainder of the supplemental would be allocated to fund, among other things, Federal pay raise costs, increased education and cultural affairs programming, the establishment of an ICA branch post in Guangzhou (Canton), China, and the consolidation USICA office space in Washington, D.C.

The committee approves of the planned office space consolidation, which is long overdue. USICA now occupies 12 buildings in Washington, a circumstance which hampers efficiency and makes communication and day-to-day operations unusually difficult. The committee expects this move to be

accomplished expeditiously and looks forward to receiving periodic progress reports.

The committee is concerned over allegations that education and cultural affairs programming is being subjected to political influences in derogation of the history, traditions, and intent behind the diverse programs administered by ICA. It is vital that these programs and the broadly representative nature of their participants be unimpeded by political considerations or wildly fluctuating budgetary priorities. Those involved in the business of promoting international understanding have realized that the United States should expand more than its current minuscule efforts in education and cultural exchanges. Therefore, it is imperative that existing programs of this sort be enhanced and expanded. By no means should they be sacrificed to newer, narrower initiatives of unconfirmed effectiveness. The goal should be to increase our efforts as much as possible as that the whole range of USICA's purposes is served.

Furthermore, the committee feels strongly that in order to fulfill effectively its assigned mission to foster mutual understanding, ICA must zealously protect the integri-

ty and objectivity of its broadcasting efforts. The Voice of America must continue to reflect the best American journalism, to tell the U.S. story clearly, honestly, and reliably. Only in this way will the United States be listened to, and its word respected.

Moreover, the committee supports USICA's efforts to combat disinformation through the dissemination of truth. It does, however, hope that such efforts can be made without harming the Voice's journalistic integrity and without mirroring aspects of the programs they are designed to counter. Some valid concerns have been voiced that a bolder marketing of America worldwide, a more obvious waving of the flag overseas, might damage that credibility as well as the goodwill among foreign audiences which USICA has built over the years. Credibility, in publications as well as in broadcasting, is USICA's best asset and our binding link to audiences worldwide.

The committee firmly supports a growing role for USICA in protecting U.S. interests abroad. It is the committee's hope that, in expanding USICA's reach, we can do so without changing the Agency's mission or threatening existing programs which already serve U.S. interests so well.

The committee further wishes to express its opposition to the Executive Committee of Correspondents' decision to withdraw accreditation to the Radio and TV Galleries of the House and Senate for correspondents of RFE/RL, Inc., as well as its continuing denial of accreditation to Voice of America correspondents. It appears that the committee reached that decision based on the fact that Radio Free Europe and Radio Liberty are government-financed. By a fantastic leap in logic, they have thereby questioned the integrity and objectivity of the Radios. In addition, the Executive Committee seems to believe that RFE/RL, Inc., is controlled by the Department of State. In fact, the Radios' activities are carried out on a day-to-day basis in an entirely independent and objective manner, without any guidance or direction from the Department of State. Indeed, RFE/RL, Inc.'s research reports are so highly regarded that hundreds of news organizations, individuals, government agencies, and businesses around the world subscribe to them.

The committee is adamant in its belief that these organizations have been unfairly treated, not the least because the "Rules Governing the Radio and TV Correspondents Gallery" do not provide for the expulsion of a member. Moreover, it is highly questionable practice on the one hand, for the Executive Committee to attempt to expel RFE/RL, Inc., by questioning its independence, while on the other hand permitting foreign government-run operations such as Soviet radio and television to retain their accreditation. Indeed, the British Broadcasting Corp., Deutsche Welle (Federal Republic of Germany) and French media entities are not only government-financed, but government-controlled. Finally, the committee urges that when the Executive Committee of Correspondents reconsiders its decision it also reconsider the reasons for which the Voice of America has always been denied accreditation. The Committee on Foreign Affairs believes that there is no justification for discrimination against U.S. media entities unless the same treatment is accorded foreign media entities which are government-financed or controlled.

SECTION 2—USE OF ENGLISH-TEACHING PROGRAM FEES

This section would amend the United States Information and Educational Exchange Act of 1948 to provide the International Communication Agency with the necessary authority to use tuition and other payments received in connection with the agency's overseas English-teaching programs. Under present practice, USICA is required to return to the Treasury any proceeds it collects as a result of its activities. At present, many of these programs are run under contracts with binational centers overseas where USICA's authority is limited. If USICA is permitted to use the proceeds of its programs it will be able to strengthen its program control and financial oversight. Annual proceeds from such programs are estimated at \$200,000 for the first year and up to \$500,000 in succeeding years. The authority provided in this section may be exercised only to the extent that it is approved in appropriation acts.

SECTION 3—INTEREST EARNED BY INTER-AMERICAN FOUNDATION GRANTEES

This section would exempt Inter-American Foundation (IAF) grantees from the obligation to return to the Treasury interest earned on advances of appropriated funds. This provision applies to interest earned both before and after date of enactment of the section.

Under present IAF practice, disbursements of grants are made at 6-month intervals, since most grants are under \$75,000 and it would be administratively costly and inefficient to make quarterly disbursements. Although great effort is made to disburse funds so as to minimize the time elapsing between transfer and grantee utilization, the entire disbursement may not be used immediately. In fact, it normally takes several weeks for the grantee to utilize all of the funds. In countries where the annual inflation rate has been as high as 100 percent, the real value of the money drops dramatically if the remaining funds are not permitted to earn interest, even for 2 or 3 weeks. Under current administrative interpretations, these organizations must return to the U.S. Treasury any earned interest. Not only is this practice confusing to the small, unsophisticated organizations which make up the bulk of IAF's grantees, but it would be more costly to the United States administratively to require the return of such small amounts of interest.

Instead, the committee feels that a much more practical and efficient procedure would be to permitted grantees to utilize any such interest earned for the purposes for which the IAF grant was made. In this way, the Foundation's funding will not be as diminished by high inflation rates, the purposes of the Foundation will be served, the United States will save money, and the purposes of the individual grants will be enhanced. In addition, the committee wishes to stress that support for this exemption from the requirements of 31 U.S.C. 484 is based upon the unusual aspects of Foundation grantmaking and operations and is not intended to be a precedent for other agencies. Indeed, the committee does not feel that this exemption is inconsistent with the original intent behind enactment of 31 U.S.C. 484 which concerns congressional oversight and control of appropriated funds.

Mr. DERWINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will emphasize the points made by the distinguished gentleman from Florida.

I should like to point out to the House, if it is not a violation of diplomacy, that dealing for a year with the other body in intermittent conference sessions is not the world's easiest chore, so you must understand we had a difficult time in conference.

As the gentleman from Florida pointed out, the ICA supplemental request has made the adjustment in the authorization necessary. Yet the authorization, for example, for the ICA is \$85 million below the President's original request.

The gentleman from Iowa (Mr. SMITH) raised a point earlier concerning a provision in the conference report mandating that there be no new consulates created or expansion of consulate offices, until certain consulates now closed are reopened.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. If that were the case, I would not make any objection whatever. But I point out that that is not what it says.

This was not in either the House bill or the bill in the other body.

Mr. DERWINSKI. My personal opinion is that the closing of those consulates at the time may have been well intended, but let us say that it was not necessarily a practical economy move and that we have been under constant pressure from a number of countries to reopen those consulates.

We have the age-old issue of how do you best fly the flag and how do you best serve America's interests.

Mr. SMITH of Iowa. I would not even argue whether they should have been closed at the time. The fact of the matter is that they were.

We now have for State Department personnel for Western Europe a certain amount of money in 1982. This would take \$1.7 million of that money to perform the same services that are now being provided by those agents. They have been telling us that they are short.

My opinion is that if they have this \$1.7 million more than they need in Western Europe, they probably have more than they need in South Africa and everywhere else and we ought to take a look at their salaries and expenses and perhaps cut about \$15 million out of it.

Mr. DERWINSKI. My understanding is the required amount is only \$400,000 for fiscal year 1982.

Mr. SMITH of Iowa. The figure for 1982 is to reprogram \$400,000 and that annualizes to \$1,800,000 in 1983. If they fill the positions in 1982, they will carry them on in 1983, and that is \$1,800,000, for services they are now

performing for \$75,000 with local agents.

So it is \$1,700,000 more that is going to come out of salaries and expenses available for Western Europe in other embassies and consulates.

Mr. DERWINSKI. According to the Department of State estimate, which is cited in the statement of managers, the fiscal year 1983 cost will be \$1.5 million which has been rebudgeted pursuant to a reprogramming notice sent to Congress. I think that I could allay the fears of the gentleman by pointing out that the particular subcommittee chaired by the gentleman from Florida (Mr. FASCELL), on which I am the ranking member, rides very, very tight herd on the Department. They do come in and justify, as best they can, all of their expenditures. It should be mentioned, in this regard, that the foreign missions provision in the conference report would tighten the control that we have over foreign chanceries here in Washington, and in turn gives us greater leverage abroad to achieve both, land and facility acquisition that will achieve savings for us down the road.

Mr. SMITH of Iowa. As the gentleman knows, all of that is necessary because they are not receiving the same program level that they have had previously because of the tight budget.

They need any funds to carry the same services for salaries and expenses.

If they do take \$1.7 million from salaries and expenses to perform the same services, I do not know where this money is coming from. Also if it is done, it ought to be done in an appropriation bill.

Mr. DERWINSKI. As the gentleman from Illinois explained earlier, this item has been anticipated in the Department's budget pursuant to a reprogramming notice notifying Congress of the Executives' intention to reopen the consulates. I presume that this request of the Department will be acknowledged in the appropriation process.

Mr. SMITH of Iowa. We are coming up on the floor soon with a proposal for 1983 funding and in it we have a certain amount for salaries and expenses. It does not anticipate this diversion of funds and a reprogramming has not been approved.

If they do shift these resources, that means they had too much money for Western Europe. In that event, I am of the opinion then, they probably have that much more in other places in the world.

In that event, by the time we get through conference we may be able to cut the salaries and expenses not just the \$1.7 million but probably \$15 or \$20 million.

Mr. DERWINSKI. The gentleman will have plenty of cooperation from

the House in its present mood on any savings he could achieve.

Mr. Speaker, I have no requests for time and I am not aware of any controversy. I recommend adoption of the conference report.

● Mr. BROOMFIELD. Mr. Speaker, I rise in support of S. 1193, a bill to authorize the Department of State, the International Communication Agency (ICA) and the Board for International Broadcasting (BIB) for fiscal years 1982 and 1983. These entities are among the key elements in the non-military area of U.S. National Security. They are our diplomatic affairs department and the principal practitioners of our public diplomacy. I support these agencies for the absolutely essential work they carry out in foreign affairs.

Among other things, the bill establishes a new Office of Foreign Missions within the Department of State. It provides for Federal jurisdiction regarding benefits for foreign missions in the United States. The new office will be under the Secretary of State but not subject to control by bureaus responsible for day-to-day operations or to the Department's Office of Protocol.

The figures in this bill are within the President's budget guidelines. I participated in the work of the conference committee and support the report of the conference. The bill is long overdue; I recommend its quick passage.●

● Mr. ZABLOCKI. Mr. Speaker, I rise in support of the conference report on S. 1193, authorizing appropriations for the Department of State, the International Communication Agency, and the Board for International Broadcasting for fiscal years 1982 and 1983.

At the outset, I would like to commend the gentleman from Florida (Mr. FASCELL) and the gentleman from Illinois (Mr. DERWINSKI) for their able stewardship of this important authorization for our foreign affairs agencies. Their leadership throughout the long and, at times, arduous conference was crucial to the successful outcome.

In particular, I would like to commend the conferees for their work in crafting the compromise on the provisions relating to the Foreign Missions Act. In my judgment, the conference agreement on this measure will be a tremendous boon to our diplomatic missions overseas, while at the same time balancing the interests of the Federal Government and the District of Columbia regarding the process for the location of chanceries.

I am also pleased to note that the conference report mandates the reopening of seven U.S. consulates in various locations throughout the world of vital importance to the U.S. Government and American travelers and businessmen.

As the gentleman from Florida stated, the bill contains many provisions which will improve our foreign policy efforts while also recognizing the need for fiscal responsibility. The total amount authorized to be appropriated is significantly below the President's requests and within the budget resolutions targets.

I urge the adoption of the conference report.●

Mr. FASCELL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DERWINSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1100

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982

Mr. PANETTA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PANETTA).

The motion was agreed to.

The SPEAKER pro tempore. The Chair requests that the gentleman from Massachusetts (Mr. STUDDS) assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration on the bill, H.R. 5203, with Mr. STUDDS (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee rose on Monday, July 26, 1982, all time for general debate on the bill had expired.

Pursuant to the rule, the Committee amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the reported bill shall be considered as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

H.R. 5203

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982".

The CHAIRMAN pro tempore. Are there amendments to section 1? If not, the Clerk will designate section 2.

Section 2 reads as follows:

DEFINITIONS

SEC. 2. Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by amending subsection (e) by striking out "or" immediately before clause (4) and inserting before the colon at the end of clause (4) the following: "or (5) using a registered pesticide product for the formulation of another end-use product or for repackaging an end-use product, unless such use is prohibited by the labeling".

The CHAIRMAN pro tempore. Are there amendments to section 2? If not, the Clerk will designate section 3.

Section 3 reads as follows:

REGISTRATION OF PESTICIDES

SEC. 3. Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection (c)(1) to read as follows:

"(1) STATEMENT REQUIRED.—Each applicant for registration shall file with the Administrator a statement which includes—

"(A) the name and address of the applicant and of any other person whose name will appear on the labeling;

"(B) the name of the pesticide product;

"(C) a complete copy of the labeling of the pesticide product, a statement of all claims to be made for it, and any directions for its use;

"(D) data as required for registration as provided in subsection (h) of this section with the trade secret or commercial or financial information marked as required by section 10(a) of this Act;

"(E) the complete formula of the pesticide product; and

"(F) a request that the pesticide product be classified for general use, for restricted use, or for both."

(2) amending subsection (c)(2)(A) to read as follows:

"(2)(A) DATA IN SUPPORT OF REGISTRATION.—The Administrator shall publish guidelines specifying the kinds of information which would usually be required to support the registration of a pesticide product and shall revise such guidelines from time to time. The Administrator, in establishing guidelines for data requirements for the registration of pesticides with respect to minor uses, and with respect to various types and classes of pesticides, shall make such guidelines commensurate with the anticipated extent of use, pattern of use, and the level and degree of potential exposure of man and the environment to the pesticide. In the development of these guidelines, the Administrator shall consider the economic factors of potential national volume of use, extent of distribution, and the impact of the cost of meeting the guidelines on the incentives for any potential registrant to undertake the development of the required data. Guidelines and modifications thereof shall be published in the Federal Register. The Administrator shall provide for public comment for Agency

guidance in development of such guidelines or modifications. Within 30 days after the Administrator registers a pesticide product under this Act the Administrator shall make available to the public the data called for in the registration statement together with such other scientific information as the Administrator deems relevant to the decision. The data shall be made available in a manner consistent with the provisions of section 10 of this Act."

(3) amending subsection (c)(2)(B) to read as follows:

"(B) ADDITIONAL DATA TO SUPPORT EXISTING REGISTRATION.—

"(i) If the Administrator determines that additional data are required to maintain in effect an existing registration of a pesticide product (or a category of products) containing a particular ingredient, the Administrator shall notify all existing registrants of the pesticide to which the determination relates and provide a list of such registrants to any interested person. The notice shall specify the data required, the date by which the data shall be submitted, and the procedure for obtaining rulings by the Administrator on questions concerning the applicability of the notice to various registrants or concerning the nature of the data required to be submitted.

"(ii) Each registrant of such a pesticide product to whom the notice is applicable shall provide evidence within 180 days after receipt of the notification specified in clause (i) of this subparagraph that it is taking the appropriate steps prescribed by the Administrator to secure the required data. If more than one registrant is subject to the notice, such steps shall include entering into a joint data development arrangement, unless the registrants subject to the notice unanimously agree otherwise. The joint data developers shall furnish to the Administrator the name, address, and telephone number of the person to whom inquiries concerning the arrangement should be addressed. As an initial cost of participation the joint data developers shall divide equally 25 percent of the estimated total cost of producing the required data or each shall pay \$100,000, whichever is less. The balance of the cost of producing the data shall be paid by the joint data developers as needed, and shall be shared by each joint data developer on the basis of its United States market participation for the pesticide being tested, based on total pounds of active ingredient equivalent sold or used annually. Each joint data developer's market participation shall be adjusted during the period of the data development so that the most recent sales figures are used to compute each member's market share for the purpose of determining its share of the remaining cost of producing the required data. Each of the joint data developers shall submit adequate evidence of its annual market participation to an independent auditor for each of the years during the period of the joint data development. Such independent auditor shall be chosen by the joint data developers. The auditor's decisions and determinations shall be final and binding on each of the joint data developers. If further data are required by the Administrator under this paragraph, either before or after the additional data that were originally requested have been submitted, the same formula and procedure specified in this paragraph shall apply as if the subsequent request were the initial request for data. Any registrant who shares in the cost of producing the data shall be entitled to receive a copy of the data, and to examine and rely

upon such data in support of maintenance of such registration.

"(iii) Notwithstanding any other provision of this Act, if a registrant who is subject to the notice from the Administrator, within the 180-day period prescribed in clause (ii) of this subparagraph, fails to enter into a joint data development arrangement under that clause, or if any of the joint data developers fails to take appropriate steps to secure and submit the required data, the Administrator shall issue a notice of intent to suspend such registrant's registration of the pesticide for which additional data are required. Provided, That the terms of such joint data development arrangement shall be enforceable in an action brought by any developer in any federal district court having jurisdiction over all of the defendants or in the United States District Court for the District of Columbia, and such action shall be governed by the law of the District of Columbia. The Administrator may include in the notice of intent to suspend such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Any suspension proposed under this subparagraph shall become final and effective at the end of 30 days from receipt by the registrant of the notice of intent to suspend, unless during that time a request for hearing is made by a person adversely affected by the notice, or the registrant has satisfied the Administrator that the registrant has complied fully with the requirements that served as a basis for the notice of intent to suspend. If a hearing is requested, a hearing shall be conducted under section 6(d) of this Act. The only matters for resolution at that hearing shall be whether the Administrator had a valid and reasonable basis for requiring the additional data, whether the registrant has failed to take the action that served as the basis for the notice of intent to suspend the registration of the pesticide product for which additional data is required, and whether the Administrator's determination with respect to the disposition of existing stocks is consistent with this Act. If a hearing is held, a determination shall be made within 75 days after receipt of a request for such hearing, and the decision made after completion of such hearing shall be final. Any registration suspended under this subparagraph shall be reinstated by the Administrator if the Administrator determines that the registrant has complied fully with the requirements that served as a basis for the suspension of the registration.

"(iv) Subject to the provisions of clause (vi) of this subparagraph, data submitted pursuant to subparagraph (B) (before or after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982) shall not be considered by the Administrator to support any application for registration, amended registration, reregistration or experimental use permit on behalf of any person other than the joint data developers for a period of 15 years after the data are submitted, unless any such person has reimbursed the joint data developers by paying a share of the cost of producing the data in proportion to the number of persons sharing in such costs. Any such person shall upon payment be considered to be an original participant and shall share in all rights and be bound by all obligations entered into by the original data developers. Such reimbursement shall be returned to the original participants based on the percentage of the overall monetary par-

ticipation in the joint data development arrangement.

"(v) Health and safety data may be submitted voluntarily by a registrant or applicant after September 30, 1978, to replace data which such person deems scientifically insufficient under generally accepted good laboratory practices or test standards. In order to obtain the rights provided by this clause and clause (iv) of this subparagraph with respect to such data, a registrant or applicant undertaking such a replacement study shall notify the Administrator that the replacement study is being performed or has been performed under this clause. The Administrator shall publish any such notification in the Federal Register promptly after its receipt, and shall state therein whether the validity of the study is under review and any determinations as to its validity which have been made. Each person who, as of the date of publication, is a registrant or an applicant for registration of any product containing the active ingredient which is the subject of the study shall have the opportunity to participate in a joint data development arrangement as provided in clause (ii) of this subparagraph. If a registrant or applicant of record as of the date of publication of the notice informs the person undertaking the study, within 90 days of the date of publication, of the registrant or applicant's decision to voluntarily participate, the registrant or applicant shall have the rights and duties of a joint data developer as described in clauses (ii), (iii), and (iv) of this subparagraph.

"(vi) With respect to any study which has been or is being performed in response to a request for additional data issued under this subparagraph between September 30, 1978, and the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, any person who on such date of enactment is the registrant of a product of the type to which that request applies but who is not already a party to an agreement to share in the cost of performing that study shall be entitled to enter into a joint data development arrangement with any person or group which is performing or has performed that study, under which arrangement such person shall have the rights and duties of a joint data developer as described in clauses (ii), (iii), and (iv) of this subparagraph. Provided, That any registrant who wishes to be availed of the rights provided by this clause shall, not later than 120 days after date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, submit an irrevocable offer to enter into such an arrangement to the person or group which is performing or has performed the study."

(4) amending subsection (c)(2)(D) to read as follows:

"(D) EXEMPTION.—No applicant for registration, reregistration or amended registration of a pesticide product who proposes to purchase a registered pesticide product from another producer in order to formulate such purchased pesticide product into an end-use product shall be required to—

"(i) submit or cite data pertaining to the safety of such registered pesticide products or offer to pay reasonable compensation otherwise required by paragraph (1)(D) of this subsection and subsection (h) for the use of any such data: Provided, That—

"(a) the applicant shall be exempt from submitting or citing data that concerns the safety of a new use and that are entitled to exclusive-use protection under subsection (h)(2)(A) of this section, only as long as the

person who submitted such data has given written permission and any conditions of such permission remain satisfied;

"(b) if at any time after registration, amended registration, or reregistration the Administrator finds that the registrant ceased to use a purchased registered pesticide product as the source of the active ingredient in formulating the end-use product, this exemption shall no longer apply and unless the registrant agrees to supply the data required for registration as set forth in subsection (h)(2) of this section, the Administrator shall issue an order suspending the registration and a notice to the registrant providing the registrant an opportunity for a hearing on whether the suspension should be revoked. The hearing, if requested, shall be held in the manner provided by section 6(d) of the Act, except that the only issue to be decided shall be whether the registrant is entitled to an exemption under this subparagraph, and that the provisions of that section regarding referral of matters to a Committee of the National Academy of Sciences shall not apply to such a hearing; and

"(c) the Administrator may require the submission of data pertaining solely to the safety of a changed use pattern proposed for the end-use product if such data have not already been submitted to the Administrator; and

"(ii) the registrant of such an end-use product shall not be subject to a notice issued under paragraph (2)(B) of this subsection for additional data concerning the safety of that ingredient or of the purchased product."

(5) amending subsection (c)(3) to read as follows:

"(3) TIME FOR ACTING WITH RESPECT TO APPLICATION.—After receipt of the application, the Administrator shall review the data as expeditiously as possible, and either register the pesticide product in accordance with paragraph (5) or (7) of this subsection, or notify the applicant in accordance with paragraph (6) of this subsection of the Administrator's determination that it does not comply with the provisions of the Act."

(6) amending subsection (c)(8) by inserting the designation (A) immediately before "Notwithstanding any other provision of this Act", and adding new subparagraphs at the end thereof as follows:

"(B) At least 90 days prior to initiating a public interim administrative review process, the Administrator shall notify all affected registrants of the risks upon which the proposed review will be based. In finally determining whether to initiate a public interim review, the Administrator shall consider any correcting or clarifying data or other information submitted by a registrant, including data on human or environmental exposure. If after giving notice to registrants under this subparagraph, the Administrator determines that it is not necessary to initiate a public interim review, then the Administrator shall make the reasons therefor available to the public.

"(C) The Administrator shall not by regulation or otherwise utilize a public interim administrative review process to abridge entitlement to a public hearing in accordance with section 6 of this Act.

"(D) A decision by the Administrator not to cancel or suspend the registration of a pesticide product or any use thereof or not to restrict the classification of a pesticide, following an interim administrative review, shall be subject to judicial review under section 16(b) of this Act. Any final decision by the Administrator to such effect shall be

deemed 'an order issued by the Administrator following a public hearing' for the purpose of section 16(b), and any person who has participated in an interim administrative review shall be deemed 'a party to the proceedings' for the purpose of that subsection."

(7) amending subsection (d)(1)(C)(ii) to read as follows:

"(ii) if the Administrator classifies a pesticide, or one or more uses of a pesticide, for restricted use because of a determination that its use without additional regulatory restriction may cause unreasonable adverse effects on the environment, the pesticide shall be applied for any use to which the determination applies only by or under the direct supervision of a certified applicator, or subject to such restrictions, including but not limited to geographic, hydrogeologic, soil-specific or seasonal restrictions, as the Administrator may provide by regulation. Provided, That any such regulation that contains restrictions that apply to the applicator shall require an appropriate notice of such restrictions on the label. Any such regulation shall be published in the Federal Register and shall be reviewable in the appropriate court of appeals upon petition filed within 60 days after the effective date of the regulation in final form by a person adversely affected by the regulation;

(8) adding at the end of subsection (g) the following: "The Administrator shall furnish registrants reasonable notice, not less than 90 days, of when they must apply for reregistration of their products. If an application for reregistration of a product is not received by the date specified in such notice, the Administrator shall issue an order canceling the product's registration. The Administrator may include in the order such provisions as the Administrator deems appropriate concerning the continued sale and use of existing stocks of the product. An order issued under this subsection shall be a final agency action for purposes of section 16(a) of this Act. A cancellation of a product's registration under this subsection shall not affect the right of a person whose registration was canceled to apply for a new registration of that product or a similar product in the future." and

(9) adding a new subsection (h) to read as follows:

"(h)(1) For the purpose of this subsection: "(A) The term 'pesticide product that contains a new active ingredient' means a pesticide product that is first registered after September 30, 1978, and that contains an active ingredient which as of the date of that product's first registration, has not been listed as an active ingredient in the ingredient statement of any other registered pesticide product.

"(B) The term 'new use' means, with respect to any active ingredient, a use that has not previously been registered by the Administrator for any product containing such active ingredient, and that results in a change in the use pattern of such product from nonfood to food use, food to nonfood use, outdoor to indoor use, indoor to outdoor use, terrestrial to aquatic use, aquatic to terrestrial use, nondomestic to domestic use, domestic to nondomestic use.

"(C) The term 'old-ingredient data' means data submitted to the Administrator that concerns the safety or effects of any product registered under this Act before the data were submitted, or that concern the safety or effects of any active ingredient of any such product, but shall not include data submitted to fulfill the conditions of a conditional

registration under subsection (c)(7)(C) of this section.

"(D) The term 'data concerning a product's active ingredient' includes data from a test performed using the technical or purer grade of the active ingredient, and data from a test performed using an end-use product or other test substance that is intended to provide information concerning the safety or effects of the active ingredient.

"(2) An applicant shall supply the data required for registration as set forth in this paragraph. The applicant shall submit data or cite data previously submitted to the Administrator, or use any combination of those two methods, except to the extent that the applicant is precluded from relying on data by the following provisions:

"(A) The following data shall not, without the written permission of the original data submitter, be relied on by any other applicant to support any application for any registration (conditional or unconditional), amended registration, or reregistration, or experimental use permit during a period commencing with the date the data are originally submitted and ending 15 years after the date the Administrator approves the original data submitter's application:

"(i) Data (other than old ingredient data) submitted to support the application for the original conditional or unconditional registration of a pesticide product that contains a new active ingredient and data subsequently submitted to fulfill the conditions of such a conditional registration under subsection (c)(7)(C) of this section;

"(ii) Data concerning a product's active ingredients submitted after September 30, 1978, to support an application to amend a registration of any pesticide product by adding a new use, or to register a pesticide product with a new use, conditionally or unconditionally, and that do not pertain to any previously registered use regardless of the date of the original registration of the pesticide or its active ingredients; and

"(iii) Data (other than old-ingredient data) submitted after the effective date of this provision to support an application for an experimental use permit for a pesticide product containing a new active ingredient;

"(B) During the period in which data of an original data submitter are entitled to exclusive use protection under subparagraph (A) of this paragraph, any subsequent applicant also may obtain a registration for a product having the same new active ingredient or new use, or may obtain a permit for the same experimental use, by independently filing with the Administrator the data required for registration or for the permit and by satisfying the pertinent requirements of section 3(c)(5), 3(c)(7), or 5 of the Act. Data of the type described by subparagraphs (A)(i), (ii), and (iii) of this paragraph submitted by such subsequent applicant shall be entitled to the same exclusive use protection as described in subparagraph (A) of this paragraph, but only for the duration of the period of exclusive use remaining for data submitted by such original data submitter, and can be relied upon by others only with the written permission of the subsequent applicant.

"(C) Data concerning a product's active ingredients submitted pursuant to subsection (c)(2)(B) of this section may be relied on by an applicant only in accordance with the provisions of that subsection.

"(D) Data concerning a product's active ingredients not described by subparagraph (A), (B), or (C) of this paragraph and submitted by an applicant or registrant after

December 31, 1969, but on or before September 30, 1978, to support an application for registration, experimental use permit, amended registration, or reregistration or to support or maintain in effect an existing registration, may not, during the 15-year period following the date the data were originally submitted, be relied on in support of an application by any other person (hereinafter referred to in this subparagraph as the 'applicant') without the written permission of the original data submitter, unless the applicant has made an offer to compensate the original data submitter and submitted to the Administrator evidence of delivery of the offer to the original data submitter. The terms and amount of compensation may be fixed by agreement between the original data submitter and the applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of 90 days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor agreed on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this subparagraph, the Administrator shall deny the application or cancel the registration of the pesticide product in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take action and allow 15 days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide product. Registra-

tion action by the Administrator shall not be delayed pending the fixing of compensation;

"(E) Except as provided in subparagraphs (A) through (D) of this paragraph, an applicant may rely on any item of data without obtaining the permission of the original data submitter and without offering to compensate the original data submitter for the use of such item of data. Notwithstanding any other provision of this section, an original submitter of an item of data shall be entitled to rely on the provisions of subsection (h)(2)(A), (B), or (D) of this section with respect to that item of data only if the original submitter (or the predecessor in interest) paid for the generation of the data.

"(F) Notwithstanding any other provision of this Act, no provision of subsection (c)(1)(D) or (h) of this section shall abridge the right of an applicant or registrant to obtain a registration, reregistration, amended registration, or experimental use permit (i) solely on the basis of data originally submitted by the applicant or registrant itself, (ii) except as provided in subparagraphs (A) through (D) of this paragraph, on the basis of previously submitted data cited or submitted by an applicant or registrant, or (iii) any combination of the foregoing; and the Administrator shall not in any way abridge such right.

"(G) The Administrator may approve an application only upon a determination that the application is in compliance with subsections (c)(1)(D) and (h) of this section. If an applicant has submitted or cited data which are required for registration in a manner consistent with subsections (c)(1)(D) and (h), the Administrator may then review any other data in deciding whether approval of such application would cause (or would significantly increase the risk of) unreasonable adverse effects on the environment.

"(H) For the purposes of subsection (h)(2) of this section, the term 'data required for registration' means the minimum kinds and number of studies which the Administrator would require in order to approve an application for unconditional registration under subsection (c)(5) of this section of a product with composition and labeling identical or substantially similar to that of the applicant's product, including data sufficient to satisfy guidelines issued under subsection (c)(2)(A) of this section. Provided, That to the extent that any such data have not been generated by any applicant or registrant or have been determined by the Administrator to be invalid, the provisions of subsection (c)(7) of this section shall apply. Nothing contained in subsection (h)(2) shall limit the provisions of subsection (c)(2)(D) of this section. An applicant for registration of a product whose active ingredients and intended uses are identical or substantially similar to those of one or more already registered products need not submit or cite data concerning any of the product's active ingredients unless data of the same type for such ingredients appear on the indexes prepared in accordance with subparagraph (I) of this paragraph.

"(I) The Administrator shall compile, for each active ingredient affected, an index comprised of each item of data described by subparagraphs (A), (B), (C), and (D) of this paragraph. For each such item of data, the list shall set forth the date the item of data was originally submitted, the identity of the original submitter, a brief description of the kind of study that yielded the data, and the subparagraph of subsection (h)(2) that de-

scribes the data. The Administrator shall make the first such set of indexes available for release to the public not later than 1 year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982. An item of data that was originally submitted to the Administrator on or before the date of enactment of this subparagraph may be included on any such index only if, not later than 180 days after such date of enactment, the Administrator has received from the original submitter of that item of data a written statement setting forth the date the item of data was originally submitted, a brief description of the kind of study that yielded the data, the subparagraph in this paragraph that describes the data, the Environmental Protection Agency data accession number (if known), and the reasons why the item of data is entitled to be included in the index. The Administrator shall, not less frequently than semiannually, update the indexes by adding any item of data described by subparagraph (A), (B), or (C) of this paragraph and submitted after the effective date of these amendments, and by deleting items of data which no longer are described by subparagraphs (A), (B), (C), or (D) or which the Administrator finds were incorrectly included on the indexes. The updated indexes shall be made available to the public. An index shall be deemed to include any item of data which is entitled to be in the index but which was received by the Administrator too recently to have been included in the most recent update of the index. A decision by the Administrator to include an item of data in such an index, or to exclude it, shall be a final Agency action reviewable under section 16(a) of the Act.

"(J) At the request of an applicant for registration of a product containing a particular active ingredient, the Administrator shall require the original submitter of any items of data which concern that active ingredient, but which are not included on any index compiled under subparagraph (I) of this paragraph, to furnish a report which briefly describes the type of study that yielded each such item of data, states the date each such item of data was originally submitted, and states any accession numbers or other identifying information used by the Agency to catalog the items of data.

"(K) Each application for registration of a new product for reregistration, for an experimental use permit, or for amendment of an existing registration to add a use shall include a list of the applicable data requirements, a list of the data the applicant is submitting or citing to satisfy each such requirement, and a certification that the applicant is not precluded by subparagraph (A), (B), (C), or (D) of this paragraph from relying on any of the data listed with the application. After the Administrator has approved an application, the lists and certification shall be available to the public. Any person who claims that such an applicant has incorrectly listed the applicable data requirements, has not submitted or cited data sufficient to satisfy those requirements, has not submitted a required authorization from a data submitter or otherwise has failed to comply with subsection (c)(1)(D) or (h) of this section, and who claims, in that person's capacity as the original submitter of data included on an index described by subsection (h)(2)(I) of this section, to have been adversely affected by the approval of the application may petition the Administrator to hold a hearing to determine whether the registration should be canceled. Such petition shall be in writing and shall contain a de-

tailed statement of reasons why the registration should be canceled. Upon receipt of the petition, the Administrator shall afford the registrant a reasonable period of time, not to exceed 60 days, to respond to the petitioner's allegations. The Administrator shall then decide in writing within 30 days what action to take on the petition.

"(i) If the Administrator finds that the petition and any response show that there is no reasonable possibility that a hearing would lead to cancellation of the registration for the reasons set forth in the petition, the Administrator shall deny the petition. Any such denial shall be a final Agency action for purposes of judicial review under section 16(a) of the Act. The reviewing court shall not allow discovery proceedings nor receive testimony or evidence, and shall base its review solely on the petition, the registrant's response, the Administrator's decision, and the pleadings and briefs filed with the court. If the court finds that the Administrator's decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, the court shall remand the matter to the Administrator for purposes of holding a hearing under this subparagraph. If the court does not so find, the case shall be dismissed.

"(ii) If the Administrator finds that the petition and any response indicate that there is a reasonable possibility that a hearing may lead to cancellation of the registration for the reasons set forth in the petition, or if the Administrator is ordered by a court to hold a hearing, the Administrator shall issue a notice of intent to hold a hearing to determine whether the product's registration should be canceled, which notice shall be furnished by certified mail to the registrant and the petitioner. The hearing shall be held in the manner provided by section 6(d) of the Act. Provided, That the provisions of that section regarding referral of matters to a Committee of the National Academy of Sciences shall not apply to such a hearing; And provided further, That the petitioner shall have the burden of proving that the registration should be canceled. The Administrator's order following such a hearing shall be issued within 90 days from the date of the notice of intent to hold a hearing. An order following such a hearing that cancels the registration of a product shall take effect immediately upon issuance. Review of the Administrator's order following such a hearing shall be governed by section 16(b) of the Act. The provisions of this subparagraph and of subparagraph (L) of this paragraph shall constitute the sole and exclusive means of review, at the behest of any person other than the Administrator, of the extent to which an application for registration complies with subsection (c)(1)(D) or (h) of this section, notwithstanding the other provisions of this Act, chapters 5 and 7 of title 5 of the United States Code, or any other statute.

"(L) For the purpose of enforcing exclusive rights to data submitted to obtain new use registration pursuant to paragraph (2)(A)(ii) of this subsection, each applicant for registration of a product with uses previously registered by another registrant shall be required to certify that the applicant has reviewed the indexes prepared pursuant to paragraph (2)(I) and any provisional indexes prepared pursuant to paragraph (5) of this subsection, and further that the applicant is not relying on data submitted by another person, without the written permission of such person, that the indexes show to be unavailable for use because of exclusivity

rights provided under paragraph (2)(A)(ii) of this subsection. Such certification shall not be required from an applicant who is exempt from submitting or citing the data required for approval of the registration under subsection (c)(2)(D) of this section, and the procedures described in this paragraph shall not apply to such person. Upon receiving the required certification, the Administrator may process an application without determining the validity of any statement contained in such certification. Not later than 30 days before approving the application, the Administrator shall make available to the public the name of the applicant submitting such certification, the active ingredients in the applicant's product, and the uses for which registration is sought. Before petitioning the Administrator to hold a hearing to determine whether such registration should be denied (or if it has been approved, canceled), a person who claims that the applicant has failed to comply with subsection (h) of this section and that the person would be adversely affected by such approval in that person's capacity as the original submitter of data included on such index shall notify the applicant in writing of such position. Within 30 days after receiving this notice, the applicant shall deliver a response in writing to the data submitter. The Administrator may withhold action on the application until 10 days after the data submitter receives the applicant's response. After receiving the response, the data submitter may petition the Administrator to hold a hearing to determine whether to approve the applicant's registration, or to cancel such registration if it has been approved. The Administrator may withhold approval of the registration upon finding that the petitioner is likely to prevail in the dispute. If the Administrator at any time finds that the petitioner acted without good cause in prosecuting the dispute or that the applicant acted without good cause in refusing to withdraw an application that relies on the petitioner's data in violation of this section, the Administrator may award attorney's fees or costs of prosecuting or defending the dispute against the person acting without good cause, and may award damages suffered by the party that acted in good faith. In all other respects, the petition shall be processed in accordance with the procedures specified in paragraph (2)(K) of this subsection, and the Administrator's decision shall be subject to review as provided in paragraph (2)(K).

"(3) Except as provided in paragraphs (4) and (5) of this subsection, the provisions of paragraph (2) of this subsection shall become effective with respect to applications approved in the period beginning 18 months after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.

"(4) With respect to any application for registration of a pesticide product that contains a new active ingredient (and contains no other active ingredient), or for registration of any other product containing the same active ingredient, that could be registered under this Act but for the provisions of sections 162.9-3 and 162.9-4 of title 40, Code of Federal Regulations, in effect on the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, the following paragraphs shall become effective immediately upon enactment of such amendments:

"(A) Paragraph (2)(F) of this subsection, except for clauses (ii) and (iii) thereof;

"(B) Paragraph (2)(G) of this subsection; and

"(C) Paragraph (2)(H) of this subsection, except for the last sentence thereof.

"(5) With respect to any application to amend a registration of any pesticide product by adding a new use, or to register a product with a new use, paragraphs (2)(A), (2)(K), and (2)(L) of this subsection shall become effective immediately upon the submission by the applicant of a provisional index of the applicant's data submitted to support the new use in the form prescribed by paragraph (2)(I) of this subsection, and the publication of such provisional index in the Federal Register. The Administrator may charge the applicant a fee to cover the cost of publishing the index, which fee shall be placed in a revolving fund to be used for the payment of publishing charges.

"(6) Offers to pay compensation under section 3(c)(1)(D) of this Act made before the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982 shall be governed by the law in effect at the time the offer was made.

"(7) Except as provided in paragraph (3) of this subsection, with respect to applications approved before expiration of the 18-month period after enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1981, an applicant shall supply the data required for registration as set forth in this paragraph. An applicant shall file a statement that includes, except as otherwise provided in subsection (c)(2)(D) of this section, if requested by the Administrator, a full description of the tests made and the results thereof upon which the claims are based, or alternatively a citation to data that appears in the public literature or that previously had been submitted to the Administrator and that the Administrator may consider in accordance with the following provisions:

"(A) with respect to pesticides containing active ingredients that are initially registered under this Act after September 30, 1978, data submitted to support the application for the original registration of the pesticide, or an application for an amendment adding any new use to the registration and that pertains solely to such new use, shall not, without the written permission of the original data submitter, be considered by the Administrator to support an application by another person during a period of 15 years following the date the Administrator first registers the pesticides: Provided, That such permissions shall not be required in the case of defensive data;

"(B) except as otherwise provided in paragraph (A) of this subsection, with respect to data submitted after December 31, 1969, by an applicant or registrant to support an application for registration, experimental use permit, or amendment adding a new use to an existing registration, to support or maintain in effect an existing registration, or for reregistration, the Administrator may, without the permission of the original data submitter, consider any such item of data in support of an application by any other person (hereinafter in this subparagraph referred to as the 'applicant') within the 15-year period following the date the data were originally submitted only if the applicant has made an offer to compensate the original data submitter and submitted such offer to the Administrator accompanied by evidence of delivery to the original data submitter of the offer. The terms and amount of compensation may be fixed by agreement between the original data submitter and the

applicant, or, failing such agreement, binding arbitration under this subparagraph. If, at the end of 90 days after the date of delivery to the original data submitter of the offer to compensate, the original data submitter and the applicant have neither agreed on the amount and terms of compensation nor on a procedure for reaching an agreement on the amount and terms of compensation, either person may initiate binding arbitration proceedings by requesting the Federal Mediation and Conciliation Service to appoint an arbitrator from the roster of arbitrators maintained by such Service. The procedure and rules of the Service shall be applicable to the selection of such arbitrator and to such arbitration proceedings, and the findings and determination of the arbitrator shall be final and conclusive, and no official or court of the United States shall have power or jurisdiction to review any such findings and determination, except for fraud, misrepresentation, or other misconduct by one of the parties to the arbitration or the arbitrator where there is a verified complaint with supporting affidavits attesting to specific instances of such fraud, misrepresentation, or other misconduct. The parties to the arbitration shall share equally in the payment of the fee and expenses of the arbitrator. If the Administrator determines that an original data submitter has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this paragraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this paragraph, the original data submitter shall forfeit the right to compensation for the use of the data in support of the application. Notwithstanding any other provision of this Act, if the Administrator determines that an applicant has failed to participate in a procedure for reaching an agreement or in an arbitration proceeding as required by this subparagraph, or failed to comply with the terms of an agreement or arbitration decision concerning compensation under this paragraph, the Administrator shall deny the application or cancel the registration of the pesticide in support of which the data were used without further hearing. Before the Administrator takes action under either of the preceding two sentences, the Administrator shall furnish to the affected person, by certified mail, notice of intent to take actions and allow 15 days from the date of delivery of the notice for the affected person to respond. If a registration is denied or canceled under this subparagraph, the Administrator may make such order as the Administrator deems appropriate concerning the continued sale and use of existing stocks of such pesticide. Registration action by the Administrator shall not be delayed pending the fixing of compensation;

"(C) after expiration of the period (if any) of exclusive use and any period (if any) for which compensation is required for the use of an item of data under paragraphs (A) and (B) of this subsection, the Administrator may consider such item of data in support of an application by any other applicant without the permission of the original data submitter and without an offer having been received to compensate the original data submitter for the use of such item of data."

The CHAIRMAN pro tempore. Are there any amendments to section 3? If not, the Clerk will designate section 4.

Section 4 reads as follows:

CANCELLATION AND CHANGE IN CLASSIFICATION

SEC. 4. Section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending clauses (1) and (2) of the first sentence to read as follows:

"(1) to cancel or phase out its registration, or to change its classification, together with the reasons (including the factual basis) for such action, or

"(2) to hold a hearing to determine whether or not its registration should be canceled or phased out, or its classification changed."

(2) striking out the third sentence and inserting in lieu thereof the following: "In determining whether to issue any such notice, the Administrator shall include among the factors to be taken into account the impact of the action proposed in such notice on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural producers, and on the agricultural economy. The determination of such impacts shall be based on biologic and economic assessments, including but not limited to any prepared by the Department of Agriculture. Such assessments shall be used by the Administrator in formulating and assessing the impacts of the proposed regulatory action."; and

(3) striking out the last sentence and inserting in lieu thereof the following: "In taking any final action under this subsection, the Administrator shall consider restricting a pesticide's use or uses as an alternative to cancellation and shall fully explain the reasons for these restrictions, and include among those factors to be taken into account the impact of such final action on production and prices of agricultural commodities, retail food prices, and otherwise on agricultural producers and on the agricultural economy, and the Administrator shall publish in the Federal Register a notice of availability of an analysis of such impacts. In preparing the final analysis of such impacts, the Administrator shall fully consider all comments on the proposal, including those provided by the Secretary."

Mr. PANETTA. Mr. Chairman, it is my understanding with regard to this particular section, that the gentleman from New York (Mr. ROSENTHAL) may have a possible amendment.

The CHAIRMAN pro tempore. The gentleman would have the option of asking unanimous consent that the remainder of the bill be considered as read and open for amendment at any point.

The Chair will advise the gentleman that in the event that request were made, all Members with amendments noticed would be protected from this point forward.

Mr. THOMAS. Mr. Chairman, I ask unanimous consent that the bill be open for amendment at any point.

The CHAIRMAN pro tempore. The gentleman intends by his request to indicate the remainder of the bill from this point, section 4, forward; is that correct?

Mr. THOMAS. That is correct.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The remainder of the committee amendment in the nature of a substitute reads as follows:

PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

SEC. 5. Section 10 of the Federal Insecticide, Fungicide and Rodenticide Act is amended by—

(1) amending subsection (a) to read as follows:

"(a) IN GENERAL.—In submitting data required by this Act, the data submitter must clearly mark portions thereof which in the opinion of the data submitter are trade secrets or commercial or financial information, explain why each marked portion is not required to be disclosed under subsection (d)(1) of this section, and submit such marked materials separately from the other material required under this Act. Any data (or portions thereof) not so marked submitted more than 60 days after enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982 shall be available to the public without restriction, notwithstanding any other provision of law."

(2) amending subsection (c) to read as follows:

"(c) DISPUTES.—If the Administrator proposes to make the initial public disclosure of any item of data which the data submitter believes to be protected from disclosure by this section, but which the Administrator has found is not so protected, the Administrator shall notify the data submitter, in writing, by certified mail. The Administrator shall not thereafter make the item of data available to the public until 30 days after receipt of the notice by the data submitter. During this period, the data submitter may institute an action in an appropriate district court for a declaratory judgment as to whether such information is protected from the proposed disclosure. The procedures prescribed by this subsection shall apply only to the first time a given item of data is disclosed to the public. This subsection shall not apply to any proposed disclosure under subsection (d)(4) of this section."

(3) amending subsection (d)(1) to read as follows:

"(1) Notwithstanding any provision of section 552, of title 5, United States Code or any other law, to the contrary, all information concerning the objectives, methodology, results, or significance or any test or experiment performed on or with a registered or previously registered pesticide or its separate ingredients, impurities, or degradation products, and any information concerning the effects of such pesticide on any organism or the behavior of such pesticide in the environment, including but not limited to, data on safety to fish and wildlife, humans and other mammals, plants, animals, and soil, and studies on persistence, translocation and fate in the environment, and metabolism, shall be available for disclosure to the public as provided in paragraphs (2) and (3) of this subsection: Provided, That the use of such data for any registration purpose shall be governed by section 3 of this Act. This paragraph does not authorize the disclosure of any information as to—

"(A) manufacturing or quality control processes,

"(B) the details of any methods for testing, detecting, or measuring the quantity of and deliberately added inert ingredient of a pesticide, or

"(C) the identity or percentage quantity of any deliberately added inert ingredient of a pesticide, unless the Administrator has first

determined that disclosure is necessary to protect against an unreasonable risk of injury to health or the environment.

In exercising its authority under section 24(a) of this Act, a State may, however, obtain information described by clauses (A), (B), and (C) of this paragraph, but shall not disclose any such information except to the extent such information has been disclosed by the Administrator under this section. Before disclosing any information under this section that was submitted prior to the effective date of interim final regulations promulgated pursuant to this subsection (other than information which has already been made available to a member of the public or which the data submitter has previously stated do not contain trade secret or commercial or financial information), the Administrator shall afford the submitter of the information a reasonable period of time, not to exceed 60 days from the date of receipt by the data submitter of a request by the Administrator, to identify any portions of the information the data submitter claims are described by clause (A), (B), or (C) of this paragraph and to substantiate such claims. If no claim is made (or if the claim is not substantiated) within the period afforded, the information shall be made available in accordance with this section. The provisions of subsection (c) of this section shall apply to disputes with respect to information which the Administrator finds not to be of the type described by clause (A), (B), or (C) of this paragraph."

(4) redesignating subsections (d)(2) and (d)(3) as subsections (d)(3) and (d)(4), respectively;

(5) adding a new subsection (d)(2) to read as follows:

"(2)(A) REGULATIONS.—The Administrator shall expeditiously promulgate regulations to implement subsections (d) and (f) of this section. The regulations shall establish procedures pursuant to which information that may be disclosed under subsections (d)(1) and (f) of this section shall be made available to the public. The regulations shall permit all persons not excluded by subsection (f) of this section, and also employees of the United States, agencies of State governments, and authorized scientific personnel representing an employee of a pesticide producer or registrant or the employee's trade union, to obtain copies of data, but shall prescribe (i) conditions governing further copying or transfer of the data; (ii) conditions under which the data are to be maintained while they are being used; (iii) procedures permitting publication of any information in the studies regarding the health, safety or environmental effects of a product (except as provided in paragraph (2)(B) of this subsection), including but not limited to protocols and results of environmental and toxicological studies; and (iv) procedures for submission of such information in litigation and administrative proceedings under an adequate protective order. Such restrictions, conditions and procedures shall restrict use and disclosure of data only to the extent necessary to prevent use of the data by persons other than the data owner to obtain or maintain registrations (or other governmentally required approvals) of pesticide products, and to prevent violations of subsection (f) of this section, in order to protect the proprietary rights of data owners against the use of their data by competitors as provided in this Act. The regulations shall be consistent with the statement of disclosure principles contained in section 17 of the Federal Insecticide, Fungi-

cide, and Rodenticide Act Amendments of 1982. Notwithstanding any provision of this Act or of any other law, interim final regulations shall be promulgated and become effective within 60 days after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, and the provisions of section 25(a) of this Act shall not apply to the promulgation of such interim regulations. At least 15 days before signing the interim regulations in final form for publication in the Federal Register, the Administrator shall furnish a copy of such regulations to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. The interim final regulations shall be superseded as soon as possible (allowing time for notice and comment) by final regulations. The provisions of this section and the regulations promulgated thereunder shall apply with respect to all data submitted to the Administrator, whether before or after the enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.

"(B) INNOVATIVE METHODS AND TECHNOLOGY.—For the purpose of this section, the term 'innovative methods and technology' means innovative methods or technology (including innovative methods of using known technology) that are not otherwise publicly available, that are employed in obtaining product chemistry, environmental chemistry, residue chemistry, and metabolism data, that are substantially different from known methods or technologies, and innovative compositions of matter, and that, if disclosed, could provide a significant advantage to competitors of the submitter of the data. In no event shall an item of data be considered an innovative method or technology for longer than 5 years after the date of submission. The regulations promulgated under paragraph (2)(A) of this subsection shall establish separate procedures for making information concerning innovative methods and technology available to the public. The innovative methods and technology shall be made available to scientists acting on behalf of Federal or State agencies, independent scientists working in the field to which the data pertain (and otherwise qualified to receive data under subsection (f) of this section), and scientists and staff representatives acting on behalf of non-profit health, environmental or labor organizations, seeking access to the data to conduct an independent peer review or replicate the study, but shall not otherwise be made available to the general public. The regulations shall establish procedures by which such scientists and representatives may communicate with each other and with the Administrator, and use the data in judicial or administrative proceedings, concerning the innovative methods and technology without disclosing them to the public. If requested by such a scientist or representative, the submitter of the innovative methods and technology shall provide within 15 days a summary of the data to such requester for disclosure to the general public. If such summary is not timely provided, the data shall no longer be considered an innovative method or technology under this paragraph. Any person who is given access to an innovative method or technology for the purpose of peer review or replication may, after such review or replication has been conducted, request the Scientific Advisory Panel to review such data. If the Panel finds that the method or technology is not innovative, is invalid, or should be disclosed if necessary

in the public interest, because of concerns as to protection of health, safety or the environment, it may make recommendations to the Administrator, including a recommendation that the method or technology be made available under paragraph (2)(A) of this subsection and if the Administrator concurs in such recommendations, the Administrator may make the method or technology so available. The Administrator's decision shall be regarded as final agency action reviewable under section 16(a) of this Act."

(6) amending subsections (f) and (g) to read as follows:

"(f) **DISCLOSURE TO PESTICIDE PRODUCERS.**—Except as otherwise provided in this section, the Administrator shall not knowingly allow access to information submitted by an applicant or registrant under this Act to any person engaged in, or who intends to engage in, the production or registration of pesticides, or to any employee or agent of such person, or any other person who intends to disclose such data to such person, unless the data submitter has consented to such disclosure. Notwithstanding any other provision of this section, during administrative adjudicatory hearings or court litigation a party who is a pesticide producer or registrant may, pursuant to an appropriate protective order issued by the court or presiding administrative official, examine and obtain a copy of data submitted by another person (other than data described by subsection (d)(1) (A) through (C) or subsection (d)(3) of this section), if the party's access to the data is found to be necessary in order to allow the party to participate fully in the hearing or litigation.

"(g) **INTERNATIONAL AGREEMENTS.**—Notwithstanding any other provision of law—

"(1) The Administrator shall not make available for public inspection any document or information concerning pesticides if (A) the Administrator obtained the document or information from the government of another country (or from an international organization of countries), (B) the government or international organization required the Administrator to agree not to disclose the document or information to the public as a condition of furnishing it to the Administrator, (C) the Administrator could not otherwise obtain the document or information, and (D) the government or international organization continues to demand that the document or information not be made available for public inspection.

"(2) The Administrator may disclose information obtained under this Act to the government of another country or its agents (or to an international organization of countries) only under the following conditions. The information that may be so disclosed shall include all information that may be publicly disclosed under subsection (d)(1) of this section but shall not include any information described in subsection (d)(1) (A), (B), or (C), or (d)(3) of this section. The Administrator may make such disclosures if the Administrator executes an agreement with another country which furnishes assurances acceptable to the Administrator that the government—

"(A) will not further disclose the information without the consent of either the Administrator or the submitter of the information; and

"(B) will not allow the information to be used directly or indirectly to support any application for, or decision to grant, a license, permit, or other action which allows the production, sale, or distribution of a pes-

ticide under any country's laws. The Administrator shall provide notice to affected persons and an opportunity for comment prior to entering into any such agreement with the government of another country. The Administrator shall provide notice to a data submitter of the proposed transfer of data to a foreign government under such an agreement. The Administrator will not consent to public disclosure of information by a foreign government under subparagraph (A) of this paragraph which would have the effect of permitting disclosure of information that is not permitted under this Act, or permitting disclosure under conditions that are less restrictive than those permitted by this section and any regulations promulgated thereunder."

(7) adding a new subsection (h), to read as follows:

"(h) **CIVIL ACTION.**—A submitter of data to the Administrator who is or may be adversely affected by the violation (or threatened violation) of this section by another person (other than a Federal or State official) who is acting willfully in furtherance of a commercial purpose may bring an action in an appropriate United States district court against such person to prevent and restrain the violation, obtain damages for the violation, or both. The court shall award treble the actual damages shown, and shall award punitive damages for a gross violation. A data submitter also may bring an action in an appropriate United States district court against the Administrator or against any agency official specifically to enforce, or restrain violations of, this section."

(8) adding a new subsection (i), to read as follows:

"(i) **UNLAWFUL ACTS.**—It shall be unlawful (1) for any person who has obtained information from the Administrator under this section to disclose or transfer the information in a manner prohibited by this section or by regulations implementing this section; (2) for any person to solicit or abet any disclosure or transfer of information that is unlawful under paragraph (1); or (3) for any person to make commercial use of information that the person received under this section or through a disclosure or transfer that he knew or should have known to be unlawful under paragraph (1)."

UNLAWFUL ACTS

SEC. 6. Section 12(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out "or" at the end of clause (O);

(2) striking out the period at the end of clause (P) and inserting in lieu thereof "or"; and

(3) adding a new subparagraph at the end thereof as follows:

"(Q) to discharge from employment or otherwise adversely affect the employment status (including the compensation, terms, conditions, or privileges of employment) of any employee because that person (or any person acting pursuant to a request of the employee) has exercised rights under this Act, filed complaints concerning alleged violations of this Act, testified or is about to testify in any such proceeding (including proceedings concerning alleged violations of this Act), or assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the purposes of this Act."

PENALTIES AND REMEDIES

SEC. 7. Section 14 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out the title "SEC. 14. PENALTIES" and inserting in lieu thereof "SEC. 14. PENALTIES AND REMEDIES";

(2) redesignating subsections (a)(3), (a)(4), and (a)(5) as subsections (a)(4), (a)(5) and (a)(6), respectively;

(3) adding a new subsection (a)(3) to read as follows:

"(3) **DISCLOSURE OF DATA.**—Any person granted access to data pursuant to section 10(d) who violates the provisions of that subsection or regulations promulgated thereunder, or the provisions of subsection 10(i), or who knowingly accepts, obtains or uses data prohibited from disclosure under subsection 10(d), 10(f) or 10(g), or under regulations promulgated under section 10(d)(2), may be assessed a civil penalty by the Administrator of not more than \$100,000 for each document or study accepted, obtained or used in violation of section 10, and may be denied further access to any data, temporarily or permanently. All registrations issued to such person and to anyone on whose behalf such person was acting shall be summarily canceled without regard to procedures for cancellation in section 6 of this Act that may otherwise be applicable, except to the extent that the Administrator determines that such action would cause injury to the public health, or undue hardship to agricultural producers or other persons making use of the end-use pesticide product. In the case of any violation referred to in this paragraph that was not perpetrated in furtherance of a commercial purpose involving the production, registration distribution or sale of a pesticide, the only penalty shall be temporary or permanent denial of further access to data by the violator and such other persons and organizations on whose behalf the violator was acting."

(4) amending the redesignated subsection (a)(5), to read as follows:

"(5) **DETERMINATION OF PENALTY.**—In determining the amount of the penalty, the Administrator shall consider the appropriateness of such penalty to the size of the business of the person charged, the effect on the person's ability to continue in business, and the gravity of the violation. Whenever the Administrator finds that a violation occurred despite the exercise of due care or did not cause significant harm to health or the environment, the Administrator may issue a warning in lieu of assessing a penalty. In determining the amount of the penalty in the case of a violation as described in paragraph 3 of this subsection, or as described in section 10(i) of the Act, the Administrator shall consider only the gravity of the violation."

(5) amending subsection (b)(3) to read as follows:

"(3) **DISCLOSURE OF INFORMATION.**—
"(A) Any person, who, with intent to defraud, uses or reveals information relative to formulas of products acquired under the authority of section 3, shall be fined not more than \$100,000, or imprisoned for not more than 3 years, or both.

"(B) Any person granted access to data under section 10(d) who in furtherance of a commercial purpose involving the production, registration, distribution or sale of a pesticide knowingly violates the provisions of section 10(d), 10(f), 10(g) or 10(i) of this Act, or knowingly allows data to be made available contrary to the provisions of section 10 of this Act to any other person engaged in the production or registration of pesticide products or any employee or agent thereof in violation of such section, shall be

fined not more than \$100,000 or imprisoned for not more than 1 year or both.

"(C) Any officer or employee of the United States or any State or former officer or employee of the United States or any State, who, by virtue of such employment or official position has obtained possession of, or has access to material the disclosure of which is prohibited by section 10, and who, knowing that disclosure of such material is prohibited by such section, willfully discloses the material in any manner to any person not entitled to receive it, shall be fined not more than \$100,000 or imprisoned for not more than 1 year, or both. For the purpose of this subparagraph, any contractor with the United States who is furnished information as authorized by section 10(e), or any employee of any such contractor, shall be considered to be an employee of the United States.

"(D) Section 1905 of title 18 of the United States Code shall not apply with respect to the publishing, divulging, disclosure, or making known of, or making available, information reported or otherwise obtained under this Act. Nothing in this Act shall preempt any civil remedy under State or Federal law for any disclosure wrongful under section 10." and

(6) Adding a new subsection (c) as follows:

"(c) EMPLOYEE REMEDIES.—(1) Any employee who believes that the employee has been discharged or otherwise discriminated against by any person in violation of section 12(a)(2)(Q) of this Act may, within 30 days after such alleged violation occurs, file (or have any person file on the employee's behalf) a complaint with the Secretary of Labor (hereinafter in this subsection referred to as the "Secretary") alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary shall notify the person named in the complaint of the filing of the complaint.

"(2) Upon receipt of a complaint filed under this subsection, the Secretary shall conduct an investigation of the violation alleged in the complaint. Within 30 days of the receipt of such complaint, the Secretary shall complete such investigation and shall notify in writing the complainant (and any person acting on behalf of the complainant) and the person alleged to have committed such violation of the results of the investigation conducted pursuant to this paragraph. Within 90 days of the receipt of such complaint the Secretary shall, unless the proceeding on the complaint is terminated by the Secretary on the basis of a settlement entered into by the Secretary and the person alleged to have committed such violation, issue an order either providing the relief prescribed by paragraph (3) of this subsection or denying the complaint. An order of the Secretary shall be made on the record after notice and opportunity for agency hearing. The Secretary may not enter into a settlement terminating a proceeding on a complaint without the participation and consent of the complainant.

"(3) If in response to a complaint filed under paragraph (1) the Secretary determines that a violation of section 12(a)(2)(Q) of this Act has occurred, the Secretary shall order (i) the person who committed such violation to take affirmative action to abate the violation, (ii) such person to reinstate the complainant to the complainant's former position together with the compensation (including back pay), terms, conditions, and privileges of the complainant's employment, (iii) compensatory damages, and (iv) where appropriate, exemplary dam-

ages. If such an order is issued, the Secretary, at the request of the complainant, shall assess against the person against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's fees) reasonably incurred, as determined by the Secretary, by the complainant for, or in connection with, the bringing of the complaint upon which the order was issued.

"(4) REVIEW.—Any employee or employer adversely affected or aggrieved by an order issued under paragraph (3) of this subsection may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred. The petition for review must be filed within 60 days from the issuance of the Secretary's order. Review shall conform to chapter 7 of title 5 of the United States Code. An order of the Secretary, with respect to which review could have been obtained under this paragraph, shall not be subject to judicial review in any criminal or other civil proceeding.

"(5) Whenever a person has failed to comply with an order issued under paragraph (3) of this subsection, the Secretary shall file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this subsection, the district courts shall have jurisdiction to grant all appropriate relief and compensatory and exemplary damages. Civil actions brought under this subsection shall be heard and decided expeditiously.

"(6) EXCLUSION.—This section shall not apply with respect to any employee who, acting without direction from the employer's employer (or any agent of the employer), deliberately causes a violation of any requirement of this Act."

EXPORTS

SEC. 8. Section 17(b) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(b) CANCELLATION NOTICES FURNISHED TO FOREIGN GOVERNMENTS.—Whenever a registration, or a cancellation or suspension of the registration of a pesticide becomes effective, or ceases to be effective, the Administrator shall transmit through the State Department notification thereof to the governments of other countries and to appropriate international agencies. Notwithstanding the provisions of section 10(g)(2) of this Act, but subject to the restrictions on disclosures of trade secrets as specified in section 10(d)(1) (A), (B), and (C), such notification shall, upon request, include all information related to the cancellation or suspension of the registration of the pesticide and information concerning other pesticides that are registered under section 3 of this Act and that could be used in lieu of such pesticide."

RESEARCH AND MONITORING

SEC. 9. Section 20(c) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by inserting "surface and ground" immediately before "water".

STATE COOPERATION, AID, AND TRAINING

SEC. 10. Effective with the fiscal year beginning October 1, 1982, section 23 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) striking out in subsection (a) the second and third sentences; and

(2) adding at the end thereof a new subsection as follows:

"(d)(1) There are authorized to be appropriated for each fiscal year such sums as

may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost of each State or Indian tribe, as agreed under such cooperative agreements, of conducting training programs for certification of applicators during such fiscal year pursuant to subsection (c) of this section. Funds will be distributed among States and Indian tribes on a formula basis, as developed cooperatively between the Secretary of Agriculture and the Administrator.

"(2) There are also authorized to be appropriated for each fiscal year such sums as may be necessary for the Administrator to provide through cooperative agreements an amount equal to 50 percent of the anticipated cost to each State or Indian tribe, as agreed under such cooperative agreements, of conducting pesticide certification and licensing programs during such fiscal year, and in the case of a State, for administering the State plan of each State approved under section 4(a)(2). Funds shall be distributed among the States on a formula basis as specified by the Administrator.

"(3) The total amount authorized to be appropriated under paragraphs (2) and (3) of this subsection may not exceed \$4,000,000 for each fiscal year. If funds sufficient to pay 50 percent of the costs under paragraph (2) or (3) of this subsection for any year are not appropriated, the share of each State and Indian tribe shall be reduced in a like proportion in allocating available funds.

"(4) States conducting training and certification programs under State plans shall coordinate such programs to assure that standards for certification of applicators of pesticides are attained and maintained as prescribed by the Administrator under section 4 of this Act."

AUTHORITY OF THE STATES

SEC. 11. Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending subsection 24(a) to read as follows:

"(a)(1) A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent that the regulation does not permit any sale or use prohibited by this Act.

"(2) If a State in regulating the sale or use of a federally registered pesticide or device in the State wishes health and safety data submitted for review in connection with a State registration or approval, the following shall apply:

"(A) With respect to data previously submitted in support of the Federal registration, the State may request the applicant to submit such data to the State for review, and if the applicant does not provide the State such data as is requested, the Administrator shall make the data available to the State, subject to the provisions of section 10. At the option of the State, the data may be obtained from the Administrator under the provisions of section 10 without first making the request to the registrant.

"(B)(i) A State may require submission of additional data with respect to any special local concerns relating to either an increased risk of any unreasonable adverse effect on the environment from the uses of such pesticide or device in the State, or a reduced efficacy of the pesticide or device in the State for the uses for which the application to the State is made: Provided, That the State shall give the applicant written notice of the purpose and justification of the requirement.

"(ii) In the case of a nonrestricted use or general use pesticide, as classified by the Administrator pursuant to section 3(d), except for pesticides utilized in the production of a commercial food, feed or fiber, crop, if the applicant wishes to contest the request for data described in clause (i) of this subparagraph, the applicant may submit the request to the Administrator for review. In reviewing the request, if the Administrator determines that there is a Federal interest, such that the request should be made by the Administrator, the Administrator shall require the applicant to submit the additional data under section 3(c)(2)(B) of this Act. The State's determination of a special local concern pursuant to this section shall not be subject to review by the Administrator but shall be subject to judicial review. The Administrator may overrule or modify the State request for additional data if the Administrator determines that the request is arbitrary or capricious, or determines that there exist sources of comparable data that would be available to the State for the purposes of satisfying its request and so notifies the State. The State and the applicant may submit to the Administrator any additional information pertaining to the data request. The Administrator shall publish in the Federal Register the basis for any determination that overrules or modifies the State request. A State may obtain judicial review of a decision by the Administrator to overrule or modify that State's data request. The applicant may seek judicial review of the determination of the State to require the data either before or after the matter has been submitted to the Administrator for review and the Administrator has made a determination: Provided, That the Administrator shall not be a party to any such action.

"(iii) In other cases involving special local concerns, any applicant that wishes to contest the request for additional data shall be subject to the provisions of State law.

"(C) Any request for data that does not relate to special local concerns as described in subparagraph (B) of this paragraph, and that was not previously submitted to the Administrator in support of the Federal registration shall be reviewable by the Administrator. In reviewing the request, if the Administrator determines that there is a Federal interest, such that the request should be made by the Administrator, the Administrator shall require the applicant to submit the additional data under section 3(c)(2)(B) of this Act. The Administrator may otherwise disapprove the request if the Administrator determines that the request is arbitrary or capricious or that there is no reasonable basis for making use of the data in connection with a State determination as to registration or approval of the pesticide. Any request for data under this subparagraph shall be submitted to the applicant and at the same time a copy shall be forwarded to the Administrator. If the Administrator has not taken any action within 60 days after receipt of the request for additional data, or 15 days after receipt by the Administrator of any additional information that may be requested of the State, approval of the request by the State shall be presumed. Any determination by the Administrator shall be final and not subject to judicial review.

"(3)(A) Except as to applications for which a State has requested health and safety data that relate to special local concerns as described in paragraph (a)(2)(B) of this subsection, if a State receives an application for a registration, the registration shall be granted pending further review if

the State has not affirmatively approved or disapproved the application within—

"(i) 60 days after receipt of the application or such lesser period as may be provided in State law, or

"(ii) if the application for registration involves a restricted use pesticide, or a general use pesticide utilized in the production of a commercial food crop, and the use is a new use of the pesticide or device within a State, or the pesticide contains a new active ingredient, for which the State has not previously granted approval, within 120 days or such lesser period as may be provided by State law after receipt of the application accompanied by all data, if any, required by State law and regulations at the time of application, or with appropriate reference to data previously submitted or cited by the applicant.

"The provisions of this paragraph shall apply both to cases where the State has made a request for additional data, as well as to cases where the State had not made such a request.

"(B) With respect to applications for which a State has requested health and safety data that relate to special local concerns as described in subsection (a)(2)(B) of this section, a State may prohibit or restrict the sale or use of the pesticide or device within a State for which the application is made pending development, submission, and review of the health and safety data.

"(C) A State may not restrict the sale or use of a pesticide or device within the State for failure of the applicant to submit health and safety data requested by the State to the extent the Administrator has disapproved such request under paragraphs (2)(B) or (2)(C) of this subsection.

"(4) The district courts of the United States shall have jurisdiction to review determinations of the Administrator under this subsection and of the States under subsection (a)(2)(B)(ii) of this section that are subject to judicial review and shall have jurisdiction to enforce and to prevent and restrain violations of the provisions of paragraph (3)(A) of this subsection."

SCIENTIFIC ADVISORY PANEL

SEC. 12. Section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

(1) amending the fourth sentence to read as follows: "The comments, evaluations, and recommendations of the advisory panel submitted under this subsection and the response of the Administrator shall be published in the Federal Register in the same manner as provided for publication of the comments of the Secretary of Agriculture under such sections."

(2) striking out the eighth sentence and inserting in lieu thereof the following: "The panel referred to in this subsection shall consist of 7 members appointed by the Administrator from a list of 12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation, utilizing a system of staggered terms of appointment. Members of the panel shall be selected on the basis of their professional qualifications to assess the effects of the impact of pesticides on health and the environment. To the extent feasible to insure multidisciplinary representation, the panel membership shall include representation from the disciplines of toxicology, pathology, environmental biology, and related sciences. Initially, 2 panel members shall be appointed for a 2-year term, 3 members for a 3-year term, and 2 members for a 4-year term; thereafter, except as provided in this subsection,

panel members shall be appointed to serve 4-year terms. In the event a vacancy occurs on the panel due to expiration of a term, resignation, or any other reason, each replacement shall be selected by the Administrator from a group of 4 nominees, 2 submitted by each of the nominating entities named in this subsection. The Administrator may extend the term of a panel member until the new member is appointed to fill the vacancy. If a vacancy occurs due to resignation, or reason other than expiration of a term, the Administrator shall appoint a member to serve during the unexpired term utilizing the nomination process set forth in this subsection. During either nominating process set forth herein, should the list of nominees be unsatisfactory, the Administrator may request an additional set of nominees from the nominating entities noted above.";

(3) striking out in the twelfth sentence "September 30, 1981" and inserting in lieu thereof "September 30, 1987".

SAFE WORKING CONDITIONS

SEC. 13. Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(f) SAFE WORKING CONDITIONS.—The Congress hereby finds and declares that the following steps are necessary to provide for the safe use of pesticides and for safe working conditions for farmworkers. The Administrator shall, if new regulations are found to be necessary, promulgate regulations pursuant to the procedures set forth in this section as soon as practicable, but in no event later than one year after the date of enactment of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982, to establish minimum field reentry standards, and to develop appropriate methods of advising farmworkers of such standards. This subsection shall not apply to any persons to the extent that they are covered by standards or regulations issued under the Occupational Safety and Health Act."

RECORDS CONCERNING STATE ENFORCEMENT

SEC. 14. Section 26(a)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(3) will keep such records necessary to provide an annual programmatic review showing compliance with paragraphs (1) and (2) of this subsection. Where emergency conditions exist, reports of emergency actions taken shall be provided to the Administrator at the earliest practical date."

STATE ENFORCEMENT ACTION

SEC. 15. Section 27(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended to read as follows:

"(a) Upon receipt of any complaint or other information alleging or indicating a significant violation of the pesticide use provisions of this Act, the Administrator shall refer the matter to the appropriate State officials for their investigation of the matter consistent with the requirements of this Act. As soon as practicable after a complaint is filed and in no event later than 30 days, the State must commence appropriate investigative action, and if within 120 days, the State has not commenced appropriate enforcement action, the Administrator may act upon the complaint of information to the extent authorized under this Act: Provided, That in the event of a complaint pertaining to a violation involving an alleged injury to an agricultural worker, the State must undertake an appropriate field investigation,

gative action as soon as possible, and in no event later than 5 days after receipt of the complaint, if a longer period of delay in investigative action would jeopardize the gathering of scientific information needed in order to substantiate or refute the substance of the complaint."

EXTENSION OF THE AUTHORIZATION FOR APPROPRIATIONS

SEC. 16. Section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136y) is amended by adding at the end thereof a new sentence as follows: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1981, and ending September 30, 1982, such sums as may be necessary, but not in excess of \$62,069,000; for the period October 1, 1982, and ending September 30, 1983, such sums as may be necessary but not in excess of \$56,367,000; and for the period beginning October 1, 1983, and ending September 30, 1984, such sums as may be necessary but not in excess of \$59,750,000."

PRINCIPLES FOR REGULATIONS IMPLEMENTING THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982 CONCERNING SECTION 10

SEC. 17. (a) PURPOSE.—This section sets forth the principles that shall guide the Administrator of the Environmental Protection Agency in developing and promulgating the regulations required under the amendments made by this Act to section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act. Such regulations shall serve the purposes of providing complete access to copies of health, safety and environmental data by those members of the public who are not associated with the pesticide industry, and assuring their ability to communicate and make public information in such studies concerning health, safety and environmental effects, while at the same time protecting the proprietary interest of the owner or submitter of studies in preventing competitors from having access to the data or making unauthorized use of the data.

(b) PROCEDURES FOR OBTAINING ACCESS TO DATA.—(1) The regulations described by this section shall provide that a person shall, upon request, be entitled to obtain a physical copy of data as soon as the requester establishes that the requester is not acting on behalf of a pesticide producer or registrant and certifies that the requester will not improperly use or disclose the data. The request may be made in person or by mail and the data furnished by any secure means. To this end, the requester shall be required to: (A) submit to the Administrator the requester's name, permanent address, and name of employer; (B) certify that the requester is not (and is not employed by or acting on behalf of) a pesticide producer or registrant; (C) certify that the requester does not seek the information, and will not use the information, for a commercial purpose in the pesticide business; (D) certify that the requester will follow the Administrator's regulations for treatment of any data received; (E) certify that the requester will update this certification immediately should any statement in it change; and (F) certify that if the requester subsequently becomes employed by or acts in behalf of a pesticide producer, the requester will so advise the Administrator and return all information prior to commencing such employment.

(2) The regulations shall further provide that: (A) the information supplied by the re-

quester shall be supplied to the data owner or submitter (hereinafter "submitter") during a 30-day verification period, which shall run concurrently with, and not in addition to, any other notice or review period provided for the submitter; (B) if the submitter establishes reasonable cause to believe that the requester is acting on behalf of a pesticide producer, the Administrator may require more information from the requester to establish the requester's status; (C) the only bases upon which a person may administratively or judicially challenge the right of a requester to obtain access to data shall be an assertion that the other person is barred under section 10(f) of the Federal Insecticide, Fungicide, and Rodenticide Act, that the person has previously violated the regulations, or, in the case of innovative methods or technology, that the requester is not qualified to receive the information; (D) the 30-day verification period shall apply only to each initial request by a particular requester for data of a particular submitter; and (E) records of releases of data by the Administrator shall be kept by the Administrator and made available to the submitter promptly on request.

(c) PROCEDURES FOR TRANSFER AND COPYING.—The regulations shall impose conditions governing the further transfer and copying of data, which conditions shall be designed to prevent a competitor from obtaining a verbatim copy of a study, while allowing a person who lawfully obtains a study from the Administrator to communicate or make public information in a study concerning health, safety, or environmental effects (with the exception of data describing innovative methods and technology). The regulations shall provide that a study may be copied or transferred to another person only in accordance with the following procedures:

(1) A person or organization that has obtained data ("transferor") may distribute verbatim copies of data to any other person, including but not limited to any member, employee, or consultant of a transferor organization ("transferee") if the transferor first establishes that the identifying information and required certification for each such transferee have first been submitted to the Administrator and any applicable 30-day verification period has expired with respect to each such transferee. A transferor that distributes verbatim copies in this manner shall take suitable steps to safeguard the data, shall number each copy transferred, and shall submit to the Administrator a record showing the transferee's identity and the date of transfer.

(2) In certain extraordinary circumstances, a physical copy of data may be transferred even if the transferee has not yet filed a certification or if the 30-day verification period has not yet expired, but only if the transferor executes a certification that (A) the data have been transferred to medical personnel or their staff for use in connection with a medical emergency, and the transferee has executed or will execute as soon as practicable the required certification and file it with the Administrator, or (B) the data have been transferred to a person who seeks to use them in an administrative, judicial, or legislative proceeding concerning the imminent use of a pesticide and the transferee has executed the required certification and sent it to the Administrator.

(3) The regulations shall provide that data may be transferred to a transferee whose identity is not revealed to the Administrator

or the data submitter if: (A) the transferor submits to the Administrator an additional certification that the transferor has attempted to obtain independent scientific review of a study by the transferee and that the transferee is not willing to conduct an independent scientific review and express an opinion on the study unless the transferee is granted anonymity; (B) the transferor submits to the Administrator in a sealed envelope the required certification, executed by the transferee, with a request that it be held, unopened, by the Chief Administrative Law Judge of the Administrator; (C) the transferor notifies the data submitter of the transfer; and (D) the transferor certifies to the Administrator that the transferor will retrieve the data from the transferee when the review is completed. The regulations shall provide that if at any time the data submitter shows that there is good cause to suspect an illegal disclosure of the data attributable to the transferee, the Chief Administrative Law Judge may upon request convene a hearing to investigate the circumstances and may disclose the identity of the transferee to data submitter if the results of the hearing show that disclosure is warranted.

(d) PUBLICATION.—The regulations shall provide that: (1) information in any study concerning health, safety, or environmental effects of pesticides may be publicly discussed, quoted, and communicated without restriction (and without fear of penalties) by persons who have lawfully obtained the study; (2) verbatim copies of the study or of any page thereof ordinarily may not be published; (3) selected charts and tables that comprise an entire page of a study may be published verbatim, but a person's further access to data may be restricted or denied by the Administrator if it is found that such publication right has been abused and resulted in substantial verbatim publication; (4) no prior or subsequent notifications shall be required for such publication or communication of information in a study; and (5) except for the restrictions on copying, transfer, and publication of verbatim copies, the information can freely be given to anyone in oral or written form, without having to ascertain whether such person is a pesticide producer or has filed a certification with the Administrator.

(e) INNOVATIVE METHODS AND TECHNOLOGY.—

(1) The regulations shall establish separate procedures for the treatment of the limited portions of data that contain "innovative methods and technology," in order to afford a greater degree of protection to such data.

(2) The regulations shall provide that in order to constitute an "innovative method or technology," an item of information must describe scientific method or technology (or a method of combining known technology) which is: (A) innovative; (B) not otherwise available to the public; (C) used for the purpose of obtaining product chemistry, environmental chemistry, residue chemistry, or metabolism data; (D) substantially different from known methods or technologies; and (E) capable of providing, if disclosed, a significant advantage to competitors of the submitter of the data. An item of data may not be considered an innovative method or technology for longer than 5 years after the date of submission. The regulations shall provide that test methods or technology described or referenced in the Administrator's registration guidelines or in the scientific literature, or any test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wild-

life, are not eligible for treatment as "innovative methods or technology." Except for those portions of a study that describe an innovative method or technology, the remainder of the information in a study, including results, discussions, conclusions, and non-novel test methods, shall be made available in the same manner as other data.

(3) The regulations shall provide that information concerning a new chemical compound shall be treated as an "innovative method or technology" if: (A) the information discloses the identity of, or describes a potential new use of, the compound; (B) the information is not already known to the public; (C) the disclosure of the information could provide a significant competitive advantage to the data submitter's competitors; (D) the compound is not an active ingredient of any product which is registered or for which registration is being sought; and (E) the compound is not an impurity of a product, not a metabolite for which a clearance is required under the Federal Food, Drug, and Cosmetic Act, and not a nonmetabolic degradation product of an active ingredient.

(4) The regulations shall require the data submitter to mark any portion of a study that the submitter claims describes an innovative method or technology at the time of first submission of the data to the Administrator, or, for data already submitted, at the time access to the data is first requested.

(5) The regulations shall provide that proceedings to resolve disputes about whether information is "innovative methods or technology" may be initiated by the Administrator or any person to whom the information is made available, and that any such dispute shall be handled in the same manner as a dispute about whether information is properly classified under section 10(d)(1) (A), (B), or (C) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(6) The regulations shall provide that authorized recipients may request the Scientific Advisory Panel to review the data, in a proceeding in which the authorized recipient would participate, to determine whether the method or technology is not innovative, is invalid, or should be disclosed if necessary in the public interest because of concerns as to protection of health, safety, or the environment. The Panel shall report its findings to the Administrator, and may recommend that the method or technology be made available to the public in the same manner as other data. If the Administrator concurs in such recommendation, the Administrator may make the method or technology so available, subject to judicial review under section 16(a) of the Federal Insecticide, Fungicide, and Rodenticide Act.

(7) The regulations shall provide that: (A) information describing innovative methods and technology shall be made available by the Administrator only to scientists acting on behalf of Federal or State agencies, independent scientists who work in the field to which the data pertain (and who are otherwise qualified to receive data under section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act), and scientists and staff representatives acting on behalf of nonprofit health, environmental, or labor organizations in order to permit such persons to conduct an independent scientific review, replicate a study, or evaluate health, safety, and environmental implications of the study ("authorized recipients"); (B) authorized recipients may communicate with each other regarding the data, but may not disclose the innovative methods or technology to persons who are not authorized recipients; and (C)

authorized recipients may communicate with the Administrator in judicial or administrative proceedings with respect to the innovative methods and technology.

(8) The regulations shall provide that in all other respects, authorized recipients who are given access to this information may make use of the information in any reasonable manner in order to accomplish the purposes of independent scientific review, replication, or evaluation of health, safety, or environmental implications, under reasonable conditions that will prevent the disclosure of the innovative methods and technology to the general public.

(f) **SAFEGUARDING INFORMATION.**—The regulations shall provide that a person who receives the data from the Administrator or from a transferor must use ordinary reasonable care to safeguard the copies and prevent improper disclosure (that is, use the same kind of care that reasonably would be used to protect any valuable item, including keeping copies of the data in a locked facility when they are not being used), but shall not be required to take steps which are oppressive or financially burdensome.

(g) **TRANSFEROR'S RESPONSIBILITY FOR TRANSFEREE'S ACTIONS.**—The regulations shall provide that a transferor's access to privileges may be temporarily or permanently revoked if a transferee who obtained information from that transferor failed to take the steps required by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act and the implementing regulations to qualify for access to, and safeguard, the information.

The CHAIRMAN pro tempore. Are there any amendments to the committee amendment in the nature of a substitute?

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PANETTA: Section 16 of the Federal Insecticide, Fungicide and Rodenticide Act is amended by adding at the end thereof a new subsection as follows:

"(e) Any person claiming to be injured by a violation of this Act may bring suit in the appropriate United States District Court for equitable relief but not for damages or attorney's fees. This subsection shall not be construed to permit class action suits as defined under Rule 23 of the Federal Rules of Civil Procedure."

Mr. PANETTA. Mr. Chairman, the purpose of the amendment that is before the House basically tries to implement what I think is a fundamental principle in our system of justice, which is that people ought to be entitled to redress for wrongs that are afflicted upon them. John Adams said it in this manner, and I quote:

Now to what higher object, to what greater character can any mortal aspire than to procure redress of wrongs?

The amendment I am introducing will secure for the individual citizen of this country their right of redress for violations under the Federal pesticide law. The legislation before us clearly manifests one thing—that pesticide regulation in this country is a Federal matter.

The amendments to the Federal Pesticide Act being considered today expand the Federal Government's authority over pesticide regulation more than ever before. I think it is only fair and just, then, Mr. Chairman, that we provide in the law the opportunity for private citizens to enforce their rights to redress their grievances under this law in the Federal courts of this land.

Mr. Chairman, I believe that such a private right of action under the FIFRA law is necessary, for four basic reasons:

First of all, because enforcement of EPA and State agencies is sorely inadequate;

Second, because the Federal law I believe requires a Federal remedy in Federal Courts;

Third, because simple justice requires that a private right for individuals be provided, particularly when we are providing a similar right to corporations in this legislation; and

Fourth, the amendment itself is limited so that it will not open the floodgates for suits of harassment or for simple damages or for attorneys' fees. In fact these elements are eliminated by my amendment. It deals solely with the area of equitable relief.

With regards to the first reason for introducing this amendment, the fact that enforcement of FIFRA by the EPA and the States is sorely inadequate, there is in fact a GAO study which looked at the enforcement that was currently being provided with respect to the misuse of pesticides. It is a 1981 GAO report. The conclusion of that report is that enforcement of FIFRA has been inadequate and improper.

According to the GAO, enforcement actions by EPA and the States are often questionable and inconsistent. States often take no action or choose enforcement action that is minimal when compared to the severity of the violation. Cases are poorly investigated. Officials often do not interview parties or inspect actual damage or conduct adequate lab analyses or complete investigatory reports. Cases referred to States from the EPA are not followed up, and EPA has on occasion lost track of referred cases altogether. States are not initiating enforcement action on referred cases within the 30-day period required under current law.

So the basic point that the GAO report makes is that the enforcement program implemented by EPA and the States is inadequate to providing the kind of protection for citizens that in fact should be provided by the law.

Private right of action, therefore, is necessary to individuals to implement the kind of protection that I think the law envisioned.

Second, the Federal law that we are now providing in this area requires a Federal remedy. Express private rights

of action under Federal statutes are not extraordinary.

□ 1115

In fact, FIFRA could be considered extraordinary for its failure to provide such a right. Over 30 Federal statutes grant private citizens the right to sue and collect damages and attorneys' fees for violations of the Federal act. The private right of action that I propose today does not allow plaintiffs to collect attorneys' fees, or would not permit class actions or the recovery of damages.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. PANETTA was allowed to proceed for 5 additional minutes.)

Mr. PANETTA. Nor does it provide for recovery of damages; what it does allow citizens to do in this amendment is to seek equitable relief in a Federal court and avoids these other elements that, in fact, are provided in other Federal statutes.

State courts cannot be considered an adequate forum for individual suits under FIFRA. We are talking about statutory violations, not simply a common law tort or a nuisance. No State court has ever or can be expected to implement an individual right to sue under the FIFRA law and few State laws, if any, have provisions permitting citizens suits under State pesticide laws.

Our failure to include an express private right of action in this law would leave citizens with little recourse to obtain redress under this act.

Third, simple justice, it seems to me, requires that if a private right of action is to be provided corporations in the legislation, as provided under section 10(h) on page 52 of this legislation, that a similar right ought to be given to individuals.

In the bill we are considering today, chemical companies and pesticide producers are given the right to sue in Federal courts for treble and even punitive damages for violations of their property rights under the data disclosure provisions of the act.

My amendment would not force any farmers or chemical companies to pay any damages whatsoever, but would permit awards for equitable relief alone. That in the very least, it seems to me, is a right that citizens ought to have.

Allowing chemical companies and producers such an expansive right of action, while denying equal access to Federal courts for individuals, is not only unconscionable, it is inexcusable. Individuals, like corporations, must be allowed their day in court as well.

Fourth, this amendment will not open the floodgates for harassment suits. It is designed, first of all, to provide only for injunctive relief. Injunc-

tive relief cannot be granted by a court without proof by the person bringing the suit that the injury to him or her plainly outweighs any foreseeable adverse impact to the person sued. The court must determine that there is irreparable harm to be corrected by the injunctive action and that the relief granted would serve the public good.

Lastly, the amendment is restricted in scope. It is restricted to avoid legal actions that are unfounded or based on harassment. It is limited, as I said, to equitable action and does not allow for damages or attorneys' fees or class actions.

This amendment would limit the right of action solely to injunctions for actions that have caused injury to individuals and which have been shown to be in violation of the act.

So for this reason, I urge your support for the private right of action amendment that I have introduced to this legislation. Pesticide injuries in this country number about 800,000 annually, close to 800 of those resulting in pesticide related deaths. Effective enforcement of the Federal pesticide law is imperative and providing a private right of action under FIFRA is critical to securing adequate enforcement of citizens' rights under the law.

Mr. HUNTER. Mr. Chairman, will the gentleman yield for a question?

Mr. PANETTA. I would be happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I would like to ask the gentleman, under the gentleman's amendment would the party seeking the injunctive relief be entitled to attorneys' fees?

Mr. PANETTA. No, they would not.

Mr. HUNTER. Does the gentleman think because of that there would probably be much less chance of harassment suits?

Mr. PANETTA. That is correct.

Mr. HUNTER. I thank the gentleman.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I would be pleased to yield to the gentleman from New York.

Mr. DOWNEY. I am not familiar with this legislation. Let me just ask the gentleman a question.

What the gentleman is saying, as the bill is currently written, that a chemical company has a private right of action against an individual and another corporation if information about a formula is stolen or something happens in that respect; is that correct?

Mr. PANETTA. The gentleman is correct.

Mr. DOWNEY. And if my family is harmed by this same chemical company, I have no right of action against them?

Mr. PANETTA. That is correct, in Federal court.

Mr. DOWNEY. In Federal court?

Mr. PANETTA. Yes.

Mr. DOWNEY. Do I have a right of action in a State court or am I preempted from suing because of this legislation in State courts?

Mr. PANETTA. In State court, one would have to sue on a common law basis or a nuisance basis of some sort or a personal injury basis, but you could not bring an action based on the statutory provisions contained in FIFRA. That is the problem I see.

I think if we are going to establish a Federal presence on pesticide regulation nationwide, that we ought to allow access to Federal courts.

Mr. DOWNEY. Is the gentleman aware of any other Federal law that allows a private right of action for corporations, but not for individuals?

Mr. PANETTA. This gentleman is not.

Mr. DOWNEY. Is anyone here familiar with such a private right of action for corporations and not for individuals?

I thank the gentleman for bringing this to our attention. That is truly remarkable, that we are in the process of granting corporations rights that we do not grant to individuals. That is astonishing.

AMENDMENT OFFERED BY MR. THOMAS TO THE
AMENDMENT OFFERED BY MR. PANETTA

Mr. THOMAS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. THOMAS to the amendment offered by Mr. PANETTA: Strike all after the words "as follows" and insert the following:

"(e) CIVIL ACTION.—

"(1) INJUNCTION.—An employee may bring an action in an appropriate district court of the United States against his employer or an applicator to prevent and restrain the use of a registered pesticide by his employer or such applicator if—

"(A)(i) such pesticide is misbranded; or

"(ii) the applicator of such pesticide will use such pesticide in a manner inconsistent with its labeling; and

"(B) the use of such pesticide would cause physical injury to such employee.

"(2) DEFINITION OF EMPLOYEE.—For purposes of paragraph (1), the term 'employee' means an individual who is—

"(A) an employee of an applicator of an agricultural pesticide;

"(B) an employee of a person for whom an applicator uses a registered pesticide for agricultural purposes, or uses a dilution of a registered pesticide, to provide a service of controlling agricultural pests; or

"(C) an employee of a person who by contract provides the services of such individual to an applicator described in subparagraph (A) or a person described in subparagraph (B)."

Mr. THOMAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. THOMAS. Mr. Chairman, I think perhaps a bit of history is necessary here to understand why we are here today with an amendment to the amendment.

Originally, the bill coming out of the subcommittee had a private right of action contained in the legislation; but on examination in committee it was fairly clear that the private right of action as established in the bill coming out of the subcommittee was overly broad, overly sweeping, and clearly allowed harassment suits, class action suits, to be filed that we have seen occurring in the past where there was no clear relationship to injury to individuals, but rather, individuals' conceptual frameworks were violated, rather than any kind of physical being.

We were unable to work out specific agreed upon language in committee; so the committee chose to strike the private right of action language.

The gentleman from New York might be interested, I agree totally with the gentleman from California that unless we establish a private right of action in this legislation, courts have established that in the absence of congressional action, the individual does not have a Federal right. He has State rights in terms of suing for damages, negligence, nuisance; he has injunctive capability, he has other forms of equitable relief, but he does not have a Federal right of action.

I commend the second effort on language of the gentleman from California. The gentleman indicated that his amendment is limited; but I think if we will examine carefully the amendment that I offer to the amendment of the gentleman from California, it is a perfecting amendment which I think if adopted would solve the problem in terms of the right to sue question; that is, the amendment of the gentleman from California says that any person; any person defined in the bill is an individual; it can also be a partnership, an association, it can also be a corporation. When the gentleman indicates that any person can sue when they claim to be injured, injury is not defined. It is not necessarily physical injury. It could be economic injury. It could be esthetic injury, which means, given the definitions not spelled out in the amendment of the gentleman from California, it could be a corporation suing another corporation over the question of whether or not the registration procedure on one corporation's pesticide was appropriate or not.

In other words, it could be used for economic advantage by one corporation over another.

My amendment seeks first of all, to define person as an individual. There are particular classes of individuals

who have standing under this private right of action in the bill.

Second, in terms of injury, my amendment specifies the kind of injury and it is physical injury.

In the amendment of the gentleman from California, he simply says equitable relief. There is no definition of what equity is. In my amendment to the amendment, it limits relief to temporary restraining orders and injunctions.

In other words, in every instance my amendment to the amendment specifies who persons are, defined as individuals, what the injury is, physical, and what reliefs are available. In other words, the scope is narrowed to deal with the very concerns the gentleman from New York expressed; individuals having the ability to sue based upon the misuse or mislabeling of pesticides; however, in narrowing the scope it removes any possibility of any kind of actions dealing with corporations for purposes of economic advantage, various groups suing for esthetic injury, which gets us into the harassment aspect, and the reason for the dropping of that right to sue action in the bill in committee in the first place.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. Certainly, I yield to the gentleman from Massachusetts.

Mr. FRANK. I appreciate the gentleman yielding.

Mr. Chairman, let me ask the gentleman, would the gentleman's amendment also restrict who someone can sue; that is, if an individual, is he or she restricted to suing only his or her employer? Could the individual also sue the manufacturer if the individual employed had a problem and wanted to sue the manufacturer?

Mr. THOMAS. If it was determined that it was mislabeled, mislabeling would apply to the manufacturer in that instance. Misuse would be the applicator.

Mr. FRANK. If there was a problem with the product; sometimes you are not sure until you bring the suit, but if there were a problem with the product alleged to be defective, would one have the right to sue the manufacturer?

Mr. THOMAS. If it is defective, it would not be mislabeled and my assumption is you would have State action available to you. I am not aware of Federal action available to you on that.

Mr. FRANK. You could sue if it was labeled badly, but you could not sue if it was made badly?

Mr. THOMAS. Under this provision.

Mr. FRANK. Well, then I guess I would ask the gentleman if he thinks that is a reasonable way to go, where an individual who might be damaged because of a defective product would not have a right to sue, but an individual who is damaged because it was labeled badly would have a right to sue.

It would seem to me that is sort of an incomplete sort of a leak that is being offered.

Mr. THOMAS. It is possible to assume that under section (B) under the injunction capability that the use of the pesticide would cause physical damage.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. FRANK, and by unanimous consent, Mr. THOMAS was allowed to proceed for 2 additional minutes.)

Mr. THOMAS. That would be subsumed under section (B) under the use of the pesticide causing physical injury to the employee and, of course, if it was a mix-matched batch, it could possibly cause physical injury and it would be subsumed under that heading. It provides for it in terms of the possible physical injury based upon the mixing of a batch of pesticides. It is covered.

Mr. FRANK. If the gentleman would yield further, I am still unclear, if there was some defect in the manufacturing process, we are talking about mislabeling and mismatching, I would not want to see a grudging and narrow extension of the right to sue to an individual who is being damaged and it sounds to me that there is, in fact, an awful lot of hurdles being placed in the way of a litigant; particularly we are talking about only individuals now under the amendment of the gentleman, no corporations; it seems to me some of the serious problems might be excluded by the gentleman's amendment.

Mr. THOMAS. What would be the end result of a mixed batch of pesticides, if there was the possibility of causing harm to an individual, it is covered. If it means the strength would be wrong, that would be mislabeling; so it seems to me that all those aspects are covered, if the gentleman would examine those provisions.

Mr. FRANK. Mr. Chairman, if the gentleman would yield further, any defect in the manufacturing process would give rise to a right to sue? I am still unclear as to that.

Mr. THOMAS. It seems to me that it would be either misbranded, or would cause physical injury and those two would cover the problem of mixing.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. Certainly, I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, in furtherance of the questions asked by the gentleman from Massachusetts, I have several.

The first is, does the amendment of the gentleman limit individuals who have standing only to employees of an applicator of an agricultural pesticide?

Mr. THOMAS. Or of an employee of a person for whom an applicator uses the registered pesticide for agricultural purposes, or for an employee of a person who by contract provides the service to such individual to an applicator described in (A) or (B) above.

Mr. LEVITAS. What about the situation asked by the gentleman from New York?

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. LEVITAS, and by unanimous consent, Mr. THOMAS was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, regarding the question asked by the gentleman from New York who was concerned about his family or just the ordinary citizen who is not an applicator or an employee of an applicator or a person under contract, just, you know, your ordinary middle class individual living in suburbia who might be affected, I gather they are not covered under this right of action.

Mr. THOMAS. They have various remedies available to them in the State courts. The question is that if you open it up to allow any ordinary citizen the opportunity, you get back into the possibility of class action suits; you get into the possibility of sweeping actions; you get into possibility of filing actions for esthetic reasons, rather than the actual physical damage caused by the use of the application of pesticides.

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, the amendment offered by the gentleman from California (Mr. PANETTA) as I read it specifically precludes class actions.

Mr. THOMAS. It does, but it does not prohibit esthetic suits, a multiplicity of suits that are brought simply because people dislike the use or argues that there is some remotely related problem associated with the application of the pesticide.

For example, the amendment of the gentleman from California would not prohibit an individual in the Bay area from bringing suit to stop aerial spraying of malathion as was done, resulting in tremendous economic loss to the State of California.

Mr. PANETTA. Mr. Chairman, will the gentleman yield on that?

Mr. THOMAS. Certainly, I yield.

Mr. PANETTA. In fact, the court in that very instance decided against that individual who brought that suit, feeling that the public welfare in this particular instance mandated a continuation of the malathion spraying. It seems to me the gentleman's proposal would even prohibit that kind of action from being brought.

Mr. THOMAS. The question is timeliness and appropriateness, and clearly

in that case the time required in moving through the courts was sufficient to cause tremendous economic damage to the State of California. It seems to me that if someone is going to have the right to intervene in something as significant as for example the Medfly outbreak in California, it ought to be the relationship of real physical injury versus some esthetic injury, which the amendment of the gentleman from California clearly would allow.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. Certainly.

Mr. DOWNEY. I thank the gentleman for yielding.

I am still not certain. The gentleman seems to be resurrecting the old common law notion of privity here. I just want to see if I understand it correctly.

If I am living next door to someone who uses a pesticide and I am physically personally harmed, but I am not an employee and I do not stand in a relationship with the person using the pesticide, am I then precluded even if I am physically harmed from bringing an action in Federal court?

Mr. THOMAS. This amendment involves only agricultural products use, not home use or pesticide used in the backyard of an individual to kill tomato worms, or whatever.

Mr. DOWNEY. Let us assume I live next to a farm that used this and I was physically harmed, or I thought I was physically harmed. Would I be precluded under the amendment of the gentleman from having a Federal right of action?

Mr. THOMAS. The gentleman from New York indicates that he thought he was physically harmed in terms of the aerial application, the airplane buzzing his house and he does not want the house buzzed, so he argues that in some way the pesticide application is injuring him and he goes to court; he has remedies available in the State courts for damages caused.

Mr. DOWNEY. Let me give a different scenario; what about if my wife gives birth to a child and there is injury?

Mr. THOMAS. If I might finish the answer, he has other forms of equitable relief, injunctions and so forth, available in the State courts.

Mr. DOWNEY. I see; so the amendment of the gentleman precludes me from a Federal right of action if I honestly believe, or a reasonable man would believe that I was physically harmed, I have no remedy in Federal court; I have a remedy in State courts, but a corporation who gets sick has a remedy in Federal court; is that the sum and substance of the gentleman's amendment?

Mr. THOMAS. In attempting to narrow individuals in this amendment, it removes the very corporations that

the gentleman is so concerned about being defined as a person to be able to use an economic argument for a violation which could go so far as to be a registration procedure in pesticides.

So what I am trying to do is specify in areas which make sure that corporations do not have additional advantages in this legislation, as so ably pointed out by the gentleman from New York.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. THOMAS. Certainly, I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, as I read the amendment, the suit may be brought by the employee against either his or her employer or an applicator; no suit can be brought against the manufacturer. Do I read this correctly? No injunctive relief would lie against the manufacturer under the gentleman's amendment?

Mr. THOMAS. Not under the Federal right of action amendment in this legislation.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

I oppose the Thomas amendment and I would urge all Members of the House to do so. For whatever may be said in the well, if you look at the content of the amendment, this is what it really provides for.

First of all, it was said that it rules out corporations from suing. That is not, of course, what is at stake here. The question is whether the individual can sue.

It allows an employee, but it does not allow a farmer who might be damaged or injured in the application; it does allow his employee, that is the first flaw.

□ 1130

Second, I think it is clear, in answer to the gentleman's question here, that if someone is applying a pesticide, I would say to my friend from New York, and the wind is in the wrong direction and it drifts over to a nearby subdivision and does all kinds of damage to individuals there, whether it goes to the extent of a deformed child, as the gentleman cites in his argument, or any other kind of damage, if that individual is not an employee where the pesticide is being applied, that individual must then seek relief not in the Federal court under this statute where corporations and others may seek relief, but must hope, in fact, that the State law would allow him or her standing.

I am not an attorney, but we have checked with some excellent ones, and it is totally unclear as to whether or not certain kinds of grievances can, in

fact, be addressed in some of the States.

In others of the States, perhaps so. That is the major flaw in this amendment, and a serious one.

Now, the question has been raised about class action suits. The Panetta amendment specifically rules out class action suits.

We have been arguing over proliferation of law suits for years. Nobody is stronger in opposition to nuisance suits, no one is more strongly opposed to CARE packages for lawyers through payment of fees than the gentleman in the well.

I do not want that in the law. I do not want some attorney coming to someone who may or may not have a grievance and saying, "Let me take your case on a contingency fee basis because I think we can win some money from a corporation." We do not want that.

The Committee on Agriculture is almost unanimous in not wanting that. That is precisely the reason that my friend from California specifically rules that out in his amendment.

There are no nuisance suits whereby you can run them just for harassment effect because it is going to cost you, as an individual, whatever the court costs are and the attorney fees.

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

Mr. Chairman, could the gentleman indicate to me where there is precise language that indicates that that is not possible under the Panetta amendment?

Mr. FITHIAN. I will yield to my friend from Georgia (Mr. LEVITAS).

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, I am reading from the Panetta amendment. It says, "for equitable relief but not for damages or attorneys' fees."

Mr. FITHIAN. I only have the amendment of the gentleman from California (Mr. THOMAS) here in the well. I wanted someone to read it for the gentleman directly.

Mr. THOMAS. Mr. Chairman, I understand that. My question is: What is "equitable relief?" It is not defined anywhere.

Mr. FITHIAN. I think the gentleman knows "equitable relief" is a term which the court will decide, in this case the Federal court will decide. But the second clause that Mr. LEVITAS just read clearly answers the gentleman's question. So let us not slip off to the first clause. The second clause clearly reinforces what I said here; that is, that you do not get attorneys' fees.

Mr. THOMAS. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. THOMAS. There are a number of suits—good, solid suits—but there are also frivolous suits. There is no provision here that would rule out frivolous suits.

Mr. FITHIAN. If the gentleman, for example, believes in the cottonfields of California that he somehow has been irritated or offended and wants to spend his money as an individual to bring suit, even if it were frivolous, I suppose that is a theoretical possibility. But the harassment kinds of suits come from class action, and from that promiscuous propensity that we have in our society to try to pay for everyone's activities at court. I am totally opposed to that. That is not what the amendment has at stake here, and the gentleman knows it.

Mr. THOMAS. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. THOMAS. It specifically rules out, Mr. Chairman, class action suits. But the gentleman is certainly not crediting the fertile minds of individuals in terms of their ability to harass. If he will only look at what has occurred in recent years, not even in class action suits but by individual suits which are clearly frivolous.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. THOMAS. Mr. Chairman, will the gentleman continue to yield to me?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, there are a number of individuals who are more than willing to involve themselves in frivolous suits which are time-buying tactics. The amendment to the amendment offered by this gentleman from California, in its specificity, would clearly remove those kinds of actions.

Mr. FITHIAN. But I would remind the gentleman, and anyone following this debate, that he is simply throwing the baby out with the bath water, for not only does the gentleman rule that out but he rules out very legitimate suits for those people who are legitimately harmed who ought to have standing in Federal court under the statute.

Mr. HEFTTEL. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from Hawaii.

Mr. HEFTTEL. I thank the gentleman for yielding.

Mr. Chairman, would the gentleman in the well and the author of the amendment, the gentleman from California (Mr. PANETTA), explain to us

why we do not provide for the right of the individual to sue for damages?

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to my friend from California.

Mr. PANETTA. I thank the gentleman for yielding.

Basically, it was to limit the kinds of harassment suits that my colleague from California is concerned about. We recognize that suits are brought sometimes speciously for damages if attorneys can get a percentage of whatever damages come from a suit. For that reason I decided to limit my amendment to exclude the right of action for damages and to exclude attorneys' fees.

So we are only talking about the area of equitable relief. What is equitable relief? It is the ability of a court to issue an order to stop certain activities. That is all we are talking about.

It seems to me if an individual is looking at a possible violation of this act, that person, that family, needs some kind of access to our system of justice. The minimum we can provide is the ability to get an order from a court to stop activity that is in violation of Federal law.

Mr. HEFTTEL. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from Hawaii.

Mr. HEFTTEL. I thank the gentleman for yielding.

But, Mr. Chairman, in the instance where the damage to the individual has already occurred, the right of equitable relief for an injunction to stop an activity does nothing.

Would the gentleman address that part of the problem?

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has again expired.

(On request of Mr. HEFTTEL and by unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. PANETTA. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct in that instance. Under my amendment they would not be able to receive damages from a Federal court to restore that particular damage.

They would have to resort, then, to State court action under a tort relief action of some sort to try to obtain damages in that instance.

But my whole point here is that if we are establishing a Federal law, a Federal presence with regard to pesticide regulation, why in heaven's name ought we not to provide some access to Federal court?

Mr. FITHIAN. If I may just add to what the gentleman said, I would say to my friend, the gentleman from Hawaii (Mr. HEFTEL), if I understand where he is coming from, that he might indeed fault the Panetta amendment in the direction he is faulting it for not going far enough. That may well be. I think what that really says is, as between the position that at least your remarks would imply, and the Thomas position, the Panetta position is the true compromise before us.

I do not think there is any question about that. Yes, we could fault Panetta for not allowing them to go into that Federal court and claim the dollar damages. This, I think, represents what most of us believe to be a consensus amendment, a compromise amendment that we can get to.

We have had this battle before along the lines that the gentleman from Hawaii (Mr. HEFTEL) argued, and at least in the Committee on Agriculture we never did agree to go that far.

Mr. HEFTEL. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

Mr. Chairman, I am concerned because we do have a specific example in the State of Hawaii in which the milk was contaminated, in which there is reasonable expectation that individuals have been or will be damaged.

Under this amendment, those individuals, not as a class action, but the individual, as determined by their damages, would be precluded from going to Federal court, and because the State judges would have been appointed by the administration that is involved in the controversy, they would have less likelihood of a standing.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has again expired.

(On request of Mr. HEFTEL and by unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. HEFTEL. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I yield to the gentleman from Hawaii.

Mr. HEFTEL. I thank the gentleman for yielding.

Mr. Chairman, they would be less likely to obtain impartial judgment in State court and, therefore, their best representation would be in Federal court.

Is this a dialog that the committee and the gentleman in the well feel that they do not want to pursue because they feel that it is a form of protection for the individual that they do not want to provide?

Mr. FITHIAN. I do not want to project myself into the mind of the

gentleman from California (Mr. PANETTA), but I think that is a fair estimation of it.

Let me say just one last thing, if I may, and then I will not ask for additional time—I see the chairman is standing—but when this came up a long time ago in the Committee on Agriculture, the organization that was really opposed to section 16 came to me. I have worked with them on many occasions, and on almost all issues. They said, "This is all available to us now, to the injured party, in State courts."

Our counsel's opinion before the committee was that that was not true; that it is not really available; it is not accessible; we need the access to the Federal courts.

I asked the organization at that point to provide any legal opinion to the contrary, to the contrary of the committee's interpretation. To this date, as close as my working relationship is with them, they have not come up with that legal opinion anywhere in the country. Therefore, I have to believe that the Panetta amendment is essential, is essential to a moderately fair working of the basic law, and I commend him for offering the amendment.

Mr. HEFTEL. I thank the gentleman.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the Thomas amendment and in support of the Panetta amendment.

Mr. Chairman, I do not know whether the gentleman from California (Mr. PANETTA) mentioned the history of this amendment in the committee, but in the deliberation over this bill, which extended for well over a year, this subject was brought up and considered on numerous occasions.

The subcommittee approved language in the bill which is actually somewhat broader than the language which the gentleman from California (Mr. PANETTA) offered at this point. That was subject to reconsideration in the full committee and was stricken out by a one-vote margin in the full committee.

Mr. PANETTA then went back to the drafting board and tried to draw an even narrower version of the bill. In reading it I thought that he had made it about as narrow as you could possibly get, until I saw the language proposed by the other gentleman from California (Mr. THOMAS), who has succeeded in limiting this right to sue in Federal court, down to the absolute bare-bones minimum.

I do not quarrel with his judgment that that is a proper posture to take. However, I think that the Members should be aware that the Panetta language has been successively narrowed in its application to the point where I personally feel that it represents the

minimum constructive addition to the bill.

Now, in addition to that, I want to make a point about the balance represented in the bill as it stands: This is the kind of a bill, and we have said this before in general debate, which satisfies nobody completely. It is a bill in which there is a tradeoff of things which some people want in return for things which some other people want. And when that balance gets out of whack, then one or the other of several parties at interest here decide it is not worthwhile supporting the bill any longer.

Very frankly, the Panetta amendment represents a very, very small concession to the public interest groups, the environmentalists, the labor people, and so on, who feel that they need some access to Federal court.

I think it is beyond any reasonable question that this bill is quite beneficial to the chemical industry. I have no apologies for that. I wanted it to be beneficial to the chemical industry. But I did not want it to be drawn in such a fashion that it was felt to be solely a vehicle for benefiting just the chemical industry.

I believed that everyone should feel that there is something in this bill which gives them a somewhat improved status.

Let me say in all sincerity that I think that the Panetta amendment, which partially restores language which the subcommittee originally had in the bill, is an important ingredient in that bill. I think Mr. THOMAS would agree with my general observation but would say that it is not properly balanced unless it has his amendment in it.

Well, I beg to differ with him, and I hope very much that the members of the committee will weigh this very, very carefully and consider the fact that the Panetta language is so narrowly drawn that it precludes the vast majority of the nuisance suits that I fear and he fears and many others fear.

□ 1145

But, it does give that minimum protection which I think a large number of people are looking for.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding. I would like to join in support of the Panetta amendment. I do not think it is perfect. It is true that it does not allow damages to be collected, but I think it is a good, moderate position between the frivolous suits, that we fear on the one hand, and total lack of protection on the other.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Panetta amendment and in support of the amendment to the amendment offered by the gentleman from California (Mr. THOMAS). My reason for opposing the Panetta amendment is that I feel, indeed, much more information is needed before we take action of this nature.

During the subcommittee hearings there was very little discussion held on the Panetta amendment and its effects. Mr. Chairman, when FIFRA was enacted in 1972 this idea was proposed and rejected, and to my knowledge this is the first time that this proposal has been offered since that time.

As originally proposed in our subcommittee, the Panetta amendment would have provided that any person claiming to be aggrieved by a misuse of a pesticide could bring suit in any court of competent jurisdiction for equitable relief and reasonable attorney's fees. Many on the subcommittee felt that this was a lawyers' relief measure, and as finally adopted in the subcommittee the amendment provided only for equitable relief.

Mr. Chairman, I would be frank to say that I supported the amendment in subcommittee with the idea that we would hear much more about the circumstances surrounding the amendment when it was debated at committee markup. I felt that a more informed decision could be reached at that time. But frankly, Mr. Chairman, there was very little new information developed when the amendment was debated during that markup. Assertions were made that there were not adequate remedies under State law to sue to stop pesticide use violations. There was discussion, and indeed confusion, as to whether State and Federal enforcement action is adequate to address pesticide use violations, and whether indeed there is a gap in the relief available in a tort action in State courts.

I am certain that no member of this committee would want a citizen to go unprotected, and yet the opportunities for abuse and harassment under the Panetta amendment seem to outweigh the question of bringing suit in Federal courts. There is apprehension that Congress, if we enacted the Panetta amendment, would be providing a vehicle that could be used to stop aerial application of pesticides, could interfere with public health programs, and could also stop, in some instances, emergency application of pesticides if in fact injunctions were obtained against the lawful use of pesticides. These are valid concerns. However, I believe much more harm could ensue with devastating effects on food production and on many farmers and producers who depend on pesticides. Pro-

liferation of nuisance suits is the concern of many who oppose the Panetta provision.

Now, Mr. Chairman, to my knowledge there was no information presented to our committee to indicate that any citizen had brought a complaint to a State or Federal agency responsible, and that that action had been refused. Nor, was there any evidence as to States where a private citizen had not been able to sue in State courts for redress of grievances. So, speaking for myself, Mr. Chairman, I would want to have much more information than I presently have as to the consequences of this action before I would be willing to agree to make the Panetta amendment a part of FIFRA.

I asked the Congressional Research Service to examine this amendment and compare it with other or similar Federal statutes where a right to sue may have been added to such statute. That analysis—in pertinent part—is represented below:

The differences, however, in their operational effect are somewhat significant.

While the most obvious legal consequences of both types of provisions is to open the Federal courts to actions brought by private individuals without regard to diversity of citizenship or jurisdictional amount and to eliminate statutory constraints with regard to standing, most citizen suit provisions, unlike the proposed private right of action amendment, contain some basic procedural hurdles which generally serve to discourage the institution of frivolous or unfounded claims and to encourage a more consistent Federal enforcement policy.

Perhaps the most important barrier to citizen suit litigation filed under the Federal environmental statutes is the 60-day notice requirement. A typical provision may prohibit the commencement of a citizen suit prior to 60 days after the plaintiff has given notice of the violation to the Administrator, to the State in which the violation occurs, and to any alleged violator. See, e.g. 42 U.S.C. section 7604; Sec. 304, Clean Air Act. The Federal courts have interpreted this notice requirement as a means of affording the agency an opportunity to undertake its enforcement responsibilities and not to circumvent citizen suits with procedural maneuvers. *NRDC, Inc. v. Callaway*, 523 F.2d 79 (2nd Cir. 1976); *Friends of the Earth v. Carey*, 535 F.2d 165 (2nd Cir. 1976).

Another common procedural hurdle for citizen suit plaintiffs is the precondition that such actions are barred if the Administrator or State has commenced and is diligently prosecuting a civil action in a court of the United States or a State to require compliance with the law. In most such actions, however, in a court of the United States any person may intervene as a matter of right. See, e.g. 42 U.S.C. section 1857h-2 (Clean Air Act). The general purpose of this language is to prevent duplication of enforcement efforts and resources. The Federal courts have, however, indicated that citizen suits should not be stayed or dismissed on the theory that the Administrator is engaged in a negotiation or settlement or that the Administrator chooses not to pursue the violator. *Friends of the Earth v. Carey*, *supra*; *Metropolitan Washington Coalition for Clean Air v. District of Colum-*

bia, 511 F.2d 809 (D.C. Cir. 1975) (per curiam).

The absence of any statutory language in the proposed private right of action amendment as to the legal effect, if any, of pending litigation involving similar allegations of fact or law in actions instituted by the Federal Government or a State, or where Federal or State authorities are diligently involved in an investigation of the matter on which the private right of action is based, raises some question as to congressional intent as to the manner in which the Federal courts should proceed under such circumstances. Also absent is any language indicating legislative intent as to whether individual private rights of action filed in the same or separate Federal courts involving the same plaintiffs and defendants and/or the same alleged violations, may be consolidated for trial.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield.

Mr. PANETTA. Mr. Chairman, I thank the gentleman for yielding. I deeply respect his views and also his leadership on the minority side, but in this instance I do think that we have adequate information contained in a GAO report dated October 1981, that dealt specifically with the area of enforcement of laws relating to pesticides. The overwhelming conclusion by the GAO is that both the EPA and the States are not effectively enforcing this law in terms of protecting the public interest.

That, I think, is a clear indication of evidence that there is a weakness with regard to the enforcement aspect under this law. Second, it seems to me that what we are doing in this legislation is expanding Federal regulation and Federal dominance in the pesticide area. Thirty statutes allow for not only Federal court action but damages in Federal court actions so that it seems to me at the very least that if we are going to extend the law as far as we are in this legislation, we ought to then provide at least some access to the Federal courts.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. WAMPLER was allowed to proceed for 1 additional minute.)

Mr. WAMPLER. I thank the gentleman. Let me respond to my friend from California by saying that I think we both agree that we want any citizen who feels that he has been harmed or damaged to have the right to go into court. I guess the gentleman and I disagree on whether that should be a State court or Federal court, or, as I believe under this, both.

I have seen year after year this Congress confer upon the Federal judiciary additional responsibility and jurisdiction. We passed an omnibus judgeship bill here a few years ago, which established a large number of new and additional Federal judges. People complain about not having the opportuni-

ty to have their grievances which are properly and sometimes exclusively within the jurisdiction of the Federal courts, heard in a timely fashion. If we have an existing legal forum to hear these cases, and I have heard no one suggest that any aggrieved person does not have the right under State law to proceed to have that grievance addressed in State courts, why then should we confer that jurisdiction upon the Federal courts?

It seems to me that by adopting the amendment to the amendment with clarifying language in it to permit people to have the opportunity to go into State court for the redress of their grievances is proper.

Mr. FITHIAN. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Indiana.

Mr. FITHIAN. I would ask the gentleman from Virginia whether or not there is something magic about ruling out harassments by keeping them out of the Federal court, by allowing them to go to the State court. Is it the assumption of the gentleman that there would be somehow or other a proclivity on the part of the Federal courts to permit all kinds of harassment? I think harassment is ruled out entirely by the gentleman's amendment, but I do not understand why the gentleman gets concerned about harassment when it is just shifted from Federal to State or State to Federal. It seems to me that if someone is going to harass, they can harass in the State court as well as in the Federal court.

The fundamental question I would respond to is the information we had that there is absolutely no assurance in the several States that the State court permits access for grievances under this.

Mr. WAMPLER. I would respond to my friend from Indiana by saying that I have reached no conclusion as to whether we might have a greater number of harassment suits filed in State vis-a-vis Federal courts, but we do provide for a multiplicity of opportunity for harassment.

The CHAIRMAN. The time of the gentleman from Virginia has again expired.

(At the request of Mr. SOLOMON and by unanimous consent, Mr. WAMPLER was allowed to proceed for 2 additional minutes.)

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for making an excellent point. This in no way pre-empts any action that an individual might want to make in a lower court. I serve on the "Pork Barrel Committee" in this Congress, called the Public Works and Transportation Committee, and let me tell the gentleman what

has happened in the last 4 years. In the last 4 years, in the Buildings and Grounds Subcommittee, we have approved prospectuses for expanded courts throughout this Nation totaling billions of dollars, and we have more billions of dollars waiting in the wings to be approved because of legislation that is passed by this Congress overloading the Federal court system creating a demand for greatly expanded court facilities, requiring the appointment of hundreds of new judges and the hiring of thousands of new judicial employees all of which has compounded the fiscal mess we are in today.

I commend the gentleman on his amendment. We have no business throwing more cases into the Federal courts the way we are. It ought to be left at the State level.

Mr. PANETTA. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I would be happy to yield to my friend from California.

Mr. PANETTA. I thank the gentleman for yielding. If the gentleman feels the way he does, would he also strike then the section that allows the corporations and the chemical companies access to the Federal courts for redress of violations of this act?

Mr. SOLOMON. I believe that is in the gentleman's amendment.

Mr. PANETTA. No, it is not. There is a separate section in here that allows the companies to go to Federal court to deal with violations of the law and seek punitive damages and treble damages.

Mr. SOLOMON. Then that ought to be left to the lower courts as well.

Mr. WAMPLER. Mr. Chairman, if I may reclaim my time, it is my understanding that the amendment of the gentleman from California (Mr. PANETTA) could perhaps apply to as many as 800,000 injuries. That conceivably could be 800,000 or more lawsuits, and if I am knowledgeable of the present docket situation in most of our U.S. district courts, it takes one an average of 2 to 5 years to have a cause heard. I think by adopting the amendment to the amendment we will indeed protect the rights of individuals to sue in State courts.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Panetta amendment and in opposition to the Thomas amendment. I would like to explain the situation in Oregon, where we have vast national forests. When a harvest is made in one of these national forests, we of course want to replant new trees. Brush grows up in the areas that have been harvested, and this brush tends to impede the growth of the new, small trees. So, they have for the past 20 years had a practice of spraying phenoxy herbicides generally on the brush that is growing up in order to impede

its growth and to allow the small trees to come up and grow faster.

The problem has been that many of the national forest areas are situated near where people live, and the spraying with the phenoxy herbicides occurs generally by airplane. Controversy arises. Many people feel these phenoxy herbicides are damaging to their health. There are reports of miscarriages, reports of animals dying, of fish dying. Nothing has ever been proved. Statistically, many people feel that they have proven their case, but nobody has really done so.

I believe the phenoxyes are harmful, dangerous. I join many of my constituents in a battle against their use. We go to the forest ranger or forest supervisor, and asked them not to spray, not to let the spray drift over onto farms and homes, and the Forest Service generally refuses to do so, although we have been trying to get them to do the brush control manually to put more people to work. The amount of this manual brush control has been kept to a minimum, and they continue to spray, generally by airplane.

So our people who are concerned about their health damage from phenoxyes feel helpless. To give these people the right, if they feel they have a case and want to back it with the money they would have to spend to go to court to get the Forest Service into Federal court, seems to me a basic right they should have.

I remember so vividly when I first became involved in the matter of these phenoxy herbicides, I had a town meeting in a place called Coos Bay, Ore. A mother, a lovely woman in her thirties with a beautiful little daughter, a red-haired little daughter named Angelina Lee came to the meeting—Angelina Lee had become very ill. They had lived up in the forest where they sprayed these phenoxy herbicides, and Angelina Lee came down with idiopathic thrombocytic purpura. The users said that could not be caused by phenoxy herbicides. But they found after investigation, they found the herbicides in their drinking water and they found them in Angelina Lee's blood, and a scientist at the University of Wisconsin discovered that thrombocytic purpura had been caused in other animals by phenoxy herbicides.

But, yet they have not been able to sue. The girl almost died. This lovely little girl had to have her spleen removed, and now is subject to ailments almost at a whim. I believe that with cases such as the abortion cases and the miscarriage cases that we have had, with the many other people who feel their rights have been infringed, to give them an opportunity where they really feel they have proven, serious grievance; to go to court is a right they certainly should have and would

make them, I think, less likely to go out in the forests and protest the spraying of these herbicides if they felt they had an avenue in the courts to do something about it.

So, I would hope this committee would support the Panetta amendment and vote down the Thomas amendment.

Mr. DASCHLE. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from South Dakota.

Mr. DASCHLE. Mr. Chairman, I commend the gentleman for his statement. I think we ought to get back to the fundamental issue, and that is simply, do we treat corporations differently than we treat individuals.

In the Agriculture Committee there was considerable disagreement over whether an individual can even sue under FIFRA in State court. And even if it is the case that an individual can sue in State court that would not provide the relief necessary. State courts are often unfamiliar with the Federal law and there are numerous complaints from farmworkers that State courts are an unfriendly forum for alleged violations of pesticide law, with State courts bowing to local pressure.

And EPA has not been aggressive in levying fines against pesticide applicators who injured farmworkers through misuse—only six fines have been levied in the past 6 years, despite the fact that there are an estimated 80,000 pesticide poisonings annually.

Citizens need Federal court access to provide relief for the misuse of pesticides. Access to the Federal courts would also help insure that our pesticide laws are taken more seriously by those who manufacture and apply pesticides. Other laws, among the Clean Air, Clean Water, CFTC, and the Perishable Agricultural Commodities Act already permit citizen suits. And so this amendment is only consistent with rights allowed under those laws and with the rights given the chemical manufacturers in the bill before us today.

□ 1200

We are locking in a double standard here. The issue is not: Can the Federal courts handle these cases? The issues should not be: Do we allow access to State or Federal courts? The issue is: How do we insure that a corporation is not treated differently than individuals?

If we do not pass the Panetta amendment, we are fundamentally changing the right of corporations to exceed the rights of individuals under the Federal law. That, I think would be a tragedy. I hope that when we vote, we understand what we are talking about here. We are talking about giving equal opportunity to individuals, as we do to corporations.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Panetta amendment.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. SWIFT. Mr. Chairman, the Federal Insecticide, Fungicide, and Rodenticide Act (H.R. 5203) is vitally important to regulate and control the use of pesticides in our Nation. With nearly 800,000 pesticide-related injuries each year, and nearly 800 related deaths, there is clearly a need to protect our citizens from misuse of dangerous chemicals. Yet the enforcement of these protections has been sorely inadequate. For example, the Environmental Protection Agency and its State agency counterparts have levied fines only six times since 1978 against pesticide applicators who injured farmworkers. Yet, with the current administration's budget cutbacks, the prospect for increased EPA activity seems bleak indeed.

The Federal courts serve to rule on violations of Federal law. Since FIFRA is such a Federal law, commonsense dictates that an individual harmed by a chemical company or pesticide applicator ought to have the right to sue that company in Federal court. Yet H.R. 5203 allows no such right to sue.

The amendment Mr. PANETTA is offering today would provide for a right to sue for violations of the act. It is merely a limited right to sue, to reprimand the violator and insure that the violation would not occur again. It would not allow for damages, penalties, fines, or imprisonment. It would only allow for injunctions of actions shown to be in violation of the act.

We need this avenue for redress of grievances now. Environmental Protection Agency officials said in 1979 that there were more than 25 new pesticide registration applications submitted yearly and consequently the agency "hasn't even begun to scratch the surface of the impact of the chemical revolution in this country." In my own State in 1977, the National Grape Cooperative Association protested aerial application of herbicide on wheat that damaged the State's Concord grape harvest by 15 to 30 percent. In my district, in the small town of Index, fear of careless application of pesticide by the railroad caused a storm of protest.

The private right of action would provide a responsive means of redress. It is particularly important to permit citizens to help themselves rather than have to rely on a sometimes reluctant big brother government to do it for them.

Mr. Chairman, I would urge my colleagues to support this amendment. The private citizen ought to have the

right to sue in Federal court for violations of Federal law.

Mr. LEVITAS. Mr. Chairman, I am perhaps concerned that the Panetta amendment really does not go far enough or do enough. It provides solely for equitable relief, and that in a sense means an injunction to stop something from happening or prevent something from continuing to happen. Let me give the Members an example of the type of situation I am talking about.

I live in a suburban Atlanta area. On two occasions that densely populated suburban area was sprayed with an aerial spraying of Mirex to kill fire ants, presumably.

Now, there are many people who are concerned that aerial spraying of these insecticides can be physically damaging. This simply gives an individual the opportunity to go into court and seek relief if this law is being violated.

Now, if corporations have that right, why should not individuals?

In a later discussion today I will strongly defend the rights of the chemical companies to have access to the Federal courts because I think they are entitled to it, but in this situation this is such a modest little opportunity for individual citizens to come in and say, "look, this law is being violated, and let us put a stop to it," without the opportunity for recovering damages, without the opportunity for a class action suit, and without even the opportunity of recovering attorney's fees, going up against some very large corporate entities.

I think this is a very, very modest approach. I am not even sure it is going to accomplish that much, because most of the time people will have already suffered the damage after the acts have occurred. But I think this is at least an opportunity to prevent further damage from occurring.

The most important thing, Mr. Chairman—and that is why I take this time—is not the modest Panetta amendment but, rather, what I think is the significance behind the amendment offered by the gentleman from California (Mr. THOMAS), for whom I have great respect and great appreciation for his work. But what concerns me, and I think it is revealing, is that if the proponents of the Thomas amendment are so concerned about the modest Panetta amendment, I think we are seeing the footprints and the fingerprints of a major industry effort in this case not to really have adequate opportunity for protection of the public. That is what concerns me. This is such a modest effort.

If the chemical industry is opposing this, then where are their fingerprints elsewhere in this legislation? Where

are they coming from? What is it they are after?

I happen to think that this bill is a very important move in a right direction to help the chemical industry. Section 3 has some of the most far-reaching and beneficial reforms of cutting redtape, eliminating duplicative applications, and using information that is already on file without requiring repetitive filings. I think it is a major move forward to help this industry, but if they are not even willing to let an individual go into court and stop a violation of this act, then I think they are showing their hand too early and in too negative a way, and it raises questions in my mind about other features of this legislation and other times when they are going to be opposing or proposing amendments to this legislation.

Mr. Chairman, I think that is the significance of the Thomas amendment, and for that reason, I think it is very important early on to lay it out on the table. I think we should defeat the Thomas amendment and pass the Panetta amendment and then we will see where else these people are coming from.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Virginia.

Mr. WAMPLER. Mr. Chairman, I cannot tell the gentleman who all is opposing the Panetta amendment. I can tell him that I understand that the American Farm Bureau Federation and the Georgia Farm Bureau Federation are opposing it. So the gentleman can draw his own conclusions.

I will say that I think there are a lot of farmers and ranchers who oppose this because they see it as a vehicle where they are going to be confronted with unlimited suits in the nature of harassment, and it is going to have a great bearing on the cost of food in this Nation. For those who consider themselves consumer-oriented Members that should be important.

Mr. LEVITAS. Mr. Chairman, I would like to address that point because I think it is very important.

The fact of the matter is that those people the gentleman has just described, if they violate this law, are going to subject themselves in my opinion to suits for damages in State courts and I think that is fine. What I am trying to get at by supporting the Panetta amendment, is to stop these types of actions which are violations of this law.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Panetta amendment.

Mr. Chairman, I am not an expert on pesticide, and I am not from a farm area. We have a concern on Long Island because the golden nematode, which may be known to some of you,

has, in the past, hurt the eastern Long Island potato crop and in order to deal with it Temik was used and it is currently being found in our water supply.

That causes me great concern because we drink from a glacial aquifer, and it—Temik—has a potential for affecting literally hundreds of thousands and potentially millions of Long Islanders.

No one disagrees with the notion that we are far too litigious a society, and the notion of harassment—and I am not sure exactly what that means—is one that we are concerned about. But we have to face the fundamental truth of litigiousness and weigh that against the public's right to a healthy environment and also against modern scientific techniques which enable us to measure minute quantities of dangerous toxants in water supplies, in the air and in the soil and the potential hazards that that has for our population. And nothing, it seems to me, is more apparent or has been more apparent over the last few years than the whole concern of toxic substances in our environment.

Now I understand and I think I can appreciate the problem the farmer has with the fact that he may be faced with some pest emergency and the local environmental group ignores the fact that there is a real economic consequence if spraying does not take place.

I might add as an addendum to that that I do not believe we can, although I would like if we can to have a hazard-free society. I believe that there is certainly a trade-off between having abundant fruits and vegetables and grains that we have and the need to spray. I understand that. But what seems to me to be missing here is the need to carve out an exception that precludes harassment and but recognizes an individual's right of action.

Let me suggest what I am talking about. I happen to think the Panetta amendment does not go far enough. I happen to think that if we are going to extend the right of private action, it should go to individuals. But I also believe there might be an opportunity prior to the granting of injunctive relief for there to be a summary finding of facts so then both parties can have an opportunity in court to weigh the relative scientific information to determine whether or not equitable relief should or should not be granted. That is a way to protect both the interests of the farmer and the interests of the individual at the outset of the spraying.

Second, it seems to me as well that if we are going to elevate for corporations a private right of action, the people of Long Island, the people of Georgia, or the people of any part of our Nation who are affected by the

spraying of a pesticide which might appear on the surface to be safe but 5 years or 4 years later we find it has a profound impact on unborn children or one class or another of our population, should have a right to sue, and there should be a right for action in Federal court.

Why would we want to deny that right of action? If you have a right or a remedy, if you decide just to go to State court, you might not have an opportunity to get reasonable damages. There may be statutes that prohibit going after a California corporation by a New York resident, and it seems to me that we can solve these problems.

The Panetta language is the de minimus amount of change that is acceptable to this gentleman from New York, and I suspect, to others, but it seems to me that you might want, as members of the committee dealing with this, to take a look at being able to protect both the interests of the farmer and the interests of the individual.

Mr. Chairman, the Thomas amendment clearly does not do that, and the Panetta amendment begins to address that, but without, in my opinion, going far enough.

Mr. HEFTTEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Thomas amendment and in support of the Panetta amendment.

Mr. Chairman, it is somewhat ironic that we who were elected by individuals, by something called the people, are about to deny to those people who cast a ballot the right to go to Federal court to sue for damages, while we extend to corporations who do not cast a vote at the ballot box but may influence in other ways and places the right to go to Federal court and sue for not only actual damages but for punitive damages.

The Panetta amendment does not go far enough. It does not give to the individual the right to sue for damages. If the individual never had the opportunity to go to court and ask for injunctive relief to stop a harmful practice about which it had no knowledge the individual has no relief in Federal court.

We have that specific example in the State of Hawaii where heptachlor was used to spray pineapple crops and the public did not know that the remains, called pineapple chop, were being fed to dairy cows from which the people got their milk supply, which in turn was found to be contaminated at four times the maximum allowable level under the law, pertaining to heptachlor.

We are in the middle of a controversy in which the individual has been harmed but would be denied the right to sue individually for damages in Federal court while corporations would

have that right. It simply makes no sense.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, the gentleman is making a very valuable point.

I propose to offer an amendment later to ban the sale of toxaphene, which is a spray used on the cotton crops in the Southern States, a chemical which is picked up by the winds and wafted a thousand miles to Chicago into the Great Lakes, where it enters the food supply by being ingested by the fish.

Now, would the gentleman think a person who was harmed by toxaphene which was sprayed originally in Mississippi or Alabama would be required by the bill to go to Mississippi and file in the State court there?

Mr. HEFTEL. Mr. Chairman, under the Panetta amendment the individual would have no right to sue for damages in Federal court. That individual could only go to State court and ask for injunctive relief, and he would have to do it in the State of Mississippi, not in the State of Illinois.

I am disappointed in this body, that this debate is not whether or not we will allow the individual to sue in Federal court for damages, but whether or not we will simply allow the individual to go to Federal court for injunctive relief to stop a practice which will damage the individual when in fact the real threat is the damage because the individual does not normally learn what is happening until after the damage to the individual occurs.

□ 1215

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words and speak against the amendment.

Mr. Chairman, I think it has been fairly well established by this debate now that the Thomas amendment is so minimal a right to sue that we are really talking about most of those affected being restricted to State courts.

For instance, under the Thomas amendment no one can sue the manufacturer. It has a requirement that only the employer can be sued or the applicator.

A manufacturer who has been systematically mislabeling products or mismixing or mismatching them is never suable in Federal court under the Thomas amendment.

Under this, no one can bring an injunction to stop the manufacture of a defective chemical and there would be no private right whatsoever to sue.

What we are being told is, "Well, that is OK, you can do it in State court." Then we are being asked, "What is the matter with State courts?"

Mr. Chairman, I think there is a fundamental inconsistency here.

We will later hear offered an amendment by the gentleman from Iowa about one of the major issues in this bill which is that it severely restricts the States in many ways. This is a bill which says, in its present form, which is supported by the gentleman who are opposing the Panetta amendment, that the States cannot even get information unless they get the Federal Government's permission.

Where is the consistency between telling individuals they may not go to Federal court to sue a manufacturer who has been systematically mislabeling a product, simply to get an injunction to make a manufacturer correct the mislabeling.

And on the other hand, the entire State of Massachusetts, or the State of New York, or the State of California, under the bill as presently drafted cannot get information that its officials think it may need.

So, we tell the States they have to go hat in hand to the Federal Government, but we will not let an individual who may be damaged by a systematic mislabeling practice to go to Federal court for an injunction.

As has been pointed out, the Panetta amendment is terribly limited and it allows no money damages. There can be no financial incentive for anyone to bring suit. There are no class-action suits, no fees.

Without the Panetta amendment there is no uniform Federal standard that can be applied for the enforcement of a Federal law.

We are being asked to create Federal law and expand Federal law to govern this area. We are being told that the States are to have a very limited role in administering it and the States are to be preempted from any further regulations, that everything is Federal except the right of an aggrieved individual to go to Federal court, not to get money, but simply to make his or her case that somebody ought to stop doing something harmful.

Under the Thomas amendment, a person who lives next door to where a pesticide is being used cannot seek an injunction. This says you can only have suit if the employee will sue the employer. This is unrealistic in many cases, given employee-employer relationships.

When you restrict the right of suit to an employee you have a class of people who may be coerced. Some may not be. Some may be unionized. Others may be vulnerable.

The individual who is next door, whose property, and whose family may be hurt, somebody that may be negatively impacted by this mislabeling, mismixing of products, may not bring a suit even to say "Please make them stop it." We do not seek in the Panetta amendment to get them

money, but only a right to stop a harmful practice.

And we will get no uniformity here because people cannot go to Federal court.

It is an ironic inconsistency that a bill which seeks to federalize this area, excessively, in my judgment, which takes away from the States the powers that they ought to have in governing themselves to improve their environment, then turns around and says that it would be a violation of the Federal system to allow an individual to sue in Federal court.

Under this pending amendment only an employee can sue, a person who might be economically vulnerable. The person who lives next door, the person who may be physically affected, will not be able to sue and no one will be able to sue a manufacturer in Federal court at all. Requiring that there be a series of State suits against the manufacturer would defeat one of the purposes of the bill—uniformity of regulation.

Presumably there is a desire for uniformity. To require that there be individual State suits against a national manufacturer seems to be inconsistent with that, since it could mean one manufacturer being subject to varying standards.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from California.

Mr. HUNTER. I think one point we are missing here is that our Federal courts are operating with very limited resources. Right now we have Federal courts, especially on the west coast, that have tremendous backlogs of cases, both civil and criminal.

This is an area, the tort area, that has traditionally been an area that has been covered by State courts.

That does not necessarily mean there has to be a Federal coverage of the area of regulation.

I think the argument has been made that the reason we need to expand this to individuals is because corporations now have Federal court standing. Perhaps we should constrict the law, not liberalize it.

I think the backlog in the Federal courts and the projected lack of resources mandates a no vote on this amendment.

Mr. FRANK. I would like to take back my time.

The gentleman is correct, there is overcrowding in the Federal courts.

But there is equal and in many States more overcrowding.

The CHAIRMAN. The time of the gentleman from Massachusetts (Mr. FRANK) is expired.

(By unanimous consent Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. There is equal overcrowding in the State courts.

To say that we are going to reinforce and create this Federal FIFRA structure with Federal right and Federal regulations, but our Federal courts are too crowded and you have to do your litigating in the State courts, that is reverse revenue sharing.

The State courts pay people, they have personnel problems, and overcrowding problems.

It simply does not make any sense in terms of the judicial system of this Nation as a whole to say that you are going to relieve overcrowding by pushing a class of cases from the Federal courts to the State courts.

In fact, when we deal with national manufacturers, the question is, If there were disputes about labeling or about the impact of national products, is it more efficient to have those dealt with in Federal courts where we can ultimately reach some uniformity of judgment, or are we going to have a multiplicity of judgments in State courts, and have manufacturers of national products perhaps being subjected to conflicting opinions in different State courts with no ability to bring that issue to the Federal court?

So I do not think the overcrowding argument makes any sense at all.

Mr. HUNTER. Will the gentleman yield further?

Mr. FRANK. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

I would presume at this time most of these cases that would arise under this type of action are being covered in the State courts because obviously no Federal court jurisdiction exists.

Mr. FRANK. That is right. But we may have an expansion of actions under this new bill.

I would like to add another point. I am a member of the Subcommittee on Courts, Civil Liberties, and the Administration of Justice and I think as a general point that if there are problems with the way the courts function, we should address those problems and resolve them systematically.

I do not think it is a sensible scheme to say that the courts do not function well; therefore, let us keep some people out of them.

If it is too easy to bring a harassing type of request for injunctive relief in Federal suits, that is something that ought to be addressed. This is not something that ought to be left as a general problem, but with access denied to some.

Just recently the Judiciary Committee passed a package of legislation to try to rationalize and restrict the Federal jurisdiction and to repeal some of the mandatory preferences that exist in the Federal courts.

The Judiciary Committee voted to repeal mandatory jurisdiction of the

Supreme Court in certain cases. This is how to correct problems.

If the Federal courts are not working well in a particular class of cases, say in injunctions, then the sensible thing to do is to try to improve the procedure rather than say that we will continue to let it be bad for a lot of cases, but some people will not be able to get in there at all, no matter how valid their cases.

Mr. THOMAS. Mr. Chairman, I rise to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California (Mr. THOMAS) is recognized.

There was no objection.

Mr. THOMAS. Mr. Chairman, just a couple of final points.

The gentleman from Georgia indicates he wonders whose fingerprints are all over this particular amendment. I would tell the gentleman from Georgia that the fingerprints are those of my constituents.

I represent one of the largest agricultural districts in the United States. Agriculture is a tremendous economic factor in the State of California. As a matter of fact, agriculture is California's No. 1 industry.

We have witnessed in California in recent years a number of suits by individuals who have no physical injury whatsoever, but who are in some way esthetically injured.

I fully understand the gentleman from California's amendment says that there will be no class action suit. It certainly does not prohibit a multiplicity of suits by individuals to continue the kind of harassment that has done significant economic damage with virtually no environmental or individual damage, given the kind of pesticides used.

The gentleman from Georgia indicated Mirex. My understanding is that Mirex has been banned and, in fact, the process works. No individual is precluded from going to State court for any kind of injunctive or damage relief.

The point about corporations being contained in this legislation and individuals not is I think a confusing point. The reason corporations are provided with the right to sue is that under FIFRA they are given certain Federal rights. It does not make a lot of sense to this gentleman to say you are given certain Federal rights as a corporation, given the pesticides that have been approved, and then you have to find some kind of relief when those rights are being violated in the State courts.

It seems appropriate that the Federal courts are the proper level to seek remedies for corporations since the rights are federally granted.

What my amendment is trying to do is provide specificity to the gentleman from California's amendment in the area of who the persons are and what relief is available.

I yield back the balance of my time.

Mr. PANETTA. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the Thomas amendment.

I will be brief. I think we have completed a good debate on these issues.

I think basically the questions Members have to ask are these:

Is there adequate enforcement now by EPA and by the States with regard to pesticide law? The one thing we do have is a GAO study that says that at the present time there is inadequate enforcement by both the EPA and the States.

When it comes to State action, State court action in this area, we have no evidence that in fact there is effective relief provided through State courts when it comes to a Federal law of this nature.

The second point I would make is that if we are going to establish a Federal law, a Federal regulation of this magnitude in the area of pesticide regulation, it seems to me legitimate to at least offer access to Federal courts at the same time.

We do it for corporations in this bill and I would remind Members that the section that does it not only allows for an action for equitable relief but also for an action for damages, and not only for damages but for treble damages or punitive damages to the corporations or the chemical companies who sue in a Federal court.

I think if that provision is going to be part of this bill that at the very least we need to provide similar access to Federal courts by individuals.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman.

Mr. HYDE. I was very interested in the gentleman's discussion of the GAO study where it reports the States have been ineffective or inadequate in enforcing rights under this law.

But I listened carefully to find out if there was any evidence that the State courts were unequal to the task.

The gentleman said he has no evidence that they are effective. But have you any evidence that the State courts are not capable, or administering justice to people whose rights are aggrieved?

Mr. PANETTA. What we have seen in the committee, and we asked that question, we have seen no evidence, in fact, that the State courts are enforcing the law of FIFRA. In fact there may be some personal injury actions brought, but that as far as violations of the statute at the Federal level, that in fact there is no access for private individuals in the State courts for that purpose.

Mr. HYDE. You are saying, then, that justice has been denied to people who have sought to enforce their

rights under FIFRA in the State courts?

Mr. PANETTA. Exactly. The gentleman is absolutely right.

Mr. HYDE. That is very unfortunate and that should be corrected. You recall, I am sure in the 1930's when the Norris-LaGuardia Act was passed and the injunctive relief of the Federal courts was taken away from them in labor disputes?

In those days somehow the injunctive relief that was required by statute in the Federal court was found oppressive in labor disputes.

Does the gentleman feel injunctive relief will not be oppressive in matters of enforcing FIFRA?

Mr. PANETTA. I think at the very least we must provide injunctive relief in this instance. We are not providing damages. We are not providing an action for attorneys' fees. We have set strict limitations on this that at a minimum, equitable relief seems to me to be legitimate for individuals that are afflicted by violation of a Federal law.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Oregon.

Mr. WEAVER. It has been said there is no example of a place where you cannot sue in the State court.

I cited the fact that the Forest Service is the largest user of Phenoxy herbicides in the Northwest and, of course, the Forest Service must be sued in Federal court.

Mr. PANETTA. To that extent, that is correct, where a Federal agency is involved.

The last point I want to make is with regard to the Thomas amendment versus the amendment I offer, but first, as I have stated, the amendment I presented is limited in terms of the accessibility that is provided. I think I have taken more than adequate precautions to try to avoid the kind of harassment suits we are all concerned about by prohibiting damages, and by prohibiting class action suits.

What the Thomas amendment does is takes it a step further. It says that you have to be an employee. A farmer does not have access under his amendment. Children in a playground who might be injured do not have access under his amendment. Household impacts and injury to families would not be covered under his amendment.

The second part of my objection is that the Thomas amendment, in fact, restricts actions against the manufacturer or the chemical company itself.

So I think those kinds of limitations would, in effect, prevent the courts from really providing the kind of relief we are seeking.

So I think in justice it is important that we enact at the minimum the Panetta amendment and reject the Thomas amendment.

● Mr. GORE. Mr. Chairman, I rise in support of Mr. PANETTA's amendment which provides a private right of action under FIFRA for injunctive relief.

Current law restricts actions to enforce violations of the Federal Insecticide, Fungicide, and Rodenticide Act to the Environmental Protection Agency and its State counterparts. According to several major court decisions, private individuals are barred from filing lawsuits in Federal court to challenge violations of the act.

However, EPA and the States have compiled an extremely poor record of enforcement against FIFRA violations. Therefore, a private right of action is essential.

According to data recently supplied by the Environmental Protection Agency, only seven criminal cases have been referred to the Department of Justice under FIFRA since fiscal year 1979. In comparison, 43 cases were referred to the Justice Department under the Clean Water Act during this period.

During fiscal year 1981, EPA assessed only \$123,473 in civil penalties under FIFRA. In comparison, nearly \$3 million in civil penalties were assessed under the Clean Water Act, and over \$9 million in civil penalties were assessed under the Clean Air Act during 1981.

The proposed private right of action is particularly important in view of recent cutbacks in EPA enforcement activities and proposed cutbacks in State grants for pesticide enforcement. For example, Federal inspections for pesticide misuse decreased from 485 in fiscal year 1981 to 40 during the first two quarters of 1981. This represents a 83.5 percent decrease on an annualized basis.

While EPA officials have argued that State agencies will compensate for cutbacks in Federal enforcement efforts, increased State enforcement appears unlikely because of decreases in State grants for pesticide programs and because of the budgetary problems anticipated by many States in the current fiscal year. For example, on May 24, 1981, New York State's commissioner of environmental conservation testified before the House Appropriations Committee that:

New York's 1982 pesticide grant from EPA was reduced by almost 40 percent from the 1980-81 maximum level which nearly met state criteria for a full pesticides certification and enforcement program. . . . The Administration's 1983 budget proposes a further reduction of nearly 20 percent, \$40,000, from this already reduced grant. Both the 1982 and 1983 cuts will hit New York's pesticide control program in 1983, and the cumulative effect will be very severe.

In summary, I urge your support for the Panetta amendment to H.R. 5203. This amendment holds out the promise of improving enforcement of one of our Nation's most important health

and environmental statutes without imposing additional costs on taxpayers.●

□ 1230

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. THOMAS) to the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: Page 63, strike out line 21 and all that follows through line 10 on page 69.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 10 additional minutes.)

Mr. HARKIN. Mr. Chairman, my amendment basically would strike section 11 of the bill, which seeks to modify section 24(a) of the existing FIFRA legislation first adopted in 1972.

I want to take the time in the well here to bring Members up to date on the history of this legislation and what has taken place since 1972, to sort of lay the groundwork for what is transpiring right now in this legislation.

Section 24(a) of the FIFRA bill was adopted in 1972, the first FIFRA Act, the Federal Insecticide, Fungicide, and Rodenticide Act. Section 24(a) was designed to provide a basis for State and Federal partnership in regulating pesticides. When I use the term pesticides I use it to mean the three basic ones, the fungicides, the rodenticides, and the insecticides. So I use the term pesticides to include all of those. Section 24(a) was designed to set up a State-Federal partnership in regulating these pesticides.

First of all, it set a Federal registration procedure and regulations, which was a floor from which the States could then work. In other words, the Federal law set a kind of floor and then said if the States wanted to, they could build from that floor to meet special local concerns or needs that they might have. In other words, the States could go higher, but they could go no lower. Of course, this same philosophy was used in numerous other pieces of legislation adopted by this Congress—health and safety laws, surface mining laws, the Clean Air Act, OSHA, Flammable Fabrics Act, and probably some others that I am not aware of.

The reason for this was the need for some national legislation, some national regulations, but also a need to

permit States to design and implement rules and regulations again that meet special local needs and conditions. This, of course, is the classic Federal-State cooperation, where the Federal Government sees a national need for legislation, recognizing at the same time that there may be very special needs in certain areas of the country, and then we allow these States to adopt their own laws and regulations to meet those special needs.

I want to make one important point at this time. In the 10 years of operation of section 24(a) of the FIFRA bill, in these 10 years from 1972 to 1982, not one request has been made to change this section by any State or by any administration. Let me repeat that: In the 10 years that this has been in effect, there has been no request from any State, no request from either the Nixon, the Ford, or the Carter administration or the Reagan administration to change this provision of law. So we wonder why we have to have a new section 11 if no one has requested any changes.

The only challenge that was made to section 24(a) was made by the National Agricultural Chemical Association (NACA) in a case in California, NACA against Rominger, who was the director of the California Food and Agriculture Department in 1980. This challenge went to Federal court and, basically, NACA argued that the State could not have stricter standards than the Federal Government. That was their basic argument. The courts, however, ruled in favor of the State.

After this decision, the pesticide manufacturers decided to try to change the law on a national level. Now, it is important to know that, No. 1, they attempted to get the changes made in the California Legislature. The legislature responded negatively. They had just passed their law 1 year before, and California wanted to get the bugs worked out, so to speak, and they put a moratorium on any changes in the legislation. So the pesticide manufacturers, as they came to Washington to try to get the law changed, they also, as I said, attempted to get the law changed in the California Legislature, and the California Legislature denied that. At the same time, as I said, they initiated action in Washington to get the law, 24(a), changed, they also began to work on another track—and properly, I might add—with the office of administrative law in California, which, of course, was set up specifically to review regulatory problems.

These two, NACA, the pesticide manufacturers, and the administrative law department in California worked together through 1981 and to early 1982 to solve the problems of the cite all provisions, because of the excessive information requests and delays that

were occurring in California. This problem has been overcome.

These cite all provisions, the excessive information requests and delays by California, had created a tremendous backlog. Since the implementation of new regulations in April 1982, just this April, the backlog in California has been reduced from 1,000, which existed in January 1980, to only 125 in June of this summer. And I might point out that with a backlog of 125, that is really no backlog at all since the system in California receives about 135 applications each month.

California also at the same time increased, in fact doubled, the amount of personnel to handle applications from 24 to 48. And, secondly, they reset or they raised the threshold on data requests. Again this was one of the arguments made by the pesticide manufacturers, that the threshold for all registrations was set at the same level. And now they have raised that threshold, so they do not ask for as much information as before.

As I said, the problem before in California was that the threshold for data submission, let us say, for example, for the Tidy-Bowl toilet cleaner, was the same as for toxaphene, which of course is a very potent chemical and which has killed a number of cattle in my own congressional district. So you had the same threshold level for all of them. Now they have raised the threshold level, so they do not get the same kind of data submission for your Tidy-Bowl toilet cleaner as you would for toxaphene.

The third thing that California did is that they eliminated the conflict between the State and the Federal cite-all provisions. Before, the State requirement that a State applicant cite all of the health and safety information submitted for Federal registration.

In many cases, as many as 30 percent, the Federal registrant denied the use of this information to the State applicant, thus the applicant was denied access, for example, to a certain State market, in this case, California.

So California in April of this year provided an exemption from the cite-all requirements on a case-by-case basis.

So what I am saying is this: The pesticide manufacturers, seeing this problem in one State, decided to attack it on two tracks. On one track they came to Washington to have a fundamental change in the law; on the other track they went, as I said quite properly, I think, to the administrative law division in the State of California to work out their problems that they had with the regulations in California. They worked on it in California on this one track all through 1981. By early 1982 they had gotten rid of all of those problems, as I said, in those three in-

stances. But what has continued is that the other track here in Washington kept right on rolling along, and they were successful in the committee in getting section 11 adopted to fundamentally change section 24(a) of the FIFRA Act.

So the problem is, then, that we have continued on this other track, even though the need for remedial legislation for that one specific State problem has been overcome through the appropriate remedial action of working with the administrative law agency in California.

So the question we have to ask ourselves: Do we continue on this other track, break up a working Federal-State system on pesticide registration and control which has worked for 10 years and which, I repeat, has not been asked to be changed once by any State or by any Federal administration?

So the reason for section 11 which is in the bill is obvious. It goes beyond California. If the only interest were simply California, we would not be having this debate on the floor. But the reason for section 11 goes beyond any one single State.

The pesticide manufacturers have seized upon this to challenge the very law itself and to take a relatively simple straightforward law and make it so convoluted as to be totally unworkable.

I have a chart which I will pass out. I have several hundred copies so that each Member may get one. It is a chart that shows on one side what the existing law requires. The State requests the data, the applicant provides the data. Very simple, very workable, very understandable.

Now, you just turn it over, and let us see what section 11 of this bill does. Now if you would like to see a Rube Goldberg system, take a look at what section 11 does in changing section 24(a). You talk of a spaghetti works, I have never seen anything like this. Try to work your way through this maze, if you will, of what happens if we adopt section 11. I have said it looks like it must be the lawyer unemployment compensation act. Perhaps that is what we ought to rename this bill. But if anybody can tell me how to work through this kind of procedure, I would like to know it. It cannot be done. And that is really what the pesticide manufacturers are up to.

The existing law has four lines. Section 11 increases this to 137 lines and leads, of course, to this spaghetti-works type of nightmare system we will have if we adopt section 11.

Now, let me just close by saying what section 11 would do. As I pointed out, it would create a nightmare of redtape. It establishes an additional level of bureaucratic review by putting EPA between the industry and the

State for data requests. It creates added levels of judicial review. And get this: It shifts the burden of proof from those regulated to the regulators, that is, the States—again something that really challenges us here to wonder why we would want to do that when the burden ought to be on those regulated.

Second, it increases the cost for both the State and Federal regulatory programs. It requires existing State programs to introduce a new system for pesticide registration data requests, which is both complicated and unfamiliar to program personnel, and again it requires EPA to act as an arbitrator between industries and the States.

Third, section 11 obstructs State pesticide regulation programs and restricts information available to the States necessary for timely and competent regulatory decisionmaking.

So the legislation is unnecessary. We have adequate legislation and review through the judicial review under administrative law, and it works because it worked in the State of California.

Section 11 is clearly inconsistent with the administration's regulatory reform efforts. I ask you to take a look again at this piece of paper. Is this regulatory reform, I ask you? No. It is nothing but making more regulatory hazards than we have had before.

EPA also lacks the resources to do an adequate job in reviewing all of these State requests. As the EPA Director said:

We rarely review in depth those special local need registrations for data. We rely heavily on the States to do that because we don't believe it is worth duplicating the effort.

Finally, we must recognize, one, that States do have local concerns, and that the effect of the application of one particular pesticide in one State, say, North Dakota, may be very different than the effect in, say, Georgia or Louisiana or Florida.

Second, recognize that EPA cannot and does not have the personnel to second guess every State and local concern and problem.

And, third, support for my amendment to strike section 11 is very broad, EPA, labor, farm organizations, the National Farmers Union, the National Grain, the National Farmers Organization, the New York Farm Bureau, the Florida Farm Bureau, all environmental organizations, from the League of Conservation Voters to the Sierra Club. The National Governors Association, all support my amendment to strike section 11.

□ 1245

The Southern Governors Association supports striking section 11. The Southern Legislative Conference of the Council of State Governments representing 14 Southern States supports

my amendment to strike section 11. The Council of State Governments supports striking section 11. And the National Association of State Departments of Agriculture support striking section 11.

So I urge the Members to listen to the debate and I urge the adoption of my amendment to strike section 11 and to return to the fundamental law section 24(a) which has worked so well for 10 years.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(At the request of Mr. WAMPLER and by unanimous consent, Mr. HARKIN was allowed to proceed for 1 additional minute.)

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding.

Did I understand the gentleman to say that the Environmental Protection Agency supports his amendment?

Mr. HARKIN. Well, let me put it this way. The EPA made several statements during their testimony saying that they did in fact support keeping 24(a) as it was.

Now, as the gentleman knows we initially received from the administration support for striking section 11. Within the last several days I understand the administration has flipfopped and now they do not support striking section 11.

Mr. WAMPLER. I think that is correct. EPA does not support the gentleman's amendment. At least that is my understanding. The administration may be neutral but it does not support the gentleman's amendment. And on the question of flipflop, this is a classic example. The gentleman from Virginia has historically supported the doctrine of States rights and the gentleman from Iowa now very eloquently pleads for States rights.

Mr. HARKIN. And I always have.

Mr. WAMPLER. I wish on other legislative matters we could have his enthusiastic support on States rights issues.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 1 additional minute.)

Mr. HARKIN. I have always been a strong supporter of States rights, especially where the rights have to do with very special local concerns and needs. If my distinguished colleague from Virginia would like, I will take the time later on, if people will yield to me, to read comments made by people from EPA as to why they cannot handle and why they would not like to see section 11 implemented.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment to strike section 11 from this legislation. The proponents of this amendment feel that this language as contained in section 11 abridges the rights of States to protect the health and safety of their citizens. In other words, according to the proponents, this language preempts the States rights to regulate pesticides. As I so often have stated, I am a supporter of States rights. I just do not believe that States rights are infringed by the language as set forth in H.R. 5203; thus it should not be an issue in this discussion. This legislation merely establishes an orderly procedure for reasonable data requests and timely registration by the States. This language is an attempt to correct two problems that have recently surfaced, namely long registration delays and unnecessary data generation requests by State agencies. Based on actions taken by California and several other States which expand pesticide programs to exceed or at least duplicate the Federal requirements, we have the possibility of 50 little EPA's and further, it makes it increasingly difficult for registrants to market pesticides nationwide although they have complied with the Federal requirements as set forth by EPA.

It should be pointed out that the State may, at all times, exercise its rights to deny, to ban, to suspend, or to cancel the registration of a product; thus, the State retains the final authority. This amendment only prevents arbitrary or capricious data requests from being imposed on a State-by-State basis.

In addition States are required to act upon most registration applications within 60 days of receipt or the product is deemed registered. In the case of a restricted use pesticide or a general use pesticide utilized in production of a commercial food crop pertaining to a change in the use pattern of a new active ingredient, then registration must be accomplished within 120 days. These provisions do not apply in the case of special local needs. The committee, in considering these provisions, felt it necessary to take steps to correct the unusually long delays experienced by registrants in getting their products registered in the State of California.

Mr. Chairman, this language as contained in section 11 of H.R. 5203 is supported by the national trade associations representing the chemical industry; such as the National Agricultural Chemicals Association, the Pesticide Producers Association, the Chemical Specialties Manufacturers Association, the National Pest Control Association,

ciation, the International Sanitary Supply Association, the National Forest Products Association, and the Southern Chemical Association. In addition, the following agricultural and rural interests in California, which include the California Farm Bureau Federation, California Forest Protective Association, Western Growers Association, and the Agricultural Council of California, support this language. Twenty-five members of the Rural Caucus of the California legislature also support changes to section 24, strongly feeling that something must be done to increase the availability of pesticides needed to control pests.

I might further say, Mr. Chairman, that the National Association of State Departments of Agriculture, an organization that I hold in very high personal esteem, does not agree with my position on this particular portion of the bill.

But it seems to me what we are attempting to do here in the bill is reasonable, and that it will provide an orderly way for the States to retain their control, but yet provide it in an orderly and expeditious manner.

Mr. FOLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. SCHEUER. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from New York.

Mr. SCHEUER. Mr. Chairman, I rise in support of the Harkin-Brown amendment.

The right of a State to establish health and environmental regulations, based on local needs, is well established in the Pesticide Act presently in law.

However, the amendments in H.R. 5203 (section 11a) would severely restrict this right.

That would have a significant impact on States such as New York.

In the State of New York, contamination of groundwater by the pesticide Aldecarb is well known.

This contamination was the subject of a CBS News report on Thursday, August 5, 1982.

Presently, New York may restrict the use of Aldecarb.

However, the ability of the State to regulate pesticides, such as Aldecarb, based on local need, would, in effect, be blocked by amendments in H.R. 5203.

But the Harkin-Brown amendment would eliminate this erosion of States rights and would permit a State to protect the health and environment of its citizens.

Therefore, I urge support of the Harkin-Brown amendment to strike section 11A from H.R. 5203.

Mr. FOLEY. Mr. Chairman, I rise in opposition to the amendment to strike provisions of the committee bill amending section 24(a) of FIFRA.

I want to join in the remarks that were made in the well just a moment ago by the distinguished ranking minority member of the committee, the gentleman from Virginia (Mr. WAMPLER).

There has been some misinformation about the language of H.R. 5203.

The committee bill does not provide for Federal preemption. Indeed, it does not in any way affect the right of a State to take action to protect its citizens. In fact, as the committee report points out, the bill facilitates the States in obtaining data which previously had been submitted to EPA by an applicant. H.R. 5203 specifically authorizes a State to obtain from EPA any data needed in its regulation of the sale and use of a pesticide under section 24(a). This includes trade secret data—which is not available to the public—with the condition that the State does not disclose the data publicly unless EPA has decided to release such data.

The amendments to section 24(a) do not in any way modify the right of a State to make regulatory decisions pertaining to the sale or use of a federally registered pesticide. Instead, the amendments are addressed solely to a State's authority to request data and the period of time a State may take in reaching certain registration decisions.

The bill also preserves the prerogative of a State to request additional data with respect to any restricted use pesticide, or any general use pesticide used for agricultural purposes in the event of special local concerns pertaining to an increased risk of any unreasonable adverse effect on the environmental or reduced efficacy of the pesticide within the State. A State's data request in such situations is not subject to any review, and the only condition imposed by the statute is that the applicant must be provided written notice and justification for the requested data. A review is provided in the case of special local needs solely for pesticides classified for general use and used for nonagricultural purposes. In such event the State request for data is subject to EPA review and being overruled or modified only if it is determined that the State's request is arbitrary or capricious. In any event, the Administrator's determination in such cases is subject to judicial review.

A similar type of review is provided in case a State makes a request for data which is not available from EPA and does not involve a special local concern of the State. However, in such cases if the Administrator has not taken action within a designated period, approval of the State's request would be presumed.

In addition, time requirements have been set out in H.R. 5203 for handling of applications for registration by a State which are comparable to the time requirements that currently

apply in many States. Again these requirements do not apply to cases of special local needs.

The approach taken in the committee amendment is comparable to the approach taken in other provisions of FIFRA. For example, the States have been given primary enforcement responsibility for pesticide use violations under FIFRA. Nonetheless, the act provides for the Administrator to have enforcement responsibility in those States which have not adopted adequate enforcement statutes or in the case of a State's failure to assure enforcement of pesticide use violations.

Similarly, States are authorized to conduct a program for the training and certification of applicators that apply restricted use pesticides if a State program has been approved by the Administrator. Whenever the Administrator determines that a State is not conducting a certification and training program in accordance with an approved plan, if appropriate corrective action is not taken, the Administrator can withdraw approval of the plan and the function would then be undertaken by the EPA.

In all these cases a system of checks and balances is provided to avoid arbitrary or capricious action by the State. In the absence of such a situation, the action of the State is given full recognition.

Thus, H.R. 5203 does not create a new precedent, but is consistent with other provisions in the existing statute.

I do not believe that the committee bill threatens States rights. It puts the EPA Administrator in the proper role of overseeing State action to prevent excessive regulation or duplication of effort.

I cannot agree that excessive Federal regulation is bad while the same action initiated by a State is good.

Further, the committee bill is explicit in stating that EPA may overturn a State request for additional data only in very limited instances.

Section 11 of H.R. 5203 is a sound provision and it should be retained. The gentleman's amendment should be rejected.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

The gentleman is correct. There probably is a lot of misinformation that gets out on something like this. I could not help but think when I was listening to the distinguished gentleman from Washington describe section 11 it even sounds convoluted when the distinguished gentleman describes it.

The CHAIRMAN. The time of the gentleman from Washington (Mr. FOLEY) has expired.

(At the request of Mr. HARKIN and by unanimous consent, Mr. FOLEY was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. If the gentleman will yield further, I just want to mention one thing that my friend from Washington said. He said it does not restrict the right of a State to get data.

Now, here is one good point that I think we have to discuss.

The point is that if we adopt section 11, that, yes, the State will be able to get data, but only EPA data. For example, if it wanted to get some additional data, they would not be allowed to do so.

Now, if this is what we want, why even have a State program? Let us just have EPA.

Let me point out the problem in that.

Let us say that a State wanted to get for a certain pesticide a dermal absorption rate, how fast the skin absorbs it. They may want to have that additional data. But let us say EPA in registering that pesticide did not ask for those dermal absorption rates. If the State wanted to get it, they can get only what the EPA has. If they wanted the additional data dermal absorption rates, the pesticide manufacturer could take them to court and through this spaghetti works tie them up for years on something like that.

So let us be clear on getting additional data or data from EPA, so we can keep on the right track on what the States can get and what they cannot get.

Mr. FOLEY. If a State wants additional data that does not have to do with local concerns, the EPA has to act within a specified time. If the Administrator does not act on the data request within the prescribed period, then the approval of the request of the State is presumed.

I think we have done everything possible in this bill to assure that the States will have the continued opportunity to protect their citizens. We are just trying to establish an orderly process in the making of these decisions. This section limits State action very, very little. EPA can act only to avoid arbitrary and capricious requests and unnecessary duplication. This seems to me to be a very minor change in the law, to clarify the procedures under which a State may obtain data. In fact, H.R. 5203 gives a State the right to review trade secret data, data that is generally prohibited from the public.

□ 1300

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman said on several occasions that this bill does

not restrict the right of the State to regulate or restrict the sale or use of a pesticide. I call the gentleman's attention to page 68 of the bill, subsection (C), and it says specifically as I read it:

(C) A State may not restrict the sale or use of a pesticide or device within the State for failure of the applicant to submit health and safety data requested by the State to the extent the Administrator has disapproved such request under paragraphs (2)(B) or (2)(C) of this subsection.

Mr. FOLEY. The gentleman is correct, but I want to emphasize that the Administrator must find that the request of the State is arbitrary and capricious or that other information is available to meet the needs of the State. Even then, the State is not prohibited from taking regulatory action on other grounds, and I do not believe that this language is too restrictive.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(At the request of Mr. LEVITAS, and by unanimous consent, Mr. FOLEY was allowed to proceed for 3 additional minutes.)

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, the gentleman has put his finger exactly on the problem which I hope to address in just a few minutes.

Is the Administrator of EPA here in Washington so omniscient and wise that he or she can deny a State official access to additional data when that data was requested in the interests of the people in that State. Is the Administrator of EPA so omniscient that State officials have to come crawling on their hands and knees to Washington to let somebody here in Washington decide whether their requests are arbitrary or capricious or dealing with local concerns?

Isn't this what the federal system is all about?

Mr. FOLEY. Let us put this in perspective. We have tried over the years to expand the role of the States in what is a Federal statute. If we did not want the Federal Government to move in this area, we could simply repeal the act and let the individual States make decisions. I am sure the gentleman would oppose that.

Have we had instances before where the Federal Government oversees certain actions? Yes, indeed. We have had it in this act in the case where the Administrator can decide that a State is not enforcing the law properly and is not carrying out the responsibility given to it for primary enforcement. In that instance, and in two other cases, the Administrator is charged with the responsibility of stepping in and insisting that the statute be carried out. Now, these are cases where we give oversight to the Administrator of EPA and every supporter of proper environmental protection will cheer that the Federal Government has that kind of responsibility.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Illinois.

Mr. YATES. The gentleman forgets the Clean Air Act under which California or any other State that wanted to have higher standards and the Federal Government was given that right and still the Federal Government and the States have been able to work out a very fine working relationship.

Mr. FOLEY. I do not anticipate any difficulty, I will tell the gentleman, for the States to operate within the terms of section 24 as it has been written in this bill. H.R. 5203 provides a continued mandate to the States to exercise responsibility to protect their local concerns, their local citizens' interests and the welfare and health of their citizens beyond that perhaps which the Federal Government would go. It does that under terms and conditions which are fair to the States, which presume the States' good faith. Only in certain cases where the request for data is capricious and arbitrary, is a State action subject to restriction.

I hope that this very narrow change in present law will be accepted.

Mr. DASCHLE. Mr. Chairman, I move to strike the requisite number of words.

I rise in support of the amendment.

Mr. Chairman, I think the gentleman from Washington makes some good points and technically I think the gentleman is correct; but I do not think one has to go farther than the bill itself for rebuttal. We have on pages 64, 65, 66, 67, 68, and part of 69, all of the obstacles written into the law now which prevent the States from doing just what the gentleman from Washington says they can do; so technically the gentleman is accurate, but I think for all practical considerations, he is not.

The fact is every one of these States, especially California and those States that want to pursue a much tougher line, are going to have an impossible time seeking an opportunity to address these issues.

I think in essence what we are doing is making the EPA both the defendant and the judge. We have a plaintiff going before the judge and who is also the defendant in this case making a decision which will be detrimental to the opportunity the States now have.

In addition, the records show that in so many cases the States have gone beyond what the Federal Government has in terms of research on many of the chemicals. California is a perfect example.

Much of the debate on FIFRA has focused on California, which uses over 500 million pounds of chemical pesticides annually. California has indeed requested much additional informa-

tion from chemical manufacturers—California has found, however, a number of pesticides to be unsafe even though they had been registered by EPA. EPA then later agreed with California and removed the products from the market. Just two examples where this has happened is the chemical DBCP which caused sterility in manufacturing workers and vacor, a rodenticide which California found caused permanent diabetes if even small amounts were eaten. California, in its cancellation proceedings on vacor, found that a registrant had failed to disclose that more than 160 children in Korea had died from vacor. EPA then withdrew the product from the market.

California has also been criticized by the chemical industry for its backlog of pending registration requests—the State has, in fact, tackled this problem and brought its pending registration requests current. The only pending applications now are those where the manufacturers need to provide information to the State. I do not criticize the people of California or any State for preferring to be safe than sorry.

States need to be able to have their own pesticide regulation programs tailored to local needs over and above the floors required in Federal statute. EPA, with a dwindling budget, and I must add, a dwindling commitment to health issues, cannot be expected to now be a middleman and rule on whether State requests for additional data from chemical manufacturers are unnecessary. It is obvious that the chemical manufacturers simply do not want to have to deal with the inconvenience caused by the public's demand to know if, in fact, the products they use in their homes and gardens are safe.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. Yes, I would be happy to yield to the gentleman from Illinois.

Mr. YATES. The gentleman is exactly correct. I propose to offer an amendment in a few minutes if I am recognized to ban the use of toxophene as a spray. That spray has already been banned in four States now, States which have already decided that this spray is so lethal and so positively carcinogenic that they do not want it used in their States at all; EPA has refused to take action to stop that spray. As a result the other States are not protected by Federal action; but as a result of the opportunity given to the States under the existing law to take action in their own right, that spray has been prohibited.

Mr. DASCHLE. Well, I thank the gentleman for his contribution.

I think it is amazing that at a time when we are talking about New Federalism and stripping away regulations, trying to make it easier for the States

to regulate their own destinies and their own determination on some of these issues, we are putting upon the States an incredible array of the most difficult and perplexing regulations I think the Congress has formulated in some time.

It is ludicrous for us to do that, in spite of the fact that we may still be technically allowing States additional regulatory right, we are preventing them from doing so. We are just making it so impossible to do so for all practical considerations.

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. DASCHLE. I yield to the gentleman from Iowa.

Mr. HARKIN. Mr. Chairman, I thank the gentleman for yielding.

I just want to followup by reading from the law itself, the provision that I was talking about with the gentleman from Washington, that a State, if they want additional data, may find themselves tied up in court for years by the applicant. I refer to section 2(B)(1) that says a State may require submission of additional data with respect to any special local concerns relating to either an increased risk of any unreasonable adverse effect on the environment or a reduced efficacy of the pesticide.

I am paraphrasing this; so a State may require submission.

Further on in the bill it says that the State's determination of a special local concern pursuant to this section shall not be subject to review by the Administrator, but shall be subject to judicial review; which means that the applicants, if they do not want to give that additional data, whether it is a mosquito repellent or whatever it might be, they can go into court and tie up the State for years and that is the point I was making on this legislation.

I thank the gentleman for yielding some time to me to explain that.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Iowa (Mr. HARKIN), which would delete section 11 of FIFRA.

As a member of the House Agriculture Subcommittee on Department Operations, which spent over 1 year on this legislation, I can confidently say that this bill represents the fairest approach possible, considering the great diversity of views and concerns expressed during subcommittee consideration.

During subcommittee hearings and markup of the bill, we heard from many, many people, representing the administration, the chemical industry, environmental organizations, State governments, and farmworkers. All parties expressed various concerns,

and very often, these concerns were conflicting ones. The subcommittee members and their staffs worked very hard to bring all of these parties together in order to craft a fair and workable compromise.

I do not believe that any one group got all it wanted from this legislation but everyone was heard and all points of view were taken into serious consideration. We worked many hours to insure that this legislation would be equitable and would incorporate all legitimate concerns, without compromising the beliefs of any one individual or group.

The issues addressed by this bill are complex ones. They range from the manner in which one company compensates the other for use of data in the registration process to the protection of farmworkers from misuse of pesticides in the fields.

Section 11 of FIFRA, which Mr. HARKIN's amendment would delete, was, indeed, one of the most controversial of the issues dealt with during committee consideration. However, I believe when my colleagues know what is involved in this section, they should understand why we changed existing law.

Under present law, a potential pesticide registrant submits data to the EPA in connection with the pesticide registration. The registrant then applies to the States for separate registrations. The data submitted to EPA is available to the various State authorities in their individual registration processes. Over the years, a serious problem has emerged which has caused considerable delays in the registration and availability of certain pesticides in various States. Some State authorities have requested that the registrants submit additional data to justify a registration of a pesticide. In many cases, the additional data requests have been unjustifiable and have resulted in considerable expense to the registrants and undue delays in the availability of a pesticide to consumers. To cite just one example, the State of California requested additional data in response to a registration application on a pine disinfectant, requesting that the applicant conduct a test on its effects on a bacteria that the product does not and does not claim to have an effect. This request was made after a 1½-year delay in responding to the initial registration application. This type of situation is only one of many cited by manufacturers and users of pesticide products.

Under section 11 of H.R. 5203, should a State require additional data regarding "special local concerns" about increased environmental risks or reduced efficacy of a pesticide, the State would have to provide written justification to the applicant. For special local concern State data require-

ments for nonrestricted and general use pesticides except agricultural pesticides, the applicant would be able to appeal to EPA for review. If EPA decided there was a "Federal interest," the agency would require submission of the data under FIFRA's additional data provisions. If EPA determined that the State request is "arbitrary or capricious" or that comparable data are available to the State, it could overrule or modify the request. The State could seek Federal district court review of an EPA determination. The applicant could seek district court review of a State request either before or after the matter had been submitted to EPA.

In nonspecial local concern data requests, EPA would require submission of the data under FIFRA additional data rules if it determined there would be a "Federal interest." EPA could disapprove the State request if it found it arbitrary or capricious or that there would be no reasonable basis for making use of the data in connection with a State determination as to registration or approval of the pesticide. EPA determinations in nonspecial local concern cases would be final and not subject to judicial review.

Frankly, I was at first apprehensive about this particular provision during subcommittee consideration. I am a strong proponent of the rights of States to determine their own laws and regulations with minimum Federal involvement. However, after considerable discussion and thought about this particular provision, I decided that present law needed to be changed in order to provide for a more equitable and timely registration process.

First of all, this particular provision does not prohibit a State from banning a product or denying a pesticide registration. For special local concerns pertaining to agricultural problems, there would be no EPA overview and a State would be free to prohibit sale, require additional data and impose other requirements it felt would be necessary to assure that the pesticide would be safe and effective under the unique conditions within a particular State.

Section 11 of H.R. 5203 would move toward eliminating the two basic problems that now exist; that is, long registration delays and unnecessary data generation requests by State agencies. Moreover, it would establish an orderly procedure for reasonable data requests and timely registration by the States. It is also important to note that section 11 would only apply to those States that are requesting additional data above and beyond the Federal EPA.

This section is aimed not only at helping the pesticide industry to market their product in a timely and orderly fashion. It is also aimed at insuring that those who use pesticides,

our farmers and consumers, will have access to the best products available. Heretofore, many farmers and consumers in several States were not able to buy new and improved pesticide products because of unreasonable delays caused by a few State agencies, which required expensive and time-consuming tests to justify registration of those pesticides in their States.

It is important to note that this problem is not one that exists in most States. However, should present law remain intact, this situation threatens to proliferate. It is for these reasons that I support changes in present FIFRA law as embodied in section 11, and I urge my colleagues to do the same.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. I do so because I think there is a great deal in this entire bill that improves the situation with respect to the processing of registrations on insecticides, pesticides, and rodenticides.

They have eliminated a great deal of the redtape and the unnecessary bureaucracy in getting these matters resolved and that should have been done a long time ago. But what I take very strong exception to is an effort to override the States in their responsibility to their citizens.

We have a federal system of government. And that system puts faith and trust in officials at the State government level. I do not believe that a bunch of bureaucrats in Washington, elected by no one have any better ability to decide what is good for the people of California or Georgia or Iowa or Virginia, or any State, than the people elected in the States themselves.

□ 1315

I thought that was what federalism, new federalism or old federalism, was all about. Who can say that the appointed Administrator of the U.S. Environmental Protection Agency knows what is better for the people in Georgia in this matter of regulating pesticides than the commissioner of agriculture who is elected by the people of the State of Georgia?

I cannot believe that this administration could conceivably talk about federalism on the one hand, and then support a provision in this law which takes away the right of States to determine what is good for their citizens.

The gentleman from Virginia, for whom I have great respect, talked about 25 rural legislators in California who favored this provision. Well, if they do not like what California is doing, let them go to Sacramento, not come to Washington.

What exactly does this provision do? This provision says that if a State

wants some information, they must go to the U.S. Environmental Protection Agency and say, "Can we have some additional information. We need more information." They must go to Washington and ask some official bureaucrat if they, the State officials, can have that additional information. I think it is outrageous. I thought we were talking about returning responsibility to the States.

The officials in Washington are certainly no wiser, no better informed, than the officials we have in our States. Why should the commissioner of agriculture of the State of Georgia crawl up to Washington and beg the Administrator of the U.S. Environmental Protection Agency, to let him have information that EPA did not get.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Missouri.

Mr. EMERSON. The gentleman in the well is one of the strongest proponents of regulatory reform in this House. I support him in those efforts.

I also believe we have a philosophical accord on State rights. Let me state very succinctly that I think the effort here to delete section 11 is, very simply put, an attempt to interfere with State rights. What it is is an attempt to impose California standards on the whole country.

Mr. LEVITAS. I thank the gentleman.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Mr. Chairman, I would like the gentleman from Missouri to explain how this causes California standards to be imposed by every other State in the country. I do not read that in any way in what has happened. Obviously, it has not happened. The approval of this amendment simply keeps things as they are now.

Mr. EMERSON. We do not say we are applying California standards to the whole country, but that is the effect of the thing.

Mr. BEDELL. If the gentleman will yield further, we are going back to what we had. Certainly California standards have not been in effect all over the country. It would seem to me it is very clear that what we are doing is letting the States decide for themselves what they want, and under no circumstances are the effects that everybody else has to do what California is doing.

Mr. THOMAS. Mr. Chairman, will the gentleman yield to me?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding and appreciate his yielding.

Mr. Chairman, the gentleman indicates incredulity that this administration would support the Federal Government's involvement with State actions if this administration felt those actions were arbitrary or capricious. On my own time I will discuss some of the arbitrary aspects. But the gentleman comes from the State of Georgia.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(On request of Mr. THOMAS and by unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. THOMAS. Mr. Chairman, will the gentleman yield further?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. THOMAS. It is my understanding that if the State Legislature in the State of Georgia, in reapportionment, which is required every 10 years based upon Supreme Court decisions, draws lines, that the lines drawn by the State Legislature in Georgia are not immediately imposed. My understanding is that those lines have to come to the Department of Justice, and the Department of Justice examines those lines and determines whether or not the State of Georgia was arbitrary or capricious in drawing those lines.

Mr. LEVITAS. That is quite correct, and they did a lousy job of it, I might add.

Mr. THOMAS. Let me tell the gentleman that the State of California—which one, Justice Department or the State of California?

Mr. LEVITAS. The Justice Department.

Mr. THOMAS. I understand the gentleman from Georgia supporting his State's position. Let me tell him that many of us in the State of California felt that the State of California has done a lousy job.

What section 11 has tried to do is to redress the grievances between very clear and appropriate State rights, but also Federal statutes, and the two have to mesh. What we have tried to do in section 11, in the rewrite, is to try to mesh the two; not necessarily to impose California standards on anyone, but to make sure that the experience in California does not happen anywhere else.

I thank the gentleman for yielding.

Mr. LEVITAS. I thank the gentleman for his contribution.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I want to point out that this is not just a subject of some philosophical point of view on federal-

ism. The practical issue at stake is the ability of the States to protect the health of their citizens. For this reason, the National Governors Association, the National Association of State Departments of Agriculture, oppose section 11 and, joining EPA, which opposes this, and the States are numerous labor, environmental, public health, and consumer groups, including the AFL-CIO, the March of Dimes, the American Public Health Association, the National Wildlife Federation, the National Audubon Society, and the Consumer Federation of America.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding.

Let me state once again that the EPA does not support the position just enunciated by the gentleman from California. They do not. They have changed their position and this is nothing new for EPA in my experience over the years on this particular matter.

Mr. LEVITAS. I think the gentleman is correct.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for 2 additional minutes.)

Mr. HARKIN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Iowa.

Mr. HARKIN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman from Virginia, does he have any letter, any document from EPA saying that they do not oppose section 11?

Mr. WAMPLER. If the gentleman will yield, I do not have it before me at the moment, but if the gentleman will permit me, and I again apologize for taking his time, this is the statement of administration policy, and I will be more than happy to insert it in the RECORD at the appropriate time in reference to H.R. 5203.

This is opposing it on the basis of the level of authorization. But it is also my understanding, and it is not included in this document, the only basis of opposition to the bill is the level of authorization and the present amendment is not the basis of their objection to the bill. So one infers by that that they are for it.

(The policy statement follows:)

The Administration opposes House passage of H.R. 5203 unless it is amended to authorize fiscal year 1983 appropriations of \$44,208,000, as requested by the Administration, instead of \$56,367,000.

Mr. HARKIN. If the gentleman will yield further, I would point out that

the gentleman cannot provide any document from EPA showing that they in fact oppose section 11.

On the other hand, I would be glad, and I will at the appropriate time when we get in the House, submit all of the testimony from EPA as to why, in fact, they do oppose.

Mr. WAMPLER. EPA is a part of this administration, and I will submit this, and it shows clearly that the EPA supports this entire bill with the exception of the level of authorization.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has again expired.

(By unanimous consent, Mr. LEVITAS was allowed to proceed for an additional 2 minutes.)

Mr. LEVITAS. Mr. Chairman, it is my understanding that the administration has made contradictory statements on this issue. I have an article here from CQ that says OMB switched its position on this issue. But let me tell you something; I do not care how the U.S. Environmental Protection Agency feels about this issue. I do not care how OMB feels about this issue. What I care about is how this House feels about this issue and what the Members of this House say the policy should be. The question is: Are we going to believe and follow through on the concept that the people who we choose to run our State governments under our federal system have at least as much interest and concern about protecting the health of the citizens of the State as the bureaucrats do here in Washington? That is what this is about.

Now, if the gentleman from California objects to the way the State of California is running its business, then I suggest that, through whatever means are available—initiative, referendum, or legislative action—he attempt to change their practices. But I do not want the State officials in this country to be held in servitude by the appointed administrators here in Washington as to what information and what data they can get in order to protect the citizens of their States.

I am always interested when some say, "We do not want the Federal Government messing in our business; we do not want the Federal Government telling us what to do," until it serves their purposes. As soon as it serves their purposes, they say, "We want the Federal Government to tell the States they cannot do this and they cannot do that."

We are talking about the protection of the health and safety of the citizens of this country, and I am not prepared to be a party to taking that responsibility away from the people in our States who are charged with that responsibility as well. I think this is an extremely important issue and one where I hope this House will strongly

go on record in supporting the amendment offered by the gentleman from Iowa. I think something very fundamental is at stake.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from California.

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I just want to commend the gentleman for his statement, and I concur in it and urge our colleagues to adopt this amendment, as well. It deprives the States of an important power they have held under the law and it sets up barriers to them, through deadlines, that they cannot possibly meet that will be so cumbersome and inefficient that they would not be able to protect people adequately from dangerous insecticides.

I thank the gentleman for yielding.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Harkin amendment.

Mr. Chairman, the use of chemicals is a fact of life in modern society. In the past 40 years, the scientific and business communities have harnessed thousands of chemicals in an attempt to improve our way of life. It remains unclear, however, whether the decisions to surround ourselves with chemicals—in our homes, in the products we use, and in the food we eat—have always been wise.

Chemicals were first used to kill weeds and pests in the late 19th century. The use of these chemical herbicides and insecticides on our farms and forests has dramatically affected our ability to produce food and fibers. But it was not until the Federal Insecticide, Fungicide, and Rodenticide Act was largely rewritten in 1972 that these chemicals became subject to comprehensive health and safety regulations. Prior to that time, thousands of products had been registered with the U.S. Department of Agriculture under much less stringent requirements.

While far from perfect, FIFRA has significantly improved working conditions for chemical workers, farmers, forest workers, and agricultural workers. In addition, FIFRA acts as a buffer—protecting our citizens from the health risks associated with the tens of thousands of new chemical compounds that are synthesized and tested for pesticidal use every year.

Many of the proposed amendments that we are considering today in H.R. 5203 strengthen and streamline existing law; others, however, set dangerous precedents and should be deleted from the bill.

In particular, section 11 of H.R. 5203, amending section 24(a) of FIFRA, would severely restrict the historical prerogative of States to exercise their own judgment in deter-

mining how best to protect the health and safety of their citizens. At a time when the Environmental Protection Agency is drastically curtailing its own regulatory programs, it would be imprudent and tragic for the Congress to handicap State efforts to administer their own pesticide programs in a manner tailored to the needs and desires of their people.

The proposed amendment contained in section 11 would have a profound impact on my home State of Oregon. Oregon contains more prime softwood timber than any other State in the Union. Since the 1940's, public and private forest managers have treated new timber stands with massive doses of phenoxy herbicides—such as 2,4-D and 2,4,5-T—in an effort to suppress competing vegetation.

Under current law, these phenoxy herbicides must be registered with EPA. In recent years, however, new questions have been raised about the adverse health effects that may be associated with their use. In fact, an EPA study conducted in Alsea, Oreg., led that Agency to suspend the registration of 2,4,5-T in 1979. Other questions about pesticide safety and efficacy persist and new ones are bound to arise in the future. When such questions arise, the people of Oregon demand answers. When EPA is unable or unwilling to adequately address these special State concerns, it is left to the State to assume an expanded role in assuring pesticides used in Oregon are ecologically safe and economically efficient.

Section 11 of H.R. 5203 seriously jeopardizes that role.

For example, if a State were concerned that spraying these federally registered pesticides was adversely affecting certain watersheds, current law would allow the State to require the company to collect whatever data might be needed to monitor the effects of past spraying prior to allowing subsequent treatments to proceed in affected areas. Under section 11 of H.R. 5203, however, the company could claim that the State request was arbitrary and capricious, thereby initiating a long and drawn-out series of administrative and judicial maneuvers. The State could eventually be blocked from gaining access to such monitoring data. The net result would be a dangerous departure from industry's present responsibility to prove its products safe.

As chairman of the House Agriculture Subcommittee on Forests, Family Farms, and Energy, I have had ample opportunity to study the costs and benefits associated with pesticide and herbicide use on our Nation's public and private forests. After hearing hours of testimony and reviewing reams of scientific studies, I have developed my own strongly held beliefs. In every case, the ultimate question is,

and must be, whether the economic costs and benefits of herbicide use outweigh its health and environmental impacts. I am convinced that they do not. I also believe that the State of Oregon—not EPA—will ultimately force much-needed changes in our vegetation management systems.

The burden of proving that widespread herbicide or pesticide use is warranted must lie with its proponents. Remarkably, however, section 11 of H.R. 5203 would shift that burden of proof by forcing the States to justify their regulatory requirements.

I urge my colleagues to support the Harkin-Brown amendment and delete section 11 from H.R. 5203.

Mr. THOMAS. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. THOMAS. Mr. Chairman, I just want to briefly indicate to the Members why section 11 was ultimately placed in this legislation.

No one here is interested in short circuiting a system which provides reasonable protection for individuals, whether it be at the State level or at the Federal level. When you have a federal system, there has to be a reasonable working relationship between the Federal and State levels. But the ultimate resolution of a problem must be settled in favor of the national interest.

The gentleman from Illinois indicated there seems to be a reasonable working procedure under the Clean Air Act where 49 States operate under the Federal law and 1 State operates under its own law, in excess of the Federal law—California. The fact is that in the Clean Air Act, as it applies to automobiles, for example, given the market size in California, it is relatively easy for a manufacturer to modify his product to meet the 50th State, the California, standards and produce a second product for the other 49 States.

□ 1330

When it comes to pesticides, when it comes to concocting chemicals to deal with various insects on plants or undesirable plants or fungi, it becomes extremely difficult to offer, given the size of some of the companies, particular products for 49 States or for 20 States or for 10 States or for 1 State, and since we are operating under a Federal law it is to be assumed that California is going to be reasonable in terms of its additional requests, and along with the reasonable substantive requests, also honor a timeliness aspect.

As a member of the Subcommittee on Department Operations I attended a subcommittee hearing in California,

and we heard example after example of a failure to meet any kind of a reasonable timeliness test on the part of the State of California. The State of California law says that for a renewal application, it is a 60-day period. For a new or a restricted use application, it is 120 days. What the subcommittee had presented to it was evidence of example after example of 400±day delays, 500±day delays.

The gentleman from Iowa indicated that the director of agriculture in California, who oversees this area, Mr. Rominger, testified in front of the Senate that there was no backlog in California in terms of registration. Let me provide some numbers which indicate, I believe to a degree, arbitrary and capricious action on the part of the State of California.

In 1981, the weekly application processing was 13.6 average per week. In 1982, for the first 18 weeks of the year, it was 31.5 average applications processed. That is a tremendous advancement, but in the week preceding the director of agriculture testifying in the Senate, 567 applications were processed. Now, on the basis of the 1981 weekly rate, in 1 week they reached the equivalent of 50 weeks of approval of applications. Two weeks short of 1 full year's work was done in 1 week prior to Mr. Rominger appearing before the committee so that he could say there was no backlog, and even at the accelerated 1982 rate that was 5 months of approvals in 1 week preceding the California director of agriculture appearing before the Senate to say that there was no backlog.

As a matter of fact, in a letter from the Governor signed by the assistant to the Governor, she indicated that the average application processing per week was 35. This is a clear example of the kind of arbitrary and capricious activity in the State of California in terms of the processing of applications—567 in 1 week, equivalent to the previous year's virtually full year's processing of applications so that the director could come before a committee at the Federal level and say there is no backlog.

They are now back to the other rate. The rate of 35 or so per week. A backlog is beginning to build again. The arbitrariness and capriciousness of the State of California, in addition to the problem of timeliness, has led to an attempt by this committee to create a reasonable compromise to allow States to review where they feel they need to review. But the ability of the Federal Government, the only sovereign government in this system, to have the final say on an arbitrary and capricious decision by a State should be beyond question.

It seems to me that section 11 is a reasonable blend of States rights with the understanding that you are dealing with a Federal piece of legislation,

so the two levels of government can meld comfortably given the area in which we are involved. I would ask the Members to reject the amendment.

Mr. FOUNTAIN. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the Harkin amendment.

Mr. Chairman, members of the committee, I had not expected to participate in this debate. As a matter of fact, I find myself somewhat in an unusual position of differing with my good friend BILL WAMPLER, with whom I concur quite often, and I find myself philosophically in the company of some with whom quite often I disagree. I am delighted that they have joined some of us who believe that the President was right when he says we have too much Government, and this is precisely what this section would do—create more Government.

I happen to have been honored by the President in being appointed to serve on the Federalism Advisory Committee, and it has been interesting as to how that committee has operated, but everything I have heard has served to indicate that the time has long since come for the Federal Government to get off the backs of local and State governments. I am not an authority on this subject, but I am impressed by people who I do think are authorities, and the Members have heard the names of them.

My Commissioner of Agriculture says:

While we in North Carolina accept the need for a uniform national effort in the regulation of pesticides and appreciate the cost to industry in meeting these regulations, we feel that the proposed amendment to section 24(a) would seriously jeopardize North Carolina's efforts to effectively assure safe and efficacious pesticide products for the citizens of our State.

We are in a little unusual situation in that we do produce tobacco, and of course we have a number of chemicals used in connection with the production of that important commodity. The Commissioner of Agriculture goes on to say:

The task of regulating the safe use of pesticides is monumental, and the first step for a State is to be as knowledgeable as possible of the chemicals and their potential for harm to the user, the consumer, or the environmental surroundings.

Now, much has been said about the position of EPA, and I would like to associate myself with the remarks of the gentleman from Georgia (Mr. LEVITAS) and others who have commented on this subject. I am not so concerned about what EPA thinks, but let me read to the Members the testimony of Mr. John A. Todhunter, the EPA Assistant Administrator for Pesticides and Toxic Substances. Here is what he said in his testimony before the committee:

Your desire for an arbitrator or some mechanism to resolve the disputes is, of

course, understandable. I wish to emphasize our commitment that the States need to have more control over their personal affairs, their local matters. Hearings, Part 3, February 4, 1982, p. 61.

Let me say at the outset that the administration has been on record for some months now opposing the proposed changes to State's authorities. We are sympathetic to the concerns expressed by industry that a product which has met stringent Federal registration standards should not have to undergo a myriad of additional data requirements and clearances. However, we are troubled by the potential impact of amending section 24(a) on State's prerogatives. The Agency has also opposed the role of arbitrator it would assume between industry and the States as to what data are appropriate to address local concerns. We do not believe that we are in a position to second guess what information a State government needs or doesn't need to respond to local conditions.

Let me say this, and I will conclude. The President has talked so much about deregulating and eliminating regulations, unnecessary regulations. I serve on the Advisory Commission on Intergovernmental Relations, and have for some 22 or 23 years since it was initiated by legislation which I introduced. We have issued a number of reports in which we have encouraged local and State governments to work together to determine what is local, State, and Federal and what all levels of government ought to do together. But, under the federal system of government the States share political sovereignty with the Federal Government. Accordingly, I find section 11 an objectionable attempt to preempt the authority of States to protect the health and safety of their citizens.

We have no objection to the Federal Government having a minimum standard, but do not tell my State that it cannot have stricter standards, as it has now, to protect the health and welfare and general well-being of its people. This section is particularly objectionable.

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(At the request of Mr. BROWN of California and by unanimous consent, Mr. FOUNTAIN was allowed to proceed for 3 additional minutes.)

Mr. FOUNTAIN. It is particularly objectionable in that it would require States requesting Federal information from pesticides manufacturers to channel such requests through the Environmental Protection Agency, and even worse, that EPA would be authorized to modify or overrule a State's request if the Agency thinks it is arbitrary or capricious.

The adoption of this provision would be a flagrant abuse of our legislative power and an affront to State governments.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I want to compliment the gentleman on his statement. I am probably one of those Members that he identified as not agreeing with all too often, but in this particular matter I have found myself in the identical position of the gentleman in the well.

I think that this is a matter in which to drastically change the law at this point would be counterproductive. I think that it is counter to the philosophy of the administration, and the statements that the gentleman quoted from administrators of the EPA, which I might say is still their position even though they may not be permitted to express it, and is a position which I think is emanently sound.

They recognize that there may be some problems, but they think it is the responsibility of the States to correct those problems, and I must say in all sincerity that the States have moved with commendable speed to make corrections in some of those problems that existed.

So, I have come to the same conclusion as the gentleman, that it would be premature to make a drastic change in the law at the present time, and I would therefore support the amendment of the gentleman from Iowa (Mr. HARKIN).

Mr. FOUNTAIN. I would like to urge deletion of this wholly unwise section. I am impressed by this diagram, which I think is a pretty truthful diagram, of the extent to which the States would have to go as compared with the extent to which they now go. It is fantastic that we would call upon State governments and their agencies to have to go through this process in order to carry out the law and in order to provide greater health and safety for our people than even the Federal Government requires.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. FOUNTAIN. I yield to the gentleman from Iowa.

Mr. BEDELL. Mr. Chairman, I thank the gentleman for yielding. I want to commend him for his statement. I rise in support of the Harkin amendment and hope the committee will return to the provisions that were originally in the bill and which we have lived under so well in the past.

Mr. FOUNTAIN. I thank the gentleman. I would like to say to my friends on the left side, with whom I have voted quite often to the criticisms of my friends on the right, now is the time for you to carry out a part of the President's commitment to the American people to do away with some of these unnecessary regulations rather than to add to them, as somehow, when the pressures become great, seem to be willing to do.

Mr. MOLINARI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I accept the challenge from the gentleman from North Carolina. I agree with the comments that he made, and I would like to call to the attention of the Members of the House something that occurred a few months ago, which I think warrants adoption of this amendment. That is, the order that was issued by the Environmental Protection Administration permitting the dumping of barrels of toxic waste in what they called interim status dumps without any hearings, without any notice.

There was a 90-day period during which we were going to have hearings, but during that 90-day period the generators were permitted to dump those barrels of toxic wastes. Now, indeed in some of those barrels we had insecticides, but the important consideration here is that some States in the Union have more restrictive laws so that that order was not effective. In States such as my own, New York, it had no impact—it had no impact, and in other States as well.

I think we are losing sight of the fact that this is not a California issue. Mr. Chairman, it affects every State in the Union, and indeed I have heard EPA on many occasions tell us there are some States that are very sophisticated and have the ability indeed to do a good job in this area. I think that we move in the wrong direction by taking that right away.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. MOLINARI. I will be happy to yield.

Mr. LEVITAS. Mr. Chairman, I would like to commend the gentleman for his statement, and also for being one of the first in Congress to point out the problem of those EPA interim regulations which led, as the Members know, to hearings before my Subcommittee on Investigations and Oversight. These regulations were subsequently called back. But, when we brought the officials of EPA before the committee after they pulled the regulations back to explain what problems had occurred in the meantime under their order for permitting the dumping of toxic waste, and liquid waste in these sanitary landfills, they said that nothing very bad had happened.

□ 1345

They proudly explained that they really had not done anything that egregious because different States had regulations in place that prohibited this dumping, even though U.S. EPA would have permitted it. So now we are in a position of seeing where the absolute necessity of giving States this

opportunity to protect their citizens is at stake.

EPA testified before our committee that the protection of State regulation and State law stopped what would have otherwise been a very nasty situation.

Mr. Chairman, I commend the gentleman from New York (Mr. MOLINARI), for bringing that to the attention of the committee.

Mr. MOLINARI. Mr. Chairman, I thank the gentleman from Georgia (Mr. LEVITAS) and I would like to conclude by saying that that regulation only stayed in place for, I think it was 5 days, and during that 5-day interval there was indeed action by the States that I think was in large part responsible for the rescission of that order.

So I am in strong support of the gentleman's amendment, and I commend the sponsor of the amendment.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been so much debate out of context here that I really wonder whether or not it was the section 24 that I helped author, for we were told repeatedly that somehow or other the State was going to have to go through the Harkin jungle to get permission to require information, and that somehow or other the State was going to have to do these mental gymnastics in order to protect special local use conditions.

Nothing is further from reality. That is not what the amendment does. It is not what the amendment was. It is not what the amendment was addressed to correct.

What the Members of this House ought to know is that this amendment was designed to prevent the proliferation of many EPA's across the land, and that was it, pure and simple. We are in an integrated economy where, if a company is to participate in a national marketing system, it can hardly be responsible to 51 masters, 1 in Washington and 1 in each of the other State houses across the land.

Yes; the California issue has been raised repeatedly because it is in California that the problem has become most acute, but there are all kinds of indications that a half a dozen other States are moving in this direction.

There are two kinds of solutions to that. One is that you can simply say that the Federal Government shall preempt the State in its entirety; the other is that you can say we should keep the Federal Government out of it and give it all to the States.

What this section 24 does is to drive a very, very careful middle-of-the-road position whereby we say—and clearly we say it in this law—that if the State has some local use problem, whether it is fog coming in over the bay, a particular soil type, or whatever, they

have no problem in securing additional information, even additional tests, if you will, to justify the licensing or the granting of a label to sell that product in that State. There is no problem for the State to get that. There is no intention in this legislation to deny the States the right to protect its citizens.

What we are trying to do, simply put, is to modify the propensity of some State bureaucrats to request more information, request more tieup, or request more proliferation of activity on the part of either the company or the EPA or someone else to allow them to move forward.

I am quite amazed, not that my friends on the liberal side, who are very, very concerned about giving greater power to the environmental thrust, might come forward; what flabbergasts me is that some people, who are, I think, mistaken in understanding what the amendment does, have come forward from the other side of the spectrum. And what is the logic of their argument? My chairman of another committee argues that it is too much government. How much is too much government? If we are going to give 50 States the right to multiply the requirements in order to do business in this country, that is precisely what we are driving toward. It is precisely the logical end of where we are going.

Section 11 does not preempt the States' authority. That is No. 1. No. 2, the bill does not infringe on the States' right to regulate the sale of a pesticide, my colleague, the gentleman from Georgia, to the contrary notwithstanding. That is a colorful argument, but it is inaccurate. It does not prevent the States or it does not infringe upon the States. It simply says that if the State is going to require over and above a second round of tests, a second round of material, et cetera, it simply cannot be a frivolous request.

There is evidence stacked up before the committee that we have had what constitutes frivolous requests, that we have had requests for additional information simply in a routine fashion.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, since he made reference to me.

First of all, I think it is beyond dispute that in section 11 this bill restricts certain things.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(On request of Mr. LEVITAS, and by unanimous consent, Mr. FITHIAN was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, the only

question is the degree to which it restricts the State.

The section in question, subsection (c), beginning on page 68, says specifically that a State may not restrict the sale or use of a pesticide if the State, on the basis of seeking that restriction, does it because the applicant has refused to provide information which the State has requested when such information request was not approved by the Administrator of EPA.

There is a restriction. The question that I think I come to on this is, why should the Administrator of EPA, an appointed official here in Washington, have that power to restrict a State's desire to get information for regulation?

Now, with respect to the proliferation of government, it would suit me fine to see sunsets put on all of these things I would like to see a lot of these agencies done away with as the gentleman knows. We have over the years tried to gain control over EPA and their regulatory excesses.

But it seems to me that if we believe in a federal system of government, we cannot take away from the officials of the State the right to exercise their responsibilities; not their rights but their responsibilities to protect their citizens.

Mr. FITHIAN. Mr. Chairman, if I may regain my time first let me tell my friend and those who are on the other side of this issue that the State under this amendment may at all times exercise its right to deny, to ban, to suspend, or to cancel the registration. Those are the four principal actions which any unit of government can take. They can deny the use of it, they can ban it altogether, they can suspend it, or they can cancel the registration of the product.

Nothing in section 24 as drafted would deny the State the right to do any one of those four things. What it does say is that they cannot hold up, through whatever process, the flimsy request of additional material.

Second, at every step of the registration process the State maintains the final authority to act to protect its citizens. It does now, and it will in the future under section 24. The bill further permits a State to request additional data above the requirements. Above and beyond what the EPA is requiring, the State is permitted to make additional requirements and requests and to define in the process special local concerns.

The bill only applies to the States' requesting additional data above and beyond what is already required in the statute.

Finally, section 11 establishes an EPA review of the State's request for special local concerned data for non-agricultural products. Now, there have been several arguments promoted by those in opposition talking about what

this is going to do to food costs, what this is going to do to the food product in the chain and the rest of it. That is a mistaken notion.

This section 24 very, very clearly does not apply to agricultural food and fiber products period. It rules those all out, and it thereby rules out a number of speeches in opposition to the amendment as well.

Next, I would like to point out that the EPA does not create any new precedent in this process. All of this is based on the historical and legal precedents in section 24(c), 27, and 18 of the existing statute. So we are not breaking all of this new ground that is being discussed here.

The argument, unfortunately, has gotten over into the States' rights argument rather than the efficacy of administering and working in an orderly fashion with the registration of pesticides.

It must be clear, since someone raised the additional cost issue here a while ago, that if someone is manufacturing an aerosol and they must comply with California's regulations on the one hand and Maine's regulations on the other hand, and Michigan's on another, and so on, that in doing so, in trying to fashion the label, the product, and the tests for each and every individual State out there that may want to get into this, it must be obvious to all of us that we are going to impose additional costs on the consumer. There is no other way. There is no other way it can happen. If you are going to require a separate set of tests to be run, one for the Federal Government, one for the State government, and one for any other State government that wants to get into the act, then obviously that product has to cost more, and that cost has to be passed along to the consumers. It is not going to be borne in any other way.

I think, Mr. Chairman, that we have gotten away entirely from the thrust of this amendment.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 1 additional minute.)

Mr. FITHIAN. Mr. Chairman, there is one additional argument that I would particularly like my friend, the gentleman from Iowa, to hear. That argument is this: It says in there that the EPA can modify and the request can be modified only if the State requests is arbitrary or capricious. That is what we are talking about.

It puts a fair burden on the EPA to demonstrate that there is no local use condition in California or elsewhere that is legitimately addressed by California's request for additional information, and the EPA would have to

rule, as I understand this amendment, that the company must provide additional data, et cetera. And in not providing this, they would have to rule that the State's case is arbitrary and capricious. That is a pretty heavy load for the EPA to prove.

So, Mr. Chairman, I would urge the retention of section 24 as drafted in the bill under section 11. I would urge that the Members think through what it is we are arguing for in terms of the alternative; we are arguing for 50 EPA's.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time only for the purpose of clarifying several statements that have been made here. I would accept the judgment of the House and let the House decide on this issue.

I do want us to be very, very clear in that the debate has to some extent taken on the issue of States rights versus the Federal bureaucracy, and so forth. The reason for FIFRA, the reason for the beginning of FIFRA was that the people from the States came to us and said, "For goodness sakes, do something. We need a Federal law. We need a law that will cover this."

The farm workers came to us. The farm workers' organizations and the environmental organizations came to the Congress and said, "We need a Federal law. We need a Federal standard."

So with all of what we have heard today of States rights and the Federal bureaucracy, there is a State bureaucracy, with all due respect to the several States, that is the same or conceivably worse.

□ 1400

But the issue of States rights, to me, when I hear it, with all due respect, goes back to not letting someone you did not like go into your State university.

That is when we kept hearing States rights.

So I would hope that the Members put that issue aside because the main thrust and the reason for FIFRA is that the people who were concerned about indiscriminate use of, manufacture, and/or use or application of pesticides said we need a Federal presence.

Also, saying that in this particular case we are abridging the States rights, that is not so because those same people have told us, and in other sections of the bill you find that the administrator is given the right, and none of the groups, the farmworkers, the environmentalists, the pesticide manufacturers, none of them complain of this issue in enforcement.

I have had in my own State complaints from citizens that the State is not enforcing.

So what is the fallback? The Federal Government and the Federal law.

So I do not want it to deteriorate into that.

Second, for example, the training of applicators or users. There was some concern that many people were being hurt because they were not properly trained, that perhaps they might be injuring themselves and others, so then we provided a provision or a provision was established whereby you had training supervised by the administrator. If that is not done properly the administrator then has the right.

Then going back to this amendment, as the gentleman from Indiana so ably pointed out, this does nothing to the use of pesticides for crops out in the field, the ones you hear complaints about. This does nothing to that.

The present law is only speaking to special local use, what you use around the house for roaches or mosquitoes, and so on, and the State is protected. It is only done to facilitate that and unfortunately, I would say, in one particular State there were many complaints that all of the surrounding States could conceivably receive a permit but not in this particular State.

So let us be clear on the issue. Those pesticides which are used in the field for the production of food, herbicides in the forest for food and fiber, all of those are not covered by this amendment. Only the specialty, local use, that is where we intervene.

It is very simple. Any other issue is extraneous to what we decide here and now.

Being fair, as chairman of the committee, because I have division within my committee, I again state that I want you to know the facts.

I want you to vote hopefully intelligently, and I am sure you always do, without emotion, but knowing the facts, and then let the House decide the issue.

The CHAIRMAN. The time of the gentleman from Texas (Mr. DE LA GARZA) has expired.

(At the request of Mr. FOUNTAIN and by unanimous consent Mr. DE LA GARZA was allowed to proceed for 1 additional minute.)

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. Mr. Chairman, I just want to make a clarification. I thank the gentleman for yielding and I want to tell him how much respect I have for him and appreciate all he has done for agriculture, particularly for many of the programs which are of great concern to my people.

When we mention States rights, let me emphasize I have never been one of those, and I do not think the gentleman from Georgia (Mr. LEVITAS) or others from the South are among those who insist on States rights, with-

out requiring States to assume their responsibilities so we stand for and insist on States rights and responsibilities together.

We have no objection to the Federal Government enforcing Federal law with minimum standards. We do not want to be harassed by the process which the provision in this bill would place upon the State government to enable it to get information which it ought to be able to get directly from the pesticide and chemical people.

We also do not want to be impaired from carrying out our responsibility to our people and we do not want the difficulties which have been experienced in one State, such as California, to be used as an excuse to harass the rest of the Nation.

Mr. DE LA GARZA. Apparently the gentleman did not hear my statement.

Mr. FOUNTAIN. I was standing here listening to the gentleman's statement. I just do not believe his statement is an adequate reason for voting against the Harkin amendment. I do recognize the need for Federal laws in this area and I will support the bill on final passage.

● Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of the Harkin-Brown amendment to H.R. 5203. This amendment would restore the rights of States to seek pesticide information from producers, a freedom I regard as necessary for the protection of public health.

As H.R. 5203 now stands, it offers too broad a remedy for too narrow a problem. The scheme in section 11 of this bill is a classic example of legislative overkill. The difficulties the chemical and pesticide companies have had with FIFRA, as it has been applied in California, boil down to two issues; long delays in product registration and arbitrary and capricious data generation requests. These problems are basically administrative or managerial in nature. Among industry's more serious concerns are that the State does not account for scientific priorities, it lumps name changes with new product registration, and so forth. While these are no doubt real irritants, time consuming and costly to industry, they hardly seem to merit Federal legislation effectively discouraging States from pursuing strong pesticide programs.

It would seem that the most direct approach to problems of this kind would be through the State itself, particularly since only one State has been the subject of industry's complaints thus far. I understand, however, that the companies involved did not completely avail themselves of administrative or judicial remedies in California prior to seeking to influence Federal legislation. Furthermore, the fact that this State has responded to the bulk of industry's complaints and cleared

its registration backlog is only proof that the legislation we are considering is not necessary. The local problems it addresses are procedural and existing avenues are available to product registrants to correct them.

The broader consequences of section 11, however, are worth considering for a moment. It would obstruct and devitalize State pesticide programs in a number of ways. Most glaring is the creation of another bureaucratic checkpoint. The inevitable tangle of delay and backlog that would grow out of an EPA review of data request would not only prolong the regulation process, but add new financial burdens to the States—burdens they certainly cannot afford these days—which will discourage them from pursuing local concerns or being as thorough as they would like in their regulation of pesticides.

Even more important is the way in which this bill undermines the role of the States in protecting public health. Even without the burden of the additional bureaucracy, States would in the future have to justify their data requests to the satisfaction of industry and the Federal Government before they are complied with, if at all. Although it is certainly no one's intention to create "50 little EPA's," it should be remembered that Federal controls on pesticides are only a minimum necessary to protect public health.

State pesticide programs, as my colleagues have pointed out, will be required to conform to national norms as interpreted by EPA and the Federal courts. Special local concerns will have to be defended as such, thereby shifting the burden of proof from the regulated to the regulators. State registration processes will be fragmented into categories emphasizing where and how the product is used instead of what the potential health hazards might be. I submit that these changes alter the focus of FIFRA from the protection of public health to the convenience of the chemical industry.

We are told that the changes are minor and that the States retain exactly the same authority they now have; to regulate the use and sale of pesticides and to request data beyond the EPA requirements. It should be patently clear, however, that the ability to exercise this authority is severely limited when access to information is impeded. Although aimed at actions which are arbitrary, this new system would stymie every data request, legitimate or not. It is grounded in the assumption that States are, or will be, acting capriciously instead of responding to a public need. This not only strikes me as baseless, but expresses a singular lack of confidence in our partners in federalism at a time when we are turning responsibility back to the States at an unprecedented rate.

Again, Mr. Chairman, I urge my colleagues to vote for this amendment. ●

● Mr. WALGREN. Mr. Chairman, the potential threat to health from pesticides should be a pressing concern to every American.

The use of pesticides has increased 70 percent in the past 10 years. The farmworker justice fund estimates that pesticides cause 800,000 injuries and 800 fatalities each year.

Many substances used to protect crops, or eliminate annoying insects are highly toxic and hard to neutralize once introduced into the environment. There are many ways we contact with these chemicals. Rain carries pesticides sprayed on crops into the groundwater or run off into nearby streams. Almost every chemical that enters ground water eventually works its way into the biosystem and up the food chain to the family dinner table. This is especially true of pesticides not easily broken down by natural chemical processes particularly those used directly in the home. Pesticides are not confined to spraying orchards in Florida or spraying Midwestern fields. They are often right in our own homes, sprayed on lawns and into carpets to exterminate annoying insects, fungi and rodents. Because pesticides are so omni present, we must take special caution to see that they are safe.

People have a right to know that the use of chemicals will not jeopardize their health. In several respects the bill before us today, H.R. 5203, amendments to the Federal Insecticide, Fungicide and Rodenticide Act, threatens this right.

An important principle of many of the public health laws is that the Federal Government should provide minimum guidelines to insure the safety of substances, preserving the right of States to regulate more stringently in order to address special local concerns.

The bill before us restricts the ability of States to regulate pesticides more stringently than Federal standards, by allowing EPA, at industry's request, to evaluate State requests for any data beyond that used by EPA in developing minimum standards. At a time when EPA's resources for collecting and analyzing such data is dwindling, placing EPA between the States and the pesticide industry, and allowing the industry to oppose such data requests through multiple avenues of litigation, could create a snarl of bureaucracy which would be a drain on both State and Federal resources. It could discourage States from exercising their right to obtain information on which to make intelligent, independent regulatory judgments. The right of States to place more stringent safety requirements on the use of goods which threaten public health is not only consistent with the Reagan administration's philosophy, it is an historic and fundamental obligation of

State government. I believe it is essential to continue to apply this principle to pesticide regulation because the need and use of pesticides varies greatly from State to State and their effects are primarily local in nature. For example, Florida's citrus needs are different from Maine's potato needs. California's produce is different from Pennsylvania's.

I hope my colleagues will support the Harkin-Brown amendment to H.R. 5203, to preserve the right of States to regulate pesticides more stringently than Federal standards and to meet local needs and circumstances.

I am also concerned that, under the bill, corporations have wide latitude in seeking Federal judicial review, the private citizen is allowed no access to Federal courts to seek redress of damages caused by the misuse of pesticides. I regard it as a fundamental right of all American citizens to seek redress in courts for violation of laws. I therefore urge my colleagues to support Representative PANETTA's amendment which will insure that right. ●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WAMPLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 250, noes 154, not voting 30, as follows:

[Roll No. 264]

AYES—250

Addabbo	Coughlin	Fuqua
Akaka	Courter	Garcia
Alexander	Coyne, William	Gejdenson
Anderson	D'Amours	Gilman
Andrews	Daschle	Gingrich
Anthony	Daub	Glickman
Applegate	Davis	Gonzalez
Aspin	Deckard	Gore
Atkinson	Dellums	Gradison
Bailey (PA)	DeNardis	Gray
Barnard	Derrick	Green
Barnes	Dicks	Gregg
Bedell	Dingell	Guarini
Bellenson	Dixon	Hall (OH)
Bennett	Donnelly	Hamilton
Bereuter	Dorgan	Hammerschmidt
Bethune	Dowdy	Hance
Bevill	Downey	Harkin
Bingham	Dwyer	Hatcher
Boggs	Dymally	Hawkins
Boland	Dyson	Heckler
Bolling	Early	Heftel
Boner	Eckart	Hertel
Bonior	Edgar	Hiler
Bonker	Edwards (CA)	Hollenbeck
Brodhead	Emery	Howard
Brooks	Evans (GA)	Hoyer
Brown (CA)	Fary	Hubbard
Burton, Phillip	Fascell	Huckaby
Carman	Fazio	Hughes
Carney	Fenwick	Ireland
Chappell	Ferraro	Jacobs
Clausen	Florio	Jeffords
Clay	Foglietta	Jenkins
Clinger	Ford (MI)	Jones (TN)
Coats	Ford (TN)	Kastenmeier
Collins (IL)	Fountain	Kemp
Conte	Fowler	Kennelly
Corcoran	Frank	Kildee

Kogovsek	Neal	Shamansky
Kramer	Nelligan	Shannon
LaFalce	Nelson	Sharp
Lantos	Nowak	Simon
Latta	Oakar	Smith (IA)
Leach	Oberstar	Smith (NE)
LeBoutillier	Obeys	Smith (NJ)
Lehman	Ottinger	Smith (PA)
Leland	Oxley	Snowe
Lent	Panetta	Snyder
Levitas	Patterson	Solarz
Livingston	Pease	St Germain
Long (MD)	Pepper	Stanton
Lowry (WA)	Perkins	Stark
Lundine	Petri	Stokes
Markey	Peyser	Studds
Marriott	Pickle	Swift
Martin (IL)	Porter	Synar
Martin (NY)	Price	Tauke
Martinez	Pursell	Taylor
Matsui	Rahall	Traxler
Mattox	Rallsback	Udall
Mavroules	Rangel	Vento
Mazzoli	Ratchford	Walgren
McCloskey	Regula	Washington
McCollum	Reuss	Waxman
McDade	Rinaldo	Weaver
McEwen	Rodino	Weber (MN)
McGrath	Roe	Weber (OH)
McHugh	Roemer	Weiss
Mikulski	Rose	Whitten
Miller (CA)	Rostenkowski	Williams (MT)
Miller (OH)	Roukema	Williams (OH)
Mineta	Roybal	Wirth
Minish	Russo	Wolpe
Mitchell (MD)	Sabo	Wyden
Mitchell (NY)	Santini	Wylie
Moakley	Savage	Yates
Molinar	Sawyer	Yatron
Mollohan	Scheuer	Young (AK)
Montgomery	Schneider	Young (FL)
Moore	Schroeder	Zablocki
Mottl	Schumer	Zefertti
Murphy	Seiberling	
Natcher	Sensenbrenner	

NOES—154

Albosta	Piedler	McClory
Archer	Fields	McCurdy
Ashbrook	Findley	McDonald
Badham	Fithian	McKinney
Bailey (MO)	Flippo	Mica
Beard	Foley	Michel
Benedict	Forsythe	Moorhead
Benjamin	Frenzel	Morrison
Billie	Gaydos	Murtha
Bouquard	Gephardt	Myers
Bowen	Gibbons	Napier
Breaux	Goodling	Nichols
Brinkley	Gramm	Parris
Broomfield	Grisham	Pashayan
Brown (CO)	Gunderson	Patman
Broyhill	Hagedorn	Paul
Burgener	Hall, Ralph	Quillen
Butler	Hall, Sam	Rhodes
Byron	Hansen (ID)	Ritter
Campbell	Hansen (UT)	Roberts (KS)
Chapple	Hartnett	Roberts (SD)
Cheney	Hefner	Robinson
Coelho	Hendon	Rogers
Coleman	Hightower	Roth
Collins (TX)	Hillis	Rousselot
Conable	Holland	Rudd
Coyne, James	Holt	Schulze
Craig	Hopkins	Shaw
Crane, Daniel	Hunter	Shelby
Crane, Philip	Hyde	Shumway
Daniel, Dan	Jeffries	Shuster
Daniel, R. W.	Johnston	Skeen
Dannemeyer	Jones (OK)	Skelton
de la Garza	Kazen	Smith (AL)
Derwinski	Kinross	Smith (OR)
Dickinson	Lagomarsino	Solomon
Dougherty	Leath	Spence
Dreier	Lee	Stangeland
Duncan	Lewis	Staton
Dunn	Loeffler	Stenholm
Edwards (AL)	Long (LA)	Stratton
Edwards (OK)	Lott	Stump
Emerson	Lowery (CA)	Tauzin
English	Lujan	Thomas
Erdahl	Luken	Trible
Erlenborn	Lungren	Vander Jagt
Evans (IA)	Madigan	Volkmer
Evans (IN)	Martin (NC)	Walker

Wampler	Whitley	Wright
Watkins	Whittaker	Young (MO)
White	Winn	
Whitehurst	Wortley	

NOT VOTING—30

Annunzio	Dornan	Marks
AuCoin	Ertel	Marlenee
Bafalis	Evans (DE)	Moffett
Blaggi	Fish	O'Brien
Blanchard	Frost	Pritchard
Brown (OH)	Ginn	Richmond
Burton, John	Goldwater	Rosenthal
Chisholm	Horton	Siljander
Conyers	Hutto	Wilson
Crockett	Jones (NC)	Wolf

□ 1415

The Clerk announced the following pair:

On this vote:

Mr. Annunzio for, with Mr. Conyers against.

Mrs. BYRON and Messrs. BROWN of Colorado, KAZEN, GEPHARDT, WALKER, and RITTER changed their votes from "aye" to "no."

Messrs. ALEXANDER, BROOKS, LIVINGSTON, ROSE, TAYLOR, SHARP, ANTHONY, LENT, and HAMMERSCHMIDT, Mrs. SMITH of Nebraska, Mr. FARY, and Mr. CLAUSEN changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 1430

AMENDMENT OFFERED BY MR. BARNES

Mr. BARNES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARNES:

Page 84, after line 23, insert the following new section:

REPORT ON IMPACT OF RESTRICTIONS ON DISCLOSURE OF CERTAIN INFORMATION TO FOREIGN GOVERNMENTS

SEC. 18. (a) Not later than 300 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall publish a document in the Federal Register which contains proposed findings and conclusions of the Administrator with respect to the following:

(1) The nature and extent of the impact which the prohibition imposed by section 10(g)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act on disclosure of information described in paragraphs (1)(A), (1)(B), (1)(C), and (3) of section 10(d) of such Act to foreign governments and international organizations of countries has on the Administrator's ability—

(A) to obtain information from such governments and organizations which is necessary to effectively carry out the Administrator's responsibilities under such Act, especially the Administrator's responsibilities with respect to protecting humans and the environment from unreasonable adverse effects of pesticides; and

(B) to cooperate with such governments and organizations with respect to the development of pesticide research and regulations.

(2) The willingness of persons associated with the pesticide industry to disclose, or to consent to the disclosure of, such information to such governments and organizations

in cases in which such disclosure is necessary to protect humans and the environment from unreasonable adverse effects of pesticides.

(b) During the sixty-day period beginning on the date of the publication of the document described in subsection (a), the Administrator of the Environmental Protection Agency shall allow interested persons to submit written comments with respect to the proposed findings and conclusions contained in such document.

(c) Not later than thirty days after the end of the period described in subsection (b), the Administrator of the Environmental Protection Agency, after considering any comments submitted under such subsection, shall submit to the President of the Senate and to the Speaker of the House of Representatives a report containing final findings and conclusions of the Administrator with respect to the matters specified in subsection (a).

Mr. BARNES (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. BARNES. Mr. Chairman, the FIFRA bill we are considering today contains certain restrictions in section 10(g)(2) on EPA's ability to share what might be considered trade secret information with EPA's counterparts in foreign countries and with international organizations such as the World Health Organization.

EPA, in a letter addressed to Agriculture Committee Chairman DE LA GARZA on May 13, 1982, expressed the view that these restrictions "will discourage the sharing of important information between the U.S. and other countries." I share EPA's concern about the effect of these restrictions, especially about their effect on the willingness of other countries to cooperate with our pesticide officials.

This amendment would require EPA to report back to Congress in 1 year on its experience under these restrictions. Specifically, I believe that Congress needs to know whether these restrictions are reasonable, or, on the contrary, whether they will hinder EPA in its mission of protecting public health and safety.

Therefore, my amendment requires EPA to monitor the cooperation of the pesticide industry in making information available to foreign governments when necessary for health and safety reasons—including limited trade secret information. My amendment also requires EPA to report back to the Congress in 1 year, stating whether the restrictions placed on EPA in this area have had a "chilling effect" on the flow of information from other countries to EPA, and thereby made EPA's task of protecting public health and safety more difficult.

The amendment is supported by the Audubon Society, by EPA and industry representatives have informed me that they do not have objections to this approach.

Mr. Chairman, I had originally considered offering an amendment to give EPA specific powers to share certain, limited trade secret information with foreign governments, and only under agreements that would have guaranteed the confidentiality of that information. This would have allowed EPA to share such information as a general description of manufacturing processes; or information relating to inert ingredients, or contaminants or impurities in a pesticide; but not confidential chemical formulas; or commercially valuable details of manufacturing processes. It was this type of sharing of limited trade secret information, under strict conditions of confidentiality, that I felt might on occasion help EPA and other countries identify and solve health and safety problems through mutual cooperation.

However, representatives of the pesticide industry have indicated that industry itself will make any necessary information available to foreign governments when it is needed for judgments about the health and safety of pesticide products being marketed in those countries.

In light of those assurances, I have drawn up the amendment that I am offering at this time.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. BARNES. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

If I might, I would like to enter into a brief colloquy with the gentleman. And I think in the light of that colloquy, I think we could probably accept the gentleman's amendment.

Could I ask the gentleman on what occasions might EPA need the power to share information that might be considered trade secrets with other countries?

Mr. BARNES. Well, in response to the gentleman's question I would say only in occasional situations, probably just a few times a year, it might be helpful for EPA to be able to discuss certain limited trade secret information with its counterparts in other countries. A general discussion of this information with EPA's counterparts in such countries as Canada and the United Kingdom, might help the pesticide regulators here and abroad make what can sometimes be very difficult and sophisticated judgments about the health and safety of pesticide products. A good example was EPA's helping Canada identify the source of dioxins in the herbicide 2,4-D by sharing information about the manufacturing process of that herbicide in this country.

Mr. BROWN of California. And the purpose of your amendment, as I understand it, would be to help clarify whether this power is needed by EPA, and if so, in what situations?

Mr. BARNES. That is correct. In essence, my amendment asks EPA to live under the restrictions contained in this bill for a year, and to report back to Congress on the effect of those restrictions. Some of the questions I hope that EPA will address in this report would be: First, has the necessary information been provided by pesticide manufacturers to foreign governments when needed for health and safety reasons? And second, has the flow of important information about pesticides from other countries to EPA been unnecessarily hindered because of these restrictions?

Mr. BROWN of California. If the gentleman would yield further, I recall now that we considered this matter in the committee during markup of this bill, and we did adopt the more restrictive language that is in the bill over the opposition of the EPA.

It arose from a fear of some of the Members that trade secret material might get to governments which in effect would share that with the business firms to the commercial disadvantage of the firms in this country.

So we adopted very strict language. But if that does not work, I think the committee would be willing to reconsider the matter.

Accordingly, I am willing to accept the gentleman's amendment for this side.

Mr. BARNES. I thank the gentleman.

Let me say to my colleagues that this amendment I believe is really non-controversial. It is supported by the environmental organizations, by EPA, and industry representatives have informed me they do not object to this particular approach to this issue.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield?

Mr. BARNES. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank my colleague for yielding.

I want to concur with the observations of the distinguished gentleman from California (Mr. BROWN). My recollection was that during the consideration of this section of the bill, that the Environmental Protection Agency felt that proper assurances could be secured to protect industry trade secrets particularly with friendly countries such as England and Canada.

But I should in all good conscience point out that there was considerable concern that some countries, and especially certain Eastern bloc countries, that continue to violate the normal registration process and indeed in cases have provided unique competition by copying and registering com-

peting pesticides. But in keeping with the spirit of the gentleman's amendment, this side is prepared to accept it, but we will be watching this development with a great deal of interest.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BARNES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YATES

Mr. YATES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YATES: Page 84, after line 23, insert the following new section:

DENIAL AND CANCELLATION OF REGISTRATION OF TOXAPHENE

SEC. 18. (a) Notwithstanding any other provision of law—

(1) the Administrator of the Environmental Protection Agency shall deny under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act; and

(2) no State may provide under any law as permitted by section 24 of such Act; registration of toxaphene for sale or use.

(b) Any registration of toxaphene for sale or use in effect after the date of the enactment of this Act under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act or under any law of a State is hereby cancelled.

(c) As soon as practicable after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall—

(1) establish, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act, procedures and regulations for the disposal, storage, and transportation of unused quantities of toxaphene; and

(2) provide reasonable notice of such procedures and regulations to persons holding unused quantities of toxaphene.

Mr. YATES. Mr. Chairman, I feel very emotional about this amendment, as I told the members of the Appropriations Committee yesterday. When I offered an amendment in that committee, the committee accepted my amendment to ban toxaphene, a dangerous chemical spray used on cotton crops. It was a legislative amendment. I do not know whether in the course of legislation on that appropriations bill that prohibition will remain because it is legislation on an appropriations bill. And so I offer it to this bill, where it is certainly appropriate.

The reason I feel emotional, Mr. Chairman, is that I have just taken my wife home from the National Cancer Institute where she has been found to have a malignancy. She and I played golf together up to about 3 weeks ago. We played on a Sunday afternoon, and the next day she did not feel well. We went into a doctor's office, and we found that she had this condition.

How does this happen? How can it happen? Where does cancer come from? It seems to come out of the blue—but we know better than that. We are being subjected to so many

cancer-producing influences in our society today—like toxaphene.

Toxaphene is a chemical that is used in Mississippi, Louisiana, in the Southern States as a spray for the growing of cotton. That in itself sounds entirely harmless; but it does not stay in place. What happens is that toxaphene, which is made up of a number of compounds, is very much like DDT in the respect that it has a very strong life. The toxaphene that is sprayed on crops in the Southern States are lifted by the winds and carried for distances of over 1,000 miles, to the city of Chicago, for one place, 1,000 miles away. Then it is dropped by rainfall onto the city of Chicago, it is dropped on all the communities surrounding the Great Lakes, and it is dropped into the Great Lakes themselves.

In Lake Michigan, in Lake Superior, white fish and lake trout have been found to have toxaphene in quantities, according to the U.S. Fish and Wildlife Service under official surveys, have been found to have quantities of 10 parts per million of toxaphene. The accepted maximum level by FDA for this kind of a carcinogenic material is 5 parts per million. So that in the fish that swim in the Great Lakes, 1,000 miles away from where this chemical is used, we find this cancer-producing material in the fish. It is in the food chain that is being used by people all over the country.

That is the reason that I offer this amendment, to stop this chemical warfare. The House took a position against chemical warfare some time ago. This is a chemical that can harm men, women, and children. Toxaphene is not the only cotton spray that is usable insects.

I know what farmers are up against. I know they are invaded by hordes of insects. Farmers are constantly fighting to protect their crops. And I want them to do that. But what I want them to do is to kill the bugs, and not kill human beings as well. Destroy the insects, but do not destroy also the men, women, and children who are innocent bystanders. There are such sprays that are nontoxic.

Now, the reason I am offering this amendment is that EPA has been studying toxaphene for 5 years and has refused to take action. They know it is carcinogenic. They know it is cancer producing. Their scientists have asked those on the upper echelons to ban toxaphene. EPA has delayed it. It was supposed to make its decision by June of this year. That time has gone by. It refuses to make its decision.

Yet it had in 1980, EPA staff reported.

These results constitute substantial evidence that toxaphene is likely to be a human carcinogen.

Evidence that toxaphene is likely to be a human carcinogen. We know that

now. Why not take appropriate action? We ought not to be using chemicals of this kind which, while they are effective on your sprays of various kinds, still are dangerous and they do not have to be used. There are sprays that can be used.

In the course of other arguments we heard the arguments made that the cost ultimately will be upon the consumer.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 1 additional minute.)

Mr. YATES. The cost ultimately will have to be shouldered by the consumer; that is true. But I wager that every consumer in this country would be willing to pay the few extra cents or the few dollars that would be necessary if in so doing it was sure that the food that they were eating was free from carcinogenic materials, and the water they were drinking was not likely to produce any kind of cancer.

I think it is important that we take a position against the continuation of a cancer-producing spray of this kind.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Wisconsin.

Mr. OBEY. I thank the gentleman for yielding.

I would just like to congratulate the gentleman for offering this amendment. This is another one of those instances in which evidence continues to mount, but upon which action is continually delayed. I would suggest that if we cannot move on chemicals like this, which are known to be troublemakers, we encourage in the end an indiscriminate objection to all chemicals.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has again expired.

(At the request of Mr. Brown of California and by unanimous consent, Mr. YATES was allowed to proceed for 1 additional minute.)

Mr. OBEY. If the gentleman will continue to yield, it just seems to me we have people in this society today who have come to the conclusion that almost any chemical causes cancer. The fact is that is not true. A very narrow band of chemicals causes cancer. And if we do not meet our responsibilities to take action whenever we discover one such as this, which is so insidious, and which builds up as the gentleman has indicated in the fatty tissues of fish, and continues to concentrate at much higher levels than is known to be safe in the human food chain then we invite a wholesale across-the-board attack on chemicals and the chemical industry and no responsible person wants that.

I congratulate the gentleman. I hope this amendment is adopted.

□ 1445

Mr. YATES. I thank the gentleman. Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to my friend, the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the gentleman knows, I am sure, how much I agree with the sentiments that he has expressed and how much I regret the personal nature of the circumstances which have caused the gentleman to do what he is doing here.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. Brown of California, and by unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, if the gentleman will yield further, I am in this position, which I am sure the gentleman will understand. In the past when efforts have been made on the floor to place amendments in the FIFRA legislation directing a certain action, and the last such action was just the opposite of what the gentleman is proposing, it was a requirement that EPA register Mirex, a known carcinogen. I had to oppose that on the grounds that that is not the proper way to regulate chemicals.

Now, I am going to ask the gentleman if he would accept one of two courses as an alternative to what he is proposing; first, my assurance of an oversight hearing on this matter within the next 30 days and the strongest possible pressure to complete the action by EPA, or in the alternative, language requiring that EPA complete their RPAR, which as the gentleman has already indicated, they have had underway for 5 years, within 30 days after the passage of the action.

I am willing to support either course as an alternative to doing what I think is procedurally wrong; namely, to legislate a specific regulatory action for a specific chemical on this floor in the absence of the full scientific evidence, public review, and other protections which the law provides for.

Mr. YATES. Mr. Chairman, may I respond to the gentleman by saying that I appreciate his good intentions and the courses that the gentleman has offered in good faith as substitutes.

I would not be willing to accept them and I will tell the gentleman why.

First, I think EPA has had a long enough time to act.

Second, this bill, which is the logical place to offer an amendment such as I offered, will have gone and I will not be able to offer an amendment comparable to this. The time will have gone by.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. YATES. Third, Mr. Chairman, the Congress subsequent to the time that the gentleman's example of the Mirex situation took place has adopted the legislative veto procedure.

Since that time, at the insistence of our good friend, the gentleman from Georgia, the Congress has taken the position in favor of a legislative veto, which provides that the Congress has the right to tell a regulatory agency, you shall not put a particular regulation into effect.

The Congress has thus stated it will take individual action if the situation warrants. That being true, it seems to me to be equally valid for the Congress to say that if you do not act and the situation requires action, the Congress can act.

For those reasons, I regretfully, with the greatest respect for my friend, the gentleman from California, must turn down the options that the gentleman has suggested.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I thank the gentleman.

I have great sympathy for our colleague, the gentleman from California, on the procedural question; but it does seem to me two things ought to be kept in mind.

No. 1, if we put this on and the conference decides at that point that there are other ways of getting this accomplished, the conference can at that point drop it; but what we do by putting it on is we send a strong message to the EPA.

Mr. YATES. Right.

Mr. SIMON. We are interested in having something done.

Mr. YATES. The gentleman is exactly right. If EPA is to act, it will have the assurance of the Congress if this amendment is accepted that its action in banning it will be the correct action.

Mr. SIMON. The second thing, if the gentleman will yield further, the second thing it seems to me we have to do is to let EPA know through the dialog on this floor that we are unhappy with their lack of movement on this question.

I strongly support my colleague, the gentleman from Illinois.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. YATES

Mr. BROWN of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California as a substitute for the amend-

ment offered by Mr. YATES: page 84, after line 23, insert the following new section:

DENIAL AND CANCELLATION OF REGISTRATION OF TOXAPHENE

SEC. 18. Notwithstanding any other provision of law—

(1) The Administrator of the Environmental Protection Agency shall complete the public interim administrative review process under section 3(c)(8) of the Federal Insecticide, Fungicide and Rodenticide Act with respect to the pesticide toxaphene, as soon as practicable, but not later than 30 days after the date of enactment of this Act.

(2) If as a result of such review, the Administrator should decide to initiate regulatory action under section 6(b) of such Act to cancel its registration or change its classification, the Administrator shall furnish a notice and analysis thereof as provided in such subsection to the scientific advisory panel and Secretary of Agriculture for comment, and notwithstanding the time requirements of such subsection, the Administrator shall furnish the registrant and make public thirty days thereafter the Administrator's notice of intent to take any such action.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. Mr. Chairman, this is the substitute which I offered to the gentleman from Illinois to require the Environmental Protection Agency to complete the review process required under the present law within 30 days after the enactment of this act.

I personally think that we can secure even more prompt action by the agency. Everything that the gentleman from Illinois said is correct. They had had this matter under study for 5 years. They have had recommendations from their staff. They have set target dates for action already. They have deferred action for reasons that I do not pretend to understand; but I think that they will understand the significance of what we are doing here today. If their sensitivity is as great as I think it is, they should be able to act promptly.

Now, I think there is no question but what we are talking about conveying a signal to the agency. I am not sure that a signal which flies in the face of what I consider to be proper congressional procedure is any more effective than a signal which conforms to procedure, which I think my amendment does. In effect, it merely says that you will follow your processes that you have been following, but you will complete them within a time certain. I believe that that will give them a signal. If that is not enough, of course, as the gentleman from Illinois knows, and others in the House, the gentleman has already given them a signal by putting this same amendment on the

appropriation bill and I think that is an even more effective signal.

So I believe that this will accomplish the purpose that the gentleman seeks to achieve and I hope the House will support it.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I would be happy to yield to my friend, the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I would hope it will accomplish that purpose.

The gentleman spoke about the sensitivity of EPA. Every possible evidence is to the contrary with respect to this EPA organization. They are not sensitive. Had they been sensitive, they would have banned toxaphene a long time ago. They establish deadlines. The deadlines go by. Their staff people anguish over the fact that no action is taken by the highest officials of EPA, and yet no action continues to be taken.

For that reason, as much as I respect and admire my good friend, the gentleman from California, whose views I know are identical with those that I have expressed on the dangers of toxaphene, I have to disagree with the gentleman on this.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Yates amendment.

At the outset, Mr. Chairman, we were all saddened to learn about Addie's condition and her hospitalization in the National Institute of Cancer. In the 24 years that I have been in the Congress, I had the opportunity to become very closely acquainted with SEN. YATES. I have been on trips with him and his lovely wife, Addie. I have never seen a greater, a finer partnership and marital relationship than SEN. YATES and Addie and our hearts go out to her and we wish her well.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I thank the gentleman from my heart for his beautiful statement.

I want at this time, even though it is tangential to the main issue, to congratulate the gentleman and all the members of the Appropriations Subcommittee in the House and in the Senate for the Department of Health and Human Services, who over the years have done so much in building the National Institutes of Health and particularly the National Cancer Institute, into the great institutions they are today. They stand as monuments to the wisdom of those members of the Appropriations Committee who fought through the extra amounts of funds that are necessary to protect the lives of American citizens.

I congratulate the gentleman.

Mr. CONTE. Mr. Chairman, I thank the gentleman.

Mr. Chairman, I oppose the substitute amendment offered by the gentleman from California and I rise in support of the amendment offered by the gentleman from Illinois. The gentleman from Illinois offered a similar amendment during full committee consideration of the HUD/independent agencies appropriations bill yesterday and that amendment was accepted without dissent.

I think all of us are aware of the growing concern felt by the public as more and more questions are being raised in the scientific and medical communities about the long-term effects of newly developed chemicals and materials. The gentleman from Illinois yesterday cited asbestos as an example of a material which when first developed was extremely well received by the public and only in recent years did we discover, much to our regret, the negative side effects of this material to human health.

The use of toxaphene as a pesticide has been under study by the Environmental Protection Agency for over 5 years. Internal EPA memorandum provided by the gentleman from Illinois to the Appropriations Committee yesterday indicates that over a year ago, scientists concluded from their research with laboratory animals that toxaphene did indeed pose a significant risk of cancer to humans. What made this conclusion even more important is the fact that the toxic danger posed by toxaphene is not restricted to the immediate area in which this pesticide is used. Unfortunately people over 1,000 miles away are unknowingly being exposed to this toxicity. Toxaphene is picked up by wind currents and has been known to be deposited as far away as Lake Michigan which is over 1,000 miles from the Mississippi Delta region where it is most used. Test samples of fish in the Great Lakes conducted by U.S. Fish and Wildlife Service personnel has shown toxaphene in these fish at levels up to 10 parts per million. This is twice the maximum acceptable contaminant level established for toxaphene by the Food and Drug Administration.

EPA's own scientists have recommended that toxaphene be banned for most pesticide use by June of 1982. However, June has come and gone and still there has been no official action by EPA on this matter.

I believe that so long as there is sufficient evidence to indicate that toxaphene may indeed pose a significant cancer risk to humans, we have a responsibility to the people we represent to take immediate action to eliminate this threat. If we are to err, let us err on the side of overprotection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. BROWN) as a substitute for the amendment offered by the gentleman from Illinois (Mr. YATES).

The amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. YATES).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SMITH OF ALABAMA

Mr. SMITH of Alabama. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SMITH of Alabama: At the end of the bill, add the following new section:

PROTECTION OF HUMAN LIFE FROM THE ADVERSE EFFECTS OF PESTICIDES

SEC. . Section 2 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by amending subsection (bb) by inserting a comma after "man" and the following: ", (including unborn human beings from the moment of conception)."

Redesignate succeeding sections accordingly.

□ 1500

Mr. SMITH of Alabama. Mr. Chairman, It is a fundamental principle of American law to recognize and affirm the intrinsic value of all human life. My amendment is intended to assure that this principle is reflected in Federal policy by requiring that the Administrator of the Environmental Protection Agency will, in considering the safe use of pesticides, take into account their impact of the most vulnerable members of the human family—unborn children.

Mr. Chairman, unborn children are particularly susceptible to environmental contaminants. In study after study, such contaminants have been linked with miscarriages, premature births, low birth weight, and a variety of congenital defects. The Administrator should take effective action to avoid such tragic effects on unborn children.

Mr. Chairman, contemporary science leaves no doubt that, from the time of conception, the unborn child is alive and a member of the human species. Consider the following passages from standard medical school textbooks on human development:

[All organisms, however large and complex they may be when full grown, begin life as but a single cell.

This is true of the human being, for instance, who begins life as a fertilized ovum.—I. Asimov, *The Genetic Code* 20 (1962).

It is the penetration of the ovum by a spermatozoon and the resultant mingling of the nuclear material each brings to the union that constitutes the culmination of the process of fertilization and marks the initiation of the life of a new individual.—B. Patten, *Human Embryology* 43 (3d ed. 1968).

The formation, maturation and meeting of a male and female sex cell are all preliminary

to their actual union into a combined cell, or *zygote*, which definitely marks the beginning of new individual.—L. Arey, *Developmental Anatomy* 55 (7th ed. 1974).

A human being originates in the union of two gametes, the ovum and the spermatozoon.

The zygote thus formed [by the moving together of two sets of chromosomes] represents the beginning of a new life.—J. Greenhill & E. Friedman, *Biological Principles and Modern Practice of Obstetrics* 23 (1974).

A new individual is initiated by the union of two gametes—a male gamete, or spermatozoon, and a female gamete, or mature ovum.—J. Brash, *Human Embryology* 2 (1956).

A new individual is inaugurated in a single cell (zygote) that results from the union of a male gamete (spermatozoon) with a female gamete (ovum or egg).—T. Torrey, *Morphogenesis of the Vertebrates* 47 (3d ed. 1971).

The fertilized egg cell—or zygote—contains nuclear material from both parents. It marks the beginning of the life of a new human being.—G. Simpson & W. Beck, *Life: An Introduction to Biology* 139 (2d ed. 1965).

Dr. Hymie Gordon, Professor of Medical Genetics and physician at the Mayo Clinic, affirmed this consensus when he said:

"I think we can now also say that the question of the beginning of life—when life begins—is no longer a question for theological or philosophical dispute. It is an established scientific fact. Theologians and philosophers may go on to debate the meaning of life or the purpose of life, but it is an established fact that all life, including human life, begins at the moment of conception."

Dr. Gordon further observed: "I have never ever seen in my own scientific reading, long before I became concerned with issues of life of this nature, that anyone has ever argued that life did not begin at the moment of conception and that it was a human conception and that it was a human conception if it resulted from the fertilization of the human egg by a human sperm. As far as I know, these have never been argued against."

Mr. Chairman, in testimony before the Agriculture Committee recorded in the hearing report on FIFRA, Stephanie Bower, legislative representative of the United Farmworkers of America states why my amendment is so germane to the issue at hand. She states:

Our members suffer frequent acute short-term illness from exposure to pesticides in daily work. They may be incurring long-term chronic damage from their constant exposures. They are also suffering damage to their unborn children.

Mr. Chairman, Richard Lewis of the International Chemical Union, in testimony which appeared in this same hearing report, gives evidence of the effect of hazardous pesticides on newborn children. Mr. Lewis states:

Oryzalin, a liquid herbicide used to control weeds and brush was produced over an 18-month period at the GAF plant in Rensselaer, N.Y. During that period several cases of birth defects were found. In fact, the local union of 30 workers showed no normal pregnancies occurring over this 18-month production period.

In June 1975, a chemical operator's wife miscarried; (2) on June 24, 1975, an operator's wife bore a son with a heart defect (transportation of the great vessels); (3) on December 24, 1975, a son was born and died on February 26, 1976, of pneumonia; (4) on April 3, 1976, a son was born with a heart defect (transportation of the great vessels)—he died on October 14, 1977; (5) on June 19, 1976, a son was born and died shortly thereafter of a heart defect—hypoplastic left heart; and (6) only one child born during that time period is living today. That child is now 5 years old and has undergone extensive surgery and is still under treatment. I will summarize this information. There were five reported birth defects, three having to do with defects of the heart. Of the five children born during that period only one is alive today. That child has undergone \$300,000 worth of surgery and is still under treatment.

Mr. Chairman, unborn children are living human beings whose health and very existence often is jeopardized by the adverse effects of certain pesticides on the environment. My amendment is designed to afford them a measure of protection from such hazards. I urge its adoption.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. SMITH) has expired.

(On request of Mr. BROWN of California and by unanimous consent, Mr. SMITH of Alabama was allowed to proceed for 1 additional minute.)

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Alabama. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

Mr. Chairman, I think the gentleman ought to be commended for his leadership in bringing this important amendment to the floor. I understand it is going to be accepted by the chairman and the ranking minority member of the committee.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Alabama. I yield to the gentleman from California.

Mr. BROWN of California. I commend the gentleman also for his amendment.

Mr. Chairman, on first reading I thought possibly this was an attempt to establish by law the solution of a question which I understand is scientifically controversial, but I do not think that it does that.

I think it is commendable legislation, and for this side I am willing to accept the gentleman's amendment.

Mr. SMITH of Alabama. I thank the gentleman.

Mr. WEBER of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Alabama. I yield to the gentleman from Minnesota.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. SMITH) has expired.

(On request of Mr. WEBER of Minnesota and by unanimous consent, Mr.

SMITH of Alabama was allowed to proceed for 1 additional minute.)

Mr. WEBER of Minnesota. I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the gentleman's amendment. I commend the gentleman for his amendment.

To clarify for those who may be listening or watching on television sets, as I understand it, the effect of this amendment is simply to amend the definitional sections of the FIFRA Act so when we consider the environmental damage of certain pesticides we also consider the impact on the unborn. Is that correct?

Mr. SMITH of Alabama. That is correct.

Mr. WEBER of Minnesota. I think that is a tremendously valuable contribution and I am glad to rise in support of the gentleman's amendment.

Mr. WAMPLER. Mr. Chairman, will the gentleman yield to me?

Mr. SMITH of Alabama. I yield to the gentleman from Virginia.

Mr. WAMPLER. I thank the gentleman for yielding.

Mr. Chairman, we have examined the gentleman's amendment on this side and we are prepared to accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. SMITH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. M' HUGH

Mr. M' HUGH. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. M' HUGH: Page 40, line 14, insert "(a)" after "Sec. 4."

Page 41, line 12, strike out "and" and insert in lieu thereof the following new paragraph:

(3) striking out "(ii) a request for a hearing is made by a person adversely affected by the notice." and inserting in lieu thereof "(ii) a request for a hearing is made by any interested person, including any person adversely affected by the Administrator's failure to propose action providing for greater restrictions on the use of the pesticide involved, for a more rapid phasing out of its registration, or for a change in its classification."; and

Page 41, line 13, strike out "(3)" and insert in lieu thereof "(4)".

Page 42, after line 2, insert the following new subsection:

(b) The first sentence of section 6(e)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by striking out "a person adversely affected by the notice." and inserting in lieu thereof "any interested person, including any person adversely affected by the Administrator's determination with respect to the disposition of existing stocks.".

Mr. M' HUGH. Mr. Chairman, I offer this amendment on behalf of our friend and colleague, the gentleman from New York (Mr. ROSENTHAL), who because of compelling personal reasons is unable to be here today.

The purpose of the amendment is to grant to any interested citizen the right under certain circumstances to

request an administrative hearing under this act.

Under section 6(b) of the act, the Administrator of the Environmental Protection Agency may issue notice of his intent to cancel partially or completely the registration of a pesticide if its use would cause unreasonable adverse effects on the environment. He may also seek to change a pesticide's classification, and, if this bill is enacted, he may also seek to phase out a pesticide registration.

Under section 6(b) as it now is interpreted, only the registrant of the pesticide or a user group may request an administrative hearing on the Administrator's decision. The public is not afforded that right, and this amendment would grant to any citizen the right to request a hearing in such a case.

Clearly, Mr. Chairman, when the EPA Administrator determines that the registration of the pesticide should be completely canceled, the only parties adversely affected would be the registrant of the pesticide or some user group such as a group of growers. However, if the Administrator decides that a pesticide should be banned for certain uses only, but would permit its registration to be retained for other uses, the public could be adversely affected.

Similarly, if the Administrator decides to phase out a pesticide's use, or decides to change its classification but permit its continued use, the public could also be affected. I believe that in such cases the public should be given the right to request an administrative hearing.

Indeed, Mr. Chairman, between 1972 and 1979, the public did have this right. In 1972, amendments were adopted to this act which gave the right to request a hearing to any "person adversely affected" by the Administrator's notice affecting the registration of a pesticide.

The legislative history underlying those amendments indicates that it was Congress intent that all persons, regardless of pecuniary interest, should have the right to initiate agency hearings. In fact, between 1972 and 1979, individuals and citizen groups played an active role in EPA's decisionmaking process. They contributed significantly to that process, providing scientific and other relevant information to help the EPA Administrator make his cancellation decisions.

In 1979, however, the EPA reinterpreted section 6(b), and more particularly took the position that a person "adversely affected" by an Administrator's decision in these matters did not include members of the public. The narrower interpretation was thereafter upheld in a 1980 court decision rendered by the Circuit Court of Appeals for the District of Columbia.

□ 1510

The purpose of this amendment, Mr. Chairman, is to restore the status quo ante, making it clear that citizens and citizen groups have the right to request administrative hearings; that they are, under certain circumstances, persons adversely affected by the decision of the EPA Administrator; and that they can make important contributions to EPA's pesticide decision-making process.

Mr. Chairman, this amendment is not only consistent with the original intent of the Congress and with the practice between 1972 and 1979, but it conforms to commonsense. Clearly, the public has a direct interest in a decision which continues the use of a controversial pesticide. Members of the public, and the public interest generally, can be adversely affected if a dangerous pesticide is permitted to be used. Therefore, the public should be afforded the opportunity to request a public hearing and to participate fully in such a hearing.

Mr. Chairman, this amendment would grant a similar right to the public in a second case, namely, whenever the EPA Administrator decided to cancel a conditional registration under section 6(e) of the act. Under that subsection, the Administrator is authorized to cancel a pesticide registration if he determines that the registrant has not fulfilled a condition imposed by EPA when the registration was initially approved. In so doing, the Administrator may permit the continued sale and use of existing and remaining stocks of the pesticide whose conditional registration is being canceled. In such circumstances, the public has an interest in how the existing stocks of the pesticide are disposed of, and they should have the right to request a hearing on that decision as well.

In closing, Mr. Chairman, I would simply say that this amendment, in granting citizens standing to initiate formal administrative hearings under certain circumstances, will aid the Environmental Protection Agency in gaining a fuller understanding of these complex and sensitive issues. Moreover, and perhaps more importantly, this amendment would help to guarantee to citizens the right to be heard before decisions affecting them are made by their Government. For all of these reasons, Mr. Chairman, I would urge my colleagues to support this amendment.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I have to say first that I am extremely sympathetic to the purpose of the amendment. I am inclined to share the views of the gentleman in the well and the gentleman from New York that he referred to who originally drafted this amendment to provide for the very fullest

participation in the public processes with regard to regulation of pesticides and chemicals. However, I should like to point out that there are procedural problems in any regulatory scheme which sometimes can become insurmountable.

The McHugh amendment to section 6(b) of FIFRA provides that whenever EPA proposes to place regulatory restrictions on a product, any interested person may compel EPA to hold a courtroom-type cancellation hearing for the purpose of determining whether even greater restrictions should be imposed on the product than those EPA decided on. My problem with this amendment is not with its underlying concept—that any interested member of the public should be able to request stricter regulatory action. My problem is with the procedure chosen to do this—the formal, courtroom-type cancellation hearing.

A cancellation hearing is a lengthy, time-consuming, resource-consuming piece of litigation. It is simply bad law and bad policy to make cancellation hearings the vehicle for regulatory decisions as to how strictly pesticides should be regulated. Yet that would be the primary effect of the McHugh amendment.

I believe that all interested persons should have an input into EPA decisions as to how strictly to regulate pesticides. But as I will show, that opportunity is already provided under current law during the administrative review process. Because cancellation hearings under section 6(b) are really formal litigation, they serve a very narrow purpose. It would be a grave mistake to adopt the McHugh amendment and thereby turn them into something they were never intended to be and that is essentially unworkable—a forum for deciding how strictly to regulate pesticides.

The issue raised by the McHugh amendment is not whether environmental groups should have the same right to demand a cancellation hearing under section 6(b) as a pesticide registrant. That is a false issue.

Rather, the issue is, what is the proper time and place for the public to have input on how strictly a product should be regulated? Is the proper procedure, as I contend, for the public to make its beliefs known during the agency's regulatory review process? Or is the proper procedure, as Representative McHugh contends, to decide regulatory issues through administrative litigation; that is, to let any person demand that a formal courtroomlike cancellation hearing be held to decide how strictly to regulate a product whenever a person feels that EPA has not been strict enough?

I believe that cancellation hearings under section 6(b) should not be the forum for redeciding regulatory issues. The proper time for the public to com-

ment on how strictly to regulate a product is during the administrative review process. If anyone thinks that EPA was not strict enough after an administrative review, that person has the right to take EPA to court under section 16(a) of FIFRA and ask the court to review what EPA has done.

Cancellation hearings serve the narrow purpose of giving a registrant a right to due process of law if his product is going to be canceled. They should not be expanded, as proposed in the McHugh amendment, into a device for deciding anew EPA decisions that a person does not like.

I believe the logic of my position becomes even more clear when one understands the different purposes served by administrative review on the one hand, and by cancellation hearings on the other.

EPA decisions as to whether to impose restrictions on a product, or even cancel a product, are made in an administrative review process called an RPAR (rebuttable presumption against registration). Every person has a full right to participate in this regulatory process and to urge that a product be strictly regulated and to provide to EPA any data or arguments in support of his position. If the person feels that EPA has not been strict enough at the conclusion of the RPAR, he can sue EPA in Federal court and obtain review of EPA's decision. This is in fact made crystal clear in an amendment in H.R. 5203 to section 16 of FIFRA concerning judicial review.

In summary, EPA has found based on many years of experience that the administrative review or RPAR is the best procedure for deciding how strictly to regulate, and that is the proper time and place for the public to participate and express its views on how a product should be regulated.

In contrast, a cancellation hearing under section 6(b) serves a very different and narrow purpose. When EPA proposes to cancel a product, the registrants and other adversely affected persons can request a formal hearing to protect their procedural right to make sure that the cancellation is carried out in accordance with due process of law.

Cancellation hearings are very rare; very expensive for the taxpayer; very time consuming and resource consuming; and very burdensome on EPA.

There have been only a handful of such hearings since EPA was created in 1970—for DDT, aldrin and dieldrin, heptachlor and chlordane, and 2,4,5-T. They typically last for a minimum of 6 months and can take years to complete. They consist of an administrative trial conducted in the same manner as a trial in Federal court. They require the public to foot the bill for the time of a team of agency lawyers and administrative law judge. They take EPA

scientists away from their duties and require them to spend time testifying and in cross-examination for periods of days or weeks.

Because cancellation hearings are rare, they are an acceptable procedure for protecting registrants' due process rights to a hearing. But they are clearly an ineffective and undesirable mechanism for making routine decisions as to how strictly EPA should regulate particular products. They result in legal decisions, made by lawyers and administrative judges, not in regulatory decisions made by EPA scientists and policymakers. If the McHugh amendment were adopted, EPA would be inundated with these cancellation hearings. The amendment would give extraordinary power to a single individual to tie up EPA's regulatory resources in unproductive litigation. A single person could demand a hearing on virtually every EPA regulatory decision and force EPA to spend months or years trying its case before an administrative law judge after the agency had already fully considered the evidence and reached a decision through its administrative review.

This clearly would be unwise. The law should stay as it is. The public should provide its input during the administrative review at the time when EPA makes its regulatory decisions. If a cancellation hearing is held, of course the public should continue to have the right, as it does now, to participate in it. And the public should continue to have the right, as it does now, to get judicial review of EPA regulatory decisions. But a person should not be able to tie EPA in knots by demanding that lengthy and expensive cancellation hearings be held whenever they feel that EPA has not been quite strict enough.

Now, the gentleman is correct in reciting that under the procedures in effect from 1970 to 1979, notice to any interested person adversely affected was the practice by EPA, and then they narrowed the definition in an effort to limit it to those who could specifically demonstrate an adverse economic effect. Now, one can argue that that was a bad decision, but I think that one can understand that it does become necessary in order for the efficient and economical administration of the law to try and limit the participation in situations involving the cancellation of pesticides. For those of my Democratic friends who think that this is a foul plot by an administration out to dismantle the EPA, I point out that this was done by the Carter administration, not the Reagan administration.

That redefinition was taken to the court, as the gentleman indicated, and the court upheld it. There is nothing basically improper with seeking to limit the requirements of notice, and

so forth, in connection with a cancellation procedure.

Now, I would still be inclined to go back to the previous practice if it were not for the fact that there are alternative processes which any member of the public can use to participate in these kinds of activities. They have a voice in the processes during the RPAR proceedings, which allows them to have input, and they also have access to the courts in other situations when it is desirable for them to do so.

Despite my personal feelings, I feel that I have to oppose including this language in the bill.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I will be happy to yield.

Mr. McHUGH. Mr. Chairman, I thank the gentleman for his comments. The point here is that we are faced with a significant public policy decision. The 1980 court decision which was referred to in my statement and which the gentleman has referred to as well was not a policy decision.

The CHAIRMAN. The time of the gentleman from California has expired.

(At the request of Mr. McHUGH, and by unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. McHUGH. The court decision was not a public policy decision. It did not consider whether it is good policy to permit the public the right to request a hearing. It was simply a determination on the law as the court read it in 1980. Really, the public policy decision is one we must make.

I do not know why no member of the committee chose to offer the amendment. There can be any number of reasons for that, but it does not preclude the members of the committee and the Members of the entire House from making this important public policy decision now. What the gentleman said, it seems to me, indicates that he personally recognizes that an affirmative decision on the amendment would be good public policy, but for strategic reasons he chooses not to support it at this time. I understand that, but I would ask the Members of the House not to be so concerned about strategy, but to be concerned with the public policy implications of this issue.

I think that the better policy agreements, as the gentleman himself has said, giving the public the right to request a public hearing when a particular decision is made which may potentially have a significant impact on the public. That is all this amendment does. It was the practice between 1972 and 1979, and therefore we are not asking for anything particularly dramatic or different.

I thank the gentleman for yielding.

□ 1530

The CHAIRMAN pro tempore (Mr. MINETA). The time of the gentleman from California (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 1 additional minute.)

Mr. BROWN of California. Mr. Chairman, the gentleman has correctly identified my personal feelings, but as is true of all Members of this House, there are times when we feel constrained to limit our personal preference in the interest of the greater good.

One of the reasons why this amendment probably was not offered in committee deliberations is because we have language which to some degree lessens or eliminates the necessity for this particular language on page 15 of the bill, and I would like to refer the gentleman to page 15, line 22, which I will read:

A decision by the Administrator not to cancel or suspend the registration of a pesticide product or any use thereof or not to restrict the classification of a pesticide, following an interim administrative review, shall be subject to judicial review under section 16(b) of this Act. Any final decision by the Administrator to such effect shall be deemed 'an order issued by the Administrator following a public hearing' for the purpose of section 16(b)—

And then it continues, and this is the point that is the most pertinent—and any person who has participated in an interim administrative review shall be deemed 'a party to the proceedings' for the purpose of that subsection."

That person will, of course, have a full right and standing to participate.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I appreciate the gentleman's yielding.

The purpose of my amendment is to avoid the necessity of requiring a citizen or a citizens' group to go to Federal court or any other court to enforce their rights.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(On request of Mr. McHUGH, and by unanimous consent, Mr. BROWN of California was allowed to proceed for 1 additional minute.)

Mr. McHUGH. Mr. Chairman, will the gentleman yield further?

Mr. BROWN of California. I am happy to yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I think it would be more efficient and less expensive if we permitted a citizen or a citizens group, rather than waiting for a court review, to raise these issues during the administrative process. So I think, for that reason as well, it would be in the public interest to

permit this kind of public access to be allowed.

Mr. Chairman, I would hope that the gentleman will reconsider his reluctant opposition.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment which would provide any interested person a right to demand a hearing when EPA has proposed to retain a pesticide by additional restrictions on its use rather than canceling its use.

Section 6(b) of FIFRA entitles persons adversely affected by a proposed cancellation action to challenge this decision in an administrative hearing.

EPA in reviewing registered pesticides for possible unreasonable adverse effects to man and the environment through the RPAR process has utilized the risk/benefit analysis as a result in many cases is able to continue the use of pesticides by incorporating restrictions such as usage limitations, improved application directions, or more emphatic label warnings.

EPA in 1979 made an administrative decision in interpretation of adversely affected that only registrants and users of pesticides, which are those with an economic interest in the continued registration of a pesticide, were entitled to a hearing under section 6(b).

The public interest groups, although they may have participated in the RPAR process, still feel they should be able to demand an administrative hearing to challenge this type of action, saying it has not gone far enough and that in effect the pesticide use should be canceled. The public interest groups unsuccessfully challenged this administrative ruling in court. The court ruled that Congress intended to provide an administrative hearing only when a pesticide use is being canceled, not when its use is being retained conditionally.

Since the public interest groups have an input in the RPAR process and have the opportunity to appear before the FIFRA scientific advisory panel, all before the final decision is made, and then may challenge this refusal to cancel in Federal district court under the provision of section 16(a), I feel that adequate safeguards have been provided and this amendment should be rejected. I might point out that the subcommittee considered this proposal during its deliberations and determined that such language was not needed.

For those who are more interested in the details of this issue I will continue further.

The Rosenthal amendment to section 6(b) of FIFRA provides that whenever EPA proposes to place regulatory restrictions on a product, any interested person may compel EPA to

hold a courtroom-type cancellation hearing for the purpose of determining whether even greater restrictions should be imposed on the product than those EPA decided on. My problem with this amendment is not with its underlying concept—that any interested member of the public should be able to request stricter regulatory action. My problem is with the procedure chosen to do this—the formal, courtroom-type cancellation hearing.

A cancellation hearing is a lengthy, time-consuming, resource-consuming piece of litigation. It is simply bad law and bad policy to make cancellation hearings the vehicle for regulatory decisions as to how strictly pesticides should be regulated. Yet that would be the primary effect of the Rosenthal amendment.

I believe that all interested persons should have an input into EPA decisions as to how strictly to regulate pesticides. But as I will show, that opportunity is already provided under current law during the administrative review process. Because cancellation hearings under section 6(b) are really formal litigation, they serve a very narrow purpose. It would be a grave mistake to adopt the Rosenthal amendment and thereby turn them into something they were never intended to be and that is essentially unworkable—a forum for deciding how strictly to regulate pesticides.

The issue raised by the Rosenthal amendment is not whether environmental groups should have the same right to demand a cancellation hearing under section 6(b) as a pesticide registrant. That is a false issue.

Rather the issue is, What is the proper time and place for the public to have input on how strictly a product should be regulated? Is the proper procedure, as I contend, for the public to make its beliefs known during the agency's regulatory review process? Or is the proper procedure, as Mr. ROSENTHAL contends, to decide regulatory issues through administrative litigation—that is, to let any person demand that a formal courtroom-like cancellation hearing be held to decide how strictly to regulate a product whenever a person feels that EPA has not been strict enough?

I believe that cancellation hearings under section 6(b) should not be the forum for redeciding regulatory issues. The proper time for the public to comment on how strictly to regulate a product is during the administrative review process. If anyone thinks that EPA was not strict enough after an administrative review, that person has the right to take EPA to court under section 16(a) of FIFRA and ask the court to review what EPA has done.

Cancellation hearings serve the narrow purpose of giving a registrant a right to due process of law if his product is going to be canceled. They

should not be expanded, as proposed in the Rosenthal amendment, into a device for deciding anew EPA decisions that a person does not like.

I believe the logic of my position becomes even more clear when one understands the different purposes served by administrative review on the one hand, and by cancellation hearings on the other.

EPA decisions as to whether to impose restrictions on a product, or even cancel a product, are made in an administrative review process called an RPAR (Rebuttal Presumption Against Registration). Every person has a full right to participate in this regulatory process and to urge that a product be strictly regulated and to provide to EPA any data or arguments in support of his position. If the person feels that EPA has not been strict enough at the conclusion of the RPAR, he can sue EPA in Federal court and obtain review of EPA's decision. This is in fact made crystal clear in an amendment in H.R. 5203 to section 16 of FIFRA concerning judicial review.

In summary, EPA has found based on many years of experience that the administrative review or RPAR is the best procedure for deciding how strictly to regulate, and that is the proper time and place for the public to participate and express its views on how a product should be regulated.

In contrast, a cancellation hearing under section 6(b) serves a very different and narrow purpose. When EPA proposes to cancel a product, the registrants and other adversely affected persons can request a formal hearing to protect their procedural right to make sure that the cancellation is carried out in accordance with due process of law.

Cancellation hearings are very rare; very expensive for the taxpayer; very time consuming and resource consuming; and very burdensome on EPA.

There have been only a handful of such hearings since EPA was created in 1970—for DDT, aldrin and dieldrin, heptachlor and chlordane, and 2, 4, 5-T. They typically last for a minimum of 6 months and can take years to complete. They consist of an administrative trial conducted in the same manner as a trial in Federal court. They require the public to foot the bill for the time of a team of agency lawyers and administrative law judge. They take EPA scientists away from their duties and require them to spend time testifying and in cross-examination for periods of days or weeks.

Because cancellation hearings are rare, they are an acceptable procedure for protecting registrants' due process rights to a hearing. But they are clearly an ineffective and undesirable mechanism for making routine decisions as to how strictly EPA should regulate particular products. They

result in legal decisions, made by lawyers and administrative judges, not in regulatory decisions made by EPA scientists and policymakers. If the Rosenthal amendment were adopted, EPA would be inundated with these cancellation hearings. The amendment would give extraordinary power to a single individual to tie up EPA's regulatory resources in unproductive litigation. A single person could demand a hearing on virtually every EPA regulatory decision and force EPA to spend months or years trying its case before an administrative law judge after the agency had already fully considered the evidence and reached a decision through its administrative review.

This clearly would be unwise. The law should stay as it is. The public should provide its input during the administrative review at the time when EPA makes its regulatory decisions. If a cancellation hearing is held, of course the public should continue to have the right, as it does now, to participate in it. And the public should continue to have the right, as it does now, to get judicial review of EPA regulatory decisions. But a person should not be able to tie EPA in knots by demanding that lengthy and expensive cancellation hearings be held whenever they feel that EPA has not been quite strict enough.

EPA should spend its resources regulating, not litigating. For these reasons, I oppose the Rosenthal amendment, and suggest that the spirit of full public participation in the regulatory review process is already realized under the existing law.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the McHugh amendment.

Mr. Chairman, this amendment is needed to repair an unfortunate and erroneous interpretation of the intent of Congress in passing FIFRA, back in 1972. In 1979, the Court of Appeals for the District of Columbia held that only one segment of the population is entitled to a regulatory hearing on whether a given pesticide should be banned or blessed. That segment of the population is the very industry which is asking EPA to declare the pesticide safe.

The McHugh amendment, which I strongly urge you to support, would simply put an end to this inequity. It would restore the right of citizens' groups to participate in the review and decisionmaking aspects of the pesticide regulatory process. It is crucial to the nature and function of the administrative process that adverse parties stand on an equal footing before the adjudicatory body; namely, EPA.

The District of Columbia Circuit Court decided only last year that citizens groups were not entitled to demand a hearing or the cancellation or registration of pesticides. How the

court reached this decision is a lesson in tortured legislative interpretation. Basically the court found that citizens are not "adversely affected" as presently required under section 6(b). If a person is not adversely affected he or she has no right to a hearing.

As the law now stands, EPA can propose a change in the restriction or cancellation of hazardous pesticides, but unless the registrant of the pesticide disapproves of the decision and requests a hearing, no formal hearing will be held. This system inhibits the full-fledged investigation of the health and economic issues presented by a pesticide. Most important it is simply unfair to give industry such an upper hand.

Formal hearings are essential to the ventilation of all views on the classification or cancellation of a pesticide. Only through adversary, trial-type hearings can an adequate record be compiled. What is at issue is not a means to delay the registration of pesticides. What is at issue here is the demand by the American public for responsible regulation. And that means the consideration of both sides of complex scientific and economic determinations. It does not mean that EPA should be permitted to conduct private negotiations with the very industries it should be regulating in a neutral fashion.

We should never have had to enact an amendment such as this. But given the unfortunate gloss the District of Columbia Circuit has placed upon the statutory language, it is imperative that we enact this simple amendment to restore the original intent of Congress.

● Mr. ROSENTHAL. Mr. Chairman, I rise in support of Representative McHugh's amendment to H.R. 5203.

In 1963 and 1964 when Congress considered changes to Federal pesticide law as proposed by Senator Ribicoff and myself, I included language which enabled individuals adversely affected by an order of notification regarding the registration of pesticides to seek judicial review of such an order. This was the first instance of judicial relief incorporated in FIFRA and set a precedent for subsequent amendments through the sixties and seventies, as Congress broadened the scope of FIFRA. As originally conceived, judicial review was seen as an avenue for persons to challenge USDA's final order on a registration or change in registration of pesticides.

In 1972, Congress expanded the scope of public challenges to EPA decisions to include administrative proceedings, incorporating the Rosenthal-Ribicoff language, and covering administrative hearings on charges in the registration of pesticides. As a result of the 1972 amendments, section 6(b) of FIFRA provides that "a person adversely affected" by a notice

of intent to cancel a registration or change a classification of a pesticide is entitled to request a hearing before EPA. Every major pesticide cancellation and suspension decision made by EPA between 1972 and 1979 has involved such a hearing and in virtually every case, environmental, labor, and farmworker organizations have been equal participants, along with registrants and user groups, in airing the issues involved.

Legislative history shows that Congress intended all persons, regardless of pecuniary interest, who believe their interest to be adversely affected by a proposed EPA pesticide cancellation action would be full participants in the Agency hearings. As the Senate report on the 1972 amendments makes clear:

The Agriculture Committee bill . . . permits any citizen to initiate cancellation proceedings, obtain judicial review of every action and inaction he disagrees with, and intervene in every proceeding . . .

It should be noted that the conference adopted the Rosenthal-Ribicoff "adversely affected" language in its final report.

In 1979, however, EPA limited the language of section 6(b) to only registrants of and users of pesticides: That is, those with an economic interest in the continued registration of an economic poison, can be adversely affected. The result is that the public is excluded from challenging the notice at the administrative level.

In 1982, the U.S. court of appeals affirmed the Agency's position, reversing almost 10 years of EPA acceptance of public challenges, Environmental Defense Fund against Costle (D.C. Cir., 1980).

In affirming the EPA Administrator's position, the court chose to ignore the weight of the legislative history and interpreted section 6(b) in an overly restrictive manner: That a valid challenge would exist only with respect to a cancellation or suspension notice in its entirety. Thus, any objection to the retained portion of a cancellation or suspension notice is not subject to a challenge.

Congress intended all interested parties access to EPA's regulatory procedures with respect to the registration of pesticides, fungicides, and rodenticides.

The decision in Environmental Defense Fund against Costle makes it clear that the statutory language must be strengthened to insure the public's continued access to EPA's administrative procedures. I strongly urge my colleagues to support the McHugh amendment.●

● Mr. EDWARDS of California. Mr. Chairman, I strongly urge my colleagues to support the McHugh amendment. This is a simple, technical correction of the procedures for the

registration and cancellation of pesticides. The McHugh amendment will remove an unfair impediment to citizen participation in the registration process which was erected only last year by the Federal courts.

Last year the U.S. Court of Appeals for the District of Columbia Circuit ruled that citizens are not entitled to a hearing when the EPA fails to ban a pesticide. Congress never intended to deny citizens the right to initiate EPA administrative hearings. Yet the court's wrongheaded interpretation of FIFRA eliminated this procedural guarantee.

The situation as it now stands is patently unfair and blatantly contrary to the purpose and function of administration proceedings. At present the only persons entitled to a hearing on registration or cancellation are the manufacturers or registrants of the pesticide. To deny citizen access to the administrative process is to deny the opportunity to hear conflicting evidence on these sensitive and complex technical questions.

Let me illustrate the need for this amendment in somewhat more realistic terms. Imagine a group of farmworkers in the San Joaquin Valley who are engaged in citrus fruit picking. The farmers in that valley would like to utilize a registered fungicide, call it X-100, to combat a new strain of fungus. The farmworkers are opposed to the use of X-100, because of its known carcinogenic effect. Nevertheless, rather than oppose the use of X-100 altogether, the farmworkers only want to make sure X-100 is only used by certified applicators.

Can the farmworkers persuade EPA to limit this use of X-100 to certified applicators? The answer is "No." Only the registrant of the pesticide is entitled to a hearing on its classification. Under the current interpretation of the law, farmworkers have no right to an evidentiary hearing on the classification of a pesticide.

The amendment offered by the distinguished gentleman from New York will eliminate this inequity and guarantee equal access to the administrative process. Most important, it will improve decisionmaking on the use of pesticides on American farms by insuring that opposing views can be heard on the issue. ●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. McHUGH).

The amendment was rejected.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 42, strike out line 3 and all that follows through line 20 on page 52, and insert in lieu thereof the following:

DISCLOSURE OF INFORMATION TO FOREIGN AND MULTINATIONAL PESTICIDE PRODUCERS

SEC. 5. (a) Section 10(g) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(2) by adding at the end thereof the following new paragraph:

"(2)(A) Before allowing such person to inspect data, and before disclosing such information to a person under section 552 of title 5, United States Code, or any other law, the Administrator shall require the person involved to submit a written request for inspection or disclosure and a signed affirmation specified in subparagraph (D).

"(B) The Administrator shall transmit a copy of the request and affirmation to the applicant or registrant who submitted the data or information with respect to which inspection or disclosure is requested. During the 30-day period beginning on the date such copy is transmitted, such applicant or registrant may submit to the Administrator evidence that such person is ineligible under this subsection to inspect such data or receive such information.

"(C) After the expiration of such 30-day period, the Administrator may allow such inspection of data, and may disclose such information, as authorized by other provisions of law only if the Administrator determines that such person is eligible under this subsection to inspect such data or receive such information. For purposes of making such determination, the Administrator may refer to the Attorney General for investigation, the matter of such person's eligibility.

"(D) For purposes of complying with this subsection, the Administrator may accept only the following affirmation:

"I have requested access to information submitted by an applicant or registrant under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to the Environmental Protection Agency. I hereby affirm:

"(1) That I do not seek access to the information for purposes of delivering it or offering it for sale to any business or other entity engaged in the production, sale, or distribution of pesticides in countries other than the United States or in addition to the United States or its agents or employees; and

"(2) That I will not purposefully deliver or negligently cause the data to be delivered to such business or entity or its agents or employers.

"I am aware that I may be subject to criminal penalties under 18 U.S.C. 1001 if I have made any statement of material facts knowing that such statement is false or if I willfully conceal any material fact.

Signature _____
Name _____
Address _____
Organization or Affiliation _____
Client _____

(b) Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by—

Page 52, line 21, strike out "(7)" and insert in lieu thereof "(1)".

Page 53, line 2, insert "involving the production, registration, distribution, or sale of a pesticide" after "purpose".

Page 53, line 10, insert "and" at the end thereof.

Page 53, line 11, strike out "(8)" and insert in lieu thereof "(2)".

Page 53, line 22, insert a period at the end thereof.

Page 55, beginning on line 11, strike out "or under regulations promulgated under section 10(d)(2)".

Page 61, beginning on line 17, strike out "Notwithstanding the provisions of section 10(g)(2) of this Act, but subject" and insert in lieu thereof "Subject".

Page 73, after line 21, insert the following new section:

STUDY OF DISCLOSURE OF SUBMITTED INFORMATION

SEC. 17. The Administrator of the Environmental Protection Agency shall enter into an agreement with the National Academy of Sciences, which provides that the National Academy of Sciences—

(1) shall conduct a study to determine with respect to the disclosure of information under section 10(d) of the Federal Insecticide, Fungicide, and Rodenticide Act—

(A) the type and volume of information disclosed under such section;

(B) the type or volume of information which the Administrator refused to disclose under such section;

(C) the economic result of the disclosure of information under such section on the submitter of such information;

(D) the effects of the refusal to disclose information under such section on competition among pesticide producers;

(E) the effects of the disclosure of, and the refusal to disclose, information under such section on research and development of pesticides and pest control methods; and

(F) the extent to which the refusal to disclose information under this section has reduced the capacity of scientists to make accurate determinations with respect to any adverse effects of a pesticide on health and the environment; and

(2) shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report, not later than 2 years after the date of the enactment of this act, stating its—

(A) findings with respect to the matters described in paragraph (1); and

(B) any legislative and administrative recommendations based on such findings.

Page 74, strike out line 1 and all that follows through line 23 on page 84.

Mr. LEVITAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Chairman, the purpose of this amendment is to deal with the public disclosure and use of information on health and safety testing developed in connection with the registration of a pesticide, insecticide, or rodenticide. The purpose of the amendment is to leave the situation with respect to disclosure and use of such information as it was written into the 1978 FIFRA amendments. In those amendments, a very fair and equitable balance was struck between disclosure and use of health and safety information and the protection of confidential data.

The bill now before the House seeks to really undo that balance and place new restrictions on the use of health and safety information even though due to court litigation we have not really had an opportunity for the 1978 provisions to apply. Because this matter is of some concern and controversy, my amendment also directs the Administrator of the Environmental Protection Agency to enter into an agreement with the National Academy of Sciences to conduct a 2-year study on the economic and scientific consequences of disclosing this information. This study will put Congress in a position to evaluate this issue objectively.

Mr. Chairman, this amendment is important. It is extremely important because we are talking about health and safety testing data. We are talking about the right of the public and the scientific community to have a full opportunity to assess, to discuss, to challenge, and to question the information that has been developed by a company and submitted to EPA to establish that their product is safe to use. We are talking about the right of the public and the scientific community to determine whether there are any flaws or defects or invalidity in the protocol only with respect to health and safety information.

□ 1530

The provision in the 1978 provision does not in any way call for the revealing of proprietary trade secrets which a company should be able to protect. With regard to information on the formulation of a product, with respect to what ingredients go into it, how it is made or any other proprietary information, there is ample protection already in the law.

This amendment does not touch those protections.

What we are seeking to do with this bipartisan amendment, Mr. Chairman, is to make available, for complete use and discussion on its validity and accuracy, information relating to the health and safety effects of products which we have already heard may have tremendous implications with respect to human health when introduced into the environment, into the food chain and into the bodies of individuals.

All we are seeking to do, Mr. Chairman, is to let the 1978 amendments go into effect.

The fact of the matter is that the 1978 amendments, were supported by many people who today are apparently going to oppose my amendments. And the 1978 amendments were drafted in such a way that a balance could be struck; but immediately after the provision went into effect a series of court cases and injunctions were sought which held up actual disclosure of such health and safety information until only very recently when those in-

junctions were one after the other dissolved.

Because it appears that the 1978 amendments can now go into effect, there is an attempt being made in the bill before us now to restrict again the availability and discussion of health and safety information. Yet, in order to ascertain where there have been flawed tests, where there have been inappropriate protocols run or where there has been a failure to determine the environmental fate of a particular chemical, the public and scientific community need full access and open discussion of this information.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(By unanimous consent Mr. LEVITAS was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. Mr. Chairman, I have recently seen an article that appeared in the August 6, 1982 issue of Science magazine entitled "A Battle Over Pesticide Data." It deals with this very subject.

In this article it says that it has been argued that the general release of this health and safety information "would permit other firms to profit at an inventor's expense."

It then goes on to say that the claim has "largely been rejected by the courts because Congress explicitly realized this concern and included a provision in the law forbidding the use of the data by a competitor for at least 10 years after a product is registered."

Now, Mr. Chairman, the bill we are dealing with today extends that period for an additional 5 years so the companies have 15 years of exclusive use on data of this sort. No competitor can use it.

Indeed, this particular bill gives to a corporation the right to go into Federal Court and sue for treble damages if some competitor uses this health and safety information for a commercial purpose.

There are some in this industry who argue that is not enough. They want to exclude even the public from utilizing this health and safety testing data; that is data that relates to whether a product is safe and whether it can be used, not data relating to the trade secrets of the manufacturer.

But that view, Mr. Chairman, is not universally held.

Let me quote from this article in Science magazine, and I read as follows:

One herbicide and insecticide manufacturer, the Shell Oil Company, does not share these concerns. Edward Hobson, a Washington representative for Shell, says that his company believes that "health and safety data should be made available to anyone that asks for them. We have not had many requests for our data, but we have yet to see any adverse commercial impact from handing it out."

Mr. Chairman, in addition I have received a letter from the American As-

sociation for the Advancement of Science specifically with respect to this particular provision. They argue that the bill would change existing provisions of section 10 by effectively barring independent scientific access to primarily technical information relevant to the registration of chemical pesticides.

They argue in this letter, Mr. Chairman, that the provisions in this bill would interfere with scientists' access to data for public discussion to determine the health and safety effects of pesticides.

Mr. Chairman, I understand the necessity for protecting trade secrets. When I was in the Georgia State Legislature I offered the first two comprehensive pieces of legislation protecting trade secrets.

But it is not a trade secret to determine the validity of methods results of tests relating to the health and safety of products which by their very nature have problems and which must be discussed within the entire scientific and public community to determine whether or not appropriate safeguards have been taken for their safe use.

It is particularly important, I say to my good friend from California (Mr. BROWN), the chairman of the subcommittee, at a time when we are seeing reductions in the budget of the Environmental Protection Agency and when we are seeing less resources available to make the type of determinations that ought to be made to protect the health and safety of the public, to avoid restricting even further the right of the scientific community and the public in general to have access to this information, and also the opportunity to publish and exchange with each other necessary information.

The exclusive use provisions are built into this legislation. No change is being made in that regard. Nothing relating to the formulation of products or the ingredients in products or any other matters of which would truly be proprietary trade secrets is changed.

What we are simply asking is that test data relating to health and safety be made available to the public so that it can be discussed freely and the regimen of scientific peer reviews can go forward.

It seems to me one of the arguments in the committee report, in favor of what is in the bill, supports as strongly as anything I could say why we ought to adopt my amendment and let the 1978 law go into effect so that this process can go forward.

In the committee report it says that—

These innovations—

That is health and safety testing innovations—

greatly benefit the innovating company and the EPA in that a more precise and reliable

scientific assessment of a pesticide's safety can be carried out in their application.

If that is true for the company and EPA, it is certainly true for the scientific community and for the public as well.

I urge the adoption of my amendment.

Mr. BROWN of California. Mr. Chairman, I rise in opposition to the amendment.

I have to say to the gentleman from Georgia that he has made a very stirring, eloquent, rational defense of his amendment and I would say that he has almost persuaded me that what he proposes to do would be a marked improvement in the legislation, but not quite.

First of all, let me say that the general background the gentleman has given is correct. We are talking about a section of the FIFRA Act which relates to the public disclosure of health and safety data by the chemical companies in their filings with the EPA to secure certification of their particular product.

The provisions of the 1978 law made it clear that the Congress intended that that data would be available to the public.

□ 1540

As the gentleman well knows, the efforts to acquire that data by public interest groups were subjected to litigation by the chemical companies and to this date there has not yet been a full and complete disclosure of the health and safety data that were provided for by the 1978 law. I think the gentleman asserted that, and I can confirm that.

Now, the committee confronted this situation, in looking at the revisions of the act. We were concerned about it. And we sought ways to make more effective the 1978 provisions with regard to the release of health and safety data, not to make them null or less effective. The purpose of the language we have in the act is to make sure that the public has adequate access to all of the necessary health and safety data.

We have done that by more clear definition of procedures, by setting forth guidelines and principles in the act. Most of the litigation brought by the chemical companies in connection with this matter is moving toward resolution. Some have been resolved, and the courts have uniformly upheld the principle of the public's access to this data.

So the problem now is doing this in an efficient and effective way, in which the reasonable and legitimate interests of the chemical companies are protected. And this is what we have sought to do in this legislation.

In some cases it may look as if we have placed additional restrictions or roadblocks in the way of the public. I deny that this is the actual situation.

Reference has been made, for example, to the slight additional protection

on new and innovative technology as being a loophole through which the chemical companies can prevent access to essential data required for evaluating the particular product that they are seeking to have registered. I deny that that is the case.

We do give protection to new and innovative technology. We did it deliberately. We did it in pursuit of the goal of encouraging chemical companies to engage in more research and development and to develop more and better products to replace some of the inadequate products which are currently on the market. We make no apologies for this. And yet I fear that these efforts have stirred up concern amongst some of the scientific community who fear that they may not have access.

I saw a letter, for example, signed by, I believe, 41 prominent scientists lamenting the fact that their access to important scientific data would be curtailed. And the fact of the matter is that every scientist who signed that letter would have access to any data that he wanted with regard to the new and innovative procedures or any other health and safety data that was available.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. BROWN) has expired.

(On request of Mr. LEVITAS and by unanimous consent, Mr. BROWN of California was allowed to proceed for 5 additional minutes.)

Mr. LEVITAS. If the gentleman will yield to me, I want to make two points about something my good friend from California just said. First, I have no disagreement with the gentleman and the committee on the desire to encourage new and innovative products and to assure protection as an incentive for the development of those products—their formulation, their ingredients, how they are made. But that is not what my amendment deals with. My amendment deals solely with the information relating to tests on the health and environmental safety effects of those products. This information does not relate to development of the products themselves, but only to the health and safety data on the products. Health and safety information should not be held close to the chest as a proprietary matter, because you may find that something down the road can protect someone's life. It is just this health and safety data that we are dealing with here.

The other point that I would like to make concerns the letter referred to by the gentleman which was signed by over 40 distinguished scientists. As I pointed out, the American Association for the Advancement of Science also supports my position. Yes, indeed, under the gentleman's bill those individuals would be able to come in and, under very restricted circumstances, look at that information and, under

other circumstances, even talk to each other about it.

But what they could not do, according to the bill that is before us, is publish that information. And in the scientific community, as the gentleman well knows, if you cannot publish information based on health and safety testing, you really cannot have adequate discussion of it within the scientific community. And that is where the problem is. The gentleman's bill lets scientists have a peek at the information, but it does not let them discuss it publicly in the traditional way that scientists discuss such information.

At this point I would like to submit for the RECORD this letter signed by distinguished members of the scientific community and the letter from the American Association for the Advancement of Science:

JULY 19, 1982.

THE U.S. CONGRESS,
Washington, D.C.

DEAR MEMBERS OF CONGRESS: We are gravely concerned that amendments to the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), now under consideration in the House of Representatives and the Senate, will have a long-standing adverse effect on scientific inquiry and reduce protection of human health and safety.

H.R. 5203, S. 2620 and S. 2621, the bills pending before both Houses of Congress, reverse the 1978 statutory decision of Congress regarding public and scientific review of the premarket test data conducted to determine whether pesticides endanger human health. Section 10 of FIFRA provides that such data—generated by the producers of pesticide products—shall be available for scrutiny by scientists and the public. The Act protects trade secrets and gives the Environmental Protection Agency (EPA) certain discretion in what it requires be disclosed. Yet without this peer review, as allowed under the 1978 Act, there is no way of knowing whether testing on these substances has been conducted thoroughly and the data honestly presented to the regulating agencies charged with protecting the public's safety.

That is the crucial issue, in our view. The public has a right to know what and how scientific studies are conducted on potentially hazardous substances to which the public is widely exposed. It is no secret that some premarket testing in recent years has been conducted under less-than-rigorous standards, resulting in charges that testing was incomplete, inadequate, or the conclusions fraudulently reached. Premarket test data—the most crucial measure of a substance's potential effects on humans and the environment—must be available to the public.

H.R. 5203, S. 2620 and S. 2621, however, would seriously hinder the ability of scientists and the public to review premarket test data. Section 5 of H.R. 5203 as reported from the House Committee on Agriculture would:

(1) allow access to the data "but impose conditions governing further copying or transfer of the data;"

(2) severely limit the public's access to scientific studies that utilize "innovative methods or technology," a vague term that the amendments define as "innovative methods

or technology (including innovative methods of using known technology) that are not otherwise publicly available, that are employed in obtaining product chemistry, residue chemistry, and metabolism data that are substantially different from known methods or technologies and innovative compositions of matter;" and

(3) place constraints on how "scientists and [public interest or labor] representative may communicate with each other and with the [EPA] Administrator, and in judicial or administrative proceedings concerning the innovative methods and technology without disclosing them to the public."

The "innovative methods and technology" restrictions are especially unacceptable because much scientific research could be classified as such.

The bills abrogate the essence of important safety precautions that were carefully drawn by Congress in the past with the aim of balancing protection of public health with reasonable regulatory measures designed to encourage the marketing of useful pesticide products.

We strongly urge members of Congress to consider the ramifications of not allowing premarket test data to be reviewed and critiqued fully and freely by both the scientific community and the public. We do not believe that such testing should be conducted behind closed doors or its findings kept secret. Scientists welcome the opportunity to share their findings. Peer review is accepted as a way of measuring the merits of scientific research and study.

We do not believe that public access to premarket test data, once it is completed, unfairly benefits competitors in the pesticide marketplace. Trade secrets can be protected without restricting scientific communication. There is no evidence that economic harm will accrue to the pesticide industry if safety testing data is made public. Patent laws and other provisions of law adequately defend industry investment in research and development of pesticide products.

It is these provisions of the bill with which we are concerned. We urge you to oppose all three FIFRA amendments as drawn and to support the existing provisions of the 1978 law that require premarket test data be readily available for public scrutiny.

Sincerely,

Marvin S. Legator, Ph. D., Professor and Director, Department of Preventive Medicine and Community Health, The University of Texas, Medical Branch, Galveston, Tex. 77550

Miguel Altieri, Ph. D., Division of Biological Control, University of California, Albany, Calif. 94706

Frederick Plapp, Jr., Ph. D., Professor of Insecticide Toxicology, Entomology Department, Texas A&M University, College Station, Bryan, Tex. 77843

Sumner M. Kalman, M.D., Professor of Pharmacology, Stanford University, Palo Alto, Calif. 94305

Jan Stolwijk, Ph. D., Professor of Epidemiology, John B. Pierce Foundation Laboratory, Yale University, New Haven, Conn. 06510

Kim Hooper, Ph. D., Chief of Hazard Evaluation System and Information, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Samuel Epstein, Ph. D., Professor of Environmental and Occupational Health Sciences, University of Illinois, Medical Center, 1919 West Taylor, Room 416, Chicago, Ill. 60680

Gideon Letz, M.D., Public Health Medical Officer, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Jon Rosenberg, M.D., Public Health Medical Officer, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Emphraim Kahn M.D., M.P.H., California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Julia Quint, Ph. D., Research Specialist in Biochemical Toxicology, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Richard Jackson, M.D., M.P.H., Medical Epidemiologist, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Robert Stephens, Ph. D., Chief of Division of Toxic Substances, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

John Harris, M.D., Public Medical Officer, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Norman Gravitz, Ph. D., Environmental Biochemist, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Peter Flessel, Ph. D., California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Jerome Wesolowski, Ph. D., Chief of the Air and Industrial Hygiene Lab, California Department of Health Services, 2151 Berkeley Way, Berkeley, Calif. 94704

Joyce McCann, Ph. D., Building 934, Room 55, Lawrence Berkeley Lab, Berkeley, Calif. 94720

Linda Rudolph, M.D., 5250 Desmond Street, Oakland, Calif. 94618

Robert H. Harris, Ph. D., Senior Research Scientist, Center for Energy and Environmental Studies, Princeton University, Princeton, N.J. 08544

Beverly Paigen, M.D., Children's Hospital Medical Center of N. California, 51st and Grove Streets, Oakland, Calif. 94609

Phil Polakoff, M.D., Chairman of the Board, Western Institute for Occupational and Environmental Sciences, 2520 Milvia Street, Berkeley, Calif. 94704

Andrew Garling, M.D., Staff Physician, Oakland Kaiser Hospital, 1352 Acton Street, Berkeley, Calif. 94706

Joseph Highland, Ph. D., Center for Energy and Environmental Studies, Princeton School of Engineering and Applied Sciences, Engineering Quadrangle, Princeton, N.J. 08544

Devra Davis, Ph. D., Director of Toxic Substances Program, Environmental Law Institute, 1346 Connecticut Ave., NW, Suite 620, Washington, D.C. 20036

Linda Morse, M.D., Ph. D., Employee Health Services, Building A, Second Floor, 1001 Potrero Ave., San Francisco, Calif. 94110

June Fisher, M.D., Employee Health Services, Building A, Second Floor, 1001 Potrero Ave., San Francisco, Calif. 94110

Myra Karstadt, Ph. D., Assistant Professor of Community Medicine, Mt. Sinai School of Medicine of the City University of New York, New York, NY 10029

John Froines, Ph. D., UCLA School of Public Health, Southern Occupational Health Center, Room CHS 21-297 Los Angeles, Calif. 90024

Howard Backer, M.D., 49 Park Way, Piedmont, Calif. 94611

Anthony Robins, M.D., President-Elect, American Public Health Association, 7103 Oakridge Avenue, Chevy Chase, Md. 20815

Sharon Itaya, M.D., 603 Avondale Street, Houston, Tex. 77006

David Spiegel, M.D., Associate Professor of Clinical Psychiatry, 580 Cotton Street, Stanford University, Menlo Park, Calif. 94025

Edward L. Baker, M.D., M.P.H., Director, Occupational Medicine Residency Program, Harvard School of Public Health, Occupational Health Program, 665 Huntington Ave., Boston, Mass. 02115

Edward Blumenstock, M.D., Bettene Medical Group, 3135 Webster Street, Suite 1, Oakland, Calif. 94609

Gilbert S. Omenn, M.D., Ph. D., Professor of Medicine, Professor and Chairman Environmental Health, University of Washington, Mail Stop S.C.-34, Seattle, Wash. 98195

Edward J. Massaro, Ph. D., Center for Air Environment Studies, 226 Fenks Lab, The Pennsylvania State Univ., University Park, Pa. 16802

Janette Sherman, M.D., Clinical Assistant Professor, Department of Oncology, Wayne State University, Suite 1016, 3800 Woodward, Detroit, Mich. 48201

Melvin D. Reuber, M.D., Consultant in Human and Experiment Pathology, 11014 Swansfield Road, Columbia, Md. 21044

Don Dahlsen, Ph. D., Professor of Entomology, Chairman Division of Biological Control, University of California, Berkeley, Calif. 94720

Benjamin Major, M.D., Bettene Medical Group, 3135 Webster Street, Suite 1, Oakland, Calif. 94609

George M. Woodwell, Ph. D., Director of Ecosystems Center, Marine Biological Laboratories, Woods Hole, Mass. 02543

Marc Lappe, Ph. D., Adjunct Associate Professor, School of Public Health, University of California, Berkeley, Calif. 94720

M. Adrian Gross, D.V.M., Benefits and Field Studies Division, Office of Pesticide Programs, Environmental Protection Agency, 2947 Birch Tree, Silver Spring, Md. 20906

Marvin Schneidman, Ph. D., Clement Associates, 1515 Wilson Blvd., Arlington, Va. 22209

Jennie Kilen, Ph. D., New York State Psychiatric Institute, 722 168th Street, New York, N.Y. 10032

Zena Stein, M.B.-B.C.H., New York State Psychiatric Institute, 722 168th Street, New York, N.Y. 10032

AMERICAN ASSOCIATION
FOR THE ADVANCEMENT OF SCIENCE,
Washington, D.C., July 30, 1982.

Subject: H.R. 5203.

HON. ELLIOTT H. LEVITAS,
House of Representatives, Rayburn House
Office Building, Washington, D.C.

DEAR MR. LEVITAS: Genuine concern exists among scientists and environmental organizations regarding the above-cited Bill. The Bill would change existing provisions of Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act by effectively barring independent scientific access to primary technical information relevant to the registration of chemical pesticides.

The amendments, with particular reference to "innovative methods or technology," pose important issues of sound national science policy. If independent scientific verification of data presented with applications for the registration of chemical pesticides is foreclosed by legislation accompanied by severe penalties on disclosure, both public and scientific accountability could be degraded unacceptably.

In the absence of a showing that the existing provisions authorizing access to technical data are unsound, I urge that the proposed amendments be held in abeyance pending a timely report from the National Academy of Sciences on their effects upon the efficacy of scientific verification of the bases for registration of chemical pesticides.

Sincerely,

WILLIAM D. CAREY,
Executive Officer.

Mr. BROWN of California. Let me reiterate my great admiration for the eloquence of the gentleman from Georgia, and then let me read what this says about publication. I am reading from page 79, line 5:

The regulations shall provide that information in any study concerning health, safety, or environmental effects of pesticides may be publicly discussed, quoted, and communicated without restriction. . . .

Mr. LEVITAS. What the gentleman has read from is the section immediately preceding the loophole, dealing with innovative methods and technology, which begins at the bottom of that page.

Mr. BROWN of California. All right, would the gentleman then allow me to continue? Continuing with the section the gentleman refers to:

An item of data may not be considered an innovative method or technology for longer than 5 years after the date of submission.

The gentleman knows it is of limited term.

The regulations shall provide that test methods or technology described or referenced in the Administrator's registration guidelines or in the scientific literature, or any test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wildlife, are not eligible for treatment as "innovative methods of technology."

Mr. LEVITAS. If the gentleman will yield for a question at that point, I find it strange that that language and that listing of what cannot be considered innovative methods or technology—which is, as the gentleman, I am sure, would admit, restricted information not available for publication—does not deal with such things as the environmental fate of a chemical. It does not deal with matters relating to metabolites, which are essential in determining whether or not there are adequate protections over health and environmental safety effects.

On the very page following the one the gentleman just quoted from, it says the authorized recipients may communicate with each other—if they find out who has already taken a look at the data—but they may not disclose the information on innovative methods or technology used in health and safety tests to persons who are not authorized recipients.

And you know what that means. It means they cannot publish anything on the data. And that is where the loophole has its cut.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. Brown) has again expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

□ 1550

Mr. BROWN of California. I thought that by reading the actual language of the bill I could reassure the gentleman that there is nothing in the bill which constitutes a handicap.

Now, he has pointed out that we do not cover every possible eventuality. And I think he is correct. The bill is pretty long as it is. And we probably have not covered every possible eventuality. But we tried to even cover that situation by providing that if any scientist or expert or public interest group representative had a question about the classification of data as new and innovative technology, that they have a right to bring this to the attention of the science advisory panel, which is a body provided for, a long-standing body, I might say, originally created as a result largely of the work of the gentleman from Virginia (Mr. WAMPLER), they can ask this independent science advisory body to review whether or not the particular process or procedure really is an innovative process or technology within the meaning of the law.

So we have tried to make up for the fact that we could not spell out in every detail every possible thing.

I believe that this legislation, as it is now written, fully carries out the purpose of the 1978 act to provide for the fuller dissemination of information to the public, and I am convinced that the enactment of this law will expedite that process.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. Brown) has expired.

(At the request of Mr. FUQUA and by unanimous consent, Mr. BROWN of California was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Chairman, I thank the gentleman for yielding. I rise to discuss a number of research-related issues in H.R. 5203 that are of concern to me and other members of the Committee on Science and Technology, which I chair. As you are aware, the Science Committee has had a long and active legislative interest in FIFRA, the Federal Insecticide, Fungicide, and Rodenticide Act, having authorized its research and development budget since 1976.

While I believe the new concepts that are incorporated in H.R. 5203 were done in a responsible fashion, they could, if abused and applied improperly, undermine the integrity of

free scientific exchange and public participation in pesticide regulatory decisionmaking. I am aware that the Committee on Agriculture has strived to protect and enhance avenues of public participation in pesticide decisionmaking and I commend the committee for upholding these important principles.

One of the new concepts introduced in this legislation is the "innovative methods and technology" provision. In section 5 it is defined as meaning—

. . . methods or technology (including innovative methods of using known technology) that are not otherwise publicly available, that are employed in obtaining product chemistry, environmental chemistry, residue chemistry, and metabolism data, that are substantially different from known methods or technologies, and innovative compositions of matter, and that, if disclosed, could provide a significant advantage to competitors of the submitter of the data.

This could be abused or applied improperly and therefore this section requires further clarification. If a single step, in a series of steps, falls under the innovative provision, are all the other steps also protected from disclosure for 5 years by this provision?

Mr. BROWN of California. Only the specific step that is innovative would be afforded the additional protections established for "innovative methods and technologies" in section 10(d)(2)(B) of FIFRA, as amended by H.R. 5203. The other steps or methods would not be included along with the innovative method and would be made available in the same manner as other data.

Mr. FUQUA. I thank the gentleman for that clarification. Another area of concern relates to the availability of data for peer review that is protected by the "innovative methods and technology" provisions. In section 5 the statement is made that,

The regulations shall establish procedures by which such scientists and representatives may communicate with each other and with the Administrator, and use the data in judicial or administrative proceedings, concerning the innovative methods and technology without disclosing them to the public.

Does this mean that the existence of an innovative method will be made public in some manner such as providing notice in the index established under section 3(h)(2)(I) that lists each item of data submitted to EPA and that is made available to the public?

Mr. BROWN of California. The committee discussed at length how the public disclosure of pesticide safety and health data could inflict competitive harm on pesticide manufacturers. The provisions regarding "innovative methods" were devised to encourage private firms to conduct long-term high-risk research programs from which safer use of pesticides will emerge.

The procedures that the gentleman outlined for publicly identifying the existence of "innovative methods" accurately reflect the intent of the legislation. The existence of "innovative methods" should be stated clearly so that the public is aware of which studies contain truly novel scientific techniques.

Mr. FUQUA. I understand that independent scientists may request and obtain copies of complete studies containing innovative methodologies, including complete descriptions of those methodologies. In addition, these scientists may request a summary of the "innovative method" portion of studies for disclosure to the general public as provided for all other pesticide data. Is my interpretation of the committee's amendment correct?

Mr. BROWN of California. Yes; independent scientists who work in the field to which the data pertain, scientists of Federal or State agencies, and scientists and staff persons acting for nonprofit health, environmental, or labor organizations may obtain summaries of "innovative methods" or the complete studies, or both. Scientists that would have access to this material would include, of course, independent scientists at prestigious research institutions such as the Florida A. & M. University.

Mr. FUQUA. What would happen if substantive environmental and health questions arise which require broader scientific expertise and discussion to resolve?

Mr. BROWN of California. Any scientist of the type I just described can discuss his or her views with any other authorized recipient of innovative data or attempt to replicate or otherwise validate the method as long as they did not disclose the data to unauthorized personnel. Summaries of the data, however, may be made freely available by them to the public.

Mr. FUQUA. Are there any procedures for making innovative methodology in their entirety available to the public in emergency situations?

Mr. BROWN of California. Yes. Authorized recipients may submit such a request to the scientific advisory panel if they believe that the methodology should be disclosed in the public interest because of concerns as to protection of health, safety, or the environment. If the panel concurs, it would recommend to the Administrator that the innovative technology be made available to the public in the same manner as other data. If the Administrator concurs in such recommendation, the administration may make the method or technology so available.

Mr. WAMPLER. Mr. Chairman, I move to strike the requisite number of words.

Mrs. SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from Rhode Island.

Mrs. SCHNEIDER. Mr. Chairman, I commend my colleague, the gentleman from Georgia, for offering this amendment today striking section 5 from H.R. 5203. This section would block public access to pesticide testing data in most cases and as such would be a dangerous change from existing law, trampling on the public's right to know. I believe it also represents a significant departure from current scientific practices which allow full and open discussion of scientific methods used to reach conclusions about pesticides. When dealing with potentially hazardous chemicals, we must do everything in our power to facilitate peer review of testing methods, not set up roadblocks.

As section 5 now stands, the scientific community is expected to go through an obstacle course of red tape and justify the validity of their interest to obtain access to testing data. Even where individuals are successful, they are prohibited from publishing their critiques or in any other way distributing this information. You can look as long as you do not tell.

The result is that the public is forced to accept, for 5 years, the product health and safety test results of only one lab—the lab of the company producing the product. I believe the sponsors of this section are basically asking us to suspend our skepticism and accept on faith the results of only one testing point using "innovative methods," forgoing the benefit of multiple opinions and criticism. Mr. Chairman, I submit that this is an unreasonable request, particularly since we are dealing with public health, and I urge my colleagues to support the Levitas amendment striking section 5.

Mr. HOLLENBECK. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to the gentleman from New Jersey.

Mr. HOLLENBECK. Mr. Chairman, I rise in support of the Harkin, Panetta, and Levitas amendments to H.R. 5203, the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). I do so because of the additional protections these measures provide the public from the misuse of toxic chemicals. With the dangers posed by the use of certain pesticide formulas, I believe we can never be too careful in the manner in which these substances are evaluated prior to their commercial distribution.

As the bill was proposed, it imposed severe restrictions on a State's ability to require information from pesticide producers. It did so at a time when resources for Federal agencies like the EPA are being cut in anticipation of State assumption of additional Federal responsibilities. By limiting the ability of States to request additional health and safety data, H.R. 5203 would strip

a State of its right to establish pesticide control programs that are tailored to the particular needs and demands of its citizens.

I strongly approve of the Harkin amendment to delete section 11. It is essential that we maintain the State's right to protect citizens and fieldworkers from exposure to unhealthy pesticide formulas.

Similarly, I urge my colleagues to join my support for the Panetta and Levitas amendments. Drafted in the same vein as the Harkin amendment, these proposals would also provide additional protection to States and their citizens in combating pesticide abuse. The Levitas amendment would provide States and the public access to vital data on the health effects of pesticides. Finally, the Panetta amendment allows private citizens access to Federal courts to litigate violations of FIFRA. I believe it is entirely appropriate for citizens to have access to Federal courts when current law contains extensive Federal regulations, denies Federal litigation, and few State courts have entertained suits brought by individuals based on State laws.

Mr. Chairman, I urge my colleagues to join me in supporting these important amendments in order to pass FIFRA legislation which adequately protects both industry and public interests.

Mr. WAMPLER. Mr. Chairman, the committee system in this body is either going to be effective and followed or not. Now, this amendment, which I saw for the first time today, is following on the heels of others adopted here, and quite frankly, if this amendment is adopted, it goes to the very heart of a very, very delicate compromise that has been reached in the committee over many, many, many months of negotiations.

I am not prepared to say that it satisfies everyone. But this committee worked diligently and under the leadership of the distinguished gentleman from California (Mr. BROWN) we brought the Members a bill. And of all the subject matter over which the House Committee on Agriculture has jurisdiction, none is more controversial, emotional, or technical than is FIFRA. And I think that is apparent to everyone.

We held hearings at different times on this legislation since June of 1981, and what we have before us we reported out of the committee in May of this year.

Now, as I indicated, the provisions of the bill are generally very technical. But especially this is true as to section 5 that my colleague from Georgia wants to amend.

Now, the gentleman from Georgia is a very resourceful legislator and a very able one, and is my friend. And he had

opportunities to appear before our committee during the year that the bill was under consideration, and I must confess I do not recall his appearance there at any time. I do not mean to suggest that he was required to do so, and that he does not have the right to offer his amendment here.

But I want to say that had he requested the opportunity to appear, that I am certain the subcommittee chairman, the gentleman from California (Mr. Brown) and I would have discussed his problems at greater length than perhaps that which we are able to do now under the constraint of time.

I have had a chance to look briefly at his amendment. He asks the Administrator of the Environmental Protection Agency to enter into an agreement with the National Academy of Sciences, and then he specifies a number of things that he directs the National Academy to do. No one in this Chamber has a higher regard for the National Academy of Sciences than the gentleman from Virginia. They are one of our most prestigious scientific bodies. But he asks among other things that the National Academy determine the economic result of the disclosures of information under such section on the submitter of such information.

However, I was not aware that the National Academy of Science had the expertise to make economic judgments. And there are other deficiencies I think in what he is asking us to do in his amendment.

Now, my colleagues heard the colloquy earlier between the chairman, the gentleman from California (Mr. Brown) and I think he explained in response to the questions from the gentleman from Florida (Mr. Fuqua) that there are ways of obtaining access to innovative data and other material especially in emergency situations.

The CHAIRMAN. The time of the gentleman from Virginia (Mr. WAMPLER) has expired.

(By unanimous consent, Mr. WAMPLER was allowed to proceed for 2 additional minutes.)

Mr. WAMPLER. So these are things that we should consider before we adopt amendments to legislation that would do it great violence in my judgment.

Now, Mr. Chairman, I think it is a known fact that in the agricultural chemical industry frequently many, many millions of dollars are spent in developing a new product. Those that apply for registration of their product have a substantial economic investment in that product. And I think they have a right to expect some protection of that data.

We have virtually written the law of patents in FIFRA in previous years. And I share the concern I am sure that many of my colleagues have of

precisely what does the persistent use of agricultural chemicals and pesticides do to the environment.

□ 1600

I believe what we have brought you is the best bill that we are capable of producing, that tends to satisfy all the divergent interests and to try to undo this very delicate agreement that has been reached. I submit to you, will do violence to the whole concept that FIFRA was established to achieve.

So in light of the colloquy of the chairman, the gentleman from California, with the gentleman from Florida (Mr. Fuqua) and the author of the amendment, I suggest that this amendment should be rejected. Let us pass this legislation and go on to try to permit FIFRA to perform the function for which it originally passed the Congress.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WAMPLER. I yield to my colleague, the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I certainly want to compliment the gentleman on his statement. I share the views that the gentleman has expressed.

We are talking about the part of the bill here which I think will do more to insure the success of the FIFRA program and the control of the problems of chemicals in the environment than any other part of the bill.

I have sensed on the part of some of my colleagues a sense of criticism, that there are parts of this bill which encourage the chemical industries to engage in more productive and improved productivity in the chemical industry.

The CHAIRMAN pro tempore. (Mr. MINETA). The time of the gentleman from Virginia has expired.

(At the request of Mr. Brown of California, and by unanimous consent, Mr. WAMPLER was allowed to proceed for 3 additional minutes.)

Mr. WAMPLER. Mr. Chairman, I yield to the gentleman.

Mr. BROWN of California. I have detected a sense of criticism from some of my colleagues that there are parts of this bill which are aimed at the encouragement of innovation and improved productivity in the chemical industry. I think this is regrettable.

This bill moves us in the only possible direction that will enable us to solve our environmental chemical problems by encouraging the industry to engage in the type of research and development that will allow us to do a better job with fewer chemicals.

With regard to the extension of time on the protection of data, this is precisely what we are doing with the patent extension bill which is moving its way through the Congress at the present time. I think our concept of providing protection to new and inno-

vative technologies is something that should be looked at in other industries, as well as the chemical industry, as a way of helping to restore America's supremacy in the marketplace.

I think we move a long way in that direction with the bill that we have before us.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words. I rise in support of the amendment.

Mr. Chairman, I strongly support the Levitas amendment. I spoke in the Agriculture Committee on behalf of the idea behind it.

I think it is most dangerous when we go to suppress any form of information, and particularly suppressing information on such chemicals as we are dealing with in the FIFRA bill. I think it goes beyond all sensible limits.

The gentleman from Virginia mentioned that the committee system was somehow or other being undermined here today because there are a few amendments that have passed. I can tell you I have sat here today amazed, and I must make a confession. I would have offered these amendments in committee and many, many more, and much stronger and tougher amendments, but I did not think that this body or the country would have supported them. I am beginning to believe that we have underestimated what is happening here. When I see the amendments that are being adopted here today by overwhelming votes, I believe that we could have gone far beyond what we did.

I regret now that we did not put damages in the amendment offered by the gentleman from California (Mr. PANETTA). I regret that we did not make much more stringent restrictions on the use of these chemicals in this bill.

So therefore, to simply ask, as this amendment does, that we not completely suppress scientific investigation and free exchange of information on such things, I think, is asking very, very little.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield to me just briefly?

Mr. WEAVER. Surely, I will.

Mr. BROWN of California. Mr. Chairman, the gentleman knows the high regard in which I hold him. I wish that the gentleman could refrain from using language that would create the impression that there is anything in this bill that completely suppresses anything. The gentleman knows that that is incendiary language as far as I am concerned. I hope the gentleman would modify it somewhat.

Mr. WEAVER. Well, because the chairman of the committee, whom I hold in far higher regard than I can say, has said so, I would be glad to amend that.

I assumed it did. I assumed that they must maintain secrecy on information. Is that not the case?

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. Surely.

Mr. BROWN of California. In my previous colloquy with the gentleman from Georgia, I pointed out that there was no category of health and safety data, including that which might fall under the new and innovative technology definition, which was suppressed, that it was all available. It was available to the very people who said it was being suppressed from them.

Mr. WEAVER. Forgive me. I was taking the word of several scientists who had written me personally, as well as other Members, and saying that under this language that they would not be allowed to see the information. Surely, it is given out to some of the scientists, but not in a completely free and easy exchange.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield to me?

Mr. WEAVER. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding.

Mr. Chairman, my first point is on innovative and new technology. No one wants to prohibit or suppress, or create disincentives for, new product development. All we are talking about here are methods used in health and safety tests.

Mr. WEAVER. Exactly.

Mr. LEVITAS. Health and safety test data will not reveal trade secrets on how you make the product. It will only reveal what you know about what that product does to people; that is, what effect the product has on the health and safety of the public.

We heard the gentleman from Illinois talk earlier about the unfortunate problem that his wife has recently developed. If we had only known more about this pesticide and known more about its health and safety effects, maybe this tragic illness could have been prevented. With more information, perhaps we could avoid things like this happening.

There is a provision in this bill which says, yes, certain people can get a look at this data but they cannot publish it because that would be disclosing it to unauthorized persons; and in the scientific world if you cannot publish information so that others can look at it and critically evaluate it, you cannot pick up the flaws, the errors, and the invalid protocol.

I thank the gentleman for his support.

Mr. WEAVER. Mr. Chairman, I thank the gentleman.

I apologize to my chairman if I have said something that is not true, but that is how I understand it. That is how many other people understand it, scientists and others, that they will be

unable to get free exchange of this information.

Mr. FITHIAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the last couple minutes have been really a bit discouraging. It is almost like the gentleman from Georgia believes that you make something factual by repeating it. Of course, you do not.

We worked on this for a very, very long time, dozens of hours, as the gentleman from Virginia put forth, and we very clearly exempted health and safety data.

Now, the gentleman from California, the chairman of the subcommittee, has been also chairman of the Subcommittee on Science and Technology. It is a field with which this gentleman is more qualified to speak than perhaps most of us, or almost all of us in this House. The gentleman has reiterated and enunciated the real position of the bill on four separate occasions in the last 45 minutes, only to have the same interpretation reiterated as though if it is said enough times, it becomes true.

□ 1610

Now let us look at what we are trying here, trying to get a situation in which we can do two things: First, we can make available to those who rightly are concerned about the health and safety of the use of pesticides in this country. Access to that is important to the scientific community. It is important to the public interest groups and it is provided for in the bill.

On the other hand, we are trying to get into the law something that will continue to encourage innovative technology and methodology.

Now, I would ask just plain blank: How is it related? How is innovative technology and methodology related to health and safety?

For those who have been on this committee as long as the gentleman from Oregon has, and others, we have wrestled with these two categories, health and safety data on the one hand, and innovative technology and methodology on the other, for years. We have come generally—Republicans and Democrats, liberals and conservatives, farmers and city folks alike—to regard the necessity of separating those two categories. And this bill does that. It separates those two categories.

I want to reiterate one thing that my friend from Virginia said. I happen to represent what I think is the finest, in my congressional district, the finest agriculture school in the United States. We may get some contention here, but I will say this: At the very, very least, we at Purdue University have the highest regard for the National Academy of Sciences, there is no question about that, but no one at our institution or no one on this com-

mittee is going to argue that they should be brought in as the arbiter to decide what is and what is not possible in the way of business or economic results of disclosure. That is not their domain, and no amendment by my friend from Georgia is going to make that their domain, and nobody within that body is in any position really to take on the charge that they would be given should the amendment of the gentleman from Georgia prevail.

Now, let me then move quickly to reiterate a couple of the arguments that have been made.

There is a fantastic amount of investment that goes into this, anywhere from \$8 to \$25 million, anywhere from 8 to 10 years of laboratory tests, and all the rest of it. It is high-risk research; it must be. It must be when one is dealing with public health. Often it involves thousands and thousands of pages of technical reports.

There are questions within that community as to whether they should invest in a new round of development. We have such an entity in Eli Lilly, for example, in my district, where they make those fundamental decisions as to whether they are going to move forward in research or not.

It is my belief that unless we in the Committee of the Whole here are able to wrestle with this and provide for some kind of very careful balance between the interests of the public interest groups and the scientific community on the one hand, and the healthy, necessary, businesslike interests on the other, we will stifle this research. I represent far too many farmers to want that kind of research to be stifled.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana (Mr. FITHIAN) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I am happy to yield to my friend, the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Chairman, the gentleman mentioned Eli Lilly. It has just agreed to voluntarily pull off the market the drug Oraflex, partly because of inadequate scientific testing regimes. If they had claimed that the testing was under an innovative method, and if it had been a pesticide, that information would not be available to the public; is that correct?

Mr. FITHIAN. That is not correct.

Mr. GORE. It would be available only to those scientists who were authorized; they could communicate with each other, but not in a way that it became available to the public.

Mr. FITHIAN. If I may reclaim my time, that is the allegation that has been rolled around here half a dozen times.

I think the gentleman from California (Mr. BROWN)—perhaps the gentleman from Tennessee was absent at that moment—I think my friend from California, the chairman of the subcommittee, clearly laid that out in the reading of the bill specifically. So I would just point out that that is one of the things that has been repeated here perpetually, but it does not make it true.

Mr. GORE. Mr. Chairman, will the gentleman yield further?

Mr. FITHIAN. I am happy to yield to the gentleman from Tennessee.

Mr. GORE. I thank the gentleman for yielding.

Mr. Chairman, I am quoting on page 83 of the bill:

Authorized recipients may communicate with each other regarding the data, but may not disclose the innovative methods or technologies to persons who are not authorized recipients.

We have a list here of some 40 to 50 distinguished scientists from all over the United States who say it is impossible to interpret the language of this bill in any other way than that it imposes new restrictions on the communication of scientific knowledge.

Now, this is a company that has just had a terrible experience with some 70 people who died as a result of this. The drug has been sold to the public and the public did not know that the testing methods were inadequate.

The CHAIRMAN. The time of the gentleman from Indiana (Mr. FITHIAN) has again expired.

(On request of Mr. BROWN of California and by unanimous consent, Mr. FITHIAN was allowed to proceed for 3 additional minutes.)

Mr. FITHIAN. Of course, Mr. Chairman, the gentleman from Tennessee recognizes he is dealing with a set of altogether different rules and regulations here than those of the Food and Drug Administration under which that proceeding took place.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

Mr. Chairman, I suggest to the gentleman from Tennessee if he is having a problem with Eli Lilly and drugs that he should consider using the same language in the Food and Drug Act that we have in this bill, which says specifically:

The test methods and protocols used in studies to determine safety to humans, domestic animals, fish and wildlife are not eligible for treatment as innovative methods or technologies.

Mr. FITHIAN. Mr. Chairman, if I may just summarize in my last 30 seconds,

I think the gentleman from California has said it all. We are debating in this bill, as the gentleman from Virginia said, a very, very technical bill of long evolution. We are debating it in trying to write, rewrite that kind of technical bill on the floor; obviously an impossibility, especially an impossibility if we do not read all the way through the bill, as the gentleman from California has just now corrected.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to my friend, the gentleman from Georgia.

Mr. LEVITAS. I thank my friend for yielding.

Mr. Chairman, obviously we are all reading the same language, but it is quite clear we read it differently.

I previously pointed out that the language just read by the gentleman from California clearly does not include some most essential information which could not be revealed publicly; specifically, the environmental fate of these chemicals. What happens to them after they get into the ground?

Did the gentleman not recently see on CBS News the report by Bill Moyers about how some of these very chemicals got into the water table on Long Island when it was used there as a pesticide against a potato beetle, and as a result they had to discontinue using it?

I am simply saying that things such as the environmental fate of these chemicals, as well as how these metabolites operate, is essential information.

Let me ask the gentleman: Why should not the scientific community have the opportunity to discuss all data relating to health and safety? I have not heard anybody address that question. What is so terrible about letting scientists discuss public health and safety data? We are not talking about data on product formulation or trade secrets; but health and safety data only. What is wrong with open discussion of such data?

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield one more time to the gentleman from California.

Mr. BROWN of California. I thank the gentleman for yielding.

Mr. Chairman, the gentleman astounds me again by the way he transposes his eloquence from one subject to another. I just read that health and safety data cannot be kept from being available as a new and innovative technology. He says, "But that does not include the fate of the metabolism of chemicals in the environment." It does not. But what happens to a chemical in the environment?

The CHAIRMAN pro tempore (Mr. HEFNER). The time of the gentleman from Indiana (Mr. FITHIAN) has again expired.

(On request of Mr. BROWN of California and by unanimous consent, Mr.

FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I yield to the gentleman from California.

Mr. BROWN of California. Believe me, what happens to a chemical in the environment is not what scientists mean when they talk about health and safety data. We are talking about rat feeding studies or other studies of that sort to determine if an element is carcinogenic, mutagenic, or whatever else. That is health and safety data. What happens when a chemical gets into the environment is not health and safety data, although it relates to health and safety data.

I would agree with the gentleman on that, because it is necessary to know what happens as it goes downstream.

□ 1620

But the essential point is that the gentleman said that that was not covered by the lack of restrictions here, and I say to the gentleman again that innovative technology with regard even to the weight of chemicals in the environment can be appealed to the Science Advisory Panel, and if that is not something which is relative to new and innovative procedures, it would not be included.

Mr. FITHIAN. I would like to ask the gentleman from Georgia a question, to put the shoe on the other foot. On page 4 of the amendment he offers, he suggests that the National Academy of Science should, among other things, determine the economic result of the disclosure of information under such section on the submitter of such information. He asks in point (d) of his amendment that they assess, evaluate the effects of the refusal to disclose information under such section on competition among pesticide producers. Wherein would this body have anywhere the technical capacity to comply with the mandate the gentleman puts on it under those two provisions? I will be glad to yield to the gentleman.

Mr. LEVITAS. I would be glad to answer the question. With respect to the scientific aspects, the National Academy of Science obviously has the expertise to make the scientific determinations.

Mr. FITHIAN. Obviously what?

Mr. LEVITAS. The National Academy of Science obviously has the expertise to determine the effects of releasing this data on scientific review. To the extent that the study would get into issues beyond that, obviously they would go to others outside of the Academy itself and bring in expertise and information for this evaluation.

Mr. FITHIAN. If I could just retrieve my time, if we were going to go with the gentleman's study, dispose of

section 17, it would seem to me just as a constructive suggestion that the Environmental Protection Agency, having wrestled—sometimes not willingly—having wrestled with the administration of this and adjudicated between a large manufacturer and a small formulator, and so forth, is both in terms of scientific talent and in terms of adjudicating between businesses, something that they do not particularly like to do, have had years of experience having to deal with this. So, at the very least we ought not to be asking the National Academy to do that which they simply are not competent to do.

Mr. LEVITAS. First of all, I want to commend the committee for working out the problem between the large manufacturers and formulators. I think they have done an excellent job in section 3 of the bill in dealing with the problem. But again I point out to the gentleman that leading scientists in this country, the American Association for the Advancement of Science; environmental groups such as the National Audubon Society, and other distinguished scientists and physicians referred to by the gentleman from Tennessee all say that this bill will restrict their ability to assess and discuss information vital to health and safety. I am asking what is wrong with allowing these discussions to take place.

The CHAIRMAN. The time of the gentleman from Indiana has again expired.

(By unanimous consent, Mr. FITHIAN was allowed to proceed for 2 additional minutes.)

Mr. FITHIAN. I have the highest regard for some of the organizations the gentleman just mentioned. Their saying this does not make it true. I chaired an informal session in which these groups were present, along with industry and all the rest. We worked on this for dozens and dozens of hours to work out a compromise. I think we have come up with a compromise. They have jumped ship on the compromise, to be blunt, and now believe that through an alternative device they do not have to live with the compromise, they can go back 100 percent on their side. That is precisely what they are proposing to do here.

Mr. DASCHLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment. I hope not to speak for the entire 5 minutes, because I know that we have discussed this issue at great length.

I agree with a great deal of what has been said this afternoon. I agree with the statement made by many of the Members that there is a very sensitive balance here that we have to take into account, and I commend the committee for their effort in trying to strike at that balance. The ranking member, Mr. WAMPLER, indicated that this goes

to the very heart of the issue, and I think he is accurate in that assessment. It does go to the very heart of what we are trying to do this afternoon.

The gentleman from Indiana said this is very high-risk research, and I think he is correct, because it is high-risk research, but I think we have had too many chemical catastrophes in the last 10 years not to ignore what we are trying to do here.

The Chairman is right when he has repeated again and again that people have access to the information. The problem is, how encumbered those who seek information are in trying to obtain it. In page after page after page we put in new encumbrances, we put in requirements and stipulations here that simply will deny in all practicality the required access to information. I think that is really the fundamental question.

It is the most important aspect of this whole bill, for indeed if we cannot provide that kind of information, if those organizations most directly affected in their work cannot acquire the kind of information we in essence are preventing by setting up these encumbrances, then I think we have failed in passing a good piece of legislation.

How many times have we seen in the last 10 years instances whereby new information has allowed a change in the policies set out in the way we treat these chemicals? Indeed, I think we are preventing that from happening now. The March of Dimes sent a letter to all the offices this afternoon which very clearly articulates the problem presented if we fail to support this amendment. I will quote one short paragraph:

The March of Dimes believes that putting a restriction on public information would severely limit the free exchange of scientific thought; even decrease the amount of scientific research so often fostered by this process of peer review. Limiting research will postpone, if not prevent, the discovery of causes and cures for the many birth defects which still afflict our infants and children. It may expose the unborn to harmful chemicals because these chemicals cannot be subject to peer review by the scientific community.

So, I think if we do agree to the Levitas amendment, we are finally striking at this sensitive balance we all want, balance between giving the right to corporations and chemical companies the information that they must keep secret, but at the same time providing access for research and development of the problems that we have seen in the past in not dealing appropriately with the harmful effects of some chemicals that were not known at the time the chemical was put on the market, so I hope we can see fit to support this legislation. It certainly warrants the support of the vast majority of the House.

Mr. GORE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is unusual for me to find myself in disagreement with the chairman of this subcommittee on an issue of this kind. I have great respect for him and for the other members of the subcommittee and of the full committee, and I believe I understand that there are strongly held views on this issue. I believe I understand also that there is kind of a compromise that has been worked out in the committee, and it has been brought to the floor and it has been stated very candidly that passage of the Levitas amendment, which I strongly support, would threaten this compromise. The industry feels strongly about it, and there has been give and take, and I respect my colleagues' judgment on how that balance has been struck.

But this is the Congress of the United States and this is the floor of the House of Representatives, and the people of this country have the right to demand that we strike the balance here, where the public interest is concerned, and the kind of balance struck here on this floor is often very different from the kind of balance struck in a committee. That is one of the reasons so many amendments have been passed today, and I hope it is the reason that this amendment will be passed. We are not bound by compromises that were made in the full committee.

What is this amendment all about? Well, the United States of America, like all other industrialized countries, is in the midst of a chemical revolution, which began shortly after World War II, unprecedented in all human history.

□ 1630

Thousands and thousands of new chemicals are coming out each year, and only now are we beginning to find out about the pervasive nature of these chemicals once they are produced and get into the environment.

The fact is, Mr. Chairman, that we are kidding ourselves when we talk about this scientific data and about the scientific studies as if there is a great deal of certainty about what the effect of these chemicals is in every case. That is not true.

In fact, we know very little about the effects of most of these chemicals. The scientists are playing catch-up trying to match the symptoms people have when they are exposed to chemicals with the causes that they try to find out about years later, and they often try in vain to put two and two together.

As the public outrage has built up about the effects of the chemical revolution on people, one of the things the industry has found out is that if you

control the science, you can control the conclusions. And this bill, the way it is written, without the amendment, would allow them to control in large measure the scientific methods used to establish whether and to what extent chemicals get into the environment.

This section of the bill makes it a bad bill, the way it is written, and I strongly support the amendment. Now, there are some 40 to 50 distinguished scientists all over the United States in this field who have written a letter to every single Member of Congress, and let me quote from it. They say:

This is the crucial issue. The public has a right to know what and how scientific studies are conducted on potentially hazardous substances to which the public is exposed. It is no secret that some premarket testing in recent years has been conducted under less than rigorous standards * * *

Let me add parenthetically that the Oraflex example that I cited earlier is only one of many such examples.

Quoting again, the letter says:

Resulting in charges that testing was incomplete, inadequate, or the conclusions fraudulently reached. Premarket test data, the most crucial measure of a substance's potential effect on humans and the environment, must be available to the public.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the distinguished committee chairman.

Mr. DE LA GARZA. Mr. Chairman, I only wish to ask the gentleman who has the jurisdiction over the question of Oraflex. Is it a chemical or a drug? Was it the FDA or the EPA?

Mr. GORE. That is not under the Agriculture Committee.

Mr. DE LA GARZA. I just wondered, whose committee was that? Whose committee was that?

Mr. GORE. I used the example to illustrate the importance of our understanding the nature of the scientific testing procedure in both the case of Oraflex and in the case of pesticides and other substances that are under discussion here, and the public needs to know the scientific test methods that are used to establish what the effects of the chemicals are.

The CHAIRMAN pro tempore. (Mr. HEFNER). The time of the gentleman from Tennessee (Mr. GORE) has expired.

(By unanimous consent, Mr. GORE was allowed to proceed for 3 additional minutes.)

Mr. GORE. Mr. Chairman, the Congress should allow an opportunity to test the implementation of current provisions of law governing public access to health and safety data, and this is a very, very important point.

This approach is strongly supported in a letter which the Energy and Commerce Committee received from Mr. Thomas McGarity, professor of law at the University of Texas, one of the leading authorities on health and

safety data disclosure policies and other disclosure policies. He emphasizes that the 1978 amendments have not been implemented to date because of a series of court challenges. He argues that the 1978 amendments already would provide an equitable balance between the goal of full disclosure of health and safety data and the goal of encouraging innovation in the pesticide industry. Therefore, he concludes—and I quote—

It would seem inappropriate to amend the FIFRA statute once again even before the original amendments have had a chance to work. (Italic added.)

Now, with specific regard to this "innovative methods or technology" section, let me use an example. We had this PBB tragedy in Michigan. It is well known to many of my colleagues, particularly the gentleman from Michigan (Mr. ALBOSTA). Before the mistake was discovered, hundreds of thousands of livestock were contaminated and consumers had ingested large amounts of products contaminated with PBB. Yet even after the mistake was discovered, farmers and consumers were faced with substantial fears and uncertainties because little information existed concerning the health effects of PBB and because test methods available for analyzing PBB's were limited, and little information was available about how extensively it could get into the environment.

Now, if that tragedy had involved the accidental contamination of cattle feed with a pesticide instead of PBB and this provision of this bill applied, it would have significantly impaired the public's ability to obtain sound information concerning the potential risk posed by the pesticide.

When you are evaluating risk, there are two elements. First, what is the effect on the human organism, and second, how pervasive is the risk? How frequently are human beings going to come into contact with the risk? How pervasive is it in the environment?

If the public is to be prevented from getting access to that second kind of information, then we cannot adequately evaluate the risk.

Mr. Chairman, in the midst of this chemical revolution, I submit to my colleagues here that the overwhelming majority of the American people would be really appalled if they thought that this body was going to vote, in this day and age, in 1982, to restrict rather than expand their access to data necessary to establish the degree of risk related to chemicals being put into the environment.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(On request of Mr. LEVITAS, and by unanimous consent, Mr. GORE was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Chairman, I thank the gentleman for yielding, and I commend him for his excellent statement. The gentleman is one of the most knowledgeable and respected Members of this body in areas of the sort to which he is addressing himself this afternoon.

The gentleman said something a few minutes ago which is very important. He said, who controls the science controls the decision. Under this bill, as it is now written, essentially the science is going to be controlled by the applicant who produces the information and by the Environmental Protection Agency.

Does the gentleman agree that with the Environmental Protection Agency now facing dramatic reductions of resources, and having fewer people to do the type of evaluation that needs to be done, it would be insane to say that we are now going to exclude the scientific community which could participate in that process and assess the public interest and assist the Environmental Protection Agency in making these decisions?

Mr. GORE. Mr. Chairman, that is an excellent point. At the present time the ability of the EPA to perform these kinds of scientific evaluations is being destroyed—systematically destroyed—and as to the decision on access, if it is left up to the current EPA, I ask you: Do we want to give the current Administrator of EPA additional responsibility for determining this kind of decision in lieu of giving access to the public?

I do not think so, and I do not think the American people would like to see that done. I think if our vote here this afternoon reflects the wishes of the American people, this amendment will be adopted overwhelmingly.

The CHAIRMAN pro tempore. The time of the gentleman from Tennessee (Mr. GORE) has again expired.

(On request of Mr. DELLUMS, and by unanimous consent, Mr. GORE was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from California.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for yielding, and I would first simply like to associate myself with the gentleman's remarks and compliment him on a very powerful and informed statement.

Second, I join with the author of the amendment before the body at this moment in congratulating my colleague for a very eloquent and powerful and informed statement. I deeply appreciate his work in this area.

Mr. GORE. Mr. Chairman, I thank the gentleman from California (Mr.

DELLUMS) and in closing let me reiterate my deep respect for the members of this committee and emphasize again how reluctant I am to oppose them on an issue of this kind.

To recap,

Mr. Chairman, I support the Levitas amendment which would strike section 5 of H.R. 5203 and clarify the provisions of current law concerning public access to health and safety data.

Section 5 of H.R. 5203 modifies current law by providing significant controls on the disclosure of health and safety data underlying pesticide registrations. This provision sets forth new procedural restrictions governing the copying, transfer, use, and publication of health and safety data by the public. In addition, this provision places substantial additional limitations on the disclosure of a new category of data classified as "innovative methods of technology."

I believe that section 5 should be stricken in its entirety and that Congress should afford an opportunity to test the implementation of current provisions of law governing public access to health and safety data. This approach is supported strongly in a letter which the Energy and Commerce Committee has received from Mr. Thomas O. McGarity, professor of law at the University of Texas. In this letter, Mr. McGarity, one of the leading legal authorities on health and safety data disclosure policies, emphasizes that the 1978 amendments have not been implemented to date because of a series of court challenges. He argues that the 1978 amendments provide an equitable balance between the goal of full disclosure of health and safety data and the goal of encouraging innovation in the pesticide industry. Therefore, Mr. McGarity concludes that "it would seem inappropriate to amend the (FIFRA) statute once again before the original amendments have had a chance to work."

I am particularly concerned about the provisions of H.R. 5203 restricting disclosure of "innovative methods or technology." Under section 5, scientific discussion of "innovative methods and technology" at open scientific conferences and publication of such information in scientific journals would be prohibited for a 5-year period following the submission of such data.

The deficiencies of the innovative methodology provision are highlighted by an example based on the facts of the PBB tragedy. In the PBB case, a chemical company accidentally substituted polybrominated biphenyls (PBB's) for a cattle feed supplement in shipments to the Michigan Farm Bureau. Before the mistake was discovered, hundreds of thousands of livestock were contaminated and consumers had ingested large amounts of products contaminated with PBB's. Yet, even after the mistake was discov-

ered, farmers and consumers were faced with substantial fears and uncertainty because little information existed concerning the health effects of PBB's and because test methods available for analyzing PBB's were limited.

If the PBB tragedy had involved the accidental contamination of cattle feed with a pesticide instead of PBB's, the provisions of H.R. 5203 would impair significantly the public's ability to obtain sound information concerning potential risks posed by the pesticide. For example, assume that the manufacturer of the suspect pesticide had developed a novel analytical method useful in analyzing the breakdown products of the pesticide in meat. If the innovative methodology provision is enacted, it is likely that potential flaws in this test method would not be detected and that the public might rely on inaccurate data in evaluating the effects of the pesticide. This is because the innovative methodology provision prohibits scrutiny of innovative test methods employed in obtaining residue chemistry or metabolism data through the major forums of the scientific community—scientific journals and open conferences. Unless new testing methodologies are discussed in traditional scientific channels, it is unlikely that many scientists will become aware of the new methodology or the need to scrutinize its validity.

The innovative methodology provision also seems unnecessary because protection for true innovations is already provided under the patent laws. Moreover, this provision would strain EPA's limited resources because it would require the agency to act as a minipatent office and determine whether specific technologies are innovative.

In summary, I believe that the Levitas amendment should be adopted. Otherwise, it is clear that public health and safety will suffer.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a very complex issue, and it is one in which at the technical level there are only a handful of Members qualified to speak. Certainly the gentleman from Virginia, the ranking member of the committee, and the gentleman from California are experts in an area where the rest of us have at best a passing knowledge.

But I think it might be useful to look at why a number of Members, including the gentleman from Georgia, (Mr. LEVITAS), took on this issue, and that is because, when in doubt, we feel it is much safer to side with those who seek public access and who seek information than to side with those who say that it really is not necessary.

We have a clear-cut case here where all you have to know as a witness to an

event is that those groups and agencies most involved in the public interest and who have had the longest experience in trying to get information out of the chemical companies and out of the Government are collectively all concerned about this issue. I think from that standpoint, the "we" who are in a sense bystanders to the technical detail can look clearly at what is involved.

If we vote for the amendment offered by the gentleman from Georgia (Mr. LEVITAS) we are voting for wider access, we are voting for the public interest groups, we are voting for the scientific community, and we are voting for an increased amount of knowledge going to the public health of this nation and to the debate over the public health of this Nation.

□ 1640

On the other hand, should we vote against the gentleman from Georgia we are in a position of saying yes, although we are in fact technically not as proficient as the gentleman pointed out.

We are deciding to cut off the knowledge requested by a wide range of people.

It is for this reason that I suggest that a prudent and wise vote would be to increase public access and would be to support the gentleman from Georgia.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by Mr. LEVITAS.

H.R. 5203 defines innovative methods and technology in such a manner that the exact definition is at best cloudy. Therefore, this would, in my opinion, result in extensive and lengthy litigation to determine a workable definition. This could, in turn, severely inhibit enforcement of the health and environmentally related protection provisions of the pesticide act by limiting independent scientific peer review.

The Levitas amendment is a reasonable compromise. It would mandate a study by the National Academy of Science to determine a workable definition of "innovative methods and technology."

A major advantage of this procedure is that, in the interim, important health and environmental scientific data could be reviewed by the scientific community in order to verify its accuracy.

As chairman of the Subcommittee on Natural Resources, Agriculture Research, and Environment, which has jurisdiction over the research aspects of FIFRA—the Federal Insecticide, Fungicide, and Rodenticide Act—I can assure my colleagues that the scientific

ic peer review of pesticide research is absolutely necessary if the health and environment are to be protected.

This amendment would assure that reasonable review of scientific pesticide data would be continued.

I urge my colleagues to support the amendment proposed by Mr. LEVITAS.

Mr. BROWN of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to bring to a conclusion this very interesting discussion if I could with a compromise proposal.

I should not actually use the term "compromise." I should say "capitulation."

I feel very strongly that what we have attempted to do with this section on new and innovative technology and the additional incentives which that gives to the chemical industry to improve their research and development, that we would be making a step forward in the interest of the Nation and the chemical industry and the public and so on.

But I sense that we have not convinced enough people yet and I am therefore going to propose a substitute amendment to the amendment offered by the gentleman from Georgia (Mr. LEVITAS) in which we strike out all references to new and innovative technology in the text of the bill.

I am going to ask the gentleman from Georgia (Mr. LEVITAS) if he would feel sufficiently consoled by that to be willing to support the substitute.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BROWN of California. I am happy to yield to the gentleman from Georgia.

Mr. LEVITAS. I have had a chance to examine the gentleman's proposed amendment. I base my assessment upon his explanation of the amendment because I have not been able to track each particular provision, but I know the gentleman's representation is made in good faith and for the purpose of reaching an accommodation. This will eliminate the special provisions relating to the new and innovative methods and technology used in health and safety tests, and I think it would be an acceptable and useful compromise on the issue.

As far as I am concerned, it would deal with the problem of restriction of public discussion of the information. I recommend to my colleagues that we accept this substitute as a compromise.

Mr. BROWN of California. I thank the gentleman.

AMENDMENT OFFERED BY MR. BROWN OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LEVITAS

Mr. BROWN of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BROWN of California as a substitute for the amendment offered by Mr. LEVITAS:

On page 47, strike out lines 24, 25.
On page 48, strike out lines 1-25.
On page 49, strike out lines 1-23.
On page 79, strike out line 24.
On page 80, strike out lines 1-25.
On page 81, strike out lines 1-24.
On page 82, strike out lines 1-25.
On page 83, strike out lines 1-22.

Mr. BROWN of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BROWN of California. As I indicated, Mr. Chairman, this amendment strikes out all references in the bill to new and innovative technology and in effect removes any controversy surrounding that particular aspect of it.

I ask for a favorable vote.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. BROWN) as a substitute for the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment offered as a substitute to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. FITHIAN

Mr. FITHIAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FITHIAN: Page 72, line 19, insert the phrase "or received from the Administrator", following the word "filed".

Page 73, line 1, strike the phrase "to an agricultural worker".

Mr. FITHIAN. Mr. Chairman, I assure my colleagues that this is purely a technical amendment. We are simply correcting, technically speaking, an omission I think in the bill to provide that if the complaint is received from the administrator to the State that the 30-day clock starts running.

This is on page 72, line 19, and on page 73, line 1, where we are striking out "to an agricultural worker" so that it is not limiting to just an agricultural worker.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. FITHIAN. I am happy to yield.

Mr. DE LA GARZA. We have no problem with the amendment on this side.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Indiana (Mr. FITHIAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEVITAS: Page 47, line 17, strike out "as soon as possible (allowing)" and insert in lieu thereof "not later than 1 year after the effective date of this paragraph (including)".

Mr. LEVITAS. Mr. Chairman, all this amendment does is assure that the interim regulations called for in section 5 which bypass certain procedures in order to be effective would be replaced within 1 year after the enactment of this bill. The bill now calls for promulgation of final regulations to replace these interim regulations "as soon as possible." But that time period could slip and drag on to an unreasonable length of time.

This simply says the final regulations shall be submitted within a 1-year timeframe.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Texas.

Mr. DE LA GARZA. We have examined the amendment and will accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. LEVITAS).

The amendment was agreed to.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise at this point to raise a question, if possible, with the chairman of the full committee or the subcommittee.

On pages 52 and 53 of the bill we provide for a civil action, in fact a treble damage action which will be given somebody who is the victim of someone who has been acting in using data provided to the EPA for commercial purposes, and that person may bring an action in an appropriate district court against such person not only for equitable purposes; that is, to restrain the violation, but to obtain damages, and not only actual but treble damages and punitive damages for a gross violation.

In my judgment, I just found this to be somewhat unusual. This is probably one of the few statutes, other than our antitrust laws, where we are providing more than actual damages for somebody who violates the law.

I noticed before the gentleman from California (Mr. PANETTA), offered an amendment, which I supported, which, of course, gave individuals the right to sue for equitable action. That is an individual who would be subject to the act but not for damages.

Here we are giving somebody, perhaps a company, perhaps the manufacturer, the right to go in for treble damages.

I just wanted to know the origin of this clause and why it is in the bill and

whether or not this is an unusual thing to provide for treble damages for violation of this act.

Perhaps the chairman might know, or the subcommittee chairman might know the answer to that question.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I am glad to yield to the gentleman.

Mr. DE LA GARZA. I might advise the gentleman to my knowledge this was part of the compromise when all of the parties involved, industry, environmental groups, labor representatives, came together and this came from those discussions.

As to adding the treble damages, I do not know that I could tell the gentleman where that particular part came from. But the damages part came from those meetings and the consensus.

Ostensibly it was, I think, and I think this is just purely personal for me, I think it was one of those groups wanted to make it harsher on another one of the groups, and this was the reason that it was put in.

But I would assure the gentleman that as harsh as it may seem here, no great import was given to it there and it just came through as a part of the compromise.

Mr. GLICKMAN. I appreciate my chairman giving that explanation.

That is why I chose to take the committee's time by offering any sort of an amendment to the language, figuring that it was not altogether that controversial.

□ 1650

I just make the point that is its highly unusual to provide treble damages for violation of any laws other than antitrust laws, and we are doing so in this bill.

● Mr. CARNEY. Mr. Chairman, I wish to address my comments to provisions contained with H.R. 5203 the Federal Insecticide, Fungicide, and Rodenticide Act Amendment of 1982. Particularly, I will focus on section 11 of the bill which amends section 24(a) of that public law.

As representative of a district which has experienced groundwater contamination as a result of pesticide use, I am concerned about any piece of legislation that may in any way limit the ability of the States to obtain additional health and safety data requested from the producers.

In 1970, a toxic pesticide produced by Union Carbide under the trade name Temik was first registered for crop use. It was reported in 1970 that soil residue data indicated that this pesticide and its metabolites would rapidly decay and that movement of this chemical into the groundwater would not occur. In 1979, however, residents of my district were shocked to find their drinking water wells con-

taminated. Upon request, Union Carbide tested 10,000 wells, finding that 25 percent of those wells contained levels above the New York State guidelines. Essentially all the symptoms of Temik toxicity are common—diarrhea, nausea, abdominal cramps, malaise, weakness in the arms and legs and henceforth it is extremely difficult to detect and treat the chemical toxicity.

The use of Temik has since been banned in Suffolk County. However, the consequence of its use will be with us for some time. The citizens of Long Island obtain all of their potable water via a sole source aquifer. The concern for protection of sole source aquifer has been expressed by this Congress and EPA through the 1974 Safe Drinking Water Act. Further protection has been sought through the Sole Source Aquifer Protection Act of 1982, H.R. 5562, which I and four other members of the Long Island delegation and our two Senators have introduced.

Any change in Federal law that inhibits this Nation and the States from protecting the health and safety of its citizens through direct or indirect exposure to toxic chemicals should not be endorsed by this Congress.

At this time, Mr. Chairman, I would like to insert for the RECORD some articles from our local newspapers on Long Island which show the continuing problems Temik contamination is causing our people.

[From the Long Island Traveler-Watchman, June 3, 1982]

TEMIK MANUFACTURER DOWNPLAYS PROBLEMS

SOUTHOLD.—In the last of three public hearings on the infiltration of the toxic pesticide Temik in groundwater, the Union Carbide Company last week downplayed any adverse health effects, predicted all traces to be below "safe" limits by 1987, and said it "stand ready" to make its Temik data available to all "qualified persons."

But the company, which took Temik off the market two years ago and supplied thousands of homes with carbon filters after Temik was found in groundwater, received a challenge to its remarks.

"The credibility of Union Carbide has been in question," said County Legislator Greg Blass, who initiated and chaired the hearings. "It seems Union Carbide erred in its judgment before it sold Temik here. How can we be sure Temik will diminish as you say?"

Jack R. McWhirter, Union Carbide's vice-president and general manager in charge of its Temik-producing company, said recent reports have used previously unavailable data in estimating the degradation of all aldicarb (the toxic ingredient in Temik) by 1987, if not earlier.

In defending his company's sale of Temik on the porous soils of Long Island, McWhirter said "the best technology [and] the best science" was used to assure its compatibility with Long Island's geophysical characteristics. "If we had any indication that it would've gotten into groundwater," he said, "we wouldn't have sold it on Long Island."

But Carolyn Zenk, a spokesman for the Group for the South Fork, cited a 1976 Cor-

nell University report that had "pointed out that leaching of Temik into groundwater supplies was a distant possibility."

However, agricultural specialists from Cornell present at the hearing said the main problem with the marketing of chemicals was in registration formulas set by the federal Environmental Protection Agency. The regulations, said Jim Pike, who's working on new methods to control crop pests, are both cumbersome and expensive to manufacturers. Moreover, when Temik was first registered the EPA failed to consider its effects on Long Island's sandy soil and single source aquifer.

The result, Pike said, is that farmers are forced to use higher concentrations of the limited number of chemicals available to them.

With this problem in mind, agricultural specialist Bill Sanok advised that the county legislature not proceed with a possible lawsuit against Union Carbide. If the company is sued, he said, it and other manufacturers may react by refusing to sell to Long Island farmers—a situation which would leave farmers virtually unable to grow economical crops.

Legislator Wayne Prospect of Deer Park said Sanok was "crystal-ballizing" in placing too much faith in Union Carbide's ability and intention to assure safe water supplies.

McWhirter, in addressing the health effects of Temik, said both the National Cancer Institute and the EPA have produced test results showing that Temik is not carcinogenic, mutagenic or teratogenic. The EPA also determined, he said, that Temik is not chronically toxic, and "does not accumulate in the mammalian organism."

In one Cancer Institute study, McWhirter said, the "administration of as much as 6,000 parts per billion of aldicarb in the daily diet for an entire lifetime caused no cancer in rats or mice." He added that "multi-generational reproduction studies have also shown no adverse effects on parents, fetuses, or developing young."

McWhirter said the appearance of aldicarb-nitrate mixtures—which he said "may present a mutagenic or carcinogenic hazard—"cannot exist under the [groundwater] conditions on Long Island because of its inherent chemical instability." He added that the mixture can only be maintained by temperatures of at least -20 Centigrade.

The County Legislature's Temik subcommittee is due to report the results of its hearings to the full legislature which will then decide on the appropriate action for dealing with chemical-contaminated groundwater.

"The positive aspect of Temik is that it jolted the chemical industry—and the county legislature," said Blass.

McWhirter agreed, and said he would take what he had heard at the hearing back to Union Carbide.—PAUL DEMERY

[From Newsday, July 3, 1982]

TEMIK STUDY HINTS AT TIE TO ILLNESSES

(By Mark McIntyre)

HAUPPAUGE.—The first health study of Long Island residents who drank water containing the pesticide Temik has found a higher than normal rate of neurological disorders and miscarriages, officials said yesterday.

Suffolk Health Commissioner David Harris said the findings suggested "a whisper of a possible association" between health problems and Temik. Admitting that the study has "important weaknesses" that make it unfit for publication in a medical

journal, Harris nevertheless released it at a news conference to rebut criticisms that his department did not share its findings on its Temik investigations with the public.

Last year, investigators mailed questionnaires inquiring about the medical histories of 1,600 families who were exposed to Temik from 1976 through 1980. Twenty percent, or 967 people, responded. The results showed that the frequency of reported pesticide consumption symptoms did not vary significantly with different amounts of Temik found in each respondent's water supply.

But among women who drank water with 50 parts per billion of Temik—or seven times the State Health Department guideline—six of 18 pregnancies ended in miscarriages. That is a miscarriage rate of 33 percent—twice the normal rate, according to Dr. Andre Varma, a biostatistician who led the study and is chairman of the State University at Stony Brook's department of community and preventive medicine.

The results, Varma said, were a hair above the level of statistical significance. "There is a hint there might be something," he said. "It may be something or it may be spurious."

Investigators have not yet interviewed the women to determine if other causes explain the miscarriages. If three of the six spontaneous abortions were due to other factors, the Suffolk rate would drop to the typical level, an official said.

In addition, the study showed that up to 3 percent of respondents said they had neurological symptoms such as numbness, difficulty in raising their arms and tingling in the body.

A follow-up investigation should be done to determine if Temik affects the health of East End residents, Harris said, but he added that funds are not available. That study would cost about \$1 million, Varma said.

Jack McWhirter, vice president of Union Carbide Agricultural Products Co., which makes Temik, said at the press conference that the Suffolk study was crude and unscientific. He said that exhaustive studies by the firm show Temik causes no health problems.

From 1975 to 1979, East End farmers used large amounts of Temik in planting potato buds. By August, 1979, it had washed through the area's shallow, porous soil and contaminated the region's underground supply of drinking water. To date, 1,450 drinking wells serving an estimated 5,000 people in Brookhaven, Southold, Riverhead and Southampton have Temik in amounts above what the State Health Department says is safe to drink. Almost all those wells today have carbon filters to remove Temik.

● **Mr. SHUMWAY.** Mr. Chairman, I rise in opposition to H.R. 5203 for one relatively simple and straightforward reason—the authorization levels in this bill are not consistent with this Nation's commitment to economic recovery. At a time when it is increasingly being recognized that renewed economic activity can be indirectly stimulated by reducing the budget deficit, it would be inappropriate for Congress to pass out FIFRA legislation that is \$4,785,000 more in fiscal year 1983 than what the Environmental Protection Agency had requested.

I would instead support a bill that contains \$51,582,000 (instead of \$56,367,000) for a pesticide regulatory

program in fiscal year 1983 (\$54,676,900 for fiscal year 1984). The EPA has already given assurances to the Agriculture Committee that these funds would be sufficient to cover all FIFRA program costs. Any moneys authorized over this level can be construed as Congress being unnecessarily "generous" in its allocation of Federal revenues.

However, this is exactly what is being proposed in this bill. Now is not the time to be sending this kind of a confusing and contradictory message to Wall Street and the business community. What is the Nation to think if, on the one hand, a conference committee is grappling with legislation that promises to be the largest single tax increase in our history—all for the purposes of helping to balance the budget—while on the other hand, legislation such as we are considering today proposes spending levels that are in excess of agency requests and in excess of our budgetary resources?

If we are to honor our commitment to balancing the budget, then we must continue to reduce Federal expenditures where possible. It is in this spirit that authorization levels should similarly be reduced. In that H.R. 5203 violates this spirit of budgetary accommodation by authorizing spending levels significantly in excess of the EPA's request, I would urge its rejection.

● **Mr. MOFFETT.** Mr. Chairman, I am concerned that our decisions about Federal and State relations appear to be more and more arbitrary. On one hand, the Congress has voted to increase the responsibility of the States over social programs, although it has withheld the money needed to carry out those responsibilities. And the President recommends that we go further embarking on a fiscal shell game he calls New Federalism. But in Congress today we are considering legislation which trods over the legitimate rights of States to protect their citizens against harmful pesticides. I think that, as we debate H.R. 5203, the legislation to amend FIFRA, we should keep this strange incongruity in mind.

The track this bill is following would strip the power of the States to supersede Federal pesticide laws—making tougher regulations on their own. The philosophy here is that States rights should be supported only insofar as they underregulate pesticides. If they try to regulate them more thoroughly than standards set at the Federal level, this legislation would scuttle those tougher standards.

The chemical industry is trying to obscure the impact of pesticide proliferation in the market—now estimated to be 1.7 billion pounds annually—and return to the pre-FIFRA days Rachel Carson eternalized in "Silent Spring." Under the new provisions proposed for

FIFRA, States will lose their ability to regulate pesticides; the public will sacrifice access to data vital to their health and safety; and the chemical companies will enjoy the right to sue persons who violate FIFRA. Private citizens will not.

Existing law allows the States to enact and maintain their own pesticide control standards, so long as they are not weaker than those issued by the Federal Government and administered by the EPA. Section 11 of H.R. 5203 strikes this clause and restricts the States right to regulate pesticide use and limits their access to data on environmental and health effects. This substitute amendment is disconcerting for three reasons: First, it insures that States rights will only be enforceable when Federal Government assures that the States will underregulate rather than overregulate industry. Second, it sets up a bureaucratic maze for the States to tread through to acquire additional data related to public health. Even EPA, on behalf of the administration, thinks the provision is unnecessary.

Finally, section 11 imposes stricter time deadlines on the States review of pesticides. Not only would the review period be seriously abbreviated, but the proposed legislation grants unconditional registration to a pesticide, unless the State challenges it within 60 days of its filing. This will inevitably result in the release of numerous untested pesticides into the market because of administrative failures.

I also strongly oppose section 16, which denies private citizens the right to bring suit under FIFRA in the Federal courts. EPA and its State agency counterparts would be solely responsible for enforcement. As chairman of the House subcommittee charged with oversight of EPA's activities, I have absolutely no faith in the agency's enforcement record or its willingness to improve it. Administrator Gorsuch, in her testimony before my subcommittee a few weeks ago, denied the recognized problems of understaffing, demoralization and inefficiency in the enforcement division. She further rebuffed opportunities to go on the record as intending to improve the agency's sluggishness. The General Accounting Office, in its recent report on EPA and the States, likewise confirmed they "do not always properly investigate case and sometimes take questionable enforcement actions." Deferring enforcement to EPA, would, in effect, sanction unlimited abuses of the law without recourse.

The provision also unjustly allows chemical companies and pesticide producers access to the court system to sue for violations of their property rights under the data disclosure provisions of the Act. This inequity between citizen and corporate rights

seems so flagrant it ought need not be challenged. Our system entitles everyone to legal recourse. We cannot suddenly tilt the scales of justice to enable corporations to sue on one count, or to make them immune from prosecution for citizen injury, without providing individuals with the same rights.

I urge my colleagues to oppose sections 11 and 16 of H.R. 5203, the FIFRA authorization, and to support the respective amendments offered by Congressmen BROWN and PANETTA. Without adopting their amendments to safeguard States rights and expand an individuals right to sue under the law, the bill is wholly unsatisfactory. ●

The CHAIRMAN. If there are no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. MILLER of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, pursuant to House Resolution 528, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DOWNEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 352, nays 56, not voting 26, as follows:

(Roll No. 265)

YEAS—352

Addabbo	Erdahl	Lowery (CA)
Akaka	Erlenborn	Lowry (WA)
Albosta	Evans (DE)	Lukens
Alexander	Evans (GA)	Lundine
Anderson	Evans (IA)	Madigan
Andrews	Evans (IN)	Markley
Anthony	Fary	Marks
Applegate	Fascell	Marriott
Aspin	Fazio	Martin (IL)
Bailey (MO)	Fenwick	Martin (NC)
Bailey (PA)	Ferraro	Martin (NY)
Barnard	Fiedler	Martinez
Barnes	Findley	Matsui
Bedell	Fithian	Mattox
Bellenson	Flippo	Mavroules
Benedict	Florio	Mazzoli
Benjamin	Foglietta	McClory
Bennett	Foley	McCloskey
Bereuter	Ford (MI)	McCollum
Bevill	Ford (TN)	McCurdy
Biaggi	Forsythe	McDade
Bingham	Fountain	McGrath
Bliley	Fowler	McHugh
Boggs	Frank	McKinney
Boland	Frenzel	Mica
Bolling	Frost	Mikulski
Boner	Fuqua	Miller (OH)
Bonior	Garcia	Mineta
Bonker	Gaydos	Minish
Bouquard	Gejdenson	Mitchell (MD)
Bowen	Gephardt	Mitchell (NY)
Breaux	Gibbons	Moakley
Brinkley	Gillman	Mollinari
Brodhead	Gingrich	Mollohan
Brooks	Glickman	Montgomery
Broomfield	Gonzalez	Moore
Brown (CA)	Gore	Moorhead
Broyhill	Gradison	Morrison
Burton, Phillip	Gray	Murphy
Butler	Green	Murtha
Byron	Guarini	Napier
Campbell	Gunderson	Natcher
Carman	Hagedorn	Neal
Carney	Hall (OH)	Nelligan
Chappell	Hall, Sam	Nelson
Chappie	Hamilton	Nichols
Chisholm	Hammerschmidt	Nowak
Clausen	Hance	O'Brien
Clay	Harkin	Oakar
Clinger	Hartnett	Oberstar
Coats	Hatcher	Obey
Coelho	Hawkins	Ottinger
Coleman	Heckler	Panetta
Collins (IL)	Hefner	Parris
Conable	Heftel	Pashayan
Conte	Hertel	Patman
Coughlin	Hightower	Patterson
Courter	Hillis	Pease
Coyne, James	Holland	Pepper
Coyne, William	Hollenbeck	Perkins
D'Amours	Hopkins	Petri
Daniel, R. W.	Horton	Peyser
Daschle	Howard	Pickle
Daub	Hoyer	Porter
Davis	Hubbard	Price
de la Garza	Huckaby	Pritchard
Deckard	Hughes	Pursell
Dellums	Hutto	Quillen
DeNardis	Hyde	Rahall
Derrick	Jacobs	Railsback
Derwinski	Jeffords	Rangel
Dickinson	Jenkins	Ratchford
Dicks	Jones (OK)	Regula
Dingell	Jones (TN)	Reuss
Dixon	Kastenmeier	Rhodes
Donnelly	Kazen	Rinaldo
Dorgan	Kemp	Roberts (KS)
Dougherty	Kennelly	Roberts (SD)
Dowdy	Kildee	Robinson
Duncan	Kogovsek	Rodino
Dunn	LaFalce	Roe
Dwyer	Lagomarsino	Roemer
Dymally	Lantos	Rogers
Dyson	Leach	Rose
Early	LeBoutillier	Rostenkowski
Eckart	Lee	Roth
Edgar	Lehman	Roukema
Edwards (AL)	Leland	Rousselot
Edwards (CA)	Lent	Roybal
Edwards (OK)	Levitas	Rudd
Emerson	Livingston	Russo
Emery	Long (LA)	Sabo
English	Long (MD)	Santini

Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Simon
Skeltton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Snyder
Solarz
Solomon

Spence
St Germain
Stanton
Stark
Stratton
Studds
Swift
Synar
Tauke
Tausin
Taylor
Thomas
Traxler
Tribble
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver

Weber (MN)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Synar
Williams (MT)
Williams (OH)
Wilson
Winn
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—56

Archer
Ashbrook
Atkinson
Badham
Beard
Bethune
Brown (CO)
Cheney
Corcoran
Craig
Crane, Daniel
Crane, Phillip
Daniel, Dan
Dannemeyer
Downey
Dreier
Fields
Goodling
Gramm

Gregg
Grisham
Hall, Ralph
Hansen (ID)
Hansen (UT)
Hendon
Hiller
Holt
Hunter
Jeffries
Johnston
Kindness
Kramer
Latta
Leath
Lewis
Loeffler
Lott
Lujan

Lungren
McDonald
McEwen
Michel
Miller (CA)
Mottl
Myers
Oxley
Paul
Ritter
Shumway
Shuster
Skeen
Smith (OR)
Stanton
Stenholm
Stump
Weber (OH)

NOT VOTING—26

Annunzio
AuCoin
Bafalis
Blanchard
Brown (OH)
Burgener
Burton, John
Collins (TX)
Conyers

Crockett
Dornan
Ertel
Fish
Ginn
Goldwater
Ireland
Jones (NC)
Marlenee

Moffett
Richmond
Rosenthal
Siljander
Stangeland
Stokes
Wirth
Wolf

□ 1700

The Clerk announced the following pair:

On this vote:

Mr. Annunzio for, with Mr. Conyers against.

Mr. BEARD changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1710

AUTHORIZING CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 5203, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, the Clerk be authorized to correct section num-

bers, cross references, and punctuation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BRINKLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6214, with Mr. GLICKMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, August 9, section 1 was open to amendment at any point.

Are there any amendments to section 1?

Mr. BROOKS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have taken this time to call to the Members' attention a problem that will arise when this bill goes to conference with the Senate. As is often the case, unfortunately, the other body has added a provision to its version of the bill that is not germane to a military construction bill under the House rules. If it were to be offered here, I would raise a point of order against it and I am confident the point would be sustained.

The effect of the provision is to exempt the Defense Department from the laws, rules and regulations covering all other executive agencies in the acquisition and disposal of real property under its jurisdiction. The effect is to bypass the authorization and appropriation process by which Congress seeks to protect the national interest. The provision added by the Senate would allow the DOD to buy, sell, and trade its own property. It can use the

proceeds to buy new land and construct new replacement facilities. All this can be done with no congressional action. All DOD has to do is tell the Armed Services Committees what they are going to do 15 days before they do it.

What we have here, Mr. Chairman, is still another case of the Defense Department trying to set itself up as a separate, independent branch of Government. It believes it should be exempt from the budget cuts that are necessary to reduce all Government spending and bring down the horrendous deficits we face. It wants to be exempt from governmentwide procurement regulations. It is fighting to stay free of the Inspector General Act that we have applied across the broad spectrum of Government. It wants to stand on top of its \$1.6 trillion pile of money and say to Congress: "Do not bother me, sonny. Get lost."

Mr. Chairman, I am not alone in objecting to this provision that the Defense Department has succeeded in adding to the Senate bill. I have received a letter from General Services Administrator Gerald Carman expressing strong opposition to enactment of the provision. He points out that the Defense Department will be guided by its own internal interests in disposing of its property and thus the objectivity needed to get the best deal for the Government in such transactions will be lacking. He also says such a go-it-alone approach by the Defense Department will seriously diminish the opportunity for the Government to reach the goals set by President Reagan for raising revenue through the sale of unneeded Federal property.

We have also received an evaluation of the provision by the General Accounting Office which points out how it departs from existing laws that are designed to protect the public interest. At this point, Mr. Chairman, I will ask unanimous consent that Mr. Carman's letter and the GAO review be inserted in the RECORD at the conclusion of my remarks.

Mr. Chairman, I hope that when the House conferees are appointed, they will read this material and give serious consideration to what Congress would be surrendering if this provision is enacted. What we need is tighter control over the Pentagon money monster, not less.

As a final word, I would simply say that if this provision comes back to the House in the conference report, I will raise a point of order against it. I hope that will not be necessary.

Mr. TRIBLE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I wish to join my good friend, the distinguished gentleman from Georgia, JACK BRINKLEY, in support of H.R. 6214, the Military Construction Authorization Act for Fiscal Year 1983.

After weeks of hearings, and a careful review of more than 1,000 proposed projects at 500 military installations, the subcommittee approved only those projects that are absolutely necessary to enhance the readiness of our strategic and conventional forces and to improve the quality of life for our service personnel.

Included in the bill are facilities to support our strategic weapons systems, contingency facilities to support the Rapid Deployment Force in the Middle East, and quality-of-life projects to upgrade the living and working conditions of our service personnel at home and overseas.

I want to emphasize that the total amount authorized in this bill is \$355 million below the budget request submitted by the administration. The committee supports the administration's efforts to modernize our military facilities; however, the prospect of unprecedented deficits requires us to scrutinize all Federal departments—including the Pentagon—for savings.

This is a good bill which represents a carefully balanced approach to the twin problems of providing modern facilities for our new weapons systems and replacing the substantial inventory of aging and obsolescent facilities.

I urge my colleagues to vote for H.R. 6214.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. CHAIRMAN. I rise in support of this bill, and commend our colleagues on the House Armed Services Committee for drafting such a sound, balanced measure legislation. Our colleagues on that committee and on the appropriate subcommittees are to be commended for the time and for the great deal of expertise and examination that must have been expended to create this fine bill.

I rise in support of this legislation, and call to the attention of my colleagues the \$10.5 million which is earmarked to facilitate the removal of the New York Air National Guard from Westchester County Airport near White Plains to Stewart Airport, a former Air Force base, near Newburgh, Orange County, N.Y.

The \$10.5 million is scheduled for expenditure as follows: \$5 million for site preparation; \$3 million for jet fuel storage; and \$2.5 million for aircraft storage.

The New York Air National Guard has been seeking larger facilities for many years. The land area at Westchester Airport is limited, and has left no room for Air National Guard expansion at that facility. Conversely, the management of Westchester Airport has been seeking additional facilities.

ties for their own commercial aircraft expansion which will now be provided by the removal of the Air National Guard facilities.

Furthermore, the shorter runways at Westchester Airport, coupled with the ever-increasing commercial air traffic at that facility, have made the Westchester Airport less and less suitable for Air National Guard maneuvers.

Stewart Airport was an Air Force base from the early days of World War II until 1970, when it was closed as an economy measure. The airport was soon taken over by the Metropolitan Transportation Authority in New York, with plans to develop the airport as the fourth major airport for the New York City metropolitan region. With this goal in sight, the MTA purchased thousands and thousands of acres of land around the airport, until the airport became the second largest airport in area in the United States.

The recession of 1974, coupled with the gasoline crisis, placed the plans for Stewart's development as the fourth major metropolitan airport on the back burner. Since that time, the management of the airport has attempted to develop this excellent resource as a major general aviation facility. In 1980, the main runway was extended to 12,000 feet, making it capable of handling the largest commercial planes, and making it one of the most modern airports in the Nation.

The removal of the New York Air National Guard to Stewart will not only provide the unit with a modern, spacious facility, but will also be a boon to the economy of our mid-Hudson region. The officials and residents of the area welcome this new neighbor to our midst. It is anticipated that the Guard will bring business and support services to our region, which sorely needs a shot in the arm.

The State of New York is contributing \$4 million to facilitate this move, and the county of Westchester is contributing \$2 million. We in Congress should certainly show our support of these local governments who are willing to sacrifice to make this investment.

Accordingly, I urge my colleagues to join in supporting H.R. 6214.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman. I take this time to inform the House of the general scenario for the military construction bill this afternoon.

We hope we can move with some dispatch.

Mr. Chairman, as the Members will remember, the rule on this bill was provided last week. We have had general debate of 2 hours. The bill has been discussed. There will be several committee amendments. There will be

other amendments which are noncontroversial in nature.

There will be some colloquies with Members who have had some situations they would like to discuss and have become a part of the legislative history.

There will be two or three amendments which are genuine differences over the provisions.

With reference to the binary provision, we have fought that battle once before in the big bill, the Defense procurement bill. We do not plan to resist that amendment.

We will bring out a few additional facts for the RECORD, because there will be further activity on that after the conference.

There will be an amendment on the MX proposition by my friend and colleague, the gentleman from California, Mr. RON DELLUMS, and we intend to follow the procedure that the Authorization Committee followed.

Mr. Chairman, at this time as we continue, I yield to the gentleman from Illinois (Mr. McCLODY).

□ 1720

Mr. McCLODY. Mr. Chairman, I would like to take this opportunity to speak in behalf of authorization of two military construction projects for the Great Lakes Naval Base in Great Lakes, Ill., which is within my congressional district. Both of these projects would save the Navy money as well as energy quite soon after construction.

First, your committee proposes authorization of \$1,850,000 for facility energy improvements at the Naval Training Center, Great Lakes. My understanding is that a new gas turbine facility drive shaft will be connected to an electrical generator which will send electrical power back into the utility company's powerline so that the Navy will receive a credit for generating part of their own energy. This project also provides for thermostatic controls and valves on approximately 3,600 radiators to make them more energy efficient. I understand that in the future this project would actually be a money generator.

Second, I also favor the \$3,400,000 heating, ventilation, and air-conditioning project for the Navy Public Works Center at Great Lakes. This provides for modifications to the boiler plant which heats most of the buildings at Great Lakes. It also provides for modifications to 38 individual buildings to make the air-conditioning system more energy efficient and to conserve heat in winter through installation of night temperature setback controls. I understand that there is a projected first year annual payback of \$1,348,000 and that for every \$1 invested \$5.20 will be saved. Would that more of our Federal expenditures had this kind of cost/benefit ratio.

Mr. Chairman, in view of the proposed high energy and financial savings these proposed capital investments would provide, I urge your support of these two projects at Great Lakes and hope that the measure which we pass will authorize these proposed expenditures, particularly in light of the future savings to the Federal Government which these improvements will produce.

Mr. BRINKLEY. I thank the gentleman.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield to me?

Mr. BRINKLEY. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. I thank the gentleman for yielding.

Mr. Chairman, as you know, we have had a long-term opposition to the construction of the facilities at Ras Banas, Egypt. Indeed, in our own private conversations, I have pointed out some serious reservations about the fact that Egypt has not given us a signed agreement on its use.

Would the chairman advise me as to whether or not he would be willing to have a public hearing some time this fall on the whole question of Ras Banas, in view of the fact that apparently the Senate will support it but the House Appropriations Committee has not supported it? I have expressed reservations about it.

Mr. BRINKLEY. To respond to the gentleman, yes, that would be the Chair's intention.

To inform the Members of this body, the gentleman from Pennsylvania is a valuable member of the Subcommittee on Military Construction and has, during committee considerations, raised the issue which he now raises. So this is not a new time for him.

The sentiment which he expresses is also expressed, I understand, in the Appropriations Subcommittee's counterpart. So it would be timely, hopefully, during September or the fall of this year, to consider the issue again in the Subcommittee on Military Construction.

Mr. DOUGHERTY. Mr. Chairman, if the gentleman will yield further, in view of the assurances from the committee chairman that some type of public hearing will be held on it, I advise the House I will not offer the amendment I planned to have offered which would have struck down the Ras Banas authorization.

Therefore, Mr. Chairman, I thank the chairman of the committee for his willingness to have the public hearing and I will not offer my amendment.

Mr. NELLIGAN. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Pennsylvania, a member of the committee.

Mr. NELLIGAN. I thank the gentleman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Pennsylvania (Mr. DOUGHERTY). I, too, was at Ras Banas and share his concern that we have some sort of agreement from the Government of Egypt to use that base once it is constructed. This gentleman firmly believes that the costs of that base will eventually be \$1 billion, not just the approximately \$100 million or so that people are contemplating at this point. It is for this reason that I applaud the chairman of the subcommittee for agreeing to hold hearings on the issue. I believe we should have a firm, written agreement with the Government of Egypt before we commit this Nation to such huge expenditures of funds. I thank the distinguished chairman of the subcommittee for yielding.

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, \$25,120,000.
Fort Campbell, Kentucky, \$10,650,000.
Fort Carson, Colorado, \$11,900,000.
Fort Devens, Massachusetts, \$3,200,000.
Fort Drum, New York, \$1,550,000.
Fort Hood, Texas, \$21,750,000.
Fort Irwin, California, \$31,340,000.
Fort Lewis, Washington, \$21,700,000.
Fort McPherson, Georgia, \$41,000,000.
Fort Meade, Maryland, \$2,500,000.
Fort Ord, California, \$8,900,000.
Fort Polk, Louisiana, \$16,840,000.
Camp Roberts, California, \$2,050,000.
Fort Sam Houston, Texas, \$22,000,000.
Fort Stewart, Georgia, \$23,000,000.
Fort Wainwright, Alaska, \$3,020,000.
Yakima Firing Center, Washington, \$2,950,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, \$2,930,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, \$26,250,000.
Fort Bliss, Texas, \$21,300,000.
Fort Eustis, Virginia, \$6,400,000.
Fort Gordon, Georgia, \$9,200,000.
Fort Knox, Kentucky, \$8,400,000.
Fort Leavenworth, Kansas, \$21,200,000.
Fort Leonard Wood, Missouri, \$11,000,000.
Fort McClellan, Alabama, \$7,500,000.
Fort Monroe, Virginia, \$1,150,000.
Fort Rucker, Alabama, \$17,750,000.
Fort Story, Virginia, \$13,800,000.

UNITED STATES ARMY MATERIAL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, \$27,500,000.
Pine Bluff Arsenal, Arkansas, \$19,650,000.
Red River Army Depot, Texas, \$39,000,000.

Tooele Army Depot, Utah, \$4,150,000.
White Sands Missile Range, New Mexico, \$5,500,000.

AMMUNITION FACILITIES

Indiana Army Ammunition Plant, Indiana, \$2,910,000.
Iowa Army Ammunition Plant, Iowa, \$1,030,000.
Kansas Army Ammunition Plant, Kansas, \$7,200,000.
Longhorn Army Ammunition Plant, Texas, \$230,000.
Louisiana Army Ammunition Plant, Louisiana, \$3,410,000.
Milan Army Ammunition Plant, Tennessee, \$5,500,000.
Radford Army Ammunition Plant, Virginia, \$2,400,000.
Sunflower Army Ammunition Plant, Kansas, \$3,000,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, \$2,600,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, \$1,700,000.
Fitzsimons Army Medical Center, Colorado, \$3,600,000.
Walter Reed Army Medical Center, Washington, District of Columbia, \$9,800,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Classified Locations, \$20,000,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY

Korea, \$61,200,000.

UNITED STATES ARMY FORCES COMMAND

Panama, \$6,800,000.
Egypt, \$50,400,000.

UNITED STATES ARMY, EUROPE

Germany, \$189,640,000.
Turkey, \$7,050,000.

UNITED STATES ARMY WESTERN COMMAND

Johnston Island, \$1,050,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Germany, \$3,950,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the

date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section before such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of \$56,420,000.

FAMILY HOUSING

SEC. 104. (a) The Secretary of the Army, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Army is authorized to acquire less than sole interest in existing family housing units in foreign countries when it is determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Army is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units for the Department of the Army, three hundred and eighty-five units, for a total of \$39,195,000:

Fort Irwin, California, one hundred and fourteen units, \$10,454,000.

Fort Lewis, Washington, one hundred and fifteen units, \$9,962,000.

Grafenwoehr, Germany, one hundred and forty-three units, \$17,214,000.

Hohenfels, Germany, thirteen units, \$1,565,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other

installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Army, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed \$115,760,000, of which \$43,800,000 shall be available only for energy conservation projects.

(f) The Secretary of the Army, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110; 81 Stat. 305), as follows:

Aberdeen Proving Ground, Maryland, one hundred and sixty units, \$6,080,000.

Fort Hamilton, New York, one hundred and eight units, \$4,800,000.

(g) Section 505 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 561) is amended by striking out "\$195,000" in the item entitled "Fort McNair, Washington, District of Columbia", and inserting in lieu thereof "\$223,000".

(h) Section 601(c) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1373), is amended by striking out "four hundred and fifty-four units" in the item relating to Fort Irwin, California, and inserting in lieu thereof "four hundred and eighty-four units".

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECTS

Sec. 105. (a) Section 702(1) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1375), is amended to read as follows:

"(1) for title I: inside the United States \$391,356,000; outside the United States \$395,034,000; minor construction \$34,150,000; for a total of \$820,540,000;"

(b) Section 602(1) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1768), is amended to read as follows:

"(1) for title I: inside the United States \$591,840,000; outside the United States \$249,940,000; minor construction \$44,560,000; for a total of \$886,340,000."

LIMITATION ON LEASING OF HOUSING IN FOREIGN COUNTRIES

Sec. 106. Section 605(a)(2) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1374), is amended by striking out "\$113,717,000" and inserting in lieu thereof "\$118,017,000".

FORT LEWIS, WASHINGTON—WEYERHAEUSER LAND EXCHANGE

Sec. 107. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Weyerhaeuser Corporation, Tacoma, Washington, all right, title, and interest of the United States in and to five parcels of land totaling approximately three-hundred acres located along the western boundary of the Fort Lewis Military Reservation, Pierce County, Washington, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest and shall include the following reservations:

- (1) A training easement over tract 1-US.
- (2) An access easement over tract 4-US.

(b) In consideration for the conveyance authorized by subsection (a), the Weyerhaeuser Corporation—

(1) shall convey, or cause to be conveyed, to the United States all right, title, and interest in and to two parcels of land totaling approximately two hundred and ninety acres, together with the improvements on such parcels, which parcels will be equivalent in value (as determined by the Secretary) to the land conveyed under subsection (a) and which conveyance is otherwise acceptable to the Secretary;

(2) shall pay all costs associated with surveying and installing boundary monuments and all fencing costs; and

(3) shall not reserve any easement in the lands to be conveyed to the United States under paragraph (1) with the exception of two easements over roads in tract 1-W.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to enter into an agreement with the responsible officials of Pierce County, Washington, whereby the reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished and replaced with a reversionary interest in the lands conveyed to the United States under subsection (b).

AMENDMENTS OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer amendments. I have a number of amendments, and I ask unanimous consent that the amendments be considered en bloc, printed in the RECORD, and considered as read.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The text of the amendments is as follows:

Amendments offered by Mr. BRINKLEY: Page 5, line 3, strike out "\$61,200,000" and insert in lieu thereof "\$57,850,000".

Page 5, line 8, strike out "\$189,640,000" and insert in lieu thereof "\$189,240,000".

Page 6, line 21, strike out "\$56,420,000" and insert in lieu thereof "\$56,050,000".

Page 8, line 11, insert "and community center facility" after "Family housing units".

Page 8, line 12, strike out "three hundred and eighty-five units" and insert in lieu thereof "three hundred and eighty-seven units".

Page 8, line 13, strike out "\$39,195,000" and insert in lieu thereof "\$43,295,000".

Page 8, line 15, strike out "\$10,454,000" and insert in lieu thereof "\$10,321,000".

Page 8, line 17, strike out "\$9,962,000" and insert in lieu thereof "\$9,835,000".

Page 8, line 19, strike out "\$17,214,000" and insert in lieu thereof "\$16,994,000".

Page 8, line 20, strike out "\$1,565,000" and insert in lieu thereof "\$1,545,000".

Page 8, after line 20, insert the following: Vicenza, Italy, two units, \$500,000.

Aliamanu, Hawaii, consolidated community center (phase I), \$4,100,000.

Mr. BRINKLEY. Mr. Chairman, the explanation for these amendments is brief.

Mr. Chairman, this amendment to title I is a no-cost amendment. It makes adjustments in the Army

family housing program and corresponding offsets in the Army military construction program for the purpose of allowing the Army to build two units of secure housing in Italy for high-ranking Army officers and to start work on a critically needed community support facility in Hawaii for an isolated family housing complex.

The two units of secure housing are needed to protect against the recurrence of another kidnapping of U.S. Army officers as we experienced with General Dozier.

With regard to the Hawaiian project, the Army has written to me requesting that we restore part of the funds that were cut initially. Because of the compelling case made by the Army, I have agreed to sponsor the amendment.

I want to assure my colleagues that the offsets involve overseas projects that are not required at this time or can be reduced in cost.

In short, it is a trade off within the Army. There is no change in the funding which this bill seeks.

Mr. Chairman, I ask approval of these amendments en bloc.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Georgia (Mr. BRINKLEY).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title I? If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

Sec. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, \$4,650,000.

Marine Corps Base, Camp Lejeune, North Carolina, \$28,550,000.

Marine Corps Base, Camp Pendleton, California, \$33,965,000.

Marine Corps Air Station, Cherry Point, North Carolina, \$31,800,000.

Marine Corps Air Station, El Toro, California, \$7,200,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, \$1,450,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, \$1,550,000.

Marine Corps Development and Education Command, Quantico, Virginia, \$23,250,000.

Marine Corps Recruit Depot, San Diego, California, \$27,100,000.

Marine Corps Air Station, Tustin, California, \$7,350,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, \$1,800,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, \$16,900,000.

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, \$147,750,000.
Naval Support Activity, San Francisco, California, \$1,400,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, \$9,300,000.
Naval Station, Charleston, South Carolina, \$12,250,000.
Naval Amphibious Base, Little Creek, Virginia, \$1,850,000.
Naval Station, Mayport, Florida, \$36,100,000.
Naval Submarine Base, New London, Groton, Connecticut, \$5,900,000.
Commander Oceanographic System Atlantic, Norfolk, Virginia, \$3,100,000.
Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, \$2,085,000.
Naval Air Station, Norfolk, Virginia, \$2,150,000.
Naval Air Station, Oceana, Virginia, \$6,200,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Facility, Adak, Alaska, \$1,900,000.
Naval Air Station, Alameda, California, \$3,650,000.
Naval Air Station, Lemoore, California, \$10,700,000.
Naval Air Station, Moffett Field, California, \$11,800,000.
Naval Air Station, North Island, California, \$31,070,000.
Naval Station, Pearl Harbor, Hawaii, \$14,400,000.
Naval Station, San Diego, California, \$27,300,000.
Shore Intermediate Maintenance Activity, San Diego, California, \$14,100,000.
Shore Intermediate Maintenance Activity, Pearl Harbor, Hawaii, \$7,000,000.
Naval Air Station, Whidbey Island, Washington, \$1,200,000.

NAVAL EDUCATION AND TRAINING COMMAND

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, \$1,700,000.
Naval Air Station, Corpus Christi, Texas, \$2,800,000.
Naval Training Center, Great Lakes, Illinois, \$1,850,000.
Naval Air Station, Memphis, Tennessee, \$8,400,000.
Naval Education and Training Center, Newport, Rhode Island, \$1,100,000.
Fleet Training Center, Norfolk, Virginia, \$5,400,000.
Naval Training Center, Orlando, Florida, \$5,500,000.
Naval Air Station, Pensacola, Florida, \$5,400,000.
Naval Technical Training Center, Pensacola, Florida, \$4,450,000.
Fleet Anti-Submarine Warfare Training Center Pacific, San Diego, California, \$3,950,000.
Naval Air Station, Whiting Field, Florida, \$7,650,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Oakland, California, \$9,700,000.
Naval Regional Medical Center, Camp Lejeune, North Carolina, \$2,800,000.

NAVAL MATERIAL COMMAND

Naval Weapons Station, Charleston, South Carolina, \$1,140,000.
Naval Air Rework Facility, Cherry Point, North Carolina, \$5,550,000.
Naval Weapons Center, China Lake, California, \$8,700,000.
Naval Surface Weapons Center, Dahlgren, Virginia, \$10,800,000, all of which must be

used for the Applied Research Center, Wallops Island, Virginia.

Navy Public Works Center, Great Lakes, Illinois, \$3,400,000.
Mare Island Naval Shipyard, Vallejo, California, \$9,150,000.

Naval Underwater Systems Center, Newport, Rhode Island, \$6,500,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, \$160,000,000.

Navy Public Works Center, Norfolk, Virginia, \$16,030,000.

Naval Air Rework Facility, North Island, California, \$18,500,000.

Aviation Supply Office, Philadelphia, Pennsylvania, \$1,400,000.

Naval Ship System Engineering Station, Philadelphia, Pennsylvania, \$1,500,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, \$17,500,000.

Naval Ship Weapon System Engineering Station, Port Hueneme, California, \$7,800,000.

Naval Supply Center, San Diego, California, \$4,430,000.

Naval Mine Engineering Facility, Yorktown, Virginia, \$3,250,000.

Navy Public Works Center, San Francisco, California, \$9,800,000.

Portsmouth Naval Shipyard, Kittery, Maine, \$6,600,000.

Naval Air Development Center, Warminster, Pennsylvania, \$1,400,000.

Naval Surface Weapons Center, White Oak, Maryland, \$1,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station Eastern Pacific, Honolulu, Hawaii, \$6,300,000.

Naval Communication Area Master Station Atlantic, Norfolk, Virginia, \$1,850,000.

OUTSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Butler, Okinawa, Japan, \$2,000,000.

Marine Corps Air Station, Iwakuni, Japan, \$1,350,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Keflavik, Iceland, \$1,400,000.

Naval Station, Keflavik, Iceland, \$8,800,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, \$1,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, \$10,400,000.

Naval Support Facility, Diego Garcia, Indian Ocean, \$71,930,000.

Naval Magazine, Guam, Mariana Islands, \$32,200,000.

Naval Activities, Kenya, \$8,300,000.

Naval Activities, Somalia, \$30,000,000.

COMMANDER IN CHIEF, NAVAL FORCES, EUROPE

Fleet Operations Control Center, Europe, London, England, United Kingdom, \$3,250,000.

Naval Air Station, Sigonella, Italy, \$31,900,000.

NAVAL MATERIAL COMMAND

Naval Public Works Center, Subic Bay, Republic of the Philippines, \$2,050,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Western Pacific, Guam, \$1,750,000.

Naval Communication Station, Thurso, Scotland, \$1,400,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, \$9,390,000.

HOST NATION INFRASTRUCTURE SUPPORT

Various Locations, \$3,000,000.

EMERGENCY CONSTRUCTION

Sec. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section before such date.

MINOR CONSTRUCTION

Sec. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of \$60,428,000.

FAMILY HOUSING

Sec. 204. (a) The Secretary of the Navy, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Navy is authorized to acquire less than sole interest existing family housing units in foreign countries when it is determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this

section, the Secretary of the Navy is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Navy, one thousand seven hundred and forty-nine units, for a total of \$83,513,000:

Marine Corps Base, Camp Pendleton, California, one hundred and four units, \$9,112,000.

Marine Corps Mountain Warfare Training Center, Bridgeport, California, seventy-seven units, \$10,908,000.

Naval Station, Long Beach, California, three hundred and sixty-eight units, \$33,090,000.

Naval Air Training Center, Patuxent River, Maryland, one thousand units, \$5,000,000.

Naval Station, Guantanamo Bay, Cuba, two hundred units, \$25,403,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) Notwithstanding any other provision of law, the Secretary of the Navy is authorized to purchase ninety-one acres of real estate at a cost not to exceed \$1,000,000 in support of a future project to construct family housing units at the Naval Station, Mayport, Florida.

(f) The Secretary of the Navy, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed \$47,333,000 of which \$7,574,000 shall be available only for energy conservation projects.

(g) The Secretary of the Navy, or the Secretary's designee, within the amounts specified in subsection (f), is authorized to accomplish repairs and improvements to existing family housing in the amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110; 81 Stat. 305), as follows:

Naval Air Test Center, Patuxent River, Maryland, three hundred and thirty units, \$16,800,000.

Naval Station, Guantanamo Bay, Cuba, one unit, \$75,000.

HOUSING UNITS ACQUIRED FROM PUBLIC HEALTH SERVICE

SEC. 205. The Secretary of the Navy may use for military family housing purposes the seven housing units comprising a portion of the United States Public Health Service Facility, Norfolk, Virginia, to be ac-

quired by the Secretary of the Navy by transfer from the Secretary of Health and Human Services pursuant to section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

The CHAIRMAN. Are there any amendments to title II? If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, \$5,845,000.
Kelly Air Force Base, Texas, \$12,000,000.
McClellan Air Force Base, California, \$9,000,000.
Robins Air Force Base, Georgia, \$4,700,000.
Tinker Air Force Base, Oklahoma, \$10,650,000.
Wright-Patterson Air Force Base, Ohio, \$32,186,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, \$6,600,000.
Edwards Air Force Base, California, \$12,100,000.
Eglin Air Force Base, Florida, \$24,200,000.
Fort MacArthur, California, \$1,900,000.
Laurence G. Hanscom Air Force Base, Massachusetts, \$10,650,000.
Cape Canaveral, Florida, \$9,100,000.
Moffett Naval Air Station, California, \$1,900,000.
Sunnyvale Air Force Station, California, \$11,700,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, \$22,260,000.
Columbus Air Force Base, Mississippi, \$1,150,000.
Goodfellow Air Force Base, Texas, \$15,300,000.
Keesler Air Force Base, Mississippi, \$9,000,000.
Lackland Air Force Base, Texas, \$6,100,000.
Laughlin Air Force Base, Texas, \$5,770,000.
Lowry Air Force Base, Colorado, \$13,050,000.
Maxwell Air Force Base, Alabama, \$15,150,000.
Randolph Air Force Base, Texas, \$3,900,000.
Reese Air Force Base, Texas, \$3,750,000.
Sheppard Air Force Base, Texas, \$5,500,000.
Vance Air Force Base, Oklahoma, \$8,000,000.
Williams Air Force Base, Arizona, \$8,700,000.

ALASKAN AIR COMMAND

Elelson Air Force Base, Alaska, \$6,580,000.
Elmendorf Air Force Base, Alaska, \$4,800,000.
Galena Airport, Alaska, \$2,050,000.
Shemya Air Force Base, Alaska, \$1,200,000.
Various Locations, Alaska, \$43,600,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, \$3,160,000.
Andrews Air Force Base, Maryland, \$13,200,000.
Charleston Air Force Base, South Carolina, \$1,550,000.
Dover Air Force Base, Delaware, \$2,500,000.
Kirtland Air Force Base, New Mexico, \$3,570,000.
Little Rock Air Force Base, Arkansas, \$3,000,000.
McChord Air Force Base, Washington, \$3,700,000.
McGuire Air Force Base, New Jersey, \$16,000,000.
Norton Air Force Base, California, \$1,300,000.
Pope Air Force Base, North Carolina, \$4,400,000.
Scott Air Force Base, Illinois, \$4,850,000.
Travis Air Force Base, California, \$2,400,000.

NATIONAL MILITARY COMMAND CENTER

Pentagon Building, Virginia, \$3,300,000.

NORTH AMERICAN AEROSPACE DEFENSE COMMAND

NORAD Cheyenne Mountain Complex, Colorado, \$1,900,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, \$2,595,000.
Blytheville Air Force Base, Arkansas, \$7,383,000.
Carswell Air Force Base, Texas, \$54,500,000.
Dyess Air Force Base, Texas, \$1,650,000.
Ellsworth Air Force Base, South Dakota, \$1,350,000.
Francis E. Warren Air Force Base, Wyoming, \$4,150,000.
Fairchild Air Force Base, Washington, \$3,740,000.
Griffiss Air Force Base, New York, \$56,050,000.
Grissom Air Force Base, Indiana, \$3,400,000.
K. I. Sawyer Air Force Base, Michigan, \$4,450,000.
Loring Air Force Base, Maine, \$38,420,000.
Malmstrom Air Force Base, Montana, \$55,000,000.
March Air Force Base, California, \$1,550,000.
McConnell Air Force Base, Kansas, \$3,000,000.
Offutt Air Force Base, Nebraska, \$9,450,000.
Peterson Air Force Base, Colorado, \$67,700,000.
Powell, Wyoming, \$1,250,000.
Vandenberg Air Force Base, California, \$79,759,000.
Various Locations, Continental United States, \$1,900,000.
Whiteman Air Force Base, Missouri, \$7,800,000.
Wurtsmith Air Force Base, Michigan, \$1,800,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, \$5,450,000.
Cannon Air Force Base, New Mexico, \$1,800,000.
Davis-Monthan Air Force Base, Arizona, \$11,950,000.
George Air Force Base, California, \$1,400,000.
Gila Bend Air Force Auxiliary Field, Arizona, \$1,700,000.

Holloman Air Force Base, New Mexico, \$3,902,000.
 Homestead Air Force Base, Florida, \$1,500,000.
 Langley Air Force Base, Virginia, \$15,550,000.
 MacDill Air Force Base, Florida, \$20,700,000.
 Moody Air Force Base, Georgia, \$6,550,000.
 Mountain Home Air Force Base, Idaho, \$4,350,000.
 Nellis Air Force Base, Nevada, \$19,900,000.
 Seymour-Johnson Air Force Base, North Carolina, \$3,620,000.
 Shaw Air Force Base, South Carolina, \$1,150,000.
 Tyndall Air Force Base, Florida, \$11,540,000.
 Various Locations, Maine, \$7,200,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, \$6,050,000.

MX CONSTRUCTION

Various Locations, Continental United States, \$103,000,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, \$1,100,000.

Otis Air National Guard Base, Massachusetts, \$3,440,000.

AIR FORCE RESERVE

Westover Air Force Reserve Base, Massachusetts, \$2,700,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Rhein-Main Air Base, Germany, \$7,270,000.

PACIFIC AIR FORCES

Camp Long, Korea, \$1,750,000.
 Clark Air Base, Republic of the Philippines, \$14,380,000.
 Diego Garcia Air Base, Indian Ocean, \$36,550,000.
 Kadena Air Base, Japan, \$15,950,000.
 Kunsan Air Base, Korea, \$36,490,000.
 Kwang-Ju Air Base, Korea, \$2,450,000.
 Misawa Air Base, Japan, \$6,600,000.
 Osan Air Base, Korea, \$44,000,000.
 San Miguel, Republic of the Philippines, \$1,750,000.
 Yaedake Radio Relay Station, Japan, \$1,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, \$2,440,000.

TACTICAL AIR COMMAND

Keflavik Naval Station, Iceland, \$3,600,000.
 Various Locations, Worldwide, \$15,000,000.

UNITED STATES AIR FORCES IN EUROPE

Egypt, Various Locations, \$121,700,000.
 Germany, Various Locations, \$22,354,000.
 Aviano Air Base, Italy, \$7,200,000.
 Oman, Various Locations, \$9,250,000.
 Incirlik Air Base, Turkey, \$7,290,000.
 Various Locations, United Kingdom, \$57,010,000.
 Various Locations, \$83,954,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production sched-

ules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of \$104,691,000.

FAMILY HOUSING

SEC. 304. (a) The Secretary of the Air Force, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Air Force is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Air Force is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size

specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Air Force, seven hundred and ninety units, for a total of \$82,050,000:

Fort MacArthur, California, two hundred units, \$20,000,000.

Powell, Wyoming, fifty units, \$3,850,000.

MacDill Air Force Base, Florida, forty units, \$3,200,000.

Incirlik Air Base, Turkey, two hundred units, \$20,000,000.

Bentwaters Royal Air Force Station, United Kingdom, three hundred units, \$35,000,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Air Force, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed \$76,500,000, of which \$17,000,000 shall be available only for energy conservation projects.

(f) The Secretary of the Air Force, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as follows:

Loring Air Force Base, Maine, four hundred units, \$13,080,000.

F. E. Warren Air Force Base, Wyoming, one hundred and sixty-two units, \$5,783,300.

Kirtland Air Force Base, New Mexico, one hundred and twenty-five units, \$4,123,700.

Holloman Air Force Base, New Mexico, one hundred and forty-two units, \$4,253,600.

Ramstein Air Base, Germany, one hundred and twenty units, \$7,630,000.

RAF Lakenheath, United Kingdom, thirty-six units, \$1,569,700.

RAF Upper Heyford, United Kingdom, eighteen units, \$934,900.

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

SEC. 305. The Military Construction Authorization Act, 1977 (Public Law 94-431, 90 Stat. 1349), is amended—

(1) in section 301 concerning the Arnold Engineering Development Center, Tennessee, delete "\$519,010,000" and insert in lieu thereof "\$561,010,000"; and

(2) in section 602(3) delete "\$759,759,000" and "\$816,409,000" and insert in lieu thereof "\$801,759,000" and "\$858,409,000", respectively.

LAND CONVEYANCE, FLORIDA

SEC. 306. (a) Notwithstanding the restoration provisions of the Second Deficiency Appropriation Act, 1940 (Public Law 668, ch. 437, 54 Stat. 628, 655), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to adjust the base boundaries at Eglin Air Force Base, Florida, to resolve encroach-

ments by both the Air Force and private property owners resulting from a reliance on inaccurate surveys. In doing so, the Secretary may (1) disclaim the intent to acquire property by prescription, which disclaimer shall be binding on all parties, (2) dispose of tracts by gift, sale, or exchange for privately owned land adjoining Eglin Air Force Base to parties in possession of such tracts who mistakenly believed that they had acquired title to such tracts, and (3) acquire tracts by purchase, donation, or exchange for Government-owned land at Eglin Air Force Base.

(b) Conveyances pursuant to this section may be made without consideration, at the Secretary's discretion.

CONVERSION OF FACILITY AT WRIGHT-PATTERSON AIR FORCE BASE, OHIO

SEC. 307. Notwithstanding any other provision of law, the Secretary of the Air Force may use Foreign Military Sales administrative funds, only to such extent or in such amounts equal to a total of not more than \$395,000 as are provided in appropriation Acts, to convert, rehabilitate, or alter an existing facility located at Wright-Patterson Air Force Base, Ohio, for use as a foreign military sales center to accommodate personnel engaged in logistics system support and management of the foreign military sales program of the Air Force.

AMENDMENT OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRINKLEY:
Page 27, line 19, strike out "\$7,383,000" and insert in lieu thereof "\$8,733,000".

Page 28, line 1, strike out "\$56,050,000" and insert in lieu thereof "\$56,450,000".

Page 32, line 12, strike out "\$104,691,000" and insert in lieu thereof "\$101,521,000".

Page 34, line 5, strike out "ninety" and insert in lieu thereof "seventy-six".

Page 34, line 10, strike out "forty" and insert in lieu thereof "twenty-six".

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, I would simply inform the Members of the House that this is the Air Force section and there are several printing errors. This is corrective and technical in nature. It changes no substantive provision, and I ask that the amendment be agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BRINKLEY).

The amendment was agreed to.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is my understanding that the authorization contained in this bill does not contain funding for the rehabilitation of an Army aviation flight facility of the Minnesota National Guard.

I would like to have the chairman respond if that is correct.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the chairman.

Mr. BRINKLEY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct in his understanding. The normal debate on this issue, of course, will come in title VII, which will be discussed soon. But as the gentleman will see, title VII has received a great priority within this bill and we anticipate it will receive continuing great priority in the years to come.

The change from replacement to rehabilitation has caused the delay in this particular case. As a matter of policy, the subcommittee has a threshold of 35 percent of design completed for consideration of funding. In this way, we have a better idea about the scope, cost, and timing of the project.

Mr. VENTO. Mr. Chairman, in view of the importance of this facility, can the chairman indicate when funding for the rehabilitation would be feasible? I yield to the gentleman.

Mr. BRINKLEY. I thank the gentleman for yielding further.

Mr. Chairman, I am aware of the support given to the Active Forces by this facility, as well as of the fact that helicopter research and development activities are facilitated by the Minnesota National Guard.

Mr. VENTO. Would the chairman say that provided the 35-percent design level is complete, would we then be able to move ahead; that is, if the 35-percent design criteria would be completed?

Mr. BRINKLEY. Mr. Chairman, if the gentleman will yield further, yes. Providing the 35-percent design level criterion is surpassed, I would state to the gentleman that the project should be considered to be one of the highest priority Guard and Reserve items in the fiscal year 1984 military construction bill.

Mr. VENTO. I thank the chairman for his response, and I yield back the balance of my time.

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman from Minnesota (Mr. VENTO) for his support of our Guard and Reserve Forces, which are an important part of our national defense.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS:
Page 29, line 15, strike out "\$103,000,000" and insert in lieu thereof the following: "\$36,700,000".

□ 1730

Mr. DELLUMS. Mr. Chairman, what my amendment does is go to the funds in the bill for the construction of the MX basing mode. I am not going to go through all the arguments for or against the MX missile system and the

basing mode. We have done that in procurement and in research and development sections of the DOD authorization bill for fiscal year 1983.

What this amendment does is go to a very specific point. First of all, my amendment strikes \$66.3 million for various weapons system support facilities at the deployment base.

There is in this bill \$103 million for MX basing construction, broken down as follows, Mr. Chairman: \$16.7 million for various logistics and repair facilities at Hollings Air Force Base, Utah; Newark Air Force Base, Ohio; \$20 million for several new flight test silos at Vandenberg Air Force Base, Calif., and finally—and this is what my amendment specifically addresses—\$66.3 million for various weapons systems support facilities at the deployment base.

Mr. Chairman, the Armed Services Committee rationale for this \$66.3 million is as follows: They state that the authorization bill, H.R. 6030, restricting funding for the MX missile, permits work to proceed on those elements that would be basic to any basing mode. However, the question that I raise, Mr. Chairman, very simply is this: One can rationalize the \$16.7 million for the repair and logistical facilities. Perhaps one can justify the \$20 million for the new flight test silos, but I cannot fathom any justification, any rationale, for \$66.3 million at a deployment base when we do not know: First, where that deployment base is going to be; or second, what the basing mode would be.

How can you develop a support system for a basing mode when the decision has not been made by the President of the United States? Both bodies of the Congress have enacted legislation that in effect says that we shall wait for the decision from the President of the United States with respect to what basing mode he shall accept or not accept.

Now, how can you spend \$66.3 million building a support facility at the basing mode site, and you do not have a site? Let alone the fact that you do not even have a basing mode that the President has even acted upon. The earliest that this Congress will receive that decision will be sometime in December. The Congress will reconvene in January. We will have 30 days to review the decision on the part of the President. That then takes us later in January or early into February. Once that decision is made, it will take some substantial amount of time beyond that to determine the site upon which this new basing mode, if we come up with one, and there is great argument about whether we will, where that site will be located.

So, we have now extended this matter to March or April or maybe in late spring or early summer, so why

are we today passing a piece of legislation that authorizes \$66.3 million, Mr. Chairman, to build a facility that cannot be built until sometime next year?

In this austere moment that we find ourselves trapped in, why do we need to spend this level of resources? We do not need to go over it again on whether one supports or does not support the MX missile. Everyone in this body knows where this gentleman stands on that matter. We do not need to discuss the basing mode. There have been 34—perhaps they will come up with the magic 35, I do not know. The issue I am pointing out here is that that decision has not been made. It will not be made for a matter of months. We will then be able to work our will on whether we agree or disagree with that decision, so why do we need to put this money in?

I am suggesting, Mr. Chairman, that this vote is an intelligent vote, it is a rational vote, it is a reasonable vote, it is a prudent vote, it is a fiscally conservative vote. To just throw money out there, simply to say, "Let's put this money in this category," as if in some way that is sacrosanct, is absurd. If there is any Member in this Chamber, any Member of this body that can rationalize at this moment, I would deeply appreciate it, because I have no basis upon which to rationalize the expenditure of these resources.

Perhaps one can talk about it once the decision is made by the President. Once we acquiesce in that decision if we choose to do it, once the site is developed, once we begin to develop an area, then we can spend the money. How can we support something that does not exist?

Mr. BRINKLEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from California.

Mr. Chairman, although I understand the gentleman's concerns about the absence of the decision on a permanent basing mode, the fact is that the weapons systems support facilities authorized in this bill are essential, regardless of where or how the missile is deployed. They are basically a support package required to receive and assemble, maintain, and repair the missile itself and its associated equipment. These facilities are critical to the MX initial operational capability date of late 1986, which was mandated by this Congress.

The committee spent a great deal of time examining the original MX budget request of \$207 million. We attempted to clearly define facilities requirements that would be essential to any basing mode selected. The \$66.3 million authorization for the weapons support facilities was determined not only to be essential but critical, and I therefore must oppose the gentleman's amendment.

Mr. DELLUMS. Mr. Chairman, will my colleague yield?

Mr. BRINKLEY. Of course.

Mr. DELLUMS. I appreciate what my colleague has just stated, and I would like very much if he could tell me what is so critical just for a moment. Perhaps I do not understand the timing, but the President has to make a decision. That will come to us sometime in December. There is a question of whether we will or we will not even be in session some time in December. If we are in session, we have until January to make a decision. If we are not in session, the decision will not be made until January, anyway. Once the decision is made in January or February we then have the second decision to make, and that is where this basing mode is going to be. We can begin that process.

What is urgent about the expenditure of \$66.3 million at this particular moment in August 1982, when it may be August 1983, before we even determine where this basing mode is going to be developed? So next year, if we need to put this money in it can be placed in, but this year I do not see the urgency.

I appreciate my colleague yielding to me.

Mr. BRINKLEY. As the gentleman well knows, this is the authority, the authorization bill; and of course under the system of things we must provide the authority and the appropriations, and there is a certain latitude, a certain flexibility that the executive branch requires in order to move promptly in order that there not be any lag. So, in the regular order of things, in the managerial aspect of things, and, in the opinion of many, the critical aspect of the system itself, it would seem to me that it would be well to approve the judgment of the committee.

Mr. DELLUMS. If my colleague will yield further, I appreciate it and I will not drag this debate out. I am simply saying to my colleague, No. 1, I do not think it is critical. No. 2, when one looks at the schedule of what judgments have to be made, it seems to me that we have more than adequate time if necessary to place these funds in next year's budget, and in this austere period it seems to me it is prudent on the part of this body to strike the \$66.3 million.

I thank my colleague for yielding.

Mr. TRIBLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Very briefly, Mr. Chairman, the committee has already cut \$104 million which it believed was unnecessary to accomplish the initial operating capabilities for the MX. The projects that remain in this bill are required no matter which basing mode is chosen;

\$66.3 million are dedicated to the weapons system support facilities.

□ 1740

That is the total logistical support for the MX missile and it includes storage, assembly, inspection, maintenance, and repair.

The President intends to select a permanent basing mode before the end of the year. Once the permanent basing decision is made, construction of this facility, must begin as soon as possible and, therefore, we have authorized this project in the current year.

I believe this is important. I believe the committee has operated in a reasonable and prudent manner and I would hope my colleagues would reject this amendment.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield for a question?

Mr. TRIBLE. I am happy to yield.

Mr. DELLUMS. Is not the \$16.7 million adequate to address the logistical and repair needs? Why do we need this? There are \$16.7 million in there for repair and for logistical facilities at two Air Force bases and \$20 million for test flights.

What do we need this money for?

Mr. TRIBLE. The \$16.7 million is for a repair facility primarily away from the site.

But decisions have to be made so that we can move forward in a prompt manner once the siting decision is made. This construction project provides for storage, assembly, inspection, maintenance, and repair at the site itself.

Mr. DELLUMS. Will the gentleman yield for one last question?

Mr. TRIBLE. I am happy to yield.

Mr. DELLUMS. What is the time-frame? I think we both would agree at the earliest the President will send a message to us would be December and we do not even know if we are going to be in session in December. So from that date can the gentleman work out for me what you perceive to be a time-frame when we would begin spending the \$66.3 million that is so urgent in this fiscal year's budget?

Mr. TRIBLE. We must move forward very quickly once the President and this body makes the appropriate decision.

My concern is that if we postpone this project into a future year we will delay this MX missile in a very real way, and we should avoid that result.

Mr. DELLUMS. I thank my colleague for yielding.

AMENDMENT OFFERED BY MR. BRINKLEY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DELLUMS

Mr. BRINKLEY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BRINKLEY as a substitute for the amendment offered by Mr. DELLUMS: Page 37, after line 16, insert the following:

LIMITATION ON FUNDS FOR MX CONSTRUCTION

SEC. 308. Any amount appropriated to carry out the MX construction authorized in section 301 for various locations in the continental United States may not be obligated or expended for construction of weapons support facilities until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and thirty days of continuous session of Congress have expired after the receipt by Congress of such notice. For the purpose of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and in determining days of session of Congress, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, I recognize the validity of much of what the gentleman from California has said.

I think this substitute amendment will meet his objections and will respond to his objections. It would prohibit the obligation of any funds for weapons support facilities and the deployment base until the President notifies Congress of the selection of an alternative basing mode and 30 days have elapsed in which to consider it.

Mr. Chairman, it is critical, in my opinion, to retain the \$66.3 million in the fiscal year 1983 bill to prevent further delay in the planned deployment of this needed system.

Therefore, I urge unanimous agreement to this amendment which I offer as a substitute for the Dellums amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BRINKLEY) as a substitute for the amendment offered by the gentleman from California (Mr. DELLUMS).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DELLUMS) as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. SKELTON

Mr. SKELTON. Mr. Chairman, I offer an amendment, and I ask unanimous consent to take my amendment out of order. It is to title VIII. I have discussed this with the chairman of

the committee and also the ranking minority member.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. SKELTON: At the end of the bill add the following new section:

LAND EXCHANGE, KANSAS CITY, MISSOURI

SEC. 806. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Kansas City Corporation for Industrial Development of Kansas City, Missouri (hereinafter in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of land, aggregating one and two-tenths acres, more or less, together with improvements thereon, situated in Jackson County, Kansas City, State of Missouri, and presently used by the United States for Army Reserve purposes and known as the Sergeant Charles R. Long Army Reserve Training Center.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Corporation shall—

(1) convey to the United States all right, title, and interest in and to a parcel of land, aggregating four and one-half acres, more or less, together with improvements thereon, known as the Carlisle School;

(2) repair and rehabilitate the Carlisle School in accordance with specifications approved by the Secretary; and

(3) provide to the United States the cost, as determined by the Secretary, of relocating Federal Government activities from the Sergeant Charles R. Long Army Reserve Training Center to the Carlisle School.

(c) If the sum of the fair market value of the property conveyed to the United States under subsection (b)(1) and the cost of the repair and rehabilitation under subsection (b)(2) is less than the fair market value of the property of the United States conveyed under subsection (a), the Corporation shall pay to the United States the amount of the difference. Any such payment shall be deposited into the Treasury as miscellaneous receipts.

(d) If the Corporation offers to provide to the United States another facility as consideration for the conveyance under subsection (a) in lieu of conveying the Carlisle School, and the Secretary determines that such facility is equal to or better than the Carlisle School from a functional, rehabilitative, economic, or other aspect, the Secretary may accept such alternative facility as consideration for the conveyance under subsection (a) in lieu of accepting the Carlisle School under subsection (b). Before accepting such facility, the Secretary shall submit a report of the facts concerning the proposed transaction to the Committees on Armed Services of the Senate and House of Representatives as required by section 2662 of title 10, United States Code.

(e) The exact acreages and legal descriptions of the properties to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(f) The Secretary may accept and administer any real property conveyed to the United States under this section.

(g) The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this sec-

tion as the Secretary considers appropriate to protect the interests of the United States.

Mr. SKELTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. SKELTON. Mr. Chairman, the amendment which I am offering would authorize a land exchange between the Department of the Army and the Kansas City Corp. for Industrial Development (KCCID) in Kansas City, Mo. Specifically, the Secretary of the Army would convey the Sgt. Charles R. Long Army Reserve Training Center to the KCCID in exchange for property known as the Carlisle School in Independence, Mo. The Carlisle School is owned by the Kansas City School District and is surplus to the needs of the community. In addition, the KCCID would be required to repair and rehabilitate the Carlisle School in accordance with specifications approved by the Secretary of the Army, and would be required to provide the United States the cost, as determined by the Secretary, of relocating Federal Government activities from the current Reserve Center to the Carlisle School. Further, my amendment provides that if, after the repair and rehabilitation, the fair market value of the Carlisle School is less than the fair market value of the Reserve Center, the KCCID shall pay the Government the difference. The Army proposes to convert the Carlisle School into a new Reserve Center, while the KCCID will utilize the existing Reserve Center as part of a commercial and office development.

Mr. Chairman, this proposed exchange will benefit the Army as well as the cities of Kansas City and Independence. The present Army Reserve Center is a facility of 26,000 square feet located on a 2-acre site. It was designed for a 400-person capacity. Yet, today, over 800 persons are members of the units which train at the facility. Acquisition of Carlisle School would give the Army a 38,500 square feet Reserve center on a site approximately 4.5 acres. Though the Army estimates an eventual cost of \$750,000 for improvements at the Carlisle School site, this is far less than the estimated cost of \$3 million for an equivalent newly constructed facility.

Kansas City will receive a parcel of property that is the key to the development of an area just south of the city's convention center. The development will mean construction and permanent jobs, and increased property tax revenue. Independence will see a rapidly deteriorating property renovated, and, in addition, will have busi-

ness attracted to the area from the Reserve Center.

Mr. Chairman, the opportunity to make this exchange did not present itself until after consideration of this legislation by the House Armed Services Committee. However, a provision authorizing the exchange was included in the comparable legislation adopted by the other body on June 30. My amendment is substantially similar to the language of section 808 of S. 2568. Those changes which have been made are minor and technical in nature and should pose no problem in the conference.

Mr. Chairman, there is no additional authorization required by this amendment. The Army can begin converting the school into a Reserve facility using funds which have already been appropriated. As additional funds become necessary, they will, of course, be subject to the budget, authorization, and appropriation process. Let me reemphasize that the existing inadequate Reserve Center must eventually be replaced. The land exchange authorized by my amendment is the most economical, cost effective method to achieve this end. Under our "total force" concept, we must have adequate training facilities for our Reserve and National Guard units to assure their readiness. This proposal will give the Kansas City area an adequate Reserve facility, and will also bring benefits to two communities.

I urge the adoption of my amendment.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, the gentleman from Missouri and I have worked closely on this and other projects. It is a pleasure on this side of the aisle to accept the amendment.

Mr. TRIBLE. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Virginia.

Mr. TRIBLE. Mr. Chairman, I, too, have reviewed this amendment, and we have no objection to its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. SKELTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PATTERSON

Mr. PATTERSON. Mr. Chairman, I offer an amendment and I ask unanimous consent to return to title II to offer this amendment, which I believe has been agreed upon.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. PATTERSON: Page 24, after line 22, add the following new section:

PROHIBITION ON CONSTRUCTION OF HOUSING UNITS AT LOS ALAMITOS ARMED FORCES RESERVE CENTER

SEC. 206. None of the housing units authorized by section 204(c) to be constructed for the Long Beach Naval Station, Long Beach, California, may be constructed at the Los Alamitos Armed Forces Reserve Center, Los Alamitos, California.

Mr. PATTERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PATTERSON. Mr. Chairman, I rise to offer an amendment regarding the family housing units for the Long Beach Naval Station in California.

In short, my amendment simply updates the assumptions which underlie the dollar amounts and unit allocations for the 368 family housing units provided in this bill for use by personnel at the Long Beach Naval Station.

The Navy had proposed that of these 368 units, 168 of the units would be constructed at the Los Alamitos Armed Forces Reserve Center, a California National Guard facility in Los Alamitos, Calif. This proposal is strongly opposed by the local community and the Army—from whom the California Guard leases the land—because of two fundamental problems:

First, the implications of the fact that the 168 units would be located within the 3,000-foot crash hazard zone—a fact that could have a detrimental effect on the military operations at the California National Guard facility as well as increase the noise level and safety risks to the local residents; and

Second, the strain on local resources that the additional families and housing would cause—both in terms of the inability of the local community to bear the financial burden of providing the additional municipal services for the new families and in terms of the inability of the existing community infrastructure to absorb the population and traffic increases.

As I understand it, not only does the local community oppose the proposed 168 housing units at Los Alamitos, but so does the Army. And, just as recently as the Department of Defense informed the Navy that the Los Alamitos site is rejected and suggested that the Navy pursue other alternatives to meet the projected Long Beach military housing demand, the Navy and the city of Long Beach have been pursuing alternative sites and have made tremendous progress in identifying and securing them.

For example, the city of Long Beach has formally indicated to the Navy that it is willing to make the necessary regulatory changes so that the Navy may utilize a viable site in Long Beach

for providing the military family housing.

So, as you can see, Mr. Chairman, my amendment would merely clarify that the Los Alamitos site is no longer a viable site and thus would prohibit the placement of any of these housing units provided in H.R. 6214 at Los Alamitos. It would not, however, preclude the use of the \$33 million for placement of the units at other sites near the Long Beach facility, for I recognize the need to provide the units and support the committee's inclusion of funds for the 368 units.

Mr. ANDERSON. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I yield to the gentleman from California.

Mr. ANDERSON. Mr. Chairman, I thank the gentleman for yielding. Concerning your objection to building Navy housing units at the Los Alamitos Armed Forces Reserve Center—which most of us know under the old title of Los Alamitos Naval Air Station—as I understand it, you do not object to the money for Navy family housing being spent elsewhere in the South Bay area. Is that correct?

Mr. PATTERSON. Yes; the gentleman is correct. The bill we have under consideration, H.R. 6214, contains a total of \$33,090,000 for 368 units for use by personnel assigned to the naval station in Long Beach, in your congressional district. As you are aware, 200 of these units are programed for the Seal Beach Naval Ammunition Depot, and the 168 units remaining have been tentatively programed for the Los Alamitos facility. I have absolutely no objection to—as a matter of fact, I very strongly support—use of these funds to provide 368 houses for Long Beach military personnel so long as none of the units are built on the Los Alamitos grounds. My objection to placing them at Los Alamitos is due to the concern expressed by the mayors and council members of Los Alamitos and some of the surrounding cities that placement of these 168 family housing units at the present time would inflict an undue hardship on the surrounding community, as I outlined a moment ago in my introductory remarks.

Mr. ANDERSON. Thank you. I think that clarifies it, especially as I understand the city of Long Beach is willing to revise some of the restrictive covenants they placed upon land made available to the Navy for the Long Beach Naval Regional Medical Center. It would seem that by relocating the medical evacuation heliport from its present location in the rear of the Naval Medical Center to the open area in the front, sufficient land could be available for construction of Navy housing at that site. And, as an alternative, housing funds not spent at the Navy Regional Medical Center might

be used to replace existing substandard housing at the Cabrillo Navy House area in the western portion of Long Beach, and to build additional units on land available there. Placement of these units at Cabrillo and the medical center in Long Beach would actually be better than Los Alamitos since Navy personnel would find the commute from Long Beach to their ships based at Terminal Island more convenient than the commute from Los Alamitos.

Mr. PATTERSON. Yes; I agree completely, and I think that is where these funds should be spent.

Mr. ANDERSON. I thank the gentleman very much for his clarifying remarks and his courtesy in this matter.

□ 1750

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

Mr. Chairman, as the gentleman knows, I have a real interest in this. The Seal Beach Naval Weapon Station, upon which 200 of the units are to be built, is in my current district. The Long Beach Naval Station is in the new district into which I have been thrust, thanks to one of my colleagues from California, Mr. BURTON. One of the areas being discussed for housing is in the San Pedro area, Whites Point, and others, which are also in the new district with which I have been presented.

I want to make one thing clear, and I think the gentleman has addressed himself to that. There is a present and there will be a continuing need for naval housing in the Long Beach area as the Navy ships come back to Long Beach. As I understand it, the gentleman's amendment will only affect the 167 or 168 units that were being proposed to be built for fiscal year 1983 at Los Alamitos; is that not correct?

Mr. PATTERSON. Yes.

The CHAIRMAN. The time of the gentleman from California (Mr. PATTERSON) has expired.

(On request of Mr. LUNGREN and by unanimous consent, Mr. PATTERSON was allowed to proceed for 3 additional minutes.)

Mr. LUNGREN. If the gentleman will yield further, this will not preclude the possibility of consideration for units being built at that site at some later time, recognizing that the communities have some interest in mitigation, and so forth, if the military does decide to build units there; is that not also correct?

Mr. PATTERSON. The gentleman is correct in saying that there is a need for the housing in the Long Beach area, and this does not preclude, by this amendment, any further decisions that might be made.

Mr. LUNGREN. If the gentleman will yield further, I would just like to say that one of the things I want to make absolutely clear on this is that the communities of southern California, those communities that we all represent, are not in any way suggesting that the people who serve in the Navy are worthy of defending, fighting, and dying for us but are not worthy of living in our own neighborhoods. That has been a criticism registered by some—some very vocal elements—I would say extreme elements in some of our communities, and I want to make it clear that we do not follow that logic by what is being done here, but recognize that there is a need for housing, and that in this particular circumstance, based on the work that has been done thus far, Los Alamitos may not be the most appropriate place for that housing at this time, but, nonetheless, we do need housing, and we need it in areas that are fairly close to where the men and women will be serving; that is, at the Long Beach Naval Station.

Mr. PATTERSON. Yes. As a Member of Congress, and having served in the Armed Forces, I recognize that, particularly, enlisted personnel have a great need for housing, and this area in southern California has a need for housing.

I thank the gentleman for his observations.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. PATTERSON. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, we have examined the gentleman's amendment. I commend the three gentlemen for their cooperation in resolving this issue. It changes the bill in no particular in terms of dollars, and this side is pleased to accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PATTERSON). The amendment was agreed to.

Mrs. FENWICK. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am sorry to bring another note into the debate on this bill. As the Members know, I have very strongly opposed development of poison gas. I notice here another nearly \$20 million devoted to that. That is a lost cause, but I am sorry to see that there is more money for the poison gas in this bill.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mrs. FENWICK. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from New Jersey is no newcomer to this battle. On the floor last year she also expressed her opposition at that time by way of an amendment which

had been offered by the gentleman from Michigan (Mr. BONIOR), which sought to delete funds in the earlier fiscal year authorization for a building, a facility in Pine Bluff, Ark.

We note the action of this House in the defense authorization bill. Should an amendment be offered to this bill, we would seek to lay out further facts before the House for the record and for future action, but we would not resist such an amendment.

Mrs. FENWICK. I thank the Chairman. When would be an appropriate time for such an amendment?

Mr. BRINKLEY. The time is passed.

Mrs. FENWICK. The time is passed.

Mr. BRINKLEY. But we would not object to going back to title I.

Mrs. FENWICK. Title I.

Well, I have other thoughts, Mr. Chairman, which I would like to question the gentleman on. I am surprised at the cost per unit of our housing close to \$100,000 for every unit of Navy housing. That seems to me to be very high, if I understood the figures correctly. But more troubling to me was the fact that, as I understand it, the committee had cut some \$600 million from the request, some \$600 million, but then added later, not requested by the Pentagon, as I understand it, some \$249 million of construction.

Mr. BRINKLEY. Let me respond to the gentleman, if she would yield.

Mrs. FENWICK. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I would like to report to the gentleman some facts that we did provide to the membership in general debate the other day.

This committee had, I believe, precisely 10 meetings with the military witnesses coming before us, which is probably about twice as many as the number that the Senate had. We set out in our committee to really look at the bill submitted by the administration and to use our best judgment in arriving at the right decision and not to rubberstamp an administration proposal. We achieved that. We reduced the bill by \$355 million.

Mrs. FENWICK. Why did you add the extra, Mr. Chairman?

Mr. BRINKLEY. I am getting to that, and if the gentleman needs extra time, we will get it for her.

The total bill was for \$7.8 billion, and that was the supplemental, as well as the fiscal year 1983 bill, in combination.

We reduced the total by \$355 million below that figure.

Now, in the process, we did defer certain projects, and in place of it sometimes we did make add-ons, if justified by the Members, by testimony or supporting evidence.

Now, we made the cuts, for example, in the NATO countries, because, except for Turkey, we said, "What about the bubble technology for ware-

houses and group meetings?" And we are requiring a study to test the cost effectiveness of that.

Mrs. FENWICK. The cuts are great, Mr. Chairman. I am not objecting to the cuts. What I question are the additions, the \$249 million that was not requested by the Pentagon, as I understand it.

Mr. BRINKLEY. I will be glad to respond to the gentlewoman on any single one of them.

Mrs. FENWICK. There are a whole number. There must be about 20.

Mr. BRINKLEY. There are a good many of them.

Mr. DOUGHERTY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. I thank the gentlewoman for yielding.

As one specific example, I would respond to my colleague, in many instances we found that projects, worthy projects in the United States, were not being requested, funding was not being done by the Department of Defense, but many projects overseas were being requested. I can specifically tell the gentlewoman, for example, that the Philadelphia Naval Shipyard did not receive any type of major military construction projects. The Philadelphia Naval Shipyard is an asset, as the gentlewoman would know, to the Delaware Valley. And yet it has not had a major naval construction contract for years.

Mrs. FENWICK. Could the gentlewoman not persuade the Pentagon that that was necessary? They seem very keen on so many other things.

Mr. DOUGHERTY. We thought it much easier to add in the committee a major amendment, a \$17 million addition, to build a project to rebuild the piers at the Philadelphia Naval Shipyard.

The CHAIRMAN. The time of the gentlewoman from New Jersey (Mrs. FENWICK) has expired.

(On request of Mr. DOUGHERTY and by unanimous consent, Mrs. FENWICK was allowed to proceed for 1 additional minute.)

Mrs. FENWICK. We can run down them, if the Chairman would like. I did not know that that was tactful. But we have \$41 million in Fort McPherson; \$9 million in Fort Benning; \$9 million in Fort Gordon; \$20 million in Fort Sam Houston; \$13 million in Fort Hood; \$18 million in Aberdeen; \$20 million in Mayport; \$7 million in Whiting; \$11 million in Eglin; and so on.

Mr. DOUGHERTY. The gentlewoman's point is well made. The fact of the matter, though, is that the committee exercised its judgment, and the committee cut almost \$700 million from the bill.

Mrs. FENWICK. I am not worried about the cuts.

Mr. DOUGHERTY. The point is, though, that if you are looking at the savings, the committee has to exercise some judgment, and the judgment was that the Defense Department was not asking for adequate funding for some very necessary domestic facilities. What the committee did was, in effect, it added on, but after it had substantially taken money out.

What the gentlewoman is really asking is, should the committee exercise independent judgment, or should we simply go along with what the administration requested.

The fact that the administration did not request funding for something does not mean that it was not justified.

Mrs. FENWICK. I think that the Pentagon ought to know if it needs housing or what it needs, and I think that the committee ought to investigate whether or not that is necessary. It had not occurred to me that the committee would be able to add on in their own districts whatever they chose.

□ 1800

The CHAIRMAN pro tempore. Are there further amendments to title III? If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies, for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Elmendorf Air Force Base, Alaska, \$2,700,000.

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, \$24,141,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, \$75,500,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, \$2,100,000.

Defense Foreign Language Institute, Monterey, California, \$31,000,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Guam, \$43,900,000.

Defense Personnel Support Center, Kaiserslautern, Germany, \$5,100,000.

Various Locations Korea, \$29,000,000.

NATIONAL SECURITY AGENCY

Classified Locations, \$8,557,000.

DEPARTMENT OF DEFENSE DEPENDENTS' SCHOOLS

Bamberg, Germany, \$3,470,000.
Kaiserslautern Air Base, Germany, \$7,967,000.

Karlsruhe, Germany, \$7,380,000.
Mainz, Germany, \$2,830,000.
Nuernberg, Germany, \$2,820,000.
Ramstein Air Base, Germany, \$1,460,000.
Wuerzburg, Germany, \$3,920,000.
Zweibruecken Air Base, Germany, \$1,780,000.
Yokota Air Base, Japan, \$5,660,000.
RAF Woodbridge, United Kingdom, \$1,200,000.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which the Secretary determines are vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$5,200,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of \$13,460,000.

FAMILY HOUSING

SEC. 404. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of Defense, or the Secretary's designee, is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense, or the Secretary's designee, is authorized to acquire sole interest in privately owned family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the National Security Agency, five units, \$1,009,000;
Classified locations overseas, five units, \$1,009,000.

(d) The project and amount authorized by subsection (c) includes the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site prepa-

ration, installation of utilities, and solar energy systems.

(e) The Secretary of Defense, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed \$33,000 for the Defense Agencies.

● Mr. PANETTA. Mr. Chairman, the topic to which I would like to address myself is the \$31-million request made by the administration and approved by the House Armed Services Committee for new construction at the Defense Language Institute (DLI) in Monterey, Calif. As members of the committee may remember, I have a longstanding interest in this matter and have in fact appeared before the Subcommittee on Military Installations and Facilities to emphasize the importance of this issue not only to the residents of my district, but to our Nation as a whole.

The foreign language training now being conducted by the Department of Defense at the DLI is critical to the intelligence capabilities of this country, and is therefore critical to our national security. In recent years, however, the steadily increasing student loans at the DLI have resulted in a shortage of adequate barrack and classroom facilities at the Presidio of Monterey, where the Institute is located. The \$31-million request in this military construction bill is intended to meet the pressing need for new construction at the DLI.

Indicative of the scope of the present problem, the Department of the Army was forced 2 years ago to shift about 500 students of Russian, along with the required faculty, from the Presidio of Monterey to Lackland Air Force Base. An additional transfer of over 400 students and faculty to the Presidio of San Francisco has been scheduled for this fall in response to the growing deficiencies of the present facilities at the Presidio of Monterey. While the relocation of faculty and students may be a tolerable short-term response to the present shortage of classrooms and barracks at the Institute, good management practices dictate that we move to restore the integrity of the language training program under one roof. I should also point out that, because of prior commitments, the Department of the Army will be compelled to evacuate from its temporary satellite facilities by fiscal year 1985.

In addition to the relocation of a significant portion of the program, the Institute has had to lease local school facilities in order to accommodate increasing student loads. Moreover, as the result of insufficient billeting at the DLI for students, in excess of 200 enlisted personnel enrolled in language training are now housed in the surrounding community. This practice is clearly undesirable given the importance of regular study and full partici-

pation in language training environment at the DLI.

The facilities shortage at the DLI at the present time is severe, but it will grow considerably worse unless the Congress approves the necessary remedial action recommended by the President and by the Armed Services Committee. The Department of Defense anticipates a 100-percent increase in student loads at the DLI over a 5-year period beginning in 1979. There is no question that without new barracks and classroom construction the pressing need for new facilities will soon reach critical proportions. It is imperative that construction begin as soon as possible.

The Senate, in reviewing this matter, approved the authorization of \$23.5 million for the construction of new barracks at the DLI. However, it failed to authorize the \$7.5 million requested for the construction of new classrooms. This incomplete response will not solve the twofold problem of inadequate housing and teaching facilities at the DLI.

Mr. Brooks and other members of the conference committee, in the interest of maintaining the quality and integrity of the Defense Language Institute's training programs, I strongly urge you to support the full \$31 million request for construction at the DLI.

The CHAIRMAN pro tempore. Are there any amendments to title IV? If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. (a) The Secretary of Defense is authorized to incur obligations in amounts not to exceed \$375,000,000 for the United States' share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area.

(b) Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a description of obligations incurred by the United States during the preceding quarter for the United States share of the cost of such multilateral programs.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

I would like to engage the chairman in a colloquy.

I was very pleased to find that in Public Law 97-214 it is now a requirement that before military family units are built that the service secretary must check with the Secretary of Housing and Urban Development to make sure that there is not existing housing available in the community in which the housing is proposed.

I have heard from many members of the shelter industry in the State of Washington who have been concerned

in the past that we were building on-base housing when there was available housing in the community. I think this kind of a procedure is a good and valid one. I want to commend the committee for this particular legislative act.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I certainly thank the gentleman for his observation. As our counterpart on the Appropriations Committee, he does bring insight to this body. And we appreciate that in turn.

As the gentleman knows, we have passed the codification bill in both bodies of the Congress, and it has been signed into law. And this is an add on amendment to that body of law.

It is certainly useful, as the gentleman has pointed out, and we appreciate his bringing this to the attention of the House.

Mr. DICKS. I would like to engage the gentleman further on one other point.

In the next several days the Trident submarine will be arriving at the submarine base at Bangor, Wash., and there is the prospect that there is going to be a large demonstration. I would hope that it is peaceful. And I would hope that it would not involve any destructive acts.

But there is the prospect that the local community will have to hire extra law enforcement people, et cetera.

As the gentleman knows, we have had in place a Trident community impact assistance program over the years. The Navy I think feels that it can handle this through the claims process. But it is something that we are concerned about. And our local community people are concerned about this because of the prospect of Kitsap County having to incur a substantial cost.

I do not want to raise this today, but it is something we may have to address when the Senate considers this bill, and when we get to conference. I just wanted to bring it to the attention of the chairman.

Mr. BRINKLEY. I thank the gentleman for bringing that to the attention of this body. Like the gentleman, I certainly have confidence and trust it will be peaceful, that the expressions will be made in good faith.

Yes, should something go awry, there are contingency funds that could be made available to do the right thing.

Mr. DICKS. I want to commend this committee on a very excellent bill. They worked very hard in developing the legislation. I commend the chairman and his able membership.

Mr. BRINKLEY. I thank the gentleman.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also wanted to ask the chairman some questions.

I was very pleased as I went through the bill to find there is a very significant amount of money in the bill for energy conservation investment, the largest being in the Air Force. But it totals up over about \$100 million—in fact, it is about \$108 million for energy conservation.

My understanding is that in the past there has been some question about this authorization because this authorization has gotten reprogrammed for other purposes. And I am wondering if there is some way we can make sure that this time it really goes for energy conservation, because I think that is getting to be a bigger and bigger expense in operations and maintenance.

Mr. BRINKLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Georgia.

Mr. BRINKLEY. The gentlewoman is precisely correct. Any provision in our bill should not be a subterfuge or a holding area or a possibility of diversion. The gentlewoman may be sure that having brought this to our attention, we will keep a sharp eye on that.

Mrs. SCHROEDER. I thank the gentleman.

If the gentleman will watch closely when they come in with reprogramming requests in this area, I think it could be something that in the long term could save us an awful lot of money in fuel costs that comes out of the operations and maintenance account.

Mr. BRINKLEY. We pledge we will do that. Energy conservation projects are far too important to neglect. As the gentlewoman knows within this bill we have an important provision offered by the gentleman from Massachusetts (Mr. MAVROULES) on photovoltaics and renewable energy resources. And so we share the emphasis on this together.

Mrs. SCHROEDER. I thank the gentleman.

The CHAIRMAN pro tempore. Are there any amendments to title V? If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to

construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use) by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) There are authorized to be appropriated for fiscal years beginning after September 30, 1982, such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: military construction inside the United States \$555,530,000; military construction outside the United States \$320,090,000; minor construction \$56,420,000; family housing construction \$154,955,000; family housing support \$936,078,000; homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, \$2,000,000; for a total of \$2,025,073,000.

(2) for title II: military construction inside the United States \$900,770,000; military construction outside the United States \$220,820,000; minor construction \$60,428,000; family housing construction \$131,846,000; family housing support \$659,439,000; for a total of \$1,973,303,000.

(3) for title III: military construction inside the United States \$1,036,420,000; military construction outside the United States \$498,288,000; minor construction \$101,521,000; family housing construction \$158,550,000; family housing support \$809,535,000; for a total of \$2,604,314,000.

(4) for title IV: military construction inside the United States \$135,441,000; military construction outside the United States \$125,044,000; minor construction \$13,460,000; emergency construction \$5,200,000; family housing construction \$1,042,000; family housing support \$17,279,000; for a total of \$297,466,000.

(5) for title V: a total of \$375,000,000.

(b) The amounts authorized to be appropriated for family housing support may be increased to the extent additional funds are necessary for increased pay costs associated with actions taken pursuant to law.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b) and (d), the total cost of all construction and acquisition in each of titles I, II, III, IV, and V, except as provided in subsection (c), may not exceed the total amount authorized to be appropriated for that title.

(b) VARIATIONS IN INSTALLATION TOTALS.—UNUSUAL VARIATIONS IN COST.—Any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN NORTH ATLANTIC TREATY ORGANIZATION TOTAL.—When the Secretary

of Defense determines that the amount set forth in title V for the United States share of the cost of the North Atlantic Treaty Organization program must be increased, the Secretary may incur obligations in excess of such amount if the amount of the increase does not exceed by more than 25 percent the amount set forth in such title. When the Secretary of Defense determines that the amount set forth in title V of this Act must be exceeded by more than 25 percent for the United States share of the cost of the North Atlantic Treaty Organization infrastructure program, the Secretary may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and the House of Representatives and either (1) fifteen days have elapsed from the date of the submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(d) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS: REPORTS TO CONGRESS.—No individual project authorized in section 101, 104, 201, 204, 301, 304, 401, and 404 of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 percent; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 percent the amount authorized for such project by the Congress,

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for the reduction in scope or the increase in cost, has been submitted to the Committees on Armed Services of the Senate and the House of Representatives and either fifteen days have elapsed from the date of the submission of such report or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(e) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under sections 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense, based upon bids received, for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope has been reduced by more than 25 per centum in order to permit a contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and the percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves, to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agencies in the execution of the assigned construction. Such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business, the names of such firms, the total number of separate contracts awarded to each firm, and the total amount paid or to be paid in the case of each such action under all such contracts awarded to such firm.

REPEAL OF PRIOR YEAR AUTHORIZATION:
EXCEPTIONS

SEC. 605. (a) As of October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefore, that are contained in titles I, II, III, IV, V, and VI of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), and all such authorizations contained in Acts approved before December 23, 1981, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefore that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, and authorizations for appropriations therefore.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 101 or section 103 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Temperature Control/Heat Recovery Construction in the amount of \$2,300,000 at Baumholder, Germany.

(2) Temperature Control/Heat Recovery Construction in the amount of \$2,270,000 at Hanau, Germany.

(3) Temperature Control/Heat Recovery Construction in the amount of \$2,500,000, at Giessen, Germany.

(4) Energy Monitor and Control System in the amount of \$840,000 at Karlsruhe, Germany.

(5) Troop Medical Clinic in the amount of \$4,700,000 at Fort Ord, California.

(6) Electromagnetic Test Facility in the amount of \$4,650,000 at Fort Huachuca, Arizona.

(7) Minor Construction Projects in the amount of \$2,800,000 at specified locations.

(c) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 201 or such authorizations as were extended in section 605 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Municipal Sewer Connection Construction in the amount of \$2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(2) Nautilus Memorial in the amount of \$1,930,000 at the Naval Submarine Base, New London, Connecticut.

(3) Energy Monitoring and Control System in the amount of \$765,000 at the Naval Air Station, Jacksonville, Florida.

(4) Unaccompanied Enlisted Personnel Housing Modernization in the amount of \$4,700,000 at the Fleet Combat Training Center, Atlantic, Dam Neck, Virginia.

(5) Land Acquisition in the amount of \$330,000 at the Naval Air Station, Fallon, Nevada.

(6) Air Passenger Terminal in the amount of \$20,000,000 at the Naval Station, Keflavik, Iceland.

(7) Facility Energy Improvements in the amount of \$1,450,000 at the Naval Air Station, Alameda, California.

(d) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 301 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Various Rapid Deployment Force Facilities, in the amount of \$20,000,000, at Lajes Air Base, Portugal.

(2) Energy Showcase Initiatives in the amount of \$1,600,000 at McClellan Air Force Base, California.

(3) Space Transportation System Solid Rocket Disassembly Complex in the amount of \$16,700,000 at Port Hueneme Naval Installation, California.

DEFICIENCY AUTHORIZATION

SEC. 606. (a) Section 201 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), is amended by striking out the line:

"Defense Installations, Mariana Islands, \$32,000,000." under the headings "OUTSIDE THE UNITED STATES" and "CHIEF OF NAVAL OPERATIONS".

(b) Section 401 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), is amended by inserting the following new line:

"Defense Installations, Mariana Islands, \$35,000,000." after the line:

"Classified Activity, Classified Location, \$2,000,000." under the headings "OUTSIDE THE UNITED STATES" and "OFFICE OF THE SECRETARY OF DEFENSE".

(c) Section 702 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359) is amended—

(1) by striking out "\$236,445,000" in paragraph (2) and inserting in lieu thereof "\$204,445,000";

(2) by striking out "\$1,240,033,000" in paragraph (2) and inserting in lieu thereof "\$1,208,033,000"; and

(3) by striking out "\$282,815,000" in paragraph (4) and inserting in lieu thereof "\$317,815,000".

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 607. Titles I, II, III, IV, and V shall take effect on October 1, 1982.

AMENDMENTS OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. BRINKLEY: Page 43, line 9, strike out "\$320,090,000" and insert in lieu thereof "\$316,340,000".

Page 43, line 10, strike out "\$56,420,000" and insert in lieu thereof "\$56,050,000".

Page 43, line 11, strike out "\$154,955,000" and insert in lieu thereof "\$159,055,000".

Page 54, after line 5, insert the following:

(d) The amendments made by this section shall take effect on October 1, 1982.

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, the first amendment is a conforming amendment to section 602. This section provides for authorization of appropriations for titles I through V. The amendment simply adjusts the respective authorization totals to reflect the previous action taken by the House on the earlier amendments.

The second of the two amendments to be considered en bloc, Mr. Chair-

man, is one I mentioned in my opening statement. It is technical in nature and designed to clarify the committee's intention to conform with the requirements of section 402(a) of the Budget Act. The amendment simply makes section 606 of H.R. 6214 of the bill effective October 1, 1982, the beginning of the new fiscal year.

Section 606 simply amends existing authority.

The CHAIRMAN pro tempore. The question is on the amendments offered by the gentleman from Georgia (Mr. BRINKLEY).

The amendments were agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title VI? If not, the Clerk will designate title VII.

Title VII reads as follows:

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefore, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, \$36,958,000; and

(B) for the Army Reserve, \$28,500,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, \$21,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, \$116,500,000; and

(B) for the Air Force Reserve, \$29,000,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 2662, 4774, and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use) by gift, purchase, exchange of Government-owned land, or otherwise.

AMENDMENT OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BRINKLEY: Page 54, line 19, strike out "\$36,958,000" and insert in lieu thereof "\$44,111,000".

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, I offer this amendment on behalf of the distinguished gentlemen from Massachusetts, Speaker O'NEILL and Mr. CONTE and on behalf of this distinguished gentleman from Indiana, Mr. BENJAMIN.

This amendment authorizes \$5.3 million for the Federal share for replacement armory facilities in the Boston area. The present armory was built in 1913 and is located in the middle of the Boston University campus.

The university has agreed to buy the existing armory and the proceeds would be applied toward the cost of the replacement facilities.

The amendment also authorizes \$1.853 million for a National Guard armory and organizational maintenance shop at Gary, Ind. These facilities would replace an existing facility built in 1924. The necessary State funds are available, the sites are available, and the necessary design work is well on its way.

I urge support for the amendment.

□ 1810

Mr. BENJAMIN. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to my friend, the gentleman from Indiana.

Mr. BENJAMIN. Mr. Chairman, I support the floor amendment to H.R. 6214, which, among other things, authorizes \$1,853,000 for the construction of a new National Guard armory and organizational maintenance shop in Gary, Ind.

The existing National Guard armory facility, built in 1924, is located in a downtown area with little training area or room for adequate expansion. The facility is old, obsolete, and is substandard for security of weapons and equipment. The Indiana adjutant general, Maj. Gen. Alfred F. Ahner, concluded the need for a new armory building because of the "old, inefficient space with high rehabilitation costs * * *."

Authorization for a new armory and maintenance shop for Gary, Ind., was scheduled to be included in the fiscal year 1979 program. However, the project was deferred by the National Guard bureau because of the cost, the lack of State matching funds and the lack of a suitable site.

After 3 years, all problems have been favorably resolved. The State of Indiana has appropriated \$580,000 in matching funds for the construction and has purchased land for the new armory in Gary. The architect-engineer report has been sent to the National Guard bureau, and the completed design of the armory building and the OMS building is scheduled no later than August 31. The project will be ready to begin immediate construction at that time.

The Indiana National Guard has requested that this project be included

in the fiscal year 1983 budget. However, the National Guard Bureau has not scheduled inclusion until fiscal year 1984, barring unexpected delays. Chairman BRINKLEY and Chairman GINN have indicated their full support for this project. Since all State commitments have been met, I ask for your support of Chairman BRINKLEY's amendment that will allow construction of the new Gary National Guard Armory to begin next year. The House Appropriations Committee has this date, reported its fiscal year 1983 military construction appropriation which includes \$1,853,000 as authorized by the amendment.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the distinguished gentleman for yielding.

I also rise in support of the amendment and also would like to thank the chairman, the subcommittee and the full committee, for funding for the National Guard and Reserve construction of units. The National Guard and Reserve because of this Congress is getting new equipment. They are getting incentives and they are getting places to drill. Therefore, the National Guard and Reserve are not only support for the regular forces, they are right on the front line with the Active Forces.

Thanks to this committee, the Guard and the Reserve are front line, first line troops.

Mr. BRINKLEY. Mr. Chairman, the gentleman from Mississippi has been a true champion in this area of our national defense establishment. We thank the gentleman very kindly.

In further response to the inquiry of the gentlewoman from New Jersey (Mrs. FENWICK) this is one of the additions. This is one area of add-ons. We have added on to armories in Kentucky, in Arkansas, in Massachusetts and Indiana, and this is important to do because the Guard is a strong arm of the defense establishment.

Therefore, Mr. Chairman, we ask approval of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. BRINKLEY).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VII? If not, the Clerk will designate title VIII.

Title VIII reads as follows:

TITLE VIII—GENERAL PROVISIONS

LAND CONVEYANCE, HOUSTON COUNTY, GEORGIA

SEC. 801. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, all right, title, and interest of the United States in and to tracts of land consisting of a total of approximately seven-

ty acres, together with any improvements located on the tracts of land.

(b) In consideration for the conveyance under subsection (a), the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall convey to the United States all right, title, and interest of the city and the board in and to four tracts of land consisting of a total of approximately four hundred acres and located contiguous to Robins Air Force Base, Georgia, together with any improvements located on the tracts of land.

(c) The city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the city and the board under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the city and the board to the United States under subsection (b).

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under subsection (a) or (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by the section as the Secretary considers appropriate to protect the interests of the United States.

OBLIGATIONS FOR COMMISSARY STORE FACILITY CONSTRUCTION

SEC. 802. Section 2685 of title 10, United States Code, is amended by adding after subsection (b) the following new subsection:

"(c) The Secretary of a military department, with the approval of the Secretary of Defense and the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b), without regard to fiscal year limitations, if the Secretary of the military department determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b)."

USE OF RENEWABLE FORMS OF ENERGY

SEC. 803. (a)(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2393 the following new section:

"§ 2394. Procurement of energy systems using renewable forms of energy

"(a) The Secretary of each military department shall procure energy systems using solar energy, or other renewable forms of energy, whenever the Secretary of a military department determines that such procurement is possible and will be cost effective, reliable, and otherwise suited to supplying the energy needs of the military department (such as energy systems powered by solar energy, or other renewable forms of energy, to supply energy for mobile power systems, cathodic protection of pipelines, remote communications sites, mobile radar sites, navigational aids, military range monitoring and conditioning equipment, load center power, water pumping and purification, cathodic protection of water towers and bridges, perimeter security devices, data links, repeater stations, emergency and rescue communications, lighting, remote instrumentation, marking and warning de-

vices, monitoring and sensing devices, and remote weather stations and transmitters).

"(b)(1) For purposes of carrying out subsection (a) and section 2688, the Secretary of Defense shall study applications for the use of solar energy, and other renewable forms of energy which are cost effective and reliable to supply the energy needs of the Department of Defense.

"(2) Not later than the date occurring two years after the date of the enactment of this section, and not later than the date occurring two years after each such previous date, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the findings of the studies conducted pursuant to paragraph (1) and containing any recommendations for legislative action.

"(c) For purposes of this section—

"(1) energy system using solar energy, or other renewable forms of energy, shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility using accepted life-cycle costing procedures. Such accepted life-cycle costing procedures shall include the use of the sum of all capital, operating, and maintenance expenses associated with energy system of the building involved over the expected life of such system or during a period of twenty-five years, whichever is shorter, and using marginal fuel cost as determined by the Secretary of Defense and at a discount rate of 7 per centum per year. For the purposes of a life-cycle cost analysis under this subsection, the original investment cost of an energy system using solar energy, or other renewable forms of energy, shall be reduced 10 percent as an investment cost credit; and

"(2) the term 'energy system' includes any energy system which generates electricity."

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by adding after the item relating to section 2393 the following new item:

"2394. Procurement of energy systems using renewable forms of energy."

(b)(1) Section 2688 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "solar energy systems" in the first sentence and inserting in lieu thereof "energy systems using solar energy, or other renewable forms of energy (including systems that produce electricity).";

(ii) by striking out "solar energy has" in the first sentence and inserting in lieu thereof "such systems have"; and

(iii) by striking out "solar energy systems" in the second sentence and inserting in lieu thereof "such energy systems"; and

(B) in subsection (b) by striking out "a solar energy system" both places it appears, in the first sentence and in the third sentence, and inserting in lieu thereof "an energy system using solar energy, or other renewable forms of energy (including any system producing electricity)."

(2) The heading of section 2688 of title 10, United States Code, is amended to read as follows:

"§ 2688. Use of renewable forms of energy in new facilities."

(3) The item in the table of sections of chapter 159 of title 10, United States Code, relating to section 2688 is amended to read as follows:

"2688. Use of renewable forms of energy in new facilities."

LAND CONVEYANCE, CLARKE COUNTY, GEORGIA

SEC. 804. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Clarke County, Georgia, Board of Education all right, title, and interest of the United States in and to a tract of land consisting of approximately three and eighty-eight one hundredth acres and located in the city of Athens, Georgia, together with any improvements located on the tract of land.

(b) In consideration for the conveyance under subsection (a), the Clarke County, Georgia, Board of Education shall convey to the United States all right, title, and interest of the board in and to a tract of land consisting of approximately twelve and five-tenths acres and delineated as the site of the Lyons School on a plat entitled "Plat of land deeded to the Clarke County Board of Education by Clarke County, Ga.," dated December 21, 1953, and annexed to the deed from the Commissioner of roads and revenues of Clarke County, Georgia, to the Clarke County Board of Education, dated January 9, 1954, and recorded in deed book 139, page 368, in the Office of the Clerk of the Superior Court of Clarke County, Georgia, together with any improvements located on the tract of land.

(c)(1) If the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the Clarke County, Georgia, Board of Education under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the board to the United States under subsection (b), the board shall pay to the United States an amount equal to the amount by which such fair market value of the property to be conveyed under subsection (a) exceeds such fair market value of the property to be conveyed under subsection (b).

(2) If the fair market value (as determined by the Secretary) of the property to be conveyed by the Clarke County, Georgia, Board of Education to the United States under subsection (b), exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the board under subsection (a), the United States shall pay to the board an amount equal to the amount by which such fair market value of the property to be conveyed under subsection (b) exceeds such fair market value of the property to be conveyed under subsection (a), but any such payment may not exceed \$300,000.

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under subsection (a) or (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Board of Education of Clarke County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, BELL, CALIFORNIA

SEC. 805. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Bell, California, all right, title, and interest of the United States in and to a tract of land consisting of approximately 5.5 acres and described on a map entitled "Out-

grant to California Army National Guard, Bell, California drawing numbered 247-K-31.1", dated December 14, 1977, and on file in the office of the District Engineer, United States Army Engineer District, Los Angeles, California, together with any improvements located on the tract of land.

(b)(1) In consideration for the conveyance under subsection (a), the city of Bell, California, shall restore, improve, and modernize the building owned by the United States, located in the city of Bell, California, and designated in the Department of the Army records as building number 332, in accordance with an agreement to be entered into between the Secretary and the city.

(2) The Secretary shall approve the plans and specifications for the restoration, improvement, and modernization of the building numbered 332 under paragraph (1).

(3) In consideration for the conveyance under subsection (a), the city of Bell, California, shall convey to the United States all right, title, and interest of the city in and to the building numbered 332 and all right, title, and interest of the city in and to any restoration, improvement, and modernization of building numbered 332 done under paragraph (1).

(c) The city of Bell, California, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the city under subsection (a) exceeds the fair market value (as determined by the Secretary) of the restoration, improvement, and modernization of building numbered 332 done under subsection (b)(1).

(d)(1) The exact acreages and legal descriptions of any property acquired under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city of Bell, California.

(2) The Secretary may require such additional terms and conditions with respect to the conveyance and the restoration, improvement, and modernization authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENTS OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Chairman, I offer amendments, and I ask unanimous consent they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. BRINKLEY:

Page 55, strike out "tracts" on line 23 and all that follows through line 25 and insert in lieu thereof "a portion (as determined by the Secretary) of tracts of land consisting of a total of approximately seventy acres, together with any improvements located on the land."

Page 62, after line 24, insert the following:

(3) The authority to make any payment under paragraph (2) shall take effect on October 1, 1982, and is subject to the availability of appropriations for that purpose.

At the end of the bill add the following new section:

CLARIFICATION OF CONSTRUCTION AUTHORITY ON LAND HELD IN OTHER THAN A FEE SIMPLE INTEREST

SEC. 806. (a)(1) Section 2852(b) of title 10, United States Code, as added effective Octo-

ber 1, 1982, by section 2(a) of the Military Construction Codification Act (Public Law 97-214), is amended to read as follows:

"(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

"(1) before title to the land on which the project is to be carried out is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project."

(2) Section 2239(b) of such title, as added effective October 1, 1982, by section 3(b) of such Act, is amended to read as follows:

"(b) Authority provided by law to place permanent or temporary improvements on land under section 2233 of this title may be exercised on land not owned by the United States—

"(1) before title to the land on which the improvement is located (or is to be located) is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project."

(b)(1) The heading of section 2806 of such title (as added effective October 1, 1982, by section 2(a) of the Military Construction Codification Act) is amended to read as follows:

"§ 2806. Contributions for North Atlantic Treaty Organization Infrastructure"

(2) Section 2828(e)(1) of such title (as added effective October 1, 1982, by section 2(a) of such Act) is amended by inserting "the" after "may be waived by".

(3) Section 2394 of such title (as added effective October 1, 1982, by section 6(a)(1) of such Act) is amended—

(A) by striking out "subsection (c)" in subsection (a) and inserting in lieu thereof "subsection (b)"; and

(B) by redesignating subsection (d) as subsection (c).

(4) The item relating to section 2689 (as added effective October 1, 1982, by section 6(c)(2) of such Act) in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2689. Development of geothermal energy on military lands."

Mr. BRINKLEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BRINKLEY. Mr. Chairman, the first amendment relates to section 801 and is technical in nature. It adjusts the amount of land to be exchanged on a fair market value basis between the Air Force and the Houston County commissioners. The fair market value basis of the exchange is not changed. The change simply reduces the amount of land that would be involved in the exchange.

The second amendment involves section 804 and is technical in nature. It simply clarifies the committee's intention to conform to the requirements of section 402(a) of the Budget Act. The amendment makes section 804 of the bill effective on October 1, 1982, the beginning of the new fiscal year and makes the provision of any payment subject to the availability of appropriations.

The third amendment adds a new section 806. The section includes clarifying and conforming language pertaining to the Military Construction Codification Act that was recently signed into law.

The first part of section 806 clarifies the authority of the defense establishment to undertake military construction or family housing projects on land that is held on other than a fee simple basis. A recent Justice Department determination indicated that interpretation of the existing authority meant that construction could begin on land held temporarily before the Justice Department approved the title to the land. In actual practice, the defense establishment had interpreted the existing authority to mean that they could build on land held on other than a fee simple basis. Therefore, the purpose of the new language is to clarify the matter.

The other two parts of section 806 involve technical corrections to section headings and including conforming language between the section headings and the reference table in that section of the code.

With reference to the fee simple item, I think the gentleman from Colorado (Mr. KRAMER) is on the floor.

Mr. Chairman, I yield to the gentleman from Colorado (Mr. KRAMER).

Mr. KRAMER. Mr. Chairman, I thank the gentleman for yielding.

I would like to compliment the gentleman very much on clarifying a problem that has crept up in military construction.

I think that without this amendment, we could have continuing problems that would threaten really the viability of our whole military construction program and to throw into doubt an awful lot of capital improvements that have already been made; so I certainly appreciate and compliment the gentleman for his efforts.

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, it is my understanding that section 804 in the gentleman's committee bill does not contain the mischievous language contained in section 804 in the bill that passed the other body; is that correct?

Mr. BRINKLEY. That is correct.

Mr. PHILLIP BURTON. I appreciate the understanding of the gentleman from Georgia on this matter. The language contained in section 804 of the other body would, by indirection, repeal the safeguard that we have with reference to the Presidio in the city and county of San Francisco. It would permit, by indirection, repeal of the language that assures that that property will be used for military purposes so long as decided so by the military, but in the event they decided it was surplus property, then it would become part of the Golden Gate National Recreation Area, in which it is included and to which it is adjacent.

Is it the understanding of the gentleman that there is no language in the gentleman's committee bill that would provide such authority?

Mr. BRINKLEY. The gentleman is correct, and I can vouch for the fact that there is no such language in the House bill.

Concerning the adjective the gentleman uses with reference to the Senate provision, I have heard it referred to in many ways. Mischievous is as good as any, because we think the present system has worked fairly well and it has helped to make certain that the family jewels are not sold at a fire sale.

I thank the gentleman for having called this to our attention earlier. We have studied it and I did state in general debate that I personally opposed the provision in the Senate bill and will ask them, if my subcommittee will agree with me, to recede to the House in conference and delete that provision.

Mr. PHILLIP BURTON. Well, I would like to commend the gentleman from Georgia once again for his leadership and assure the gentleman that I would like to do whatever I can in this particular matter to see that his efforts to resist this section will be successful.

Mr. HEFTTEL. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Hawaii.

Mr. HEFTTEL. Mr. Chairman, as you know, section 804 of H.R. 6214, the Military Construction Authorization Act of 1983, is substantially different from the Senate bill. The Senate amended section 804 of its bill, S. 2586, to allow the President of the United States or his designee to sell or exchange any real property and associated facilities under the jurisdiction of the military, notwithstanding any other provision of law.

I am deeply concerned about the implications of this language. This Senate amendment would virtually remove all Federal oversight by allowing the Department of Defense to sell or transfer military properties. In addition, it would supersede all existing laws which were enacted to assure con-

gressional approval of properties recommended for sale.

Fort DeRussy, a military installation used for recreational purposes located in my district in Honolulu, Hawaii, is a case in point. Existing statutory language prohibits the sale of any portion of Fort DeRussy unless Congress expressly authorizes such a sale. The Department of Defense has advised me that the Senate language, as it appears in section 804 of S. 2586, would render this statute meaningless.

Finally, since the Senate language allows the Department of Defense to keep a percentage of the money made from any sale, I am concerned that the result of this policy would be to encourage the disposal of properties because of their current monetary value only. This policy would not give any consideration of the value of the asset to the Federal Government in terms of its potential to increase in value.

Mr. Chairman, for the reasons stated above I believe the Senate language in section 804 would result in a significant and undesirable policy change. This provision did not have the benefit of committee hearings and analysis. I feel that this issue merits more careful and deliberative analysis than has thus far been provided.

I appreciate the commitment of the chairman of the Military Installations and Facilities Subcommittee to oppose this provision in conference and I hope that the other conferees will review the implications of this amendment and will see fit to delete it from the final conference report.

Thank you very much.

Mr. BRINKLEY. The gentleman from Hawaii speaks well and he has spoken with me earlier today on this subject matter. His concern is well taken.

We wish to assure the gentleman that we will keep the gentleman fully informed on any activity along these lines; but we again state our pledge that we would resist section 804 in the Senate bill. We have a section 804 in the House bill, but it is entirely different and not related at all.

We thank the gentleman for the emphasis the gentleman has placed on our position, which does not include that provision.

Mr. HEFTTEL. Mr. Chairman, I thank the gentleman from Georgia very much.

The CHAIRMAN. The question is on the amendments offered by the gentleman for Georgia.

The amendments were agreed to.

AMENDMENT OFFERED BY MR. HYDE

Mr. HYDE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HYDE: At the end of the bill add the following new section:

LAND CONVEYANCE, COOK COUNTY, ILLINOIS

SEC. 806. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the State of Illinois all right, title, and interest of the United States in and to approximately ten acres of land comprising a portion of the National Guard Maintenance Center located in Cook County, Illinois, and presently under license to the State of Illinois for National Guard use. The land authorized to be conveyed is more particularly described as follows: Beginning at a point 400 feet north of the southwest corner of section 23; thence east on a line parallel to the south line of the southwest quarter of section 23, a distance of 482 feet (plus or minus) to the existing chain link fence; thence north along the chain link fence 840 feet (plus or minus) to the south line of the Illinois Central Railroad property; thence northwesterly and west along the same south property line of the Illinois Central Railroad to the west line of the southwest quarter of section 23; thence south along the west line of the southwest quarter of section 23, 920 feet (plus or minus) to the point of beginning, all lying in the southwest quarter of section 23, township 39 north, range 12 east of the third principal meridian.

(b) In consideration for the conveyance authorized by subsection (a), the State of Illinois shall pay to the United States an amount equal to the appraised fair market value of the land to be conveyed (as determined by the Secretary), less any credit allowed under subsection (c). In addition, such conveyance shall be made subject to such terms, conditions, restrictions, and reservations as the Secretary determines to be necessary to protect the interests of the United States, including the interest of the United States in connection with the continued use by the United States of any property adjacent to or nearby the property conveyed.

(c) In determining the amount to be paid as consideration for the land to be conveyed, the Secretary may give appropriate credit for costs previously incurred by the State of Illinois in improving that land incident to its use under license from the Secretary.

(d) After the determination by the Secretary of the amount to be paid by the State of Illinois as consideration for the land to be conveyed (including the determination of any credit to be allowed under subsection (c)), and before the conveyance is made, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives setting forth the facts and circumstances leading to such determination. Such report shall include a detailed statement of the nature, extent, and amount of the costs previously incurred by the State for which the Secretary proposes to allow credit under subsection (c).

(e) The cost of any survey in connection with the conveyance of such property shall be borne by the State of Illinois.

(f) The authority of the Secretary under this section expires at the end of the two-year period beginning on the date of the enactment of this Act.

Mr. HYDE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

□ 1820

Mr. HYDE. Mr. Chairman, this amendment is basically a simple one. It would allow for the transfer of 10 acres of land in North Riverside, Ill. (in my district), from the Department of the Army to the State of Illinois for the purpose of constructing a new National Guard armory. The property involved has been licensed for a National Guard maintenance center since 1949 and all maintenance of the property has been on a shared-cost-basis between the State of Illinois and the Federal Government. The State of Illinois would like to obtain transfer of this property for the construction of a new National Guard armory to replace the outdated Chicago Avenue armory in downtown Chicago.

The amendment allows for the transfer of land after the State has paid an amount equal to the appraised fair market value of the land to be conveyed, less appropriate credit for costs which were previously incurred by the State of Illinois in improving the land while under license from the Secretary. The State of Illinois has already spent \$650,000 filling and reclaiming this property. The value of this work transformed this land from a swampy, near worthless piece of property into a prime construction site. The amendment also includes an oversight provision which is given to the House and Senate Armed Services Committees in order to supervise and facilitate the amendment's adoption.

Mr. Chairman, this amendment would not result in any cost to the Federal Government. In a report issued yesterday, the Department of the Army stated that this amendment "will cause no apparent increase in the budgetary requirements of the Department of Defense or any of the military departments."

I have received a letter from my colleague, the gentleman from Georgia, who is the chairman of the Subcommittee on Military Installations and Facilities, and he has assured me that this amendment is in order. Also, in checking with all parties concerned, I have found that the State of Illinois, the Departments of Army and Defense, the Armed Services Committee, and the Office of Management and Budget have interposed no objection to this amendment in its present form.

Mr. TRIBLE. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am happy to yield to my friend, the gentleman from Virginia.

Mr. TRIBLE. I thank the gentleman for yielding.

Mr. Chairman, I would say to my friend that we have reviewed the

amendment and find it wholly acceptable on this side of the aisle.

Mr. HYDE. I appreciate those remarks.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield to me?

Mr. HYDE. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

Mr. Chairman, we have reviewed the gentleman's amendment and we compliment him for it. We accept it on this side.

Mr. HYDE. I thank the very, very able chairman of the subcommittee.

Mr. BRINKLEY. The gentleman did his homework well. We started off with something which was not workable, and the gentleman improved it.

Mr. HYDE. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. Hyde).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ECKART

Mr. ECKART. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ECKART: At the end of the bill add the following new section:

LIMITATION ON UNITED STATES CONTRIBUTIONS FOR NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 806. If the Secretary of Defense determines that any three of the North Atlantic Treaty Organization member nations (other than the United States) that pledged in 1977 to increase defense spending in real terms by at least 3 percent per year have not achieved such an increase in defense spending for fiscal year 1983 over their defense spending for fiscal year 1982, the Secretary shall withhold the United States contribution for fiscal year 1983 for the North Atlantic Treaty Organization Infrastructure program authorized by title V of this Act.

Mr. ECKART. Mr. Chairman, we all have an extremely great vested interest in insuring that our American taxpayers' dollars are spent wisely and efficiently. It has been a high priority of this Congress, and indeed, a priority of this administration.

The amendment I offer today is the second version of an amendment that I submitted for the RECORD last week that would prohibit expenditures under the provisions of title V of this bill to the NATO infrastructure when NATO allies have not met the 3-percent real growth commitment that they had made in 1978.

This bill authorizes a total of \$7.5 billion for military construction projects in fiscal year 1983 both at home and abroad. Of this amount, \$375 million in title V is expressly earmarked for contributions to the NATO infrastructure, funds for projects of common benefits to NATO members.

Mr. Chairman and members of the Committee: It goes without saying

that the American people find themselves taxed in an economic way more so than they have ever been at any other time in perhaps the last several decades with high unemployment, high interest rates, and a record number of business failures.

At a time when we spend a grossly disproportionate share of our gross national product on defense, we find our NATO allies, who enjoy the direct beneficiaries of our tremendous defense expenditures, not pulling their fair share of the load.

I would draw to the Committee's attention the committee report on page 6, which stated very clearly that the committee deliberation of this request took place amidst a growing number of voices insisting that our European allies bear a fair share of the cost of defending that alliance.

I would further draw Members' attention to further references in that report which tells us how the German Government has refused to cooperate and provide funding for a master stationing plan in Germany, a master stationing plan that I assert is not for our benefit but primarily for theirs.

We want a strong defense, we want a united front to confront the Soviet threat in Western Germany, but we want our allies to bear a fair share of paying for the cost of the protection that we extend to them.

Even Dwight Eisenhower, who served as our Supreme Commander during World War II, made these observations at the close of his administration:

For eight years I believed that a reduction of American strength in Europe should be initiated as soon as the European economies were restored. I believe that time has come.

Mr. Chairman, that was no less true 20 years ago than it is today. One of the purposes of stationing American personnel in Europe was because the European economies had been decimated as a result of World War II, and literally could not afford the cost of protecting themselves.

I submit to my colleagues that indeed our economy today stands close to decimation, and one of the reasons is the tremendous output of our American gross national product to provide for the defense of our allies which now stands at 5.6 percent compared to an average of less than 3 percent by our NATO allies.

My idea is not new. It was first brought to the Senate by our now distinguished Ambassador to Japan, Senator Mike Mansfield, rekindled by Senators JACKSON and NUNN, and passed on several other occasions.

In 1978 our NATO allies committed to a real increase in their defense spending of at least 3 percent.

In 1979 and 1980, very few of our NATO allies spent what they commit-

ted to spend. I have not arbitrarily drawn a figure from thin air. This 3-percent real growth figure represents a commitment made by the defense ministers of our NATO allies as a result of a continuing negotiating process begun under President Nixon, who realized that the American taxpayers could no longer subsidize the economic growth of our allies at the expense of the economic stagnation of our own economy.

Mr. Chairman, this is a timely amendment. The Department of Defense's own report details the inadequacies in spending of our allies, our allies who enjoy the protection that our armed umbrella gives to them. Now, if we are truly concerned about presenting ourselves as formidable adversaries of the Soviets, I submit to you that if our allies agree with that contention, then they better place their checkbooks where they have expressed their fears.

The U.S. taxpayer wants a secure alliance, but they want it at a fair price.

Mr. Chairman, the problems confronted by defense expenditures, and one of the largest peacetime buildups ever in the history of our country, indeed has been one that has been questioned on this floor on many occasions.

We have witnessed foreign nationals working at our Navy exchanges, getting paid 30 to 40 percent more than our own dependents working at those very same military facilities.

We have witnessed expenditures to governments for the purpose of our subsidizing their carrying on of their military maneuvers.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. ECKART) has expired.

(By unanimous consent, Mr. ECKART was allowed to proceed for 1 additional minute.)

Mr. ECKART. Mr. Chairman, no matter how we measure it, as a percentage of gross national product, as a percentage of per capita expenditures, or as a percentage of our Nation's commitment to support a fair and responsible defense buildup without forcing the American taxpayers to bear the cost of that burden, I believe the time has come to tell our allies to pay their fair share for the military protection that our taxpayers provide.

Because of this unfair economic advantage that our allies enjoy our economy is hurting. Our so-called allies dump their steel, export their autos, computers, and cameras at cheap prices while millions of Americans become unemployed as a result.

Let us tell our allies to pay their fair share.

At a time when Americans are sacrificing, let us tell our allies that the unemployed will not sit still anymore.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. ECKART. I would be happy to yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Chairman, what is the practical effect of the gentleman's amendment as he envisions it? He has said there are some threshold effects, I think 3-percent real growth in 1983 as compared to 1982.

I also thought I heard that he had three of our NATO allies involved; that is, if any three failed to meet these stated goals of 3-percent real growth, then the amendment would go into effect. What is the practical effect of the gentleman's amendment?

Mr. ECKART. The practical effect is that the failure of any three, three allies, to meet their previously committed to expenditures of 3-percent of real growth increase in their defense spending, the appropriations under title V—will be terminated under the provisions of this bill.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. ROEMER and by unanimous consent, Mr. ECKART was allowed to proceed 1 additional minute.)

Mr. ROEMER. Mr. Chairman, will the gentleman yield further?

Mr. ECKART. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

Does the gentleman think that his amendment will take effect in 1983? In other words, does he expect that these nations will not fulfill their oft-stated goal of paying their fair share of the burden of defending the free world, or will we continue business as usual, in the gentleman's opinion; that is, where America will continue to pay a disproportionate share of the cost of defending Europe?

Mr. ECKART. Several countries are close, but they would require substantial increases to actually meet the 3-percent commitment that they have made. So it would be my impression, yes, that the expenditures under title V would not be made because the countries would not meet the threshold.

□ 1830

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Eckart amendment to H.R. 6214, the Military Construction Authorization Act of 1983.

Dwight Eisenhower once said:

I believe that a reduction of American strength in Europe should be initiated as soon as the European economies were restored. The time has now come to start withdrawing some of those troops.

He said that over 20 years ago but look how little we have done. Today, Pentagon experts estimate that we spend over \$100 billion either directly or indirectly for the defense of Europe. Almost 350,000 American sol-

diers remain stationed on the continent today.

A large American military presence in Europe was warranted after World War II when the economies of Japan and Europe were weak and their political structures fragile. While we have shielded them from outside military threats, however, both have been able to modernize their industrial base while ours suffers from neglect.

How much longer can we afford to protect the countries and economies that are beating us in the marketplace?

The Soviet Union now seems caught in a quagmire around the world. Their present thoughts are on consolidation of their empire. The large Soviet troop presence in Eastern Europe is viewed even by European experts as Russia's determination to control its own and sometimes unruly domain rather than exclusively for mounting an eventual attack on the West. The Japanese believe no Soviet purpose would be served by an attack on or the occupation of Japan and that Moscow derives sufficient trade benefits from Japan to discourage any attack.

The European view of the Soviet Union also differs considerably from ours. The Continent is increasingly reconciled to a peaceful coexistence with their Soviet next-door neighbors. The natural gas pipeline is one example of how ideological differences are giving way to economic realities. If the rest of the world, resigned to a coexistence with the Russians, spends less for its defense, should we not at least seek a redistribution of the defense burden?

Reducing our NATO commitment or our share of other global defense pacts will no doubt displease our allies. Our troops worldwide contribute billions to the economies of the host nations. A force reduction also might disappoint American soldiers anxious to see new and foreign lands. But these are weak reasons to support the massive amounts we spend. We in this country must think in terms of our national interest. To wit:

The U.S. has never been in a position to defend Europe all by itself. We have always relied on philosophically and militarily committed allies in our efforts to thwart totalitarian aggression. What our allies do—or do not do—directly affects our ability to protect our own national interest. If the point is reached at which our allies' lack of action actually threatens our national interests and the safety of our troops abroad, then the time to reconsider our commitments to other nations will have come.

These sage words come from an issue brief by the House Republican conference on allied defense burden sharing.

This debate is not a new one. Those familiar with the arguments for a renegotiation of allied troop contribution are familiar with the efforts of

Senator Mansfield back in 1971. Although his legislative efforts failed, he did succeed in lighting a fire underneath the administration to start negotiations with our allies. That fire was lighted with the help of opinions like the one expressed by Arthur Goldberg back on May 16, 1971:

[From the Washington Post, May 16, 1971]

**A "SUBSTANTIAL" TROOP REDUCTION IS
"OVERDUE"**

(By Arthur J. Goldberg)

In the legislative quiet of Washington, the Democratic Majority leader, a moderate and almost wholly non-partisan man, has become the center of a storm. President Nixon has rallied some prestigious figures—Democrats and Republicans—against the Mansfield amendment to mandate the reduction by half of the American forces deployed in Europe.

Lest it be thought that everyone who has served our government in the cabinet and in a diplomatic capacity agrees with the group assembled by the President, I want to state my support for Senator Mansfield's thesis. This is not to say that I agree with the size of the reduction in our European forces that he has proposed. Nor do I believe that we should proceed unilaterally without a last clear warning to see our allies that this time we really mean business. (I emphasize "last clear warning" because our other warnings over the years have not been taken very seriously.) But these differences can be resolved by appropriate revisions of the Mansfield amendment. The important consideration is that Congress assert its authority to declare that the time has come, and indeed is long overdue, for a substantial reduction of American forces in Europe.

Along with Senator Mansfield, I am a firm supporter of the Atlantic alliance. But it is no service to that alliance for the United States now and for the indefinite future to continue to play the role of the dominant and dominating influence in the defense of Western Europe.

It is 26 years since the end of World War II. Western Europe, with our generous help, has made a remarkable economic recovery from the havoc and destruction of war. The strength of the mark and of other European currencies compared to the dollar is dramatic proof of Western Europe's economic ability to assume the primary burden of its own defense, with sensible supporting help on our part against the threat of Soviet aggression.

For some years, Senator Mansfield has patiently and diplomatically advanced the view that Western Europe should assume the paramount role in the defense of its allied countries. If today, Senator Mansfield swings what some critics characterize as a "meat ax," it is because the arts of persuasion have proved singularly ineffective.

The Senator has pointed out, as noted in the press, that we still have some 300,000 military men, 225,000 dependents, 128 generals and over 7,000 nuclear warheads in Europe. These figures exclude the formidable military establishment of our Sixth Fleet, a major element of our European presence and deterrent capacity.

I believe, as does Senator Mansfield, in a rational and balanced deterrent against the possibility of ill-conceived Soviet movements in Western Europe. Neither he nor I advocate total withdrawal of our forces from Europe but surely the time is overdue for a substantial reduction in the number of our

troops there. And, among other considerations, it seems to me that part of the billions we now devote to the maintenance of land forces in Europe would be better spent by improving our airlift capacity, so that we could dispatch combat-ready troops to Europe should the occasion require. In this connection, many of our present European troops are not combat forces, and both they and their dependents constitute a heavy drain on American resources not adequately offset by current arrangements with our European allies.

There is another factor to be taken into account. True, a mutual reduction in forces would be the ideal solution, but since this has not eventuated because of past Soviet intransigence and our NATO allies' foot-dragging, is it not time that we gave serious consideration to the proposition that a limited unilateral reduction in our European forces will put the cold-warrior elements at the Kremlin under pressure to consider a corresponding reduction of forces on their part? We are not the only country suffering from the exactions of a swollen military establishment.

Mr. Brezhnev's recent and welcome initiative indicating an interest in a mutual reduction of NATO and Warsaw forces would seem at the very least to be some indication that the Soviet Union is also such a country.

Senator Mansfield is a thoughtful man. There is a basic philosophy behind his move. I think I understand what it is and would summarize it thusly:

Realism requires us to remember that our national power, great as it is, is not unlimited and that our interests and responsibilities are not unlimited, either. President Kennedy properly reminded us that the United States is neither omnipotent nor omniscient, and that there cannot be an American solution for every problem.

In this spirit, Senator Mansfield has been trying to tell us for a decade that in place of an American prescription for European security, we should encourage one by Western Europe—one which we can support and to which we can subscribe. Senator Mansfield seeks, I believe, only to communicate the basic truth that today, time and circumstances have rendered obsolete the means once required to demonstrate our basic commitment to the security of Western Europe.

I think it high time that we pay careful heed to Senator Mansfield's sound advice. Surely there is no need to employ a shopworn collection of pejorative adjectives in characterizing that advice, coming as it does from our most non-pejorative statesman.

It is clear that over the years that fire has died by lack of interest. It is now time to rekindle it.

As the editors of a recent Washington Monthly wrote:

Just as the Reagan administration has insisted on letting Poland be Poland, it's time to let Europe be Europe—especially when it comes to paying for its own defense.

Mr. HUTTO. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Florida.

Mr. HUTTO. Mr. Chairman, I certainly think all of us can relate to the fact that we feel that our allies should help us more in the defense effort, but if we were to adopt this amendment, it seems to me that the victims would be the armed services, members of the

armed services, our troops in the NATO countries.

Mrs. SCHROEDER. I would be delighted to answer that. Again, the recipients of all of this largesse are the countries we are trying to help. Most of the people that I have talked to in our armed services in those countries really feel that the host countries could do much more, should do much more. It is time we stopped talking and we did something.

Again, I point out that these are not tanks we are taking away, these are not weapons we are taking away. We are not really taking away things that they need. I think that if our allies do not increase their commitment, maybe we have got to talk about getting tougher and bringing some troops home.

Mr. HUTTO. If the gentlewoman will yield further, I agree that they ought to do more, but when we come right down to it, if we do not, those who suffer would be members of our armed services. I do not know if the gentlewoman has made any trips over there. I have not, but a number of our Armed Services Committee members have made trips there to look at the living conditions of the members of our armed services there. They report them to be deplorable, so if we take away from what they have now and do not provide their necessities, I think it is going to be even more deplorable.

The CHAIRMAN. The time of the gentlewoman from Colorado has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mrs. SCHROEDER. I would just like to respond to the gentleman from Florida by saying that, for example, at the Air Force Academy in Colorado we have foreign students, and no one says to the French, "OK, these guys are going to be out in the open unless you build them barracks."

We house the foreign students. We do not make them pay anything. We are there to help protect them. I find it offensive that our troops are living in terrible conditions, and so the only way we can make them better is if we spend more money to help our troops further.

That is what I am trying to say. Unless we stop saying No. 1, we will not come home; and No. 2, we will keep spending the money so they do not have to do it, I think the gentleman's amendment makes a tremendous amount of sense. It says, "You made an agreement. You agreed to spend 3 percent in real increase. If you do not, we are not going to make our contribution to the infrastructure. You are on warning. We are taking you seriously this time."

All they have to do is to increase their contributions by 3 percent, and it

solves it. If they do not, I think it is time that this body have a real debate about whether we should keep everybody there at full strength, having added another 58,000 troops as we did in the last few years, as Senator STEVENS found. I think that is what we have got to talk about. Otherwise, they have got us over the barrel. They know from 30 years of experience that when push comes to shove we pay—we pay. We say, "OK, we will pay everything again this year."

When you calculate the money involved, it is phenomenal. We are building more housing in Europe than we are doing for our own housing industry in America. What kind of insanity is this?

Mr. HUTTO. If the gentlewoman will yield further, I certainly agree that the gentleman from Ohio has a noble purpose in his amendment, to try to get our allies to spend more on defense. But, I am just wondering if we are attacking it in the right way, because I feel it will be detrimental to our own armed services, those that we are trying to support.

Mrs. SCHROEDER. I just want to respond to the gentleman by saying that at a time when we are so concerned about the balanced budget, talking about having to raise taxes in this country, when we have the President vetoing the homebuilding bill for this country, I just think it is crazy if we do not go along with the gentleman's amendment. It says that we are not going to do all this in Europe unless they at least meet their fair share. It would be nice to do everything, but there are always more nice things to do than there are dollars to spend. I think that is the difficult choice.

Mr. DOUGHERTY. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield.

Mr. DOUGHERTY. Could the gentlewoman tell me when the fiscal year begins for many of the countries in Western Europe which are part of NATO?

Mrs. SCHROEDER. They all have different fiscal years. I think the gentleman knows that.

Mr. DOUGHERTY. I do not want to take all the gentlewoman's time, but the way the amendment is drafted, if there is not a 3-percent real growth from 1982 to 1983, they automatically lose it in effect; if a NATO member is currently in the 1983 fiscal year it is going to be almost impossible to expect them to change.

The CHAIRMAN. The time of the gentlewoman has again expired.

(At the request of Mr. DOUGHERTY and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 1 additional minute.)

Mrs. SCHROEDER. I noticed that when I read it, I do not think it is a big problem. I think everybody under-

stands what the gentleman's intent is. They understand the agreement, and they understand if it is 3 percent from one of their fiscal years to another. He is not talking about locking into our October 1 fiscal year.

Mr. DOUGHERTY. The way the amendment is written, though, it locks it into a percent of increase from the fiscal year 1982 to fiscal year 1983. What I am suggesting is, if a country in NATO is already into the 1983 fiscal year, then it is not a practical way to implement the amendment, and it would be better—and I have some sympathy for what the gentleman is trying to do—it would be better if the report language was put into the bill which said, in effect, that there was some obligation placed upon the subcommittee that if there was not a significant increase between fiscal year 1983 and fiscal year 1984, this matter would then be brought up.

□ 1840

I would rather see report language that would say fiscal year 1983 to fiscal year 1984 rather than this gentleman's amendment of fiscal year 1982 to fiscal year 1983.

I think it is more practical.

Mrs. SCHROEDER. I hope the gentleman will offer that as another proposal. I think what the gentleman from Ohio is trying to get across is very clear. I think it can all be handled and I would hope the gentleman would offer that, but the time is now.

Mr. TRIBLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment is very appealing on its face but I believe it should be resisted and defeated by the body.

Many of us share the concern that our allies should do far more. We have said that time and time again on this floor and in committee and we have taken action.

The subcommittee deferred all funds for the master restationing plan in Germany and for construction at Lajes in Portugal. This totals some \$92 million and we will continue to strongly urge our allies to make a greater commitment.

Let us talk for a moment about the 3-percent target. This is a goal, and the truth is a number of our allies have met that goal.

The list of allies reporting such increases in 1980 include five nations: Canada, France, Italy, Luxembourg, and Portugal. One additional country, the United Kingdom, comes close with an estimated 2.7-percent increase.

Estimates reported to date for 1981 indicate that six or eight countries, including Canada, France, Greece, Luxembourg, Portugal, Turkey, possibly Germany, and the Netherlands,

achieved increases in the 3-percent region.

Projections for 1982 are highly tentative.

But current indications are that Canada, France, Luxembourg, Norway, and the United Kingdom will meet NATO's goal. So this goal has served a very valuable purpose. It has brought about a higher level of defense outlays on the part of our allies.

The more important question is what are our outlays and those of our allies buying. How much spending is needed to secure the quality military forces on which our freedom depends?

Our allies would argue, and with some merit, that because they have conscription they are paying much less for their people than we are and their increases are going further in improving the quality of their forces.

This is a fact that we must recognize in evaluating what our allies are doing.

Moreover, if we do not contribute to the infrastructure fund, construction could be halted on Pershing and ground-launched cruise missiles, thus taking away our leverage on the ongoing START talks. All operational facilities for the reception, staging, and onward movement of U.S. reinforcements are dependent on NATO funding.

In summary, I would say to my colleagues a 3-percent goal has had a very positive impact on our allies' defense budget decisions.

The adoption of this amendment would, I believe, harm our military readiness in the European theater, it would violate our binding commitment to contribute to the infrastructure fund, and it would hamper our negotiations on START.

So although this is a very intoxicating idea, I believe we must thoughtfully address this issue.

A strong signal has been sent by this subcommittee to our Western European allies saying we are not satisfied with what you are doing. If we terminate the infrastructure funding we will be substantially hurting our own efforts toward peace and freedom.

I hope the committee will resist this amendment.

Mr. ECKART. Mr. Chairman, will the gentleman yield for a question?

Mr. TRIBLE. I am happy to yield.

Mr. ECKART. The gentleman has spent a great deal of time obviously on this subject. I would refer to the Department of Defense report submitted by Secretary Weinberger.

In the report it states that:

Politically the failure of our allies to achieve at least the 3 percent judged necessary growth to keep the East-West balance from tipping further against NATO could be seen by Moscow as a weakening of our collective resolve.

Would the gentleman please comment on the perception of the Depart-

ment of Defense that failure to meet the 3-percent requirement is, in fact, a failure to deal with the Soviet-perceived threat in Eastern-Western Europe?

Mr. TRIBLE. We would all be far more content if our allies in both the Atlantic and Pacific would do more. They should do more for our common defense.

I believe that this colloquy today, along with the very real action taken by the Armed Services Committee, is an important signal to our allies that they must do more.

I believe this amendment should be rejected.

Mr. PEASE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment of my colleague from Ohio.

I have had a longstanding interest in the question of how adequate our allies' support of NATO is. In fact, some 3 years ago I introduced a resolution calling upon them to meet their 3-percent commitment.

I am delighted that my colleague from Ohio has put into very concrete terms what in my own resolution was merely an expression of our desire that they meet their commitments.

Mr. Chairman, this matter came to my attention from constituents. So many of the things I bring to the floor do. These were constituents who had asked me questions at town meetings about why it was that we in the United States had to spend billions of dollars for the defense of Western Europe and Japan when they were not pulling their own share.

As you know, foreign aid, and this is a form of foreign aid, is not very popular among our constituents. Frankly, I did not have a good answer for my constituents as to why we should be increasing our defense spending in excess of 3 percent a year when our allies, who had pledged to try to meet a 3-percent goal, were not meeting their commitment in several cases.

I must say that over the last year the concern of my constituents about the failure of our Western European allies and Japan to pull their share of the defense load has increased as unemployment has grown in my district.

We have, as everyone in this Chamber knows, before us now a series of complaints from American steel companies about subsidies paid to European steel companies so that they can ship subsidized steel in the United States and help put American steelworkers out of jobs.

It seems to me that if Britain and France and Belgium and other countries can afford to subsidize their steel industries to ship steel which threatens American jobs, they ought to be able to afford to increase their defense spending to a degree that would meet

the pledge that they made to all of their NATO allies.

Similarly, in the case of automobiles and Japan, although I know that is not an issue at this moment, people cannot understand in my district why it is that Japan should spend so little for its defense when we spend so much for ours, with the resulting weakening of our ability to compete internationally.

The NATO infrastructure surely is an appropriate place for Europeans to spend money to help European common defense.

The amendment offered by my colleague from Ohio provides a reasonable standard. It says that if any three, not one, not two, but any three of our NATO allies fail to meet that 3-percent goal, then and only then would our funding for NATO's infrastructure be held up.

This is an item which involves several hundred millions of dollars. It is an item which it seems to me involves a very basic interest of the United States and that is to spend our money wisely to make sure that in the common defense of Western Europe and the United States we are both making an equal effort.

For that reason I am very happy to support the amendment of my colleague, and I hope very much it passes.

□ 1850

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. PEASE. I yield to my colleague, the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I would like to commend my colleague, the gentleman from Ohio, who raised this issue before the Congress earlier last year.

I would just like to make two additional points that my colleague from Ohio briefly touched upon. First, I believe that this amendment is in the economic best interest of our country. Our allies for too long have failed to share an adequate burden of our defense posture, a posture that—I underscore what the gentleman said—is provided for their benefit as well as for ours, resulting in the allies having their hands in the American taxpayers' pockets at a time when the unemployed in our districts can ill afford it.

Second, I believe that this amendment promotes sound military practice. I would disagree with my colleague from Virginia.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. PEASE) has expired.

(On request of Mr. ECKART and by unanimous consent, Mr. PEASE was allowed to proceed for 2 additional minutes.)

Mr. ECKART. Very briefly, let me say that the gentleman from Virginia pointed out that the allies are getting

close to spending 3 percent and that we should be very happy with that and, therefore, this amendment is not needed.

I would quote Gen. Bernard Rogers, the Supreme Commander of the Allied Forces in Europe, who called upon our NATO allies to do more than their 3 percent, to meet 4 percent, because, as the general said, and I quote:

I have a pocketful of overdue promissory notes. What I am asking is that goals be fulfilled.

General Rogers, our Supreme NATO Commander, told us that even at 3 percent, we are struggling, and that if we are truly to posture ourselves in a way designed to meet whatever threat exists in Western Europe, then clearly what the allies are doing now is inadequate for military purposes, it is inadequate for our own economic purposes, it is not conducive to what the American taxpayers feel is a proper share, particularly in light of the fact that we have made substantial economic and military contributions to our allies in the last 40 years.

I commend the gentleman from Ohio for his interest. I thank him for this support.

Mr. PEASE. Mr. Chairman, in conclusion, I would just say that if our NATO allies are coming close to the mark, as the gentleman from Virginia has said, then it should not be difficult for them to meet the requirements of this amendment. So it seems to me that any recitation of how close they have come only buttresses the importance of this amendment.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, one of the previous speakers said that if we enforce this 3 percent we would become equal. Well, I am here to say that we are a long, long way from equal. We are still carrying the major part of the load.

Another speaker said West Germany is getting close. I sure hope they are getting close. With the economy that they have had, they should not only be close, they should be out front leading.

And then we hear the story about defending the free world. Well, if we keep defending the free world at the rate we are going, we are not going to have anything to defend at home, because we will economically collapse while we are trying to take care of everyone else who are in a good position to take care of themselves.

And then we get the story of sending signals. You know, I have been here 8 years. They have sent the signal now for 8 years that I have been here, and I do not know how many years before that. But I got news for you: The signal never gets beyond our own

shores. I think we have got to stop sending signals now and act.

There has been a great amount of unrest within the alliance of late: Differences of opinion between the United States and our European allies have led many to question the stability and coherence of NATO. European leaders, in the argument over the Soviet gas pipelines, have accused the United States of being unwilling to honor contracts previously concluded. These same European leaders who have been so self-righteous about honoring contracts with the Soviet Union have been reluctant to honor contracts and agreements concluded with the United States. One of these contracts specifically allows the United States the final word in U.S.-developed technology produced in Europe, and its sale to other nations of the world. The Europeans have expressed their willingness to ignore their pledge to comply with U.S. wishes regarding the transfer of this sort of technology. Additionally, the Europeans are trying to get out of their agreement to increase their defense budgets by 3 percent after inflation to help meet the demands of the alliance and its defense.

Ever since the creation of the alliance, the United States has played a leading role both in money power and manpower. The Europeans have become complacent believing that the American presence in Europe and all the economic, as well as defense, benefits they reap therefrom will be there forever. For almost 40 years the American taxpayer has borne the lion's share of the expense of defending the alliance. We have taken upon ourselves the expense and the burden of defending the oil of the Middle East because our allies depend on it so heavily. They, in response, turn to the Soviet Union for oil, oblivious of the fact that the alliance was formed against just that state and the very real threat it poses to the freedom of the Western World. Now they wish to get out of bearing a small part of the burden of their own defense. It is time to put a stop to this sort of nonsense.

This is exactly what the Eckart amendment proposes to do; namely, to put a little pressure on our allies to get them to pull their share of the load. Just a few days ago we passed, here in the House, the largest defense budget ever. We are not asking our allies to do the same; just that they increase their defense budget by 3 percent in real terms—it is, after all, their defense, too, and it is nothing more than what they already agreed to do.

I am not one of those people who advocates a "Fortress America," and wants to junk the alliance. I believe that we have a moral, traditional, and ideological commitment to our allies. But they must believe this, too, and be ready to act upon such a belief. The United States has far too long done

more than its fair share in defending the West. We now have an opportunity to send a strong message to our allies that they had better "shape up." If they do not, we owe it to the American taxpayer to "ship out."

You know, time and time again now we have gone before the American people and we have asked them to make sacrifices. We did it with the grain embargo. We did it to protect the free world. We did it to protect Western Europe. We also did it because we wanted to send a message with them to Russia in relationship to their invasion of Afghanistan and other areas.

And what did we get in return? The only persons who suffered, the only people, were we in the United States, because those same people we are trying to defend decided not to participate and not cooperate.

We did the same with the butter sale. Who got hurt? Not Russia. Just we, our farmers, our taxpayers. And we are at the same point with the pipeline.

It seems to me, as I indicated before, it is time that we do a little more than send that message or that signal, because they never got the signal in the past. I think it is now time for some real strong action so that they carry their load and we do not ask our taxpayers to carry it for them.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to make a point in this bill before the Committee today that there are two types of construction funds. One construction fund in this bill will go to the American troops for housing, for living, in Europe.

The second type of fund, which the Eckart amendment is aimed at, is called infrastructure funds, which is operational funding where other nations participate in this funding.

As I understand the Eckart amendment, the gentleman says that if certain nations do not come up with 3 percent, then the United States will not participate.

Well, the problem with that is, of these funds we are talking about now, they are operational funds. They are for readiness, to be prepared to meet the Warsaw Pact forces if they would happen to move. For gun emplacement, for AWACS construction sites, and for other operational projects that we need in Europe.

So what I am trying to say here is that this amendment will throw total chaos into construction programs in working with other nations.

Yes, some nations have done a better job. The United States has pushed other nations. There are some percentage tables in the Committee tonight that in effect show that nations have

increased their funding. It is not enough, but we think they will continue to move up and might, in several years, meet the criteria that the Eckart amendment is asking for. But I think it would be a very serious mistake for us here tonight to knock out these funds and throw the construction program for readiness of the NATO forces into total chaos. I just do not know what would happen after that. So I certainly hope the Members will vote against this amendment.

□ 1900

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, as we approach, hopefully, the conclusion of the debate on this amendment—I see several other speakers—but as we get over the hill with it, I would like simply to recite a few facts first of all because we are not really that far apart with the gentleman from Ohio (Mr. ECKART).

The infrastructure deals with \$375 million. It touches the lives of 300,000 American soldiers, sailors, marines, and airmen in Europe, and Iceland, which is a bilateral situation, in Turkey and in Greece. And we ask ourselves why are we there. Is it in our national interest? What are we doing there?

Well, I think we should speak of our being there as being the guests of the NATO countries involved. They are not our adversaries. They are our friends. We should not make gratuitous insults about those who are trying to do the best they can.

I would like to point out that this subcommittee in our hearing record pointed out very early on that Europe and NATO countries must measure up or the alternatives would have to be to take the troops home, for it is they who suffer if we provide substandard housing.

I would simply point my colleagues to Turkey. Do we need to be in Turkey? Do we need to monitor the Soviet Union? I think we would agree that the answer is "Yes." And if my colleagues should see those housing conditions over there, they would know that we should not do anything like this. It is not a good logical thing to do, because of the fact that there is prefinancing under the infrastructure program, under which we build the housing and then we get the money back. Totally it amounts to about 40 percent.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. I thank the gentleman for yielding.

I think I would like to make another observation which is probably far deeper than what we are discussing here on the floor at the present time.

I feel that the amendment has some merit only if we have the proper hearings. I think I indicated that to the maker of the amendment back about a week or two ago if we have proper hearings, and I think it has a tremendous amount of merit.

However, let me just remind those of my colleagues who are here today and those of my colleagues listening that during the senseless war in Vietnam, and you go back a number of years, the NATO allies were exceeding their 3 percent or 4 percent real growth, they were exceeding their own goals to help the United States while we were mired in a senseless war in Vietnam.

Before we take any final action, I think that we should give this very careful consideration, consider what they have done for us over the years when this country was in deep trouble, and therefore perhaps what we should be doing is having full scale hearings.

I can in some way support the gentleman's amendment, but not here this afternoon, but only after proper hearings.

Mr. BRINKLEY. Mr. Chairman, I wonder if it might not be possible to get an agreement with the gentleman from Ohio (Mr. ECKART) on limitation of debate on his amendment, and all amendments thereto, of 15 minutes, 7½ minutes to be controlled by the gentleman from Ohio and 7½ minutes by the gentleman from Georgia.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Ohio.

Mr. ECKART. I would like to get a feeling for how many Members would still be interested in speaking on the floor on this issue.

If I could, I would like to get the gentleman to amend that to 20 minutes total.

Mr. BRINKLEY. Twenty minutes total would be acceptable.

The CHAIRMAN pro tempore. Does the gentleman ask unanimous consent that all debate on this amendment and all amendments thereto end in 20 minutes, the time to be equally divided?

Mr. BRINKLEY. I do, Mr. Chairman.

Mr. SEIBERLING. Mr. Chairman, reserving the right to object, I would like to simply point out if we could get this bill over with within say half an hour, we can get one more bill out of the way in half an hour, and maybe get enough done tomorrow so we will not end up having to be here on Friday.

But this bill has dragged on and on. I would hope we could wind it up pretty soon.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Ohio (Mr. ECKART) will be recognized for 10 minutes, and the gentleman from Georgia (Mr. BRINKLEY) will be recognized for 10 minutes.

The Chair recognizes the gentleman from Ohio (Mr. ECKART).

Mr. ECKART. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. ROEMER).

Mr. ROEMER. Mr. Chairman, there have been a lot of conversations about gratuitous insults to our allies. Some people on the committee seem to think that this amendment which I happen to think is a good one is somehow an insult to our allies. It is just the opposite.

It is asking them to do what they said they would. It is asking of them what we have asked of ourselves on this floor all year long.

I am proud of the fact that although a new Member of this body I have been able to support with vote after vote a strong national defense. I am proud of the actions of this committee. I would be even more proud if the committee were willing to ask of our allies what they have asked of Members here on this floor, that is, in tough economic times that we remember if we are not strong militarily, given the real world, all of the freedoms that we enjoy here and the blessings enjoyed in Europe will soon be in grave jeopardy.

The amendment does not set some rigid and artificially high standard, Mr. Chairman. It simply requires a NATO growth in real spending on military defense of at least 3 percent in 1983 over 1982 spending levels. This is a target figure that our allies set in 1977.

Look at the list from the Congressional Research Service of the number of our NATO allies who have fallen short over the last 4 years. It is much longer than those who have met the target.

*NATO defense spending comparisons 1981—
4-year average percent change*

Countries that have not met 3 percent commitment:	
Belgium.....	2.77
Canada.....	1.75
Denmark.....	1.35
Germany.....	2.55
Greece.....	-0.3
Italy.....	1.93
Netherlands.....	0.25
Turkey.....	1.95
United Kingdom.....	1.8
Countries that have met 3 percent commitment:	
France.....	3.97
Luxembourg.....	8.7
Norway.....	3.48
Portugal.....	4.55
United States.....	3.78

But that is not the test that the good gentleman from Ohio sets, not some 4 year average, but just 1 year, 1983 compared to 1982. I think it is fair. And if it leads to chaos, it is not from this body, or from this amendment, or from this Nation; it is from our so-called allies who do not do for their own defense what they said was fair, do not meet the test that they set. I believe that our fine allies will meet the modest standard of growth that they themselves have set.

I hope we can adopt this good amendment.

Mr. BRINKLEY. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I misspoke when I said "insult," and I would like to call it back. I thank the gentleman for calling it to my attention so that I would have this opportunity to do it.

But I think the point is well made, that we should not offend our friends just for the sake of it. They are our friends and allies, and we should work with them, we should reserve our most telling remarks for our adversaries.

The gentleman from Louisiana points to chaos. The chaos to which he points impacts on 300,000 Americans in the uniform of our country. And I will tell the gentleman that this is not in their best interests. It is to their detriment. Think well, before you vote on this amendment.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DOUGHERTY).

Mr. DOUGHERTY. Mr. Chairman, I think what we have to deal with this evening is reality and good intentions.

I share very much the concerns of the sponsor that our NATO allies are not doing their share. But I think in some ways we have the cart before the horse.

If we want to achieve the goal that is desired here, then the amendment offered by the gentlewoman from Colorado to bring the American troops home from Europe would be the thing to have passed. But in effect that amendment was defeated. And so what we now have is an attempt to take away the facilities that are being used by the American troops in Europe.

And what we have done in effect, we voted not to bring the troops home from Western Europe.

If the Eckart amendment goes in, we are going to take away the facilities that our troops need for the proper training for combat.

I think we ought to start putting the emotion aside and look at what we are talking about. We are talking about training facilities to prepare American and NATO troops for combat.

I think the second point that has to be made about the Eckart amendment is very simply this.

The amendment is so worded that if any three nations do not come up with

a real growth of 3 percent in their defense spending, then we back out of the infrastructure program.

□ 1910

The impact, my colleagues, is very simply this. If the Netherlands, Belgium, and Canada, which get out of this bill about \$2 million in military construction projects fail to meet the 3 percent mark, if in effect West Germany spent 6 percent in real growth on their defense spending, we could not put military construction projects in West Germany, not because the Germans were not carrying their share of the load, but because the Netherlands, the Belgians and the Canadians had not done their share of the load.

So in effect, the way the amendment is worded, we are going to wind up being in a position of punishing those nations that may in some instances be doing more than 3 percent simply because three other nations are not doing better than 3 percent.

The third point I think which has to be made, Mr. Chairman, is very simply this. Our troops are the ones that are going to suffer if the Eckart amendment goes through. As I say, it is a well intended amendment, but it is the American troops that are going to feel the impact on it.

A comment was made about General Rogers making some statement about not doing enough. It is my judgment that General Rogers would never support this kind of an amendment, because it is the wrong way to achieve a good end.

Therefore, Mr. Chairman, I would strongly urge my colleagues to defeat this amendment.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. HILER).

Mr. HILER. Mr. Chairman, I rise in support of this amendment for a variety of reasons, notwithstanding the very good reasons why one might not want to vote for this amendment.

It seems to me when this country went forward with the Marshall plan some 34 years ago, the intent of the Marshall plan was to help provide for the defeated countries' defense as well as the victorious countries, like England. The activity was to help them provide for their own defense while they rebuilt their own economies.

Well, Mr. Chairman, 37 years later they have rebuilt their economies. The Western European economy today combined is larger than the U.S. economy. I think it is time they start meeting up to their end of the defense expenditures which we had planned on when the Marshall plan was put forward back in the late forties.

Now, in the last several weeks, if you have read the headlines in the papers, we have seen that we have had battles with the Western Europeans over sub-

sized steel. We have had battles with our Western European allies over agricultural subsidies. We have had battles with our Western European allies over the pipeline: so it is very clear that they are a very potent economic force, a force that is very capable of meeting their 3-percent goal under the agreement we reached back in the late 1970's.

We this year will have a real growth rate in our defense expenditures of somewhere around 7 percent. I think it is not too much to ask our Western European allies to have a real growth of 3 percent, as much of our 7 percent is used to help defend them.

I would hope that my colleagues would vote for this amendment. As most of the things we do on this floor pertain to symbols, I think this would be a tremendous symbol and a tremendous message to our Western European allies to shape up.

Mr. BRINKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. HOPKINS).

Mr. HOPKINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, it was my pleasure a few weeks ago to travel with some of my colleagues to Iceland. I do not doubt the sincerity of the gentleman's amendment for one minute; but I think we do need, however, to look at our NATO allies perhaps one on one.

I would like to ask the gentleman from Mississippi who was the CODEL on that trip if he might reflect on how this amendment might affect the country of Iceland. Inasmuch as a lot of our briefings there were classified, I do recall them stating to us that more Soviet submarines were sighted around Iceland coming down through Iceland than all the other places in the world put together, and how might this affect the country of Iceland. I would ask the gentleman from Mississippi if he would respond.

Mr. MONTGOMERY. Well, as I understand it, if the amendment is adopted, we would not be able to fund that base in Iceland which we have been told by the Secretary of the Navy and the Secretary of the Air Force is one of the most important bases in the world that we have.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

Mr. BRINKLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. It is one of the most important NATO bases in the world. Our forces monitor Soviet activity either in the air, on the sea, or under the sea from Iceland. It is the Gulf Stream for the Soviets to come to the Atlantic Ocean.

It would be a serious mistake to adopt this amendment. Then you would have to start cutting off funds to the NATO base in Iceland. It goes further than just Europe.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

Mr. BRINKLEY. Mr. Chairman, I yield another minute to the gentleman from Kentucky.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman for yielding this time.

I would like to ask the gentleman from Mississippi, would we not in effect be breaking our word if this amendment were to pass as far as the people of Iceland are concerned?

Mr. MONTGOMERY. I certainly agree with the gentleman. We certainly need to keep our relationships with the people of Iceland. We have got to keep them as healthy as possible, because as I said earlier, that is the key base for monitoring the Soviets as they enter the Atlantic Ocean.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield?

Mr. HOPKINS. I would be delighted to yield to the gentleman from Pennsylvania.

Mr. DOUGHERTY. Mr. Chairman, I think that is the whole point of the Eckart amendment, the unfairness of it is that if one country is doing its share, but three countries in NATO are not, every nation suffers if the Eckart amendment goes in.

Mr. ECKART. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, I rise in support of this amendment. I think the amendment could be a bit stronger. I think it is a token attempt to make a point. I think the point should be made.

I would like to relay to you one message, though. I took a poll in my district and asked my constituents whether or not they thought that it was about time we spent a little bit less on the defense of rich allies like Japan and Germany. Ninety-five percent of them said they are sick and tired of this and it is about time we changed our ways and let our allies pay a little bit more.

As far as keeping our word goes, am I to understand that we cannot pass legislation to designate how our taxpayers' dollars should be spent? To me it is keeping our word with the American taxpayer, whether or not we will live up to our commitment to protect the value of the dollar and to provide a strong national defense.

Not for a minute do I believe that all this expenditure strengthens our defense. As a matter of fact, I believe the argument is very strong that subsidies to our rich allies weakens our defense.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana (Mr. JACOBS).

Mr. JACOBS. Mr. Chairman, I am sure the people who oppose this amendment are sincere and the taxpayers of this country should not think ill of them for opposing it; however, they have outlined the Parkinson's law of architecture argument, which every Member of Congress ought to be familiar with. You hire more people on Capitol Hill than you need and then the next committee comes in and says there is not enough room to house them and so we have to build new office buildings.

We can apply the same argument to this matter over in Europe, only remove from it any benefit that would come to the United States at all.

It is a peculiar thing about contracts with the U.S. Government. If you happen to be Lockheed and make a contract with the United States, you are not expected to live up to it. You are expected to charge more than your contract calls for and the American taxpayers are expected to pay it and like it. It just depends on who you are, whether you can break your contract with the U.S. Government.

Now, the people who are arguing against this amendment seem to think very little of our allies. The people who are arguing against it have reached the conclusion that our allies will not live up to their agreement; else they would not be arguing that Iceland, or what is it, our relations are going to be cooled with Iceland because the infrastructure will not be built there. Why will it not be built there?

This amendment simply says that we will build it there if our allies live up to their end of the contract.

Now, I made a contract with the U.S. Government a number of years ago. I contracted to serve in the Marine Corps for 2 years. In less than 15 minutes on the floor of this very House by a voice vote, the U.S. Government broke its contract with me and gave me what was known as a COG, or convenience of the Government year, during which I picked up a 10-percent disability in combat.

□ 1920

So it really just depends on who you are, whether you have to live up to contracts. Apparently an American citizen who is not too well off must live up to his contract and the Government does not have to live up to its contract. But if you are well off, then break our contract with the United States and break the Treasury of the United States and you are cool.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRINKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. BARNARD).

The CHAIRMAN. Both the gentleman from Ohio and the gentleman from Georgia have 3 minutes remaining.

Mr. BARNARD. I thank the gentleman for yielding me this time.

Mr. Chairman, I want to bring out a point that our NATO nations are doing more than just providing money for their support. If Members could go over there and see the training areas where the U.S. Forces are training, they are permitted to use the private lands of the Germans, and other allies—without any reparations. This is a real sacrifice.

There are many other ways in which our NATO nations are doing their part. I think that we need to respect them, Mr. Chairman, for their contribution which they are making other than just the amount of money they are paying for armed services.

Mr. ECKART. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota (Mr. DORGAN).

Mr. GOODLING. Mr. Chairman, will the gentleman from North Dakota yield to me?

Mr. DORGAN of North Dakota. I would be happy to yield to my friend, the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

I wanted to say I think it is just great that our allies, who we are defending—and that is our purpose primarily for being there—are kind enough to allow us to use their property and their land when we are defending them.

Mr. DORGAN of North Dakota. I thank the gentleman for his comment and I reclaim my time.

Mr. Chairman, I think the amendment of the gentleman from Ohio moves us in the right direction. Our NATO allies need to shape up. In fact, I think it is probably not strong enough.

I came to this body believing there was some higher truth someplace around here, but I discovered there are not any higher truths. I found, instead, too often a mentality that says, "Let us keep on doing what we used to do; let us keep on doing that."

Mr. Chairman, the fact is, we cannot continue to pay for the defense umbrella for our allies. The countries in the world that spend the largest percent of their gross national product on defense also happen to be the countries that are experiencing some of the lowest economic growth of all the countries in the world.

The United States is one of these.

That is not accidental. Our defense expenditures are directly tied to our economic performance. Our country lays out a disproportionate amount of defense money to support our allies while they clip our wings in the world markets.

I am not an isolationist but a realist. If anybody in this room doubts that the American people object when we build our allies defense umbrella and allow them to use their engineers and scientists to build the tires, the toasters, the television sets to send into our market while our engineers and scientists build the ships that protect the sea lanes for the European exports, then he is not listening to the people. If anybody doubts that our economy is not going to be injured irreparably by that kind of behavior, when I do not think he understands economics.

We have a very, very serious problem ahead of us economically and it is tied very directly to our military expenditures and tied directly to the performance of our allies in picking up their share of the cost of that defense umbrella.

A columnist recently wrote an article that said:

Let us tell our allies Uncle Sucker is dead. Why should America's elderly give up social security benefits so the West Germans can stay happy and muscle out American products in world trade?

He does not use delicate language, but I think the point is well taken. We have got to ask the allies to pick up their fair share of the defense umbrella.

It is important to this country's economy and our national security to demand that our allies join us in strengthening our common defense. That is exactly what this amendment does.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRINKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I rise again and stress a point that I made earlier: that if this amendment were adopted and the allies did not come through, the money would not come from housing, it would not come from barracks; it would come out of readiness; that is, building bunkers, construction sites for weapons, building landing strips and the like.

The gentleman from Pennsylvania (Mr. GOODLING) said, Why do we want to build things over there? That is where the action would be unless the gentleman wants to come back over here and build these bunkers and airstrips in Pennsylvania, Mississippi, and other parts of the country. I think it makes more sense to be closer to the enemy and the NATO forces. Thus, the equipment and the readiness factors should be located there.

Mr. HUTTO. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Florida.

Mr. HUTTO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Indiana made a good point a while ago, a good point for voting against the amendment.

He mentioned the friction between our country and our European allies. This would only exacerbate the problem and would hurt our troops in Europe.

Mr. BRINKLEY. Mr. Chairman, in order that the gentleman from Ohio may close, I yield myself the balance of my time.

Mr. Chairman, just a bit of rebuttal and a bit of information.

First, with reference to my friend, the gentleman from Indiana (Mr. JACOBS) actually there was no real contractual negotiation. So it was not a matter of keeping their word.

The aim—the aim—was 3 percent. They tried to do that, by and large.

Turning now to the gentleman from Pennsylvania, responding to the gentleman from Georgia (Mr. BARNARD), we are not actually in Europe defending them. We are in Europe, in NATO, because of the national interest of the United States of America.

We are not subsidizing anyone. Our share of the NATO infrastructure has gone from 43 percent to 27 percent. We prefinance things, but we get that back; it is recouped.

Mr. DOUGHERTY. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman.

Mr. DOUGHERTY. I thank the gentleman for yielding.

Mr. Chairman, I think the point to be reiterated is the way the amendment is written in fiscal year 1982 growth versus fiscal year 1983. Many of our NATO allies are already into fiscal year 1983, so the effect of the amendment would be to make it inoperative because of the adoption of budgets by the NATO allies.

Mr. BRINKLEY. I thank the gentleman.

Mr. ECKART. I would thank the chairman for his courtesy to me. I do appreciate it.

Mr. Chairman, the gentleman said very candidly, Mr. Chairman, that the 3-percent target was something only to be aimed at. I would submit to the Members of this body that in military matters, hitting the target and having a good aim is really important, and our allies are pulling up a little short in aiming at the target.

Uncle Sam is not Uncle Sugar Daddy. We are spending our taxpayers' dollars to provide protection and assistance to our allies, which we do willingly. But these same allies are now exporting to our American economy high levels of unemployment. The same allies who have been screaming the last several weeks about the sanctity of contracts have so conveniently avoided the target or the aim or whatever you want to call it that they so

willingly agreed to just a few short years ago.

I believe that the issues that we are raising here are, one, whether or not our allies are willing to act like allies and to live up to the commitments made to the American people, live up to the commitments made to the people of Western Europe, to act like allies, and to share a fair part of the burden that we all know is necessary in this modern world.

The CHAIRMAN. The time of the gentleman has expired.

All time has expired.

The question is on the amendment offered by the gentleman from Ohio (Mr. ECKART).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKART. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 151, noes 245, not voting 38, as follows:

[Roll No. 266]

AYES—151

Albosta	Goodling	Pease
Alexander	Gray	Peyser
Applegate	Gregg	Porter
Archer	Gunderson	Pursell
AuCoin	Hall (OH)	Rahall
Bailey (MO)	Hall, Ralph	Rangel
Barnes	Hance	Ratchford
Benedict	Hansen (UT)	Regula
Biaggi	Hawkins	Rinaldo
Brodhead	Hertel	Ritter
Brown (CO)	Hiller	Roberts (KS)
Chappie	Hollenbeck	Rodino
Chisholm	Howard	Roe
Clay	Jacobs	Roemer
Clinger	Jeffords	Rostenkowski
Coats	Jenkins	Roybal
Coelho	Jones (OK)	Russo
Coleman	Kennelly	Santini
Collins (IL)	Kildee	Savage
Coughlin	Kindness	Sawyer
Coyne, James	Kogovsek	Schneider
Craig	Leach	Schroeder
D'Amours	LeBoutillier	Schulze
Dannemeyer	Lott	Sharp
Daschle	Luken	Shuster
DeCard	Lundine	Smith (NJ)
Dellums	Markey	Smith (OR)
DeNardis	Marks	Snowe
Derrick	Martin (IL)	Snyder
Dixon	Mattox	St Germain
Donnelly	McCollum	Stark
Dorgan	McEwen	Stenholm
Dreier	McGrath	Swift
Dunn	McKinney	Synar
Dwyer	Mikulski	Tauzin
Early	Miller (CA)	Traxler
Eckart	Miller (OH)	Udall
Emery	Mineta	Vander Jagt
Erdahl	Minish	Vento
Evans (IA)	Mitchell (MD)	Walker
Evans (IN)	Molinar	Washington
Ferraro	Moore	Weber (MN)
Fiedler	Motti	Whittaker
Fields	Nowak	Williams (OH)
Fithian	O'Brien	Wolpe
Florio	Oskar	Wyden
Ford (MI)	Oberstar	Wylie
Ford (TN)	Obey	Yatron
Forsythe	Ottenger	Zeferetti
Gaydos	Panetta	
Gephardt	Paul	

NOES—245

Akaka	Anthony	Atkinson
Anderson	Ashbrook	Badham
Andrews	Aspin	Bailey (PA)

Barnard	Gingrich	Morrison
Beard	Glickman	Murphy
Bedell	Gonzalez	Murtha
Bellenson	Gore	Myers
Benjamin	Gradison	Napier
Bennett	Gramm	Natcher
Bereuter	Green	Neal
Bethune	Grisham	Nelligan
Bevill	Guarini	Nelson
Bingham	Hagedorn	Nichols
Bliley	Hall, Sam	Oxley
Boggs	Hamilton	Pashayan
Boland	Hammerschmidt	Patman
Boner	Hansen (ID)	Patterson
Bonker	Harkin	Pepper
Bouquard	Hartnett	Perkins
Bowen	Hatcher	Petri
Brinkley	Heckler	Pickle
Brooks	Hefner	Pritchard
Broomfield	Heftel	Quillen
Broyhill	Hendon	Rallsback
Burton, Phillip	Hightower	Reuss
Butler	Hillis	Roberts (SD)
Byron	Holt	Robinson
Campbell	Hopkins	Rogers
Carman	Horton	Rose
Carney	Hoyer	Roth
Chappell	Hubbard	Roukema
Cheney	Hughes	Roussetot
Clausen	Hunter	Rudd
Conable	Hutto	Sabo
Conte	Hyde	Schauer
Corcoran	Jeffries	Schumer
Courter	Johnston	Seiberling
Coyne, William	Jones (TN)	Sensenbrenner
Crane, Daniel	Kastenmeier	Shamansky
Crane, Phillip	Kazen	Shannon
Daniel, Dan	Kemp	Shaw
Daniel, R. W.	Kramer	Shelby
Daub	LaFalce	Shumway
Davis	Lagomarsino	Simon
de la Garza	Lantos	Skeen
Derwinski	Latta	Skelton
Dickinson	Leath	Smith (AL)
Dicks	Lee	Smith (IA)
Dingell	Lehman	Smith (NE)
Dougherty	Leland	Smith (PA)
Dowdy	Lent	Solarz
Downey	Levitas	Solomon
Duncan	Lewis	Spence
Dymally	Livingston	Stanton
Dyson	Loeffler	Stratton
Edgar	Long (LA)	Studds
Edwards (AL)	Long (MD)	Stump
Edwards (CA)	Lowery (CA)	Tauke
Edwards (OK)	Lowry (WA)	Taylor
Emerson	Lujan	Thomas
English	Lungren	Trible
Erlenborn	Madigan	Volkmer
Evans (DE)	Marriott	Walgren
Evans (GA)	Martin (NC)	Wampler
Fary	Martin (NY)	Watkins
Fascell	Martinez	Waxman
Fazio	Matsui	Weber (OH)
Fenwick	Mavroules	Weiss
Findley	Mazzoli	White
Flippo	McClary	Whitehurst
Foglietta	McCloskey	Whitley
Foley	McCurdy	Whitten
Fountain	McDade	Williams (MT)
Fowler	McDonald	Winn
Frank	McHugh	Wirth
Frenzel	Mica	Wortley
Frost	Michel	Wright
Fuqua	Mitchell (NY)	Young (AK)
Garcia	Moakley	Young (FL)
Gejdenson	Mollohan	Young (MO)
Gibbons	Montgomery	Zablocki
Gilman	Moorhead	

NOT VOTING—38

Crockett	Price
Dornan	Rhodes
Ertel	Richmond
Fish	Rosenthal
Ginn	Siljander
Goldwater	Stangeland
Holland	Stanton
Huckaby	Stokes
Ireland	Weaver
Jones (NC)	Wilson
Marlenee	Wolf
Moffett	Yates
Parris	

□ 1940

The Clerk announced the following pair:

On this vote:

Mr. Stokes for, with Mr. Annunzio against.

Messrs. LELAND, STUDDS, LOWRY of Washington, and DANIEL B. CRANE, Mrs. HECKLER, and Mr. HUGHES changed their votes from "aye" to "no."

Mrs. KENNELLY, Ms. FIEDLER, and Mr. FIELDS changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. BRINKLEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have taken this time for the purpose of announcing to the House where we are. The status of the military construction bill is as follows:

We are nearing completion. The only thing I know of to come before us now will be a colloquy with the gentleman from Texas (Mr. STENHOLM) an amendment to be offered by the gentleman from California (Mr. LOWERY) which the committee will accept, an amendment dealing with Honduras to be offered by the gentleman from Iowa (Mr. HARKIN) and an amendment to be offered by the gentleman from Colorado, (Mrs. SCHROEDER). We believe that each of those matters can be dealt with expeditiously, so we ask for the patience of the Members.

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM: At the end of the bill add the following new section:

LONG-TERM LEASES FOR AIR FORCE FAMILY HOUSING

SEC. . (a) Notwithstanding any other provision of law, the Secretary of the Air Force may enter into contracts for the lease of housing facilities, existing or to be constructed, on or near military installations in the United States for assignment of such facilities, without rental charge, as public quarters to members of the Armed Forces, including enlisted members in the grade of E-4 and below. Such contracts may be made through negotiation.

(b)(1) A contract for the lease of housing facilities under this section may be for any period not in excess of 30 years (including the period for construction of such housing facilities).

(2) Contracts under this section may not be made for the lease of housing facilities at more than five separate locations. Not more than 300 housing units may be leased under this section at any one location.

(c) Expenditures for the rental of housing facilities under a contract under this section (exclusive of any cost for utilities, maintenance, and operation) may not exceed \$1,000 per month for any unit for the first year of the contract.

(d) A contract may not be made under this section until (1) the Secretary of the Air

Force submits to the Committees on Armed Services of the Senate and House of Representatives a written report of the facts concerning the proposed contract, and (2) a period of 21 days elapses after the report is received by those committees.

Mr. STENHOLM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

□ 1950

Mr. STENHOLM. Mr. Chairman, my amendment would allow the Secretary of the Air Force to enter into contracts under a new pilot program for the leasing of housing facilities for periods of up to 30 years at no more than 5 separate locations and no more than 300 units could be leased at any 1 location.

The purpose of this amendment is to meet a housing need wherever it may occur and do it through the private enterprise system.

If I could have my colleagues' attention, I do not think this will take long and I do not intend to bring this to a vote tonight, but to bring it to the attention of the committee and to explain to all of the Members the principle behind this idea and to hope that we can have a hearing on the idea if it has merit in the very near future.

In the case of the 17th District of Texas and Dyess Air Base, it has been very interesting to me as I have listened to the debate this afternoon and tonight as we have heard in some instances in this country where we have housing that was not wanted at some air bases but in the case of Dyess we have a crying need for housing.

We have 407 families with personnel of the ranks above E-4 and 448 families of the rank of E-4 and below for a total shortfall in housing at Dyess Air Base of 855.

During testimony and debate today we have heard in some instances about communities that are not receptive to our military personnel. In this case though we have come up with a unique proposal indicative of a tremendous community spirit by the city of Abilene, by the Dyess Air Force Base, by various citizens, and by the Chamber of Commerce of Abilene that would provide, as this amendment does, for the Secretary to enter into a leasing agreement, just as we are able to do it in the areas which we have just debated in the NATO areas of Europe in which we already have this provision.

Mr. Chairman, since members of the subcommittee are now aware of my amendment and since it is late in the evening I will not go through the entire explanation at this point in time.

I would just summarize by saying that this amendment proposes a pilot program that answers an immediate need for new military family housing in some areas and allows us to test a flexible new approach to provide this housing in a prudent, limited manner, and is fiscally responsible.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Georgia.

Mr. BRINKLEY. I wish to commend the gentleman for his initiative to provide more military family housing. It is a priority with the subcommittee and the full Committee on Armed Services.

It is needed, and new approaches should be developed to offset the ever-increasing cost of such housing.

But I would ask the gentleman from Texas if he would not consider withdrawing this amendment, because his thoughts are shared by the gentleman from Virginia (Mr. WHITEHURST), the gentleman from Alabama (Mr. DICKINSON), and myself. We could have early committee hearings and we can check this out and look it over.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. I wanted to comment that I had the privilege of going to Dyess Air Base with the gentleman and there is a problem in housing. Certainly the subcommittee should look at the situation next year.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I yield to the gentleman from Virginia (Mr. WHITEHURST).

Mr. WHITEHURST. I thank the gentleman for raising this issue and look forward to the hearings. I thank the gentleman.

Mr. STENHOLM. I appreciate this consideration.

I will withdraw my amendment at this time.

Mr. Chairman, at this time, I ask unanimous consent to withdraw the amendment, and I appreciate the consideration and the opportunity of taking a good, hard look at it as we discuss the future needs in military housing.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. LOWERY OF CALIFORNIA

Mr. LOWERY of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LOWERY of California: At the end of the bill add the following new section:

MODIFICATION OF REVERSIONARY INTEREST IN FORMER NAVY LAND AT UNIVERSITY OF CALIFORNIA AT SAN DIEGO

SEC. 806. The Secretary of the Navy shall, subject to the same conditions as set forth in the first section of Public Law 87-662, execute such documents as may be necessary in order to provide that a parcel of not more than 30 acres of the property conveyed (subject to a reversionary interest) to the regents of the University of California pursuant to Public Law 87-662 (76 Stat. 546) may, in addition to the use for educational purposes authorized pursuant to section 3 of such Public Law, be used for industrial scientific or technological research purposes, subject to the condition that if at any time the Secretary of the Navy determines that such parcel is not held for such purposes title to such parcel shall immediately revert to the United States. In the event of any such reversion, title to all improvements made on such parcel during the occupancy of such parcel shall vest in the United States without compensation for such improvements.

Mr. LOWERY of California. Mr. Chairman, this amendment seeks to improve the educational experience for thousands of students and faculty at the University of California, San Diego (UCSD). Approval will allow educational, industrial, scientific, or technological research uses on this land which is a small portion of a larger parcel previously conveyed by the Navy in 1962. This amendment is drawn to parallel that previous conveyance to the greatest degree and only seeks to direct the Navy to execute the necessary documents to expand the originally permitted uses under the previous statute.

UCSD has one of the finest research facilities in the Nation. In the number of faculty elected to the prestigious National Academy of Sciences, they rank only behind Harvard, MIT, Berkeley, and Stanford. They are fourth in the Nation among all universities in research and development expenditures for science and engineering. In a phrase, they are "committed to excellence."

The university proposes to develop a science-research facility which will markedly enhance industry-university efforts to achieve, as UCSD Chancellor Atkinson puts it, "significant basic scientific discoveries and accelerate technological applications."

Mr. Chairman, we must be aware of the growing shortage of engineering manpower in the United States. Japan far surpasses us in comparable per capita development of engineering graduates and faculty. Our universities are having a difficult time retaining top faculty while students are forgoing advanced studies in favor of immediate employment.

This project will increase the ability of UCSD to recruit and retain top quality faculty, particularly for their rapidly growing engineering school. Faculty will have the opportunity to work directly with private sector researchers on the cutting-edge of new

scientific technology and transfer their knowledge to the classroom.

Students working in this adjoining science-research facility will see classroom theory integrated in an applied technological setting. Graduate students, many of whom prematurely are lured into the private sector, can fully pursue advanced academic studies while receiving invaluable practical experience.

This will be a facility which complements the research and educational activities already being pursued at UCSD. The university foresees a wide assortment of endeavors including, but certainly not limited to, electrical engineering, biomedical applications, computer technology, and geophysics. I urge my colleagues to approve this amendment.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. LOWERY of California. I yield to the gentleman from Virginia.

Mr. WHITEHURST. Mr. Chairman, I wish to tell the gentleman that we have had a chance to look at his amendment on this side, and we find it acceptable.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. LOWERY of California. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, we, too, on this side have reviewed the gentleman's amendment. We find it meritorious, and we support it.

Mr. LOWERY of California. Mr. Chairman, I thank the gentleman.

May I further commend the chairman, the ranking Republican and the committee staff for their fantastic cooperation on this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LOWERY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARKIN: At the end of the bill add the following new section:

RESTRICTION ON CONSTRUCTION OF AIRFIELDS IN HONDURAS

SEC. 806. None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended to improve, expand, extend, acquire, construct, convert, rehabilitate, or install in a permanent or temporary airfield or airbase (including any facility in connection with an airfield or airbase) in Honduras.

Mr. HARKIN. Mr. Chairman, as part of the military construction authorization the administration proposes \$21 million for construction and improvement of air fields in Honduras.

If approved, I believe the danger is real of a war between Honduras and Nicaragua. My amendment would prohibit funds for this purpose.

The administration has given two reasons for the air base construction

plan. One is that the air bases would "give us the capability to act positively in response to a wide range of contingencies."

The \$21 million for the construction and improvement of the airfield in Honduras is totally unnecessary. It is unnecessary either for the protection of United States or Honduran interests.

Honduras already possesses the largest and most capable air force in the region. Let me repeat that: Honduras already possesses the largest and most capable air force in the region, regardless of what you may have heard about the so-called Nicaraguan Air Force.

Let me just list for you the aircraft held by Honduras compared to that held by Nicaragua. Honduras has 27 combat aircraft, including 12 Super Mysteres from France, 12 Huey helicopters, and they have 6 A-37's on order. But they have right now 39 combat-ready aircraft.

In comparison, Nicaragua has two T-33 jets. You remember those are out of the Korean war vintage. They have one Hughes helicopter that will not work because they cannot get spare parts. They have 2 transport helicopters, Soviet made, and 3 French helicopters; a total, if my addition is correct, of 7, 7 combat aircraft as opposed to 39 in the Honduran military.

Also the Honduran military has received enormous increases in U.S. military aid during the last year. Nicaragua is well aware of the consequences which will result from any substantial offensive military action it might take against the territory of one of its neighbors and therefore is extremely unlikely to attack unless absolutely no peaceful alternative exists.

These peace alternatives are already being foreclosed as a result of the events along the Honduran and Nicaraguan border. A total of \$19 million has been earmarked by the administration for the covert activities against Nicaragua. Much of this money is being disbursed in Honduras to Somocista guardsmen who launch strikes against Nicaraguan territory. These have become more vicious and frequent in recent months.

Reports are that over 60 people were killed in the last 2 months alone.

There are other developments that ought to alarm us all. Last week American C-130 transport planes helped to move over 1,500 Honduran soldiers to a new, permanent base on the Nicaraguan border at Fort Mokoron.

Before, there were only 70 solidiers stationed at that base. It is an isolated base located near the Nicaraguan border on the coast and could possibly be used as a staging area for a war with Nicaragua.

□ 2000

Last, Honduras does not need nor do they want to play a role of a surrogate military for the United States.

Honduras currently receives adequate if not excessive military assistance from the United States, over \$10 million in 1982, with a proposed supplement of \$17 million. The request for 1983 is three times what it was in 1981. A newly elected—and, I might say, democratically elected—government is being undermined by an invigorated military. A country in desperate need of economic help is sent military supplies and advisers instead. In our attempt to destabilize Nicaragua, we are, in fact, destabilizing Honduras.

Civilian elements in Honduras are aware of this. Listen to what a Tegucigalpa/Honduran radio editorial recently said, and I quote. This is from a Honduran radio station:

The latest events caused by the U.S. Government, by Mr. Reagan, are enough to worry even the most recalcitrant Yankee-loving Hondurans. It now seems as if all of the U.S. Government's actions are intended to involve us in what may be the last conflagration on Earth. We need U.S. economic support, and it seems that Mr. Reagan is convinced that the United States must swiftly approve only one kind of assistance: Military aid.

So the administration wants \$21 million for larger and better airfields, for tactical aircraft, transport planes and jet fighters.

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 5 additional minutes.)

Mr. HARKIN. They want places to unload supplies, places to deploy American troops. Let us not have any illusions about what this \$21 million is for. It is for pushing the Honduran military, with our active assistance, into a regional war.

It should be noted, I want to add, that the active, armed opposition to the government in Nicaragua is now limited to the former Somocista guardsmen. All Nicaraguan exile leaders who are not allied with the Somocistas have been ordered out of Honduras. With the recent announcement by Eden Pastora, the famed Commander Zero, that he is disbanding his military forces as long as the Somocistas are attacking Nicaragua, the only remaining armed opposition along the border is from the national guard soldiers of Somoza, aided and abetted by the Honduran Army and also by U.S. military assistance.

I just want to wind up by making two points. My amendment is intended to do two things: No. 1, to try to avoid a regional war in Central America, specifically between Honduras and Nicaragua; and, second, to keep Honduras democratic and peaceful by keeping it

out of the war. Let us not turn Honduras into another Cambodia.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from California.

Mr. DELLUMS. I thank my colleague for yielding.

Mr. Chairman, several Members on the floor have approached the Chair and made this inquiry: Why are we dealing with this amendment? Is there money for Honduras in this bill?

I would like to explain. The gentleman offered this amendment not because there are any funds in this budget, in the House's military construction bill for Honduras, but in the latter part of June the other body passed a military construction bill, and in their bill there is \$21 million for the purposes of improving three military air bases.

The gentleman from Iowa is offering this amendment that seeks to offer restrictive language to this bill in order that when the House and the other body go to conference, this body will take a position that would not allow it to acquiesce to the judgment of the other body that says, "Let us spend this \$21 million."

Is that the gentleman's posture?

Mr. HARKIN. The gentleman is absolutely right.

Mr. DELLUMS. I thank my colleague.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, first I want to commend the gentleman from Iowa, Mr. HARKIN for offering this amendment to call attention to the forgotten country in Central America—Honduras, although I do not necessarily agree with all his arguments.

I have a special interest in the country because of the Vermont-Honduras partnership established under the Alliance for Progress.

I was a witness to the election last November when the government was being transferred from military to civilian hands.

Most of all, Hondurans want peace and want to avoid the violence of the surrounding countries. They are highly aware of the strife in Nicaragua, Guatemala, and El Salvador. There has been significant agrarian and social reform.

Honduras has been relatively tranquil in recent years, as even changes in power were not marked by violence.

The election last November was a good faith effort to conduct a fair and open election, and move toward democracy.

Despite low levels of literacy, there are high levels of participation and enthusiasm; I hope that there will be a movement away from military rule.

Nevertheless, it was clear before and after the election that the military holds the power in Honduras and its current role does not enhance the development of a democratic, civilian government.

There is a chance for Honduras to keep from making the same mistakes that have helped to bring about the current, seemingly insoluble situation in El Salvador. In Honduras, it is not too late to seek peaceful solutions.

I am concerned at the haste with which our Honduras policy is being constructed. This is why we get ourselves into situations like that in El Salvador and many other countries.

What Honduras needs now is economic assistance. Already, we provide a great deal of military aid, including over 100 military advisers. If we are going to spend \$21 million to try to bring stability to that country, it could be spent in other ways.

It is very important to consider the consequences of further militarization of Honduras and the region. This amendment provides a vehicle for this consideration and commendations are in order for its sponsor. Instead of providing protection, the \$21 million would more likely escalate the chances for armed conflict.

Mr. HARKIN. I thank the gentleman.

Again, that is really my purpose, to raise this issue and let the other body know that we want to be on record as opposing this kind of aid to Honduras at this time.

I just want to say to the Members that I recently had an analysis of the situation along the Nicaraguan-Honduran border from two sources. One was an individual in the Nicaraguan Government. One was an individual who is on the other side, who is opposed to the Nicaraguan Government. And I might add that both analyses of what is going on along the border were both the same. It is that the United States is involving Honduras in this conflict. We are pushing the Honduran military toward armed conflict with Nicaragua. And the second point that they both agreed upon was that war between Honduras and Nicaragua could erupt at any time.

The point I am making is that, with our involvement down there, the United States is going to be drawn into that conflict, alongside of Honduras—a country that the gentleman from Vermont pointed out had a good election last fall, has a democratically elected government—we are going to push them into that conflagration down there, and we are going to make out of Honduras what happened to Cambodia during the Vietnam war.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. DELLUMS. Mr. Chairman and members of the committee, I rise in support of the amendment offered by my distinguished colleague. I think he is raising a terribly important question.

As I said earlier in the colloquy between myself and the gentleman, the purpose of this amendment is to get this body on record saying, "We do not acquiesce in the judgment of the other body that we ought to at this moment be spending \$21 million for the purpose of improving three military air bases in Honduras."

Now, in offering my support to the amendment I would like to first begin by painting a very sketchy picture of Honduras for the purposes of this debate. Honduras, Mr. Chairman, is the poorest nation in the Americas, with the exception of Haiti. The vast tracts of land in Honduras are owned and dominated by U.S. firms. There has been a long history of military control in Honduras.

In November 1981, they had the first democratic election in 18 years, and a very fragile democracy is the reality in Honduras at this moment. They face enormous economic crisis. Trying to overcome this economic crisis on the one hand and maintaining the stability of a fragile democracy on the other hand are two very significant problems that are not easy to overcome.

But the path to democracy and progress, in my estimation, Mr. Chairman and members of the committee, is being undermined by the U.S. involvement in Honduras in the crusade for Central America.

Let us for a moment, Mr. Chairman, look in some detail at the U.S. role in Honduras. No. 1, for the last 2 years, U.S. Embassy staff has doubled. The U.S. nonmilitary staff is the third largest in the hemisphere.

□ 2010

In Honduras there are close to 100 military advisers. Further, Mr. Chairman, the United States has encouraged the transition from military to civilian role. However, it undermines that policy by making the military the instrument of U.S. policy in Central America.

We started introducing Huey helicopters in the Carter administration to patrol the refugee clogged borders of Honduras. Military aid has increased from \$3 million in 1980 to \$10.6 million in 1982 to \$14 million anticipated in 1983. U.S. military advisers are working near both borders of El Salvador and Nicaragua.

It is widely and reliably reported that a major covert campaign against Nicaragua is being launched through Honduras.

Mr. Chairman, there are several additional consequences to increase military aid and increase military develop-

ments on the part of this country in Honduras.

No. 1, it shows a willingness to intervene in the event of conflict with Nicaragua. I think that is a terribly negative thing. It strengthens the military and undermines the fragile civilian led democracy, and would seem to me that a so-called great Western democracy should not be doing anything to undermine the fragile evolution of a democracy in this hemisphere, as much as we purport to care about democracy.

Third, Mr. Chairman, it increases the possibility of widening the civil war in El Salvador to a regional conflict that we would be involved in.

Mr. Chairman, the Honduran involvement in regional conflict fosters human rights violations. There has been an ever increasing number of incidents of disappearance and abuses of Salvadorian refugees in Honduras. There has been an increase in the incidence of abuses of foreign persons in Honduras. There has been an increase of detentions and abuse of Honduran citizens themselves.

Now, Mr. Chairman, to the military bases that are the essence and the thrust of the amendment by my distinguished colleague—as I said in early colloquy, on June 30 of this year the Senate passed S. 2586, their military construction authorization bill, which earmarked \$21 million for improving three military bases in Honduras. The airfields will be lengthened and bases ready for combat.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has expired.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. DOUGHERTY. Mr. Chairman, reserving the right to object, can we see if we can get some idea how many people are going to speak to this amendment and see if we can get some agreement on a time limit? Otherwise I would object to any Member going beyond the first 5 minutes.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Georgia.

Mr. BRINKLEY. The gentleman from Iowa (Mr. HARKIN) and I have been discussing this very thing. Several of us do wish to speak. I found out just this very evening that we can say in 2 minutes that which we might say in 5 if we are given that opportunity.

So I would recommend and ask unanimous consent under this reservation of my colleague that all debate conclude in 20 minutes, the time to be equally divided between the gentleman from Iowa (Mr. HARKIN) and the gentleman from Georgia.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

Mr. HARKIN. Mr. Chairman, reserving the right to object, I see 15 Members standing. Mr. Chairman, I counted initially when the gentleman asked about how many Members would stand. I counted 15 Members standing. If there are no more, if we had just 3 minutes each, would that be acceptable?

Mr. DOUGHERTY. Mr. Chairman, that would be 45 minutes. I would object.

Further reserving the right to object, Mr. Chairman, if we cut the difference and say 30 minutes, 15 to each side, I would say fine. But it is now a quarter after 8. If we are going to have Members going 5 minutes and 5 minutes more and 5 minutes again, I am going to object.

Mr. HARKIN. Mr. Chairman, I understand what the gentleman is saying. I think we will get agreement if we give everybody 3 minutes to say their piece.

Mr. DOUGHERTY. Mr. Chairman, I would object unless it is a 30-minute limit.

Mr. HARKIN. Fifteen a side?

Mr. DOUGHERTY. Yes.

Mr. BRINKLEY. That is satisfactory.

Mr. DOUGHERTY. Mr. Chairman, I move that all debate on this amendment be limited to 30 minutes, with 15 minutes to the gentleman from Georgia (Mr. BRINKLEY) and 15 minutes to the gentleman from Iowa (Mr. HARKIN).

The CHAIRMAN. The Chair would advise the gentleman that that is not a proper motion.

The Chair would put it in the form of a unanimous-consent request.

Is there objection to limiting debate to 30 minutes, 15 minutes controlled by the gentleman from Georgia (Mr. BRINKLEY) and 15 minutes controlled by the gentleman from Iowa (Mr. HARKIN)?

Without objection, the unanimous-consent request is agreed to.

There was no objection.

Does the gentleman from California (Mr. DELLUMS) still ask unanimous consent for 5 minutes?

Mr. DELLUMS. Yes, Mr. Chairman. I am just trying to finish my statement.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. HARKIN. Mr. Chairman, reserving the right to object, does this time come out of the time we have allotted?

The CHAIRMAN. The Chair would advise the gentleman that no, it would not. That would be the understanding.

Mr. HARKIN. Mr. Chairman, I withdraw my reservation of objection.

Mr. DOUGHERTY. Mr. Chairman, I withdraw my reservation of objection. The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, I will try not to use the 5 minutes.

I simply choose to conclude my statement.

I think the issue raised by my distinguished colleague is terribly important, and it is regrettable a number of my colleagues feel due to the lateness of the hour we can scan across an issue that threatens the lives of many people.

Mr. Chairman, as I said, there are \$21 million in the Senate version of the military construction bill for the purposes of improving three military bases in Honduras. These air bases will be available for use by U.S. military transport and fighter aircraft. Negotiations with the Hondurans have been underway for some time. Initially denied by the Honduran Ministry of Foreign Relations, this arrangement was later confirmed by the Ministry of the Presidency, and I quote, "who admitted that the bases were to be used by the United States in case of emergency."

Mr. Chairman, the Senate approval of such large funds of money for military purposes comes at a time of increasing tensions in Central America. Honduras is viewed by the Department of Defense as a strategic ally and buffer between the leftist Sandinista government in Nicaragua and the alarming instability of the rightist government in El Salvador.

The strong U.S. emphasis on military preparedness stands in sharp contrast to civilian President Cordova's much publicized peace proposal. And I would not go into it, except to point out that he said if no other possibility exists to preserve peace, Honduras—or one of the generals who was the chief of the armed forces in Honduras made this comment: If no other possibility exists to preserve peace, Honduras is in agreement with the United States as a friendly country to intervene militarily into Central America. I really do not think that is something we want to do, nor something I think the American people want to do.

Last March a forum was held at the Honduran University where they evaluated the escalating U.S. military involvement in Honduras. One of the Christian Democratic Members of Congress made the following statement. He concluded that:

The installation of U.S. military bases on our territory converts our country into an object of war as we will serve to transport arms, troops, and sophisticated weaponry.

Mr. Chairman, in conclusion, the bases will be the cause of internal unrest, heightened conflict with Nicaragua, be seen as provocative, and un-

dermine the civilian government in Honduras.

There have been no hearings on this matter in the House, no testimony has been taken, and I am sure that we can insure that no money can be spent for this purpose by embracing the amendment by my distinguished colleague.

Mr. BRINKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the information that the gentleman from California has adduced with reference to the fact that there are no funds in this bill, zero, affecting Honduras.

The subcommittee received testimony on the request. However, at that time there was no country-to-country agreement between the United States and Honduras. Therefore, the committee did not approve the requested \$21 million for military construction in Honduras.

As noted by the gentleman, the Senate bill has the authority. Therefore it will be a matter of conference whether or not the pending amendment is adopted.

The approach offered by the gentleman is anticipatory in nature and has the effect of binding the House to a set position, despite the fact that there is no issue at hand.

In my judgment, this type of procedure would be unwise. As a matter of fact, the double-barreled approach is in the fact that neither has our counterpart on appropriations provided any appropriations under a presumed authority, which may or may not be granted.

□ 2020

So I would submit to the body that we are presently jousting with windmills, because there are no funds affecting Honduras in the bill which we are debating tonight.

Mr. HARKIN. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. GARCIA).

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. GARCIA. Yes, I yield to my colleague, the gentleman from Texas.

Mr. LELAND. Mr. Chairman, I rise in support of the HARKIN amendment.

I am deeply concerned about the implications of this project to construct and expand airstrips in Honduras, which are essentially for use of the United States. This project in no way serves the interests of our Nation or of the nations of the Central American region. It will unsettle the delicate internal balance within Honduras between those who would steer that nation along the course toward democracy and those who would instead plunge Honduras into a military adventure with unforeseeable consequences. It will also set the stage for an expanded U.S. military role in Cen-

tral America and send a clear signal of U.S. resolve to do so.

Mr. Chairman, it distresses me that there has been little public scrutiny of this portion of the bill and little debate on its implications in this body until the moment this bill has come to the floor. In a letter to Senator STROM THURMOND, the Under Secretary of Defense, Fred Ikle, makes the following statement:

This program, at \$21 million, is relatively small, but it will have a major impact in a region that is becoming more important to us as events unfold.

It is precisely because of its major impact in the Central American region that this military construction deserves greater scrutiny than it has until now received.

There should be little mistake about the intentions of the administration in secretly negotiating agreements with the Honduran Government for the construction of airstrips. The text of the agreement specifies that the—

Government of Honduras authorizes the Government of the United States of America to make use of the facilities at the aerial ports * * * for the fueling or refueling of aircraft, maintenance of aircraft and equipment, accommodation of personnel, communications, supply, storage, and other such activities.

Senator THURMOND further specified in Senate floor debate on June 30, that the "objective is to be able to use the airfields for limited airlift or for up to a squadron of tactical fighter aircraft."

Mr. Chairman, we are talking here about the possible deployment of a U.S. tactical fighter squadron on 24-hour notice. What this bodes in terms of direct U.S. intervention in Central America is ominous. Despite assurances from Mr. Ikle to Senator Thurmond that "longerterm deployment" to meet a security threat to Honduras or U.S. interests can only occur by securing Honduran agreement, that agreement is all but a foregone conclusion. On April 2, General Gustavo Alvarez Martinez, chief of the Honduran Armed Forces, declared that to meet the Soviet-Cuban threat, "Honduras is in agreement that the United States, as a friendly nation, intervene militarily in Central America."

In this context, the construction of these airstrips places both Honduras and the United States on war footing.

Mr. Chairman, this may well be the intention of the administration. It is an intention which deeply disturbs me and many of my colleagues in the House and Senate, and perhaps more significantly, it is an intention which deeply disturbs many civilian and military officials in Honduras, who are attempting to steer their nation toward democratic and peaceful development.

During the last year and a half our military assistance and our military and diplomatic presence in Honduras

have dramatically increased. In 1979, the combined U.S. military assistance and economic support funds to Honduras amounted to only \$2.3 million. By 1981 that had nearly quadrupled to \$8.9 million; for 1982, that figure will reach approximately \$62.6 million. Over the next 2 years, the administration plans to provide more than \$60 million in military assistance alone. This is more than seven times the \$8.3 million of military aid over the last 2 years. The 147 civilians in the diplomatic mission and nearly 100 military trainers and support personnel form the largest U.S. Embassy contingent of any Latin American nation between Mexico and Brazil. U.S. military trainers have been active in Honduras for the last year and a half, in mobile training units assisting in border patrol along the Salvadoran and Nicaraguan borders, only last week, U.S. forces participated in joint military exercises with Honduras to establish a permanent military base at Durzuna, near the Nicaraguan border. This base is to be the largest in eastern Honduras. U.S. C-130's airlifted troops, ammunition, and helicopters to the border during those exercises.

Reflecting on this inordinate attention being lavished on the second poorest nation in the hemisphere, it is not difficult to conceive of the possibility that Honduras is being coaxed into playing a strategic role in the administration's designs on Central America. It was under pressure from the United States that the Honduran Government and the United Nations High Commission On Refugees (UNHCR) decided to relocate thousands of Salvadoran refugees in camps along the border to a new camp at Mesa Grande, some 50 kilometers away. That 50 kilometer perimeter along the Salvadoran border is now completely militarized. At the admission of Honduran military officers to Raymond Bonner of the New York Times, military contingents from the 3,000 Honduran troops stationed along the border participated in encirclement operations with the Salvadorean Army within El Salvador during the last 2 months.

Mr. Chairman, I strongly believe that this path on which the administration has embarked, and along which it is dragging Honduras, is in the interest of neither one.

It is true perhaps that Honduran officials feel threatened by the military buildup in Nicaragua and by the civil wars in the bordering countries of Guatemala and El Salvador. But would it not be infinitely better for the administration to seek a reduction of the tension between Nicaragua and Honduras and in the other border nations through diplomatic means? It is telling that this administration has not done so, it is telling also that we have contributed to exacerbating that

tension by refusing to support negotiations in El Salvador—against the better judgment of Latin American and European allies—and by designing and encouraging efforts to destabilize and ultimately overthrow the Government of Nicaragua.

While the construction of airstrips in Honduras are explained as necessary to support our "friends" in face of a military threat from Nicaragua, does not Nicaragua have anything to fear when the United States implements a \$19 million covert action plan against it? Does not Nicaragua have anything to fear when thousands of Somoza's troops are poised along its border with Honduras, making daily armed incursions from Honduras. On July 19, planes reportedly proceeding from Honduras attempted to bomb the main port at Corinto. The following week, two planes reportedly attempted to bomb the Exxon refinery near Managua.

Mr. Chairman, I believe that it would be infinitely better for Honduras, Nicaragua, and for our own interests, to bring Honduras and Nicaragua to a negotiating table. Both nations have professed an interest in reducing tensions. Apparently that interest is not shared by the administration. It would be a disaster of calamitous proportions to drive Honduras into a war—a war which would immediately and inevitably engulf the entire region and provide the long-sought pretext for direct U.S. military intervention.

Mr. Chairman and members of the Committee, I hope that you will vote for this amendment, in so doing we will send a clear signal that the United States should be committed to efforts to prevent the escalation of conflict in Central America.

Mr. GARCIA. Mr. Chairman, I would just like to pick up where my colleague, the gentleman from Georgia, left off.

There is no money in this bill; but the legislative process is such that after this body meets, we then join the other body in conference and the two Houses work together and bring back a conference report which both bodies vote on. This is why we are trying to stop the \$21 million from being added to this bill.

I think we have to send a very clear signal to President Roberto Suazo Cordova of Honduras that there are Members in this body who feel very strongly that we should not support the building of airstrips or airbases in Honduras.

We do not need continued bloodshed in Central America. We need to promote understanding between this country and the nations of Central America.

There is a great deal of fear in this legislative body as well as at 1600 Pennsylvania Avenue that many Spanish-speaking nations are in danger of

becoming Communist. Because of that fear we are inadvertently promoting the threat of war.

During the last 2 weeks in July there were joint United States-Honduras maneuvers taking place on the Honduran-Nicaraguan border.

We are only aggravating the situation in Central America by conducting these maneuvers. Nicaragua, while it may not be perfect, has progressed since the days of the repressive Somoza regime.

What we must do in Spanish-speaking America is create an environment where this country does not pose the threat of war but we, instead, offer the hope of economic aid. There has been enough killing in Central and South America. We do not need to send more military aid to this region. Central America should be looked upon as a symbol of freedom, not as a symbol of war.

I rise to support the amendment to H.R. 6214 offered by my colleague from Iowa (Mr. HARKIN). While the attention of the American public is focused on the tragedy of the Middle East, the administration has been building up the Honduran Army, which, in turn, has given indications that it is prepared to take part in a regional conflict in Central America.

During the last 2 weeks in July, joint United States-Honduran maneuvers took place on the border between Honduras and Nicaragua. It is, therefore, foolish for the United States to aggravate the already unstable situation between that country and its neighbors. Regionalization of the conflict in Central America would only serve to push Nicaragua further away from a more moderate political and economic system.

The building of an airfield in Honduras, capable of handling military transport would not help matters. The Honduran Air Force has no pressing need for such an airfield or airbase. This would simply be seen as a threatening act against the Nicaraguan Government by the United States.

When are we going to learn? Since 1979, Congress has appropriated or has requested of it, over \$750 million in aid to El Salvador. Aid to Honduras has increased nearly five times over the past 5 years. The administration is trying to resume sending aid to Guatemala.

We can no longer afford to underwrite the paranoia of this administration. The crises in Central America cannot be solved by continually dumping aid in the hands of political and military leaders simply because they say they are anti-Communist. I do not propose that we ignore our security interests in the region. Yet, I am not convinced that building an airbase in Honduras, or leaving military advisers

in that nation will help U.S. strategic concerns in Central America.

Honduras recently elected a civilian President after 18 years of military rule. President Suazo Cordova has a difficult path ahead of him. He must appease the Honduran military and rebuild the economy. Excessive U.S. military support will only undermine his attempt to strengthen the democratic process in Honduras.

I support the gentleman from Iowa's amendment because I want to send a clear signal to President Suazo Cordova that there are Members of Congress who want to see the democratic process continue in Honduras, and who want to promote stability in Central America. A regionalization of the conflict would not only be harmful to all Central American nations; it would run counter to U.S. interests.

Mr. KEMP. Mr. Chairman, will my friend yield?

Mr. GARCIA. Yes, I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I join the gentleman in believing that economic assistance and raising the level of prosperity in Central and Latin America is absolutely critical to whatever we have as a goal for the relations between our country and that part of the world; but I want to remind the gentleman that just a few days ago on the floor of the House we tried to bring up an amendment, an initiative, actually, of the President, to have the Caribbean Initiative, to put \$320 million into that area of the world in which there are such vital problems, some of which have been alluded to by the gentleman in the well, and it was struck down on a point of order; I wish the gentleman would have given that eloquent speech when we needed it.

Mr. BRINKLEY. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I well may be, and I think I am, the only Member of this body who was in Honduras for the election of the new government and for the inauguration of that new government. Many were there for one or the other of those.

It is true, no question about it, that that new government needs and wants and asks for economic aid. They said that, but they also said that they need a limited amount of military aid and they pointed out that while it is true that the Air Force in Honduras is the largest in Central America, it is largely composed of outdated old airplanes, many of which would not even fly; about half of those are in operation today.

It is also true that in Nicaragua, which has an army, an army that they have announced that they want to expand to 50,000 and a reserve to 200,000, that they are building air-

strips now that will take care of the latest Mig airplanes from the Soviet Union.

Long ago, several years ago, they sent pilots, pilot trainees, to Bulgaria to be trained to fly those aircraft.

I would like to also point out, as was already mentioned, Honduras has one of the only elected governments in Central America. Costa Rica is the only other country. Not only is it true that that country elected a new government back in November 1981, but the military of that country strongly supported the transition to civilian government and is strongly supporting that government's efforts.

Now, it is also true that Nicaragua has claimed part of the Honduran territory as part of its own that they think should be under their control. I think it would be a terrible tragedy if we were to adopt this amendment as proposed by the gentleman from Iowa and I would hope the House would turn it down.

It seems to me that where we have a country like Honduras where some 80 percent of the people turned out to vote in a free election, and I saw it, as did some of my colleagues; they stood in line for blocks from early in the morning until late at night to make that choice. They elected a party and a government that was opposed to the government that had been in power, showing that the election was, indeed, free and fair. That election is asking for our help.

I would hope we would not turn it down.

Mr. KEMP. Mr. Chairman, will the gentleman yield?

Mr. LAGOMARSINO. I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I want to thank the gentleman for his statement and say that I totally agree with him. Honduras has made progress democratically and have had a recent election in which we all can take pride. That election is not directly threatened by Sandinista activity on the border of Nicaragua and Honduras, but President Roberto Suazo Cordova is a decent, honorable, democratic leader of that country and he does not deserve the type of attack on him or his country that I have heard on this floor.

I think it is ridiculous that some Members are trying to shut off the one chance we have of developing some form of a self-defense effort in Honduras.

The President is anxious to give economic assistance. The Caribbean Basin Initiative is moving forward and there is assistance for Honduras which most of us support, but this amendment is punitive to a good friend.

To turn our back on this modest amount of self-defense money for President Suazo Cordova would be a tremendous mistake and it would be

the wrong signal, I would say to my dear friend, the gentleman from New York, to send this type of a message to the recently elected government of Suazo Cordova.

So I want to congratulate my friend from California and join him in this effort of defeat this untimely amendment and plan to ask for a recorded vote to put on the record the votes of those Members of this body who want to embarrass our friends in the Third World, specifically Central America.

Mr. HARKIN. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR).

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding to me.

I certainly want to support the gentleman's amendment. This agreement really in part is aimed at facilitating the entry of the U.S. troops into the region and the American public clearly opposes direct U.S. involvement in Central America.

We should be seeking peaceful solutions, not all these military options.

Let us look at our military involvement in Central America. We are training hundreds and hundreds of men from Central America in our own country. We give mostly military aid. Witness our aid to El Salvador that is really responsible for the bloodshed there in many ways, that has killed not only thousands of El Salvadorean people, but indeed our own American citizens.

I think the taxpayers of this country have had it. They are tired of having their tax dollars used for military solutions and not peaceful ones.

□ 2030

The CHAIRMAN. The gentleman from Georgia (Mr. BRINKLEY) has 9 minutes remaining. The Chair misstated the amount of time remaining previously.

Mr. BRINKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. DOUGHERTY).

Mr. DOUGHERTY. I thank the gentleman for yielding.

Mr. Chairman, I would make a few observations if I could.

When I first came down here, I listened to all the comments about the wonderful things involving the Panama Canal Treaty and why I should support it, and I listened and I supported the Panama Canal Treaty.

Then I was told by the same people who were talking about the situation in Honduras tonight what a wonderful group of people the Sandinistas were, how I should support the American efforts, to support the Sandinistas in Nicaragua, and I went on and I supported them, because I was well intentioned and I thought that was the way to go.

Now we find, of course, we are supposed to listen to the same string from

the same violins about the situation in El Salvador and the same thing about the same situation in Honduras.

Well, I learned after making two mistakes, Mr. Chairman, that I think we have to draw the line. I think it is rather ironic that all the people who are pushing this amendment take the floor and tell us what a wonderful government Honduras has, that it has a democratically elected government, it has been in power since 1981, duly elected by the people, it is one of two democracies in South or Central America. Yet that democratically elected government is going to let the United States push it into a war with Nicaragua. That democratically elected government is going to allow the United States to forcibly build air bases in Honduras without the consent of the Honduran Government. That democratically elected government is going to let us do whatever we want to do in Honduras.

I would suggest we recognize the bottom line, and that is that if the Government of Honduras is duly elected by the people of Honduras, they should have the final say on what happens in their country, whether we build air bases or not.

I think it is absolutely ridiculous for us to be making foreign policy on the floor of the Congress of the United States on a bill dealing with military construction.

The CHAIRMAN. The time of the gentleman has expired.

Mr. BRINKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. Lewis).

Mr. LEWIS. I thank the gentleman for yielding this time to me.

I would like to associate myself with the remarks of my colleague from California (Mr. LAGOMARSINO), as well as those Members who have stood to recognize the reality that we have been for some time been marching to the drum of those who would suggest that the guerrilla movements in Central America are good for progress in terms of democracy.

I must say that following Mr. LAGOMARSINO's trip to Honduras, I had the privilege recently of visiting El Salvador. I was there as a conservative Member of the House to express some real concern for the advancement of democracy, concern about human rights, and concern about questions such as land reform; but to listen to this debate this evening, I cannot help but be astonished at my colleagues' either naivete, or their purposes which are other than my own.

It is clear that the election in Honduras was an inspiration to those people who stood for hours in San Salvador to vote for freedom to move democracy forward, to repress violence in Salvador. Where are your voices today for freedom of democracy in El Salvador, in Nicaragua? Where are

your voices and cries about democracy and freedom in Cuba?

Those countries who are trying to make freedom and democracy work are being threatened from the outside. Their democracies are asking for help and you stand on the floor and suggest we should turn our backs on the only democracies that have had elections in that region of South America.

Ladies and gentlemen, it is time we took the rhetoric, the extremes, out of this business; literally, we have a critical interest in positive development of democracy in Central America, if the people who have spoken this evening are indeed in the business of replacing potentially responsible free governments with governments of domination from the left and represent a threat to our own freedom in Latin America.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HARKIN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I just hope people will take a very close look at this amendment for one purpose, and maybe just to note in their datebooks today this amendment, because I think you will discover a short time down the road that what this amendment is a continuation of the process by which this country is staging a provocation of the Nicaraguan Government.

The Nicaraguan Government has said time and again that it will not bring the Mig's to Nicaragua because they understand what a catastrophe that would be in terms of their relations with this country. But you build the airstrips in Honduras and the Hondurans have asked for the F-4's and F-5's and you continue to harbor in Honduras, with the aid of American military advisers, the Somocistas, the whole goal is to do one thing and one thing only, and that is to lure the Nicaraguan troops, the Sandinista troops, across the border into Honduras.

They have shown tremendous restraint because there is to my knowledge no record of their incursions into Honduras, but there is a tremendous record of incursions from Honduras into Nicaragua.

And for the gentlemen on the floor shaking their heads, I suggest strongly they check with their representatives on the Intelligence Committee; that they ask to be briefed on the third floor of the Capitol and perhaps their heads will not shake so quickly because, let me tell my colleagues, ladies and gentleman, this is a continuing process for the destabilization of a sovereign government.

I visited with the junta in Nicaragua and I think my colleagues who were there with me will tell you that I had no kind words for the junta, no kind words at all for the manner in which

they dealt with the press, in which they dealt with the business community. But this is something other than that. This is an intentional policy to lure these people into war, to killing and to violence.

The CHAIRMAN. The time of the gentleman has expired.

The gentleman from Iowa (Mr. HARKIN) has 8 minutes remaining, and the gentleman from Georgia (Mr. BRINKLEY) has 3 minutes remaining.

Mr. HARKIN. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. McHugh).

Mr. McHUGH. I thank the gentleman for yielding this time to me.

Mr. Chairman, I think it is unfortunate that this amendment is being considered so late in the evening and that we have so little time to discuss it, because I think that it raises some very important questions regardless of what one thinks of the merits.

These questions, Mr. Chairman, go beyond the \$21 million at issue. For example, among the fundamental questions are: What is the U.S. policy in Honduras? How does that policy serve the interests of the United States in that country and in Central America?

Honduras is a friendly country. It has a democratic government, and it certainly would serve the interest of the United States to promote stability in Honduras and in Central America generally.

If this is true, we must ask: Are the steps that this administration is taking, including this one, going to promote stability and, therefore, serve the interests of the United States?

□ 2040

I would suggest that most Members of the Congress and in this room tonight do not fully appreciate what the policies of the Reagan administration are in Honduras today. For example, there is ample evidence that the United States is using Honduras to promote conflict with Nicaragua. Is that in fact the policy of this administration, and, if so, does it serve our interests? This is an essential question, and I think it is very important before the conference committee should approve \$21 million to improve air base, in Honduras that we understand the policy context in which this decision is being made.

I think that is the important point raised by gentleman's amendment, and the amendment should be adopted to signal the administration that we are concerned about its policy in Central America, and more particularly about what it has in mind with regard to Honduras.

As for the argument that adoption of this amendment could lead Honduras to believe we are not supportive, it is not credible. Honduras is already

the third largest recipient of U.S. military aid in Latin America, ranking only behind El Salvador and Colombia. It would be the second largest recipient if the Reagan administration's proposed fiscal year 1982 supplemental is approved, and plans call for substantial increases in the level of U.S. military assistance in fiscal year 1983. In addition, we have leased helicopters to Honduras on a cost-free basis, and conducted several large-scale military training exercises with its armed forces. We also have more than 100 military advisers in Honduras, substantially more than we have in El Salvador.

Honduras knows that we are supportive, and this amendment should not be read in Honduras or in Washington, as an unfriendly one. Rather, it should be read as a measure of our concern that U.S. policy in Honduras and Central America is at best unclear, and at worst designed to promote conflict and further instability, particularly with regard to relations between Honduras and Nicaragua.

Moreover, if promoting stability in Honduras should be our first priority, we must be concerned first about its pressing economic problems. Those problems are serious. Honduras is the poorest and least developed nation in Central America. Two-thirds of its population lives in poverty. Infant mortality is estimated at 11 percent in the first year of life, and the literacy rate at less than 60 percent. This desperate situation is exacerbated by one of the highest rates of population growth in the world, which is estimated at 3.6 percent.

In short, Mr. Chairman, the greatest problems afflicting the people of Honduras are economic, and if we wish to promote stability and democracy among those peoples we must help them to deal constructively with those problems.

Instead, the Reagan administration appears intent on promoting a military buildup and in fostering paramilitary activity. It is in this context that the administration has proposed to spend \$21 million in improving three military air bases in Honduras. It is in this context that we ask: For what purpose?

In the interest of getting a clearer answer to that question, and to others equally important, I urge my colleagues to support the Harkins amendment.

Mr. HARKIN. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, about 20 years ago the United delivered itself a black eye in the Bay of Pigs. The Honduran airbases to be built with funds provided by the other body will set the stage for another Bay of Pigs; another set of U.S.-trained and financed surrogates, operating

from sanctuaries in Honduras against targets in Nicaragua and meddling in El Salvador.

Operating these bases with U.S. funds clearly will be seen as provocation against Nicaragua by that government and by others. It is an action that in the long run will support a return to military rule in Honduras and repression against the Honduran people.

The airbases are clearly a springboard for action against Nicaragua. Honduras desperately needs humanitarian and economic assistance, and I will gladly vote \$21 million and more for economic and humanitarian assistance to Honduras, but I will not support something that will lead to another regional war among impoverished people who cannot put food on the table, but who can have a gun in their arms with American assistance.

Honduras is at peace. Let us leave that country at peace. Let us not draw them into a confrontation with Nicaragua. Let us not make them an instrument of conflict in Central America.

Mr. HARKIN. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. STUDDS).

Mr. STUDDS. Mr. Chairman, I predict with some confidence and sadness that this is a debate and this is a vote that will come back to haunt every single Member in this Chamber. It is a fairly safe prediction that if a war is going to break out in the near future in this hemisphere, it is going to be in Central America and it is going to be between Nicaragua and Honduras, and the United States is going to bear no small measure of responsibility for enticing Honduras into this war.

In case it is necessary for some of my friends on this side, I happen to like the Government of Honduras and I do not particularly like the Government of Nicaragua, but I am responsible at least in some small way for the policy of the Government of the United States; not the Government of Honduras and not the Government of Nicaragua. It is that policy that I suspect most Members have not focused on. What do we know? Not a lot of what we ought to know as Members of this Congress.

Honduras borders three countries, Nicaragua, El Salvador, and Guatemala. This desperately poor nation has been drawing increasingly, with U.S. encouragement, into hostilities along its border with El Salvador. The Government of Honduras, with U.S. encouragement, is now helping to organize and train and arm Somocistas, former National Guardsmen from Nicaragua, on Honduran territory, for raids across the border into Nicaragua. That, my colleagues, is illegal. That is a violation of international law, being encouraged, and for all we know, financed by our own Government.

For those of us in this body who have no particular brief for the Government of Nicaragua, what greater favor could we do them? What greater favor could we do them than to rally their entire nation behind them by sending former National Guardsmen back into Nicaragua trained and organized by the United States and by its allies—such as Argentina? How stupid can we be? How little can we ever learn from history?

Do we remember the Bay of Pigs? Do we remember the tragedy still suffered by the people of Guatemala because of our meddling in that country? For the love of Heaven, however we feel about the Government of Nicaragua, let us wake up and conduct our Government with some decency and self-respect, and perhaps some respect for international law.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Iowa. When I visited Honduras a year and a half ago, I was struck by the unusual predicament in which this extremely poor country found itself. Honduras is surrounded by violence on all its borders; it is the second poorest country in the hemisphere and faces enormous economic pressures from the influx of refugees across all of its borders; and yet, somehow the country has remained relatively peaceful and open, and, in November of last year, returned to civilian democratic rule. I have been extremely disturbed, over the past year and a half, to watch Honduras slowly but surely become embroiled in the conflicts of the region, while its own economic problems deepen, and internal dissent grows. What disturbs me the most is that I believe the policies our own country has pursued toward Honduras bear no small part of the burden for this distressing trend.

What Honduras needs the most is continued peace, giving the new civilian government an opportunity to address the very deep economic problems the country faces. The U.S. role ought to be to provide a helping hand to the new government with long overdue economic assistance, while we work to see that the conflicts of the region do not spill across Honduras's borders. This is not, however, what our policy has been.

The emphasis of U.S. policy toward this troubled country has been largely military in nature. We have encouraged Honduran troop involvement in border fights with Salvadoran rebels. We have vastly increased U.S. military aid and advisers, and it has been widely reported that we are providing covert military assistance to groups within Honduras attempting to overthrow the Government of Nicaragua.

The argument put forward by the administration in support of the new airfields is that Honduras needs the

bases as a defense against the buildup of the Nicaraguan military forces. In particular, Assistant Secretary of State Thomas Enders informed me in hearings just last week that the main purpose of the expanded bases was to offset the predicted delivery of advanced Mig planes in Nicaragua.

I strongly support the newly elected government of President Roberto Suazo Cordova, and my opposition to the proposed airstrips should in no way be interpreted as an attack on his government. There can be no question that the United States would come to the aid of Honduras if it were ever subjected to an offensive attack from the Nicaraguan Government. Our already strong military presence in Honduras leaves no doubt on that point. The question is, Are we not encouraging such a conflict when instead we should be devoting our energies to avoiding such a conflagration?

I believe U.S. efforts should be devoted to helping Honduras preserve the peace along its borders; the buildup of airbases on the Nicaraguan border invites instead an increase in tensions and military responses from Nicaragua. Nicaragua offered last February to sign a nonaggression pact with Honduras, just as it has this past week signed a nonaggression pact with its other neighbor, Costa Rica. Has the United States done anything to encourage these efforts to forge a relationship of peaceful coexistence? I do not believe it has.

Nicaragua has, at this point, virtually no offensive air capabilities, while Honduras has the most advanced air force in Central America. The one effect construction of these airfields will have, it would seem to me, would be to encourage the Nicaraguans to buy the most advanced planes they can afford, and as quickly as possible, to redress the growing imbalance in air power between the two neighbors.

If Nicaragua persists in its buildup; if peace talks between the two countries fail; let the Congress then consider—in a thoughtful manner and taking into account the full implications of such an action—a buildup in the military presence of the United States along the Nicaraguan border. I do not believe construction of these airfields is urgent, and I do not believe the Congress has had the necessary input on the proposal, or has given due consideration to the impact the plan will have on the tensions in the entire region.

Instead of doing everything in our power to isolate Honduras from the violence that surrounds it, we seem to be plunging it headlong into a dangerous situation. We must consider the implications our actions today will have on the prospects for peace in the entire region.

I urge all of my colleagues to join me in attempting to avoid this military

buildup in an extremely sensitive area of the globe. Let us work instead for peace. If our efforts fail, let the administration come back to the Congress and present its case for the airfields, and let the Congress thoughtfully consider the proposal. I strongly urge my colleagues to support the amendment.

Mr. HARKIN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, I would like to rise in support of the Harkin amendment and shift gears just slightly. I traveled with the person who spoke recently here in the well just a moment ago, Mr. STUBBS, and I associate myself with his remarks.

We stand at a troubled time in history, and in our trip to Costa Rica, to Nicaragua and to Honduras we had some chance to talk with people inside and outside the government. Most meaningful to me was the days that I spent riding the countryside of Honduras. Let me leave three pictures with the Members.

The first picture is a picture of windmills. The gentleman from Georgia talked about jousting at windmills. In the small community of Donely in a small area of Honduras there are actually people working on making windmills, not just for the wind, but to activate a good quality water system in an area that has no water. If we want to spend \$21 million in an effective way, we could assist the people in all of the villages throughout Honduras to provide adequate clean water. Why? Because in that same community there is a sick baby clinic where several children are today sick and about to die because their bodies are wracked with diarrhea and other diseases related to inadequate and poor quality of water. That is the second important picture.

If we want to spend \$21 million wisely, we might move to the small community of Donely, and help to establish a health care system.

The third picture relates to roads and bridges. I flew in a small aircraft, and a helicopter, up in the La Virtud area on the border between Honduras and El Salvador. There are 50,000 refugees huddled in the rugged hills of Honduras who need assistance and help. To get there by automobile or truck takes hours and sometimes days. Twenty-one million dollars could assist in delivering food and supplies to those who are in need—the poor, the sick, the homeless.

I urge support of the Harkin amendment.

Mr. HARKIN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Chairman, 5 days ago the Washington Post published a column by the foreign editor of the Washington Post, Stephen S. Rosenfeld, and in my minute I just want to

read what he said about the issue we are debating tonight. Mr. Rosenfeld said:

[From the Washington Post, Aug. 6, 1982]

BLUNDERING INTO NICARAGUA

(By Stephen S. Rosenfeld)

If you take what has appeared in the press and add what experienced people are sniffing, it is hard to avoid the impression that the Reagan administration is cranking up something like a slow-motion Bay of Pigs invasion as a part of a multi-faceted plan to destabilize Nicaragua.

The operation entails not a single dramatic assault across a beach but, it seems, a slow flow of many hundreds of former Somoza national guardsmen back and forth across the long, rugged land border between Honduras and Nicaragua.

One recognizes the political glint in the administration's eye; to knock off a Marxist regime in Central America would be a dramatic stroke in Ronald Reagan's campaign against international communism. There are enough credible accounts, too, of the professional glint in the CIA's eye at being in the dirty tricks business again.

What we appear to be doing in Nicaragua, however, is all wrong, a step taken in haste and desperation and one whose all-too-predictable negative consequences are being overlooked.

The up-to-date argument one hears cited to justify an anything-goes policy toward Nicaragua is that the Sandinistas are more or less actively subverting their neighbors, including El Salvador, Honduras and Costa Rica, and have forfeited any right to be held immune from a dose of their own medicine.

Nicaragua is sponsoring insurrection and subversion in neighboring states. (Good liberals who ignore or deny it, by the way, have abandoned policy debate for propaganda war.) But does that allow the United States to pull out all the stops?

No. The Somocistas crossing over from Honduras arrive as thugs from the old order. Whatever military harassment value they may have, the practical political effect of their raids is to give the Sandinistas a popular rallying cry. The Somocistas can only discredit the rising legitimate political opposition in Nicaragua. It stuns me that the administration's hard chargers do not face these elementary political facts.

Meanwhile, there is the whole question of the historical American role in Central America. The undermining of governments by manipulation and force is no longer on. It puts us beyond the pale of elements and governments that are our natural and necessary friends in the region. It hands a political jujitsu option to our adversaries, who can play on traditional fears of "Yankee imperialism." It keeps us from making a constant stink about Nicaraguan subversion in hemispheric councils. It is bound to divert both official attention and public support from the open pro-reform policies that hold the most long-term promise.

Our secret interventions, moreover—they never stay secret long—have been dismal. The difficulty is not so much that they usually fail: the United States can live with embarrassment, although, granted, our efforts to erase embarrassment can be extremely costly all around. The real difficulty is that we may succeed, as in Guatemala in 1954, when we diverted the evolution of popular reform with consequences that plague us,

not to speak of the unfortunate Guatemalans, to this day.

I am not one who feels the Sandinistas are poor, misunderstood reformers who could be easily accommodated if big bad Washington were to change its tune. They are an irascible, power-hungry crowd with a commitment to spreading revolution inside and outside their borders. But fortunately they are already in a lot of trouble for reasons having nothing to do with the exiles in Honduras. They are in trouble with their own original constituency in Nicaragua for running their revolution, and their country, into the ground. The United States should not be interfering in ways that may pick them up.

It is especially regrettable to see Honduras getting sucked in. Apparently it is not the elected government but the rather autonomous Pentagon- and Langley-oriented military, which may feel some debt to the Somocistas for having received arms from them at a moment of great need in the 1969 war between Honduras and El Salvador. Visiting Honduras last March, I was made "most nervous [by] the possibility that, by fooling around with ex-Somoza guardsmen and the like, we might nudge our Honduran friends into the kind of soup we would be unable to get them out of without big trouble." It's happening.

□ 2050

The CHAIRMAN. The time of the gentleman from Iowa (Mr. HARKIN) has expired.

The gentleman from Georgia (Mr. BRINKLEY) has 3 minutes remaining.

Mr. BRINKLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi (Mr. MONTGOMERY) to close debate.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I am pleased to yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding.

Just a few moments ago our colleague, the gentleman from California (Mr. MILLER) suggested that all of us should go to the headquarters of the Intelligence Committee to find out the real truth about what is happening relative to Honduras and El Salvador.

I have the privilege of serving as a member of that committee, and I would like to endorse his invitation and ask him to come to the Intelligence Committee and find out what the truth is. What is the real world in Honduras and El Salvador? I promise you that the reaction will be different than the one the gentleman from California (Mr. MILLER) wants. Your reaction will be a definite no, a definite opposition to this amendment, because this amendment is not in the best interests of the people of Honduras or the freedom-loving people of Central America or of the United States of America.

Mr. Chairman, I hope the Members vote this amendment down.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I will yield only briefly.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding.

I just want to say that I am amazed. I sat here last week or a week ago hoping and praying that we could get the Caribbean Basin Initiative going. At least three of the opposition leaders—and he is waving his hand now, the gentleman from California (Mr. MILLER)—for economic aid were in the vanguard of this opposing the Caribbean Basin Initiative. That is a double standard gone mad.

Mr. MONTGOMERY. Mr. Chairman, I only have a few words to say, and then I will yield back the balance of my time.

I am opposed to the amendment. I point out that there is no money in the bill for construction of airfields in Honduras. I want to make that point strongly.

The adoption of the amendment will tie the hands of the House conferees in the conference on which I will have the privilege of serving. There are no funds in the bill, and the amendment sets a dangerous precedent and it should be defeated.

Mr. Chairman, I yield back the balance of my time.

● Mr. ST GERMAIN. Mr. Chairman, I wish to join my good friend, JACK BRINKLEY, in support of H.R. 6214, the Military Construction Authorization Act for Fiscal Year 1983. His committee has had to deal with an enormously complicated subject—one which bears directly upon every aspect of our defense effort, but perhaps none more important than those provisions we make for upgrading the living and working conditions of our service personnel.

It is in this particular respect that I would hope this year's record would reflect our interest in obtaining family housing for service personnel on a periodic payment basis, and that while there is no immediate authority for the service departments to do so, eventual authority or administrative flexibility to do so appears most desirable.

Long-term leasing authority for family housing is consistent with this administration's policy to rely on the private sector for goods and services required by the military. Beyond that immediate point, such authority would, in many expert judgments, go a considerable distance toward avoiding the conflicts which arise when the Government seeks to acquire additional real estate. The contribution such leasing can make toward boosting local economies can be immense. After all, it would involve using untapped capabilities of the private sector heretofore not available to the service departments.

Long-term leasing also would help local entrepreneurs in their efforts to be more responsive concerning the

service they provide, and in some instances, could actually result in substantial savings of money. Significantly, such leasing arrangements could help the service departments by giving them the ability to contract in the community in an accepted and conventional way. Doing business in a businesslike, flexible, and cost-sensitive manner attracts little criticism, much less argument.

Mr. Chairman, I am speaking to an issue that is of considerable importance to a number of communities across the country, but of special interest to Newport County in Rhode Island. Regarding this community, the town of Middletown, R.I., is interested in acquiring and developing a section known as the Naval Gardens and Anchorage properties, specifically to serve Navy family housing needs. Under existing authority, such a lease is not "bankable," thus a developer could not secure financing on the merit of any financial commitments the Navy could currently make. Suitable legislation, if enacted, authorizing long-term leasing for periods up to 25 years, would provide the necessary legal basis for a lease which would support such financing.

I do not intend to offer such amendatory language at this time. I do, however, hope that the committee will bear this particular situation in mind as it begins work on new authorization legislation, with the thought that its preparation may be timely and necessary for a number of our Nation's communities already experiencing the pressure of defense buildup within their boundaries. In this regard, I would hope that some long-term leasing provisions would be made a matter of high priority by the committee in its forthcoming efforts. ●

● Mr. ROBERTS of South Dakota. Mr. Chairman, I rise in strong support of H.R. 6214, the military construction authorizations for 1983. The bill provides for needed construction of housing and support facilities for the Army, Navy, Air Force, NATO, National Guard, and Reserve.

Within the bill are important authorizations to support and reinforce the National Guard in South Dakota. I am proud of the record of South Dakota units, both in Rapid City and in Sioux Falls, and it is important to meet their construction needs.

H.R. 6214 provides \$304,000 for a new 60-person armory in Rapid City for the South Dakota Army National Guard. Additionally, it provides \$560,000 for construction of an aircraft arresting system at Joe Foss Field in Sioux Falls for the South Dakota Air National Guard.

Both these facilities and units are strongly supported by the local citizens, and I feel that the new construction will be appreciated by all South

Dakotans. I urge my colleagues to join with me to promote a more secure America with a strong National Guard and Reserve by approving H.R. 6214. ●

● Mrs. SNOWE. Mr. Chairman, I rise in support of H.R. 6214, the Military Construction Act of 1983. I am particularly pleased with the committee's work because it demonstrates their commitment, and the Air Force's commitment, to the future of Loring Air Force Base in my district.

For fiscal year 1983, \$38,980 million has been authorized for Loring. The bulk of these funds, \$33.7 million goes to alteration of the heat plant on the base, \$3.5 million goes toward an advanced waste treatment facility, \$1.22 million goes toward an energy conservation investment program, and \$0.56 million goes toward operations and maintenance facilities.

These funds are particularly significant because it was not so long ago that the Air Force had plans to downgrade the Loring base. For a number of years, the Air Force tried to reduce operations at Loring to a minimum. A united Maine delegation, together with many dedicated members of the Keep Loring Committee, successfully fought the effort to diminish Loring's role in our national defense. Consequently, these funds are critically important in the drive to restore Loring to its full capability within the Strategic Air Command.

Again, I commend my colleagues for their work, and urge the adoption of the bill. ●

● Mr. ST GERMAIN. Mr. Chairman, I would like to take this opportunity to commend my colleagues on the Military Installations and Facilities Subcommittee and the Armed Services Committee for their wisdom in authorizing a launcher laboratory at the Naval Underwater Systems Center (NUSC) in Newport, R.I., in the military construction authorization bill being considered today in the House.

This new facility will consolidate and improve the Navy's effectiveness in servicing current submarine and surface ship weapons systems and in developing the advanced weapons capabilities we will need for tomorrow's Navy. If we are to expand U.S. naval power, then we should provide the means to defend our fleet from growing surface and subsurface threats. The new launcher lab will permit integrated activities on weapons such as the Tomahawk cruise missile, Encapsulated Harpoon, Advanced Lightweight Torpedo, and a new launcher guide to reduce vulnerability of equipment to "cheap kill." The Navy's activities in this Launcher Lab will apply to servicing the weapons of our current fleet as well as to planning and developing future combat effectiveness.

Currently, these activities are hampered by the outdated facilities at

NUSC where many operations are conducted in temporary and substandard housing. The new Launcher Lab authorized by the committee will increase the efficiency, reduce the cost, and speed the development of an effective naval weapons program by allowing integrated research, development, and in-service engineering under one roof in an up-to-date facility. I applaud my colleagues for recognizing the need for this facility and urge you to support the military construction authorization bill. ●

● Mr. MAVROULES. Mr. Chairman, I rise in support of H.R. 6214, the Military Construction Authorization Act of 1983.

As a member of the Armed Services Committee, and as the author of a provision of the bill on renewable energy resources, I believe that this legislation merits the support of every Member of the House.

However, before making some brief comments on the bill itself, I wanted to offer special thanks to the chairman of the Subcommittee on Military Installations and Facilities, the gentleman from Georgia, Mr. BRINKLEY.

His leadership on the Armed Services Committee is known to all Members of this body, but in particular, I want to commend the gentleman for his openness and availability to other Members of this House. I just want to thank him and say to him that I will miss working with him on the committee.

A few months ago, I testified before the Installations and Facilities Subcommittee with the intention of having the basic provisions of my bill, H.R. 5005, which would promote the use of energy in our Armed Forces, incorporated into the fiscal year 1983 Department of Defense military construction authorization. The bill now before you includes that provision in section 803.

This provision, I firmly believe, benefits both the defense and private sectors.

We are all aware that America's achilles heel is its dependence on oil. There is no more serious threat to the long-term economic and military security of this country than that which stems from the growing deficiency of secure and assured energy resources.

Certainly, the 1973 Arab oil embargo alerted us all to the vulnerability of our dependence on petroleum products.

It has been all too easy, at least up until this time, to join a mindset that views all energy technologies and sources other than fossil fuels and nuclear power as something of the future.

But we can no longer afford to waste precious nonrenewable energy resources when there are renewable energy alternatives available today.

And this bill recognizes that hard fact.

Like this Nation at large, the Department of Defense relies heavily on oil. Some 80 percent of DOD's total energy needs must be met by petroleum, either to keep our Armed Forces on the move or our installations and facilities powered.

What is more if an energy savings could be realized in the DOD it would have a significant impact on the entire Nation.

Section 803 would assure us a growing market for energy systems powered by solar and other renewable forms of energy and would hasten the general commercial, residential, industrial, agricultural, and governmental use of such systems in the United States and abroad.

Over the past 25 years, photovoltaic systems have been shown to be highly reliable and workable systems. Already, they are being successfully applied in the most remote and hostile environments.

This bill asks DOD to consider the full life cycle cost of their standard fossil fuel electrical power systems, such as gas or diesel generators. This cost includes their operation, maintenance, repair and replacement (which is often less than 1 year) and, of course, fuel costs (including delivery and storage). DOD should compare these costs to that of equivalent photovoltaic powered systems, with their expected 20- to 30-year lifetime. And they will find these systems do favorably compare with fossil fuel systems.

Clearly, the future has arrived. Solar energy and other renewables are proving their reliability and usefulness time and time again.

And this is not more important than in our Armed Forces. Energy independence in the Army, Navy, and Air Force can only promote national security.

Again, I would like to thank the gentleman from Georgia, and other members of the subcommittee for their favorable consideration of this energy enhancing bill. ●

The CHAIRMAN. All time has expired.

PREFERENTIAL MOTION OFFERED BY MR. HARKIN

Mr. HARKIN. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. HARKIN moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN. The gentleman from Iowa (Mr. HARKIN) is recognized for 5 minutes.

Mr. HARKIN. Mr. Chairman, I want to just take this time again to wrap up the debate and try to bring into focus just what we are talking about. We are talking about Honduras; we are not talking about El Salvador, we are not

talking about Guatemala. We are talking about Honduras.

I want to respond to those who talked about the democratic government in Honduras. Yes, there is a democratic government there. It was elected last year, but we are making the same mistake there that we have made in so many places in the past. We are putting all of our emphasis on the military and none on the civilian. Cordoba is not in power in Honduras any longer. General Alvarez is calling the shots down there because we deal with him, not with Cordoba. We are dealing only with the Honduran military.

Let us take the issue of the Mig's in Nicaragua. Remember last year when they took all the photographs of the lengthening of the runway at Puerto Cabeza and said that this was in preparation for the Nicaraguans getting the Mig's? Well, we pointed out, No. 1, that the lengthening of those runways was approved under the Somoza regime and was assisted by our AID program.

Well, Nicaragua has finished lengthening those runways, and there are no Mig's in Nicaragua.

However, with this \$21 million to lengthen those runways in Honduras and give Honduras new jets, you can bet your bottom dollar what is going to happen. Nicaragua will then have to get Mig's, and this administration will stand up and say, "we told you so." I say, let us not lengthen the runways in Honduras until Nicaragua does get the Mig's. If they get the Mig's, then I will join my colleagues in lengthening the runways in Honduras, but let us not push Nicaragua into getting something they do not have and have no intention of getting right now.

Let me talk just a little bit about the U.S. role. There was an agreement signed on May 7 this year that the United States and Honduras would allow United States access to three airbases to be improved by the United States. That is what this \$21 million is for. Well, one of those airbases is on the Caribbean coast, very close to the Nicaraguan border.

You couple that with the \$19 million that this administration is using to destabilize Nicaragua; you couple that with the U.S. buildup. Over 100 U.S. military personnel are in Honduras right now, more I might add, than are in El Salvador. There is a diplomatic mission of 147 in Honduras, the largest diplomatic mission between Texas and Brazil. And you have got to ask what they are doing there. You couple that with the recent joint maneuvers with our military and the Honduran military; you couple that with our aid and assistance to the Somocista guards that are going across the Nicaraguan border, and what you have got is a formula for disaster.

I want to close on that one point about the May 7 agreement. That May 7 agreement was an addendum to an agreement signed in 1954 between Honduras and the United States. It was signed on May 20, 1954, and guess what happened to that agreement on May 20, 1954. We used those airbases and those fields in Honduras to destabilize and overthrow the government of Jacobo Arbenz in Guatemala, the last freely elected President of Guatemala in 1954. And so it is a very striking parallel that now we pencil an agreement onto that 1954 agreement to lengthen and harden the runways in Honduras to use as a staging point to further destabilize the Nicaraguan Government.

Mr. Chairman, I say let us not bring Honduras into this conflict. It is a peaceful country. It has a democratic government. Let us not destabilize Honduras. Let us now draw them into this conflict. Let us keep them out of this war as much as possible.

The CHAIRMAN. The gentleman from Georgia (Mr. BRINKLEY) is recognized for 5 minutes.

Mr. BRINKLEY. Mr. Chairman, I rise in opposition to the preferential motion and in opposition to the amendment.

I serve as chairman of the Military Construction Subcommittee, and we have welcomed many of the Members before our committee. We have been patient with each and every one of you. I just wish that the author of this amendment had come, along with the gentleman from California, the gentleman from Maryland, the gentleman from Iowa, and the gentleman from New York. We would have welcomed them.

There is doubt when we wait until we get to the floor for something of this importance, and you do wonder if you are jousting with windmills. It is important to all of us.

But I say to the Members there is no money in this bill for Honduras. It really is an anticipatory amendment, and it really should be soundly defeated.

Mr. Chairman, I ask for a vote against the preferential motion and a vote against the amendment.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Iowa (Mr. HARKIN).

The preferential motion was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. HARKIN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KEMP. Mr. Chairman, to make sure that the American people know how we feel on this issue, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 109, noes 280, answered "present" 1, not voting 44, as follows:

[Roll No. 267]

AYES—109

Albosta	Guarini	Pease
Anderson	Hall (OH)	Peyster
AuCoin	Harkin	Rahall
Barnes	Hawkins	Rangel
Bedell	Heckler	Ratchford
Beilenson	Hertel	Reuss
Bennett	Howard	Rodino
Bingham	Jacobs	Roybal
Bonior	Jeffords	Sabo
Bonker	Kastenmeier	Scheuer
Brodhead	Kildee	Schneider
Brown (CO)	LaFalce	Schroeder
Burton, Phillip	Lantos	Schumer
Chisholm	Leach	Seiberling
Clay	Lehman	Shamansky
Collins (IL)	Leland	Shannon
Conte	Long (MD)	Sharp
Daschle	Lowry (WA)	Simon
Dellums	Luken	Smith (IA)
Dixon	Markey	Snyder
Dorgan	Marks	Solarz
Downey	Martinez	Stark
Dymally	Matsui	Studds
Early	Mattox	Swift
Eckart	Mavroules	Taxler
Edgar	McHugh	Udall
Edwards (CA)	Mikulski	Vento
Fazio	Miller (CA)	Walgren
Findley	Mitchell (MD)	Washington
Florido	Murphy	Waxman
Foglietta	Nowak	Weiss
Ford (TN)	Oaker	Williams (MT)
Forsythe	Oberstar	Wirth
Frank	Obey	Wolpe
Garcia	Ottenger	Wyden
Gejdenson	Patterson	
Gray	Paul	

NOES—280

Addabbo	Craig	Gaydos
Akaka	Crane, Daniel	Gephardt
Alexander	Crane, Philip	Gibbons
Andrews	D'Amours	Gilman
Annunzio	Daniel, Dan	Glickman
Applegate	Daniel, R. W.	Goodling
Archer	Dannemeyer	Gore
Ashbrook	Daub	Gradison
Aspin	Davis	Gramm
Atkinson	de la Garza	Green
Badham	Deckard	Gregg
Bailey (MO)	DeNardis	Grisham
Bailey (PA)	Derrick	Gunderson
Barnard	Derwinski	Hagedorn
Beard	Dickinson	Hall, Ralph
Benedict	Dicks	Hall, Sam
Benjamin	Dingell	Hamilton
Bereuter	Donnelly	Hammerschmidt
Bethune	Dougherty	Hance
Bevill	Dowdy	Hansen (ID)
Blaggi	Dreier	Hansen (UT)
Bliley	Duncan	Hartnett
Boland	Dunn	Hatcher
Boner	Dwyer	Hefner
Bouquard	Dyson	Heftel
Bowen	Edwards (AL)	Hendon
Brinkley	Edwards (OK)	Hightower
Brooks	Emerson	Hill
Broomfield	Emery	Hillis
Broyhill	English	Hollenbeck
Butler	Erdahl	Holt
Byron	Erlenborn	Hopkins
Campbell	Evans (DE)	Horton
Carman	Evans (GA)	Hoyer
Carney	Evans (IA)	Hubbard
Chappell	Fary	Huckaby
Cheney	Fascell	Hughes
Clauser	Fenwick	Hunter
Clinger	Ferraro	Hutto
Coats	Fiedler	Hyde
Coelho	Fields	Jenkins
Coleman	Flippo	Johnston
Conable	Foley	Jones (OK)
Corcoran	Fountain	Jones (TN)
Coughlin	Fowler	Kazen
Courter	Frenzel	Kemp
Coyne, James	Frost	Kennelly
Coyne, William	Fuqua	Kindness

Kogovsek	Murtha	Skeen
Kramer	Myers	Skelton
Lagomarsino	Napier	Smith (NE)
Latta	Natcher	Smith (NJ)
Leath	Neal	Smith (OR)
LeBoutillier	Nelligan	Smith (PA)
Lee	Nelson	Snowe
Lent	Nichols	Solomon
Levitas	O'Brien	Spence
Lewis	Oxley	St Germain
Livingston	Panetta	Staton
Loeffler	Parris	Stenholm
Long (LA)	Pashayan	Stratton
Lott	Patman	Stump
Lowery (CA)	Pepper	Synar
Lujan	Perkins	Tauke
Lungren	Petri	Tauzin
Madigan	Pickle	Taylor
Marlenee	Porter	Thomas
Marriott	Pritchard	Tribble
Martin (IL)	Pursell	Vander Jagt
Martin (NC)	Quillen	Volkmer
Martin (NY)	Railsback	Walker
Mazzoli	Regula	Wampler
McClory	Rinaldo	Watkins
McCloskey	Ritter	Weber (MN)
McCollum	Roberts (KS)	Weber (OH)
McCurdy	Roberts (SD)	White
McDade	Roe	Whitehurst
McDonald	Roemer	Whitley
McEwen	Rogers	Whittaker
McGrath	Rose	Whitten
McKinney	Rostenkowski	Williams (OH)
Mica	Roth	Wilson
Michel	Roukema	Winn
Miller (OH)	Rousselot	Wortley
Mineta	Rudd	Wright
Minish	Russo	Wyllie
Mitchell (NY)	Santini	Yatron
Moakley	Sawyer	Young (AK)
Mollinari	Schulze	Young (FL)
Mollohan	Sensenbrenner	Young (MO)
Montgomery	Shaw	Zablocki
Moore	Shelby	Zefteretti
Morrison	Shumway	
Mottl	Shuster	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—44

Anthony	Ertel	Price
Bafalis	Evans (IN)	Rhodes
Blanchard	Fish	Richmond
Boggs	Fithian	Robinson
Bolling	Ford (MI)	Rosenthal
Breaux	Gingrich	Savage
Brown (CA)	Ginn	Siljander
Brown (OH)	Goldwater	Smith (AL)
Burgener	Holland	Stangeland
Burton, John	Ireland	Stanton
Chappie	Jeffries	Stokes
Collins (TX)	Jones (NC)	Weaver
Conyers	Lundine	Wolf
Crockett	Moffett	Yates
Dornan	Moorhead	

□ 2110

The Clerk announced the following pairs:

On this vote:

Mr. Moffett for, with Mr. Stangeland against.

Mr. Rosenthal for, with Mr. Moorhead against.

Mr. Stokes for, with Mr. Jeffries against.

Mrs. MARTIN of Illinois changed her vote from "aye" to "no."

Mr. FINDLEY and Mr. DOWNEY changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER: At the end of the bill add the following new section:

REDUCTION IN TOTAL AUTHORIZATION

SEC. . Of the total amount authorized to be appropriated by this Act for fiscal year 1983, the maximum amount that may be obligated or expended is the total amount appropriated pursuant to such authorization of \$7,130,000,000, whichever is less.

Mr. BRINKLEY. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Georgia.

Mr. BRINKLEY. Mr. Chairman, the gentlewoman is offering an important amendment, and I know that we would want to give her full attention because our time will be limited by agreement, I think.

I was wondering if the gentlewoman would agree to a limitation of time to 10 minutes on her amendment and all amendments thereto.

Mrs. SCHROEDER. Mr. Chairman, I have no problem with that.

Mr. BRINKLEY. Mr. Chairman, I ask unanimous consent that the debate on this amendment, and all amendments thereto, be limited to 10 minutes, the time to be equally divided and controlled by the gentlewoman from Colorado (Mrs. SCHROEDER) and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, my amendment would cut 5 percent out of the total authorization contained in this bill. This cut would amount to \$378 million, which could go to reduce the budget deficit or which could go to provide some additional assistance for the 11 million men and women out of work in America today. Even with this cut, this bill would authorize \$583 million more than was authorized last year, or a 9-percent hike. In real dollars, even if my amendment is accepted, military construction will see a substantial increase.

Two weeks ago, when we debated the defense authorization, it was quite clear that a majority of Members were afraid of being tagged as "soft on defense." As a result, otherwise rational Members of Congress voted for airplanes whose wings fall off, missiles which explode seconds into flight, and large ships which are sitting ducks for the enemy. Finally, like a drunk who thinks a cup of coffee will eliminate the effects of a bottle of whiskey, we voted for a 1-percent cut, in the \$177 billion bill we constructed.

I contend that the military construction bill is different. There is no money in this bill to fight a war. Rather, there is \$7.5 billion for public works. Interestingly, slightly less than \$3 billion is for family housing, much of it in Germany, Italy, Turkey, and

even Cuba. The number \$3 billion sticks in my mind because that was the amount of money we voted for housing assistance to rescue our dying construction industry and to provide housing for middle-income people. That was the program which President Reagan vetoed during the end of June. So, if we adopt this bill, we are saying we would rather spur the housing industry in Western Europe to the tune of \$3 billion than spur the housing in Colorado, Michigan, or New York.

Let us look at what else is in this bill. On page 10 of the report we find that \$2.25 million is going for outdoor playing courts at Fort Irwin, Calif. How many student loans would \$2.25 million provide? Page 11 says we are buying a gym for the Yakima Firing Center in Washington. Could we provide more unemployment insurance for this \$1.7 million? In Korea, we are spending \$1.1 million for a chapel, \$2.35 million for a gym with a pool, \$1.05 million for a theater with a stage, and \$2.6 million for another gym, presumably without a pool. On page 17 we find another gym for Cakmakli, Turkey, at \$2.2 million. You know, with the Army spending this amount of money on gyms, the Senate looks like a group of misers spending only \$700,000 for theirs.

How about the Navy? They are building a new dining facility in San Diego for \$3.4 million. That sounds like one beaut of a restaurant. They are spending over \$6 million on chapels, religious education buildings and a family services center in Iceland. And, this bill contains \$25.4 million for building 200 housing units in Guantanamo, Cuba. This works out to \$127,000 per unit, which in Washington or Denver, works out to some pretty fancy digs.

The Air Force wants a \$3.3 million gym at Chanute, Ill. At Sheppard Air Force Base in Texas, they are spending \$5.5 million for visiting officers quarters. It might be cheaper to put them up at the Ritz. There's another \$3.7 million for a gym at McChord, Wash. A \$3 million dining hall in Kansas is included. In my own State, the Air Force wants to spend \$3 million for a new visitor's center for the Air Force Academy. I happen to like the current visitor's center. There is a new fire station in Japan for \$1.6 million and a new dining hall in Korea for \$2.5 million. At Fairford Royal Air Force Base in England, the bill contemplates \$2.7 million for a new fire station, \$4.9 million for visiting officers quarters, and \$1.1 million for additions to the gym. To the committee's credit, it did not authorize \$500,000 for an arts and crafts center at Fairford.

I am not saying that all these facilities are undesirable or unnecessary. I do not know and there is certainly

nothing in the report of the committee to tell us one way or the other. Still, yesterday we voted to cut food stamps and support to the dairy industry. Last week, we voted for cuts in housing programs, veterans, and civil service retirement. At a time like this I cannot justify voting for these projects. We must impose some restraint on the Pentagon. This bill is the one in which to do it.

So, if you want to balance the budget, vote for this amendment. If you want to eliminate fat and waste, vote for this amendment. If you want to impose some slight amount of budgetary control on the Pentagon, this amendment is for you.

This bill, like its rich uncle Department of Defense authorization, was developed, we are told, by identifying the primary missions of our military forces and then procuring the weapons, equipment, and facilities necessary to complete these missions. My amendment sends a message to the administration, to the Pentagon, and to the American people that we never really identify the missions but we still spend the money. And boy do we spend the money.

This bill reported out of the Armed Services Committee is 14.7 percent higher in spending than the bill reported out last year. The Air Force alone enjoys a hefty 30 percent boost in military construction spending over last year. The authorization for the U.S. contribution to the NATO infrastructure is up 8.7 percent. How in the world can we justify spending increases of this size while staring into the maw of a \$140 billion deficit for 1983? Even with the adoption of my amendment, the military authorization spending level will rise 8.9 percent which should satisfy even the staunchest military advocate.

This body on Tuesday went through some agonizing budget cuts all in the name of sound fiscal management. Food stamp and farm assistance programs took another beating. Medicare, Medicaid, and AFDC were laid on the chopping block. When will this body start looking at the legislation reported out by the Armed Services Committee with the same critical eye rather than the starstruck gaze we give it now?

Military readiness is one gage we should be measuring the items this bill authorizes money for. Gymnasiums, fencing, dining facilities, and car washes do not contribute directly to our military readiness capability. I do not think we would be considered weak by our enemy if we showed up for battle in dirty jeeps and tanks. A 5-percent cut in these budget items will reflect our skepticism of their necessity.

The authorizations made for military support agencies is another non-readiness item. Budget increases for

the Defense Mapping Agency, the National Security Agency, and the Defense Nuclear Agency all serve the promotion of the bureaucratic arm of the military more than the promotion of our fighting capability. A 5-percent reduction will do these agencies little harm.

Military strategy is another gage to measure this bill by. We authorize construction money for the MX project, to the tune of \$103 million. We are still waiting for the Pentagon to find a permanent home for a weapon a growing number of us here see as a destabilizing force to world peace. To our credit, the Armed Forces Committee did not buy the Air Force's MX request of \$207 million. A further reduction of 5 percent to the MX project calls the Pentagon's bluff again. Other destabilizing weapons that we authorize construction facilities for, binary nerve gas bombs, and GLCM's only bring us closer to war, not to peace. Five percent from these projects starts to bring our military strategy back into rational focus.

The other gage for this bill is the allied support we have for our troops abroad. Or should I say the lack of allied support for our troops. I made my points on this during the defense authorization bill. The same points apply here. Simply put, our allies have not contributed their fair share to the defense of the Atlantic alliance and keeping our Forces in Europe detracts from our ability to meet crises elsewhere and our ability to solve our fiscal crisis at home. We must pursue a new division of labor with our allies whereby they meet their own territorial defense needs and we deal with strategic and common needs. A 5-percent reduction in this bill reflects that dissatisfaction with our alliance policy and our desire to renegotiate the share that each country anties up for mutual defense.

□ 2120

Mr. SOLARZ. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. SOLARZ. When the gentlewoman said her 5-percent cut would reduce the increase in the bill to, I think, 9 percent, was the gentlewoman talking about 9 percent in real terms or 9 percent in nominal terms?

Mrs. SCHROEDER. I am talking 9 percent over what we spent last year. Actually it is 8.9 percent. But that is neither here nor there. Very close to 9 percent. I am rounding it off because the hour is late. But I am only saying in real terms that it is a significant increase.

We are spending more money on housing than we are on the civilian sector and more money abroad than we spend here. And I think when our own infrastructure is crumbling and so

forth, this is not an unrealistic cut with the kind of deficit we are running.

Mr. SOLARZ. Is this a 9-percent increase over last year in real or nominal terms?

Mrs. SCHROEDER. We are talking about real. I only deal in reality.

I think this is something we have to deal with here.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

I just hope that the people understand what we are doing here.

Now the Military Construction Subcommittee following the mandate of the House has already come in \$203 million under the budget. That is what we told them to do. We came in \$203 million under.

Now on top of this—and we thought we did a pretty good job—the gentlewoman would have us take \$350 million more.

I want my colleagues to know, it sounds like we are gilding the lily to talk about gymnasiums. Gymnasiums quite often are important if you are stationed in a remote area and you have nothing else to do but sit around and smoke pot. What we are trying to do is help the troops.

Now, I am losing four barracks, World War II barracks, that need replacing, supposed to have been in there—working 3 years to get in there, and I have lost them. What she wants to do is take \$350 million more out of the present bill that is already \$200 million under the budget.

You cannot do it this way if we are going to see to the human comfort and the quality of life of the troops.

So it is spurious, I think it is wrong. I urge the Members, do not cut any more. We have cut to the bone now. And this is enough. We are not talking about frills. We are talking about quality of life. I do not think the gentlewoman would like 5 percent taken out of her district, and I surely do not want it out of mine.

Mr. BRINKLEY. Mr. Chairman, if I could have the attention of the Members, this bill deals with our men and women in uniform. It deals with where they work, with where they play, with where they live.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. Briefly, I yield to the gentleman from Massachusetts.

Mr. CONTE. I thank the gentleman for yielding.

I have listened to the gentlewoman from Colorado. I have great respect

for her. But I travel around and I have been to a lot of bases around the world. And certainly I wonder if she would stand here on the floor of the House saying her high school in Colorado should not have gyms. You go out in those remote places out there, Alaska and some of the places down South where these people are camped, and, my God, that is the only recreation they have.

And also housing. she complained about the housing. I wonder if she has a latrine at the end of her hall every night where she has to go to the bathroom.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield briefly to the gentleman from Colorado.

Mrs. SCHROEDER. I thank the gentleman for yielding.

I just want to tell the gentleman from Massachusetts, I was not protesting about gyms. I was only saying that I thought the one for the Senate was very elegant and the press did, too. I am just saying maybe we could cut back on a few of the little amenities, not the whole thing.

Mr. CONTE. If we cut, let us cut the Senate, not the poor enlisted man out there trying to defend the country.

Mr. BRINKLEY. Mr. Chairman, let us keep in mind that one-third of the moneys in this bill is for housing, \$1 billion alone for operations, electricity bills, \$1 billion for maintenance. We have cut 4.5 percent or \$355 million from the bill. We should defeat this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mrs. SCHROEDER).

The amendment was rejected.

The CHAIRMAN. Are there any further amendments to the bill?

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I only rise to take this time as we approach the end of this bill to tell the House that the gentleman from Georgia, Mr. JACK BRINKLEY, is retiring from the Congress. He has done an outstanding job. What a perfect gentleman he is.

Mr. BRINKLEY. I thank the gentleman.

Mr. MONTGOMERY. Mr. Chairman, the ranking minority member of the subcommittee, the gentleman from Virginia, Mr. PAUL TRIBLE, is also leaving the House of Representatives.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding.

I want to say that I wish to join him in saying how much we regret the departure of this distinguished Congressman and that the defense of this country will miss him very much.

Mr. Chairman, I would like to commend my distinguished colleague, Mr. BRINKLEY, for the fine job he has done in bringing the 1983 military construction bill to this body for consideration. I would also like to thank the chairman for the consideration he has afforded me personally over the years and especially this year. He has been most responsive to my requests and has taken an interest in seeing that the needs of our armed services are adequately met. The leadership that he has provided as chairman of the Subcommittee on Military Installations and Facilities has been forthright, dispassionate, wise, and superbly effective.

Our defense system relies on a guarantee that we have the proper manpower with the adequate support necessary to operate and maintain the advanced weaponry that is being developed. Chairman BRINKLEY has seen to it that our military installations provide the backdrop to training, as well as the proper housing facilities in this country and abroad while these individuals serve their country in military service.

It was a sad day for the military when you announced your decision to retire as a Member of Congress. Your diligence and leadership will be sorely missed, but the legacy of your tenure as chairman of the subcommittee and an outstanding member of the Armed Services Committee will remain. For that I salute you.

The CHAIRMAN. Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. GLICKMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6214) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, pursuant to House Resolution 519, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PAUL. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 332, nays 57, not voting 45, as follows:

[Roll No. 268]

YEAS—332

Addabbo	Edwards (OK)	Latta
Akaka	Emerson	Leach
Albosta	Emery	Leath
Alexander	English	LeBoutillier
Anderson	Erdahl	Lee
Annunzio	Erlenborn	Lehman
Anthony	Evans (DE)	Lent
Applegate	Evans (GA)	Levitas
Archer	Evans (IA)	Lewis
Ashbrook	Fary	Livingston
Aspin	Fascell	Loeffler
Atkinson	Fazio	Long (LA)
AuCoin	Ferraro	Long (MD)
Badham	Fiedler	Lott
Bailey (MO)	Fields	Lowery (CA)
Bailey (PA)	Findley	Lowry (WA)
Barnard	Flippo	Lujan
Barnes	Foley	Lukens
Beard	Ford (MI)	Lungren
Benedict	Ford (TN)	Madigan
Benjamin	Fountain	Marks
Bennett	Fowler	Marlenee
Bereuter	Frenzel	Marriott
Bethune	Frost	Martin (IL)
Bevill	Fuqua	Martin (NC)
Biaggi	Gaydos	Martin (NY)
Billey	Gejdenson	Martinez
Boggs	Gephardt	Matsui
Boland	Gibbons	Mattox
Boner	Gilman	Mavroules
Bonker	Glickman	Mazouzi
Bouquard	Gonzalez	McClary
Bowen	Goodling	McCloskey
Brinkley	Gore	McCollum
Brooks	Gradison	McCurdy
Broomfield	Gramm	McDonald
Broyhill	Green	McEwen
Burton, Phillip	Gregg	McGrath
Butler	Grisham	McHugh
Byron	Guarini	McKinney
Campbell	Gunderson	Mica
Carman	Hagedorn	Miller (OH)
Carney	Hall (OH)	Mineta
Chappell	Hall, Ralph	Minish
Cheney	Hall, Sam	Mitchell (NY)
Clausen	Hamilton	Moakley
Clinger	Hammerschmidt	Molinar
Coats	Hance	Mollohan
Coelho	Hansen (ID)	Montgomery
Conable	Hansen (UT)	Moore
Conte	Hartnett	Morrison
Cotcoran	Hatcher	Mottl
Coughlin	Hawkins	Murphy
Courter	Heckler	Murtha
Coyne, James	Hefner	Myers
Coyne, William	Heftel	Napier
Craig	Hendon	Natcher
Crane, Daniel	Hightower	Neal
Crane, Phillip	Hill	Nelligan
D'Amours	Hillis	Nelson
Daniel, Dan	Hollenbeck	Nichols
Daniel, R. W.	Holt	O'Brien
Dannemeyer	Hopkins	Oskar
Daschle	Horton	Oxley
Daub	Howard	Panetta
Davis	Hoyer	Parris
de la Garza	Hubbard	Pashayan
Deckard	Huckaby	Patman
DeNardis	Hunter	Patterson
Derrick	Hutto	Pease
Derwinski	Hyde	Pepper
Dickinson	Ireland	Perkins
Dicks	Jacobs	Petri
Dingell	Jenkins	Peyser
Dixon	Johnston	Pickie
Donnelly	Jones (OK)	Porter
Dorgan	Jones (TN)	Pritchard
Dougherty	Kazen	Quillen
Dowdy	Kemp	Ratchford
Dreier	Kennelly	Regula
Dunn	Kindness	Rinaldo
Dwyer	Kogovsek	Ritter
Dymally	Kramer	Roberts (KS)
Dyson	Lagomarsino	Roberts (SD)
Edwards (AL)	Lantos	Robinson

Rodino	Smith (IA)	Walker
Roe	Smith (NE)	Wampler
Roemer	Smith (NJ)	Watkins
Rogers	Smith (OR)	Waxman
Rose	Smith (PA)	Weber (MN)
Rostenkowski	Snowe	Weber (OH)
Roth	Snyder	White
Roukema	Solarz	Whitehurst
Rousselot	Solomon	Whitley
Rudd	Spence	Whittaker
Santini	St Germain	Whitten
Sawyer	Staton	Williams (MT)
Scheuer	Stenholm	Williams (OH)
Schneider	Stratton	Wilson
Schulze	Stump	Winn
Schumer	Swift	Wolpe
Sensenbrenner	Synar	Wortley
Shamansky	Tauke	Wright
Sharp	Tauzin	Wylie
Shaw	Taylor	Yatron
Sheiby	Thomas	Young (AK)
Shumway	Traxler	Young (FL)
Shuster	Trible	Young (MO)
Simon	Udall	Zablocki
Skeen	Vander Jagt	Zefeiretti
Skelton	Volkmer	

NAYS—57

Bedell	Frank	Ottenger
Beilenson	Garcia	Paul
Bingham	Gray	Rahall
Bonior	Harkin	Rangel
Brodhead	Hertel	Reuss
Brown (CO)	Hughes	Roybal
Chisholm	Jeffords	Russo
Clay	Kastenmeier	Sabo
Collins (IL)	Kildee	Schroeder
Dellums	LaFalce	Seiberling
Downey	Leland	Shannon
Early	Lundine	Stark
Eckart	Markey	Studds
Edgar	Mikulski	Vento
Edwards (CA)	Miller (CA)	Walgren
Enwick	Mitchell (MD)	Washington
Florio	Nowak	Weiss
Foglietta	Oberstar	Wirth
Forsythe	Obey	Wyden

NOT VOTING—45

Andrews	Duncan	Price
Bafalis	Ertel	Pursell
Blanchard	Evans (IN)	Railsback
Bolling	Fish	Rhodes
Breaux	Fithian	Richmond
Brown (CA)	Gingrich	Rosenthal
Brown (OH)	Ginn	Savage
Burgener	Goldwater	Siljander
Burton, John	Holland	Smith (AL)
Chapple	Jeffries	Stangeland
Coleman	Jones (NC)	Stanton
Collins (TX)	McDade	Stokes
Conyers	Michel	Weaver
Crockett	Moffett	Wolf
Dornan	Moorhead	Yates

□ 2140

The Clerk announced the following pairs:

On this vote:

Mr. Breaux for, with Mr. Rosenthal against.

Mr. Jones of North Carolina for, with Mr. Moffett against.

Mr. Michel for, with Mr. Stokes against.

Mr. McDade for, with Mr. Richmond against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. BRINKLEY. Mr. Speaker, pursuant to the provisions of House Resolution 519, I call up from the Speaker's table the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. BRINKLEY

Mr. BRINKLEY. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BRINKLEY moves to strike out all after the enacting clause of the Senate bill, S. 2586, and to insert in lieu thereof the provisions of the bill, H.R. 6214, as passed, as follows:

That this Act may be cited as the "Military Construction Authorization Act, 1983".

TITLE I—ARMY

AUTHORIZED ARMY CONSTRUCTION PROJECTS

SEC. 101. The Secretary of the Army may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES ARMY FORCES COMMAND

Fort Bragg, North Carolina, \$25,120,000.
Fort Campbell, Kentucky, \$10,650,000.
Fort Carson, Colorado, \$11,900,000.
Fort Devens, Massachusetts, \$3,200,000.
Fort Drum, New York, \$1,550,000.
Fort Hood, Texas, \$21,750,000.
Fort Irwin, California, \$31,340,000.
Fort Lewis, Washington, \$21,700,000.
Fort McPherson, Georgia, \$41,000,000.
Fort Meade, Maryland, \$2,500,000.
Fort Ord, California, \$8,900,000.
Fort Polk, Louisiana, \$16,840,000.
Camp Roberts, California, \$2,050,000.
Fort Sam Houston, Texas, \$22,000,000.
Fort Stewart, Georgia, \$23,000,000.
Fort Wainwright, Alaska, \$3,020,000.
Yakima Firing Center, Washington, \$2,950,000.

UNITED STATES ARMY WESTERN COMMAND

Schofield Barracks, Hawaii, \$2,930,000.

UNITED STATES ARMY TRAINING AND DOCTRINE COMMAND

Fort Benning, Georgia, \$26,250,000.
Fort Bliss, Texas, \$21,300,000.
Fort Eustis, Virginia, \$6,400,000.
Fort Gordon, Georgia, \$9,200,000.
Fort Knox, Kentucky, \$8,400,000.
Fort Leavenworth, Kansas, \$21,200,000.
Fort Leonard Wood, Missouri, \$11,000,000.
Fort McClellan, Alabama, \$7,500,000.
Fort Monroe, Virginia, \$1,150,000.
Fort Rucker, Alabama, \$17,750,000.
Fort Story, Virginia, \$13,800,000.

UNITED STATES ARMY MATERIEL DEVELOPMENT AND READINESS COMMAND

Aberdeen Proving Ground, Maryland, \$27,500,000.
Pine Bluff Arsenal, Arkansas, \$19,650,000.
Red River Army Depot, Texas, \$39,000,000.
Tooele Army Depot, Utah, \$4,150,000.
White Sands Missile Range, New Mexico, \$5,500,000.

AMMUNITION FACILITIES

Indiana Army Ammunition Plant, Indiana, \$2,910,000.
Iowa Army Ammunition Plant, Iowa, \$1,030,000.
Kansas Army Ammunition Plant, Kansas, \$7,200,000.
Longhorn Army Ammunition Plant, Texas, \$230,000.
Louisiana Army Ammunition Plant, Louisiana, \$3,410,000.
Milan Army Ammunition Plant, Tennessee, \$5,500,000.

Radford Army Ammunition Plant, Virginia, \$2,400,000.
Sunflower Army Ammunition Plant, Kansas, \$3,000,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Fort Huachuca, Arizona, \$2,600,000.

UNITED STATES ARMY HEALTH SERVICES COMMAND

Fort Detrick, Maryland, \$1,700,000.
Fitzsimons Army Medical Center, Colorado, \$3,600,000.
Walter Reed Army Medical Center, Washington, District of Columbia, \$9,800,000.

BALLISTIC MISSILE DEFENSE SYSTEMS COMMAND

Classified Locations, \$20,000,000.

OUTSIDE THE UNITED STATES

EIGHTH UNITED STATES ARMY

Korea, \$57,850,000.

UNITED STATES ARMY FORCES COMMAND

Panama, \$6,800,000.

Egypt, \$50,400,000.

UNITED STATES ARMY, EUROPE

Germany, \$189,240,000.

Turkey, \$7,050,000.

UNITED STATES ARMY WESTERN COMMAND

Johnston Island, \$1,050,000.

UNITED STATES ARMY COMMUNICATIONS COMMAND

Germany, \$3,950,000.

EMERGENCY CONSTRUCTION

SEC. 102. The Secretary of the Army may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$20,000,000. The Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section before such date.

MINOR CONSTRUCTION

SEC. 103. The Secretary of the Army is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of \$56,050,000.

FAMILY HOUSING

SEC. 104. (a) The Secretary of the Army, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Army, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Army is authorized to acquire less than sole interest in existing family housing units in foreign countries when it is determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Army is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family housing units and community center facility for the Department of the Army, three hundred and eighty-seven units, for a total of \$43,295,000:

Fort Irwin, California, one hundred and fourteen units, \$10,321,000.

Fort Lewis, Washington, one hundred and fifteen units, \$9,835,000.

Grafenwoehr, Germany, one hundred and forty-three units, \$16,994,000.

Hohenfels, Germany, thirteen units, \$1,545,000.

Vicenza, Italy, two units, \$500,000.

Aliamanu, Hawaii, consolidated community center (Phase I), \$4,100,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Army, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed \$115,760,000, of which \$43,800,000 shall be available only for energy conservation projects.

(f) The Secretary of the Army, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110; 81 Stat. 305), as follows:

Aberdeen Proving Ground, Maryland, one hundred and sixty units, \$6,080,000.

Fort Hamilton, New York, one hundred and eight units, \$4,800,000.

(g) Section 505 of the Military Construction Authorization Act, 1976 (Public Law 94-107; 89 Stat. 561) is amended by striking out "\$195,000" in the item entitled "Fort McNair, Washington, District of Columbia", and inserting in lieu thereof "\$223,000".

(h) Section 601(c) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1373), is amended by striking out "four hundred and fifty-four units" in the item relating to Fort Irwin, California, and inserting in lieu thereof "four hundred and eighty-four units".

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECTS

SEC. 105. (a) Section 702(1) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1375), is amended to read as follows:

"(1) for title I: inside the United States \$391,356,000; outside the United States \$395,034,000; minor construction \$34,150,000; for a total of \$820,540,000;"

(b) Section 602(1) of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1768), is amended to read as follows:

"(1) for title I: inside the United States \$591,840,000; outside the United States \$249,940,000; minor construction \$44,560,000; for a total of \$886,340,000."

LIMITATION ON LEASING OF HOUSING IN FOREIGN COUNTRIES

SEC. 106. Section 605(a)(2) of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1374), is amended by striking out "\$113,717,000" and inserting in lieu thereof "\$118,017,000".

FORT LEWIS, WASHINGTON—WEYERHAEUSER LAND EXCHANGE

SEC. 107. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Weyerhaeuser Corporation, Tacoma, Washington, all right, title, and interest of the United States in and to five parcels of land totaling approximately three-hundred acres located along the western boundary of the Fort Lewis Military Reservation, Pierce County, Washington, together with the improvements on such land. Such conveyance shall be made subject to such terms and conditions as the Secretary considers to be in the public interest and shall include the following reservations:

(1) A training easement over tract 1-US.

(2) An access easement over tract 4-US.

(b) In consideration for the conveyance authorized by subsection (a), the Weyerhaeuser Corporation—

(1) shall convey, or cause to be conveyed, to the United States all right, title, and interest in and to two parcels of land totaling approximately two hundred and ninety acres, together with the improvements on such parcels, which parcels will be equivalent in value (as determined by the Secretary) to the land conveyed under subsection (a) and which conveyance is otherwise acceptable to the Secretary;

(2) shall pay all costs associated with surveying and installing boundary monuments and all fencing costs; and

(3) shall not reserve any easement in the lands to be conveyed to the United States under paragraph (1) with the exception of two easements over roads in tract 1-W.

(c) The exact acreages and legal descriptions of the lands to be conveyed under subsections (a) and (b) shall be determined by surveys which are satisfactory to the Secretary.

(d) The Secretary is authorized to enter into an agreement with the responsible officials of Pierce County, Washington, whereby the reversionary interest of Pierce County in the lands to be conveyed by the United States under subsection (a) is extinguished and replaced with a reversionary interest in the lands conveyed to the United States under subsection (b).

TITLE II—NAVY

AUTHORIZED NAVY CONSTRUCTION PROJECTS

SEC. 201. The Secretary of the Navy may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Air Station, Beaufort, South Carolina, \$4,650,000.

Marine Corps Base, Camp Lejeune, North Carolina, \$28,550,000.

Marine Corps Base, Camp Pendleton, California, \$33,965,000.

Marine Corps Air Station, Cherry Point, North Carolina, \$31,800,000.

Marine Corps Air Station, El Toro, California, \$7,200,000.

Marine Corps Air Station, Kaneohe Bay, Hawaii, \$1,450,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, \$1,550,000.

Marine Corps Development and Education Command, Quantico, Virginia, \$23,250,000.

Marine Corps Recruit Depot, San Diego, California, \$27,100,000.

Marine Corps Air Station, Tustin, California, \$7,350,000.

OFFICE OF NAVAL RESEARCH

Naval Research Laboratory, Washington, District of Columbia, \$1,800,000.

CHIEF OF NAVAL OPERATIONS

Naval Academy, Annapolis, Maryland, \$16,900,000.

Naval Submarine Support Base, Kings Bay, Kingsland, Georgia, \$147,750,000.

Naval Support Activity, San Francisco, California, \$1,400,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Air Station, Cecil Field, Florida, \$9,300,000.

Naval Station, Charleston, South Carolina, \$12,250,000.

Naval Amphibious Base, Little Creek, Virginia, \$1,850,000.

Naval Station, Mayport, Florida, \$36,100,000.

Naval Submarine Base, New London, Groton, Connecticut, \$5,900,000.

Commander Oceanographic System Atlantic, Norfolk, Virginia, \$3,100,000.

Atlantic Fleet Headquarters Support Activity, Norfolk, Virginia, \$2,085,000.

Naval Air Station, Norfolk, Virginia, \$2,150,000.
Naval Air Station, Oceana, Virginia, \$6,200,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Facility, Adak, Alaska, \$1,900,000.
Naval Air Station, Alameda, California, \$3,650,000.
Naval Air Station, Lemoore, California, \$10,700,000.
Naval Air Station, Moffett Field, California, \$11,800,000.
Naval Air Station, North Island, California, \$31,070,000.

Naval Station, Pearl Harbor, Hawaii, \$14,400,000.
Naval Station, San Diego, California, \$27,300,000.

Shore Intermediate Maintenance Activity, San Diego, California, \$14,100,000.
Shore Intermediate Maintenance Activity, Pearl Harbor, Hawaii, \$7,000,000.

Naval Air Station, Whidbey Island, Washington, \$1,200,000.

NAVAL EDUCATION AND TRAINING COMMAND

Fleet Combat Training Center, Atlantic, Dam Neck, Virginia, \$1,700,000.
Naval Air Station, Corpus Christi, Texas, \$2,800,000.

Naval Training Center, Great Lakes, Illinois, \$1,850,000.

Naval Air Station, Memphis, Tennessee, \$8,400,000.

Naval Education and Training Center, Newport, Rhode Island, \$1,100,000.

Fleet Training Center, Norfolk, Virginia, \$5,400,000.

Naval Training Center, Orlando, Florida, \$5,500,000.

Naval Air Station, Pensacola, Florida, \$5,400,000.

Naval Technical Training Center, Pensacola, Florida, \$4,450,000.

Fleet Anti-Submarine Warfare Training Center Pacific, San Diego, California, \$3,950,000.

Naval Air Station, Whiting Field, Florida, \$7,650,000.

BUREAU OF MEDICINE AND SURGERY

Naval Regional Medical Center, Oakland, California, \$9,700,000.

Naval Regional Medical Center, Camp Lejeune, North Carolina, \$2,800,000.

NAVAL MATERIAL COMMAND

Naval Weapons Station, Charleston, South Carolina, \$1,140,000.

Naval Air Rework Facility, Cherry Point, North Carolina, \$5,550,000.

Naval Weapons Center, China Lake, California, \$8,700,000.

Naval Surface Weapons Center, Dahlgren, Virginia, \$10,800,000, all of which must be used for the Applied Research Center, Wallops Island, Virginia.

Naval Public Works Center, Great Lakes, Illinois, \$3,400,000.

Mare Island Naval Shipyard, Vallejo, California, \$9,150,000.

Naval Underwater Systems Center, Newport, Rhode Island, \$6,500,000.

Norfolk Naval Shipyard, Portsmouth, Virginia, \$160,000,000.

Naval Public Works Center, Norfolk, Virginia, \$16,030,000.

Naval Air Rework Facility, North Island, California, \$18,500,000.

Aviation Supply Office, Philadelphia, Pennsylvania, \$1,400,000.

Naval Ship System Engineering Station, Philadelphia, Pennsylvania, \$1,500,000.

Philadelphia Naval Shipyard, Philadelphia, Pennsylvania, \$17,500,000.

Naval Ship Weapon System Engineering Station, Port Hueneme, California, \$7,800,000.

Naval Supply Center, San Diego, California, \$4,430,000.

Naval Mine Engineering Facility, Yorktown, Virginia, \$3,250,000.

Naval Public Works Center, San Francisco, California, \$9,800,000.

Portsmouth Naval Shipyard, Kittery, Maine, \$6,600,000.

Naval Air Development Center, Warminster, Pennsylvania, \$1,400,000.

Naval Surface Weapons Center, White Oak, Maryland, \$1,700,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station Eastern Pacific, Honolulu, Hawaii, \$6,300,000.

Naval Communication Area Master Station Atlantic, Norfolk, Virginia, \$1,850,000.

OUTSIDE THE UNITED STATES

UNITED STATES MARINE CORPS

Marine Corps Base, Camp Butler, Okinawa, Japan, \$2,000,000.

Marine Corps Air Station, Iwakuni, Japan, \$1,350,000.

COMMANDER IN CHIEF, UNITED STATES ATLANTIC FLEET

Naval Facility, Keflavik, Iceland, \$1,400,000.

Naval Station, Keflavik, Iceland, \$8,800,000.

COMMANDER IN CHIEF, UNITED STATES PACIFIC FLEET

Naval Air Facility, Atsugi, Japan, \$1,700,000.

Naval Air Station, Cubi Point, Republic of the Philippines, \$10,400,000.

Naval Support Facility, Diego Garcia, Indian Ocean, \$71,930,000.

Naval Magazine, Guam, Mariana Islands, \$32,200,000.

Naval Activities, Kenya, \$8,300,000.

Naval Activities, Somalia, \$30,000,000.

COMMANDER IN CHIEF, NAVAL FORCES, EUROPE

Fleet Operations Control Center, Europe, London, England, United Kingdom, \$3,250,000.

Naval Air Station, Sigonella, Italy, \$31,900,000.

NAVAL MATERIAL COMMAND

Naval Public Works Center, Subic Bay, Republic of the Philippines, \$2,050,000.

NAVAL TELECOMMUNICATIONS COMMAND

Naval Communication Area Master Station, Western Pacific, Guam, \$1,750,000.

Naval Communication Station, Thurso, Scotland, \$1,400,000.

NAVAL SECURITY GROUP COMMAND

Naval Security Group Activity, Edzell, Scotland, \$9,390,000.

HOST NATION INFRASTRUCTURE SUPPORT

Various Locations, \$3,000,000.

EMERGENCY CONSTRUCTION

SEC. 202. The Secretary of the Navy may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for

inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$20,000,000. The Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section before such date.

MINOR CONSTRUCTION

SEC. 203. The Secretary of the Navy is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of \$60,428,000.

FAMILY HOUSING

SEC. 204. (a) The Secretary of the Navy, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Navy, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Navy is authorized to acquire less than sole interest in existing family housing units in foreign countries when it is determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Navy is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section

be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Navy, one thousand seven hundred and forty-nine units, for a total of \$83,513,000:

Marine Corps Base, Camp Pendleton, California, one hundred and four units, \$9,112,000.

Marine Corps Mountain Warfare Training Center, Bridgeport, California, seventy-seven units, \$10,908,000.

Naval Station, Long Beach, California, three hundred and sixty-eight units, \$33,090,000.

Naval Air Training Center, Patuxent River, Maryland, one thousand units, \$5,000,000.

Naval Station, Guantanamo Bay, Cuba, two hundred units, \$25,403,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) Notwithstanding any other provision of law, the Secretary of the Navy is authorized to purchase ninety-one acres of real estate at a cost not to exceed \$1,000,000 in support of a future project to construct family housing units at the Naval Station, Mayport, Florida.

(f) The Secretary of the Navy, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed \$47,333,000, of which \$7,574,000 shall be available only for energy conservation projects.

(g) The Secretary of the Navy, or the Secretary's designee, within the amounts specified in subsection (f), is authorized to accomplish repairs and improvements to existing family housing in the amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110; 81 Stat. 305), as follows:

Naval Air Test Center, Patuxent River, Maryland, three hundred and thirty units, \$16,800,000.

Naval Station, Guantanamo Bay, Cuba, one unit, \$75,000.

HOUSING UNITS ACQUIRED FROM PUBLIC HEALTH SERVICE

SEC. 205. The Secretary of the Navy may use for military family housing purposes the seven housing units comprising a portion of the United States Public Health Service Facility, Norfolk, Virginia, to be acquired by the Secretary of the Navy by transfer from the Secretary of Health and Human Services pursuant to section 987 of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

PROHIBITION ON CONSTRUCTION OF HOUSING UNITS AT LOS ALAMITOS ARMED FORCES RESERVE CENTER

SEC. 206. None of the housing units authorized by section 204(c) to be constructed for the Long Beach Naval Station, Long Beach, California, may be constructed at the Los Alamitos Armed Forces Reserve Center, Los Alamitos, California.

TITLE III—AIR FORCE

AUTHORIZED AIR FORCE CONSTRUCTION PROJECTS

SEC. 301. The Secretary of the Air Force may establish or develop military installa-

tions and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for the following acquisition and construction:

INSIDE THE UNITED STATES

AIR FORCE LOGISTICS COMMAND

Hill Air Force Base, Utah, \$5,845,000.
Kelly Air Force Base, Texas, \$12,000,000.
McClellan Air Force Base, California, \$9,000,000.
Robins Air Force Base, Georgia, \$4,700,000.
Tinker Air Force Base, Oklahoma, \$10,650,000.
Wright-Patterson Air Force Base, Ohio, \$32,186,000.

AIR FORCE SYSTEMS COMMAND

Arnold Engineering Development Center, Tennessee, \$6,600,000.
Edwards Air Force Base, California, \$12,100,000.
Eglin Air Force Base, Florida, \$24,200,000.
Fort MacArthur, California, \$1,900,000.
Laurence G. Hanscom Air Force Base, Massachusetts, \$10,650,000.
Cape Canaveral, Florida, \$9,100,000.
Moffett Naval Air Station, California, \$1,900,000.
Sunnyvale Air Force Station, California, \$11,700,000.

AIR TRAINING COMMAND

Chanute Air Force Base, Illinois, \$22,260,000.
Columbus Air Force Base, Mississippi, \$1,150,000.
Goodfellow Air Force Base, Texas, \$15,300,000.
Keesler Air Force Base, Mississippi, \$9,000,000.
Lackland Air Force Base, Texas, \$6,100,000.
Laughlin Air Force Base, Texas, \$5,770,000.
Lowry Air Force Base, Colorado, \$13,050,000.
Maxwell Air Force Base, Alabama, \$15,150,000.
Randolph Air Force Base, Texas, \$3,900,000.
Reese Air Force Base, Texas, \$3,750,000.
Sheppard Air Force Base, Texas, \$5,500,000.
Vance Air Force Base, Oklahoma, \$8,000,000.
Williams Air Force Base, Arizona, \$8,700,000.

ALASKAN AIR COMMAND

Eielson Air Force Base, Alaska, \$6,580,000.
Elmendorf Air Force Base, Alaska, \$4,800,000.
Galena Airport, Alaska, \$2,050,000.
Shemya Air Force Base, Alaska, \$1,200,000.
Various Locations, Alaska, \$43,600,000.

MILITARY AIRLIFT COMMAND

Altus Air Force Base, Oklahoma, \$3,160,000.
Andrews Air Force Base, Maryland, \$13,200,000.
Charleston Air Force Base, South Carolina, \$1,550,000.
Dover Air Force Base, Delaware, \$2,500,000.
Kirtland Air Force Base, New Mexico, \$3,570,000.
Little Rock Air Force Base, Arkansas, \$3,000,000.
McChord Air Force Base, Washington, \$3,700,000.
McGuire Air Force Base, New Jersey, \$16,000,000.

Norton Air Force Base, California, \$1,300,000.
Pope Air Force Base, North Carolina, \$4,400,000.
Scott Air Force Base, Illinois, \$4,850,000.
Travis Air Force Base, California, \$2,400,000.

NATIONAL MILITARY COMMAND CENTER

Pentagon Building, Virginia, \$3,300,000.
NORTH AMERICAN AEROSPACE DEFENSE COMMAND
NORAD Cheyenne Mountain Complex, Colorado, \$1,900,000.

STRATEGIC AIR COMMAND

Beale Air Force Base, California, \$2,595,000.
Blytheville Air Force Base, Arkansas, \$8,733,000.
Carswell Air Force Base, Texas, \$54,500,000.
Dyess Air Force Base, Texas, \$1,650,000.
Ellsworth Air Force Base, South Dakota, \$1,350,000.
Francis E. Warren Air Force Base, Wyoming, \$4,150,000.
Fairchild Air Force Base, Washington, \$3,740,000.
Griffiss Air Force Base, New York, \$56,450,000.
Grissom Air Force Base, Indiana, \$3,400,000.
K. I. Sawyer Air Force Base, Michigan, \$4,450,000.
Loring Air Force Base, Maine, \$38,420,000.
Malmstrom Air Force Base, Montana, \$55,000,000.
March Air Force Base, California, \$1,550,000.
McConnell Air Force Base, Kansas, \$3,000,000.
Offutt Air Force Base, Nebraska, \$9,450,000.
Peterson Air Force Base, Colorado, \$67,700,000.
Powell, Wyoming, \$1,250,000.
Vandenberg Air Force Base, California, \$79,759,000.
Various Locations, Continental United States, \$1,900,000.
Whiteman Air Force Base, Missouri, \$7,800,000.
Wurtsmith Air Force Base, Michigan, \$1,800,000.

TACTICAL AIR COMMAND

Bergstrom Air Force Base, Texas, \$5,450,000.
Cannon Air Force Base, New Mexico, \$1,800,000.
Davis-Monthan Air Force Base, Arizona, \$11,950,000.
George Air Force Base, California, \$1,400,000.
Gila Bend Air Force Auxiliary Field, Arizona, \$1,700,000.
Holloman Air Force Base, New Mexico, \$3,902,000.
Homestead Air Force Base, Florida, \$1,500,000.
Langley Air Force Base, Virginia, \$15,550,000.
MacDill Air Force Base, Florida, \$20,700,000.
Moody Air Force Base, Georgia, \$6,550,000.
Mountain Home Air Force Base, Idaho, \$4,350,000.
Nellis Air Force Base, Nevada, \$19,900,000.
Seymour-Johnson Air Force Base, North Carolina, \$3,620,000.
Shaw Air Force Base, South Carolina, \$1,150,000.
Tyndall Air Force Base, Florida, \$11,540,000.

Various Locations, Maine, \$7,200,000.

UNITED STATES AIR FORCE ACADEMY

United States Air Force Academy, Colorado, \$6,050,000.

MX CONSTRUCTION

Various Locations, Continental United States, \$103,000,000.

AIR NATIONAL GUARD

Buckley Air National Guard Base, Colorado, \$1,100,000.

Otis Air National Guard Base, Massachusetts, \$3,440,000.

AIR FORCE RESERVE

Westover Air Force Reserve Base, Massachusetts, \$2,700,000.

OUTSIDE THE UNITED STATES

MILITARY AIRLIFT COMMAND

Rhein-Main Air Base, Germany, \$7,270,000.

PACIFIC AIR FORCES

Camp Long, Korea, \$1,750,000.

Clark Air Base, Republic of the Philippines, \$14,380,000.

Diego Garcia Air Base, Indian Ocean, \$36,550,000.

Kadena Air Base, Japan, \$15,950,000.

Kunsan Air Base, Korea, \$36,490,000.

Kwang-Ju Air Base, Korea, \$2,450,000.

Misawa Air Base, Japan, \$6,600,000.

Osan Air Base, Korea, \$44,000,000.

San Miguel, Republic of the Philippines, \$1,750,000.

Yaeake Radio Relay Station, Japan, \$1,300,000.

STRATEGIC AIR COMMAND

Andersen Air Force Base, Guam, \$2,440,000.

TACTICAL AIR COMMAND

Keflavik Naval Station, Iceland, \$3,600,000.

Various Locations, Worldwide, \$15,000,000.

UNITED STATES AIR FORCES IN EUROPE

Egypt, Various Locations, \$121,700,000.

Germany, Various Locations, \$22,354,000.

Aviano Air Base, Italy, \$7,200,000.

Oman, Various Locations, \$9,250,000.

Incirtik Air Base, Turkey, \$7,290,000.

Various Locations, United Kingdom, \$57,010,000.

Various Locations, \$83,954,000.

EMERGENCY CONSTRUCTION

SEC. 302. The Secretary of the Air Force may establish or develop installations and facilities by proceeding with construction made necessary by changes in missions and responsibilities which have been occasioned by (1) unforeseen security considerations, (2) new weapons developments, (3) new and unforeseen research and development requirements, (4) improved production schedules, or (5) revisions in the tasks or functions assigned to a military installation or facility or for environmental considerations, if the Secretary of Defense determines that deferral of such construction for inclusion in the next Military Construction Authorization Act would be inconsistent with the interests of national security and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, in the total amount of \$20,000,000. The Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a

final decision to implement, of the cost of construction of any public work undertaken under this section, including those real estate actions pertaining thereto. This authorization shall expire on October 1, 1983, or on the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, except for those public works projects concerning which the Committees on Armed Services of the Senate and the House of Representatives have been notified pursuant to this section prior to such date.

MINOR CONSTRUCTION

SEC. 303. The Secretary of the Air Force is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of \$101,521,000.

FAMILY HOUSING

SEC. 304. (a) The Secretary of the Air Force, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named, but no family housing construction shall be commenced at any such location in the United States until the Secretary shall have consulted with the Secretary of Housing and Urban Development as to the availability of suitable private housing at such location. If agreement cannot be reached with respect to the availability of suitable private housing at any location, the Secretary of the Air Force, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, in writing, of such difference of opinion, and no contract for construction at such location shall be entered into for a period of fifteen days after such notification has been given. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of the Air Force is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of the Air Force is authorized to acquire sole interest in privately owned or Department of Housing and Urban Development-held family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units be acquired under this subsection through the exercise of eminent domain authority, and in no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the Department of the Air Force, seven hundred and seventy-six units, for a total of \$82,050,000:

Fort MacArthur, California, two hundred units, \$20,000,000.

Powell, Wyoming, fifty units, \$3,850,000.

MacDill Air Force Base, Florida, twenty-six units, \$3,200,000.

Incirtik Air Base, Turkey, two hundred units, \$20,000,000.

Bentwaters Royal Air Force Station, United Kingdom, three hundred units, \$35,000,000.

(d) The projects and amounts authorized by subsection (c) include the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of the Air Force, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or extensions, not otherwise authorized by law, to existing public quarters at a cost not to exceed \$76,500,000, of which \$17,000,000 shall be available only for energy conservation projects.

(f) The Secretary of the Air Force, or the Secretary's designee, within the amounts specified in subsection (e), is authorized to accomplish repairs and improvements to existing family housing in amounts in excess of the dollar limitation prescribed in section 610(a) of the Military Construction Authorization Act, 1968 (Public Law 90-110, 81 Stat. 305), as follows:

Loring Air Force Base, Maine, four hundred units, \$13,080,000.

F. E. Warren Air Force Base, Wyoming, one hundred and sixty-two units, \$5,783,300.

Kirtland Air Force Base, New Mexico, one hundred and twenty-five units, \$4,123,700.

Holloman Air Force Base, New Mexico, one hundred and forty-two units, \$4,253,600.

Ramstein Air Base, Germany, one hundred and twenty units, \$7,630,000.

RAF Lakenheath, United Kingdom, thirty-six units, \$1,569,700.

RAF Upper Heyford, United Kingdom, eighteen units, \$934,900.

DEFICIENCY AUTHORIZATION FOR PRIOR YEAR PROJECT

SEC. 305. The Military Construction Authorization Act, 1977 (Public Law 94-431, 90 Stat. 1349), is amended—

(1) in section 301 concerning the Arnold Engineering Development Center, Tennessee, delete "\$519,010,000" and insert in lieu thereof "\$561,010,000"; and

(2) in section 602(3) delete "\$759,759,000" and "\$816,409,000" and insert in lieu thereof "\$801,759,000" and "\$858,409,000", respectively.

LAND CONVEYANCE, FLORIDA

SEC. 306. (a) Notwithstanding the restoration provisions of the Second Deficiency Appropriation Act, 1940 (Public Law 668, ch. 437, 54 Stat. 628, 655), the Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to adjust the base boundaries at Eglin Air Force Base, Florida, to resolve encroachments by both the Air Force and private property owners resulting from a reliance on inaccurate surveys. In doing so, the Secretary may (1) disclaim the intent to acquire property by prescription, which disclaimer shall be binding on all parties, (2) dispose of tracts by gift, sale, or exchange for privately owned land adjoining Eglin Air Force Base, to parties in possession of such tracts who mistakenly believed that they had acquired title to such tracts, and (3) acquire tracts by purchase, donation, or exchange for Government-owned land at Eglin Air Force Base.

(b) Conveyances pursuant to this section may be made without consideration, at the Secretary's discretion.

CONVERSION OF FACILITY AT WRIGHT-PATTERSON AIR FORCE BASE, OHIO

SEC. 307. Notwithstanding any other provision of law, the Secretary of the Air Force may use Foreign Military Sales administrative funds, only to such extent or in such amounts equal to a total of not more than \$395,000 as are provided in appropriation Acts, to convert, rehabilitate, or alter an existing facility located at Wright-Patterson Air Force Base, Ohio, for use as a foreign military sales center to accommodate personnel engaged in logistics system support and management of the foreign military sales program of the Air Force.

LIMITATION ON FUNDS FOR MX CONSTRUCTION

SEC. 308. Any amount appropriated to carry out the MX construction authorized in section 301 for various locations in the continental United States may not be obligated or expended for construction of weapons system support facilities until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and thirty days of continuous session of Congress have expired after the receipt by Congress of such notice. For the purpose of the preceding sentence, continuity of a session of Congress is broken only by an adjournment sine die, and in determining days of session of Congress, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

TITLE IV—DEFENSE AGENCIES

AUTHORIZED CONSTRUCTION PROJECTS FOR THE DEFENSE AGENCIES

SEC. 401. The Secretary of Defense may establish or develop military installations and facilities by acquiring, constructing, converting, rehabilitating, or installing permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment, for defense agencies, for the following acquisition and construction:

INSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Property Disposal Office, Elmendorf Air Force Base, Alaska, \$2,700,000.

DEFENSE MAPPING AGENCY

Aerospace Center, St. Louis, Missouri, \$24,141,000.

NATIONAL SECURITY AGENCY

Fort George G. Meade, Maryland, \$75,500,000.

OFFICE OF THE SECRETARY OF DEFENSE

Classified Activity, Fort Belvoir, Virginia, \$2,100,000.

Defense Foreign Language Institute, Monterey, California, \$31,000,000.

OUTSIDE THE UNITED STATES

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Guam, \$43,900,000.

Defense Personnel Support Center, Kaiserslautern, Germany, \$5,100,000.

Various Locations, Korea, \$29,000,000.

NATIONAL SECURITY AGENCY

Classified Locations, \$8,557,000.

DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS

Bamberg, Germany, \$3,470,000.

Kaiserslautern Air Base, Germany, \$7,967,000.

Karlsruhe, Germany, \$7,380,000.

Mainz, Germany, \$2,830,000.

Nuernberg, Germany, \$2,820,000.

Ramstein Air Base, Germany, \$1,460,000.

Wuerzburg, Germany, \$3,920,000.

Zweibruecken Air Base, Germany, \$1,780,000.

Yokota Air Base, Japan, \$5,660,000.

RAF Woodbridge, United Kingdom, \$1,200,000.

EMERGENCY CONSTRUCTION

SEC. 402. The Secretary of Defense may establish or develop installations and facilities which the Secretary determines are vital to the security of the United States and, in connection therewith, may acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment in the total amount of \$5,200,000. The Secretary of Defense, or the Secretary's designee, shall notify the Committees on Armed Services of the Senate and the House of Representatives, immediately upon reaching a final decision to implement, of the cost of construction of any public work undertaken under this section, including real estate actions pertaining thereto.

MINOR CONSTRUCTION

SEC. 403. The Secretary of Defense is authorized to accomplish minor construction projects under section 2674 of title 10, United States Code, in the amount of \$13,460,000.

FAMILY HOUSING

SEC. 404. (a) The Secretary of Defense, or the Secretary's designee, is authorized to construct or acquire sole interest in existing family housing units in the numbers and at the locations hereinafter named. This authority shall include the authority to acquire land, and interests in land, by gift, purchase, exchange of Government-owned land, or otherwise. The Secretary of Defense, or the Secretary's designee, is authorized to acquire less than sole interest in existing family housing units in foreign countries when determined to be in the best interests of the Government.

(b) With respect to the family housing units authorized to be constructed by this section, the Secretary of Defense, or the Secretary's designee, is authorized to acquire sole interest in privately owned family housing units in lieu of constructing all or a portion of the family housing authorized by this section, if the Secretary, or the Secretary's designee, determines such action to be in the best interests of the United States, but any family housing units acquired under authority of this subsection shall not exceed the cost limitations specified in this section for the project nor the limitations on size specified in section 2684 of title 10, United States Code. In no case may family housing units other than those authorized by this section be acquired in lieu of construction unless the acquisition of such units is hereafter specifically authorized by law.

(c) Family Housing units for the National Security Agency, five units, \$1,009,000; Classified locations overseas, five units, \$1,009,000.

(d) The project and amount authorized by subsection (c) includes the costs of shades, screens, ranges, refrigerators, and all other installed equipment and fixtures, the cost of the family housing unit, supervision, inspection, overhead, land acquisition, site preparation, installation of utilities, and solar energy systems.

(e) The Secretary of Defense, or the Secretary's designee, is authorized to accomplish alterations, additions, expansions, or exten-

sions, not otherwise authorized by law, to existing public quarters at a cost not to exceed \$33,000 for the Defense Agencies.

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. (a) The Secretary of Defense is authorized to incur obligations in amounts not to exceed \$375,000,000 for the United States share of the cost of multilateral programs for the acquisition or construction of military facilities and installations (including international military headquarters) for the collective defense of the North Atlantic Treaty Area.

(b) Within thirty days after the end of each calendar-year quarter, the Secretary of Defense shall furnish to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a description of obligations incurred by the United States during the preceding quarter for the United States share of the cost of such multilateral programs.

TITLE VI—AUTHORIZATION OF APPROPRIATIONS AND ADMINISTRATIVE PROVISIONS

WAIVER OF RESTRICTIONS

SEC. 601. The Secretary of each military department may proceed to establish or develop installations and facilities under this Act without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 4774 and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on land includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255), and even though the land is held temporarily. The authority to acquire real estate or lands includes authority to make surveys and to acquire land and interests in land (including temporary use) by gift, purchase, exchange of Government-owned land, or otherwise.

AUTHORIZATION OF APPROPRIATIONS

SEC. 602. (a) There are authorized to be appropriated for fiscal years beginning after September 30, 1982, such sums as may be necessary for the purposes of this Act, but appropriations for public works projects authorized by titles I, II, III, IV, and V, shall not exceed—

(1) for title I: military construction inside the United States \$555,530,000; military construction outside the United States \$316,340,000; minor construction \$56,050,000; family housing construction \$159,055,000; family housing support \$936,078,000; homeowners assistance under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374), including acquisition of properties, \$2,000,000; for a total of \$2,025,073,000.

(2) for title II: military construction inside the United States \$900,770,000; military construction outside the United States \$220,820,000; minor construction \$60,428,000; family housing construction \$131,846,000; family housing support \$659,439,000; for a total of \$1,973,303,000.

(3) for title III: military construction inside the United States \$1,036,420,000; military construction outside the United States \$498,288,000; minor construction \$101,521,000; family housing construction \$158,550,000; family housing support \$809,535,000; for a total of \$2,604,314,000.

(4) for title IV: military construction inside the United States \$135,441,000; military construction outside the United States \$125,044,000; minor construction \$13,460,000; emergency construction \$5,200,000; family housing construction \$1,042,000; family housing support \$17,279,000; for a total of \$297,466,000.

(5) for title V: a total of \$375,000,000.

(b) The amounts authorized to be appropriated for family housing support may be increased to the extent additional funds are necessary for increased pay costs associated with actions taken pursuant to law.

COST VARIATIONS

SEC. 603. (a) OVERALL TITLE TOTAL LIMITATION.—Notwithstanding the provisions of subsections (b) and (d), the total cost of all construction and acquisition in each of titles I, II, III, IV, and V, except as provided in subsection (c), may not exceed the total amount authorized to be appropriated for that title.

(b) VARIATIONS IN INSTALLATION TOTALS—UNUSUAL VARIATIONS IN COST.—Any of the amounts specified in titles I, II, III, and IV of this Act (other than in sections 103, 203, 303, and 403) may, at the discretion of the Secretary of the military department or Director of the defense agency concerned, be increased if the Secretary of the military department or Director of the defense agency concerned determines that such increase (1) is required for the sole purpose of meeting unusual variations in cost, and (2) could not have been reasonably anticipated at the time such estimate was submitted to the Congress.

(c) VARIATIONS IN NORTH ATLANTIC TREATY ORGANIZATION TOTAL.—When the Secretary of Defense determines that the amount set forth in title V for the United States share of the cost of the North Atlantic Treaty Organization program must be increased, the Secretary may incur obligations in excess of such amount if the amount of the increase does not exceed by more than 25 percent the amount set forth in such title. When the Secretary of Defense determines that the amount set forth in title V of this Act must be exceeded by more than 25 percent for the United States share of the cost of the North Atlantic Treaty Organization infrastructure program, the Secretary may proceed with such construction or acquisition after a written report of the facts relating to the increase of such amount, including a statement of the reasons for such increase, has been submitted to the Committees on Armed Services of the Senate and the House of Representatives and either (1) fifteen days have elapsed from the date of the submission of such report, or (2) both committees have indicated approval of such construction or acquisition. Notwithstanding the provisions in prior Military Construction Authorization Acts, the provisions of this subsection shall apply to such prior Acts.

(d) COST AND SCOPE VARIATIONS OF INDIVIDUAL PROJECTS: REPORTS TO CONGRESS.—No individual project authorized in section 101, 104, 201, 204, 301, 304, 401, and 404 of this Act for any specifically listed military installation for which the current working estimate is greater than the statutory upper limit for minor construction projects may be placed under contract if—

(1) the approved scope of the project is reduced in excess of 25 percent; or

(2) the current working estimate, based upon bids received, for the construction of such project exceeds by more than 25 percent the amount authorized for such project by the Congress,

until a written report of the facts relating to the reduced scope or increased cost of such project, including a statement of the reasons for the reduction in scope or the increase in cost, has been submitted to the Committees on Armed Services of the Senate and the House of Representatives and either fifteen days have elapsed from the date of the submission of such report or both committees have indicated approval of such reduction in scope or increase in cost, as the case may be.

(e) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, or the Secretary's designee, shall submit an annual report to the Congress identifying each individual project (other than a project authorized under sections 103, 203, 303, or 403) which has been placed under contract in the preceding twelve-month period and with respect to which the then current working estimate of the Department of Defense, based upon bids received, for such project exceeded the amount authorized by the Congress for that project by more than 25 per centum. The Secretary shall also include in such report each individual project with respect to which the scope has been reduced by more than 25 per centum in order to permit a contract award within the available authorization for such project. Such report shall include all pertinent cost information for each individual project, including the amount in dollars and the percentage by which the current working estimate based on the contract price for the project exceeded the amount authorized for such project by the Congress.

CONSTRUCTION SUPERVISION

SEC. 604. Contracts for construction made by the United States for performance within the United States and its possessions under this Act shall be executed under the jurisdiction and supervision of the Corps of Engineers, Department of the Army; the Naval Facilities Engineering Command, Department of the Navy; or such other department or Government agency as the Secretaries of the military departments recommend and the Secretary of Defense approves, to assure the most efficient, expeditious, and cost-effective accomplishment of the construction herein authorized. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives a breakdown of the dollar value of construction contracts completed by each of the several construction agencies selected together with the design, construction supervision, and overhead fees charged by each of the several agents in the execution of the assigned construction. Such contracts (except architect and engineering contracts which, unless specifically authorized by the Congress shall continue to be awarded in accordance with presently established procedures, customs, and practice) shall be awarded, insofar as practicable, on a competitive basis to the lowest responsible bidder, if the national security will not be impaired and the award is consistent with chapter 137 of title 10, United States Code. The Secretaries of the military departments shall report annually to the President of the Senate and the Speaker of the House of Representatives with respect to all contracts awarded on other than a competitive basis to the lowest responsible bidder. Such reports shall also show, in the case of the ten architect-engineering firms which, in terms of total dollars, were awarded the most business, the names of such firms, the total number of separate contracts awarded to each firm, and the total amount paid or to be paid in the case of each such

action under all such contracts awarded to such firm.

REPEAL OF PRIOR YEAR AUTHORIZATION: EXCEPTIONS

SEC. 605. (a) As of October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, all authorizations for military public works, including family housing, to be accomplished by the Secretary of a military department in connection with the establishment or development of installations and facilities, and all authorizations for appropriations therefore, that are contained in titles I, II, III, IV, V, and VI of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), and all such authorizations contained in Acts approved before December 23, 1981, and not superseded or otherwise modified by a later authorization, are repealed except—

(1) authorizations for public works and for appropriations therefore that are set forth in those Acts in the titles that contain the general provisions; and

(2) authorizations for public works projects as to which appropriated funds have been obligated for construction contracts, land acquisition, or payments to the North Atlantic Treaty Organization, in whole or in part, before October 1, 1983, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1984, whichever is later, and authorizations for appropriations therefore.

(b) Notwithstanding the repeal provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 101 or section 103 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Temperature Control/Heat Recovery Construction in the amount of \$2,300,000 at Baumholder, Germany.

(2) Temperature Control/Heat Recovery Construction in the amount of \$2,270,000 at Hanau, Germany.

(3) Temperature Control/Heat Recovery Construction in the amount \$2,500,000 at Giessen, Germany.

(4) Energy Monitor and Control System in the amount of \$840,000 at Karlsruhe, Germany.

(5) Troop Medical Clinic in the amount of \$4,700,000 at Ford Ord, California.

(6) Electromagnetic Test Facility in the amount of \$4,650,000 at Fort Huachuca, Arizona.

(7) Minor Construction Projects in the amount of \$2,800,000 at specified locations.

(c) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 201 or such authorizations as were extended in section 605 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Municipal Sewer Connection Construction in the amount of \$2,500,000 at the Naval Education and Training Center, Newport, Rhode Island.

(2) Nautilus Memorial in the amount of \$1,930,000 at the Naval Submarine Base, New London, Connecticut.

(3) Energy Monitoring and Control System in the amount of \$765,000 at the Naval Air Station, Jacksonville, Florida.

(4) Unaccompanied Enlisted Personnel Housing Modernization in the amount of \$4,700,000 at the Fleet Combat Training Center, Atlantic, Dam Neck, Virginia.

(5) Land Acquisition in the amount of \$330,000 at the Naval Air Station, Fallon, Nevada.

(6) Air Passenger Terminal in the amount of \$20,000,000 at the Naval Station, Keflavik, Iceland.

(7) Facility Energy Improvements in the amount of \$1,450,000 at the Naval Air Station, Alameda, California.

(d) Notwithstanding the provisions of subsection (a) of this section and section 705 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1377), authorizations for the following items authorized in section 301 of the Military Construction Authorization Act, 1981 (Public Law 96-418; 94 Stat. 1770), shall remain in effect until October 1, 1984, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1985, whichever is later:

(1) Various Rapid Deployment Force Facilities, in the amount of \$20,000,000 at Lajes Air Base, Portugal.

(2) Energy Showcase Initiatives in the amount of \$1,600,000 at McClellan Air Force Base, California.

(3) Space Transportation System Solid Rocket Disassembly Complex in the amount of \$16,700,000 at Port Hueneme Naval Installation, California.

DEFICIENCY AUTHORIZATION

SEC. 606. (a) Section 201 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), is amended by striking out the line:

"Defense Installations, Mariana Islands, \$32,000,000."

under the headings "OUTSIDE THE UNITED STATES" and "CHIEF OF NAVAL OPERATIONS".

(b) Section 401 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359), is amended by inserting the following new line:

"Defense Installations, Mariana Islands, \$35,000,000."

after the line:

"Classified Activity, Classified Location, \$2,000,000."

under the headings "OUTSIDE THE UNITED STATES" and "OFFICE OF THE SECRETARY OF DEFENSE".

(c) Section 702 of the Military Construction Authorization Act, 1982 (Public Law 97-99; 95 Stat. 1359) is amended—

(1) by striking out "\$236,445,000" in paragraph (2) and inserting in lieu thereof "\$204,445,000";

(2) by striking out "\$1,240,033,000" in paragraph (2) and inserting in lieu thereof "\$1,208,033,000"; and

(3) by striking out "\$282,815,000" in paragraph (4) and inserting in lieu thereof "\$317,815,000".

(d) The amendments made by this section shall take effect on October 1, 1982.

EFFECTIVE DATE FOR PROJECT AUTHORIZATIONS

SEC. 607. Titles I, II, III, IV, and V shall take effect on October 1, 1982.

TITLE VII—GUARD AND RESERVE FORCES FACILITIES

AUTHORIZATION FOR FACILITIES

SEC. 701. Subject to chapter 133 of title 10, United States Code, the Secretary of Defense

may establish or develop additional facilities for the Guard and Reserve Forces, including the acquisition of land therefor, but the cost of such facilities shall not exceed the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, \$44,111,000; and

(B) for the Army Reserve, \$28,500,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, \$21,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, \$116,500,000; and

(B) for the Air Force Reserve, \$29,000,000.

WAIVER OF CERTAIN RESTRICTIONS

SEC. 702. The Secretary of Defense may establish or develop installations and facilities under this title without regard to section 3648 of the Revised Statutes (31 U.S.C. 529) and sections 2662, 4774, and 9774 of title 10, United States Code. The authority to place permanent or temporary improvements on lands includes authority for surveys, administration, overhead, planning, and supervision incident to construction. That authority may be exercised before title to the land is approved under section 355 of the Revised Statutes (40 U.S.C. 255) and even though the land is held temporarily. The authority to acquire real estate or land includes authority to make surveys and to acquire land and interests in land (including temporary use) by gift, purchase, exchange of Government-owned land, or otherwise.

TITLE VIII—GENERAL PROVISIONS

LAND CONVEYANCE, HOUSTON COUNTY, GEORGIA

SEC. 801. (a) The Secretary of the Air Force (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, all right, title, and interest of the United States in and to a portion (as determined by the Secretary) of tracts of land consisting of a total of approximately seventy acres, together with any improvements located on the land.

(b) In consideration for the conveyance under subsection (a), the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall convey to the United States all right, title, and interest of the city and the board in and to four tracts of land consisting of a total of approximately four hundred acres and located contiguous to Robins Air Force Base, Georgia, together with any improvements located on the tracts of land.

(c) The city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia, shall pay to the United States an amount equal to the amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the city and the board under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the city and the board to the United States under subsection (b).

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under subsection (a) or (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city of Warner Robins, Georgia, and the Board of Commissioners of Houston County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to

the acquisition and conveyance authorized by the section as the Secretary considers appropriate to protect the interests of the United States.

OBLIGATIONS FOR COMMISSARY STORE FACILITY CONSTRUCTION

SEC. 802. Section 2685 of title 10, United States Code, is amended by adding after subsection (b) the following new subsection:

"(c) The Secretary of a military department, with the approval of the Secretary of Defense and the Director of the Office of Management and Budget, may obligate anticipated proceeds from the adjustments or surcharges authorized by subsection (a) for any use specified in subsection (b), without regard to fiscal year limitations, if the Secretary of the military department determines that such obligation is necessary to carry out any use of such adjustments or surcharges specified in subsection (b)."

USE OF RENEWABLE FORMS OF ENERGY

SEC. 803. (a)(1) Chapter 141 of title 10, United States Code, is amended by adding after section 2393 the following new section:

"§ 2394. Procurement of energy systems powered by renewable forms of energy

"(a) The Secretary of each military department shall procure energy systems using solar energy, or other renewable forms of energy, whenever the Secretary of a military department determines that such procurement is possible and will be cost effective, reliable, and otherwise suited to supplying the energy needs of the military department (such as energy systems powered by solar energy, or other renewable forms of energy, to supply energy for mobile power systems, cathodic protection of pipelines, remote communications sites, mobile radar sites, navigational aids, military range monitoring and conditioning equipment, load center power, water pumping and purification, cathodic protection of water towers and bridges, perimeter security devices, data links, repeater stations, emergency and rescue communications, lighting, remote instrumentation, marking and warning devices, monitoring and sensing devices, and remote weather stations and transmitters).

"(b)(1) For purposes of carrying out subsection (a) and section 2688, the Secretary of Defense shall study applications for the use of solar energy, and other renewable forms of energy which are cost effective and reliable to supply the energy needs of the Department of Defense.

"(2) Not later than the date occurring two years after the date of the enactment of this section, and not later than the date occurring two years after each such previous date, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the findings of the studies conducted pursuant to paragraph (1) and containing any recommendations for legislative action.

"(c) For purposes of this section—

"(1) energy system using solar energy, or other renewable forms of energy, shall be considered to be cost effective if the original investment cost differential can be recovered over the expected life of the facility using accepted life-cycle costing procedures. Such accepted life-cycle costing procedures shall include the use of the sum of all capital, operating, and maintenance expenses associated with the energy system of the building involved over the expected life of such system or during a period of twenty-five years, whichever is shorter, and using

marginal fuel cost as determined by the Secretary of Defense and at a discount rate of 7 per centum per year. For the purposes of a life-cycle cost analysis under this subsection, the original investment cost of an energy system using solar energy, or other renewable forms of energy, shall be reduced 10 percent as an investment cost credit; and

"(2) the term 'energy system' includes any energy system which generates electricity."

(2) The table of sections at the beginning of chapter 141 of title 10, United States Code, is amended by adding after the item relating to section 2393 the following new item:

"2394. Procurement of energy systems using renewable forms of energy."

(b)(1) Section 2688 of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by striking out "solar energy systems" in the first sentence and inserting in lieu thereof "energy systems using solar energy, or other renewable forms of energy (including systems that produce electricity)";

(ii) by striking out "solar energy has" in the first sentence and inserting in lieu thereof "such systems have"; and

(iii) by striking out "solar energy systems" in the second sentence and inserting in lieu thereof "such energy systems"; and

(B) in subsection (b) by striking out "a solar energy system" both places it appears, in the first sentence and in the third sentence, and inserting in lieu thereof "an energy system using solar energy, or other renewable forms of energy (including any system producing electricity)";

(2) The heading of section 2688 of title 10, United States Code, is amended to read as follows:

"§ 2688. Use of renewable forms of energy in new facilities"

(3) The item in the table of sections of chapter 159 of title 10, United States Code, relating to section 2688 is amended to read as follows:

"2688. Use of renewable forms of energy in new facilities."

LAND CONVEYANCE, CLARKE COUNTY, GEORGIA

SEC. 804. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the Clarke County, Georgia, Board of Education all right, title, and interest of the United States in and to a tract of land consisting of approximately three and eighty-eight one hundredth acres and located in the city of Athens, Georgia, together with any improvements located on the tract of land.

(b) In consideration for the conveyance under subsection (a), the Clarke County, Georgia, Board of Education shall convey to the United States all right, title, and interest of the board in and to a tract of land consisting of approximately twelve and five-tenths acres and delineated as the site of the Lyons School on a plat entitled "Plat of land deeded to the Clarke County Board of Education by Clarke County, Ga.", dated December 21, 1953, and annexed to the deed from the Commissioner of roads and revenues of Clarke County, Georgia, to the Clarke County Board of Education, dated January 9, 1954, and recorded in deed book 139, page 368, in the Office of the Clerk of the Superior Court of Clarke County, Georgia, together with any improvements located on the tract of land.

(c)(1) If the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the Clarke County, Georgia, Board of Education under subsection (a) exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the board to the United States under subsection (b), the board shall pay to the United States an amount equal to the amount by which such fair market value of the property to be conveyed under subsection (a) exceeds such fair market value of the property to be conveyed under subsection (b).

(2) If the fair market value (as determined by the Secretary) of the property to be conveyed by the Clarke County, Georgia, Board of Education to the United States under subsection (b), exceeds the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the board under subsection (a), the United States shall pay to the board an amount equal to the amount by which such fair market value of the property to be conveyed under subsection (b) exceeds such fair market value of the property to be conveyed under subsection (a), but any such payment may not exceed \$300,000.

(3) The authority to make any payment under paragraph (2) shall take effect on October 1, 1982, and is subject to the availability of appropriations for that purpose.

(d)(1) The exact acreages and legal descriptions of any property acquired or conveyed under subsection (a) or (b) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the Board of Education of Clarke County, Georgia.

(2) The Secretary may require such additional terms and conditions with respect to the acquisition and conveyance authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND CONVEYANCE, BELL, CALIFORNIA

SEC. 805. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the city of Bell, California, all right, title, and interest of the United States in and to a tract of land consisting of approximately 5.5 acres and described on a map entitled "Outgrant to California Army National Guard, Bell, California drawing numbered 247-K-31.1", dated December 14, 1977, and on file in the office of the District Engineer, United States Army Engineer District, Los Angeles, California, together with any improvements located on the tract of land.

(b)(1) In consideration for the conveyance under subsection (a), the city of Bell, California, shall restore, improve, and modernize the building owned by the United States, located in the city of Bell, California, and designated in the Department of the Army records as building number 332, in accordance with an agreement to be entered into between the Secretary and the city.

(2) The Secretary shall approve the plans and specifications for the restoration, improvement, and modernization of the building numbered 332 under paragraph (1).

(3) In consideration for the conveyance under subsection (a), the city of Bell, California, shall convey to the United States all right, title, and interest of the city in and to the building numbered 332 and all right, title, and interest of the city in and to any restoration, improvement, and modernization of building numbered 332 done under paragraph (1).

(c) The city of Bell, California, shall pay to the United States an amount equal to the

amount by which the fair market value (as determined by the Secretary) of the property to be conveyed by the United States to the city under subsection (a) exceeds the fair market value (as determined by the Secretary) of the restoration, improvement, and modernization of building numbered 332 done under subsection (b)(1).

(d)(1) The exact acreages and legal descriptions of any property acquired under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the city of Bell, California.

(2) The Secretary may require such additional terms and conditions with respect to the conveyance and the restoration, improvement, and modernization authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

LAND EXCHANGE, KANSAS CITY, MISSOURI

SEC. 806. (a) Subject to subsection (b), the Secretary of the Army (hereinafter in the section referred to as the "Secretary") is authorized to convey to the Kansas City Corporation for Industrial Development of Kansas City, Missouri (hereinafter in this section referred to as the "Corporation"), all right, title, and interest of the United States in and to a parcel of land, aggregating one and two-tenths acres, more or less, together with improvements thereon, situated in Jackson County, Kansas City, State of Missouri, and presently used by the United States for Army Reserve purposes and known as the Sergeant Charles R. Long Army Reserve Training Center.

(b) In consideration for the conveyance by the Secretary under subsection (a), the Corporation shall—

(1) convey to the United States all right, title, and interest in and to a parcel of land, aggregating four and one-half acres, more or less, together with improvements thereon, known as the Carlisle School;

(2) repair and rehabilitate the Carlisle School in accordance with specification approved by the Secretary; and

(3) provide to the United States the cost, as determined by the Secretary, of relocating Federal Government activities from the Sergeant Charles R. Long Army Reserve Training Center to the Carlisle School.

(c) If the sum of the fair market value of the property conveyed to the United States under subsection (b)(1) and the cost of the repair and rehabilitation under subsection (b)(2) is less than the fair market value of the property of the United States conveyed under subsection (a), the Corporation shall pay to the United States the amount of the difference. Any such payment shall be deposited into the Treasury as miscellaneous receipts.

(d) If the Corporation offers to provide to the United States another facility as consideration for the conveyance under subsection (a) in lieu of conveying the Carlisle School, and the Secretary determines that such facility is equal to or better than the Carlisle School from a functional, rehabilitative, economic, or other aspect, the Secretary may accept such alternative facility as consideration for the conveyance under subsection (a) in lieu of accepting the Carlisle School under subsection (b). Before accepting such facility, the Secretary shall submit a report of the facts concerning the proposed transaction to the Committees on Armed Services of the Senate and House of Representatives as required by section 2662 of title 10, United States Code.

(e) The exact acreages and legal descriptions of the properties to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary.

(f) The Secretary may accept and administer any real property conveyed to the United States under this section.

(g) The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

CLARIFICATION OF CONSTRUCTION AUTHORITY ON LAND HELD IN OTHER THAN A FEE SIMPLE INTEREST

SEC. 806. (a)(1) Section 2852(b) of title 10, United States Code, as added effective October 1, 1982, by section 2(a) of the Military Construction Codification Act (Public Law 97-214), is amended to read as follows:

"(b) Authority to carry out a military construction project or a military family housing project may be exercised on land not owned by the United States—

"(1) before title to the land on which the project is to be carried out is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project."

(2) Section 2239(b) of such title, as added effective October 1, 1982, by section 3(b) of such Act, is amended to read as follows:

"(b) Authority provided by law to place permanent or temporary improvements on land under section 2233 of this title may be exercised on land not owned by the United States—

"(1) before title to the land on which the improvement is located (or is to be located) is approved under section 355 of the Revised Statutes (40 U.S.C. 255); and

"(2) even though the land will be held in other than a fee simple interest in a case in which the Secretary of the military department concerned determines that the interest to be acquired in the land is sufficient for the purposes of the project."

(b)(1) The heading of section 2806 of such title (as added effective October 1, 1982, by section 2(a) of the Military Construction Codification Act) is amended to read as follows:

"§ 2806. Contributions for North Atlantic Treaty Organization Infrastructure"

(2) Section 2828(e)(1) of such title (as added effective October 1, 1982, by section 2(a) of such Act) is amended by inserting "the" after "may be waived by".

(3) Section 2394 of such title (as added effective October 1, 1982, by section 6(a)(1) of such Act) is amended—

(A) by striking out "subsection (c)" in subsection (a) and inserting in lieu thereof "subsection (b)"; and

(B) by redesignating subsection (d) as subsection (c).

(4) The item relating to section 2689 (as added effective October 1, 1982, by section 6(c)(2) of such Act) in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2689. Development of geothermal energy on military lands."

LAND CONVEYANCE, COOK COUNTY, ILLINOIS

SEC. 806. (a) The Secretary of the Army (hereinafter in this section referred to as the "Secretary") is authorized to convey to the State of Illinois all right, title, and interest

of the United States in and to approximately ten acres of land comprising a portion of the National Guard Maintenance Center located in Cook County, Illinois, and presently under license to the State of Illinois for National Guard use. The land authorized to be conveyed is more particularly described as follows: Beginning at a point four hundred feet north of the southwest corner of section 23; thence east of a line parallel to the south line of the southwest quarter of section 23, a distance of four hundred and eighty-two feet (plus or minus) to the existing chain link fence; thence north along the chain link fence eight hundred and forty feet (plus or minus) to the south line of the Illinois Central Railroad property; thence northwesterly and west along the same south property line of the Illinois Central Railroad to the west line of the southwest quarter of section 23; thence south along the west line of the southwest quarter of section 23, nine hundred and twenty feet (plus or minus) to the point of beginning, all lying in the southwest quarter of section 23, township 39 north, range 12 east of the third principal meridian.

(b) In consideration for the conveyance authorized by subsection (a), the State of Illinois shall pay to the United States an amount equal to the appraised fair market value of the land to be conveyed (as determined by the Secretary), less any credit allowed under subsection (c). In addition, such conveyance shall be made subject to such terms, conditions, restrictions, and reservations as the Secretary determines to be necessary to protect the interests of the United States, including the interest of the United States in connection with the continued use by the United States of any property adjacent to or nearby the property conveyed.

(c) In determining the amount to be paid as consideration for the land to be conveyed, the Secretary may give appropriate credit for costs previously incurred by the State of Illinois in improving that land incident to its use under license from the Secretary.

(d) After the determination by the Secretary of the amount to be paid by the State of Illinois as consideration for the land to be conveyed (including the determination of any credit to be allowed under subsection (c)), and before the conveyance is made, the Secretary shall submit a report to the Committees on Armed Services of the Senate and House of Representatives setting forth the facts and circumstances leading to such determination. Such report shall include a detailed statement of the nature, extent, and amount of the costs previously incurred by the State for which the Secretary proposes to allow credit under subsection (c).

(e) The cost of any survey in connection with the conveyance of such property shall be borne by the State of Illinois.

(f) The authority of the Secretary under this section expires at the end of the two-year period beginning on the date of the enactment of this Act.

MODIFICATION OF REVERSIONARY INTEREST IN FORMER NAVY LAND AT UNIVERSITY OF CALIFORNIA AT SAN DIEGO

SEC. 806. The Secretary of the Navy shall, subject to the same conditions as set forth in the first section of Public Law 87-662, execute such documents as may be necessary in order to provide that a parcel of not more than thirty acres of the property conveyed (subject to a reversionary interest) to the regents of the University of California pursuant to Public Law 87-662 (76 Stat. 546) may, in addition to the use for educational pur-

poses authorized pursuant to section 3 of such Public Law, be used for industrial scientific or technological research purposes, subject to the condition that if at any time the Secretary of the Navy determines that such parcel is not held for such purposes title to such parcel shall immediately revert to the United States. In the event of any such reversion, title to all improvements made on such parcel during the occupancy of such parcel shall vest in the United States without compensation for such improvements.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6214) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2586

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia? The Chair hears none and, without objection, appoints the following conferees: Messrs. PRICE, BRINKLEY, MONTGOMERY, KAZEN, WON PAT, DICKINSON, TRIBLE, WHITEHURST, and MITCHELL of New York.

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 2586, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1983

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that in the engrossment of the House amendments to the Senate bill (S. 2586) to authorize certain construction at military installations for fiscal year 1983, and for other purposes, the Clerk be authorized to make such technical corrections, including section numbers, punctuations, and cross-references, as may be necessary to reflect the action of the House in amending the bill, H.R. 6214.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

GENERAL LEAVE

Mr. BRINKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6955. An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress).

The message also announced that the Senate insist upon its amendment to the bill (H.R. 6955) entitled "An act to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress)," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints the following Senators to be the conferees on the part of the Senate: From the Committee on the Budget: Mr. DOMENICI, Mr. ARMSTRONG, Mrs. KASSEBAUM, Mr. BOSCHWITZ, Mr. TOWER, Mr. HOLLINGS, Mr. CHILES, Mr. JOHNSTON, and Mr. EXON. From the Committee on Agriculture, Nutrition, and Forestry (for title I): Mr. HELMS, Mr. DOLE, Mr. HAYAKAWA, Mr. LUGAR, Mr. COCHRAN, Mr. HUDDLESTON, Mr. LEAHY, Mr. MELCHER, and Mr. ZORINSKY. From the Committee on Banking, Housing, and Urban Affairs (for title III): Mr. GARN, Mr. TOWER, Mr. LUGAR, Mr. RIEGLE, and Mr. PROXMIER. From the Committee on Commerce, Science, and Transportation (for sections 402 and 403 of title IV): Mr. PACKWOOD, Mr. GOLDWATER, Mr. STEVENS, Mr. CANNON, and Mr. FORD. From the Committee on Governmental Affairs (for title VI): Mr. ROTH, Mr. STEVENS, Mr. MATTINGLY, Mr. EAGLETON, and Mr. PRYOR. From the Committee on Veterans' Affairs (for title VII): Mr. SIMPSON, Mr. THURMOND, Mr. STAFFORD, Mr. CRANSTON, and Mr. RANDOLPH.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING THE 5-MINUTE RULE FOR THE BALANCE OF THE WEEK

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to meet tomorrow and the balance of the week for the purpose of marking up legislation during the time that the House is meeting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. WAXMAN. Mr. Speaker, reserving the right to object, I would like to

inquire of the committee chairman whether this is to deal with the Clean Air Act.

Mr. DINGELL. Mr. Speaker, if the gentleman will yield, to respond to the gentleman, we are still trying to get a Clean Air Act out in spite of the objections of the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I must, unfortunately, object to the unanimous-consent request.

The SPEAKER pro tempore. Objection is heard.

(Messrs. DOWNEY, STUDDS, DELLUMS, PHILLIP BURTON, SCHUMER, PATTERSON, FRANK, EDGAR, STARK, FOGLIETTA, WEISS, FAZIO, and MATSUI also objected.)

The SPEAKER pro tempore. A sufficient number has objected. Objection is heard.

□ 2150

APPOINTMENT OF CONFEREES ON H.R. 6955, RECONCILIATION PURSUANT TO FIRST CONCURRENT RESOLUTION ON THE BUDGET, FISCAL YEAR 1983

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong.), with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Oklahoma?

Mrs. SCHROEDER. Mr. Speaker, reserving the right to object, the way this conference is being structured and the ground rules under which it is operating makes me very nervous. Committees are being limited to five conferees and being told to wrap things up by early next week. We on the Post Office and Civil Service Committee are being told to cut a deal quickly or else the Budget Committee conferees will vote with the Republicans to cap the cost-of-living adjustment for Federal retirees or delay it to save money. On an issue of this importance to so many people, I think this is a terrible way to operate. The House had twice voted not to touch COLA and once voted to increase the pay comparability increase to 5 percent. There is no reason we should be bamboozled into caving to the Reagan administration on this issue. This is especially true when David Stockman has all but announced that the administration will try to cut social security as soon as the elections are over. I will withdraw my reservation with the warning that I will scream bloody murder if the

budget reconciliation conference ends up reducing Federal retirees COLA.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma? The Chair hears none, and, without objection, appoints the following conferees:

From the Committee on the Budget, for consideration of the entire House bill and Senate amendment:

Messrs. JONES of Oklahoma, PANETTA, GEPHARDT, LATTA, and FRENZEL.

And as additional conferees from the Committee on the Budget, solely for consideration of title I of the House bill and title I of the Senate amendment:

Mr. ASPIN, Mr. DONNELLY, and Mrs. MARTIN of Illinois.

From the Committee on Agriculture, solely for consideration of title I of the House bill and title I of the Senate amendment:

Messrs. DE LA GARZA, FOLEY, BOWEN, RICHMOND, HARKIN, and WAMPLER. Mr. FINDLEY (on all matters except as listed below) and Mr. HAGEDORN (on all matters except as listed below).

Mr. COLEMAN (in lieu of Mr. HAGEDORN) on sections 160-186 of the House bill and sections 101-150 of the Senate amendment (food stamps).

Mr. THOMAS (in lieu of Mr. FINDLEY) on sections 101-130 of the House bill and section 151 of the Senate amendment (dairy).

From the Committee on Foreign Affairs, solely for consideration of section 130 of the House bill and that portion of section 101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)-(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment:

Messrs. ZABLOCKI, HAMILTON, BINGHAM, BROOMFIELD, and LAGOMARSINO.

From the Committee on Banking, Finance, and Urban Affairs, solely for consideration of title II of the House bill and title III of the Senate amendment:

Messrs. ST GERMAIN, GONZALEZ, ANNUNZIO, STANTON of Ohio, and WYLIE.

From the Committee on Energy and Commerce, solely for consideration of sections 402 and 403 of the Senate amendment:

Messrs. DINGELL, WIRTH, FLORIO, BROTHILL, and LENT.

From the Committee on Public Works and Transportation, solely for consideration of section 403 of the Senate amendment:

Messrs. ANDERSON, RAHALL, EDGAR, CLAUSEN, and SHUSTER.

From the Committee on Post Office and Civil Service, solely for consideration of title III of the House bill and sections 601-604 and 606-610 of the Senate amendment:

Messrs. FORD of Michigan, UDALL, CLAY, DERWINSKI, and TAYLOR.

From the Committee on Government Operations, solely for consideration of sections 605 and 611 of the Senate amendment:

Messrs. BROOKS, JOHN L. BURTON, EVANS of Indiana, HORTON, and WALKER.

From the Committee on Veterans' Affairs, solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment:

Messrs. MONTGOMERY, APPELGATE, LEATH of Texas, HAMMERSCHMIDT, and WYLIE.

MAKING IN ORDER ON AUGUST 16, 1982, OR ANY DAY THEREAFTER, CONSIDERATION OF CONFERENCE REPORT AND ANY AMENDMENT REPORTED FROM CONFERENCE IN DISAGREEMENT ON H.R. 6955

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that it shall be in order on Monday, August 16, 1982, or any day thereafter to consider the conference report and any amendment reported from conference in disagreement, on the bill H.R. 6955.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6944

Mr. DOUGHERTY. Mr. Speaker, I ask unanimous consent that my name be removed as cosponsor of the bill, H.R. 6944.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3973, POSTAL SERVICE AMENDMENTS OF 1981

Mr. SKEEN. Mr. Speaker, I request unanimous consent that my name be removed from H.R. 3973, the Postal Service Amendments of 1981.

When I agreed to cosponsor this legislation, Mr. Speaker, I did so because it is aimed at making it more difficult to carry out fraud through the mails. This is a worthy goal and one that should be pursued. Several hundred residents of the Second Congressional District of New Mexico have brought to my attention, however, the fact that this particular bill would give to the U.S. Postal Service powers that could be construed to be in violation of the constitutional prohibition against unreasonable search and seizure. I cannot and do not condone the erosion of such constitutional guarantees and, therefore, can no longer support H.R. 3973.

I know that my colleagues who have sponsored this bill had well-meaning objectives in doing so. I would hope that they will continue to work toward passage of legislation that would protect our citizens—especially our elderly—against those who use the mail for fraudulent purposes. I would also hope that they will work to find a way to accomplish this without entering into a conflict with our Constitution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was inadvertently detained at the White House in a meeting with the President yesterday and missed three rollcall votes.

Had I been present and voting, I would have voted "aye" on rollcall No. 257; "nay" on rollcall No. 258; and "nay" on rollcall No. 259.

INTRODUCTION OF THE ADMINISTRATION BILL TO REORGANIZE FEDERAL ENERGY FUNCTIONS

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HORTON. Mr. Speaker, at the request of the administration I am today introducing, along with my colleague, the gentleman from North Carolina (Mr. BROYHILL), the President's proposal to reorganize the energy functions of the Federal Government.

As we are all aware, the President has long advocated some basic changes in Federal Government energy policies. The changes envisioned by the President would place more of the responsibility for energy policy in the hands of individual decisionmakers operating in the marketplace. Since the President has been in office, he has initiated a number of actions consistent with his goal of strengthening reliance on the private sector to meet our energy needs. For example, price and allocation controls on crude oil and petroleum products have been lifted; regulatory impediments to coal conversion have been lessened; and federally financed energy commercialization efforts have been reduced.

Now, after a great deal of study, the President has formulated a proposal that would reorganize the energy functions of the Federal Government in a way more consistent with his interest in emphasizing the role of the business community in determining energy policy.

Under this proposal, most of the Department of Energy's current activities

would be transferred to the Department of Commerce, where they would be considered in the context of general government policy regarding commerce and industry. Other functions would be transferred to the Departments of Agriculture, Justice, and Interior, which currently administer programs with related purposes. The Federal Energy Regulatory Commission would remain independent.

Mr. Speaker, the President has sent the Congress a well-reasoned proposal very much consistent with his strongly demonstrated belief as how best to provide for our future energy needs. In introducing this proposal, I hope to stimulate discussion and provide a vehicle for committee hearings and consideration of this important subject.

This proposal recently came under attack from the General Accounting Office. In a report dated August 2, 1982 ("Analysis of Energy Reorganization Savings Estimates and Plans," GAO/EMD-82-77), the GAO charged that "the administration has not developed reliable information on key aspects of the proposed reorganization."

Because this is a serious allegation raised by a highly regarded agency, I asked Joe Wright, the Deputy Director of the Office of Management and Budget, to respond before I would introduce the bill. Mr. Wright's response states that the GAO report is seriously flawed, misleading, and not very useful either to the Congress or to the administration in helping assess the energy reorganization proposal. I include the entire text of the letter in the RECORD immediately following my remarks, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., August 10, 1982.

HON. FRANK HORTON,
Ranking Minority Member, Committee on Government Operations, U.S. House of Representatives, Washington, D.C.

DEAR MR. HORTON: In response to your request, we are pleased to have this opportunity to provide the Administration's comments on the General Accounting Office (GAO) report entitled "Analysis of Energy Reorganization Savings Estimates and Plans." As you know, the report concludes that the Administration has not developed adequate, precise information about the proposed reorganization and has failed to devise detailed implementation plans.

We believe that the GAO report is seriously flawed in three major ways, is misleading and diverts attention from the important issues. Consequently, the analysis is not very useful either to the Congress or to the Administration in helping assess the energy reorganization proposal.

First, the GAO report concentrates on secondary and incidental benefits, costs, and implementation plans of the proposed energy reorganization. A more helpful focus could have been the major question of the appropriate Federal versus non-Federal roles in the Nation's energy affairs. And then it might have been appropriate to present an assessment of the overall organizational and management requirements to assure that the appropriate Federal role is

carried out well. This has been the primary focus of our discussions with the Congress so far, leaving the myriad, precise details of implementation to evolve as a result of the agreements reached on the Hill.

Second, the GAO report rests its case on the basis of outdated information and estimates which do not reflect the latest Administration planning and analytic refinements that were available. Only the most cryptic reference is made to the important testimony and supporting estimates presented before the Senate Governmental Affairs Committee by three Cabinet officers and me on June 24—almost 40 days before the publication date of the report. And it was most unfortunate that the GAO was constrained not to approach senior Administration officials and, contrary to GAO's time-tested practice, not to invite Administration comments to verify facts before publishing its report. Had the GAO followed its traditional practice, we believe it could have avoided the serious shortcomings of the report and provided a useful aid to evaluation of the reorganization proposal.

And third, the GAO report deplores the lack of early, detailed implementation plans, and the precise cost estimates that could be derived from such plans, while ignoring the fact that useful, detailed planning must necessarily await some legislative action if we are not to waste scarce staff resources. Although superficially mentioned in passing, the GAO also does not make clear that the Administration has had in operation from the earliest stages of reorganization initiative, an extensive planning and implementation effort. More about this later.

Having identified the major shortcomings of the GAO report, we would now like to discuss some of the more specific criticisms in the report along with our rejoinders:

ENERGY BUDGET, REORGANIZATION COSTS, AND SAVINGS

The GAO asserts that there is insufficient support for the Administration's \$1.3 billion budget estimate of cost savings in FY 1983 accruing from energy program reductions and energy reorganization. We are surprised at this statement since the \$1.3 billion is simply the difference between the total \$10.2 billion budget authority proposed by the President for the Department of Energy (DOE) in FY 1983 (including \$2 billion in off-budget oil purchases for the strategic petroleum reserve) and the then-current comparable estimate of \$11.5 billion for FY 1982. The arithmetic may be verified by examining the first line of the table at the top of page 250 in the OMB publication "Major Themes and Additional Budget Details, Fiscal Year 1983," which accompanied the President's budget. The totals for FY 1982 and FY 1983 are substantiated by the entire budget requests for those years and supported in considerable detail by voluminous budget justification material submitted to the Congress by DOE.

At the time the FY 1983 budget was prepared, it would have been quite impossible to make sharp distinctions between budget reductions attributable purely to policy and program changes and those attributable purely to reorganization. Our staff reviewed the energy budget and made their recommendations for program reductions mindful that many of the reductions could be realized only because of changes which included the prospective reorganization of DOE.

To understand the administrative or overhead savings included in the budget, GAO could have probed more deeply into the DOE "Departmental Administration" ac-

count and how it was derived. In the FY 1983 budget this department-wide administrative support activity was shown distributed among the receiving agencies such as the Departments of Commerce, Interior, and Justice. These pieces, amounting to some \$225 million in FY 1982, were reduced to about \$162 million in FY 1983. OMB staff were motivated to achieve this reduction by two basic factors. They keyed the reductions first to the direct energy program reductions, and then pushed the overhead reductions further to reflect absorption of some overhead by the agencies receiving functions from DOE.

To prove the point that savings estimates from reorganization were included in the fiscal year 1983 budget, we'd like to describe the staffing assumptions underlying that budget for DOE's "Departmental Administration." Among the sub-accounts of this major overhead account, some of the largest are "Administration," "Controller," and field "Operations Offices." The fiscal year 1983 budget reduced staffing in these illustrative sub-accounts more than proportionally to the reductions in department-wide activity in order to reflect the expected absorption of overhead by receiving agencies. "Administration" was reduced from 668 staff-years in 1982 to 324 in 1983, or from 3.6 percent down to 2.2 percent of total DOE staffing. "Controller" was reduced from 294 staff-years in 1982 to 132 in 1983, or from .06 staff-years per million dollars of DOE non-defense spending down to .03. And the "Operations Offices" were reduced from 2,040 staff-years in 1982 to 1,317 in 1983, and from .43 staff-years per million dollars in DOE non-defense spending down to .31.

DOE staffing reductions were predicated, in part, on the assumption that the reorganization of DOE would be effective 1 October 1982. Given the delay of this reorganization, OMB is now considering giving DOE some relief in 1983 staffing ceilings thus bringing the staffing ratios specified above nearer to those of 1982, which were not predicated on reorganization. Surely, if OMB is contemplating easing DOE's employment ceiling because reorganization will not occur by 1 October 1982, then you may rest assured that the fiscal year 1983 budget does indeed reflect savings from reorganization.

Turning to the costs of reorganization, it is true that not all such expenses have been reflected in the fiscal year 1983 budget. These are the types of costs that can be determined only after detailed implementation plans evolve, and such plans, of course, must await legislative action. Suffice it to say, that we expect costs of reorganization to be small in relation to overall cost savings. For example, we expect major physical moves to be minimal. Most energy activities will stay where they are. Relatively few people will likely move to Interior and Justice Department office space. Therefore, we do not believe that these presently unquantifiable but limited costs omitted from the energy budget distort the current basis for decisionmaking.

BASIS FOR REORGANIZATION SAVINGS

The GAO report dwells on early, preliminary savings estimates, which were out of date before the report was published, and on the lack of information which is most efficiently and effectively developed only after Congress enacts the reorganization legislation. Here are several examples of the GAO criticisms, with our comments:

The savings of \$200 million through integration of ADP purchases is not supported

by identification of types or specific automated systems that will be merged. The initial savings estimate was an error corrected in subsequent analysis to \$20 million well before the GAO report was issued. DOC and DOE combined have in place 5,294 computers worth \$894 million, plan to spend \$600 million more for additional computer capacity, and have an annual ADP budget of more than \$600 million. Within these totals our \$20 million savings claim is most probably too low.

The projected \$50 million in Government-owned, contractor-operated (GOCO) audit savings is speculative and not related to reorganization. Our on-going review and planning effort subsequently concluded that GOCO's were already adequately audited, and this savings figure was dropped. Only passing reference to this is included on page 12 of the GAO report.

The specific DOE and DOC complementary activities to be merged in saving \$20 million are not identified. A joint DOC/DOE study identified specific complementary activities, with staffing and funding levels for each, that totaled \$387 million. Although we continue to believe that saving at least \$20 million of this total is a reasonable estimate, that figure was dropped from our refined, 3-year goal. Inadequate reference is made to this on page 12 of GAO's report.

Offsetting expenses are not considered in the savings estimates. These costs cannot be identified with sufficient precision at this time. The detailed planning after enactment of reorganization legislation will identify those one-time costs. The GAO report is highly speculative in discussing potential costs and offers no estimates.

The current Administration cost saving goal for energy reorganization is a firm \$80 million per year over 3 years, with a reasonable probability that as much as \$750 million more could be saved in the longer term. These estimates will, of course, undergo even further refinement once the Congress legislates the reorganization plan and detailed implementation planning follows. Our current goals and backup material is available to GAO.

An important point to understand about all these cost estimates is that the Administration has never claimed that they were anything but goals that demonstrated the potential for budget savings. At this stage of executive and legislative decisionmaking, we feel that there is no need for greater precision.

TRANSITIONAL PLANNING

We have no quarrel with the GAO report's admonition that detailed, implementation planning is needed in order to identify more precisely reorganization costs and savings, and to minimize disruption and costs. But we believe most emphatically that the report is illogical with respect to timing. The level of planning detail depends on the status of the project, and our reorganization proposal was continually changing as we held our consultations with the Congress—over 100 separate meetings in total! But GAO has failed to report clearly on the extensive Administration mechanism that was put in place that has and will bring forth the necessary implementation plans and firm estimates on an efficiently time-phased basis.

Late last year the Administration developed a comprehensive structure and process for energy reorganization as follows:

White House Policy Team—appointed by the President to oversee energy reorganiza-

tion. It provides overall policy guidance, assigns responsibilities, and approves major initiatives and deadlines. The team is chaired by Presidential Counselor Meese and includes the Secretaries of Energy, Commerce, Defense, and Interior as well as the head of the White House Office of Policy Development (OPD).

Steering Group—coordinates and directs the activities of multiple working groups; reviews, approves, or assures executive approval of their products; advises White House and OMB; and relates to Congressional interests on overall reorganization matters. This group is chaired by the OMB Deputy Director and includes some 13 participants at the Deputy Secretary, Under Secretary, and Assistant Secretary levels from interested agencies and the Executive Office. The chairman provides staff to support the Steering Group as well as to coordinate Working Group efforts.

Working Groups—six crosscutting working groups (Resources, Congressional Liaison, Public Affairs, Legislation/Legal, and Policy) provided liaison with external groups, provided data necessary for organization integration activities and advised the Steering Group. An organization integration working group developed organization and management concepts and plans for receiving agencies. In all, more than 50 people from 10 agencies participated in the working group effort, focusing on organization planning down to the program and office level.

OMB and OPD—serve on the Steering Group and participate selectively on various working groups. These offices also review and approve for the Administration the final products of the working groups that are accepted by the Steering Group.

As you can see, the Administration has amply provided top executive and staff support for the energy reorganization effort, whereas the GAO report attempts to imply neglect.

In sum, for all the reasons we have discussed above, the Administration believes that the cited GAO report is not of as much use as it could have been in assessing the proposal for energy reorganization. We are sure that you and your colleagues will recognize that in the energy situation both the Congress and the President have at this time a rare opportunity to continue the reorganization effort of the past decade to improve energy and business policy activities, programs, organizations and management to strengthen these activities by combining the assets of two cabinet departments while reducing the size of Government—a most worthwhile goal. Let us not let this opportunity slip by through misplaced contention over the precise degree of incidental cost savings from the far greater benefits of good Government—a goal shared by us all.

Sincerely,

JOSEPH R. WRIGHT, Jr.,
Deputy Director.

RAIL SAFETY AND IMPROVEMENT ACT OF 1982—THIS AMENDMENT WILL SAVE \$35 MILLION!

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, during consideration of H.R. 6308, the Rail Safety and Improvement Act of

1982, I will be offering an amendment which will trim \$35 million off the cost of the bill, and will insure a smooth transition for thousands of our Nation's commuters who now depend on Conrail service.

As you know, Conrail's involvement in commuter operations will cease as of January 1, 1983, and significant transition moneys are necessary to effect the change to the Commuter Services Corporation or to local commuter authorities in Connecticut, New York, New Jersey, Pennsylvania, and Maryland. H.R. 6308 authorizes \$75 million for this purpose. However, I would like to point out several important facts:

First, in fiscal year 1982, \$84.5 million was appropriated to Conrail for operating expenses for commuter services.

Second, Conrail, which recently turned a profit, has not used this money and will not need it in the future.

Third, the committee bill, H.R. 6308, wisely authorizes the reappropriation of one-half of Conrail's \$84.5 million in unused operating funds—\$40 million—as part of the \$75 million authorized for transition of service from Conrail to local authorities.

Fourth, in addition to the reappropriated \$40 million, the committee bill authorizes \$35 million in new funds to make up the balance of the necessary \$75 million transition funding.

Fifth, this amendment proposes that instead of reappropriating only \$40 million from the \$84.5 million in unused operating funds, the entire \$75 million used for transition be drawn from unused Conrail operating funds, thereby eliminating the need and expense of authorizing \$35 million in new money.

The McKinney amendment will therefore result in a budget savings of \$35 million. We have in effect already secured this money—it is neither advisable nor fiscally responsible to request it from new budget authority.

The authorization of the full \$75 million from reappropriated 1982 Conrail funds will permit the efficient, rapid transfer of our commuter lines, which serve 180,000 daily riders in New York and Connecticut alone, to a more able carrier by the end of the year. Briefly, the transition funds are necessary for general operating capital, and to allow a changeover from a delayed billing system under Conrail to a current one with local commuter authorities. Without these funds up front, improvements and increased accountability to riders on our commuter lines will not be forthcoming. More importantly, the Conrail transfer will take place by law on January 1, 1983, whether or not local operating authorities have the necessary funds to assume this responsibility.

Please join me in assuring adequate funding for commuter transition costs by voting for the McKinney amendment to H.R. 6308. The amendment follows:

AMENDMENT TO H.R. 6308, THE RAIL SAFETY AND IMPROVEMENT ACT OF 1982

Amend section 505(b) of the bill (which amends sec. 216(g) of the 3R Act) as follows: On page 35, line 23, strike out "\$40,000,000," and insert in lieu thereof "\$75,000,000."

"(2) To the extent provided in appropriation Acts, any funds appropriated under the authority of paragraph (1) of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 may be reappropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981, except that the total amount of funds which may be so reappropriated shall not exceed \$75,000,000."

(c) Section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727) is amended as follows:●

FEDERAL ENERGY REORGANIZATION ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BROYHILL) is recognized for 5 minutes.

● Mr. BROYHILL. Mr. Speaker, today I have the privilege of joining my good friend, the distinguished gentleman from New York (Mr. HORTON), in introducing in the House the President's legislation to reorganize the energy functions of the Federal Government with the general responsibilities for economic policy at the Department of Commerce. I believe that this transfer makes good sense and I support it. But I also believe that the President should be afforded the same ability to organize the executive branch which other Presidents have enjoyed. I will remind my colleagues that Congress accommodated President Carter's wish to create the DOE; we should enable President Reagan to organize energy policy as he sees fit.

As the ranking minority member of the Committee on Energy and Commerce, I understand why integrating energy with economic policy makes both good energy policy and good economic policy.

The committee on which I serve deals with "energy policy generally" according to our jurisdictional charter. As my colleagues know, the Committee on Energy and Commerce was, until this 97th Congress, known as the Committee on Interstate and Foreign Commerce. Our devotion to energy policy was no less active or dedicated under our previous name. But what we on our committee have always enjoyed is the breadth of understanding that comes from looking at energy policy in a committee whose jurisdiction also in-

cludes railroads and transportation, telecommunications, environmental laws, health programs, the securities industries and a host of the basic economic industries of the Nation. This mix of subjects makes us better legislators and equips us to make better policy. Based on our own experience, we should applaud the administration's proposal to adopt a similar alignment of duties among the Cabinet departments. The Congress, as least this body, could even consider the President's proposal a compliment by imitation.

As Joseph R. Wright, Jr., the Deputy Director of the Office of Management and Budget has said, "energy is business. In the final analysis, thousands of companies—producers, suppliers, distributors, equipment manufacturers—will take the steps necessary to fulfill the Nation's energy needs. Knowledge of what makes business tick, not abstractions about a centrally planned 'energy future,' has to be the basis for effective energy policy." I agree with him. The President's proposal will result in superior energy policy. This is because energy policy will be based upon the principle that while energy is an important element in our economy, it is far too vital to consider in isolation. Therefore, integrating DOE largely into the Commerce Department is a most logical reorganization.

The question has risen over the potential cost savings of this bill. My colleagues may be aware of a recent General Accounting Office report which concluded that the President's proposal to reorganize the DOE will not necessarily result in significant budget savings. Well, the GAO has missed the point entirely. The purpose of this legislation is not to save money. It is to improve the formulation and administration of energy policy. So I am terribly concerned about the GAO report. Far from being "devastating," as some have said, the GAO report is not relevant.

THE GAO FOCUSES ON THE WRONG ISSUE

Of all the reasons why the President's proposal to reorganize energy programs is a good idea, one of the lesser reasons is cost savings. President Reagan's May 24, 1982, letter transmitting the reorganization legislation to Congress does not mention even the potential for cost savings as a justification for the legislation.

What the President does say is that, "By transferring the current responsibilities of the Department of Energy to more appropriate agencies we can preserve and, in important ways, strengthen essential Government-related energy activities." By refusing to analyze this point and turning instead to the nonissue of cost savings, those who asked the GAO to complete this exercise have shown us a classic case

of setting up and knocking down a strawman.

The truth is, administration officials have always been reluctant to specify cost savings of reorganization despite persistent inquiries about such savings from the press and elsewhere. They have been reluctant for two reasons: First, cost savings are not the sole reason why reorganization is being sought; second, until legislation is enacted, no one can say with any degree of certainty precisely how much money may be saved.

FAR FROM BEING DEVASTATING, THE GAO REPORT IS NOT EVEN RELEVANT

The GAO report was purportedly compiled between February and May 1982. Inasmuch as the actual reorganization legislation was not introduced in the Senate until May 24, 1982, it hardly seems devastating, as some contend, that concrete cost estimates of reorganization had not yet been developed. GAO notes, as if in passing, that on June 24 the Secretary of Commerce estimated cost savings of \$250 million over 3 years. This is a far cry from the earlier figures GAO criticizes the administration for failing to justify.

Although the GAO asserts that this \$250 million estimate, too, is flawed by lack of adequate documentation of both costs and benefits, GAO does not explain how it arrived at this conclusion. Considering the GAO's statement that by June 24 "this report was undergoing final processing," it is not likely that GAO did any extensive review of Secretary Baldrige's estimate. How much of the \$250 million cost saving is adequately documented? What more documentation and analysis is needed?

COST SAVINGS COME FROM BUDGET CUTS—NOT REORGANIZATION

The GAO perpetuates the widespread confusion regarding cost savings attributable to energy program cutbacks, and cost savings attributable to reorganization. Many of the cost saving claims disputed by GAO refer to energy program changes and the reorganization of DOE. An example is the administration's 1983 budget proposal. No one disagrees that it would be wrong to claim as reorganization cost savings amounts saved through energy program changes. But no one has made such a claim. Another strawman bites the dust. When the strawmen are cleared away, the GAO report is reduced to a two-page description of the need for more transitional planning; it is rather dull reading of little value.

Mr. Speaker, I would like to insert in the RECORD a letter to me from the Deputy Director of the Office of Management and Budget, Mr. Joseph R. Wright, Jr., on this subject. In addition, I would also like to introduce two letters to the editor, also by the Deputy Director of OMB, one to the New York Times and one to Newsday.

My colleagues will find these letters unusually cogent and helpful.

Mr. Speaker, again let me repeat that it is with pleasure that I have introduced this legislation and I look forward to working toward a schedule of congressional consideration. Thank you, Mr. Speaker. The material follows:

OFFICE OF MANAGEMENT AND BUDGET,

Washington, D.C., August 3, 1982.

HON. JAMES T. BROYHILL,

Ranking Minority Member, Committee on Energy and Commerce,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. BROYHILL: On August 2, 1982, the General Accounting Office released a report entitled "Analysis of Energy Reorganization Savings Estimates and Plans." The GAO criticized the Administration for failing to develop reliable information on key aspects of the proposed reorganization and for failing to develop adequate implementation plans.

As the report notes on page iv, "GAO did not seek comments on this report" from the relevant agencies of the Executive Branch. Although GAO claims to have discussed the contents of the report with "Administration officials responsible for energy reorganization matters," no senior policy officials of the Administration were afforded an opportunity to contribute information to the GAO for use in its report. I appreciate this opportunity to comment on the GAO findings.

Because GAO so narrowly circumscribed the sources of information it used in the preparation of its evaluation, the report fails to recognize the extensive, high-level, and on-going effort of the Administration to plan effectively for the termination of the Department of Energy. We are fully cognizant of the need to learn from previous reorganization efforts; that is one reason we have always assumed a substantial transition period between enactment of the dismantlement legislation and its effective date.

To criticize the Administration for failing to document precisely the cost-savings attributable to its reorganization plan verges on hypocritical in light of the GAO report's observation that "the transfer of energy functions would result in numerous expenses—both quantifiable and unquantifiable—which would be involved in trying to reassign and coordinate the activities of a Cabinet-level department." (p. 11). Savings estimates prepared in advance of actual implementation plans—which in turn must necessarily await final action by Congress on the precise specification of the reorganization—can never meet the auditing standards one would apply to program budget requests.

Administration witnesses testifying on this matter before the Senate Committee on Governmental Affairs were very careful to note that our estimates of savings from the reorganization were tentative and that a fully detailed estimate would have to await the completion of work that is still in progress.

In the context of a Federal budget of over \$700 billion, the administrative cost savings from reorganizing energy activities are relatively minor, even if the most optimistic projections are realized. To focus on this aspect of the President's proposal is to lose sight of his basic policy objective: to create

an organizational structure that reflects this Administration's approach to energy issues.

Creation of the Department of Energy was accompanied by a vast panoply of regulatory and subsidy programs aimed at planning the managing every aspect of energy consumption and production in the American economy. After just five years, it is evident that the assumptions behind this comprehensive energy program were almost totally false. The American economy is capable of responding quickly and with innovation and foresight to the challenges imposed by the post-1973 world energy situation. Detailed government regulation and targeting of development subsidies only distorted and delayed the process.

Having a separate Cabinet department devoted to energy reflects the mistaken belief that energy issues should be dealt with in isolation from economic questions. Yet the real significance of energy is of course its effect on the productive output of our economy. By transferring responsibility for energy to the Department of Commerce, the President's plan will ensure integration of energy policy with policies toward other segments of the economy. I would note further that of the top three free world economic powers, only the United States has isolated energy responsibilities in a separate document. Both West Germany and Japan place energy functions in the agency that is the counterpart to our Department of Commerce.

In short, the Administration does not believe that any of the criticism presented in the GAO report justifies altering our commitment to dismantling the Department of Energy. Prior to receiving the report, we had independently begun work on the detailed planning recommended by the Comptroller General. We would of course welcome any specific suggestions from the GAO concerning lessons that have been learned in prior reorganizations.

Sincerely,

JOSEPH R. WRIGHT, Jr.,
Deputy Director.

[From the New York Times, July 23, 1982]
THE PROPER CONTEXT FOR U.S. ENERGY
POLICY

To the Editor:

In the discussion of President Reagan's proposal to abolish the Department of Energy and transfer its principal functions to the Department of Commerce, the impression has been created that the importance of energy in our national economy, and therefore in Government policy, will somehow be downgraded. Such a view was expressed, for example, in your editorial "Energy Belongs in the Cabinet" [May 29].

Far from being demoted in importance, Federal attention to energy issues will become more effective if lodged in Commerce. And, of course, in Commerce, energy will be in the Cabinet.

Take, for example, the formation of energy policy. Energy is involved in literally everything we make or do.

How then can we establish sensible energy policy so long as we leave energy in an independent Cabinet agency, which simply perpetuates the notion that energy should be dealt with as something distinct from the rest of the economy? Of all the things that need to be integrated into overall economic policy-making on a continuing basis, energy is perhaps the most important.

Further, the plain fact is that energy is business. In the final analysis, thousands of

companies—producers, suppliers, distributors, equipment manufacturers—will take the steps necessary to fulfill the nation's energy needs. Knowledge of what makes business tick, not abstractions about a centrally planned "energy future," has to be the basis for effective energy policy.

On both counts, there is good reason to believe that the President's proposal will lead to better energy policy for the nation.

Commerce supports and participates in every phase of economic policy-making, both domestic and international. It is the home of a good part of the Government's statistical and economic analysis activities. It generates the facts that explain how our economy, and the parts of our economy, are performing. What could be more sensible than to give Commerce responsibility for integrating energy into the mainstream of Federal attention to domestic and international economic policy?

The same argument applies to the research and development programs to be transferred from D.O.E. to Commerce.

The department is no newcomer to the management of science and R. & D. programs. Commerce's National Bureau of Standards is one of the world's leading scientific and technological institutions. Also within the Commerce Department are the National Oceanic and Atmospheric Administration, the Patent Office and the National Telecommunications and Information Administration. In various ways, all these agencies are already involved in the energy field.

The creation of the Department of Energy, the isolation of energy within a set of bureaucratic borders, has not had the effect Congress originally intended—that of integrating a vital energy policy with our overall economic and foreign policy. The inevitable result was a parochial view of energy issues and a compulsion for Government to "do something" to solve every problem, a compulsion that did not benefit the nation or its consumers.

Notwithstanding what your editorial implies, organizational arrangements do count; they do influence outcomes. It is time we place energy policy and energy R. & D. in an agency best equipped to do the job—the Commerce Department.

JOSEPH R. WRIGHT, Jr.,
Deputy Director,
Office of Management and Budget.

[From Newsday]

HOW TO MEET U.S. ENERGY NEEDS

Your editorial "A Case for Saving the Energy Department" [June 6] accurately states some of the nation's needs in the energy field. I disagree, however, with your prescription on how to meet them.

You refer to our country's need for a "coherent energy policy." But a coherent energy policy cannot be formulated truly in isolation from the effect of that policy on the national economy. The country will never have a coherent approach to energy as long as energy policy is made by an independent Cabinet agency, in a vacuum, separate and apart from our country's overall economic objectives.

This is why President Reagan proposed to transfer responsibility for energy policy to the Commerce Department. One of Commerce's principal concerns is to help develop national economic policy. The department houses the government's principal statistical, economic analysis and industry analysis agencies. Under the President's proposal, energy information and analysis will shift to

Commerce. This combination will enable energy policy to be fully integrated into overall economic policy on a continuing basis. Commerce's responsibilities in both domestic business and international trade ensure that a broad range of perspectives will be brought to bear on policymaking in the energy field.

You also suggest that the administration's policies call for "blind dependence on the marketplace" to meet the nation's energy needs. It is time that we want to increase reliance on the marketplace, and I would suggest that the President's decontrol of crude oil and petroleum products is one of the reasons we are less dependent on oil imports today. But the administration's commitment to the marketplace is by no means "blind."

Indeed, the reorganization proposal recognizes fully, and will further enhance, the improved management of the government's essential responsibilities in energy. These include: protecting against energy supply disruptions through planning and the maintenance of a strategic petroleum reserve; supporting long-term, high-risk basic research on energy technology; supporting development of exports in the energy sector, and supporting national defense needs through civilian-controlled research on and production of nuclear weapons.

You mention the need for "a better plan for allocating gasoline than the one that created long lines at gas stations three years ago." A better plan exists, and it's called the marketplace. If we had relied on the marketplace instead of elaborate government intrusion into the energy sector, we would not have had those lines at all. Numerous studies have confirmed the disruptive effects of government fuel allocation.

Finally, I can assure you we don't need an Energy Department to make certain of having "somebody around to remind the President that energy is an issue." Under the President's proposal, we will have somebody—a Cabinet official in the person of the secretary of commerce, whose broad responsibilities for both domestic and international aspects of the economy ensure that energy policy will at last have the high priority it deserves, now and in the future.

JOSEPH R. WRIGHT, Jr.,
Deputy Director,
Office of Management and Budget. ●

HUNTING AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alaska (Mr. YOUNG) is recognized for 5 minutes.

● Mr. YOUNG of Alaska. Mr. Speaker, I am introducing today a bill which would rectify problems that have plagued Alaskans and Americans who rightly assert their legitimate needs for hunting, as a result of the Alaska lands bill. The Alaska Lands Act designated 24.6 million acres of new parks and monuments in addition to the 7.5 million acres of parks that existed prior to 1980. An area in Alaska one-third the size of California is closed to sport hunting but open to subsistence hunting. This is more land than all the parks in the lower 48 States. Alaskans had hunted these lands consistently until President Carter withdrew these lands under the Antiquities Act

in 1978. In one felled swoop with passage of the Alaska Lands Act, millions of Americans were denied the right to hunt on vast acreages in Alaska.

Mr. Speaker, hunting is compatible with protection in the parks, and hunting is compatible with the proper management of wildlife. Alaskans want to be able to continue hunting in Alaska in the places they have always hunted and they want to manage their wildlife as they have done so successfully in the past. Controlling hunting in Alaska from Washington, D.C. is wrong and immoral and it is unfortunate that we have to do this now after the passage of the Alaska Lands Act.

This legislation recognizes that visitation to parks is consistent with allowing sport hunting and recognizes that while hunting occurs in the fall, visitation occurs in spring and summer.

Alaskans who depend upon hunting for recreation, for the challenge of the hunt, and for the supplements of game to the tables in their homes will welcome this legislation especially in light of the fact that subsistence hunting already occurs on these lands. Under my legislation, old park areas will be preserved in their present park status; however, parts of vast new parks will be open to proper game management through sport hunting. Those Americans who enjoy hunting as a legitimate form of recreation should not be denied the right to pursue that recreation and should not have to play second fiddle to the backpackers and the photographers who also enjoy their recreation.

Mr. Speaker, I hope that with the introduction of this legislation the American people will watch closely the actions of Congress and judge by their actions whether this is an antihunting Congress or a Congress that supports hunting and the rights of those Americans who enjoy hunting. I ask that this bill be printed in the RECORD in its entirety.

Thank you, Mr. Speaker.

H.R. 6977

A bill to redesignate public land in Alaska to allow hunting

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202(2) of the Alaska National Interest Lands Conservation Act (94 Stat. 2371; Public Law 96-487) is amended by striking out "one million and thirty-seven thousand acres of public land. Approximately three hundred and eight thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered 90,0007, and dated July 1980" and inserting in lieu thereof "Approximately one million three hundred forty-five thousand acres of additional public land is hereby established as Katmai National Preserve, both as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 2. Section 201(4)(a) of such Act is amended by striking out "Seven million fifty-two thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately nine hundred thousand acres of Federal lands, as generally depicted on map numbered GAAR-90,011, and dated July 1980" and inserting in lieu thereof "one million nine hundred fifty-three thousand acres of public lands, Gates of the Arctic National Preserve, containing approximately four million eight hundred twenty-four thousand acres of Federal lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 3. Section 201(8)(a) of such Act is amended by striking out "six million four hundred and sixty thousand acres of public lands, as generally depicted on map numbered NOAT-90,004, and dated July 1980" and inserting in lieu thereof "Seven million six hundred thirty-five thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 4. Section 201(7)(a) of such Act is amended by striking out "two million four hundred thirty-nine thousand acres of public lands, and Lake Clark National Preserve, containing approximately one million two hundred and fourteen thousand acres of public lands, as generally depicted on map numbered LACL-90,008, and dated October 1978" and inserting in lieu thereof "one million four hundred fourteen thousand acres of public lands, and Lake Clark National Preserve, containing approximately two million two hundred thirty-nine thousand three hundred fifty acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 5. Section 201(9) of such Act is amended by striking out "eight million one hundred and forty-seven thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately four million one hundred and seventy-one thousand acres of public lands, as generally depicted on map numbered WRST-90,007, and dated August 1980" and inserting in lieu thereof "five million eight hundred twenty-five thousand acres of public lands, and Wrangell-Saint Elias National Preserve, containing approximately six million four hundred ninety-three thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 6. Section 202(3)(a) of such Act is amended by striking out "two million four hundred and twenty-six thousand acres of public land, and approximately one million three hundred and thirty thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered DENA-90,007, and dated July 1980" and inserting in lieu thereof "nine hundred thousand acres of public land, and approximately two million eight hundred fifty-six thousand acres of additional public land is hereby established as Denali National Preserve, both as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 7. Section 202(5) of such Act is amended by striking "Kenai Fjords National

Park containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered KEFJ-90,007, and dated October 1978" and inserting in lieu thereof "Kenai Fjords National preserve containing approximately five hundred and sixty-seven thousand acres of public lands, as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 8. Section 202(1) of such Act is amended by striking out "five hundred and twenty-three thousand acres of Federal land. Approximately fifty-seven thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered GLBA-90,004, and dated October 1978" and inserting in lieu thereof "three hundred nine thousand acres of public land. Approximately two hundred seventy-one thousand acres of additional public land is hereby established as Glacier Bay National Preserve, both as generally depicted on map numbered AK-1000 and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary."

Sec. 9. Section 201(1) of such Act is amended by striking out "one hundred and thirty-eight thousand acres of public lands, and Aniakchak National Preserve, containing approximately three hundred seventy-six thousand acres of public lands, as depicted and on map numbered ANIA-90,005, and dated October 1978." inserting in lieu thereof "fifty thousand acres of public lands, and Aniakchak National Preserve, containing approximately four hundred sixty-four thousand acres of public lands as generally depicted on map numbered AK-1000, and dated August 10, 1982, which shall be on file and available for inspection in the offices of the Secretary." ●

FINANCIAL DANGER AND THE FEDERAL RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, last week, a \$450 million bank in Texas, the Abilene National, was forced into a merger by regulatory authorities. Mergers of savings and loan associations are taking place by the dozens, and more often than not these are also forced mergers. The Penn Square Bank of Oklahoma City utterly collapsed. Chase Manhattan, with a generous bagful of losses created by the collapse of Drysdale Securities, and another bagful of bad paper it bought from Penn Square, reports a quarterly loss. The giant Continental Illinois Bank reports a loss of \$61 million for the last quarter, with more bad news ahead. These are not unrelated events. They cannot be wished or explained away. They are danger signs.

The problems are not only domestic; they are worldwide. The Banco Ambrosiano, one of the great banking houses of the world, is in the deepest kind of trouble. The Canadian Bank of Nova Scotia, the 50th largest bank in

the world, has found itself in such straits that it felt called upon to issue a stiff statement on July 2: "Any concerns about the bank's stability and strength are unfounded." A week later, the world's 73d largest bank, this one a German institution, declared that any rumors about it being in trouble are, "stupid and totally useless." The respected economist magazine acidly notes: "Such phrases have marked the tombstones of countless dead banks."

The troubles of the world banking system are so great that no less a figure than Robert McNamara now says that there ought to be a world central bank, a bank that can act to regulate helter-skelter international lending, and a bank that can also act as a lender of last resort to keep a world panic from blowing out of what would otherwise be a controllable event. The world's central bankers have quietly agreed that, well, yes, something needs to be done. Their problem is to solve the situation without admitting that the world is in the gravest kind of financial danger—that the powder keg is standing in the midst of a very hot shower of sparks.

Consider this: Poland cannot possibly repay its billions of dollars in debts to private banks all over the Western World, especially banks in Germany. Yet the United States—and all other countries—refuse to call a spade a spade, and say that Poland is, in fact, in default on its debts. This is more than a question of being polite; the fact is that if the Polish debt is defaulted, banks will have to write those off; there are many banks that simply cannot do that and stay afloat. And so there is this convenient fiction: The Polish debt is still a good risk, notwithstanding the fact that it is likely never to be repaid.

Then there is the collapse of the gigantic Telefunken, which owes \$1.6 billion to various German banks. There is no doubt that these banks, faced with bad loans in Poland and with Telefunken, have more troubles than a stiff press statement can paper over.

American banks, for their part, hold a vast number of foreign loans that are of less-than-decent quality. The gigantic Mexican conglomerate, ELF, cannot pay on its hundreds of millions in loans—it could not pay even before the latest crash of the peso. American banks hold \$26.4 billion in claims on various Mexican entities, not the least of which is the Government of Mexico. The Mexican peso is worth today only one-fourth of what it was worth last spring. Mexico is in a state of progressive economic and social upheaval, and not all the good will, not all the well wishing, not all the bankerly confidence in the world, can conceal the fact that American banks are holding onto billions of dollars in

Mexican loans that are likely never to be repaid.

American banks also have \$11 billion in loans to Argentina, which is one of the world's financial basket cases. There are \$20 billion in loans outstanding to Brazil, which is experiencing a fresh crisis of its own. Then there are tens of billions of dollars in Eurocurrency dealings through such money centers as Panama, Bahama, and the Caymans. No one can say how sound this business is: Not with the shakiness of regulation in those money centers, not with the shadiness involved with the supersecret, too often illicit dealings of money center operators, and not when you remember that the collapse of the Ambrosiano house of cards started with a \$1.4 billion default in Panama.

American bank lending to foreigners has increased by 175 percent in the past 4 years; it stands today at close to \$300 billion. Very often, these loans are to borrowers who cannot repay. The banks are skating on thin ice, indeed. Just how thin is made plain by the blunt words of the Economist on July 24:

Banks depend on the maintenance of an illusion. A bank is solvent only so long as its depositors are convinced that it is solvent . . . the reasons for nervousness are of secondary importance. The nervousness, itself, is the critical thing.

Little wonder, then, that banks go to all kinds of trouble to deny any problems, even when there are problems. Thus, regulators did not warn anybody who accepted the bait of the Penn Square Bank, and shoved in large short term deposits on the recommendation of money brokers. Little wonder, then, that banks go all out to say that notwithstanding all the bad loans they are holding, there is no trouble in Chicago, or New York, or Bonn, or Montreal, or Oklahoma City, or Rome. But trouble there is, and trouble aplenty.

Take the case of Mexico.

American banks quintupled their loans to Mexico in the last 4 years, running the loans for Mexico from \$5.5 billion to \$26.5 billion. This made Mexico one of the most deeply indebted places on Earth. All of this was done because Mexico was said to be floating on an ocean of oil, which Mexico and its bankers felt assured was the same thing as having an ocean of money. But oil prices not only ceased going up; they started coming down. Mexico did not have as big a demand for its oil as had been expected. Further, what oil Mexico could sell was not selling at the price that Mexico needed. Presto, you have a country that is unable to meet its obligations; you have in fact the very same kind of situation—many thousands of times greater—that led to the collapse of the Penn Square Bank, the forced merger of Abilene National,

and such incidentals as the more than 50 percent rundown in the price of First City National Bank stock, down in Houston. What those domestic bank problems are saying is this: Oil loans just have not panned out too well lately. The Mexican situation is no different, only it is thousands of times bigger.

The collapse of the Mexican illusion led to a flight of smart money out of Mexico; for months last year and early this year, Mexican citizens frantically poured their pesos into any and all kinds of American investments. There was no way that the value of the pesos would stand up—the veil of illusion has simply been shorn away. And so today the value of the peso is only about half what it was last week, and only about a fourth of what it was just a year ago. When a nation's currency collapses in such a way, there is not only trouble for the bankers: There is hardship for the people.

Mexico must buy grain—it now costs three or four times what it did a few weeks ago. Mexico must buy all kinds of goods abroad—and those goods all now cost vastly more than they did just a few weeks ago. But the income of the Mexican people has not increased. They cannot buy what they could before, and what they could buy before was not enough to keep unhappiness, deprivation and bitterness from overcoming what had been oil-inspired hopes for a better tomorrow. Now Mexicans not only face great and growing unemployment—on a scale that we cannot even imagine—they face downright hunger. There is desperation loose in the land, and the Mexican Government is confronted with a growing restlessness. Down in the south, the land of Zapata, there is real trouble, real violence, real anger. That land, the southern Mexico of Zapata, of the revolutionary tradition, is not, I remind you, far from Honduras, Guatemala, Nicaragua, and El Salvador.

Economic distress, and the dry and arcane world of banking, is directly related to personal hardship, personal distress, and personal anger. The dissolution of economies, and the dissolution of financial houses of cards, lead directly to social disruption. The Great Depression was not just a bad day on the stock market: It was a long and worldwide nightmare. And while we may trace it all to the stock market crash, its prevasiveness and paralyzing power very probably came from the collapse of an Austrian bank, the Credit-Anstalt. The central bankers of the day did not move in to save that institution, and the reverberations soon shattered banking worldwide.

Central bankers today are more sophisticated than they were in 1931. So are the banks. In fact, banks today are far more heavily involved with shaky

international loans than they were then. But the world's bank regulators, those who stand between the foolish delusions of megabankers and the people who suffer from their errors, are no better prepared to deal with a crisis today than were the Austrians ready to deal with the liquidity problems of the Credit-Anstalt.

Listen to these somber words, written by Robert B. Zevin, a senior vice president at the United States Trust Co., in the current *Atlantic* magazine:

The stability of this (banking) structure depends on the stability and rationality of its hundred or so principal players. . . . this splendid construction has the permanence of a sand castle.

Mr. Zevin, describing the Eurocurrency system, says that a relative handful of gigantic borrowers now owe a relative handful of gigantic banks \$500 million in loans that they cannot repay, and that this amount grows by about \$60 billion a year, just for interest charges. Since the loans cannot be repaid, the banks simply extend more, and bigger loans. This system works fine—but only “if the depositors do not demand their money—so that—the banks need not demand payment from the borrowers. So long as the banks roll over their loans and the depositors roll over their deposits, everyone is happy.” Precisely. But what if a depositor, a big one, pulls out? There is the rub.

Suppose that a big depositor, a Saudi Arabia, became unhappy with some aspect of American policy. Suppose that country decided that it would punish the United States by pulling out its deposits at a big bank? That bank might then be forced to call for payments of its unpayable loans to Mexican firms like ELF, or the Mexican Government, or Argentina, or Poland. Then there would be disaster.

Ah, yes, the bankers say, but that will not happen. After all, we are in the best of all worlds—foreigners want their money here, where it is safe. Even if they did pull out, the Federal Reserve would make the situation good by pumping in liquidity to keep us alive.

But in the end, if the public failed to believe in the illusion, there would be panic. That is the risk, and that is the reality.

The fact of the matter is that there is no international system to regulate the fantastic international borrowings that are taking place. There is no international system that can require banks to maintain any kind of reserves against their Eurocurrency operations. There is no international system that can safeguard against the panic that might ensue from the default of a Polish, a Mexican, an Argentine debt. There is no international authority that can deal with a situation like the Ambrosiano.

Whether there can be such an authority is a matter of the most urgent moment. But beyond that, we have to face these realities: If we but look at the collapse of the Mexican bubble, and the crushing burden that it is placing on the people of Mexico—there we see the kind of possibilities that lie ahead. If we but look at the danger signs in our own economy—the collapsed housing market, the depressed steel business, the unprecedented number of business failures, the high and rising number of bank failures, the increasing admissions by banks that they are holding billions and billions in bad loans—then we see danger in our own country. And if we but look in a few other capitals, we see troubles there, too.

The dangers are all around. Thoughtful people realize that the world is no better prepared to deal with the kind of crises we see today than it was to deal with the crises of 1931. This is a different world; the problems are different, and new answers are needed. Yet we sail serenely on, unaware of the dangers, trusting in the smiles of lofty bankers who know in their hearts that they are trusting that the illusion will last until the danger somehow slides by. They proclaim that their system is safe. So did the captain of the *Titanic*. Just as that ship was not unsinkable, so the world—and our own—financial structure is not safe. And we don't have enough lifeboats, nor, tragically, do we have leadership that appears to recognize or care about the situation enough to take meaningful action to ease the danger.

But I say this: Arcane as this business is, if the leaders will not lead, then the people must push.

□ 2220

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, on account of personal illness, I was unable to be present for a recorded vote this morning on the motion to approve yesterday's journal. Had I been present, I would have voted “yea.”●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. JONES of North Carolina (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. BROWN of California (at the request of Mr. WRIGHT), after 5:15 p.m. today through August 16, on account of representing the House at the United Nations Conference in Vienna.

Mr. HUTTO (at the request of Mr. WRIGHT), until 4 p.m. today, on account of a family medical emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HUNTER) to revise and extend their remarks and include extraneous material:)

Mr. MCKINNEY, for 5 minutes, today.
Mr. BROYHILL, for 5 minutes, today.
Mr. YOUNG of Alaska, for 5 minutes, today.

Mr. LATTI, for 60 minutes, today.

Mr. SMITH of New Jersey, for 5 minutes, today.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 30 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. PANETTA, after title IV to H.R. 6214 was designated in the Committee of the Whole today.

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. FINDLEY.
Mr. SCHULZE in two instances.
Mr. CONTE.
Mr. SPENCE in two instances.
Mr. BROWN of Ohio.
Mr. WORTLEY in three instances.
Mr. BEARD in two instances.
Mr. BEREUTER.
Mr. McCLOSKEY.
Mr. BLILEY.
Mr. GOODLING.
Mr. SHUMWAY.
Mr. GILMAN.
Mr. YOUNG of Alaska.
Mr. DOUGHERTY.
Mrs. SNOWE in two instances.
Mr. DERWINSKI in 10 instances.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. PEPPER.
Mr. LOWRY of Washington.
Mr. HAMILTON.
Mr. EDGAR.
Mr. MAZZOLI in three instances.
Mr. MARKEY.
Mrs. SCHROEDER.
Mr. FLORIO.
Mr. MATSUI.
Mr. STUMP.
Mr. DICKS.
Ms. OAKAR.

Mr. BONER of Tennessee.
Mr. D'AMOURS.
Mr. OTTINGER.
Mr. HARKIN.
Mr. RUSSO.
Mr. McDONALD in three instances.
Mr. BROWN of California.
Mr. MOFFETT.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken away from the Speaker's table and, under the rule, referred as follows:

S. 901. An act to preserve and protect the Georgetown waterfront for the recreational use of the public; to the Committee on Interior and Insular Affairs.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2154. An act to direct the Secretary of Agriculture to release a reversionary interest held by the United States in certain lands located in Christian County, Ky., so that such lands may be used for cemetery purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 26 minutes p.m.), the House adjourned until tomorrow, Thursday, August 12, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4569. A letter from the Secretary of Education, transmitting proposed final regulations governing institutional aid programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4570. A letter from the Secretary of State, transmitting additional determination for inclusion in the certification reported in the second certification for the provision of certain security assistance and the assignment of certain military personnel to El Salvador, pursuant to section 728(e) of Public Law 97-113 as amended; to the Committee on Foreign Affairs.

4571. A letter from the Secretary, Department of Labor, transmitting the 1980 annual report on the administration of the Employee Retirement Income Security Act (ERISA), pursuant to section 513(b) of that act; jointly, to the Committees on Education and Labor and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the

Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 1489. A bill to permit the transportation of passengers between Puerto Rico and other U.S. ports on foreign-flag vessels when U.S.-flag service for such transportation is not available; with an amendment (Rept. No. 97-723). Referred to the House Calendar.

Mr. SAM B. HALL, JR. Committee on the Judiciary. H.R. 5288. A bill granting the consent of Congress to the compact between the States of New Hampshire and Vermont concerning solid waste (Rept. No. 97-724). Referred to the House Calendar.

Mr. SAM B. HALL, JR. Committee on the Judiciary. H.R. 6168. A bill to amend chapter 41 of title 18, United States Code, to prohibit threats against Presidential candidates and other persons protected by the Secret Service who are not presently covered by the Presidential threat statute, with the creation of a new section 879 for this purpose; with amendments (Rept. No. 97-725). Referred to the Committee of the Whole House on the State of the Union.

Mr. GINN. Committee on Appropriations. H.R. 6968. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-726). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ST GERMAIN (for himself, Mr. WRIGHT, Mr. REUSS, Mr. FOLEY, Mr. ALEXANDER, Mr. MURTHA, Mr. FLIPPO, Mr. COELHO, Mr. FAZIO, Mr. MINETA, Mr. HAWKINS, Mr. RATCHFORD, Mr. FASCELL, Mr. LEHMAN, Mr. BRINKLEY, Mr. ANNUNZIO, Mr. BENJAMIN, Mr. HARKIN, Mr. SMITH of Iowa, Mr. GLICKMAN, Mr. HUBBARD, Mrs. BOGGS, Mr. DYSON, Mr. DONNELLY, Mr. MAVROULES, Mr. FORD of Michigan, Mr. WOLFE, Mr. DWYER, Mr. FLORIO, Mr. MINISH, Mr. RODINO, Mr. ROE, Mr. ADDABBO, Mr. LUNDINE, Mr. NOWAK, Mr. PEYSER, Mr. RANGEL, Mr. ROSENTHAL, Mr. SOLARZ, Mr. ZEGERETTL, Mr. HEFNER, Mr. APLEGATE, Mr. ECKART, Mr. LUKEN, Mr. MOTT, Ms. OAKAR, Mr. SEIBERLING, Mr. SHAMANSKY, Mr. EDGAR, Mr. FOGLIETTA, Mr. MURPHY, Mr. WALGREN, Mr. BONER of Tennessee, Mr. DE LA GARZA, Mr. FROST, Mr. GONZALEZ, Mr. HANCE, Mr. HIGHTOWER, Mr. MATTOX, Mr. BONKER, Mr. LOWRY of Washington, Mr. MOLLOHAN, Mr. WASHINGTON, Mr. DICKS, and Mr. PATMAN):

H.R. 6967. A bill to amend the Federal Reserve Act; to the Committee on Banking, Finance and Urban Affairs.

By Mr. GINN:
H.R. 6968. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes; to the Committee on Appropriations.

By Mr. BEARD:
H.R. 6969. A bill to amend the Federal-State Extended Unemployment Compensation Act of 1970 to maintain current provi-

sions (scheduled to be repealed) relating to the State trigger and to restore a former provision relating to the insured unemployment rate; to the Committee on Ways and Means.

By Mr. COELHO:

H.R. 6970. A bill to limit the obligation of funds by Federal agencies during the last 2 months of a fiscal year; to the Committee on Government Operations.

By Mr. CONTE:

H.R. 6971. A bill to provide that disability benefits under title II of the Social Security Act may not be terminated without evidence of medical improvement, to limit the number of periodic reviews, to provide that benefits continue to be paid through a determination by an administrative law judge, and for other purposes; to the Committee on Ways and Means.

By Mr. HORTON (for himself and Mr. BROYHILL):

H.R. 6972. A bill to transfer the functions of the Department of Energy to other agencies, to maintain continuity in vital programs and relationships, to recognize the Federal Energy Regulatory Commission as a separate independent regulatory agency, and for other purposes; jointly, to the Committees on Government Operations and Energy and Commerce.

By Mrs. KENNELLY:

H.R. 6973. A bill to amend the Social Security Amendments of 1977 to extend for five more years the exemption from reduction of benefits under title II of the Social Security Act for spouses receiving Government pensions and to apply the reduction in the duration-of-marriage requirement to such exemption; to the Committee on Ways and Means.

By Mrs. SCHROEDER:

H.R. 6974. A bill to provide that the United States District Court for the District of Colorado shall be held at Boulder, Colo., in addition to those places currently provided by law; to the Committee on the Judiciary.

By Mr. SCHULZE (for himself, Mr. BAFALIS, Mr. DUNCAN, Mr. FOWLER, Mr. HANCE, and Mr. HOLLAND):

H.R. 6975. A bill to amend the Internal Revenue Code of 1954 to exempt from rules relating to foreign conventions all conventions, et cetera, held on domestic cruise ships and on certain foreign cruise ships which port in qualified Caribbean Basin countries; to the Committee on Ways and Means.

By Mr. SIMON (for himself and Mr. SHAW):

H.R. 6976. A bill to amend title 28, United States Code, to require the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing persons (including unemancipated persons); to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 6977. A bill to redesignate public land in Alaska to allow hunting; to the Committee on Interior and Insular Affairs.

By Mr. EARLY:

H.J. Res. 568. Joint resolution to provide for the designation of October 5, 1982, as "Dr. Robert H. Goddard Day"; to the Committee on Post Office and Civil Service.

By Mr. EMERY (for himself and Mrs. SNOWE):

H.J. Res. 569. Joint resolution redesignating the St. Croix Island National Monument in the State of Maine as the St. Croix Island

International Historic Site"; to the Committee on Interior and Insular Affairs.

By Mr. GRAY (for himself, Mr. MITCHELL of Maryland, and Mr. CONYERS):

H. Con. Res. 393. Concurrent resolution expressing the sense of the Congress that the Attorney General should prosecute violations of the civil rights laws and Federal criminal laws by the Ku Klux Klan to the greatest extent possible, and that civic and religious groups should help to teach the young people of our Nation about the benefits of tolerance and the contribution that each of the ethnic, racial, and religious groups in this country makes to our American way of life; jointly, to the Committees on the Judiciary and Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 231: Mr. MARTINEZ.
H.R. 907: Mr. HUGHES.
H.R. 1513: Mr. LANTOS.
H.R. 1514: Mr. LANTOS.
H.R. 2954: Mr. PATMAN and Mr. MATTOX.
H.R. 3314: Mr. TRIBLE.
H.R. 4627: Mr. LOTT, Mr. HUCKABY, Mr. NAPIER, Mr. DINGELL, Mr. PANETTA, Mr. MORRISON, Mr. FOWLER, Mr. HARTNETT, Mr. DERRICK, Mr. WOLF, Mr. HUGHES, and Mr. ANDERSON.
H.R. 4808: Mr. STOKES, Mr. HUTTO, and Mr. ROE.
H.R. 5995: Mr. PATTERSON.
H.R. 6460: Mr. DUNN and Mr. LeBOUITILLIER.
H.R. 6463: Mr. HAMILTON and Mr. DYSON.
H.R. 6607: Mr. WOLF, Mr. PORTER, Mr. HILER, Mr. WEBER of Minnesota, and Mr. GREGG.
H.R. 6608: Mr. WOLF, Mr. PORTER, Mr. HILER, Mr. SPENCE, Mr. WEBER of Minnesota, and Mr. GREGG.
H.R. 6745: Mr. BEREUTER.
H.R. 6781: Mr. JACOBS, Ms. OAKAR, Mr. LEHMAN, Mr. WILSON, Mr. HEPTTEL, Mr. FORSYTHE, Mr. BONIOR of Michigan, Mr. BENJAMIN, Mr. CROCKETT, Mr. HOYER, Mr. SMITH of Alabama, Mr. NEAL, Mr. WASHINGTON, Mr. HARKIN, Mr. O'BRIEN, Mr. McCLOSKEY, Mr. CHENEY, Mr. GORE, Mr. WATKINS, Mrs. SCHROEDER, Mr. ENGLISH, Mr. RAHALL, Mr. HUCKABY, Mr. BEREUTER, Mr. YOUNG of Alaska, Mr. EMERSON, Mr. SPENCE, Mr. WHITE, Mr. FINDLEY, Mr. PATMAN, Mr. GRADISON, Mr. KILDEE, Mr. ASPIN, Mr. PRITCHARD, Mr. DANNEMEYER, Mr. LATTI, Mr. ROBERTS of Kansas, Mr. KOGOVSEK, Mr. GINGRICH, Mr. WHITTAKER, Mr. WOLFE, Mr. McDONALD, Mr. JEFFORDS, Mr. ROGERS, Mr. DECKARD, Mr. MINISH, Mr. PETRI, Mr. WHITLEY, Mrs. MARTIN of Illinois, Mr. FOWLER, Mr. MOLINARI, Mr. GREGG, Mr. BAILEY of Pennsylvania, Mr. CHAPPIE, Mr. HUBBARD, Mr. DANIEL B. CRANE, Mr. SHAW, Mr. EVANS of Indiana, Mr. SIMON, Mr. HANSEN of Utah, Mr. DREIER, Mr. MARRIOTT, Mr. STARK, Mr. MADIGAN, Mr. CRAIG, Mr. MAVROULES, Mr. CARMAN, Mr. JAMES K. COYNE, Mr. ROUSSELOT, Mr. WAMPLER, and Mr. HUNTER.
H.R. 6800: Mr. HOYER, Mr. WOLF, Mrs. HOLT, Mr. ROBERT W. DANIEL, JR., Mr. PEPPER, Mr. HORTON, and Mr. DOUGHERTY.
H.R. 6813: Mr. D'AMOURS.
H.R. 6894: Mr. BOWEN.
H.R. 6897: Mr. GOODLING.
H.R. 6901: Mr. HOLLENBECK, Mr. HUGHES, Mr. MURTHA, Mr. SMITH of Pennsylvania, Mr. GUARINI, and Mrs. ROUKEMA.

H.R. 6917: Mr. STOKES and Mr. PORTER.
H.J. Res. 323: Mr. SHAMANSKY, Mr. TAUZIN, Mr. WAXMAN, Mr. MURPHY, Mr. SAWYER, Mr. OTTINGER, Mr. ROSENTHAL, Mr. LEHMAN, Mr. WALGREEN, Mr. OXLEY, Mr. JAMES K. COYNE, Mr. NELLIGAN, Mr. JOHN L. BURTON, and Mr. McDADDE.

H.J. Res. 492: Mr. HYDE, Mr. YATRON, Mr. SIMON, Mr. DERRICK, Mr. GORE, Mr. MITCHELL of New York, Mr. ADDABBO, and Mr. AL-EXANDER.

H.J. Res. 543: Mr. DASCHLE, Mr. HANSEN of Idaho, Mr. CLAUSEN, Mr. McDONALD, Mr. BEARD, Mr. DAUB, Mr. FORSYTHE, Mr. FOUNTAIN, Mr. EVANS of Georgia, Mr. ADDABBO, Mr. HILER, Mr. RAHALL, Mr. MARRIOTT, Mr. EDWARDS of Oklahoma, Mr. JEFFRIES, Mr. LAGOMARSINO, Mr. FRENZEL, and Mr. ROBERTS of South Dakota.

H.J. Res. 552: Mr. PATTERSON, Mr. EVANS of Indiana, Mr. MCKINNEY, and Mr. SCHUMER.

H. Con. Res. 253: Mr. FRANK, Mr. ANNUNZIO, Mr. AKAKA, Mr. JACOBS, Mr. PEYSER, Mr. PARRIS, Mr. BARNES, Mr. FROST, Mr. COATS, Mr. BOWEN, Mr. HUGHES, Mr. MAVROULES, Mr. SYNAR, and Mr. WATKINS.

H. Con. Res. 330: Mr. MARRIOTT, Mr. RANGEL, Mr. CLAUSEN, Mr. WILLIAMS of Montana, Mr. FORSYTHE, Mr. MOLINARI, Mr. AU COIN, Mr. KRAMER, Mr. McDONALD, Mr. JAMES K. COYNE, Mr. NEAL, Mr. BENJAMIN, Mr. WIRTH, Mr. WOLFE, Mr. LAGOMARSINO, Mr. COURTER, Mr. SIMON, Mr. LEHMAN, Mr. McGRATH, Mr. GRADISON, Mr. BINGHAM, Mr. MAVROULES, Mr. WHITEHURST, Mr. ARCHER, Mr. DELLUMS, Mr. HARKIN, Mr. CARNEY, and Mrs. COLLINS of Illinois.

H. Con. Res. 364: Mr. RODINO, Mr. WATKINS, and Mr. DORGAN of North Dakota.

H. Con. Res. 378: Mr. WOLFE.
H. Con. Res. 391: Mr. PATTERSON, Mr. LeBOUITILLIER, Mr. FORSYTHE, Mr. CONTE, Mr. UDALL, Mr. DERWINSKI, Mrs. FENWICK, Mr. HYDE, Mr. FRANK, Mr. WOLFE, Mr. McDONALD, Mr. FRENZEL, and Mr. SHAMANSKY.

H. Res. 558: Mr. DOUGHERTY, Mr. HUBBARD, Mr. DENARDIS, Mr. LeBOUITILLIER, Mr. BARNES, Mr. SHARP, and Mr. MOFFETT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3973: Mr. SKEEN.
H.R. 6944: Mr. DOUGHERTY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3432

By Mr. ROE:
(Amendment in the nature of a substitute.)

TITLE I—WATER RESOURCES RESEARCH ACT

SEC. 101. This title may be cited as the "Water Resources Research Act of 1982". Title I is hereafter referred to in this title as the "Act".

SEC. 102. The Congress finds and declares that—

(1) the existence of an adequate supply of water of good quality for the production of materials and energy for the Nation's needs and for the efficient use of the Nation's energy and water resources is essential to

national economic stability and growth, and to the well-being of the people;

(2) there is an increasing threat of impairment to the quantity and quality of surface and ground-water resources;

(3) the Nation's capabilities for technological assessment and planning and for policy formulation for water resources must be strengthened at the Federal, State, and local governmental levels;

(4) there should be a continuing national investment in water and related research and technology commensurate with growing national needs;

(5) it is necessary to provide for the research and development of technology for the conversion of saline and other impaired waters to a quality suitable for municipal, industrial, agricultural, recreational, and other beneficial uses; and

(6) the pool of scientists, engineers, and technicians trained in fields related to water resources constitutes an invaluable natural resource which should be increased, fully utilized, and regularly replenished.

SEC. 103. It is the purpose of this Act to assist the Nation and the States in augmenting their water resources science and technology as a way to—

(1) assure supplies of water, sufficient in quantity and quality, to meet the Nation's expanding needs for the production of food, materials, and energy;

(2) identify and find practical solutions to the Nation's water and water resources related problems, particularly those problems related to impaired water quality;

(3) promote the interest of State and local governments as well as private industry in research and the development of technology that will reclaim waste water and to convert saline and other impaired waters to waters suitable for municipal, industrial, agricultural, recreational, and other beneficial uses; and

(4) coordinate more effectively the Nation's water resources research programs.

SEC. 104. (a) The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized and directed to assist the work of any water resources research and technology institute, center, or equivalent agency (hereinafter in this title referred to as the "institute") established in the States in accordance with the terms of subsection (f) of this section.

(b) Each designated institute shall—
(1) have responsibility for planning, conducting, and/or arranging for competent research in relation to water resources, including investigations and experiments of either a basic or practical nature, or both; to promote the dissemination and application of the results of these efforts; and to provide for the training of scientists and engineers through such research, investigations, and experiments; and

(2) cooperate closely with other colleges and universities in the State that have demonstrated capabilities for research, information dissemination, and graduate training in order to develop a statewide program designed to resolve State and regional water and related land problems. Such institute shall also cooperate closely with regional consortia, as may be designated by the Secretary to increase the effectiveness of the institutes and for the purpose of regional coordination.

(c) Prior to the receipt each fiscal year of funds authorized by subsection (e) of this section, each institute shall submit to the Secretary for his approval a water research program that includes assurances, satisfac-

tory to the Secretary, that such program was developed in close consultation and collaboration with the director of that State's department of water resources, or similar agency, and other leading water resources officials with the States, including interested members of the public. The program described in the preceding sentence shall include plans to promote research, training, information dissemination, and other activities meeting the needs of the State and Nation, and encourage regional cooperation among institutes in research into areas of water management, development, and conservation that have a regional or national character.

(d) From the sums appropriated pursuant to subsection (e) of this section, the Secretary shall make grants to each designated institute to be matched on a basis of no less than one non-Federal dollar for every Federal dollar during the fiscal years ending September 30, 1983, and September 30, 1984, one and one-half non-Federal dollars for each Federal dollar during the fiscal year ending September 30, 1985, and September 30, 1986, and two non-Federal dollars for each Federal dollar during the fiscal year ending September 30, 1987.

(e) There is hereby authorized to be appropriated to the Secretary for the purpose of carrying out this section the sum of \$8,100,000 during each of the fiscal years ending September 30, 1983, through September 30, 1987.

(f) For the purposes of this section, an institute may be established at one college or university in each State, which was established in accordance with the Act approved July 2, 1862 (12 Stat. 503; 7 U.S.C. 301ff), entitled "An Act donating public lands to the several States and territories which may provide colleges for the benefit of agriculture and the mechanic arts" or some other institution designated by act of the legislature of the State concerned, except that (1) if there is more than one such college or university in a State established in accordance with said Act of July 2, 1862, funds under this section shall, in the absence of a designation to the contrary by act of the legislature of the State, be paid to the one such college or university designated by the Governor of the State to receive the same, subject to the Secretary's determination that such college or university has or may reasonably be expected to have the capability of doing effective work under this title; (2) two or more States may cooperate in the designation of a single institute or regional institute, in which event the sums otherwise allocated to institutes in each of the cooperating States shall be paid to such regional institute.

Sec. 105. (a)(1) In addition to the grants authorized by section 104 of this Act, the Secretary is authorized to make grants, on a dollar-for-dollar matching basis, to the institutes established pursuant to section 104 of this Act, as well as other qualified educational institutions, private foundations, private firms, individuals, and agencies of local or State government for research concerning any aspect of a water-related problem which the Secretary may deem to be in the national interest, including the operation of test facilities.

(2) In cases where the Secretary determines, according to criteria established by him, that research under this section is of a basic nature which would not otherwise be undertaken, the Secretary may approve grants under this section on a matching requirement other than that specified in paragraph (1) of this subsection.

(b) Each application for a grant pursuant to this section shall state the nature of the project to be undertaken, the period during which it will be pursued, the qualifications of the personnel who will direct and conduct it, the importance of the project to the Nation as well as to the region and State concerned, its relation to other known research projects previously or currently being pursued, and the extent to which it will provide an opportunity for the training of water resources scientists. No grant shall be made under this section except for a project approved by the Secretary, and all grants shall be made upon the basis of the merit of the project and the need for the knowledge it is expected to produce when completed.

(c) The sum of \$13,000,000 is authorized to be appropriated to the Secretary for the purposes of grants under this section, as well as for administration of grants under this section and grants to the institutes under section 104 of this Act for each of the fiscal years ending September 30, 1983, through September 30, 1987.

Sec. 106. The type of research to be undertaken under the authority of section 105 of this Act and to be encouraged by the institutes established under section 104 of this Act shall include, without being limited to—

- (1) aspects of the hydrologic cycle;
- (2) supply and demand for water;
- (3) demineralization of saline and other impaired waters;
- (4) conservation and best use of available supplies of water and methods of increasing such supplies;
- (5) water reuse;
- (6) depletion and degradation of ground water supplies;
- (7) improvements in the productivity of water when used for agricultural and commercial purposes;
- (8) the economic, legal, engineering, social, recreational, biological, geographic, ecological, and other aspects of water problems;
- (9) scientific information dissemination activities, including identifying, assembling, and interpreting the results of scientific and engineering research on water resources problems; and
- (10) providing means for improved communication of research results, having due regard for the varying conditions and needs for the respective States and regions.

Sec. 107. As used in this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

Sec. 108. (a) Public Law 95-467 is repealed.

(b) Rules and regulations issued, prior to the date of enactment of this Act, under the authority of Public Law 95-467 shall remain in full force and effect under this Act until superseded by new rules and regulations promulgated under this Act.

TITLE II—WATER RESOURCES POLICY ACT

Sec. 201. Titles II through VI of this Act may be cited as the "Water Resources Policy Act of 1982." Titles II through VI of this Act are hereinafter in those titles referred to as the "Act."

Sec. 202. Nothing in this Act shall be construed to expand or diminish either Federal or State jurisdiction, responsibility, or rights in the field of water or related land resources planning, development, or control; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or

responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government; nor to limit the authority of Congress to authorize and fund projects.

TITLE III—NATIONAL BOARD

Sec. 301. There is hereby established a National Board on Water Resources Policy (hereinafter referred to as the "Board") which shall be composed of seven members as follows: (1) the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, and the Administrator of the Environmental Protection Agency, or their respective designees, (2) two members who shall be appointed by the President with the advice and consent of the Senate, one from among nominations made by the Speaker of the House of Representatives, and one from among nominations made by the President pro tempore of the Senate; and (3) a Chairman who shall be appointed by the President by and with the advice and consent of the Senate. Any person designated a member by a Secretary or Administrator must be designated from among persons who are officers of the United States appointed by the President with the advice and consent of the Senate. The Chairman shall be compensated at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The two additional members appointed by the President shall be compensated on a daily basis for each day of service at the daily rate applicable to level IV of the Executive Schedule under section 5313 of title 5, United States Code, and shall be reimbursed for necessary travel and reasonable expenses incurred in attending meetings of the Board. During the period of his service on the Board, the Chairman and the members appointed by the President shall not hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the Federal Government. No retired officer or employee shall receive from the Federal Government for retirement benefits and service to the Board total compensation which exceeds the applicable rate for level III or IV of the Executive Schedule, as the case may be. The Chairman of the Board shall request the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of Transportation, and the Secretary of Energy and the heads of such other Federal agencies as may be appropriate to participate without a vote with the Board when matters affecting their responsibilities are considered by the Board. The Board shall meet at least once during each quarter of the year. Any action of the Board shall require a quorum to be present and a majority vote of those members present and voting.

Sec. 302. The Board shall—

(1) perform studies and prepare assessments at such intervals as the Board may determine, of the adequacy of supplies of water (both quality and quantity) necessary to meet the water requirements in each water resource region in the United States and the national interest therein, taking into consideration the special needs of rural areas due to increasing demands for water to provide sustained economic development and agricultural productivity; and

(2) perform studies and prepare assessments of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of

the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; appraise the adequacy of existing and proposed policies and programs to meet such requirements; and make recommendations to the President and to Congress with respect to Federal policies and programs.

For purposes of this section, policies and programs shall include, but not be limited to, water and related land resources planning, development, management, and conservation; integration of water quantity and water quality planning and management; and enhancement of State and local capabilities with respect to water and related land resources planning, developing, management, and conservation.

Sec. 303. (a) The Board shall assist in interagency coordination of Federal water resources research. Such coordination shall include, but not be limited to, (1) continuing review of the adequacy of Federal programs in water resources research and identification of technical needs in various water resources research categories, (2) identification of duplication and overlapping between two or more Federal water resources research programs and elimination of such duplication and overlapping to the extent that this may be accomplished under existing law, (3) recommendations to the Federal agencies involved in Federal water resources research with respect to allocation of technical efforts among such agencies, (4) recommendations to such Federal agencies concerning management policies to improve the quality of Federal research efforts and (5) actions to facilitate interagency communication at management levels.

(b) The Board shall report annually to Congress concerning actions taken to implement this section and include in such report any recommendations for changes in legislation that it deems appropriate to meet the objectives of this section.

(c) For the purposes of this section, the Board shall make use of the Water Resources Scientific Information Center, established under section 302 of the Water Research and Development Act of 1978 (Public Law 95-467), or any successor agency.

Sec. 304. (a) The Board shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Board may find appropriate, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such principles, standards, and procedures shall require that every report relating to any such water or related land resources project include specific information on the benefits and costs attributable to each of the objectives referred to in section 209 of the Flood Control Act of 1970 (84 Stat. 1829). Such principles, standards, and procedures shall also define the objective of water conservation as including projects, programs, or features thereof, designed to (1) reduce the demand for water, (2) improve efficiency in use and reduce losses and waste of water (including by storage), or (3) improve land management practices to conserve water. Such principles, standards and procedures shall specifically prohibit any Federal water resources agency from preparing, or participating in the preparation of, any regional or river basin plan or any plan for any Federal water and related land

resource project which has as the objective the transfer of water from the Columbia River Basin, or the Arkansas River Basin, to any other region or any other major river basin of the country.

(b) The Board shall establish separate principles, standards and procedures as described in subsection (a) for small Federal water or related land resources projects administered by the United States Department of Agriculture.

Sec. 305. (a) For the purpose of carrying out the provisions of this Act, the Board may (1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable; (2) acquire, furnish, and equip such office space as is necessary; (3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States; (4) employ and fix the compensation of such personnel as it deems advisable; (5) procure services as authorized by section 3109(b) of title 5, United States Code, at rates not in excess of the daily equivalent of the rate prescribed for grade GS-18 under section 5332 of title 5 of the United States Code in the case of individual experts or consultants; (6) purchase, hire, operate, and maintain passenger motor vehicles; and (7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this Act.

(b) Any member of the Board is authorized to administer oaths when it is determined by a majority of the Board that testimony shall be taken or evidence received under oath.

(c) To the extent permitted by law, all appropriate records and papers of the Board may be made available for public inspection during ordinary office hours.

(d) Upon request of the Board, the head of any Federal department or agency is authorized (1) to furnish to the Board such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and (2) to detail to temporary duty with such Board on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(e) The Board shall be responsible for (1) the appointment and supervision of personnel, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditures of funds.

Sec. 306. (a) There is hereby established a regional-State water resources advisory committee (hereinafter referred to as the "committee").

(b) The Board shall appoint one member from each of the major water resources regions described in the document entitled "Second National Water Assessment", dated December 1978, and transmitted to the President on January 25, 1979. The Board shall give consideration to recommendations of the Governors of the States which lie wholly or partially within such a region when appointing a member from such region. Each member of the committee shall be selected on the basis of knowledge of water resources management and water resources needs of the region that he or she represents. The chairman of the committee shall be selected by the members from among the members of the committee.

(c) The committee is authorized to submit to the Board the recommendations of the committee on any matter which is before the Board, and the recommendations of the committee shall be included in any recommendations of the Board reported to the President and Congress under section 102(2) of this Act, with respect to such matter.

Sec. 307. (a) Notwithstanding any other provision of law, simultaneously with promulgation or repromulgation of any rule by the Board, under authority of any law of the United States relating to principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation, evaluation, and review of Federal water and related land resources projects, the Board shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b) of this section, the rule shall not become effective if—

(1) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule promulgated by the Board dealing with the matter of _____, which rule was transmitted to Congress on _____," the blank spaces therein being appropriately filled; or

(2) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(b) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in subsection (a) of this section.

(c) For purposes of subsections (a) and (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(d) Congressional inaction on or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule.

(e) For purposes of this section, the term "rule" includes, but is not limited to, any rule, regulation, principle, standard, or procedure, or any part thereof.

(f) Any rule promulgated by any department, agency, or instrumentality of the United States relating to principles, standards, and procedures (1) for Federal partici-

pants in the preparation of comprehensive regional or river basin plans and for the formulation, evaluation, and review of Federal water and related land resources projects, and (2) for any review by any department, agency, or instrumentality of the United States, in effect on the date of enactment of this Act shall continue in effect until the last day of the one hundred and eighty-day period beginning on the date that all members of the first Board established under section 101 of this Act have been appointed and confirmed by the Senate, unless before the end of such 180 period such rule is superseded by principles, standards, and procedures established by the Board under section 304 of this Act. Any rule continued in effect by this subsection which is in effect on the day before the last day of such period shall be transmitted by the Board to Congress under this section in the same manner and to the same extent as if such rule had been established by the Board under section 304.

Sec. 308. No later than fifteen days following the transmission of the President's budget submittal to the Congress the Board shall transmit to the Speaker of the House of Representatives and the President a report of the Senate reports on, as appropriate, Bureau of Reclamation, Army Corps of Engineers, and Department of Agriculture water resource studies or projects (1) which are not included in the President's budget submittal; (2) for which feasibility studies or construction have previously been authorized; and (3) the construction of which have not been completed. Such reports shall include a detailed description of each project, the President's explanation for not including the projects in his budget submittal, and information on the compliance of each project with any relevant principles, standards, and procedures.

Sec. 309. There is authorized to be appropriated to carry out the provisions of this title, the sum of \$3,000,000 for each of the fiscal years 1983 and 1984, of which no more than \$50,000 is authorized each such fiscal year to carry out section 306.

TITLE IV—ASSISTANCE FOR STATE WATER PLANNING AND MANAGEMENT

Sec. 401. (a) In recognition of the controlling role of the States in State and regional water and related land resources planning and management and a national need for—

- (1) water conservation;
- (2) State integration of water quantity and water quality planning and management;
- (3) State integration of ground and surface water planning and management;
- (4) protection and management by the States of ground water supplies;
- (5) protection and management by the States of instream values; and

(6) enhanced cooperation and coordination between Federal, State, and local units of government to achieve these goals;

the Congress hereby authorizes the Board to make grants to the States to assist them in the development, implementation, and modification of comprehensive programs and plans for the use, development, conservation, and management of State and regional water and related land resources.

(b) The Board shall, after consultation with the States, prescribe guidelines by rule, no later than one hundred and eighty days after enactment of this Act, to carry out its functions and responsibilities under this title.

Sec. 402. (a) From the sums appropriated for any fiscal year pursuant to section 404 and upon application of a State, the Board shall make grants to States in accordance with the guidelines prescribed pursuant to section 401(b) on the basis of population, land area, financial need and the need for water and related land resources planning and management assistance, except that each State shall receive not less than the sum of \$100,000 for each of the fiscal years 1983 and 1984.

(b) The sums allocated under this section shall be matched on the basis of not less than one non-Federal dollar for every Federal dollar. Contributions by the States to fulfill the matching requirements of this subsection shall be in cash only and in kind contributions shall not be considered as matching contributions under this subsection.

(c) No funds under this section may be withheld in an effort to force States to alter their water policies to comply with Federal policies or policies of the Board.

Sec. 403. The assistance provided for State water planning and the programs established pursuant to this title shall be consistent with the provisions contained in section 202 of this Act.

Sec. 404. There are authorized to be appropriated to carry out the provisions of this title for the fiscal year ending September 30, 1983, the sum of \$10,000,000, and for the fiscal year ending September 30, 1984, the sum of \$7,500,000, all of which is to remain available until expended.

Sec. 405. For the purposes of this title, "State" means each of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

TITLE V—DEPARTMENT OF THE INTERIOR OFFICE OF WATER POLICY

Sec. 501. (a) There is established within the Department of the Interior an Office of Water Policy which shall report to the Secretary of the Interior through the Assistant

Secretary for Land and Water Resources on matters relating to water policy within the responsibilities of the Secretary. The Office shall provide staff services to the Secretary in the development of water policy and liaison with the States and local governments, Congress, water user groups, citizen groups and the concerned public. The office shall serve only the Department of Interior.

(b) For the purpose of administration, \$2,500,000 is authorized to be appropriated to the Office of Water Policy within the Department of the Interior for each of the fiscal years ending September 30, 1983, and September 30, 1984.

TITLE VI—GENERAL PROVISIONS

Sec. 601. (a) The Secretary of the Army, acting through the Chief of Engineers and in cooperation with the Secretary of the Interior and the Secretary of Agriculture, is authorized to study the water resources needs of various basins and other regions of the United States. The Secretary shall report the results of such study to Congress not later than October 1, 1984.

(b) In carrying out the studies authorized under subsection (a) of this section, the Secretary shall consult with State, interstate, and local government entities.

Sec. 602. There is authorized to be appropriated to carry out the provisions of this title, the sum of \$500,000 for each of the fiscal years 1983 and 1984.

Sec. 603. The Water Resources Planning Act (42 U.S.C. 1962) is repealed.

Sec. 604. Notwithstanding any other provision of this Act, no payment under this Act shall be effective except to such extent or in such amounts as are provided in appropriation Acts.

H.R. 6308

By Mr. McKINNEY:

(To the amendment in the nature of a substitute (H.R. 6911).)

—On page 35, line 23, strike out "\$40,000,000," and insert in lieu thereof "\$75,000,000."

H.R. 6957

By Mr. BEARD:

—Page 26, line 2, after "Act.", add the following new section:

Sec. 203. None of the funds appropriated in this title shall be used to obstruct programs of voluntary prayer and meditation in public schools.

—Page 26, line 2, after "Act.", add the following new section:

Sec. 204. None of the funds appropriated under this title shall be used to require state or local education institutions to transport students for purposes of achieving racial or ethnic quotas in their schools.

EXTENSIONS OF REMARKS

STOP RETREAT ON
HANDICAPPED EDUCATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. Mr. Speaker, today I am introducing legislation which expresses congressional disapproval of regulations proposed by the Secretary of Education for the Education of All Handicapped Children Act—Public Law 94-142. These regulations, published on Wednesday, August 4, if adopted, would represent a significant retreat from the original intent of Congress when this landmark law was passed in 1974.

As an original author of this legislation as well as a member of the House Education and Labor Committee, which is responsible for oversight of this law, I am deeply distressed by this apparent backdoor attempt to dilute the provisions in the law which insure that handicapped children are afforded the same education rights as their nonhandicapped peers. The goal of Public Law 94-142 is a simple one: to provide a free, appropriate public education to all handicapped children. This goal has been outlined in a very specific fashion ever since regulations were first published for this program in 1977.

While there have remained varying degrees of interpretation as to the kinds of services which should be provided to handicapped children under the act in the last 5 years, I believe that, on the whole, the regulations have provided ample safeguards for handicapped children. To make significant changes in the rules which spell out the kinds of services which must be offered is both a misappropriation of justice and an abrogation of our Federal commitment to educating handicapped children.

The resolution simply states that the proposed regulations, in their present form, are unacceptable. Further, the resolution underscores the importance of a full and fair review by the public and Congress of these proposals—with the understanding that some changes are required in current law in an era of diminishing resources.

Finally, the resolution reaffirms the right of Congress to disapprove of any final regulations to Public Law 94-142 under section 431 of the General Education Provisions Act (GEPA). This section specifically spells out the protections which Congress adopted against usurping of legislative author-

ity by the executive branch, particularly when Congress might be in adjournment. Accordingly, the resolution also states that the regulations, if they are to become final, should not become final during a time when Congress is in recess—in order to insure the ability of Congress to move quickly in the event that a resolution of disapproval is desired. The educational futures of handicapped children cannot be allowed to remain in limbo during a congressional recess, and this provision will insure this remains so.

My concerns with these proposed regulations are numerous. First, the proposed regulations seek to curtail the kinds of services which are to be provided to handicapped children served by this Act. Under current regulations, related services are specifically spelled out as they are listed in the law. These include transportation, developmental, corrective, and other supportive services, including physical and occupational therapy, recreation, medical and counseling services—with medical and counseling being provided for diagnostic purposes only.

The proposed regulations allow limitations to be placed on the kinds of services which are provided as well as severely restrict the kinds of medical services which can be used, subject to the discretion of State and local officials. It has historically been the case that the most persistent complaints that have been heard from local school officials address the kinds of health-related services which must be provided.

The courts are replete with examples of challenges to the law—including catheterization services and respiratory services. To place further discretion in the providing of such services by local officials will not insure that handicapped children will receive the kinds of services they need. In many cases, it will mean they will get no services at all where the law remains silent. I do not mean to suggest that the current regulations are perfect—in fact, revisions are essential in the face of declining Federal, State, and local dollars. However, changes which are made cannot be made in order to allow fewer children to be served or to allow changes in the kinds of services they need in order to remain alongside their nonhandicapped peers in the classroom.

I am also concerned over the provisions in the proposed regulations which alter the role of the parent in the handicapped child's education. At present, parents are deeply involved in the development of the IEP—the indi-

vidualized education plan which provides for their child's program. While several aspects in the proposed rules provided added flexibility in the development of the IEP—which should reduce the time it takes to evaluate and place special education children in appropriate settings—it also weakens the role of the parent in the process. Specifically, the proposed rules delete the requirement for parental consent before a preplacement evaluation is conducted or an initial placement is made. Such a provision must be rejected, as it would allow children to be moved from school to agency without parental consent.

The role of States and local education agencies have been changed in these rules in the name of "added flexibility." I remain deeply suspicious of any provisions which seek adjustment in this area for they in many cases ignore the reasons why this law was needed in the first place: States were not willing to provide these services to handicapped children. In many cases, if given the ability to prioritize the delivery of services, States would give handicapped children the short end of the stick, given the costs associated with their education. In my home city of New York, it costs nearly \$10,000 a year to educate a handicapped child, with only \$250 of that cost provided by the Federal Government and the remainder through State and local tax levy funds. It would indeed be tempting to cut costs associated with this program by cutting services. While I am confident that such would not be the case in New York—as we have equally strong State statutes which supplement Public Law 94-142—not all States place such a high priority on handicapped children, yet the costs remain high. Services will clearly suffer if States are provided sufficient flexibility to select the kinds of services they will provide under the law.

The rules also provide for the placement of handicapped children in agencies outside the school—agencies which could easily lose track of children just as they lose children in foster care. The fact that a school no longer has financial responsibility for the child one he or she is moved to another agency further increases the possibility that many children could indeed be lost in a social service system which is not responsible to the school.

The regulations leave open the question of extended school year services. Clearly, public comment is essential to answering the question of providing

year-round services to handicapped children. What progress can be made during the school year could easily be lost during the 3 months of the summer when a child might not receive services.

I commend the Department for those provisions in the regulations that equalize disciplinary rules. I know from the experience in my own State that provisions in current law have provided, in many cases, severe problems in the student body with handicapped children who break the rules. The adherence to rules and regulations should not be exempted for handicapped children as such adherence is critical to the entire educational process.

Clearly, Mr. Speaker, there are numerous aspects of these proposed rules which will require the scrutiny of Congress and the public. I commend the Secretary for providing for a 90-day comment period but express my concern over the timing—clearly at a time when Congress may not be in session.

I pledge my own efforts to insure a rigorous examination of the implications of all these proposals and to actively work to defeat those which will clearly threaten the educational rights of handicapped children and their parents.

While it is tragic that appropriations for this program have never met the expectation of the framers of the law, this should not be a factor in determining the merits of Public Law 94-142. Since its passage, it has provided over 4 million handicapped children with an education that otherwise would not be available to them—and this education cannot be jeopardized through regulation.

I urge my colleagues to join with me in this resolution which will help us to insure that the intent of Public Law 94-142 remains unchanged—and that the access to a free, appropriate public education for all eligible children remains secure.●

THE CONFLICT BETWEEN THE PUBLIC PRINTER AND THE CONGRESS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. DINGELL. Mr. Speaker, for several months I have been watching in dismay the mounting conflict between the Public Printer, Danford L. Sawyer, and our own congressional Joint Committee on Printing and the employees of the Government Printing Office.

What I have seen is a traditionally cooperative working relationship turned into an adversary proceeding by Mr. Sawyer as he pits himself against both the Joint Committee on

Printing, to which he is responsible, and the GPO employees whom he manages for us.

He has established a record of innuendo, misrepresentation and, most serious, defiance of the mandates of the Joint Committee.

This last action came about in the following way: Mr. Sawyer announced that he planned to furlough the GPO employees several times during the coming year in an alleged—but unsubstantiated—economy move. On May 11, 1982, the Joint Committee on Printing passed a resolution forbidding the Public Printer to proceed with his furlough plan on the grounds that he had no legal right to implement such a plan. Congressman BILL FORD, chairman of the House Committee on Post Office and Civil Service, confirmed this opinion to Mr. Sawyer in a letter dated May 24, 1982, in which Mr. Ford reaffirmed the authority of the JCP under the Keiss Act in employee relations at GPO.

Mr. Sawyer then announced that he would ignore the resolution of the JCP and proceed with the furlough he had planned for July 6. Employees of the Government Printing Office, through their unions, requested the U.S. District Court of the District of Columbia to prevent this illegal action by Mr. Sawyer.

The case was heard by Judge Oliver Gasch, who issued a ruling which stated, in part:

... the Public Printer does not have authority to furlough employees at the Government Printing Office as long as he is under the mandate of the Joint Committee on Printing, dated May 11, 1982, which orders him to impose no furloughs; and it is further

Ordered, That the Public Printer shall not implement the proposed furloughs as long as the joint committee's resolution of May 11, 1982, is in force.

Mr. Speaker, I now request that Judge Gasch's entire decision be placed in the RECORD. It is an eloquent statement of the authority of this Congress Joint Committee on Printing, concluding with the opinion that both the rights of the plaintiffs and the public interest are best served by this "clarification of the conflicting claims of the Public Printer and the Joint Committee."

The Joint Committee on Printing is a committee of Congress; the Government Printing Office is the printing office of Congress and the Public Printer is, in effect, an employee of Congress. I welcome the opportunity to put these principles into the RECORD:

[U.S. District Court for the District of Columbia—Civil Action No. 82-1515]

MILDRED LEWIS, ET AL., PLAINTIFFS, v. DANFORD L. SAWYER, PUBLIC PRINTER, DEFENDANT

ORDER

Upon consideration of plaintiffs' complaint for injunctive relief and declaratory

judgment and plaintiffs' motion for a writ of mandamus or, in the alternative for a preliminary injunction, cross-motions for summary judgment, the memoranda, exhibits and affidavits in support thereof and opposition thereto, the arguments of counsel in open Court, and the entire record, and for the reasons stated in the accompanying memorandum, it is by the Court this 2nd day of July, 1982.

Ordered that defendant's motion for summary judgment be, and hereby is, denied; and it is further

Ordered that plaintiffs' motion for summary judgment be, and hereby is, granted in part and denied in part; and it is further

Declared that the Public Printer does not have authority to furlough employees at the Government Printing Office as long as he is under the mandate of the Joint Committee on Printing, dated May 11, 1982, which orders him to impose no furloughs; and it is further

Ordered that the Public Printer shall not implement the proposed furloughs as long as the Joint Committee's resolution of May 11, 1982 is in force.

OLIVER GASCH, Judge.

[U.S. District Court for the District of Columbia—Civil Action No. 82-1515]

MILDRED LEWIS, ET AL., PLAINTIFFS, v. DANFORD L. SAWYER, PUBLIC PRINTER, DEFENDANT

MEMORANDUM

The plaintiffs in this case, ten labor unions¹ and four individual employees of the Government Printing Office (GPO), challenge a decision made by the Public Printer of the United States to furlough the entire work force of GPO for six days.² In response to plaintiffs' application for a writ of mandamus and motion for a preliminary injunction, the defendant has filed a motion for summary judgment. Subsequently, the plaintiffs filed a cross-motion for summary judgment.

THE STATUTORY AND HISTORICAL BACKGROUND

Defendant Danford Sawyer was appointed Public Printer in August 1981 by the President with the advice and consent of the Senate. See 44 U.S.C. § 301. The Public Printer's duties are, generally, to "take charge of and manage the Government Printing Office." *Id.* Under a statute commonly known as the "Keiss Act," 44 U.S.C. § 305, the Printer has the power to employ persons necessary for the work of the GPO at rates of wages and salaries "he considers for the interest of the Government and just to the persons employed." *Id.* His discretion in these personnel matters is, however, not unfettered, for he is under a statutory mandate not to employ "more persons than the necessities of the public work require." *Id.* Moreover, the Keiss Act, 44 U.S.C. § 305, provides that, in the setting of rates of compensation for his employees, for any group of more than ten employees of the same occupation, the Public Printer must bargain with a committee selected by the trades affected, and any wages and compensation agreed to are subject to approval by the Congressional Joint Committee on Printing. Indeed, if the conference between the Printer and the labor committee does not produce agreement on "wages, salaries, and compensation," either party may appeal to the Joint Committee, whose decision on the matter is final. Other personnel matters at GPO are, as in all executive agencies, subject to the provisions of the Federal Labor

Footnotes at end of article.

Relations Act and the Civil Service Reform Act. See OPM General Counsel Memorandum June 23, 1982 (Defendant's Second Filing); *cf. Thompson v. Sawyer*, No. 80-2098, slip op. at 6 (D.C. Cir. April 27, 1982) (GPO workers hold position in the "competitive service").

¹ Footnotes at end of article.

The Joint Committee on Printing consists of the chairman and four members of the Senate Rules Committee and the chairman and four members of the House Committee on House Administration. 44 U.S.C. § 101. Congress has given the Joint Committee broad authority over GPO: "The Joint Committee on Printing may use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing. . . ." 44 U.S.C. § 103. In addition to this general grant of authority, Title 44 grants the Joint Committee a number of specific powers and duties, such as fixing the standards for paper, *id.* § 509, authority respecting open market paper purchases, *id.* § 517, and oversight of the Printer's handling of the Depository Library Program, *id.* § 1914. Pursuant to the Kless Act, the Joint Committee has the final word on negotiations between the Printer and the unions over "wages, salaries, and compensation." 44 U.S.C. § 305. The Joint Committee may exercise its powers even when Congress is not in session. *Id.* § 102. As a result of the broad powers granted the Joint Committee, it is considered by some to function in a capacity analogous to a board of directors of GPO. 41 Op. Att'y. General 282, 286-87 (1956) (quoting H.R. Rep. No. 1, 68th Cong., 1st Sess. 2-3 (1923)).

The reasons that Congress chose to exercise, through the Joint Committee, more control over the functions of GPO than over any executive agency were two-fold. First, Congress created GPO in 1860, in part at least, so that Congressional documents would be printed by the federal government. Formerly the practice had been to contract the work out to private concerns, and this practice had proved to be inefficient. Cong. Globe, 36th Cong., 1st Sess. 2485 (1860). Secondly, Congress was concerned that the Printing Office would itself become a source of governmental waste and a source for abuses of the spoils system. *Id.* Therefore, the statute not only placed the Printer, who was then known as the Superintendent of Printing, under an express mandate to employ no more workers than were necessary but also established Congressional supervision of his employment practices.⁴ Joint Resolution in Relation to the Public Printing, 36th Cong., 1st Sess., 12 Stat. 117 (1860). Until 1900, Congress placed no further limitations on the employment authority of the Public Printer, 41 Op. Att'y. General, *supra*, at 285, but in that year Congress set the wage rates of some employees. Appropriations Act of June 6, 1900, c. 791, 31 Stat. 588, 643. See 41 Op. Att'y. General, *supra*, at 285.

The Congressional setting of wages proved inefficient, and in 1924 Congress passed the Kless Act, which contained the provisions currently in force. *Id.* Although this Act conferred broad employment authority on the Public Printer, it provided that the Joint Committee would supervise his decisions because Congress did not believe "that such a large power over public expenditures should be vested in any one officer without some suitable restriction or supervision." H.R. Rep. No. 1, 68th Cong., 1st Sess. 2 (1923).

Footnotes at end of article.

As a result of the evolving statutory scheme described above, the management of GPO is a curious hybrid of the executive and legislative functions.⁵ This overlap of authority contains the potential for conflicts between the Printer and the Joint Committee. However, the possibility of conflict evidently has existed more in theory than in practice.⁶ When the Printer has furloughed workers in the past, his actions generally have not been challenged.⁷ At least once, however, GPO furloughs have been the subject of informal inquiry and were found to be legal. Opinion of Attorney General John G. Sargent, April 17, 1925 (Reprinted in Annual Report of the Public Printer, 59-60 (1925)) (Defendant's Exh. 9). On the other hand, when the question of whether the Printer had authority to negotiate a 40-hour work week with his employees came up, it was established that he did have the requisite authority, subject to the approval of the Joint Committee. 41 Op. Att'y. General, *supra*, at 290. This would suggest that the Joint Committee's authority to oversee employment policies at GPO under the Kless Act and other provisions of Title 44 extends beyond the mere setting of wage rates.⁸

THE FACTS OF THIS CASE

The facts in this case are not in dispute. On March 25, 1982 the Public Printer, as a part of a substantial government-wide effort to cut printing costs in the executive branch and in response to a decline in the volume of work done by GPO⁹ notified plaintiffs, the Joint Committee, and the general public that he planned to furlough approximately half of the GPO work force for one day every other week for six months. GPO Press Release, dated March 25, 1982 (Defendant's Attachment A). Despite the protests of the affected unions, the Public Printer expressed unyielding determination to carry out the furloughs. The Printer's position was that the furloughs were not subject to wage negotiations and consequently were not overseen by the Joint Committee because the power to furlough is a right reserved to management under 5 U.S.C. § 7512.

On April 5, 1982, William J. Boarman, President of Columbia Typographic Union, Local 101, acting as agent for plaintiff unions, filed an appeal to the Joint Committee from defendant's refusal to modify his furlough decision. Boarman Affidavit, ¶ 6. In response to the furor over the impending furloughs, the Joint Committee conducted an investigation into the matter. Attachments to Affidavit of Thomas Kleis, Staff Director of the Joint Committee on Printing.

During the intervening period the Public Printer decided to modify the furlough plan. The new plan called for furloughs of the entire work force, effectively closing down GPO operations on six days—June 1, July 6, September 3, October 25, November 26 and December 27, 1982. GPO Notice 610-10, April 16, 1982 (Defendant's Attachment J). In accordance with the Printer's belief that furloughs are governed by 5 U.S.C. § 7501 *et seq.* and the Civil Service Reform Act, GPO issued furlough notices to all affected employees on April 19, 1982. Defendant's Attachment P. The notices gave employees until May 10, 1982 to respond to the decision. After a review of these responses, GPO sent furlough notices to all employees who had review rights. These notices specified that the employees had the right of appeal to the Merit Systems Protection Board. Defendant's Attachment Q.

Meanwhile the Joint Committee contin-

ued its investigation. On May 10, 1982 Senator Charles McC. Mathias, Jr. and Representative August F. Hawkins, respectively, Chairman and Vice Chairman of the Joint Committee, circulated a letter to the Committee calling members' attention to "serious problems at the GPO." Among the problems were complaints to the Committee from various agencies that work was late because "jobs are often backed up because of demand." The letter pointed out that this situation conflicted with the Printer's asserted justification for the furloughs and proposed that solutions be considered by the Joint Committee and GPO working together to find "long-range solutions."

On May 11, 1982 the Joint Committee on Printing adopted a resolution disapproving of the furloughs. The resolution read as follows:

Whereas, the Joint Committee on Printing was created by law to establish policy for the Government Printing Office and for the Federal printing establishment, and it has always been the policy of the Joint Committee on Printing to supervise and conduct Government printing business on a cost-effective and efficient basis, and

Whereas, the authority of the Joint Committee has been confirmed and supported by opinions of the Attorney General and the Comptroller General of the United States, and

Whereas, this authority extends to all matters involving the GPO personnel including wages, salaries and compensation,

Be it therefore resolved, That prior approval of the Joint Committee on Printing is necessary for alterations to, or relocation of, GPO facilities, for changes in the structure of the work-force, for implementation of new technology and services, and for all decisions that affect the scope and character of the Federal printing program.

Be it further resolved, That no furloughs, reductions in force, or other adverse personnel actions shall be imposed upon GPO employees as ad hoc solutions to immediate problems until a study of the long-range printing needs of the Federal Government has been conducted by GPO/JCP and evaluated by the JCP to determine the future technological and personnel requirements of the GPO.

Despite the resolution of the Joint Committee, the Printer issued a press release that announced his intention to proceed with the furloughs, contending that the resolution "appears to fly in the face of some very specific wording of Title 44 of the U.S. Code and also attempts to countermand the Civil Service Reform Act." Exhibit A to Affidavit of Charles H. Hall. Although the June 1 furlough was cancelled, the Printer intends to proceed with the next furlough date of July 6. This suit was filed on June 2, 1982, and plaintiffs applied for a writ of mandamus on June 11.

DISCUSSION

As the discussion of the statutory and historical background illustrates, the provisions of Title 44 contain a potential for conflict which has been dormant for 122 years. Under 44 U.S.C. § 301 the Printer's duties are to "take charge and manage" the GPO. Thus as head of GPO, he would seem to have the usual management right to reduce the work force if he follows the procedures outlined in chapter 75 of title 5 of the United States Code. Moreover, he is under a statutory duty not to employ "any more persons than the necessities of the public work require." This statutory language would suggest that the Printer must fur-

lough workers if there is not enough work for them to do. However, Congress has historically exercised more control over the Printer's activities than it has over any purely administrative agency. Thus the Joint Committee not only has the final word on "wages, salaries, and compensation" ¹⁰ pursuant to 44 U.S.C. § 305, but also has broad authority to "use any measures it considers necessary to remedy neglect, delay, duplication, or waste in the public printing." *Id.* § 103. In the exercise of its powers under Title 44, the Joint Committee adopted its resolution of May 11, 1982, which commanded the Printer not to furlough GPO workers. Although the statutory scheme envisions a cooperative relationship between the Printer and the Joint Committee,¹¹ that scheme also places final authority to resolve disputes in the hands of the Joint Committee, as the agent of Congressional oversight. Consequently, the Court finds, in the context of this particular conflict between the Joint Committee and the Printer, that the Joint Committee's will must prevail. In the circumstances of this case, the Joint Committee having gone on record against furloughs, the Printer does not have authority to furlough workers.

The only remaining questions are the propriety of relief to these plaintiffs and the form that relief is to take. Plaintiffs are not entitled to a preliminary injunction because the temporary loss of pay would not constitute irreparable harm. *Sampson v. Murray*, 415 U.S. 61, 90-91 (1974). However, the case is ripe for disposition on the merits because there are no disputed issues of material fact. See *Fed. R. Civ. P.* 56(c). Moreover, the Printer's refusal to implement the resolution of the Joint Committee deprives these plaintiffs of a right assured them by Congress, see *Leedom v. Kyne*, 358 U.S. 184, 189-90 (1958), namely, the right to have wage disputes resolved by the Joint Committee. Consequently, this Court has jurisdiction.

There is no absolute right to a declaratory judgment pursuant to 28 U.S.C. § 2201. See *Hanes Corp. v. Millard*, 531 F.2d 585, 591, (D.C. Cir. 1976). Thus a declaratory judgment is a matter of judicial discretion to be granted only in the public interest. *Eccles v. Peoples Bank*, 333 U.S. 426, 431 (1948). The Court must "strike a proper balance between the needs of the plaintiff and the consequences of giving the desired relief." *Id.*; *Hanes Corp. v. Millard*, *supra*, 531 F.2d at 592. In this context, the key question is "whether the facts alleged, under all the circumstances, show that there is a substantial controversy between parties having adverse legal interests, of sufficient immediacy and reality to warrant the issuance of a declaratory judgment." *Maryland Casualty Co. v. Pacific Coal & Oil Co.*, 312 U.S. 270, 273 (1941). Moreover, because governmental action is involved, there is an additional question of whether the plaintiffs will, unless the Court intervenes, be left "without a chance of redress." *Super Tire Engineering Co. v. McCorkle*, 416 U.S. 115, 122 (1974) (quoting *Southern Pacific Terminal Terminal Co. v. ICC*, 219 U.S. 498, 515 (1911)).

In this case the public interest will be well served by a clarification of the conflicting claims of the Printer and the Joint Committee. Thus a declaratory judgment will further the rights of these plaintiffs and the public interest. There is also an immediate controversy in this case, which cannot be resolved unless the Court acts. Consequently, the Court concludes that, in the circumstances of this case, a declaratory judgment

is appropriate to resolve the conflicting interests of the Printer and the GPO workers.

CONCLUSION

In the absence of Joint Committee action, the Printer undoubtedly would have the power to furlough workers. However, the statutory scheme under which he operates subjects his decision in these matters to the will of the Joint Committee on Printing. Because the Joint Committee has forbidden furloughs in this case, the Printer's normal discretion in these matters is severely circumscribed. In sum, the Printer has no authority to go ahead with furloughs as long as the Joint Committee's May 11, 1982 resolution is in force. An appropriate order accompanies this memorandum.

OLIVER GASCH, Judge.

Date: July 2, 1982.●

FOOTNOTES

¹ There are nine named union plaintiffs in the original complaint. A tenth union has moved to intervene, and because there appears to be no opposition to that motion, the Court will grant it.

² The furloughs were originally scheduled for June 1, July 6, September 3, October 25, November 26, and December 27, 1982. The June 1 furlough was cancelled on May 26, 1982 because of an unusually heavy Congressional workload. GPO Notice 610-11 (Defendant's Attachment R).

³ This memorandum details the rationale underlying defendant's contention that he has the power to furlough GPO workers.

⁴ The 1860 statute provided that the Superintendent of Printing would make yearly reports on "the number of hands . . . employed, and the length of time each has been employed." Joint Resolution in Relation to the Public Printing, 36th Cong., 1st Sess., 12 Stat. 117 (1860).

⁵ While GPO is a unit of the legislative branch, it employs workers in the competitive service. *Thompson v. Sawyer*, No. 80-2098, slip op. at 6 (D.C. Cir. April 27, 1982). These workers, however, are not covered by the civil service classification scheme, 5 U.S.C. § 5102(c)(9). *Id.*

⁶ All parties seem to agree that this case represents the first time that the Printer's actions could be construed as open "defiance" of the Joint Committee.

⁷ These furloughs are detailed in 100 GPO Years, 1861-1961—A History of the United States Public Printing 39, 54, 72; *Annual Report of Public Printer* 14 (1887); *Annual Report of the Public Printer* 12 (1896); *Annual Report of the Public Printer* 9 (1915); *Annual Report of the Public Printer* (detailing layoffs in 1907, 1909, 1915, 1919, 1920, and 1925) 58-59 (1932); *Annual Report of the Public Printer* 93 (1933); *Annual Report of the Public Printer* 187 (1947).

⁸ Although the legislative history of the Kless Act focuses primarily on the setting of wage rates, the House Report points out that the Joint Committee has broad supervisory authority over GPO and states that the Joint Committee functions as a board of directors. See H.R. Rep. No. 1, 68th Cong., 1st Sess. 2-3 (1923).

⁹ In April 1981, the Office of Management and Budget issued Bulletin No. 81-16 (Defendant's Attachment C), entitled "Elimination of Wasteful Spending on Government Periodicals, Pamphlets, and Audiovisual Products." This directive ordered each agency head to apply a moratorium on new periodicals, to eliminate unnecessary publications, and to report to OMB on the resulting reductions in funding. Further cuts were required on October 9, 1981. As a result of these efforts OMB estimates an 8 percent decline in Executive branch spending on periodicals between 1981 and 1983. Defendant's Attachment F. There has also been a decline in the amount of work done for Congress. See Defendant's Attachment B. As a result GPO projects that it will incur a net loss for 1982 of \$3.5 million. Defendant's Response to Admissions Request 5.

¹⁰ As a result of the decline in work, GPO experienced a decline in revenues and instituted various cost-saving measures, including a hiring freeze, curtailment of overtime, and increased subscription prices. The Public Printer also requested "early-out" retirements and proposed wage reductions for GPO workers as a part of recent contract negotiations.

¹¹ These furloughs clearly fall in the area of "wages, salaries, and compensation." Furloughs

affect the employees' eligibility for overtime pay; hence furloughs affect wage rates. Moreover, the Printer decided to implement these furloughs for the express purpose of cutting the amount of wages and compensation he would have to pay.

¹² Congress has shown that it is aware of the need to resolve certain problems at GPO. On June 22, and June 24, 1982, a concurrent resolution was passed by the House and Senate declaring that it was the sense of Congress that legislation was needed to provide "[a] thorough clarification of the relationship between the Joint Committee on Printing and the Government Printing Office, strengthening the Public Printer's ability to 'take charge and manage' without in any way infringing on the Joint Committee on Printing's oversight responsibilities." See H. Con. Res. 366, 97th Cong., 2d Sess. (June 22, 1982); S. Con. Res. 109, 97th Cong., 2d Sess. (June 24, 1982).

TRIBUTE TO CLAUDE DENSON PEPPER—A LEGEND IN HIS TIME

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. Mr. Speaker, the Wall Street Journal last week did a feature article about one of the most remarkable of all House Members—the distinguished gentleman from Florida—CLAUDE DENSON PEPPER.

Since 1977 it has been my distinct privilege to serve with CLAUDE PEPPER on the House Select Committee on Aging. For obvious reasons CLAUDE PEPPER has been the only chairman the committee has ever had—and has developed this position to such a point that he has become a world famous representative of the concerns of the elderly. CLAUDE PEPPER has made the rights of the elderly a personal crusade which he conducts with incredible zeal and effectiveness.

CLAUDE PEPPER has made growing old a delight—at the young age of 81 he visibly personifies all that is good about being a mature member of our society. Congress has many causes but few who champion them as well as CLAUDE PEPPER does the cause of the elderly in America.

During this important election year, CLAUDE PEPPER has undertaken a full schedule of appearances around the Nation to help insure that others are elected to the 98th Congress who will aid him in his cause. The Wall Street Journal article discusses a day in the life of CLAUDE PEPPER as he embarks on this new campaign.

I urge my colleagues to read this article and marvel about the legendary man who is its subject—CLAUDE PEPPER.

CLAUDE PEPPER, AT 81, DELIGHTS THE ELDERLY, UPSETS THE REPUBLICANS

THE FLORIDA DEMOCRAT SEIZES AN ISSUE AND GAINS FAME AS HE STUMPS THE NATION

A Legend Meets a Legend

(By James M. Perry)

KANSAS CITY, Mo.—Claude Denson Pepper, the Democrats' hottest new property, gets along with the help of a pacemaker and two hearing aids.

He is 81 years old and he is driving the Republicans crazy.

Lugging a suitcase, a garment bag and an overstuffed briefcase, Mr. Pepper, a Miami congressman, has been traveling from one end of the country to the other without a press aide, or any aide at all, telling thousands of older Americans that Ronald Reagan wants to "cut, cut, cut" their Social Security benefits.

"Claude Pepper is a great resource for the Democratic Party," says National Chairman Charles Manatt. "His energy, his enthusiasm and his credibility are infectious."

"Claude Pepper has raised political demagoguery and falsehood to new heights," says William Greener, a spokesman for the Republican National Committee.

For a man who first ran for public office in 1928, fame has come late for Mr. Pepper. But he has seized on the condition of the elderly in America and made it his special issue. He says he speaks for 26 million Americans who are 65 or older. By 1990, there will be 30 million of them. They are a growing force in American elections.

"It is the fastest-growing group in the country," says Peter Hart, the poll taker, "and they have the best record for turning out to vote." In 1980, 55% of them voted for Mr. Reagan.

In introducing Rep. Pepper, hardly anyone passes up the chance to say he is a "living legend." In fact, he really is.

He was born on a farm in Alabama in 1900—but managed to make his way to Cambridge and graduate from Harvard Law School in 1924. Over the years, he has made a tidy fortune as a lawyer.

He moved to Florida and was elected to the state House of Representatives in 1928. He has returned to address that chamber every year since he departed in 1930. He jumped all the way to the U.S. Senate in 1936, the year of the great Franklin Roosevelt landslide.

He was knocked out of the Senate in 1950 by fellow Democrat George Smathers in one of the nastiest, but most colorful, elections in American history. It was in the dark days of the McCarthy era, and Mr. Pepper was tagged "Red" Pepper. His opponents also said he was widely known as "a shameless extrovert" who "practiced celibacy" before his marriage and whose sister was, of all awful things, a thespian.

Bored by his law practice, Mr. Pepper—everyone calls him "Senator"—returned to Washington, as a member of the House, in 1962. He has been a fixture there ever since.

And now, full of honors and memories, he is having the time of his life (although missing his best friend and companion, his wife, Mildred, who died three years ago).

He expects to spend as much time as he can on the road this year campaigning for fellow Democrats and campaigning against President Reagan and the Republicans. Claude Pepper on the road is an extraordinary show. It went this way, typically on a recent swing.

Wednesday

He was in Texas and Oklahoma earlier in the week, campaigning for colleagues there. He woke up in St. Louis. Now he is here in Kansas City campaigning for Ike Skelton, a colleague on his Select Committee on Aging. There is only time for a quick press conference at a local hotel. When the TV lights go on, Mr. Pepper pulls himself together and performs. He is a polished actor.

"I never dreamed," he says in his ripe Alabama accent, "there ever would be an assault on Social Security. I always thought it

was like motherhood and the flag—sacred." He moves quickly into his litany—that the Republicans tried to trim Social Security benefits by \$88 billion last year, that Democrats fought back and limited the damage to \$19 billion. He says the Republicans want to cut Social Security benefits even more, and he predicts they will make that effort at a lame-duck session of Congress in December.

"Thousands of people," he says, "live in mortal fear their checks won't be mailed out." People who have lost their benefits, he goes on, have committed suicide.

The highlights make the evening news shows in Kansas City.

At the St. Louis airport, en route to his next stop in Springfield, Ill., he is met by a crew from NBC News. The reporter wants to know what Mr. Pepper thinks of a new TV advertisement produced by the Republican National Committee that attempts to give President Reagan credit for a July 1 increase in Social Security payments.

"It's a deliberately calculated attempt to deceive the elderly folks of America," Mr. Pepper says. The Republicans "haven't explored such depths of deception since the Nixon administration." These remarks make the network news that evening.

In Springfield, he campaigns for young Dick Durbin, the former parliamentarian for the state Senate who is running against incumbent Republican Congressman Paul Findley.

He speaks for 45 minutes to a group of older folks in a church basement in Springfield. He confides that just a few days ago Phil Gramm of Texas, a "Boll Weevil" Democrat who voted for most of the Republican budget cuts, sidled up to him on the House floor and said, "My mother told me just last week that when it comes to Social Security, I should listen to that nice Mr. Pepper and keep my mouth shut."

Then he is hustled off to nearby Decatur to speak in another church hall to another group of older folks. He has been going for 12 hours now, and he seems to be just warming up. His speech lasts an hour and a quarter. He plays this one for all it's worth. He says he has a letter on his desk from a woman in Florida. "She says she doesn't have anyone to look after her and she doesn't think she'll live much longer. And now they've taken away her burial allowance. I have to call her next week and say she's right, the money's not there anymore."

When he is finished, Eileen Scheibley shakes his hand and says, "Mr. Pepper, you brought tears to my eyes."

He heads back to Springfield, where he has made arrangements with the National Park Service to open up Abraham Lincoln's home so he can make a tour of it. It is 10 p.m. now and Mr. Pepper has been on the road for 14 hours, appearing on national TV and local TV in two major markets. The tour of the Lincoln home is difficult for the park ranger because the batteries in Mr. Pepper's hearing aids have run down, even if Mr. Pepper himself hasn't.

By 11 o'clock he is in an Italian restaurant having a little wine, along with soup, lasagna, garlic bread and spumoni. He gets to bed at 12:30 in the morning.

Thursday

He is up at 6 a.m. and on his way to Columbus, Ohio, where he campaigns for freshman Rep. Bob Shamansky, who is said to be in reelection trouble. At the first stop, a cafeteria serving meals to the elderly, Rep. Pepper introduces the constituents to their own congressman.

"You're a pro," says Mr. Shamansky.

"Well, thank you," says Mr. Pepper. "I've been at this a long time."

It is officially "Claude Pepper Day" at Heritage Village, a well-run Jewish home for the aged. He tells a sympathetic audience about his sister, who, living by herself now, "is spending the unhappiest years of her life." How much better, he says, "to be in a wonderful facility like this." But he says the Reagan administration has cut spending for public housing for the elderly, so there won't be any more Heritage Towers (a part of the village). He is whisked from Heritage Village to a press conference in a downtown hotel. In what may be a record of sorts, he fields two questions in 35 minutes.

His next stop is a labor rally, after which he catches a plane for Cleveland and a dinner with community leaders.

Friday

By 7:45 a.m., he is at Channel 5 for an appearance on a show called "Morning Exchange," said to be the most popular morning show in town. Before he goes on the air, he tells one of the producers: "I don't know what I can do with you fellows. You bring those cameras in so close. People tell me I look better in person than I do in those close-ups on TV. Either way, of course, I'm not going to win any beauty contests." The producer says he will avoid unflattering close-ups.

When that show is over, Rep. Pepper moves down the hall to the office of Dorothy Fuldheim, a veteran personality on Channel 5. She is 89 years old, a Cleveland legend in her own right. She is a tough, cantankerous lady—and she says she had never heard of Claude Pepper.

"What's your name?" she asks.

"Pepper," says Mr. Pepper.

"How do you spell it?" asks the redhaired Miss Fuldheim, glaring now at a camera that is giving problems to the technicians.

"Two P's," says Pepper.

"What have you done that's worthwhile?" Miss Fuldheim demands to know.

"Well," says Mr. Pepper, "I introduced the first Lend-Lease Act."

"Only two people have ever awed me," interrupts Miss Fuldheim—"Einstein and Helen Keller."

When the camera finally begins to roll, Mr. Pepper turns on the charm. But Miss Fuldheim is having none of it. One legend finally has met its match in another legend. Mr. Pepper is so rattled by the experience he calls Miss Fuldheim Miss Muldheim. Her staff chokes in disbelief.

Mr. Pepper goes from the TV studio to campaign at senior-citizen centers for Rep. Dennis Eckart and Ed Feighan, a candidate for Congress. By 2 p.m., he is ready to catch a plane heading south to his home in Miami.

Now you're going to get a few days' rest, ventures a reporter who is ready for a little rest himself.

"Not likely," says Mr. Pepper, who has scheduled two days of golf in Miami before returning to Washington. Just recently, he says, he shot 100 and won \$43 from his partners.

"I'm like an old hickory tree," Mr. Pepper says. "The older I get, the tougher I get." He picks up his suitcase, his garment bag and his overstuffed briefcase and heads for the plane that will take him home. ●

August 11, 1982

**RICHARD RADMAN—A FRIEND
OF WORKERS**

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. VENTO. Mr. Speaker, I rise today to speak of a friend and brother of the Minnesota worker, Dick Radman.

After a career committed to furthering the union movement and insuring worker rights, Dick Radman has decided to hang up his hardhat. For the past 26 years, Dick has served as the secretary of the St. Paul Building and Trades Council. Under his stewardship, the St. Paul and Minnesota worker has prospered. Many changes have occurred during his tenure—Federal and State laws have been enacted to protect essential worker rights. We now have stronger occupational health and safety laws; Federal and State Davis-Bacon protections have been expanded; vocational education programs have blossomed and a viable minimum wage is in place. Dick has contributed to these valuable programs and has won the respect and affection not just of workers, but the construction industry as well.

Dick's public contribution goes beyond his concerns for his fellow workers. Dick Radman has been a trusted friend and adviser for Joe Karth and myself and for countless other elected officials. Dick has served the entire St. Paul/Minneapolis metropolitan area as a member of official public bodies such as the St. Paul Port Authority, the metropolitan sports facilities, and the metropolitan waste control commission.

Economic development throughout our area bears his mark. Perhaps Dick's greatest success has been his active role in the redevelopment of downtown St. Paul. In large part through his leadership, business, labor, and government have worked together to implement a revitalization program which is now a model for the rest of the country. This effort has meant new business and jobs for St. Paul and turned the tide of urban decay. Surely, Dick Radman has well reflected the craftsmanship and responsibility which is the hallmark of construction union labor in Minnesota.

We in St. Paul and Minnesota wish Dick the very best. I look forward to his continued counsel and know that he will continue to speak out on behalf of those he so well represented. ●

EXTENSIONS OF REMARKS

**NEW GENERAL ACCOUNTING
OFFICE INVESTIGATION**

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. ERTEL. Mr. Speaker, I would like to discuss the findings of a new General Accounting Office investigation of Federal employees serving as chefs, chauffeurs, and other personal servants in several representative departments and agencies. The use of publicly paid employees for these kinds of questionable purposes has concerned me since my first term when I criticized Joseph Califano, then Secretary of Health, Education, and Welfare, for having a personal cook on the public payroll.

Today, as a result of this GAO report, I have written to Transportation Secretary Drew Lewis and Treasury Secretary Donald Regan asking them what steps they are taking to cut down on the amount of overtime paid last year—and expected to be paid this year—to their respective department's personal drivers and related personnel.

In the case of the Department of Transportation, overtime pay for drivers for the Secretary and Deputy Secretary has increased by more than 50 percent from 1980 to 1981, from \$24,233 to \$38,125. Mr. Lewis' own driver earned \$21,000 in overtime last year. This was more than his \$20,000 regular salary. The total \$38,125 in overtime ordered by the two top transportation officials nearly equals the combined \$38,370 salary earned by their two drivers.

In addition, the GAO study revealed that all top officials at DOT are cooked for and waited on by six members of the Coast Guard at a public cost of \$111,000. No other Department surveyed by the GAO was found to have such a lavish service at such a huge expense to taxpayers.

I question these exorbitant costs at a time when Federal transportation programs, such as interstate highways, railroads, and urban transit, are being cut back. The highest ranking Federal officials should be setting the example in reducing clearly controllable spending, especially when more than 10 million Americans are out of work and many more are forced to skimp to meet their monthly bills.

In my letter to Treasury Secretary Regan, I point out that driver overtime spending doubled between 1980 and 1981 from \$29,204 to \$58,196. While the Secretary's own driver had about a 10-percent cut in overtime, Mr. Regan's subordinates' use of chauffeurs on overtime increased dramatically. For example, overtime for the Deputy Secretary's driver increased 400 percent from 1980 to 1981, from \$2,114 to \$10,578. For the Under

20625

Secretary for Tax and Economic Policy, overtime for his driver jumped by 223 percent from \$5,927 in 1980 to \$19,164 in 1981. This driver actually made more in overtime than his regular salary of \$16,192. Also, overtime for the cook for Treasury senior level officials more than doubled from \$1,932 in 1980 to \$4,162 in 1981.

This kind of spending, when so many Americans are being thrown out of work because of the administration's economic program, should and can be reduced. But because the GAO has been told by those surveyed that no substantial savings are planned for current calendar year 1982, I have written to two of the worst offenders, Mr. Lewis and Mr. Regan, asking them what cost-saving measures they plan for the rest of this year and beyond.

Others in the report, who should cut down their drivers' overtime in these tough economic times, include Health and Human Services Secretary Richard Schweiker, Commerce Secretary Malcolm Baldrige, Interior Secretary James Watt, Attorney General William French Smith, and James Sanders, Head of the Small Business Administration.

During my three terms in the House, it has become increasingly apparent that Federal officials and their perks are not soon parted. If I do not obtain adequate responses from Secretaries Lewis and Regan, we may be forced to limit their Departments' and others abuse of overtime through the appropriations process.

I recommend that my colleagues read this GAO report. Copies are available by contacting Bill Brobst in my office. ●

BUSINESS AND ENVIRONMENTALISTS: A PEACE PROPOSAL

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. EDGAR. Mr. Speaker, Sunday's Washington Post contained an article which I think would be of interest to all Members concerned about the environmental protection versus economic development debate. Writer Christopher Palmer points out something which we often lose sight of in political debates on these issues—the goals of environmentalists and entrepreneurs are really the same. The health and prosperity of the Nation are the goals of both camps, we merely disagree at times—perhaps too often—about tactics. In the spirit of cooperation, I commend the article to my colleagues' attention:

BUSINESS AND ENVIRONMENTALISTS: A PEACE PROPOSAL

(By Christopher Palmer)

Environmental groups are not perfect. We have flaws, as does business. By candidly examining the flaws on both sides, we may be able to defuse the destructive animosity and mutual misunderstanding, and even find areas where we can make common cause. Let me first focus on the weaknesses, both real and perceived, of environmentalists.

One of our problems is that we tend to assume a tone of arrogance when talking to business. When we environmentalists act as though we talk to God and as though we have all the answers, then industry, even those business people who are inclined to be sympathetic, will be irritated. We call ourselves "public interests" groups—the implication being that we look after the "public interest" while everyone else is pursuing his own selfish goals.

This tendency is matched by a tendency to be rigid, unwilling to compromise or negotiate. Environmentalists sometimes are afraid to bend and be flexible. We think the arguments made by industry are totally self-interested and exaggerated.

Too often environmentalists think of profits as dirty. We don't always appreciate the effectiveness of the free market. Too few of us have ever worked as entrepreneurs and, consequently, lack an appreciation of just how hard it is to succeed in business. We are much more expert at grantsmanship.

Some environmentalists are—like business people—probably not concerned enough about the harsh impact of high prices on poor people. Few of us know anything about the degradation and pain of poverty. While the image of us—in Michael Kinsley's words—as a "clique of rich people attempting to protect their backyard" is an exaggeration, nevertheless we are probably oversensitive to the desires of the upper and middle class and insufficiently sensitive to the desires of those less well-off.

Environmental goals should not be pursued without regard to their consequences elsewhere. Preserving wilderness is important, but it is only one of a number of important national goals. For example, energy policy should not be based on environmental values alone. A clean environment is just one of many results we want in an energy policy, not the central driving force. Environmentalists have to accept the fact that occasionally—ideally, rarely—they may have to compromise some environmental goals for more important ones, such as jobs.

This brings me to economic growth and productivity. Too often environmentalists give the impression of wishing economic growth would somehow go away. But economic growth and increased productivity are needed to create new jobs, to increase our investments in energy efficient housing and our investments in new less-polluting industrial processes.

And finally, environmentalists, like other human beings, can suffer from parochialism. A recent issue of a major environmental magazine contained a long and detailed editorial on how domestic cats are not a threat to birds. We voraciously consume each other's newsletters but tend to neglect *Business Week*, *Forbes* and *Fortune*.

Let me now turn to steps that business could take to gain a better understanding of us and to help win our confidence and trust.

There should be a greater realization on the part of business of the extent to which future growth and profits depend on efforts to preserve land, air and water. Erosion con-

EXTENSIONS OF REMARKS

trol aims at maintaining the productivity of soils, essential to sustaining U.S. agricultural output. Forest conservation and reforestation are essential to the protection of soils and watersheds. Reduced pollution means fewer work days lost to environment-related illnesses. Thus, conservation and environmental protection make direct contributions to economic productivity.

Another step that business could take would be to show greater appreciation of the tremendous market opportunities in energy conservation, solar energy and pollution control. *Business Week* reported in its April 6, 1981, issue that the market for energy conservation investments was growing phenomenally fast and could reach \$30 billion by 1985. An article in the November/December 1980 *Harvard Business Review* concluded that alert companies can turn pollution prevention into profit and make economic growth and environmental protection go hand in hand. There are now over 600 companies in the business of manufacturing air- and water-pollution-control equipment, including cooling towers, scrubbers, precipitators and catalytic converters. These firms constitute a multi-billion-dollar industry employing hundreds of thousands of people around the country.

There are three broad areas where we could form alliances with business. First is the area of lobbying. Recently, United Technologies and the Audubon Society formed a lobbying team to promote increased federal funding for fuel cells. Why can't we do this on other issues, such as adoption of user fees, establishment of rational natural gas pricing or elimination of unnecessary government bureaucracies like the Synthetic Fuels Corporation?

The second area is in defining public policy. The National Coal Policy Project, led by Larry Moss, a well-known environmentalist and former chairman of the Sierra Club, and Jerry Decker, of the Dow Chemical Company, is a good example of an attempt by both environmentalists and industry to explore common ground in their conflict over coal policy.

The third way environmentalists could form alliances with business is to enter into business partnerships. Is there any reason why environmental groups have to be limited to testifying, writing and lobbying? Why shouldn't they help to market pro-environmental products? Audubon has recently established an arrangement with an energy management company to promote energy efficiency in commercial buildings. We have just helped to sell a \$100,000 system.

The opportunities for business partnerships are immense. Why shouldn't we, for example, work with manufacturers of water-heating heat pumps to develop a packet of information that would help our half million members—especially those in the South, who heat their homes with electricity—to become more familiar with this technology? Why shouldn't we produce an investment newsletter that contains information about profitable companies in solar, conservation and pollution-control equipment, which Audubon members could use in purchases and sales in their own portfolios? If we were to sit down with business and industry, we could probably come up with many more projects that could help both of us.

There is much on which we can make common cause, and business people should seek out those in the environmental movement with whom they can work. Environmentalists, in turn, should not treat industry as a monolith.

August 11, 1982

We should all be seeking the right kind of growth, growth that does not degrade the environment that others must share. Environmentalists are not opposed to business enterprises, nor to those who seek a return on invested capital. We are only opposed to mindless growth that demands a narrow advantage regardless of social costs. ●

VLADIMIR BUKOVSKY ON THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. McDONALD. Mr. Speaker, in the May 1982 issue of *Commentary* magazine the distinguished Mr. Vladimir Bukovsky wrote an excellent article on "The Peace Movement and the Soviet Union." In the following excerpt from that article, the author examines the manipulation of the peace movement from the end of World War II to the late 1970's:

THE PEACE MOVEMENT AND THE SOVIET UNION

Oddly, the passion for peace was resurrected shortly after the war was over, while the Soviet Union was swallowing a dozen countries in Central Europe and threatening to engulf the rest of the continent. At that time, some "imperialist warmongers" were sounding the alarm over Soviet conduct and even suggesting the creation of a "very aggressive" NATO alliance. The "reactionary forces" in the world were starting a "cold war." Beyond this, the Soviet Union was troublesomely lagging behind the U.S. in the development of nuclear weapons. For some curious reason, however, the "imperialist military-industrial complex"—all those Dr. Strangeloves—failed to drop the atom bomb on Moscow while they still enjoyed a monopoly on it. This should undoubtedly be ascribed to the success of a great movement of peace-lovers. How could it be explained otherwise, short of the reactionary suggestion that NATO generals were not in the least aggressive?

In any case, members of the older generation can still remember the marches, the rallies, and the petitions of the 1950's (particularly the famous Stockholm Appeal and the meetings of the indefatigable World Peace Council). It is hardly a secret now that the whole campaign was organized, conducted, and financed from Moscow, through the so-called Peace Fund and the Soviet-dominated World Peace Council—where a safe majority was secured by such figures as Ilya Ehrenburg, A.N. Tikhonov, etc. This was the period when comrade Stalin presented his memorable recipe for peace that is the epigraph to this article. Stalin's formulation was enthusiastically taken up by millions, some of them Communists, some loyal fellow-travelers, a number of them middleheaded intellectuals, or hypocrites seeking popularity, or clerics hungry for publicity—not to mention professional campaigners, incorrigible fools, youths eager to rebel against anything, and outright Soviet agents. Surprisingly, this odd mixture constitutes a fairly sizable population in any Western Society, and in no time at all the new peace campaign had reached grandiose proportions. It became fashionable to join it and rather risky to decline.

The purpose of all this peace pandemonium was well calculated in the Kremlin. First, the threat of nuclear war (of which the Soviets periodically created a reminder by fomenting an international crisis) combined with the scope of the peace movement should both frighten the bourgeoisie and make it more tractable. Second, the recent Soviet subjugation of Central European countries should be accepted with more serenity by Western public opinion and quickly forgotten. Third, the movement should help to stir up anti-American sentiment among the Europeans, along with a mistrust of their own governments, thus moving the political spectrum to the Left. Fourth, it should make military expenditures and the placement of strategic nuclear weapons so unpopular, so politically embarrassing, that in the end the process of strengthening Western defenses would be considerably slowed, giving the Soviets crucial time to catch up. Fifth, since the odd mixture of fools and knaves described above is usually drawn from the most socially active element in the population, its activism should be given the right direction.

The results were to exceed all expectations. Soviet money had clearly been well spent. The perception of the Soviet Union as an ally of the West (rather than of Nazi Germany) was still fresh in peoples' minds, which undoubtedly contributed to the success of the "struggle for peace."

Subsequently, the death of Stalin, the shock created by the official disclosure of his crimes, the Khrushchev "thaw" in international relations, and, above all, the fact that the Soviets had caught up with the West in nuclear weapons, were to make the peace movement temporarily redundant; it ceased to exist just as suddenly as it had once appeared. Meanwhile, the inefficiency of the Soviet economy once again brought it to the point of collapse. The Soviet Union badly needed Western goods, technology, and credits. Without these, there would have to be very substantial economic reform, dangerous to continued party control over the entire economic life of the Soviet Union. At the same time, it was from the strategic point of view important for the Soviets to legitimize their territorial holdings in Eastern Europe and to secure for themselves the freedom to move further. Something new was called for. Out of the depths of the Kremlin, the doctrine of détente was born.

Though the peace movement was put in cold storage, the issue of peace was nevertheless central to this new Kremlin policy as well. The West had grown so exhausted by the constant tension of the previous decades that the temptation to relax, when offered by the Kremlin, was simply irresistible. And after a decade of a ruthless "struggle for peace," no Western government could get away with rejecting a proposal to limit the arms race—however well some of them understood that it would be senseless to try to reach an agreement with the Soviets while the essentially aggressive nature of Communist power remained in force. Probably some such recognition explains why the Western governments insisted on linking participation in the Helsinki agreements to the observance of human-rights agreements inside the Communist bloc. Their idea was to force the internal relaxation of the Soviet regime and so make it more open and less aggressive. In exchange the West provided almost everything Brezhnev demanded in his "Peace Program" of the 24th Party Congress in 1971. "The invio-

lability of the postwar frontiers in Europe"—that is, the legitimization of the Soviet territorial annexations between 1939 and 1948—as well as a substantial increase in economic, scientific, and cultural cooperation were solemnly granted by the Western countries in Helsinki in 1975. Earlier a separate treaty had perpetuated the artificial division of Germany without even a reference to the Berlin Wall.

The Western democracies had displayed such readiness to accommodate their Soviet partners that their behavior was perceived as weakness. Probably the most disgusting features of détente could be seen in Germany where the "free flow of people and ideas" had very quickly degenerated into trading people like cattle, the right to visit one's relatives in the East becoming a kind of reward conditional on the "good behavior" of the West German government. By playing on this sensitive issue the Soviets were able to blackmail the whole country and to "modify" the policies of its government. Unfortunately, Germany is a key factor in East-West relations because in order to avoid a major split in the Western alliance the other members have to adjust their positions in accordance with Germany's. So it was that Soviet influence came to be exerted through the back door, and the West was politically paralyzed.

In addition, far from making the Soviets more dependent—as the proponents of détente had assured us—increased trade, and particularly huge Western credits, have made the West more and more dependent on the Soviet Union. The dimensions of this disaster became clear only recently, when the discussion of economic sanctions against the Polish military rulers and their Soviet masters revealed the inability of the Western countries to reduce once-established economic relations with the Eastern bloc without harming themselves even more. In fact, by now the Soviets are in a position to threaten the West with economic sanctions. Undoubtedly, they will take advantage of it very soon.

In the meantime, far from relaxing internally, the Soviet regime had stepped up its repressive policies, totally ignoring the weak Western protests against Soviet violations of the human-rights agreements. The weakness of these protests had in turn served only as further incitement for the Soviets to proceed in their course of repression without restraint. Clearly, the ideological war waged by the Soviets through all those earlier years had only increased in intensity during the era of détente. Nor did they try to camouflage this warfare. On the contrary, Leonid Brezhnev stated openly in his speech to the 25th Party Congress, on February 24, 1977: "... it is clear as can be that détente and peaceful coexistence relate to interstate relations. Détente in no way rescinds, or can rescind, the laws of the class struggle."

Furthermore, as it transpired, instead of reducing their military expenditures and arms build-up, as the Western nations had during those years, the Soviet Union, taking advantage of Western relaxation, had significantly increased its arsenal. So much so that if in the 1960's it could be said that a certain parity between East and West had been achieved, by now for Soviets have reached a point of clear advantage over the West. We also now know that the benefits to the Soviet Union of trade with the West were invariably put to military use. For example, the Kama River truck factory built by Americans in the 1970's has recently

begun manufacturing the military trucks that were observed in action during the Soviet invasion of Afghanistan.●

FAIRNESS AND EQUITY IN THE EXTENDED BENEFITS PROGRAM

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mrs. MARTIN of Illinois. Mr. Speaker, there is no doubt that the hardships of unemployment continue to be a pressing problem. These hardships are becoming even more difficult because a number of States have fallen below the minimum level upon which a State may offer an additional 13 weeks of unemployment benefits—extended benefits.

Ironically, Congress is currently planning to add a second round of 13-week supplemental benefits—for a total of 52 weeks—which will, in all likelihood, never reach the majority of those who need them because their State no longer qualifies for the extended benefits program upon which the Federal supplemental benefits (FSB) will be offered.

While FSB's are well intended and may be a reasonable approach to our pressing unemployment problem, they simply do not go far enough. Less than 15 States are expected to qualify for these benefits. Meanwhile, the unemployed in Illinois and other ineligible States will be limited to only 26 weeks of State benefits but will be taxed to finance these FSB's. It seems more appropriate to put back fairness and equity in the extended benefits program than to offer 13 more weeks of unemployment benefits of which only a fragment of the unemployed will be able to receive.

Something must be done, and quickly, to insure continued receipt of extended benefits for thousands of unemployed workers who work in areas of increased joblessness.

Last week, I introduced legislation that would make sure Illinois and other States with continued increasing joblessness will continue to receive extended unemployment benefits.

Congress must act quickly; my proposal requires no new bureaucracy. My proposal reflects compassion yet will not thwart economic recovery; it is fiscally responsible. Furthermore, my proposal is designed to direct and allocate more efficiently scarce Federal and State resources thereby saving money for both.

Too many workers not only in Illinois but throughout the country cannot find work. Is it fair to shut them out of additional unemployment benefits at a time when they need them most? I think not.●

THE POLITICS OF CRIME

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. DYSON. Mr. Speaker, I am submitting for publication in the RECORD a series of excerpts from Richard Neely's article, "The Politics of Crime," which appeared in this month's issue of Atlantic Monthly magazine.

The author asserts that our dangerously increasing crime rate can be reversed, and I would like to say that I wholeheartedly concur. Mr. Neely's comments regarding the obstacles to effective crime control, and his suggestions regarding what might be done to overcome these hurdles, seem to me highly insightful.

For this reason, I commend this article to my colleagues. It has become quite clear, I think, that crime is a growing problem which must be forcefully dealt with, and which our constituents would like to see this Congress take forceful steps to mitigate:

THE POLITICS OF CRIME

(By Richard Neely)

Through at least the past decade, no public problem has worried Americans more persistently than crime. When people are asked in opinion surveys to list the problems that concern them most, the threat of crime typically comes at or near the top of the list. But when the same people list the issues on which they'll decide which candidate to vote for, crime usually comes behind half-a-dozen other subjects. The explanation they offer most frequently is that a candidate's statements about crime are unimportant—no one can do much about the problem.

What is misguided about this attitude is that it is possible to do something about crime. Although the evidence lacks scientific precision, certain facts of criminal-law enforcement are clear:

In many big cities, where the limit on crime is the presence of the police (as opposed to family members, watchful neighbors, and the like, who limit crime elsewhere), more officers on the streets or in the subways means fewer criminals who dare to act. But in courtrooms, most accused criminals go free because the system cannot afford to have it any other way. Everyone involved in the criminal courts is overtaxed, from the policemen, who must take time off the beat to testify, to the prosecutors, who need to dispose of cases as quickly as possible, to the judges, who know as they make their sentencing decisions that the prisons are already overcrowded. The result of this pressure is the plea-bargain, in which a man who faces, for example, a ten-year sentence with a three-year minimum term if convicted of armed robbery will instead plead guilty to grand larceny and end up serving one year in jail.

Many people complain that plea-bargaining returns criminals to the streets, but few have considered the statistics that lie behind this practice. There are nearly 104,000 felony arrests in New York City every year. New York City has facilities for

only about 5,000 fullblown jury trials per year, so it is forced to do what nearly all city courts must: find some way to dispose of the surplus, usually through plea-bargaining or dropped charges. Many of the people thereby freed undoubtedly belong in jail, and the crime rate would undoubtedly fall if they were imprisoned. All that is required is money—for police, prosecutors, judges, and jails.

Why, then, have we not taken steps we know would have some effect? The answers are complicated, but chief among them is that for every proposal that might be made to reduce crime, there is a powerful, organized interest that opposes it.

Every effort at improvements in the criminal justice system will seem either helpful or threatening, depending on the perspective of some political-interest group. Thus an increase in the number of policemen means more protection to some, more bullying to others. If, for example, the staffs of prosecuting attorneys are increased so that they can diligently prosecute armed robbers, murderers, and dope peddlers, they will also be available to ferret out consumer fraud, anti-trust violations, and political corruption. Since prosecuting attorneys are usually elected and, therefore, are lawyers with political ambitions, they will be tempted, as in West Virginia, to play to the press by prosecuting white-collar crime. These campaigns are middle-class morality plays that assuage the newspaper reader's sense of unrecognized merit. They are usually less attractive to the political establishment, however resolute it may be about cracking down on murder and armed robbery. Even firebrand political reformers use questionable tactics at election time, and the prospect of an elaborate enforcement bureaucracy falling into enemy hands is horrifying to politicians.

Consider the case of New York City, which is notorious for its long court delays. In the abstract, most New Yorkers would like to have an efficient court system so that criminals would be sent away. To the casual observer, New York's felon problem would appear easy to solve by increasing the number of policemen and prosecutors, and by expanding the court system.

The hitch, however, is that a New York trial-court judge is empowered to hear both criminal and civil cases; if the number of judges is increased, more civil cases can be heard. Of 25,589 civil cases concluded in New York City in the first forty weeks of the 1979-1980 fiscal year, 5,523 were against New York City itself. New York City has been on the verge of bankruptcy since 1975, and the policies of the Reagan Administration threaten even greater financial strains in the next two and a half years. The potential liability for New York City from the civil suits currently awaiting trial runs to billions of dollars. New York City cannot afford an efficient court system, because it would be bankrupt beyond bail-out if all these suits came to trial in one or two years.

The moral is that the costs of creating more courts, along with all their supporting staff, are but a fraction of the total amount of money that an expansion of the courts will eventually involve. Typically, the entire judicial branch of government takes less than 2 percent of any state's budget. In New York City, the cost of doubling the number

of judges, prosecutors, city attorneys, courtrooms, and supporting staff would be small compared with the cost of paying the judgments the new courts would render against the city.

In other parts of the United States, there are powerful private interests in the same position as New York City: they are not in the least interested in improving the efficiency of civil courts. If, for instance, litigation against insurance companies takes eight years to complete, the company has the use of its money for eight years, and can invest it during that period at between 10 and 18 percent. Furthermore, delay alone is a powerful force to inspire settlements for low sums. Since most federal and state courts are unified criminal and civil tribunals, in which any judge can hear either type of case, the positive economic effect for the general public of improved criminal courts is almost always offset by increased costs on the civil side for those who have the most political power. The public takes its accustomed beating.

If expanding the courts has varied effects, some of them welcomed and some of them abhorred by powerful political groups, the logical solution would be to separate the courts' various functions. We might create institutions that would work in areas where there is broad agreement—such as fighting violent crime—while avoiding other areas. Everyone wants violent criminals prosecuted and the streets made safe. During the 1960s and 1970s, there were numerous programs that attempted to get at the root causes of crime—slums, broken families, unemployment. While we have not abandoned these efforts, there is an increasing awareness that we do not have either the resources or the knowledge to reduce violent crime through preventive means, and this lack should not be used as an excuse for doing nothing.

New institutions will not be developed, however, until there is an organized citizen lobby that makes campaign contributions, sends out direct-mail newsletters about how elected officials perform in the area of court reform, and has representatives entering into the give-and-take of political bargaining in the committee rooms and the corridors of legislatures. Until there is such a lobby around which political support can coalesce, politically workable plans will not be generated. Since there is no active citizen lobby for court reform, and since, to the contrary, all of the day-to-day political rewards go to those who oppose court reform, the legislative branch is entirely indifferent to the courts.

The history of the environmental movement suggest the direction that a citizens' movement could take. Environmental and conservation issues used to be as low a legislative priority as court reform is today. But in the early 1960s, the whole question of pollution control and conservation of unspoiled wilderness captured the imagination of the college-educated middle class. Suddenly, defense of the environment took on the aura of a religious crusade. Groups such as the Sierra Club organized on the national level, and in every state local groups developed and kept in communication with one another.

The beginnings of a citizen lobby for better law enforcement can already be perceived. In West Virginia last year, the relatives of persons killed by drunk drivers orga-

nized themselves to make the drunk-driving penalties more severe. In general, the enforcement of the drunk-driving laws in the United States is a disgrace. But last year, the public outcry against drunk drivers was such that the West Virginia Legislature made drunk-driving a serious offense, amending the law to include a no-nonsense procedure for enforcement.

West Virginia's decision to crack down on drunk driving was not unique; several other states amended their laws last year with spectacular results. In California, for example, after a new drunk-driving law went into effect, the highway death toll during the Christmas season was reduced by 50 percent over the previous year.

In my estimation; a good criminal-justice system that reduces violent and petty crime to roughly one fifth of their current level could be established with substantially less political activism than was required for environmental reform. Furthermore, the costs to the nation of criminal-law reform would be dramatically less than those of the environmental movement, although they would all be borne directly by the taxpayers instead of being paid for through the inflation of consumer prices, as was the case with most environmental reforms. Cleaning up the environment exacted its costs through lost jobs, higher utility bills, and more expensive automobiles. Criminal-law reform will cost higher taxes.

It is not necessary that everyone suddenly become interested in criminal-law reform. After all, the number of voters who were actively dedicated to the ecology revolution was comparatively small. Extremely effective interest groups—the National Rifle Association, for example—are comparatively small in terms of active members. It must be remembered that politicians are not concerned with influencing everyone who is eligible to vote—just the 21 to 65 percent, depending on the election, who actually come to the polls. It is the militant and not the indifferent voter who must be satisfied first.

FRIGHTENING FACTS

[From the "Uniform Crime Report: Crime in the United States," prepared by the FBI, Sept. 10, 1981]

Crime in the United States has been increasing at a frightening rate. This table bears sad testimony to a slide towards lawlessness which must be reversed.

Crime	Reported incidents	Percent-age increase
Murder and non-negligent manslaughter:		
1979	21,456	
1980	23,044	7.4
Rape:		
1979	75,989	
1980	82,088	8.0
Robbery:		
1979	466,881	
1980	548,809	17.0
Aggravated assault:		
1979	614,213	
1980	654,957	6.6
Burglary:		
1979	3,299,484	
1980	3,759,193	13.9
Larceny:		
1979	6,577,518	
1980	7,112,657	8.1
Arson:		
1980	115,059	●

TITLE I—A PROVEN PROGRAM

HON. BARNEY FRANK

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, August 10, 1982

● Mr. FRANK. Mr. Speaker, the title I education program for disadvantaged and special needs children has been one of the Federal Government's most successful education programs. I regret that the Reagan administration has consistently led the attack on the title I program through budget proposals which reduce substantially the funding for title I. The irony of these budget cutbacks, which I and many of my concerned colleagues fought hard to defeat last year and this year, is that the program is effective and it is working. The town of Sharon, Mass., a prime example of the successes of this program. The local school district recently evaluated the title I program in Sharon and the results were so encouraging I wish to share some of them with my colleagues.

The title I program in Sharon showed marked success in a number of areas over the past few years. Students evaluated in grades 9 to 12 showed improvement in reading comprehension, vocabulary, phonics, and decoding. Further, according to the year-end student opinion study, nearly all title I students responding felt they had considerably improved their reading skills. The vast majority rated the title I course considerably more helpful and effective than other reading courses they had taken, and most felt the teacher helped them significantly. I think these are important points because not only did the students' actual academic performance improve, but also they expressed their recognition that the program had helped them.

In addition, based on the evaluation of the title I program, the program administrators have recommended improvements and expansions in the program. The title I program in Sharon will be improving even more as they move to integrate further the program staff and students into the entire school community.

In addition, the study has shown that those participating students expressed a greater desire to attend college and university after participating in the title I program. Clearly, a program as proven and as successful as title I deserves more funding, not less as proposed by the Reagan administration. I commend the example of the town of Sharon, Mass., to my colleagues as an example of the success of the program and the need for its continued operation at a level that allows it to expand and improve for the benefit of the Nation's needy schoolchildren.●

REPEAL THE DAVIS-BACON ACT

HON. TOM HAGEDORN

OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, August 10, 1982

● Mr. HAGEDORN. Mr. Speaker, the controversy over the cost of the Davis-Bacon Act to the Federal Government has been debated in this Chamber on numerous occasions. It is time to cut through all of the rhetoric and provide Davis-Bacon advocates and opponents alike the opportunity to find out if tax dollars actually can be saved by eliminating Davis-Bacon requirements.

Floor action is scheduled this week on H.R. 6100, the National Development Investment Act, which modifies and reauthorizes EDA. I intend to introduce an amendment to this bill to waive the Davis-Bacon requirements only when at least a 10-percent savings of tax dollars would result.

Let me stress that this exemption would occur only when the savings from waiving Davis-Bacon amount to a full 10 percent. If savings would occur but at a lesser rate, Davis-Bacon requirements would remain in effect.

I have asked that the text of my amendment be printed in today's CONGRESSIONAL RECORD. In addition, I have prepared a brief fact sheet which I believe will be useful to Members in their consideration of this amendment. I ask that it be inserted at this point in the RECORD.

THE HAGEDORN AMENDMENT TO H.R. 6100—WHAT DOES IT DO?

The Hagedorn amendment does not:
Repeal the Davis-Bacon Act.

Tamper with the way the Davis-Bacon Act is administered.

Automatically exempt any agency from Davis-Bacon regulations.

The Hagedorn amendment does:

Exempt only EDA projects where at least a 10-percent savings to the Federal Government would result. How? If any contractor bidding on an EDA project can underbid his competitors by 10 percent, the Davis-Bacon requirement will be waived in that instance. If a non-Davis-Bacon bid is the lowest, but not a full 10 percent lower than lowest Davis-Bacon bid, then the Davis-Bacon prevailing wage rate must be paid.

What does the Davis-Bacon Act cost the U.S. public in tax dollars?

According to a report prepared for Senator Hatch by an interagency task force headed by the Office of Federal Procurement Policy, prevailing wages mandated by DOL were approximately 10 percent higher than the average local rate.

The GAO found in its 1979 report that prevailing wage rates prescribed by DOL were 5 to 15 percent higher.

In a report prepared for the American Farm Bureau by Oregon State University the cost of federally aided construction projects ranges from 26 to 38 percent higher when compared to similar projects built by the private sector.

Using data from the Oregon State University study, the cost per year of Davis-Bacon is between \$1 billion and \$2 billion.

Associated Builders and Contractors using OMB and GAO calculations, estimates that repeal of the Davis-Bacon Act would result in savings to the federal budget of at least \$5.4 billion in budget authority and \$3.9 billion in outlays over the next 5 years.

The report prepared for Senator Hatch indicates that Davis-Bacon regulations cost the Federal Government an additional \$1 billion per year.

I believe that mine is a novel approach to the question of Davis-Bacon, and one that changes the perspective from a labor versus business issue to a simple question of cost versus savings.

In view of the extraordinarily troubled economic situation our Nation is in, we owe it to our constituents to take this needed step toward eliminating the waste of their tax dollars.

Regardless of their past positions on Davis-Bacon, I urge my colleagues to take a fresh look at this new approach and to support my amendment.●

A HEALTHY MEDICARE SAVINGS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. WYDEN. Mr. Speaker, in the midst of the budget reconciliation debate, the House Ways and Means Committee did what some would say was impossible: It identified a savings in medicare that is both cost effective and humane.

This savings, based on a bill I introduced last year, is achieved by requiring the Secretary of Health and Human Services to eliminate the 3-day-prior-hospitalization rule for medicare patients who need to enter a skilled nursing facility. The change in law is to apply to beneficiaries whose health would not suffer as a consequence, and is to become effective as soon as the Secretary establishes cost-effective implementation procedures.

This proposal is based on sound medical and fiscal policy.

Direct entry into a skilled nursing home eliminates transfer trauma for patients who have been unnecessarily hospitalized prior to entering a skilled nursing facility.

And it will save the medicare program millions of dollars.

The intent of my legislation is quite simple. It is time to stop putting people in the hospital who do not need to be hospitalized.

It is time to stop traumatizing the terminally ill—time to stop the ludicrous and expensive practice of readmitting to the hospital individuals who have been released to their homes or other facilities but need to enter a skilled nursing facility.

These people do not need hospitalization, they need skilled nursing care. Yet, medicare forces them to be hospitalized.

That does not make sense.

It does not make sense because hospitalization costs 3 to 5 times as much as a day in a skilled nursing facility.

It does not make sense because weak and ill senior citizens are being needlessly transferred from hospitals to skilled nursing homes just because of medicare requirements.

If we are going to have a medicare program that is both fiscally sound and responsive to the needs of our aging population, we must take actions that make sense.

One such action is to allow direct entry into a skilled nursing facility when the situation dictates.

I urge my colleagues on the conference committee to support the 3-day provision of the House Ways and Means budget reconciliation language.●

THE FRENCH MASSACRE OF 1982

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. Mr. Speaker, yesterday in the heart of the Jewish quarter of Paris an act of vicious violence resulted in the senseless slaughter of 6 persons and the maiming of 22 others in what was clearly the worst anti-semitic incident in France since the days of Hitler.

All civilized people must condemn this savagery in the strongest possible tones. The Israeli Government in a statement protested to the French Government after the attack contending that the media from Paris had fueled the fires for the violence with their negative coverage of Israel's ongoing campaign in Lebanon.

Anti-Semitism has shown a disturbing increase in France in recent years and the time seems long overdue for the French Government to crack down on those perpetrating acts of anti-Semitism. The Jewish population of France is entitled to the same security guarantees as any other people in France yet these protections have not been accorded to them.

How many more massacres will it take for the Government of France to respond? All one can hope for is that justice is swift and punishment certain for each and every person associated in any way with yesterday's violence. The seeds of anti-Semitism have been planted in France and in other nations around the world. These seeds must be weeded out before they produce the poisoned fruit of hate.

The United States must take the lead in stemming the growth of anti-Semitism around the world. We must raise our voices in outrage each and every time an action takes place but more importantly our Nation must set the example by eliminating anti-Semitism wherever it exists in our Nation.

The New York Post called it blood-bath—the New York Daily News called it slaughter in Paris. However people refer to it, yesterday must go down as one of the darkest days in modern history for the Jewish people and once again the words—never again—never again ring in the hearts and minds of Jewish people everywhere.●

THE BUDGET: A STATEMENT OF VALUES

HON. LES AUCCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. AUCCOIN. Mr. Speaker, a budget is more than a list of numbers. It is a dollars-and-cents statement of national objectives; it is a dollars-and-cents statement of political values.

Where this Nation chooses to put money and where it chooses to take it away tells what kind of people we are. That is why there is something very wrong about this budget. We ought to be building jobs, not bombs; funding people, not tobacco; freezing nuclear weapons, not our senior citizens.●

THE RISK AND HIGH PRICE OF PLUTONIUM

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. WOLPE. Mr. Speaker, this afternoon I had the privilege to attend a joint hearing of the Subcommittees on International Security and Scientific Affairs, and International Economic Policy and Trade of the Committee on Foreign Affairs on the subject of nuclear nonproliferation. I was particularly impressed by the testimony of Dr. Brian G. Chow, a senior research specialist at Pan Heuristics, a California-based research organization.

For the benefit of my colleagues, I would like to insert into the RECORD at this time an article by Dr. Chow entitled "The High Risk and High Price of Plutonium" which appeared in the Wall Street Journal on August 6, 1982.

Dr. Chow's analysis highlights the importance of legislation currently under consideration—H.R. 6032 and H.R. 6318—to tighten controls on the export of American nuclear fuel and technology.

The article follows:

[From the Wall Street Journal, Aug. 6, 1982]

THE HIGH RISK AND HIGH PRICE OF PLUTONIUM

(By Brian G. Chow)

The Reagan administration recently affirmed its nonproliferation policy statement of July 16, 1981, that the U.S. "will seek to prevent the spread of nuclear explosives to additional countries as a fundamental national security and foreign policy objective." So the seriousness of the problem has been underlined. Moreover, public evidence suggests that governments such as those in Argentina and Pakistan may in the next several years produce fissile material for bombs by using civilian facilities to separate plutonium from the spent fuel of civilian reactors. In recent weeks, however, the administration appears to have been moving in two directions at once on this important issue.

It has decided to relax its rules so as to provide long-term blanket permission for Euratom (the European Atomic Energy Community) Japan, and perhaps other countries to reprocess spent fuel of U.S. origin and to transfer and use separated plutonium. And reports continue to surface that the administration is now willing to allow the export of sensitive technologies. Domestically, it is considering reviving and subsidizing the Barnwell reprocessing plant in South Carolina.

This is a particularly paradoxical set of policy actions. It was Gerald Ford's Republican administration that first recognized that the economics of selling plutonium was far too dubious to be worth the potential risks it would create for spreading nuclear weapons. It has now become apparent that the economics of separating plutonium from spent reactor fuel compare very badly with simply using uranium in nuclear reactors just one time, a process known as "once-through use."

The first concern about selling plutonium is that the commercial reprocessing of spent uranium fuel creates huge inventories of plutonium. In a single reprocessing plant of Barnwell's size, 11 tons of fissile plutonium are separated annually; that's enough to make 2,000 nuclear bombs. After many studies, including two recent, major ones—the U.S. Nonproliferation Alternative System Assessment Program (NASAP) and the International Nuclear Fuel Cycle Evaluation (INFCE)—it isn't clear that any safeguard system is capable of providing timely warning of plutonium diversion to produce nuclear weapons. Even without commerce in separated plutonium, the present safeguards under the International Atomic Energy Agency are already regarded as seriously strained.

Second, even if we were willing to incur a serious proliferation risk, reprocessing just would not provide the world with economic benefits.

Using separated plutonium and uranium in a nuclear reactor is known as "thermal recycle." The alternative system is the current light-water reactor that uses the fuel just once (or "once-through"). The price of uranium has to rise to \$70 a pound—more than three times its current price—for thermal recycle to become competitive with the current light-water reactor.

Moreover, if the once-through, light-water reactor is improved to reduce its uranium consumption by 15%, which even enthusiasts for recycling agree is feasible and likely, thermal recycle is competitive only when uranium's price rises to \$140 a pound. The Energy Information Administration of

EXTENSIONS OF REMARKS

the U.S. Department of Energy has projected a uranium price of \$58 by the year 2000 and of \$96 by 2020. In other words, thermal recycle using plutonium will not be economical for several decades, if ever.

Even if the price of uranium were to rise to as high as \$310, or 16 times the current price, the benefit of thermal recycle over the unimproved once-through, light-water reactor would only be 7% of the delivered cost of electricity. That the benefit is at most marginal has been confirmed by the two safeguard studies mentioned earlier. Of late, even the nuclear industry has publicly acknowledged this.

Some have said that thermal recycle can reduce a country's dependence on imported uranium. But improvements in current reactors and enrichment technologies can cut the uranium requirement by half, and this reduction exceeds the savings from thermal recycle in current reactors.

Another stated purpose for reprocessing spent fuel is to provide plutonium for the breeder program, whose purpose is to provide plutonium as the initial fuel for the reactor. Again, a breeder would not be economically competitive with an improved light-water reactor until the uranium price rises to \$210 a pound, which is twice the energy agency's projected price for the year 2020. It is too early to get involved in expanded reprocessing for a large-scale breeder program.

The administration has proposed to phase out projects related to improvements in the once-through, light-water reactor. These improvements will make nuclear power more economical without increasing the risk of proliferation. The U.S. should take a leading role in forgoing reprocessing and the use of plutonium and, instead, improve the present reactors in a once-through mode.

Third, it can be argued that the administration has intended to grant permission for reprocessing and use of U.S.-origin spent fuel only to countries with effective commitments to nonproliferation and advanced nuclear power programs. The permission will be given only as long as these criteria continue to apply. The conditions for the export of reprocessing and enrichment technologies are likely to be similar. But it's necessary to keep in mind that while nonproliferation commitments might change, it will be impossible for a country to unlearn the know-how of preparing nuclear weapon-grade materials and extremely difficult to induce it to surrender such materials. The proliferation consequences of our approval are irreversible, even if we terminate the permission later.

All along in civilian nuclear-power development, it had been expected that thermal recycle would close the nuclear fuel cycle and that breeder deployment would follow that of the nuclear converters. But in the last six years, since President Ford's decision to impose a moratorium on commercial reprocessing, the world nuclear community has been seriously questioning the economic merits and proliferation risks of both reprocessing and the breeder. We can't expect other countries to change their courses swiftly after they've made substantial investments in specific nuclear technologies.

After all, we're still supporting the Clinch River breeder reactor and delivering over subsidies to Barnwell in total contradiction of the Reagan administration's free market philosophy. The momentum from the bureaucracies and special-interest groups in France, Britain, West Germany, Japan and others will push reprocessing and breeder

further. But this momentum is being slowed by reality.

The cost estimate for reprocessing spent fuel has jumped by a factor of seven since 1974. And the spot price for uranium has dropped by a factor of two in the last three years. Nuclear plant capacity projections continue to be scaled back. France, the most ardent breeder supporter, no longer expects its breeders to be economical in the near future. It is important that the world not plunge into the plutonium economy during this transition period. The consequences of such a plunge are irreversible and they are potentially disastrous.

(Mr. Chow, a physicist, is a research specialist at Pan Heuristics, a California-based research organization.)

SOVIET MANIPULATION OF THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. McDONALD. Mr. Speaker, during "détente" the West heard little from the so-called peace movement. But with the election of Ronald Reagan, the peace movement re-emerged in full force in order to thwart the vital modernization of Western defense forces in the face of a massive Soviet buildup. A discussion of the reemergence of the peace movement and its hysterical claims follows, as written in the May issue of *Commentary* by Vladimir Bukovsky:

By the end of the 1970's the West was becoming increasingly aware of these dangerous developments. The usefulness of détente, long challenged by some, was now being questioned by many. And then came the final blow—on Christmas 1979. Just at the moment when most people in the West were preoccupied with such things as Christmas cards and presents, something like 100,000 Soviet soldiers moved in to occupy neighboring Afghanistan, an officially "non-aligned" country with a population of about 17 million. The world was shocked and the USSR was immediately placed in isolation. Even the Communist parties of many countries condemned the Soviet action as a piece of blatant aggression. The invasion of Afghanistan, followed by the arbitrary banishment to internal exile of Nobel laureate Andrei Sakharov, followed still later by the threatening of Poland (leading, finally, to the imposition of martial law), virtually terminated the era of détente.

This termination has cost the Soviets dear. In fact, they have lost almost everything they had gradually managed to gain while the West was enjoying its bout of unilateral relaxation. Ratification of the SALT II agreement was suspended indefinitely. The Americans were awakened from their prolonged lethargy to discover with horror how weak, ineffective, and unproductive their country had become. In this new psychological atmosphere, the victory of Ronald Reagan was inevitable, promising an end to American defense cutbacks, the deployment of a new, previously shelved, generation of weapons like the B-1 bomber, the cruise missile, the MX, and the neutron

bomb. It seemed equally inevitable that the military budgets of all the other Western countries would be increased, while the trade, technology, and credit arrangements with the Soviets would be reduced, or at least be made more difficult to obtain.

Thus, if this trend were to continue, the Soviets would lose their position of military superiority—especially in view of the fact that their economy is much less efficient than that of "rotten capitalism." Add to this the new wave of international hostility noticeable especially in the Muslim world (the United Nations General Assembly voted against the Soviets on Afghanistan, for the first time since the Korean war), a continuing crisis in Poland, a hopeless war in Afghanistan, and a growing unrest among the population at home caused by food shortages, and the picture grew so gloomy as to be just short of disaster. Clearly the Soviet rulers had to undertake something dramatic to avoid a total catastrophe.

I myself, to tell the truth, was not very much surprised when suddenly, within a year, a mighty peace movement came into being in Western Europe. Especially since, by some strange coincidence, this movement showed itself first of all precisely in those European countries where the old missiles were to be replaced by newer Pershings and cruise missiles. I make no claim to special prescience; it is just that after 34 years of life in my beloved Communist motherland, I have some sense of its government's bag of tricks, pranks, and stunts. In fact, it was not a very difficult thing to predict, for the Soviet state is not a particularly intelligent creature. If you think of it rather as a huge, brainless, antediluvian reptile with a more or less fixed set of reflexes, you cannot go far wrong. "Well, here we are, back to the 1950's again," I thought to myself.

What was much more amusing to observe was the ease with which presumably mature and responsible people had by the thousands fallen into the Soviet booby-trap. It is as if history were repeating itself before our eyes, offering us a chance to see how the Russian state collapsed in 1917, or how France collapsed within one month in 1940. It is also quite amusing, if one has a taste for such amusement, to be reminded of how people are practically incapable of deriving any useful knowledge from even the recent lessons of history. Once again, the universal craving for peace right now, this very moment, and at any price, has rendered people utterly illogical and irrational, and left them simply unable to think calmly. Their current arguments, if one may call them that, are so childish, senseless, selfish, that an involuntary smile comes immediately to one's lips. Even at best what one hears is a parroting of the kind of old moldy Soviet slogans and clichés that even schoolchildren in the Soviet Union would laugh at.

To begin with, why is it that everyone has suddenly begun to be so apprehensive about nuclear war again? What has happened to make it more real than it was, say, two or three years ago? The entire history of East-West relations shows that the only way to force the Soviets to respect agreements is to deal from a position of strength. So are we to understand that because the Soviets might cease to be militarily superior to us, nuclear war is once again a reality? Should we, then, take this proposition to its logical conclusion and say that the only guarantee of peace is Soviet military superiority?

Meanwhile, countless TV programs have suddenly sprung up that unfold before us images of the great treasures of our civiliza-

tion—paintings, sculptures, pyramids, antiquities, etc.—and at the end of each the narrator reminds us, his voice trembling with noble passion, how terrible it would be if all these treasures were to be destroyed along with the great civilization that produced them. And on other channels, we are treated to documentary after documentary about nuclear explosions and the consequences of radiation. After such relentless programming, naturally public-opinion polls show a sudden increase in the number of those who believe that nuclear war is imminent.

Then there is the catchy new idea that "Our deterrent does not deter anymore." Why? Has a nuclear war begun already? Have the Soviets attacked any NATO country? Or is it simply because those who like to say the deterrent no longer deters have seen their full quota of televised nuclear explosions?

It is so easy to start a panic. The question is: who is served by this panic? The Soviet-controlled World Peace Council declared in 1980 (and the whole European peace movement repeats it as if under a hypnotic spell): "The people of the world are alarmed. Never before has there been so great a danger of a world nuclear holocaust. The nuclear arms build-up, the accumulation of deadly arsenals, has reached a critical point. Further escalation in the arms build-up could create a most dangerous situation, facing humanity with the threat of annihilation."

Never before. But was not the world in as much danger a year earlier? The leaders of the European peace movement themselves claim that the nuclear potential accumulated on both sides is sufficient for them to destroy one another ten times. Is there any technical reason why "twenty times" is more dangerous than, say, "five times"? Or is it that, like a nuclear charge itself, the accumulation must reach a "critical mass" in order to explode?

Somehow, in the midst of all this nuclear hysteria it seems to be totally forgotten that bombs themselves are quite harmless, unless somebody wishes to drop them. So why are we suddenly alarmed by the stockpile of hardware and not by the Soviet military move toward the Persian Gulf?

Again, quite suddenly, voices begin to cry out in a huge chorus, "Nuclear weapons are immoral!" Wait a minute. Did these weapons just become immoral? Are conventional weapons moral? Why should this idea come all at once into the minds of so many people? Take as another example the question of the new missiles to be deployed in Europe. Why is it more dangerous to replace the old missiles with the new ones than to leave the old ones where they are? Are not the old ones equipped with nuclear warheads as well? To be sure, the new missiles are more accurate. So what? We can thank God that they are on our side. They may make life more difficult for the Kremlin adventurers, but why should millions of people in the West perceive that as a tragedy and danger?

Deep in their hearts most of these terrified people have a very simple answer to all these "whys." They know that the only real source of danger is the Soviet Union and that anything which might make the Soviets angry is dangerous for that very reason. But fear is a paralyzing and deranging force. So deranging as to lead some people to advocate the abolition of the police because the criminals are becoming too aggressive.

Indeed, the most amazing aspect of the present antiwar hysteria—aside from the

fact that it has arisen at a time so remarkably favorable for Moscow—is the direction of the campaign. Millions of people in Great Britain, Germany, Holland, Belgium, France, and Italy, supposedly of sound mind and with no evidence of the influence of LSD, march about claiming that the threat of war comes from . . . their own governments and the government of the U.S.! A psychoanalyst might characterize this behavior as the Freudian replacement of a real object of fear with an imaginary one. Except that even a psychoanalyst might conclude that pro-Soviet propaganda had something to do with the delusion in this particular case.

The facts are too obvious to discuss here. One may like or dislike President Reagan or Chancellor Schmidt, but unlike comrade Brezhnev, they were elected by the majority of their respective populations and are fully accountable in their actions to the parliaments and to the people. They simply cannot declare a war on their own. Besides, it is quite enough to look around to see the real source of aggression. Was it American or Soviet troops who occupied half of Germany and built a wall in Berlin? Is it not the Soviets who still occupy Hungary, Czechoslovakia, the Baltic states, not to mention Afghanistan, very much against the wishes of the people in these countries? Was it East or West German troops who took part in the occupation of Czechoslovakia and who are prepared to invade Poland?

Everything in the West is done quite openly—one might say, far too openly. But what do we know about the decisions made by 14 old fools in the Politburo whom nobody ever elected to make these decisions and whom nobody can call to account? No press is allowed to criticize them, no demonstrations to protest against their dictate. Anyone refusing to obey their secret orders would instantly disappear forever. There is in fact very little difference between the Soviet system and that of Nazi Germany. Is there anyone who supposes that he should have trusted Hitler more than the democrats? ●

A LETTER THAT MAKES EMINENT SENSE

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BONER of Tennessee. Mr. Speaker, I am sure that every one of us has received correspondence from constituents concerning the recent news accounts of alleged improprieties which have occurred in the Congress. Recently I received a letter from a citizen from Springfield, Tenn., which makes eminent sense to me. I know that the distinguished majority leader of the House has for many years advocated the establishment of a dormitory to house the congressional pages. I believe, however, that the logic exhibited in the following letter makes eminent sense. I commend the letter from J. Travis Price to my colleagues.

J. TRAVIS PRICE,
ATTORNEY AT LAW,
Springfield, Tenn., July 28, 1982.

Congressman BILL BONER,
Room 552 Federal Court House,
Nashville, Tenn.

DEAR BILL: I have been interested to read reports of drugs and of homosexuality in the hallowed halls. I am not so much addressing my thoughts and remarks to the alleged actions, since I am confident that the legislature will find the means to resolve that aspect of whatever problem exists.

What is disturbing me is the "solution" to the problem offered by some of our representatives. That is, again, to throw money at it—to build some sort of Barbizon hotel for the pages, at the taxpayers' expense. You and I both know that that solves nothing, just changes its address. The taxpayers are sorely tired of such boondoggles in the name of problem solving.

I have a much more logical approach. Terminate the page system. It doesn't bring in enough votes, if any, to justify the expense; certainly it doesn't justify building a hotel for the pages. If the Congress must have people running around bringing the members coffee, etc., why not let the DOD assign non-rated military personnel to the duties. Certainly there are enough of them assigned around Washington who are not otherwise busily engaged. (Maybe those members who have the penchant for that sort of life can employ "hookers" from DuPont Circle areas to run their errands, eh?).

Seriously, Bill, there is absolutely no justification for pouring taxpayers' money into a "glamour" solution to a very unworthy project just to perpetuate what I consider to be an archaic and wasteful ego kick for legislators and pages. I trust you share my sentiments.

Yours very sincerely,

J. TRAVIS PRICE.●

MIDDLE EAST TRIP

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. RAHALL. Mr. Speaker, I would like to take this opportunity to share with my colleagues a recent statement I made on the congressional delegation I led which visited six Middle East countries. These are my comments and do not reflect on collective findings. Our delegation included besides myself, Congresswoman MARY ROSE OAKAR, Congressman PAUL McCLOSKEY, ELLIOTT LEVITAS, MERVYN DYMALLY, and DAVID BONIOR. This group, Mr. Speaker, on the balance has been overwhelmingly and consistently supportive of the interests of Israel and those who claim otherwise should examine the facts on record.

My statement follows:

STATEMENT OF CONGRESSMAN NICK RAHALL

Our mission, to see first hand what has occurred in Lebanon, and to talk with all parties concerned, took us to six Middle East countries: Syria, Israel, Lebanon, Egypt, Jordan and Saudi Arabia.

We talked with five heads of state: President Assad of Syria; President Sarkis of

Lebanon, Prime Minister Begin; President Mubarak of Egypt; and King Fahd of Saudi Arabia. We would have spoken with King Hussein of Jordan, but he was not in his country at the time of our visit.

In addition we met with five foreign ministers, four defense ministers, numerous faction leaders in Lebanon, members of Parliament in Syria, the Knesset in Israel, and People's Assembly in Egypt, plus representatives of the Labor Party and Peace Now Movement in Israel.

This delegation traveled well over six hours by car to enter Lebanon from its northern border. Once reaching Beirut, we were the first—and so far only—Members of Congress to see in person the massive, senseless and heartless devastation of West Beirut. We traveled the same streets three of us traveled 2½ years ago.

Schools, apartment buildings, businesses totally demolished—with untold numbers of innocent civilians buried underneath. We visited every floor of a Lebanese Red Cross Hospital—clearly marked as such—which had been shelled on three different days, and in which invalid patients, children and infants cried out for help. Doctors pleaded with us for vital medical supplies.

We witnessed an awesome display of U.S.-supplied weapons, including cluster bombs, which were clearly marked with U.S. insignias. U.S. weapons that have been raining on West Beirut for well over a month and a half, in clear violation of U.S. Law.

As I looked out from the bowels of Beirut from what was once the beacon of beauty in the Mideast, the shining Mediterranean Sea, I could only weep for the land of my grandparents. Yes, the PLO brought seven years of hell to Lebanon, as I personally witnessed 2½ years ago, but the worst hell of all has been brought in the last seven weeks, perhaps simply the last seven days.

In West Beirut claims that bombings occur with pinpoint accuracy are lies. Claims that bombings are in response to PLO fire first are lies. Our U.S.-arranged ceasefires are merely transformed instead into massive Israeli escalations—the most unbelievable of which occurs in the final hour preceding cease fires. To use quotes that we heard, "At best, this will be interpreted as the result of U.S.-Israeli impotence; at worse, as another example of U.S.-Israeli collusion in the war in Lebanon."

From Beirut, we traveled south under the escort of the Lebanese Civil Defense Forces and American Embassy Guards, having respectfully refused strongly made requests by Israel defense forces to be our guides and guards.

In Sidon, we again saw schools, housing demolished, and centers of Lebanese populations that again did not benefit from any pinpoint accuracy bombing. It was easy to see how true President Sarkis' statement that many more Lebanese have been killed than Palestinians. Most amazingly of all was the bombing of a Lebanese Army barracks and the confiscation of all Lebanese Army weapons. When I asked Israeli Defense Minister Ariel Sharon of this occurrence, he appeared surprised, perhaps angered that we had seen what he knew Israeli Military Guides would not have let us see.

In Jerusalem, we had frank and lively discussions with Prime Minister Begin, Defense Minister Sharon, and Foreign Minister Shamir. We also had an excellent conversation with Labor Party Leader Shimon Peres and a relaxed very friendly and delightful meeting with Ambassador Phillip Habib.

In our meeting with Prime Minister Begin, I relayed to him what we asked of Yassir Arafat in our West Beirut meeting with him and what we got or did not get. I relayed my appeal to Chairman Arafat to clearly, simply and unequivocally recognize the right of the state of Israel to exist and to renounce terrorism. I stated it had to be in straight forward language with no hedging for world opinion to recognize. He asked if we got it. I responded NO and he exclaimed see!

We had many questions for Defense Minister Sharon. His arrogant attitude leads him to believe that in times of war you can "look through formal agreements" between countries. Therefore, his use of American made cluster bomb units to destroy PLO fighters even if more Lebanese are killed is justifiable in his mind. This is horrifying to me.

After having heard Mr. Begin's insistence that there will never be a Palestinian State on the West Bank and Gaza and that he will never, under any circumstance, have a dialogue with the P.L.O., it was most encouraging to learn that more than 50 members of the Israeli Knesset have signed their names to a resolution that calls for a dialogue with Palestinians, and there are numerous opinions in Israel that the Sharon-Begin West Bank Settlement Policy is in clear violation of U.N. Resolution 242 and the Camp David Accords. Egyptian President Mubarak went further to say that the Sharon-Begin West Bank Policy was "180 degrees in the opposite direction of the Camp David Agreement worked out by his predecessor President Sadat and Mr. Begin."

It was clear to me, as I am sure it was to the others, after our meeting with President Mubarak, that Egypt has again produced a great leader who desires peace in the Middle East.

President Mubarak expressed worry at possible Soviet Union benefits from U.S. mistakes in Mid-East. He firmly believes that unless the U.S. re-evaluates its policy in this part of the world the Soviets will benefit. A U.S. re-evaluation must relate to an overall solution and hope to Palestinians for a return to their homeland.

Simply to disperse the P.L.O. throughout several countries would solve nothing, but perhaps help spread terrorism which the Communists would love. The only way any Arab country would take P.L.O. from West Beirut would be in exchange for some hope for a Palestinian homeland.

President Mubarak feels the Palestinians could be contained easily, but never by Military Force, only by dialogue and discussion.

Our discussions with leaders in Syria, Egypt, Jordan and Saudi Arabia, dispelled in my mind any idea what-so-ever that the Arabs are disunited, for they are much more alike than they are different. Their will is stronger than ever to unite for the Palestinian cause of human rights.

The Palestinian desire for a homeland is just as strong and as legitimate as any Israeli desire for a homeland, and everywhere in the Arab World, there is a complete disbelief in the United States' current policy in the Middle East. The Arab Leaders' message was quite clear, the U.S. must re-evaluate its policy in the Middle East before it is too late.

I strongly agree with Israel's desire for security and protection of its citizens. Terrorism in the region must stop, is the message we told those who have participated in such methods in the past. A Political solution,

rather than a military one, must be the avenues to pursue for peace.

I would just as strongly agree that Lebanon's pleas for security and recognition of its boundaries, as well as the protection of its citizens is legitimate. This country's present problem has, as King Fahd in Saudi Arabia said "far-reaching repercussions with the only beneficiary being the U.S.S.R. and its satellites."

Furthermore, the Palestinians hope for a future is a human rights cause that must be achieved. King Fahd said he will not abandon the Palestinians and doesn't feel other Arabs will either.

A peaceful future for all countries and peoples of the region are all worthy goals that we must help to bring about. Each life is as important as the other and each man has a right to have a say in his future.

As Secretary of State Schultz has said, it is indeed time for us to recognize realities in the Middle East. It is time that we re-evaluate our Policy. It is time that we get to the root of the problem in order to prevent future West Beirut.

Labor Leader Shimon Peres said in our meeting in Jerusalem, that in 10 years with the introduction of more dangerous weapons it "May Be Too Late." Speaker Teleb of the Egyptian Assembly said that in 10 years it may be too late for the U.S. Former Foreign Minister Sa'ad Salama told us we may be witnessing the "last spell of moderation ever".

As this delegation prepares to assemble a report on our trip that we will share with our colleagues, we will certainly stress that at this time, there is a faint flickering of hope for peace in the Middle East, and the U.S. must act now to make that light burn bright. We have passed up opportunities in the past. Let us not repeat our mistakes.

Thank you.●

H.R. 4961

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. DREIER. Mr. Speaker, H.R. 4961, the bill to raise revenues in various areas which is currently before a House-Senate conference committee, is one of the most disturbing pieces of legislation to be considered by the 97th Congress. I cannot support it in its present form, and I am deeply troubled by the procedure through which the House sent it to conference.

Although H.R. 4961 began as a minor tax bill, it was rewritten by the Senate and became the complex and highly controversial bill it is today. The House abdicated its constitutional responsibility by sending the bill to conference instead of insisting on its prerogative to originate revenue-raising measures.

Besides these procedural problems, H.R. 4961 should not be passed because it is bad policy. We are, undeniably, in a recession, but there are many signs that it is about to end. A substantial tax increase at this time would insure the continuation of the recession.

The tax hike contained in H.R. 4961 flies in the face of all that we have accomplished toward restoring economic stability to our country. This tax increase, combined with bracket creep and the rise in social security taxation that was enacted during the Carter administration and is now taking effect, would wipe out almost all of the tax cut brought about by the Economic Recovery Tax Act of 1981.

Instead of raising taxes, we should dedicate ourselves to continuing the difficult but necessary process of further reducing the level of Federal spending. My constituents' demand that Government spending be brought under control is as strong today as it was when I was elected to Congress. The last thing they, and the majority of the citizens of this country, want is for us to renege in midcourse on what we have begun. There is no doubt that we must reduce the Federal deficit, but we must do so through reductions in spending, not huge tax increases.

Unless the conference committee makes major revisions in the bill, and unless the spending cuts mandated by the budget resolution are met, I urge my colleagues to vote against final passage of H.R. 4961.●

ACTS OF COWARDICE IN A PARIS RESTAURANT

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. PORTER. Mr. Speaker, last night's news reports and this morning's headlines shocked the American people and saddened those who long for a more rational and sensitive world. Yesterday two terrorists, posing as customers, entered a well-known Jewish restaurant in one of Paris' oldest and loveliest quarters and opened fire on the customers and staff with machineguns and grenades. They killed 6 persons and wounded 21 others. It was described in the press as the bloodiest anti-Semitic attack in France since World War II.

What might have been noted as yet another in a long series of despicable acts of cowardice and terror was particularly brought home to me when I noted a report in the Chicago Tribune confirming that several of my constituents had been in that lunchtime crowd. One of them was killed. Two others were wounded, their condition at the time of the report, not known.

Once again we are reminded that the world all too easily tolerates a level of senseless acts of violence that belies our claim of advanced civilization and commitment to the rule of law.●

SAFE SCHOOLS BECOMING A REALITY IN NEW YORK CITY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. BIAGGI. I wish to bring to the attention of my colleagues an article which appeared in the New York Times last week detailing the dramatic drop in school crime in New York City in the past 10 years. During the decade which statistics have been compiled by school officials and the United Federation of Teachers, we have witnessed crime in New York City schools dropping an average 22 percent. This includes assaults, robberies, larcenies and other such incidents curtailed from a high of 3,534 to the current level of 2,730.

As New York's senior member of the House Education and Labor Committee, I have maintained a strong personal interest in this area and wish to commend New York City officials for their diligence in working to reduce this unacceptably high level of crime in our schools. I am the author of the safe schools program which was established in the 1978 amendments to the Elementary and Secondary Education Act of 1965. This program authorized \$15 million in grants to be provided to 15 local education agencies which were determined by the Secretary to have the highest levels of school crime. The program, which would have funded both school safety programs as well as safety devices, sadly was never provided with an appropriation. This program has now been folded into the education block grant—funded at \$483 million this year—and it would be my hope that school officials in LEA's with special crime problems might seek to earmark some of their block grant funds for this activity.

I commend this article to the attention of my colleagues—especially those from urban areas in the country which face similar problems to those faced by New York and urge them to work with their own LEA's in targeting Federal funds in this direction. Safe schools are critical to the educational process and we do our young people a great disservice by allowing such activity to continue in schools—activity which should clearly be eradicated for the benefit of all.

STUDENTS' CRIMES AGAINST TEACHERS ARE DOWN BY 22 PERCENT—BIGGEST CITY DROP IN 10 YEARS—STRICTER POLICIES CITED IN REPORT BY THE UFT

(By Gene I. Maeroff)

Crimes against teachers and other staff members in New York City's public schools have declined significantly for the first time in the decade that the United Federation of Teachers has kept such statistics.

Figures provided yesterday by the teachers' union for the school year that ended in

June show a drop of 22 percent in assaults, robberies, larcenies and other reported incidents, to 2,730 cases from 3,534.

"Together with the upturn in our reading and math scores, this should tell the public that most New York City schools are pretty safe places where learning can and does take place," said Albert Shanker, president of the federation.

1,639 ATTACKS REPORTED

The group has regularly expressed its outrage at violence in the schools and has urged that the buildings be made safer.

A similar decrease in crime was revealed in figures compiled by the Board of Education not only against teachers, but also against students, principals and others in school buildings.

However, the figures from the teachers' federation show that, even with the reduction in crime, there were 1,639 physical attacks, 165 robberies, 694 larcenies and 232 other incidents against teachers and staff members reported in the public schools in the 1981-82 year.

The improvement follows a year in which the Board of Education, which has a \$24 million security budget, initiated firmer action against students involved in the most violent and disruptive incidents.

In 1981, Schools Chancellor Frank J. Macchiarola ordered that the police be summoned if a youngster brought a weapon into a school building and that the youngster be immediately suspended.

"Chancellor Macchiarola has provided the leadership and has established the policy and the tone to deal with the school crime problems more effectively," the teachers' federation said in a report with its findings.

The school system has enlarged its security force in the last year by 455 members to 1,705. It has also become more selective in training procedures and has spread coverage to junior high schools as well as high schools.

Statistics compiled by the Board of Education's Bureau of School Safety show that, during the 1981-82 school year, there was a decrease of 15.4 percent in assaults, 26.4 percent in robberies and 3.4 percent in larcenies.

For the first time in the eight years the board has kept such records, there was a drop in four of the five most serious categories of school crime—assaults, robberies, drug offenses and sex offenses. Only weapons infractions increased, and school authorities said that was because more vigorous enforcement in that area had led to better reporting of incidents.

69 UNSAFE SCHOOLS

"What we want now is continued funding," Mr. Shanker said, "with special focus on those schools which still have severe problems."

The number of schools rated "unsafe" by the teachers' organization dropped to 69 from 105. The 69 schools accounted for 43 percent of all the crime reported by teachers in the city.

The schools categorized as unsafe were not identified because "it would not help the schools," according to Susan Glass, speaking for the United Federation of Teachers.

Rated as the safest community school districts by the federation were Manhattan's Districts 2 (the East Side) and 4 (East Harlem), District 7 in the South Bronx, Brooklyn's Districts 14 (Williamsburg) and 22 (Flatbush) and District 31, which takes in all of Staten Island.

Also, in this category were Queens Districts 24 (Long Island City-Ridgewood), 25 (Flushing), 26 (Douglaston-Bayside) and 29 (Queens Village-Springfield Gardens).

The districts ranked as safest averaged one incident or less a school during the year.

THE CRISIS IN SCIENCE EDUCATION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

Mr. SEIBERLING. Mr. Speaker, there is an impending crisis in science education in this country which, unless corrected, is almost certain to result in the near collapse of our position as the leading economic, scientific, and military power. The ill-advised actions of the Reagan administration which have led to cuts in aid to higher education will simply aggravate what is already a serious shortage of science and mathematics teachers.

The Washington Post for Sunday, August 8, contained an excellent article on this crisis by writer Donna Hilts. Ms. Hilts reports that a recent convocation of the National Academy of Sciences called the state of high school science and mathematics teaching in this country "scandalous" and stated that most students graduating from high school are "scientifically illiterate." At a time when America's economic future depends on the expansion of its high technology industries, half the newly hired math and science teachers in high school were not qualified to teach those subjects, and graduates of American high schools are scoring increasingly badly in math and science. One-half of all high school graduates take no math or science beyond the 10th grade.

As Frank Press, the president of the National Academy of Sciences, stated, "The danger . . . is in raising a generation of Americans who lack the education to participate in a technological age . . ." By contrast in West Germany and Japan, the governments have encouraged increasing numbers of young people to enter into engineering and other technical fields, so it is no coincidence that industrial productivity in these countries has increased far more rapidly in those countries than in the United States in recent years.

Even more ominous, the Soviet Union has just instituted a reform of its science education which makes it the most advanced in the world, according to the National Science Foundation. The number of high school students taking calculus each year in the Soviet Union has reached 5 million. For the United States, the comparable number in 1977 was 105,000. In addition to 2 years of calculus, all

youngsters in the Soviet Union are required to complete 5 years of physics, 4 years of chemistry, 4 years of biology and 5 years of algebra.

Mr. Speaker, the worst aspect of our situation is that, from the President on down, politicians seem to be increasingly catering to the antisience movement in this country. At a time when we should be expanding and improving the scientific approach in education, national debate seems to be focused on the efforts of religious fundamentalists to impose the pseudo-science of "creationism" as having equal standing with the scientifically developed theory of evolution. If they succeed, they will have only turned a national comedy into a tragedy.

The full text of the Washington Post article follows these remarks:

EQUATION FOR A TEACHING CRISIS

(By Donna Hilts)

At a recent convocation of the National Academy of Sciences, a group not easily pushed to overstatement, scientists and educators call the state of high school science and mathematics teaching in this country "scandalous." What's more, they agreed, most students graduating from high school are "scientifically illiterate."

The shortage of teachers is critical: In New York and Minnesota last year, according to Academy president Frank Press, not one university graduate qualified to teach high school science actually did so. In the Washington area, universities are graduating only a handful of high school math and science teachers, a trickle not large enough to supply the major school districts in Maryland, Virginia, and the District.

Pirating teachers has become a national way of life. High-tech industries, desperate for engineers and other technically skilled workers, are not only raiding college faculties but offering new graduates \$10,000 more to start than the \$14,000 they could get teaching in area high schools. Colleges and industry in turn are stealing teachers from high schools, according to area educators. As a result, those left behind to teach the young in the public schools are often neither sufficiently competent nor enthusiastic to inspire their students to the wonder of the quirk or the beauty of an equation.

The crisis looms at a time when America's economic future depends on the expansion of its high technology industries—computers, robotics, laser optics, genetic engineering. And yet, not nearly enough people are being trained to fill these jobs. In Massachusetts, Itek Corporation chairman Robert P. Henderson recently told a congressional hearing, the inability of these industries to find enough technically trained workers to fully staff their facilities had lost the state half a billion dollars in personal income revenue.

No one is quite sure why or how this crisis in science education happened. Television, Vietnam and the upheaval of the '60s, which forced lower school standards across the board, are commonly blamed. But it is certain, as Dr. Wade Gilley at George Mason University puts it, that while the high technology express rumbled into America, "We as a nation were asleep at the switch."

As a result, we have begun a national scramble to catch up. The National Science

Board, which directs the National Science Foundation, has set up a panel of experts to find some answers, fast. And the Department of Education has put its own National Commission on Excellence in Education in place. Meanwhile local schools and industries have been left to assemble their own patchwork solutions.

The decline, some would even call it disgrace, of a nation that has long prized its technological ingenuity, can be read in recent statistics from the National Science Foundation:

In 1981, half the newly hired math and science teachers in high school were not qualified to teach those subjects. Forty-three states reported shortages of math teachers; nearly as many lacked enough physics teachers. More alarming, the average education major today scores significantly lower on standardized aptitude and achievement tests than other college students.

The performance of students, not unexpectedly, is equally dismal. The number of college freshmen needing remedial help in math jumped 72 percent from 1975 to 1980. On SATs and national assessment tests administered by the U.S. department of education during the past 10 years, 17-year-olds have scored increasingly badly in math and science. Many give up entirely by senior high: one half of all high school graduates in the United States take no math or science beyond 10th grade.

What is more, many experts are beginning to worry, not only about the quantity of science and math education, but also the quality. Henry Pollak, head of math and statistics research for Bell Laboratories, the nation's premier industrial lab, said recently, "Since 1940 the amount of math known has doubled every 10 years so that we now know about 16 times more math than we did then, but none of it has found its way into the schools."

In the Washington-area public school systems, although admittedly better off than many places, have already begun to feel the crisis. "We're in a state of mild panic right now," admits James Shinn, director of employment services for Fairfax County schools. Despite the system being one of the most affluent and most highly regarded in the nation, Shinn expects to open this fall with uncertified substitutes filling several math and earth science teaching slots. The county's saving grace, he says, is that the quality of their substitutes is so high. Most are quite proficient in their fields, but lack the necessary teaching credentials for state certification.

In Montgomery county, where dwindling enrollments have caused massive school closings, there is a temporary surplus of math and science teachers, according to John Pancella, coordinator of secondary science for the schools. In Prince George's, the school system's recent \$30 million budget cut forced the firing of more than 500 teachers, 16 high school math and science teachers among them. Those with provisional certificates were the first to be laid off.

"I don't want to imply there isn't a problem," said Carl McMillen, director of personnel for the Prince George's system. "There has been for the past several years. . . . As time goes on, if the student population increases, there will be a continuing and worsening shortage in math and science teachers, particularly in physics and chemistry."

Conrad Seeboth, supervisor of mathematics for Prince George's, is equally pessimistic:

"In the junior high, middle school, and elementary levels, we definitely need to beef up the competence of some of our teachers." Already, the system is trying to retrain some of its teachers by offering courses in algebra and geometry. "Many of them haven't had those subjects since high school," he said. "They're very rusty."

In the District, officials have sent a desperate appeal to area universities to fill several math and physics teaching posts before school begins. Although exact figures are not available, Mary B. Harbeck, supervising director of science, said she recently lost two "excellent teachers," one to industry, the other to a college. "The shortage really exists in good teachers," she said. "There are people available who are certified, but not qualified."

To ease the problem, most area school districts are pushing to find teachers within their own systems who are near certification in the critical fields and help them become qualified. In Montgomery and Fairfax, this includes some financial help for teachers' course work at area universities.

Even in Montgomery, where the school system's reputation, prime location, and relatively high salaries make it attractive to teachers, school officials worry about the near future. "I have an aged faculty," said Pancella. "My concern is in four or five years." Fairfax director Shinn agrees. In five years, shortages will be really severe, he said. "The supply will shrink, and we're frightening people out when we say there is an [overall] surplus of teachers."

The recent graduating classes of area universities indicate the kind of future shortage Shinn fears. At George Washington University, there were no graduates in secondary math and science education. At the University of Maryland, one of the largest teaching institutions in the area, out of 179 secondary education graduates, seven were qualified in math, only four in science, while 43 majored in early-childhood education, and 19 in art.

George Mason University vice president Gilley estimates that half the jobs in Fairfax County are in high-tech industries. Yet people to teach youngsters to fill those jobs are not being trained in sufficient numbers. At George Mason only two students graduated in secondary math education last year, none in physics or chemistry.

George Mason, however, recently has begun a new partnership with county industries, which it hopes will "build a critical mass of first-rate faculty," said Gilley.

The new Institute of Science and Technology at George Mason will attempt to tap the highly paid talent, and expensive equipment, of the county's 424 high tech firms, those specializing in computers, software, and research and development among them.

Executives will be offered part-time teaching posts and help develop the university's science curriculum; they will in turn have access to the university's pool of manpower, professors and students, to carry out understaffed projects, said Gilley.

Such a solution, however, may do little to ease the drain of teaching talent below the college level. Gilley points out that in the past decade the number of technological companies in Fairfax has jumped from 135 to 424, and the number of jobs in these industries has more than doubled. "Firms are locating here now almost weekly," he said.

So where does that leave the coming generation of young people, who cannot possibly compete in the marketplace of microchips and robots if they are not somehow

encouraged in science early on? The Washington area reflects what is happening nationally. There is a growing gap of information between rich and poor, the educated have and have nots. In Montgomery County, for instance, more students than ever before are enrolling in advanced science courses and entering science fairs. While in the District's inner city, said science director Harbeck, "We have some young people—and some adults—who think the landing on the moon was a big science fiction extravaganza on T.V. They just don't believe it happened."

"The danger," wrote Academy of Sciences president Frank Press recently, "is not in failing to train the gifted who wish to be scientists and engineers; they still seem to receive the requisite education and opportunities. Rather, it is in raising a generation of Americans who lack the education to participate in a technological age; in failing to assure the scientific literacy of Americans, whatever their future vocations."

How America can be so transformed, it is hoped by many, will be so outlined by the National Service Board's new Commission on Precollege Education in Mathematics, Science and Technology. The 20 men and women on the panel were chosen for their credentials in industry, defense, science and education. They consider their mandate, according to commission executive director Richard S. Nicholson, to write a national science education policy.

Some believe not only the economic health, but the safety of America's future depends on it. In West Germany and Japan, where the governments have persuaded their citizens of the importance of technology and encouraged increasing numbers of young people to enter engineering and other technical fields, industrial productivity has increased far more rapidly than it has in the United States.

America's lag in technological education has perhaps more frightening implications in the state of the country's defense—not missiles and bombs, but the people who will control them.

"We can't compete with a driver of a tank from the Soviet Union who has two years of calculus when we have to write our manuals at the sixth-grade level in comic book style," Nicholson said.

CONTROLLING FEDERAL DEFICITS: PAY AS YOU GO

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. WOLPE. Mr. Speaker, we are now confronted by the projection of extraordinarily high Federal deficits through fiscal year 1985—deficits which threaten to postpone indefinitely any semblance of an economic recovery. With each passing day, public frustration over a Federal budget that is out of control becomes more intense and grassroots demands for quick and decisive action become more urgent.

It is now painfully clear that gaining control of the Federal budget is a battle that will not be won by simple slogans or easy half-truths—rather, it is a battle that will require the kind of

political courage and tough decision-making that has been absent from this Chamber for far too many years.

During our most recent budget deliberations, Congressman MILLER offered us an opportunity to adopt a method of making spending decisions that would have restored faith in the ability of the Congress to reduce deficits and to enact a sound Federal budget. Tragically, however, the administration and the leadership of both political parties in Congress refused to endorse the Miller "pay-as-you-go" alternative, and what was eventually passed was a budget totally unrelated to economic reality—a budget with a deficit in excess of \$140 billion.

Deficits of this magnitude are unsupportable; they serve no party and no constituency. They result in high interest rates, capital shortages and massive unemployment. They drain our economy of its vitality and create an environment in which every wage-earner cringes when its time to pay the monthly bills.

Persistent Federal deficit spending must be brought to an end, and the all-critical challenge before this Congress is to act in a bipartisan fashion to reduce deficit spending and to move toward a balanced budget.

As the Congress continues to search for a workable budget solution, it would do well to reconsider the Miller "pay-as-you-go" alternative—an alternative which, according to the nonpartisan Congressional Budget Office, would generate a budget surplus of \$27.5 billion in fiscal year 1985.

By freezing all Federal spending at 1982 baseline levels and requiring offsetting savings or new revenues for any additional spending above that baseline, the "pay-as-you-go" budget would break the almost constant reliance of Federal budgetmakers upon deficit spending.

Upon reviewing the "pay-as-you-go" alternative, Washington Post columnist Mark Shields found it contained—

No more rigged projections of rosy revenue increases by 1988 . . . [no more promises] of instant and ouchless prosperity by next Tuesday . . . The Miller plan offers some political pain . . . No longer would Members of Congress—of both political parties—be able to finance their untouchable programs through the Federal deficit. Congress would be required to make real choices among competing interests and constituencies.

This Congress has a fundamental responsibility to put partisanship aside and to address in a rational and objective manner the problem of growing Federal deficits. I suggest to all of my colleagues that the first step in fulfilling this responsibility is to seriously reconsider the "pay as you go" budget.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. MAZZOLI. Mr. Speaker, I continue to be gratified by the strong support for the Immigration Reform and Control Act of 1982, H.R. 6514, which has come from leading newspapers of the Nation.

Earlier this week, the New York Times, in its usual straightforward fashion, argued for prompt action on the immigration bill in the other body and in the House. The editorial correctly pointed out that the bill maintains today a fair balance, but that balance and symmetry can be lost if unnecessary and inappropriate amendments are attached to it.

I certainly appreciate and welcome suggestions from my colleagues for amendments to H.R. 6514, which was reported unanimously by my subcommittee on May 19 and which will soon be considered by the full Judiciary Committee.

However, when offering such amendments, I trust my colleagues will keep in mind the balance existing in H.R. 6514, and the need to preserve balance in the final product.

This is a good bill and deserves the support of the House and of the Nation.

I am including at this point a copy of the New York Times editorial of August 9, 1982.

TURNING MEAN ON IMMIGRATION

Today or tomorrow, the Senate will have a rare, fleeting moment to put the United States back in charge of its own borders—but it may blow the chance.

Controlling immigration has become an important goal of conservatives and liberals alike. Now, finally, they have a way to get from here to there: the broad and balanced immigration reform bill sponsored by Senator Alan Simpson, Wyoming Republican, and Representative Romano Mazzoli, Kentucky Democrat, which is about to come up for debate in the Senate.

The underlying idea is simple: reduce illegal immigration sharply while holding legal immigration at the present level. But both halves of that proposition are threatened by harsh amendments to be offered in the Senate. Unless they are beaten, the opportunity of a generation will be lost.

The idea of clamping down on illegal immigration may sound like pure virtue, but it arouses employers and civil libertarians. In response, the Simpson-Mazzoli bill is adjusted as delicately as a clock. The best way to discourage illegal immigrants is to make it harder for them to get jobs—and the practical way to do that is to make it against the law for employers to hire them. For that to work, in turn, means some kind of identification system, so employers can tell who is illegal.

Employer sanctions and an identification system are the heart of the bill; without them, it is not worth having. But civil libertarians fear invasions of privacy and His-

panic groups fear discrimination. Unless offset, such fears would trigger powerful perhaps fatal opposition to the bill.

That's one reason it also contains an amnesty provision. Over the years, thousands of illegal entrants have created new lives here, but lives shadowed by fear of discovery and exploitation by unscrupulous employers. The Simpson-Mazzoli bill would provide a one-time amnesty for most of them, offering enough humane benefit to induce some opponents of sanctions to go along.

But that's not good enough for Senator Jesse Helms, the North Carolina Republican. He insists that amnesty must be deleted altogether—even though that would jeopardize the whole bill. He would rather break the clock than see an amnesty provision succeed.

Senator Charles Grassley, the Iowa Republican, proposes, more sensibly, to delay amnesty for three years, the same three years in which the Government is supposed to work out an effective identification system. Both sides of the bargain would remain hostage to each other, not a bad idea considering how much the bill's identification provisions have been watered down.

There is a harsh spirit alive also over legal immigration. Senator Walter Huddleston, a Kentucky Democrat, proposes limiting all immigration to 425,000 a year. That's roughly the present amount—but there's a big catch. He would include refugees within his limit. That would reduce total admissions by 100,000 or more people a year.

The Huddleston cap illogically lumps together two wholly different kinds of people. Refugees are desperate to escape persecution; immigrants are eager to rejoin their families or find new opportunity. The probable effect would be to cut deeply into the number of parents, wives and children of U.S. residents who could come in legally.

At a time of 9.8 percent unemployment, there's a glib appeal to the Huddleston notion. It's not the first time someone has blamed economic distress on foreigners. It's not the first time legislators have turned exclusionary or nativist. But if people like Senator Huddleston are sincere about losing jobs to foreigners, it's illegal migrants they should be worried about.

The 97th Congress is winding down fast, but the chances are that if the Senate can pass the Simpson-Mazzoli bill without these ugly amendments, the House will act quickly. The public, to judge by polls, overwhelmingly supports controlling the borders. This bill provides a way to do so in ways that are effective without being ugly. Congress should jump at the chance.●

HON. JONATHAN BINGHAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. STOKES. Mr. Speaker, I take this opportunity to thank the distinguished gentleman from New York, Mr. ADDABO for taking this special order so that Members can salute a man call a perfect statesman and one who has served this Nation since 1965—Congressman JONATHAN BINGHAM. This salute is appropriate action for a gentleman who has not only

made this Congress a more responsible legislative body during his tenure but also represented his constituents in an exemplary manner.

As we all know, Mr. Speaker, Congressman BINGHAM will retire from this legislative body at the end of the 97th Congress. However, the work he has done for this country and the indelible mark he has made on this body will never be forgotten.

From the first day of Congressman BINGHAM's term in 1965, Mr. Speaker, he has exhibited an unquestionable allegiance to this Nation and his constituents. He has toiled and labored on their behalf. Their best interest were always at the forefront of his mind. As a result of those 17 years in Congress, my colleague, Congressman BINGHAM has gained not only the respect that comes with seniority but also the genuine esteem of his peers on both sides of the aisle.

Mr. Speaker, Congressman BINGHAM especially has distinguished himself as an expert in the area of foreign relations. Currently, he serves on the House Foreign Affairs Committee and chairs the Subcommittee on International Economic Policy and Trade. He is also a member of the Foreign Affairs Subcommittee on International Security.

Mr. Speaker, Congressman BINGHAM is also a member of the Commission on Security and Cooperation in Europe which monitors the Helsinki accords.

Additionally, Congressman BINGHAM serves on the House Interior and Insular Affairs Committee and the Steering Committee of the Northeast-Midwest Congressional Coalition.

Mr. Speaker, with all due candor, I must say that we will miss the leadership and expertise Congressman BINGHAM has provided in the Congress. Particularly in the area of foreign affairs, he has been a towering figure and a source of leadership to each of us.

In closing, Mr. Speaker, I would like to say that I salute Congressman BINGHAM for the dedication he has displayed to this Nation and its citizens. The people of New York's 22d Congressional District could not have asked for a more responsive and dedicated Representative. This Congress could not have asked for a finer statement and legislator than Congressman BINGHAM.

My distinguished colleague has truly made an indelible mark on this Nation. His expertise and vision that he shared with Members on both sides of the aisle shall long be remembered. ●

NATIONAL POETRY DAY

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. PEPPER. Mr. Speaker, I would like to bring to your attention and that of our colleagues the importance and cultural enrichment of proclaiming October 15 as National Poetry Day.

Dr. Frances Clark Handler, national director of the National Poetry Day Committee, Inc., an honored resident of Miami Beach, Fla. has been instrumental in bringing the importance of poetry to the official attention of many and has long delighted and thrilled Floridians and the Nation with poetic offerings. A national poetry day will doubtless provide enrichment for our cultural life as well as enlighten our citizens with poetry. I have the pleasure to cosponsor House Joint Resolution 550, a bill proclaiming October 15 of each year as National Poetry Day. As I said in this Record 2 years ago, 30 States have officially designated October 15 as National Poetry Day. I urge our fellow colleagues to continue our support in recognizing the many poets and their literary works found throughout the United States.

Attached for your further perusal I include two captivating and informative summaries of the "History of Poetry Day and National Poetry Day Committee Inc." and "How Poetry Day May Be Observed," written by Dr. Frances Clark Handler.

HOW POETRY DAY MAY BE OBSERVED

The National Poetry Day Committee offers the following suggestions to state chairmen, poets, educators and all interested in promoting Poetry Day observances on October 15.

Make high school or college a center of community observance. Promote school assemblies on or close to Poetry Day, in which student poets or visiting poets participate.

Urge literary, cultural and women's clubs to plan community programs, presenting, if possible, local poets and musicians. Feature programs of poetry at church, clubhouse or community centers. Form local community Poetry Day committees with a radio chairman, school and college chairman, press chairman and library chairman. Emphasize the function of the poet as a creator of values and a humanizing force.

Present a local radio program featuring local poets and musicians in recitals or present a speaker on the origin and purpose of Poetry Day.

Request ministers to read poetry from the pulpit and at church meetings and to mention Poetry Day.

Urge librarians to put on a display of volumes of poetry. Feature exhibits of the work of local poets. Put up Poetry Day posters created by students in local art classes or by professional artists.

Secure articles on Poetry Day in magazines, and newspapers and Sunday supplements. Feature interviews with local poets

and get their pictures used. Urge printing in the local press of the Governor's proclamation, giving names of the local Poetry Day organizers and news of any observances in the community.

Secure proclamations by mayors and have them published in the local press and also broadcast on local radio and TV stations.

HISTORY OF POETRY DAY AND NATIONAL POETRY DAY COMMITTEE, INC.

It all started in 1936—though it had been a dream all of Tessa Sweazy Webb's life—to find a way to honor poets—and she talked this over with everyone who would listen.

Finally, she was introduced to Ohio Senator WILLIAMS and through this contact she was able to get a joint resolution—S.J.R. No. 39—called the Grubbs-Myers-Marshall resolution introduced and passed in January 1938, by Ohio's 92d general assembly naming the third Friday of October of each year as Ohio Poetry Day.

Other states followed Ohio slowly, but no concerted effort was made to make this a national day, or National Poetry Day in all states until Lucia Trent of Texas spearheaded the movement and called this movement the National Poetry Day Committee.

It is noteworthy that . . . Lucia Trent selected October 15, for the National Poetry Day to honor Poet Ralph Cheney, who died on that day in 1941.

This day is celebrated in 50 United States of America and 40 Foreign Countries and is listed in all almanacs as Poetry Day.

Even though there is legislation in so many states naming October 15 Poetry Day, it is still necessary to get the Governor's Proclamation every year, for like all holidays and days of special note and days that are legal holidays—they would be forgotten if the proclamations were not forthcoming—reminding the public that this is indeed Poetry Day and give states an opportunity to eulogize their own poets in these proclamations. Most States have long lists of accredited poets that should not be forgotten.

Through the tireless efforts of Dr. Frances Clark Handler who took over the National Director's Chair April 1, 1966, . . . the National Poetry Day Committee, Inc., was then incorporated as a non-profit organization for the name's protection.

Because of the Committee's many worthy endeavors in all cultural circles there is a strong feeling that this will eventually be extended to a Presidential Proclamation for a National Poetry Day.

Without a doubt a National Poetry Day Proclamation will make all the people of the United States more culturally and poetically aware. ●

EAST GOSHEN (PA.) TOWNSHIP: A COMMUNITY WITH SPIRIT

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SCHULZE. Mr. Speaker, I am pleased to bring to your attention a community project which came about from a small town's sense of history and team spirit, and which resulted in the restoration of a distinctive piece of Americana.

It all began with the dream of two men, Ira Hicks and Dutch Clark, lifelong residents of East Goshen Township, Pa., who rallied the support of landowner Bernard Hankin and finally the interest and dedication of the townspeople.

For their efforts, a long-abandoned blacksmith shop, which dates to pre-Revolutionary War days—circa 1750—will be dedicated at East Goshen's tricentennial ceremony on September 6. With its renovation, this smithy shop, once the gathering center of the local farmers and their families, will again be operational and open to the public. It has been carefully and painstakingly restored with many of the original door hinges, latches and other hardware, and the original ceiling beams and stone walls have been preserved.

The restoration of any historically important structure is desirable. Even more to the point, however, is the sense of pride and communion this project has instilled in the area residents as they lovingly contributed to the preservation of a small portion of American history for their children and our future.

I applaud the industrious people of East Goshen, Pa., for their united and devoted labors.●

OHIO HIGH SCHOOL STUDENT RAISES \$8,500 FOR SCHOOL SPORTS

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BROWN of Ohio. Mr. Speaker, in these days of fiscal restraint, the White House is placing greater emphasis on voluntarism and self-sacrifice for the greater good. I am encouraged to see so many of our youth who exemplify these principles. In my district, one young high school student has made a contribution which surpasses the records of all those before him.

My respected colleagues, it is a pleasure today to recognize Peter Loukoumidis, a high school football player, who individually raised \$8,500 for the Springfield North High School athletics department on May 6, 1982. In the school's seventh annual lift-a-thon, Peter broke not only his brother George's record of \$5,600 set in 1981, but an all-time national record, as well. In a lift-a-thon, participants solicit donation pledges based on the number of pounds they lift. A dime a pound from one sponsor can mean \$20 for a 200-pound lift. Peter lifted 225 pounds to raise \$8,500 or half of the grand total raised by the team. Through pledges of pennies, nickels, and dollars, the North High football team contributed \$17,510 to the school's athletics department.

How have these lift-a-thons helped North High School? These funds have given the school the finest weight facility in the area; helped pay off football field lights; replaced uniforms; provided the best protection gear available; and helped almost all other sports at the school.

Next year, Pete plans to double what he raised this year, and he will continue to develop his strength and durability by lifting as he has been doing since eighth grade. "I've always been into sports," Pete says. But looking at his background, it is obvious that Pete is involved in many other activities as well.

Pete has excelled in his efforts to contribute to his school, church, and community. Pete, who is 17 years old, is one of five children born to James and Despina Loukoumidis. His parents migrated to this country over 20 years ago to settle in Springfield's Greek community, though most of his relatives remained in Greece. Pete had the opportunity to spend three months visiting in his parent's homeland in 1975 where he gained a greater appreciation for his heritage. Volunteering at numerous bake sales and church picnics, Pete likes to be "involved as much as I can," in the Greek Orthodox Church. He was an active member of the Greek Youth of America and attended Greek schools for 7 years so that now he speaks and writes Greek fluently.

Pete has received five athletic letters in his high school career. He has played football since he was in third grade, making this the eighth year that the 6-footer has played competitively. Along with having received three football varsity letters, he received the award for Best Defensive Lineman. Two of his letters were received in wrestling, a sport he will also pursue this year.

In recognition of his community service, Gov. James Rhodes appointed Pete to the Ohio Governor's Council. As a member of this council, Pete works with the police and highway patrol to promote safety at the county level. He holds the distinction of being an honorary citizen of Disney World and has received a service award from the Springfield Board of Education.

Peter Loukoumidis is an outstanding young Ohioan and an American of whom we can all be proud. On behalf of my colleagues in the U.S. House of Representatives, I commend Pete for his support of high school athletics in Springfield, and I wish him much success in the years ahead.●

CASH ON THE BARRELHEAD

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BEREUTER. Mr. Speaker, in the wake of the announcement by President Reagan that the United States is prepared to begin negotiations on a 1-year extension of the current United States-Soviet grain agreement, much attention has been focused on the distinct differences between large grain sales to the Soviet Union for, as the President has said, "cash on the barrelhead," and recent U.S. attempts to block construction of the Siberian natural gas pipeline. A particularly cogent editorial was published in the Wall Street Journal of August 4, highlighting the differences between these two transactions.

A definite distinction must be made between aiding construction of the pipeline by providing vast amounts of Western capital at below-market rates, creating a drain on the limited resources of the United States and our allies, and U.S. grain sales to the Soviets which create a substantial outflow of Soviet resources into the pockets of the American farmer. I fully agree with the validity of the distinctions made in the editorial, and I wish that portions of it be reprinted in the RECORD for the benefit of my colleagues.

CASH ON THE BARRELHEAD

President Reagan's speech to the National Corn Growers on Monday was a hit in Des Moines but a disaster in Europe. He promised his one-year extension of grain exports to the Soviets would bring record sales. But the speech seems designed to reinforce the Europeans' feeling that they've been put upon by Mr. Reagan's actions against the Soviet natural gas pipeline.

Mr. Reagan told U.S. farmers that the extension would have "the sanctity of a contract" and "there must be no question about our respect for contracts" and "we must restore confidence in U.S. reliability as a supplier." He went on to say that the U.S. must "restore that faith in us that if we've made a deal or a contract, it'll be a contract and we'll keep it." You could just feel the blood pressures rising in European capitals. . . .

What the President should have pointed out instead is that there are some very good arguments against the pipeline. There's Poland, where the Soviets still enjoy the peace and quiet of martial law. There's all that natural gas Europeans could pump from the North Sea. But the kicker is that Europe is not only subsidizing the pipeline but also taking all the risk. In contrast, the Russians pay cash or gold for grain. As Mr. Reagan said on Monday, hinting that this distinction was at least at the back of his mind, "the granary door is open and the exchange will be cash on the barrelhead."

Grain is different from rotors and turbines in other ways. Europe, Argentina and Canada know how to grow wheat and happily sell it to the Russians whether or not the U.S. embargoes its grain. (At least the U.S.

doesn't subsidize these sales.) But only General Electric has the knowhow to build the rotors needed to make a pipeline anything like the one the Russians planned. Grain can be bought with a quick phone call but for GE technology, firms abroad must abide by U.S. export control laws. . . .

ANTI-SEMITISM

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. FINDLEY. Mr. Speaker, I deplore and condemn the horrible and ugly attack on a Paris kosher restaurant, Chez Jo Goldenberg.

The tragic death of six people in this startling act of anti-Semitism follows an October 1980 attack on a synagogue in Paris which killed four people and also the murder of the Israeli Ambassador to France earlier this year.

I urge the French authorities to devote every resource to finding the perpetrators of these terrible crimes and bringing them to justice.●

A TRUE CHAMPION

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. FUQUA. Mr. Speaker, one of the Nation's outstanding sportsmen, Dean Chenoweth, died on July 31 when his hydroplane, *Miss Budweiser*, flipped out of control during a qualifying run for the Columbia Cup race at Pasco, Wash.

In addition to being a renowned boat racer, Dean Chenoweth was a particularly close friend of mine; a man who wore his exploits and fame with grace, dignity and humility.

Dean Chenoweth was four times champion of the national unlimited hydroplane circuit but was perhaps better known in his hometown of Tallahassee as a devoted family man and good neighbor.

The following story by Tallahassee Democrat Sports editor Bill McGrotha is a sensitive summary of the man and the sportsman and expresses the characteristics which will so sorely be missed by his neighbors and his competitors.

HE'D PLANNED TO QUIT RACING AFTER THIS YEAR

The first time we really talked, about three years ago, I asked him all the questions about a sport of which I knew naught.

What was it really that made the big boats he raced so very dangerous?

"They blow up," he replied simply and very gently.

Dean Chenoweth was one of the world's gentle people, and now as I struggle to put these words together it is that far more than anything else that I remember.

In his low-key manner he spoke more, in subsequent talks, of unlimited-hydroplane racing and its appeal to him.

The last time we talked, about two months ago, I asked him how much longer he planned to race the thunderboats.

There was a pause. Perhaps he took a deep breath. We were talking over the phone.

"I tell you what, just between you and me," he began, "Aw, go ahead and print it if you like."

"This will probably be my last year."

Tragically, it was.

He died Saturday when his monstrous machine, *Miss Budweiser*, crashed on the Columbia River in the state of Washington. Chenoweth had crashed in thunderboats, three times before, and each time in that state.

It was said that his recoveries from the crashes in 1979 and 1980 were miraculous.

But there was no miracle Saturday to avert a cruel and ironic fate. The nose of the boat shot in the air then flipped over backward.

Chenoweth had said to me that day in early June: "You start to think about what's left now—other than to lose your life the way Bill did."

He was speaking of Bill Muncey.

There were two big names in the sport: Muncey and Chenoweth.

Now there are none.

Muncey, 52, died in his boat nine months ago at Acapulco in the last heat of the last race of the season.

With Muncey gone, there seemed much less reason for Chenoweth, 44, to continue. He was well aware.

Yet there are those who were close to him who question whether he really would have quit, as he said he probably would, after this one last season. "People don't understand. I'm not risking my life on the water," Muncey once said, "I'm living it!"

And Chenoweth had said: "I think you have to think that nothing is going to happen to you out there. If you don't think that way, you probably wouldn't be able to drive."

Chenoweth was hardly a guy you would pick out in a crowd. He stood 5-foot-8 maybe, and weighed about 150. No way you would have figured this friendly, smiling guy with his average look a champion of anything, much less a deadly sport.

But he was a splendid athlete and in wonderful shape. He ran about seven miles daily. Doctors said his fine physical condition enabled him to survive a particularly dramatic crash in October 1979 when he was gunning his boat at more than 215 mph on a straightaway.

By all accounts, he was an extraordinary driver.

"He never makes a mistake, and he uses his head," crew chief Dave Culley told The Democrat's Andy Lindstrom a few weeks ago. "Dean knows just what it takes to win."

His courage seems to have been extraordinary. In 1979 his comeback year in a sport he had been away from for more than five years had been capped by that near-fatal crash on Lake Washington. He was one of six finalists for the International Award for Valour in Sports and had gone to London in early 1980 for the ceremonies. The award is for "a single act of bravery in an event, or sustained courage in his or her career."

But there is some indication that unlimited-hydroplane racing—and unlimited seems a key word—maybe too extreme, too severe a test for the skills and bravery of mortals.

Super-charged engines kick up seven tons of water in a wake behind these boats, it is said. Acceleration is boosted by sudden injections of nitrous oxide.

But too big a burst of nitrous oxide can bring speed that will rip a boat's hull apart.

One way or another, the quest is for faster and faster boats lighter and lighter through technology. Water that looks relatively calm to the layman can be disastrous for these big boats.

It was "bad water," created by the wakes of previous boats, that brought Muncey's death at Acapulco, according to Chenoweth. It may have caused his own. Muncey's boat, like Chenoweth's, abruptly flipped into the air.

In its formal history, the unlimited hydroplanes have had only 130 drivers. Of these, only 51 have won a single race. Only Muncey, Chenoweth and five others had won as many as a dozen apiece.

Eight winners of single races died trying to win a second time. Chenoweth was the 16th driver to die in the sport.

Originally from Ohio, Chenoweth came to our city in the late 1973's to operate the Anheuser-Busch franchise here. He had little thought, he once said, of racing the big boats again. But he was lured back in 1979, and not even the death of his only son, 18-year-old Dean Alan, Jr., in an automobile accident in early 1980 slowed him down.

His son, he said, identified a great deal with his racing and would want him to continue. That summer after his son's death, Chenoweth had his biggest season. With his son's picture taped to the wheel of his boat, he won a record 16 straight victories.

Florida State football became one of his loves, and he rarely missed a game. He was involved in more than cheering. For a time, he frequently piloted his Piper 6-seater airplane on recruiting trips for coach Bobby Bowden.

"A hydroplane race has excellent control up to about 175 miles per hour," Chenoweth once said. "Above that, you're on the edge—the boat is more out of the water than in."

"But beyond 200, you're like the guy riding in a rocket car on the Bonneville Salt Flats."

Fate takes charge.

"I call it the twilight zone," Chenoweth had said.

Precisely what happened Saturday morning is not clear and may never be. Probably the details are not that important.

A gentle champion among men is gone, and his time here was so terribly short.●

SUPPORT FOR H.R. 6950

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. DYMALLY. Mr. Speaker, as legislators, we are no strangers to constant outcries over the plethora of injustices, inequities, and inadequacies which vex our society. Each of us, though, knows all too well the futility of raising questions, however relevant, if we fail to take the time to propose serious, viable answers to these questions.

It is precisely that realization which prompts me to call my colleagues' at-

tention to H.R. 6950, a bill which addresses a crucial problem now faced by our United States. Mr. WALGREN's National High-Technology Technician Training Act answers the urgent call for a unified national approach to the training of competent high-technology technicians.

I have stood before this distinguished body on several occasions to decry our Nation's scientific, technological, and educational shortcomings. Believing that Mr. Walgren's bill is a considerable step toward the amelioration of some of these shortcomings, I have joined colleagues on both sides of the aisle to cosponsor this important piece of legislation.

This act would make use of community colleges to train a technological labor force to meet the growing U.S. need for skilled technicians. Mr. WALGREN suggests, and I concur, that our Nation's 2-year community colleges may properly bear major responsibility for such training. First rate community college programs could dramatically increase the number of available, highly skilled workers, thus significantly aiding national industry. At the same time, such programs could open new channels of opportunity for a great many young workers. For too long, training programs in this country have been out of step with national needs. H.R. 6950 will serve to rectify this grave defect.

I invite you to examine this bill in detail. I think you will come to appreciate its timely and sensible approach to an exigent problem. I hope all of you will join me in supporting this bill.●

HON. JONATHAN BINGHAM

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. LOWRY of Washington. Mr. Speaker, it is a great honor and pleasure for me to join in paying tribute to my good friend and colleague JACK BINGHAM, and I would like to thank the gentleman from New York, Mr. ADDABBO, for arranging this special order.

Last week, we almost succeeded in passing the nuclear weapons freeze proposal through the House. It was a disappointment to lose by two votes, but we have come so far on this issue so quickly that there is good reason for optimism about future efforts to bring an end to the nuclear arms race.

There has been no stronger or more effective supporter of the nuclear weapons freeze in Congress than JACK BINGHAM, who offered the freeze language in the Foreign Affairs Committee and steered it to adoption by that committee. In fact, he has long been a

voice of sanity on the arms race. The country is now in the process of accepting views that he has held for many years.

Our efforts to end the arms race are not over yet. But we have made a good beginning. I hope JACK has found as much satisfaction in seeing this vindication of his foresight, as I have found in working with him on this issue. We will miss his common sense and his ability to work with others.

I can think of only one more fitting way to leave Congress than with this close vote on the freeze, and that would be to have won. But next time we will win, and JACK BINGHAM's work will be one extremely important reason why.●

GFWC RESOLUTION: WATER CRISIS (CONVENTION 1982)

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. EDGAR. Mr. Speaker, a strong resolution passed at the 1982 National Convention of the Federation of Women's Clubs deserves our careful consideration. As a strong advocate of a new national water policy, I commend their active leadership in this important area. Faye Z. Dissinger, president of the Pennsylvania Federation of Women's Clubs, brought the views of the Federation to my attention. I share their resolution with my colleagues in hopes that it will spark our interest in real water policy reform. The resolution follows:

GFWC RESOLUTION

Whereas the water supply on our planet is a constant factor, and the projected use of the water by the expanding population could exhaust the available supply within the foreseeable future; and

Whereas the wise use of our present water supply augmented by the restoration to usability of presently polluted water would provide a supply of usable water that would sustain the earth's population in the foreseeable future; and

Whereas State and local governments alone can no longer provide solutions for the ever-increasing water supply problems; and

Whereas no single federal water policy is applicable to all parts of the nation where there are vast differences of water supply and water problems; and

Whereas an immediate program of action is necessary if we are to forestall the impending water crisis and yet not work an undue hardship on any segment of society; Now, therefore, be it

Resolved, That the General Federation of Women's Clubs urges the Congress to enact legislation at the national level that will provide a program of action to:

(1) Expand the existing supply of usable water by improved methods of desalinization of sea water, protection of ground water and by research in methods of inducing precipitation;

(2) Prohibit any further pollution of the nation's streams and domestic water supply;

(3) Assist persons, governmental units, and industrial enterprises now polluting the nation's streams and domestic water supplies in making such changes as necessary to bring an end to water pollution and to provide federal financial assistance in the form of tax incentives or by other means of "cost-sharing" so that the cost may be spread over the society which benefits; and further

Resolved, That the General Federation of Women's Clubs urges the Congress:

(1) To provide a strong national water policy for all parts of our nation and all segments of our society;

(2) To provide a vehicle which would abate international water pollution.●

NOW IS THE TIME TO SUPPORT ISRAEL

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BEARD. Mr. Speaker, Israel has done the United States and the cause of the world peace a favor by eradicating the PLO terrorists from Lebanon. While we hear the American media castigating Israel for the destruction in Lebanon, the truth is that Lebanon will be far better off without the yoke of the PLO occupation. There has unfortunately been far less coverage of the PLO terrorizing of Lebanon for the past 6 years than of the effects of the attempt by Israel to liberate Lebanon from the PLO.

I think that there should be absolutely no consideration of reducing, cutting, or slowing the flow of American support for Israel. Israel has acted in self-defense. I ask my colleagues: what would we do if terrorist organizations in Mexico or Cuba had engaged in years of shelling American citizens in Florida or Texas? What would we do if terrorists in Cuba or Mexico had periodically crossed our border to blow up schoolbuses in New Mexico or California? I would hope that we would react with the same determination and skill to defend our people as Israel has.

I now would like to insert an editorial by George F. Will that capsulizes the entire situation, especially the press coverage, in eloquent form. I commend the article to all:

[From Newsweek, Aug. 2, 1982]

MIDEAST TRUTH AND FALSEHOOD

(By George F. Will)

Lies are weapons and are today the PLO's most effective weapons. Newspapers that are fastidious about the truthfulness of grocery ads print anti-Israel ads filled with patent lies about Israeli-caused casualties. The New York Times ran a particularly Goebbels-like ad signed by, among others, Noam Chomsky, who has collaborated with a French author who claims the Holocaust never happened.

Lebanon is (in Hardy's words about Leipzig battlefield) "a miles-wide pant of pain." It has been since the PLO and Syrians invaded. It is today because the PLO is hiding behind the babies that Arafat is kissing for U.S. television cameras.

It is hard to prove but easy to believe that Israel, by aiding Lebanese Christians since 1975, has saved more civilian lives than have been lost in this war. But a television screen is easy to fill. A gaggle of Iranians did it for a year, while behind the cameras Teheran went about its business. Television in war is bound to suggest more generalized destruction than has occurred. Furthermore, had there been television at Antietam on America's bloodiest day (Sept. 17, 1862), this would be two nations. Americans then lived closer to the jagged edges of life, but even they might have preferred disunion to the price of union, had they seen the price, in color in their homes in the evening.

Not Chess or Surgery: If "wired democracies" are not to be disarmed by revulsion about televised wars, they must take this truth unperfumed: Wars kill people; that is an immediate purpose of waging war. Many persons who preen themselves on their hatred of war do not hate it enough. They cannot: they know so little about it. They show this when they judge a military operation like Israel's unjust simply because it involves injustices. War is not chess or surgery. It is a leap into a realm of chance, desperation and improvisation. Confusion, unintended effects, undesired but unavoidable collateral effects—all these are expectable. It is morally immature to denounce a war because it has the general attributes of war.

It is said that a good man cannot save a nation because a good man will not do what is necessary. But that, too, is morally immature, confusing public and private duties. Begin's duties include understanding that the moral mathematics of Sadat's life ended with a positive sum because he followed military boldness with political boldness. Sadat, remembered as a peacemaker, first made war. In three weeks in 1973 Israel lost a portion of its population three times larger than the United States lost in eight years in Vietnam. Having failed to get to Jerusalem with Soviet tanks, Sadat went by Boeing 707. Begin's similar challenge is to know when he has reached the limit of his military options.

If the Begin-Sharon aim is to push all Palestinians off the West Bank and into Jordan, they risk a more irredentist Jordan. And the pushing would involve methods intolerable to most Israelis, unless they have lost their moral moorings. Begin's task is to use the threat or exercise of force to finish the PLO in Lebanon, and then make Jordan an offer it can't refuse, abandoning the chimera of "autonomy" and the dream of annexation.

The Reagan-Shultz aim is unclear. Shultz is off to a shaky start, allowing events to set for him a daunting debut: he is supposed to solve one of history's most intractable disputes. It is unhelpfully called "the Palestinian problem." It is actually the problem of Palestine. However laden the work "Palestinian" is with political connotations, it still is a classification more like "North American" than "American." It refers to a geological origin, not a political association. The noun "Palestine" denotes a definable territory, that of the Palestine Mandate of 1923. Israel and Jordan disagree about the proper allocation of a portion of that remnant of the Ottoman Empire. Only they can come to an agreement that will tidy up the mess

left by World War I. Neither Israel nor Jordan—both having fought the PLO, Jordan most bloodily—favors a PLO state on the West Bank, a state that would destabilize both Israel and Jordan, but Jordan first and Jordan most.

In the current crisis, PLO intransigence has grown proportionally with U.S. involvement, and now the United States is protecting the PLO. With words treated as though they are Cheerios, all alike, the U.S. aim has been described as evacuation, disengagement, peacemaking. The PLO had the capacity to injure but not destroy Israel, so if at the cost of military defeat it receives enhanced political status from the United States, it comes out ahead.

Maps: Israel has almost undone the mischievous work of the 1974 Rabat conference, which anointed the PLO the sole legitimate representative of Palestinians. This was an affront to Jordan. (Most Palestinians are Jordanian citizens, and most Jordanian citizens are Palestinians.) Today U.S. diplomacy, which is ineffectual without being innocuous, is resuscitating the PLO and preserving Jordan's excuse for not playing its indispensable role in any peace process worthy of the name. The PLO sits in West Beirut, holding perhaps 300,000 civilians hostage, issuing demands from behind the screen of Habib's mission.

Meanwhile, back in Foggy Bottom, the State Department may be short on realism, but has lots of maps, none of which shows any land that can conveniently be given to a "Palestinian entity." The map is even more full today than it was when Israel was shoe-horned into one-tenth of 1 percent of the land claimed by "the Arab world." That world consists of 21 nations with 175 million people and 7.5 million square miles. In the U.N. the PLO often enjoys the fervent support of 42 Muslim nations with 80 million people. But there is zero desire to make room for the PLO. So Israel is left to deal with the PLO, that creation of Arab hypocrisy and Western appeasement. And Israel still waits for Jordan and Saudi Arabia, two crucial nations of recent and problematic origins, to acknowledge Israel's legitimacy.

Persons far from the theater of menace and violence, persons making fine moral calibrations about Israel's conduct and fretting that Israel is "losing its soul," must hear Golda Meir's words: Jews are used to collective eulogies, but Israel will not die so that the world will speak well of it.●

LEGISLATION TO REFORM THE SOCIAL SECURITY REVIEW PROCESS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. CONTE. Mr. Speaker, I rise to introduce legislation to correct inequities in the social security disability review process. This legislation would reform the present system in three ways:

(1) It would slow down the continuing disability investigations (CDI).

(2) It would continue the payment of benefits through the first face-to-face hearing.

(3) It would require that medical improvement be shown before the disability benefits are stopped.

I have introduced this legislation because I feel that although the intention of the review process was good, this stepped-up pace has not achieved its goal. The need for a review process is obvious.

In late 1980, the General Accounting Office published a report which indicated that 20 percent of the persons receiving disability benefits under title II and title XVI were not entitled to those benefits. In an attempt to end this apparent waste and fraud, the Commissioner of the Social Security Administration, under the current administration, mandated that the date for commencement of reviews be moved forward 10 months, causing the investigation and review process to begin on March 1, 1981, as opposed to January 1, 1982.

In the original plan, each State disability determination office would be reviewing approximately 140,000 cases at their discretion. With this new timetable, however, the caseload was increased to 520,000. Few of the State offices were equipped to handle this new load and when the investigation date was stepped up, the offices remained unequipped. As a result of this unfortunate situation, many of those who were entitled to benefits were mistakenly taken off the rolls. In New York State alone, at least three people committed suicide when they received their termination notices.

The minds of the people of America must be put at ease. They must know that we, in Congress, are concerned about their welfare and that we will do everything possible to put an end to this injustice before many people are affected. The Congress must set up some parameters to explain how these reviews should be carried out.

The figures which prove the need for a change are obvious. Of the 50 to 60 percent of the terminated cases appealed by persons involved, a full 67 percent of these were overturned, as compared with an average of 20 percent in years past.

The legislation which I have introduced is similar to that which Senators RIEGLE, METZENBAUM, and KENNEDY have introduced in the Senate. I urge my colleagues to recognize the importance of this legislation and to give it their full support.●

THE FLAT-RATE TAX

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington

Report of August 11, 1982, into the CONGRESSIONAL RECORD.

Should the current federal income tax be replaced with a so-called "flat-rate" tax? This question has been asked and discussed in every public meeting I have held in recent weeks. Interest in such a tax is strong, so the facts and ideas at issue must be clearly understood.

The federal income tax has been progressive for the nearly 70 years of its existence. The basic notion behind this progressive feature is that a person should be taxed according to his ability to pay—an ability which increases with income. Statistics show just how progressive the income tax is. In 1979, for example, the average tax in each bracket, expressed as a percentage of adjusted gross income, ranged from 3.5 percent for \$4,000 in income to 50.2 percent for \$1,000,000. Despite the well-publicized exceptions, a person usually pays a higher rate of tax the wealthier he is. The second central feature of today's tax code is the vast array of breaks that cut taxable income and tax collections. The basic notion behind these breaks is that the tax code should be used to achieve worthy goals: churches benefit from a deduction which encourages donations; investors want an advantage for capital gains; working parents need a break for child care. Despite the reports of loopholes, specific breaks are popular.

Proponents of a flat-rate tax criticize these two features of the federal income tax. Multiple brackets and scores of breaks make the tax code very complex. The basic filing requirements are confusing to, if not beyond the comprehension of, most Americans. "Bracket creep" occurs when one moves into a higher bracket without a rise in purchasing power. It is a result of multiple brackets in an inflation-ridden economy. Tax breaks erode the base of taxable income to such a degree that rates on that base must be kept high. Cutting the rates without enlarging the base only leads to bigger deficits. Tax avoidance and tax evasion are growing more common. Pushed on by high rates and the sense that they are carrying the burden for those who cheat and exploit the tax code, millions of otherwise honest taxpayers are increasingly willing to bend or break the law.

The flat-rate tax is proposed as a remedy to these problems. The simplest proposal is to end all breaks while replacing the progressive system of 12 rates with a single rate. A rate of 12 percent on the wider tax base would yield as much revenue as we have today. Few proponents of a flat-rate, however, have anything this radical in mind. Most proposals would exempt low-income families from tax and would leave several popular tax breaks in place, at least for a time. Some would build in progressivity by having two or three rates. These variations would have a tax rate higher than 12 percent.

Proponents of a flat-rate tax lean heavily on two arguments to make their case. First, they say that a flat-rate tax would bring simplicity to one of the most important contacts between citizens and government: all tax forms could be replaced by a postcard. This simplicity would make it easier for every taxpayer to understand and carry out his duties under the tax code. People would be confident that others were paying their share. Tax collection would be improved. Also, proponents say that their proposals would give the economy a boost. The low tax rate would encourage saving, risk-taking, and hard work. Money would be

drawn out of unproductive tax shelters and would be put to better use. Energies now being channeled into tax avoidance would be released for more useful purposes. These arguments are disputed by some of the experts, but they must be faced.

A striking thing about a flat-rate tax is the interest it has sparked. President Reagan called it "tempting". Liberals and conservatives in both parties have declared for it. It is supported by some experts who advise the government of taxes. The idea of such a tax is old, so we may ask about this interest. Deficits are making government think about raising revenue without raising tax rates. Last year's tax act—which aided the rich at the expense of the middle class and poor, had little effect on productivity, and set up new breaks—is prompting a review of tax policy. The principal factor behind the interest may be frustration—with the complexity of the tax code, with people who "work" the code for their own benefit, and with the performance of the economy.

The present federal income tax is defective, and I want to see a simpler system of taxation which would help the economy. As we study a flat-rate tax, however, we must answer these questions:

In regard to income taxation, the idea of fairness most Americans seem to accept is the one embodied in the tax code (as a person's ability to pay taxes increases with income, so does his duty). Would Americans' interest in a flat-rate tax be as strong when they began to consider that it is based on an entirely different idea of fairness (a person's duty to pay taxes is always proportionately equal to everyone else's)?

Studies show that the entire tax system (including property, payroll, excise, sales, and other taxes) is roughly flat-rate. The federal income tax is about the only progressive element. If this progressivity were removed, those with less wealth would pay a greater share of it in taxes overall. Would Americans favor this result?

The issues of progressivity and complexity are distinct. A progressive tax can be simple if it has few breaks. Progressivity adds little complexity. Would Americans sacrifice it for simplicity if the sacrifice were not necessary?

Under some of the flat-rate tax proposals, the average poor or middle-class family would pay more tax while the average rich family would pay less. Would Americans want such a redistribution?

The tax breaks currently on the books are embedded in the economy. They play a key role in determining the value of housing and many other items. Would a sudden change in the value of these items have an adverse effect on the economy?

Remembering the fragility of the economy and the impact the tax code has on it, the President and Congress should proceed with caution.●

INTRODUCTION OF CONCURRENT RESOLUTION ON KKK

HON. WILLIAM H. GRAY, III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. GRAY. Mr. Speaker, over the past few years, we have witnessed the disturbing resurgence of racially motivated crimes across this Nation. Con-

tinually, we hear of reports—from Connecticut to Florida, from California to Georgia—of cross burnings, anti-minority marches, sniper attacks, random destruction of private property, and other incidents.

These crimes have directly coincided with the resurgence of activities of various racially oriented hate groups, particularly the Ku Klux Klan. And according to the reports that I have seen, a great deal of these crimes have been instigated, if not committed, by the Ku Klux Klan.

According to a recent report of the Southern Poverty Law Center's (SPLC) Klanwatch program—the most comprehensive in the country—1981 was one of the most active years since the middle 1960's for Klan activity. At least 300 incidents involving harassment and intimidation were believed committed by Klan members in 1981. Not since the 1960's has there been a comparable nationwide outbreak of violence, intimidation, and harassment by the Klan.

The Anti-Defamation League of B'nai B'rith has estimated that there are nearly 12,000 active Klan members throughout the country—an increase of over 65 percent since 1975. And while this membership is much smaller than Klan strength of earlier periods, the violence it represents and their potential for growth create an ever-present danger to the thousands of law-abiding American citizens who have been targeted for intimidation and violence by the group.

More importantly, Mr. Speaker, given today's atmosphere of hard economic times and the sharp swing of the pendulum to the political right, I am afraid that there exists an environment in which a KKK can thrive.

That is why, Mr. Speaker, today I am introducing a concurrent resolution calling upon the Justice Department to "vigorously" seek out and prosecute those members of the KKK who violate the civil and constitutional rights of others. I think that, at this juncture, it is imperative that the Congress, and indeed the Nation, be on record as opposing the violence and racial hatred that has been endemic and characteristic of the Klan.

Many might question the need for such a statement by the Congress, given the progress that the cause of equal rights has achieved over the past 20 years.

However, the Reagan administration is the first in modern times which is clearly committed to halting that progress and rolling back those hard-won gains. In virtually every action, appointment, and policy decision in the area of civil rights, this administration has sought not to build on the last 20 years of civil rights gains, but has instead launched the greatest re-

treat in the fight for equality in the past half century.

It is quite clear to me that the Congress should not and cannot sit idly on the sidelines while this administration ignores and repudiates those laws it is sworn to uphold by declining to enforce them, and refusing to follow court decisions and mandates.

On such issues as equal opportunity in education, equal job opportunity, tax exemption for segregated schools, and voting rights, the administration has sought to turn the clock back to a darker time.

So blatant has this administration's failure to actively pursue civil rights compliance become, that last December, some 200 civil rights lawyers and other employees within the Justice Department signed an open letter to the Attorney General protesting his policies regarding the Department's lax enforcement of our civil rights laws.

The Klan has blatantly thrust itself prominently into the public eye. And while the Klan continues to use violence, harassment, coercion, and intimidation against people belonging to various minority groups, it also seeks to justify these actions to the American public by exploiting such controversial issues as busing, affirmative action, and anxieties over crime and inflation.

While these are certainly legitimate issues, having legitimate varying points of view, we must not be confused by the Klan's apparent new sophistication and renewed interest in the political process.

The Klan has, and always will be, an extremist, fraternal society, which is dedicated to the proliferation of racism in our society. I need not remind my colleagues that in the 1950's and 1960's Klansmen bombed churches, beat integration-minded bus riders, and shot civil rights workers in Mississippi. Nor need I remind you that in the 1920's Klansmen raped countless numbers of black women in the South, while beating and often-times lynching their black men at the same time. I think the history books clearly point to the sadistic and racist nature of this organization. Equally clear however, is that such activity should not, and cannot, be tolerated in our society today.

Klan resurgence nationally has also led to another critical phenomenon, namely, Klan infiltration of the U.S. military. Over the past few years, reports of Klan recruitment as well as Klan-instigated violence on military bases and installations has become widespread. Although the U.S. Constitution provides for the protection of free speech and association, there is no room in our military for organized racist activity among the ranks. Nor is there any room in the military for internal violence among members of our

Armed Forces. And while the military hierarchy has publicly denounced organized racist activity in the military, it is important that the Congress again be on record as opposing such activity, as well as urging the Department of Justice, in concert with the Department of Defense, to ferret out all racially motivated activity aimed at violating the civil and constitutional rights of members of the Armed Forces.

I am particularly concerned about another sad, but real, consequence of the resurgence of such extremist groups as the Klan: the racist indoctrination of children. In Decatur, Ala., in 1979, members of the Klan Youth Corps burned a school bus while their adult Klan counterparts cheered them on at an antibusing rally. In Durham, N.C., that same year, a cross was burned at halftime, during a football game between black and white schools. In Largo, Fla., September 1980, a youth was arrested for a cross-burning incident while wearing a robe lent to him by a Klan member. Literature is circulated in junior high and high schools throughout the country, to belittle and threaten minority students and school administrators while seeking recruits for the Klan Youth Corps.

These children who are taught to be racist, and those who unfortunately are the subjects of that racism, are the same children that will one day be our leaders. We cannot allow our young people's respect for the rights of our Nation's peoples and their unique cultures be undermined.

My colleagues might question the need for such a proposal. For sure, there are nearly 230 million Americans who have no affiliation with the KKK whatsoever. However, Mr. Speaker, those remaining 12,000 or so that are affiliated with the KKK pose one of the most serious threats to the very fabric of today's society, as we know it.

It is for these reasons that I issue this call for action. Unless immediate action is taken to monitor more closely, and prosecute more vigorously, such violations, this country may find itself entering the most turbulent and devastating decade of its history.●

JONATHAN BINGHAM

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Ms. FERRARO. Mr. Speaker, I am proud to join my colleagues tonight in saluting a man who for 18 years has been a friend of the needy, a champion of human rights, a defender of the environment, and a leader in the cause of world peace.

When JACK BINGHAM came to Congress in 1964, he had already compiled

an impressive list of accomplishments. Following his service in the U.S. Army during World War II, he had gone to work at the State Department, rising to become Assistant Director of the Office of International Security Affairs. He served as Secretary to Governor Averell Harriman for 4 years before he became a member of the U.S. delegation to the United Nations, where he became chief advisor to U.S. Ambassador Adlai Stevenson.

The influence of those two great men, Governor Harriman and Ambassador Stevenson, was clear in JACK's work when he came to Congress in 1964. He applied simple commonsense to the problems facing the Nation, and was constantly guided by a devotion to decency, fairness, and peace.

This basic fairness and commonsense that have marked his tenure in Congress have been on display in the campaign to achieve a freeze on the production, testing, and deployment of nuclear weapons. In the midst of all the complicated and contradictory debate over how best to achieve the universal goal of reducing the threat of nuclear war, JACK BINGHAM stated the case simply and eloquently. He said: "The way to stop the arms race is to stop it."

As chairman of the Foreign Affairs Committee's Subcommittee on International Economic Policy and Trade, JACK, has assumed a leading role in trying to improve trade relationships between the United States and other Western industrialized nations, as well as finding new approaches for increasing economic activity with developing Third World nations.

But perhaps his greatest contribution has been in the area of controlling the proliferation of nuclear weapons. The development and enforcement of international agreements limiting the shipment of nuclear fuel and equipment only to countries accepting full safeguards has been a major concern of Congressman BINGHAM's, and we all owe him a debt of gratitude for his persistent leadership in this fight.

The people of New York City, of the United States, and of the world are better off for having had JACK BINGHAM in Congress. The House will be the worse for his leaving. I want to join my colleagues in wishing him all the best in his future endeavors.●

HON. JONATHAN B. BINGHAM

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. HORTON. Mr. Speaker, let me first extend my thanks to my good friend and colleague, JOE ADDABBO, for taking this special order today. By taking this time, he has given his New

York colleagues in particular, but also all Members of the House, the opportunity to pay tribute to a colleague who has served this House ably and effectively since his first election to the 89th Congress in 1964.

As a Member of the 88th class, I have known JONATHAN BINGHAM throughout his congressional career. His contributions in the field of foreign affairs, through his membership on the House Foreign Affairs Committee, are both numerous and well known. His ardent advocacy for universal human rights stands as one of his greatest achievements.

His expertise in foreign affairs is matched only by his work on the Interior and Insular Affairs Committee. I recall his hard work on the legislation I and former Congressman Holifield sponsored establishing the Energy Research and Development Administration. Jon argued forcefully for an equal emphasis by this forerunner to the present Energy Department on all forms of energy, conventional and nonfossil.

I join my many colleagues in wishing a good friend and colleague the best as he prepares to retire. JONATHAN BINGHAM's many fine qualities and accomplishments will long be remembered.●

QUICK ACTION NEEDED ON UNEMPLOYMENT BENEFITS

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SEIBERLING. Mr. Speaker, I am submitting for printing in the RECORD a letter which expresses more compellingly than I ever could the urgent need for Congress to restore the safety net of unemployment benefits for those thrown out of work by Reaganomics.

The House may soon consider legislation providing an extra 13 weeks of Federal supplemental benefits to unemployed workers who have exhausted both their regular State unemployment benefits and the first 13 weeks of FSB. I strongly support the 13-week extension, and am pleased that the Senate also recently agreed to an amendment by Senator METZENBAUM supporting the 13-week extension.

But a serious obstacle must be overcome before many unemployed workers can benefit from this extension. A provision in Gramm-Latta II will make it impossible for Ohio and many other States to qualify for FSB as of September 25. If that provision is not changed, unemployed workers in those States could not get any unemployment benefits after their first 26 weeks—not the first 13 weeks of Federal supplemental benefits, and not the additional 13-week extension now under consideration.

Mr. Speaker, with our Nation facing the highest unemployment since the Great Depression, I hope that Congress and the President can work to restore a real safety net for those unable to find jobs today.

The letter follows:

AUGUST 2, 1982.

Congressman JOHN SEIBERLING,
Member of Congress,
Washington, D.C.

SIR: I am writing this letter to get a reaction from you concerning a problem that myself and thousands of other Ohioans are facing right now.

Until November 15 1981, I was employed by the General Tire and Rubber Company here in Akron. On that date I was laid off. On August 15, 1982 my 39 weeks of unemployment compensation is up. Because the federal government has refused to grant a 13 week extension of benefits, on that date I won't have a penny coming in.

Because of the economy and the way your president has decided to run it, I have lost everything I have ever owned. My wife, my house, all my furniture and my car. The only thing I have left now is my son, and on August 15, 1982 I'll lose him to because I have no money coming in and can't get a job.

I served your country for 10 years in the Army. There were times I could have given my life for this country but luck was on my side. Now, when I need help, this country has turned its back on me. It can loan billions of dollars to foreign countries, give grain to the Soviet Union so everybody over there will eat, but it can't help me with a 13 week extension of unemployment benefits, when I'm in their shape because of your government.

I have just one question, why? Why has this country turned its back on me and thousands of others like me?

I really don't expect an answer, and besides, I have already lost everything I ever had, so it's probably too late for me. But there are thousands of others who need your help, I only hope you attempt to help them before it's too late for them too.●

COMMENCEMENT ADDRESS OF AMBASSADOR W. TAPLEY BENNETT, JR.

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. DERWINSKI. Mr. Speaker, Ambassador W. Tapley Bennett, Jr., the U.S. permanent representative to the North Atlantic Treaty Organization (NATO) recently addressed the graduating class of the University of Southern California of the Frankfurt, Germany, campus. Ambassador Bennett delivered a very stirring speech on the prospects of peace and the U.S. commitment toward defending freedom and stability in the world. I wish to insert this address of June 12 for the Members' reading:

REMARKS OF AMBASSADOR W. TAPLEY BENNETT, JR., PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE NORTH ATLANTIC TREATY ORGANIZATION, AT THE COMMENCEMENT EXERCISES OF THE UNIVERSITY OF SOUTHERN CALIFORNIA, FRANKFURT, GERMANY, JUNE 12, 1982

FOR PEACE IN FREEDOM

It is a great privilege and honor to be invited to address these commencement ceremonies. I am very pleased to be here. It occurs to me that in many ways today's event is unlike a university graduation in the United States itself. Here, of course, as at hundreds of campuses in the US this month, academic achievement, dedication, and hard work are recognized and rewarded. But here, different from home, the participants in this ceremony and their families and friends are already a select group in another way. Living and serving overseas, you are representing the best traditions of the United States to other nations—and you are contributing very directly to the maintenance of peace and stability in today's world.

OVERSEAS SERVICE AND AMERICAN VALUES

As you know, service overseas can be personally very rewarding. It can also be very difficult. Contrary to the popular saying, for instance, diplomats are not individuals "sent abroad to lie for their country". However, many people still seem to think so, and to respond with suspicion. Similarly, life for the military overseas is not all roses, as I have had occasion to observe on numerous visits to exercises and facilities in Germany and other countries of the Alliance. Moreover, the unusual problems of overseas life are not always fully appreciated by those at home.

But, as I have learned in several decades of foreign experience, work overseas does tend to remind those of us who are engaged in it of the values, characteristics, and objectives of the American society which we represent. The principles of democracy and pluralism were, for example, very much on my mind in my first Ambassadorial mission, some 20 years ago in the Dominican Republic, at a time when democratic institutions in that Caribbean island state were under tremendous pressure from all directions, and finally exploded in violent revolution and murderous civil strife. We were able to put things back together—to help a sister nation back onto the path of democratic government, and today the success of Dominican democracy seems to be taken for granted. The recent election and the peaceful change in the presidency produced little press attention—but things were not always so easy. That was where I first saw the sign "Yankee Go Home" painted on a wall. It didn't bother me. First, since I'm from Georgia, I knew they weren't talking about me. And I also noticed—below the sign "Yankee Go Home", someone had come along and painted "And Take Me With You."

Today I am very conscious of our particular values and history in my daily work at the headquarters of the North Atlantic Alliance in building consensus to secure peace in freedom. No matter all the problems we face today, there is a core of basic interests and values among the North Atlantic countries which holds us together, and there is the same understanding now, as more than thirty years ago, that political unity is the indispensable ingredient in providing military security.

We have, of course, another advantage in Brussels, which results more from carpentry than from diplomacy. That is, we have a round table, like King Arthur. All seats are automatically equal, and there are no possible arguments over protocol. People are left with no recourse but to get down to business. I shudder to think what would have happened if we had gotten involved in one of those famous arguments over the shape of the table, which were so prominent for example in the Vietnam negotiations. Can you imagine the number of possible designs to accommodate fifteen nations? And if we had been able to come up with a geometric Rubik's cube solution, there would have been no way of redesigning it in time to accommodate our newest and sixteenth member, Spain, which just two weeks ago took its place in the Alliance, an evidence of the vitality and attraction of NATO today. The round table reflects the reality and strength of the Alliance: we are a community of sovereign nations, with different views and different traditions, joined together for our common security. We don't operate with a single voice as in the imposed unity of the Warsaw Pact to the East—sometimes we don't even sing the same tune—but overall there is a harmony among the many voices around the table—and in the fact of our unity.

THE UNIQUENESS OF AMERICA

Within the Alliance, and indeed anywhere in the world today, the United States is unique among modern nations. It is not a homogeneous ethnic "nation"; it is not the heir to some historic monarchy or empire; it is not a unified religious community; it is not a single linguistic group; it does not have a particular cultural tradition stretching back several millennia. Indeed, we have within our borders more variety and innovation than in the rest of the NATO Alliance combined.

The United States represents an act of will. Its creation by a remarkable generation of men and women was a conscious effort. And we continue today, ever striving, ever yearning, ever seeking higher ground and a better path for all humankind.

New York City, where I served six years at the United Nations, is the most truly heterogeneous and cosmopolitan city in the world. In connection with that primal urge to feed oneself, you can eat everything in New York, from Japanese sushi to German bratwurst, from Spanish paella to Moroccan couscous, from Chinese won ton soup to Russian borscht—not to mention British lambchops or Kansas City prime beef. This gastronomic richness of course poses a serious threat to your waistline if you work at the United Nations. Some of my more athletic colleagues were even driven to exercise. For my part, I find remarkable satisfaction in watching someone else jogging. I belong to the school of Robert Benchley, who wrote that whenever he felt the urge to exercise, he carefully lay down until the feeling passed away.

Despite our great variety, and our unique historical origins, there is no question that we are a nation. Both Americans and foreign observers agree, and have agreed since de Toqueville's visit in the 19th century, and even earlier, that there is something distinctive about the American character and outlook. There is an openness to new people and new ideas, a positiveness in approaching problems, a confidence in the ability of people to work together to overcome almost any obstacle. Indeed, some of our more cautious and traditional friends sometimes find

us too informal, too confident. At times they would doubtless feed us pessimism pills if their chemists could invent them.

These American qualities were developed by the people themselves, by virtue of common experience and conviction. We have no authoritarian state which imposes a unity of views. On the contrary, the free-wheeling structure of our society and economy, and the open nature of the American political system, with its federal structure, its weak party organization and emphasis on the role of individual senators and congressmen; the deliberately established balance of power between legislative, executive, and judicial branches; the vigor of the press and other public institutions—including especially our great universities—virtually ensure the maintenance of pluralism.

This very pluralism is an essential part of that strikingly special American character. Indeed, at times it makes it difficult for us to deal with societies steeped in age-old customs. We assume that people with different backgrounds and ideas will be able to cooperate for common purposes because we have achieved such cooperation in the US. We assume that peaceful social change and democratic politics are possible in a society with many different groups because of our own successful experience, which has had to overcome divisions deeper than those which often seem so intractable in many other countries.

I recently saw a report of an international opinion survey comparing some twenty-six countries, which underscores the unique character of Americans, even within our own diversity. Eighty percent of the Americans said they were proud to be a citizen of their country, while only minorities in other countries responded with that pride in their own societies. The citizens of the US were by far the most prepared to fight to defend their country—some seventy percent of Americans said they would, whereas only minorities would in other countries. The citizens of the US also had more confidence in their institutions, and claimed to be among the happiest, although the Irish took top marks in that latter category—which should not surprise anyone who knows the charms of the Emerald Isle. Also of interest, Americans reported themselves to be by far more religious than citizens of other countries in the poll. While I hesitate to put too much weight on the specifics of a particular poll, the broad characteristics shown here do underscore both the strengths and the uniqueness of the country which we represent. We are an optimistic people—by nature and by experience. When mountains get in the way, we move them.

THE UNITED STATES AND THE WORLD

Americans have traditionally focussed most of their energies and interests inward. From the time of George Washington's admonition against "entangling alliances", there has been a caution about world involvement and a preference for domestic concerns which has never totally disappeared, even today in a period of great and necessary interdependence among the peoples of the world.

At the same time, when the US has involved itself with the outside world, it has done so with extraordinary commitment, enthusiasm, and sense of purpose. Active American engagement with the world goes back to the earliest days of the republic. Our diplomacy traces its origins to Benjamin Franklin, whose mission to Paris was instrumental in obtaining support for the thirteen colonies in their struggle for inde-

pendence. Our major role in world trade goes back to the days when the new republic was exporting everything from southern cotton to New England ice—this latter a brilliant commercial idea in the days before mechanical refrigeration, and something of a logistical feat in delivering it unmelted to tropical ports. Technologically, just as American commercial aircraft have revolutionized transportation in the twentieth century, so too the American clipper ship was the acknowledged leader in world commerce in the days of sail. And just as our concerns today turn to the protection of international trade and resources, so too some of our earliest conflicts had to do with our trading activity, from the Caribbean and Europe to the Barbary Coast of North Africa. Our concern with restricting outside intervention in the Americas, as today in Central America, has parallels all the way back to the early 19th century and the proclamation of the Monroe Doctrine. Our efforts to establish a code of international conduct continue today—as in the effort to compel the Soviet Union to act with restraint and responsibility in today's dangerous world. The challenges have become very much greater.

American engagement has not always been successful in extending our view of a world based on freedom and individual opportunity. The World War I slogan about "a war to make the world safe for democracy" turned to bitter irony with the rise of new and aggressive dictatorships in the 1920s and 1930s. But over the course of the last fifty years we have been quite successful, although at great human and material cost, in shaping a world order in which our ideals can thrive. The list of institutions which we have had a major role in establishing, and on which the free, open, dynamic world structure depends, is itself impressive testimony to our energy and our initiative: the United Nations; the World Bank; the International Monetary Fund; the Organization for Economic Cooperation and Development (originally responsible for the Marshall Plan which restored Western Europe after World War II); the General Agreement on Tariffs and Trade. Perhaps the single most significant of all these institutions, in shaping the peace and ensuring the structure of global prosperity, has been the North Atlantic Alliance—NATO.

THE NATO ALLIANCE

Our present commitment in Europe is the largest, the most important, and the most durable international involvement we have ever undertaken as a nation. It reflects the recognition that a sporadic involvement at times of crisis, as in the two devastating World Wars of this century, is inadequate to protect the peace and secure American and Western interests in an age of totalitarian power and atomic weaponry. Our membership in the NATO Alliance, which is the essential operative expression of that commitment, represents a lasting decision of principle, with all of the advantages, responsibilities, and difficulties of a long-term relationship. One of Groucho Marx' classic lines was: "I wouldn't join any club that would have me for a member." NATO, however, is one club that we are extremely proud to have joined, and we rather believe the other members are pleased with our mutual decision.

Only two days ago the NATO chiefs of state and heads of government met in Bonn to review the state of the Alliance and the problems facing us for the rest of the 1980s.

This was an extremely important opportunity for President Reagan to meet with his colleagues, to hear their views, and to set forth our concepts for the future, for a peace in freedom. It was a most productive and successful gathering, and we are deeply grateful to our German hosts for the efficient and hospitable arrangements.

One of the things underlined by the Summit in Bonn is that the US-European relationship is not temporary. Despite the surface arguments—and we do have them—the Bonn Summit reaffirmed most strongly the essential unity of views on the international situation and the importance of the trans-Atlantic tie. In particular the Summit highlighted the vital contribution made by US forces in Europe. I am personally convinced that US forces in Europe are and will remain an essential element of Western and US security for the foreseeable future. As President Reagan said at Bonn, NATO remains the foundation of American foreign policy, and there will be no unilateral withdrawal of US troops from their European commitment. There is no other structure or formula which could replace the stabilizing and deterrent function of numerically significant and highly capable US forces in place on the continent.

Nor is there any need, it seems to me, to change the fundamental basis of Alliance strategy. We have all read the arguments of those who question flexible response, the deterrent role of nuclear weapons, or the need for an increased conventional effort. But nothing in the present debate changes two basic facts:

First, NATO's deterrent strategy, based on the combination of the conventional and nuclear elements of our forces, has kept the peace successfully for over three decades. A distinguished European said not long ago: "Europe in all its long history has seldom known peace and has never known prosperity. For the last three decades it has had both." This is due to NATO in large part.

And second, that in the presence of excessively large and rapidly modernizing Soviet conventional and nuclear forces, it would be irresponsible madness for the West to give up any element of its forces or its strategy. We can well ponder the words of a Soviet diplomat at Geneva recently—"We Soviets are neither idealists nor philanthropists."

As agreed at Bonn this week, we need to improve all elements of our own forces. And we need to pursue efforts to bring the Soviets to reduce their forces through realistic arms control. We cannot disarm unilaterally—as some naive critics suggest. That would be an invitation to aggression. It would, moreover, destroy any hope of inducing the Soviets to negotiate.

It is a source of great concern to me, and I know it must be puzzling to you, that there is so much ignorance in the current debate on nuclear weapons, NATO, and the relations with America and the Soviet Union. It is almost as though the so-called peace movement had no inkling of how peace broke down in Europe in the 1930s; how it was restored; and how it has been maintained. However, the uninformed criticism that we hear, shrill as it may be, is the view of a small minority. The polls continue to confirm, and Allied governments continue to demonstrate, that the overwhelming majority in all Alliance countries remains convinced that collective security in NATO is the only way to preserve peace and protect their interests. The percentages in the polls consistently run in the seventies, even in countries where specific programs, such as nuclear weapons, cause concern.

We in the West defend the right of people to demonstrate—which is not the case, of course, with the Soviet Union or the countries it dominates by force, including East Germany and Poland, where martial law was imposed at Soviet instigation. At the same time, we expect those who demonstrate to respect the rights of the majority, and the basic principles of the peaceful democratic process. I recently had occasion in Hannover in some give and take with peace group representatives to remind them now lucky they are to be on this side of the Wall. I asked them how long they thought they would be allowed to demonstrate in Moscow, Warsaw or East Berlin. They had no answer, although one or two did have the courtesy to swallow hard.

CONCLUSION

You who are graduating today have every reason to be confident that the values of freedom and individual opportunity which have characterized the United States for over two centuries, and which underlie the alliance of Western nations, will continue to prevail. As always, their preservation will require the dedication of men and women in many countries, in civilian and military pursuits alike. The attraction of those values is such that new recruits are constantly coming forward, while individuals flee those states which impose ideological straitjackets, require subservience to governing elites, and move for the suppression of individual and national identities. Over walls and through minefields, the traffic is all in our direction.

The future is with freedom. You and I have the high privilege of being directly involved in defending that freedom. Let us defend it with courage, with devotion and with dignity.●

ECONOMIC PROBLEMS IN NORTHERN IRELAND WORSEN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BIAGGI. Mr. Speaker, as chairman of the 127 member bipartisan Ad Hoc Congressional Committee for Irish Affairs, I remain deeply concerned about those factors which are standing in the way of an eventual political peaceful solution to that war torn land.

One of the most chronic of all problems revolves around the deteriorated economy of the north. New figures have just been released which show that unemployment in the six counties of Northern Ireland is at a record 21 percent. Among men in the north the figures translate into the fact that 1 out of every 4 is presently out of work.

As has been the case for years—unemployment in the minority Catholic areas of the north runs far higher than the national average. The town of Strabane which is heavily Catholic is again the area with the highest unemployment rate of 37.4 percent.

Economic problems run deep throughout Northern Ireland still another indication of the ineffectiveness of the British policy of direct rule over

Northern Ireland. Their control over Ulster has been economically, socially, and politically regressive and the policy as presently constructed can never work.

I remain convinced that the United States has a role to play in the peace process for Northern Ireland. I believe one of the ways we can be of most value would be with economic assistance directed at areas in greatest need. To that end last December I introduced H.R. 5163 a bill providing first time U.S. economic assistance to Northern Ireland. The funds under my bill would be controlled exclusively by our Government and would be sent into areas where economic problems are most acute. The funds would be used for economic relief and rehabilitation assistance for the North.

In light of the worsening economic conditions in Northern Ireland I am hopeful that there can be swift movement on my bill for the aid it provides is desperately needed by Northern Ireland and it would represent a tangible commitment on the part of the United States for the cause of peace and justice in Northern Ireland.●

REPRESENTATIVE JONATHAN BINGHAM WILL BE MISSED

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. MARKEY. Mr. Speaker, few Members are recognized as preeminent foreign policy experts in this Chamber. Congressman JACK BINGHAM is one of those Members.

Since his election to the House 18 years ago, Congressman BINGHAM has established a reputation as one of the most thoughtful and reform-minded Members of this body. He is a recognized authority on what might well be the ultimate issue this world faces.

I am speaking of nuclear proliferation.

Mr. Speaker, the detonation by India of a nuclear device in 1974 revealed what this Nation and other nuclear suppliers nations had too long ignored: The line between peaceful nuclear power and atoms for war can be easily crossed.

As a result Congress began reconsidering the nuclear marketeering this Nation had practiced for the previous 20 years. That congressional concern culminated in 1978 with the Nuclear Nonproliferation Act. JACK BINGHAM was a principal author of that act, which clearly established the United States as a nonproliferation leader of the world.

And even to this day, as chairman of the International Economic Policy and Trade Subcommittee, the gentleman from New York is fighting to see that

the letter and spirit of that law is maintained.

It has been an honor for me to work with Congressman BINGHAM on non-proliferation issues and to learn from him. In particular, his leadership in the nuclear weapons freeze and reductions resolution proved crucial in guiding that measure through the House Foreign Affairs Committee and on the House floor.

I wish JACK BINGHAM all the best in his future endeavors. I know I speak for all Members in saying that his retirement will leave a large void in the House.

We will all miss him.●

NUTRITION RESEARCH AND INFORMATION

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. WALGREN. Mr. Speaker, on June 23 the Subcommittee on Department Operations, Research, and Foreign Agriculture, chaired by GEORGE F. BROWN, JR., and the Subcommittee on Science, Research and Technology, which I chair, held a joint hearing on the Federal commitment to human nutrition research. The purpose of the hearing was to emphasize the need to stimulate human nutrition research, to develop a better understanding of the relationship between food, nutrition, and health, and to transfer the knowledge base and technology to the scientific community and the public.

This hearing was held on the anniversary of the subcommittees' hearing last June which prompted DHHS and USDA to submit the long overdue joint implementation plan for a comprehensive national nutrition monitoring system in September 1981. Thus, a portion of the hearing was devoted to reviewing the progress DHHS and USDA have made toward accomplishing the milestones established to guide the effective implementation of the plan.

Nutrition monitoring is the foundation for expanding our nutrition and health knowledge base. It is essential for insuring the safety and quality of the food supply and for assuring that the nutritional needs of the public are being met. Such information is also needed by Congress and other policymakers for planning nutrition research strategy and for establishing program priorities consistent with budgetary constraints. Yet, the subcommittees learned that the OMB, under the auspices of the Paperwork Reduction Act, has delayed or disapproved several surveys which are an integral part of the implementation plan.

Our colleague, PAUL SIMON, was the lead witness for this joint hearing on

nutrition research. He reiterated the concern that the statistical policy of the Federal Government is weak and fragmented. The broad concern that the United States lacks a coordinated and comprehensive information policy led GEORGE E. BROWN, JR. to introduce the Information Science and Technology Policy Act of 1981 which is currently before the Science, Research and Technology Subcommittee.

As Mr. SIMON pointed out, the failure to implement the national nutrition monitoring system in a timely fashion is evidence of a weak Federal statistical policy. Mr. SIMON believes that a solid information base is vital for effective decisionmaking and argues that the Federal Government is not fulfilling its responsibility to advance our knowledge of the state of our nutritional well-being in our Nation. Mr. SIMON eloquently developed those points in his testimony before the subcommittees.

Mr. Speaker, I would like to share Mr. SIMON's statement with our colleagues by submitting it for the Record.

The testimony follows:

TESTIMONY OF HON. PAUL SIMON

Mr. Walgren, Mr. Brown, thank you very much for inviting me to testify before your committees today. I commend you for holding this hearing, as a demonstration of Congressional commitment to a National Nutrition Monitoring System.

I realize that today is an anniversary hearing—that this time last year, you held a similar hearing to obtain a commitment from USDA and HHS to submit to Congress an implementation plan for a Comprehensive National Nutrition Monitoring System, as mandated by Congress in the Farm Bill of 1977. Although a plan was submitted last September with a schedule of events, it seems that there has not been adequate progress in carrying out this plan. This leads us to be concerned that the current Administration does not place high priority on nutritional research.

I am here today to lend an additional Congressional perspective in addressing the importance of a National Nutrition Monitoring System. The achievement of such a system has implications which go beyond the thorny methodological issues of combining the Health and Nutrition Examination Survey of HHS with the Nationwide Food Consumption Survey of USDA. Beneath the controversy surrounding the National Nutrition Monitoring System are several themes which emerge. In my view, these underlying themes all relate to the role of the federal government in collecting and disseminating information about the U.S. population.

First, the federal government is in a unique position to take leadership in advancing our knowledge about the human condition—in this case, nutrition and its effects on health. The challenge here today is to ask, "How can we best study the nutritional and health status of the U.S. population?" Given the enormity and complexity of the undertaking, the federal government needs to take the lead in designing a systematic, comprehensive, monitoring system which provides data in a periodic, timely, predictable fashion. This is a data base which only the federal government can provide.

Indeed, it is clear that the parts are in place: The HANES survey has well-developed measures of health status—our only national survey using actual medical exams. The NFCS, the Nationwide Food Consumption Survey has developed good methodology for measuring food intake. While I understand that there are problems in fusing these surveys (since they were originally designed with different objectives)—for example, problems such as differences in timing, differences in agency needs, increasing the burden on the participants in the study—While I acknowledge these problems, I believe they should be viewed as technical obstacles to be overcome.

I cannot believe that technical obstacles alone have held this coordination effort up for 5 years. Instead, I must express my concern that the federal government is not fulfilling its responsibility and unique position to expand our knowledge. In addition, it seems that nutritional monitoring is being placed low on the totem pole. As must be evident to everyone here, the failure to establish this monitoring system has implications for many sectors of our nation. The potential data base that could result from a comprehensive monitoring system is of great importance to other federal agencies and policy makers, to researchers, service organizations, and to agricultural markets. As a strong supporter of education programs, I believe that it is imperative that this information system be put in place, so that the data can be used effectively in our universities, schools of nursing, medical schools, and also so that research priorities can be established.

(2) A second theme which emerges from the controversy is the issue of efficiency and coordination in the federal information system. In the case of a nutritional monitoring system, we are not only trying to improve our data base, we are also trying to delete duplication of efforts. While I understand that the HANES survey (HHS) and the Nationwide Food Consumption Survey (USDA) were originally designed for separate purposes, there is not a great deal of overlap in data collection, especially with regard to the food intake and dietary status of the participants. In addition, both surveys independently derive their own samples, which again strikes me as redundant. As long ago as 1970, the GAO recommended the use of one sample for both surveys as a straightforward means of cutting costs.

I raise these points, because I continue to be concerned that there is not a strong enough statistical policy branch in OMB which could take leadership in coordinating such methodological issues. I and 30 of my colleagues in the House expressed deep concern to Mr. Stockman when the Statistical Policy Branch of OMB was abolished in April as a separate branch, its staff reduced and reorganized into a new branch which also includes regulatory review functions. I cannot help but wonder if stronger leadership in statistical and methodological coordination would have avoided the long delays in coordinating the two surveys.

(3) Finally, I would like to address the third theme related to the role of the federal government in developing good data bases. Specifically, comprehensive information systems contribute to effective decision-making in Congress. In this case, the potential use of a nutritional monitoring system is relevant to decisions on food programs, such as School Lunch, Food Stamps, Child Care Food, and WIC. I am not speaking of program evaluation, but rather of the

framework which this system could provide. For example, the demonstrated connection between good prenatal nutrition and a healthy fetus provides an informed context for deliberations on the WIC program. Secondly, a focus on the nutritional and health status of special populations, such as children, the elderly, low income families, is also informative. I understand that a HANES survey for a Hispanic population is about to begin this summer. I applaud the pursuit of such needed information, and I would like to know if any other special populations have been identified for future surveys.

In general, the word, "monitoring," of the National Nutrition Monitoring System should be underscored. By keeping abreast of the health and nutrition status of the population, the system has the potential for more readily identifying a problem, and bringing it—in an informed way—to the attention of policymakers.

In closing, I would like to reiterate my appreciation for the opportunity to testify today. The National Nutrition Monitoring System is an opportunity for improving the federal data base which we cannot let go by. I commend the committees for the pursuit of this endeavor, and I would like to lend my support in any way possible.

BIG BAD BUSINESS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● **Mr. DERWINSKI.** Mr. Speaker, an unfortunate negative attitude toward big business has developed over the years. This is an anathema that has been caused by the overpowering image or stigma surrounding business as an enemy of the public.

An accurate account of the reasons for discounting this viewpoint is contained in a commentary by William F. Buckley, Jr., which appeared in the Chicago Sun-Times of August 5. I wish to insert it for the Members' attention.

[From the Chicago Sun-Times, Aug. 5, 1982]

BIG BAD BUSINESS

(By William F. Buckley, Jr.)

A few years ago Benjamin Stein wrote a book about Hollywood in which he remarked that during the entire period he worked in the movie-TV capital, he never saw a script in which a businessman was favorably portrayed. A fortnight ago, U.S. News & World Report ran an interview with Donald Rumsfeld, who ran Jerry Ford's White House and later the Defense Department, going on to be president of the pharmaceutical company, G. D. Searle.

Rumsfeld (than whom no one in public life is brighter) discovered something very interesting when he took over Searle. Namely, that engaging in business in America is extremely difficult. Mostly this is so because of government regulation. But government tends to reflect the public need.

Rumsfeld remarks the difference in attitude in Japan and Germany, where the people think with pride about business. "It's crazy for the society to be unfriendly to enterprise. It's damaging to the country and has contributed in a major way to today's economic difficulties."

Irving Kristol somewhere along the line pointed out that there are practically no American heroes in the business community. Indeed, there are practically no names generally known to the American public who are associated with business. Who is the president of General Motors? I bet you don't know. Exxon is the largest company in the world. Do you know the name of its head? While we are at it, are you aware that Exxon's profits are down 52 percent over last year?

The kind of thing one hears about business in college is the kind of thing Professor John Kenneth Galbraith preaches. What is that? Why, in his book "The New Industrial State," he advised a generation of credulous students that major companies in America have acquired so certain a foothold that they control the circumstances of their own success. When a super-large company desires to maintain a certain level of earnings, all it has to do is contrive to do so by pulling this or that switch in the cockpit: advertising here, legislative favors there, mergers over there.

The cultural commentators teach us that all this is being done while the businessmen guzzle three-martini lunches—paid for by blue-collar workers. How Galbraith got away with that one puts him in the class of people who maneuver Niagara Falls in a barrel. Exxon lost 40 percent of its value on the stock market between 1980 and 1982. So much for controlling one's own economic destiny.

Public attitudes as organic as this one are hard to alter; but they most awfully need to be altered. Businessmen are hardly saints, but we should note here that only saints are saints.

We need to recognize that American businessmen are the people who make possible daddy's job, mother's hospital bed, junior's schooling and grandfather's burial. Unless we move away from the jacobinical attitude of business, American business is going to falter and—die.●

EXTENDED UNEMPLOYMENT BENEFITS

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● **Mr. BEARD.** Mr. Speaker, I am today introducing legislation to repeal the drastic and ill-conceived revisions made in our extended unemployment benefits program last year. In a worthy attempt to cut the Federal budget, we made some hasty decisions—most are still defensible, some must be reconsidered.

During last year's consideration of the Reconciliation Act, we altered the formula by which a State becomes eligible for extended unemployment benefits—the original 13-week extension. The revised system for calculating the insured unemployment rate threatens to discontinue this essential buffer for some of our most economically distressed States: Massachusetts, Delaware, Illinois, Ohio, and Tennessee, among others. This incredible phenomenon will take place in the very near future—September 25—necessi-

tating immediate action if we are to avert this catastrophe.

Oddly enough, these benefits are being threatened on the heels of an announcement that unemployment has reached 9.8 percent in this country—the highest level since the depression of 1929. Even more curious is the recent debate over offering an additional 13 weeks of extended benefits—a second round of benefits which will never reach the intended recipients because their State's have failed to qualify for even the first round. Obviously, we must reassess our distribution formula before we throw additional money into the pot.

Unemployment has victimized the entire country, and yet if these formula changes are implemented as few as seven States will be eligible for extended benefits by year's end. Some 200,000 unemployed workers will lose their only source of financial sustenance.

I urge my colleagues to join me in reversing last year's decision and to partake in devising a system which fairly distributes these essential benefits throughout the country.●

SHERIFF H. "CURLY" MOORE—
ARIZONA SHERIFF OF THE
YEAR

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● **Mr. STUMP.** Mr. Speaker, those we elect to be our law enforcement leaders can dictate, or they can build a strong partnership in their community to make law enforcement a community effort.

Harold H. "Curly" Moore is a sheriff who believes that law enforcement should be a community effort. The people of Yavapai County have shown their support for his approach to law enforcement by electing him sheriff for the past 6 years. And, his fellow sheriffs in Arizona have shown their support by electing him Arizona sheriff of the year.

Curly was a member of the Arizona Highway Patrol for 21 years, with a diverse number of responsibilities including the special tactical squad. It was during his tenure as district supervisor in Prescott that he became concerned with the facilities and operation of the sheriff's office in Yavapai County.

Since his election in 1976, Curly has overseen the opening of the newest and most-effective jail facility in the State, as well as establish a successful youth program to close the gap between youth and law enforcement.

I feel fortunate to have known Curly since my days in the Arizona Legislature, and congratulate the Arizona

County Attorney's and Sheriffs' Association for recognizing Curly's contributions to law enforcement and his community. Yavapai County can be proud of their sheriff. ●

FLORIO REPORTS ON JAPAN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. FLORIO. Mr. Speaker, I rise to report to the House concerning my recent visit to Japan.

PURPOSE AND OVERVIEW

The principal purpose of my visit which took place between July 6 and July 10 was to serve as a member of the U.S. delegation attending the second session of the Japan-United States Rail Congress.

This organization, whose membership includes representatives of both Houses of the U.S. Congress and both houses of the Japanese Diet, was formed a year ago to promote the development of Japanese-style, high-speed passenger rail systems in the United States.

Although most of my activities during my stay involved the Rail Congress, I also took this opportunity to discuss trade problems with Japanese business leaders and Government officials. In particular, I met with executives of Japan's automobile industry concerning the huge automobile trade imbalance between our two countries.

Mr. Speaker, as the chairman of the House subcommittee which has jurisdiction over railroads, I have admired Japan's achievements in rail technology for a long time. Along with the rest of the world, I have also been impressed by the rapid growth of Japan's economy during the last decade and its ascension as a major power in world trade.

This trip, however, gave me a new and deeper appreciation of the important role government has played in the startling achievements Japan has made in the areas of both transportation and world trade. It also has shown me clearly that today the health of not only our own economy but the world economy depends directly on fair and open trading relationships between nations.

While Japan's economic progress remains the envy of most nations of the world, I believe Japan today is at a crossroads in its economic history. The path it chooses from this point forward will either promote worldwide economic recovery or prolong the recession which has sapped the strength of the world's major economies for the last 2 years.

Japan has two choices. It can truly open its market to imports and make job-creating investments in those

countries where it has captured significant shares of domestic markets; or it can remain a no-man's land from a trade standpoint.

If the first choice is made, our world trade system will be fortified and all nations will benefit. On the other hand, if the latter option is chosen, the cry for protectionist restrictions against trade with Japan will grow even more intense, and very likely the system of free trade principles and agreements under which world trade has been conducted for the last 50 years will fall apart.

THE JAPAN-UNITED STATES RAIL CONGRESS

The rail portion of the trip began with a meeting between Mr. F. Takagi, the president of the Japanese National Railway (JNR), his executive staff and the U.S. delegates to the Rail Congress. We were later joined by key members of both houses of the Japanese Diet who are responsible for JNR and transportation matters.

Mr. Takagi praised the recent creation of the American High Speed Rail Corporation, which is chaired by former Amtrak president Alan S. Boyd. Under current plans, American High Speed Rail Corporation would become the development arm in the United States for the kind of high-speed bullet trains that JNR has operated in Japan for the last 18 years.

In 1964, JNR opened its first bullet train or shinkansen, as it is called in Japan. The Tokaido line, which operates between Tokyo and Osaka, serves 30,000 passengers per day and produces an annual profit of \$1.2 billion.

This service operates at a maximum speed of 160 miles per hour. Each day 255 frequencies are operated along the 343 miles between these two large Japanese cities. A train, therefore, leaves Tokyo and Osaka on the average of every 10 minutes.

Seven and a half years of development and construction preceded the opening of the Tokaido shinkansen in 1964. A completely new track, and communications and signaling system were constructed for the shinkansen. Only concrete ties were used and an entirely new overhead electrical system had to be constructed in order to provide power for the shinkansen trains. Due to Japan's extremely mountainous terrain, 67 tunnels had to be constructed along this route. The total construction cost was \$1.5 billion. This new right-of-way is for the exclusive use of the shinkansen—other passenger trains and freight trains do not use this track.

Since 1964, JNR has constructed three additional shinkansen lines: the Sanyo extension from Osaka to Hakata; the Tohoku line from Omiya, northwest of Tokyo to Morioka about 400 miles to the north; and the Joetsu line from Omiya to Niigata which is about 180 miles to the west of Tokyo.

I rode on the Tohoku shinkansen which just opened last month and cost an estimated \$10 billion. The Joetsu line will not open until the end of this year. Its construction cost is estimated to be \$7 billion. The Sanyo extension was built for about \$3.6 billion, bringing the total amount of money JNR has spent on shinkansen development to about \$22 billion. To put this in perspective for my colleagues, \$22 billion is about 11 times as much money as has been spent to date on improvements to the Northeast corridor.

Although this represents a huge capital investment, undoubtedly the largest investment in passenger rail service made by any nation in the last 50 years, the expectation is that it will pay off. Revenues from the Tokaido line have already repaid its construction loans and JNR has great hope that both the Tohoku and Joetsu lines will achieve similar revenue success.

The cost-effectiveness of the shinkansen service is in marked contrast to the heavy losses JNR incurs on its other passenger and freight operations. Overall, JNR's revenues have fallen \$30 billion short of its costs since 1966, and it has incurred liabilities which amount to an additional \$65 billion.

JNR's losses for this fiscal year account for a staggering 18 percent of the total budget of the Japanese Government. Largely due to JNR's skyrocketing deficit, Japan's national deficit today is larger, on both a per-capita basis and as a share of GNP, than the deficit of any other highly industrialized country with the exception of Canada.

By comparison, total U.S. expenditures for all rail assistance between 1946-82 was only about \$13 billion. And, Federal assistance for Amtrak, our Nation's national passenger railroad, represents only about 2 percent of total Federal spending on transportation for the last 35 years.

Clearly, Japan gives its rail system much higher priority than does the United States. There has been no commitment on the part of the U.S. Government that can in any way compare with the Japanese Government's underwriting of the \$22 billion cost of developing the existing shinkansen system and the huge sums needed to develop the additional proposed shinkansen routes.

JNR's losses, however, have become greater than the Government is willing to bear. Enormous inefficiencies result from JNR's route structure, its labor costs, and political constraints on the management of its system. As a result, JNR has failed to adjust its system and its cost to the declining freight and passenger volume it now handles.

In the last 20 years, JNR's share of the intercity passenger travel market

has fallen from 51 percent to 25 percent while the car share has risen from 5 percent to 41 percent. In 1960, JNR carried 40 percent of Japan's domestic freight business; today it carries only about 8 percent.

Despite this decline in demand, JNR's 21,300 kilometer—13,236 miles—system has grown rather than shrunk over the last 30 years. For example, unprofitable local rail lines accounted for 37 percent of JNR's deficit in 1979. These lines represented 45 percent of JNR's total system miles, yet carried only 5 percent of its traffic and produced only 7 percent of its revenues.

In addition, JNR has a labor force of about 410,000 people which probably gives it more employees on a per mile basis than any other operating railroad in the world. Those workers have very costly fringe and pension benefits.

By 1985, estimates are that there will actually be more people receiving pension benefits than there are contributing workers to support them. With life expectancy in Japan actually higher than it is in the United States and retirees receiving up to 70 percent of their final pay, pension costs will continue to drain JNR's financial resources for the foreseeable future.

JNR's contribution to the pension fund already amounts to \$1.5 billion annually. By 1985, estimates are that the fund will need an additional \$400 million a year just to remain solvent.

As a Government-owned national railroad, JNR in the past has not been granted the authority to make radical cost reductions which would result in a more efficient operation. JNR had to obtain approval of any fare or freight rate increase from the Minister of Transportation. More fundamental decisions, such as route restructuring, had to be debated and approved by the Japanese Diet.

This past year, however, legislation was passed in Japan that requires JNR to scale down its operation. Under this plan, JNR's work force is to be reduced from 410,000 to 350,000 by 1985 resulting in a 25-percent increase in labor productivity. JNR was also authorized to eliminate up to 14 percent of its route miles and to concentrate its resources on intercity and commuter passenger services.

More than 700 passenger stations and 550 freight stations are to be closed. JNR has also identified 4 billion dollars' worth of land that it wants to sell. And, JNR has received specific authority to adjust fare and freight rate structures.

Even with these reforms, JNR estimates it will have losses totaling \$4 billion a year by 1985. By comparison, JNR has had a deficit averaging \$3.5 billion per year since 1975. Clearly, greater cost reduction must be achieved if JNR is to remain a viable system.

As I talked with the JNR executives and the members of the Japanese Diet, I found myself reflecting on the enormous similarities between JNR's current financial predicament and that which confronted U.S. railroads just a few years ago.

Until recently, an analogous situation confronted the Consolidated Rail Corporation (Conrail) which was created by Congress in 1976 out of six bankrupt railroads that operated service in 16 Northeastern States. After the Federal Government spent \$3.3 billion to improve and rehabilitate Conrail's system, Conrail's revenues still were projected to fall \$2 billion short of its costs by 1985.

As a result, I sponsored legislation in the 96th Congress which gave the railroads, including Conrail, the freedom to adjust rates so that revenues could in fact cover the cost of operation. In addition, legislation I sponsored in the 97th Congress gave Conrail the authority to terminate service over unprofitable lines and resulted in other major savings.

An agreement with its employees to forgo \$200 million wages;

Wage concessions by management employees totaling \$30 million; and

The elimination of about 9,000 of its 71,000 employees for labor savings of approximately \$100 million annually.

Under this legislation Conrail has announced plans to terminate service on about 15 percent of its 17,700-mile system. In addition, the costly commuter service which Conrail has operated in the Northeast will be turned over to the local commuter authorities or will be assumed by the newly created Commuter Services Corporation.

The overall effect of these savings has been dramatic. Conrail was able to cut its costs by 13 percent in 1981. Conrail's 1980 deficit of \$244 million, as a result, was transformed into a profit of \$40 million for 1981.

I also sponsored legislation in this Congress that gave Amtrak the ability to discontinue service on any passenger route that did not meet statutorily established ridership and revenue criteria. This legislation also required Amtrak to achieve savings in its deficit-ridden food and beverage operation. Amtrak, in addition, already has the ability to adjust its fares as necessary without regulatory or congressional involvement.

Thus, from my discussions with JNR executives and members of the Japanese Diet, I found that there were important lessons to be learned from each of our Government's involvement with railroads. The U.S. experience should demonstrate to the Japanese that government interference in the management of railroads may cause scarce financial resources to be expended in ineffective ways, ultimately undermining a system's viability.

On the other hand, the Japanese experience should make it clear to the United States that government must share in the enormous costs of developing and constructing technologically advanced, high-speed passenger rail systems. The payback period is simply too long and the development costs too great to expect private interests to assume the expense alone.

For example, JNR has been developing and testing a magnetic-levitation (mag-lev) train for the last 20 years. This train is currently being tested on a special elevated guideway, 8 kilometers—5 miles—long, located on Kyushu, Japan's southernmost island.

A record speed of 304.7 kilometers per hour—189.3 miles per hour—was achieved with a two-car train set on the occasion of the U.S. delegation's visit to the test site. Yet today, 20 years after development of this system began, not a single individual has ever ridden on it.

Testing with people aboard the mag-lev cars will begin later this year. JNR estimates that the mag-lev system is still 5 to 10 years away from being operationally feasible.

Thus, if yet unforeseen delays are not encountered, 30 years of testing and development is likely to precede the initiation of mag-lev service in Japan. Clearly, only government, not the private sector, could justify allocating resources to such a project over this length of time. Although efforts are being made to develop high-speed rail service in the United States with private funds, I sincerely believe such projects will not be successful without active government involvement.

JNR has actively sought private sector funding for a bullet train project between Los Angeles and San Diego. So far, these efforts have resulted in a commitment from the Bank of Tokyo to try to sell shares in the project worth \$500 million if U.S. investors will commit \$1.5 billion to the project. The First Boston Corp. has agreed to try to market the U.S. interests in the project. As yet, no money, public or private, has been committed to the construction of this project.

JNR is eager, however, to assist in the development of American high-speed rail systems. JNR's engineering and development team has just completed two major shinkansen lines in Japan, and this team is not ready to begin work on the next proposed line. Thus, to a certain extent, JNR views high-speed rail projects in the United States as a way of holding its development team together during this period before the next shinkansen project begins in Japan.

In my view, JNR has considerable talent and expertise which could be of great use in developing improved, high-speed rail service in areas of the

United States where ridership would be high enough to justify the cost of implementing such service.

Notably, cities in the Northeast seem to rank highest in rail ridership. There are at least two important reasons this is true. First, passenger railroads have operated in the Northeast for a longer period of time than elsewhere in the country, and thus there is a larger dedicated ridership in that region. Second, the Federal Government, through both Amtrak and the Northeast corridor project, has expended substantial amounts of money in order to improve rail passenger service in that area.

As a result, the Northeast corridor service has the greatest potential for being profitable of any rail passenger service in the United States. Even under the constraints rail service in the Northeast corridor has operated for the last 5 years, Northeast corridor revenues cover about 90 percent of its costs. Thus, from a practical standpoint, the Northeast corridor is better able to support the cost of developing bullet trains or other high speed service, than most other areas of the United States.

Although only about 1 percent of all U.S. intercity travelers use rail passenger service, the percentage of travelers who use rail service between certain cities in the Northeast is much higher. For example, rail's share of the rail-air market last year between Philadelphia and New York City was 97 percent; between New York City and Baltimore, 64 percent; and between New York City and Washington, D.C., 27 percent.

As a result, I am especially pleased that the administration and my subcommittee recently have reached an agreement which would permit many of the Northeast corridor improvements to be completed as had been originally planned. Under legislation my subcommittee has reported, the full \$2.5 billion which Congress authorized for the Northeast corridor project would be spent.

As you know, the administration last year had proposed reducing funding for the corridor project by \$310 million. The agreement which I reached with the administration on this new legislation, I believe, represent their willingness to see the corridor project completed to the full extent of the funds authorized.

In addition, this legislation provides funds for the development of rail corridor service between Philadelphia and Atlantic City, N.J., and between New York City and Buffalo, N.Y. Both of these corridors connect with the Northeast corridor main line.

It should be no surprise that the two corridors which connect with the Northeast corridor ranked among the highest of the 25 corridors studied by Amtrak and the U.S. Department of

Transportation. The corridor between New York City and Buffalo, N.Y., had the best cost projections, and the proposed corridor between Philadelphia and Atlantic City, N.J., ranked highest in terms of ridership.

According to this study, ridership on the Philadelphia-Atlantic City corridor would be more than twice as high as ridership on the Los Angeles-San Diego corridor. Projected annual ridership on the Philadelphia-Atlantic City corridor is estimated to be 4 million, and, on the basis of passenger miles per train mile, this corridor would rank higher than any other comparable service in the Amtrak system today. The Atlantic City corridor also was shown to be highly fuel efficient. In fact, it was the only 1 of 25 corridors studied which was shown to be more fuel efficient than bus service.

As rail operators all over the world know, the ability to compete in today's transportation market is directly related to fuel efficiency. Thus, fuel efficiency of the Atlantic City corridor is particularly important in evaluating this corridor's future profitability.

It was the profit potential of this corridor that led Amtrak recently to express its interest in operating rail service between Philadelphia and Atlantic City. In a recent letter to me, former Amtrak President Alan Boyd, said:

We believe that this service has the potential to break even or be profitable and could contribute to ridership in the Northeast Corridor. Based on our current estimates, ridership in the corridor could increase by 4.5% . . . Amtrak would be willing to operate high frequency (peak and non-peak) Philadelphia-Atlantic City service during most of the day, connecting the Northeast Corridor at Philadelphia.

In recognition of the competitive strengths of the Philadelphia-Atlantic City corridor and New York City-Buffalo corridor, and the contribution these corridors will make to the overall performance of the Northeast corridor, the rail legislation which my subcommittee recently allocates Federal funds for capital improvements on both of these corridors. Under this legislation, the Federal Government would complete capital improvements on these two corridors and Amtrak or other entities would operate the service.

Thus, the Federal commitment to rail improvements in the Northeast corridor continues to grow. The Federal Government is looking at not only the improvement of the basic corridor infrastructure but also the development of rail service that connects and feeds into the corridor.

In my view, the Northeast corridor and any related connector service should be viewed as one system whose principal termination points are Washington, D.C., and New York City. This distance is roughly 300 miles and ideal for purposes of higher speed service,

such as bullet trains offer. In addition, as a result of the improvements made under the federally funded Northeast corridor project, much of the track work, signaling and other improvements needed to operate high-speed service have been completed in whole or in part.

In this regard, I am very proud of the agreement between Japan and the United States under which Japan has provided technical assistance to the United States in the development and planning of the Northeast corridor rail improvements. This agreement, which has been in effect for the last 5 years, was just recently extended for an additional 3-year period.

I believe this agreement provides the perfect vehicle under which new rail technology may be introduced in the United States on a continuing basis. I believe, therefore, that the Governments of both Japan and the United States should work together to develop a new master plan for the Northeast corridor that would build upon improvements already completed or under way and that would also involve the development of rail service which feeds into the Northeast corridor main line.

Already, trains in the Northeast corridor operate at speeds of up to 110 miles per hour. With additional improvements, this speed could be increased making train travel even more attractive than it is now.

The Federal Government must continue to play an important role in insuring that funds are available for these improvements. But, the United States has much to learn from Japan where it has been demonstrated that high-speed rail service can compete with car and air travel and, at the same time, be cost effective. With Government support and the technical assistance of the Japanese, I feel certain the Northeast corridor can become a continuing example of advanced high-speed rail passenger service in the United States.

JAPAN AND WORLD TRADE

Japan is the second largest economy in the non-Communist world, surpassed only by the United States. During the last 25 years, Japan's gross national product (GNP) has grown at an unprecedented pace, more than three times as fast as the recent growth rate in the United States, Canada, and Western Europe.

Unlike in Western economies, this phenomenal rate of economic progress has been achieved without fueling domestic consumption. Instead, enormous increases in export sales and an insignificant volume of imports have been the key to Japan's rapid economic development.

Japan, the world's second largest economy, imports actually less manufactured goods than the country of

Switzerland whose economy is 11 times smaller than Japan's. Although exports account for only 12.5 percent of Japan's total GNP, less than in West Germany for example, about two-thirds of the 4-percent rise in Japan's GNP during the most recent fiscal year can be attributed to export trade.

Between 1968 and 1981, Japan's exports have grown almost 1,200 percent. Japan has targeted and, in most cases, successfully captured significant shares of world markets—first in textiles, color televisions and all types of electronic entertainment equipment, then in automobiles and now in computers, chemicals, and aerospace.

Japan's success in the export field has not been accidental. Through tax incentives, research programs, and export financing, the Government of Japan has aggressively promoted the exportation of Japanese products. For example, in 1980, 43 percent of all Japanese exports were sold with financing credits provided by the Government. By contrast, only 8.2 percent of U.S. exports were sold with Government credits.

But, Japan's assistance to its export industries goes far beyond financing credits. Japan, through its Ministry of International Trade and Industry and the Japanese External Trade Organization maintains an extensive communications system through which it shares information with the financial community and business and industry concerning world market trends.

These efforts led to the development of an economic strategy 20 years ago which has caused Japan's productivity in heavy, complex industries to grow by leaps and bounds. In 1959, Japan's exports consisted mainly of textiles, toys, and other products which did not require highly skilled labor or costly investments in plant and equipment.

In each of the last 20 years, however, Japan has invested the equivalent of 30 percent of its GNP in its industrial infrastructure. As a result, Japan has become a major competitor in world markets such as steel, automobiles, shipbuilding, chemicals, electronics, and many others.

For example, by the midseventies Japan had become the world's most efficient producer of steel. While the U.S. steel industry increased its investment in plant and equipment an average of only 4 percent per year between 1966 and 1972, during this same period of time, the Japanese steel industry increased its capital investment on the average of 23 percent a year.

Similar investments were made in developing Japan's highly successful automobile and consumer electronics industry. For example, due to capital improvements productivity in Japan's auto industry has nearly doubled during the last 10 years.

I visited several of Toyota Motor Corp.'s auto production facilities. The size of Toyota's labor force has not increased significantly in the last 10 years, yet, today Toyota produces about twice as many automobiles as it did 10 years ago. Robotics, computer-driven production methods and other innovations in plant and equipment have made the difference.

Japan's automakers produce an average of 40 cars per man-year of employment, and one Datsun plant has achieved a production rate of 78 cars per man-year of employment. In the United States, the average is 11 automobiles for every man-year of employment.

To a much greater extent than in the United States, Japan's incredible investment in plant and equipment was financed through long-term debt financing. These loans, held by Japan's large central banks and often Government backed, have been the source of 85 percent of Japan's capital investment over the last 20 years. Only about 15 percent of Japan's capital investments were financed through equity capital issues.

On the other hand, the U.S. experience has been quite different. Debt financing of U.S. business and industry activities is higher today than at most other times in the last 30 years, yet equity issues still account for more than twice as much business financing as debt instruments.

This difference in the way business has been financed in the United States and Japan accounts for many of the differences in our economies. It also has a great deal to do with the ability of our two economies to compete in the future.

Reliance on debt financing, for example, has been a major driving force behind Japan's development of heavy industry in which land, facilities, and equipment serve as collateral for loans. Since machinery and physical facilities have provided the security for business financing and therefore business expansion, debt financing may also explain why Japan has gone much further than the United States in investing in new manufacturing technologies, such as robotics and computer-driven industrial systems.

Debt financing, in part, also accounts for what has been described as Japanese management's farsightedness and flexibility. The argument goes that long-term debt financing permits Japanese business and industrial managers to make long-term strategy decisions which may not have a short-term payoff. On the other hand, equity financing in the United States is often blamed for U.S. managers' obsession with showing an immediate short-term return on investment.

Although there is undoubtedly some truth to this observation, the Toyota officials with whom I met minimized

this distinction. Mr. T. Toyoda, director of the largest assembly plant in Toyota City, responded that all private managers, the world over, are charged with the same responsibility—to return a profit on investment. While long-term financing may in some cases give managers a little longer time to show a profit from a particular investment, the profit must nevertheless be forthcoming.

With respect to the flexibility of Japanese managers, debt financing can also be a double-edged sword. On the one hand, the pressure to show an immediate return on investment for stockholders is somewhat less, but on the other, it is sometimes more difficult to change courses to accommodate changing circumstances.

For example, Japan's Mitsui Corp. entered into an agreement with the National Iranian Oil Co. 14 years ago to develop jointly a petrochemical plant in Iran. This agreement was reached, prior to the revolution which led to the Ayatollah Khomeini's assumption of power. Since the revolution, work came to a complete halt, and the physical plant was badly damaged during the recent fighting between Iran and Iraq. As a result, the Government of Japan was forced to take the venture over as a national project.

Although no one could expect Mitsui's managers to have foreseen the Iranian revolution, questions can certainly be raised as to why Mitsui continued its activities in Iran despite the political instability and the huge losses it incurred. Mitsui spent \$4 billion on the development of this project despite many signals over the years that it would never be completed or permitted to operate.

In part, debt financing itself may have contributed to Mitsui's managers reluctance to withdraw from this deal. Mitsui's loans, bottom line, were for the production of plant and equipment to be used in this facility. Failure to complete the project as planned meant there would be insufficient collateral to secure the loans.

Debt financing has also caused Japanese industries some difficulties in competing in world high-technology trade. High-technology industries such as computers, data processors, and semiconductors are not industries which require large investments in plant and equipment. Manufacturing productivity tends to be less important in high-technology industries. Instead, a firm's ability to compete is often a direct function of the share of new, innovative technology it commands.

Competition in high-technology markets, therefore, presents a new challenge to the Japanese. Rather than adapting and improving upon technology that has been developed elsewhere, Japanese high-technology

firms will have to develop new technology on their own. While Japan has shown that it can compete successfully in auto and electronics trade where production efficiency is the determining factor, it has yet to demonstrate a capability in the area of high-technology innovation.

For example, even Japan's recent, highly publicized and successful competition in the semiconductor market is due less to innovation than to a miscalculation on the part of its U.S. competitors. The technology which Japan used in the production of its 64K semiconductor is not new. On the other hand, the U.S. competitors were attempting to enter the market with new technology that would put them light-years ahead of their nearest rival. The new technology being developed by the American firms was flawed, but it is being perfected and can be expected to enable these companies to compete successfully in the future.

Similarly, Japan's success in the auto industry is due more to its cost-effective production processes rather than innovation. Through the use of robotics and computer driven production methods, Japan's automakers are able to produce automobiles that are remarkably defect free and that use comparatively little human labor. But, there is nothing particularly sophisticated or advanced about the technology used in Japanese built cars. For example, German automakers more than Japanese have been responsible for the great advances in fuel economy through innovations in fuel injection and other equipment.

Thus, Japan has been most successful in adapting and improving upon already existing technology, and then using this technology to make products in a cost-effective manner. Evidence of this approach can be seen in the much higher priority Japan has given to the training of engineers than to scientists. Japan turns out as many engineers each year as the United States; yet, there is little emphasis placed on training scientists to perform basic research and development. In fact, many Japanese scientists go to other countries to perform basic research.

Scientific achievement, unlike engineering, is most often the product of individual genius. Some, therefore, believe the Japanese penchant for collective action and group consensus creates an unfavorable environment within which to promote scientific research.

A more fundamental reason for this situation, however, is the fact that Japan spends a relatively small percentage of its GNP on research and development. On the other hand, the United States spends more of its GNP on research development than any other industrialized nation, followed

by Switzerland, West Germany, Britain, and the Netherlands. Japan ties with Sweden for sixth place.

Thus, Japan clearly must increase its ability to develop innovative technology if it is to compete successfully in the high technology markets of the world. But to do this, certain changes may have to occur in the way Japanese business is financed and managed.

For example, not only is debt financing somewhat ill suited for the financing of high-technology industries, which are more knowledge intensive than capital intensive, but the advent of high interest rates in Japan has made long-term debt financing more and more costly to business and industry. Thus, equity financing has begun to play a greater role in financing Japanese business activities. As this trend develops, Japanese managers, like their U.S. counterparts, will be forced to pay greater attention to the short-term payoff of their investment and business decisions.

These changes are taking place at a time when Japan's export markets, principally the United States and Europe, are in the throes of the deepest recession in the last 30 years. As a result, worldwide demand remains low, and Japan's economy is beginning to feel the pain of reduced demand for its products.

For the first time in 30 years, Japan's GNP registered a substantial 3.5-percent decline in the first quarter of this year. In addition, domestic demand has been falling in Japan as a result of an austere national budget policy. Japan's Prime Minister Suzuki has given highest priority to the goal of achieving a balanced budget by fiscal year 1984.

Japan's current fiscal year budget represents a total spending increase of only 6.2 percent and is the most austere budget in the last 26 years. The Prime Minister has proposed a budget for next fiscal year which represents an actual cut in most spending areas as total spending would be held to the current level while defense spending would be increased by 7 percent. Thus, Japan's national budget policies will likely continue to depress domestic consumption.

Japan has also experienced a sharp decline in its productivity growth rate. While the rate of productivity growth remains very high, it is substantially lower than it was in the mid-1970's.

These trends taken together may mean trouble ahead for Japan's economy. As it struggles to develop the ability to compete in new, high-technology world markets, Japan's exports are falling. Yet, without a strong, profitable export trade, Japan's overall economic output will fall, thereby jeopardizing its ability to compete in high technology areas.

Japan's automakers are particularly concerned about a potential decline in export trade. For example, Toyota, whose facilities I visited and management I met, exports 54 percent of the vehicles it produces each year. The United States alone accounts for 20 percent of Toyota's annual sales.

For the last 2 years, Japanese auto producers have operated under a voluntary restraint agreement which limits exports to the United States to 1.68 million vehicles annually. Compared to 1979, this represents about a 10-percent reduction in Japan's auto exports to the United States. The dollar value of these exports, however, has continued to increase as Japanese automakers have added options that have raised the price of Japanese cars being sold here in the United States.

During the period of the voluntary restraint agreement, Japan's share of the U.S. auto market has not fallen. In 1979, Japan captured about 27 percent of the U.S. new car market and has remained around that level ever since.

Thus, the voluntary restraint agreement, which could be extended for a third year starting next March, has not caused Japan's auto industry great pain. Instead, what Japan fears most is the possibility that the United States may adopt a more severe protectionist measure like local content. Such proposals have the explicit purpose of increasing the U.S. industry's share of the auto market by restricting Japanese auto imports through artificial barriers.

I discussed this matter with Dr. S. Toyoda with whom I had dinner while I was in Japan. At the beginning of July, Dr. Toyoda became the new president of Toyota Motor Corp., the product of the recent merger of Toyota's heretofore separate production company and sales company. Dr. Toyoda is the grandson of the founder of Toyota Motor Corp. Other members of the founder's family also are associated with the company.

My basic point to Dr. Toyoda was this: In the absence of a major economic turnaround, only job-creating investments in the United States by foreign producers can possibly diffuse the political pressure being the anti-import, protectionist movement. The fact is that in the United States today there are 250,000 auto production workers and 400,000 workers in auto-related industries who are out of work. No one is projecting an economic turnaround that would give all of these people jobs. In fact, the U.S. automakers indicate that only about two-thirds of these production workers would be rehired even if the industry were to return to full production.

The politics of protectionism therefore are likely to be with us for some time. Many European countries which already have market share restrictions

on foreign auto imports are considering new measures which would place even greater limitations on imports. And, Canada last month began an official slowdown of its customs clearance process for Japanese automobiles. Today, there is a backlog of 20,000 Japanese automobiles setting in Vancouver Port.

In the United States auto protectionist proposals range from outright quotas, to local content requirements to various forms of unfavorable tax treatment. Any of these, if implemented, would not only reduce Japan's share of the U.S. auto market, but also throw Japan's auto industry into a tailspin.

In my conversation with Dr. Toyoda I made it clear that without some improvement in the job situation there could be no assurance that a measure severely restricting Japanese imports would not pass. Any foreign auto manufacturer which has not established a facility in the United States, such as Toyota, could be particularly vulnerable to attack.

In response, Dr. Toyoda said his company was continuing talks with General Motors concerning an agreement for the joint production of subcompact cars here in the United States. These talks began earlier this year and are likely to continue into the fall. Toyota hopes the parties will be able to make a decision regarding the proposal before the end of the year.

Not a great deal is known about the specifics of the proposal. Apparently, one plant is being considered initially with the possibility of additional plants being set up in the future. To start, annual production would be about 200,000 vehicles of the 1.3-liter engine size. General Motors seems to be focusing more on the establishment of a west coast facility while Toyota continues to look at east coast sites.

In this regard, I suggested that Toyota consider the abandoned Ford facility at Mahwah, N.J.

During our discussion, Dr. Toyoda expressed concern that his company's production methods and practices were not easily transferable to the United States. In particular, he appeared concerned about American labor's willingness to work under Japanese management and production techniques.

I noted that both Nissan and Honda have recently made major investments in the United States. Nissan is currently constructing a \$500 million light-truck assembly plant in Tennessee which will produce about 160,000 units annually and employ 2,900 people. Although current plans call only for the establishment of the light-truck plant, Nissan has purchased enough land so that major expansion could take place at a later time.

Honda's \$200 million auto production facility will open in Marion, Ohio this November. Initially, this facility will produce 120,000 Honda Accords annually and will employ 2,000 workers.

To insure that Japanese production methods are successfully implemented in its U.S. facility, Nissan is building an enormous training complex complete with a mock assembly line. Many of the same practices which are typically found in Japanese auto plants will be followed in the United States.

As in Japan, Nissan will attempt to make loyalty the fundamental ingredient characterizing the company's relationship with its U.S. employees. Workers will be given a tremendous amount of responsibility for insuring defect-free production. Nissan's Tennessee facility will have only 5 management levels compared to the 14 such levels found in most U.S. auto plants.

Workers will have the ability actually to stop the production line if they encounter problems or errors that cannot be corrected during the assembly process. Quality circles of production workers will be established in order to promote efficiency and good workmanship. In addition, regular meetings between management and workers are being planned and workers will be encouraged to approach management with work-improving recommendations.

Workers will have company uniforms to increase their identity with their work. And, Nissan is building a recreational complex for its employees' use in order to foster off-hour interaction among its workers.

In return, for the loyalty of its workers, Nissan promises that its employees will always have a job with the company. This so-called lifetime employment system has attracted much attention.

In Japan, about one-third of the labor force is covered by lifetime employment. For example, Toyota workers have lifetime employment guarantees; however, these workers make only about 30 percent of the parts used in Toyota automobiles. Seventy percent of the parts are made by independent suppliers, and, most of the workers in these firms are not covered by lifetime employment agreements.

While such commitments clearly have their advantages, there are conditions that should be understood. For example, the commitment is only that the individual will always have a job, not a particular job, with the company. Furthermore, there is no guarantee of salary or benefits that goes along with lifetime employment commitments. In Japan, for instance, such employees may be forced to relocate if management decides to cutback activities in a particular area.

Lifetime employment also places a great deal of pressure on management to sustain company performance and viability. If a company were to suffer a major setback, it is hard to see how lifetime employment commitments could be honored.

Such a setback would certainly result if protectionist auto legislation were passed in the United States. Investment by Japanese automakers in the United States, however, could do a great deal to restrain this protectionist drive. It would also give Japan greater auto producing capacity at a time auto manufacturers around the world are fighting to capture new markets in the Middle East, Africa, Central America, and South America.

Yet, there is a more fundamental reason why Japanese automakers should invest in the United States, and that has to do with a company's responsibility under a free-trade system. I believe in free trade, but I also believe that companies which capture large shares of foreign markets have certain obligations toward those markets that go beyond product satisfaction. Such companies, willingly or unwillingly, become integral parts of local and even national economies. Just as it was not in the interests of the United States to restrict the importation of fuel-efficient Japanese cars during the height of the oil crisis, it is not now in Japan's interest to contribute to the unemployment of American workers.

When America almost doubled their purchases of foreign automobiles between 1972 and 1979, inevitably it cost hundreds of thousands of U.S. workers their jobs. The social cost of that displaced labor has been great, and rightly the foreign automakers who benefited from the change in consumer preference should be expected to assume some responsibility for the situation.

On the international level this problem is dealt with in various ways. For example, at the heart of our trade treaties is the concept of balance of concessions. Under this principle, each country extends to its partners trade concessions which approximate the trade concessions or benefits which it enjoys. In this way, the nations of the world have assurances of equal trade opportunities and no country is victimized.

In exchange for Japan's claim on the U.S. auto market, this principle would dictate that Japan should extend to the United States trade opportunities which approximate those it has in the American market. On this basis, the United States has tried repeatedly for the last 10 years to reduce tariff and nontariff barriers on the sale of U.S. products in Japan.

For example, the United States has been talking with Japan about buying

more American-made auto parts for many years. Annually, U.S. companies buy 2 billion dollars' worth of Japanese parts whereas Japan purchased last year only about \$100 million worth of U.S.-made parts.

These efforts, which have been a high negotiating priority of the United States for some time, have failed terribly. An agreement was reached 2 years ago under which Japan was to triple its annual purchase of U.S. auto parts, but that objective has never been achieved.

Similarly in agriculture, one of America's main export products, Japan severely restricts access to its market. Japanese farmers are paid enormous subsidies to keep them on the farm and many food products are priced much higher than in the United States due to import restrictions. For example, rice sells for about three times as much as it does in the United States. Similarly, beef and fresh fruit costs much more in Japan than in the United States, because of the tight controls on imported agricultural products.

In other areas like insurance, financial services of all types, airline operations, and computer software services, Japan treats foreign firms unfavorably. American-made automobiles are also effectively shut out of the Japanese market. Estimates are that a U.S. car that sells for \$6,500 here would have to be sold for \$13,000 in Japan after all the payments for processing, licensing, approval and transportation were made. Japan also protects its highly inefficient aluminum smelting industry from foreign competition, thereby increasing the price Japanese pay for aluminum.

Some progress was made earlier this year when Japan agreed to eliminate nontariff barriers on 67 different product classifications. This action has been received by U.S. trade representatives as more than a token gesture. Nevertheless, even this concession has been too long in coming and hardly restores balance to the \$20 billion annual imbalance in our trade with Japan.

The United States and Japan simply do not enjoy reciprocal trade benefits. Our trading relationship with Japan does not, therefore, offer any remedy to that part of the U.S. unemployment problem that is caused by our huge trade deficit with Japan. Instead, other solutions are needed to address this problem.

In this regard I have three suggestions. First, the United States must better equip itself to compete in export trade. Free trade should always be our goal, but that does not mean we can afford to ignore the fact that policies of many foreign governments give foreign firms a competitive advantage which U.S. firms cannot overcome.

The recent decision by the Metropolitan Transit Authority (MTA) of New York to buy subway cars from Bombardier of Canada is a case in point. The Budd Co., located in Pennsylvania, submitted a bid to MTA that was actually lower than the one submitted by Bombardier. But Bombardier's offer was selected because it included more favorable financing terms, terms, I might add, which were backed by the Canadian Government.

More and more success in export trade is dependent on the extension of favorable financing. For the United States, the Export-Import Bank (Exim Bank) is the agency for providing export financing.

From 1977 to 1981, the Exim Bank provided financing for U.S. export sales of \$71 billion which, in turn provided jobs for 2.2 million U.S. workers. As if oblivious to the importance of the Exim Bank to U.S. export trade, the administration, however, has proposed massive reductions in the Bank's lending authority. At the administration's insistence, Exim Bank's direct loan authority was cut 19 percent this fiscal year and an additional cut of 14 percent is being sought for next fiscal year.

The administration argues that all nations should eliminate export credit programs. While our major trading partners recently agreed to minimal reductions in export credit assistance, export credits remain the key ingredient of most nation's export promotion programs. In addition to Japan which provides credits for 43 percent of all its exports, France provides credits for 30.3 percent of its exports, and the United Kingdom provides credits for 37.3 percent of its exports.

Restrictions in the Exim Bank's loan authority guarantees more and more losses of U.S. exports sales. Lost export sales mean lost jobs, jobs the U.S. economy cannot afford to lose.

Second, we have to be willing to take unilateral actions to equalize our trade relationships with foreign nations, especially in areas such as services trade which is not currently covered by our trade treaties. Trade in services such as insurance, banking, transportation, data processing, tourism, and many others have become an increasingly important part of the U.S. balance of payments.

While the United States has suffered a deficit in merchandise trade in all but 2 of the last 12 years, the surplus in the services account has grown steadily. Due to service exports, the U.S. balance of payments in goods and services has been in surplus for the last 2 years.

Our balance of trade with Japan, however, shows quite a different situation. Trade in services with Japan has reduced only to a very minor extent our huge merchandise trade deficit with that country.

When we look closely, we see that Japan, through burdensome regulations and requirements, treats foreign service firms unfavorably. In many areas such as insurance, foreign service firms are required to establish joint venture relationships with domestic firms in order to do business in Japan. In order to obtain license to operate, foreign computer firms have been required to restrict their share of the Japanese market.

Since trade in services is not covered by our multinational agreements, the United States has attempted, most often unsuccessfully, to negotiate more favorable trading terms on a bilateral basis. As a result, I have introduced legislation, H.R. 5519, that would give the President the authority to retaliate against foreign service firms, if the foreign country in question discriminates against U.S. service firms.

I feel strongly that Congress must give the President this authority for two very important reasons. First, in the absence of an international agreement which would equalize the rules that govern trade in services, it is essential that the President have the ability to equalize the relationships under which we conduct trade in services with individual nations.

Second, our GATT partners will never take seriously our efforts to negotiate an international agreement unless they perceive that they too will benefit from such an agreement. If other nations understand that discrimination against our service industries may cause their developing service industries to be shut out of the U.S. market, then they not only have a reason to treat our service industries fairly, but a reason to negotiate an agreement that would give every nation increased opportunities for service exports.

Furthermore, the bill would make the negotiation of a GATT agreement covering services a high priority of our representatives at the GATT ministerial meeting this November. Without such an agreement, there can be no international understanding of what unjustifiable, discriminatory trade barriers are. Neither can there be any international procedure for resolving disputes arising from trade in services.

This legislation has been reported by the full Committee on Energy and Commerce. It is now awaiting action by the Committee on Ways and Means and the Committee on Foreign Affairs to which it was also referred. I am hopeful these committees will soon act, so that the House can go to conference with the Senate on its services bill which passed some time ago.

Third, I believe the United States has every right to expect Japanese automakers to locate facilities here in the United States. As a nation, we

cannot close our eyes to the personal and financial suffering of the hundreds of thousands of American workers who have lost their jobs as a result of the lopsidedness of our trade with Japan. Trade in autos is the major cause of this imbalance. While I believe it would be bad policy to restrain the consumer's ability to freely exercise his or her choice of an automobile, I also believe that private companies have a responsibility to contribute to the health of the economy from which they derive great benefit.

On this basis, I believe that, in addition to our current efforts to force the Japanese to treat our export products more favorably, we must insist on greater, direct, job-creating investment in the United States. Only in this way can the free-trade market access which we extend to Japan also result in fair trade.

CONCLUSION

Mr. Speaker, we in the Congress can learn a great deal from the Japanese experience. In Japan, Government has played an active, positive role in allocating scarce capital resources, in working with business to develop long-term economic strategies and goals and in providing direct assistance to business in the form of information, research, and financial guarantees and subsidies that improve the competitiveness of Japan's exports. Government in Japan is fundamentally involved in the success of Japanese business and industry.

In sharp contrast, the current administration is trying to convince the Congress and the American people that there is no mutually beneficial relationship for Government and business in the United States. Instead, this administration insists that governmental involvement of almost any kind is antithetical to the best interests of business.

Admittedly the American and Japanese economies are different. But the differences aside, we need only to listen to the voices of American businessmen to know that our Government is failing in its responsibilities to business. A recent survey of chief executives of 50 major American-based corporations revealed that, "There is a common feeling among many CEO's that the adversarial interrelationships which exist among business, labor, government and the news media must be eliminated." The same survey found that the "President should be less dogmatic."

American business needs Government. It needs Government to negotiate agreements with foreign nations under which favorable trade relationships can be established. But, in the absence of completely open, free-trade relations, it also needs Government to provide financing credits and restrictions on foreign access to the U.S.

market so that American business may remain competitive.

It needs Government not only to establish fair and reasonable regulations at the Federal level but to avoid inconsistency in State regulation of business and industry. It needs Government to maintain a strong commitment to research and development. And, it also needs Government to insure that our educational system is properly funded so that our children will receive the kind of education that will contribute to the long-term growth of our economy.

Mr. Speaker, for all of these reasons I urge my colleagues to think twice before agreeing that Government and all its programs are bad. Contrary to administration claims, many of the changes being made in Government programs emasculate essential programs—programs without which American business and industry may suffer an insurmountable competitive disadvantage.

Thank you.●

A TRIBUTE TO J. DRAKE EDENS, JR.

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SPENCE. Mr. Speaker, South Carolina recently lost a distinguished son and leading citizen when J. Drake Edens, Jr., of Columbia drowned on July 30.

Drake was best known as the father of the modern Republican Party of South Carolina. He had, however, many other interests which, despite poor health, he pursued with vigor and enthusiasm.

One of Drake's greatest qualities was his ability to get along with other people, including political rivals. He enjoyed the respect of everyone. Perhaps nothing illustrates this better than the fact that, at the time of his death, he was serving as chairman of the South Carolina Wildlife and Marine Resources Commission, a position to which he was appointed by Democratic Gov. Richard W. Riley.

My own ties with Drake go back to the early 1960's and our struggle to bring a two-party political system to our State. He was much more than a political ally even though one could not ask for a more valued adviser and supporter. He was also a devoted and treasured friend. I feel a great sense of personal loss. I shall miss him.

Both of Columbia's daily newspapers paid editorial tribute to Drake and I would like to include those editorials at this point.

[From the Columbia Record, Aug. 3, 1982]

J. DRAKE EDENS, JR.

Few people in politics or public life elicited as much respect and affection and personified as much integrity as did J. Drake Edens Jr.

There was ample testament to those qualities in the memorials spoken publicly and privately after his untimely death by accidental drowning last week.

Drake Edens tackled life's challenges with vision, dedication and gusto despite painful physical disabilities in recent years. As much as any South Carolinian, he put the Republican party on the state political map in the early '60s. Largely through his efforts, South Carolina became a two-party state, giving the electoral process an added dimension of vitality and viability.

Starting as a grassroots volunteer, Drake Edens worked his way up, becoming state GOP chairman and finally national committeeman. His reputation was such in the higher echelons of the party that he served a seven-year stint as vice chairman of the Republican National Committee.

But as posthumous comments clearly indicated, the respect for Drake Edens crossed party lines. Gov. Dick Riley, a Democrat, appointed him chairman of the South Carolina Wildlife and Marine Resources Commission.

Drake Edens applied to that task an unusual dedication and enthusiasm, nurtured by a lifetime's love for the outdoors. An avid and knowledgeable sportsman, he advocated a policy of openness from which the media and, ultimately, the public were the chief beneficiaries.

In his private life, Drake Edens was a devoted family man and manager of a variety of business interests which attested to his intelligence and initiative.

Politics, public service and private enterprises were well-served over the years by J. Drake Edens Jr., tragically dead at the too early age of 57.

[From the State, Columbia S.C., Aug. 4, 1982]

J. DRAKE EDENS

J. Drake Edens truly believed in the American ethos and did as much as any man his age to promote those unique qualities in our national life.

He inherited enthusiasm for the private enterprise system from his family of successful merchants. He learned early the old-fashioned, personal values in a public school system which then emphasized individual responsibility. As a drill instructor at Parris Island in World War II, he instilled discipline and patriotism in young Marines.

Drake Edens' strong conservative convictions led him to the national political arena where he was recognized for undaunted leadership in the state and national Republican party. During the turbulent 1960s, he was instrumental in establishing genuine two-party Presidential elections in this once-upon-a-time solidly Democratic state.

A high point of his political activity came at the National GOP convention in 1964, when, as chairman of the S.C. delegation, he rose to announce the delegation vote that provided U.S. Sen. Barry Goldwater the Presidential nomination. The S.C. GOP convention had been the first to endorse Mr. Goldwater months earlier, pushing him into prominence as a challenger to President Lyndon B. Johnson.

Mr. Edens was a devoted husband and father, an active Methodist, and a dedicated

conservationist, having served in national and state offices, the latest as chairman of the State Wildlife and Marine Resources Commission. In recent years he pursued these interests despite painful physical ailments that would have slowed many another man.

We know of few South Carolinians who were more respected than Mr. Edens. His death by drowning at age 57 is distressing.●

U.S. DISTRICT COURT IN BOULDER, COLO.

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mrs. SCHROEDER. Mr. Speaker, I am proud to introduce today, on behalf of the Colorado congressional delegation, a bill to authorize holding U.S. District Court for the District of Colorado in Boulder, Colo.

By amending 28 U.S.C. 85 to add the city of Boulder to the other Colorado cities where Federal court can convene would make the judicial process more accessible to the citizens of Boulder County. The U.S. District Court in Denver frequently hears cases in which all or most of the parties, as well as the jurors, are from Boulder County. The time and expense involved in traveling to and from Denver sour peoples' involvement and interest in the judicial system.

Moreover, Boulder is the only home in Colorado, other than Denver, of a major law school. This amendment would provide the students and faculty at the Fleming School of Law on the University of Colorado campus an easy opportunity to view Federal district court in action.

The moot courtroom located there could host an occasional trial or motion hearings at no or low cost. The dean of the law school, eager to see this bill become law, views this use of the courtroom as an excellent teaching tool. Here law students could see Federal court in action, learn the procedures and the arguments used by the lawyers, and evaluate what they saw back in the classroom. Under extraordinary circumstances and with prior consent, one trial was held there. It was well attended by the students. Both the presiding Federal judge and the law school dean were pleased at the turnout and suggested making this a regular feature.

This legislation is a simple, no-cost idea that will have tremendous teaching value for Colorado's aspiring law students.●

NEW LIGHT ON SMOKING VERSUS HEALTH DEBATE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BLILEY. Mr. Speaker, the Subcommittee on Health and the Environment may soon be marking up H.R. 5653, the Comprehensive Smoking Prevention Education Act. I feel compelled at this time to bring some very important information to my colleagues' attention. The merits of this legislation have been questioned by many sources, most notably by Philip R. J. Burch, professor of medical physics, the University of Leeds, Leeds, England. Professor Burch has provided me with a comprehensive memorandum outlining several misleading factors upon which H.R. 5653 is based. I wish to share this memorandum with my colleagues in the hope that it will shed some new light on the smoking versus health debate.

DEPARTMENT OF MEDICAL PHYSICS,
THE GENERAL INFIRMARY,
Leeds, England, March 12, 1982.
Congressman THOMAS J. BLILEY, JR.,
Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN BLILEY. Please find enclosed a somewhat hastily compiled critique of Mr. Waxman's Bill together with reprints of supporting papers that set out my indictment of orthodoxy in technical detail. Should you require further amplification or clarification of obscure points I shall be pleased to give you whatever help I can.

I trust that this monstrous Bill will suffer a resounding defeat. It constitutes a serious danger to public education.

Yours sincerely,

P.R.J. BURCH, Professor.

COMMENTS ON MR. WAXMAN'S BILL TO
AMEND THE PUBLIC HEALTH SERVICE ACT
(By Prof. P.R.J. Burch)

In this memorandum I criticize the statements made in Sec. 2 of the Bill about the effects of cigarette smoking on overall mortality, lung cancer and heart disease. These are issues that I have personally studied in some detail. We are told in Sec. 2 that "The congress finds" six examples of the dangers to human health presented by cigarette smoking. The manner in which these "findings" were made is not described but I presume that the reports of the Surgeon General have served as a basis for the allegations.

MORTALITY FROM ALL CAUSES

"Finding (1)", at the top of page 2, is ambiguously worded: "cigarette smoking is the largest preventable cause of illness and premature death in the United States and is associated with the unnecessary deaths of over three hundred thousand Americans annually." (Emphasis added.) I infer that "is associated with" is meant to be understood as "causes" although, in scientific parlance, the two terms are far from synonymous. Logicians, statisticians and competent scientists are familiar with the aphorism: "association does not necessarily imply causation". The general tenor of the Bill leaves little doubt, however, that we are intended to conclude that cigarette smoking causes at

least 300,000 unnecessary deaths in America. Nevertheless, the use of the expression "is associated with" in the Bill is of more than pedantic interest because the frequent identification in epidemiology of association with causation is a source of many misunderstandings and fallacies. When analyzing epidemiological findings it is of the utmost importance that the distinction between association and causation should always be borne clearly in mind; those who appreciate the distinction will be careful to observe it in their written statements. In discussing "association", Sir Austin Bradford Hill wrote in his "Principles of Medical Statistics": "Merely to presume that the relationship is one of cause and effect is fatally easy; to secure satisfactory proof or disproof, if it be possible at all, is often a task of very great complexity". The degree of complexity is commonly, if not invariably, underestimated in the Surgeon General's reports.

The figure of 'over 300,000' appears to be based on: (a) the Surgeon General's (1979) conclusion (p 2-42), 'The overall mortality ratio for all smokers of cigarettes is about 1.7 compared to nonsmokers'; and (b) the assumption that this association between cigarette smoking and overall mortality is causal in origin. Given this kind of association—and the others implicit or explicit in the Bill's (2) to (6) of Sec. 2—we have in all instances to consider the following possibilities:

(i) Smoking causes the morbid or fatal disorders. This is the straightforward causal hypothesis.

(ii) The associated diseases, or one or more connected pre-disease conditions, cause the smoking. (I call this the 'converse causal' hypothesis.)

(iii) A third factor causes, or predisposes to, both the smoking and the associated diseases. This is sometimes described as the 'common cause' hypothesis and it is often discussed in genetic terms: the genotype predisposes both to the smoking and to the diseases and the association arises at the genetic level. In this latter form, the common cause hypothesis is often referred to as the 'constitutional' hypothesis.

(iv) Any combination of (i) to (iii) may be needed to explain the overall association, whether negative or positive.

Our ultimate scientific objective should be the estimation of the separate contributions (i) to (iii), together with their respective confidence limits. The Surgeon General's reports do not acknowledge, and appear to be unaware of, these obligations.

I have studied the relation between smoking and overall mortality in England and Wales and a reprint of my paper on the subject is enclosed (Smoking and Mortality in England and Wales, 1950 to 1976, Journal of Chronic Diseases, 34, 87-103, 1981). The paper contains an analysis of the temporal trends in sex- and age-specific mortality (all causes) in relation to the corresponding trends in cigarette consumption. An important cause of the consistent decline in mortality, which accounts, in effect, for virtually all of the fall over the age range 20-44 years in both sexes, is shown to be the near-eradication of tuberculosis. There is no indication that the temporal changes in cigarette smoking have modified this fall.

My analysis of temporal (secular) trend is one of the few approaches that addresses itself to the causal/constitutional issue. Another is the randomized controlled intervention trial in which one randomly allocated group of smokers, the intervention group, is

subjected to intensive pressure to give up smoking while the other randomly allocated group, the 'normal care' group, is not subjected to special pressures. Randomization is a device that eliminates the bias of self-selection.

Such a trial has been carried out by Professor Rose and Dr. Hamilton in England. It is reviewed in my paper but here it is sufficient to quote their main findings: the death rate in the randomly assigned 'intervention' group, which had a substantially reduced level of smoking, was 1.74 deaths per 100 man years (based on 98 deaths) and that in the randomly assigned 'normal care' group, with a relatively high level of smoking, was, paradoxically, only 1.63 deaths per 100 man years (based on 94 deaths). The authors concluded in connection with the outcome in the 'intervention' group: 'Disappointingly, we find no evidence at all of any reduction in total mortality.'

The final paragraph of my conclusions reads as follows: 'This paper has shown that secular trends in overall mortality in England and Wales give no consistent indication that they were appreciably influenced by changes in cigarette consumption. The two other types of critical evidence reviewed here—the preliminary results of a randomized controlled intervention trial and findings from MZ and DZ twins discordant for smoking—both suggest that the observed mortality ratios are more likely to result from a constitutional than a causal association. But so far, both studies suffer from small numbers and definitive conclusions on this issue cannot yet be drawn from them. On scientific grounds there can be little doubt that the conclusions drawn by the Royal College of Physicians and the Surgeon General of the United States about the lethality of smoking are precipitate and unwarranted. In the light of the critical evidence, I am unable to find any scientific justification for the assertion in the Bill that cigarette smoking causes in the United States over 300,000 unnecessary deaths annually.'

HEART DISEASE

Following mortality from all causes it is convenient to consider heart disease because, as the Bill states, it accounts for nearly one half of the deaths in the United States. The Bill adds: one third of these deaths are attributable to smoking.

My recent paper published in this field is: *Ischaemic Heart Disease: Epidemiology, Risk Factors and Cause* (Cardiovascular Research, 14, 307-338, 1980), a reprint of which is enclosed. Among the various so-called risk factors discussed in the paper is cigarette smoking. I analyse the sex- and age-specific mortality from ischaemic heart disease in six populations, including U.S. Whites and U.S. Non-Whites, and give special attention to the intriguing fall in mortality from the disease in the United States over the period, 1968 to 1975. The data from all populations have certain special features, including a particular relation between the sexes, that facilitate analysis. These features allow conclusions to be drawn that do not depend too critically on errors of death certification. J. C. Kleinman, J. J. Feldman and M. A. Monk has previously observed (American Journal of Public Health, 69, 795-802, 1979): Smoking changes among women were not generally consistent with declines in CHD mortality. My analysis agrees with theirs and it indicates that any causal influence of smoking on the fatal disease process is either small or non-existent. The factors responsible for the fall in mortality in the United States in

both sexes are unconnected with smoking; over the age range 40 to 64 year they make an effectively equal impact on White males and females and are therefore ubiquitous. They are likely to be either microorganisms, for example viruses, or allergens.

LUNG CANCER

Partly because of past and present errors of clinical diagnosis and death certification it is impossible to derive precise quantitative conclusions about the role of cigarette smoking in the pathogenesis of lung cancer. I have published three major papers on this subject, including an invited one presented to the Royal Statistical Society in London on May 17, 1978 (reprints enclosed). In addition, a substantial portion of Chapter 10 of my book, *The Biology of Cancer: A New Approach* (University Park Press, Baltimore, 1976), is devoted to the relation between smoking and lung cancer.

Recognizing that simple associations and evidence for lung cancer in voluntary ex-smokers do not resolve on the causal/constitutional issue, and bearing in mind the Royal College of Physicians (1971) stricture: 'The chief reason for rejecting the genetic hypothesis is its inability to account for the enormous rise in death rates from lung cancer in the past half century', I have given special attention to the sex- and age-specific death rates recorded for lung cancer in England and Wales. (Thanks to the work of the late Professor R. D. Pass in England and that of Dr. K. McD. Herrold in the United States it is now apparent that the converse causal hypothesis—for example, a pre-cancerous inflammatory condition of the lungs and bronchi causes the smoking—has little or no relevance to this context.)

Careful study of the recorded increases in mortality from lung cancer in England and Wales shows that, although the rises have been generally larger in men than in women, the fine structure of the changes has been extraordinarily synchronous in the two sexes. It follows that the main causes of the increases have also been synchronous in men and women. Smoking cannot have been a main cause because the sharp rise in cigarette smoking by women occurred some 30 years after that by men. More detailed calculations, including those of the sex-ratio of the recorded changes in mortality described in my Royal Statistical Society paper, confirm that smoking cannot be implicated as the main cause of the recorded rises in either sex. Indeed, it is readily shown that these rises are many times greater than those predicted from the causal hypothesis and the data for tobacco consumption. It is now widely agreed that changes in diagnostic practice have been responsible for a substantial part of the recorded increases. However, because they are so large they could readily conceal a genuine component attributable to smoking.

In an attempt to explore this latter possibility and to minimize the complications that arise from errors of death certification I have studied the details of recorded sex- and age-specific mortality from lung cancer in relation to those of cigarette consumption for the relatively recent period, 1950 to 1975 (*Journal of Chronic Diseases*, 33, 221-238, 1980) and the still more recent period, 1974-1978 (*Medical Hypotheses*, 7, 1461-1470, 1981). To test causal hypotheses mathematically we have to make specific assumptions about mechanisms; mine are based on evidence independent of that being examined in the papers cited in this paragraph. The precipitator (causal) hypothesis emerges as being consistent with a wide

range of evidence that refutes initiator and promoter hypotheses. Unfortunately, the precipitator hypothesis is not supported by the analysis of post-1950 trends. However, recent direct post-mortem studies of the accuracy of certification in England (West Midlands) and Scotland (Edinburgh) show that substantial errors in the clinical diagnosis of lung cancer persist. Probably many of the anomalies in the epidemiological data should be attributed to them. In the Abstract of my *Journal of Chronic Diseases* paper I concluded: 'In view of the dubious reliability of the potentially critical data analysed here and elsewhere, it is questionable whether any firm conclusions can as yet be drawn about 'dose-response' relations or cigarette smoking and lung cancer.'

The criterion of consistency is usually applied to a causal relationship. In epidemiology it is impossible to replicate observations as in experimental science because of difficulties, for example, in characterizing, and standardizing for, the relevant parameters of smoking, drinking, etc. It is seldom possible to allow adequately for errors of diagnosis. Nevertheless, in commenting on the 1964 report of the Surgeon General, Professor Mervyn Susser was able to write in his 'Causal Thinking in the Health Sciences' (1973): 'Thus 28 of 29 case-control studies and all seven cohort studies reported in *Smoking and Health* found an association between smoking and lung cancer and roughly the same relative risks.' Had investigation stopped at that point the causal hypothesis could not have been faulted because of inconsistencies over relative risks. The early studies were, however, confined to Western, largely Caucasoid, populations. During the past decade reports on Oriental populations have been published and they reveal a very different picture. The differences are so large it is difficult to avoid the conclusion that some of them should be attributed, in one way or another, to genetic factors.

In the American Cancer Society study the mortality ratio for cigarette-only smokers, versus those who never smoked regularly, was found to be 10 for men and 2.6 for women; for British male doctors the ratio was found to be about 14. However, the corresponding ratios in Japan are 3.8 for men and 2.4 for women; among Chinese in Singapore they are 3.8 (men), 3.6 (non-Cantonese women) and 1.6 (Cantonese women); in Bombay, India, they are 2.2 (sexes combined, all cases) and 1.7 (sexes combined and cases were confirmed by histology or cytology); in Northern Thailand they are 1.8 (men, univariate analysis), 2.1 (women, univariate analysis), but only 1.65 and 1.63 respectively (neither significantly greater than unity), in a multivariate analysis that allowed for several 'risk factors'. A mortality ratio of only 1.57 (sex unspecified) is reported indirectly from the Chinese mainland where, it is said, scientists do not accept that smoking is the main cause of lung cancer. The incidence of lung cancer in Chinese women in Hong Kong is among the highest for the world's women but the risk in cigarette smokers relative to nonsmokers was found to be only 1.74; 53.4 percent of patients had never smoked cigarettes.

A particularly interesting study has been made in Hawaii of lung cancer in women of Hawaiian, Japanese and Chinese origin: relative risks of 10.5, 4.9 and 1.8, respectively, were found. The authors concluded: 'Cigarette smoking is clearly not the only cause, nor even the major cause, of lung cancer in all populations of women.' Although proper

standardization between different populations cannot be carried out, the wide contrasts in mortality ratios between male Caucasoid populations on the one hand, and male Oriental populations on the other, suggest that this generalization can probably be extended from women to men.

Another aspect of consistency can be studied by relating mortality from lung cancer to previous per capita cigarette, or total tobacco, consumption in different countries. When this is done (see Figs. 10.33 and 10.34, p. 352 in my book) a very wide scatter of points is obtained in contrast to the approximately linear relation predicted by the causal hypothesis. The wide scatter of points again suggests that factors other than cigarette smoking are likely to play an important part in determining mortality from lung cancer. In view of the direct evidence for genetic factors in lung cancer it would be most surprising if they made no contribution to these many inter-population differences.

There can be little doubt that constitutional factors make some contribution to the strong association between cigarette smoking and lung cancer in Western Caucasoid populations; it is not yet possible to estimate its extent. In the words of Dr. P. D. Oldham (Journal of the Royal Statistical Society, A141, 460-462, 1978): "... We still do not know how cigarettes cause lung cancer, nor even, if we are particularly rigorous in our use of scientific logic, whether they do."

CONCLUSIONS

According to Alvan Feinstein, Professor of Medicine and Epidemiology at Yale University, and himself a distinguished clinical epidemiologist, "a licensed epidemiologist... can obtain and manipulate the data in diverse ways that are sanctioned not by the delineated standards of science, but by the traditional practice of epidemiologists." It must be clear from my critique that I agree fully with Professor Feinstein's condemnation. The combination of powerful and admirable humanitarian impulses with an invalid methodology—the *trahison des clercs*—has generated many aetiological fallacies and often substituted certainty for agnosticism. Although I have every sympathy with the desire to inform the public of genuine dangers to health I can in no way condone the abandonment of "the delineated standards of science".

If cigarette smoking causes "unnecessary deaths" they form too small a proportion of the total to be detectable by rigorous methods. In short, I regard the Bill as misguided. Mr. Waxman has been misled.●

NUCLEAR ARMS LIMITATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. DERWINSKI. Mr. Speaker, the United Hellenic American Congress is an organization which acts as the mouthpiece for the Hellenic-American groups across the country. Opinions on current issues of concern to Greek Americans were voiced in several resolutions adopted by the steering committee of the United Hellenic American Congress.

One such resolution adopted included support for the Strategic Arms Reduction Talks (START), and for progress in nuclear arms limitations. I wish to include this resolution for the Members' perusal:

RESOLUTION

Whereas, Christ blesses the peacemakers and calls them the children of God (Mt. 5:9) and the Holy Gospel further exhorts us to "follow after those things which make for peace." (Rom. 14:19); and

Whereas, Peace is the goal and hope of humanity but peace to be a real and lasting peace must be a peace based on mutual cooperation and not blind trust; and

Whereas, The United States of America and the Soviet Union have just begun Strategic Arms Reduction Talks (START) in Geneva, Switzerland; and

Whereas, Arms reduction talks are also continuing with respect to medium range nuclear armaments in the European areas; and

Whereas, The survival of civilization as we know it depends upon the elimination of the risk of nuclear war; now, therefore, be it

Resolved, by the Steering Committee of the United Hellenic American Congress that the Governments of the Soviet Union and the United States of America are urged to reach agreement with respect to nuclear arms limitations and reductions that are both meaningful and verifiable and that will lead to the eventual elimination of nuclear arms from the arsenal of all nations of this world; and, be it further

Resolved, That a suitable copy of this resolution be presented to the Secretary General of the United Nations, the President and Secretary of State of the United States of America, the Chairmen of the appropriate Congressional Committees of the United States Congress, and the appropriate officials of the Government of the Union of Soviet Socialist Republics.

Adopted by the members of the Steering Committee of the United Hellenic American Congress this second day of August, 1982 at Chicago, Illinois.

ANDREW A. ATHENS,
National Chairman,
United Hellenic American Congress.●

STRATEGIC TRADE ACT OF 1982

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mrs. BYRON. Mr. Speaker, I rise today to alert my colleagues in the House to the operations of the organization responsible for coordinating international exports, and to the need to change the orientation of this important group.

The organization to which I refer is the Coordinating Committee for Multilateral Export Controls. This group, known as COCOM, was organized in 1949 and began operation in early 1950. By 1953, COCOM attained the membership that has survived to this day, being the NATO nations less Iceland and including Japan. The broad purpose of COCOM is to coordinate the restrictions on the sale and export

of materials and technology to the Communist bloc.

COCOM operates by formulating lists of goods and technologies that the member countries agree should not be exported to the Communist bloc. The lists are comprised of technical specifications for controlled categories of equipment and technologies. The specifications are then applied by each member country to restrict their own exports. When a country recognizes that a proposed export to a Communist bloc country would conflict with a COCOM list specification, the country can either deny permission for the export or apply for an exception to the COCOM controls. COCOM lists are divided into three general areas: A munitions list which includes overtly military items, an atomic energy list which covers materials and reactor technology, and an industrial/commercial list. The controls exercised under this last category, the industrial/commercial list, cause the highest degree of international interest and, sometimes, unrest.

Control of industrial and commercial items is based on the observation that these items have the propensity to be used in both civilian and military applications; the shorthand for this class of items and their related technologies is dual use. It is essential to keep in mind that it is the risk that a proposed export will be applied to a military purpose that underlies the COCOM controls on these items. For example, a precision grinding machine proposed for export to the Soviets for manufacturing steam turbine blades could be diverted to producing better blades for military jet engines.

Let me return for a moment to the status of COCOM to illustrate a problem that needs a solution. COCOM is a voluntary organization, with no treaty status or enforcement mechanism, and indeed very little visibility at all. Some members do not officially acknowledge their participation. This loose status, while it may be politically desirable in some countries, leads to actions which are dangerously contrary to the purpose of COCOM. In the export of dual-use items, there is an attitude among high-technology exporters along the following lines: "If the Soviets can get the goods or technology from another source, why should my country prohibit the export?" In other words, a perception of lack of coordinated control is used as a basis to further diminish control. This is indeed a powerful argument. But instead of following it to its logical conclusion, the abolishment of all international security controls in favor of business opportunity, I believe that this Nation should take the lead in restating the basis of COCOM and should work toward an internationally recognized status for this important organization.

The basis of COCOM, that of controlling and coordinating Western exports in favor of international security, remains viable and appropriate today, even as it did in 1950. The Strategic Trade Act of 1982, includes a clear mandate to increase the U.S. participation in COCOM and to seek treaty status for this organization. Increased emphasis on COCOM control, and the awareness that it implies an international policy, can produce more effective controls on the flow of technology to the Soviet military machine.

Along with increasing U.S. participation in COCOM, our bill seeks a reorientation in the policy basis for the U.S. participation. Other countries have perceived that U.S. actions in COCOM have been economically motivated to create market advantages for U.S. companies. Recognizing that the fundamental basis of COCOM is international security, the Strategic Trade Act enhances the military review of COCOM-list exports and the overall military presence in the COCOM process. By stressing the military security aspects of COCOM, the United States can underscore the fact that COCOM must be viewed as a security organization. In taking this lead, and by showing that increased military review of COCOM procedures is valuable and appropriate, the Strategic Trade Act is intended to induce COCOM members to increase their military involvement in the export process. Indeed, a recent article in the Baltimore Sun includes an assertion by a COCOM expert that most of the COCOM members do not now include military experts in their COCOM delegations.

In summary, I observe that loose controls lead to international insecurity. The United States must take the lead to tighten controls. The Strategic Trade Act provides a means for accomplishing this worthwhile end. I see no reason why we should finance such a large defense budget in the United States, and then tolerate an export policy from our allies which eventually reduces our security and the security of the free world.●

CONRAIL REPORTS BIGGEST PROFIT EVER

HON. BILL GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. GOODLING. Mr. Speaker, the Consolidated Rail Corporation (Conrail) has reported profits of \$56.2 million in the second quarter of this year, marking its biggest profit since its formation in 1976, and nearly four times the net it reported for the same period of last year.

The carrier achieved the higher earnings despite a drop of nearly 15 percent in freight traffic.

As everyone in this Chamber knows, Conrail lost money during each of the previous 6 years since its operations began on April 1, 1976, with losses totaling some \$1.5 billion.

In its recent Report to Congress, the United States Railway Association (USRA), the nonprofit Federal corporation which developed the plan for reorganizing seven bankrupt railroads in the Northeast quadrant of the country into the Conrail system, noted that there have been major changes in productivity and cost control within Conrail. I might add that this profit was realized in the face of a recession that has impacted more heavily on the region served by Conrail than on other parts of the country.

If I may quote:

Senior management carried out its commitment to find ways to tailor assets and costs to current traffic and revenue. Conrail employees contributed both by wage concessions and by participation in an extraordinary growth in cost consciousness.

Shippers adjusted to deregulation—some shifting to other carriers and modes, others to Conrail—as prices and services were tailored more effectively to the railroad's inherent competitive position.

I am pleased that the Federal Government is beginning to realize some profitable returns on its multiyear \$3.3 billion investment in plant and equipment, and I hope that this signals the establishment of Conrail as an economical and reliable source of freight transportation service to the markets of the region.

The USRA analysis is consistent with this administration's free market transportation policy, particularly when it notes that in early 1982 Conrail "continues to demonstrate the ability to adjust to revenue changes, an achievement crucial to further progress towards viability." Conrail is undergoing substantial changes in its route structure as a result of increased freedom under Federal law; pivotal in the achievement of this goal was passage by this body of the Staggers Act of 1980 and the Northeast Rail Service Act of 1981 in combination with recent ICC rulings. All of these factors have allowed the quasi-Federal Government railroad to eliminate unprofitable lines, as well as to more efficiently handle changes in traffic volume and mix.

I commend all those involved with Conrail, especially its employees in the 19th District of Pennsylvania and throughout the Northeast, and I congratulate Chairman Stanley Crane, formerly of Southern Railway, for this abrupt turnaround.●

SCOTT JOPLIN COMMEMORATIVE STAMP

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. MAZZOLI. Mr. Speaker, for a number of years—particularly since the rebirth of ragtime in the 1970's—various individuals and groups throughout the Nation have petitioned the U.S. Postal Service to issue a commemorative stamp honoring Scott Joplin, the king of ragtime composers.

In December 1979, one of my former staff assistants founded the Northern Virginia Ragtime Society, which today is one of only two organizations in the United States dedicated to the promotion and preservation of classical ragtime and related music. In 1980, the local society requested my assistance in their efforts to revive an interest in behalf of the Joplin stamp.

On November 20, 1980, I wrote to the Citizens' Stamp Advisory Committee of the U.S. Postal Service, expressing my interest and support of the proposal and the following day dispatched a letter to our colleagues asking them to express a similar interest to the Postal Service. The response was so overwhelming and impressive that in July of last year the Service announced that such a stamp honoring Scott Joplin would be issued as part of the black heritage series in 1983.

I was interested to read in a recent issue of Linn's Stamp News that the Postal Service had unveiled the design of the Joplin stamp on July 16 at a ceremony aboard the *Goldenrod Showboat* at Riverboat Landing in St. Louis, Mo.

The article is printed in its entirety at this point in the RECORD:

[From Linn's Stamp News, Aug. 2, 1982]

U.S. UNVEILS JOPLIN DESIGN IN ST. LOUIS

The U.S. Postal Service unveiled the design of a commemorative stamp honoring noted ragtime composer Scott Joplin.

The stamp will be issued on an unspecified date in 1983 as part of the continuing Black Heritage USA series, all of which—including the Joplin design—has been designed by Jerry Pinkney, Croton-on-Hudson, N.Y.

The unveiling took place July 16 in St. Louis, Mo. Assistant Postmaster General Nancy George (USPS Employee Relations Department) unveiled the design with the assistance of ragtime historian Trebor Tichenor during an 11 a.m. ceremony aboard the *Goldenrod Showboat* at Riverboat Landing.

A Registered National Historic Landmark, the *Goldenrod* is "the last authentic showboat surviving on the Mississippi."

The vertically-oriented, standard-sized commemorative features a head and shoulders portrait of Scott Joplin based on a photograph found on the title page of *The Collected Works of Scott Joplin II*, edited by Vera Brodsky Lawrence.

Superimposed to the lower right of the stamp is a drawing of Joplin playing an upright piano. The stamp made its debut without denomination (inscribed simply "00c") due to the advance unveiling.

Scott Joplin was born in 1868 in Texarkana, Tex., just five years after the Emancipation Proclamation and three years after the Civil War. His musical interests were developed at an early age, first with the guitar, then the bugle and—at the age of 7—the piano.

In 1885, 17-year-old Joplin moved to St. Louis, where he hoped to find a less restrictive atmosphere for his style of music than existed in Texarkana. It was this port city along the lower banks of the Mississippi River where he composed and performed much of his music during the late 19th and early 20th centuries.

Playing in the waterfront gambling halls and cafes, this quiet, intelligent man strove to develop a new American musical art form: ragtime.

Joplin successfully combined in his compositions the unself-conscious charm of late Victorian music and the lively qualities of the folk song and dance which had roots going back to the pioneer days of America.

In her address at the stamp design unveiling ceremony, Nancy George noted, "Some regard his ragtime as a crystallization of all the ingredients that make up our nation. In terms of style and scope, his works have been called 'the precise American equivalent of minuets by Mozart, mazurkas by Chopin and waltzes by Brahms'."

Eubie Blake, who has written and played much ragtime and continues to perform at the age of 99, is probably one of the few individuals still living who had the pleasure of hearing Scott Joplin perform in person.

Blake has proclaimed, "Scott Joplin's music was classical ragtime; although it was the source idea, other players played it differently . . . none of them sounded like him."

Besides the ragtime music for which he has received worldwide acclaim, Joplin also had a distinguished career as a composer of marches, operas, and other musical pieces. At the time of his death, he was reportedly working on a symphony.

In the later years of his life, his desire to concentrate on more serious compositions, such as operas and symphonies, led to a decline in both his health and his finances. The immense popularity of his ragtime also faded until its revival in the last decade or so.

In the 1970s, 60 years after his death, ragtime finally began to receive the academic recognition and respect it had long deserved. Contributing to the revival was the scoring of the popular award-winning motion picture, "The Sting," with Joplin's music in 1973.

The renewed interest continued to build, and in 1976 the Pulitzer Prize Committee awarded exceptional posthumous recognition to Scott Joplin for his musical genius and talent. Indeed, ragtime has become known as a truly American musical art form.

In a recent work entitled "Ragtime: A Musical and Cultural History" (Univ. of Calif. Press, 1980) Edward A. Berlin, the musicologist, stated:

The resurrection of ragtime in the 1970's is a phenomenon unprecedented in America's musical history; never before has a long-buried style been so widely and eagerly embraced by a mass public.

The issuance of the Joplin commemorative stamp on June 9, 1983, should prove a suitable sequel.

As I stated in my initial letter to the Postal Service:

Joplin died at the early age of 49. This multi-talented Black American never received the true recognition he deserved during the ragtime era. It is fitting to give posthumous recognition to him for his outstanding contributions to American art and culture.●

LET'S KEEP THE ARMS RACE OUT OF SPACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BROWN of California. Mr. Speaker, this week and next, the United Nations is conducting the Second United Nations Conference on the Exploration and Peaceful Uses of Outer Space (Unispace '82). I have the privilege of representing the United States as a congressional adviser to the U.S. delegation, and in fact, will be leaving tonight to join the delegation in Vienna.

As my colleagues may know, I have been concerned for some time with the trend toward more and more military emphasis on our space activities. I plan to share my concerns at the Unispace Conference in the next few days. I know that many nations will be represented there who are worried about the military uses of space as envisioned not only by our own Government, but by the Soviet Union as well.

A weapons race in space would do more than extend the battleground into space; it could seriously impair military communication and surveillance activities of all nations. This would destabilize an already fragile balance of power, if indeed one even exists.

Mr. Speaker, the following Christian Science Monitor editorial succinctly outlines the case I plan to make in Vienna this week. I urge my colleagues to review it.

The article follows:

[From the Christian Science Monitor, Aug. 9, 1982]

KEEP WEAPONS OUT OF SPACE

The United Nations conference on peaceful uses of outer space opening in Vienna today prompts urgent questions: Is outer space to be explored and used for the constructive purpose of improving the lives of all peoples of planet Earth? Or is it to become the dangerous battleground of military rivalry first between the superpowers and ultimately among other nations?

Many fear the latter if the United States and the Soviet Union do not soon get together not only to control the arms race on earth but to prevent it from spilling over into space. The last bilateral talks ended in 1979. It is time they were resumed.

This is not an item on the agenda of unispace '82—the second conference of its kind.

Some 2,000 people from 100 countries gathering there are concerned primarily with finding ways for the developing nations to participate in space programs to improve education, communications, navigation, weather prediction, and the like. Tremendous progress is being made in the use of satellites for such peaceful purposes and the United States and other Western nations are making a substantial contribution in this whole field.

But there is little doubt that alarm about the growing military competition in space will come up at conference sessions. For if the Americans and the Russians continue with their programs for putting antisatellite weapons (ASATs) in space and developing such systems as laser and particle beam weapons, international cooperation for peaceful uses of space will be set back. International law prohibits the superpowers from deploying "weapons of mass destruction" in space, i.e. nuclear warheads. But both are working on space-based weapons systems that could either damage satellites or electronically impede their functions. With the Russians believed considerably ahead of the United States in developing such weaponry, the Reagan administration has expanded its own program.

There are grave dangers in the trend. The United States and the Soviet Union depend more and more on outer space for the daily operation of their military forces. Thus, satellites are used to gather strategic intelligence and for communications purposes. They are also used to verify compliance with arms control agreements, including the SALT I, and the unratified SALT II treaties, and to provide instantaneous warning of the launching of enemy missiles. To deploy weapons that could interfere with these functions, therefore, would not enhance but reduce the security of each side.

Moreover, many scientists are skeptical that effective space weapons can be developed. Kosta Tsipis of the Massachusetts Institute of Technology, for instance, terms proposals for a laser antiballistic missile defense in space "little more than childlike, wishful fantasies of omnipotence." It would take, he says 100 years and \$100 billion just to transport enough laser fuel to space-based platforms.

Even if do-able, however, does the United States want to take the path of doing it? This year marks the 25th anniversary of the opening of the space age with the flight of Sputnik. It has been a quarter of a century of breathtaking progress in space exploration and of helpful international cooperation in the peaceful use of space. What a pity if further progress were threatened because the superpowers failed to reach an agreement to stop the madness of a space arms race.●

ON INFANT FORMULA

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. HARKIN. Mr. Speaker, on April 29, 1982, 70 Members of Congress sent a letter to Helmut Maucher, president of the Swiss-based Nestle Co. commending him for Nestle's publicly announced intention to comply with the World Health Organization (WHO)

and UNICEF's International Code of Marketing of Breastmilk Substitutes. This letter, which was initiated by Mr. GILMAN, Mr. OBEY, Mr. ERDAHL, Mr. GORE, and myself, further called upon Nestle to give serious consideration to meeting in good-faith negotiations with the International Nestle Boycott Committee.

As we are all aware, Mr. Speaker, the 1981 World Health Assembly overwhelmingly adopted the WHO/UNICEF International Code as part of global effort to protect infant health. The U.S. Government cast the only negative vote against this code, resulting in widespread criticism from the Congress, press, and general public.

Nestle is the world's largest producer of infant formula and has long been criticized for aggressive and deceptive marketing. Many Americans have chosen to express their dissatisfaction with Nestle's callous policies by participating in a boycott of the company's products.

Over 110 national church, health, labor, women's, and consumer organization have endorsed the Nestle boycott. Over 80 of these groups make up the International Nestle Boycott Committee (INBC). The INBC membership includes, among others, the American Public Health Association, American Baptist Church, American Federation of Teachers, Ambulatory Pediatric Association, AFSCME, Church Women United, Church of the Brethren, Christian Church (Disciples of Christ), Consumer Federation of America, Dominican Fathers and Brothers, International Ladies Garment Workers Union, League of United Latin American Citizens, National Council of Churches, National Council for International Health, National Federation of Priests' Councils, National Organization for Women, National Women's Health Network, Presbyterian Church in the U.S.A., Sisters of Loretto, Unitarian Universalist Association, United Auto Workers, United Church of Christ, United Methodist Church, Board of Global Ministries, United Presbyterian Church, United Steelworkers of America and the YWCA.

Following Nestle's announcement in mid-March that it intended to comply with the WHO/UNICEF Code, the INBC immediately sent an invitation requesting a meeting with Nestle officials. The INBC was seeking clarifications on the substance of Nestle's new policy. They also hoped to negotiate an appropriate mechanism to insure that such policies will be followed upon termination of the boycott.

Although Nestle had refused for years to meet with the INBC, we hoped that Nestle's apparent new attitude would bring a greater willingness to face its critics.

Nestle responded to our letter on May 21. I would like to make some

comments on the four major points in Mr. Maucher's letter.

First, Mr. Maucher reiterated Nestle's decision to bring its infant formula marketing practices into compliance with the WHO/UNICEF International Code. However, it has now become quite apparent that these new instructions fall significantly short of the WHO/UNICEF standards.

At the 35th World Health Assembly held in May of this year in Geneva, Switzerland, several delegates from developing countries indicated their alarm with Nestle's interpretation of the code.

As stated by Dr. A. Maruping of Lesotho:

Infant formula sales promoting agents insist that they will function within their interpreted version of the International Code. . . . As many of us are aware, Nestle's interpreted version of the International Code has a number of unfortunate loopholes.

International pressure on the infant food manufacturers to respect the International Code and abide by it must be increased.

It now appears that Nestle is interpreting the code to its own convenience, continuing practices which were judged unsafe and dangerous during the code-drafting process. Nestle's instructions condone promotional practices such as mothercraft nurses, free formula samples, free formula donations which encourage routine hospital bottle-feeding, and personal gifts to health workers, all of which the WHO/UNICEF Code specifically prohibits.

Speaking at the 1982 World Health Assembly, Dr. A. Tarutia of Papua-New Guinea observed:

With all due respect to Nestle, the company does not particularly support the WHO/UNICEF International Code. In Nestle's view, the Code is too restrictive . . . so they are trying to rewrite the Code to suit their needs. . . . My delegation is convinced that no private sector has the right to amend the WHO/UNICEF Code.

More recently, the Washington Post reported on June 10, 1982, that UNICEF has formally rebuked Nestle officials for the "possibly harmful" way the company has chosen to interpret the WHO/UNICEF guidelines. The Post article quoted a letter from UNICEF Executive Director James Grant, in which he asked Nestle "not to use the name of UNICEF nor mine in any way which suggest our endorsement of Nestle's instructions."

The World Health Organization appears to have similar concerns. At a June meeting with Douglas Johnson, national chairman of the Infant Formula Action Coalition (INFAC), WHO Assistant Director General Dr. David Tejada commented that while WHO welcomed Nestle's publicly stated intention to abide by the code, they did not welcome the company's current interpretation. Both WHO and UNICEF are currently drafting a

joint document for their field staff clarifying the discrepancies of the Nestle interpretation.

Mr. Maucher's second major point deals with the issue of where the new Nestle instructions will apply. He states that his company will comply with individual national codes, while applying the Nestle policy in all countries "except for those provisions that are inconsistent with national or local requirements."

The question here is whether Nestle intends to continue practices restricted by the WHO/UNICEF code where national guidelines permit such practices. Mr. Maucher's letter leaves this matter in somewhat ambiguous terms, however, the introduction of Nestle's March 16, 1982, instructions to marketing personnel states that—

This policy is intended for application in countries where no specific measures have been, or are being taken to give effect to the Aims and Principles of the WHO code.

According to the World Health Organization's "Infant and Young Child Feeding—Progress Report by the Director General," most of the countries in which Nestle sells infant formula have taken some followup measures in terms of implementing the code. One can conclude that the Nestle policy, deficient as it is, will be implemented in only a handful of the countries in which the company operates.

Where national codes are in place, or in the process of formulation, Nestle's obligation remains with the WHO/UNICEF standards, unless specifically in violation of national law. Article 11.3 of the WHO/UNICEF Code clearly states that—

Independently of any other measures taken for implementation of this code, manufacturers and distributors of products within the scope of this code should regard themselves responsible for monitoring their marketing practices according to the principles and aim of this code, and for taking steps to ensure that their conduct at every level conforms to them.

One predominant reason for the variation between the WHO/UNICEF Code and some national codes is the intense lobbying efforts of the infant formula industry in developing countries. While claiming "cooperation" with national governments, Nestle and others have been working to obtain much weaker standards than those provided in the WHO/UNICEF Code.

In the Philippines, for instance, Nestle and three U.S. formula manufacturers prepared a 15-page critique of the WHO/UNICEF Code. They urged the Government to substantially weaken 10 of the 11 WHO/UNICEF Code articles. In Pakistan, the Government has adopted an eight-page code, with six of those pages taken verbatim from the Nestle-dominated International Council of Infant Food Industries' Code. Only the definitions are

extracted from the WHO/UNICEF Code.

At the recent World Health Assembly, the delegate from the African state of Rwanda observed:

Sometimes we may be tempted to let ourselves be convinced by the arguments of industry representatives that offer ready-made legal texts for us to follow-up on the WHO Code without us realizing immediately—because we lack time and appropriate competence in marketing matters—that these industry texts do present significant differences with respect to the WHO text which we as member states of the WHO have adopted as "a minimum requirement".

We should not forget that these multinational companies have influence and powerful means to make themselves heard in government circles. . . . Their interest lies in business turnover, ours in the health of our children.

It would appear that Nestle has been talking out of both sides of its mouth. Pledging cooperation with sovereign nations and support for the WHO/UNICEF Code, on the one hand, while actively promoting weaker standards to those same governments.

The third main point outlined in the letter from Nestle responds to our request that the company meet in good-faith negotiations with the International Nestle Boycott Committee (INBC). Nestle claims to have met with INBC representatives immediately after its March 16 announcement, to explain its new policy and answer detailed questions. Mr. Maucher also refers to a second meeting with an INBC representative on April 20.

Those individuals who attended the first meeting, however, point out that Nestle was adamant that they were not officially meeting with the INBC, but rather with representatives of national church bodies whose denominations had endorsed the boycott. The distinction here stems from Nestle's longtime unwillingness to recognize the INBC as a legitimate negotiating group. Nestle did in fact formally meet with the INBC lawyer, Jonathan Churchill, on April 20, but only with assurances from Churchill that the INBC keep those discussions confidential.

The fact that Nestle has, in its letter to Congress, broken the confidentiality it sought from the INBC, can be viewed with the positive implication that Nestle has finally acknowledged the credibility of the boycotting coalition as a legitimate bargaining agent. Although Nestle has made a positive step toward the negotiation table, the company has yet to seriously participate in "good-faith" discussions. The boycott remains the most effective tool to sustain the needed pressure for more substantial changes by Nestle.

In his final point, Mr. Maucher describes the creation of an independent audit commission, "with the responsibility for reviewing implementation of the WHO code and for auditing the investigation of allegations of any Nestle

activity deemed to be incompatible with the WHO or applicable national code." Nestle has announced that the distinguished former Senator from Maine, Edmund Muskie, will chair this new commission.

The establishment of a watchdog committee is a positive and welcome initiative by Nestle. Led by a man of unquestionable integrity, Senator Muskie, this commission could play a useful role in the ultimate resolution of this issue.

However, for the commission to be successful, Senator Muskie must make a determined effort to exert its independence from Nestle. Let me take the liberty of making a few constructive suggestions to the members of the Nestle Audit Commission.

First, the commission should measure Nestle's performance by the strict standards of the WHO/UNICEF Code, rather than the now-discredited Nestle instructions.

Second, the commission should define more clearly Nestle's role in relation to contacts with national governments. Nestle should conform to the WHO/UNICEF guidelines in all countries, and immediately suspend lobbying efforts aimed at weakening national infant formula marketing codes.

Third, the commission should contract an independent group to do first-hand monitoring of Nestle marketing practices in developing countries. As now defined, the commission's role appears to be that of reviewing Nestle's own internal investigation of complaints received from outside sources. To do its job properly, the commission should initiate its own monitoring, preferably by an independent group with the freedom to quietly observe company practices without advance warning of their presence to Nestle marketing managers. Such a group should have the authority to complete its findings before supplying them to the commission for review.

Finally, the commission should use its prestige to actively advocate the establishment of a monitoring system by the World Health Organization. Monitoring of the code's implementation would be far more appropriate, impartial, equitable, and effective by the world's highest health authority. Early drafts of the WHO/UNICEF Code contained a provision clearly delegating this role to WHO. Nestle and other infant formula manufacturers succeeded in removing this authority, however, hampering WHO's ability to critique the Nestle guidelines and otherwise monitor industry practices.

At the World Health Assembly in May, there was considerable support for a more active role by WHO in implementation of the code. A resolution passed unanimously, with U.S. support, requesting greater assistance from WHO for member states "in

their efforts to implement and monitor the code and its effectiveness." The resolution further urged WHO to provide guidance to member states "to insure that measures they adopt are consistent with the letter and spirit of the (WHO/UNICEF) International Code."

Speaking on the dangers of industry self-monitoring, Dr. Ondaye of the Congo commented:

We would suggest that the WHO Secretariat set up a system for the monitoring of its implementation. Such a system must be completely independent and objective and therefore in no way could be set up by any of the parties directly concerned with the marketing of breast milk substitutes.

Senator Muskie, an international statesman of high regard, could play an instrumental role in providing the needed mandate from governments and industry for such action by WHO. If Nestle is truly serious about its intention to abide by the WHO/UNICEF Code, it would clearly be to its advantage to support universal and equitable monitoring of all members of the infant formula industry.

Mr. Speaker, I sincerely wish Senator Muskie and his fellow commission members success in their efforts to raise the ethical standards of the Nestle Co. Far too many Third World infants have suffered needlessly due to the insensitive marketing strategies of multinational infant formula manufacturers. But until Nestle visibly and verifiably commits itself to full compliance with the letter and spirit of the WHO/UNICEF Code, millions of Americans like myself will continue to actively support the Nestle boycott.

Mr. Speaker, I request that the attached Washington Post article of June 10, 1982, be included with my remarks in the RECORD:

UNICEF HITS NESTLE ON INFANT FORMULA

(By Philip J. Hilts)

UNICEF has rebuked Nestle officials over the "possible harmful" way the company has chosen to interpret the World Health Organization (WHO) guidelines on marketing infant formula.

Nestle products, including coffee, chocolates and Stouffer's food, have been the target of a boycott by some 75 unions, church groups and health organizations. Nestle's and other companies' aggressive marketing practices have persuaded mothers to switch from breast to bottle feeding, creating a danger to the health of the infant and a high cost to the family, the boycotters say.

Last year, the United Nations approved a voluntary marketing code it intended for nations to adopt that would restrict the aggressive marketing of formula. The vote was 118 to 1, with the United States the lone dissenter.

The Nestle company is the world's largest manufacturer of infant formula, and the only one that has said it will try to comply with the voluntary rules for marketing infant formula. But the company has done so by issuing its own interpretation of the code, which critics have attacked.

Last month, James Grant, executive director of UNICEF (the United Nations Children's Fund), wrote to Nestle:

"It is with regret that I now inform you that my staff have conveyed to me their serious misgivings on Nestle's interpretations of significant aspects of the [WHO infant formula marketing] code, and on the possible harmful effect of its instructions [to sales personnel] in the implementation of the true spirit and intent of the code.

"I must ask you," Grant's letter continued, "and your colleagues in Nestle not to use the name of UNICEF nor mine in any way which suggests our endorsement of Nestle's instructions."

Rafael Pagan, president of Nestle's Coordination Center for Nutrition, wrote back to Grant, "I am shocked and dismayed at your letter of May 10 stating your staff's 'misgivings' with our recent policy initiatives to implement the WHO code."●

CARIBBEAN CRUISE CONVENTIONS WILL IMPROVE CARIBBEAN ECONOMY

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. SCHULZE. Mr. Speaker, today, I am introducing H.R. 6975, a bill to amend the Internal Revenue Code to provide that business expenses for seminars and conventions held aboard ship will be treated for tax purposes like any other business expense, provided that they are not lavish and that certain conditions are met.

The purpose of the bill is to remove a statutory impediment to the continued development of tourism and commerce in the Caribbean nations which are our friends and close neighbors. The prohibition against deducting on-board convention expenses has injured the maritime industry in the United States, and it has depressed the market for the services of many thousands of skilled and unskilled workers, both in our domestic port cities and in the ports of call in the Caribbean.

Under my bill, expenses for meetings held on U.S.-flag vessels would qualify wherever conducted. Expenses for meetings held on nondomestic cruise ships would be required to meet two tests designed to encourage usage of U.S. port facilities and to encourage tourism and employment in the Caribbean.

If meetings are held on foreign-flag vessels, the cruise would have to originate or terminate at a U.S. port, and 75 percent or more of the ports of call visited on the cruise would have to be in qualifying Caribbean Basin countries.

As under present law, the seminar and convention would have to have a valid business purpose and could not be lavish or extravagant.

The bill defines a "qualifying Caribbean Basin country" to mean any Caribbean Basin country which is not, as

of the beginning of the cruise, declared by the President to be disqualified for purposes of the tax deduction. The President could specify that a convention's deductibility is disqualified if, for example, a port of call were located in a Communist country such as Cuba. Other acts causing disqualification include expropriation of American investment without proper compensation or other hostile economic actions directed at U.S. citizens or businesses.

"U.S. ports" are located in the United States, its possessions, or the Trust Territory of the Pacific Islands. This means that cruises originating or ending in Puerto Rico or the U.S. Virgin Islands would qualify, even if they did not call on ports in the continental United States.

Mr. Speaker, the United States must take an active interest in the economy and well-being of our neighbors in the Caribbean Basin. The nations that ring the Caribbean are tied closely to the United States politically and economically. The largest source of income is from American visitors brought in by air and cruise vessels, and U.S. passengers account for several hundred million dollars in revenue of the Caribbean Basin nations annually.

The cruise ship industry provides jobs for thousands of American and Caribbean residents. Approximately 40 percent of the onboard hotel crew, those catering to the personal needs of the passengers, are from Caribbean nations. Further, the economic benefits are not limited to onboard employment. When travelers leave the cruise ships to spend a few hours ashore, jobs are created for local restaurant workers, taxi drivers, tour guides, and merchants. Their prosperity creates a chain reaction of employment for thousands more.

Opponents of the deductibility of convention expenses for cruise ship meetings generally view such conventions as mere vacations for the participants. They think of the cruises as pleasure cruises whether or not most of the time is spent in business meetings.

The fact is that the organizer of the convention has a captive audience on-board ship and is able to engage in more communicative activity than would occur at a land-based convention where golf courses are inevitably nearby.

The requirement that the port of origin or destination be a U.S. port is intended to insure that supporting activity business benefits both United States and Caribbean ports. Hotels, restaurants, and entertainment businesses in both the United States and Caribbean countries would find this change a stimulus to their economics.

Since the deduction for cruise conventions was eliminated, cruise opera-

tors have experienced a 15-percent loss in load factor. This is a serious reduction and has impacted not only on the cruise operators, but on the entire Caribbean area.

I urge the support of my colleagues for the targeted reinstatement of deductibility for legitimate business meetings held aboard the floating hotels of the Caribbean.●

CYPRUS SITUATION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. GILMAN. Mr. Speaker, a just and lasting settlement of the Cyprus situation is imperative and must remain a primary foreign policy objective of the United States. However, a peaceful settlement is not possible as long as Turkish troops remain on that island.

The United Hellenic American Congress, the voice of Greek-American organizations across the country, recently met and adopted several resolutions, one of which pertains to the Cyprus question. I wish to insert this resolution for the Members' special attention:

RESOLUTION

Whereas, In his recent address to the British Parliament, President Ronald Reagan reaffirmed the traditional stance of the United States when he stated: "Armed aggression must not be allowed to succeed. The American people firmly support this principle and the principle of the rule of law under God;" and

Whereas, Turkey invaded the independent Republic of Cyprus in July-August, 1974, and ever since illegally occupies approximately 40% of the total territory of the Cyprus Republic; and

Whereas, The Turkish invasion and occupation brought about bloodshed, destruction, misery, calamities, and enormous sufferings for the people of Cyprus as a whole; and

Whereas, As a result of the Turkish invasion and occupation, 200,000 Greek-Cypriots, i.e., one-third of the total population of Cyprus, have been forcefully uprooted from their ancestral homes and lands and have become destitute refugees in their own country; and

Whereas, Approximately 2,000 Greek Orthodox Cypriots—men and women, boys and girls, military and civilian, and American citizens—disappeared while in the custody of the Turkish army and have been missing ever since and the Turkish authorities refuse to give any account of their whereabouts; and

Whereas, Many of the holiest shrines of the Greek Orthodox Church, including the tomb of St. Barnabas, the patron Saint of Cyprus, are located in the territory of Cyprus occupied by Turkish troops; and

Whereas, The Turkish occupation forces desecrated, looted, and destroyed hundreds of Greek Orthodox Churches and prohibit Greek Orthodox worship in the occupied part of Cyprus; and

Whereas, Unanimous Resolution No. 3212 of the United Nations General Assembly, subsequently endorsed by Security Council Resolution No. 365, and numerous other Resolutions of the United Nations, the Non-Aligned Movement, the British Commonwealth of Nations, the Council of Europe, and other international bodies have all condemned the Turkish aggression against the Republic of Cyprus and called inter alia, for:

(i) Respect for the independence, sovereignty, and territorial integrity of the Republic of Cyprus;

(ii) The immediate withdrawal of all Turkish troops from the territory of the Republic of Cyprus;

(iii) The return of all refugees to their homes and properties under conditions of safety;

(iv) Sincere and effective efforts for the tracing and accounting of those missing in Cyprus; and

Whereas, The Congress of the United States of America has on numerous occasions called upon Turkey to withdraw its troops and colonists from Cyprus and has supported the independence, sovereignty, and territorial integrity of the Republic of Cyprus; and

Whereas, While Turkey contemptuously disregards the aforementioned Resolutions and demands, and flagrantly refuses to comply with them in violation of all norms and principles of International Law, Turkey is systematically colonizing the occupied part of Cyprus with tens of thousands of settlers from mainland Turkey for the purpose of changing the centuries old demographic character of Cyprus; and

Whereas, Turkey has illegally used American-supplied weapons to invade and occupy the Republic of Cyprus; and

Whereas, American law prohibits further military aid to be given to governments which violate American statutes and policy governing the use of such weapons; now, therefore, be it

Resolved, by the Steering Committee of the United Hellenic American Congress, That the invasion, continued occupation, and colonization of the Republic of Cyprus by Turkey is again condemned; and, be it further

Resolved, That the Secretary General, the General Assembly, and the Security Council of the United Nations, the President and Secretary of State of the United States of America, the Congress and Senate of the United States of America as well as their appropriate committees be urged to take all steps within their power to bring about a peaceful solution of the question of Cyprus on the basis of the relevant United Nations Resolutions and in accordance with the United Nations Charter; and, be it further

Resolved, That a suitable copy of this Resolution be presented to the Secretary General of the United Nations, the Presidents of the General Assembly and the Security Council of the United Nations, the President and Secretary of State of the United States of America, and the Chairmen of the appropriate committees of the United States Congress.

Adopted by the members of the Steering Committee of the United Hellenic American Congress this second day of August, 1982 at Chicago, Illinois.●

THE PEOPLE OPPOSE WITHHOLDING

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. D'AMOURS. Mr. Speaker, a nationwide public opinion survey by the respected Behavioral Research Corp. shows that 7 out of 10 adult Americans oppose interest and dividend withholding.

Even more significant for proponents of supply-side economics is the fact that 5 out of 10 Americans reported that interest and dividend withholding would discourage them from making interest bearing investments.

If my mail is representative of the mail that other Members are receiving on this topic, and I think it is, then opposition to interest and dividend withholding is particularly intense among senior citizens. Many senior citizens rely on the interest and dividends from small investments to make ends meet each month. Without these small earnings, they cannot pay their rent, or utilities, or buy the food they need. Withholding of any amount will push them to the edge of the social safety net. In many cases I suspect they will find themselves over the edge. That is why the American Association of Retired Persons and other senior citizens groups have so adamantly opposed interest and dividend withholding.

Mr. Speaker, the Senate claims to have taken care of our Nation's senior citizens by providing a way for them to obtain an exemption if they have low enough incomes. Unfortunately, the process set forth by the Senate is quite complex. Senior citizens will have to affirmatively seek out exemption forms. They will have to fill out a separate form for each different account or investment they have. They will have to renew each of these exemption forms every year. The paperwork will be very burdensome for many senior citizens, and few financial institutions on businesses will want to help them because that would only generate more costly paperwork for themselves.

To add insult to injury, the Treasury estimates that over 85 percent of the taxes owed on interest and dividend earnings are already being paid by law-abiding citizens. Senior citizens have an exemplary record of tax compliance yet they will have to bear a substantial share of the burden of withholding.

Mr. Speaker, we should take heed of the message our constituents are sending us and should give our senior citizens a hand by refusing to adopt the Senate's interest and dividend withholding proposal. There are other simpler, and less burdensome ways to go after the few people who are trying to

cheat the tax collector. We should not burden the many for the sins of a few.

I invite Members who share my opposition to interest and dividend withholding to join the 75 Members who have already agreed to cosign my letter to the House Rules Committee asking for a separate vote on interest and dividend withholding when the conference report on the tax bill comes back to the full House.●

THE UNITED STATES SHOULD NOW CONSIDER TERMINATING OUR SO-CALLED SPECIAL RELATIONSHIP WITH ISRAEL

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. McCLOSKEY. Mr. Speaker, between July 22 and August 1, I was privileged to participate in a congressional factfinding mission to six countries in the Mideast. That factfinding mission was specifically authorized by you, concurred in by the Secretary of State, accomplished in a U.S. Air Force plane, and accompanied by three U.S. military personnel and one representative from the State Department. The delegation was chaired by Congressman NICK J. RAHALL of West Virginia and included DAVID E. BONIOR of Michigan; MERVYN M. DYMALLY of California; ELLIOTT H. LEVITAS of Georgia; MARY ROSE OAKAR of Ohio and myself.

The delegation arrived in Damascus, Syria on Friday evening, July 23 and visited, during the following 8 days in succession, Syria, Lebanon, Israel, Egypt, Jordan, and Saudi Arabia. We met with the heads of state in every country save Jordan, where King Hussein was unfortunately out of the country and was represented by his brother, Crown Prince Hassan. We also met with either the foreign minister, his deputy and/or the defense minister of every country, as well as leading spokesmen for the various opposition parties in Lebanon and Israel.

While a report by the full delegation is under preparation, I would like to individually report to the House with a series of comments on specific facts ascertained during our visit to the Mideast. The first of those comments follow:

THE UNITED STATES SHOULD NOW CONSIDER TERMINATING OUR SO-CALLED "SPECIAL RELATIONSHIP" WITH ISRAEL

The current bloodshed in Lebanon has several tragic implications for the United States.

First is the hardening conviction elsewhere in the world that the U.S. has authorized and approved the indiscriminate and massive use of firepower against an innocent and largely defenseless Lebanese civilian population.

To the rest of the world Israel has now become a U.S. proxy—an instrument of U.S. policy in the Mideast, much as we view Cuba as an instrument of Soviet policy in the Western Hemisphere.

When Israel uses U.S.-supplied artillery, aircraft and weaponry, including the fear-some CBUs, or "cluster bombs," against refugee camps and urban areas, the world—and particularly the Arab world—understands that these are U.S. weapons, supplied under agreements that they will not be used save with U.S. consent, express or implied.

The blood of innocent women and children both Lebanese and Palestinian, is thus on our hands, not just on the hands of the Israelis. The American-made cluster bombs, for example, are among the most sophisticated and deadly anti-personnel weapons ever conceived by man. Scattering hundreds of small bomblets over an area of 25 acres or more, a single CBU has a particularly horrifying impact on a civilian population. It is well-known that cluster bombs were furnished by us to the Israelis in the early 1970s on the specific condition that they be used only against regular armies when Israel was under attack, and that they not be used against guerrilla forces or in civilian areas. When the Israelis violated this agreement in 1976 by the use of CBUs in southern Lebanon, the U.S. government lodged a formal and public protest.

Not so in 1982, however. Not only has the U.S. stood silently like Pontius Pilate as the CBUs were used in southern Lebanon in recent weeks, we also vetoed, a U.N. Security Council resolution calling for Israeli withdrawal from Lebanon. As in the case of Vietnam, whatever may be the merits of the destruction of rural villages by U.S. firepower, the indiscriminate use of that firepower is viewed with universal horror elsewhere in the world.

It is not merely world opinion that is shocked. We violate our own principles in this process. We have long treasured our heritage as a nation under law, a nation which sought to restrain the excessive use of force, even in just causes, according to clear legal principles. One of those principles is that our police, in pursuit of an armed criminal, cannot pursue that individual into a marketplace and indiscriminately shoot into the crowd. Under no circumstances can the Israeli pursuit of not more than 15,000 armed Palestinians, in a country of 3 million people, be considered a restrained use of force. Naval bombardments and aerial bombing of Beirut, Sidon, Tyre and the Palestinian refugee villages must, of necessity, kill and maim tens of thousands of noncombatants.

A captured Israeli pilot put it fairly and accurately the other day when he said that he could not justify his country's use of force—that such use of force was excessive. Indeed, to much of the world Israel has become the newest international bully, created and armed by the U.S. Israel is now viewed as out of control—but still supported by Washington in whatever its leaders, the former terrorists Prime Minister Menachem Begin and Defense Minister Ariel Sharon, may seek to do, regardless of how many innocent people are killed in the process.

In my judgment, respect for the opinions of mankind and our own legal heritage should prompt us now to treat Israel as just one more foreign country, to be assisted when right and condemned when wrong.

There is no longer any reason why we should send \$2.2 billion per year in foreign aid (one fifth of a total \$11 billion in U.S.

foreign aid this year) to a single nation of 3.5 million people when that nation is violating basic concepts of human decency.

It seems to me high time we considered severing the so-called "special" relationship with Israel which has existed since 1948—that we cut off the military weapons deliveries, economic assistance and special tax benefits that we have given for so many years.

It is time to say: "Israel, after 34 years on this planet, you have finally come of age. If you choose to use excessive force in attaining your objectives, however praiseworthy—if you continue to flout U.S. policy goals and unanimous U.N. Security Council resolutions—then do so on your own. We no longer choose to support the killing of innocent people, no matter how understandable may be your goal of eliminating military threats on your borders. Our past relationship with you has been based on morality, but we find no morality in your actions in and around Beirut today." ●

HAPPY BIRTHDAY, LITERACY VOLUNTEERS OF AMERICA

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. WORTLEY. Mr. Speaker, I would like to call your attention and that of my colleagues to the 20th anniversary of Literacy Volunteers of America, Inc.

Literacy Volunteers of America was founded by Ruth Colvin in 1962 for the express purpose of eradicating illiteracy in Syracuse, N.Y. Mrs. Colvin worked with professional reading consultants to develop a training workshop to equip nonprofessionals to tutor basic reading and writing to adults and teenagers in need of these skills. All volunteer tutoring was, and continues to be done, on a 1-to-1 basis free of charge to the student.

From that small but successful volunteer effort in Syracuse, the program grew far beyond what its originators had expected. Literacy Volunteers now operates 150 local programs and has 8 State literacy volunteer organizations.

In addition to helping adults and teenagers acquire basic skills, Literacy Volunteers branched out and established a tutor training workshop for English as a second language students. In 1978, the "Read On!" instructional series of readers was published to accommodate the special needs of students who need a more structured learning format.

Adult basic education agencies, libraries, correctional facilities, and community colleges have received technical assistance from LVA and use LVA methods and materials in their programs; 23,000 tutors and learners are currently working in LVA programs in 26 States and two Provinces of Canada.

Literacy Volunteers of America embodies the real American spirit of

giving one's time and effort so that others may benefit. May the next 20 years be devoted to totally winning the battle against illiteracy in the United States. ●

THE WORLD PEACE COUNCIL AND THE PEACE MOVEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. McDONALD. Mr. Speaker, of all the useful idiots in the peace movement none are as active and dedicated as those associated with the World Peace Council. The leadership of this foremost Communist front organization are far from idiotic however; it is the sincere person concerned about peace who fulfills the Leninist role of useful idiot. In September 1980, 2,260 peace-lovers gather in Sofia, Bulgaria, for the high-sounding World Parliament of the Peoples for Peace. This event was orchestrated by none other than the World Peace Council.

Continuing with Mr. Vladimir Bukovsky's commendable article on "The Peace Movement and the Soviet Union," which appeared in the May 1982 Commentary magazine, is an examination of the program of action 1981 of the World Peace Council. As Mr. Bukovsky points out, this program reads like a bad joke but it is nonetheless faithfully followed by Soviet surrogates and useful idiots.

The article follows:

But let us return to this remarkable program, unanimously adopted by the international community of peace-lovers. (It is published by the World Peace Council in Helsinki, as already noted, and is available in English under the title, Program of Action 1981.)

This program includes such items as the "elimination of all artificial barriers to world trade," an amazingly frank recognition of the Soviet need for Western goods and technology and its desire to be granted the status of most favored nation. But what this has to do with the problem of peace and why all peace-loving people should fight for it tooth and nail is hardly made clear.

As could be expected, the program contains a clear definition of "just" and "unjust" wars: "The policy of destabilization of progressive regimes in developing countries actually constitutes an aggression, waged by psychological, economic, political, and other means, including armed intervention." However, similar acts against "racist and fascist" regimes are quite justified because the mere existence of non-progressive regimes "is abhorrent to the conscience of humankind." Accordingly, the sale of arms to these "abhorrent" countries should be banned, but nothing need restrain the peace-loving from selling arms to "progressive" regimes and to "liberation movements."

And, of course, there are directives to the mass media, which "must serve the cause of

peace and not the military-industrial complex by confusing public opinion with lies and disinformation." (In other words, the media should not report on the Soviet arms build-up.) A similar directive is issued to those "who bear responsibility for educating a new generation."

The program further specifies precisely which events and campaigns to undertake, and designates weeks for the collection of signatures on various petitions, etc., all around the world. It constantly emphasizes the urgent need for "further intensification of actions against the deployment of the new U.S. weapons of mass annihilation in Western Europe" and plans for "strengthening and broadening of national movements into a worldwide network of peace organizations."

It is not possible here to discuss all the details of this remarkable document. It simply introduces each and every aspect of Soviet foreign policy wrapped around with the phraseology of peace. Not surprisingly, therefore, it includes Afghanistan under the guise of a "week of solidarity, with special emphasis on support for a political settlement as proposed by the Afghan government." For Ethiopia it proposes "a week of solidarity with the Ethiopian revolution" and "support for the struggle of the Ethiopian people against imperialist and reactionary conspiracies and plans in the Horn of Africa." For Kampuchea there should be an "international campaign of solidarity with the government and people of Kampuchea led by the National United Front for National Salvation and an international campaign for recognition of the People's Revolutionary Council of Kampuchea and the seating of its representatives in the UN; exposure of the conspiracies of the Peking hegemonists who are working in collusion with the U.S. imperialists against Kampuchea." For Israel: "Support for the peace forces in Israel in their struggle for the complete withdrawal of Israel from the occupied territories and for the realization of the inalienable national rights of the Palestinian people."

Whereas for the Middle East in general: a "campaign of solidarity with the Arab peoples in their struggle to liquidate the political and military consequences of the Camp David and Washington accords; solidarity actions with Libya against the threats of aggression by the Egyptian regime and U.S. imperialism." As for the U.S., even in so totally pro-Soviet a document as this the instruction to campaign for the "release of political prisoners in the United States of America" reads like a bad joke. Clearly, the love of peace dulls the sense of humor. The only countries where violations of human rights are recognized by the unanimous vote of 2,260 delegates from 137 countries are: Bolivia, Chile, El Salvador, Guatemala, Haiti, Israel, Paraguay, Uruguay, Indonesia, South Korea, Northern Ireland, and the U.S. Has the world not undergone a remarkable improvement?

After the successful adoption of this program, what followed was simple. Returning from Sofia, the enthusiastic delegates threw themselves into a hectic round of implementing the program, pressing for appropriate resolutions, actions, and commitments in each of their respective organizations (*Pravda*, November 5, 1980). An additional impetus was given to the campaign by an endorsement from the World Council of Churches at their meeting in Dresden (East Germany) on August 28, 1981, thus committing a huge number of adherents of the var-

ious Christian denominations to following the Soviet line. And in no time hundreds of thousands in the West came honestly to believe that they were out to save world peace.

Well, is there any further need to explain why the Soviet Union is so interested in the peace movement? There is a term in party jargon coined by Lenin himself: "a useful idiot." Now, in spite of all their blunders, senseless adventures, economic disasters, the Polish crisis and the stubborn resistance of the Afghan peasants, Reagan's rearmament plan and UN resolutions, the Soviet rulers have scored a spectacular victory: they have recruited millions of useful idiots to implement their bankrupt foreign policy. They are no longer isolated and there is still a big question as to whether the Americans will be allowed to place missiles in Europe.

True enough, the American economy is vastly more productive and efficient than the Soviet, but the Americans don't have a weapon like the "struggle for peace." True again, this peace movement will be expensive for the Soviet people (the meeting in Bulgaria alone must have cost them millions, to say nothing of subsidizing all peace activists on those jaunts to the best Soviet resorts; the cost of running this worldwide campaign must be simply astronomical). Still, it is cheaper than another round of the arms race, let alone the cost of maintaining a priceless military superiority. And the result will be long-lasting.

Mind you, we are into only the second year of a planned ten-year "struggle for peace." Within a few years, the whole earth will be trembling under the marching feet of the useful idiots, for their resources are inexhaustible.

I remember in the 50's, when the previous peace campaign was still in full swing, there was a popular joke which people in the Soviet Union whispered to each other: "A Jew came to his rabbi and asked: 'Rabbi, you are a very wise man. Tell me, is there going to be a war?' 'There will be no war,' replied the rabbi, 'but there will be such a struggle for peace that no stone will be left standing.'"

IRS CHIEF UPSCALES HIS DIGS

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. BONER of Tennessee. Mr. Speaker, they are at it again.

Officials of the Reagan administration just do not seem to learn. If you will recall, the President, right after his inauguration, told his appointees in the executive branch not to make unnecessary expenditures setting up their offices.

Rather than listening to their boss, some of Mr. Reagan's top executives have been busy redecorating their offices in what looks like an attempt to get on the cover of *Architectural Digest* or, at least, *Better Homes and Gardens*.

First we learned that Commerce Secretary Baldrige had spent \$118,000 redecorating his office suite.

Then we found out that the head of the Veterans' Administration, Robert

Nimmo, had 54,000 dollars' worth of work done on his office.

Now it looks like the chief of the Internal Revenue Service, Roscoe Egger, Jr., is trying to keep up with the Nimmos by spending \$85,000 in tax money to remodel two executive offices at the IRS.

Mr. Speaker, to me, it is unbelievable that the Commissioner of the IRS and its chief counsel would be spending Government money on microwave cooking centers and remote control doors at a time when budget cuts are forcing severe reductions in taxpayer services and tax audits.

Mr. Speaker, I would suggest that other members of the President's team start listening to the coach and stop spending money on remodeling their offices.

I would also like to suggest that my colleagues read the article by Ronald Kessler which appeared in this morning's *Washington Post* and which I submit for publication in the *Record*.

IRS CHIEF UPSCALES HIS DIGS

(By Ronald Kessler)

Internal Revenue Service Commissioner Roscoe L. Egger Jr. and the agency's chief counsel are planning to spend \$85,000 to remodel and redecorate their offices.

"As far as I'm concerned, this office, because it is the senior office of the IRS, ought to reflect an appropriate executive-level atmosphere," Egger said. "The place looks shabby the way it is."

President Reagan, two days after taking office, told his appointees to "set an example by avoiding unnecessary expenditures" in setting up their offices. He exempted "reasonable and necessary cleaning, painting and maintenance or structural changes essential to the efficient functioning of an office."

A study last year by the Chicago-based Better Government Association found that Reagan's department heads subsequently ordered more than \$350,000 worth of new furnishings, including \$118,000 for Commerce Secretary Malcolm Baldrige's suite. Robert P. Nimmo, head of the Veterans Administration, later came under fire after \$54,000 worth of work was done on his offices.

At 1111 Constitution Ave. NW., Thym Smith, assistant to the IRS commissioner for public affairs, said the remodeling will be funded out of the current appropriation.

"We are so sensitive to the taxpayers, because those are the people we serve," he said. "We don't want people to think that's where our taxes went—to the commissioner's office. I bet it will be 30 years before they do [the remodeling] again."

Egger has ordered \$6,517 worth of blue carpeting to replace his beige carpets, 10 mahogany and leather arm chairs, at \$5,650, to replace white modern ones, and a new \$1,966 conference table.

Egger ordered an additional door for his secretary installed at a cost of \$4,015. He ordered a remote-control device of \$886 so that he can open his door from his desk.

Egger also requested a new and expanded kitchen for his suite. It will include a \$1,213 microwave cooking center, new cabinets costing \$3,596, and a dishwasher, refrigerator, garbage disposal and hot water heater costing a total of \$1,296. The existing kitchen

en has an electric range, under-the-counter refrigerator and cabinets.

The General Services Administration estimates that it will cost an additional \$15,000 to break through walls to expand the kitchen.

The offices of the agency's chief counsel, Kenneth W. Gideon are also being reconstructed, at a cost estimated by GSA at \$45,000. Gideon plans new carpeting and furnishings, but the items have not yet been purchased.

GSA still has to give final approval to the plans and could reject them, according to officials at both GSA and IRS. In the past, GSA generally has gone along with remodeling requests of presidential appointees. In any case, the IRS has already spent \$21,283 on Egger's appliances and new furnishings.

Egger, a former partner in the Price Waterhouse & Co. accounting firm who was appointed by Reagan last year, said the work is necessary and "modest" in cost. He said his chief counsel's office needs reconstruction because of the addition of a deputy chief counsel.

Egger said he needs an expanded kitchen because the existing one is not large enough to make meals for himself and official visitors. The meals are prepared by Egger's secretary or a caterer, or are brought from the IRS cafeteria, all at Egger's personal expense.

"I have breakfast once a month with the chairman of the [IRS] oversight committee on the Senate side," Egger said, referring to Charles E. Grassley (R-Iowa), a member of the Senate Finance Committee. "The last time he was here, he didn't say a word, but they [his eggs] were cold."

Egger said he personally bought some of his own furniture from Price Waterhouse because of difficulty in finding furniture through GSA. "It's not being done for personal preference," he said.

GSA regulations say, "As long as an office is in good repair and suitable to the function of the executive position to which it is assigned, it is GSA's policy to discourage preferential modifications with a change in occupant."

But a GSA official noted, "Somehow [government agencies] insert in their justification that [remodeling] is needed for the mission of the agency. We have a great deal of difficulty arguing against that."

The regulations permit a kitchen of no more than 30 square feet for agency heads such as Egger. Egger's new kitchen will have 66 square feet, according to the IRS.

James G. Whitlock, GSA's assistant regional administrator, said IRS officials told him the expanded kitchen could be considered a substitute for a 200-square-foot dining room, to which Egger is entitled under GSA rules. He now dines at his conference table.

"The IRS pleaded their case on the basis of no dining room," Whitlock said. "That's not an unlikely trade-off. I don't consider it to be illegal." The plans do not appear to be "ostentatious or outrageous," he said.

Lee Keller, chief of the IRS national office facilities branch, said Egger's present kitchen is a "safety hazard" because it is so small that people crowding into it could spill coffee on each other. "One of the things we try to do," he said "is avoid injuries, especially on the third floor," where the commissioner has his office.

An official said counsel Gideon had been given several plans that would have provided a new office for his deputy and two additional people without rearranging the entire

suite. However, Gideon, a Texas lawyer, said this week, "We felt it was important that my deputy be right next to me." ●

SMOKE: FIRE'S FATAL FACTOR

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. RUSSO. Mr. Speaker, smoke is the proximate cause of more than 70 percent of all fire deaths in the United States and I feel we need a greater public awareness and understanding of this fact.

Three men and a woman died and at least 20 others suffered injuries in a fire in Chicago's Conrad Hilton Hotel on May 23, 1982. In the past 5 years in Chicago alone, 34 persons have died in hotel fires and more than 900 have died in fires in structures of all kinds.

One young woman who escaped the Hilton Hotel blaze pointed out vividly what it is like to be caught in a fire like this: "You can't breathe and you can't see and you can't move," she said. Firemen rescued her.

Across the country, fires in both public lodgings and in residences take an enormous annual toll.

The per capita rate of fire incidents, casualties and injuries in the United States is among the highest in the world. In this country, fire takes more lives than all natural disasters combined. The most recent statistics released by the National Fire Protection Association indicate that an estimated 6,639 people died and 30,200 were injured in fires in 1980. Some sources estimate that more than 7,500 people died in fires last year.

These statistics make a powerful argument that, as much as we have learned about preventing and fighting fires, we should redouble our efforts to reduce injuries and deaths.

One important and deadly aspect of fires has been documented all too often. As I said, an estimated 70 percent of the thousands of deaths and injuries from fires every year are caused by smoke, rather than by heat and flames. Many victims are unable to escape through fire exits and stairways because smoke blocks their pathway to safety. The smoke not only prevents escape from the flames; it is itself the major cause of injuries and deaths in fires.

Smoke is the byproduct of the flames and heat produced by fires; it is not a simple phenomenon. Smoke can consist of any of several toxic substances, including carbon monoxide, toxic gases such as hydrogen chloride, and hydrocarbons. Hydrocarbons are the visible and invisible products of incomplete combustion—the unburned portions of materials actually burning.

Hydrocarbons are what we see as smoke—the sometimes thick, dark

grey or black vapor in the air. Hydrocarbons are extremely irritating to the eyes, nose, throat, and lungs. They cause choking, gagging and impaired breathing. If a person is exposed to hydrocarbons for an extended period of time, he or she will die. In such cases, which are all too common, the cause of death is listed as smoke inhalation or asphyxiation.

Smoke thus presents a panic-producing threat to the person attempting to escape a life-threatening fire. If the fleeing person encounters an area of dense concentration of hydrocarbons lying between himself or herself and the exit, it is virtually impossible to plunge through this barrier to safety. The eyes close in self-defense, in spite of one's efforts to keep them open, and as breathing becomes labored, strength fails. Escape is really possible only for those fortunate enough to encounter mild concentrations of hydrocarbons.

The deadly consequences of smoke were most tragically demonstrated in the MGM Grand Hotel fire in Las Vegas in November 1980. The actual fire was contained within little more than an hour after discovery and never extended beyond the fifth floor of the hotel. Yet 61 of the 85 people who died in the fire were located in the 21-story high-rise tower portion of the MGM Grand. Postmortem analyses of the blood of 74 victims revealed that all who were found in the tower had died of asphyxiation secondary to carbon monoxide. In other words, they were killed by smoke, not fire.

Smoke need not continue to claim its yearly toll of victims. There are measures to be taken both before and in the event of fire which can significantly increase one's chances of surviving a fire. Smoke detectors are effective in alerting people to fires, and should be installed even more widely. People are now more aware of escape routes so they can take the best path to safety. Recently, an emergency escape mask to help individuals get out of residential or hotel fires has been placed on the market.

I think that these and other life-saving steps be made widely known through extensive public education programs. Knowing what to do and how to use the safety equipment available could save thousands of lives a year. Local firefighting organizations can and should make even greater efforts to provide local news media and schools with this truly vital information. I hope my colleagues will join with me in disseminating this knowledge. It would be a public service in the truest sense. ●

BUKOVSKY ON THE PEACE MENTALITY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. McDONALD. Mr. Speaker, "It is simple commonsense," writes Vladimir Bukovsky in the May 1982 Commentary magazine, "to try to restrain both sides of any would-be conflict if one wishes to preserve peace." But, he goes on to point out, "the European peace movement is so remarkably unilateral that it seems barely conscious of 'the other side.'" The same can often be said of the American peace movement as it cries about Cruise and Pershing missiles, while just barely acknowledging the existence of SS-20's.

Mr. Bukovsky's excellent article on "The Peace Movement and the Soviet Union" reviews and exposes the mentality of the leaders behind this crusade for world peace—peace at any price as far as the West is concerned. The excerpt follows:

[From Commentary magazine, May 1982]

EXCERPT FROM THE "PEACE MOVEMENT AND THE SOVIET UNION"

(By Vladimir Bukovsky)

After the experience of speaking several times with members of the current European peace movement, however, I know only too well how futile is the recourse to rational argument. They announce unabashedly that there is no Soviet military superiority. It is all, they say, CIA propaganda; the only reliable source of information as far as they are concerned seems to be the KGB. They refer one to the findings of a certain Stockholm International Peace Research Institute, leaving one to guess at the kind of methods employed by this institute for assessing the Soviet arsenal. Since the Institute has no satellites at its disposal, its "researchers" are undoubtedly left in a painful dilemma: whether to obtain their information from the blue sky, or from the Sputniks. Nobody in the European peace movement, it seems, has ever wondered about the reliability of this obscure establishment.

But this is just a trifle. More seriously, our peace-lovers—repeating word for word an old Pravda cliché—maintain that the "crazy American generals" are so trigger-happy as to push the button just for the fun of it. I have never been able to understand why generals must invariably be crazy—American generals, of course, not the Soviet kind, who seem to have some innate immunity from craziness—and if they are crazy, why they did not push the damn button long ago. In any case, it is hard to imagine that the generals, who at least have some technical education, are less equipped to understand nuclear problems than the primary-school teachers who are so heavily represented in the peace movement.

Some of the "peace-makers" sincerely believe that as soon as the West disarms itself, the Soviets will follow suit, and with an almost literally incredible naïveté they urge us to "try" this suicidal experiment. Others, far more sophisticated, know perfectly well that their Soviet comrades need to gain time so as to enjoy a more advantageous posture in future negotiations with the

Americans. What they urge is that the West start negotiations first and improve the Western position later. Still others are more candidly selfish and object only to the deployment of nuclear weapons near their own village, so to speak—as if being protected is more dangerous than not being protected. Or better still, as if any single village, city, or country could maintain neutrality during a nuclear war. "Let the Americans fight the Russians," they say, implying that the entire problem of the modern world grows out of some stupid far-off quarrel between "Americans and Russians," who are apparently in some kind of conspiracy to destroy the poor Europeans. Surely if comrade Brezhnev promised to respect the "nuclear-free zones" in case of war, people could heave a sigh of relief and go to sleep untroubled. If Brezhnev says so, there will be no nuclear-armed submarines off your shores. After all, has comrade Brezhnev ever broken his word? Of course not. He is an honest man. He is so honest he can even guarantee you in what direction the contaminated clouds will move and locate for you the radioactive fallout. "Why should the Russians attack us, if we are disarmed?" Why indeed? Ask the Afghan peasants, they would probably know the answer.

There is no sense in rehearsing all the various "peace arguments," so contradictory and even incompatible that one wonders how those who make them manage to get along together in the same movement. Only one thing these various strands have in common: panic, and a readiness to capitulate to the Soviet threat even before such capitulation is demanded. Better red than dead. That is why current Soviet propaganda has so quickly become so remarkably successful.

Indeed, it is difficult to imagine a more openly pro-Soviet line than that of the European peace movement. It is even more pro-Soviet than that of the local Communist parties, who after all at least have to camouflage themselves with a cover of independence from Moscow. Nothing is more obvious, for example, than that the present increase in international tension was brought about by the Soviet invasion of Afghanistan. There is hardly a country, a political party (including some Communist parties), or an international organization that did not condemn the Soviet aggression unequivocally. The only public movement in Western Europe that never condemned the invasion, paradoxically, is the one that calls itself the "peace movement." No such condemnation has ever been pronounced at a peace-movement rally in Western Europe, or passed as a resolution, or published in one of the movement's major publications, or circulated as a mass petition. Perhaps you will imagine that the peace groups condemned the invasion in their hearts? On the contrary, the evidence is far more convincing that they simply justify this international crime.

Not long ago I myself was publicly charged by the leaders of the British Campaign for Nuclear Disarmament (CND) with having distorted their position on Afghanistan. Therefore I find it particularly useful to quote from an official CND booklet, *Why We Need Action, Not Words*, by Betty England: "The intervention in Afghanistan may well have been caused partly by the Soviet Union's fear of its growing encirclement. The fear cannot be called unreasonable after Sir Neil Cameron's statement in Peking . . ." (p. 12). In other words, the poor Russians whom Sir Neil, Marshal of

the Royal Air Force, so frightened with a speech critical of them, must have good reason for what they do. By this logic, we ought to be imposing strict censorship on anti-Soviet speeches lest we be faced with Soviet occupation of the entire world. But the implications are even more important. The idea buried in Miss England's passage is that the only way to keep the peace is gradually to accept the Soviet system and Soviet demands.

Even more outspoken than the CND is the World Peace Council. Its booklet, *Program of Action 1981*, contains a direct instruction to support the present puppet government of Afghanistan (p. 25). This program was unanimously adopted in 1980 by a gathering in Sofia, Bulgaria of representatives of most of the peace groups (about this gathering, more later). After this it comes as no surprise that at the recent International Peace Conference in Denmark it was decided to convene the next meeting in Kabul, the capital of Afghanistan, within six months.

It is obvious that a Soviet invasion of Poland would bring us closer to world war, or, to be more precise, would make any real relaxation of international tension quite impossible for ten or fifteen years. And once again, the only public movement that has never condemned the continuous Soviet threat to Poland (and is still uncertain about its reaction to the Soviet-dictated imposition of martial law) is the peace movement. The leaders of the biggest British peace group, CND, went even further, publicly praising themselves for not "overreacting" to the events in Poland (B. Kent, letter to the London Times, December 9, 1981) only a few days before the imposition of martial law, and displaying their "impartiality" by equating the Polish crisis with that in East Timor. Perhaps the leaders of the movement seeking to promote peace in Europe should be reminded that in 1975 the 35 countries of Europe, together with Canada and the U.S., solemnly recognized an inseparable link between security in Europe and respect for human rights in the participating countries. Should we assume that the CND leadership refuses to accept the Helsinki agreement, or are we to conclude that it is indifferent to the question of European security?

At least about Poland not all in the movement can be accused of indifference. I have, for instance, never heard of a case in which a representative of the Chilean or Argentinian government was invited to expound his government's views before any international peace conference. But for some strange reason, an exception was recently made for a representative of the Polish junta, who was invited by the World Peace Council to address the International Peace Conference in Denmark. His vicious lies about Solidarity and personal slanders against Lech Walesa (see the Guardian, January 11, 1982) were greeted with hearty applause by the peace-lovers (BBC report).

It is simple common sense to try to restrain both sides of any would-be conflict if one wishes to preserve peace. But the European peace movement is so remarkably unilateral that it seems barely conscious of "the other side." It cries shame on the Americans for as yet non-existent weapons like the neutron bomb, or the not-yet-deployed cruise and Pershing missiles, but speaks only in whispers, if that, of the hundreds of Soviet SS-20's already aimed at Europe.

Since, again, I have provoked an angry reaction from the CND leaders for pointing

out this particular instance of extreme unilateralism (London Times, December 9, 1981), I looked through the major CND publications once more. The booklet by Betty England quoted above does not contain a single mention of the SS-20's though it is virtually saturated with the names of American missiles. Nor does a widely distributed report on the CND annual conference of 1981 (the latest to my knowledge), nor the official CND leaflet, Nuclear War and You, dropped into my mailbox by some caring hand. Only recently I have learned that a decision to mention the SS-20 was finally taken by CND after many heated debates and very much against the wishes of the CND leadership, many of whom are also members of the British Communist party.

Oddly enough, there are many in the European peace movement who have worked (some still do) with Amnesty International in support of prisoners of conscience in the Communist countries. Unfortunately, this by itself does not seem to prevent one from making dangerous political mistakes, nor, to judge from the results, does it guarantee any moderating influence on the movement's leadership. Be that as it may, the fact is that the European peace movement (including its large constituent organizations) has never said a word in support of the thousands of people in the USSR who are imprisoned for opposing aggressive Soviet policies, for refusing to serve in the army on errands of aggression, or to shoot civilians in Afghanistan. During all the time that hundreds of thousands of "peace-lovers" were noisily expressing their one-sided feelings on the streets of London, Bonn, Amsterdam, and Brussels, not one word was said about Sakharov, still in exile and on a hunger strike—Sakharov, who has done more than anyone in the world to halt nuclear testing. These peaceful souls would happily throw stones at General Halg, but they would welcome Marshal Brezhnev with servile smiles.

This is not to deny that there are plenty of well-intentioned, and genuinely concerned and frightened people in the movement's ranks. I am certain that the overwhelming majority of them are. Just as it did in the 1950's, the movement today probably consists of the same odd mixture of Communists, fellow-travelers, muddleheaded intellectuals, hypocrites seeking popularity, professional political speculators, frightened bourgeois, and youths eager to rebel just for the sake of rebelling. There are also the inevitable Catholic priests with a "mission" and other religious people who believe that God has chosen them to make peace on earth right now. But there is also not the slightest doubt that this motley crowd is manipulated by a handful of scoundrels instructed directly from Moscow.

In fact, just as this essay was going to press, John Vinocur reported in the New York Times (April 6, 1982) "the first public substantiation from inside the antinuclear movement . . . that the West German Communist party, at the direction of the Soviet Union, has attempted to coopt public sentiment against nuclear weapons." The environmentalist party known as the Greens "charged that the West German Communist party, which is aligned with Moscow, dominated and manipulated a meeting [in Bonn] Sunday [April 4] in which representatives of 37 groups, describing themselves as elements of the antimissile movement, planned a major demonstration against President Reagan when he visits Bonn . . . June 10." The Greens, who participated in

the meeting, acknowledge that they themselves have cooperated with the Communists "on certain local issues," but what happened in Bonn was "scandalous" even to them. "The Communists dominated the meeting completely. It took place under seemingly democratic rules, but that was a joke. We could barely get a word in." The meeting—at which were represented such groups as the German Student Federation, the Evangelical Student Committee, the Federation of German Youth Groups, and the German Peace Society—rejected resolutions condemning Soviet interference in Poland and Soviet intervention in Afghanistan, and the delegates refused to express support for Solidarity. "They adopted, however, by a large majority, a motion condemning United States actions in Central America, the Middle East, southern Africa, and other regions."

Earlier, as I was in the process of writing this essay, news came that one of the Danish leaders of the movement, Arne Petersen, was arrested along with his wife for channeling Soviet money into the funds of the peace movement. His master, the Second Secretary of the Soviet embassy in Copenhagen, was expelled from the country. Now and then we hear about subsidized trips taken by peace activists to the best Soviet resorts where they are wine and dined royally—and, of course, shown kindergartens, schools, and hospitals (no munitions factories).

The majority of the European peace movement is undoubtedly not aware of these facts. Probably they will ignore the charges of the Greens, just as they missed the reports of Mr. Petersen's activities, which involved placing paid advertisements (out of Soviet donations) for the Danish peace movement in the Danish papers, ads signed by a number of prominent Danish intellectuals (who for sure knew nothing about it). And even our angry CND leaders "know nothing of the subsidized trips to Soviet resorts" (London Times, December 9, 1981). Well, sometimes it is very comfortable—even for professional intellectuals—not to know things . . .

For those, however, who do wish to know, let us track down the origin of the current revival of the "struggle for peace." Anyone who has read thus far will not be surprised to hear that the earliest traces of this revival are to be found in Soviet publications, quite clear for those who know how to read them:

The first bright colors of autumn have already touched the emerald green parks of Sofia. The golden leaves of maples and aspens are trembling on the breeze. And everywhere the tender-blue streamers bearing the insignia of the World Peace Council. Sofia is expecting an important event: the World Parliament of the Peoples for Peace will be working here from 23 to 27 of September. It is the biggest and the most representative meeting of the world's peace forces convened in the last years by the World Peace Council. (*Izvestia*, September 23, 1980).

The same day *Pravda* referred to "the biggest gathering in history of the fighters for peace." Indeed, the most peaceful and independent country of the world, Bulgaria, played host during those September days to 2,260 peace-lovers from 137 countries, claiming to represent 330 political parties, 100 international and over 3,000 national non-governmental organizations. To be sure, this was no ordinary meeting of the international Communist movement. The political spec-

trum of those represented was exceptionally wide: 200 members of different national parliaments, 200 trade-union leaders, 129 leading Social Democrats (33 of them members of their respective national executive bodies), 150 writers and poets, 33 representatives of different liberation movements (including the Association in Defense of Civil Rights from Northern Ireland), women's organizations (like the National Assembly of British Women), youth organizations, the World Council of Churches and other religious organizations, 18 representatives of different UN specialized committees and commissions, representatives of the Organization of African Unity and of OPEC, ex-military people, some of them generals, and representatives of 83 Communist parties (*Pravda*, September 23, 24, 25, 26, 27, 28, 29, November 5, 1980; *Izvestia*, September 23, 24, 27, 28, 1980).

It had all started about a year earlier, as we are informed by a talkative Bulgarian, the chairman of the Organizational Bureau, responsible for the "practical preparation" for this show (*Pravda*, September 23, 1980). They had expected, you see, only 1,500 delegates, but 2,200 came. No wonder the chairman wished to talk about his success.

Yet a year earlier—in 1979—none of the conditions now cited to explain the current miraculous resurrection of the peace movement existed. There was no so-called "new strategy of the Pentagon," the famous presidential directive 59; there was no new escalation of the arms race; there was no neutron bomb. The Vienna summit meeting had just been successfully concluded with the signing of SALT II. September 1979 was a time of universal happiness, the sky was cloudless. Only one significant thing happened in September 1979: a sudden wave of mass arrests in the Soviet Union and, as we have learned now, a decision to reactivate the peace movement. Who could have predicted in September 1979 that within a year the cold war would be back—who else but those involved in "practical preparations" for the invasion of Afghanistan? Given the nature of the Soviet planned economy, with its fabulously inflexible, slow, and inefficient workings, the Soviets must prepare everything well in advance. Why should they have allocated such a large sum of money to hold a Bulgarian peace show in the middle of happy times, if not in anticipation of grave political trouble ahead?

Furthermore, we learn from comrade Zhivkov, the Bulgarian Communist leader who opened the meeting with a long speech, about an appropriate decision taken by the Political Consultative Committee of the Warsaw Bloc countries in May 1980 (*Pravda*, September 24, 1980), as well as an appropriate resolution of the Plenary Session of the Central Committee in June 1980 (*Pravda*, September 29, 1980). Comrade Zhivkov was simply revealing the way decisions and resolutions first travel through the Communist bureaucratic machinery on their way to rubberstamping by a "representative" body—in this case, the Sofia "Parliament" in September.

Indeed, the whole show was depressingly familiar to anyone acquainted with the methods the Kremlin producers applied to the same scenario in the time of Stalin. Even the dramatic personae were the same. There was the same World Peace Council with its immortal President Ramesh Chandra; there was the same chief conductor, Boris Ponomarev, former official of the Comintern (now responsible in the Politburo for contacts with fraternal Communist par-

ties as well as for intelligence). Even the slogan adopted for the occasion, "The people have the power to preserve peace—their basic right," was remarkably similar to the unforgettable words of comrade Stalin in 1952.

Only this time the personal message that comrade Ponomarev brought to those converted was from comrade Brezhnev, not comrade Stalin. The latter, of course, would never have tolerated even the mention of the term "rights"—basic or any other—in his slogans. Well, the times have changed after all. Still, those damned "human rights" had gotten out of hand. Hence, better to find something like "basic rights."

The first to speak, as I said, was comrade Zhivkov, and he spilled the beans about the Soviets' real concern (*Pravda*, September 24, 1980). The aggressive circles in America, he said, refuse to accept the present balance of forces in the world. They don't wish to submit to their historically predestined defeat. They have become so arrogant as to reject all of the recent Soviet peace proposals. They have decided to replace détente with a policy based on a "position of strength." They don't observe agreements on cooperation; they interrupt political and economic contacts; they interfere with cultural and scientific exchange; they dissolve sporting and tourist connections (in other words, the grain embargo, the Olympic boycott, the scientific boycott, etc., responses to the invasion of Afghanistan and the persecution of scientists in the USSR).

This theme was taken up by most of the speakers with only minor variations. The main speaker, comrade Ponomarev, suggested a whole program of action intended to bring America's aggressive circles into compliance. He appealed for unity among all those concerned with preservation of peace, irrespective of their political views. "The time has come for action, not words," he said. (Wait a minute, have we not met this sentiment somewhere already? Surely not in the CND official booklet?)

The show proceeded smoothly, exhibiting the whole gallery of monsters, from the greatest peace-lover of our time, Yasir Arafat, to a "representative" of Afghanistan.

How did all these 2,260 representatives of Social Democrats, trade unions, youth, women, and religious organizations react? Did they rush out in disgust? Did they demand the withdrawal of the Soviet troops from Afghanistan in order to remove the main obstacle to détente? Did they express concern about the massive Soviet arms build-up and the deployment of SS-20's? By no means. This self-appointed World Parliament issued an Appeal in which the main ideas of comrade Ponomarev's speech were repeated. Thus, the "Parliament" is opposed "to the vast machine and arms build-up of the most aggressive forces of imperialism which seek to take the world toward a nuclear abyss; to the falsehoods and lies of the propaganda in favor of the arms build-up, which are disseminated through imperialist-controlled mass media."

Translated from party jargon, this constitutes a clear directive to work against the armament programs of the Western countries (first of all, of course, the U.S.—the "most aggressive forces of imperialism"), and to reject any "lies" of the mass media about the Soviet arms build-up.

Beyond this, the "parliamentarians" set "the new tasks and duties . . . for action of the peoples of all continents" and worked out the Charter of the Peoples for Peace

which was adopted unanimously (!) together with the People's Program for Peace for the 1980's. The year 1981 was chosen to be "the springboard of the 80's, a year of a decisive offensive of the peace forces to achieve a breakthrough in curbing the arms build-up."

Most of the program was carried out, the mass demonstrations of October 1981 in the European capitals having been planned within a framework of what is called in the Soviet program "UN Disarmament Week (October 24-31)." How on earth could the Soviets have known in 1980 about events that would take place at the end of 1981, unless they were running the whole show?

My pointing out this strange coincidence, which I did in an article in the *London Times* (December 4, 1981), was bound to provoke heated denials; and did so. The Soviets in *Literaturnaya Gazeta* (December 23, 1981), as well as the CND leaders in the *London Times* (December 9, 1981), made much of the fact that UN Disarmament Week had originally been designated as an annual observance by the UN General Assembly as early as June 1978. Now, the UN flag may seem to many to be a perfect cover. One must ask, however, why virtually nothing happened during that all-important week in 1978 or 1979—even the Sofia meeting was scheduled in September, not October, of 1980—until details for its observance were specified by the Soviet-inspired program? Moreover, if one looks through the Final Document of the Assembly Session on Disarmament (May 23-July 1, 1978), issued by the UN, one can find hundreds of designated weeks, months, years, and decades, all totally ignored by our peace-lovers, whereas the suggestion singled out by the Soviets was the one, the only one, to gather thousands in the streets. For example, was anyone aware that the decade 1969 to 1979 was solemnly declared by the United Nations to be "The Decade of Disarmament"? If there were any huge rallies or vigorous campaigns during these ten years, they seem to have escaped notice.●

PROVIDE THE PROVISION FOR FOOD FOR THE HUNGRY

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Ms. OAKAR. Mr. Speaker, I wish to comment on a provision which was included in the Senate version (S. 2774) of H.R. 6892, the 1983 reconciliation provisions for the House Committee on Agriculture.

On August 5, the Senate accepted a provision which is identical to the resolution which I introduced on July 21, 1982. Senator Kennedy introduced this provision as a sense of the Senate resolution to S. 2774, which is the Senate reconciliation bill to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong.).

Growing numbers of Americans go to bed hungry and malnourished each night, yet we continue the thoughtless waste of food they so desperately need. A study by the GAO estimates that 20 percent of the food produced

in America is discarded. At shipping terminals, wholesale markets and supermarkets, massive quantities of edible fresh fruits and vegetables, dairy products and bread, and so forth, are discarded. The volume of waste is enormous and unconscionable. Yet there are no laws which require the destruction of food or produce that is dated. At this time of crisis in our country when the President is calling for the private sector to get involved, what more humanitarian method for involvement than to feed the hungry? It is time for action that dramatizes the desperation that millions of Americans are experiencing and at the same time addresses the need. We propose:

A joint resolution expressing the Sense of Congress that:

(1) agencies and departments of the Federal government take steps to distribute surplus food to the hungry;

(2) state and local governments enact legislation to encourage private cooperative efforts to provide food for the hungry (for example, Good Samaritan Acts or Donor Liability laws);

(3) wholesale and retail food distributors should work closely with charitable organizations to make available to hungry citizens food which is currently being wasted.

In conjunction with this resolution, a congressional buffet luncheon was held on July 28, 1982, that was catered with a wide variety of discarded, but wholesome foods. Members of Congress were invited. It provided an opportunity for congressional Members to join with service and religious organizations to urge food wholesalers and retailers to develop distribution policies for the needy.

The resolution has much support. There are now 30 cosponsors.

I urge the chairman of the House Agriculture Committee, Mr. DE LA GARZA, and the conferees, to accept the Senate passed provision when it is considered in conference.●

INDEPENDENCE DAY PARADE

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 11, 1982

● Mr. DICKS. Mr. Speaker, one of the disadvantages of scheduling a July 4 congressional recess each year is that most of the Members of Congress do not have the opportunity to see the American Independence Day Parade here in Washington, D.C. This year 123 bands and drill teams competed for awards in the Washington, D.C., parade, and among those were 134 members of the Bremerton High School Marching Band and Drill Team, directed by Mr. Dick Norton and Mr. George Mantzke. I am particularly proud of the Bremerton High Knights, not only because Bremerton

is my home town and is part of the congressional district I represent, but because the group received very special honors for its performance in the Independence Day Parade. In their division, the Bremerton Knights placed second in competition as they marched 17 blocks down Constitution Avenue on July 4. These honors followed another second place award in the July 3 parade in Philadelphia, Pa.

The experience of participating in the Nation's premier Independence Day Parade has left all 134 members of the band with many proud memories and with a renewed sense of patriotism. Each one of these young men and women had the opportunity during their stay in Philadelphia and Washington to visit many of the places and sites which are important to our Nation's heritage.

These young people worked long and hard to prepare for the trip, and thousands of people from the Bremerton/Kitsap County area in Washington State participated in a very successful fundraising effort to make their appearance in the parade possible. They represented Bremerton and Kitsap County well here on the east coast. To demonstrate the pride I have in this talented group of young people, I ask the permission of the House of Representatives to include a complete list of their names in the RECORD:

LIST OF NAMES

Dick Norton, Band Director.
George Mantzke, Drill Team Director.

CHAPERONES

Mr. and Mrs. Greg Brown, Mr. and Mrs. James McGee, Mr. and Mrs. Mike Shaw, Mr. and Mrs. Neil Torpey, Mr. and Mrs. LeRoy Williamson, and Mr. and Mrs. Beverly Schrick.

BAND MEMBERS

Armstrong, Robin; Bassett, Patience; Beck, Susan; Beliveau, Dean; Bishop, John; Bower, Bonnie; Brown, Angela; Clark, Steve; Clark, Debra; Cook, Jo; Day, Steven; Derrig, Rick; Dolan, Hubert; and Eder, David.

Epps, Mike; Escalona, Adam; Ferguson, Brian; Fernandez, Jan; Frohardt, Brian; Gifford, Pat; Gillett, Art; Gisi, Paul; and Glenn, Pat.

Goodale, Greg; Gray, Carmen; Hall, Bob; Hankinson, Mike; Hecker, Michelle; Hicks, Vicki; Jankowski, Jon; Jensen, Ruth; Klein, Joe; and King, Colleen.

Kollars, Bob; Kvistad, Judy; Leaf, Kirk; Lidke, Mike; Marlin, Tyler; McGee, John; McGee, Julie; McGee, Roxanne; McInnes, Earl; Meckkenberg, Ann; Metzker, Ty; Mike-sell, Sarah; Montgomery, Steve; and Morrell, Rob.

Mueller, Jill; Mueller, Wendy; Myers, Cheryl; Nichols, Ken; Olmstead, Joni; Outlaw, June; Pitts, Dan; Poling, Brad; Rich, Mary; Robinson, Hiram; Robinson, Vincent; Russell, Chris; Santos, Marites; and Schram, Nancy.

Shaw, Laurie; Sherman, Bill; Smith, Mike; Sumpter, Anita; Thompson, Tracy; Torpey, Mary Lou; Villaviray, Rod; Wade, Melanie; Wall, Kim; White, Patti; Whitney, Karen; Williamson, Greg; Willis, Dave; and Yeowell, Kellie.

DRILL TEAM MEMBERS

Shelly Anderson, Gwen Barrios, Jann Bearbower, Tracy Bennett, Lisa Blackwood, Karen Boschee, Renee Bragg, Rhonda Cain, Julie Eckert, Anna Elia, June Geraci, Geri Hamlin, Janet Harris, Rusty Harris, Desiree Ingham, Lisa Johnson, Kris Krafenik, Katie La France, Annette Lewis, Jonee Lewis, Melanie Mangrum, Shannon McCarthy, Susie McGillis, and Kathy O'Brien.

Jill Parker, Kristy Reynolds, Sandie Richie, Jodie Schrick, Darle Seamans, Sue Summers, Donna Taylor, Linda Tomassi, Diane Tufte, Jeannine Ulbright, Michelle Walsh, Jacque Wedge, and Kathy Spencer.

RALLY SQUAD

Sherri Deichert, Robin Harris, Jan Foltz, Michelle Koch, Teresa Sturgeon, Marlene Winkler, and Jill Morrison.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, August 12, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 13

9:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

9:30 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the nominations of Bevis Longstreth, of New York, and James C. Treadway, Jr., of the District of Columbia, each to be a member of the Securities and Exchange Commission.

5302 Dirksen Building

10:30 a.m.

Foreign Relations

To continue hearings on U.S. economic policy toward the Soviet Union.

4221 Dirksen Building

AUGUST 16

9:00 a.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2818 and S. 2805, bills providing for an adjustment in the termination, extension, or modification of certain contracts for the sale of timber from National Forest System lands and public lands.

3110 Dirksen Building

10:30 a.m.

Judiciary

To hold hearings on S. 2784, clarifying the intent of antitrust laws relating to the relocation of member clubs of professional sports leagues.

2228 Dirksen Building

2:00 p.m.

Appropriations

Business meeting, to mark up the substance of H.R. 6956, appropriating funds for fiscal year 1983 for the Department of Housing and Urban Development, and certain independent agencies (pending on House calendar).

1223 Dirksen Building

Foreign Relations

To hold hearings on the nomination of James M. Rentschler, of Pennsylvania, to be Ambassador to the Republic of Malta.

4221 Dirksen Building

AUGUST 17

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the nominations of Wilmer D. Mizell, Sr., of North Carolina, to be Assistant Secretary for Governmental and Public Affairs, Department of Agriculture, Tom H. Carothers, of Texas, and Leonard R. Fouts, of Indiana, each to be a member of the Federal Farm Credit Board of the Farm Credit Administration.

324 Russell Building

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Business meeting, to resume consideration of proposed amendments to the Clean Air Act (Public Law 95-95).

4200 Dirksen Building

Governmental Affairs

To resume hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.

3302 Dirksen Building

10:30 a.m.

Foreign Relations

To hold hearings on the nomination of Theodore G. Kronmiller, of Virginia, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, for the rank of Ambassador.

4221 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To continue hearings on S. 2818 and S. 2805, bills providing for an adjustment in the termination, extension, or modification of certain contracts for the

sale of timber from National Forest System lands and public lands.

3110 Dirksen Building

3:00 p.m.

Governmental Affairs

To hold hearings on the nomination of Dennis M. Devaney, of Maryland, to be a member of the Merit Systems Protection Board.

3302 Dirksen Building

AUGUST 18

9:30 a.m.

Governmental Affairs

Federal Expenditures, Research and Rules Subcommittee

To hold hearings on S. 1782, eliminating the withholding of retainages by the Federal Government from small business contractors and subcontractors in certain cases.

3302 Dirksen Building

Labor and Human Resources

Labor Subcommittee

Business meeting, to consider proposed amendments revising certain provisions of title IV (plan termination insurance) of the Employee Retirement Income Security Act of 1974.

4232 Dirksen Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Environment and Public Works

Transportation Subcommittee

To resume hearings on highway revenue and cost allocation issues.

4200 Dirksen Building

Governmental Affairs

To continue hearings on S. 2562, transferring certain activities of the Department of Energy to the Department of Commerce.

3302 Dirksen Building

Judiciary

To resume hearings on Senate Joint Resolution 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.

2228 Dirksen Building

Select on Intelligence

Closed briefing on intelligence matters.

224 Russell Building

10:30 a.m.

*Labor and Human Resources

Labor Subcommittee

To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.

4232 Dirksen Building

2:00 p.m.

Energy and Natural Resources

Public Lands and Reserved Water Subcommittee

To hold hearings on S. 2118, designating certain lands in Wyoming as wilderness.

3110 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

AUGUST 19

9:00 a.m.

Select Committee on Indian Affairs

To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States.

457 Russell Building

9:30 a.m.

Labor and Human Resources

To resume consideration of proposed legislation establishing a program to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice.

4232 Dirksen Building

Small Business

Export Promotion and Market Development Subcommittee

To hold hearings on certain obstacles faced by small business exporters.

424 Russell Building

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

Governmental Affairs

To hold hearings on S. 2629, proposed Budget Reform Act, establishing a 2-year Federal budget cycle.

3302 Dirksen Building

10:30 a.m.

Veterans' Affairs

Business meeting, to mark up S. 2378, amendment No. 1909 to S. 2378, S. 1956, S. 2460, S. 2461, S. 2048, S. 2381, S. 2382, S. 2709, S. 2388, measures increasing the rates of disability compensation for disabled veterans, increasing the rates of dependency and indemnity compensation for surviving spouses and children of veterans, discontinuing duplicative payments to certain veterans, increasing the level of disability required for the payment of dependent allowances, and providing for cost-saving improvements in veterans' programs, S. 2747, and amendment No. 1984 to S. 2747, measures improving certain aspects of the Veterans' Administration educational benefits programs and the Department of Labor veterans' employment programs.

412 Russell Building

AUGUST 24

9:00 a.m.

Governmental Affairs

Civil Service, Post Office, and General Services Subcommittee

To hold hearings on S. 2190, providing for the recruitment and training of volunteers in Federal agencies.

3302 Dirksen Building

AUGUST 25

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

Labor and Human Resources

Labor Subcommittee

To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.

4232 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Justin Dart, of California, to be a member of the Board of Directors of the Communications Satellite Corporation.

235 Russell Building

SEPTEMBER 16

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To resume oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

SEPTEMBER 17

9:30 a.m.

Energy and Natural Resources

Energy and Mineral Resources Subcommittee

To continue oversight hearings on America's role in the world coal export market.

3110 Dirksen Building

SEPTEMBER 21

10:00 a.m.

Labor and Human Resources

Alcoholism and Drug Abuse Subcommittee

To hold hearings on the effects of alcohol consumption during pregnancy.

4232 Dirksen Building

10:30 a.m.

Veterans' Affairs

To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.

318 Russell Building

SEPTEMBER 23

10:00 a.m.

Judiciary

Agency Administration Subcommittee

To holding hearings on proposed legislation to extend Federal employees compensation benefits to all Federal jurors, to provide the taxing of attorney fees for court appointed attorneys, and to expand the method of serving jury summons.

Room to be announced

SEPTEMBER 30

10:00 a.m.

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the indemnification of Government contractors

2228 Dirksen Building

OCTOBER 6

10:00 a.m.

Judiciary

Agency Administration Subcommittee

To hold oversight hearings on the accessibility of the judicial system.

2228 Dirksen Building

CANCELLATIONS

AUGUST 13

10:00 a.m.

Labor and Human Resources

Handicapped Subcommittee

To resume hearings to review proposed regulations implementing part B (assistance for education for all handicapped children) of the Education for All Handicapped Children Act (Public Law 94-142).

4232 Dirksen Building

HOUSE OF REPRESENTATIVES—Thursday, August 12, 1982

The House met at 10 a.m.
Rev. W. B. Bingham, Binghamtown Baptist Church, Middlesboro, Ky., offered the following prayer:

Our Father in Heaven, we stand in this historic place in great awe.

Because You are from everlasting to everlasting, God and Creator and because of this great and important assembly, we love the Congress and pray Your blessings upon them.

Give them the faith of Abraham, the patience of Job, the strength of Samson, the endurance of Paul, the wisdom of Solomon, like David, man after God's own heart, that they may guide the good ship of democracy.

When she was young and weak, You blessed the Continental Congress and again when wicked men and nations led the world to the brink of hell itself You were there.

O Lord, keep on blessing until time shall be no more. In Christ's name. Amen and amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. MILLER of California. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 27, answered "present" 1, not voting 62, as follows:

[Roll No. 269]

YEAS—344

Addabbo	Atkinson	Benjamin
Akaka	AuCoin	Bennett
Albosta	Badham	Bereuter
Alexander	Bailey (MO)	Bevill
Anderson	Bailey (PA)	Blaggi
Andrews	Barnard	Bingham
Annuzio	Beard	Billiey
Archer	Bedell	Boland
Ashbrook	Bellenson	Boner
Aspin	Benedict	Bonior

Bouquard	Glickman	McCurdy
Bowen	Gonzalez	McEwen
Breaux	Gore	McGrath
Brinkley	Gradison	McHugh
Brodhead	Gramm	Mica
Brooks	Gray	Michel
Broomfield	Green	Mikulski
Brown (CO)	Gregg	Miller (CA)
Broyhill	Grisham	Mineta
Burton, Phillip	Guarini	Minish
Campbell	Gunderson	Mitchell (NY)
Carman	Hagedorn	Moakley
Carney	Hall (OH)	Mollinari
Chappell	Hall, Ralph	Mollohan
Chapple	Hall, Sam	Montgomery
Cheney	Hamilton	Moore
Clausen	Hammerschmidt	Moorehead
Clinger	Hance	Morrison
Coats	Hansen (ID)	Mottl
Coelho	Hansen (UT)	Murphy
Coleman	Hartnett	Murtha
Collins (IL)	Hatcher	Myers
Conable	Hawkins	Napier
Conte	Heckler	Natcher
Corcoran	Hefner	Neal
Courter	Hendon	Nelligan
Coyne, James	Hertel	Nelson
Coyne, William	Hightower	Nowak
Craig	Hiler	Oaker
Crane, Daniel	Hillis	Obey
Crane, Phillip	Holland	Oxley
D'Amours	Hopkins	Panetta
Daniel, Dan	Horton	Parris
Daniel, R. W.	Howard	Pashayan
Dannemeyer	Hoyer	Patman
Daschle	Hubbard	Patterson
Daub	Huckaby	Paul
de la Garza	Hughes	Pease
Deckard	Hunter	Pepper
DeNardis	Hyde	Perkins
Derrick	Jeffords	Petri
Dicks	Jenkins	Peyster
Dingell	Jones (OK)	Pickle
Donnelly	Jones (TN)	Porter
Dougherty	Kastenmeier	Price
Dowdy	Kazen	Pritchard
Downey	Kemp	Pursell
Duncan	Kennelly	Quillen
Dunn	Kildee	Rahall
Dwyer	Kindness	Railsback
Dyson	Kogovsek	Rangel
Eckart	Kramer	Ratchford
Edgar	LaFalce	Regula
Edwards (AL)	Lagomarsino	Reuss
Edwards (CA)	Lantos	Rhodes
Emery	Latta	Ritter
English	Leach	Roberts (SD)
Erdahl	Lee	Robinson
Erlenborn	Lehman	Rodino
Evans (DE)	Leland	Roe
Evans (GA)	Lent	Rogers
Evans (IN)	Levitas	Rose
Fary	Lewis	Rostenkowski
Fascell	Livingston	Roth
Fazio	Loeffler	Roukema
Fenwick	Long (LA)	Roybal
Fiedler	Long (MD)	Rudd
Findley	Lott	Russo
Fish	Lowery (CA)	Sawyer
Flippo	Lowry (WA)	Scheuer
Florio	Lujan	Schneider
Foglietta	Lundine	Schulze
Foley	Lungren	Schumer
Ford (MI)	Markey	Seiberling
Ford (TN)	Marlenee	Sensenbrenner
Fowler	Marriott	Shamansky
Frank	Martin (IL)	Shannon
Frenzel	Martin (NC)	Sharp
Frost	Martin (NY)	Shaw
Fuqua	Martinez	Shelby
Garcia	Mattox	Shumway
Gaydos	Mavroules	Shuster
Gephardt	Mazzoli	Simon
Gibbons	McClory	Skeen
Gilman	McCollum	Skelton

Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solarz
Solomon
Spence
St Germain
Stangeland
Stark
Staton
Stenholm
Stratton
Studds
Stump
Swift
Synar

Tauke
Taubin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmer
Walgren
Wampler
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst

Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—27

Barnes
Clay
Coughlin
Derwinski
Dickinson
Dorgan
Dreier
Emerson
Evans (IA)

Fields
Forsythe
Gejdenson
Goodling
Holt
Jacobs
Johnston
LeBoutillier
Luken

Madigan
Mitchell (MD)
Roberts (KS)
Roemer
Sabo
Schroeder
Walker
Washington
Young (AK)

ANSWERED "PRESENT"—1

Oberstar

NOT VOTING—62

Anthony
Applegate
Bafalis
Bethune
Blanchard
Boggs
Bolling
Bonker
Brown (CA)
Brown (OH)
Burgener
Burton, John
Butler
Byron
Chisholm
Collins (TX)
Conyers
Crockett
Davis
Dellums
Dixon

Dornan
Dymally
Early
Edwards (OK)
Ertel
Ferraro
Fithian
Fountain
Gingrich
Ginn
Goldwater
Harkin
Heftel
Hollenbeck
Hutto
Ireland
Jeffries
Jones (NC)
Leath
Marks
Matsul

McCloskey
McDade
McDonald
McKinney
Miller (OH)
Moffett
Nichols
O'Brien
Ottinger
Richmond
Rinaldo
Rosenthal
Rousselot
Santini
Savage
Siljander
Smith (PA)
Stanton
Stokes
Yates

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following titles:

H.R. 6863. An act making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6863) entitled "An act making supplemental appro-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

priations for the fiscal year ending September 30, 1982, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATFIELD, Mr. STEVENS, Mr. WEICKER, Mr. MCCLURE, Mr. GARN, Mr. SCHMITT, Mr. COCHRAN, Mr. ANDREWS, Mr. ABDNOR, Mr. KASTEN, Mr. D'AMATO, Mr. MATTINGLY, Mr. PROXMIER, Mr. STENNIS, Mr. INOUE, Mr. HOLLINGS, Mr. EAGLETON, Mr. CHILES, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. LEAHY, and Mr. DECONCINI to be the conferees on the part of the Senate.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 537. An act to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize the gentleman from Kentucky (Mr. ROGERS) for 1 minute. The Chaplain who gave the prayer today was his guest. We will forego all other 1-minute speeches until after the wilderness bill has been concluded.

REV. W. B. BINGHAM

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, I am honored to welcome Rev. W. B. Bingham as guest chaplain in the U.S. House of Representatives today.

The Congress has some herculean tasks before it these days—from getting our economy back into shape to shoring up our Nation's defenses. The Bible enjoins us to pray for those who are in authority. And I can think of no time when we have stood in greater need of prayers from a great religious leader like Reverend Bingham.

Mr. Speaker, let me tell you about our highly esteemed guest.

He is a graduate of Knox Central High School and Clear Creek Baptist Theological School for Adults. He is married to a fine woman, the former Mae Bowling. And they have four children, one of whom is following in his father's footsteps in the ministry.

For the past 32 years, Reverend Bingham has been pastor of the Binghamtown Baptist Church of Middlesboro, Ky., at Cumberland Gap. Under his tutelage, this church has earned a reputation as one of the most dynamic in the area. As a matter of fact, it is now the largest church in the seven county tristate area.

He has conducted over 300 revivals and appears regularly on television and radio. And he has obeyed the Biblical command to preach into the ut-

termost parts of the world—preaching in nearly every corner of the globe.

But no listing of his impressive credentials would be complete without mentioning the profound influence he has had on generations of families in southeast Kentucky who have been inspired and supported by his wise Christian leadership.

I am proud to welcome Brother Bingham to the U.S. House of Representatives. We can certainly use his prayers in these marble Halls.

APPOINTMENT OF CONFEREES ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

Mrs. SCHROEDER. Mr. Speaker, I would like to reserve the right to object.

I reserve the right to object to make a point. During its consideration of the bill, the other body agreed to an amendment offered by the Senator from Alaska, Mr. STEVENS, which would establish a Commission on Executive, Legislative, and Judicial Salaries—known as the Quadrennial Commission—which would report its recommendations to the President by November 15, 1982.

The President is instructed to submit his recommendations, based on the report of this Commission, soon afterwards. These recommendations take effect 30 calendar days after they are submitted to Congress, unless a concurrent resolution is adopted during that time to disapprove the raise. Put simply, this amendment means a large pay raise for Members of Congress immediately after the elections.

This Commission was originally created under Public Law 90-206 in 1967. In 1969, pursuant to this Commission's recommendations, Members' pay was increased 42 percent from \$30,000 to \$42,500. In 1973, the next time the Commission worked, the Senate disapproved its recommendations. In 1977, the recommendations of the Commission were greatly scaled down before Congress failed to disapprove a 28.9-percent increase from \$44,600 to \$57,500. And, last year, the proposed raise of 23 percent from \$60,662.50 to \$74,800 was vetoed. After the mess we got in by raising our pay so much in 1977, we passed a law, Public Law 95-19, saying either House could veto the proposal. So, if history is a guide, we

can expect the Commission to recommend an increase of 30 percent to over \$80,000.

The amendment adopted in the other body perverts the Quadrennial Commission, since it is not supposed to meet until 1984, returns to a two-House veto, and virtually guarantees us a large pay raise right after the election. Still reserving the right to object, I would appreciate the assurance of the chairman of the Committee on Appropriations that we will not see this sort of automatic pay raise come out of conference.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mrs. SCHROEDER. I would be delighted to yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, I think at this point it would only be fair to say that the members of the conference committee have not had an opportunity to study this language, that they should study it and ought to take the opportunity to do so in conference.

While we certainly understand the concerns the gentleman has expressed, there should be at this point no certainty as to what the committee does. I think we have ample experience with this area of the law. This committee has a very good record, I think, in terms of dealing with these issues in an up-front manner, as we will on this occasion.

I would hope the gentleman would give the committee license to consider the issue, and should we so decide, bring it back in open session, outside of the conference report, and give an opportunity to this body to express itself.

Mrs. SCHROEDER. I want to thank the gentleman, because my main concern was to make sure that the body was on notice, since we could not take this up and make sure the conferees were aware of what happened in the other body so that we did not get ourselves in the position we did on the tax benefit issue that took us a long time to undo. So, I appreciate the gentleman's awareness of it.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mrs. SCHROEDER. I would be delighted to yield.

Mr. OBEY. Mr. Speaker, I would just like to say, as one individual Member who has had it with the way Congress has dealt with this issue through the years, I would hope that this matter, which was offered in the Senate, would be included when it comes back in the conference report. I am not a member of the conference committee, but I simply say as one Member that I congratulate the Senator who put the amendment in in the first place.

It seems to me this place as an institution has to face up to a critical

choice. Is the question—which is a legitimate issue regardless of how you come down on the resolution of it—is the question of the appropriate level of compensation for Members of Congress, members of the executive branch of the Government, of the judiciary, going to be considered in a backdoor manner through increases in other emoluments around here, or is it going to be considered through the front door in a legitimate manner and reviewed by someone other than those who have a vested interest in the outcome? I suggest the proposal offered by the Senate is a legitimate, forthright, and open way in which to go about it, and I for one hope that this place has guts enough to face up to the necessity to deal with it that way and not through the back door.

There is a perfectly legitimate reason for having the Commission report this year, because their recommendations 2 years ago were turned down. We are losing a good many top quality people in the executive branch, and we do need to deal with this in a forthright, up-front manner. This is the only mechanism I know of to do it.

Mrs. SCHROEDER. Mr. Speaker, further reserving the right to object, and I will not object, I wanted to make it very clear that we are dealing with the potential pay raise in a front-door manner because in the past the front doors were shut and attempts were made to slip pay issues through the back door. People are tired of backdoor tactics.

I think it is very important that the body be aware of what the other body has done in this bill we are going to conference on. We may differ in our positions on the issue but at least we have had the discussion and the body is aware of the matter.

Mr. WALKER. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentlewoman for yielding.

A further part of the problem we are faced with here, if in fact we would have a report from the Quadrennial Commission as the gentlewoman suggested could be a possibility, that we have already enacted into law an automatic appropriation for such pay raises so that this House would have no way of getting at such a pay raise should the Commission report under the circumstances described, under the Senator from Alaska's provision.

Mrs. SCHROEDER. Well, further reserving the right to object, the way I understand the Senator from Alaska's amendment, there are 30 calendar days to veto the pay increase once the President recommends it. The problem we could get into is, if his recommendations come over when we are not in session, since the amendment says

"calendar days" and not "legislative days," the gentleman's position that the pay raise would be automatic is right. The pay raise would be automatic if there are no legislative days during that 30-day period. So the gentleman is correct.

Mr. WALKER. If the gentlewoman will yield further, the fact is, even later on if there was a public outcry about this, we could not handle it as we have often handled these matters in appropriation bills because the appropriation for it would have been automatic.

Mrs. SCHROEDER. Further reserving the right to object, the gentleman is correct. They would be automatic, and of course members of the judicial branch would automatically have the pay increase because the court says we cannot undo their pay increases retroactively.

Mr. Speaker, I withdraw my reservation of objection.

□ 1030

The SPEAKER. Is there objection to the request of the gentleman from Mississippi? The Chair hears none, and appoints the following conferees:

MESSRS. WHITTEN, BOLAND, NATCHER, SMITH of Iowa, ADDABO, LONG of Maryland, YATES, ROYBAL, BEVILL, BENJAMIN, DIXON, FAZIO, CONTE, MCDADE, EDWARDS of Alabama, MYERS, MILLER of Ohio, COUGHLIN, KEMP, and O'BRIEN.

REPEALING OUTDATED SIZE AND WEIGHT LIMITATIONS IMPOSED ON U.S. POSTAL SERVICE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate bill (S. 2073) to repeal outdated size and weight limitations now imposed on the U.S. Postal Service, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. HILER. Mr. Speaker, reserving the right to object, could the gentleman from Michigan (Mr. Ford) inform me, has he cleared this with the ranking member on the Committee on Post Office and Civil Service?

Mr. FORD of Michigan. Mr. Speaker, if the gentleman will yield, yes, it has been cleared by every interested party.

Mr. HILER. It has been cleared with the gentleman from Illinois (Mr. DERWINSKI) and every other interested party?

Mr. FORD of Michigan. Yes. I will just call the gentleman's attention to the fact that we are discharging our

committee and accepting a bill coming from the Republican-dominated committee on the Senate side. It is their bill that we are taking up, not ours. It is not a House bill.

Mr. HILER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3682 of title 39, United States Code, is amended to read as follows:

"§3682. Size and weight limits

"The Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in mail classification under subchapter II of this chapter."

(b) The size and weight limitations for other than letter mail established by subsections (a) and (b) of section 3682 of title 39, United States Code, as in effect on the day prior to the effective date of this section, shall remain in effect until changed pursuant to section 3682 of such title, as amended, by subsection (a) of this section.

Mr. FORD of Michigan. Mr. Speaker, the provisions of this much needed bill were included in comprehensive postal legislation which passed the House in both the 95th and 96th Congresses, but never reached the Senate floor.

I am now happy to report that the Senate has finally acted on this issue. On July 29, S. 2073 passed the Senate by voice vote. Upon its passage by the House today, and final enactment, we will at last have corrected a longstanding anomaly in our postal law concerning the mailing of parcels.

As the Senate report accurately points out, the purpose of this bill is to eliminate a statutory relic which discriminates against mailers in the Nation's urban areas. Since 1952, there have been statutory size and weight limits on parcels traveling through the mails. One set of limits, 100 inches in girth and length combined and 70 pounds, applies basically to parcels mailed to or from rural or outlying areas. Another, more restrictive set of limits, 84 inches in length and girth and 40 pounds, applies to parcels mailed between larger, urban post offices.

The only justification for the enactment of these differing standards was to protect the Railway Express Agency (REA), which was a private sector corporation in the business of transporting large parcels by rail between major cities. The Congress believed that the Federal Government should not compete for this specialized business. Because REA served only

urban areas, a more liberal standard was applied to parcel post delivery in rural areas.

REA ceased operations in 1975, thereby terminating the need for the restrictive and discriminatory parcel post limitation which are still found in the statute. Unfortunately, a variety of circumstances totally unrelated to the merits of this issue have prevented repeal of these limitations until today.

S. 2073 would remove the statutory restrictions and make parcel size and weight limits subject to the same administrative classification proceedings to which other types of mail, such as letters, are subject. Under this bill, appropriate nondiscriminatory size and weight standards will be determined in public proceedings before the Postal Rate Commission. All interested parties will have the opportunity to participate.

S. 2073 is totally noncontroversial. Even the Postal Service's most vigorous competitor for the parcel delivery business, United Parcel Service, has no objection to this bill. It is sound, public-spirited legislation.

I urge the passage of S. 2073.

● Mr. DERWINSKI. Mr. Speaker, this is progressive legislation designed to come to the aid of the overregulated American public.

What this bill does is repeal outdated size and weight limitations imposed on parcels mailed from certain post offices. The bill would standardize regulations to allow all post offices to handle packages that weigh 70 pounds and that are 100 inches in length and girth.

Right now, post offices in big cities cannot accept packages that weigh more than 40 pounds and exceed 84 inches in length and girth. However, smaller post offices can process for delivery parcels that weigh up to 70 pounds and that are 100 inches in length and girth.

The weight discrepancy which now exists between large and small post offices is the result of legislation enacted in 1951 to protect the old Railway Express Agency, which had offices located in the larger cities across the Nation. By limiting the ability of the old Post Office Department to process large packages, Congress made it clear it did not want the postal system to compete with private firms in the parcel post business.

The REA went out of business in 1975, and the United Parcel Service, the largest competitor to the Postal Service in the parcel business, has no objections to the bill before us.

This bill was passed by the other body on July 29 without opposition. It is a positive step forward in the elimination of an unnecessary regulation which has been a source of confusion to the public.●

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

REQUEST FOR PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING THE 5-MINUTE RULE ON TODAY AND THE BALANCE OF THE WEEK

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be permitted to sit while the Committee of the Whole is considering legislation under the 5-minute rule on today, Thursday, and for the remainder of the week.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

Mr. MILLER of California. Mr. Speaker, reserving the right to object, I do so in order to ask the gentleman who made the request if this is for further consideration of the Clean Air Act?

Mr. SHARP. Mr. Speaker, if the gentleman will yield, yes, it is.

Mr. MILLER of California. Mr. Speaker, I object.

The SPEAKER. Objection is heard. Under the rule, 10 objectors are required.

(Messrs. MARINEZ, PANETTA, SHANNON, MAVROULES, BEILSON, and VENTO, Mrs. SCHROEDER, and Messrs. GEJDENSON, UDALL, KASTENMEIER, and LUNDINE also objected.)

The SPEAKER. More than the required number having arisen, objection is heard.

WILDERNESS PROTECTION ACT OF 1982

Mr. SEIBERLING. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Ohio (Mr. SEIBERLING).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of

the bill, H.R. 6542, with Mr. EVANS of Georgia, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, August 9, 1982, the Clerk had read section 1. Are there any amendments to section 1?

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to make a unanimous-consent request.

We have worked with the minority on this bill to try to get it expedited and passed this week if we possibly can. We have adopted the rule, we have had the general debate, and we are now down to amendments. I am unaware of more than two or three amendments that will be offered, and in order to accommodate a couple of Members on the other side, I ask unanimous consent that all debate on the bill, and all amendments thereto, close at 11:10 a.m.

The CHAIRMAN pro tempore. Does the gentleman from Arizona (Mr. UDALL) first ask that the bill be considered as read and open to amendment at any point?

Mr. UDALL. Yes, Mr. Chairman. I ask unanimous consent that the remainder of the bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The balance of the amendment in the nature of a substitute, consisting of the text of H.R. 6846, is as follows:

WITHDRAWALS

SEC. 2. Except as specifically provided in this Act, notwithstanding any other provision of law—

(a) lands designated by Congress as components of the National Wilderness Preservation System are hereby withdrawn from disposition under all laws pertaining to oil, gas, oil shale, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing, and all amendments thereto;

(b) lands within the national forest system which have been recommended for designation as wilderness in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119) are hereby withdrawn from disposition under all laws pertaining to oil, gas, oil shale, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing, and all amendments thereto, until Congress determines otherwise or until a revision of the initial plans required by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 is implemented recommending the land concerned for other than wilderness designation, whichever comes first;

(c) wilderness study areas designated by act of Congress are hereby withdrawn from disposition under all laws pertaining to oil, gas, oil shale, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing, and all amendments thereto for the period

or interim wilderness protection and management of such wilderness study areas contained in the act of Congress designating such wilderness study areas;

(d) lands within the national forest system identified for further planning in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119) are hereby withdrawn from disposition under all laws pertaining to oil, gas, oil shale, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing, and all amendments thereto, until one year after the date of final approval and implementation of an initial forest plan covering the further planning area concerned pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976: *Provided, however*, That if any further planning area is recommended for wilderness in such initial plan it shall remain withdrawn for the period specified for recommended wilderness areas in subsection (b) of this section.

EXCEPTED LANDS

SEC. 3. The withdrawal and other provisions of this Act shall not apply to—

(a) any national forest system land released to management for any uses the Secretary concerned deems appropriate through the land management planning process by any statewide or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted;

(b) lands designated as congressional wilderness study areas in Colorado by sections 105 and 106 of the Act of December 22, 1980 (Public Law 96-560), lands designated as congressional wilderness study areas in New Mexico by section 103 of the Act of December 19, 1980 (Public Law 96-550), or to lands within the River of No Return Wilderness, Idaho, which are subject to section 4(d)(1) of the Central Idaho Wilderness Act of 1980 (Public Law 96-312);

(c) Bureau of Land Management wilderness study areas, which have been identified pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (Public Law 94-579); or

(d) lands in the State of Alaska.

PROSPECTING AND INVENTORIES

SEC. 4. (a) Nothing in this Act shall prevent the Secretary of Agriculture or Interior from issuing under their existing authority in any area of national forest or public lands withdrawn pursuant to section 2 of this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about and inventorying energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided, however*, That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas.

(b) The Secretary of the Interior shall augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting, in conjunction with the Secretary of Energy, the national laboratories, or other Federal agencies, as appropriate, such mineral inventories of

areas withdrawn pursuant to section 2 of this Act as he deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and X-ray defraction analysis; land satellites; or any other methods he deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments of inventories, such as data analysis activities, by contract with private entities deemed by him to be qualified to engage in such activities whenever he has determined that such contracts would decrease Federal expenditures and would produce comparable or superior results.

(c) The Secretary of the Interior and the Secretary of Agriculture may prescribe such regulations, as they deem necessary, to insure that confidential, privileged, or proprietary information obtained by them or any officer or employee of the United States under this Act is not disclosed.

RECOMMENDATIONS OF THE PRESIDENT TO CONGRESS

SEC. 5. (a) At any time after the date of enactment of this Act, the President may transmit a recommendation to Congress that minerals prospecting, exploration, development, or extraction not permitted under this Act shall be permitted in a specified area or areas withdrawn pursuant to section 2 of this Act. Notice of such transmittal shall appear in the Federal Register and shall be conveyed to the Governor of the State in which the area or areas are located.

(b) A recommendation may be transmitted to the Congress under subsection (a) if the President finds that, based on available information—

(1) there is an urgent national need for the minerals activity; and

(2) such national need outweighs the other public values of the wilderness lands involved and the potential adverse environmental impacts which are likely to result from the activity.

(c) Together with a recommendation, the President shall submit to the Congress—

(1) a report setting forth in detail the relevant factual background and the reasons for his findings and recommendations;

(2) a statement of the conditions and stipulations which would govern the recommended activity; and

(3) in any case in which an environmental impact statement is required under the National Environmental Policy Act of 1969, a statement which complies with the requirements of section 102(2)(C) of the Act.

(d) Any recommendation made pursuant to this section shall take effect only upon enactment of a joint resolution approving such recommendation.

VALID EXISTING RIGHTS

SEC. 6. All provisions of this Act shall be subject to valid existing rights.

SEC. 7. The Secretary of the Interior is authorized to issue oil and gas leases for the subsurface of national forest or public land wilderness areas that are immediately adjacent to producing oil and gas fields or areas that are prospectively valuable. Such leases shall allow no surface occupancy and may be entered only by directional drilling from outside the wilderness or other nonsurface disturbing methods.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona as to the limitation of time?

Mr. YOUNG of Alaska. Mr. Chairman, reserving the right to object, the gentleman from Arizona (Mr. UDALL) is fully aware that I will ask for votes on both of my amendments. First, I want to thank the gentleman for his consideration concerning this legislation on my behalf, but I would point out that that would give us approximately 30 minutes for votes, and it would be 5 minutes and 5 minutes. I would ask the gentleman, let us make it 11:30 a.m.

Mr. UDALL. Mr. Chairman, I amend my unanimous consent request to make it read 11:30.

The CHAIRMAN pro tempore. On the bill and all amendments thereto?

Mr. UDALL. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment. It is a technical amendment which I think we can dispose of very quickly.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

Mr. SEIBERLING. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The text of the amendment is as follows:

Amendment offered by Mr. SEIBERLING: Page 6, line 4, change the period to a colon and insert the following: "*Provided*, That authority to enter into contracts, to incur obligations, or to make payments under this subsection shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts."

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, let me ask the gentleman, is this the amendment for authority to enter into contracts and incur obligations?

Mr. SEIBERLING. Yes. This is a technical amendment to bring the bill in line with the Budget Act.

Mr. LUJAN. Mr. Chairman, I thank the gentleman.

We have no objection to the amendment on this side.

Mr. SEIBERLING. Mr. Chairman, I ask that the amendment be approved.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA.

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 5, line 18, amend by striking all after "Provided, however," through line 20 and insert in lieu the following: "That any seismic activities involving the use of explosives shall be limited to the surface area only, and that any permit issued for such activity shall stipulate conditions which mitigate fire hazards and wildlife impact."

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I have a question that I would ask of the chairman of the subcommittee.

Are we proceeding on the basis now of H.R. 6542, as amended by H.R. 6846?

Mr. SEIBERLING. That is correct. Mr. Chairman, if the gentleman will yield, that is the markup vehicle under the rule.

Mr. YOUNG of Alaska. Mr. Chairman, this is a bill that has generated a great deal of interest across the Nation as a whole, and it is strongly supported by those environmental groups that have fought the Alaskan pipeline. I call them the "zero growth" groups. In fact, if the land we are talking about today did not have a potential for minerals and gas, we would not be arguing about this at all.

In the committee I offered an amendment that should have been accepted because it still would have given the people who are interested in developing the gas and oil in this Nation the one tool they must have. The one tool they must have is the utilization of seismic activities, on-surface explosives.

For those who are Puritans in the wilderness movement and throw up their hands and say that this is not compatible with the wilderness, my argument has been on this subject all along that what we are doing today in this action, without letting us use seismic activity, is that we are taking away the one tool that we must have if we are to identify those areas that will have the oil and gas potential. And, yes, as even the environmental groups say, when we need them, we need to go and get them, so we should let ourselves know where those gas and oil deposits are.

This is the only tool that we can use to narrow that area down to where the fields can be located.

There is no damage to be incurred with this amendment which I have offered. It is compatible with the habitat. We are talking about surface explosives, and I say to those Members in the Chamber that what we are talking about, if the Members can see this, is very important, and what I am showing here today is that the damage done by explosives is nil. What we see

here is a 5-pound charge. What we see down here is after it has been utilized, and there is no disturbance to the surface at all.

What happens when the charge is utilized is that then they can record upon the scientific equipment those shock waves and can in fact identify the possibilities of oil and gas deposits.

The gentleman from Montana (Mr. WILLIAMS) who led this charge to lock up vast areas of wilderness, came very nearly to the point of accepting this, too, recognizing full well that it would be politically advisable in his district. It is the one tool that every geologist has ever told me they must have to identify the fields.

I urge my colleagues to think of the debate and remember what was said. Unfortunately, most of them were not here when we debated this very important legislation on a Monday. I ask them to think about what I am asking here. I am not asking them to vote with the idea that we are going to lock up lots of land because I am going to vote against that, but I am asking them to at least give the opportunity to the geologists and the people in the USGS to identify with this one tool.

You would not go to a doctor and ask him to operate without the proper tool. You would not ask someone to build a home without giving him a hammer. You would not drive a car without a steering wheel. You certainly cannot identify these gas deposits without this utilization of surface explosives.

The amendment is very restrictive. It can only be used at a time when it is compatible with the wildlife and habitat in the vicinity of the area in which it is going to be used. It can only be used when it is not used against those other people who are visiting the area.

But the tool would be available, and I urge the Members to make this bill a little more compatible, a little more acceptable, and a little more realistic, and allow those who are experts in this field to utilize explosives in small amounts with strict limitations to be able to identify those fields which they need.

It is a simple amendment. It is a good amendment. It should be accepted if we are thinking rationally about what we are faced with today, the shortage of gas, the shortage of oil, and the shortage of resources which this Nation needs.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I want to tell the gentleman that I will support him in this amendment.

I was concerned about it, and in committee I did not support it because I have an agreement that I made with the gentleman from Ohio.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. LUJAN. Mr. Chairman, if the gentleman will yield further, I will say that I will support it now because I think it is a necessary tool.

I noticed that the gentleman has put something in there—and some problems were raised about that before—and that is that activity shall stipulate conditions which mitigate fire hazards and wildlife income.

Mr. Chairman, I am convinced that there is no damage to the surface area of a wilderness area by seismic exploration, and I congratulate the gentleman on his amendment.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, I think the gentleman from New Mexico (Mr. LUJAN) has raised a point that I was going to get clarification on. I understand the mitigation issue. The point I want to make is this: Is there anything in this amendment that would provide for a subsurface impact as a result of the explosion? It is strictly surface impact?

Mr. YOUNG of Alaska. It is surface impact, and the bill is very strictly drawn up. This only allows surface impact and small explosive charges, not subsurface drilling or setting the charges underground.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

(By unanimous consent, Mr. YOUNG of Alaska was allowed to proceed for 1 additional minute.)

Mr. CLAUSEN. Mr. Chairman, if the gentleman will yield further, if there is surface impact, under the new amendment the gentleman has a requirement to mitigate the impact; is that correct?

Mr. YOUNG of Alaska. That is exactly right, against fire, and against any damage to wildlife.

Mr. CRAIG. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Idaho.

Mr. CRAIG. Mr. Chairman, let me ask, the gentleman's amendment was basically objected to for what reason?

Mr. YOUNG of Alaska. Primarily because they said it was not compatible to wildlife and that in fact it would disturb the surface of the wilderness area.

Mr. CRAIG. In the noncompatibility wilderness argument, what was the reason for that? Was it concussion or sound?

Mr. YOUNG of Alaska. Sound primarily. My statement was that in the

wilderness hunting is allowed, and hunting decibel rates are higher than the explosive rates of these charges.

Mr. CRAIG. Mr. Chairman, if I could pursue that for just a moment with the gentleman, these wilderness areas do allow hunting for big game with big game rifles; is that correct?

Mr. YOUNG of Alaska. That is true.

Mr. CRAIG. And the gentleman is saying the concussion of a large rifle going off, in a decibel effect, has no greater impact than the charges proposed in this seismic activity?

Mr. YOUNG of Alaska. The seismic activity has less impact. It has less actual impact.

The CHAIRMAN pro tempore. The time of the gentleman from Alaska has again expired.

Mr. CRAIG. Mr. Chairman, I ask unanimous consent that the gentleman from Alaska, Mr. YOUNG be permitted to proceed for 1 additional minute.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Idaho?

Mr. SEIBERLING. Mr. Chairman, reserving the right to object, we have until 11:30 to take care of the gentleman's two amendments, and he says he is going to ask for record votes. That takes care of a half hour. That means that we have until 11 in effect to cover the two amendments, and I submit that in fairness, we ought to have equal time on each one of them.

□ 1045

The gentleman has now consumed about 8 minutes. I would appreciate his exercising restraint since we are trying to accommodate him in this time restraint.

Mr. YOUNG of Alaska. I respect the Chairman's kindness and would urge those that have listened to this argument I presented to please vote my way. When you listen to arguments from the gentleman from Ohio, listen to what he has to say, but you need this one tool.

Mr. Chairman, I withdraw my unanimous-consent request.

Mr. SEIBERLING. Mr. Chairman, I move to strike the requisite number of words and rise in strong opposition to the amendment.

Mr. Chairman, such an amendment, not precisely the same, but in substance the same, was rejected by the Committee on Interior and Insular Affairs by a vote of 29 to 11.

The committee rejected the amendment because we reached the conclusion that certain activities are compatible with wilderness and certain others, such as the use of large amounts of dynamite, are not. I might add that a 5- to 10-pound charge of dynamite is far, far noisier than any rifle used for hunting.

Initially one might ask why the committee was so concerned with explo-

sions in wilderness areas, because such explosions only temporarily, it is said, disrupt the wilderness serenity. The answer is that it would not be just one series of explosions, but a series of explosions over many months.

Each company is free to conduct its own seismic testing and set of explosions and each company reserves the information to itself and does not necessarily share it with others. So, if this amendment passes you could have a whole series of seismic tests over several field seasons in the same wilderness area.

The situation in the Bob Marshall Wilderness in Montana is a good example, and is one of many reasons why Regional Forester Tom Casten turned down the seismic permit application for that area.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. At this point I yield to our colleague from Montana to describe that situation.

Mr. WILLIAMS of Montana. I thank the chairman for yielding and rise in opposition to the amendment of my friend and colleague from Alaska (Mr. YOUNG).

DON YOUNG is correct when he says that small surface explosions cause little or no surface damage. That is, above-surface explosions, when they are completed, show very little surface damage.

In fact, I have been in the areas after they have gone off and I have been impressed that there may be a few rocks thrown around, but very, very minor surface damage. But that simply is not the issue here.

If we have learned anything in modern civilization these past noisy 20 years, we have learned that repeated loud, unexpected, booming sounds are very disruptive, obnoxious, and provide harassment to the people that hear them.

Let me describe what would have happened in a wilderness area in Montana, the largest wilderness area in the Nation called the Bob Marshall, 1½ million acres in the center of the Rocky Mountains.

There was a permit there by a company to do the type of seismic explorations to which the gentleman from Alaska refers. The Forest Service refused to grant the permit.

Here is why. Not because there was going to be any surface damage but, rather, because it would have involved 270,000 pounds of explosives. It would have required 5,700 separate explosions and that is 60 pounds of explosions placed every 150 feet and fired off perhaps 100 times a day.

It would have involved a crew of three dozen people transported back and forth over this wilderness area by helicopters for probably the better part of a summer. That is just the one company.

This amendment refers to all the wilderness areas in this country. Noise in wilderness is a pollutant, make no mistake about it. The setting off of 270,000 pounds of explosives continually, 100 times a day for a fourth of a year every year, chases animals, starts forest fires, disrupts hunters and fishermen who are in those areas, and is absolutely incompatible with wilderness.

Let me assure my colleague from Alaska and my friends in the Chamber that people who like wilderness areas have no fight with oil or gas companies. I have no fight with them.

We all understand that this is a roughneck, dirty, noisy, but essential business in this country. Americans welcome the oil companies. We welcome them into the recreation rooms of our States. We want them in the kitchens of our agricultural areas and in the dining rooms of our mountains where they can feed on the supplies below.

We simply ask, I think legitimately, that they stay out of our parlor. The wilderness areas are America's parlors and the dirty, roughneck, but essential oil companies should politely but firmly be told to stay out of our parlors.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

(By unanimous consent Mr. SEIBERLING was allowed to proceed for 2 additional minutes.)

Mr. SEIBERLING. Let me just thank the gentleman and make one or two additional observations.

First of all, we did reach a compromise on the seismic issue in the bill that is before us. The bill allows seismic exploration in wilderness candidate areas. That is, areas that have been recommended by the executive branch for wilderness, or areas that have been designated by the executive branch or Congress for further wilderness study. It does not allow it in designated wilderness. That was a compromise that was reached in the bill as introduced and which was reaffirmed by the Interior Committee by a vote of 29 to 11.

This amendment would go further and breach that compromise by opening designated wilderness areas to explosive seismic testing.

Second, I would simply like to point out that no less valid a conservative than George Will, writing in the latest Newsweek magazine, has this to say, and he supports this bill: "There are 80 million acres of designated wilderness, 56 million of them in Alaska."

(I might say parenthetically this bill does not affect Alaska at all.)

Only 1.2 percent of the "Lower 48" States is wilderness; only 4 percent could ever be so designated. Surely the Nation's vitality and security are not so marginal as to depend on that 4 percent.

We are not dealing with 4 percent today, we are dealing only with about 2 percent. Someday we may have to go into that last 2 percent but not now, because we already have 137 million acres under lease and open to oil and gas explorations and development on the public lands in the lower 48 States alone. And untold millions of acres are already under lease in Alaska and offshore.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Maryland (Mrs. BYRON).

Mrs. BYRON. Mr. Chairman, I rise in opposition to the amendment offered by my colleague, the gentleman from Alaska.

As a member of the House Interior Committee's Subcommittee on Public Lands and National Parks and as an original cosponsor of this measure, I know firsthand the delicate compromise that it represents for many of us from both sides of the aisle.

The proposal is designed to protect the national wilderness preservation system and future additions to it from certain types of mineral leasing including oil and gas leasing. The impact of such leasing can be destructive to the very characteristics of these areas which made them worthy of actual or potential wilderness designation by Congress in the first place.

I would also like to stress that this bill will not unduly jeopardize efforts to increase U.S. energy independence. Reducing U.S. dependence on unstable and expensive foreign energy sources is a goal to which I am as committed as any Member of this body. However, I firmly believe that our unique and untouched wilderness areas should be the last place where oil and gas leasing is allowed, not the first.

I find it interesting to note that a General Accounting Office study found that up to 80 percent of the existing oil and gas leases on some 137 million acres of federally owned non-wilderness lands will expire without any exploratory drilling. I understand that the Department of the Interior has made a similar estimate. Clearly there is room for far more exploration and development on these nonwilderness lands.

To those who would argue that most of our Nation's oil and gas reserves are located in areas protected by this bill, it is worth noting that experts at the Oak Ridge National Laboratory have estimated that wilderness and wilderness candidate areas possess only 2 to 3 percent of the country's undiscovered reserves.

Another important concern of mine which ties in to my work on both the House Interior Committee and the Armed Services Committee is the issue of U.S. dependence on imported strategic and critical materials. I would like

to assure my colleagues who share my concern in this area that the provisions of this bill do not apply to the exploration and development of such strategic and critical hard rock minerals as cobalt, chromium, manganese, nickel and tungsten. Other hard rock minerals such as lead, gold, zinc, silver, and copper are also exempt from the provisions of this bill.

I oppose this amendment which would, if adopted, allow the use of explosives in existing wilderness areas like the Bob Marshall Wilderness in Montana.

Last summer, I joined with my chairman and other members of the Public Lands Subcommittee to travel into the Bob Marshall Wilderness Area. It was a challenging trip but extremely worthwhile. During our visit to the Bob Marshall Complex, I discussed firsthand with the regional forester the seismic prospecting permit which had been requested. When asked why the permit to carry out the seismic exploration in the Bob Marshall Wilderness had been denied, he made several points.

First, he noted that the public was overwhelmingly opposed to the seismic operations.

Second, he felt that the seismic operations would conflict with significant wildlife, geologic, scenic, and recreational values.

Third, he recognized that similar prospecting efforts by other interests in the same area would repeat the potential environmental and social impacts on the area.

While these are only a few of the reasons the permit was denied, all of these points are just as important today as they were then.

As reported from the Interior Committee, this bill specifically allows seismic activity involving the use of explosives in recommended wilderness or further planning areas. Indeed, the committee recognized that the use of such testing procedures might be necessary to gather the best possible information for making wilderness versus nonwilderness recommendations. However, I fail to see the wisdom involved in going through the lengthy process of designating an area as wilderness, actually designating that area as wilderness and then blasting it with explosives as my colleague from Alaska would have us do.

Mr. Chairman, I hope that my colleagues in the House will join me in opposing this amendment. The Bob Marshall is not the only wilderness area which would be hurt if this amendment were adopted, but it would be among the first as CGG is now appealing its seismic permit denial. To conclude my remarks in opposition to this amendment and in support of the bill as reported out of the Interior Committee, I would like to quote two Montanans who wrote to me more

than a year ago concerned about the future of the Bob Marshall Wilderness.

They were, and I am sure continue to be, concerned about unnecessary exploration and development in the Bob Marshall Wilderness Complex. First, they asked if I had ever actually been to any of the wilderness areas in Montana—which I did do incidentally just a few months later. Then Mr. and Mrs. Steele of Missoula, Mont., let me know in no uncertain terms how they felt about protecting unique wilderness areas like those which can be found in the State of Montana.

In their own words they suggested that—

To destroy these areas would be to destroy the very heart and soul of this Nation. They represent our history, our heritage, and our future.

Mr. Chairman, I would be among the first to admit that the day may come when it will be necessary to develop our wilderness areas, but I agree with these two Montanans that that day has not yet arrived.

Mr. BEREUTER. Mr. Chairman, I move to strike the requisite number of words.

I will be brief to preserve the time remaining for other debate.

I would first like, however, to identify myself as one of the original cosponsors of this resolution and a strong supporter of the resolution.

I know that we all have various interest groups come to us with statements like "this is a delicate balance," "we cannot change anything," "do not touch anything."

This simple-minded approach is a kind of knee-jerk reaction, I would have to say, but it is understandable given this objective.

There is one thing we have to consider, it seems to me, however, in this body and that is we are here to make rational decisions.

The gentleman from Alaska I think has convincingly made the point that the rational decision is to accept his amendment.

I would like to associate myself with the remarks of the gentleman. We are here to make rational decisions. This is a reasonable amendment and it ought to be approved.

I ask my colleagues to support the amendment offered by the gentleman from Alaska.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Vermont.

Mr. JEFFORDS. I appreciate the gentleman yielding. I respect the gentleman's judgment.

However, I must say that I have to rise in opposition to this amendment.

I think the points have been well made on the need for exploration but

it seems to me that this bill reached a reasonable compromise by allowing such exploration to go on in the study areas.

We have such a small amount of wilderness area and yet the tremendous harm that could be done, not necessarily will be done, but the kind of exploration which can go on here with respect to the explosives and the intrusion of man into these wilderness areas when there is so little land of that available to those who really desire to preserve the wilderness. It seems to me the compromise, which I understand was a bipartisan compromise reached by the subcommittee, seemed to be a very reasonable one.

So I must rise in opposition. Let me point out some of the difficulties with specifics. It makes little sense to allow any type of seismic activity in wilderness areas without allowing exploratory drilling, and the reasons for prohibiting drilling have already been discussed at length.

Regardless of the type of seismic exploration employed, it is impossible to adequately mitigate fire hazards and wildlife impact. Even under the method of seismic exploration that is thought to be the least damaging, there are grave risks of forest fires. Typically, 50 pounds of explosive is detonated every 150 to 200 feet for several miles or more. In order to do the job adequately, a surveying crew might construct a grid of crisscrossing lines that is many square miles in size.

Although such a system involves only a small crater around each explosive charge, there is also some burning of vegetation. Since seismic exploration usually occurs during times of good weather, this activity clearly represents a serious forest fire risk.

In addition, seismic exploration can have harmful effects on wildlife species, many of which are extremely sensitive to human activity. Not only are explosions disturbing, but so are helicopters and other activities associated with seismic exploration.

Mr. Chairman, I said during general debate on this bill that the reason we are here debating this bill is that the administration has miscalculated by underestimating the importance of wilderness and other environmental issues to the American people. We all share the goal of making our Nation more energy independent, but the amount of oil and gas at issue here is simply not worth the sacrifice of compromising this national commitment to compromising the wilderness character or the recreational value of these lands.

In summation, in opposing this amendment I might say that the explosive potential is so great relative to the fragile ecosystem we are dealing with that we might dub this amendment the "Nuke the Moose" amendment.

Mr. BEREUTER. I would have to say that if the President is ever to appropriately exercise his emergency powers we simply must have this kind of seismic exploration. It is not a damaging kind of provision to add to this bill; nor is the technique really damaging to the wilderness areas where it might be used.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am happy to yield to the distinguished gentleman from New Mexico, the ranking minority member of the Committee in Interior and Insular Affairs.

Mr. LUJAN. The gentleman, as always, comes up with a very reasonable explanation and I think he has done so in this particular case.

Seismic is a buzzword and any time you are going to use that you are going to incur the wrath of many people. But the fact is, that there is no damage to the surface of the wilderness area. It is just that we seem to draw sides and find ourselves in that position many times.

I congratulate the gentleman on his logic.

Mr. BEREUTER. I thank the gentleman.

Mr. CHENEY. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the distinguished gentleman from Wyoming, my colleague on the committee.

Mr. CHENEY. Mr. Chairman, I rise in support of H.R. 6542, which would prohibit the leasing and development of oil and gas in our Nation's wilderness system.

Although the bill lacks certain provisions which I would have preferred to see included, such as clarification of the status of certain lands outside the wilderness system, I nevertheless supported this legislation in committee and I vote for it today because of a strong personal belief that congressionally designated wilderness areas should be off-limits to oil and gas leasing and development at this time.

This has been my position for more than a year, dating back to the disclosure that hundreds of lease applications had been filed on wilderness lands, including Wyoming's Washakie Wilderness—a 686,584-acre region in northwestern Wyoming, adjacent to Yellowstone National Park, which was set aside by Congress several years ago as a component of the National Wilderness Preservation System.

Our national parks and wilderness areas are special places which deserve preservation and protection from development. I believe, and I think most people agree, that oil and gas development could be potentially destructive to the physical characteristics of these areas and that it would be incompatible with the esthetic and scenic attributes which motivated the Congress

in the first place to single out these areas for special status. Therefore, I strongly support that portion of H.R. 6542 which prohibits leasing in designated wilderness areas. This action will place the Congress clearly on record, ending the speculation and uncertainty that currently prevails as to the legal responsibilities of the Government under the 1964 Wilderness Act with respect to leasing in wilderness areas.

At the same time, I wish to make clear my disappointment that the committee refused when considering this legislation to provide the same kind of clear guidance and management certainty with regard to lands which have been studied for wilderness potential, but not included in the wilderness system. For too long, too much land has remained in uncertain management status in the wake of the Forest Service's RARE I and RARE II wilderness inventories. This legislation should have addressed this problem. Attempts to raise this legitimate area of concern during committee consideration of the bill were ruled nongermane, thus precluding a full and open discussion and a vote on the record.

The point is that the purpose of this legislation is to prevent leasing and development in areas set aside by Congress as wilderness. However, the bill withdraws from leasing not only designated areas, but also proposed areas and lands under study which may eventually be proposed as wilderness, pending congressional action on their status. Yet, there is nothing in the bill that would impel the Congress to determine the wilderness status of these lands in a timely fashion—such as a date in the future on which these lands would again become available for leasing in the event of congressional inaction. In other words, certain lands are withdrawn without benefit of congressional decision as to whether or not they should be added to the wilderness system, and certain other lands could automatically be withdrawn from leasing merely by virtue of their being recommended for designation as wilderness at the end of a study process. Congress needs to fulfill its responsibility to make a decision, one way or the other, on the wilderness status of these lands, so that they can be considered in the forest planning process and managed according to their particular attributes. Instead, these lands are in management limbo.

In an effort to address this problem of management uncertainty in my own State, I have joined with Wyoming's two Senators to introduce the Wyoming Wilderness Act of 1982. Our Wyoming bill has three major objectives. First, like the bill we are considering today, it would withdraw all congressionally designated wilderness areas in Wyoming from leasing. In this regard,

our bill goes a step further than the Lujan-Seiberling bill by also withdrawing Wyoming wilderness areas from operation of the mining laws, subject to valid existing rights, effective upon enactment. Second, our bill would add several hundred thousand additional acres of national forest lands in Wyoming to the wilderness system. And, third, it would release remaining forest lands from their current uncertain status and include them in the forest planning process. It is the hope of the Wyoming congressional delegation that our bill can be enacted yet this year.

Mr. Chairman, I would like to make one other point about Wyoming's contributions, both to the Nation's wilderness system, and to the effort to achieve energy sufficiency. Currently, about 25 percent of Wyoming's national forest system has been designated as wilderness. More than 2 million acres of some of the Nation's most spectacular wilderness country is in Wyoming, and if the Wyoming congressional delegation's bill is enacted, our contribution to the wilderness system will increase by several hundred thousand acres. We in Wyoming are proud of our national parks and wilderness areas, and we mean to preserve and protect them.

We are also proud of our contribution to the Nation's energy supply. For many years, the oil and gas resources of Wyoming have helped fuel the American economy, and they continue to do so. There are enormous coal resources in Wyoming which we have only begun to tap. There are extensive uranium deposits, and a variety of other important minerals. Since half of Wyoming is owned by the Federal Government, most of these resources lie beneath federally owned lands—national forest and Bureau of Land Management lands. It is the view of most Wyoming people that we should continue to encourage the development of these resources, which contribute to the Nation's energy security and benefit the economy of the State.

It is also the view of most people that Wyoming's national parks and wilderness areas, which comprise less than 10 percent of the State's land, should be protected from development. These lands should be off-limits to leasing, and that is why I support the legislation before us today.

The remaining federally owned lands in Wyoming should be managed according to the several laws already on the books and according to their particular attributes. For many areas, that should mean allowing leasing and others kinds of public uses. But the land planning and management responsibilities of the various land-managing agencies cannot be met until Congress fulfills its responsibility to make a decision on the status of federally owned lands.

The bill before us today represents one important decision: that wilderness areas will be off-limits to mineral leasing. Now, it is time for Congress to get on with the job of determining the status of millions of acres still in limbo.

Mr. BEREUTER. I thank the gentleman for his comments.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the distinguished and able gentleman from Louisiana, also my colleague on the committee.

Mr. HUCKABY. I thank the gentleman for yielding and want to commend the gentleman from Nebraska (Mr. BEREUTER) for his excellent statement.

I also am in favor of this legislation. In addition to that, I support the gentleman from Alaska in his amendment. I think it is a reasonable balance, just enabling this Nation to take inventory of what we have so that in the future, if it is necessary that we develop these areas, and hopefully it will not be, but at least we will have an inventory and have the knowledge of what is there.

I think that this amendment certainly offers a reasonable balance and I think the statements today bear out that there will be no harm done whatsoever to the wilderness areas.

Mr. BEREUTER. I thank the gentleman for his comments and yield back the balance of my time.

□ 1100

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am strongly opposed to this amendment which would remove the bill's prohibition against seismic blasting in areas formally designated as wilderness. I would note that this amendment was offered during markup in my committee and was soundly rejected by a vote of 28 to 11.

The bill as it stands before the House today would permit such testing in wilderness candidate areas, but would prohibit blasting in areas that the Congress has formally determined to be wilderness. There is a good and obvious reason for this action. Wilderness candidate areas are still in something of a state of examination and discussion. Congress has not yet determined them to be deserving of designation as wilderness, although it may soon do so. But formal wilderness areas have passed through this process and have been determined fully qualified.

Although some forms of blasting do not involve great or permanent damage to the surface of the land in a wilderness, there can be no question that all forms of seismic blasting entail considerable disruption. Helicopter overflights are frequent, crews

of workers are in and out, hundreds of explosions may be ignited each day, wildlife is disrupted, and forest fires are increased.

These are not permanent effects on the wilderness but they are significant and wilderness areas are special places. The Wilderness Act itself describes these lands as places that have "outstanding opportunities for solitude or a primitive and unconfined type of recreation." Now I have managed to spend a great deal of time in the outdoors myself and I cannot understand how anyone else who has ever been in a wilderness area would not cringe at the thought that he would have to share this grand and glorious environment, this place with an "outstanding opportunity for solitude," with the sound of a few hundred TNT explosives reverberating around the mountains every day.

Now, if some overriding national purpose were being served by this negation of everything most people go to wilderness areas for, then I might understand. But despite the assertion of the amendment's proponents, seismic testing does not determine what is the mineral potential of a given area. There is nothing definitive about seismic testing in determining the oil and gas potential of the lands subjected to this blasting. There are other ways, if they must be employed, for geologic information about whether the lands may be favorable for oil and gas that are far less destructive to wilderness values.

This brings me to a point I would like to make about an argument that is made generally against our bill, and indeed it is made constantly against the very concept of wilderness. Some of my colleagues ask, "How can you lock up this land until you know precisely what minerals, what oil, and what gas lie underneath? Let's find out what resources are there first."

I come from the greatest mining State in the Union and I have been listening to arguments about mining all my life. If there is one thing you can say with any certainty about finding minerals it is that a mineral inventory is not like taking inventory in a supermarket. It is not like counting cans of peaches on a shelf. The knowledge and the technology that helps us determine what minerals exist in a given place, as well as the knowledge and technology that make it possible to extract those minerals, are constantly changing and improving.

In the oil and gas business, you can never know "what is there" until you build roads, get your equipment in and drill a hole in the ground. Without it, you can never get the kind of "knowledge" that opponents of this bill say we must have before we designate a wilderness area. So what these opponents would have us do is build roads

and move in drilling equipment and punch holes deeper and deeper, year after year, in every area of this country that could become wilderness. In the process, of course, the wilderness values are destroyed and those very areas we cherish so much are condemned to a lengthy, if not perpetual, exploration program.

I do not think that this is a proposition many of us would accept. I think most of us understand that in everything we do we make decisions on the basis of imperfect information—it is information that is the best we can possibly have, but it is imperfect. The job of designating and maintaining wilderness is no different. It is and always will be impossible for us to know everything there is to know about a wilderness area before it is designated.

But we are able to say that this area is primitive, its wildlife is abundant, its scenery special and its opportunities for solitude and divorce from the modern industrial world outstanding and that this should be the last place where we dig and drill and mine and pave and blast. I would hope that my colleagues keep this in mind as we vote on this amendment, and others to follow, and of final passage of this important bill.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I rise in opposition to the Young of Alaska amendment. I think it breaches the good faith agreement that of the Interior Committee. I understand there might be some misunderstanding, but clearly I think the intention of the legislation is to achieve a compromise in an area where there had been confrontation between the Department of the Interior, specifically the Secretary, and the committee. I would hope that we could move ahead on this compromise. Many of us have bent over backwards to provide the type of inventory and survey opportunities that are present in this bill. I feel that this attempt to grab, to expand on that and to open it up further in these areas for seismic blasting, 270,000 pounds of explosives, for instance, in the Montana area, would be inappropriate.

Mr. Chairman, I think there are other ways we can achieve that. Necessity is the mother of invention. There are other ways that we can obtain that which will be less intrusive to wilderness. I would hope that we would vote down this amendment and seek other means to provide for the adequate inventorying of these resources.

Mr. Chairman, it has been almost 20 years since the enactment of the Wilderness Act. With this historic legislation, Congress declared that it was a national policy "to secure for the American people of present and future

generations the benefits of an enduring resource of wilderness." In making this commitment, Congress assured the public that when the environmental and recreational opportunities that wilderness areas offer was sought, it would be found.

Yet, we are now faced with an assault on our commitment to the preservation of the irreplaceable assets that wilderness represents. For over a year there has been an intense debate taking place on the question of whether to allow oil and natural gas leasing in wilderness areas. The debate arose because the present administration in their rush to open public lands, proposed granting leases in several environmentally fragile areas.

Leasing and exploration in wilderness areas is a high stakes issue, whose consequences threaten the integrity of that which we have worked so hard to protect. Virtually all Americans recognize the need for the United States to become more energy independent. Legislation has been enacted that balances this need with conservation of our unique resources. Careful compromises were worked out in an effort to secure the proper management of the public's resources. As a result of these past legislative compromises, there are presently over 100 million acres of Federal land under lease.

Mr. Chairman, H.R. 6542 is a careful compromise in the tradition of past legislation. To allow the splintering of this compromise through amendment which subvert the intent of this legislation, shakes the premises on which this compromise was formed. The House Interior Committee held a number of hearings, including one I chaired in St. Paul, Minn., to gather information on the wilderness question. The hearing record speaks for itself. The public thoroughly enjoys and values the wilderness areas we have and is adamant in their opposition to activities which threaten this resource. I think we in Congress would do well to heed the public's concern and pass H.R. 6542 as drafted by the Interior Committee.

Mr. AuCOIN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Oregon.

Mr. AuCOIN. Mr. Chairman, I rise in opposition to the amendment and in support of the bill as reported from the committee.

I think Members need to remember what the wilderness system was intended to be when it was created. The wilderness is an area in which man is a visitor. I cannot understand how anyone can feel that man, bringing in dynamite for seismic tests on the surface or beneath the surface, can believe in any way that that is compatible with the idea of a wilderness.

The gentleman from Arizona makes the point that this prohibition does

not apply to candidate wilderness areas. I think that is a crucial fact. It applies only to the designated areas.

I do not think that anyone should feel like they are a no-growth freak to oppose this amendment. The conservative columnist, George Will, as Chairman SEIBERLING indicated, has come out essentially in agreement with the committee's position on this issue. If George Will is, to use the gentleman from Alaska's term, a "zero growth" extremist, then Alexander Haig is a "shrinking violet."

The bill is a solid compromise and only the most narrow of special interests oppose its enactment.

I commend my colleagues for producing this legislation. I know it was not easy—particularly in light of all that Secretary Watt has done to confuse this issue.

Like many Americans, I was stunned one Sunday morning last February to hear the Secretary announce that he intended to present Congress with legislation to close the Nation's 80 million acres of wilderness to oil and mineral development. I was hopeful that Secretary Watt's statement marked a turn-about in his attitude and I anxiously awaited a draft of his bill.

I was quickly brought back to reality once I read it. It was a sham. Instead of preserving the wilderness system, it would have destroyed it.

After reading the fine print, I joined nearly 140 of my colleagues in cosponsoring House Resolution 427, introduced by Mr. UDALL and Mr. CONTE. That resolution laid out some fairly basic principles with respect to our existing wilderness, the foremost among them being that the National Wilderness System should be the last place where oil and gas development is allowed to occur.

This bill strikes a bipartisan compromise that averts the crisis brought about by the Secretary's actions. Much of this could have been avoided if the Secretary had exercised his discretion in this matter as previous Secretaries had done.

As we all know, the Secretary, while empowered to issue leases, is not forced to do so and, since the passage of the Wilderness Act in 1964, no Secretary of the Interior, regardless of political party, has done so.

I strongly urge my colleagues to vote for this bill and against any weakening amendments. It is a thoughtful, balanced piece of legislation designed to protect our current wilderness system and future additions as well as insure the orderly development of our mineral resources.

Mr. UDALL. Mr. Chairman, I urge a "no" vote on the amendment.

Mr. Chairman, I yield to the gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. I am glad the chairman of the full committee

recognizes us. I thought we did have an agreement. We can go on and on. I am going to start asking unanimous consent for an extension of his time.

Mr. UDALL. I did not ask for an extension. I will be glad to yield what time I have to the gentleman.

Mr. YOUNG of Alaska. I understand what you are saying, but I just want you to know on that side that if we editorialize when we continue, I am going to ask for it. I just want you to know that.

Mr. UDALL. Mr. Chairman, I ask for a "no" vote on the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alaska (Mr. YOUNG).

The question was taken; and on a division (demanded by Mr. SEIBERLING) there were—ayes 14, noes 20.

RECORDED VOTE

Mr. YOUNG of Alaska. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 115, noes 281, not voting 38, as follows:

[Roll No. 270]

AYES—115

Archer	Hall, Sam	Pickle
Ashbrook	Hansen (ID)	Rhodes
Badham	Hansen (UT)	Ritter
Bailey (MO)	Hartnett	Roberts (KS)
Benedict	Hightower	Roberts (SD)
Bereuter	Hill	Robinson
Billie	Hillis	Rousselot
Bouquard	Holt	Rudd
Bowen	Huckaby	Schulze
Breaux	Hunter	Shelby
Brown (CO)	Jeffries	Shumway
Broyhill	Johnston	Shuster
Butler	Kazen	Skeen
Campbell	Kemp	Smith (AL)
Carman	Kindness	Smith (NE)
Chapple	Kramer	Smith (OR)
Cheney	Leath	Solomon
Corcoran	LeBoutillier	Spence
Craig	Lewis	Stangeland
Crane, Daniel	Livingston	Stanton
Crane, Philip	Loeffler	Stanton
Daniel, Dan	Lott	Stenholm
Daniel, R. W.	Lujan	Stump
Dannemeyer	Lungren	Tauzin
Darwin	Marlenee	Taylor
Dickinson	Marriott	Thomas
Dreier	Martin (NC)	Walker
Edwards (AL)	Martin (NY)	Wampler
Edwards (OK)	McDonald	Watkins
Emerson	Mollinari	Weber (OH)
English	Montgomery	Whitehurst
Evans (GA)	Moore	Whittaker
Fields	Myers	Whitten
Forsythe	Napier	Williams (OH)
Fountain	Nelligan	Wilson
Gramm	Oxley	Winn
Grisham	Pashayan	Young (AK)
Hagedorn	Patman	
Hall, Ralph	Paul	

NOES—281

Addabbo	Barnes	Bonker
Akaka	Beard	Brinkley
Albosta	Bedell	Brodhead
Alexander	Bellenson	Brooks
Anderson	Benjamin	Burton, Phillip
Andrews	Bennett	Byron
Annunzio	Bethune	Carney
Anthony	Bevill	Chappell
Applegate	Biaggi	Chisholm
Aspin	Bingham	Clausen
Atkinson	Boggs	Clay
AuCoin	Boland	Clinger
Bailey (PA)	Boner	Coats
Barnard	Bonior	Coelho

Coleman	Hendon	Perkins
Collins (IL)	Hertel	Petri
Conable	Holland	Peyser
Conte	Hollenbeck	Porter
Coughlin	Hopkins	Price
Courter	Horton	Pritchard
Coyne, James	Howard	Pursell
Coyne, William	Hoyer	Rahall
D'Amours	Hubbard	Rallsback
Daschle	Hughes	Rangel
Daub	Hutto	Ratchford
Davis	Hyde	Regula
de la Garza	Jacobs	Reuss
Deckard	Jeffords	Rinaldo
Dellums	Jenkins	Rodino
DeNardis	Jones (OK)	Roe
Derrick	Jones (TN)	Roemer
Dicks	Kastenmeier	Rogers
Donnelly	Kennelly	Rose
Dorgan	Kildee	Rostenkowski
Dougherty	Kogovsek	Roth
Dowdy	LaFalce	Roukema
Downey	Lagomarsino	Roysal
Duncan	Lantos	Russo
Dwyer	Leach	Sabo
Dymally	Lee	Santini
Dyson	Lehman	Sawyer
Early	Leland	Scheuer
Eckart	Lent	Schneider
Edgar	Levit	Schroeder
Edwards (CA)	Long (LA)	Schumer
Emery	Long (MD)	Seiberling
Erdahl	Lowery (CA)	Sensenbrenner
Evans (DE)	Lowry (WA)	Shamansky
Evans (IA)		Shannon
Evans (IN)		Sharp
Fary		Shaw
Fascell		Simon
Fazio		Skelton
Fenwick		Smith (IA)
Fiedler		Smith (NJ)
Findley		Smith (PA)
Fish		Snowe
Flippo		Snyder
Florio		Solarz
Foglietta		St Germain
Foley		Stark
Ford (MI)		Stratton
Ford (TN)		Studds
Fowler		Swift
Frank		Synar
Frenzel		Tauke
Frost		Traxler
Fuqua		Tribble
Garcia		Udall
Gaydos		Vander Jagt
Gejdenson		Vento
Gephardt		Volkmer
Gilman		Walgren
Gingrich		Washington
Glickman		Waxman
Gonzalez		Weaver
Goodling		Weber (MN)
Gore		Weiss
Gradison		White
Gray		Whitley
Green		Williams (MT)
Gregg		Wirth
Guarini		Wolf
Gunderson		Wolpe
Hall (OH)		Wortley
Hamilton		Wright
Hammerschmidt		Wyden
Hance		Yates
Harkin		Yatron
Hatcher		Young (FL)
Hawkins		Young (MO)
Hefner		Zablocki
Heftel		Zerfetti

NOT VOTING—38

Bafalis	Dornan	McCloskey
Blanchard	Erlenborn	Michel
Bolling	Ertel	Miller (OH)
Broomfield	Ferraro	Moffett
Brown (CA)	Fithian	Nichols
Brown (OH)	Gibbons	Quillen
Burgener	Ginn	Richmond
Burton, John	Goldwater	Rosenthal
Collins (TX)	Heckler	Savage
Conyers	Ireland	Siljander
Crockett	Jones (NC)	Stokes
Dingell	Latta	Wylie
Dixon	McClary	

□ 1115

Messrs. ATKINSON, BRINKLEY, PRITCHARD, and DAVIS changed their votes from "aye" to "no."

Mr. RITTER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. YOUNG OF ALASKA

Mr. YOUNG of Alaska. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. YOUNG of Alaska: Page 2, line 14, delete "," and insert "., strike lines 15-22.

Page 3, strike lines 1 through 25.

Page 4, strike lines 1 through 6.

Page 5, line 5, strike the "., and insert "., and add:

"(e) lands within the forest system which have been recommended for designation as wilderness in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119);

"(f) wilderness study areas designed by act of Congress; and

"(g) lands within the national forest system identified for further planning in Executive Communication 1504, Ninety-sixth Congress (House Document Numbered 96-119)."

Mr. YOUNG of Alaska (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

Mr. YOUNG of Alaska. Mr. Chairman, at this time, because of the time limit, I ask unanimous consent to extend the debate time on all amendments to the bill for an additional 10 minutes, to be equally divided.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Alaska (Mr. YOUNG) is recognized for 7½ minutes.

Mr. YOUNG of Alaska. Mr. Chairman, the last vote shows the mood of this House, the pressure of those groups that have misled you, the inactivity of those who try to tell you they want to seek those resources. Frankly, I will tell you that you voted your consciences, but without good knowledge.

Mr. Chairman, the additional part of this bill, to which the last amendment was not accepted, would have made the bill part way compatible; but there are 14½ million acres in this bill and I want each one of you in this room to know that it affects you because it is in your districts, and you have not spoken on it. You have not voted on it. You have not had any hearings on it.

The fact is you are being asked today, unbeknownst to you, to put in an additional 14½ million acres of land

by the action of this bill. I do not know how many of you know this.

Mr. Chairman, we are faced with an energy shortage, a mineral shortage, and we are cutting our own throats. I hope some of the Members that voted against that last amendment and are going to vote for this bill recognize what you are doing to yourselves, and I am going to go through the areas.

Alabama has 12 areas that are going to be affected by this legislation and we had no hearings on it.

Arizona, 37.
Arkansas, 11.
California, 217.
Colorado, 20.
Florida, 12.
Georgia, 11.
Idaho, 37.
Illinois, 6.
Kentucky, 2.
Mississippi, 3.
Missouri, 2.
Montana, 66.
New Hampshire, 8.
New Mexico, 6.
Nevada, 15.
North Carolina, 24.
Oregon, 43.
Pennsylvania, 12.
South Carolina, 3.
Tennessee, 8.
Texas, 6.
Utah, 26.
Virginia, 18.
Vermont, 2.
Washington State, 29.
West Virginia, 3.
Wisconsin, 7.
And Wyoming, 32.

And we are not having one hearing on those wilderness areas. Now, my good chairman will tell you, saying, you vote for this bill and then if you do not want it in wilderness, we will take it out. My friends, how many wilderness areas have we ever taken out after we put it into wilderness? None. We have taken no wilderness area out.

We have 229 million acres in wilderness and our people are out of work. We are taking from the Third World. We are buying with our economic might and we want to have wilderness.

All I have ever asked is that let us identify them. Yes, have wilderness, but let us not lock up those resources that we will need.

Even the gentleman from Ohio and the gentleman from Arizona say that when we want it, we will go get it.

I saw what happened to Alaska in 1941. It was not the oil companies, it was not the mining companies, it was this Government and this Congress that went out and dug ditches and used cats and it took over \$500 million from the oil companies when we had Prudhoe Bay to clean up the Government's mess.

That environmental group took that hall and that hall and downtown, sat here and misled this body into the idea that we have all those resources, and we do not.

□ 1130

Now, I can tell my colleagues I may be crying in the darkness but, by God, some day along the line someone will look back in history and say, "Who were those people that misled this Nation, and how weak and spineless were those people who followed them without understanding and making rational decisions?"

No, you will not make a rational decision. It is election year and you respond to that well-organized group. I can tell my colleagues, they are misleading their constituency. Unfortunately, you can have both if you will just listen to reality and recognize that the environment can be protected by man and inclusion of man, not the exclusion of man. But you will not do that. Not today. Not last year. Maybe next year when the gas pumps are lined up again, when the houses are cold, when the people are out of work, when we are asked to pass restrictive legislation so we do not import finished products; if maybe then, but until that time you are going to follow that pied piper out here, that 57 different groups, who tell you you cannot be against the wilderness, you must get close to the soil.

We talk about hearings on this bill. Five hundred people testified. I will challenge the chairman or the staff on that side right now. If you will check each one of those people, they belonged to one of those groups. That is not a cross-section of America. I did not see any sweatshirts. I did not see anybody down there that had been drinking beer on Saturday while they are out of work.

I saw just a group of people who have that special time or money or privilege and are able to enjoy the wilderness.

I will tell my colleagues right now, it may only take a few more years, hopefully longer than that, but a few more years and this body is going to react. This body is going to react and say, "Where are those resources? My God, we do not know. We did not use seismic activity. We did not use the knowledge that we had on hand, but we are out of these minerals such as chrome, magnesium. We are out of oil and coal."

They are going to say, this body is going to say, "Where is it? Let us go get it right now. Let us go get it. Let us rip, rape, and run. Let us do it now, because we need it."

We need it now. No planning. No management. No consideration of mankind. No understanding, complete ignorance. Ignorance is what we are dealing with here today.

I ask my colleagues, and I ask my colleagues again, to consider what is being done here. Fourteen and one-half million acres of land that is in your districts, you have not had one hearing from your constituents on

these issues. Fourteen and one-half millions acres of land.

I urge you to vote for this amendment. If you do not vote for this amendment, go ahead and vote against the bill, but do not do it blindly, as you are doing now.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

The gentleman from Ohio (Mr. SEIBERLING) is recognized for 7½ minutes.

Mr. SEIBERLING. Mr. Chairman, I rise in strong opposition to the amendment.

The amendment would gut the compromise that was reached in this bill. This bill allows seismic testing in wilderness candidate areas; that is, areas that have been recommended for wilderness by the administration, areas that are recommended for further planning by the administration and areas that have been designated by Congress for further study.

What this amendment would do would be to deprive Congress of the option to decide whether or not to put those areas in wilderness and would breach the compromise that allows continued exploration in those areas.

Now, why should this be defeated? Because if we allow roads, as well as drill rigs and seismic dynamiting in wilderness candidate areas, all at the same time, these lands are going to lose their character of wilderness and, therefore, Congress will be deprived of the option to make that decision.

What is more, under the compromise bill which the gentleman from New Mexico and I worked out, the administration, any time it wants to, can withdraw the recommendations for further planning or for wilderness as part of its normal planning process, and all this bill says is that if they do, Congress will have 1 year from that time to decide whether or not to take action.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I will be glad to yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

Mr. Chairman, I would just like to make the comment that the gentleman from Ohio (Mr. SEIBERLING) is correct. All that we are attempting to do here in not allowing drilling and exploration in wilderness candidate areas is to preserve them so that we can make that decision in the future.

If we make the decision that they are not going to be wilderness, then we can go ahead and develop them. But not to do anything within that wilderness candidate area that will destroy the wilderness characteristics until we have an opportunity to see if they are worthy of wilderness designation.

So I would urge the defeat of this amendment.

Mr. SEIBERLING. I thank the gentleman for his help as coauthor of this bill.

Mr. Chairman, before we finish our debate on this important legislation, I also want to pay tribute to our colleague, the gentleman from California (Mr. PHILLIP BURTON) for his leadership on this legislation. Mr. BURTON introduced the original bill to prohibit without qualification, all mineral leasing in wilderness and wilderness candidate areas. He is the spiritual author of this legislation.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New York.

Mr. FISH. I thank my colleague from Ohio for yielding.

Mr. Chairman, I rise in strong support of this legislation, and in opposition to all amendments to open proposed wilderness areas to mineral development.

Mr. Chairman, the need for H.R. 6542 has been made clear by many of my colleagues. As a result of the Department of the Interior's new interpretation of the Wilderness Act of 1964, we are faced with the potential opening up of pristine wilderness lands to mineral leasing. Congressional intent in passing the Wilderness Act was to continue the policy of denying applications for leases in wilderness areas unless directional drilling or other non-surface methods could be used. This policy was followed by the Forest Service until May of 1981. At that time, the Secretary of the Interior announced his intent to consider applications for mineral leases and seismic prospecting in wilderness areas.

Mr. Chairman, there is unquestionably a need for greater use of the tremendous natural resources of the United States in order to relieve the U.S. economy of the burden of relying on the whims of other nations.

But in achieving this goal, we must not detract from the critical need for maintaining the beauty and sanctity of our wilderness areas. The purpose of H.R. 6542 is to protect areas already in the National Wilderness Preservation System from mineral leases by immediately and permanently withdrawing all land in the Wilderness System from oil, gas, oil shale, and other mineral leasing. These lands would have been withdrawn from potential development under these leases as of December 31, 1983. In order to prevent the unwarranted and unnecessary new policy of the Department of the Interior from taking effect and mineral leases being approved, H.R. 6542 prevents new leasing between now and December 31, 1983. I believe this legislation is critical to preservation of our wilderness lands.

The other important result of the provisions of H.R. 6542 is to permit the President, with the concurrence of the Congress, to open any withdrawn area for potential leasing in case of urgent national need.

Mr. Chairman, we are talking about only 2 percent of the land in the lower 48 States, and less than 5 percent of oil and gas resources. Surely, development of those wilderness areas even on the potential that such resources exist is not worth the environmental cost of losing the beauty and continuity of the wilderness areas.

I urge my colleagues to oppose all amendments that attempt to weaken this vital legislation. H.R. 6542 is the most critical environmental legislation to be considered in this Congress. It is the product of many hearings and much compromise and deserves our full support. Without H.R. 6542 as reported by the Interior Committee, we will not be able to fully preserve our wilderness lands as they have been for hundreds of years.

Mr. WILLIAMS of Montana. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Montana.

Mr. WILLIAMS of Montana. I thank the gentleman for yielding.

Mr. Chairman, I think that there is a point here that is very important to the Members of the House.

The CHAIRMAN pro tempore. The 3 minutes of the gentleman from Ohio have expired.

Mr. SEIBERLING. Mr. Chairman, I yield 1 minute to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. I thank the gentleman for yielding this time to me.

Mr. Chairman, there is an important point here to which each of us should pay attention. The sponsor of this amendment has stated that it may affect areas in my colleagues' congressional districts or in their States. His amendment affects 14 million acres of wild land left in this country and, yes, some of it may be in your congressional districts. The areas have either been recommended for wilderness by the administration, not by the Congress—we have not yet agreed—or they are being studied for potential recommendation for wilderness.

If this amendment passes, development may be allowed to go ahead before we have our hearings and decide whether or not we want to preserve these areas. So if my colleagues want to maintain them as good, pure, pristine wild areas until they get a chance to make up their minds, vote "no" on this amendment.

Mr. SEIBERLING. Mr. Chairman, I yield 1 minute to the gentlewoman from Maryland (Mrs. BYRON).

Mrs. BYRON. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me bring up a point that the gentleman from Montana just brought up, and that is, my State is not on the list that the gentleman from Alaska mentioned. Unfortunately, we do not have any wilderness areas in my State to be considered because there were no Members serving before us looking out for the wilderness areas in our State to be maintained and retained.

Mr. SEIBERLING. Mr. Chairman, I yield 1 minute to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. I thank the gentleman for yielding this time to me.

Mr. Chairman, I chaired a hearing in Seattle at which 172 witnesses appeared. As a cross section, there were accountants, loggers, business people. They were from all walks of life. They all testified against such measures as are in this amendment here today.

By the way, hearings were well advertised throughout the State, throughout the region. Everybody knew about them.

Throughout the day I said, "Is there not someone who will stand up for Mr. Watt?" And no one would.

Mr. SEIBERLING. Mr. Chairman, I yield 1 minute to the gentleman from Arizona (Mr. UDALL), the chairman of our committee.

Mr. UDALL. I thank the gentleman for yielding this time to me.

Mr. Chairman, let me review basically why we are here today.

We are in this process of sorting out what ought to be wilderness and what ought not to be. Secretary Watt took the position that he was compelled to lease areas in the wilderness system under the law, and there was a big outrage in Montana because the oldest and best of the wilderness areas, the Bob Marshall, the drilling rigs were poised to go.

We had an emergency meeting of the committee and were able to head that off.

Then down in New Mexico, two areas in the Capitan Wilderness were actually opened and leases were signed for drilling in the State of New Mexico. There was a great deal of concern.

So what we are trying to do in this bill is to clarify the law. Under this bill, the Secretary not only does not have to lease, but does not have discretion; it must come to the Congress for a decision on these matters. That is the purpose of this bill, to clarify the situation.

Secretary Watt says he agrees we ought to go to the wilderness areas last; if the day comes when we are down to our last barrel of oil, we may have to go into the wilderness areas. But we are clarifying his power and authority in the manner he requested.

The CHAIRMAN pro tempore. The Chair reminds the gentleman from

Ohio (Mr. SEIBERLING) that he has 1 minute remaining.

Mr. SEIBERLING. Mr. Chairman, I yield 15 seconds to the gentleman from Washington (Mr. LOWRY).

Mr. LOWRY of Washington. Mr. Chairman, I rise in strong support of H.R. 6542, the Wilderness Protection Act. The 1964 Wilderness Act permitted the mining laws to be in effect in wilderness areas until 1984. I thought of this as a generous safety valve granted to the mining and energy interests in the original act. Now, as a result of threats by the administration to open up wilderness areas, and even to make wilderness the focus of leasing activities, we must reconsider that safety valve.

In Washington, two wilderness areas, the Alpine Lakes Wilderness, and the Wenaha-Tucannon Wilderness, were threatened by lease applications. At Alpine Lakes, the Enchantment Lakes area is the very center of the oil and gas leasing applications. In section 5 of the Alpine Lakes Wilderness Act of 1976, Congress foresaw the importance of the Enchantment Lakes area and asked the Forest Service to conduct a special study, "taking into consideration its especially fragile nature, its ease or accessibility, its unusual attractiveness, and its resultant heavy recreational usage. The study shall explore the feasibility and benefits of establishing special provisions for managing the Enchantment Lakes area to protect its fragile beauty, while still maintaining the entire area for projected recreational demand."

That provision alone should provide plenty of reason to deny any lease application in this area, but we should not expect to find similar provisions in every wilderness bill.

In a Seattle field hearing on April 16 by the House Public Lands Subcommittee, not one witness favored increased drilling. Nearly all asked that the "window of vulnerability" from now until December 1983, be closed. These articulate witnesses included representatives of the cities of Seattle and Tacoma, the leaders of many conservation organizations, the director of the Seattle Zoo, sportsmen, Indian tribal leaders, scientists, and ordinary citizens. I want to thank and commend the gentleman from Oregon (Mr. WEAVER) for his excellent service chairing that 2 hour Seattle hearing.

If Secretary Watt were to plan a strategy to generate opposition in Washington State to leasing even in safe areas, one effective way to do it would be to propose such activities in the Enchantment Lakes. Our former Governor, Republican Dan Evans, has called this area "the border between Heaven and Earth." It makes no sense geologically to propose drilling in these volcanic areas. It makes even less sense from an environmental point of view.

Another effective way to generate opposition would be to propose leasing in the watersheds of major cities. The Bureau of Land Management has done just that by allowing and actually granting leases in the watersheds of Seattle and Tacoma, in spite of existing agreements with the cities; in spite of objections by the Forest Service; and in spite of the fact that Seattle relies on a pure source, gives its water only minimal treatment, and would be required to spend millions of dollars to build a treatment plant if its watershed were to become polluted or full of silt.

It is this type of abuse of delegated authority which brings us to the need for this bill. Ideally, it would seem reasonable to leave open some opportunity for leasing to occur in the event of some national emergency, oil embargo, or the like. But I cannot conceive of the logic of this administration, this Interior Department, this Forest Service, which says that wherever any private company or individual, for whatever reason—speculation or not—has chosen to file an application, that application takes priority over the public's interest in the land. Due to the opposition by this administration to the bipartisan policies of the last 20 years, this delegation of authority must be revoked.

I strongly support that provision of the Lujan-Seiberling bill which prevents mineral leases from being issued for national forest lands under formal consideration for wilderness designation. In my State, we are still debating the issue raised in the RARE II process. The citizens of Washington deserve a chance to have their case on wilderness heard, without pre-emptive damage from drilling and exploration.

In the April field hearings, Mr. David Hancocks, director of the Seattle Zoo, expressed the views of my constituents very eloquently when he said:

I believe the remaining wild lands of America are the soul of this nation. You must not sell them, no matter how tempting a deal you may be offered. . . . Future generations will never forgive us if we allow the best of America's natural treasures to be traded for the 20th Century equivalent of a barrel of beads.

I urge the adoption of H.R. 6542 without weakening amendments.

I want to commend the excellent work by the full committee chairman, Mr. UDALL, the subcommittee chairman, Mr. SEIBERLING, and the ranking minority member from New Mexico for their excellent leadership on this vital legislation.

Mr. SEIBERLING. Mr. Chairman, I yield 15 seconds to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the bill. I want to say Mr. Watt wanted to allow drilling in the Seattle

and Tacoma watershed in the State of Washington, and we appreciate this committee helping us stop Secretary Watt from doing this despicable act.

Mr. SEIBERLING. Mr. Chairman, I yield 15 seconds to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Chairman, I rise in opposition to the amendment.

An amendment has been offered by Representative YOUNG to this balanced legislation which would seriously undermine the purpose of H.R. 6542, would contradict the intent of Congress in instituting a roadless area review (RARE II) process, and would open millions of acres of wilderness planning areas to the permanent consequences of development without permitting requisite assessment of the areas' natural resources. Representative YOUNG's amendment would remove the provisions which grant temporary protection to Forest Service wilderness study areas and further planning areas pending assessment of their wilderness values.

My district's Los Padres National Forest would be severely affected by this amendment. Hydrocarbon leases affecting thousands of acres of study area are pending for the Los Padres National Forest. Enactment of Representative YOUNG's amendment would pass judgement on the suitability for wilderness designation of not only this land, but of over 7 million acres of diverse roadless area all across the Nation. Sensitive alpine areas would be considered with delicate marshland and desert in a single wasteful stroke.

Upon enactment of this amendment, irreparable damage to further planning areas would be permitted. Hydrocarbon exploration and production temporarily prohibited in these areas pending completion of studies to determine their suitability for wilderness designation would cause irreparable damage to these study areas before study has been completed and waste the considerable time and energy already devoted to study of these areas.

That time and energy is considerable. Assessment of wilderness study areas and further planning areas has been underway since 1979. Review of further planning areas in the Los Padres National Forest has been underway since October 1979. The review is proceeding on schedule and a draft assessment for the area is scheduled for completion June 1983. Actually, the draft forest plan for the Los Padres Forest has been delayed considerably, more than many other forest plans in the region. Several other further planning areas in the region are scheduled to publish their draft environmental assessments in November of this year, several months prior to the scheduled completion of the Los Padres assessment.

Congress in enacting the Wilderness Act, recognized a wilderness area as "an area where the Earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain." These are strict guidelines, to be sure. In all likelihood, many further study areas do now possess the unique qualities by which wilderness areas are distinguished. It is probable that some of these further study areas will not be considered suitable for designation as wilderness areas, and will be opened for hydrocarbon development in order to provide for our Nation's energy needs. However, if Representative Young's amendment to exclude these lands from the Wilderness Protection Act is included with the bill, a reasonable decision based upon assessment of an area's wilderness character will not occur. Instead, millions of acres of study area will be opened for leasing before completion of the review.

The subcommittee of the Congress have heard convincing testimony regarding the destructive force of explosive seismic testing conducted as a part of hydrocarbon exploration. Testimony has been heard from exploration crews describing the practice of blasting and reblasting identical or similar shot lines in exploration areas as a result of industry interest in protecting proprietary resource information. The danger of forest fires resulting from exploratory blasting, as well as the necessity of numerous roads and structures for test-hole drilling has been well documented.

The result of these exploratory steps, far from having the minimal impact some would have us believe, is significant, long-lasting damage to areas sensitive by their very nature as study areas for possible designation as wilderness. The result is permanent degradation of those exact qualities by which further planning areas were initially designated for study. The result is antithetical to the definition of "wilderness."

To permit hydrocarbon exploration and development in wilderness study areas with the knowledge that such exploration will probably result in long-lasting destruction of those same qualities which could qualify the area for wilderness status is to decide that studies conducted across the Nation to determine qualifications of candidate areas do not deserve completion. To permit the destruction of wilderness study areas by opening those areas to hydrocarbon development is to impose a self-fulfilling prophecy upon them. In the Wilderness Act, Congress was explicit in describing those attributes of a wilderness area. Testimony before our committees has confirmed the truth implicit in that act: Wilderness designation and hydrocarbon development are simply incompatible.

Heated conflict has been generated over the matter of leasing in wilderness areas. At times, the issue has appeared to be beyond resolution. However, divisive the issue has been at times, some middle ground—a point of agreement common to all interests—has been maintained. Throughout the consideration of this issue, at least one focus of agreement has been preserved: the temporary protection of wilderness study areas until studies to determine the suitability of wilderness designation are completed. It has been preserved in H.R. 5603, which was supported by Secretary Watt and cosponsored by Representative Young. It is an essential provision of H.R. 6542 as well.

There is considerable disagreement in the Congress regarding the necessity of hydrocarbon development on public lands. Compelling arguments have been presented for all aspects of the debate. But the issue at hand here is not one of whether or not hydrocarbon drilling should occur on public lands, nor is it even one of whether or not hydrocarbon development in wilderness areas is justified. The issue presented by the Young amendment is of whether or not this Congress will respect the Wilderness Act and the will of the administration, the Secretary of the Interior, previous Congresses, and the American people in allowing study of wilderness candidate areas to reach conclusion.

This proposal to exempt wilderness study areas from provisions of H.R. 6542 was not offered in committee, nor was a similar provision to the administration's H.R. 5603 included in that bill. Exemption of wilderness study areas was not considered necessary then, nor should it be considered necessary now. I urge my colleagues on both sides of the aisle to oppose passage of this amendment.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Chairman, do I have any time, or did I yield back the balance of my time?

The CHAIRMAN pro tempore. The Chair believes the gentleman used his time and yielded back what he did not use.

Mr. SEIBERLING. Mr. Chairman, I yield the balance of my time to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I yield to the gentleman from Oregon (Mr. SMITH).

Mr. SMITH of Oregon. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the amendment. Short of the passage of the amendment, I think the bill should be defeated.

I welcome this opportunity to convey to the House of Representa-

tives my view on H.R. 6542, the Wilderness Protection Act of 1982. I am opposed to H.R. 6542 because it fails to incorporate language addressing balanced land management policies which take into consideration environmental protection, conservation, and mineral development.

H.R. 6542 withdraws permanently designated wilderness areas, withdraws RARE II recommended wilderness areas, congressionally designated wilderness study areas and Forest Service further planning areas from the mineral leasing laws. These lands are obviously being withdrawn from mineral entry in order to protect their wilderness values. Industry has proven many times that its changing technology enables it to operate safely in environmentally sensitive areas without causing long-term adverse impacts. Proper evaluation of the subsurface resources consequently requires leasing and drilling and, as just stated, can be accomplished in an environmentally sound manner through new technology. If mineral exploration is prohibited, Congress will be limiting its knowledge in determining the best use of our lands * * * whether it is suited for wilderness or multiple-use management. The type of withdrawal addressed in H.R. 6245 is also breaking a commitment Congress made during its deliberations on the Wilderness Act of 1964, when, through a series of debates, a compromise was reached which gave the Department of the Interior discretionary authority to grant leases in wilderness areas through 1984. Denying the Department this discretion appears to reverse congressional intent of the 1964 act.

H.R. 6542 also fails to recognize this country's dependence on foreign sources for energy. The 1973-74 Arab oil embargo was only a 6-percent loss of our oil requirements, and yet, I need not remind my colleagues of the disruption which occurred. Estimates are that the 5-month Arab oil embargo cost this Nation 500,000 jobs and from \$10 to \$20 billion in lost production. With the two armed conflicts we are reading and hearing about daily in the news—the Israel raids into Lebanon and the Iran-Iraq war—we are continuing to see an escalation from a serious situation in the Mideast to one with the possibility for critical global implications. Certainly, not a time to be withdrawing lands from oil and gas exploration.

Some of my colleagues will argue that should an urgent national need exist, H.R. 6542 provides a mechanism for wilderness areas to be opened to mineral activity. However, this type of exploration, development, and production required in these areas of rough terrain, as well as transportation facilities if a resource is found, could easily require a timeframe of 3 to 8

years. With this in mind, it is unrealistic to think that a wilderness area could be opened up should an emergency situation occur, we simply would be unable to respond to the crisis. To believe that we could rectify the closure of these areas in an emergency situation is a misconception and is being shortsighted on the part of this body which was elected to protect the best interests of our citizens. Locking up areas with no knowledge of existing resources is not, in my estimation, looking out for our best interests.

I was happy to see that the language in the legislation does exclude mining from the withdrawal provisions, but I think it is important to note that oil and gas are strategically just as crucial to national security.

My last point of contention is that H.R. 6542 does not provide for statutory release language for Forest Service lands which are determined unsuitable for wilderness designation. Strong release language is essential to achieving balanced wilderness legislation. Any lands which are deemed unsuitable for wilderness should be returned to multiple-use management and not subjected any further to study programs. I think it is in the best interests of this Nation to settle once and for all the uncertainty and delay in the long-term planning and management of our national forest lands.

The United States has 229 million acres in designated wilderness and wilderness study categories which is close to one-third of the total Federal land base of 760 million acres. I believe this clarifies the point I have made many times. The balance is tipping heavily in favor of wilderness and wilderness study areas leaving us vulnerable to critical mineral shortages.

I commend the U.S. Congress in conjunction with the appropriate Federal agencies and various private organizations who have contributed to the development of a wilderness preservation system in which we can all be proud. I, too, want to see our present system protected now and in future generations; however, because of possible ramifications presented by H.R. 6542, I will oppose passage of the legislation.

Mr. PORTER. Mr. Chairman, unlike most of what Government does—addressing the crises of the moment, attempting to put out the most recent fires—the legislation we are considering today addresses a vital concern for the future of our country, for generation after generation to come. It also puts out a fire that may not be the nearest at hand, but nevertheless is most terrifying: the prospect that pristine wilderness areas, largely protected from development for that past two decades, will at a time in the not too distant future, be covered by the evidences of civilization.

Clearly, we need to be concerned with the energy independence of our

country and I have been as strong a supporter as any of increased domestic energy production. But anyone looking at our recent experience can well conclude that the combination of conservation, represented by, for example, the purchase by Americans all up and down the economic scale of increasingly fuel efficient automobiles, and of production, unleashed by the President's ending of oil price controls—a wise step indeed—has moved us substantially away from the great dependence on OPEC that we found ourselves locked under in the mid-1970's. Barring a national emergency, surely we need not despoil what can never be replaced: the natural wilderness areas that remain today in the same state as when our forefathers first laid eyes on them, indeed, in the same basic state as when our Creator gave them to us.

I could go on at length, perhaps, about the importance of what we do here today. But recently I read an article by George Will in Newsweek that expresses perhaps better than any why wilderness protection is so high a priority. In the article, he indicates that applications for oil, gas, and mineral claims are pending for 3 million acres in 200 wilderness areas, including 30,000 acres of the Maroon Bells not far from Aspen, Colo. If ever a more poignant example was offered, at least to me, I cannot imagine it. I have stood at the base of the Bells, climbed the hills nearby, skied the mountains that provide its backdrop, and 15 years ago, fell in love with the beauty and purity of this area, so much so that my wife, Kathryn, and I were married at the Prince of Peace Chapel in Aspen on the road leading to the Bells. I could never find within myself the intention to allow development of this area. I harbor, too, the suspicion that if the Maroon Bells is an area that developers have their eyes on, then perhaps there is another wilderness area that one or the other of us feel the same way about, that would also fall to development if this legislation is not adopted.

But, George Will says it so much better than I, and in urging the Members to support H.R. 6542 unamended, I commend his words from the August 16 issue of Newsweek to their minds and hearts and insert them in the RECORD at this point:

[From Newsweek, Aug. 16, 1982]

A WORD FOR THE WILDERNESS

(By George F. Will)

It is said that any stigma will do to beat a dogma with, and environmentalism is often stigmatized as an "elitist" cause. It is odd to say that removing lead from gasoline or from paint in tenements concerns Palm Beach more than Baltimore, or that regulating chemical wastes benefits only one class. It is less obviously wrong, but still wrong, to say that preservation of wilderness is elitist in any awful way.

Colorado's Maroon Bells wilderness area is one of the brightest jewels in the nation's

diadem. More than 50,000 persons visit it annually, more than visit most wilderness areas but fewer than half the number that watch the average Michigan Wolverine home football game. And no wilderness area is as heavily used as most national parks are. (Yosemite has an indispensable institution of civilization: a jail.)

An Irreplaceable Asset: In 1964 Congress created the wilderness system, "where man is a visitor but does not remain." A 20-year "window" was left open for leases for oil, gas and mineral claims. As the Dec. 31, 1983, deadline approaches, there is developing a dash for applications. More than 1,000 are pending against 3 million acres in 200 wilderness areas, including 30,000 acres of the Bells. Previous administrations routinely rejected virtually all applications, but the current Interior secretary, James Watt, wants to open up wilderness areas. This week Congress considers a bill that would close the window, imposing an immediate ban on leases except in cases of urgent need affirmed by Congress.

There are 80 million acres of designated wilderness, 56 million of them in Alaska. Only 1.2 percent of the "lower 48" states is wilderness; only 4 percent could ever be so designated. Surely the nation's vitality and security are not so marginal as to depend on that 4 percent. According to one study, wilderness contains just 1 percent of the nation's onshore oil and gas. It would be a pity to damage an irreplaceable asset for a few weeks' worth of oil. Particular wilderness designations may have to be reconsidered, eventually. For example, one area (the Sawtooth Range in Idaho) contains perhaps \$1 billion worth of minerals, including cobalt. The United States imports 97 percent of the cobalt it uses.

Opposition to wilderness designations comes not only from industry. It also comes from individuals whose recreation preferences are at stake. This conflict may have a class dimension, pitting plain folks in their station wagons and motorboats against backpackers who are suspected of packing Brie rather than Blue Ribbon and of going to earth in winter at Radcliffe or Grosse point. Pristine wilderness is an acquired taste and is incompatible with the enjoyment of some popular tastes such as dirt bikes, snowmobiles and other off-road vehicles. But surely there is no shortage of space in America for persons whose play must involve internal-combustion engines.

All gains involve pains. Environmental protection has an economic price. Wilderness designation can raise the cost of many things, from minerals to lumber, affecting many things, from job creation to the cost of housing. Environmentalism that is careless about cost will be regressive in effect and will discredit itself by seeming to be a luxury of persons affluent and callous. But the current danger is that Watt will discredit economic analysis by seeming sympathetic only to economic considerations.

Part of the Watt problem is the Watt manner: he acts like a machine in the garden. When he testifies beneath bright television lights, h/p high, glistening forehead, his electric smile and his eyes flashing behind metal-rimmed glasses call to mind a 1955 Buick, a convention of chrome. When he speaks, you half expect to hear gears grind, and you sort of do. He has no patience for the toing-and-froing practiced by persons who understand that in politics the straightest line between two points is rarely the easiest route. He speaks almost too clearly, indifferent to the bureaucratic art

of constructing whole paragraphs perfectly devoid of substance.

His cocksureness, his thirst of conflict, his tone-deafness regarding his own shrillness in the nuances of the subtle city—have invigorated environmental groups and have caused Congress to say (as a Michigan state legislator once said), "From now on, I'm watching everything you do with a fine-tooth comb." He has made it easy to caricature conservatism as philistine, as hostile to all but commercial values. He sometimes seems unreconciled to government's stewardship concerning community assets. Some assets, such as wilderness areas, cannot survive if unprotected from the morals of the marketplace.

It is a law of politics: extreme political intensity begets equal and opposite intensity. Watt is partly a cause and partly an effect of persons for whom environmentalism is political romanticism masquerading as science, a doctrine of putting sand in the gears of industrialism and for expressing root and branch rejection of America's commercial civilization. Their liking of chipmunks expresses primarily a dislike of human beings, creatures of nasty despoiling rationality. Such environmentalists value wilderness areas primarily as refuges from all reminders that they share the planet with other human beings.

"The Challenge": This nation began as an "errand into the wilderness." The first task was to tame that wilderness, but as Wallace Stegner says, we need to preserve some of it "because it was the challenge against which our character as a people was formed."

Most Americans will never care a fig about wilderness. Perhaps that means it is an elitist concern. But so what? Edith Hamilton, the classicist, once said to Ezra Pound: "I have heard of a great Confucian who wrote a letter so difficult there was only one other man in all China who could understand it. That is not very democratic, I'm afraid. That is aristocratic, like you, Mr. Pound." Pound replied: "It is democratic insofar as it provides that anyone may have the opportunity to learn enough to read that letter." Enjoyment of wilderness may not be spontaneous and "natural." It may be a learned process, inviting and even requiring reflection. But it is nonetheless valuable for being an aristocratic pleasure, democratically open to all.

Mrs. SCHNEIDER. Mr. Chairman, I rise in strong support of H.R. 6542. As legislation that insures the preservation of wilderness areas for future generations, it deserves our unqualified support. This bill would protect roughly 33 million acres of designated or potential wilderness threatened by oil and gas development once the leasing moratorium expires in November. The strength of the bill lies in the fact that it is a true compromise. It does not withdraw any lands in Alaska or any BLM wilderness study areas. It does not prohibit hardrock leasing. It prevents seismic testing only in the 18 million acres of designated wilderness. It contains a Presidential "unlock" provision that is not a component of the 1964 Wilderness Act.

And yet, Mr. Chairman, this bill is the subject of intense and vehement criticism from the oil and gas industries. We are told that H.R. 6542 represents a massive lockup of Federal

lands. Yet these 33 million acres represent only 2 percent of the land in the lower 48 States. Furthermore, some 460 million acres of Federal land are available for oil and gas development; 26 percent of this land is currently under lease; most of these leases, however, will expire without any exploration according to GAO. There seems, then, to be no shortage of Federal land to lease and explore.

We are then told, however, that it is unwise to lock up any land without knowing exactly what is underneath it. The American people have a right to an accurate inventory of all of our natural resources. True enough, and according to studies conducted by the Department of Energy at the Oak Ridge National Laboratory, all wilderness areas together, designated and potential, contain only 3 percent of the Nation's undiscovered oil and 2 percent of the undiscovered gas resources. These statistics were almost exactly confirmed by an independent resource economist's study. Both of these reports were based on data from the U.S. Geological Survey.

These numbers, though, are dismissed as "nondefinitive reconnaissance" results by opponents of this bill. The only meaningful inventory, it seems, calls for exploration. The concept of inventory, in my view however, bears little relationship to the realities of oil and gas exploration which involves extensive use of explosives in seismic testing and considerable drilling. None of which is without cost, and oil companies have made it clear that they are not interested in merely performing a public service by inventorying all of our oil and gas reserves in the wilderness areas; their investment, reasonably enough, is contingent upon the option to work their lease as they see fit. Inventory, in other words, is a transparent code for development.

We are told not to fear, however. Oil and gas exploration activities are fully compatible with the wilderness environment. This simply is not so. My colleagues have already documented in detail the negative impact of exploration including disturbance of wildlife and habitats, road construction, and the introduction of toxic wastes. The Department of Interior has testified on this point as well. There can be no question that once thus invaded, an area is no longer wilderness.

Nevertheless, it is pointed out, the economy is in a slump, dependence on foreign oil is still high and unemployment is on the rise. Mr. Chairman, if leasing 33 million acres of wilderness would solve any of these problems, I certainly would not stand in the way. Again the simple fact is that it will not. Opponents of the bill call for a rational management policy devoid of "emotional claptrap," and I fully agree with them. Development for the sake of development is the worst kind of

planning, certainly the worst kind of energy policy. It should be abundantly clear by now that the security of our energy future depends on planning how we use our resources, not continuing a discredited policy of blindly extracting nonrenewable resources at any cost. Whatever is under those 33 million acres is finite. If 98 percent of the lower 48 States is insufficient as an energy source, how does it seem reasonable to find salvation in the remaining 2 percent?

There are essentially no valid arguments to be made against this.

Basically, there is no valid case against this bill. The wilderness preservation system was established to secure the "benefits of an enduring resource of wilderness." We have not reached the point at which we must invade the most spectacular and remote of landscapes. I urge my colleagues to support H.R. 6542 and oppose all weakening amendments.

Mr. WIRTH. Mr. Chairman, in recent months the issue of whether to allow oil and gas leasing in wilderness areas has aroused understandable controversy.

On the one hand, some paint the image of our Nation's most pristine lands, our heritage to future generations and quiet places for all of us to reflect and regenerate. I believe none of us would prefer the image of dirt roads and drill pads, gaping holes in the sides of mountains, eroding lands, and fleeing wildlife.

On the other hand, others paint the image of gaslines, brownouts, and elderly people freezing because they cannot afford to pay their heating bills. None of us would choose this future for our Nation.

The debate over whether to allow oil and gas leases in wilderness areas has been couched in these emotional terms, and indeed both underlying issues—securing greater domestic energy supplies and protecting our environment—are major ones facing our Nation, and issues I have devoted much of my time to since I came to Congress.

But I am pleased that the bill before us today, of which I am a cosponsor, strikes a careful bipartisan balance among competing claims over what image to create for our Nation's future. It is our best hope for solving this controversy in a sensible and swift way.

It permanently withdraws wilderness areas designated by Congress from oil, gas, mineral, and geothermal leasing, thus recognizing that these lands are special, and must remain as places where people are temporary visitors and not permanent invaders. These lands, which represent only 4 percent of my State's area, deserve the permanent protection this bill provides for the sake of all who follow us.

The effect of withdrawal of these lands on our ability to develop independence from imported oil will be very small. Studies have indicated that only 1.1 percent of the potentially producible oil, and 1.2 percent of the potentially producible natural gas in the United States lie under lands designated as wilderness areas. Additionally, when we consider that 80 percent of leases which have routinely been issued on 118 million acres of nonwilderness Federal lands expire without being explored, there is no reason not to give permanent protection to wilderness areas.

At the same time, the bill allows flexibility, and allows both Congress and the President to make decisions in the future in case of circumstances we cannot foresee. For example, it would exempt wilderness lands from this ban which are released by an act of Congress, or authorize the President to recommend to Congress opening a withdrawn area under certain conditions. Certainly, the fact that this bill would not ban mineral leasing in certain wilderness study areas—including some in my own State of Colorado—proves that it is not an effort to reduce efforts toward energy independence, or to shackle our domestic energy industry.

Mr. Chairman, it is important to remember where this careful compromise bill came from. It resulted in large part from Interior Secretary James Watt's sudden reversal of past policy in declaring an official administration policy that leases would be granted for energy exploration in wilderness areas.

In my opinion that action was a deliberate attempt by the administration to divert attention from the real issue, which is the total dismantling of a national energy program many of us here worked for years to create. Through drastic cutbacks in new oil and gas technology research, coal research, and research to accelerate development of alternative resources like solar, the administration declared that it has no energy policy. Suddenly, drilling for oil in wilderness has been painted as the only way to save our Nation from more gaslines.

Secretary Watt, following public outcry, reversed himself and offered what was termed a wilderness protection bill which was laden with loopholes. It would have protected wilderness from energy exploration for only 17 years, and granted immediate exceptions to wilderness protection.

All this marked a dramatic reversal of past efforts to build a carefully balanced energy program which also protected the environment. For Western States, where such vast reserves of energy resources are located, this has had particularly damaging effects. Rather than balancing energy development with protecting the quality of

life in the West, the administration proposed energy development in wilderness. Rather than proposing synthetic fuels development with adequate environmental regulations and research into health effects, it proposed to scrap any research into the effects of synfuels on workers, surrounding communities, and the environment. The list goes on.

These extreme actions make the balance in the bill before us today all the more impressive. It is not a perfect bill, but it is a good compromise, one which I hope my colleagues will join me in supporting.

● Mr. CONTE. Mr. Chairman, I rise in support of H.R. 6542 as I think it represents a compromise attempt to resolve an ongoing controversy over how best to balance the need for oil, gas, and minerals with the need to preserve the recreation, scenic, and wildlife wilderness areas. Time and again we go over this subject, and time and again we fail to resolve the controversy.

The Wilderness Act of 1964 empowered the Secretary of the Interior to issue oil and gas exploration leases on a discretionary basis. This law does not preclude the Secretary from withholding leasing authority if wilderness value, for example, is seen as an overriding value of importance. Thus, the Secretary of the Interior is not compelled to issue a maximum number of leases before the December 1983 expiration date of his authority.

This bill was put together to answer the uncertainty of how to respond to the hundreds of oil, gas, and other mineral lease applications which are expected at the end of the present moratorium on leasing in wilderness areas.

Earlier this year, Congressman Mo Udall and I cosponsored a resolution to go on record with our belief that wilderness areas should be the last areas of our land where mineral leasing should occur. We went on record because we felt a need to get a better hold on our criteria for issuing exploration and development leases, most particularly because of our Nation's appetite for oil, gas, and minerals. As I said in my remarks at the time of the introduction of that resolution, getting a better hold on criteria for issuing leases is nothing more than sound land management policy, not for any one group, but for all citizens.

One of the intents of H.R. 6542 is to insure that lands being considered for wilderness designation will not be leased until a final decision has been made as to wilderness or nonwilderness status. Such a policy is based on the theory that it would not be prudent to grant leases for any purpose before a study is completed or a decision made on designating a wilderness area.

Mr. Chairman, as our lands continue to be explored and developed and we try to set policies to govern that exploration and development, let us try to hold on to some principles and balanced reasoning in the debate over what constitutes the most pressing need.

Not long ago, I read a phrase which I think is appropriate as we think about setting leasing policies; it says:

We didn't inherit our land from our ancestors—we're only borrowing it from our children."

I think the Members ought to keep that phrase in mind, and vote for H.R. 6542. ●

● Mr. STARK. Mr. Chairman, today the Congress has the opportunity to show to this administration and to the American people our renewed commitment to the maintenance and preservation of pristine wilderness areas. Despite the fact that wilderness policy was developed and adhered to by Democratic and Republican administrations alike, we are now informed by the Reagan administration and Interior Secretary James Watt that the Wilderness Act of 1964 has actually been misread all of these years and that indeed, it is the obligation of the Federal Government to consider land lease applications for mineral exploration in these wilderness areas.

This is especially ironic when one considers what the original purpose of these wilderness areas was—to preserve and protect in their original, God-given form, a few areas of great natural beauty. For the administration to turn around and say that the Government is dutybound to examine development opportunities in these areas goes outside the realm of sensibility—and could only come from the mind of someone who could hold a private, illegal cocktail party on the graves of our Nation's war dead.

The Wilderness Protection Act of 1982 offers us a chance to interrupt this line of thinking, however, by placing into law a prohibition of leasing for exploration on those lands designated wilderness by the Congress. The proposal also includes exempting from leasing those lands now under consideration for wilderness classification, and bans for the time being any seismic testing in these areas, as this testing is obviously disruptive to the natural state.

If in the future an urgent national need calls for exploring an area, this measure does not preclude it. This is in keeping with the entire wilderness concept—that we preserve lands which are precious to us now in order that we may retain some few, rare spots to enjoy peace and tranquillity. The whole idea is to preserve now, so we have an option to develop later if we need to.

In 1934, the American writer Stuart Chase said:

Natural resources and inanimate energy are . . . increasingly regarded as affected with a public interest . . . Certainly they were left by God or geology to mankind and not the Standard Oil Company of California.

This measure emphasizes this point, stating that the American people will no longer tolerate environmental policies that raze the land in an irrevocable manner so some company can turn a profit. That is voodoo environmental policy, and as with any voodoo policy, it holds no water because it has been stuck full of holes.

It is not up to this Congress to make every decision regarding our children's future, but we do have certain obligations we must fulfill. If we fail to provide for wilderness areas we will have made a decision that closes a door to them for all time—we will have destroyed their chance to know and sense the awesome beauty of this land, its magnificence, its grandeur.●

● Mr. HOLLENBECK. Mr. Chairman, I rise to express my strong support of H.R. 6542, the Wilderness Protection Act, without weakening amendments. I do so because of my firm belief that this legislation represents an effective vehicle through which we can insure the future preservation of America's beautiful wilderness areas.

In 1964, Congress established the National Wilderness Preservation System in order to protect those areas "where the Earth and its community of life are untrammeled by man, where man is a visitor who does not remain." Since 1964 I am pleased to note that the Wilderness System has grown to more than 86 million acres. To turn our backs on our commitment to preserving wilderness areas by opening them to development and supporting weakening amendments to today's legislation would represent a disservice to our people and all future generations of Americans.

Over 3 million acres are presently under mineral lease application—mostly for oil and gas. While past administrations have issued only a handful of leases virtually excluding wilderness areas, the Reagan administration led by Interior Secretary James Watt has promised to end this pattern by opening wilderness lands to energy exploration. With the current moratorium on wilderness exploration in effect only until the end of this Congress, I believe it is essential that we close these environmentally sensitive areas to incompatible development right now. If we do not act today and approve this legislation we would be providing Secretary Watt with a full year to issue leases before the Wilderness Act's statutory deadline on leasing expires on December 31, 1983. To me this is completely unacceptable.

I urge my colleagues to join me and vote in favor of H.R. 6542 and oppose all weakening amendments. Now is the time to immediately and permanently withdraw existing wilderness areas from oil, gas, oil shale, coal, phosphate, potassium, sulfur, and geothermal leasing. Now is the time to prohibit leasing on lands under consideration for possible wilderness designation until either Congress or the Forest Service determines their status. To do otherwise would be a disservice to future generations and a vote against the beauty which our natural environment has to offer.●

● Mr. GEJDENSON. Mr. Chairman, I want to express the support of my constituents for the Wilderness Protection Act (H.R. 6542) that we are voting on today. This bill provides a reasoned and needed approach in providing, and I quote from the 1964 Wilderness Act, "present and future generations with an enduring resource of wilderness."

Today, the wilderness system in the lower 48 States stands at some 23 million acres, or 5.7 percent of the Federal lands, or 1.2 percent of the total conterminous United States; only 4 percent could ever be so designated. In short, this legislation permanently protects existing wilderness from the adverse impacts of mineral leasing and development and insures that the wilderness character of areas under consideration for addition to the national wilderness preservation system will not be impaired until either the Forest Service or congressional wilderness evaluations are completed.

The citizens of the Second Congressional District of Connecticut strongly oppose opening the Nation's few remaining wilderness areas to mineral development. I have received 663 letters expressing their concern and dismay at the Secretary of Interior's egregious proposal entitled the Wilderness Protection Act of 1982. When one measures Watt's proposal against what he says, one must conclude that there is no limit to the extent of the Secretary of Interior's cynicism and contempt for the American people. My constituents realize this.

Mr. Chairman, there are no wilderness areas in the State of Connecticut, but my constituents believe that the existing National Wilderness Preservation System should be the last place where oil and gas development is allowed to occur. I believe this bill is imperative for the immediate preservation of the integrity of our wilderness areas. I am pleased to offer the support of my constituents to this important, and long overdue, legislation.●

● Mr. MATSUI. Mr. Chairman, I rise today to urge that my colleagues approve H.R. 6542, the Wilderness Protection Act of 1982 with no amendments. It is a measure that will preserve the pristine quality of America's

dwindling wilderness areas. H.R. 6542 responds to the ongoing debate regarding the need to balance the preservation of the Nation's wild lands with oil, gas, and mineral drilling in such wilderness. I want to commend the House Interior Committee, under the guidance of Congressmen UDALL and LUJAN, for crafting this measure after 9 months of extensive consideration of public comments.

In 1964, Congress passed legislation which created the National Wilderness Preservation System for the purpose of protecting areas "where the Earth and its community of life are untrammeled by man, where man is a visitor who does not remain." The Wilderness Act of 1964 expressed our Nation's desire to maintain wild lands as part of our heritage and as a legacy that we shall confer upon our children. The act allowed mining exploration in wilderness areas only so long as those activities were compatible with the maintenance of the wilderness environment. It permitted the issuance of new oil and gas leases and hardrock mineral claims until the end of 1983.

Previous administrations have used the authority granted by the 1964 law sparingly and approved few leases in these environmentally sensitive areas. With the advent of the Reagan administration, however, a new view of natural resource management has prevailed and this environmentally sound policy has been abandoned. President Reagan appears to remain dedicated to his promise to unlock the wilderness and encourage unprecedented development in these protected areas notwithstanding that they contain only 3 percent of the undiscovered oil resources and 2 percent of our undiscovered gas resources. He has pursued this policy even as a majority of Americans have articulated the view that such a small return does not justify the denigration of these irreplaceable lands.

H.R. 6542 seeks to prevent this wholesale destruction of our wild lands by immediately withdrawing existing wilderness areas from oil, gas, oil shale, coal, phosphate, potassium, sulfur, and geothermal leasing. In addition, lands under consideration for possible wilderness designation will be withdrawn from leasing until either the Congress or the Forest Service determines their final status. H.R. 6542 represents a reasonable approach to wilderness preservation as it provides for the excavation and development of certain designated strategic minerals in withdrawn areas and second it empowers the President, with the approval of the Congress, to open wilderness areas upon a finding of the existence of an urgent national need.

While I appreciate the necessity of increasing our domestic energy and mineral development, I believe that by

pursuing aggressive and often premature development in our wilderness areas we inflict permanent and unnecessary damage to these lands. Our wilderness should be the last frontier for oil and gas exploration. It must be noted that H.R. 6542 only withdraws from lease sales wilderness and wilderness candidate areas that equal less than 2 percent of the lower 48 States' land mass. Over 137 million acres of Federal lands, or four times the amount of land to be withdrawn, will still be available for active mineral development.

With the enactment of H.R. 6542, we shall insure that future generations can enjoy these unique preserves and gain an insight into an earlier America. In view of this responsibility to our children and grandchildren, it is incumbent upon this body to adopt H.R. 6542.●

● Mr. FOGLIETTA. Mr. Chairman, I am very pleased that H.R. 6542, the Wilderness Protection Act of 1982, has come before the House for consideration. This legislation will provide important and much needed protection for our Nation's wilderness resources and addresses an issue which this Congress must not ignore.

Since taking office, Secretary of the Interior James Watt has undertaken numerous programs geared to the wholesale disposal of public resources. Department of the Interior and Forest Service actions in this administration have reflected a commitment to this goal of resource exploitation over and over again. Whether it is massive and economically shortsighted leasing of offshore areas for oil and gas or a program for accelerated leasing of wilderness areas for energy development, the thrust of these agency initiatives is the same.

Fortunately the American public has become immensely concerned about the recent threats to our wilderness areas and other public lands. H.R. 6542 is clearly both a reflection and a product of that concern. The intent of Congress in designating units of the National Wilderness Preservation System in the first place has been to protect the unique values of those areas from development. The approximately 7 million acres of national forest land which has been recommended to Congress for wilderness designation, along with the lands which the Congress has specifically designated for wilderness study and those which the Forest Service has categorized for further planning need at least temporary protection pending final congressional action to assure that wilderness designation is not precluded.

There are several areas within the Allegheny National Forest in my home State of Pennsylvania deserving of and under consideration for wilderness designation. It would be an abrogation

of responsibility to the citizens of Pennsylvania if we were to permit oil and gas leasing and development in these potential wilderness areas before Congress has the opportunity to give them permanent protection.

Some argue that oil and gas activity is not detrimental to other uses of an area. It has been suggested during the debate on this bill that seismic exploration, for instance, is not destructive of wilderness values. One only need be presented with the broad outlines of the effects of seismic activity to realize that it is totally incompatible with such important wilderness purposes as wildlife protection. Dynamite explosions at 50 pounds a shot and a rate of 50 to 100 times a day over the course of 3 months, work crews numbering 30 people, road construction and persistent helicopter activity accompany a typical seismic exploration project such as the one which has been proposed for the Bob Marshall Wilderness in Montana. This was the case which focused congressional attention on this issue last year. The grizzly bear and the California condor stand out as examples of sensitive and threatened wildlife, dependent on wilderness habitat for survival, which would be seriously endangered by seismic activity. The Forest Service has given recent consideration to issuance of oil and gas leases in wilderness and proposed wilderness areas which provide homes for these dwindling species.

There is a real need for legislation to protect our Nation's wilderness values from the threats of oil and gas leasing; the clear intent of this administration is to press ahead with such leasing if permitted. H.R. 6542 is a modest and reasonable response to this threat. The Interior Committee is to be commended for having developed so well balanced a compromise out of the numerous hearings which it has held on this issue over the course of the past year. I urge my colleagues to join me in supporting this wilderness protection bill without amendment as a necessary step in protecting the small remaining portion of our Nation's land base which sustains wilderness values—a resource of incalculable importance to our society.●

● Mr. BEDELL. Mr. Chairman, I wish to express support for H.R. 6542, the Wilderness Protection Act of 1982, a bipartisan compromise recently reported by the Interior and Insular Affairs Subcommittee on Public Lands and National Parks. I commend my colleague, Mr. SEIBERLING, chairman of the subcommittee, for his expertise in ably accommodating in this bill the diverse interests whose views have fueled this highly contentious debate.

Today we are voting to extend our commitment to a strong National Wilderness Preservation System, a commitment that began almost 20 years

ago with the passage of the National Wilderness Protection Act of 1964. This act mandated the creation of a wilderness system, "where the Earth and its community of life are untrammelled by man, where man is a visitor who does not remain." The enactment of today's measure will insure the continued protection of the 18 million acres not presently withdrawn from mineral leasing through previous legislation.

The American wilderness played a pivotal role in the formation of that spirit which has propelled our Nation to the forefront of world affairs. Our love of individual freedoms was nurtured by the lure of the frontier, whose call our ancestors heeded despite the ever-present dangers and loneliness. Indeed, our country's literature is suffused with references to the wilderness—its explorers, its beauty, and its values.

None of us alive today had the fortune to look upon our land as it was when the first colonists ventured forth from the old world. We have dramatically changed the landscape of the United States, building it into the most productive nation on the face of the Earth. We have tapped the great cache of resources beneath our soils; we have irrigated vast deserts and built farms on millions of acres of land; our cities have sprung up into centers of modern culture unparalleled throughout the globe.

But we have also increased our appetite for the minerals and energy resources whose presence in the United States facilitated this phenomenal growth. Our needs will continue to grow into the future, as we find increased demands for oil, natural gas, coal, and strategic minerals. Certainly this bill's provisions for emergency leasing and exploration at the recommendation of the President will insure our national security in a time of threat. In addition, these wildernesses have not been closed to exploration for the strategic minerals our national defense depends upon.

We must protect our wilderness areas from the despoilation that some would visit upon them. As the last remaining pockets of frontier, their importance to the American public and its spirit cannot be measured in the dollar value of the resources beneath their surface. They serve as a living testament to the bounty of the land we settle over 300 years ago. Our unwavering efforts to insure the integrity of these wilderness areas will be appreciated by the many generations of Americans who will follow us.

My colleagues, I urge your support in the passage of H.R. 6542, the Wilderness Protection Act of 1982. The people of northern Iowa are almost totally unanimous in their hopes for the

enactment of this bill. I urge its swift passage. Thank you.●

● Mr. CRAIG. Mr. Chairman, as Congress considers legislation that affects our vital natural resources, let us keep a few facts about our forest resource in focus.

First, our country is blessed with forests that are among the most productive in the world. They have the biological potential to grow a great deal more wood than they are now growing.

Second, our soils, climate and know-how to improve our timber-growing productivity is enormous. We certainly have the capability and ability to supply our future domestic wood needs and to meet an increasing worldwide demand for the products from trees. Indeed, out ahead, wood fiber joins food among our country's greatest strengths.

But the key is increased productivity. This can be accomplished on our Nation's forest lands without harm to the environment—while retaining other forest benefits such as watershed protection, recreation, and wildlife habitat.

Our national forests are vital to the country's wood supply. They contain 46 percent of all the country's softwood growing stock—the wood most used in housing, construction, and for pulp and paper. Yet, tens of millions of national forest acres are frozen—and have been for more than a decade in the RARE I and RARE II studies of millions of acres national forest lands that could be considered for wilderness designation or released for multiple use.

Uncertainty over the land base available for timber production prompted many mills to bid up national forest timber sales by 300 to 400 percent and more—to insure that they would have timber to run their mills. Now, with housing in the doldrums and the market for lumber and plywood collapsed, these same mills cannot work this timber. Finished product prices in many cases are lower than stumpage costs. This critical issue is at least in part due to the uncertainty over timber supply. And uncertainty about timber supply is largely a product of unresolved decisions about which lands will be wilderness and which lands will be used for multiple-use management.

Yet, while the national forests contain nearly half of the country's entire growing stock of softwoods, they supply only 20 percent of the U.S. softwood harvest. Of all forest ownerships, the national forests have the greatest opportunity to increase timber productivity. These assets are owned by all Americans—and they should be better managed to provide returns commensurate with their value.

The U.S. forest products industry, after extensive study, has adopted and

is implementing a timber supply program that sets specific productivity targets for softwood timber supply for all forest ownerships. These targets can be considered wood consumer goals—because U.S. consumers will ultimately pay. The goals call for increased levels of productivity to achieve two major objectives: First, to minimize the cost impact of wood product and housing prices for U.S. consumers and, second, to build the potential for the United States to have an international net trade surplus of forest products.

The objective of these goals is to increase the total softwood timber harvest by 50 percent by the year 2030. This means that productivity on industry-owned lands will have to increase 20 percent by that year and the productivity of private nonindustrial woodlands will have to increase 84 percent. It also means national forest timber supply will have to increase by 45 percent by the year 2000.

To achieve these productivity increases, our forest lands must be available for timber growing, more trees must be planted, the lands must be managed intensively, and a favorable climate must be created for investments in forestry.

Vital to increased productivity on the national forests is resolution of the management freeze on lands that the second roadless area review and evaluation (RARE II) study found best suited for nonwilderness uses. RARE II studied 62 million acres of roadless lands in the national forests. When completed in 1979, the decision was that 15 million acres qualified for wilderness designation, 11 million acres needed to be studied further, and 36 million acres were best suited for nonwilderness multiple use. It is the 36 million acres that continue to cause controversy.

It is time Congress ended the runaway creation of de facto wilderness and legislatively released these lands for multiple-use management. This would give the Forest Service the stable, reliable land base that is essential to plan timber management programs without threat of costly and time-consuming lawsuits and appeals. Release would not tie the hands of any future Congresses in designating any of these lands as wilderness at a future time.

It would, however, uphold the fundamental principle of the Wilderness Act that only Congress can designate wilderness areas. I do not think our country can afford to have its land management plans characterized by uncertainty and paralysis. Too much is at stake, environmentally, economically, and socially.●

● Mr. PATTERSON. Mr. Chairman, I rise to lend my name to the growing list of House Members who support the continued protection of our Na-

tion's wilderness areas. The Wilderness Protection Act which we have before us today is truly a bipartisan consensus bill which enjoys the support of a majority of Americans. I do not believe that it serves any useful purpose to bring forward damaging amendments which were soundly defeated during the Interior Committee's markup.

Mr. Chairman, I do not hesitate to say that a majority of Americans support the principles embodied in this bill because I was one of several members of the Interior Committee who had the opportunity to chair hearings on the original Watt and Burton proposals in my home district of Orange County. Out of nearly 100 witnesses who testified at this hearing, only one, a member of the California Mining Association, had anything negative to say about protecting our Nation's wilderness and wilderness candidate areas. Furthermore, national polls conducted by pollster Lou Harris have confirmed public sentiment on this matter. Americans believe in environmental protection and Americans believe that the pursuit of a balance between conservation and energy exploration should be a national priority. In direct defiance of this public mandate, Secretary Watts treats energy and mineral exploration as the preeminent use for all land. "Compromise" and "balance" are apparently missing from Secretary Watt's vocabulary.

Mr. Chairman, since the establishment of the National Wilderness Preservation System in 1964, it has been national policy not to allow oil and gas leasing in wilderness areas. This has been the case under both Democratic and Republican administrations alike. In the past, previous administrations have exercised their discretion not to lease in wilderness areas, except in 22 minor instances. It is the Reagan administration which has broken faith with the American people and literally reversed this longstanding policy. Unfortunately, they have provided no good reason for doing so. In fact, the available statistics strengthen the case against opening wilderness areas to leasing. In the lower 48 States, there are currently 137 million acres of Federal lands under oil and gas leases. Both the Interior Department and the General Accounting Office have reported that up to 80 percent of these existing leases will expire without any exploratory drilling having been undertaken. Coupled with the fact that wilderness and wilderness candidate areas hold only approximately 3 percent of the Nation's potentially producible oil resources and 2 percent of the gas resources, opening our Nation's outstanding wilderness areas to leasing and development is simply unwarranted.

I urge my colleagues to vote for final passage on this important issue. Today's vote will be one of the few important environmental votes of this session. Let us not do the American public wrong. Mr. Chairman, I yield the balance of my time. ●

● Mr. MINETA. Mr. Chairman, I rise in strong support of H.R. 6542, the Wilderness Protection Act of 1982.

Although this is a complex bill, there is a very simple and clear basic issue before us today. Where are our national priorities? Are we dedicated to preserving our vanishing wilderness areas or are we not?

Once lost, wilderness is gone forever. We cannot fail to act now to recommit ourselves to our basic goal of preserving at least a small portion of this Nation in a pristine, undeveloped state.

There is a tendency for some to say that wilderness areas are important, and worth preserving, but that other goals are also important as well. Although seemingly fair minded and innocuous, this view starts us down a very dangerous slope we best not approach.

The essence of wilderness is that our impact does not show. A wilderness area with just a few oil wells or coal mines—however well landscaped—is hardly the untouched wild place we are determined to protect by our action today.

This is a good bill before us. The Committee on Interior and Insular Affairs has done an excellent job of putting together a complex piece of legislation which we can all support with confidence and enthusiasm.

Mr. Chairman, we face many difficult decisions in this House every year. This bill is not one of them. Our choice and our path is clear. We must, and I am sure we will, act today to protect our remaining wilderness areas. I urge my colleagues to overwhelmingly approve H.R. 6542.

Thank you. ●

The CHAIRMAN pro tempore. All time has now expired.

The question is on the amendment offered by the gentleman from Alaska (Mr. Young).

The amendment was rejected.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to. The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. EVANS of Georgia, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for

other purposes, pursuant to House Resolution 534, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LUJAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 340, nays 58, not voting 36, as follows:

[Roll No. 271]

YEAS—340

Akaka	Clausen	Fary
Albosta	Clay	Fasell
Alexander	Clinger	Fazio
Anderson	Coats	Fenwick
Andrews	Coleman	Fiedler
Annunzio	Collins (IL)	Findley
Anthony	Conable	Fish
Applegate	Conte	Flippo
Aspin	Corcoran	Florio
Atkinson	Coughlin	Foglietta
AuCoin	Courter	Foley
Bailey (PA)	Coyne, James	Ford (MI)
Barnard	Coyne, William	Ford (TN)
Barnes	D'Amours	Fountain
Beard	Daniel, R. W.	Fowler
Bedell	Daschle	Frank
Bellenson	Daub	Frenzel
Benjamin	de la Garza	Frost
Bennett	Deckard	Fuqua
Bereuter	Dellums	Garcia
Bethune	DeNardis	Gaydos
Bevill	Derrick	Gejdenson
Blaggi	Dicks	Gephardt
Bingham	Dingell	Gibbons
Bliley	Dixon	Gillman
Boggs	Donnelly	Gingrich
Boland	Dorgan	Glickman
Boner	Dougherty	Goldwater
Bonior	Dowdy	Gonzalez
Bonker	Downey	Goodling
Bouquard	Duncan	Gore
Bowen	Dunn	Gradison
Breaux	Dwyer	Gray
Brinkley	Dymally	Green
Brodhead	Dyson	Gregg
Brooks	Early	Grisham
Brown (CO)	Eckart	Guarini
Broyhill	Edgar	Gunderson
Burton, Phillip	Edwards (CA)	Hagedorn
Byron	Emerson	Hall (OH)
Campbell	Emery	Hamilton
Carney	English	Hammerschmidt
Chappell	Evans (DE)	Hance
Chapple	Evans (GA)	Hansen (UT)
Cheney	Evans (IA)	Harkin
Chisholm	Evans (IN)	Hatcher

Hawkins	McHugh
Heckler	McKinney
Hefner	Mica
Heftel	Mikulski
Hendon	Miller (CA)
Hertel	Mineta
Hightower	Minish
Hiler	Mitchell (MD)
Holland	Mitchell (NY)
Hollenbeck	Moakley
Holt	Mollohan
Hopkins	Morrison
Horton	Mottl
Howard	Murphy
Hoyer	Murtha
Hubbard	Myers
Huckaby	Napier
Hughes	Natcher
Hutto	Neal
Hyde	Nelligan
Jacobs	Nelson
Jeffords	Nowak
Jenkins	O'Brien
Johnston	Oaker
Jones (OK)	Oberstar
Jones (TN)	Obey
Kastenmeier	Ottlinger
Kazen	Panetta
Kemp	Parris
Kennelly	Pashayan
Kildee	Patterson
Kogovsek	Pease
Kramer	Pepper
LaFalce	Perkins
Lagomarsino	Petri
Lantos	Peyser
Leach	Pickle
LeBoutillier	Porter
Lee	Price
Lehman	Pritchard
Leland	Pursell
Lent	Rahall
Levitas	Railsback
Lewis	Rangel
Long (LA)	Ratchford
Long (MD)	Regula
Lott	Reuss
Lowery (CA)	Rhodes
Lowry (WA)	Rinaldo
Lujan	Ritter
Lukens	Roberts (KS)
Lundine	Rodino
Madigan	Roe
Markey	Roemer
Marriott	Rogers
Martin (IL)	Rose
Martin (NC)	Rostenkowski
Martin (NY)	Roth
Martinez	Roukema
Matsui	Roybal
Mattox	Russo
Mavroules	Sabo
Mazzoli	Santini
McCollum	Sawyer
McCurdy	Scheuer
McDade	Schneider
McEwen	Schroeder
McGrath	Schulze

NAYS—58

Archer	Hall, Ralph	Paul
Ashbrook	Hall, Sam	Quillen
Badham	Hansen (ID)	Roberts (SD)
Bailey (MO)	Hartnett	Robinson
Benedict	Hills	Roussellot
Butler	Hunter	Rudd
Carman	Jeffries	Shuster
Craig	Kindness	Skeen
Crane, Daniel	Leath	Smith (AL)
Crane, Philip	Livingston	Smith (OR)
Daniel, Dan	Loeffler	Snyder
Dannemeyer	Lungren	Stangeland
Davis	Marlenee	Stanton
Derwinski	McDonald	Stenholm
Dickinson	Molinar	Stump
Dreier	Montgomery	Synar
Edwards (OK)	Moore	Wampler
Fields	Moorhead	Young (AK)
Forsythe	Oxley	
Gramm	Patman	

NOT VOTING—36

Addabbo	Bolling	Brown (OH)
Bafalis	Broomfield	Burgener
Blanchard	Brown (CA)	Burton, John

Schumer
Seiberling
Sensenbrenner
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Simon
Skelton
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (PA)
Snowe
Solarz
Solomon
Spence
St Germain
Stanton
Stark
Stokes
Stratton
Studds
Swift
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vento
Volkmeyer
Walgren
Walker
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Yates
Yatron
Young (FL)
Young (MO)
Zablocki
Zerfetti

Coelho	Ferraro	Michel
Collins (TX)	Fithian	Miller (OH)
Conyers	Ginn	Moffett
Crockett	Ireland	Nichols
Dornan	Jones (NC)	Richmond
Edwards (AL)	Latta	Rosenthal
Erdahl	Marks	Savage
Erlenborn	McClory	Siljander
Ertel	McCloskey	Wyllie

□ 1145

Mr. DAVIS changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1200

GENERAL LEAVE

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just considered and passed.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

APPOINTMENT AS MEMBERS OF DELEGATION TO CONFERENCE OF THE INTERPARLIAMENTARY UNION IN ROME, ITALY

The SPEAKER. Pursuant to the provisions of title 22, United States Code, section 276a-1, as amended by Public Law 95-45, the Chair appoints as members of the delegation to attend the Conference of the Interparliamentary Union to be held in Rome, Italy, September 14-22, 1982, the following Members on the part of the House.

Mr. PEPPER of Florida, chairman;
Mr. DERWINSKI of Illinois, vice chairman;
Mr. FOUNTAIN of North Carolina;
Mr. PICKLE of Texas;
Mr. DE LA GARZA of Texas;
Mr. BOWEN of Mississippi;
Mrs. BOGGS of Louisiana;
Mr. WASHINGTON of Illinois;
Mr. BROOMFIELD of Michigan;
Mr. MCCLORY of Illinois;
Mr. STANTON of Ohio; and
Mr. BUTLER of Virginia.

UPDATING OF LEGISLATION AND POLICIES RELATING TO TELECOMMUNICATIONS

(Mr. WIRTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIRTH. Mr. Speaker, for the last 7 years, the Congress has been working toward updating our hopelessly outmoded telecommunications policy by rewriting the Communications Act of 1934 for the first time

since it was written. Building on the foundation laid by my predecessor as chairman of the House Subcommittee on Telecommunications, Lionel Van Deerlin, introduced and considered in this Congress, H.R. 5158, with which you are all quite familiar.

There were several critical goals underlying the provisions of H.R. 5158, and support of those aims was underscored yesterday in the decision settlement agreement signed by A.T. & T. and the Department of Justice.

As we did in H.R. 5158, he has helped keep telephone rates reasonable by allowing the local operating companies to keep the highly profitable yellow pages, which have over \$3 billion in annual revenues.

He has reinforced the commitment in H.R. 5158 to the first amendment guarantee of a full diversity of information sources. We were concerned that, by allowing A.T. & T. to transmit information it owned or controlled over its own monopoly long-distance facilities, the settlement created a "bottleneck" to access to the fullest array of information. Judge Greene incorporated into his decision, practically verbatim, the provision in H.R. 5158 dealing with that critical issue.

And, like H.R. 5158, the Judge's decision will help ratepayers and A.T. & T.'s shareholder by strengthening the to-be-divested local operating companies. By allowing the operating companies to market new customer premises equipment, including sophisticated switchboard and computer systems; by giving the operating companies a limited role in the divestiture process; and by making certain they are not left with an undue portion of their shared debt with A.T. & T., the operating companies are more likely to have the capacity to keep local rates reasonable in the future.

Judge Greene's opinion is a major step in the direction of a progressive new telecommunications policy. I will be sending out material explaining what is in that opinion, and its relationship to the recently withdrawn H.R. 5158.

We will also be holding aggressive oversight hearings on the FCC to insure that they are properly prepared to implement and oversee the settlement if A.T. & T. and the Department of Justice agree to it. I look forward to working on this critical issue with my colleagues in the months ahead.

And I want to share with my colleagues the statement I issued yesterday on Judge Greene's opinion, and a summary of the opinion.

STATEMENT BY REPRESENTATIVE TIMOTHY E. WIRTH, CHAIRMAN, HOUSE SUBCOMMITTEE ON TELECOMMUNICATIONS, CONSUMER PROTECTION AND FINANCE

The following statement was issued today by Rep. Tim Wirth (D-Colo.), Chairman of the House Subcommittee on Telecommunications, in response to the opinion issued by Judge Harold Greene, which will require

certain modifications in the proposed agreement between AT&T and the Department of Justice, settling the government's longstanding lawsuit against the Bell system:

"I am pleased that Judge Greene has shared the view of myself and so many other Members of Congress that while the settlement as proposed will significantly enhance competition in the telecommunications industry, it also needed major changes. He has acknowledged that changes had to be made to keep local telephone rates reasonable, and to protect Bell's divested local operating companies.

"Within the severe legal and practical limitations on the Judge's power to modify the agreement without the consent of the parties, he has addressed many of the issues we sought to resolve with H.R. 5158, the Telecommunications Act of 1982.

"He has helped keep local telephone rates reasonable by allowing the local operating companies to keep the highly profitable Yellow Pages, which have over \$3 billion in annual revenues.

"He has helped to assure a diversity of information sources for the public. We were concerned that, by allowing AT&T to transmit information it owned or controlled over its own monopoly long distance facilities, the settlement created a "bottleneck" to the First Amendment purpose of access to a full diversity of information sources. Judge Greene incorporated into his decision, almost verbatim, the provision in H.R. 5158 dealing with that critical issue.

"The Judge's decision will help ratepayers and AT&T's shareholders by strengthening the to-be-divested local operating companies. By allowing the operating companies to market new customer premises equipment, including sophisticated switchboard and computer systems; by providing a standard for other restrictions; by giving the operating companies a limited independent voice in the divestiture process; and by making certain they are not left with an undue portion of their shared debt with AT&T, the operating companies are more likely to have the capacity to keep local rates reasonable in the future.

"Clearly, not all my concerns have been addressed by the Judge, nor could they be. Judge Greene was limited in those steps he could take while still preserving the pro-competitive centerpiece of the proposed decree—divestiture of the local operating companies. For example, the Judge enables the local companies to market new telephone equipment, but he allowed AT&T to take away from them all the already-installed home and business telephones. He clearly believes that AT&T's \$30 billion a year long distance monopoly will become subject to effective competition far sooner than our data indicates. And although the opinion establishes a maximum level of debt (45%) that can be left with the operating companies, it does not deal with our very serious concerns about the evaluation of AT&T's assets prior to the divestiture. The operating companies are losing their most productive assets and the division of debt should reflect that loss of value.

"Overall, the Judge has significantly improved the proposed settlement, which was already a major step in the right direction. Yet, it is still only a step. The need for Congress to establish comprehensive new telecommunications policy is still critical, and Congress should not abdicate its responsibility to do so."

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TELECOMMUNICATIONS,
CONSUMER PROTECTION,
AND FINANCE OF THE COMMITTEE
ON ENERGY AND COMMERCE,

Washington, D.C., August 11, 1982.

To: Members, Subcommittee on Telecommunications, Consumer Protection and Finance.

From: Timothy E. Wirth, Chairman.

Subject: Today's Order in *United States v. A.T. & T.*

Judge Harold Greene today issued an opinion indicating that he would not approve the settlement proposed by AT&T and the Justice Department unless the parties accepted substantial changes, most of which resemble provisions of H.R. 5158. The parties must agree to the suggested modifications within 15 days, or the Court will resume trial on the merits.

RATEPAYERS

Judge Greene's most significant condition would require AT&T to allow the operating companies to retain ownership of Yellow Pages. This change will have a strongly beneficial impact on the affordability of local service, since Yellow Pages revenues will continue to offset local rates. I have attached a table showing the adverse rate impacts that would have occurred if the operating companies lost Yellow Pages—as the proposed settlement provided.

Another modification would allow the operating companies to continue to offer new terminal equipment, but would apparently transfer installed telephones to AT&T. (p. 111 & fn. 248) This would mean that AT&T, not the operating companies, would own telephones now in ratepayers' homes. It is possible that this transfer would remove installed equipment from State regulation and allow unregulated price increases.

VIABILITY OF THE BELL OPERATING COMPANIES

Judge Greene cited the letter he received from five Members of the Subcommittee as asserting that permanent restrictions on the operating companies "would have adverse consequences in that they would undermine the financial viability of the divested operating companies, or produce substantial increases in the rates for local telephone service, thus eroding the statutory goal of universal telephone service for all Americans." (p. 103) Accordingly, the Judge will grant petitions allowing an operating company to compete in markets if it shows that "there is no substantial probability that it could use its monopoly power to impede competition."

The Judge was somewhat responsive to our concern that the operating companies be divested with a reasonable ratio of equity to debt, and with a voice in the divestiture process. AT&T would have to divest each operating company with debt instruments whose terms are representative of AT&T's consolidated debt, and which equal approximately 45 percent of the assets that company retains (50% for Pacific Tel). Before approving the plan, the Court will require the head of each operating company to submit a sworn statement that he believes the company will continue to be viable and discussing "any element of the plan . . . that may have been imposed by AT&T over (his) objections." (p. 170) The court will approve the plan only if it is "consistent with the provisions and purposes of the decree," and will retain jurisdiction over its implementation. Judge Greene also observed that "AT&T has a fiduciary obligation, separate and apart from the decree, to approach the

divestiture in good faith and to protect the interests of all involved." (p. 142)

The Court did not restrict AT&T from immediately reentering the local loop by "bypassing" the operating company, nor did he require AT&T to "pay back" the operating companies for patents and research developed under the license contract. For a limited period of time, the operating companies will have access to these patents and will be able to sublicense them—but only to suppliers of their telecommunications equipment. AT&T would not have to license pre-divestiture patents to electronics firms seeking to market new products for a "reasonable royalty," as required by the 1956 decree, nor would the operating companies receive any of the royalties that are collected.

COMPETITIVE ISSUES

The Court found that the "incentive and the opportunity for anticompetitive conduct (by AT&T) will after divestiture and on account of divestiture be greatly reduced." (p. 72 & n. 175) Consistent with this view, the Judge did not require substantial additional steps to prevent anticompetitive practices between the interexchange network and other markets. He observed that the decree does not "immunize (AT&T) from its obligations under the regulatory decisions or the antitrust laws." (fn. 176) The Court specifically observed that "since separate subsidiaries are essentially a regulatory device, it does not seem appropriate, except in the most unusual circumstances, for an antitrust court to impose such a requirement." (p. 112 & fn. 251)

The opinion proposed that any operating company that bills interexchange calls disclaim any affiliation with AT&T. The Court also made clear that any exception from the requirement of equal interconnection would be conditioned on a cost-based discount.

DIVERSITY OF INFORMATION

The Court expressed particular concern for the First Amendment values that underlay section 263 of H.R. 5158. The Judge suggested that the parties agree to an almost identical replica of this provision, prohibiting AT&T from providing information publishing services over its own facilities. AT&T may petition for relief from this provision after seven years.

EMPLOYEE PROTECTION

The Court declined to require the operating companies to continue to recognize existing unions or to respect current bargaining agreements for the remainder of their term, as provided in the Senate bill and in section 267 of H.R. 5158. The Court stressed that divestiture posed "no obstacle . . . to adherence . . . to the terms of existing bargaining agreements," but that the unions and the operating companies "will be entirely free to arrange their mutual labor relationships." (p. 146)

EXPRESSING DISAPPROVAL OF CUTBACKS ON COMMUNITY COMMITTEES SERVING AGRICULTURE

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, farmers in my congressional district have brought to my attention a proposal by the U.S. Department of Agriculture that will have the most serious conse-

quences for the efficient and effective operation of U.S. Government farm programs. That proposal is one that would reduce the number of community committees within the Agricultural Stabilization and Conservation Service, cut back the number of meetings for the committees, and remove local financial control.

Mr. Speaker, this proposal is being made in name of cost savings. However, if it is allowed to go forward, it will have exactly the opposite effect. Over the years, community committees have been instrumental in detecting waste, fraud, and abuse in USDA programs. They have returned to the Government many times the cost of their operation.

Further, Mr. Speaker, this proposal runs counter to the Zorinsky amendment to tobacco legislation enacted last month by Congress, and signed into law by the President. That provision states, in pertinent part, that "it is the sense of Congress that the Secretary of Agriculture should insure that the structure and operation of the Agricultural Stabilization and Conservation County and Community Committees . . . be preserved and strengthened."

Mr. Speaker, these community committees are the heart and soul of programs operated by the ASCS. Made up of working farmers, elected by their neighbors, they have given these farm programs a grassroots participation and a responsiveness to local needs matched by few other Government programs. This administration has talked a great deal about returning Government to the local level. But the proposal to reduce the level of participation of community committees within ASCS will ultimately result in the responsibility for farm programs being taken away from working farmers at the local level and placed in the hands of Washington bureaucrats.

Mr. Speaker, today I have written Secretary of Agriculture John Block and urged him to drop this proposal before it goes any further. I encourage my colleagues here in the House to join me in expressing their disapproval of this ill-advised and misguided proposal.

INTEREST RATES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, on September 9, 1981, I introduced a resolution directing that the President consult with the Governors of the Federal Reserve System for the purpose of substantially reducing interest rates within 90 days after adoption.

My resolution was one of many directing that the President confer with the Federal Reserve Board on lowering interest rates. The sense of the Congress is clear—that the Chief Executive and the Federal Reserve Board begin to work together to bring down these devastatingly high interest rates. In some cases interest rates are now more than 17 percent.

The President and the Federal Reserve Board have not acted to restore the confidence of the financial markets and the general public, they have not worked toward lowering interest rates and they show no signs of doing so.

In October 1979, Chairman Volcker announced a radical departure from traditional Federal Reserve policy. At that time, the Fed officially abandoned any attempt to control interest rates and announced that its entire effort would be to control the money supply alone.

The result of the Fed's deciding to ignore interest rates is that interest rates quickly reached and have maintained their highest levels in American history.

In the 2 years following the implementation of the policy of ignoring interest rates, the prime rate averaged 16.8 percent.

With interest rates at that level the American dream of homeownership is fading. Under this ballooning of interest rates caused by the Fed's ignoring the subject only 3 percent of the American people can afford a home.

Time and time again, I am told by the business people in my district that the most influential factor in the continuing high interest rates is what they identify as the "fear factor." The public is seeing no action by this administration to relieve high interest rates and they are convinced that interest rates will remain high. This fear factor is stopping investments.

A bill introduced Wednesday by the distinguished majority leader, Mr. WRIGHT, and myself, as a cosponsor, is meant to pick up where the many resolutions that have been offered left off.

The bill is designed to relieve some of the uncertainty over interest rates by making the Federal Reserve Board consider the long-term affects of their monetary policy on interest rates and by making the Fed announce its intentions.

The high interest rate policy is a conscious policy of the Federal Reserve with the support of the administration. Congress and the general public have the right to know the Fed's and this administration's intentions toward monetary policy affecting interest rates.

This bill is not an attempt to have Congress set interest rates. However, it is an attempt to make an institution that has been unapproachably respon-

sive to the needs of the people as constituents have expressed them to their elected officials.

This amendment of the Federal Reserve Act is necessary to restore confidence.

THE JACKASSES AND THE ELEPHANTS

(Mr. WILLIAMS of Montana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILLIAMS of Montana. Mr. Speaker, yesterday President Reagan was kind enough to travel out to my home State of Montana, and while he was out there he referred to the Members of the Congress of the United States as "jackasses."

Now, another term of "jackass" is "donkey." The donkey is the symbol of my party. By the way, a donkey is a domesticated jackass. Donkeys are notorious for having their own minds, being stubborn, and thinking for themselves, whereas the animal representing the other party is easily trained. We have all seen elephants in the circus. They grab the tail of the elephant in front of them and then they all perform the identical trick each in turn.

Now, the President's problem is not with the jackasses; it is with the elephants who are starting to develop a mind of their own on the President's economic policy. He is having trouble with those elephants who are beginning to think like jackasses.

Mr. Speaker, I would suggest that the President quit concentrating on the donkeys and start trying to get his elephants back into line.

SIGNS OF THE TIMES

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. STARK. Mr. Speaker, this morning's Washington Post placed side by side two news articles that are a sign of the times—the hard times brought to us by the President's economic policies of trickle down tax cuts and unemployment as a cure for inflation.

One article reported the horse Conquistador Cielo was syndicated yesterday for \$36.4 million. The racehorse was sold to 40 investors who put up about \$900,000 apiece for the animal, expecting, of course, handsome profits off the stallion's offspring. As the article explained:

At the same time, you've got a tax shelter. You can depreciate the cost of a 3-year-old over 3 years, writing off 25 percent the first year, 38 percent the second year, and 37 percent in the third. It is a nice game.

Next to this article was one entitled "Agencies Water the 'Charity Soup.'" As the article reported:

At Sacred Heart Parish, 16th and Park Road NW, the number of families receiving church emergency food packages jumped from 70 last July to 230 in May of this year, according to the Rev. Joaquin Bazan, pastor.

SOME (So Others May Eat), a church-operated soup kitchen half a mile north of the Capitol, has watched its daily line grow from 200 persons a few years ago to 600 today.

In affluent Montgomery County, \$30 emergency aid grants given by the interdenominational Community Ministry jumped from 16 a month three years ago to over 100 in June of this year.

"I don't know where it's going to end," says Marita Dean of Catholic Charities' crisis intervention service. "Last summer we were seeing 40 people a month. Now, it's close to 100. And this is summer, when it should be down. God knows what it will be in November and December."

Clearly, Mr. Speaker, the times are out of joint when a racehorse can sell for \$36.5 million—one offer even went as high as \$60 million—while thousands of our fellow human citizens are reduced to soup lines.

POSITIVE EFFECTS OF THE JOB TRAINING PARTNERSHIP ACT

(Mr. EVANS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Georgia. Mr. Speaker, passage of the Job Training Partnership Act by the House on August 4, is a meaningful step toward addressing our Nation's chronic unemployment problem.

As a sponsor of H.R. 5320, I am pleased that approximately 1,000 people in Bibb, Twiggs, Monroe, and Jones Counties, as well as thousands of others in Georgia's Eighth District will be provided training and jobs in the private sector through partnership with private industry.

I have contacted the business communities in my district and requested their meaningful and enthusiastic support for this legislation and its effective implementation.

Unemployment hurts people. Not only does each 1 percent of unemployment mean a loss in revenues to our Treasury of \$25 billion, more importantly it represents misery and despair to the unemployed and families of unemployed.

Mr. Speaker, I recognized that H.R. 5320 is not a cure-all for our unemployment problem. We must continue our efforts to put people back to work through sound fiscal and monetary policies. This legislation will help, however, in attacking high unemployment.

RENEWED EFFORTS FOR A VERIFIABLE NUCLEAR FREEZE

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, I am proud today to join once again with my colleagues, the gentleman from Massachusetts (Mr. Ed MARKEY) and the gentleman from Massachusetts (Mr. SILVIO CONTE), in reintroducing the resolution to call for a mutual and verifiable freeze of the testing, production, and deployment of nuclear weapons.

Members may say, "Well, why do this now? You just got beaten the other day."

We do not consider that we got beaten. We consider that in view of the tremendous effort that was made by the White House, with calls from all over the world coming in to Members, getting 202 Members to support the freeze was a substantial victory. We want the people around the country who believe in the freeze, who call for the freeze, who call for a halt to the arms race, to know that we are going to carry on the fight and eventually we will win that fight.

Mr. Speaker, at some point the people of this country, through their elected representatives, are going to see to it that the insane nuclear arms race comes to a halt.

AN APPEAL TO THE SOVIET UNION ON NUCLEAR DISARMAMENT

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, an article in Sunday's New York Times brought to my attention an interesting contradiction: While the Soviet Union accuses the United States of sabotaging talks on nuclear disarmament, the Kremlin is suppressing unofficial peace initiatives in the Soviet Union and the East bloc.

I am disturbed by reports that Soviet officials have taken steps to disband the country's first unofficial peace movement, disconnecting telephones of participants, detaining them, and warning some that they risk criminal prosecution.

Last Friday in Moscow, it was reported, KGB agents arrested Sergei Batovrin, a founding member of the peace movement and have placed him in a psychiatric hospital where he is allegedly being administered depressant drugs.

It has been reported East Germany has decided to crack down on unsanctioned peace movements in East Berlin. Known peace campaigners have been given the choice of joining the army or going to jail. East German

officials want to squelch this disarmament campaign in East Berlin, which has the backing of the Protestant church, to discourage the formation of similar movements in Moscow.

This crackdown comes at a time when both the Governments of the Soviet Union and the United States, urged on by the popular support of their people, are working to halt the nuclear arms race. If these acts of repression are carried out by the Soviet Union it undermines the grassroots effort of the nuclear freeze movement.

I hope that Soviet officials will reevaluate their treatment of this group. If Soviet concern for the prevention of a nuclear holocaust is real, I trust grassroots efforts will be encouraged, rather than restrained. I want to urge my colleagues to sign the "Dear Colleague" letter I am circulating expressing concern about these reported crackdowns to Soviet President Brezhnev.

STRATEGIC TRADE ACT

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, I rise today to alert my colleagues to an international organization which seeks to preserve the security of the free world. This organization is known as Cocom, short for the Coordinating Committee for Multilateral Export Controls. Cocom has existed for 32 years, and it restricts exports to the Communist bloc on the grounds that the exported items could be used for military purposes.

Cocom has been effective, but there are areas that need improvement. The Strategic Trade Act of 1982, which I introduced last month, would stress the U.S. role in Cocom and would seek treaty status for this important organization.

Along with strengthening Cocom, we need to bring more military analysis into the picture. Most Cocom nations do not have military participants in their Cocom delegations. The Strategic Trade Act places more emphasis on the military review of proposed exports from the United States. This move would demonstrate to our Cocom partners that appropriate military analysis must be a part of the export control process.

Events in recent months clearly indicate that there is a lack of international control of technological exports to the Communist bloc. The Strategic Trade Act of 1982 will strengthen international coordination in order to restrict the export of technology that could be used by the Soviets to improve their warmaking capability.

SUPPORTING REINTRODUCTION OF RESOLUTION ON THE NUCLEAR FREEZE

(Mr. AuCOIN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, advocates of a nuclear weapons freeze are reintroducing a resolution to that end. Again I am pleased to join them in this effort. I do so convinced that the American people are on our side on this issue, and that we will win.

Last week the freeze measure failed to pass on the floor of the House—only after an intensive lobbying effort against the resolution by the administration. But do you know what? In my district the people have not changed their desire for peace or their support for this freeze resolution one whit. They still want to stop the limitless arms race which is being perpetrated in the false name of defense. Because they feel so strongly, in only 10 weeks 112,000 Oregonians signed an initiative petition to put the freeze resolution on the State ballot this fall.

□ 1215

I predict the freeze will pass overwhelmingly in Oregon, in California, in Wisconsin, and in every State and town and hamlet which has it on the ballot this fall.

I believe that once the wave of this support is added to the momentum being built by the advocates within the Congress, the people of America will get the victory that they want on the nuclear weapons freeze and that this initiative will win.

President Eisenhower said:

Every gun that is made, every warship launched, every rocket fired, signifies in the final sense a theft from those who hunger and are not fed, those who are cold and are not clothed.

The American people recognize this. I wish we had a Republican President in the White House who recognized this as Eisenhower did. We do not have such a President. But we do have a freeze resolution. And it must be passed.

SOVIET REFUSNIK SAMUIL AZERSKY

(Mrs. KENNELLY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. KENNELLY. Mr. Speaker, another human being who is courageously attempting to emigrate with his family from the Soviet Union to Israel has come to my attention—this is Samuil Azersky of Odessa.

Samuil and Emilia Azersky, along with their two children, were first denied permission to emigrate to Israel because Soviet authorities

claimed that their invitation was not sent from a direct relative in Israel. Officials told them that as soon as they received such an invitation, they would be allowed to emigrate without any difficulty.

Emilia's mother, upon arriving in Israel in March 1979, immediately sent an invitation to the Azerskys. They applied again and this time were denied on the pretext that since Samuil's parents were still residing in the Soviet Union, they would not be allowed to leave unless they took his parents with them.

With this courageous act of stepping forward to express their deep desire to emigrate, Samuil and Emilia Azersky and their two children joined thousands of other suffering from increasing persecution at the hands of Soviet authorities. Since filing their application in March 1979, no one in the family has been able to find employment in their profession. Samuil is a mechanical engineer, Emilia is a physician, their daughter Elena is a laboratory assistant, and their son, Vladimir, is still in school.

It is extremely important that we who enjoy such abundant freedom continue to express our outrage at the persecution of Soviet Jews who want nothing else but to join family members in Israel. Only 182 Jews were allowed to leave the Soviet Union in June to emigrate to Israel, while nearly 4,500 Jews received exit visas in June 1979. As long as Soviet authorities continue their current campaign to smother Jewish emigration, we shall be hearing about other families forced into these same tragic circumstances by the conflict between Soviet oppression and an individual's pursuit of his or her basic human rights.

SYNAGOGUE IN WEST BEIRUT BOMBED

(Ms. OAKAR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. OAKAR. Mr. Speaker, I want to associate myself with the previous speakers concerning the nuclear freeze. And what about an arms freeze?

Bombs know no targets. I am saddened to see that in addition to the Palestinians and the Lebanese killed and left homeless, the Jewish community in West Beirut is homeless, and, indeed, the only synagogue in West Beirut has been bombed.

This holy synagogue, along with the holy mosque and the holy Christian churches have been destroyed.

I appeal to the President of the United States to speak out against this unbelievable desecration of a country and its people and to call for an arms and nuclear arms freeze.

KEEP CHRYSLER OUT OF POLITICS

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I was really quite surprised yesterday when I was watching television in the morning to see a picture of Mr. Lee Iacocca, the chief executive officer of Chrysler, coming out of the White House and pausing to say that he was coming out to support the President's tax program, and this was something he was going to really get involved in.

I do not know whether this is a payoff for Chrysler getting their loan money through this Congress but I would like to suggest that Mr. Iacocca devote himself to selling Chryslers and not entering this arena.

I think he is doing nothing to help their sales because this tax increase is aimed at hurting an awful lot of people. Maybe they are not Chrysler buyers and that is why he feels he is free to do it, but it is certainly hurting a lot of the elderly and a lot of the poor people and a lot of the middle income people.

May I suggest, Mr. Iacocca, that you work out in Chrysler country and stay out of the White House and the Congress.

NUCLEAR FREEZE

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, I rise briefly to join with those voices who have taken the well this afternoon in the spirit of peace, and I do so in two ways.

One, to applaud my colleagues for their continued battle to reduce and ultimately remove the risk of the insanity of nuclear war.

But I also do so in a second fashion and that is to deplore the sabre-rattling that is going on with respect to Cuba, a nation in this hemisphere.

Mr. Speaker, I think it is a contradiction for this Nation to talk about peace, communication, negotiation, and cease-fire in one hemisphere of this world and in this hemisphere we are prepared to talk about language such as "by any means necessary."

I think this kind of sabre-rattling is absurd. It is warmongering. It does not speak of peace.

Again I summarize by saying I take the well in the spirit of peace and join my colleagues who are attempting to force this body to address a reality.

PERSONAL EXPLANATION

(Mr. FISH asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, yesterday, August 11, 1982, I was unavoidably absent from the House of Representatives due to illness. Had I been present, I would have voted as follows on the bills under consideration:

Rollcall No. 264: Harkin amendment to H.R. 5203, "aye."

Rollcall No. 265: Final passage of H.R. 5203, "aye."

Rollcall No. 266: Eckart amendment to H.R. 6214, "no."

Rollcall No. 267: Harkin amendment to H.R. 6214, "no."

Rollcall No. 268: Final passage of H.R. 6214, "aye."

NUCLEAR FREEZE

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, imagine if you will that there are two hostile groups of people hurtling through space in a starship. Each group believes that the other is bent on taking over the starship. Each does not trust the other. Each is armed to the teeth. Each possesses thousands of weapons of mass destruction called nuclear weapons. Employment of any one of these weapons could trigger a chain that would destroy the starship. Yet, the leaders of both groups believe they must have more and more of these weapons. It becomes clear to everyone, even the leaders, that this is madness, yet they do not do anything because of mistrust and the inability to stop the process.

Suddenly, a ground swell of concern begins to grow, because the inhabitants of the starship begin to realize that these weapons have no military worth. The leaders, however, do not realize the earnest and serious intentions of the inhabitants and they miss the opportunity to stop the inevitable destruction of their starship. I am convinced that we should not miss the same opportunity to secure our starship Earth. Therefore, I am joining my colleagues Mr. MARKEY and Mr. BINGHAM in reintroducing the nuclear freeze legislation that was recently considered and rejected in this House. I hope you will be able to join us this time in a successful effort to adopt this resolution.

DEFENSE TARIFFS BILL

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, the time has passed for the United States to continue shouldering the largest burden of protecting the free world.

Our allies are on par with us economically, and it is time they reach equality on defense costs as well.

The fact is that Japan, with a higher per capita GNP than the United States, allocates less than 1 percent of this GNP for its defense. The fact is that our European allies average only 3.6 percent of GNP for defense, while the United States allocates over 6 percent.

In March in this Chamber, I twice discussed this problem of disproportionate defense burden sharing. Today I, along with 17 colleagues, am introducing a bill that will give the President the power to impose tariffs on imports from NATO nations, France and Japan, in the amounts we spend on their defense.

These tariffs would be in levels that would recover our costs of defense assistance to these countries. My aim is to provide the President with a new and powerful bargaining tool in negotiations with our allies in an effort to convince them to contribute more to free-world security.

RUSSIANS CANNOT BE TRUSTED ON NUCLEAR FREEZE

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, the other evening on the House floor the cause of peace was served when we approved a nuclear freeze resolution which freezes after reducing the levels of nuclear terror in the world and thereby develops a process that aims at getting the Soviet Union to do what we are willing to do and that is bring down the level of nuclear arms.

Yet today nuclear freeze proponents come to the floor saying that they want a different kind of nuclear freeze, one that says that we ought to trust the Soviet Union. They do so coming 1 day after our Secretary of Defense told Americans that the Soviet Union may well be violating the Nuclear Test Ban Treaty of 1960, violating it by exploding weapons of a greater megatonnage than is permitted in the treaty.

We heard some predictions here this morning. We heard someone predict that when this issue goes to the voters this fall across this country that it will be approved overwhelmingly.

I will give you one more prediction. I will give a prediction that the people of the Soviet Union will never be allowed to vote on this issue.

COURT RULINGS ON A.T. & T.

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, in a recent decision on the Justice Depart-

ment-A.T. & T. settlement Judge Greene made some good points with regards to the Bell operating companies' financial viability and the needs of consumers of those Bell operating companies' services.

Specifically, it allowed those Bell operating companies (BOC's) to retain yellow pages and sell and lease new terminal equipment. This allows additional revenue-raising means for BOC's which should result in lower telephone rates to consumers.

Those of us who were strongly opposed to H.R. 5158, the telecommunications bill recently before the Energy and Commerce Committee, were in support of those measures advocated by Judge Greene to modify the Justice-A.T. & T. settlement.

However, what we opposed in H.R. 5158 was the counterproductive dismemberment of a very successful telecommunications system, particularly the dismemberment of the working relationship between A.T. & T. Cos., that is, the separations legislated between Long Lines, Western Electric, and Bell Labs.

This battle against structural dismemberment was embodied in those amendments which opponents to this telecommunications legislation were offering when the bill was pulled.

Judge Greene concluded that further separations, sought in H.R. 5158, were not necessary. Mr. Speaker, we agree.

□ 1230

THE NUCLEAR FREEZE

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I must admit that I was somewhat befuddled by some of the 1-minute speeches that were uttered here a few minutes ago. Some of those who suggested to us that the only way that we can have peace in the world is through a nuclear freeze also voiced, virtually at the same time, some expression of concern about what the Soviets are doing to the minute, almost infinitesimal publicly allowed peace movement, in the Soviet Union.

I would suggest that they ought to think about that for a while. Many of the arguments that I think would be valid with respect to the nuclear freeze would be valid only if you assume that both parties about which we are concerned, the United States and the Soviet Union, were essentially in the same situation with respect to the number of weapons, and also with respect to their same systems.

But we know that is not true. We do influence our elected officials here. We influence them very directly, both at the ballot box and through demonstrations and through communica-

tions. We know that is not true in the Soviet Union. Thus, we have to look, if we truly want to have peace in the world, at how we leverage the Soviet Union into a position of true negotiations.

I would suggest that it is far more complicated than a mere freeze. I would suggest as one of our Members said some time ago, that we not have negotiations by bumper sticker.

INCREASE AUTHORIZATION FOR THE ANNUAL FEDERAL PAY- MENT TO THE DISTRICT OF COLUMBIA

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia and pursuant to the unanimous-consent request of Monday, August 9, 1982, I call up the bill (H.R. 5595) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. ECKART). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 5595

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-3406) is amended by striking out "and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of \$336,600,000" and inserting in lieu thereof "for the fiscal year ending September 30, 1982, the sum of \$336,600,000; and for the fiscal year ending September 30, 1983, and for each fiscal year ending after September 30, 1983, the sum of \$361,000,000".

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in explanation of the bill before the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker I am pleased to bring up for the consideration of the House the bill, H.R. 5595. The bill amends the District of Columbia Home Rule Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia from the existing level of \$336.6

million to \$361 million. The purpose of the Federal payment is to serve in part as compensation to the District of Columbia for the extraordinary net costs and denied revenues related to the Federal presence. In calculating the amount of the Federal payment, both the costs and the benefits of the Federal presence are considered.

Mr. Speaker, H.R. 5595 is required because the amount of the actual payment has not kept pace with the increase in the extraordinary net costs and denied revenues related to the Federal presence. In addition, Mr. Speaker, the Federal payment has decreased as a percentage of the District budget from almost 27 percent at the time that we passed the Home Rule Act in 1973 to 21 percent in fiscal year 1982. The proposed \$361 million figure would be approximately 20 percent of the District's fiscal year 1983 budget.

Mr. Speaker, the Subcommittee on Fiscal Affairs and Health of the Committee on the District of Columbia held hearings on March 3 of this year. The bill was reported to the full committee at that time. On March 12 of this year the committee approved the bill, H.R. 5595, by a unanimous vote of 9 ayes and zero nays.

I might also add, parenthetically, Mr. Speaker, that the amount of revenue requested in this authorization bill, \$361 million, is the figure proposed by the President and incorporated in OMB's budget request for fiscal year 1983, and, finally the figure is also within the budget resolution adopted by this body.

Mr. McKINNEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, in the past few months, the Members of this body have made numerous decisions that will determine the fiscal future of our Nation as a whole, and of the countless cities and towns making up that Nation. Certainly, we will see more of those decisions surface in the weeks ahead as we begin to consider the 13 appropriations bills covering the operation of our Government in the fiscal year ahead. Each and every one of us will be aware of programs that will directly impact on the cities that we represent, and we will all vote to protect the interests of our constituents, insofar as possible.

While we take those steps we should not forget that one jurisdiction in this country does not have a vote in this body. That jurisdiction, of course, is the District of Columbia. The responsibility to insure the well-being of the Nation's Capital falls to the Congress, and more specifically, to the Committee on the District of Columbia. We come to the floor today with a bill that acknowledges that responsibility, and ask your support for legislation to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia.

Let me make sure my colleagues understand what the Federal payment is all about. It is not a handout. It is certainly not compensation to the city of Washington for being the Nation's Capital, because if that were the case, the figure we are discussing here today would be much greater. It is a fully justified payment to the District to help defer the unique costs associated with the city's role as our Nation's Capital, a role which includes providing services to the Federal Government and local residents, as well as visitors from all over the country and the world.

H.R. 5595 would raise the amount authorized for the annual Federal payment from \$336.6 million to \$361 million for fiscal year 1983 and each fiscal year thereafter. President Reagan has recognized the need for an increased authorization and passage of H.R. 5595 would enable the Congress to appropriate the full amount requested by the Reagan administration.

I would remind my colleagues that this is an authorization bill, and as such we are not mandating a certain level for the Federal payment. Rather, we are establishing a ceiling on the amount of money the Appropriations Committee can eventually pass on to the District government. And I have a great deal of faith that if this level is not justified, the Appropriations Committee will not appropriate the full amount. This is not just wishful thinking, because history tells us otherwise. We are currently in the eighth fiscal year since the passage of the Home Rule Act. In only two of those years, fiscal year 1981 and fiscal year 1982, has the appropriated Federal payment been the full authorized amount. In the other 6 years, the Appropriations Committee exercised its authority to determine what the level should be, based on the performance of the local government.

While, I was exploring the history of the Federal payment, Mr. Speaker, I came upon another statistic that some should find very enlightening. In the 10 fiscal years prior to the passage of home rule, the Federal payment increased from \$37.5 million to \$187.5 million. That works out to be an increase of 400 percent in the final 10 years when Congress had full control over the operation of the city. Since the passage of home rule, the Federal payment has increased from \$226.2 million to the current \$336.6 million, which works out to an increase of 48.8 percent over the 8 years during which the city has had some form of local autonomy. Apparently, we are expecting more from the locally elected government than we did from ourselves.

Mr. Speaker, I am sure we have all heard that statistics can be made to verify whatever an individual might want them to verify. So that my colleagues can judge for themselves, I in-

clude in the RECORD at this point two tables which bear out the information I have provided in summary form.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

Fiscal year	Authorization	Appropriation
1975	\$230,000,000	\$226,200,000
1976	254,000,000	248,948,000
1977	280,000,000	276,650,000
1978	300,000,000	276,000,000
1979	300,000,000	250,000,000
1980	300,000,000	276,500,000
1981	300,000,000	300,000,000
1982	336,600,000	336,600,000
1983	361,000,000	(*)

* Proposed.

† Not yet enacted.

Federal payment to the District of Columbia—fiscal year

Pre-Home Rule (Public Law 93-198):	Amount
1964	\$37,500,000
1965	37,500,000
1966	44,250,000
1967	58,000,000
1968	70,000,000
1969	89,365,000
1970	116,166,000
1971	131,000,000
1972	173,654,000
1973	181,500,000
1974	187,450,000
Post-Home Rule (Public Law 93-198):	
1975	226,200,000
1976	248,948,000
1977	276,650,000
1978	276,000,000
1979	250,000,000
1980	276,500,000
1981	300,000,000
1982	336,600,000

The citizens of the District of Columbia have long endured the hardship of being second-class citizens, and it may be that they will never achieve complete home rule. In the time since the Home Rule Act was passed, the Congress has come a long way toward righting the wrongs of past decades. Increasing the authorized Federal payment to a realistic and proper level is one more step in the progression. I urge my colleagues to join me in taking that step.

Mr. FAUNTROY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of H.R. 5595, a bill which will increase the Federal payment authorization. I am pleased to be able to fully agree with the President on this proposal and to be the sponsor of a recommendation by the administration.

The legitimacy of the Federal payment to the District of Columbia is widely recognized and accepted. There is no doubt that the District of Columbia experiences extraordinary costs in running its Government and maintaining the city as a result of the presence of the Federal Government.

This bill is an effort to take into account the spiraling costs of running a government as a result of inflation

and other economic pressures. Indeed, as a percentage of the District's budget, the Federal payment has not kept pace with increased costs, but in fact has decreased.

H.R. 5595 will not correct the steady decline of the Federal payment over the years, but it does provide some relief.

I urge my colleagues to support the President on this bill. Thank you.

AMENDMENT OFFERED BY MR. PARRIS

Mr. PARRIS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PARRIS: Page 2, line 8, insert ". Of any funds appropriated for the fiscal year ending on September 30, 1983, under the authorization contained in this section, not less than \$14,300,000 must be paid to the District of Columbia Retirement Board to eliminate any deficits in the District of Columbia Teachers' Retirement Fund and the District of Columbia Police Officers and Fire Fighters' Retirement Fund".

Mr. PARRIS. Mr. Speaker, although in relative terms, this is a fairly small amount of money, compared to what this Congress usually considers, I believe the principle embodied here is very important, and this is a fairly complicated matter. I would hope that my colleagues on the floor, and those who may be watching the proceedings from their offices, will pay close attention to the facts and the debate that will ensue on this amendment.

Mr. Speaker, I have been requested by the District of Columbia Retirement Board to call to the attention of my colleagues the fact that the District of Columbia government presently owes the police officers, firefighters, teachers and judges retirement funds the sum of \$14.3 million. These funds are not moneys owed based on some future actuarial projections. They are, quite simply, back payments that are past due, payments that have not been made as required by law.

On November 17, 1979, the Congress enacted Public Law 96-122, commonly known as the District of Columbia Retirement Reform Act, legislation that created the District of Columbia Retirement Board, with the intention that the District of Columbia government would make regular payments sufficient to adequately fund the retirement plans of those who had devoted their lives to improving the quality of life in our Nation's Capital—the police officers, the firefighters, teachers, and judges.

According to section 142.4 of that legislation, the District government is responsible for funding the retirement plans of those dedicated public servants effective January 1, 1981. However, the District of Columbia Retirement Board advises me that the District government has been deferring the required payments and that a shortfall of \$14.3 million now exists

from fiscal year 1981. Thus arises the need for this amendment.

Public Law 96-122 created the D.C. Retirement Board to manage the investments of the officers and firefighters' retirement funds and to perform a number of other functions including the determination of the amount of each annual payment that the District of Columbia is required to make to the funds under section 142, which I referred to just a moment ago.

The amount of the District payment appropriated for fiscal year 1981 was not, however, determined by the Retirement Board because the Board had not yet at that time come into being when the fiscal year 1981 District budget was first approved by the Congress. Instead, the budget for fiscal year 1981 reflected determinations made by the District government on the basis of an actuarial study performed by the U.S. Treasury Department actuary.

In April of 1981, the Mayor of the District of Columbia publicly acknowledged the existence of a projected shortfall in budgeted District contributions to the three funds of \$23 million for fiscal year 1981. This knowledge provided the District ample opportunity to include an additional payment in the 1981 supplemental budget request, but no such action was taken. Upon learning of the shortfall, the Retirement Board commenced discussion with the District in an attempt to obtain appropriate increases in District payments.

□ 1245

As a result of these discussions, the District government has acknowledged its responsibilities for that portion of the shortfall which is attributable to the fiscal year 1981 cost of the "early out retirement program" adopted by the District in September of 1980. Payment of \$4.89 million for that item was received by the Retirement Board from the District government on May 28 of this year. The balance of the fiscal year 1981 shortfall, approximately \$14.3 million, has not been paid and no agreement as to payment of the balance of this amount has been reached.

The SPEAKER pro tempore. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 5 additional minutes.)

Mr. PARRIS. On January 11 of this year, the District notified the Board that the city would pay \$4.3 million toward the remaining shortfall, but only in the event that the fiscal year 1983 increased Federal allocation amount goes from \$336 million to \$361 million, which is, of course, the exact provisions of the bill that we are now addressing.

The fiscal year 1981 shortfall is not an isolated occurrence. A similar shortfall of \$13.1 million occurred in fiscal year 1980 and was paid by the District of Columbia.

Subsequently, the Board was invited by the District to participate in the fiscal year 1982 amended budget process. The Board's actuary estimated that an additional \$14.5 million of payments of the funds should be made for fiscal year 1982. The amount was included in the fiscal year 1982 amended budget at the District's request and is now being paid by the District of Columbia government on a quarterly basis.

The District's conduct in 1980 and 1982 acknowledged that the methodology and the data base for determining payments to the funds had not yet been brought into the kind of alignment which the statute adopted by this Congress anticipated would provide the necessary annual contribution by the District, which together with the employee contributions would make the actual benefit payments.

In the opinion of the Retirement Board's actuary, the fiscal year 1981 shortfall is attributable to basically two factors: First, the U.S. Treasury Department's actuarial calculations were based upon data provided at that time by the District regarding individual members and individual beneficiaries. This data, very simply, was deficient and proved to be inadequate.

Second, in order to project required District payments under the statutory formula, the actuary must make assumptions regarding future cost-of-living increases, salary increases, rates of mortality, disability and termination of employment, the number of new employees and their age, sex and salary rates, and other matters which is, of course, impossible to project exactly.

It is, therefore, the purpose of this amendment, Mr. Speaker, to require that the \$14.3 million, which is the existing shortfall, be set aside to make up for a clearly anticipated shortfall which could have been rectified in the normal budget process of the city, but has not been so done.

The amendment that I have before the House would correct this situation. It would provide for a mandatory payment in accordance with existing law previously adopted by this Congress.

Now, let me make several additional points, if I might, Mr. Speaker.

This is not a matter of home rule. It is a matter of home survival, the survival of the homes and futures of a great many, and I am told approximately 8,500, District of Columbia government retirees who have devoted their lives to public service with the expectation that their government would keep its word and protect their retirement benefits.

It is consistent with the interests of the Federal Government in providing these funds to compensate for the Federal presence in the city. It is a matter of fundamental fairness.

I would suggest, Mr. Speaker, that there are several arguments that we will hear in opposition to this amendment; but before we hear those arguments and before I conclude my statement, let me say that this Member has read in the Washington media over the last 2 months at least seven different public estimates of the financial condition of the District of Columbia from various D.C. officials. Three of them said there is a deficit. Four of them said there is a surplus, and I respectfully submit that nobody really knows what the fiscal situation truly is.

Now, I anticipate that we will hear much about a letter from the mayor of the District of Columbia, which I saw for the first time this morning, and it suggests that there has been an understanding about meeting this shortfall which can and will be accomplished over the next 3 years.

Let me share with you a response to that letter, Mr. Speaker, and I ask unanimous consent that it be included in the Record at this point.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia.

There was no objection.

The SPEAKER pro tempore. The time of the gentleman from Virginia has expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 5 additional minutes.)

Mr. PARRIS. The letter to which I refer, Mr. Speaker, is dated August 11, 1982. It is signed by the chairman of the District of Columbia Retirement Board. It is addressed to me and it says in paragraph No. 1:

In response to your question "has the D.C. Retirement Board entered into an agreement with the government of the District of Columbia under which the D.C. government has agreed to pay the entire shortfall of \$14.3 million", the answer is "No."

Mr. Speaker, on July 28, 1982, just 2 weeks ago, the D.C. Employee Retirement Board in order to avert an existing cash shortage voted to use \$6.8 million from its long term investment account to make the August and September 1982, retirement benefits payments to 8,500 retired teachers, policemen, and firefighters in this city. That is unacceptable brinksmanship. That withdrawal represents a cost to the board of \$85,000 a month in earned interest on funds, and if you take the Mayor's suggestion that we should pay this out over a 36-month period, it will represent a \$3 million loss in interest over the next 36 months, or almost 25 percent of the amount of the existing shortfall. To me, Mr. Speaker, that is simply not good economics.

The use of long-term investments for short-term payments compounds the future financial problems of the Board and aggravates the problem of the District and of its retirees and jeopardizes their benefits.

Now, in the Mayor's letter you will see the figure used as \$12.9 million in deficits. That was from an actuarial study made in May of 1981. My amendment carries with it the appropriation of the sum of \$14.3 million and the difference is it was made in September of 1981, just 5 months later, and \$1½ million is the difference between the two studies.

The Retirement Board now reports that the deficit in the D.C. government employees' retirement system will climb to a staggering \$8.8 billion in 25 years.

Under Public Law 96-122, adopted by this Congress on November 17, 1979, section 144(2) paragraph (c) provides that these funds shall be a claim "on the revenues of the District of Columbia", all of the revenues of the District of Columbia to the extent necessary to meet the obligations of the fund. It is a clear, preemptory claim, on all revenues.

Worse than that, section 144(E)(1) requires in the year 2004, which just happens to be the same 25-year period that the Retirement Board just estimated, requires the Federal Comptroller General of the Federal Government to determine "whether the Federal share has been paid in full", and if it has not, to rectify that problem.

Now, Mr. Speaker, I apologize for the length of my observations on this question, but as I indicated to you earlier, I think it is important. After I make just one additional point, I will be delighted to yield to my friend, the gentleman from California.

I anticipate, Mr. Speaker, that we will hear again some argument that this is a question of precedent. There is ample precedent here, I submit. The Federal Government has been requiring States and local jurisdictions to comply with Federal law for 200 years and that is exactly what we are trying to do here. We are trying to suggest to the District of Columbia that it live up to its obligations to comply with the Federal statute that requires the payment of funds into the police officers, firefighters, and teachers retirement funds. There is ample precedence, I think, for that principle. For more than 100 years the Federal Government has been granting Federal funds to States and localities with conditions attached.

The District of Columbia is asking for \$361 million in Federal funds and we are saying, fine, but there is a condition attached.

The SPEAKER pro tempore. The time of the gentleman from Virginia has once again expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Speaker, would the gentleman yield at that point?

Mr. PARRIS. I will be delighted to yield to my chairman.

Mr. DELLUMS. Mr. Speaker, the gentleman is not suggesting that the District of Columbia is not in compliance with the law, is that correct? I would like to understand what the gentleman is saying here, whether the gentleman is implying they have not complied with the law. If the gentleman is, I would suggest that the gentleman has not read the act. What is the gentleman suggesting?

Mr. PARRIS. I am suggesting to the chairman that the District of Columbia has an unfunded liability for fiscal year 1981 in the amount of \$14.3 million and for almost 2 years it has failed to satisfy that.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield further?

Mr. PARRIS. I would be delighted to yield to the gentleman.

Mr. DELLUMS. I would concur with the gentleman that there has been a shortfall in the funding for fiscal year 1981. That is not at debate. What may be at debate is the figure. The city says \$12.9 million. The gentleman says \$14.3 million. Somebody else says some other figure; but the point is that when you read the act, it says very specifically how you address shortfalls in any given year. It is to be amortized over the life of the act itself.

So No. 1, the District of Columbia is, I would suggest, in compliance with the law as it is laid out. There is nothing in that act that suggests that a shortfall has to be paid in a specific year in a specific way. All it says is that it must be amortized over the life of the act.

No. 2. The gentleman from Virginia is perfectly correct when he states that the basic reason for the shortfall was that the actuary employed by the U.S. Treasury Department made a low estimate, and as a result of that we ended up with a shortfall somewhere between \$12.9 and \$14.3 million, but the fact of the matter is that the District of Columbia paid in that fiscal year 1981 what it was lawfully required to pay; so on both counts I would suggest to my colleague that his implying lack of compliance is something that needs to be straightened out and cleared up on this floor.

The SPEAKER pro tempore. The time of the gentleman from Virginia has again expired.

(At the request of Mr. DELLUMS, and by unanimous consent, Mr. PARRIS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Speaker, will the gentleman yield further?

Mr. PARRIS. Yes. I would be delighted to yield to the gentleman.

Mr. DELLUMS. So in summary, Mr. Speaker, I am making two points. In fiscal year 1981, the District of Columbia paid what it was lawfully required to pay at that time. We have since determined as a result of the low estimate by the actuary that there was a shortfall in 1981.

Now, the District of Columbia is, indeed, required to pay that shortfall; but if the gentleman from Virginia reads the act, what it says in order for the District to comply is that they must amortize that shortfall over the life of the act itself. It does not in any way suggest that they have to pay in any other way.

So my question to the gentleman is, at what level is the District of Columbia not in compliance with the law?

Mr. PARRIS. Mr. Speaker, I would respond to the gentleman and correct him in just two observations, which are perhaps not terribly important for this purpose, but let me make sure it is done.

As I indicated earlier, the difference of estimates of the deficit is \$12.9 million and my amendment is \$14.3 million, so we are \$1½ million apart.

Mr. DELLUMS. The gentleman's amendment is \$14.3 million, am I not correct? That is what I had suggested.

Mr. PARRIS. The question is roughly \$1½ million as the difference of opinion as to what is in fact due.

□ 1300

Second, I practiced law for about 20 years and I respectfully submit to the gentleman that our interpretation of the act is apparently different than his in terms of the District obligation toward a shortfall. But assuming, for the sake of the argument, that the gentleman is correct about the provisions of the act, that still does not go to my quarrel with this situation.

My quarrel with the situation is that the Retirement Board of the District of Columbia, as I indicated earlier, is in fact now required to go to its long-term investment funds to find short-term cash flow for existing benefits owed currently including this month to retired District of Columbia Government employees. To me, that is fiscal chaos. It is insanity and irresponsible.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield further to me for this colloquy?

Mr. PARRIS. I would be happy to yield to the chairman of the committee.

Mr. DELLUMS. I appreciate the gentleman yielding to me.

Mr. Speaker, I appreciate the comments that the gentleman has made. When you add that to the last part of the gentleman's debate, what he did was to point out the significant problems inherent in the act itself. This

gentleman, and a number of other gentlemen, including the ranking minority member on this committee, stated that when we passed the bill there was an unfunded liability of well over \$1 billion then.

This gentleman said if we are going to fund this pension plan, let us fund it in toto; let us not have over \$1 billion of unfunded liability, and throw that to the District of Columbia, with all of its fiscal problems that we contributed to over time, and then say, "You people, sink or swim on your own," and then we can come back to the floor and be the hero of the employees by saying that the District of Columbia has to earmark these funds.

I would suggest that if we are going to be the heroes of the workers and the heroes of the retired people, then we have to look at this act in a comprehensive fashion.

Just one other point.

The act itself says after there has been some experience with this bill, some time, that we can look back and begin to see the implications of the act itself, it is then time for us to review it. I think that that time is about now.

I think there are a number of issues that we ought to look at.

No. 1, what is the implication of this incredible unfunded liability that we wrote into the act?

No. 2, how do you handle shortfalls over time, over the long term?

The gentleman is correct in trying to deal with 1 year. But what happens if this is a shortfall in more than 1 year?

There are also questions about the procedure of this board and the system and how it works. It would seem to me that we have a responsibility to review it, review the act in a comprehensive way, and if there is a need for us to reform and change the act, we ought to do that in some cogent, intelligent, rational, and analytical way.

I want to help the workers just as much as the gentleman from Virginia does. If the gentleman will go back and read the record, we said then, let us fund this to the tune of over \$2 billion. But my colleagues in the House were being fiscally conservative at that time. You cannot walk both sides of the street. You cannot strip them monetarily and then come back another year and beat them because they do not have the funds. This is a contradiction.

I am saying to the gentleman there are problems in the act itself that we need to look at. I am committed to holding those hearings, and the gentleman can be there and take a lead role in that regard.

I am simply saying that I think his amendment only deals with one aspect of these problems that we need to look at in a total, comprehensive fashion; and No. 2, I appreciate the gentle-

man's motivation. I do not want to say anything that challenges that.

The SPEAKER pro tempore. The time of the gentleman from Virginia (Mr. PARRIS) has expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Speaker, will the gentleman yield further to me?

Mr. PARRIS. I will be happy to yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

All I am suggesting to the gentleman is that to imply that the District of Columbia is not in compliance with the law it seems to me is inappropriate. What this gentleman is attempting to say to the House, regarding what the gentleman from Virginia is talking about, is that in 1981 when the District of Columbia made its payment, it was at that time complying with the law because it paid what it lawfully was required to pay. They were in compliance.

No. 2, how do they pay the shortfall? The District of Columbia has suggested that in fiscal years 1983, 1984, and 1985 they will pay the sum of \$4.3 million each year over that 3-year period to handle what they perceive to be the \$12.9 million figure.

Now, if it is \$14.3 million, as the gentleman from Virginia (Mr. PARRIS) suggests, then those figures would have to go up. But the fact that we do not know the difference, whether it is \$12.9 or \$14.3 million, only underscores the point of the gentleman from Virginia, and this gentleman from California, and that is that there are some problems we need to look at in this act.

The fact that you are just now getting to the reality that there is a problem in 1981 only speaks to the budgetary problems of the District of Columbia that we contribute to because we are involved in their lives on a very regular basis.

I thank my colleague for yielding.

Mr. PARRIS. I am delighted to have been able to.

Mr. Speaker, I would respond to my chairman by once again reiterating the fact that the District of Columbia has in fact made up the shortfall which existed in fiscal year 1980 and fiscal year 1982, and I submit that out of a \$2 billion annual budget appropriation, the utilization of \$14 million, less than 3 percent of this Federal contribution this year, for this purpose is not an excessively onerous burden for the District of Columbia to undertake.

For a period of about 22 months, we have seen the spectacle of the Retirement Board and the District of Columbia discussing this problem, but there has been no agreement and there just

might not be one in the absence of this amendment.

Mr. DELLUMS. I thank my colleague for his comments.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. PARRIS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, it sounds to me as though this is a rather complicated problem for some of us who are not on the committee, and it becomes even more complicated. Let me see if I can un-complicate the situation.

Is the gentleman adding any money to the authorization here at all? Is there additional money that would have to come from this body in order to approve the gentleman's amendment?

Mr. PARRIS. No. I would say to the gentleman from Pennsylvania that, as indicated by the chairman and by the ranking Republican Member from Connecticut, this appropriation for Federal payment is in accord with the administration request, is consistent with the budget resolution, and my amendment does not add to those funds in any way.

It simply sets aside for this limited purpose a one-time payment of this one-time shortfall.

Mr. WALKER. If the gentleman will yield further, I thank the gentleman for his comments.

Now, if I understood the argument—and it got a little complicated in there—it seemed to me that I was hearing that perhaps if we do not go ahead and do this, that somewhere along the line my taxpayers are going to have to pick up a rather substantial sum of money that the District of Columbia government would owe.

The SPEAKER pro tempore. The time of the gentleman from Virginia (Mr. PARRIS) has again expired.

(On request of Mr. WALKER and by unanimous consent, Mr. PARRIS was allowed to proceed for 3 additional minutes.)

Mr. WALKER. Will the gentleman yield further, Mr. Speaker?

Mr. PARRIS. I would be delighted to yield, but first I want to retreat for just one moment to the argument made by the gentleman from California, the chairman of the committee, Mr. DELLUMS.

This is a photostatic copy of the act which, as you can see, is some 50 pages long and extremely complex in its provisions. It says, among other things, and I quote from section 144 relating to the Federal payment, section E(1): "In the year 2004," which is the same 25-year period that I alluded to in my earlier comments, "the Comptroller General," and that means the Federal Comptroller General, "shall determine whether the Federal share with respect to each fund has been paid in

full by payments made pursuant to appropriations authorized."

The Retirement Board now estimates that the retirement system will have a deficit in that year 2004 of \$8.8 billion. I submit to the gentleman that if it is unreasonable or unlikely that the District of Columbia is going to pay \$14 million, what are the chances of it paying \$8.8 billion in the year 2004?

Mr. WALKER. Mr. Speaker, will the gentleman yield further?

Mr. PARRIS. I yield to the gentleman.

Mr. WALKER. I thank the gentleman for yielding.

Mr. Speaker, I have some Pennsylvania Dutch constituents who admit to themselves that they need to provide retirement benefits for themselves. I think they would have some problem with the idea that at some point they are going to come in and bail out a District of Columbia retirement system that has underfunded itself over a period of time.

It seems to me that that is what I hear the gentleman saying: that if we permit this pattern to continue we are going to end up with massive problems a few years from now that only will be able to be picked up by all of the taxpayers of the country.

Is that what the gentleman from Virginia is really saying?

Mr. PARRIS. Mr. Speaker, I suggest that as a possibility, and I submit to the gentleman from Pennsylvania (Mr. WALKER) that the real motivation for our being here today on this question and on this issue is to try to avert at any cost that kind of a situation.

Mr. WALKER. Mr. Speaker, if the gentleman will yield further, the one way we have of correcting that problem right now is to approve the amendment of the gentleman from Virginia (Mr. PARRIS) to assure that that unfunded liability does not continue to pile up. If, in fact, there was an unfunded liability when we passed the bill, that we do not go any further than that and aggravate the situation by piling onto it.

The gentleman's amendment helps go to that question?

Mr. PARRIS. Mr. Speaker, it does address that question, but I would say in all candor it does not solve the problems of the act, as pointed out by the chairman of the committee (Mr. DELLUMS).

Mr. WALKER. Mr. Speaker, one reason why the Congress did not go along with that payment in the first place is because we did not want to place that burden on the U.S. taxpayers; is that correct?

Mr. PARRIS. That is correct.

I submit to the gentleman this is not a panacea. It will not solve all of the problems of this fund, nor the obligations, of the Congress, but it at least will draw attention: First, to the Dis-

trict of Columbia government that it cannot continue to persist in this position; and second, it will solve at least this limited problem.

The SPEAKER pro tempore. The time of the gentleman from Virginia (Mr. PARRIS) has again expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. PARRIS was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Mr. Speaker, will the gentleman yield to me?

Mr. PARRIS. I yield to the chairman, the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Speaker, I was listening very carefully to the response to the gentleman from Pennsylvania (Mr. WALKER).

First, I am sure that the gentleman from Virginia (Mr. PARRIS) misspoke himself because I am certain that as a matter of fact, he was not trying to suggest, in response to my distinguished colleague on the other side of the aisle, that his amendment has anything to do with the unfunded liability. I am sure that is not what the gentleman from Virginia (Mr. PARRIS) suggested because, first, if the gentleman recalls—and I would like the gentleman from Pennsylvania (Mr. WALKER) to listen to this; it is very complicated and we do not want to look foolish on the floor here—prior to the time we enacted home rule, this was a Federal program, funded by the Federal Government.

After home rule, we enacted this retirement program with a significant unfunded liability, a Federal payment. All right? But the argument by this body was that even though we funded it with this huge unfunded liability which was the Federal share—and I repeat for emphasis—the Federal share, the argument by my more conservative colleagues was that the District of Columbia government can make up this difference with their local funds.

That was indeed the Federal share. Now this gentleman's argument was that we are kidding ourselves. The District of Columbia government cannot function; their expenses are not such that they are going to be able to make up over \$1 billion in unfunded liability. That is a pipe dream.

But my distinguished colleagues know there are many pipe dreams that are dreamed up on the floor of Congress as we engage in enacting legislation. But it has nothing to do with the reality.

So I say in summary, the amendment offered by my distinguished colleague from Virginia (Mr. PARRIS) has nothing to do with the unfunded liability. To me that was a tragic and ludicrous mistake we made a long time ago, back a couple of years ago, when we enacted this law.

But the gentleman's amendment simply does this: It simply says that we earmark some money in what is by law a lump-sum figure to the District of Columbia for a specific purpose, and that specific purpose is to pay \$14.3 million for a shortfall in the funding for the Retirement Board in fiscal year 1981. All right? That is all it does.

Just one additional comment, two points: The way the budget process is so complicated, by the time we found out about this, it was the end of April 1982. So the process itself contributes.

Just one last comment: My colleague from Virginia suggests that in some way the District of Columbia does not know what its funding is, how much the deficit is.

The entire spread of all the potential calculations is \$20 million in a \$2 billion budget. Now, that is 1 percent, 1 percent. If you applied that standard to the Federal Government, do my colleagues realize we would be talking about \$8 billion?

So, if the Federal Government were operating in the same manner that the District of Columbia government is, it would be \$8 billion more deficient.

The SPEAKER pro tempore. The time of the gentleman from Virginia (Mr. PARRIS) has once again expired.

(By unanimous consent, Mr. PARRIS was allowed to proceed for 3 additional minutes.)

Mr. JOHNSTON. Mr. Speaker, will the gentleman yield?

Mr. PARRIS. Mr. Speaker, I yield to the gentleman from North Carolina.

Mr. JOHNSTON. I thank the gentleman for yielding.

Mr. Speaker, as I understand it, if the amendment offered by the gentleman from Virginia passes, this \$14 million, plus or minus a half million dollars, will go immediately into the pension fund. Is that correct? That is, rather than being paid over a 3-year period?

Mr. PARRIS. No.

Mr. Speaker, I would say to the gentleman that we are losing the point here, I think.

In response to the comments of the chairman and in response to the gentleman's question, we are talking about authorization for fiscal year 1983, future authorization authority.

Now, the question is: Can or should the District of Columbia appropriate authorities, that is, the City Council of the District, to make up this amount of money out of fiscal year 1983 moneys, or not? I submit they have a \$2 billion budget and \$14 million to correct this one-time shortfall for the benefit of these retirees is not an exceptional or extraordinary burden.

Mr. JOHNSTON. Mr. Speaker, will the gentleman yield further?

Mr. PARRIS. I will be delighted to yield to the gentleman from North Carolina.

Mr. JOHNSTON. As I understand it, the question, though, is if the money is not put in, in 1983, it will be put in, in 1983, 1984, and 1985 so that it does affect the long-term obligations of the fund because the money will not be there in 1984 and 1985 drawing interest, which, as the gentleman knows, is substantial now.

So, in fact, the absence of that money drawing interest will require other funds to be put in, in lieu thereof. So to say that it does not affect accurately the soundness of this plan is a misstatement.

□ 1315

I will concede that it is not significant when you balance \$2 billion, but of course the Congress of the United States did not get to a \$1 trillion deficit by one single action. It was a combination of a billion here, a billion there, a few hundred million there, and this fund is just like the Congress of the United States.

Mr. PARRIS. I appreciate the gentleman's comments. If I might just complete my statement, Mr. Speaker, we are saying that of the \$361 million that will be provided in Federal funds for the District of Columbia in fiscal year 1983, there is a condition attached: "You must use a part of this money to pay the legal obligations that you have neglected for almost 2 years."

That is the simple issue in this matter. Finally, Mr. Speaker, the argument is made that we should not offer this amendment to this legislation. We should not condition the use of these funds under this legislation, that we should condition the use of the appropriation of these moneys in the appropriation process. I submit to you, Mr. Speaker, that we have heard from the chairman of the Appropriations Committee, the gentleman from Mississippi, a 100 times on the floor: "Do not ask the Appropriations Committee to legislate. Do not ask us to make these decisions that we do not know anything about, other than fiscal. Bring these matters in the authorization legislation to us so that we can appropriate the appropriate sums."

That, Mr. Speaker, is what I am attempting to do. I think this matter should be settled under authorization, and that is my purpose in being here today.

The simple question is that this Government so far has failed to comply with a clear mandate from this Congress, a mandate that is in existing law and has been so for almost 4 years. This is a one-time, one-amount shortfall. This action will correct a serious inequity which will probably not be corrected otherwise in the near future, which I think is fiscally unsound. I

think it will go a long way toward making the benefits of the thousands of retired District of Columbia employees more secure. It is, in my opinion, an amendment that should be adopted, and I hope my colleagues will support it.

Mr. McKINNEY. Mr. Speaker, I rise to speak against the amendment.

While I am sympathetic to the concerns of the gentleman from Virginia (Mr. PARRIS), and agree that he has focused attention on a problem in the proper financing of the District of Columbia retirement funds, I am opposed to his amendment on this bill for several reasons.

First, the amendment is contrary to the very nature of the Federal payment. There has never before been an earmarking of the Federal payment in the authorization process. Rather, the level recommended is the result of a consideration of the net impact of the Federal Government on the local community, after taking into account all of the various positive and negative factors. In our one major concession to true homerule, the Federal payment is granted with no strings attached. When special needs have been identified, such as reimbursement for water and sewer use by the Federal Government, or the Federal contribution to these same retirement funds, specific payments have been authorized in addition to the regular Federal payment. To change that procedure, as this amendment would, not only ignores the practice of the past 9 years, it rejects the basic principle of homerule and undermines the basis of the Federal payment.

Second, the gentleman is certainly aware that there is major legislation dealing with the retirement systems of the District of Columbia (Public Law 96-122). This legislation outlines exactly how the local and Federal contribution to the retirement funds is determined. If there is a shortcoming in the manner in which the local contribution is handled, it would seem to me much more appropriate to amend Public Law 96-122 than the bill currently under consideration. In addition, the District of Columbia Retirement Board has had under consideration a series of amendments which I trust will come before the Congress next year if not sooner. I would be happy to join the gentleman from Virginia in requesting the chairman of the District of Columbia Committee to hold hearings on this matter to consider any and all changes needed in the operation of the District of Columbia retirement funds.

Next, I would remind the gentleman of my earlier statements concerning the work of our colleagues on the Appropriations Committee. We have relied on that committee to pass final judgment on the appropriate level for

the Federal payment. At times, that committee has found it necessary to force the city to take certain actions by earmarking the Federal payment. This occurred once when the city indicated that it did not intend to make required payments to the Federal Bureau of Prisons and St. Elizabeth's Hospital. Also, that committee has many times found it necessary to severely restrict the use of funds, whether from local sources or Federal sources. Most recently, in action on the fiscal year 1982 supplemental, the city was strongly reminded that the \$10 million budgeted for elimination of a portion of the accumulated deficit was to be used for that purpose only, not as a cushion against local revenue shortfalls.

So I would say to the gentleman that if earmarking of funds is deemed to be necessary in order to insure the city lives up to its commitment with regard to retirement funds, it should be considered in the appropriation act, not in this authorization bill.

Finally, I would remind all of my colleagues that just last year we passed a bill eliminating the technical impediments to the issuance of bonds by the District of Columbia (Public Law 97-105). One provision of this act requires the Mayor to use the Federal payment to pay bondholders in the unlikely event that no other resources are available for that purpose. If we now decide to get into the practice of earmarking the Federal payment whenever a problem arises, a cloud of uncertainty will be hanging over any bonds offered by the city.

For all of these reasons, I submit that the proposed amendment, while trying to contribute to the financial soundness of the city, will instead do great harm to the overall financial health of the city.

Mr. Speaker, as I said, I am very sympathetic to the concerns of the gentleman from Virginia. I can certainly understand that any collapse of the pension program would have a severe effect on the constituents of his district. But, I would have to suggest to the House that in seeking a remedy he is taking exactly the wrong tack.

First off, we set a historical precedent—a dangerous precedent if we try to direct or allocate the Federal payment. There has never been an earmarking of the Federal payment in the history of the U. S. Congress in an authorization bill. It has always been left up to the Appropriations Committee to appropriate a justified Federal payment, and in fact if this amendment were to pass, there is nothing that says the Appropriations Committee has to put that line item in the District of Columbia budget. In fact, they could simply leave that line item blank and it would therefore not be funded.

The gentleman from Virginia has suggested to us that in fact the chairman of the Appropriations Committee would say that he will not legislate on appropriations bills. That is perfectly true. But a line item change or an earmarking of funds in the budget of the District of Columbia by the Appropriations Committee is not legislating. Many times, the Appropriations Committee has thrown in a number of dollars for this and taken a number of dollars away from something else. All they simply have to do is to put in a budget line item that says \$14.3 million, \$12.9 million, \$13.6 million. Perhaps by the time they get to the Appropriations Committee, somebody will know what the figure is.

The real problem here, I suggest to the gentleman from Virginia—and I spoke to the chairman about it—is the fact that we have Public Law 96-122, which is not good legislation. We knew when we passed that legislation that we were passing one of the most complicated types of legislation that can possibly be written—pension legislation. They have lawyers that make \$500,000 a year in New York City just to try and write the actuarial tables and figure out the logistics, out-forward movements in the pension process. It obviously has got to be brought back in front of the authorizing committee and changed.

That is the second place where what the gentleman wants to do should be done—in the rewrite, the amending, the review of Public Law 96-122.

I would also suggest to the gentleman that saying that the District of Columbia government has not complied with the law is inaccurate, incorrect, and wrong. They have complied exactly with the letter of the law—exactly. What is the problem? Public Law 96-122 is flawed, and if it is brought before the committee, which the chairman assured me he would do, I would move to insist that the District of Columbia pay the unfunded liability on a yearly basis rather than having the Pension Board go into their trust fund and take it out. That is the real problem.

The gentleman and I, and I think the chairman, are very disturbed by the fact that they are dipping into the fund, and that we feel it is absolutely necessary to fund this through local revenues. But let me tell the gentleman, the unfunded pension liabilities of the city of Washington were founded by the Congress, built by the Congress, made by the Congress, and on this very floor in 1938, I believe it was, one of our astute former colleagues—probably now long gone from the scene—stood up on the floor of the House and amended all our funding from the pension program of the District of Columbia. He said, "The tax revenues of the city will take care of it," and that money was thrown into

the general fund of the United States of America, and the funding for all of our pension programs disappeared. I would hope some of the Members would have their staffs or the Congressional Research Service find that debate, or I will send them that debate.

So, that is what we are talking about. We are talking about a bill that does not operate quite properly. We are talking about a bill that is obeyed by the District of Columbia. We are talking about a bill that has a problem that would not be taken care of by the gentleman's amendment until fiscal year 1983. We are talking about a problem that should be taken care of either in a reauthorization and amending of the bill, and most definitively soon, or in the appropriation process where the line item is put in for the payment of the figure.

The SPEAKER pro tempore. The time of the gentleman from Connecticut has expired.

(At the request of Mr. PARRIS and by unanimous consent, Mr. McKINNEY was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. McKINNEY. I yield.

Mr. PARRIS. The gentleman indicated in his remarks that the District of Columbia Retirement Reform Act of 1979 "is not good legislation," and is "flawed."

I would remind the gentleman that that act was adopted when my predecessor was a Member of the Congress and a member of the committee that adopted it and supported its adoption. I was not a part of that, and I agree with the gentleman that it is flawed and it is not good legislation. I think my predecessor perhaps would agree with that point of view by now because everybody else seems to.

Mr. McKINNEY. If the gentleman will give me back my time, I hope they are watching on channel 14 and channel 53. I understand the gentleman's point. I would also suggest to the gentleman that the only pension legislation I have seen that is worse than this one is the Federal pension legislation that governs every Federal employee in the United States of America.

Mr. PARRIS. I would just add that it was my pleasure to serve in the Congress when we adopted the Home Rule Act in 1973. That act I think is good legislation. But, we do need in fact to revise and review the Retirement Act which is not good.

Mr. FAUNTROY. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Before I do that, I want to remind the gentleman from Virginia that he was in fact here in 1973 when we

passed the home rule charter, and voted against it.

Mr. PARRIS. Will the gentleman yield?

Mr. FAUNTROY. Against all of the—he supported all weakening amendments and supported on final passage. I am pleased to correct myself.

Mr. PARRIS. I appreciate that. I am confident the gentleman does not want to be in error in the CONGRESSIONAL RECORD. I did in fact vote for the final passage of the Home Rule Act in 1973 and worked extremely hard on that particular piece of legislation.

Mr. FAUNTROY. Yes, after having attempted to weaken it at every point possible.

Mr. Speaker, I rise in opposition to the amendment on the basis, first, of the fact that the Mayor has in fact agreed with the OMB and with the Pension Board to amortize this debt over a 3-year period, and I would hope the gentleman from Virginia would support his President and support his OMB in allowing the Mayor to carry out that commitment.

I would like at this point to enter into the RECORD a letter from the Mayor dated August 10, in which he reaffirms, and I quote:

We made a commitment to pay off the \$12.9 million fiscal year 1981 shortfall between income and expenditures through installments of \$4.3 million for three years.

That is from the Mayor, and on that basis I think we ought to recognize that this matter is being dealt with in an appropriate manner.

Second, it is clear that the Pension Board is already impacted to require the District of Columbia government to make payments as determined by an actuary appointed by the Pension Board. The Mayor in his letter of August 10 indicates that he is in complete compliance with the request of the Pension Board in this regard. I would certainly hope, finally, that this amendment would be opposed for the reason that it does establish, as the gentleman from Connecticut has already indicated, a precedent that certainly we do not want to establish in this Congress. Never in the history of this Congress has the Federal payment been earmarked, as this gentleman's amendment would have it earmarked.

I would hope that upon defeat of this amendment, the gentleman from Virginia would in fact take up the offer of the chairman of the committee and the ranking minority member of the committee to correct some of the flaws in the bill as originally passed.

Mr. PARRIS. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I will be happy to yield.

Mr. PARRIS. In response to the gentleman's latter point, I would agree to work diligently in attempting to correct the inadequacies of the Retirement Act wholeheartedly, but that does not address the problem we are debating here today. In response to the gentleman's observations about the Mayor's letter of August 10, that precipitated my call to the Chairman of the District of Columbia Retirement Board, which I read and inserted in the RECORD earlier. I did not receive a copy of the Mayor's letter, as I stated earlier until this morning, but, I had been told that there was an agreement, and I went to the Board itself and said, "Is there in fact an understanding?"

As I indicated to the gentleman earlier, the answer was, "No, there is not."

Mr. FAUNTROY. As I was about to indicate, the gentleman has the letter from the Mayor, and it indicates that the District government has made a commitment to pay off the \$12.9 million over a 3-year period.

Mr. PARRIS. Will the gentleman yield further?

Mr. FAUNTROY. I will be happy to. Mr. PARRIS. But in the pertinent point, and I read from the letter in part, it says and I am reading now from the letter of the Mayor of the District of Columbia dated August 10:

The law requires that the Mayor include in his annual budget the full amount as certified by the Board's actuary.

Nobody disagrees with that. It continues:

Each year since the inception of the plan we have done this, and in fiscal year 1982 and fiscal year 1983 we did more.

Nobody quarrels with that either. We are, however, discussing the shortfall for fiscal year 1981, which is not dealt with in that part of the Mayor's letter.

Mr. FAUNTROY. To be sure, let me read it for the gentleman, and he has it in his hand:

In addition to this, we made a commitment to pay off \$12.9 million fiscal year 1981 shortfall between income and expenditures through installments of \$4.3 million for three years.

□ 1330

The SPEAKER pro tempore (Mr. ECKART). The time of the gentleman from the District of Columbia (Mr. FAUNTROY) has expired.

(On request of Mr. PARRIS, and by unanimous consent, Mr. FAUNTROY was allowed to proceed for 1 additional minute.)

Mr. PARRIS. Mr. Speaker, if the gentleman will yield, I will make only one brief point, and that is to reiterate that there is apparently and has been a gigantic communication failure between the Mayor of the District of Columbia and the Chairman of the Retirement Board, and that is precisely

the reason we are here today discussing this matter. The day after the Mayor's letter the Chairman writes a letter that says there is no understanding for the fiscal year 1981; the Mayor says there is. A direct contradiction.

Mr. FAUNTROY. Precisely.

Mr. PARRIS. I merely suggest that the District of Columbia should comply with the requirement that exist in the present applicable law, make up this shortfall, and let us be done with it.

Mr. FAUNTROY. Mr. Speaker, the District has done that, and we have the Mayor's commitment on the record, and that says that with the \$4.3 million in the next 3 years, that will be retired.

Mr. BLILEY. Mr. Speaker, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Speaker, in the almost 2 years that I have served on the Committee for the District of Columbia I have seen growing evidence of unfortunate and unwise attempts to play political games with the District's finances. I am referring to the actions of the District government regarding their budget and their financial responsibilities. Disregarding for the moment the famous case of the disappearing deficit of last year and the reappearing deficit this year and the famous bonds for operating deficit scheme we are now faced with another problem that affects real people and demands our immediate attention.

The District government has an acknowledged unfunded obligation of over \$12 million to the retirement funds of its police, firefighters, and teachers. There has been great reluctance on the part of the District to make good on this commitment and to insure the future benefits of its retirees. The Retirement Board has tried to work with the District, but to no avail. In a desperate attempt to remain solvent and get the money it is owed, so that it can maintain its growth and payment schedule, the Board is now asking for congressional help to solve this problem.

I am reluctant to support a restriction such as this on the Federal payment, however, I believe that the need is both urgent and critical. The Congress is the body of final decision for the District of Columbia. Along with our desire and obligation to increase the independence and local responsibilities of the District government we must consider our responsibilities under the Constitution. As the final authority we cannot and must not fail to act to correct a failure of the District government.

I am supporting and will vote for the amendment to require the proper funding of the pension plans. The

people who have faithfully served the District deserve no less and I will not abandon them and allow the District to use their retirement money to bail itself out of temporary problems of its own creation. The District must realize that its employee obligations are not fiscal footballs to be kicked around the field.

Mr. DELLUMS. Mr. Speaker, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Speaker, I would assume that we probably will be closing debate momentarily on this matter, and I would like to summarize for my colleagues where we are.

My distinguished colleague, the gentleman from Virginia (Mr. PARRIS), has perceived a problem, and that is a shortfall in the funding of the pension plan for fiscal year 1981. The gentleman pitches that figure at \$14.3 million. There is some question about whether that is an appropriate figure. As I stated earlier in the debate, the District of Columbia comes up with a figure of \$12.9 million.

The only reason I make this point is to simply underscore the fact that we do have some problems that flow from the organic legislation itself to which my distinguished colleague, the gentleman from Connecticut has already spoken, Public Law 96-122.

Mr. PARRIS. Mr. Speaker will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from Virginia.

Mr. PARRIS. Mr. Speaker, I appreciate the gentleman's yielding, I do not mean to interrupt the gentleman's train of thought, but I rise to correct a misstatement I made in my earlier comments.

I transposed a figure. My mathematics was in error when I misspoke and said that there was a half million dollar difference in deficit estimates. The fact is there is a million and a half dollar difference between the Mayor's figure of \$12.9 million and my amendment's figure of \$14.3 million.

I would remind my colleagues, however, that the amendment is correct and the figure of \$14.3 million is correct although my earlier spoken comments were erroneous. The fact is, that the difference was that the Mayor's deficit estimate was made by the actuaries in May 1981; my figures and the Board's deficit estimate were made in September 1981.

Mr. DELLUMS. Mr. Speaker, I thank my colleague, the gentleman from Virginia.

Mr. Speaker, \$14.3 million is the request of my colleague, the gentleman from Virginia, that it be earmarked in the Federal payment for fiscal year 1983 to pay off the shortfall in the pension plan for fiscal year 1981.

I rise in opposition to that amendment, first raising the home rule issue.

As my colleague, the gentleman from Virginia, and my colleagues in the House know, my position on the matter of home rule is that we must preserve and protect the integrity of the right of people at the local level to make their own determinations where those determinations do not affect the Federal interest. So any time that we instruct the residents of the District of Columbia, we ought to be very thoughtful about what we do with respect to the principle and the integrity of home rule, which is an inherent part of our approach to democracy as we have defined it in the act that we passed in 1973.

The reason why I raised the Home Rule Act is that the Federal payment is a lump-sum figure. Now, many people talk about the Federal payment in earmarked terms, but in a strict technical sense it is not an earmarked figure. It is a lump-sum payment, not an earmarking. Therefore, to talk about earmarking funds in this lump-sum payment is in my estimation violative of the principle of home rule.

Now, that is the No. 1 argument, that we violate the legislation, the spirit and the intent of the act that we passed several years ago.

Now, I would say to my colleague, the gentleman from Virginia that if he wants to violate the Home Rule Act, then this is not the best way to do it. I would say to my colleagues that if they want to violate the Home Rule Act and earmark funds for the shortfall in 1981, they should do it in the appropriation process, not in the authorization bill, because the Appropriations Committee regularly and routinely earmarks funds because they have the capacity to review and act upon each line item in the District's budget.

Therefore, if I may have the attention of my colleague, the gentleman from Virginia, I would say that I suggest we not put that in this amendment. What I am simply suggesting is that if he wants to go beyond the spirit and the intent of the Home Rule Act, it is not appropriate to argue our assertion that we ought to do it in the appropriations process and not in the authorizing bill and that is suggesting in some way that we ought to legislate in the appropriations bill, because the gentleman well knows that the Subcommittee on the District of Columbia of the Appropriations Committee routinely reviews each line item of the District of Columbia budget, and routinely and regularly inserts into the appropriations process line items on how aspects of that Federal budget are to be expended.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. Speaker, to suggest that it be done in the appropriations process, it seems to me, does not violate the Home Rule Act. It certainly allows us to violate the Home Rule Act in a much different way that is consistent with what this House has done over a long period of time. To do it in the authorization process, as I said, allows us to move away from a lump-sum figure and start to earmark, and I think that is a road down which we ought not to travel.

The third point is that I do not agree with my colleague, the gentleman from Virginia, that the District of Columbia government has not been in compliance with the law. As my colleague knows and as my two distinguished colleagues on this side of the aisle know, this is a nation of laws. The corporation counsel on the record has interpreted the act to say that the Mayor of the District of Columbia government is not obligated at all by the law to pay the shortfall in the unfunded liability except as otherwise referred to in the legislation, and that is to pay for it over the lifespan of the law, that is, to amortize over a long period of time.

Now, we are either a nation of laws or we are not. The Mayor must look to his legal counsel and his legal counsel has said their interpretation of the act is that they do not have to do it. But even if the corporate counsel made that interpretation, the District of Columbia in good faith, I say to my colleague, the gentleman from Virginia, it is saying, "we are prepared to pay it in 3 years, although our own counsel suggests that we are not violative of the law if we don't do it in any other fashion than to amortize."

So in good faith, this District of Columbia government is saying that in fiscal years 1983, 1984, and 1985 we will pay the \$4.3 million, or whatever it is—and if the gentleman is correct, then it would have to be modified in that fashion—over a 3-year period.

Finally, Mr. Speaker, I would simply underscore that Public Law 96-122 is a very complicated and flawed piece of legislation, and it needs to be looked at. The act itself said, "Let us take some time, let us have some experience with it."

So let us have them back up and review it, and if it needs to be changed, let us do it.

My colleague, the gentleman from Connecticut, and other members of the committee are more than committed at this moment to hold comprehensive hearings and look at this legislation and make whatever appropriate reforms have to be made. This is a very complicated piece of legislation. We only started this in 1981, and here we are in 1982. Let us look comprehensively at it.

I do not in any way challenge the motives of my colleague. He has a perfect and correct right to challenge and advocate on behalf of his constituency. I am simply saying that that is what all of us are here to do. I am saying that the best way to do that is to do it in a comprehensive fashion. Let us not violate the principle of the Home Rule Act. If we are going to do it, let us do it in a way that is at least more efficient, and that is through the appropriations process. We do not have the mechanism to engage in a line item review in an authorization committee, and I do not think we should get into that area.

Finally, Mr. Speaker, I would hope that we would even go far beyond this one aspect of the problem that my colleague raises and look at it in a comprehensive fashion and bring whatever changes on this floor need to be made. Many of us knew that when this bill was passed, but we did what we often have to do around here, and that is to swallow hard, hold our noses, and punch eyes for the legislation in the hopes that down the road some intelligent body will decide that there needs to be reforms made in some appropriate fashion.

So, Mr. Speaker, in conclusion, I am asking that we oppose this amendment and I suggest that there is a more efficient and effective way to address the problem.

Mr. JOHNSTON. Mr. Speaker, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Speaker, I find it appalling that an actuarial error that occurred back in 1981 can put in jeopardy the pensions of thousands of firefighters, policemen, and teachers in the District of Columbia. The fact is that a contribution that should have been made was not made due to an error. We are not attempting to assess blame here, but the fund is being denied the use of that \$14 million and the interest accruing thereon because the money is not in there. As long as it is not in there, it will not get the interest yield and it will continue to do exactly what it has had to do—rob Peter to pay Paul.

I will admit that the Congress has given the District government a very poor example when we authorized the old-age and survivors benefit fund to start raiding the fund for the disability income and the medicare program. However, I think the Congress is in very much the same position I was in when I was trying to raise my children and said, "don't do what I do, do what I say."

That is exactly what we are saying to the District of Columbia. There is a right way and a wrong way to fund these programs. It is an error that occurred, and there is \$14 million that is not there. As long as that \$14 million

is not there, sometime somewhere down the line the taxpayers of the United States—and I am talking about the people from North Carolina, I am talking about the people from Wisconsin, I am talking about the people from California—are going to have to pay that interest that is not accruing on \$14 million because it is not there.

Now, I quote to you from this letter, which is a very candid letter, that the Mayor wrote to the distinguished leader of the District of Columbia Committee, and I think it pretty well covers the situation:

While we are meeting our commitment under the law, I assure you that the funding needs of this program in a few years will outstrip the District's ability to pay. In contrast to the 100-percent growth in cost to the District, the Federal contribution has been a level payment of \$52 million per year. Action must be taken now to reopen discussions aimed at modification of the Federal contribution to the pension plan.

□ 1345

So he is already telling us he is going to come back to us and ask for more money, yet he wants to keep that \$14 million from earning the interest that will lower what he is going to come back and ask us for.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. JOHNSTON. I yield to the gentleman from California.

Mr. DELLUMS. I appreciate my colleague yielding. We often do not agree because we stand in two different ideological camps, but I respect my colleague because he often argues in an earthy fashion and urges arguments that create an image that this gentleman can understand very clearly.

So within the framework of that kind of atmosphere that I hope we have established for the moment, let me ask the gentleman this question: What makes the gentleman believe that it is not also in the best interests of another group of politicians, not unlike ourselves, at the District of Columbia level, to keep their employees happy, to keep their votes coming in?

What makes the gentleman think that because we rise to the lofty Chamber of the Congress of the United States that we have ascended to the heaven of politicians and that public figures at the District of Columbia level are not as interested in paying the unfunded liability for their hard-working employees, just as my distinguished friend wants to do?

What makes him think we have locks on integrity with respect to politicians?

Mr. JOHNSTON. Is my distinguished colleague suggesting we are translating an economic matter to the level of political circumstance?

Mr. DELLUMS. I am not suggesting that.

Mr. JOHNSTON. Or something like that?

This is an economic matter. The interest either is accruing or it is not accruing.

Mr. DELLUMS. What I am saying is that all of us see the economics and the economic problem, and all I was trying to do in injecting a little bit of humor into this debate with my colleague is to say that we have to also respect the intellect and the capacity of the locally elected officials to see what the gentleman sees, and that is, there was an unfunded liability in 1981. It needs to be paid off.

They are suggesting paying it off over a 3-year period of time.

They are in compliance with the law.

It would seem to me what we ought not to want to do, I would say to my colleague, is to squeeze this branch of Government. If they are saying this is the best way they can pay it, over a 3-year period, because it would hurt from a financial point of view to try to do it in 1 year, then why do we not give them the latitude to do that within the framework and the spirit of the Home Rule Act?

That is all I am saying.

Mr. JOHNSTON. If I may reclaim my time, what the chairman is suggesting is that we reward the politicians of the District at the expense of all of the taxpayers in the rest of the country. I just do not regard that as innately fair.

I might add that I do not expect to get any votes from any firefighters, any teachers, or any policemen from the District of Columbia. I am not running in an adjacent area.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. PARRIS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DELLUMS. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 221, nays 181, answered "present" 1, not voting 31, as follows:

[Roll No. 272]

YEAS—221

Akaka	Bevill	Campbell
Albosta	Biaggi	Carman
Applegate	Blanchard	Carney
Archer	Billey	Chapple
Ashbrook	Boner	Cheney
Atkinson	Bouquard	Clausen
Badham	Breaux	Coats
Bailey (MO)	Brinkley	Coleman
Barnard	Brooks	Conable
Barnes	Broomfield	Conte
Beard	Brown (CO)	Corcoran
Benedict	Broyhill	Courter
Bereuter	Butler	Coyne, James
Bethune	Byron	Craig

Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
Deckard
DeNardis
Derwinski
Dickinson
Dingell
Dreier
Duncan
Dunn
Eckart
Edwards (OK)
Emerson
Emery
English
Erlenborn
Evans (DE)
Evans (IA)
Fenwick
Fiedler
Fields
Findley
Fish
Flippo
Florio
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gilman
Gingrich
Glickman
Goldwater
Goodling
Gramm
Gregg
Grisham
Gunderson
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hendon
Hertel
Hightower
Hiller
Hillis
Holland
Holt
Hopkins

Horton
Huckaby
Hunter
Hutto
Jeffries
Jenkins
Johnston
Kazen
Kemp
Kindness
Kramer
Lagomarsino
Leach
Leath
LeBoutillier
Lee
Lent
Lewis
Livingston
Loeffler
Long (LA)
Lott
Lowery (CA)
Lujan
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
McClary
McCollum
McCurdy
McDonald
McEwen
McGrath
Mica
Mitchell (NY)
Molinar
Montgomery
Moore
Moorhead
Morrison
Mottl
Myers
Neal
Nelligan
O'Brien
Oxley
Parris
Pashayan
Patman
Paul
Petri
Porter
Pursell
Quillen
Regula
Rinaldo

Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Roemer
Rogers
Roth
Roukema
Rousselot
Rudd
Santini
Sawyer
Scheuer
Schneider
Schulze
Sensenbrenner
Shaw
Shelby
Shumway
Shuster
Skeen
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stratton
Stump
Tauke
Taubin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Walker
Wampler
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whittaker
Williams (MT)
Winn
Wolf
Wortley
Wyllie
Yatron
Young (FL)
Zeferetti

Lundine
Markay
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McDade
McHugh
McKinney
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Moakley
Mollohan
Murphy
Murtha
Natcher
Nelson
Nowak
Oakar
Oberstar
Simon
Panetta
Patterson
Pease

Pepper
Perkins
Peyser
Pickle
Price
Pritchard
Rahall
Rangel
Ratchford
Reuss
Rhodes
Rodino
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Schroeder
Schumer
Seiberling
Shamansky
Shannon
Sharp
Simon
Skellton
Smith (IA)
Smith (PA)

Solarz
St Germain
Stark
Stokes
Studds
Swift
Synar
Udall
Vento
Volkmer
Walgren
Washington
Waxman
Weaver
Weiss
Whitley
Whitten
Williams (OH)
Willson
Wirth
Wolpe
Wright
Wyden
Yates
Young (MO)
Zablocki

ANSWERED "PRESENT"—1

Obey

NOT VOTING—31

Bafalis
Brown (CA)
Brown (OH)
Burgener
Burton, John
Clinger
Collins (TX)
Conyers
Coughlin
Crockett
Dornan

Dougherty
Erdahl
Ertel
Ferraro
Fithian
Ginn
Ireland
Jones (NC)
Marks
McCloskey
Michel

Miller (OH)
Moffett
Napier
Nichols
Rallsback
Richmond
Rosenthal
Siljander
Young (AK)

□ 1400

Mr. WILLIAMS of Ohio and Mr. PATTERSON changed their votes from "yea" to "nay."

Messrs. PORTER, SAM B. HALL, JR., and ZEFERETTI changed their votes from "nay" to "yea."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

● Mr. DIXON. Mr. Chairman, I rise in support of H.R. 5595, which authorizes an annual Federal payment of \$361 million to the District of Columbia government beginning in fiscal year 1983.

Let me say to the Members that the modest increase provided by this bill is very much in order. The Federal payment authorization in 1978—almost 6 years ago—was \$300 million, and since that time there has been only one increase, and that was to \$336.6 million. So while the Federal payment authorization has increased by 12.2 percent, the overall rate of inflation since 1978, according to the Federal Bureau of Labor Statistics, has been 48.8 percent, or four times greater. If this bill were to authorize a Federal payment to keep pace with reality and provide the buying power equivalent to the 1978 authorization, it would provide a Federal payment of \$446.4 million instead of the \$361 million we are considering today.

Mr. Chairman, even with the increase that the bill now before the House provides, the Federal Govern-

ment's share of the District's operating expenses in 1983 will be lower than it was in 1978 when the Federal payment represented one-fourth of the District's operating expenses. In 1982 it represents a little more than one-fifth, or 21 percent, and will drop to 19 percent in 1983 unless the committee's bill is approved. And even with the increase to \$361 million which H.R. 5595 provides, the Federal payment will be down to 20 percent of the District's operating budget in 1983 as compared to 24 percent in 1978.

My colleagues are well aware of the New Federalism concept that is being advanced by the present administration and the consequences of that concept which State and local governments throughout the Nation are experiencing in the form of reduced Federal assistance. The District of Columbia government is faced with those same reductions, and in order for the city to meet its obligations not only to those who call the District their home and earn their livelihood here, but also to the millions of visitors who come to the Nation's Capital every year, it is only fair that the Federal Government pay its share.

Mr. Chairman, I urge my colleagues to approve this bill as reported by the committee. It is not largesse; it is a matter of simple equity.●

● Mr. COLLINS of Texas. Mr. Speaker, I rise to strongly oppose H.R. 5595. This bill represents an injustice to the American taxpayer whom this Congress promised last year that it was ready to hold the line on Federal subsidies to the District of Columbia. This bill would increase the Federal payment to the District by \$24.4 million. Only last year the Congress froze the Federal payment for the District at \$336.6 million for future fiscal years. We are now asked to approve a bill that would increase that amount to \$361 million. I believe that the time has come to finally draw the line on Federal outlays for the District of Columbia and urge my colleagues to join with me in opposing this bill.

Before we discuss the merits of H.R. 5595, let us put the issue into perspective. Very simply, the District is subsidized by the American taxpayers in a disproportionate and unfair manner. Look at the facts. The District has received a disproportionate amount of Federal funding as compared to the other 50 States. For example, the District of Columbia pays 32 cents in taxes for every Federal dollar that it gets back from Washington—a massive subsidy at best. By contrast, my home State of Texas pays \$1.40 for every dollar that it gets back from the Federal Government. Since 1968, the annual Federal payment to the District of Columbia has increased by almost five times, from \$70 million to the current \$336 million. While the

NAYS—181

Addabbo
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
AuCoin
Bailey (PA)
Bedell
Bellenson
Benjamin
Bennett
Bingham
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brodhead
Burton, Phillip
Chappell
Chisholm
Clay
Coelho
Collins (IL)
Coyne, William
D'Amours
Daschle
de la Garza
Dellums
Derrick

Dicks
Dixon
Donnelly
Dorgan
Dowdy
Downey
Dwyer
Dymally
Dyson
Early
Edgar
Edwards (AL)
Edwards (CA)
Evans (GA)
Evans (IN)
Fary
Fascell
Fazio
Foglietta
Foley
Ford (MI)
Ford (TN)
Fowler
Frank
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Gonzalez
Gore
Gradison
Gray

Green
Guarini
Hall (OH)
Hamilton
Harkin
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hollenbeck
Howard
Hoyer
Hubbard
Hughes
Hyde
Jacobs
Jeffords
Jones (OK)
Jones (TN)
Kastenmeier
Kennelly
Kildee
Kogovsek
LaFalce
Lantos
Latta
Lehman
Leland
Levitas
Long (MD)
Lowry (WA)
Luken

American taxpayer increasingly subsidizes the District, the District of Columbia has demonstrated a lack of sound fiscal management. It is currently running a huge \$309 million deficit. Many States, Texas included, mandate that their government operate within a balanced budget.

Look at some more indications of the District's poor fiscal management. According to last year's report from the Appropriations Committee on the District of Columbia, the District of Columbia has had a steadily declining pupil enrollment in its public school system and high per-pupil cost. The enrollment has dropped from 145,000 in 1969 to approximately 94,000 last year. Yet it costs the District \$3,203 a year to educate one child, while the Dallas school system spends only \$2,306 per student. Unfortunately, the academic results achieved by the District of Columbia are far below those realized by the Dallas system.

Another example of unsound fiscal management is the District's public assistance programs. The District has a 13-percent error rate in its welfare programs; \$11 million is being paid to ineligible recipients, and this does not even take into account wrongful payments in medicaid, food stamps, and social service programs.

Finally, it is important to point out that this payment represents only a portion of the approximately \$1.1 billion available to the District of Columbia from the Federal Government. The District also receives Federal grants, reimbursements, contributions to the city's employees' retirement funds, and loans for capital outlays.

I urge my colleagues to take a stand against the spiraling budget outlays for the District of Columbia. Vote against this bill and for fiscal responsibility. ●

Mr. DELLUMS. Mr. Speaker, I move the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 279, noes 122, not voting 33, as follows:

[Roll No. 273]

AYES—279

Addabbo	Anderson	Applegate
Akaka	Andrews	Aspin
Alexander	Annuzio	Atkinson

AuCoin	Gingrich	Patterson
Bailey (PA)	Glickman	Pease
Barnes	Goldwater	Pepper
Bedell	Gonzalez	Perkins
Bellenson	Gore	Peyser
Benedict	Gradison	Porter
Benjamin	Gray	Price
Bereuter	Green	Pritchard
Bethune	Guarini	Pursell
Bevill	Hagedorn	Rahall
Biaggi	Hall (OH)	Rallsback
Bingham	Hamilton	Rangel
Blanchard	Harkin	Ratchford
Billey	Hawkins	Regula
Boggs	Heckler	Reuss
Boland	Heftel	Rhodes
Boner	Hightower	Rinaldo
Bonior	Holland	Rodino
Bonker	Hollenbeck	Roe
Bowen	Holt	Roemer
Breaux	Hopkins	Rogers
Brinkley	Horton	Rose
Brodhead	Howard	Rostenkowski
Burton, Phillip	Hoyer	Roth
Butler	Hubbard	Roukema
Carman	Huckaby	Roybal
Carney	Hughes	Russo
Chapple	Hyde	Sabo
Chisholm	Jacobs	Savage
Clausen	Jeffords	Sawyer
Clay	Kastenmeier	Scheuer
Clinger	Kazen	Schneider
Coelho	Kemp	Schroeder
Collins (IL)	Kennelly	Schulze
Conable	Kildee	Schumer
Conte	Kinness	Seiberling
Corcoran	Kogovsek	Shamansky
Coughlin	LaFalce	Shannon
Coyne, William	Lantos	Sharp
Craig	Lee	Shaw
D'Amours	Lehman	Simon
Davis	Leland	Skeen
de la Garza	Lent	Smith (IA)
Deckard	Levit	Smith (NJ)
Dellums	Lewis	Smith (OR)
DeNardis	Livingston	Smith (PA)
Derrick	Long (LA)	Snowe
Dicks	Long (MD)	Solarz
Dixon	Lowery (CA)	St Germain
Donnelly	Lowry (WA)	Stangeland
Dorgan	Lujan	Stanton
Dowdy	Luk	Stark
Downey	Lundine	Staton
Duncan	Lungren	Stokes
Dunn	Markey	Stratton
Dwyer	Marriott	Studds
Dymally	Martin (IL)	Swift
Dyson	Martinez	Synar
Early	Matsui	Tauzin
Eckart	Mavroules	Thomas
Edgar	Mazzoli	Traxler
Edwards (AL)	McClory	Tribble
Edwards (CA)	McCollum	Udall
Emery	McDade	Vander Jagt
Erlenborn	McHugh	Walgren
Evans (DE)	McKinney	Wampler
Evans (IN)	Michel	Washington
Fary	Mikulski	Waxman
Fascell	Miller (CA)	Weber (OH)
Fazio	Mineta	Weiss
Fiedler	Minish	White
Findley	Mitchell (MD)	Whitehurst
Fish	Mitchell (NY)	Whitten
Florio	Moakley	Williams (MT)
Foglietta	Mollinari	Williams (OH)
Foley	Mollohan	Wilson
Ford (MI)	Morrison	Winn
Ford (TN)	Mottl	Wirth
Forsythe	Murphy	Wolf
Fowler	Murtha	Wolpe
Frank	Napier	Wortley
Frenzel	Natcher	Wright
Frost	Nowak	Wyden
Fuqua	O'Brien	Wyllie
Garcia	Oakar	Yates
Gaydos	Oberstar	Yatron
Geldenson	Ottinger	Young (FL)
Gephardt	Oxley	Young (MO)
Gibbons	Panetta	Zablocki
Gilman	Parris	Zeferetti

NOES—122

Ashbrook	Barnard
Badham	Beard
Bailey (MO)	Bennett

Bouquard	Hammerschmidt	Neal
Brooks	Hance	Nelligan
Broomfield	Hansen (ID)	Nelson
Brown (CO)	Hansen (UT)	Obey
Broyhill	Hartnett	Pashayan
Byron	Hatcher	Patman
Campbell	Hefner	Paul
Chappell	Hendon	Petri
Cheney	Hertel	Quillen
Coats	Hiller	Ritter
Coleman	Hillis	Roberts (KS)
Courter	Hutto	Roberts (SD)
Coyne, James	Jeffries	Robinson
Crane, Daniel	Jenkins	Rousselot
Crane, Philip	Johnston	Rudd
Daniel, Dan	Jones (OK)	Santini
Daniel, R. W.	Jones (TN)	Sensenbrenner
Dannemeyer	Kramer	Shelby
Daschle	Lagomarsino	Shumway
Daub	Latta	Shuster
Derwinski	Leach	Skelton
Dickinson	Leath	Smith (AL)
Dingell	LeBoutillier	Smith (NE)
Dreier	Loeffler	Snyder
Edwards (OK)	Lott	Solomon
Emerson	Marlenee	Spence
English	Martin (NC)	Stenholm
Evans (IA)	Martin (NY)	Stump
Fields	Mattox	Tauke
Flippo	McCurdy	Taylor
Fountain	McDonald	Volkmer
Goodling	McEwen	Walker
Gramm	McGrath	Watkins
Gregg	Mica	Weaver
Grisham	Montgomery	Weber (MN)
Gunderson	Moore	Whitley
Hall, Ralph	Moorhead	Whittaker
Hall, Sam	Myers	

NOT VOTING—33

Bafalis	Erdahl	Marks
Bolling	Ertel	McCloskey
Brown (CA)	Evans (GA)	Miller (OH)
Brown (OH)	Fenwick	Moffett
Burgener	Ferraro	Nichols
Burton, John	Fithian	Pickle
Collins (TX)	Ginn	Richmond
Conyers	Hunter	Rosenthal
Crockett	Ireland	Siljander
Dornan	Jones (NC)	Vento
Dougherty	Madigan	Young (AK)

□ 1420

Mr. TAUKE changed his vote from "aye" to "no."

Mr. CRAIG and Mr. LEVITAS changed their votes from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2457) to amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 2457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 2501d) is amended by striking out "and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of \$336,600,000" in the first sentence and inserting in lieu thereof "for the fiscal year ending September 30, 1982, the sum of \$336,600,000; and for the fiscal year ending September 30, 1983, and for each fiscal year ending after September 30, 1983, the sum of \$361,000,000".

MOTION OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. DELLUMS moves to strike all after the enacting clause of the Senate bill, S. 2457, and to insert in lieu thereof the provisions of the bill, H.R. 5595, as passed by the House, as follows:

That section 502 of the District of Columbia Self-Government and Governmental Reorganization Act (D.C. Code, sec. 47-3406) is amended by striking out "and for the fiscal year ending September 30, 1982, and for each fiscal year ending after September 30, 1982, the sum of \$336,600,000" and inserting in lieu thereof "for the fiscal year ending September 30, 1982, the sum of \$336,600,000; and the fiscal year ending September 30, 1983, and for each fiscal year ending after September 30, 1983, the sum of \$361,000,000".

Of any funds appropriated for the fiscal year ending on September 30, 1983, under the authorization contained in this section, not less than \$14,300,000 must be paid to the District of Columbia Retirement Board to eliminate any deficits in the District of Columbia Teachers' Retirement Fund and the District of Columbia Police Officers and Fire Fighters' Retirement Fund.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A similar House bill, H.R. 5595, was laid on the table.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE TODAY AND TOMORROW

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce be allowed to meet during the 5-minute rule on today and tomorrow.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 6100, NATIONAL DEVELOPMENT INVESTMENT ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 539 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 539

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6100) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one and one-half hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 6100, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to the consideration of the bill S. 2144, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 6100 as passed by the House.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 539 is an open rule providing for the consideration of H.R. 6100, a bill to amend the Public Works and Economic Development Act of 1965 and the

Appalachian Regional Development Act of 1965. The first reading of the bill will be dispensed with.

The rule makes in order the amendment in the nature of a substitute reported by the Committee on Public Works as an original bill for the purposes of amendment. The legislation will be read for amendment by title, with each title considered as read. After the passage of H.R. 6100, the House shall proceed to the consideration of S. 2144, and it shall then be in order to strike out all after the enacting clause of the Senate bill and to insert the provisions of H.R. 6100 as passed by the House.

There are two waivers of points of order contained in this rule. Clause 5 of rule XXI, prohibiting appropriations in a legislative bill, is waived against the Public Works Committee substitute. This waiver was deemed necessary because grant provisions in the legislation not subject to appropriations could be construed as a violation of this rule.

Section 402(a) of the Congressional Budget Act is waived against consideration of both H.R. 6100 and S. 2144. Section 402(a) provides that it shall not be in order to consider any bill which authorizes the enactment of new budget authority for the fiscal year unless that bill has been reported on or before May 15 preceding the beginning of that fiscal year. The legislation was under the jurisdiction of both the Public Works Committee and the Banking, Finance and Urban Affairs Committee. Some of the many hearings on the bill were conducted jointly by subcommittees of the two committees. The Public Works Committee ordered the bill as amended reported favorably and complied with the Budget Act by filing its report on Monday, May 17, 1982. The Committee on Banking, however, decided not to report the bill but does not want to delay consideration of the bill. Thus the Committee on Rules, on recommendation of the Budget Committee, granted a waiver of section 402(a) for what might be considered a technical violation, in view of the implicit concurrence of the Banking Committee with bringing the bill to the floor.

This rule provides 1½ hours of debate in an effort to fulfill a request by the Banking Committee that committee members have floor time during general debate and the opportunity to offer possible amendments to the legislation. The debate time will be divided between the chairman and ranking minority member of the Committee on Public Works and Transportation.

Mr. Speaker, the authorization for the Public Works and Economic Development Act of 1965 expires on September 30, 1982. H.R. 6100 completely revises the programs provided by the

Public Works and Economic Development Act and authorizes new economic development programs through fiscal year 1985. It extends the Appalachian Regional Development Act by adopting a finish-up program for the Appalachian Highway System and the area development programs funded through the Appalachian Regional Commission.

The programs which are covered by H.R. 6100 are scheduled for termination under the President's fiscal year 1983 budget. H.R. 6100, however, emerged from the Committee on Public Works and Transportation with strong bipartisan support. The revision of the Economic Development Act is a model of what can be achieved through positive efforts to preserve the principles of a good program—at the same time streamlining it for the era in which we live now—one in which we are keenly aware of our limited resources.

In this new light, the National Development Investment Act tightens the eligibility criteria for Federal assistance. The program has been so broad that 80 percent of the Nation's population has been eligible. This legislation cuts eligibility in half. The share of Federal aid has also been cut, to a 50-50 matching grant basis. Private sector commitment and a viable strategy for economic development will weigh heavily in the evaluation of applications for economic development aid.

Title I of the bill authorizes \$500 million annually for 3 years for the construction, repair, rehabilitation, and improvement of public facilities, and to establish locally administered revolving loan funds to assist small business or to retain existing business and other projects which promote development and create jobs.

Title II of H.R. 6100 will permit the Appalachian Regional Commission to bring its infrastructure programs in severely distressed and underdeveloped counties in Appalachia to completion. The bill authorizes \$83 million annually for 1983 through 1985, and \$75 million annually for 1986 and 1987. It also provides funding for the Appalachian Highway System in the amount of \$215 million in 1983 and an additional \$2 billion through fiscal year 1990 in order to complete the highway construction program.

This legislation represents a worthy bipartisan effort at improving important Federal programs. I urge adoption of the rule so that we may proceed to the consideration of H.R. 6100.

□ 1430

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the provisions of the rule have been ably explained by the gentleman from Louisiana (Mr. Long).

I think it is time for action on the floor. I know of no objection to the rule, even though the administration opposes certain provisions of the bill.

The bill is a product of 13 days of hearings. It has been widely discussed. The programs in my district, ARC and EDA have been very fruitful and helpful.

Mr. Speaker, I have no requests for time. I reserve the balance of my time. I urge the adoption of the rule.

● Mr. TAYLOR. Mr. Speaker, House Resolution 539 is an open rule under which the House will consider legislation to reform and reauthorize the Economic Development Administration, and thereby begin a process of rebuilding the economic base of our Nation's economically distressed areas.

As the gentleman from Louisiana (Mr. Long) has explained, this rule contains one waiver of the Budget Act against our consideration of H.R. 6100, provides for a committee amendment in the nature of a substitute, and waives clause 5 of rule XXI against that substitute.

The waiver of section 402(a) of the Budget Act is considered to be a technical matter in this instance, because the bill was not reported by one of the two committees involved by the May 15, 1982, deadline. Various sections of H.R. 6100 as introduced would directly authorize the enactment of new budget authority for fiscal 1983, and thus the triggering of the reporting requirement. The waiver is provided because the Banking Committee has no objection to the bill as reported by the Public Works Committee, and the Public Works Committee did meet the reporting deadline.

Mr. Speaker, this rule provides for 1½ hours of general debate, to be equally divided, and it makes in order a Public Works Committee amendment in the nature of a substitute as on original bill for the purpose of amendment under the 5-minute rule.

The committee substitute will be read for amendment by titles instead of by sections, with each title considered as read. The rule waives clause 5 of rule XXI against our consideration of the committee substitute.

This waiver is provided because one section of the substitute does constitute an appropriation in a legislative bill. One motion to recommit with or without instructions is also provided for.

Finally, Mr. Speaker, the rule makes in order our consideration of S. 2144, a similar Senate passed bill, following passage of H.R. 6100. A waiver of section 402(a) of the Budget Act is provided because the Senate bill contains new budget authority and was not reported prior to May 15.

Mr. Speaker, the legislation made in order by this rule, H.R. 6100, represents a major effort on the part of the Public Works Committee to change

the Economic Development Act of 1965 by targeting grant assistance on the basis of prospects for success in our Nation's distressed areas. The committee has brought forth a bill that substantially revises the EDA program and tightens the standards for eligibility of local communities by using a more strict criteria of economic distress.

All of us know, Mr. Speaker, that over the years EDA grew too big and began to try and solve problems far beyond its scope. Indeed, some 80 percent of the Nation is currently eligible for EDA assistance. Under this legislation, which I wholeheartedly support, we will slim down the criteria for EDA assistance to cover about 40 percent of the country.

This bill is designed to insure that our scarce Federal resources are used most effectively, and it contains provisions requiring the Secretary of Commerce to consider the amount of private sector involvement and the potential for economic success—to take these factors into account—when selecting development plans for assistance.

Under the legislation reported from the Public Works Committee, communities which apply for EDA grants will be required to devise development plans that emphasize the involvement of private industry. Private industry investment is a vital part of any economic recovery program, and this bill promotes private industry investment as the cornerstone of local economic development plans.

Mr. Speaker, I am pleased to say that this measure has strong bipartisan support from the Committee on Public Works. There is hardly any controversy about the merits of the legislation reported from that committee, and there was no controversy at all about the provisions of House Resolution 539 in the Committee on Rules.

Mr. Speaker, I strongly urge my colleagues to support this rule and to support the legislation it makes in order. ●

GENERAL LEAVE

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent for all Members to have 5 legislative days within which to revise and extend their remarks on the pending rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. LONG of Louisiana. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6308, RAIL SAFETY AND SERVICE IMPROVEMENT ACT OF 1982

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 546 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 546

Resolved, That upon the adoption of this resolution it shall be in order, sections 401(a) and 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6308) to insure rail safety, provide for the preservation of rail service, transfer responsibility for the Northeast corridor improvement project to Amtrak, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Energy and Commerce and Interior and Insular Affairs now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 6911 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MOAKLEY) is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Ohio (Ms. OAKAR) to speak out of order.

(By unanimous consent, Ms. OAKAR was allowed to speak out of order.)

CONFERENCE COMMITTEE ADDRESSES ISSUE OF FEDERAL EMPLOYEES AND RETIREES

Ms. OAKAR. Mr. Speaker, right now the conference committee is meeting. Among other issues they are addressing is the plight of Federal employees and Federal retirees.

Congresswoman SCHROEDER and myself were recommended to the conference committee to expand it to five members on our side, three on the Re-

publican side. Unfortunately, Congressman LATTA threatened to object.

This may have been acceptable if, in fact, the Committee on Agriculture had not had five members on the Democratic side and three members on the Republican side.

We think it is discrimination. We think it is a blow to Federal employees and to retirees and I must say I am deeply disappointed.

Mrs. SCHROEDER. Mr. Speaker, will the gentlewoman yield?

Ms. OAKAR. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentlewoman for yielding.

Mr. Speaker, I think what the gentlewoman from Ohio said is very true, and we are just very, very sorry this whole incident has occurred.

The SPEAKER pro tempore. The time of the gentlewoman from Ohio (Ms. OAKAR) has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI) to speak out of order.

(By unanimous consent, Mr. DERWINSKI was allowed to speak out of order.)

PROCEDURES FOLLOWED IN CURRENT CONFERENCE COMMITTEE MEETINGS

Mr. DERWINSKI. Mr. Speaker, I thank the gentlewoman.

I wish to correct, for the record, and give my understanding of the point made by the gentleman from Ohio.

There was no discrimination involved. There are the normal number of conferees. The position of Federal employees and Federal retirees is being very well protected by the three majority members at the conference and, in fact, by one of the minority members, Mr. TAYLOR. So I would say the only effect of not expanding the number of conferees is that we are not quite as crowded around the conference table.

The practical, political, and budgetary effects involved are not changed at all by the absence of the two very noble and concerned gentlewomen.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. Of course, I yield to the gentlewoman.

Mrs. SCHROEDER. I thank the gentleman for yielding.

Mr. Speaker, the thing we were distressed about—

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

Ms. OAKAR. Mr. Speaker, I ask that he be allowed to address the House for 1 minute.

The SPEAKER pro tempore. The time is controlled by the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DERWINSKI) for purposes of debate only.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DERWINSKI. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, I would like to respond that I think the thing we are so distressed about is no one seemed to care how crowded the conference table was when it came to Agriculture members, but suddenly when it came to having the same number, an equal number from the Committee on Post Office and Civil Service, they cared, and both of our subcommittees are the ones with specific jurisdiction.

Mr. DERWINSKI. I think the difference is the Agriculture conference is far more complex, and there is less unanimity among its members.

I would say if the two gentlewomen have any complaint at all, it probably should be directed to the chairman of the House Committee, because that is how we arrived at the five-member group.

Really, nobody can win on this issue; but I assure the gentlewomen, rest assured that their retirees are being well protected.

The SPEAKER pro tempore. The time of the gentleman from Illinois (Mr. DERWINSKI) has expired.

□ 1440

Mr. MOAKLEY. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), and pending that, I yield myself such time as I may use.

Mr. Speaker, the resolution (H. Res. 546) provides for the consideration of the bill (H.R. 6308), the Rail Safety and Improvement Act of 1982. It is a 1-hour open rule.

The rule provides for an amendment in the nature of a substitute consisting of the text of a bill (H.R. 6911) to be considered as original text for the purpose of amendment. It contains the provisions customarily included in rules when a committee reports a substitute. All are technical and simply insure that the minority has the same rights which would be available if the committee had reported a clean bill. They provide for the substitute to be read as original text for purpose of amendment; permit Members to demand separate vote in the House on perfecting amendments as well as the substitute; and provide that the motion to recommit may contain instructions.

The text used as a substitute was introduced by the gentleman from New Jersey (Mr. FLORIO) prior to the hearing in the Committee on Rules, in order to provide a convenient vehicle for floor consideration. That text accommodates an amendment proposed by the Committee on Interior and Insular Affairs to the substitute reported by the Committee on Energy and

Commerce. It also corrects a provision in the committee report subject to a point of order under section 401(a) of the Congressional Budget Act of 1974.

The rule provides for a waiver of section 401(a) of the Congressional Budget Act of 1974, which prohibits certain forms of back-door spending. The waiver applies to section 502(c) of the introduced bill, related to contract authority, but it is technical because the substitute cures that violation.

A waiver of section 402(a) of the Congressional Budget Act of 1974 is also provided. The committee reported 1 day late but the Committee on the Budget notes that a good-faith effort was made to comply and, since the text was available in advance, the real object of the requirement was met.

The resolution provides a waiver of clause 5 of rule XXI for the substitute. The rule prohibits appropriations in legislative bills. Numerous provisions of the bill could be considered reappropriations since they would make funds previously appropriated available for other purposes. However such waivers are routine and noncontroversial in the case of bills of this type. Indeed, it would be impossible to make any changes in any multiyear funding programs without a technical violation of the rule.

Mr. Speaker, I wish to commend the gentleman from New Jersey (Mr. FLORIO) and the gentleman from New York (Mr. LENT). Their subcommittee has provided effective leadership on the issue of rail development. They have brought forward an outstanding product, which this House may consider with pride. This is the omnibus rail bill which includes, in title III, funds earmarked for the Northeast corridor improvement project. This project is of vital importance to the transportation needs and the economy of my region and I am grateful for the consistent support this work has enjoyed in the Committee on Energy and Commerce.

The bill also reauthorizes the Rail Safety Act through fiscal year 1984. Title II of the bill provides authority to the Secretary of Transportation to oversee the reorganization of railroads in bankruptcy, and directs the Secretary to guarantee necessary loans to carrier for employee protection and retraining.

The amendment of the Committee on Interior and Insular Affairs relates to the disposition of lands in connection with the sale of the Alaska Railroad. Since that amendment is accommodated in the text made in order under the rule, the Interior Committee felt it required no special allocation of time.

Mr. Speaker, this is an important bill and I strongly urge the adoption of the rule to permit the House to take it up for consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

The description of the rule has been well done, Mr. Speaker. I think we would find that Amtrak would operate in a much safer manner should it run through Tennessee. I would like to plant that seed again, and I believe it would be a great service to the people, particularly in the World's Fair State. I would hope that the committee would take note.

Mr. Speaker, even though the administration opposes the bill, this is an open rule and will allow for adequate debate on the floor of the House.

● Mr. TAYLOR. Mr. Speaker, House Resolution 546 is a 1-hour open rule under which the House will consider legislation to reauthorize the Rail Safety Act to insure continued Federal oversight of the safety of rail operations in this Nation.

The gentleman from Massachusetts (Mr. MOAKLEY) has explained that this rule contains two waivers of the Budget Act against our consideration of H.R. 6308, provides for an amendment in the nature of a substitute consisting of the text of a new bill, H.R. 6911, and waives clause 5 of rule XXI against that substitute.

One of the two Budget Act waivers is technical in nature, and was provided for by the Rules Committee because the substitute will not violate section 401(a) of the Budget Act.

The second Budget Act waiver, that of section 402(a), is necessary because the Committee on Energy and Commerce did not report the legislation by the May 15 deadline. The Budget Committee noted that a good-faith effort was made to comply, and, since the text was available in advance, the object of the requirement was met.

Mr. Speaker, the rule provides that the amendment in the nature of a substitute, H.R. 6911 introduced by the gentleman from New Jersey (Mr. FLORIO), will be considered as original text for the purpose of amendment under the 5-minute rule.

The text of the substitute accommodates an amendment by the Committee on the Interior which was reported to the Energy and Commerce Committee bill, and will be read by title instead of by sections.

The rule also provides a waiver of clause 5 of rule XXI for the substitute. The rule prohibits appropriations in legislative bills, but numerous provisions of H.R. 6911 could be considered reappropriations since they would make funds previously appropriated available for other purposes.

Mr. Speaker, the Energy and Commerce Committee has brought forward an omnibus rail bill that is generally supported by the minority on that committee.

The Republican members of the Subcommittee on Commerce, Transportation and Tourism, the gentleman from Illinois (Mr. MADIGAN), and the gentlemen from New York (Mr. LENT and Mr. LEE) indicate some concern, however, over some provisions of the bill.

Indeed, the bill in its present form, is strongly opposed by the administration.

Since this rule permits amendments that will give the House a chance to overcome these objections, I ask that the rule be adopted.●

GENERAL LEAVE

Mr. QUILLEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous material, on the pending rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6323, ENVIRONMENTAL RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACT OF 1983

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 535 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 535

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6323) to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without in-

intervening motion except one motion to recommit. After the passage of H.R. 6323, it shall be in order to take from the Speaker's table the bill S. 2577, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 6323 as passed by the House.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 535 provides for the consideration of the bill, H.R. 6323, to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman of the ranking minority member of the Committee on Science and Technology. This is a straight open rule, allowing any germane amendment to be offered under the 5-minute rule. There are no waivers of points of order. One motion to recommit is in order. After passage of the bill, it is in order to take from the Speaker's table the bill S. 2577 and to move to strike out all after the enacting clause of the Senate bill and insert in lieu thereof the provisions contained in H.R. 6323 as passed by the House.

Mr. Speaker, H.R. 6323 authorizes \$296.8 million for fiscal year 1983 and \$303.1 million for fiscal year 1984 for the environmental research, development, and demonstration activities of the Environmental Protection Agency. The authorizations will enable EPA to carry out the mandates of the environmental statutes administered by the Agency. In addition, the bill strengthens EPA's environmental monitoring activities, establishes a research program on indoor air quality, and expands long-term research on emerging environmental health hazards.

Mr. Speaker, it is important that we maintain our commitment to the protection of the public health and welfare of our citizens and of the environment. I know of no opposition to this rule, and I urge my colleagues to adopt House Resolution 535 that the House may proceed to the consideration of this very important legislation.

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

Mr. Speaker, the provisions of the resolution have been ably explained by the gentleman from South Carolina (Mr. DERRICK). The administration opposes this measure. Instead of the bill which mandates high levels of funding, they prefer lower funding levels.

Mr. Speaker, I know of no opposition to the rule. There may be some opposition on the floor of the House to the bill. I urge adoption of the rule, and reserve the balance of my time.

□ 1450

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsideration was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 6324, ATMOSPHERIC, CLIMATIC, AND OCEAN POLLUTION ACT OF 1982

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 540 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 540

Resolved, That upon the adoption of this resolution it shall be in order, section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Merchant Marine and Fisheries and Science and Technology now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 6798 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI and section 401(a) of the Congressional Budget Act of 1974 (Public Law 93-344) are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order

as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 540 provides for the consideration of H.R. 6324, Atmospheric, Climatic and Ocean Pollution Act of 1982. The Rules Committee has granted 1 hour of general debate, 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Merchant Marine and Fisheries, and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology. Further, the rule waives 401(a) of the Congressional Budget Act prohibits new contract authority unless such authority is limited to amounts provided in advance in appropriation acts.

These violations occur on page 10, section 303(a)(3) lines 17 through 23, on page 13, section 306, lines 22 through 25, and on page 22, section 202(c)(3) lines 19 through 22.

In lieu of the amendments reported by the Merchant Marine and Science and Technology Committees, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 6798, as an original bill for the purpose of amendment. This substitute shall be considered for amendment by titles instead of by sections, with each title to be considered as read.

In addition, the substitute will necessitate the need for several waivers. On page 10, section 303(a)(3), lines 1 through 7 a waiver of clause 5, rule XXI, and a waiver of 401(A) of the Congressional Budget Act is needed. On page 13, section 306, lines 3 through 6, and on page 21, section 202(c)(3), line 23, through page 22, lines 1 through 2, a waiver of 401(A) of the Congressional Budget Act is required.

At the conclusion of the amendment process the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instruction.

Mr. Speaker, H.R. 6324 was jointly referred to the Science and Technology Committee and the Merchant Marine Committee. The committees differed slightly on several items in the measure, however, were able to resolve these differences and have incor-

porated their compromises in a clean bill, H.R. 6798.

H.R. 6798 authorizes \$544 million for fiscal year 1983 and \$576.6 million for fiscal year 1984 for about 60 percent of the activities of the National Oceanic and Atmospheric Administration. This measure is part of an ongoing process of consolidating the NOAA reauthorization into a single item of legislation.

Included in the bill are authorizations for sludge studies of the New York and Puget Sound areas, the establishment of a Great Lakes Protection, Research and Sanctuaries Act, the national climate program, and restored funding for a second polar orbiting weather satellite.

Mr. Speaker, the National Oceanic and Atmospheric Administration plays a vital role in the Nation's welfare, economic self-sufficiency, and national security.

The Administration monitors and predicts weather and environmental conditions, provides basic maps and charts for safe navigation, provides research to advance oceanic and atmospheric science, and manages and conserves marine resources for the good of the country.

Mr. Speaker, this is a fairly noncontroversial measure and I urge my colleagues to support House Resolution 540, so we may proceed to the consideration of H.R. 6324, the NOAA authorization for fiscal years 1983 and 1984.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule and of the bill which authorizes appropriations for fiscal years 1983 and 1984 for the National Oceanic and Atmospheric Administration.

There are, however, some problems with the bill. There are those who feel that this authorization level is too high, because it provides \$544 million in fiscal year 1983 and for \$576.6 million in fiscal year 1984, and there are some provisions that were included in the bill to which the administration has raised some objections. I am sure there will be some serious debate on the bill, and some amendments will be offered.

But, Mr. Speaker, this is a fair and noncontroversial rule providing 1 hour of general debate, and it allows adequate consideration of conflicting points of view and for an adequate hearing on the House floor. I support the rule. I know of no objections to it. I have no requests for time, and I yield back the balance of my time.

Mr. ZEFERETTI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

RAIL SAFETY AND SERVICE IMPROVEMENT ACT OF 1982

Mr. FLORIO. Mr. Speaker, I move that the House resolve itself into the Committee on the Whole House on the State of the Union for the consideration of the bill (H.R. 6308), to insure rail safety, provide for the preservation of rail service, transfer responsibility for the Northeast corridor improvement project to Amtrak, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO).

The motion was agreed to.

The SPEAKER pro tempore. The Chair designates the gentleman from Massachusetts (Mr. FRANK), as Chairman of the Committee of the Whole and requests the gentleman from New York, Mr. McHUGH, to assume the chair temporarily.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6308, with Mr. McHUGH, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from New Jersey (Mr. FLORIO) will be recognized for 30 minutes, and the gentleman from New York (Mr. LENT) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the House is today considering H.R. 6308, the Rail Safety and Service Improvement Act of 1982. This is an important rail bill which deals with a number of rail safety and service issues.

Title I of the bill reauthorizes the rail safety functions of the Federal Railroad Administration. This reauthorization is crucial if we are to insure continued oversight of the safety of rail operations.

Title II deals with rail service and labor problems caused by the liquidation of the Rock Island Railroad. Its enactment is necessary to insure the maximum possible continued rail service in the Midwest.

Title III restructures the Northeast corridor improvement project and insures that crucial aspects of this project can be completed.

Title IV extends a railroad loan program that has been of great assistance in improving rail service in all parts of the country, particularly the Midwest.

Title V authorizes additional transition funding for Northeastern commuter agencies and also provides for the transfer of the Alaska Railroad to the State of Alaska. An amendment to

the Alaska Railroad section was added by the Interior Committee, and this amendment is incorporated in the text of the substitute.

All parts of this bill are important to rail service in this country, but I want to emphasize the importance of the \$75 million for commuter authorities in the Northeast. These commuter lines carry nearly half a million people per day, and are vital to the economic health of the region.

Last year, in order to improve the operation of these commuter lines, the Congress gave the local authorities the ability to operate and manage these lines. No longer would they be required to rely on Conrail—the current operator—to operate the service or negotiate their employee contracts.

The transition expenses for this change have been greater than expected by some, and, with the support of the administration, we have made additional funds available. These funds should insure a smooth transition and continued commuter service in Connecticut, New York, New Jersey, Pennsylvania, and Maryland.

H.R. 6308 is an important piece of legislation and I urge its adoption by the House.

□ 1500

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to take this opportunity to describe to my colleagues in the Chamber H.R. 6308, the Rail Safety and Service Improvement Act of 1982.

This five-titled bill is an important piece of rail legislation that has been developed within the Energy and Commerce Committee in a spirit of bipartisan cooperation. Very briefly, I would like to highlight what I consider to be some of the more significant aspects of H.R. 6308.

Title I of the bill reauthorizes the rail safety program at funding levels consistent with those requested by the administration, except with respect to the cost of State inspection programs. In addition, title I provides a much-needed clarification of the authority and responsibility of the Federal Railroad Administrator in the field of commuter rail safety. Taken as a whole, title I assures a continued commitment on the part of the Congress to improved rail safety.

Title II of H.R. 6308 provides a procedure for the sale of lines abandoned by the Rock Island Railroad to assure the continuation of essential service over these lines. In addition, the bill establishes an employee protection program to deal with railroads in liquidation. This particular subject has been a troubling one for a number of years as the Congress has attempted to strike a balance between protecting

rail employees and not unduly burdening the industry.

I have some reservations about this provision as drafted, both as to whether it will result in Rock Island employees receiving any benefits and as to its negative impact on other viable carriers. Nonetheless, based on assurances received from the chairman of the subcommittee, Mr. FLORIO, on his desire to work together to improve this provision, I am confident that the final product that emerges from a House-Senate conference will be one that strikes that balance.

Title III addresses the Northeast corridor improvement project. Principally, it seeks to clarify the scope of the overall project and the availability of funds to complete the project as contemplated by Congress. Also, title III makes funds available for much-needed corridor improvements between the main line and Buffalo, N.Y. At the approximate time I intend to offer an amendment along with my colleague from New York, Mr. LEE, that would assure that two specific projects are addressed with these funds, both of which are very important to the State of New York. One of these is the "corridor connector" project that will link the Empire Amtrak corridor with Pennsylvania Station in New York City, thus eliminating the need for Amtrak rail passengers to shuttle to Grand Central Station to connect with Amtrak service to Albany and Buffalo.

Title IV continues the 505 preference share program for an additional 3 years. I believe this extension is appropriate as the rail industry pursues the goal of rehabilitating and rebuilding its facilities and equipment (infrastructure).

The last title of the bill includes additional funding for the costs associated with the transfer of commuter operations in the Northeast from Conrail to the appropriate commuter authorities. This provision is extremely important to assure a smooth transition. In addition, this title provides for the transfer of the Alaska Railroad to the State of Alaska. There has been agreement between the two relevant committees, Energy and Commerce, and Interior and Insular Affairs, to incorporate the latter committee's provision for the sale of the railroad to the State. Nonetheless, I remain concerned that, as presently drafted, the language could frustrate everyone's stated intent to transfer the railroad from the Federal to the State government. I hope that those concerns are addressed as the bill continues through the legislative process.

In closing, I would like to commend the chairman of the subcommittee, Mr. FLORIO, for his efforts in working with the minority members of the committee in shaping the bill under consideration.

Although I continue to have reservations about certain aspects of the legislation, on balance, I believe it is a good bill. Therefore, I would urge my colleagues to vote in favor of the bill as reported by the Committee on Energy and Commerce.

Thank you.

Mr. Chairman, I yield 5 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I rise in reference to one section of this bill, section 212, which I support strongly. Section 212 deals with an issue in which I have a deep and longstanding interest—railroad bankruptcies. I was pleased to submit a statement on this matter to the Commerce, Science and Tourism Subcommittee of the Energy and Commerce Committee, chaired by our distinguished colleague from New Jersey (Mr. FLORIO), and I am delighted to see that the bill as finally reported out of committee provides such a thorough and well-crafted remedy to my concerns.

Mr. Chairman, section 212 of the bill specifies that bankrupt railroads may be transferred only to financially responsible entities which are capable of covering expenses required to provide rail service for at least 4 years. It further provides that if such an offer has been made and declined, the ICC may, on request, make a determination that the offer is a bona fide one and that the offeror is financially responsible, and set a reasonable price for the takeover. Once the ICC does this, the decision is binding unless the offeror withdraws its bid within 10 days. In the event that there is more than one potential purchaser, the ICC is required to prescribe terms that best serve the public interest.

Mr. Chairman, for the benefit of those who may not have had the personal experience with railroad bankruptcy that I have had in my district, I would like to take a few minutes to explain to my colleagues the gross inequity and callous disregard for the public interest which can result, and has resulted, in the absence of such legislation as we are now considering.

Seven years ago the Rock Island Railroad, part of which runs through my district, was declared officially bankrupt. Operations continued on major portions of the line, as a result of directed service orders and the efforts of other rail carriers, until June of 1980, when the order was granted allowing total abandonment of operations by the Rock Island. Over the past 2 years, many carriers have aggressively and repeatedly sought to purchase sections of the line, but their offers have met with rejection after rejection by the trustee in bankruptcy.

Mr. Chairman, the farmers in my district rely on rail service to transport their grain to market. For years the Rock Island was a dependable integral

part of farm operations throughout Nebraska. Today speculation and perhaps petty considerations of financial gain to the trustee may have resulted in the capricious withholding of this vital service from residents of my district. Something is rotten in the State of Illinois specifically in the office of the overpaid trustee of the Rock Island Railroad. Delay only adds more dollars to his pocket.

While no one would deny a trustee's obligation is to obtain the highest offer for the assets of a bankrupt estate, it has been conclusively documented that the offered price on each of these segments far exceeds the salvage value. Until very recently, Mr. Chairman, a mere 300 miles of this once great 3,500 mile line has been sold.

The prospective purchasers of these segments are becoming increasingly frustrated by the trustee's refusal to consider the offers which they have put forth. Farmers, small business families, and whole communities for whom reliable transportation is an essential business need, are suffering. Each day the Rock Island line deteriorates further and further, fast approaching the point where it will no longer be feasible to attempt to reestablish service, and this great asset of the plains will be lost to us forever.

In conclusion, Mr. Chairman, I want to say that I support this portion of the bill as a long-awaited remedy to a problem which has caused hardship to farmers in my district and elsewhere in the country at a time when they can ill afford to support the delays and the speculations of those who have put their own financial gain above the public good.

□ 1510

Mr. FLORIO. Mr. Chairman, I yield 4 minutes to the gentleman from New York (Mr. WEISS).

Mr. WEISS. I thank the distinguished chairman of the subcommittee for yielding this time to me, and I rise in support of the Rail Safety and Service Improvement Act, and at the same time to express my concern about the problem of rail freight service through the Northeast corridor. I am concerned that this serious problem is not sufficiently addressed in this legislation.

Recent legislation has been geared toward improving passenger rail service in the Northeast and rightly so. Efficient rail passenger transportation can be the cornerstone of renewed prosperity for depressed urban areas; it reduces our dependence on cars, saves energy and reduces air pollution.

Unfortunately, transportation planning has tended to ignore the potential contribution that rail freight service could make in assisting economic

and environmental revitalization in the Northeast.

As a result, rail freight service through the Northeast corridor has never been fully realized. However, the potential for rail freight along the route from Washington, D.C., up into New England is great and the net benefits of a healthy rail freight industry along the Northeast corridor to shippers, railroads, labor, and to society as a whole are very substantial.

In 1975, the U.S. Railway Association, in its plan to set up Conrail, made certain recommendations about how rail freight service along the Northeast corridor could be improved without interference with passenger lines. The recommendation included a proposal for establishing a separate, but parallel route for freight trains on already existing track from Washington straight through to Newark, N.J. Connecting routes into New England could be achieved through the construction of a rail freight tunnel beneath the Hudson River. An uncompleted New York-New Jersey Port Authority study done a few years ago showed that the level of traffic attracted by such a tunnel would alone be nearly enough to support the project financially.

The beauty of this plan—and similar ones like it—is that it does not require excessive costs and would allow rail freight to travel exclusively on its own rail routes, free of conflicts with Amtrak and commuter trains. It would eliminate the problem of high fees that freight companies are forced to pay Amtrak. And, it would alleviate the wear and tear on passenger tracks that freight trains are known to aggravate.

At the same time, an independent off-corridor rail freight route would shift some highway freight traffic to rail, thereby saving significant amounts of highway maintenance—now a very high cost—while conserving energy and reducing air pollution.

I understand that progress is being made in some of these areas. The question of rail freight fees is being litigated before the Interstate Commerce Commission at this time. Title 7 of this legislation mandates that the Transportation Secretary study alternative routes for rail freight. Yet, this problem was recognized back in 1975, and it seems long past the time when some more substantive action should have occurred.

We already have the elements and the technology to establish a separate right-of-way for freight trains from Washington, D.C., to New York and beyond. With careful planning and management, performed with an eye toward the long term, I believe that freight usage in the Northeast corridor could be increased markedly. In my view, one I believe is shared by many others as well, increased freight

exchange through this vital and productive region will not only benefit the citizens of this region, but serve as a model for improving rail service across the country.

I would very much appreciate an expression on this matter from my distinguished friend from New Jersey, the chairman of the subcommittee.

Mr. FLORIO. Mr. Chairman, if the gentleman will yield, I appreciate the concern expressed by the gentleman from New York. I certainly agree that it is important to encourage rail freight service in the Northeast.

Efforts are being made to route freight traffic off the tracks of the Northeast corridor owned by Amtrak onto alternative off-corridor routings. Those efforts are important and should continue. The off-corridor routings are important freight routes and should continue to be improved.

Mr. WEISS. Mr. Chairman, I thank the gentleman, and I am looking forward to working with him toward this end.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois (Mr. McCLODY).

Mr. McCLODY. Mr. Chairman, I have had a communication from attorneys representing substantial creditors of the Rock Island and who have communicated with me with respect to this legislation, particularly title II, subtitle B of the Rail Safety and Service Improvement Act of 1982, which would impose a \$75 million labor protection obligation upon the bankrupt and the liquidating Rock Island estate.

The labor protection program would be funded either directly from the assets of the estate or by a federally guaranteed loan, as I interpret it. If a loan were utilized, it would have administrative expense status and thus repayment of the loan is quite likely to be accorded priority superior to the interests of the estate's creditors and shareholders.

If, on the other hand, the \$75 million is required to be paid out of the estate, and the labor protection provisions of the act were subsequently held to be constitutional, why, of course, that would come out of the pockets of the creditors and shareholders of the Rock Island. If this part of the act were held to be unconstitutional, then, I believe, they would be entitled to reimbursement under the Tucker Act and the taxpayers would foot the bill.

I should call attention to the fact that Congress has twice passed similar legislation in which it has attempted to provide this \$75 million guarantee by specific legislation. On May 30, 1980, President Carter signed the original Rock Island Act. On June 9, the U.S. District Court in Chicago, Judge McGarr, in the Bankruptcy Court, enjoined the implementation of that legislation, holding that that part

of the act was unconstitutional. That unconstitutionality holding was sustained by the U.S. Supreme Court.

Again, the Congress, in September 1980, reenacted, without substantial alteration, the same provision, and again it was held unconstitutional.

So this is the third attempt.

Now, as I interpret it, section 215 of the bill attempts to provide by general legislation for the funding of such labor protection agreements, with the idea that by the enactment of such general language we can circumvent the decisions of the Supreme Court which held the earlier provisions to be unconstitutional. There remains the question as to whether we are not taking the money of the pockets of the creditors, which would be wrongful and unconstitutional or imposing a corresponding obligation on the Federal Government, which I do not believe the Federal Government should be required to assume.

So I do want to call attention to these parts of the measure before us and to voice the objections to it which have been communicated to me by attorneys representing substantial interests in the Rock Island bankruptcy proceedings.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. McCLODY. I yield to the gentleman from New York, who undoubtedly is more familiar with this subject than I am, and perhaps the gentleman can enlighten me with respect to these points.

Mr. LENT. I thank the gentleman for yielding.

Mr. Chairman, I do not know whether I can enlighten the gentleman, but, as I said in my opening remarks, I am cognizant of the problem, and we have been trying on this subcommittee to work this issue out with the administration, to assure that the employees of the Rock Island are protected while at the same time without prejudicing the creditors of the estate.

Mr. McCLODY. This is very encouraging. I would say that I am encouraged by the statement of the gentleman, and I hope that your efforts will be successful, because it does seem to me that in our desire to be fair to the employees of the railroad, we certainly also want to be fair to those who have invested in and loaned money to the railroad and who are legitimate creditors of the railroad and we should not jeopardize or prejudice their interests in the bankruptcy proceedings by any legislation such as those provisions to which I have made reference. And, likewise, I am sure that we want to be certain that whatever legislation we enact will stand the constitutional test.

I thank the gentleman very much for his statement.

Let me add these further facts about the Rock Island proceedings which are pertinent to the present debate.

Within the last few weeks, Judge McGarr ordered the trustee to file a plan of reorganization by November 30 of this year. However, the threat hanging over the estate of a new legislatively imposed \$75 million obligation as in the measure before us could well make the filing of a plan impossible until the constitutionality of the legislation is finally determined. Past experience indicates that such a final judicial resolution could take as long as 2 years.

This new delay would be most detrimental to the interests of the Rock Island's creditors, particularly the small businesses, individuals, and State and local taxing authorities, who have been awaiting payment of their claims for years. Many of these creditors are presently reported to be in difficult financial straits because of the failure of the Rock Island to pay its debts. In addition, delay in the liquidation of the Rock Island estate will be contrary to the best interests of the Government, which is a major creditor of the estate, and to the public interest, which would prefer that sales be consummated quickly so that rail service can be preserved.

The Rail Safety and Service Improvement Act will be very detrimental to the Government in another way. It has already been established that no labor protection is legally owing in connection with the Rock Island's abandonment. If, under the terms of any new legislation \$75,000,000 becomes immediately payable out of the Rock Island estate to railway labor, the trustee, creditors, and shareholders will be compelled to sue the Government under the Tucker Act for reimbursement of all sums paid, plus interest from the time of payment. In light of the earlier decisions of the seventh circuit and Judge McGarr that the Rock Island cannot be subjected to labor protection obligations consistent with the Constitution, the Government will incur a \$75,000,000 expense, plus interest. In addition, if the trustee is compelled, pursuant to subtitle A of title II, to sell any rail properties for less than fair market value, the Government will be responsible for the shortfall.

I am confident that the gentleman from New York (Mr. LENT) and other members of the committee will give earnest consideration to these facts as they apply themselves in formulating the final text of this legislation.

□ 1520

Mr. LENT. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LEE), our colleague on the subcommittee.

Mr. LEE. Mr. Chairman, I thank the gentleman for yielding.

I wonder if the distinguished chairman would engage in a colloquy here for a couple of minutes on a key point or two.

Approximately a year ago, when we were going through the excellent leadership accomplishments of both the gentleman from New Jersey and the gentleman from New York (Mr. LENT) in insuring that we did not end up with a garage sale for the Conrail system, we all stood unanimously in support of insuring we would implement under the Northeast Rail Services Act the tools to insure that Conrail could attain its profitability with the hopeful objective that at a designated time it could continue on its own without being dissected.

My point to the distinguished gentleman from New Jersey is this:

As we address this particular section relevant to the transfer of approximately 6,000 employees to the commuter services, do we have assurances among ourselves here as we go to conference that we will do everything that we possibly can to protect Conrail from having to pick up the financial liability for the cost of that, as well as insuring that there is equity for the employees that are transferred to either the metropolitan agencies or to Amtrak?

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

I think the gentleman, from our previous conversations as well as communications with the gentleman from New York (Mr. LENT), is aware we are all of one mind that it is important to balance out the equities between all of the players, and that one of our paramount concerns is to maintain the financial integrity of Conrail.

As the gentleman knows, last year we stood here in opposition to some feelings in the administration, and argued against a liquidation of Conrail. And we wanted to provide the time to have Conrail go forward in a profitable way so as to maintain it as a northeast railroad system. I think we are all very pleased with the results, that management and labor have cooperated, that there is a high degree of productivity. Conrail is now in the black.

I think it is important we preserve Conrail's opportunity to succeed so we do not find ourselves later on having to respond to those who say that Conrail did not meet the standards that we set, and, therefore, there should be a parcelling out of the system, which would be catastrophic for the health of the Northeast.

I am committed to insuring that there be that amount of money left in the appropriation maintained for Conrail so they have an amount to deal

with unexpected contingencies—weather problems, whatever. I will go forward through the legislative process to insure that Conrail is able to preserve an amount to insure that it meets the financial requirements Congress has imposed on it so that system can be kept together.

Mr. LEE. I thank the gentleman for affirming that significant point.

I would like, Mr. Chairman, to take this opportunity to compliment both the gentleman from New York (Mr. LENT) and the gentleman from New Jersey (Mr. FLORIO) for the outstanding leadership they have demonstrated in bringing this legislation to the floor.

● Mr. SEIBERLING. Mr. Chairman, I thank the gentleman for yielding, so that I may very briefly discuss the role that the Committee on Interior and Insular Affairs has played with regard to this bill.

Our committee sought and received a sequential referral of H.R. 6308 so that we might address those aspects of section 507, which provides for the transfer of the Alaska Railroad to the State of Alaska, which are within our jurisdiction under the rules of the House.

After a formal briefing and a hearing on this section of the bill, the Subcommittee on Public Lands and National Parks adopted an amendment to section 507 which was later approved by the full committee by unanimous voice vote and now is incorporated in the committee substitute being offered by the Committee on Energy and Commerce.

I will very briefly outline the effects of our committee's amendment, but first I want to express my great appreciation for the cooperation of the Committee on Energy and Commerce and especially of our colleague from New Jersey (Mr. FLORIO) which has made it possible for us to have our amendment incorporated into the substitute and thus has greatly facilitated the work of the House in considering this important bill. I also ask unanimous consent to revise and extend my remarks.

Mr. Chairman, the Interior Committee's amendment to section 507 addresses the transfer of the Alaska Railroad, now federally owned, to the State of Alaska. It includes provisions for the protection and proper management of the national park system and the national forest system, through whose lands the railroad passes. It provides a mechanism for resolving certain pending claims that various parties are entitled to ownership of certain lands now held by the railroad, under a variety of Federal laws including the Alaska Native Claims Settlement Act. It makes it clear that the transfer of the railroad will not include transfer of any Federal right of

eminent domain or any floating easements for railroad expansion which in the past may have been reserved in favor of the United States. It specifies that future railroad rights-of-way across Federal lands in Alaska are to be available in accordance with existing law. And finally it provides the State the option of paying for the railroad wholly or partly in cash or through the transfer to the United States of State lands within such conservation system units as national parks or national wildlife refuges or within other areas of conservation values.

In connection with that last point, I should note that our committee did not address the fundamental question of whether the State should or should not have to pay for the railroad—that was addressed by the Committee on Energy and Commerce, which determined that payment was appropriate and set the price at 75 percent of the railroad's liquidation value.

In summary, Mr. Chairman, the provisions which our committee added to section 507 of this bill are intended to facilitate the transfer of the railroad to the State of Alaska while also providing for proper recognition of the rights and interests of the public and the other parties who stand to be affected by that transfer.

Those desiring further details on this bill and our amendment to it will find them discussed in the report of the Committee on Interior and Insular Affairs on H.R. 6308 (H. Rept. 97-571, part II).

● Mr. MOFFETT. Mr. Chairman, the Rail Safety and Service Improvement Act of 1982 was introduced by Representatives FLORIO, MIKULSKI, and myself on May 6, 1982. The bill before us today contains two provisions on which I worked: First, it insures that State commuter agencies—like ConnDOT in Connecticut—which will bear the costs of assuming the obligations currently undertaken by Conrail commuter, will receive adequate upfront funds to operate these lines; and second, the bill insures that, when the Federal Government transfers the Alaskan Railroad to the State of Alaska, adequate compensation for this rather generous gift is obtained. In addition to these two provisions, I support the bill in its entirety.

Before addressing myself to these two provisions, let me provide some background.

It has always been my view that the Federal Government has had a consistently wrong policy when it comes to funding commuter operations. We have operated with the narrowest view of profitability, rejecting models used by every other Western democracy. Federal commuter policy rejects the view that there is value in providing decent, affordable, and reliable transportation for people who work for a

living. The inevitable consequence of this policy is that we have been lurching from crisis to crisis—in both commuter and freight areas—without a long view into the future as to the transportation needs of our people.

The Consolidated Rail Corporation (Conrail) was patched together after the demise of the Penn Central Railroad. In addition to providing freight service—which itself was inadequately funded—Conrail's commuter operations provided rail service in Connecticut, Maryland, New York, New Jersey, and Pennsylvania. It was an operation that never proved profitable, again in the narrow definition of that term, because Congress demanded that the commuter service be somehow self-sustaining.

When the Reagan administration took office, it had one answer to Conrail's problems and the agony of commuting: shut it down. It crafted legislation to do just that. First, with respect to freight operations, the legislation empowered the Secretary of Transportation to sell Conrail—either whole or in pieces—to the highest bidder. Second, to make this sale more attractive, the administration ordered the divestiture of Conrail's commuter obligations. I served on the committee which attempted to resolve the differences between the Senate's version of the administration's bill, and the House legislation which was really designed to save Conrail.

The agreement reached between the Senate and House conferees approved, with major modifications, the plan of the administration to sell Conrail. In addition, the conference agreement provided transition money so that the commuter agencies would have adequate funds to assume Conrail's commuter obligations.

Under the final agreement, the commuter agencies had two options: they could run Conrail's former obligations themselves; or, they could contract with a new Amtrak commuter subsidiary, which would run the local trains for the agencies. Connecticut DOT has chosen the right course: it will run commuter train service on behalf of Connecticut's consumers itself.

The agreement we reached, the Northeast Rail Service Act, did provide \$50 million for the transition from Conrail commuter. This money, which was woefully inadequate, was included because there are millions of dollars of upfront expenditures required so that these agencies could assume Conrail's former role. ConnDOT, for example, will have to buy computers; and new staff; arrange new collective bargaining agreements; and the like. These are responsibilities which Conrail has provided, but will no longer do so after January 1, 1983.

Again, we should remember what the removal of Conrail from the commuting arena meant: the Reagan Ad-

ministration was trying to balance Conrail's books on the backs of commuters. And, the transition money was compensation to the commuter agencies at the State level which would have to assume Conrail's duties.

Unfortunately, the administration decided that it would stretch out the payments of the transition money from October 1, 1981, through the end of the 1985 fiscal year—this is a period of over 4 years. Despite the fact that all of the costs which ConnDOT and the other four commuter agencies would absorb were upfront, U.S. Department of Transportation wanted to hold onto the money, and pay it out gradually.

Commissioner Burns was a witness before our Transportation Subcommittee on April 28, 1982. He described, eloquently, how the administration's disbursement schedule would injure the interests of Connecticut's commuting public. He recommended a quick release of the transition funds, to insure that the commuter agencies assuming Conrail's service obligations would be able to put these services into place immediately after January 1, 1983.

Commissioner Burns said before the subcommittee:

I believe that it is essential that all of the funding be made available immediately so that we may proceed to take the necessary action prior to January 1, 1983 (the) takeover deadline with the full knowledge that the funding is in place.

The amendment which I offered during consideration of the legislation provided for a quick release of the transition funding provided in the bill. The \$40 million previously authorized in the Northeast Rail Service Act and \$75 million taken from a prior Conrail authorization would be released completely by the Secretary within 30 days after enactment. That is a vast improvement over the Secretary's regulations.

Another part of the amendment regarded something referred to as the float. The use of Conrail as a banker to assist local commuter agencies with their cash management problems was recognized, in part, in the Northeast Rail Service Act. Section 1139(b) stated:

The Secretary shall consider any particular adverse financial impact upon any commuter authority contracting with Amtrak Commuter that results from the termination of any lease or agreement between such commuter authority and Conrail.

The act took into consideration the adverse consequences of local agencies cash management problems, if and only if they contracted with Amtrak's new commuter subsidiary.

I saw no reason why the formula should be biased toward commuter agencies which elect to have Amtrak operate their lines. Surely, the expenses awaiting those agencies which

will be operating their lines themselves will be equally difficult for them to bear.

For this reason, my amendment—which was adopted by the subcommittee without dissent—also eliminated the words “contracting with Amtrak commuter” from section 1139(b).

Finally, let me address myself to the provision regarding the Alaskan Railroad. Originally, the bill contained a provision permitting the transfer of the railroad “without monetary consideration to the United States.” I agreed with the policy decision to transfer the railroad. However, I could not agree with the awarding of the railroad to oil-rich Alaska without payments from that State. An amendment I offered required compensation.

The Interior Committee sought and won sequential referral of the bill. It added substitute language which permitted land exchanges in lieu of financial consideration for the transfer. While I cannot endorse the claim of the committee as to jurisdiction, I do applaud the work they did on the bill.

First, the committee addressed appropriate Alaska Native land claims against railroad lands by requiring a full and expedited adjudication of those claims by the Department of the Interior. The result is a savings to the Federal Government of approximately \$150 million because an unconstitutional taking of Native claims is thereby avoided.

Second, the committee left the price for the railroad at 75 percent of the net liquidation value of railroad land and assets. That price had been set by the Energy and Commerce Committee. The subcommittee granted to the State the option of paying that price wholly or partly in cash and wholly or partly in land comprising inholdings in national parks and wildlife refuges, because the State may find it easier to pay in land than in cash.

If the State chooses the land exchange option, key waterfowl and wildlife areas could be traded to the Federal Government for the railroad lands. This trade would benefit sport hunting interests in Alaska and the lower 48 States by protecting valuable wetlands and wildlife habitat from possible incompatible development or disposal to private interests.

Third, the committee granted existing rights-of-way for the railroad through Denali National Park and the Chugach National Forest, while preserving Federal ownership of these lands.

The legislation could not have been brought to the House without the outstanding leadership of Representative FLORIO. He is, of course, the most knowledgeable Member we have in the area of railroad legislation. I applaud his efforts. And, I am pleased to be listed as one of the three original au-

thors of the bill. I urge its adoption by the House.

● **Mr. RAILSBACK.** Mr. Chairman, I rise in support of provisions in the Rail Safety and Service Improvement Act that pertain to the Milwaukee and Rock Island Railroads. I do so because many former Rock Island employees live in Illinois 19th Congressional District, which I represent.

Basically, title II, subtitle A, would authorize the Interstate Commerce Commission to set compensation for purchase of a line if the trustee rejects an offer, and subtitle B would insure \$75 million in labor protection. The legislation provides that the estate could sue under the Tucker Act so that the Federal Government would reimburse the estate.

Congress has already attempted to legislate labor protection twice by approving the 1980 Rock Island Act and similar language in the Staggers Rail Act of 1980. In both cases, I wholeheartedly supported the provisions, because people are struggling with unemployment. Rock Island County, where most reside, is considered a labor surplus area, meaning jobs are not readily available.

However, the trustees chose to litigate, resulting in delays and finally Supreme Court decisions finding the legislation, in both cases, an unconstitutional taking of property from creditors. I understand the trustees will bring the issue to Court again if the legislation is passed by Congress.

I feel the certain delay is both unfortunate and unnecessary. The legislation clearly provides that the estate may sue the Federal Government for assistance to Rock Island employees. There is no need for delay.

And, in the meantime, former employees and agricultural shippers suffer. The Rock Island was used extensively by farmers to ship grain. Many of these shippers must now depend on truckers who are more expensive. A solution to the problem must be reached soon. No positive results are being achieved by the estate accusing Congress of causing delays and by Members of Congress accusing the estate of no concern for employees. Now is the time for a resolution. The Rail Safety and Service Improvement Act should be approved with the Milwaukee Railroad and Rock Island Railroad provisions, and I would hope the estate will decide not to fight the decision in Court, but use the Tucker Act to provide assistance to the unemployed in my district.

I appreciate this opportunity to express my views.

● **Mr. LEE.** Mr. Chairman, at the appropriate point in the proceedings, the ranking minority member of the Transportation Subcommittee, Mr. LENT, will offer a perfecting amendment, on behalf of both of us, to title III of H.R. 6308, the Rail Safety and

Service Improvement Act of 1982. The purpose of this amendment which we have worked on together is to delineate two critical projects that will upon their completion, dramatically improve rail passenger service in New York State between Buffalo and New York City.

The first part of the amendment would authorize funds to carry out a proposal for the rehabilitation of a rail line required to facilitate rail passenger service between Spuyten Duyvil on the Hudson line and the main line of the Northeast corridor. This proposal, referred to as the west side connection, would allow the Empire Service train from upstate New York to connect directly with the Northeast corridor at Penn Station. The connection is expected to yield benefits of approximately \$10 million a year. This is based on an expected net operating cost savings of approximately \$2 million a year, and an estimated increase of approximately \$8 million in new revenue from improved connections between the Empire Service and the Northeast corridor. The current subway/taxi transfer between the two services is regarded as a major inconvenience by most travelers and discourages many potential through passengers.

Amtrak is currently proposing a detailed engineering study in cooperation with the State of New York to define the scope and cost of the proposed rehabilitation. Included in the study are track and signal rehabilitation over the 11-mile line and structural analysis of various tunnels and bridges, including the Spuyten Duyvil Bridge. The study will also analyze rail and river traffic at the Spuyten Duyvil Bridge. The results of this study will be used to prepare the detailed specifications for the project.

The second and equally important aspect of the amendment would permit Amtrak in concert with the New York State Department of Transportation and a local citizen's committee already appointed by the State transportation commissioner to develop and implement a plan for the improvement of the present Amtrak rail passenger station or construction of an appropriate new facility at Syracuse, N.Y. The Syracuse Station is an important link in the upper New York State Empire Service. Eight trains per day serve this station over track upgraded to superb condition by significant capital investment from the State. In the first 9 months of fiscal year 1982, 79,035 passengers used the Syracuse stop and, by the end of fiscal year 1983, Amtrak anticipates a 9.3 percent increase over total fiscal year 1982 on/off riders at this station. The existing Amtrak station, in deteriorating condition, is unattractive and inadequate to meet the growing needs and

increasing demands of the Syracuse area market. This improvement project will be designed to provide the rail passenger in Syracuse with a modern, efficient, cost effective, and accessible facility similar to those constructed at other locations along the Empire corridor.

Mr. Chairman, this is an extremely important amendment and I urge all my colleagues to support it.●

Mr. LENT. Mr. Chairman, I yield back the balance of my time.

Mr. FLORIO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the text of H.R. 6911 shall be considered by titles as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments recommended by the Committees on Energy and Commerce and Interior and Insular Affairs. Each title shall be considered as having been read.

The Clerk will designate section 1. Section 1 reads as follows:

That this Act may be referred to as the "Rail Safety and Service Improvement Act of 1982".

The CHAIRMAN. Are there any amendments to section 1? If not, the Clerk will designate title I.

Title I reads as follows:

TITLE I—RAIL SAFETY

SHORT TITLE

SEC. 101. This title may be referred to as the "Federal Railroad Safety Authorization Act of 1982".

REGULATORY AUTHORITY

SEC. 102. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end a new subsection as follows:

"(1)(1) As used in this section, the term 'all areas of railroad safety' includes the safety of commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979.

"(2) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue rules, regulations, orders, and standards to apply appropriate safety principles to track used for commuter or other short-haul rail passenger service in a metropolitan or suburban area."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 103. (a) Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a) There is authorized to be appropriated to carry out the provisions of this Act not to exceed \$52,000,000 for the fiscal year ending September 30, 1983, and not to exceed \$52,700,000 for the fiscal year ending September 30, 1984."

(2) Subsection (b)(1) is amended by striking out "\$22,500,000" and all that follows through "September 30, 1982." and inserting in lieu thereof "\$25,800,000 for the fiscal year ending September 30, 1983, and not to exceed \$26,500,000 for the fiscal year ending September 30, 1984."

(3) Subsection (b)(2) is amended by striking out "\$2,000,000" and all that follows through the period and inserting in lieu thereof "\$2,700,000."

(4) Subsection (b)(4) is amended by striking out "\$10,000,000" and inserting in lieu thereof "\$20,000,000."

(b) The amendments made by this section shall take effect on October 1, 1982.

MOVEMENT FOR REPAIR

SEC. 104. The fourth section of the Act of April 14, 1910 (45 U.S.C. 13) is amended by striking out "where such car can be repaired" and all that follows through "at the sole risk of the carrier," and inserting in lieu thereof "on the line of railroad on which the car was discovered to be defective or insecure where such car can be repaired, or, at the option of a connecting carrier, such car may be hauled to the nearest available point on the line of such connecting carrier where such car can be repaired if such point is no farther than the nearest available point on the line on which the car was discovered defective or insecure, without liability for the penalties imposed by this section or section 6 of this title, if any such movement is necessary to make such repairs and such repairs cannot be made except at any such repair point; and such movement or hauling of such car shall be at the sole risk of the carrier doing the moving or hauling."

ASH PAN ACT

SEC. 105. The Act of May 30, 1908 (45 U.S.C. 17-21), commonly known as the Ash Pan Act, is repealed.

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON: Page 2, line 4, strike out "a new subsection as follows" and insert in lieu thereof "the following new subsections".

Page 2, line 16, strike out the quotation mark and the period which follows it.

Page 2, after line 16, insert the following:

"(j) The Secretary shall within 30 days report to Congress on whether it should issue rules, regulations, orders, and standards to require that the leading car of any railroad train in operation after July 1, 1983, be equipped with an acceptable form of mounted oscillating light."

Mr. SIMON. Mr. Chairman, I would like to take my 5 minutes just to explain this situation, though I believe the amendment may be acceptable.

I want to give the "Slowest Moving Agency Award" to the Federal Railroad Administration and tragically so.

Let me explain what happened.

On February 1976, 11 people were killed in my district at a railroad crossing near Beckemeyer, Ill. I took a look at what we could do about that kind of thing, and I found that the FRA had had two studies which had recommended that all railroad locomotives ought to have some kind of strobe light or oscillating light. So I wrote to the man who was then the head of the FRA, a man named John Sullivan, and I said, "You have these two studies; those studies show that, No. 1 you are going to save lives; No. 2 you are going to save money for the railroads, and I

would like to see the FRA do something."

He wrote back and he said, "Thanks for your fine letter. We will study the problem."

That was a completely less than satisfactory answer.

I finally had lunch with the gentleman. He promised he was going to move into action. I have a whole series of promises from that agency, but no action. March 1978 they published their advance notice of proposed rulemaking. June 1979, FRA published notice of proposed rulemaking. September 1979, they held hearings finally.

I have had several meetings with the new FRA Administrator. They keep assuring me they are going to do something. And I wait, and I wait, and I wait.

We have about 12,000 accidents at crossings each year, over 900 killed, over 4,000 injured.

We have had up to this time, now, six FRA studies. To my knowledge every one of them says we are going to save lives, and, interestingly, one study concluded that the economic benefit to the railroads would be approximately \$65 million a year by going ahead. About 20 percent of the railroads do it, just on their own. Amtrak, for example, does it. The employees of the railroads believe it is a safety measure. And yet I cannot get the agency to move.

So we have this amendment. And my apologies to the chairman of the subcommittee and to the ranking minority member, because I found suddenly we are on the bill faster than I thought we were going to be and I did not have a chance to discuss this amendment with them.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I thank the gentleman for yielding.

I reviewed the amendment. The amendment I think is desirable in putting a limit on the Secretary's time to provide some answers as to the questions the gentleman raises. I think it is acceptable to the majority.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. LENT. I thank the gentleman for yielding.

The minority has had an opportunity to review this amendment and we have no objection.

Mr. SIMON. Let me just urge my colleagues when you are in the conference committee to see that this amendment is put on. The progressive leaders of railroads in this country are for it. But you have in the railroad industry unfortunately some pretty be-

nighted leadership in many of these railroads and anything that means they have to spend 1 penny, even though it may save lives, even though eventually it is going to pay off for the railroads economically, they do not want to do it. I hope my colleagues fight for this in conference.

Let me add if this amendment does not do the trick and we do not get positive answers in 30 days the Members and the FRA are going to hear a lot from me from the well of this House on this matter.

If we cannot do things that save lives and save money at the same time—things that are so obviously needed—something is wrong. Drastically wrong.

□ 1530

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. MATSUI

Mr. MATSUI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATSUI: Page 2, lines 3 and 4, strike out "amended by adding at the end a new subsection as follows:" and insert in lieu thereof the following:

amended—

(1) by amending subsection (h) (1) to read as follows:

"(h)(1)(A) The Secretary shall, within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue initial rules, regulations, orders, and standards as may be necessary to insure that the construction, maintenance, and operation of railroad passenger equipment maximize safety to rail passengers. The Secretary shall, as a part of such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary."

(2) by redesignating subsection (h)(2) as subsection (h)(1)(B);

(3) by striking out "subsection" in subsection (h)(1)(B), as redesignated by paragraph (2) of this section, and inserting in lieu thereof "paragraph";

(4) by inserting after subsection (h)(1)(B), as so redesignated, a new paragraph as follows:

"(2) The Secretary shall, within two years after the date of enactment of the Federal Railroad Safety Authorization Act of 1982, issue initial rules, regulations, orders, and standards as may be necessary to require initial and periodic subsequent training of on-board railroad operating and service personnel in evacuation procedures and the use of emergency equipment. The Secretary shall, as a part of such rulemaking, consider comparable Federal regulations and procedures which apply to other modes of trans-

portation, especially those administered and enforced by the Federal Aviation Administration. The Secretary shall periodically review such rules, regulations, orders, and standards and shall, after a hearing in accordance with subsection (b) of this section, make such revisions in such rules, regulations, orders, and standards as may be necessary."

(5) by redesignating subsection (h)(4) as subsection (h)(5);

(6) by inserting after subsection (h)(3) a new paragraph as follows:

"(4) The Secretary shall submit to the Congress a report—

"(A) within one year after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under paragraph (1) of this subsection, and

"(B) within two years after the date of enactment of the Federal Railroad Safety Authorization Act of 1982 with respect to rules, regulations, orders, and standards issued under paragraph (2) of this subsection,

which describes any rules, regulations, orders, and standards issued or to be issued under this subsection, explains the reasons for their issuance, and compares them to comparable Federal regulations and procedures which apply to other modes of transportation, especially those administered and enforced by the Federal Aviation Administration."

(7) by adding at the end a new subsection as follows:

Mr. MATSUI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MATSUI. Mr. Chairman, I offer this amendment to tighten up what appears to be some looseness in the approach to passenger safety on our railroads.

The record of Amtrak and our private railroads has been fairly good. In Amtrak, in fact, it has been very good. Some of that record has been due to physical differences between rail and other modes of transportation, especially air and automobile. But, that does not mean there is no room for improvement.

In June, we suffered a tragic rail accident in California. Passenger sleeping cars were engulfed in flame from an undetermined cause. Two people were killed and dozens injured. The National Transportation Safety Board is investigating the accident. Its official report will not be completed until the end of the year, but early reports revealed that the most minimal precautions had not been pursued. The train's crew fled the scene and gave no assistance in evacuating the cars or in first aid. The fire interrupted the single power line for the train, and the lights went out, causing additional confusion in the dark and the smoke. There were no smoke detectors or

alarms. Half of the windows were designed to break out, but they were not marked; there were no instructions for opening them, and in the alternate compartments without breakout windows, there was no indication that exit was possible through adjacent rooms. The breakout windows were not identified from the outside, which might have assisted rescuers.

None of these faults would have been difficult or expensive to rectify but, not having been rectified, they were certainly expensive in terms of life and injury. It immediately occurred to me that although most airline accidents are not survivable, when they are, the equipment is well designed and constructed for quick evacuation, and the crews are well trained in evacuation, use of emergency equipment, and in first aid. It seemed that if something like the regulations administered by the Federal Aviation Administration had been in place, some of the deaths and injuries might have been prevented.

So, the amendment I offer today would require new regulations for both equipment and personnel training to maximize passenger safety. It would also require that in promulgating new regulations, the Federal Railroad Administration would have to consider those which apply to other modes of transportation, especially air travel. Finally, the FRA would, at the end of its rulemaking process, have to report to Congress on its action, with special emphasis on the comparison of its rules to those of the FAA's. That report should include comparisons to the following rules from the Code of Federal Regulations: 14 CFR 25.803, .805, .809, .811, .812, .813, .819, .851, .853, and 14 CFR 121.215, .221, .223, .265, .267, .269, .271, .273, .275, .310, .400, .415, and .417.

I am aware that the relationship between Government, labor, and management in the rail industry is different than that in the airline industry. It is not my intent in citing these FAA regulations that some elaborate Government-sanctioned certification and dismissal procedure be established for railroad workers as exists for airline cockpit crews. But, for trainmen, conductors, and car attendants, a system of initial and recurrent training and testing, similar to that for airline attendants, would be in order. Personnel who could not pass written and hands-on tests could simply be transferred to nonpassenger operating positions.

There is language in this amendment, Mr. Chairman, as there was in the Rail Safety Act of 1980, to include cost/benefit considerations in the regulations and to focus the requirements for equipment on new purchases. My intent is not to hamstring Amtrak and the other railroads with impossibly expensive standards. It seems, from the

evidence of the accident in California, that the simplest and least costly changes could have saved lives. It is time that these measures be pursued.

Finally, Mr. Chairman, I would like to thank the floor leader and the subcommittee's ranking Republican member and their staffs for their assistance and cooperation in the preparation and presentation of this amendment. The intense commitment of the gentleman from New Jersey (Mr. FLORIO) to rail safety was a constant when I served on his committee, and I continue to be impressed by his persistent devotion to this priority.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. Yes, I yield.

Mr. FLORIO. Mr. Chairman, the amendment that the gentleman offers is a very valuable one. The gentleman is a former member of this subcommittee and played a very significant role in the development of the Federal Railroad Safety Act amendments of the previous year.

I would accept the amendment and would urge its passage.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, the minority has had an opportunity to review this amendment, and we have no objection to it.

Mr. MATSUI. Mr. Chairman, I thank the gentleman.

I would only like to further say to the chairman and also to the ranking minority member and, of course, the gentleman from New York, that we appreciate very much their assistance in drafting our amendment. We appreciate also the efforts of their staffs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MATSUI).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—BANKRUPT RAILROADS

SHORT TITLE

SEC. 201. This title may be referred to as the "Bankrupt Railroad Service Preservation and Employee Protection Act of 1982".

SUBTITLE A—SERVICE PRESERVATION

FINDINGS

SEC. 211. The Congress finds—

(1) that it is necessary to establish procedures to facilitate and expedite the acquisition of rail lines of carriers subject to liquidation by financially responsible persons in instances where service is not being provided over the line by the carrier and where the financially responsible person seeks to provide rail service over the line;

(2) that procedures set forth in the amendments made by this Act represent an exercise of the powers of the Congress under the Constitution to regulate commerce among the several States which will

provide a practicable means for preserving rail service, thus benefiting shippers, employees, and the economies of the States in which such carriers subject to liquidation have operated service, and for facilitating interstate commerce, while at the same time providing safeguards to protect the interest of the estates of such carriers by requiring compensation which is not less than the constitutionally required minimum; and

(3) that it is in the public interest that the Interstate Commerce Commission's authority to issue orders involving temporary authority to operate service over lines of carriers subject to liquidation be clarified.

LINE SALES

SEC. 212. Section 17(b) of the Milwaukee Railroad Restructuring Act (45 U.S.C. 915) is amended by inserting after paragraph (3) the following new paragraph:

"(4)(A) If a person has made or makes an offer to acquire from a carrier subject to liquidation a rail line or lines over which no service is provided by that carrier, and that offer has been or is rejected by the trustee in bankruptcy of such carrier, such person may submit an application to the Commission seeking approval of such person's acquisition of such line or lines. A copy of any such application shall be filed simultaneously with the court.

"(B) The Commission shall, within 15 days after receipt of an application under subparagraph (A), determine whether the applicant—

"(i) is a financially responsible person; and

"(ii) has made a bona fide offer to acquire the line or lines under reasonable terms.

"(C)(i) If the Commission's determination under subparagraph (B) is affirmative with respect to the matters referred to in clauses (i) and (ii) of such subparagraph, the applicant and the trustee in bankruptcy (hereafter in this paragraph referred to collectively as the 'parties') shall enter into negotiations with respect to terms for the acquisition of the line or lines applied for. If the parties at any time agree on such terms, a request for approval of the acquisition shall be filed with the Commission and the court. If the parties are unable to agree to such terms within 30 days after the date of the Commission's determination under subparagraph (B), either party may, within 60 days after the expiration of such 30-day period, request the Commission to prescribe terms for such acquisition, including compensation for the line or lines to be acquired. The Commission shall prescribe such terms within 60 days after any such request is made. The terms prescribed by the Commission shall be binding upon both parties, subject to court review as provided in subparagraph (D), except that the applicant may withdraw its offer within 10 days after the Commission prescribes such terms.

"(ii) If more than one applicant has requested under this subparagraph that the Commission prescribe the terms of acquisition for the same or overlapping lines or portions of such lines, the Commission shall prescribe terms for such acquisition which it determines best serve the public interest.

"(D)(i) Within 15 days after the Commission prescribes terms under subparagraph (C), the Commission shall transmit such terms to the court, unless the offer is withdrawn under such subparagraph (C). Notwithstanding any other provision of law, the court shall, within 60 days after such transmittal, approve the acquisition under terms prescribed by the Commission if the compensation for the line or lines is not less than required as a constitutional minimum.

"(ii) Except as provided in this subparagraph, no action shall be taken by the court which would prejudice the acquisition which is the subject of an application under this paragraph.

"(E) The Commission shall require that any person acquiring a line or lines under this paragraph shall use, to the maximum extent practicable, employees or former employees of the carrier subject to liquidation in the operation of service on such line or lines.

"(F) No person acquiring a line under this paragraph may transfer or discontinue service on such line prior to the expiration of 4 years after such acquisition.

"(G) As used in this paragraph—

"(i) the term 'financially responsible person' means a person capable of compensating the carrier subject to liquidation for the acquisition of the line or lines proposed to be acquired and able to cover expenses associated with providing service over such line or lines for a period of not less than 4 years;

"(ii) the term 'carrier subject to liquidation' means a carrier which, on the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982 was the subject of a proceeding pending under section 77 of the Bankruptcy Act or under subchapter IV of chapter 11 of title 11, United States Code, and which has been ordered by the court to liquidate its properties; and

"(iii) the term 'the court' means the court having jurisdiction over the reorganization of the carrier subject to liquidation.

"(H) The Commission shall, within 45 days after the date of enactment of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982, prescribe any regulations and procedures which are necessary to carry out the provisions of this paragraph."

DIRECTED SERVICE EXTENSION

SEC. 213. Section 120 of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1015) is amended—

(1) by striking out "the Rock Island Railroad" the first place it appears and inserting in lieu thereof "any railroad subject to section 77 of the Bankruptcy Act or subchapter IV of chapter 11 of title 11 of the United States Code which has ceased to provide passenger commuter service over any line of such railroad (hereafter in this section referred to as 'the railroad')";

(2) by striking out "the Rock Island Railroad" each place it appears after the place referred to in paragraph (1) and inserting in lieu thereof "the railroad"; and

(3) by striking out "2-year" and inserting in lieu thereof "3-year".

INTERSTATE COMMERCE COMMISSION AUTHORITY

SEC. 214. Section 122(a) of the Rock Island Railroad Transition and Employee Assistance Act (45 U.S.C. 1017(a)) is amended by inserting at the end the following new sentence: "The Commission's authority under this subsection with respect to a rail carrier subject to liquidation shall continue until the disposition of the properties of the estate of such carrier."

GUARANTEES

SEC. 215. Section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831) is amended by adding at the end a new subsection as follows:

"(n)(1) The Secretary shall guarantee and make commitments to guarantee the pay-

ment of the principal balance of, and any interest on, an obligation of any railroad in reorganization under section 77 of the Bankruptcy Act or subchapter IV of chapter 11 of title 11, United States Code, for purposes of funding any agreement between such railroad and its employees which provides for the protection of such employees who are adversely affected as a result of a reduction in service by such railroad or a restructuring transaction carried out by such railroad. Such employee protection may include interim employee assistance, moving expenses, employee relocation incentive compensation, and separation allowances.

"(2) Any obligation guaranteed under this subsection shall be treated as an administrative expense of the railroad in reorganization for which such obligation is guaranteed. Employee claims to be paid with the proceeds of obligations guaranteed under this subsection shall not be deferred but shall be paid as soon as practicable.

"(3) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary under this subsection and the maximum liability of the railroad in reorganization for such guarantees shall not exceed \$75,000,000 for each such railroad.

"(4) Section 511 (g) and (h) and section 516 of this title shall not apply to any obligation guaranteed under this subsection."

SUBTITLE B—EMPLOYEE PROTECTION

FINDINGS

SEC. 231. The Congress finds that:

(1) Liquidation of major railroads results in greater disruptions of interstate commerce and large losses of employment.

(2) The public interest is served by and interstate commerce is facilitated by ensuring a uniform system of labor protection for employees of major railroads in liquidation.

(3) Such labor protection system does not represent a new obligation for the estate of a railroad in liquidation, but merely provides a sum certain to employees and an obligation certain to such estate in lieu of uncertain payments and obligations at the end of the liquidation process.

EMPLOYEE PROTECTION

SEC. 232. (a) Any rail carrier with respect to which a case under section 77 of the Bankruptcy Act or subchapter IV of chapter 11 of title 11, United States Code—

(1) is pending on the date of enactment of this Act; or

(2) is entered into after such date of enactment, which was a class I rail carrier immediately before such case commenced, and which is in liquidation as a result of the provisions of such section or subchapter or of an order of the court having jurisdiction over such case (hereafter in this subtitle referred to as the "bankrupt carrier") shall, no later than 5 days after the date of enactment of this Act in the case of a bankrupt carrier described in paragraph (1), and no later than 30 days after the date the carrier becomes a bankrupt carrier under this section in the case of a bankrupt carrier described in paragraph (2), enter into an agreement with labor organizations representing the employees of the bankrupt carrier to provide protection for such employees who are or have been adversely affected as a result of a reduction in service by the bankrupt carrier. Such employee protection may include, but need not be limited to, interim employee assistance, moving expenses, employee relocation incentive compensation, and separation allowances.

(b) If the parties do not enter into an agreement under subsection (a) within 5 days after the date of enactment of this Act, or within 30 days after the date the carrier becomes a bankrupt carrier under this section, as the case may be, the Interstate Commerce Commission shall by appropriate order prescribe, within 15 days after the end of such period, fair and equitable terms for an employee protection arrangement which shall be binding upon the parties and shall take effect immediately.

(c) Any order of the Interstate Commerce Commission under subsection (b), and any order of a bankruptcy court having jurisdiction over a case referred to in subsection (a) with respect to any agreement or arrangement under this section may be appealed only to the appropriate United States Court of Appeals having jurisdiction over such bankrupt carrier. Any such appeal shall be filed within 5 days after the date of entry of the order of the Interstate Commerce Commission or the bankruptcy court, as the case may be, and such court of appeals shall finally determine such appeal within 60 days after the date such appeal is filed.

(d)(1) Any claim of an employee for benefits and allowances under an employee protection agreement or arrangement entered into under this section shall be filed with the Railroad Retirement Board in such time and manner as such Board by regulation shall prescribe. Such Board shall determine the amount for which such employee is eligible under such agreement or arrangement and shall certify such amount to the bankrupt carrier for payment.

(2) Benefits and allowances under any agreement or arrangement entered into under this section shall be paid by the bankrupt carrier from its own assets or in accordance with section 235, and claims of employees for such benefits and allowances shall be treated as administrative expenses of the estate of the bankrupt carrier.

(e) As used in this subtitle, the term "employee" includes any employee of the bankrupt carrier, but does not include any individual serving as president, vice president, secretary, treasurer, comptroller, counsel, or member of the board of directors, or any other person performing such functions.

(f) The first sentence of section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)) is amended by striking out "and the Rock Island Railroad Transition and Employee Assistance Act" and inserting in lieu thereof "the Rock Island Railroad Transition and Employee Assistance Act, and the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982".

NEW CAREER TRAINING ASSISTANCE

SEC. 233. (a) An employee who elects to receive a separation allowance from the bankrupt railroad under an employee protection agreement or arrangement entered into under section 232 of this subtitle may receive from the Railroad Retirement Board reasonable expenses for training in qualified institutions for new career opportunities.

(b) To be eligible for assistance under this section an employee—

(1) must first exhaust any Federal educational benefits available to such employee under any existing program; and

(2) must begin his course of training within two years following the date of such employee's separation from employment with the bankrupt carrier.

(c) Reasonable expenses for assistance under this section shall be determined by the Railroad Retirement Board on the basis

of an application therefor filed by an employee with such Board.

(d) No assistance may be provided under this section after April 1, 1984.

(e) As used in this section—

(1) the term "expenses" means actual, reasonable expenses paid for room, board, tuition, fees, or educational material in an amount not to exceed \$3,000; and

(2) the term "qualified institution" means an educational institution accredited for payment by the Veterans' Administration under chapter 36 of title 38, United States Code, or a State-accredited institution which has been in existence for not less than two years.

ELECTION

SEC. 234. (a) Any employee who receives any assistance under an employee protection agreement or arrangement entered into under section 232 or any new career training assistance under section 233 shall be deemed to waive any employee protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement (other than as provided in the agreement entered into in Washington, District of Columbia, on March 4, 1980, entitled "Labor Protective Agreement Between Railroads Parties Hereto Involved in Midwest Rail Restructuring and Employees of Such Railroads Represented by the Rail Labor Organizations Operating Through the Railway Labor Executives' Association").

(b) Any employee of a bankrupt carrier who is entitled to receive assistance under an agreement or arrangement entered into under section 232 shall, no later than 120 days after the date such agreement or arrangement becomes effective, file a statement with the Railroad Retirement Board indicating whether such employee elects to receive (1) assistance under such agreement or arrangement; or (2) any employment protection benefits otherwise available to such employee under the Bankruptcy Act, title 11 of the United States Code, subtitle IV of title 49 of the United States Code, or any applicable contract or agreement.

(c) With regard to any employee who elects benefits under subsection (b)(2), nothing in this subtitle shall be deemed to determine or otherwise affect the priority, status, or timing of payment of, or the liability for any claim for, employee protection which might have existed in the absence of this Act.

(d) An employee shall not be eligible to receive any assistance (other than moving expenses) under an employee protection agreement or arrangement entered into under section 232—

(1) during any period in which such employee is employed by any rail carrier providing temporary service over any lines of the bankrupt carrier; or

(2) at any time after the date such employee receives an offer of employment, in such employee's craft and for which such employee is qualified, from a rail carrier acquiring lines of the bankrupt carrier.

OBLIGATION GUARANTEES

SEC. 235. (a) The Secretary of Transportation, under the authority of section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831), shall guarantee obligations of a bankrupt carrier for purposes of providing employee protection in accordance with the terms of any

employee protection agreement or arrangement entered into under section 232.

(b) Any obligation guaranteed under this section shall be treated as an administrative expense of the estate of the bankrupt carrier.

(c) The aggregate unpaid principal amount of obligations which may be guaranteed by the Secretary of Transportation under this section shall not exceed \$75,000,000 for any one bankrupt carrier.

(d) The total liability of any bankrupt carrier in connection with benefits and allowances provided under any employee protection agreement or arrangement entered into under section 232 shall not exceed \$75,000,000.

(e) Except in connection with obligations guaranteed under this section, the United States shall incur no liability to employees in connection with any employee protection agreement or arrangement entered into under section 232.

(f) Section 511 (g) and (h) and section 516 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 831 (g) and (h) and 836) shall not apply to any obligation guaranteed under this section.

JUDICIAL REVIEW

SEC. 236. (a) Notwithstanding any other provision of law, any appeal from any decision of the court having jurisdiction over the reorganization of the bankrupt railroad with respect to the constitutionality of this subtitle shall be taken to the United States Court of Appeals having jurisdiction over such bankrupt railroad.

(b) If appeals are taken from decisions described in subsection (a) involving section 232 or 235 of this subtitle, the Court of Appeals shall determine such appeals in a consolidated proceeding, sitting en banc, and shall render a final decision no later than sixty days after the date the last such appeal is filed.

(c) Nothing in this subtitle shall limit the right of any person to commence an action in the United States Court of Claims under section 1491 of title 28, United States Code (commonly referred to as the Tucker Act).

AUTHORITY OF THE RAILROAD RETIREMENT BOARD

SEC. 237. (a) The Railroad Retirement Board may prescribe such regulations as may be necessary to carry out its duties under this subtitle.

(b) In carrying out its duties under this subtitle, the Railroad Retirement Board may exercise such of its powers, duties, and remedies provided in subsections (a), (b), and (d) of section 12 of the Railroad Unemployment Insurance Act (45 U.S.C. 362 (a), (b), and (d)) as are not inconsistent with the provisions of this subtitle.

CONFORMING AMENDMENTS

SEC. 238. Section 14 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 913) is amended—

(1) in subsection (b) by striking out "and" before "section 119" and inserting in lieu thereof a comma; and by inserting ", and section 233 of the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982" after "Assistance Act"; and

(2) in subsection (c) by inserting "and the Bankrupt Railroad Service Preservation and Employee Protection Act of 1982" after "Assistance Act" both places it appears.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—NORTHEAST CORRIDOR PROJECT AMENDMENTS

SEC. 301. Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended as follows:

(1) Section 703(1)(A)(ii) is amended by striking out "and Albany, New York" and inserting in lieu thereof "Buffalo, New York, and Atlantic City, New Jersey".

(2) Section 704(a)(1) is amended to read as follows:

"(1) \$2,313,000,000 to remain available until expended (A) in order to effectuate the goals of section 703(1)(A)(i) of this title, of which not less than \$27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast corridor pursuant to this title; (B) of which, if the National Railroad Passenger Corporation receives notification from the State of New Jersey or the State of New York on or before June 1, 1983, that such State has approved a plan for the operation of both peak and non-peak period passenger rail service between the main line of the Northeast corridor and Atlantic City, New Jersey, or Buffalo, New York, as the case may be, \$80,000,000 shall be made available by the Secretary to the National Railroad Passenger Corporation as such Corporation deems necessary for rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and establishing and improving necessary stations and intermodal facilities) on the main line track between such points to ensure that such track will be of sufficient quality to permit safe passenger rail service at a minimum of 79 miles per hour not later than September 30, 1985, and to promote passenger rail use of such track; and (C) of which such sums as may be required shall be available for the following projects with respect to the main line of the Northeast corridor: development of the Union Station in Washington, District of Columbia; installation of 189 track miles of concrete ties with continuously welded rail between Washington, District of Columbia, and New York, New York; renewal of 133 track miles of existing continuously welded rail on concrete tie track between Washington, District of Columbia, and New York, New York; installation of reverse signaling between Philadelphia, Pennsylvania, and Morrisville, Pennsylvania, on numbers 2 and 3 tracks; restoration of ditch drainage in concrete tie locations between Washington, District of Columbia, and New York, New York; undercutting of 83 track miles between Washington, District of Columbia, and New York, New York; rehabilitation of bridges between Washington, District of Columbia, and New York, New York (including Hi line); development of a maintenance-of-way equipment repair facility at Bristol, Pennsylvania; roadbed stabilization at various locations between Washington, District of Columbia, and New York, New York; automation of Bush River Drawbridge at milepost 72.14; improvements to the New York Service Facility to develop rolling stock repair capability; construction of maintenance-of-way bases at Philadelphia, Pennsylvania, Sunnyside, New York, and Cedar Hill, Connecticut; installation of rail car washer facility at

Philadelphia, Pennsylvania; restoration of storage tracks and buildings at the Washington Service Facility; installation of centralized traffic control from Landlith, Delaware, to Philadelphia, Pennsylvania; track improvements including high speed surfacing, ballast cleaning, and associated equipment repair and material distribution; rehabilitation of interlockings between Washington, District of Columbia, and New York, New York; painting of Connecticut River, Groton, and Pelham Bay bridges; additional catenary renewal and power supply upgrading between Washington, District of Columbia, and New York, New York; rehabilitation of structural, electrical, and mechanical systems at the 30th Street Station in Philadelphia, Pennsylvania; and installation of evacuation and fire protection facilities in tunnels at New York, New York."

(3) Section 704(a) is amended by adding at the end the following new sentences: "Funds are authorized to be appropriated under this section in excess of limitations imposed under the preceding sentence with respect to a fiscal year, or for fiscal years after the fiscal year ending September 30, 1983, to the extent that the amount appropriated under the authority of this section for any previous fiscal year is less than the limitation under such sentence with respect to such previous fiscal year. The Secretary shall expend funds from the yearly appropriations under this section for the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, first (A) if the National Railroad Passenger Corporation receives the notification referred to in paragraph (1)(B) of this subsection, for the purposes under such paragraph (1)(B); (B) in the amount of \$62,000,000 for track improvements with respect to the Southwest corridor project in Boston, Massachusetts, less any amounts obligated for such purpose from yearly appropriations for any fiscal year ending before October 1, 1982; and (C) in the amount of \$29,000,000 for rehabilitation and improvement for the South Station in Boston, Massachusetts, less any amounts obligated for such purpose from yearly appropriations for any fiscal year ending before October 1, 1982."

(4) Section 704(b) is amended—

(A) by striking out "LIMITATION.—" and inserting in lieu thereof "LIMITATIONS.—(1)"; and

(B) by adding at the end a new paragraph as follows:

"(2) The projects for which funds are authorized to be appropriated under subsection (a)(1)(C) of this section shall be a part of the Northeast Corridor improvement project, and the goals of this title shall not be considered to be fulfilled until such projects are completed. Such projects shall not be undertaken or viewed as a substitute for any improvements specified in the document entitled "Corridor Master Plan II, NECIP Restructured Program", dated January 1982, prepared for the United States Department of Transportation, Federal Railroad Administration, Northeast Corridor Improvement Project, in cooperation with the Federal Railroad Administration and the National Railroad Passenger Corporation (Amtrak), by DeLeuw, Cather/Parsons, NECIP architect-engineer."

(5) Section 705 is amended—

(A) in subsection (a) by striking out "the" after "reallocation to" and inserting in lieu thereof "such"; and

(B) in subsection (b) by inserting "National Railroad Passenger" before "Corporation".

AMENDMENT OFFERED BY MR. LENT

Mr. LENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LENT: Page 21, lines 12 and 13, strike out "from the State of New Jersey or the State of New York".

Page 21, line 14, insert "(i) from the State of New Jersey" after "1983".

Page 21, lines 17 and 18, strike out "or Buffalo, New York," and insert in lieu thereof "or (ii) from the State of New York that such State has approved a plan for the acquisition and rehabilitation of a line and construction necessary to facilitate improved rail passenger service between Spuyten Duyvil, New York, and the main line of the Northeast corridor, and has approved a plan, in concert with Amtrak and appropriate local governmental officials, for the improvement of the Amtrak station at Syracuse, New York."

Mr. LENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LENT. Mr. Chairman, I will not take 5 minutes.

The amendment that I have offered is simply a clarifying amendment that the gentleman from New York (Mr. LEE) and I have jointly sponsored. We have discussed it with the chairman of the subcommittee, the gentleman from New Jersey (Mr. FLORIO). The gentleman is in agreement.

Basically it seeks to specify two specific improvement projects that are to be carried out pursuant to section 301.

Mr. Chairman, I would urge adoption of the amendment.

Mr. FLORIO. Mr. Chairman, would the gentleman yield?

Mr. LENT. I would be happy to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, I would just say that this is a very important amendment. I support it.

I would like to just say that I also thank the gentleman for his cooperation, not only on this amendment, but through the course of the bill.

Mr. Chairman, I urge approval of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LENT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—CONTINUANCE OF PREFERENCE SHARE PROGRAM

EXTENSION

SEC. 401. Section 505(e), 507(a), 507(d), and 509(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825(e), 827(a), 827(d), and 829(a)) are amended by striking out "September 30, 1982" each place it appears and inserting in lieu thereof "September 30, 1985".

TRANSACTION ASSISTANCE

SEC. 402. Section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 825) is amended by adding at the end the following new subsection:

"(1) PURCHASE OF CONRAIL ESSENTIAL PROPERTIES.—(1) Notwithstanding subsections (a) through (g) of this section (other than subsection (b)(2)), the Secretary shall, upon application of any financially responsible person, including any government authority, except for a class I rail carrier, purchase not less than \$80,000,000 in redeemable preference shares, bonds, or trustee certificates convertible to redeemable preference shares under this section as necessary for the purchase, lease, or rehabilitation of properties of the Corporation which are to be used for common carrier rail service and with respect to which—

"(A) an application for a certificate of abandonment has been filed with the Commission under section 308(a) of the Regional Rail Reorganization Act of 1973; or

"(B) a notice of insufficient revenues has been filed with the Commission under section 308(c) of such Act.

"(2) Preference shares, bonds, and trustee certificates purchased under this subsection shall be purchased under terms and conditions that insure that the applicant will be financially capable of making the requisite dividend or interest and redemption or principal payments without impairing its financial resources, and the Secretary shall insure that all assistance provided under this subsection is likely to be repaid or can be secured.

"(3) For purposes of this subsection, the return on redeemable preference shares shall be the minimum established pursuant to section 506(a)(3) of this title.

"(4) Not less than \$27,000,000 of the amount referred to in paragraph (1) shall be used for the purchase by the Secretary of redeemable preference shares, bonds, or trustee certificates convertible to redeemable preference shares under this section for the rehabilitation of the rail properties of the Delaware River Port Authority, upon application by such Authority."

AUTHORIZATION AMENDMENTS

SEC. 403. Section 509(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 829(b)) is amended—

(1) by striking out paragraph (3);

(2) by redesignating paragraph (4) as paragraph (3);

(3) in paragraph (3), as redesignated by paragraph (2) of this section—

(A) by striking out " (2) and (3) " and inserting in lieu thereof "and (2)"; and

(B) by inserting " , and not more than \$160,000,000 are authorized to be appropriated for fiscal year 1983 " before the period; and

(4) by adding at the end the following new paragraphs:

"(4) Of the funds appropriated under subsection (a) of this section, \$50,000,000 shall be reserved and made available for meritorious applications regarding the restructuring of rail freight facilities and systems referred to in the last sentence of section 505(b)(2) of this title.

"(5) \$30,000,000 of the funds appropriated under subsection (a) of this section shall be available for the purchase of the rail line of the Chicago, Rock Island and Pacific Railroad Company between Fort Worth and Dallas, Texas, by a State or one or more political subdivisions thereof."

AMENDMENT OFFERED BY MR. LENT

Mr. LENT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LENT: Page 28, line 23, insert " , or for the refinancing of the purchase," after "for the purchase".

Page 29, line 1, insert "or of interests in such rail line," after "Dallas, Texas,".

Page 29, line 2, insert " , notwithstanding the third sentence of section 505(b)(2) of this title" after "subdivisions thereof".

Mr. LENT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LENT. Mr. Chairman, this is an amendment that I am offering on behalf of the gentleman from Texas (Mr. COLLINS). It is a clarifying, perfecting amendment. I believe it has the approval of the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I would be happy to yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, this amendment is acceptable to me and I would urge its approval.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LENT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV of the bill?

If not, the Clerk will designate title V.

Title V reads as follows:

TITLE V—MISCELLANEOUS

LOCAL RAIL SERVICE

SEC. 501. Section 5(h)(2)(A) of the Department of Transportation Act (49 U.S.C. 1654(h)(2)(A)) is amended to read as follows:

"(A) two-thirds of the available funds, multiplied by a fraction the numerator of which is the sum of (i) the total rail mileage in the State, other than rail mileage of the Consolidated Rail Corporation, which, in accordance with section 10904(e) of title 49, United States Code, either is 'potentially subject to abandonment' or with respect to which a carrier plans to file, but has not yet filed, an application for a certificate under subsection (a) of such section, and (ii) the total rail mileage of the Consolidated Rail Corporation in the State which such Corporation has certified to be in a situation comparable to 'potentially subject to abandonment' within the meaning of such term under such section 10904 or with respect to which the Consolidated Rail Corporation plans to file, but has not yet filed, an application for a certificate under section 308 of the Regional Rail Reorganization Act of 1973 or under section 10904(a) of title 49, United States Code, and the denominator of which is the total of the rail mileage described in clauses (i) and (ii) in all the States; and"

TRANSPORTATION TEST CENTER

SEC. 502. (a) The Secretary of Transportation shall operate the Transportation Test Center in Pueblo, Colorado, until such time as such Center is transferred to another party for operation.

(b) The Secretary of Transportation shall attempt to enter into an agreement before January 1, 1983, with an organization or individual which is not an agency or agent of the United States for the transfer to such organization or individual of the Center referred to in subsection (a).

(c) Nothing in this section shall be construed to prevent the United States from entering into a contract with the Center referred to in subsection (a) for the performance of work at such Center after any transfer agreed to under subsection (b), so long as authority to enter into any such contract is limited to the extent provided in appropriations Acts.

INSURANCE

SEC. 503. (a) Section 303(b)(6) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(b)(6)) is amended—

(1) in subparagraph (B) by striking out "The Corporation shall be entitled" and all that follows through the end; and

(2) by adding at the end the following new subparagraphs:

"(C) The Corporation shall be entitled to a loan pursuant to section 211(h) of this Act in an amount required for the costs of the insurance coverage and benefits described in subparagraph (B) of this paragraph. For purposes of section 211(h)(4)(A)(iii), amounts required for such costs shall be deemed to be valid administrative claims against the respective estates of the railroads in reorganization, due and payable as of April 1, 1976. The Corporation, or, if the loan is forgiven under section 211(h)(6) of this Act, the Association, shall be entitled to a direct claim as a current expense of administration, in accordance with the provisions of section 211(h) of this Act, for reimbursement of such costs (including interest thereon and the costs and expenses of processing such claims) from the estate of the railroad in reorganization on whose behalf such medical or life insurance was maintained or such benefits were paid. In the case of a railroad in reorganization which is described in subparagraph (D)(i)(I), such amounts shall be deemed to be obligations of such railroad, due and payable as of April 1, 1976, and shall be reimbursable in accordance with the procedures set forth in paragraphs (4), (5), and (6) of such section 211(h).

"(D) As used in subparagraphs (B) and (C) of this paragraph, the term—

"(i) 'railroad in reorganization' includes (I) any railroad which is controlled by a railroad in reorganization but is not itself subject to a bankruptcy proceeding, if such railroad conveyed substantially all of its rail properties to the Corporation pursuant to paragraph (1) of this subsection and conducted operations over such rail properties prior to the date of such conveyance; and (II) any corporation which, pursuant to a plan of reorganization under section 77 of the Bankruptcy Act, is the successor in interest to a railroad in reorganization; and

"(ii) 'employee' does not include a member of a board of directors, a president, vice president, general counsel, treasurer, secretary, comptroller, or any other person who performed functions corresponding to those performed by such officers immediately prior to his retirement.

"(E) Any action or claim for benefits or premium payments related to any medical or life insurance coverage described in subparagraph (B) of this paragraph shall not be brought or maintained against the Corporation, the National Railroad Passenger Corporation, the Association, or the United States.

"(F) Any obligation of a railroad in reorganization which is described in subparagraph (D)(i)(II)—

"(i) which railroad in reorganization was authorized and directed, by an order of its reorganization court issued prior to the effective date of this subparagraph, to continue life and medical programs for nonagreement employees who retired prior to April 1, 1976, or

"(ii) which is an obligation described in section 211(h)(1)(A)(viii) of this Act and which the Corporation paid on the basis of an acknowledgement of such obligation by the trustees of such railroad in reorganization under section 211(h)(4)(A)(ii) of this Act,

shall be a valid administrative claim against such railroad in reorganization and the Corporation shall be entitled to a direct claim as a current expense of administration for reimbursement of the amount of such obligation paid as provided under subparagraph (C) of this paragraph."

(b) Section 211(h)(1)(A)(viii) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 741(h)(1)(A)(viii)) is amended by inserting "through (D)" after "section 303(b)(6)(B)".

(c) Section 2 and section 3 of the Act of November 4, 1978 (Public Law 95-597; 92 Stat. 2548), are repealed.

(d) The amendments and repeals made by this section shall be effective as of the date of enactment of Public Law 95-597.

BURNHAM CANAL

SEC. 504. The portion of the Burnham Canal, in Milwaukee, Wisconsin, which is underneath and west of a point one hundred feet east of South Eleventh Street is declared to be not a navigable water of the United States within the meaning of the Constitution and laws of the United States. The right to alter, amend, or repeal this section is hereby expressly reserved.

COMMUTER TRANSITION FUNDING

SEC. 505. (a) Section 1139(b) of the Northeast Rail Service Act of 1981 is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "in the fiscal year ending September 30, 1982";

(3) by striking out "contracting with Amtrak Commuter"; and

(4) by adding at the end a new paragraph as follows:

"(2)(A) Any funds appropriated under the authority of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 shall be distributed by the Secretary to Amtrak Commuter and commuter authorities according to the statutory provisions of paragraph (1) before the expiration of 10 days after such date of enactment.

"(B) Any funds appropriated under the authority of this subsection on or after the date of enactment of the Rail Safety and Service Improvement Act of 1982 shall be distributed by the Secretary to Amtrak Commuter and commuter authorities according to the statutory provisions of paragraph (1) before the expiration of 30 days after the date of enactment of the Act which appropriates such funds."

(b) Section 216(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(g)) is amended—

(1) by inserting "(1)" after "APPROPRIATION.—"; and

(2) by adding at the end the following new paragraph:

"(2) To the extent provided in appropriation Acts, any funds appropriated under the authority of paragraph (1) of this subsection prior to the date of enactment of the Rail Safety and Service Improvement Act of 1982 may be reappropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981, except that the total amount of funds which may be so reappropriated shall not exceed \$40,000,000."

(c) Section 217 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 727) is amended as follows:

(1) Subsection (a) is amended by striking out "\$262,000,000" and inserting in lieu thereof "\$162,000,000".

(2) Subsection (f) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated not to exceed \$262,000,000—

"(A) of which not to exceed \$162,000,000 shall be appropriated to the Association for purposes of purchasing securities and accounts receivable of the Corporation under this section, such sums to remain available until the Secretary transfers the Corporation under title IV of this Act;

"(B) of which not to exceed \$75,000,000 shall be appropriated to the Secretary, to facilitate the transfer of rail commuter services from the Corporation to other operators, for distribution under the statutory provisions of section 1139(b) of the Northeast Rail Service Act of 1981; and

"(C) of which not to exceed \$25,000,000 shall be appropriated to the Secretary to be allocated for commuter rail purposes to any commuter authority that was providing commuter service, operated by a railroad that entered reorganization after calendar year 1974, as of January 1, 1979.

"(2) All sums received on account of the holding or disposition of any securities or accounts receivable referred to in paragraph (1)(A) shall be deposited in the general fund of the Treasury.

"(3) The amount authorized to be appropriated under paragraph (1)(B) shall be reduced, in an amount equal to any amounts reappropriated under the authority of section 216(g)(2) of this Act, upon the date of enactment of any Act which reappropriates such amounts."

NORTHEAST CORRIDOR COORDINATION

SEC. 506. (a) Section 505 of the Rail Passenger Service Act is amended—

(1) by striking out "Board of Directors of Amtrak Commuter" both places it appears and inserting in lieu thereof "Northeast Corridor Coordination Board"; and

(2) by adding at the end a new subsection as follows:

"(c)(1) The Northeast Corridor Coordination Board shall consist of (A) one member from each commuter authority, within the meaning of such term under section 1135(a)(3) of the Northeast Rail Service Act of 1981, which operates rail commuter service over the Northeast Corridor; (B) two members to be named by Amtrak; and (C)

one member to be named by the Consolidated Rail Corporation.

"(2) Amtrak shall make available to the Northeast Corridor Coordination Board such staff assistance as such Board requires in the performance of its functions under this section."

(b) Section 216(g) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 726(g)), as amended by section 505(b) of this Act, is amended by adding at the end a new paragraph as follows:

"(3) The Association shall immediately make available to the Corporation directly, without the purchase of securities, \$1,000,000, out of any funds appropriated under this section for the purpose of constructing a connection from the Corporation's line 64-0597 to line 64-0202 and for other necessary expenses for the improvement of line 64-0202."

TRANSFER OF FEDERALLY OWNED RAILROAD

SEC. 507. (a) The Secretary of Transportation shall, before October 1, 1982, transfer all the rail properties of, and the authority and responsibility for operating, the Alaska Railroad to the State of Alaska. Such transfer shall be made for consideration to the United States equal to 75 per cent of the net liquidation value of such rail properties.

(b) After the transfer under subsection (a), the railroad transferred shall be deemed to be a carrier by railroad subject to the provisions of subtitle IV of title 49 of the United States Code and all other laws applicable to such carriers, including the anti-trust laws of the United States.

(c) For purposes of this section, the term—

(1) "Rail properties of the Alaska Railroad" means all right, title, and interest of the United States to lands, buildings, facilities, machinery, equipment, supplies, records, and other real and personal properties, both tangible and intangible in which there is an interest reserved, withdrawn, appropriated, owned, or administered by or for the Alaska Railroad as of the date of enactment of this Act, but excluding any such properties disposed of, and including any such properties acquired, in the ordinary course of business after that date but before the date of transfer, and also excluding the following:

(A) the unexercised reservation to the United States for future rights-of-way required in all patents for land taken up, entered, or located in Alaska, as provided by the Act of March 12, 1914 (43 U.S.C. 975 et seq.);

(B) the right of the Secretary or any other person or entity to exercise the power of eminent domain;

(C) real or personal property which the Secretary determines with the consent of the State, prior to the date of transfer pursuant to this section, to be necessary to carry out the functions of the Federal Government after the date of transfer;

(D) any lands or interests therein (except as specified in subsection (d)) within the boundaries of any conservation system unit or component of the national forest system, and the right of use and occupancy described in subsection (d)(5);

(E) lands which as of the date of enactment of this Act had been selected by any Village Corporation pursuant to the Alaska Native Claims Settlement Act; and

(F) land subject to claims of valid existing rights other than claims based on selections described in subparagraph (E) of this paragraph.

(2) "Conservation system unit" has the same meaning as such term has under sec-

tion 102(4) of the Alaska National Interest Lands Conservation Act.

(3) "Alaska Railroad" means the agency of the United States Government that is operated by the Department of Transportation as a rail carrier in Alaska under authority of the Act of March 12, 1914 (43 U.S.C. 975 et seq.) (popularly referred to as the "Alaska Railroad Act") and section 6(i) of the Department of Transportation Act (49 U.S.C. 1655(i)).

(4) "State" means the State of Alaska or the State-owned railroad, as the context requires.

(5) "State-owned railroad" means the authority, agency, corporation, or other entity which the State of Alaska designates or contracts with to hold, operate, or manage the rail properties of the Alaska Railroad.

(6) "Secretary" means the Secretary of Transportation.

(7) "Date of transfer" means that date, subsequent to the date of enactment of this Act, upon which the Secretary completes the transfer of the rail properties of the Alaska Railroad to the State pursuant to this section.

(8) "Native Corporation" has the same meaning as such term has under section 102(6) of the Alaska National Interest Lands Conservation Act.

(9) "Village Corporation" has the same meaning as such term has under section 3(j) of the Alaska Native Claims Settlement Act.

(10) "Right-of-way" means an area extending one hundred feet on either side of the centerline of any main or branch line of the Alaska Railroad where permanently fixed railroad tracks were in place on the date of enactment of this Act.

(11) "Lands" means lands, waters, or interests therein.

(12) "Public lands" has the same meaning as such term has under section 3(e) of the Alaska Native Claims Settlement Act.

(13) "Stipulations" means covenants, conditions, and restrictions prescribed and administered by the Secretary of Agriculture for the protection, administration, and utilization of easements over national forest system lands.

(d)(1) Effective on the date of enactment of this Act, all right, title, and interest to lands within the boundaries of a conservation system unit or national forest which are reserved, withdrawn, appropriated, owned, or administered or otherwise used or claimed by or for the Alaska Railroad are vested in the United States to be administered by the Secretary of the Interior or the Secretary of Agriculture, as appropriate, and shall become part of such conservation system unit or national forest.

(2) Effective on the date of enactment of this Act, there shall be granted to the Alaska Railroad the right to use and occupy, without compensation, the surface of the lands within that portion of the right-of-way of the Alaska Railroad located within Denali National Park and Preserve and the surface of any other lands within such National Park and Preserve used on such date for terminal and other facilities, in a manner not inconsistent with the purposes for which the Park and Preserve was established and subject to the following conditions:

(A) use of such lands within such National Park and Preserve shall be limited to railroad and existing transportation, transmission, or communication uses and maintenance only, and shall not include the right to disturb the surface or to remove any minerals, timber, sand, gravel, or other re-

sources except to the extent necessary to reasonably maintain the railroad;

(B) use of such lands shall be subject to all laws and regulations regarding the protection of the scenic, scientific, historic, archaeological, cultural, fish and wildlife, and other values and resources of the national park system;

(C) there shall be reserved to the Secretary of the Interior existing and future rights-of-way and easements for park administration, transportation and utility purposes, provided such rights-of-way and easements do not unreasonably interfere with railroad operation and support functions; and

(D) there shall be reserved to the Secretary of the Interior the right to use and occupy without compensation the property known as McKinley Park Station for national park administrative purposes, provided such use and occupancy does not unreasonably interfere with railroad operation and support functions.

(3) Effective on the date of enactment of this Act, there shall be granted to the Alaska Railroad the right to use and occupy, without compensation, the surface of the lands within that portion of the right-of-way of the Alaska Railroad located within any national forest and the surface of any other lands within national forests used on such date by the Alaska Railroad for terminal and other railroad facilities, subject to such reasonable stipulations as the Secretary of Agriculture may establish.

(4) The rights granted to the Alaska Railroad under paragraphs (2) and (3) of this subsection shall be transferred to the State of Alaska on the date of transfer. If subsequent to such transfer the State abandons any such right, or discontinues use of any of the lands affected by such rights for railroad purposes, such rights shall terminate and shall not be renewed except with the approval of the Congress. For purposes of this paragraph, abandonment shall be effected upon written notice thereof from the Governor of Alaska to the Secretary of Agriculture or the Secretary of the Interior, as appropriate. Discontinuance of use shall result from ten years of continuous nonuse and shall not be effected until one year after notice of such discontinuance is published in the Federal Register by the Secretary, the Secretary of the Interior, or the Secretary of Agriculture, unless, within the one-year period, the State of Alaska brings an appropriate action in United States District Court for the District of Alaska to establish that the use has been continuing without a lapse of 10 years.

(5) On the date of transfer there shall be transferred to the Secretary of the Interior the right to use and occupy without compensation 5,000 square feet of railroad land at Talkeetna as described in ARR Lease Number 69-25-0003-5165 for National Park Service administrative activities.

(e)(1)(A) On the date of transfer, the land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(F) shall be conveyed to the State subject to valid existing rights.

(B) Within one year after the date of transfer, the Secretary of the Interior shall determine the validity of all claims of valid existing rights arising under Federal law in land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(F). For the purpose of computing the consideration specified in subsection (a) of this section, the

value of any valid existing rights in such lands shall be deducted from the value of the lands conveyed to the State under subparagraph (A) of this paragraph, and the remainder shall be deemed to be rail properties of the Alaska Railroad.

(2) On the date of enactment of this Act, land described in subsection (c)(1)(E) shall be transferred to the Secretary of the Interior.

(3)(A) Within one year after the date of enactment of this Act, the Secretary of the Interior shall determine, pursuant to the Alaska Native Claims Settlement Act, what tracts of land excluded from the meaning of the term "rail property of the Alaska Railroad" pursuant to subsection (c)(1)(E) were public lands available for selection by and conveyance to Native corporations under the Alaska Native Claims Settlement Act. If the Secretary of the Interior fails to make a final determination with respect to any such tract within one year after the date of enactment of this Act, such tract shall be deemed public land available for such selection and conveyance.

(B) Initial judicial review of a determination by the Secretary of the Interior described in subparagraph (A) of this paragraph shall be vested exclusively in the United States District Court for the District of Alaska. A civil action filed pursuant to this subparagraph shall be assigned for hearing at the earliest possible date, shall take precedence over other matters pending on the docket of such United States district court at that time, and shall be expedited in every way by such court and by any appellate court. The State shall have standing to participate in any administrative determination and in any judicial review described in this paragraph.

(C)(i) Each tract of land which—

(I) is excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E); and

(II) the Secretary of the Interior determines was public land (and which is not the subject of a civil action described in subparagraph (B) of this paragraph), shall be conveyed by the Secretary of the Interior to the appropriate Native corporations pursuant to the terms and conditions of the Alaska Native Claims Settlement Act.

(ii) Each tract of land which—

(I) is excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E); and

(II) the Secretary of the Interior determines was not public land (and which is not the subject of a civil action described in paragraph (3)(B) of this subsection), shall be deemed to be rail property of the Alaska Railroad and shall be transferred by the Secretary of the Interior to the State pursuant to subsection (a) of this section.

(D) Prior to the conveyance of a tract of land pursuant to subparagraph (C) of this paragraph, the Secretary of the Interior shall administer such tract in a manner—

(i) which does not substantially impair the value to or the use of such tract (as such value and use were on the date of enactment of this Act) by either the Native corporation which has selected the tract or the railroad, and

(ii) which does not substantially alter the physical condition of, or create new third party interests in, such tract.

(4)(A) On the date of transfer, the State shall have the right to use and occupy, without compensation, the surface of land within that portion of the right-of-way located within tracts of land excluded from

the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E), subject to the condition that use of such land shall be limited to railroad and existing transportation, transmission, and communication uses and maintenance only.

(B) If the Secretary of the Interior determines that a tract of land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E) was public land and properly selected, and if such tract includes a portion of the right-of-way, then notwithstanding any other provision of law, within ninety days after such determination, the Village Corporation which selected the tract may relinquish its selection of land within the right-of-way. Upon such relinquishment, such land shall be treated as rail property of the Alaska Railroad which shall be conveyed to the State subject to the following conditions:

(i) the State may not build, construct, or operate a public road or highway not in existence on the date of enactment of this Act within such right-of-way; and

(ii) if the right-of-way is used for other than railroad, transportation, transmission, or communication purposes, or if railroad use of the right-of-way is discontinued—

(I) the surface estate of such right-of-way shall revert to the Village Corporation which relinquished its selection or its successor in interest,

(II) the subsurface estate shall revert to the regional corporation which would have received title to such estate if the right-of-way had been conveyed pursuant to the Alaska Native Claims Settlement Act, and

(III) land within the right-of-way shall not be charged against the acreage entitlement of any Native corporation.

(C) Effective ninety-one days after any determination by the Secretary of the Interior that a tract of land excluded from the meaning of the term "rail properties of the Alaska Railroad" pursuant to subsection (c)(1)(E) was public land and properly selected, if the Village Corporation which selected such tract has not relinquished its selection of any portion of such tract which is within the right-of-way, then with respect to such portion within the right-of-way the reservation of an easement for railroad purposes pursuant to section 17(b) of the Alaska Native Claims Settlement Act shall be deemed not to afford the operation of the State-owned railroad sufficient protection, and the Secretary of the Interior shall immediately convey such lands within the right-of-way to the State.

(f) For purposes of the transfer of the Alaska Railroad pursuant to this Act, the State of Alaska shall have the option of paying the consideration specified in subsection (a) of this section wholly or partly in cash or wholly or partly through transfer to the United States of lands or interests in lands located within the boundaries of one or more conservation system units or areas required by existing law to be studied for possible identification and designation as conservation system units. The Secretary of the Interior or the Secretary of Agriculture, as appropriate, may accept or reject such lands for the purposes of this section, and shall seek to acquire lands which significantly further the conservation purposes of the Alaska National Interests Lands Conservation Act. Lands or interests therein to be transferred to the United States in consideration of the transfer of the rail properties of the Alaska Railroad shall be credited toward the consideration specified in sub-

section (a) of this section according to their value as appraised by the Secretary of the Interior in consultation with the State of Alaska, and upon transfer to the United States, shall become part of any relevant conservation system unit or national forest and administered accordingly.

(g) After the date of enactment of this Act, the State of Alaska may request the Secretary of the Interior or, when appropriate under applicable law, the Secretary of Agriculture to grant expeditiously a right-of-way in order that the Alaska Railroad or the State-owned railroad may be extended across Federal lands for railroad purposes. As part of such application, the State may apply for a lease or permit to the State or State-owned railroad of the surface of any necessary or convenient terminal and station grounds in the vicinity of the requested right-of-way. If such right-of-way is granted, it shall be granted in accordance with applicable provisions of law, including but not limited to title XI of the Alaska National Interests Lands Conservation Act or title V of the Federal Land Policy and Management Act of 1976.

(h)(1) Upon the request of the head of any affected Federal department or agency, or upon his own motion, the Attorney General shall institute, in the United States District Court of Alaska, appropriate proceedings to enforce subsection (d), (e), (f), or (g) of this section.

(2) Any interested party shall have standing to bring an action to enforce subsections (d), (e), (f), or (g) of this section in any appropriate United States district court.

AUTHORIZATION OF APPROPRIATION

SEC. 508. There is authorized to be appropriated to the Secretary of Transportation \$15,600,000 for the fiscal year ending September 30, 1983, for the Office of the Administrator of the Federal Railroad Administration, of which not to exceed \$9,200,000 shall be used for executive direction and administration and not to exceed \$6,400,000 shall be used for policy support.

The CHAIRMAN. Are there amendments to title V?

AMENDMENT OFFERED BY MR. LEE

Mr. LEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LEE: Page 52, after line 14, insert a new section as follows:

RAILROAD DEVELOPMENT CRITERIA

SEC. 509. (a) Section 10910(b)(1)(A)(ii) of title 49, United States Code, is amended by inserting "before an application to purchase such line, or any required preliminary filing with respect to such application, is filed under this section" after "10903 and 10904 of this title."

(b) The amendment made by subsection (a) shall be effective with respect to any application or preliminary filing with respect to which the Commission has made no final decision prior to May 1, 1982.

Mr. LEE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. LEE. Mr. Chairman, this amendment is very straightforward. It will

overcome an erroneous interpretation that evidently has been adopted by the Interstate Commerce Commission relative to the feeder development lines. The intention of the amendment is to clarify against existing law to insure that the feeder line services are continued explicitly for shippers of agricultural and other commodities.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LEE. I yield to the gentleman from New Jersey.

Mr. FLORIO. Mr. Chairman, the gentleman is correct. This is a clarifying amendment designed to achieve an interpretation which is compatible with the congressional intent in the previous legislation passed.

I would support the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. LEE).

The amendment was agreed to.

Mr. GLICKMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for some time I have been interested in the issue of rail safety. Over the last several years we have seen an increasing number of rail accidents, rail employees hurt, property damage increase, and that problem is compounded by the fact that hazardous materials and other forms of materials dangerous to the public are being transported on the rail lines.

I realize that within the last year or so the statistics look a lot better; but because of these problems, as the chairman of the subcommittee, the gentleman from New Jersey (Mr. FLORIO), and the gentleman from California (Mr. MATSUI) and I requested a GAO investigation to evaluate the FRA's rail safety program.

The study makes three very serious criticisms of the Federal Railroad Administration. It indicates the following:

1. FRA should focus more on comprehensively assessing the safety of an entire railroad, rather than concentrating on finding individual safety violations.

2. While FRA should adopt a systems approach, it still needs to monitor discrete problems and assess civil penalties where needed. Yet because of long time lags, FRA's current penalty assessment process is ineffective as a deterrent.

3. The State safety approach is valuable, but is not as well coordinated with the federal program as it should be.

Now, the committee report indicates that these are constructive criticisms and understands that the FRA is generally moving in the direction suggested by the GAO.

The report also indicates the committee believes system assessments can be particularly useful devices for improving rail safety.

My question to the subcommittee chairman, though, is in fact the FRA really moving to this issue of a railroad system assessment? Does the FRA have enough funds to move

toward the issue of system assessment, assessing railroads as a whole rather than in minute pieces which do little to protect the public at large, as well as protect railroad employees. Is the FRA's current effort nothing but a paper facade to let the Congress believe that they are moving ahead on serious safety assessment and enforcement of the law? And does the chairman of the subcommittee intend to monitor the situation to insure that the FRA complies with the GAO request?

Mr. FLORIO. Mr. Chairman, if the gentleman would yield, this whole matter was the subject of a full day's hearing.

The direct answer to the gentleman's questions is that, yes, this Congress and the subcommittee has made it abundantly clear to the FRA that this is the direction we should be going in.

□ 1540

The assurances were obtained from the FRA Administrator that this was the direction in which they were going. We feel that the moneys that have been allocated by way of authorization—and we know the administration did not want quite as much money as we are putting into this authorization—we feel those moneys are needed and it will be the intention of this subcommittee and, hopefully, the Congress to oversee the activities of FRA in accordance with the suggestions of the GAO report.

Mr. GLICKMAN. I know that under the act, the Federal Railroad Safety Authorization Act, which I believe the gentleman from New Jersey (Mr. FLORIO) authored in 1980, required the Department of Transportation to submit a system safety plan January 31 of 1981. That plan came to the Congress 11 months late, almost January of 1982.

I guess my real fear—and I want to express it for the record so that the FRA knows about it—is that it, through its Administrator Robert Blanche, has committed to the gentleman from New Jersey as well as to myself in hearings before the Subcommittee on Transportation, Aviation and Materials of the Committee on Science and Technology, which I chair, that it is not going to do a slipshod job of enforcing any safety violations which are occurring on the Nation's railroads.

I just want to make the point that it has agreed, at least verbally, and in writing, that it is going to comply with the GAO request and enforce safe railroad operating and capital standards with vigor and effectiveness.

I, as one member, expect the FRA to do so.

Mr. Chairman, I yield back the the balance of my time.

The CHAIRMAN. Are there further amendments to title V?

Mr. LENT. Mr. Chairman, I move to strike the last word.

I would like, with the Chairman's agreement, to engage in a colloquy with him. I have prepared, although it is not an amendment fully perfected, which I am not going to offer at the present time, to address two issues involving labor protection for Conrail employees. Through inadvertence, neither of these issues were addressed when the Congress passed the Northeast Rail Services Act last year.

The first of those omissions was a provision that would protect Conrail Northeast corridor passenger service employees when Amtrak takes over such service on January 1, 1983.

It seems to me there ought to be some requirement in the law that Amtrak bargain with the labor representative of those employees. Under the existing law, as I understand it, this is not now required and I would hope that the gentleman from New Jersey and I will be able to work out this particular problem in conference to assure that Amtrak could not simply hire employees off the street but would negotiate a new collective bargaining agreement with the representatives of rail labor.

Rail labor was required to make several sacrifices last year, and in all fairness I think we ought to put something in the statute to take care of this problem.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I would be glad to yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is correct. It was this Member's intention, and it is my recollection that it is the intention of the Congress, that the Conrail employees who operate the intercity operations in the Northeast corridor for Amtrak were to be the employees; that in fact negotiations have been going on between Amtrak and the brotherhoods for the assumption of responsibilities by those Conrail operating crews to operate the trains over the Northeast corridor project that are operated by Amtrak.

It is my understanding those negotiations are continuing. It is appropriately a subject for collective bargaining.

These employees will be the employees operating the Amtrak intercity operations in the Northeast corridor.

Mr. LENT. I thank the gentleman.

The second provision that I think was forgotten in last year's Northeast Rail Services Act was a clause which would clarify the scope of section 701 as the exclusive labor protection provided to those Conrail employees who are eligible to be hired for Northeast corridor employment by Amtrak. It is not clear from the language of the

statute that section 701 of the Regional Rail Reorganization Act of 1973 was to be the exclusive provision for labor protection, although there is language—and I would ask that it be entered into the RECORD following our discussions here today—in the statement of the managers on title XI of the Omnibus Budget Reconciliation Act of 1981, which is in section 1143 of that statement, which makes it very clear that section 701 is the exclusive protection for employees, and any employee protection contained in section 405 of the Rail Passenger Service Act or under any collective bargaining agreements is replaced by this provision.

Further on in the statement of the managers, it is stated:

Conrail's liability and the liability of the liability of the Federal Government is strictly limited to the funds authorized in this section.

Some concern has been expressed that those Conrail employees, adversely affected by any assumption of intercity passenger service on or off the Northeast passenger corridor, in addition to the 701 protection, may still be entitled, as well, to protections under section 405 or other provisions of various existing collective bargaining agreements. That would clearly not be the case under the language which is clear in the statement of the managers and also under the clear language of our House committee report on the bill when it exited our committee.

I would hope that the gentleman from New Jersey would agree with me that at conference we would work together to try to remedy this situation.

The statement of managers on title XI follows:

STATEMENT OF MANAGERS ON TITLE XI OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981

SECTION 1143—PROTECTION FOR CONRAIL
EMPLOYEES
House bill

Section 301 amends the 3R Act by adding a new Title VII. Section 701 establishes a program for protecting Conrail employees previously protected under Title V of the 3R Act, while limiting the cost to the federal government. Conrail Title V labor protection is repealed and the protection provided is less than the normal protection in the railroad industry. It is less only because of the dire financial circumstances of the Corporation.

If the employees and the Secretary of Labor are unable to agree on the elements of protection for the employees within ninety days, the Secretary of Labor shall prescribe the benefits. The program established should not contain elements which cause funds to be expended beyond those authorized under section 713.

The benefits under this section are intended to replace the benefits provided under Title V of the 3R Act. This is the exclusive protection for employees, and any employee protection contained in collective bargaining agreements is replaced by this protection. Title V was originally intended to provide for a limited amount of federal

funding of employee protection for Conrail employees. It was anticipated that the liability would not be unreasonable. Despite revisions to Title V the liability has proved too great.

A prerequisite to a legislative solution that will permit continued operation of essential rail services in the region is the replacement of Title V with this program of labor protection. Conrail's liability and the liability of the federal government is strictly limited to the funds authorized in this section.

Mr. FLORIO. Mr. Chairman, will the gentleman yield?

Mr. LENT. I yield to the distinguished gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Chairman, I expect to be able to work with the gentleman from New York (Mr. LENT) in conference to achieve the end that is fairest to all concerned.

The gentleman is correct that the 701 provision was the successor to title V, and those employees who were entitled to labor protection exclusively under title V would be exclusively entitled to protection under the 701 program.

To the degree that there is any ambiguity as to whether an employee is entitled to protection under title V exclusively, perhaps as we go forward we can clarify that ambiguity.

Mr. LENT. I thank the gentleman.

The CHAIRMAN. The time of the gentleman from New York (Mr. LENT) has expired.

Are there further amendments to title V?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. FRANK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6308) to insure rail safety, provide for the preservation of rail service, transfer responsibility for the Northeast corridor improvement project to Amtrak, and for other purposes, pursuant to House Resolution 546, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the

third time, and passed. The title of the bill was amended so as to read: "A bill to ensure rail safety, provide for the preservation of rail service, ensure the completion of the Northeast corridor improvement project, and for other purposes."

A motion to reconsider was laid on the table.

AUTHORIZING THE CLERK TO
MAKE CORRECTIONS IN EN-
GROSSMENT OF H.R. 6308, RAIL
SAFETY AND SERVICE IM-
PROVEMENT ACT OF 1982

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, H.R. 6308, the Clerk be authorized to correct section numbers, punctuation, and cross references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending that bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter therein, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1550

NATIONAL DEVELOPMENT
INVESTMENT ACT

Mr. OBERSTAR. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6100) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. OBERSTAR).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 6100, with Mr. GEPHARDT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Minnesota (Mr. OBERSTAR) will be recognized for 45 minutes, and the gentle-

man from Pennsylvania (Mr. CLINGER) will be recognized for 45 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. HOWARD).

Mr. HOWARD. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act.

I want to commend JIM OBERSTAR, chairman of the Economic Development Subcommittee, for his leadership and foresight in examining the economic development needs and revising and restructuring this legislation in light of the budgetary restraints and the political realities. His dedication, hard work and commitment is apparent through his authorship of this constructive economic development initiative. I also want to compliment all members of this subcommittee for their contribution to this legislation and their interest in improving the Nation's economic development programs.

As has been customary on this committee, not only was there bipartisan cooperation and support, but BILL CLINGER, the recently named ranking minority member of the subcommittee, has been a major contributor to the National Development Investment Act. His ideas, his practical experience as a former counsel of the Economic Development Administration and his perseverance were key factors in developing this bill.

While I will not take the time to mention individually each member of the committee who played a role in shaping this legislation, I do want to thank my colleague, the ranking member of the Public Works and Transportation Committee, DON CLAUSEN, for the valuable advice and assistance he has given on this bill, as well as the major contributions he has made to economic development legislation throughout the years.

Also, a special word of appreciation is due to the members of the Banking, Finance and Urban Affairs Committee, Chairman ST GERMAIN and JIM BLANCHARD, chairman of the Subcommittee on Economic Stabilization, for their assistance in moving this legislation forward so expeditiously.

This bill is the major economic development initiative of this Congress. It provides badly needed funds to promote local economic recovery, to foster economic growth and stability in urban and rural areas and to create jobs. The National Development Investment Act reinforces this committee's longstanding commitment to promote economic and regional development and to assist communities in building the necessary public facilities to support private investment. It pro-

vides \$500 million annually through fiscal year 1985 to assist State and local governments in their economic development efforts. In addition, it provides for an orderly closeout of the highway and nonhighway programs of the Appalachian Regional Commission.

I am very proud of the fact that the Public Works and Transportation Committee has a long-established record of bringing before the Congress legislative initiatives to stimulate local economic recovery and create jobs in the private sector. The Accelerated Public Works Act and the Public Works and Economic Development Act, predecessors of this legislation today, illustrate this point. In the same mold, the legislation before us today stresses job creation and economic expansion in a manner which is geared to address the problems of the 1980's.

H.R. 6100 recognizes that economic recovery depends on the ability of communities and townships throughout this Nation to create jobs for its residents and achieve economic stability. It provides matching grants to local governments to support economic development activities. In this way, we are assisting local government develop a strong economic base to support development and encourage economic renewal. At the same time, this bill gives local officials the maximum flexibility to choose the course of action best suited to their economic needs.

The economic development tools which have been tried and proven in the past 17 years' experience under the Public Works and Economic Development Act are retained under the National Development Investment Act. However, changes have been made to respond to some of the past criticisms which have been leveled at the Economic Development Administration.

This new approach scales down eligibility so that areas of greatest need will receive this assistance. It encourages a community to pool public and private resources to design or develop investment strategy best suited to their needs. Assistance to support their efforts is provided through grants for the construction, rehabilitation, repair or improvement of developmental facilities. In addition, a new feature permits the establishment of locally administered revolving loan funds to support small business expansion and to retain existing firms. Funds are available to provide technical assistance and to aid communities in developing an investment strategy.

The second title of the bill continues the programs of the Appalachian Regional Commission. For fiscal year 1983, \$298 million is provided to fund these programs: \$215 million for highway programs—\$83 million for the nonhighway activities. In subsequent years, the Appalachian funds will de-

cline as the health and nonhighway portions of the programs are completed and the highway construction is accelerated. This extension has been unanimously endorsed by the Governors of the 13 States included in the Appalachian region.

I urge your support of H.R. 6100. It is a very modest proposal in view of the condition of many local economies and the number of unemployed workers—but it is an opportunity to do something positive to encourage economic recovery.

Mr. OBERSTAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman and colleagues, it is not often that a committee brings a fresh new legislative concept to the House floor. It is not often that a committee takes a popular and successful program and rewrites it from top to bottom. Today is one of those rare occasions when the House will consider such legislation. H.R. 6100, the National Development Investment Act, is that legislation. It is a fresh new look at economic development, at the participants, at the way in which programs are developed, the way in which economic growth takes place.

Public Works and Transportation is the committee of the House that has taken that courageous and bold step to rewrite both the Economic Development Administration program and the Appalachian Regional Commission program. The Public Works and Economic Development Act, the predecessor to H.R. 6100, was germinated in the 1950's. It was born in the 1960's. It was nurtured in the latter part of that decade. It flowered in the 1970's, in the early part of that decade, but fell into eclipse in the latter half of the decade. The National Development Investment Act which we bring to the floor today is a repository of the best of EDA. It is a program for the decade of the 1980's and beyond.

In this bill, we have refined and brought to maturity the several concepts of economic development that have been tested over the past two decades, in the crucible of economic distress that has troubled many areas of this country, North and South, East and West, rural and urban.

In the course of the deliberations of this committee over the past 1½ years, we have come to the conclusion and we are saying in this legislation that the mayors of the 1980's are not the mayors of the 1960's; that they have grown and matured in the business of economic development; that they are professionals in the field of economic development; that they no longer need the watchful eye of the Federal Government over their shoulders telling them how to make each step and how to make each move in the field of economic growth.

Similarly, we are saying in this legislation that the Governors of the 1980's are not the Governors of the 1960's; that they, too, have become sophisticated and professional in the field of economic development; that they themselves, as are the mayors throughout this country, principally and foremost economic developers. They themselves or their staffs in their departments of government, who are professionals in the field of economic development, know the business in a professional way, and what they need are the tools to help them to do that job of creating growth within their State or within their community.

We are saying in this legislation, "We trust you, Governors and mayors, to do that job."

We are drawing into the economic development process in a full-fledged partnership, in a stronger way than ever before, the private sector, which ultimately creates the jobs, the permanent jobs in the private sector that we want to have created and toward which this bill is geared.

This clearly is a bill for the times in which we live. We do not pretend that this modest measure, with this modest amount of funding, is going to repair the structural damage done to our economy in the past year and a half of continuing recession. We do not pretend that in one fell swoop this legislation can nudge the country out of the current economic recession. We do claim, based on the hearings that we have had over the past year and a half, that this legislation is a guidepost, a useful, effective tool to direct the growth of the country, to help local governments in their task and in their job of creating economic growth and generating new jobs.

It is not going to put all 10 million unemployed Americans back to work, but it is going to have an effect locally and help local economies grow and sustain that growth over a period of years. We believe we have done much in this legislation to respond to the criticism—justified criticism in many instances—leveled at the Economic Development Administration over that past several years.

□ 1600

First of all, we recognize that the Economic Development Administration program has become so loved by the Congress that it could not shed some of the barnacles, let us say, that it carried with it over a period of time, one of them being that every time a county became eligible, it remained so. Congress legislated into permanence the eligibility of certain areas, grandfathering them in and making the program into virtually an entitlement program. We have swept that away in this legislation. It is no longer an entitlement program.

We have developed very clear and specific eligibility criteria, so instead of making 80 percent of the country eligible for economic assistance, we have made 40 percent or thereabouts of the population eligible under the criteria of this legislation. It is very specifically targeted and very clearly drawn to be a program of a sort of rifle-shot assistance into those areas of the country that need help and need it the most, instead of blanketing the whole United States.

We have retained eligibility for communities that have lost or are about to lose their major employer. Instead of waiting until distress has set in, we have given the flexibility to a community to recognize that a military facility may close or that a major industry is going to shut down in a few weeks, and instead of waiting for it to shut down and the unemployment to rise, we are saying in this legislation that "you have the ability to apply for assistance from the Federal Government to turn your economy around and to prevent the impending disaster."

We are also saying that once you have received assistance, that fact does not automatically entitle your community to continue receiving assistance in the years ahead. Having once received a grant from the Federal Government to undertake a program of economic recovery and carry that program out, to apply a second time, you must prove that you are again eligible for assistance and that you need that help. You must come back to the Federal Government with a new showing of economic distress that meets the criteria of this act. You must also show that the previous funds were well invested and well spent, and that they achieved the purpose for which the community applied.

We are giving to local governments maximum flexibility in carrying out the program. Under current law, on a public works grant under EDA, a community must submit detailed documentation about the legal, engineering, and financial condition of that project. The endless paperwork between the community and the regional office and the central office in Washington will be swept away with this legislation.

We recognize that communities have public works departments. They know how to plan and carry out a public works project. They do not have to be coming back to the Federal Government for constant review and revision. They must comply with State laws, and they must comply with local audit and review requirements. We are saying "we trust you to do the job and to carry it out to meet your local requirements."

Furthermore, one of the problems we have had is the amount of paperwork that communities have had to deal with in submitting documentation

which has been sent for review and for rewriting and then sent back again for final consideration. We want a proposal for a community to be submitted in 20 pages or less. We want a strategy that is simple to understand and simple to explain and effective in its implementation.

We are also asking communities to pull together a total concept of economic development. What we have found in the year and a half of hearings on this legislation is that the most effective communities in economic development are those that, instead of getting a grant here and a loan there, had a total concept, a strategy for investment. And that is why that word is a key part of this legislation, the National Development Investment Act. We want those strategies to be developed by the community with the support of the States and with the support of a multicounty economic development planning agency. And that can be done. We have seen many of those. We have seen samples of such strategies that have been submitted to the Department of Commerce that have been successful.

That strategy can include a revolving loan fund; it can include an employees' stock ownership plan; it can include a grant for a waterline to serve a new industry; or a grant for the development of an industrial park. It can include all of those things. But it is what the community decides it needs, not what the Washington bureaucracy decides that community needs.

So we combine, I think, the greatest strengths of EDA and the developed professionalism of communities, of States, and of multicounty organizations in economic development planning and operating over the past 20 years. So we present that to this House and to this new administration in Washington. It is a concept of economic development that is fully within the philosophy of the Reagan administration and that is fully attuned to the needs of the 1980's. This is a program that will reflect great credit on this House and on the Congress as a whole.

Title II of the bill deals with the Appalachian Regional Commission. I will call on my committee colleague, the gentleman from West Virginia (Mr. RAHALL), and later on the gentleman from Alabama (Mr. BEVILL), to talk at greater length about the finish-up program for the very highly successful Appalachian Regional Commission program. Suffice it to say on my part that after hearings in the Appalachian region and hearings that we held here in Washington, I am enormously impressed with the success and the professionalism of that 13-State organization. It has wisely and well invested funds that the Federal Government has provided over the past 17 years for this program to lift a whole region out

of a century of neglect and distress into the mainstream of economic growth of this country.

This is one of the remarkable stories of economic growth, so much so that a group of interested economic development parliamentarians from Italy came here to see what they could learn for the Mezzogiorno from the success story of Appalachia.

In conclusion, Mr. Chairman, I would like to express my appreciation to the chairman of the full Committee on Public Works and Transportation, the gentleman from New Jersey (Mr. HOWARD), for the cooperation that he has given and the free hand that he has given to the subcommittee in fashioning this legislation. He has given us encouragement and support at every step of the way.

Our ranking member on the minority side, the gentleman from California (Mr. CLAUSEN), has literally been a wellspring of new ideas, and his contribution to this legislation is evident throughout its formulation.

Also, my dear friend and colleague, the gentleman from Pennsylvania (Mr. CLINGER), as ranking minority member of the subcommittee, has participated laboriously at every step of the way in the formulation of the legislation.

I also want to express appreciation to the members of the Committee on Banking, Finance, and Urban Affairs, including the committee chairman, the gentleman from Rhode Island (Mr. ST GERMAIN), and the chairman of the Subcommittee on Economic Stabilization, the gentleman from Michigan (Mr. BLANCHARD), who have participated in the hearings and helped us in the formation of this legislation and in bringing it to the floor this afternoon.

The gentleman from Connecticut (Mr. MCKINNEY) has shown a very splendid understanding of the legislation and its purpose.

There are other Members who are not on these two committees of original jurisdiction to whom I also want to express appreciation, including the gentleman from Iowa, Mr. NEAL SMITH, chairman of the Subcommittee on Commerce, Justice, State, and the Judiciary, of the Appropriations Committee, which has watched over the appropriations and funding for this program. The gentleman has made some very constructive suggestions.

The gentleman from Alabama (Mr. BEVILL), chairman of the Subcommittee on Energy and Water of the Appropriations Committee, which has jurisdiction over the Appalachian Regional Commission programs, has also made a very constructive contribution helping us through this thicket of the legislative process.

I include here a brief summary of the bill:

SUMMARY OF THE NATIONAL DEVELOPMENT INVESTMENT ACT: H.R. 6100

HOW THE PROGRAM WILL WORK

Eligibility criteria

Three distress criteria to determine eligibility:

- (1) Unemployment: 1% above nat'l average, previous 24 months.
- (2) Per capita income: 80% of nat'l average, using latest available statistics.
- (3) Anticipated sudden rise in unemployment: imminent plant closing, military base loss, etc.

Only one of the above required to qualify. Eligibility and grandfathering in current EDA law repealed.

Development investment strategy

Cities and counties under 50,000: work with Economic Development District or state economic development agency to devise investment strategy.

Cities and counties over 50,000 or pockets of distress within city: do their own planning.

Strategy, in 20 pages or less, includes:

- Inventory of community's resources, industries, businesses;
- Infrastructure available and needed;
- Workforce; skills available;
- Land availability;

A showing that nonfederal 50% matching funds are available;

A showing that private sector is willing to invest;

Description of industry/business to be created or expanded; and

Description of specific ventures to be funded; e.g.:

- Revolving loan fund;
- Employee Stock Ownership Plan; and
- Grant for infrastructure.

Funding

Strategy Implementation: authorizes \$425 million annually for 3 fiscal years.

Planning and Strategic Development: authorizes \$75 million annually for 3 fiscal years.

These are grant, not loan, funds.

Application procedure

Submitted to Secretary of Commerce.

Secretary reviews application to determine that:

- it meets distress criteria;
- the strategy has a good chance of working.

Secretary approves/rejects project.

Best strategies are to be approved—those with best chance for success.

Limitations

A \$2 million limit on federal funds per strategy.

Revolving Loan Fund limited to \$1 million.

Subsequent applications must requalify on new showing of distress.

(Source: Subcommittee on Economic Development, House Committee on Public Works and Transportation. Telephone: 225-6151.)

With that, Mr. Chairman, I reserve the balance of my time.

□ 1610

Mr. CLINGER. Mr. Chairman, I yield such time as he may consume to the ranking minority member of the Committee on Public Works and Transportation, the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Chairman, I rise today to express my support for H.R. 6100, the National Development Investment Act.

I would like to point out to my colleagues that this bill is the result of a truly and genuinely bipartisan effort by both the Democratic as well as Republican members of the Committee on Public Works and Transportation. But I believe special credit must be given to the two principal sponsors, the Economic Development Subcommittee chairman, JIM OBERSTAR of Minnesota, as well as BILL CLINGER from Pennsylvania who was recently appointed to serve as the ranking Republican member of that subcommittee.

Mr. Chairman, this vital legislation has as its goal the transformation of the current Economic Development Administration into an agency that can better meet the unique economic challenges that our Nation will face in the 1980's.

I feel a special personal involvement with this bill because in the past I have been involved in, and seen, tremendous economic accomplishment made in some of the more economically distressed areas of my own congressional district in California as a result of the EDA program involvement. But then, as I am sure many of my colleagues have also seen in their own districts, EDA somehow went astray from its original objectives.

The agency attempted to solve economic problems that were far beyond its intended scope. AS I know most of the Members realize, EDA initially was to be a program directed toward a revitalization of the rural areas of America and particularly the economically distressed rural areas of America.

But what occurred was that eligibility for EDA funding actually expanded to include some 80 percent of the Nation. Increased amounts of its sparse resources were poured into attempts to solve the highly complex economic problems of our urban centers, problems which could really have been better addressed by such other specific urban-oriented programs as the UDAG program and the Community Development Block Grant program.

Mr. Chairman, I would like to state that I am a firm supporter of President Reagan's economic recovery program and, to that end, I have associated myself with the urban and rural enterprise zone bills, both of which I consider to be key components of the President's efforts. In fact, it could be an integral part of his economic development strategy effort that his particular piece of legislation is attempting to address.

I believe H.R. 6100 dovetails with this overall enterprise zone concept. This legislation is aimed at assisting

the communities of our Nation to gain control of their economic destinies.

These are communities which have been hard hit by high interest rates and other economic ills resulting from past irresponsible fiscal and monetary policies.

What is really needed is an economic development and diversification strategy to create a working partnership between the community and private sector.

The cornerstone of H.R. 6100 is the requirement that applicants for funding must devise such a development investment strategy.

That important emphasis on the involvement of the private industry is a key feature of the National Development Investment Act, one which distinguishes it from other Federal giveaway programs which have brought us many of the economic problems our Nation is experiencing today.

Where limited Federal participation in the economic development process is needed, we must look for approaches that are both workable and more importantly, affordable, where every Federal dollar does the work of two. This legislation fully meets this criteria.

My colleagues know that the important requirements of a successful effort in the community is to move in the direction of maximizing the leverage between Federal expenditures and the desired objective of building the private productive sector of our communities.

I also believe that the concept of linkage and leverage goes one step further. Many of us have come to realize throughout the country that there is a serious deterioration of our basic infrastructure. Whether it is a water system, a sewer system, the intran-transportation system network in this country, we have some serious problems that need to be addressed and we believe that that basic strategy can utilize the potential jurisdiction of our committee in a concept of linkage and leverage that will again be integrated into and made a part of the President's overall economic recovery effort.

H.R. 6100 concerns itself also with the Appalachian Regional Commission, and in accordance with the unanimously approved recommendation of the Governors of the Appalachian States, title II of this bill provides a winding down of funding for this program.

So, Mr. Chairman, H.R. 6100 provides a needed impetus of our Nation's economic recovery at a reasonable cost. Therefore, I urge my colleagues to support it enthusiastically and move it to the other body so that we can have it implemented and made a part of our national policy.

Mr. CLINGER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 6100 which, as Chairman OBERSTAR indicated, represents a new approach and I think an exciting and cost-effective approach to the question of economic development and the Federal role, albeit limited, in that effort.

I would like at the outset to congratulate and commend my chairman, the gentleman from Minnesota (Mr. OBERSTAR), who has really been the driving force behind this legislation.

I would stress that he has been completely, utterly fair and cooperative with the minority. He has included within this legislation many of the suggestions that came from the minority side which we think improve the bill. I think he deserves commendation for the very long hours and hard effort he has put into coming up with this very exciting new approach to economic development.

I would also like to express my appreciation to the ranking member from California, Mr. CLAUSEN, and to our chairman of the full committee, Mr. HOWARD, who have also had a great deal of input into this bill.

Finally I would like to tip my hat to my mentor, JOHN PAUL HAMMER-SCHMIDT, who was the ranking member on this Economic Development Subcommittee for so many years; and to the gentleman from Minnesota, (Mr. HEGEDORN), who immediately preceded me.

All of these gentlemen have played a very active role in this legislation which I am strongly supportive of.

I think it is important to point out at the outset what this bill is not, because I think there are some misconceptions about the bill which have arisen because of past activities within the agency and perhaps the direction the agency has gone in the past.

So the bill is not a lot of things. For example, it is not a simple reauthorization of the Economic Development Administration and all of the titles that existed under that act, the Public Works and Development Act of 1965.

It really represents a complete restructuring and tightening of EDA programs; a focused, and I think a streamlined and a much more cost-effective approach to that role.

□ 1620

It does, in my opinion, eliminate those elements of the Public Works Act and of the Economic Development Administration which have not proven to be as successful as others. We got this information through a long series of hearings, in which the people who have actually been working with these programs came and told us what worked and what did not work.

We have eliminated, for example, the loan and the loan guarantee pro-

gram, title II of the bill, which was administered in Washington and which caused problems, because it is difficult to administer a loan portfolio here in Washington. That is gone. I think it is a vast improvement over what we had before.

It also eliminates the designation process, and I think this is perhaps the area where the agency was most criticized. This program was supposed to be directed at the most distressed areas of the Nation. Well, in fact, because we never de-designated anybody, once you qualified as distressed, you were never disqualified, and, as a result, 84 percent of the country is at present qualified for economic development assistance. We have done away with all of that. We have stricken it off the books. And what we have now is a much tighter criteria for determining eligibility of distressed areas.

We have brought the areas of the country which qualify for assistance down from 84 percent of the country to about 41 percent of the country.

It is not, also, just another Government handout program that simply shovels millions of dollars at isolated independent economic development projects one at a time. We are looking here for a strategy based on the experience that we have had in the Economic Development Administration to know what is necessary, what you have got to have in order to have effective economic development occur in the community.

And, finally, this bill does not involve the Federal Government in dictating to States and local governments the way to solve their economic development problems. That has been, I think, one of the valid criticisms of the agency. Too much of the authority, too much of the control, too much of how you could do these things was dictated here in Washington. We tended to ride rough shod over the desires and the intent of the local areas, who know far better how to solve their own problems.

It leaves the decisionmaking, by and large, at the local level, and I think that is where it should be. As Chairman OBERSTAR has indicated, it also eliminates a vast amount of the paperwork which made it very difficult to apply for these projects.

Well, then, what is this bill all about? Well, it really is, in my opinion, a very modest, very limited attempt to address a very small part of what is becoming a very large problem. I am speaking now about the alarming—and I mean alarming—deterioration of our Nation's public facilities.

The basic infrastructure of this country is vital to economic development. We have a lot of studies, for example, which show that corporate decisionmaking is based not so much on

the tax structure in a local area but, rather, on what is the public facilities situation in that community. That is really what gets the corporate decisionmakers to make location decisions.

So it is about this very vital problem. As a child I played a game, and I am sure many of the Members did, called London Bridge is Falling Down. Well, London Bridge is not falling down. As far as I can remember, it is alive and well and living at Lake Havasu in Arizona. But the fact is that there are many, many other bridges in this country that are in danger of falling down. Three-hundred thousand of them have exceeded their useful life. One-half of the Nation's communities, for example, have reached capacity, as far as their water and sewer systems are concerned. That means they cannot participate in any growth, they cannot engage in any economic development because they cannot add anything to their systems.

We have the Interstate Highway System which is wearing out more rapidly than we are repairing and replacing it. Two-thousand miles a year have reached the point where they have exceeded their design life. And there is growing public awareness of this fact. A book called *America in Ruins* by Pat Choate, and others, has called attention to this problem. Newsweek magazine did a feature story on this issue. The point that they are making is that there is a direct connection between economic growth and development and the adequacy of public facilities. I think there is a general recognition also that government has some role to play, some responsibility, to construct and maintain basic infrastructure.

Now, you can argue about—and I am sure we will argue about—what level of government should be involved in this exercise, what level of government should be working on the public infrastructure problem in this country. But I think we can agree that government must have a role to play in developing our public infrastructure.

My personal opinion is that there is a need, a continuing need, for Federal involvement at some level of funding.

The bill that we are talking about here today cannot and will not solve our Nation's infrastructure problem. But it will address problems in some areas, a few areas, which are least able to finance essential public facilities but have a high potential for economic rejuvenation at this time.

The emphasis of this legislation is on the community and on cooperation. In order to be considered for funding under H.R. 6100, a community must utilize every tool at its disposal. It must enlist the cooperation of private industry and it must develop a strategy. In this legislation we call it a development investment strategy, which is simply a long-term, carefully planned

community course toward self-sufficiency.

Certain key factors are essential for any area to support development and thus become economically viable and they must be considered as part of the development strategy. They include available land, public facilities, availability of capital, tax policy on investments, skill of the labor force, and the ability of State and local governments to provide financial assistance.

But the most significant factor in any community's achieving economic growth and stability is the involvement of the private sector. In this bill the level of private sector dollars committed to a community's development is very important in the Secretary's selection of those projects to receive funding. That represents a major departure from the economic development approach taken by EDA in the past, but one which will prove vitally important in the future.

That approach is also in keeping with the President's economic recovery plan which stresses private sector involvement as the key to economic development. In our committee we considered the question of economic development in a strictly bipartisan manner. What we came up with was a united commitment to assisting our distressed communities in an innovative fashion, based on coupling a community's existing resources with a limited amount of Federal assistance. That combination will produce a workable, cohesive, and well-planned approach to economic self-sufficiency.

Mr. Chairman, H.R. 6100 also provides phase out funding for the Appalachian Regional Commission. This is in accordance with the views of the Governors of the 13 States affected by that program and has received their unanimous approval. I would add that the Governors themselves propose the termination of that agency in 1990 when the Appalachian Highway is completed. Area development programs are scheduled for termination in 1987.

H.R. 6100 is a viable bipartisan approach to new economic development and diversification in our Nation. I would urge you to vote for its passage.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, I want to associate myself with the remarks of the gentleman in the well, and I rise in support of H.R. 6100. My committee colleagues, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Pennsylvania (Mr. CLINGER) are to be commended for their fine efforts in creating this vital, innovative piece of legislation.

Having served as ranking Republican member of the Economic Develop-

ment Subcommittee myself, I can fully appreciate the magnitude of the task which they undertook.

Criticisms of EDA have been numerous and in some cases well deserved. Probably the greatest shortcoming of the agency and the most widely discussed has been the level of eligibility. Eighty percent of the Nation should never have been eligible for funding from this relatively small Federal agency. EDA's budget at its peak was \$600 million. So I agree with the President and other critics of the agency when they say that this program which is currently funded at a little over \$200 million can in no way serve as a responsible vehicle to assist economic development in 80 percent of the United States.

It is my understanding that this bill addresses the eligibility question by significantly altering the distress criteria to target EDA's assistance to only the areas of greatest distress. The percentage of the Nation eligible under this bill is slightly over 40 percent a 50-percent cutback.

Equally as important as these funds being targeted to the most distressed areas is the targeting of funds to areas where the recovery potential is the greatest. The sad sight of empty industrial parks is the unfortunate result of putting Federal dollars into areas which meet the distress qualifications but do not have the other factors which Mr. CLINGER pointed to in his statement; factors that are essential for an area to support economic development.

But the key ingredient in any truly effective economic development effort is the involvement of the private sector. For an area to become economically self-sufficient private industry must be able and willing to do business in that community. I was pleased to note that special attention has been placed on the role of the private sector in this legislation.

H.R. 6100 recognizes that the commitment by the private sector to a distressed area improves the chances that that community has for development. The Secretary is, therefore, directed to take this factor into consideration when selecting grant recipients.

Having had firsthand experience in the drafting of economic development legislation, again, I wish to commend the authors on fashioning this legislation which accurately addresses the appropriate role of the Federal Government in the economic development process. I strongly recommend that this bipartisan proposal be adopted by the House.

Mr. CLINGER. I thank the gentleman for his comments.

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Chairman, it may very well be that this was addressed prior to the time that I came onto the floor, but has the point been made that there is room in function 450 of the budget resolution itself, and that includes the reconciliation budget, for the authorizations contained in this bill? Has that point been made?

Mr. CLINGER. No, it has not. I am glad the gentleman has made the point.

Mr. CLAUSEN. I think it is important for the membership to know that the authorizing committee worked very hard to see that the authorized funding level can be accommodated in the budget resolution if the Congress so desires. In fact it is my understanding that the appropriation bill does contain budget authority for this program, and that the same appropriation bill is subject to the enforcement provisions of the budget resolution. Thus, funding for this program must be within the overall funding levels allowed by the budget resolution.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I would be happy to respond. The gentleman raises an important point. It was not addressed earlier, and I am glad the gentleman has raised that point.

The funding for the coming fiscal year 1983 is a part of function 450 of the budget that has been approved and, of course, the Appropriations Committee is going to decide specifically how much of that amount will be allocated to the present legislation.

They have tentatively reported out of subcommittee \$200 million committed to the Economic Development Administration programs.

Mrs. SNOWE. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from Maine.

Mrs. SNOWE. I thank the gentleman for yielding.

Mr. Chairman, I, too, want to congratulate the gentleman for the work that he has done in putting together this legislation.

I would just like to ask the gentleman a couple of questions concerning the intent of this legislation, if I might.

First of all, in section 302 it seems that the language contained in the bill provides considerable flexibility in terms of the Secretary of Commerce dismantling the present organizational structure of EDA.

Could the gentleman tell me, is this the intent of the legislation, to dismantle, to do away with the present organizational structure?

Mr. CLINGER. I thank the gentleman for her question, and I would

respond by saying: Absolutely not. In fact, it is the intent through this legislation to maintain in place the expertise which was developed over a 20-year or so period at EDA. We have a lot of very talented people who have great experience in the area of economic development in the Economic Development Administration. Now, there may be a restructuring within that organization. But clearly the intent is to maintain that expertise.

I would also stress that we intend to retain the Economic Development representatives, who have played a critical role and, I think, a very useful role in the EDA—working with local areas, particularly in those areas where they do not have the expertise to really address their economic development problems.

Mrs. SNOWE. I think that is a vital portion of the present EDA program that is necessary, because I think it maintains a regional equity, so that all regions of the country can participate in the program; and, second, providing the planning and technical expertise that is necessary I think in awarding these projects on a fair basis.

And, second, in section 302, the reason I am addressing this is because it does give a great deal of latitude to the Secretary of Commerce in prescribing the functions under this bill.

Could the gentleman tell me, then, is it the intent of this legislation to disburse the funds under this legislation in block grant form?

Mr. CLINGER. No, it is not. I think that we have tried to fashion a bill which will give as much decisionmaking as possible—the great majority of the decisionmaking is done at the local level. They know what their needs are. They can best fashion a program which will address those needs.

Now, those projects come into Washington. The ultimate decisionmaking is done here. It is not a block grant. We have to maintain accountability for what we are doing, and I think the Secretary is the one to do that.

In effect, it becomes a competition between various economic development strategies submitted by various applicants. The decisionmaking is at the local level, the final selection at the Federal level.

□1630

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentleman for yielding.

As further amplification of the explanation, I would suggest to the gentleman from Maine that the basic structure of the legislation is directed toward the organizational structure in many parts of the country associated with the National Association of Development Organizations. They have

in place as an example an economic development district and they have the expertise and the personnel as well as advisory boards and directors that actually develop the economic strategy for those areas. This is intended to reinforce that.

In addition, there may be counties or a county where a joint powers agreement could be formulated for purposes of developing this economic diversification strategy. So it is to that end, if it meets the criteria for an economically depressed area under the terms of the legislation, this will enable that to occur.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. CLINGER. I yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for yielding.

I would just like to ask a question about the cost here. It sounds as though we have done a good job in taking care of some of the problems that have existed in the previous program.

My hometown of Long Beach, Calif., has been a beneficiary of this and other programs. We were fortunate that we got to the head of the line and got money. There were a lot of things that helped our downtown. But it always struck me that we would never have the amount of money in the treasury necessary to duplicate or replicate this around the country. So it was more which community got in there first.

The other thing was that my hometown prided itself on the fact that they had been determined to be the eighth most distressed city in America. It was almost like cities were vying to find out who was most distressed so that they could get some of the largess of the Federal Government. And it sounds as though the gentleman has addressed some of those problems here.

But I must rise to ask a question and maybe strike a discordant note.

As I understand from the committee report, the CBO estimates that the outlays involved would be \$128.2 million in fiscal year 1983, \$464 million in fiscal 1984, \$723.9 million in 1985, \$783.9 million in 1986, and \$504.8 million in fiscal year 1987, contrasted with the administration's recommendation of a total of \$33 million proposed to phase out EDA between now and 1985.

My question is, is this suggesting that we are going to then be some \$1.5 billion over what the projected budgets will be between now and 1985?

Mr. CLINGER. Well, I think clearly this bill represents a disagreement with the administration on the importance of the economic development program.

Mr. LUNGREN. It is only a billion and a half I realize.

Mr. CLINGER. The administration has requested a phaseout of the program entirely. I think that the budget resolution, which also contemplates continued funding of the Economic Development Administration—

Mr. LUNGREN. For 1 year.

Mr. CLINGER. No—it contemplates and it assumes an outyear funding of this program, at the same level, I might add, as the 1983 figure. It assumes that it would continue at that level.

So that I do not believe that this in fact is contrary to what the budget resolution calls for. Ultimately the question will be resolved by the Appropriations Committee which will set that figure.

In fact, the Appropriations Committee has for this year at least 2 days ago passed out the bill which would include about roughly \$200 million in the economic development function.

Mr. LUNGREN. OK. Maybe I did not state my question very well.

In the budget that we passed, what levels of funding does it anticipate for the next 3 years as opposed to the \$1.5 billion contained in authorization in this bill? Does the gentleman know?

Mr. CLINGER. I do not have the figures here. Does the chairman have the figures?

Mr. OBERSTAR. If the gentleman would yield, the 450 function of the budget does include an adequate amount to cover the funding that we have envisioned in this bill. We cannot predict over a period of years what the next Congress is going to do. We cannot bind another Congress. We can only say that we have determined on an annual basis \$500 million is an amount that will respond to what we perceive as a need.

The budget function 450 includes a sufficient amount to cover that modest sum for the next fiscal year. We are not projecting beyond that what another Congress will do for the economic development function. That has to depend on what the economy may do in other years.

And the figures that the gentleman from California was citing also include the figures for the Appalachia Regional Commission.

So the figures the gentleman has cited are not all attributable to the national development.

Mr. LUNGREN. But under this bill, is that not correct?

Mr. OBERSTAR. The two titles of the bill.

Mr. CLINGER. It does contemplate multiyear funding.

Mr. LUNGREN. If the gentleman would yield further, I understand how we cannot determine precisely what future Congresses are going to do. But the question is next week we are going to be faced with a big vote on whether

we are going to raise taxes or have any cuts. Some of my constituents when I go home ask me, "What are you people doing in Congress with spending."

I realize it is very tough to anticipate what we are going to do next year and the year after. But the question I am trying to get answered is whether or not this bill and its authorization contemplates spending \$2.3 billion for both programs over and above what has been contained in the President's budget. I would just like to know whether that is true or not.

Mr. CLINGER. That would be on both the Appalachia and the EDA.

Mr. LUNGREN. I understand that.

Mr. CLINGER. If the program were fully funded at the authorizing level, that would be the figure.

Mr. LUNGREN. I understand that.

Mr. CLINGER. I would point out as a matter of history since its inception the economic development program has never been funded at even half what the authorization level is. So that I think it is perhaps premature to say that that is going to be the result.

Mr. LUNGREN. If the gentleman would continue to yield, I would suggest since the inception of the budget process in the Congress we have never found ourselves capable of staying within those limits, and at some point in time we ought to consider it.

I am not going to suggest everybody vote against it. But I heard this hosanna of shouts in support of this bill without anybody referring to what the cost is or how it is going to compare with the budget.

I would suggest that if we continue to do that in bill after bill, we are not going to have to worry about a tax increase of \$20 billion, we might have to worry about a tax increase of \$180 billion for next year.

I thank the gentleman.

Mr. OBERSTAR. Mr. Chairman, I yield 4 minutes to the gentleman from Alabama (Mr. BEVILL).

Mr. BEVILL. Mr. Chairman, I want to commend my good friend and colleague, the gentleman from Minnesota (Mr. OBERSTAR) for the tremendous job he and the ranking member, my good friend and colleague, the gentleman from Pennsylvania (Mr. CLINGER) have done and for the tremendous job they and the subcommittee has done. I have personal knowledge of the fact that they have not just held hearings in their committee room. They have been out in the Appalachian area, and they have checked to see what has been accomplished by this program. Certainly, that is all any Member of Congress would need to do in order to support this program.

Mr. Chairman, the Appalachian Regional Commission has been a most successful program, bringing economic development, increased educational benefits, improved health care and

better highways to America's 13 Appalachian States.

These States contain some of the most impoverished areas of our country. Their State and local governments were unable to bear the full load of improving these areas without assistance from the Federal Government. The ARC program has provided that necessary assistance, enabling dramatic improvements in what most of us would consider to be basic human needs.

Tremendous strides have been made in the Appalachian States in community water and sewer systems, rural health clinics, vocational schools, industrial development projects and roadbuilding in remote areas.

My support for H.R. 6100 is based on my personal study of the ARC throughout its 17-history of service to Appalachia. Each year many witnesses have appeared before my Energy and Water Development Appropriations Subcommittee testifying about the improvement of living conditions which has been made possible, largely because of ARC assistance. In fact, this past spring, Gov. John Y. Brown, of Kentucky, representing the 13 Appalachian Governors, appeared before my subcommittee to present a strong statement for ARC's continuation. He told me that the Governors of the 13 States involved have joined in calling the ARC the most important program they have with the Federal Government.

His testimony, along with actual programs I have seen for myself, present a picture of a unique Federal-State-local relationship which has successfully established a public-private partnership to create private sector jobs and to equip the Appalachian people with the skills necessary to perform those jobs.

The ARC program has been successful in substantially narrowing the gap between the region and national averages in terms of growth, income, employment and health care.

In my own district, for example, nearly half the people lived below the poverty level in 1960. But 16 years later this figure had dropped to less than one-fifty of the residents. By 1981, 58,000 additional jobs had been created in my district, due, in large measure, to ARC industrial development assistance. And the steadily dwindling population of the fifties and sixties was turned around and in the seventies was growing at nearly twice the national growth rate.

I am proud that in addition to needed primary health care facilities and rural water system development, much of the ARC emphasis in my district has been on helping people develop job skills. That creates a long-term benefit for the entire country.

ARC involvement provided important supplemental funds for many projects throughout my district, however, I am proud to note that the State of Alabama and local government in my district underwrote the largest share of these project costs.

Unless we provide this additional authorization for the Appalachian Regional Commission, the momentum which it has created in the Appalachian States, during these past 17 years, will be lost. At this critical time, when the recession and major Federal budget cuts have damaged the fragile Appalachian economy disproportionately, we cannot turn our backs on an area which still suffers from poverty and many communities still lack primary health care facilities. The perceived oil glut and other problems are severely limiting the coal mining production industry which is so important to this region of our Nation. And State and local governments have had insufficient time to mobilize public and private resources to ameliorate the dire economic conditions which our Nation's recession has brought to most of this area.

Stopping the ARC program in 1982 could mean that health care might never be extended to the remaining Appalachian counties which are still without basic primary care facilities. And areas with exceptionally high infant mortality rates might never improve this tragic statistic. This sad condition should not be allowed to exist in this, the world's richest nation.

Bringing an abrupt end to the ARC also would mean that the residents of 60 particularly distressed Appalachian counties would continue to suffer chronic health problems, due to unsafe drinking water. And jobs, for many yet unskilled workers, would remain an unrealized dream.

In more developed counties, where conditions now support diversified economic development, the payoff on past investments, in many cases, would be lost for lack of a relatively modest finish-up ARC investment.

The Appalachian States are not looking to the Federal Government to bail them out. They are asking for an investment. Since 1965, these States have increased their taxes at a more rapid rate than the national average, and most have a very limited tax base. In recent years, the per person Federal expenditure in Appalachia has never been more than 84 percent of the national average. And the recent budget cuts will most likely reduce this figure.

The ARC program is worthy. It has performed successfully but a need for its expertise and assistance remains in an area of the country in which too many Americans still live at a distinct disadvantage. I sincerely ask you to

vote in favor of this needed extension of this worthwhile program.

□ 1640

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman for his statement. I want again to commend the gentleman from Alabama for the very positive, constructive contribution that he has made to this legislation.

Mr. Chairman, I yield 3 minutes to the gentleman from Alabama (Mr. FLIPPO), a member of the subcommittee.

Mr. FLIPPO. Mr. Chairman, I would like to add my strong support for H.R. 6100 and thank JIM OBERSTAR for his leadership in bringing this measure to the floor today.

This legislation is essential to continue support for local economic development activities. Reduced Federal funds, monumentally high unemployment and interest rates have halted business investments and expansion, as well as the upgrading of public facilities. This fiscal strain has meant that local communities in my area have been unable to move forward to initiate a full-scale economic development program. The National Development Investment Act provides distressed communities, suffering from high unemployment or underemployment or experiencing a plant closing or other economic emergency, 50-percent grants to build public facilities or develop projects which create jobs and promote economic growth. This program encourages local officials and the private sector to combine their talents and resources to create the type of economic environment which can grow and prosper.

It offers maximum flexibility to allow each community to develop a strategy to solve its particular problems and address their unique needs. Eligible activities include: setting up a revolving loan program to finance small business startups or to retain and expand existing firms; preparing a site for commercial and industrial development; improving the access road, the bridges, the waterline or other key public services which are critical to enticing private companies into an area or beginning a full-scale recruitment program to diversify the economic base and attract jobs more appropriate to the skills of the labor force. This bill can do much to bring life, hope, and jobs to distressed communities. It can stimulate economic development through the Federal matching grants—development that cannot and will not take place in the current economic climate. It can be a catalyst in bringing about economic recovery.

This National Development Investment Act applies the past lessons that have been learned through practical local economic development efforts. It is more responsive to local needs, local initiatives, and local input. It repre-

sents a reduction in Federal intervention, while strengthening the accountability for Federal funds. In this regard, I am pleased that the bill incorporates a provision I authored requiring a semiannual report detailing how these Federal dollars have been used by the grantee.

It requires an audited statement of all funds spent on the project. This is not intended to add to the paperwork or financial burden of local officials, but to insure that the Federal Government maintains its legitimate oversight responsibility. While the bill stipulates the audit should be performed by independent certified public accountants and in accordance with the Comptroller General's standards for audit, local situations may require some flexibility in the selection of auditors. The primary concern is that the audit be performed by an organization or individuals that are independent of grantees and proficient in accounting and auditing. As long as these conditions are met and the Comptroller General's auditing standards are satisfied, both public accounting firms and State or local government auditors may perform the audit required by this bill.

I also want to emphasize the expanded scope audit provisions require financial accountability as well as a review or program efficiency. This information can be useful to more fully judge and evaluate this program and the use of tax dollars.

Equally important to my region of the country, the worthwhile programs and activities funded through the Appalachian Regional Commission are continued. There has been no greater economic development initiative than the Appalachian highway system. It has provided access to a previously isolated and chronically depressed area. The Appalachian highway system has brought thousands of jobs to the 13-State Appalachian region, and it has made possible improved health and educational facilities.

This bill will allow the completion of the highest priority corridors. Unfortunately, it requires a scaling back of the originally proposed 1,700-mile system. However, it provides an orderly and gradual deduction of Federal funds for this purpose. This is needed to protect past Federal expenditures and to assist with the financial hardship created by the fact that the cost of road building in this mountainous terrain far exceeds the local community's ability to pick up the entire tab.

In addition to highway funds, this bill authorizes funds for local development activities concentrating on job retention, providing basic primary health facilities, and firming up the foundation for local support and self-sufficiency.

These funds are sorely needed. Economic progress is taking place in the region, but this supportive Federal help is critical if we are to continue this progress. This region still lags behind much of the Nation in employment, educational achievement, per capita income, and countless other gages. The Appalachian Regional Development Act has been a success. It has been a factor in improving the economic well-being of this vital energy-rich region of the country.

This bill is necessary to complete the task and to truly promote National economic recovery and stability.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. FLIPPO. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I want to take this opportunity to thank the gentleman from Alabama for his valuable contribution to this legislation. It has been a matter of concern to the committee how to have an accounting of the funds and to be sure that those funds are spent in accordance with the purposes for which they are intended.

The gentleman is an accountant, is one who has participated in audits and has experience in this field and has made a very, very valuable contribution. We thank the gentleman for his explanation.

Mr. CLINGER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota (Mr. HAGEDORN).

Mr. HAGEDORN. Mr. Chairman, I thank the gentleman for the time.

Mr. Chairman, I rise in support of H.R. 6100. I certainly want to extend accolades and compliments to my colleague, the gentleman from Minnesota, who has done yeoman service in cleaning up the Economic Development Administration legislation in the proposal we have before us today. I believe it is a very significant improvement over what exists currently.

Having preceded Mr. CLINGER as ranking minority member of the Subcommittee on Economic Development, I have carefully followed the progress of this bill throughout the extensive hearing process.

Many of my colleagues have contacted me asking how I feel about this legislation which will reauthorize and reform the Economic Development Administration.

It is my firm conviction that this proposal makes significant improvements in the operation of EDA.

The level of eligibility is now in line with the UDAG program, which the administration has endorsed, and the direct loan program, which has been rightly criticized for its 40 percent delinquency rate, has been eliminated.

This legislation, through its emphasis on the involvement of the private sector, realistically addresses the cur-

rent economic needs of the distressed areas of our Nation.

I believe that it makes a valuable contribution to the economic development process, and I urge my colleagues to support passage of H.R. 6100 if they feel a program such as EDA should continue.

Mr. OBERSTAR. Mr. Chairman, I would like to thank the gentleman from Minnesota for that comment and also to express again my appreciation to the gentleman for his cooperation throughout the period of time he served as ranking member of our subcommittee and for the full cooperation and splendid cooperation he has extended to me and to the Members on our side throughout the process of formulating this bill.

Mr. Chairman, I yield such time as she may consume to the gentlewoman from Connecticut (Mrs. KENNELLY).

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act, legislation to revise and improve our Nation's economic development program.

The programs currently under the Economic Development Administration have been extremely successful in the State of Connecticut and the EDA enjoys substantial support in my district. During town meetings I have held, public officials have repeatedly expressed their concern over the uncertain fate of the EDA. These local officials face daily the economic distress resulting from the unemployment rate of 9.8 percent. They know that economic recovery for many distressed areas will simply not be possible without Federal assistance.

H.R. 6100, the product of 13 days of hearings, will build upon what we have learned about economic development and Federal assistance over the past 17 years. Under the strong leadership of Representative OBERSTAR and Representative CLINGER, the bill places added emphasis on the rehabilitation and repair of public facilities; it establishes locally administered revolving loan funds to provide seed capital for small business; and it provides assistance for employee stock ownership of plants that would otherwise be shut down. The National Development Investment Act, most significantly, channels Federal assistance to those areas that meet tighter eligibility criteria and that show local initiative and local commitment in developing strategies for sustained economic recovery. In short, in a time of great economic distress and limited Federal resources, H.R. 6100 is a realistic effort to target assistance where it will have the greatest impact.

My strong support for H.R. 6100 is based in part on the centerpiece of the bill, the development assistance strategy, which will be a long-range planning document required from every

applicant to serve as a practical action plan.

In testimony before the Subcommittee on Economic Development, the deputy commissioner of Connecticut's Department of Economic Development testified as to the success of a partnership between the State and the EDA which embodies the concepts underlying H.R. 6100. Seven years ago, under the leadership of the late Gov. Ella Grasso, Connecticut and the EDA worked together to develop a comprehensive strategy for long-term and diverse economic recovery targeted to one of the most severely distressed areas within the State. All levels of government and the business community worked in partnership—respecting the rights and obligations of municipalities for self-determination in their own economic revitalization. The result has been the creation and retention of over 20,000 jobs in a once chronically distressed region—with unemployment, even today, a full 4 points below what it was 7 years ago.

The importance of the programs under the Economic Development Administration cannot be understated. Programs under the EDA have worked well in the past; they promise to work even better under the new National Development Investment Act.

Mr. OBERSTAR. Mr. Chairman, I yield 3 minutes to the gentleman from West Virginia (Mr. RAHALL).

Mr. RAHALL. Mr. Chairman, since the earliest years of the 20th-century events periodically made Americans aware that Appalachia was a region apart, isolated from the rest of the country due to its rough terrain, suffering from the ravages of floods, prone to erratic swings in the coal industry, and subject to severe economic and population shifts than in the rest of the Nation.

By the early 1960's, conditions in Appalachia had reached desperate proportions as major floods and the boom and bust cycle of the coal industry took its toll in human suffering. Despite efforts of religious leaders, public officials, universities, and business groups in the region to alleviate the many socioeconomic problems, little permanent change was accomplished until President Kennedy appointed the President's Appalachian Regional Commission to "prepare a comprehensive action program for the economic development of the Appalachian region."

Today, we have before us legislation to reauthorize the Appalachian Regional Development Act of 1965 and the Economic Development Act of 1965. Today, we have the rare opportunity to use some hindsight during our deliberation of H.R. 6100; we have the ability to judge time-tested programs contained in this bill.

Using even these most stringent of criteria, I stand here today to say that without a doubt, the Appalachian Regional Commission is a program that has worked. During the past 17 years, the ARC has demonstrated the capability to facilitate cooperation among all levels of government and the private sector. It has pioneered new approaches in extending health care in doctor-short areas and has linked the region to the rest of the Nation through a system of highways.

Mr. Chairman, the Appalachian region encompasses 397 counties in 13 States stretching from southern New York to northern Mississippi. The population in this region is over 20 million. And facts stand as testimony to how the ARC program has helped these people. Since the ARC highway program began, 430,000 jobs have been made possible due to this modern transportation network. Before ARC, only 25 percent of Appalachian youth were getting vocational training; today the Commission has made possible 705 vocational/technical education facilities and now 52 percent of the 11th and 12th graders in the region are getting such training. ARC has stimulated the development of almost 20,000 housing units. In the area of health care, the ARC has fought tuberculosis, infectious diseases, and infant mortality, and today, primary health care facilities are within reach of most people in the region.

In my congressional district alone, 62 projects totaling \$10.5 million have been approved including primary health care, long-term care, emergency services and the construction and equipping of hospitals; 25 vocational education projects have been funded at over \$7 million; 15 water and sewer and waste treatment projects have received over \$3.8 million; and 7 solid waste projects have received \$1.5 million. In all, 181 nonhighway area development projects in my district have received a total of \$35.5 million in ARC funds. Largely because of these programs, the gap in per capita personal income in my district and the Nation has been narrowed. People living in poverty have decreased from 40 percent of the total population in 1960 to 16 percent in 1976. The decline in population of nearly 13 percent between 1960 and 1970 has been arrested and there has been a gain of slightly over 11 percent by 1980. Jobs have been created and the unemployment rate, once three times the national average, is now one-third more than the national rate.

Yet, while these facts and figures are testimony to a successful program, let us not fool ourselves. There are still distressing gaps between Appalachia and the rest of the Nation. In my district, for example, the poverty rate is still 25 percent more than the national rate. There are only 119 doc-

tors per 100,000 population; only two-thirds of the national figure of 170 per 100,000 population. Highway projects, such as Corridor G running from Charleston to north of Pikeville, are uncompleted and are crucial to the transportation of coal.

West Virginia, and the region, have made progress but we can ill afford to lose this sound base by an abrupt halt to the ARC program. The bill before us today is a phaseout program encompassing the recommendations of the Appalachian Governors. It is a good program, and one taking into account the economic situation of today. I commend the distinguished chairmen of the Subcommittee on Economic Development, Mr. OBERSTAR, and of the full Committee on Public Works and Transportation, Mr. HOWARD, for their diligent efforts on behalf of the people of Appalachia. We have walked through parts of Appalachia together, heard from the local people, and visited many of the ARC programs. While Chairman OBERSTAR is from a non-Appalachian State, his interest in ARC and his recognition of its importance signifies the importance the development of this region has to the rest of the Nation.

□ 1650

Mr. OBERSTAR. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. ALBOSTA).

Mr. ALBOSTA. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to associate myself with the remarks of the gentleman from West Virginia (Mr. RAHALL).

I was there during the hearings on that area that the gentleman was speaking about, the Appalachian region. I have seen the types of results that he talked about and I just want to be a part of his remarks, because I think that is the best example that I can think of anywhere where EDA has helped and where help from the Federal Government and local governments have really worked.

I want to associate myself with the remarks of the gentleman from West Virginia, Mr. RAHALL.

PARLIAMENTARY INQUIRY

Mr. CLINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. CLINGER. Mr. Chairman, my understanding is that the debate time is 1 hour and 30 minutes, with 45 minutes for each side.

The CHAIRMAN. The gentleman is correct.

Mr. CLINGER. My understanding further is that the gentleman from Minnesota and myself would control all of that time and yield time to the members of the Committee on Banking, Finance and Urban Affairs.

The CHAIRMAN. That is correct. The gentleman from Pennsylvania

(Mr. CLINGER) has 18 minutes remaining, and the gentleman from Minnesota (Mr. OBERSTAR) now has 14 minutes remaining.

Mr. CLINGER. Mr. Chairman, is that the total time?

The CHAIRMAN. That is correct.

Mr. CLINGER. Mr. Chairman, I yield to the gentleman from Connecticut (Mr. MCKINNEY).

Mr. MCKINNEY. Mr. Chairman, I really would like to congratulate the committee and my good friend and fellow Northeast-Midwest congressional coalition member, the gentleman from Minnesota, JIM OBERSTAR, for the work that he and the gentleman from Pennsylvania, BILL CLINGER, the gentleman from New Jersey, Mr. HOWARD, my good friend, the gentleman from California, Mr. CLAUSEN—Mr. Chairman, there have been so many compliments, I guess I can just say I agree with all of the above.

I would like to say, Mr. Chairman, that this was a rewarding experience for us as the Committee on Banking, Finance and Urban Affairs was able to cooperate so closely and so clearly with another committee that we could have joint hearings. I do not think that is often done, although I think it saved a great deal of time and expedited the taxpayers' work and the work of this body.

I very strongly support this bill. EDA has been castigated in the old days and torn apart; it has been said that it locks people and resources and firms into areas that have lost their viability.

I would suggest that the biggest city in the State of Connecticut, Bridgeport, which I represent, would not even have the tremor of life it has today without the economic development assistance program.

I have never found it to lock people in; I have never found it to keep unviable industries alive.

I have found that it came along and took an older and far more strained part of the Nation, whose resources were at the end of their line rather than at its beginning, and made them work again.

The problem I have with the previous economic development assistance legislation was that it would have qualified about 80 percent of the United States of America. I must say, without being parochial about it, as I flew through some parts of this country and left my city with its 125-year-old factories, four stories tall, with bricks falling out of the sides, that I found it difficult to think that some parts of the country were as distressed as mine.

I see my good friend Mr. EVANS from Delaware sitting here. I remember walking through a Chrysler plant in Delaware with him, watching the rain fall through the roof. Yet that plant,

like many plants in Bridgeport, earned the money that paid the taxes that supplied the energy, the finances, and the capital that went to the Sun Belt, to the Dust Bowl, and throughout the United States of America and built this Nation.

I congratulate the chairman and ranking member on creating a bill that targets far more realistically, I would suggest, about 40 percent of those areas really are troubled and really are in need.

I also have to say, Mr. Chairman, that one of the things that has really disturbed me is interest rates. Interest rates are a reflection of the amount of capital in the United States. I would suggest that we have been throwing away capital in the United States faster than we have been creating it by ignoring our infrastructure, by ignoring what we have.

I have often said that I do not see the south Bronx as a distressed community, per se, even though it is one of the most distressed in the United States of America. I see the south Bronx as subway lines, bus lines, streets, sidewalks, water mains, gas mains, the whole infrastructure of a city.

This is true across the United States, from Detroit to Minneapolis, to every older city that one goes to.

I do not think that in a world where capital costs 15 percent prime that we can afford to throw away any capital.

I congratulate the committee on putting the emphasis of this bill on trying to regenerate, to rebuild, and hold onto what we have. I think it is something that we have totally ignored in this country for far too long.

I would hope that the Congress and my colleagues will see fit to pass this piece of legislation. It is an improvement on an old idea. It is not as much money as I would like to see us be able to spend but I do not think I will ever see the kind of money I would like to see in any program for the cities.

I would also hope that a very good friend of mine intends to put in an amendment on the Davis-Bacon problem. I would suggest that the amendment has a terrible flaw in that the 10-percent basis on that amendment can, quite frankly, later on down the path, be voided by that terrible complaint that the contractors are so used to having that "Oh, well, other costs got out of control."

I would suggest that to get into an argument and to argue over a very good bill on that subject is a terrible mistake at this late date in the Congress. I hope my colleagues will keep that in mind.

Mr. Chairman, I would like at this point to yield 3 minutes to the ranking member of the Committee on Banking, Finance and Urban Affairs, Mr. STANTON of Ohio.

Mr. STANTON of Ohio. Mr. Chairman, H.R. 6100, the National Development Investment Act, was jointly referred to the Committee on Public Works and the Committee on Banking, Finance and Urban Affairs. Due to the press of other legislation, however, our committee never met on this proposal. Instead, we waived consideration in exchange for an opportunity to have floor time during general debate on the legislation.

This, then, is my first chance to speak on this legislation. While I share the objectives of the legislation, I rise to indicate the administration's strong opposition to the bill. The administration believes that market forces operating upon the private sector are a better means to foster local economic development than the assistance embodied in H.R. 6100. Federal economic development assistance has a history of subsidizing inefficiency and limiting opportunity.

In lieu of this legislation, the administration seeks to stimulate economic expansion and job creation through regulatory relief, and fiscal restraint. Furthermore, the administration does support targeted assistance through the use of the community development block grant program, the urban development action grant program, and the enterprise zone legislation.

As we consider this legislation, we should also be aware that it adds another layer to the ever burgeoning volume of Federal grants and guarantees which, in turn, has an impact on the Nation's credit markets.

Over the past several years, Federal credit programs have expanded at a rate in excess of direct Federal spending programs. As a consequence, Federal credit program activity has risen to record levels of intrusion into U.S. financial markets. To the objective examiner, it is an undisputed fact that the growth of Federal credit has gotten out of hand. The statistics on the extent of Federal credit activity as a share of total credit allocation in the United States are alarming.

What is particularly unfortunate about this phenomenon of Federal credit growth is that it has gone relatively unnoticed, compared to the attention received by the Federal budget deficit. The lack of awareness and understanding of this aspect of Federal spending is widespread in and out of the Government and is attributable predominately to the fact that the direct loan and loan guarantee programs of Federal agencies and federally sponsored enterprises are not reflected in the Federal deficit, as they are recorded as off-budget activity. Yet these Federal credit programs have essentially the same impact on the economy and the financial markets as do on-budget expenditures. Both types of spending lay claim to scarced domestic resources and both

reallocate them to a vast array of beneficiaries.

In conclusion, while I support the objectives of this bill, I urge my colleagues to be mindful of the administration's concerns and the potential harm that this legislation can cause to our Nation's credit markets before casting their vote on this measure.

□ 1700

Mr. McKINNEY. Mr. Chairman, I yield to the gentleman from Minnesota (Mr. STANGELAND).

Mr. STANGELAND. Mr. Chairman, I rise in support of H.R. 6100. I, too, wish to congratulate Mr. OBERSTAR and Mr. CLINGER on their fine accomplishment in the formulation of this important legislation.

While I am a strong supporter of the President's economic recovery package, I feel that the changes to EDA proposed in H.R. 6100 would enable that Agency to complement the enterprise zone concept as well as work in concert with the community development block grant and urban development action grant programs to provide a balanced approach to economic development.

Coming from a primarily rural district and one which has an unemployment rate in some areas as high as 26 percent, I can see the need for a program of the type envisioned in H.R. 6100, one which not only allows but requires local initiative and involvement in the economic development process.

The realistic approach that this bill takes by focusing on the role of the private sector and requiring the development of a workable strategy makes it a sound and reasonable means of assisting our Nation's distressed communities.

I have cosponsored this bill, I believe it can transform EDA into the effective Agency it was created to be, and I urge you to support passage of this important measure.

Mr. McKINNEY. Mr. Chairman, I yield to the gentleman from Ohio (Mr. McEWEN).

Mr. McEWEN. Mr. Chairman, I rise in support today of H.R. 6100, the National Development Investment Act, and in particular, the provisions in title II which concern the Appalachian Regional Commission. Title II of H.R. 6100 revises and extends the Appalachian Regional Development Act to allow for a "finish-up" of the area development projects by 1987, and of the Appalachian highway program by 1990.

The rural community, and in particular the Appalachian communities, often lack the basic infrastructure needed to achieve economic development and are frequently unable to obtain, without assistance, the resources needed to develop these areas on their own. H.R. 6100 provides the

incentives, the plans, and the resources needed to give these communities the assistance they so desperately require to bring themselves to economic self-sufficiency.

There has been no greater catalyst for development throughout the Appalachian region than the Appalachian Highway System. By September of 1981, 1,730 miles of the highway had been completed of the 3,033 miles originally intended for improvement under the Public Works and Economic Development Act of 1965. With the passage of H.R. 6100 and the execution of the finish-up program outlined in title II, the critical remaining gaps along the Appalachian highway would be constructed. In Ohio, alone, over 90 percent of the proposed system would be completed under the funding plans of this legislation.

Moreover, the increasing importance of the Appalachian Highway System to the entire Nation is growing evermore apparent. By 1980, over 50 percent of the traffic using the Appalachian Highway System was for coal transportation. With the completion by 1990 of the finish-up program for the highway system, the potential for coal transportation will be significantly increased. Each additional finished mile of this system helps to break down the isolation of the Appalachian communities, and assists in linking the remainder of our Nation to these resource-rich areas.

I wish to further emphasize that the funding recommendations for the highway system have been reached only after careful consideration of both the reduced Federal funds available and the commitment made to the Appalachian regions under the Appalachian Regional Development Act of 1965. The already completed portions of the highway have been built with a Federal investment of \$2.8 billion. Title II of this bill provides \$215 million for the highway program in 1983, and an additional \$2 billion for highway construction through fiscal year 1990. The intent of H.R. 6100 is to concentrate on those stretches of the system deemed to be the most advantageous and necessary routes, and to accelerate their completion. To reap the greatest benefit from the already completed 1,700 miles and \$2.8 billion investment, the critical gaps left unfinished to date must be constructed.

A large and important part of the newly proposed Appalachian Regional Development Act Amendments of 1982 is the emphasis placed on an increased role for private investments and job creation. In drafting this legislation, attention was directed toward increased private sector financial contributions and additional local government support for the programs. Such strong local and federal coordination is crucial to the completion of the Appalachian Highway System and the

future economic development and self-sufficiency of the Appalachian regions.

Given the New Federalism which has been become such a resounding theme in our Nation today, and the broad-based public support for this approach, it is our responsibility in Congress to help stimulate and motivate the private sector to actively participate in solving the problems currently facing our society. H.R. 6100 and title II, the Appalachian Regional Development Act Amendments of 1982, provide these incentives along with the necessary funds to help those in the Appalachian regions to help themselves, and in turn to help our country. I urgently request the serious consideration and support of my distinguished colleagues for H.R. 6100.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. MINETA).

Mr. MINETA. Mr. Chairman, I wish to congratulate both the gentleman from Minnesota, Mr. OBERSTAR, who chairs this Subcommittee on Economic Development, and the ranking minority member, Mr. CLINGER of Pennsylvania. Both are very knowledgeable of this subject matter and have been extremely conscientious in putting this fine piece of legislation together. I rise in support of H.R. 6100. The basic aim of the National Development Investment Act is to encourage public officials and private enterprise to work together to help solve the serious problems of high unemployment, decaying infrastructure, and lack of capital in distressed areas, currently facing many of our urban and rural communities.

This legislation has been carefully crafted to eliminate the problems of the original Economic Development Act. Eligibility criteria have been tightened, local governments will be required to work in cooperation with the private sector, and the Federal share of development money has been reduced to 50 percent for capital projects to assure local commitment.

The program will no longer continuously feed communities which are not helping themselves, but will instead require a commitment by the community to work toward successful economic improvement.

Given the current poor fiscal condition of our States and localities, it is imperative that the Federal Government continue to assist local communities in their efforts to promote economic development. Productivity and growth will be further eroded if our local economies continue to deteriorate.

I urge your support of this measure.

Mr. OBERSTAR. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. SAVAGE).

Mr. SAVAGE. Mr. Chairman, I rise in support of H.R. 6100, the National Development Investment Act. I favor its not only keeping but also improving programs currently under the Economic Development Administration.

This bill addresses past problems and criticisms of EDA by sharpening our focus on current economic development needs.

More specifically and most importantly, I support it because it will ease our present staggeringly high unemployment rate by promoting private and public sector jobs. Moreover, it represents a renewed recognition of the pressing need to maintain our public infrastructure, such as roads, water and sewer lines. In addition, I support it because it provides loans for capital for small business development, and begins to deal with the workers' distress when a plant closes or relocates.

Of course, in terms of how great are our needs, \$500 million a year is very little, and this proposed revitalization of our Federal economic development program is a bit late. Yet, it will do more than save this program, which now is scheduled to be phased out—it will begin correcting and rebuilding it.

Indeed, now more than ever, it is vital that we maintain our Federal concern for reasonable employment opportunities, economic development, and the maintaining of our public infrastructure.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. BLANCHARD), chairman of the Subcommittee on Economic Stabilization of the Committee on Banking and Currency, which worked with us on this legislation.

Mr. BLANCHARD. Mr. Chairman, I would like to commend the chairman of the Committee on Public Works and Transportation and its members for crafting and moving out of committee a very fine piece of legislation. I am glad we on the Banking and Currency Committee played a small part in it, and I support the bill.

Mr. Chairman, this country needs the National Investment Development Act. Many communities in this Nation are suffering economic distress, and some, including my own State of Michigan, are facing the worst economic problems they have known since the Great Depression.

The Federal Government has a responsibility to help these areas help themselves, and I believe the program embodied in this legislation while it will not solve all the economic ills, will give some stimulus and some help to these states and communities and areas to get their economies back on the right track.

There are a number of aspects to the National Investment Development Act program which I think represent an

improvement over the past EDA programs, and which I believe will result in a more efficient, and in the long run, a more productive use of Federal funds. First, the program is truly targeted to truly distressed areas. The distress is measured by unemployment or by per capita income, and once the distress criteria can no longer be met, no further assistance would be forthcoming. There are many areas in this country which could put Federal assistance to good use, but with the limited funds authorized in this bill, this targeting will put the money where it is most needed.

Second, the requirement that the Federal funds be matched by the recipient area will not only spread the limited Federal monies, but will represent a true commitment on the part of the recipient area and, I believe, a careful and more productive use of those moneys.

Third, the emphasis in the program on private sector involvement is an important step toward a realistic and lasting economic development program. Governments must do their part but true economic growth requires investment and involvement of the private sector, for that is, after all, where the jobs and the economic vitality are.

Finally, and perhaps most important of all, this bill puts the planning and decisionmaking in the hands of the States and areas and communities instead of the Federal Government, which has been the case all too often in the past. In the decade-and-a-half since the EDA was first created, our States and communities and localities have become the real experts on what economic development is all about, and what their needs and assets are and how they can best be coordinated and utilized. Under this program, they will make the decisions, and the Government's role will be that of a "helping hand," which I think is as it should be.

This is a good bill, Mr. Chairman, and one which the country badly needs. I want to commend Chairman HOWARD and Chairman OBERSTAR, and their colleagues on the Public Works Committee from both sides of the aisle, for spending the better part of a year examining all aspects of the Economic Development Administration programs and fashioning a program tailored to the times and to what they have learned works best. This is a carefully thought out and workable program. I am pleased that the Banking Committee has had a hand in bringing this bill to the floor. I urge my colleagues to support it.

Mr. CLINGER. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. DUNN).

Mr. DUNN. Mr. Chairman, I would like to begin by also complimenting the ranking member of the committee, the gentleman from Pennsylvania, as

well as the distinguished chairman, the gentleman from Minnesota. I wonder if I might have the attention of the chairman for a couple of questions.

I attended one of the gentleman's hearings, and some of the reservations that were expressed at those hearings have indeed been addressed in the gentleman's bill, but nevertheless I still have a couple of reservations, one of them being a similar conduit for revitalizing areas, that being the Economic Development Corporation. Under that scenario local planning units, local banks, local businesses all get together and indeed decide what is best for their community and go about it through the route of tax-exempt revenue bonds.

I wonder if that is not a more efficient way for a local government to decide what its needs are than what the gentleman proposed here in the bill.

Mr. OBERSTAR. If the gentleman will yield, the concept the gentleman has expressed is one that is parallel to the concept of this legislation but does not have within it the feature that I think is a central part of this legislation, which is the up-front infrastructure funding available to a community that money that is needed to invest in water and sewerlines and streets and industrial park development. The concept the gentleman has described does not incorporate that.

Mr. DUNN. The up-front cost brings me to the second part of my question. When we talked again at the hearing about the communities that are about to lose a large employer, and the bill provides for funding for those, can the gentleman give me an example of the type of funds for, say, an area that does not currently have unemployment but is about to lose a major employer? What kind of grant would they be seeking under the bill the gentleman is proposing?

Mr. OBERSTAR. They would be working to develop a strategy for investment of resources to replace the business that would be lost by, say, a military base closure or loss of a major industry. To give the gentleman an example, in northeastern Minnesota a few years ago there was a question as to whether Reserve Mining Co., a major iron ore mining facility, would be forced to close because of environmental questions. A grant from the Economic Development Administration helped an entire county to plan for alternative economic development in the event that industry should close. As it turned out, the industry did not close. The county used those plans to develop alternative industrial development opportunities, which have been an important supplement now that that industry has not closed, to help their economy.

Mr. DUNN. What the gentleman is basically saying is that it would be used for this planning strategy.

One final question. I have heard many jokes in the last few years about EDA being used to provide funds for fast food restaurants and such.

On page 6, at line 18, section 2 reads:

"(2) revolving loan funds to promote the establishment and growth of small businesses and to retain indigenous firms and entrepreneurs which contribute to the creation, retention, and expansion of private sector jobs;

Is it the chairman's opinion that this language is indeed strong enough, specific enough to limit these type of business out of this type of grant application?

Mr. OBERSTAR. In the context of this legislation, the Federal Government is not making the decision for the local government as to what type of investment is best for that community. It is up to the mayor, the council, the local economic development committee, to decide what they need, what suits their local condition best and will best create jobs. We are not attempting to prejudice or to eliminate any kind of investment.

Mr. DUNN. If I might continue, in looking to revitalize an area I do not believe the gentleman would do that, but suppose the example I used of a new McDonalds, could that be creating some sort of new industry in that area? I have a reservation as to whether the gentleman's language here is specific enough.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. CLINGER. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan.

Mr. CLINGER. Mr. Chairman, will the gentleman yield?

Mr. DUNN. I will be glad to yield.

Mr. CLINGER. I think the example the gentleman cited of McDonald's really would not apply to EDA. That sort of thing, I think, has been criticized on the industrial bond program, and so forth, but I would really question whether EDA has ever financed a McDonald's. I think they have focused and limited their money to the kind of job generating we are talking about, basically industrial development.

□ 1710

Mr. CLINGER. Mr. Chairman, I yield 4 minutes to the gentleman from Delaware (Mr. EVANS.)

Mr. EVANS of Delaware. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act.

I, too, would like to offer my congratulations to the chairman of the full committee, the gentleman from New Jersey (Mr. HOWARD), and the ranking member from California (Mr. CLAUSEN), and especially, to the chairman of the Economic Development

Subcommittee, the gentleman from Minnesota (Mr. OBERSTAR), and the ranking minority member the gentleman from Pennsylvania (Mr. CLINGER), all of whom have done an outstanding job; and to the gentleman from Ohio (Mr. STANTON), and to the chairman of our Subcommittee on Economic Stabilization and our ranking minority member on Economic Stabilization, the gentleman from Connecticut (Mr. McKINNEY) and the gentleman from Michigan (Mr. BLANCHARD).

Over the years I have seen the Economic Development Administration up front, at first hand, as director of development for the State of Delaware back in the late 1960's. I saw some outstanding results.

More recently, through EDA assistance, Delawarans have benefited from the construction of a containerized cargo crane at the Port of Wilmington, the construction of a vocational skills center at Goldey Beacom College, and the construction of the beginning of construction of the Marine Industrial Development Park at Lewes, which is the southern campus of the University of Delaware.

Badly needed jobs have been created and others saved with the investment of relatively few Federal dollars in projects such as these in Delaware.

We need to develop the factors that affect economic development and mean more permanent jobs for American workers. This bill is designed to do just that.

Despite the fact that my friend and our former colleague from Michigan, Dave Stockman, now the Director of the Office of Management and Budget, opposes this bill, we have a responsibility here in this body, under the Constitution, to act independently.

I think this is a wise investment of the limited resources we have available to us.

I must also point out to my colleagues, however, that I have seen EDA make some serious mistakes for which it has been quite appropriately criticized by many, including this administration.

The bill before us today corrects many of those mistakes and many of those problems have been solved under this bill and it adapts the original goals of the act to the economic realities of the 1980's.

The gentleman from Minnesota and the gentleman from Pennsylvania have both pointed out that the level of eligibility has been reduced from 80 percent to close to 40 percent of the Nation.

I will not enumerate on those reasons and those many areas that the bill has been changed except to emphasize that the bill insures that funds go only to areas of greatest need but also where they can realistically produce the greatest results: more productive jobs in the private sector.

Another key element of the legislation is its emphasis on coordination. No longer can we as a nation afford to federally finance isolated public works projects; we cannot do that in a haphazard manner anymore, and this bill takes that into account.

This legislation will not solve all the economic ills of our Nation but it certainly is a major step in the right direction. It provides a new approach to economic growth and development.

No longer will projects be funded in that haphazard manner. They must be a part of a cohesive and a workable investment strategy.

The community itself must take an active and responsible role in the development process. It must look to the private sector as a necessary component for any meaningful economic growth to take place.

Mr. Chairman, taking this realistic approach, the National Development Investment Act is one of the most significant initiatives of this type that the Congress has considered in recent years. I support it strongly. It is reasonable. It is rational. It is the way to target our limited resources in the most effective manner possible and produce jobs for Americans.

The CHAIRMAN. All time of the gentleman from Pennsylvania (Mr. CLINGER) has expired.

The gentleman from Minnesota (Mr. OBERSTAR) has 12 minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LUNDINE).

Mr. LUNDINE. Mr. Chairman, I rise today in strong support of H.R. 6100, the National Development Investment Act. This legislation, which provides a new authorization and focus to replace the soon to expire Public Works and Economic Development and Appalachian Regional Development Acts of 1965, is critically needed to bring about national economic revitalization.

The promotion of a partnership between the Federal Government and local communities that is based on local initiative and long-range investment strategies is an important ingredient to insure that the structural adjustments are made in our economy that will support industrial growth. Such local long-range investment strategic investment planning must involve the private sector to a much greater degree than in the past. H.R. 6100, recognizes this and encourages private sector leveraging of local investment strategies.

I want to particularly commend the committee for including a provision in this bill on employee ownership. By doing so, this bill responds to the needs of employee purchasers to have access to capital and technical assistance. Such assistance is particularly important in cases where employees seek to purchase plants or firms which otherwise would be shut down. I am

pleased that this legislation directs EDA to give priority attention to instances where employee-ownership efforts can prevent plant or business shut down.

Employee stock ownership plans (ESOP's) have grown significantly in recent years; there are more than 5,000 of them in America today. Most of these ESOP's hold only small percentages of a company's stock; Nevertheless, such stock plans can facilitate the capital expansion of a business, broaden the base of ownership, and provide an incentive for improved productivity.

In a small but growing number of cases, however, ESOP's have been used by employees to acquire a majority interest in a firm. A 1980 report by the Senate Select Committee on Small Business noted that there were more than 250 firms of 10 employees or more that are majority owned by their employees. This report went on to note that the motivation of roughly 70 percent of these employee purchases was to preserve jobs. The success of this option has been examined and confirmed over the last few years during hearings by the House Banking Committee on which I serve, the House Small Business Committee, the Senate Finance Committee, and the Senate Select Committee on Small Business.

Experience suggests that there are at least three major reasons, in today's economy, why businesses which are on the brink of closing can be kept afloat as employee-owned firms. First, a particular division of a conglomerate may suffer from absentee management. If, instead it is guided by those at the plant level who are familiar with its products and operation, performance may well improve. Second, a plant may be "trapped" within an older, declining firm, even though its own operations are profitable. Third, in this era of fast tax writeoffs and frequent mergers, a parent company may even abandon plants which are still profitable in search of greater returns on investment.

The Federal financial commitment to employee ownership contained in H.R. 6100 will be crucial in leveraging private credit to new or potential employee-owned businesses. The technical assistance that will be provided by this bill recognizes the need for help to employee-owned firms in redesigning their organizations to insure employee participation in management decisions. Finally, the direction to the Secretary under this bill to conduct feasibility studies in employee ownership cases will assure the best use of Federal resources and enable EDA and local governments to factor the possibility of employee ownership into a comprehensive local development strategy.

The employee ownership provisions of this bill build upon the limited but important involvement of EDA in employee ownership ventures over the last few years. Under the current title IX program, EDA has assisted about a dozen employee purchases of plants and businesses.

The advantages of such assistance is no more vividly illustrated than in a case which enabled the employee purchase of a specialty steel corporation which was about to be shut down in my congressional district in Dunkirk, N.Y. In 1976 EDA granted \$10 million to the State of New York which was, in turn, loaned to 35 management employees to purchase the Al Tech Specialty Steel Corp. Since then, the record of Al Tech has been very successful. Perhaps the most impressive fact is that within the first 2 years Al Tech employees paid more than \$10 million in Federal income taxes alone. Obviously, when one considers in addition, business taxes, State and local taxes, and the \$25 million which the firm contributes annually to the local economy, EDA's assistance is easily justified.

There are many other success stories owing to employee ownership which we could discuss here today. The general success of ESOP's and employee ownership has been confirmed by studies conducted by the Survey Research Center at the University of Michigan and the Journal of Corporation Law. The latter study found, for example, that labor productivity in ESOP firms had grown at a rate of 1.5 percent higher than in non-ESOP businesses.

Before concluding, Mr. Chairman, I would like to take a moment to also commend the committee for their action in including in this legislation an extension of the Appalachian Regional Development Act to complete the area redevelopment program and the Appalachian highway system.

This has been a very successful program in the northernmost reaches of Appalachia, which I represent, and indeed throughout the whole of Appalachia. The Appalachian highway program, in particular, has been critically important to the upstate New York area and has been instrumental in the construction of the yet to be completed Southern Tier Expressway, to enable the critical linking of western New York to the rest of the State. Travel time from upstate New York to New York City has been reduced already from 10 hours to 7 hours. I think you can appreciate the importance of this development.

In summary, Mr. Chairman, I offer my strong support to the provisions of H.R. 6100. It offers the kind of Federal targeted assistance to local initiatives that is desperately needed to modernize our industrial base and economically depressed areas to insure a

stable foundation for economic growth in the future.

Mr. OBSERTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. MOTT).

Mr. MOTT. Mr. Chairman, I rise in support of H.R. 6100, the National Development Investment Act.

As a Representative from the Cleveland area, I have seen and been part of that city's gallant fight back from severe economic straits. We still have a long way to go, but we will make it. We need the kind of assistance provided in the National Development Investment Act.

The Public Works and Transportation Subcommittee on Economic Development held a hearing in Cleveland last January, to explore the problems of urban unemployment and to obtain insights into how economic development legislation could better serve larger, older cities like Cleveland, as well as other parts of this country.

I was privileged to take part in that hearing. We heard from 16 witnesses, including Cleveland's director of economic development, and the Greater Cleveland Growth Association, as well as spokesmen for other Ohio cities, contractors, and unions.

Cleveland is one of the finest examples of Federal, local, and private cooperation in pulling the city from bankruptcy back to hope. The city was and is, like many similar, older manufacturing cities, suffering from a long-term loss of industrial job opportunities and population. In recent years, however, it has decided to fight back.

The new mayor established an operations improvement task force, composed of the city's top business leaders and management professions, to undertake a top-to-bottom analysis of the city's operations. The task force recommended major management recommendations, and worked with the city administration on almost a weekly basis to assist in their implementation.

The city, the Greater Cleveland Growth Association, the Cleveland private industry councils and private interests have joined together in one of the largest technical assistance efforts in the country to help local businesses secure Federal contracts.

Cleveland has organized a major citywide development corporation, which may ultimately be responsible for administering its \$1 million EDA revolving loan fund. It is already a very aggressive SBA section 503 corporation.

The city has significantly expanded its urban development action grant program capacity.

It is moving ahead to develop major areas around the EDA-assisted Playhouse Square theater complex, and is pulling together a major neighborhood commercial revitalization program, which will be supported by community development block grant

funds, and which will begin bringing jobs and business capacity back to its neighborhoods.

Cleveland is also laying the groundwork for designation as an enterprise zone.

As I said, Mr. Chairman, we still have a long way to go. But now the city has the hope and determination, and the tools to pull itself out of its past troubles.

In recent years it has resourcefully used assistance from EDA, and will be in a prime position to take full advantage of the economic development tools provided by H.R. 6100.

At our hearings last January, the city and the Greater Cleveland Growth Association both provided considerable insights into the economic development process, many of which were incorporated into H.R. 6100.

I urge my colleagues to give the city the chance to benefit from the assistance which will be provided by the National Development Investment Act.

□ 1720

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. ALBOSTA), who has played a very significant role and dedicated many hours to the formulation of this legislation.

Mr. ALBOSTA. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act. This legislation will continue the Economic Development Administration programs and will target these programs to those areas of the country most in need of economic assistance.

As a member of both the Subcommittee on Economic Development and the full Public Works and Transportation Committee, I participated in countless hearings concerning EDA programs and proposals to change these programs. In fact, I brought the subcommittee to my own State of Michigan last December to hear directly from representatives of business, labor, and government on what needs to be done to help areas like Michigan rebuild their economy.

Out of these hearings came H.R. 6100, a well-thought-out piece of legislation that uses specific criteria to determine an area's economic problems and then requires that a development strategy be put together before any Federal money is spent. This new EDA program will enable the Federal Government to get the maximum bang for the buck.

By providing grants to communities for the construction of industrial parks and the necessary water and sewer lines, EDA gives a community the tools to build a solid economy by being able to attract new business in or expand existing firms. In Michigan, for example, EDA during the past 16 years has provided \$90 million in

public works grants for industrial parks and water and sewer line expansion. At the same time, \$34 million in business loans were made to Michigan companies willing to locate a new or expand an existing facility in the high-unemployment areas of the State. As a result, approximately 25,000 new jobs have been created.

In a State with record unemployment we need this type of a program to help put Michigan on the road to recovery. EDA by itself will not cure Michigan's economic problems. But EDA will give us the tools we so desperately need to start the rebuilding process.

EDA is a proven program combining both Government and industry efforts to improve our Nation's economy. The National Development Investment Act will make the EDA program even more effective and I strongly urge my colleagues to approve H.R. 6100 as passed by the Public Works and Transportation Committee.

Before concluding, I would like to compliment the gentleman from Minnesota, the distinguished chairman of the Subcommittee on Economic Development for his outstanding leadership in working to preserve EDA and improve its programs. I would also like to compliment the gentleman from Pennsylvania, the ranking minority member of the subcommittee for his fine work on the EDA legislation.

Mr. OBERSTAR. Mr. Chairman, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BOUQUARD), a member of the subcommittee.

Mrs. BOUQUARD. Mr. Chairman, I would also like to express my appreciation to our chairman, the gentleman from Minnesota, Mr. JIM OBERSTAR, for his outstanding leadership, as well as the gentleman from Pennsylvania (Mr. CLINGER) and all who have had an active part in making this legislation a reality.

Mr. Chairman, economic development assistance is needed for the Nation and the opportunity for a transition from the Appalachian Regional Commission to alternative funding sources is a necessity for Appalachia. We cannot continue to see progress slip through our fingers. That is why I am supporting H.R. 6100. It incorporates the finish-up program proposed by the Governors, who made it explicitly clear what should be done, how they would accomplish the unfinished task, and how much funding they felt was needed.

ARC has raised the expectations and given self-esteem to the people of my district and all over Appalachia. The Governors have made good decisions as to what is needed to be done. In my district alone, things have changed dramatically. ARC has assisted 53 vocational education centers and 9 recreation facilities with over \$7 million. These are things people take for

granted, but they were absent before ARC.

We have been able to put in utility systems water-sewer projects servicing our citizens in several counties. Thirty of these bicounty projects received \$7.9 million in ARC assistance. We now have waste treatment plants. Both of these help us with our industrial development and attraction and expansion of industry. In all, 114 community development projects in my district have received \$18.4 million Appalachian funds. Transportation has been improved. Under the Governors' program corridor J could largely be completed, shortening commuter and transportation distance to Chattanooga. Our port development projects will help business and industry, and create badly needed jobs.

During the period of the Appalachian program, earlier outmigration was reversed, and population grew substantially. Between 1960 and 1980, it increased by over 117,000. Personal income rose from 77.4 percent of the national average in 1959 to almost 90 percent in 1979 and those living in poverty dropped from over 34 percent to 16 percent of the population.

However, the recent economic problems in the Nation have been felt especially hard in my district. Unemployment, which had been below the national average, has now risen to 12.6 percent in Hamilton County—almost 3 percentage points above the national average of 9.8 percent. My district, and our State need time to adjust to the changing economic conditions, and to find alternative funding sources as the Appalachian finish-up program is completed.

Furthermore, we still have pockets of major deprivation. For example, much remains to be done in Meigs County. They need basic community facilities. I know there are other such counties in Appalachia. We cannot let them down. The finish-up program would provide special assistance for these counties.

H.R. 6100 incorporates the Governors' finish-up activities for the region. It is a reasonable request. I think it is frugal; I like it because it is targeted, but most of all the finish-up fulfills the promises made in 1965.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. ECKART).

Mr. ECKART. Mr. Chairman, I thank the chairman of the subcommittee and fellow Slovene for the fine work he has done, and also my colleague, the gentleman from Pennsylvania for his great work.

Mr. Chairman, today we have the opportunity to relieve some of the vast human suffering of this country's millions of unemployed. The legislation before us, H.R. 6100, proposes a modest economic development program that emphasizes comprehensive

planning to create and retain desperately needed jobs. The unemployed do not want a dole—they want dignity and a job. H.R. 6100 will help to give them both.

The measured approach of this legislation insures that its benefits reach only those truly in need. Its eligibility criteria are both rigid and fair: Unemployment must be higher than the national average for the preceding 24 months, or per capita income must be lower than the national average, or unemployment must rise suddenly as a result of a plant closing, and so forth.

In northeastern Ohio, unemployment is almost mind boggling. Just when we were hoping that the economic tide was turning, we got more bad news—another 360,000 out of a job nationwide this month. The people of northern Ohio will not wait much longer for relief—indeed they cannot wait much longer.

In addition to being a very personal tragedy, unemployment also takes its toll on the community. The shutdown of a factory means more than the loss of the factory workers' jobs—it means that the nearby gas stations, drug stores, and supermarkets also suffer because their customers no longer have the money to patronize their businesses. While this has turned into a national tragedy, this administration has been painfully slow to respond.

If we pass this bill today, we show America's unemployed that we are willing to respond to their needs. We show that we are willing to take concrete action that will help to relieve suffering, rebuild our industrial base, and put people back on the job.

Not at all surprisingly, this legislation is strongly supported by the U.S. Conference of Mayors, the National Association of Counties and many labor organizations, among others. These organizations recognize the importance of a revitalized economic base; if we can work together to rebuild the badly decaying infrastructure in this country we will again bring businesses back to what are now the distressed areas of our Nation. Such a revitalization will have a ripple effect on our Nation's economy as a whole, thereby creating more jobs for more people who want to work.

In conclusion, I believe that this legislation is especially critical because it establishes a structure within which Federal, State and local governments can work together to promote development, preserve our Nation's beleaguered infrastructure, and create jobs. Let us all work together to help put our people back to work.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 6100, legislation

to amend the Public Works and Economic Development Act of 1965.

The legislation, the National Development Investment Act, is vital to the programs of the Federal Economic Development Administration, an agency which—since its inception—has proven to be an important source of funds to help distressed areas combat high unemployment.

In our current period of national recession, it makes no commonsense—in the name of budgetary responsibility—to curtail the proven worth of EDA's record in providing a variety of flexible programs to help local governments put people to work, to construct badly needed public facilities and infrastructure and to undergird the private sector in a partnership with public governments in setting up and financing new business enterprises.

I want to commend the gentleman from Minnesota, Mr. OBERSTAR, for his patience and diligence in building a sound record in the hearings as chairman of the Subcommittee on Economic Development, and in modifying and improving the programs contained in the legislation before us today.

Both the majority and minority members of the House Public Works and Transportation Committee are also to be commended for their diligence in reporting this legislation.

In Puerto Rico, the various programs of EDA have given our island economy a variety of programs to help combat unemployment. No other Federal agency in the broad field of economic development has—since 1966—responded with effective grants, loans and other types of Federal assistance to help stimulate our local economy.

The modification of programs which H.R. 6100 provides for will build upon the expertise of EDA to provide basic economic development tools at the local level. It contains provisions which enable EDA to work with State and local governments in developing a long-range development investment strategy, one geared to the unique problems of any area.

The legislation authorizes \$500 million in each of the next fiscal years for economic development programs, and continues the work of the Appalachian Regional Commission highway program.

On the national level, the legislation creates a new grant program for the establishment of a locally administered revolving loan fund, used to either retain existing businesses or stimulate new enterprises.

The committee has wisely included language that makes any community wishing to participate in this loan fund provide the necessary loan management capability.

The eventual assistance that conceivably could be provided to small businesses on the local level will be another stimulus to the private sector,

and one that will help mayors and local communities provide the "seed capital" so necessary to help new enterprises in the startup stage.

H.R. 6100 is a sound, reasonable bill and one which offers a measure of hope to those areas of our Nation which have been battered by the national recession.

It leaves to local initiative and the private sector considerable flexibility to help turn this economy around.

Puerto Rico, I note particularly that from 1966 to the present, the Federal Economic Development Administration regular programs has provided \$113 million in public works, business loans and guarantees, technical assistance, planning and special programs to help the Puerto Rican economy.

H.R. 6100 would continue that record. It makes no sense to completely phase out an agency that involves the private sector so effectively as EDA has done over the years.

I am in strong support of the legislation and hope that all the rhetoric we hear about the need to involve the private sector is one that will be backed up by more than words, as we do in this bill.

Mr. OBERSTAR. Mr. Chairman, I thank the gentleman from Puerto Rico for his fine statement and for the support he has given to this program which has been so important to his area.

Mr. Chairman, I yield 1 minute to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, I rise in strong support of this legislation.

Through the years I realize that there have probably been, without question, some abuses or perceived abuses of EDA. In my particular area I have been very pleased with the effectiveness of Appalachia, as well as EDA. It has done a tremendous job in working with the private sector to bring truly an industrial base that is bearing fruit today. In most of my 23 counties we have shown an increase in population over the last 10 years. As a matter of fact, my district had grown more than any other single congressional district in the State of Georgia during the past 10 years.

□ 1730

During the previous 10 years, it was the lowest in population.

These programs have worked in my particular area. I urge the Members to support this legislation. I think it is truly an area that we can help make people taxpayers rather than tax eaters.

A wise use of the public money is to provide for water and sewage facilities, roads, industrial parks and similar facilities to promote the expansion of the industrial base of this Nation. We cannot provide the necessary jobs for our jobless, not the necessary tax base

to provide for the needs of our population, unless and until we have the needed services to support new or expanded plant sites. EDA and ARC have proved their worth. I sincerely hope this House and this administration will support their continuation. I urge the support of this bill.

Mr. McDADE. Mr. Chairman, I rise in support of H.R. 6100, the National Development Investment Act, a vital bill which provides continued and revitalized programs for economic development through 1985.

This bill is a consensus bill, a result of countless hearings both here in Washington and in local communities of high unemployment which have used funds like these in the past to provide the needed stimulus to build industrial parks and public facilities to encourage the establishment or expansion of industries. I would like to point out to the critics of these programs that over a 17-year lifespan EDA alone has created 1.5 million jobs, \$4.7 billion in local development initiatives, and over \$9 billion in additional investment. Because of these figures I will have to conclude that the program pays for itself with the tax revenues created by the additional jobs.

Let me relate to my colleagues some specific examples of how the economic development program has helped to not only maintain employment but also to create additional jobs in northeastern Pennsylvania, the area of the country which I proudly represent.

One of our local hospitals, because of an EDA investment of only \$264,000, together with \$70,000 of local funds, managed to save 157 jobs which would otherwise have been lost.

A local industrial park using \$230,000 of EDA money together with \$400,000 of private money created an initial 300 jobs with an estimated payroll of \$4 million.

In another instance, 1,200 new jobs were created when \$455,000 of EDA money was used to expand an existing facility. The project generated \$2.5 million in State and private investment and the EDA investment per new job was only \$2,400.

This measure addresses past criticisms including criteria which was too broad to make the program truly effective by eliminating the one-time, permanent designation and requiring an applicant to requalify every time it applies for assistance. The bill retains grants to aid local communities in the construction of public facilities and improve basic infrastructure necessary to support continued economic development activity. It provides emergency assistance to localities suffering from a sudden and severe economic dislocation of industry. It addresses the serious problem of shortage of capital resulting from lingering high interest rates by making revolving loan money

available for business expansion and retention.

My friends, this period of extended high interest rates and chronic unemployment have placed a tremendous burden on communities across our Nation. Job creation, business expansion, and the construction and maintenance of public facilities have been slowed to a standstill. Programs such as these have long recognized the need for some type of national economic development program for regions of our Nation which suffer from regional economic disparities. The programs have proved successful in the past and with these streamlined revisions promise to help spur economic development for the next 5 years.

I urge my colleagues to vote for passage without amendments.

● Mr. GEJDENSON. Mr. Chairman, I rise in strong support of H.R. 6100, the Development Investment Act. At a time when the administration is calling for the phaseout of the Economic Development Administration, the committee is to be commended not only for reauthorizing a well-proven vehicle for job creation and economic recovery, but for refining the program to address current needs.

Many distressed areas are hindered in their ability to attract businesses because they lack an adequate infrastructure—roads, sewers, transit services, waterlines—sought by firms seeking to open new plants or expand existing ones. The decay is most acute in older industrial areas, where years of use and inadequate maintenance have led to serious deterioration. According to the 1981 Connecticut Department of Transportation report of the "Condition of State Roads and Bridges," over 60 percent of the highways and bridges are in less than good condition. It was noted that although the useful life of a bridge is 50 years, Connecticut has 700 bridges that are over 50 years old.

H.R. 6100 leans EDA's focus more toward infrastructure repair and rehabilitation. The decay of these public facilities has become so extensive that it is beginning to impede economic recovery. This bill provides the stimulus needed to overcome years of capital neglect.

In addition, H.R. 6100 puts added emphasis on small business, targeting its assistance to smaller firms as defined by local communities. This is accomplished by establishing grants, for use in revolving loan funds, that would be used to attract new firms or to provide incentives for existing businesses to remain in the area.

Seven years ago, Connecticut responded to the last major recession by matching State economic recovery programs with EDA funding. In my own district, we saw the creation of the Killingly Industrial Park, a major source of employment. The Federal

EDA has proved to be a vital tool for providing employment stimulation and business development. The need for this Federal/State partnership is needed more than ever in light of the present recession and high interest rates. Just as EDA has been an essential vehicle in aiding troubled areas, its services remain essential now to bridge the gap to better economic times.

I urge my colleagues' overwhelming support of the bill that is before us. ● Mrs. HECKLER. Mr. Chairman, I rise in strong support of H.R. 6100, the National Development Investment Act, a bill that is essential for the economic well-being of thousands of towns and cities in this country.

Throughout my tenure in this House, I have witnessed the vital role played in my congressional district by programs funded under the auspices of the Economic Development Administration. Many of the towns and cities in my district have had to contend with industries that have either folded or left the area, due in part to massive amounts of imported goods. And, while I have made every effort to stem this seemingly endless flow of imports, the municipalities left reeling by economic dislocation have needed and will continue to need Federal assistance.

The localities who have been hit hard by unfair foreign competition and other economic difficulties are more than willing to work hard and lift themselves up by their bootstraps; first, however, they need to have bootstraps with which to lift themselves. Over the years, Federal economic development programs have helped provide some semblance of stability as local economies seek ways of creating job opportunities and fostering business growth.

Mr. Chairman, I believe that the bill before us makes an effective program even more effective. By limiting funding to those areas in real distress, we will be getting more development for the taxpayers dollar which is absolutely necessary for the continued success of the program. In hearing comments from the officials of the Southeastern Regional Planning and Economic Development District, who have developed and administered economic development plans with the highest level of ingenuity and competency, I recognize the strengthening and sharpening of this program by H.R. 6100. At the same time, I recognize that there is still a great need for the development assistance provided in the bill.

Mr. Chairman, I urge the adoption of this bill to spur the revitalization of the distressed areas of our Nation. ●

● Mr. ROGERS. Mr. Chairman, in the early 1960's, one of the most serious problems in the Appalachian region was the lack of adequate health care.

Evidence of the problem was widespread. Throughout the Nation, there were 50 percent more doctors per

100,000 people than in Appalachia. Death from infectious diseases was one-third higher than the national average. Tuberculosis death rates were 40 percent higher, and infant mortality rates were twice the national average in many counties. Outside cities, health care facilities were almost nonexistent.

ARC recognized that adequate health care was essential to economic development. The Commission moved in quickly to correct the problems by funding a network of clinics and hospitals, with a goal of putting a primary health care facility, often staffed by a nurse practitioner or physician assistant, within 30 minutes' driving time of every person in the region.

In the vast majority of Appalachian communities, the objective has been met, with commendable results. The Commission's primary health care program has become a model for the national Rural Health Initiative program. ARC funds spent on training and recruitment of health personnel have helped produce a 30-percent increase in the number of physicians alone.

But, at the end of 17 years, some 60 counties in the region remain outside the health care network. ARC aims to complete this network with some of the funds requested in its finish-up program, which we are considering here today. In addition, the Commission will continue its effort to bring more physicians to Appalachia through a special recruiting program that is already underway.

ARC will also commit some of its finish-up money to further reduce infant mortality rates, which already have dropped to near the national level in most counties.

What ARC is asking in this bill is reasonable. The plan for improvement of the region's health care, set out back in 1965 after the first ARC bill was passed, was well thought out. It requires very little more work to bring these few remaining areas up to the standard that has been achieved throughout the region.

The ARC health finish-up plan calls for \$8 million annually for 3 years to be spent primarily on 82 counties identified as eligible for this funding because they have severe need for a primary care program or because they have unusually high infant mortality rates.

Because of this health care need alone, there is merit to this bill. We have here a program that has come very close to achieving what it set out to do, and we know that in 3 years its goals will have been completely realized.

The difference between success and near success may not seem like much in terms of time and dollars, but it means everything to a mother who

cannot get her sick baby to a clinic in time. ARC projects an additional 600,000 people will gain access to those clinics if these funds are approved.

In this one part of the ARC program we have seen how dramatically careful planning and wise spending can affect the well-being of an entire segment of our population. I urge you to join me in supporting completion of this project, which has made such a vital contribution to the tremendous improvement we have seen since 1965 in the standard of living of the Appalachian people.●

● Mr. WAMPLER. Mr. Chairman, I rise in support of H.R. 6100, the National Development Investment Act, which targets those distressed areas of the Nation badly in need of development assistance for the receipt of Federal grants. I was pleased to cosponsor this measure when it was introduced earlier this year.

Many of my concerns at the time of introduction of this bill have been alleviated and I will continue to monitor the implementation of an enacted version with regard to my previous reservations—basically concerning the needs of rural areas.

By placing the responsibility for development largely at the local level, requiring a strategy for the area concerned that includes long-term goals, and by limiting Federal grants, the impetus for continuing economic development with the use of private and public nonprofit financing is reinforced. Conditions set forth in the proposal should result in realistic planning strategies for the grantees. The targeted nature of the bill should also act as a rein on uncontrolled expansion of the program, unlike the former Economic Development Act growth of coverage. This is one area in which it is especially important that the Congress maintain sufficient oversight to assure the purposes of the legislation.

Most importantly, the bill extends the authorization of the Appalachian Regional Commission programs through 1987, and ARC highway funding through 1990. With economic and budgetary realities apparently foreclosing the option of full funding for the work of the ARC, support for the finish-up plan supported by the Governors of the Appalachian States is vital. The structure of the Commission, with localities determining needs and setting priorities in conjunction with State governments, has proven an effective means to accomplish the most good for the Appalachian region. The highway system, providing vital transportation links with the surrounding areas and States, is a necessary part of the long-term economic improvement plan for the Appalachian area.

I urge my colleagues to support this important legislation.●

● Mr. PERKINS. Mr. Chairman, title II of H.R. 6100 before us today provides for the Appalachian Regional Commission finish-up program that was developed by the Governors of the Appalachian States.

I support this measure enthusiastically, and I believe it is absolutely necessary if we are to have continued progress toward economic stability and growth for the Appalachian region.

It would be the height of folly to terminate the work of the Appalachian Regional Commission without the orderly procedure contained in this bill. And it would be wasteful beyond belief to leave programs in which we have invested so much hanging in midair without ever reaching a successful conclusion.

I think we are well past the time of having to defend the effectiveness of the Appalachian regional development program. We all recognize that it has contributed greatly to the welfare of a region that has as great a potential as any in this country.

It was born of the sixties, and certainly has been one of the most successful development programs ever undertaken by the partnership between the Federal Government and the State.

The 1960 Census showed that over half the people of my congressional district in eastern Kentucky lived in poverty as defined by the then generally accepted standards. By 1976, that sad figure had been halved.

Twenty-three years ago, per capita personal income in that district was less than half of the national average. In the decade before 1980, it climbed from 60 to 73 percent of the national average.

In the early sixties, unemployment had been almost three times that of the Nation as a whole. By last year, my district had gained more than 43,000 jobs.

During the sixties, there was a steady drain of population away from eastern Kentucky. That drain has now been reversed, and the 1980 census showed we had a 25 percent gain in population. That is more than twice the national average.

These changes are heartening, and have given new spirit and new hope to the people who live in our mountainous region.

No one would claim that all of these benefits have flowed directly from the Appalachian Regional Commission, but certainly no one would deny that the A.R.C. has made a significant contribution to the progress that has been made since 1960.

There is, I think, a general feeling of confidence in Appalachia—a feeling that we are on our way.

But, as the Appalachian Governors said in their report to the Congress the job is not yet done. Many districts, including my own, still lag behind the

Nation in too many economic indicators. Substantial gains have indeed been made in income levels, but in the Seventh District, approximately a quarter of the population still lives within the legal definition of poverty. A third of our counties have incomes averaging only 50 percent of the national average. Unemployment today is more than one-third higher than the national average. Only 4 of the 27 counties presently in the district have unemployment rates below double digit levels. One county has an unemployment rate of 28.2 percent, and another 25.5 percent. Nine other are above 15 percent. Only four are below the national average of 9.8 percent, and they are just barely below it.

Among the 60 counties in the 13-State Appalachian region identified by the Governors' report as the most distressed and underdeveloped, 10 are in my district. Many of the communities in these 10 counties still lack the most basic public facilities. Poverty and unemployment rates are disproportionately high.

The finish-up program contained in H.R. 6100 would provide special assistance to these counties, which are Bath, Carter, Knott, Lawrence, Lewis, Magoffin, Menifee, Morgan, Powell, and Wolfe. They have a total population of 130,000.

The Governors' report finds four counties in my district, Greenup, Lewis, Montgomery, and Wolfe, as having health manpower shortage areas and which lack a primary health care program for the residents. A special regionwide health program would allow the State to respond to these health problems.

Mr. Chairman, the significant gains we have made must not be allowed to slip away as a result of Federal neglect. I want us to keep the gains and to solidify them; and I want us to move on to new gains in the counties where there is more work to be done.

I congratulate the Governors of the Appalachian States for the work they have done in drafting the finish-up agenda, and I am grateful to the committee for bringing this legislation to the floor today.

H.R. 6100 deserves our strong support, and I urge the Members to vote for it.

Give Appalachian the tools and it will finish the job.●

Mr. OBERSTAR. To conclude general debate, Mr. Chairman, I yield the balance of the time to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, as we wrap up debate on this particular bill, and move toward the amending process and hopefully the successful passage of this bill, let me just say to everyone involved, the gentleman from Minnesota, the gentleman from Pennsylvania, and the others who worked

so hard, I think this is a historic moment. I think it is a time when our committee has recognized that we do have limited Federal dollars to spend, and here in this piece of legislation we have been innovative and creative, we have come up with some new ideas, we have figured out how to target our economic development dollars more carefully, and therefore helped to use those moneys resourcefully in creating jobs.

This particular bill is I think a new model for future legislation. It does what the gentleman from New York (Mr. LUNDINE) suggests. It provides for employee ownership. It does what the gentleman from Minnesota so articulately wanted to provide, and that is targeting of limited dollars to the areas of greatest need. It does what the gentleman from Pennsylvania suggests, and that is to focus in on local economic development strategies. And it does what the gentleman from Puerto Rico has just said, it looks at the private sector in terms of economic development.

I urge all of our colleagues, Democratic and Republican, conservative and liberal, those from the Northeast and the Midwest, those from the South and the West, to come together to pass this bill with a strong bipartisan commitment, and let this bill become law so that we can move back into the arena of economic development providing jobs and economic resources for the local communities.

Mr. Chairman, I rise in strong support of the National Development Investment Act (H.R. 6100). This legislation revises our Nation's economic development program by rewriting the Public Works and Economic Development Act of 1965. In addition, it provides funding for a finish-up program for the Appalachian Regional Commission.

H.R. 6100 incorporates many of the important lessons we have learned about economic development in the past 17 years—particularly about the importance of strong cooperation between State and local government and the private sector in stimulating new investment and generating permanent, unsubsidized jobs in distressed areas.

The main emphasis of the legislation is on the preparation of local economic development strategies. It does away with the project-by-project approach of the current program, calling upon communities to establish development investment strategies that concentrate resources on coordinated economic development efforts. The bill requires a community to analyze its economic problems, inventory available resources and previous economic development investments, and present a long-term timetable for specific future investments. The program's share would be limited to 50 percent of the total cost of carrying out any strategy.

The act also establishes criteria against which all strategies would be evaluated. Priority would be placed on those that have the greatest potential for success—that, for instance, leverage the most capital and produce the private-sector jobs needed for economic growth and increased productivity. No plan would be selected without evidence of substantial private-sector involvement.

Aimed at rebuilding the economic base of our Nation's distressed areas, the new bill also puts added emphasis on infrastructure repair and rehabilitation, instead of new construction, to help overcome decades of public capital neglect. It concentrates its impact on small businesses—which generate two-thirds of the Nation's new jobs—by establishing locally administered revolving loan funds to provide seed capital business startups and expansions. And, it provides assistance to promote employee stock ownership, primarily employee purchases of plants or firms that otherwise would be shutdown.

In a further refinement, the National Development Investment Act sets tighter targeting provisions—scaling back from the 80 percent of the Nation that now qualifies for assistance to only 41 percent. It narrows the distress criteria, requiring eligible communities to have either an unemployment rate 1 percent above the national average for the last 2 years, a per capita income of 80 percent of the national average, or a sudden rise in unemployment due to a major plant or base closing. These stricter eligibility criteria should help channel assistance to those communities most in need of economic stimulation.

In conclusion, the National Development Investment Act is a strategy to reverse economic decline in distressed areas through partnerships between the public and private sectors. In a time of severe fiscal restraint, it uses limited Federal resources to leverage the kind of long-term investment needed to create permanent private-sector jobs and place communities on firmer economic footings. By involving State and local government and businesses more directly, the new bill increases the chances for successful completion of projects. I urge my colleagues to support H.R. 6100, the National Development Investment Act of 1982.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment recommended by the Committee on Public Works and Transportation now printed in the reported bill shall be considered by titles as an original bill for the purpose of amendment, and each title shall be considered as having been read.

The Clerk will designate title I. Title I reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL DEVELOPMENT INVESTMENT

SEC. 101. The Public Works and Economic Development Act of 1965 is amended to read as follows: "This Act may be cited as the 'National Development Investment Act'".

"TITLE I—DEVELOPMENT INVESTMENT ASSISTANCE

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress reaffirms the proposition that this Nation's economic strength is derived from the health of its regions, States, and local communities, both rural and urban, and that national interest dictates the maintenance and enhancement of economic vitality at the subnational level.

"(b) Congress also recognizes that economic conditions and political relationships change and that legislation must address these changes.

"(c) Congress further affirms that this legislation is designed to make government more efficient and responsive by supporting the following principles: leave to private initiative all the functions that citizens can perform privately; use the level of government closest to the community for all public functions it can handle; utilize cooperative intergovernmental agreements where appropriate to attain economical performance and popular approval; reserve national action for residual participation where State and local governments are not fully adequate and for the continuing responsibilities that only the National Government can undertake, such as monitoring the manner in which Federal funds are used in order to ensure the carrying out of the activities for which assistance is given.

"(d) The private sector remains the ultimate generator of employment and economic growth, but the public sector must reverse decades of infrastructure neglect as a necessary concomitant to private business stability and expansion. State and local governments now have a greater capacity than in previous decades to direct their own destiny, in part because of past Federal efforts; this new capacity must be incorporated in any new legislation at the national level. America's increased involvement in international trade has brought both challenges to some industries, and opportunities for others; these challenges and opportunities must be addressed. Capital shortages will for the foreseeable future curtail the Nation's ability to meet public and private investment needs; it is therefore imperative to marshal the resources of all levels of government and the private sector to create the critical mass of capital and other assets needed to generate growth. Finally, there is a continued need to assist in adjustment of change, which is the only permanent feature of our national, regional, and local economies.

"(e) In recognition of these constants and changes, Congress finds it an appropriate role for the Federal Government to foster the coordination of investments between the public and private sectors and to promote long-term economic development partnerships at the State and local levels, in both rural and urban areas.

"(f) The purposes of this Act are therefore—

"(1) to establish a framework within which Federal, State, and local governments, and the private sectors, in urban and

rural areas, can combine their resources to achieve economic development in all parts of the Nation;

"(2) to help create a strong investment climate which promotes the expansion and retention of job opportunities for local residents; and removes economic barriers in local areas which impede the free market forces;

"(3) to build, rehabilitate, and repair public infrastructure where it is inadequate to support and encourage private investment in the area;

"(4) to recognize and rely upon improved State and local governments' capacity to direct their own destinies;

"(5) to link public and private funds to foster coordination of resources between these sectors, in order to leverage the maximum investment in the long-term economic vitality of all areas;

"(6) to facilitate local and regional economic adjustment and economic development diversification in a changing national economy, by assisting State and local efforts to foresee adverse economic changes; to prevent their consequences where possible; to respond as necessary; and to achieve economic self-sufficiency;

"(7) to assist in relieving capital shortages and fill local credit gaps which impede private business startups and expansion;

"(8) to assist communities and industries to respond to the opportunities and challenges of a world increasingly knit together by international trade; and

"(9) to enhance the economic development of Indian reservations, pursuant to the Federal Government's trust responsibilities to Indian tribes.

"ELIGIBLE ACTIVITIES

"SEC. 102. (a) Upon application of a State, economic development district, unit of local government, Indian tribe, or private or public nonprofit organization established for economic development purposes which meets the eligibility criteria hereinafter established by this Act, the Secretary is authorized to make a grant for a portion of the cost, as provided in section 108 of this Act, of projects submitted in a development investment strategy. Development investment assistance may be for the following purposes—

"(1) the construction, repair, rehabilitation and improvement of public facilities, including the acquisition of land and other public works improvements to encourage and support private development;

"(2) revolving loan funds to promote the establishment and growth of small businesses and to retain indigenous firms and entrepreneurs which contribute to the creation, retention, and expansion of private sector jobs;

"(3) to conduct feasibility studies, site preparation, and other technical assistance to prepare for development and to enhance the investment climate; and

"(4) development activities which address and prevent economic dislocation and facilitate economic adjustment including assistance to promote qualified employee ownership organizations and which contribute to economic diversification and long-term economic vitality of the area.

"(b) The Secretary shall provide technical assistance and conduct feasibility studies to assist any person to establish a qualified employee ownership organization for purposes of subsection (a)(4).

"APPLICANTS

"SEC. 103. (a) A State may apply for a grant under this title for an eligible project

within any unit of local government within the State, other than a unit of local government with a population of fifty thousand or more, if such unit meets the requirements of section 105 and is not within the boundaries of an economic development district.

"(b) A unit of local government within a State, other than a unit of local government with a population of fifty thousand or more, which meets the requirements of section 105 and is not within the boundaries of an economic development district may apply for a grant under this title for an eligible project within such unit, but only if such unit consults the State in the preparation of the grant application.

"(c) An economic development district may apply for a grant under this title for an eligible project within any unit of local government within such district if such unit meets the requirements of section 105.

"(d) A unit of local government within an economic development district may apply for a grant under this title for an eligible project within such unit if such unit meets the requirements of section 105, but only if such unit consults the economic development district in the preparation of the grant application.

"(e) An Indian tribe may apply for a grant under this title.

"(f) A unit of local government with a population of fifty thousand or more which meets the requirements of section 105 and is located outside an economic development district may apply for a grant under this title for an eligible project within such unit and a private or public nonprofit development organization representing an area within such unit may apply for a grant under this title for an eligible project within such area, but only if such grant application is approved by such unit before its submission.

"(g) In the case of a unit of local government which has a population of fifty thousand or more, is located outside of an economic development district, and does not meet the requirements of section 105, such unit may, for an area which meets the requirements of section 105 and is within such unit, apply for a grant under this title for an eligible project within the area and a private or public nonprofit development organization representing an area which meets the requirements of section 105 and is within such unit may apply for a grant under this title for an eligible project within such area, but only if such grant application is approved by such unit before its submission.

"APPLICATION FOR GRANT

"SEC. 104. (a) An application for a grant under this title shall include, but need not be limited to—

"(1) a certification that the area for which the grant is to be made meets the distress requirements set forth in section 105;

"(2) a certification relative to the performance of any responsibilities which the Secretary has agreed to accept under section 306 of this Act; and

"(3) a development investment strategy prepared in accordance with section 106.

"(b) In approving applications for grants under this title, the Secretary shall consider the purposes of this Act as set forth in section 101 of this Act, including but not limited to the following:

"(1) the severity of distress in the area for which the grant is to be made;

"(2) the ratio of private sector investments committed in such area to the amount of the grant applied for;

"(3) the extent to which the appropriate State and local governments have undertaken or agree to undertake other related actions to encourage economic development and the expansion of employment opportunities;

"(4) the effectiveness of the development investment strategy and the degree to which the proposed project contributes to its implementation (including the strategy's relationship to economic problems identified in the strategy), expands employment opportunities in the existing labor market, provides incentives to retain indigenous private businesses, expands or improves public facilities, and encourages private investment;

"(5) the extent to which the strategy and activities are consistent with State and local goals and contribute to long-term economic growth and private sector employment opportunities and establish an overall strengthened economic and business environment which will be self-sustaining; and

"(6) the extent to which assistance under section 102(a)(4) will assist a qualified employee ownership organization to obtain majority ownership of a business.

"DISTRESS REQUIREMENTS

"SEC. 105. (a) In order to be eligible for a grant under this title, the applicant must certify that any activity or project to be funded under such grant will be carried out or located in an area which meets any one of the following criteria:

"(1) the area has a per capita income of 80 per centum or less of the national average;

"(2) the area has an unemployment rate one per centum above the national average percentage for the most recent twenty-four-month period for which statistics are available; or

"(3) the area has experienced or is about to experience a sudden economic dislocation resulting in job loss that is significant both in terms of the number of jobs eliminated and the effect upon the employment rate of the area.

"(b) Documentation of distress shall be supported by Federal data, when available, and in other cases by data available through the State government. Such documentation shall be accepted by the Secretary unless it is determined to be inaccurate. The most recent statistics available must be used.

"DEVELOPMENT INVESTMENT STRATEGY

"SEC. 106. (a) Except as provided in subsection (b) of this section, an applicant for a grant under this title shall prepare a development investment strategy for the area for which the grant is sought which—

"(1) identifies the economic development problems sought to be addressed by the grant;

"(2) identifies past, present, and projected future economic development investments in such area and public and private participants and sources of funding for such investments;

"(3) identifies the extent to which the development investment strategy takes into account—

"(A) availability of developable land and space in the area;

"(B) public works, public service, and development facilities in the area;

"(C) availability of low-cost capital;

"(D) tax policy on investments in the area;

"(E) level of skill of the labor force; and

"(F) ability of State and units of local government to provide financial assistance in the management and implementation of the strategy;

"(4) sets forth a strategy for addressing the economic problems identified in paragraph (1) and discusses the manner in which the strategy will solve such problems;

"(5) provides a general discussion of the projects necessary to implement the strategy, an estimate and analysis of the costs and anticipated benefits of implementing the strategy, and an estimate of the timetables for completion of such projects; and

"(6) provides a summary of public and private resources which are expected to be available for such projects.

"(b) In any case in which a unit of local government is the eligible applicant under subsection (b) or (d) of section 103, the unit of local government shall consult the State or economic development district, respectively, in the preparation of a development investment strategy. In any case in which a private or public nonprofit development organization within a unit of local government is the eligible applicant under subsection (g) of section 103, the unit of local government shall approve the organization's development investment strategy.

"PRIVATE SECTOR INCENTIVES

"SEC. 107. (a) To stimulate small business development and to promote internal economic growth which contributes to an improved local tax base and the creation of permanent employment opportunities, the Secretary is authorized to make grants to an applicant and to a State to establish a revolving loan fund to be used for making loans or guaranteeing loans to small businesses for initial or working capital, or the purchase, rehabilitation or expansion of facilities or equipment. In addition, loans or guarantees may be made to businesses where a relatively small amount of capital is needed to complete financing necessary to retain the business in the area. A grant made to a State under this section shall be made on the condition that the revolving loan fund established by such State shall be available only in areas in such State which meet the requirements of section 105 of this Act.

"(b) No grant for the establishment or recapitalization of a revolving loan fund shall be made for more than \$1,000,000.

"(c) No loan or guarantee shall be made from a revolving loan fund which has received a grant under this title unless the financial assistance applied for is not otherwise available from private lenders on terms which in the opinion of the administrator of the revolving loan fund will permit the accomplishment of the project.

"(d) Any applicant for a grant for a revolving loan fund shall give assurances that amounts of any loan which are repaid to the revolving loan fund will be available only for the purposes set forth in subsection (a).

"(e) No loan or guarantee may be made from a revolving loan fund which has received a grant under this title unless the applicant for such loan or guarantee provides reasonable assurance of repayment of the loan.

"(f) The Secretary may make additional grants for a portion of the cost, as provided in section 108(b) of this Act, of recapitalization of a revolving loan fund, taking into consideration the past performance of such fund.

"(g) The grantee of any grant for a revolving loan fund shall administer the fund.

"FEDERAL SHARE

"SEC. 108. (a) The amount of any grant for a project for any eligible activity described in paragraph (1) of section 102 shall be that

amount which when added to amounts available from all other sources is sufficient to complete such project, except that in no event shall the amount of any grant under this title exceed 50 per centum of such cost of completing the project as determined at the time of the grant application. No additional funds shall be granted or otherwise made available under this Act for any such project for which a grant has been made under this Act.

"(b) The amount of any grant for the establishment of a revolving loan fund under paragraph (2) of section 102 shall not exceed an amount which is equal to the amount of funds available from all other sources for the establishment of such revolving loan fund. The amount of any additional grant for the recapitalization of a revolving loan fund previously established with a grant under this Act shall not exceed an amount which is equal to one-third of the amount of funds available from all other sources for such recapitalization.

"(c) In the case of a grant to an Indian tribe, the Secretary may reduce or waive the non-Federal share.

"LIMITATIONS

"SEC. 109. (a) Except for expenditures to Indian tribes, not more than 15 per centum of the appropriations made pursuant to this title may be expended in any one State.

"(b) The Secretary shall not obligate more than \$2,000,000 in any fiscal year to any person (including any State or local government or public organization) for grants under this title, other than grants which promote qualified employee ownership organizations.

"OBLIGATION OF FUNDS

"SEC. 110. (a) Not later than May 31 of each fiscal year, the Secretary shall obligate for grants under this title not less than 50 per centum and not more than 60 per centum of the funds appropriated for such fiscal year pursuant to this title.

"(b) Not later than September 30 of each fiscal year, the Secretary shall obligate for grants under this title the remaining funds appropriated for such fiscal year pursuant to this title.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 111. There is authorized to be appropriated to carry out this title, to be available until expended, \$425,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985. Not more than 25 per centum of the amount appropriated under this section for any fiscal year shall be expended to carry out section 107 of this title.

"TITLE II—INVESTMENT STRATEGY, PLANNING, EVALUATION, AND DEMONSTRATION

"INVESTMENT STRATEGY AND PLANNING

"SEC. 201. (a)(1) The Secretary is authorized to make grants for economic development planning, including the preparation of development investment strategies under section 106 of this Act and the payment of administrative expenses, to States, economic development districts, Indian tribes, counties which meet the distress requirements of section 105 of this Act and which are located outside of economic development districts, and those other units of local government having populations of fifty thousand or more which meet such distress requirements and which are located outside of economic development districts. Such planning shall be a part of a comprehensive planning process and shall be a continuous

process involving public officials and private citizens in analyzing local economies, defining development goals, determining project opportunities, and formulating and implementing a development program. The Secretary is authorized to make grants for preparation of a development investment strategy under section 106 of this Act to any unit of local government having a population of 100,000 or more which meets the distress requirements of section 105 of this Act on condition that such unit consult with any economic development district of which it is a part in the preparation of such development investment strategy.

"(2) Any State economic development plan prepared with assistance under this section shall be prepared by the State with the active participation of units of local government and economic development districts located in whole or in part within such State and shall set goals for economic development within such State. Each State receiving assistance under this subsection shall submit to the Secretary an annual report on the planning process assisted under this section.

"(3) Any economic development planning by an economic development district or a unit of local government for which a grant is made under this section shall be consistent with the State economic development plan for the State in which such district or unit is located.

"(b) Grants under this section shall be used, to the maximum extent possible, to provide logical coordination of investment for community facilities, economic development, manpower training, and transportation services.

"(c) Any applicant for assistance under this section is encouraged to provide project planning, financial analysis, marketing, management, feasibility studies, and other technical and financial assistance to communities and neighborhoods within its boundaries.

"EVALUATION AND DEMONSTRATION

"SEC. 202. (a) The Secretary is authorized to conduct a program of evaluation of Federal, State, and local development investment efforts in order to—

"(1) assist in determining the causes of unemployment, underemployment, severe economic adjustment problems, and chronic distress in areas and regions of the United States;

"(2) assist in formulating, implementing, or improving programs at the National, State, or local levels which are designed to increase employment in private firms, assist depressed industry sectors, or otherwise promote economic development or adjustment.

"(b) The Secretary is authorized to conduct any demonstration program to test the feasibility of new ways to increase productivity and growth and the understanding of regional and local economies, to foster innovative technology and research in the field of economic development, to match the labor force with projected labor markets, to improve United States competitiveness, or to encourage economic diversity and regional balance.

"(c) Programs authorized under subsections (a) and (b) of this section may be carried out by the Secretary acting through the staff of the Department, in cooperation with or by the provision of funding to other departments or agencies of the Federal Government, or by contract.

"FEDERAL SHARE"

"SEC. 203. The amount of any grant under section 201 shall not exceed 75 per centum of the cost of economic development planning or for the preparation of a development investment strategy. In determining the amount of the non-Federal share of costs under this section, the Secretary shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services. In the case of a grant to an Indian tribe under section 201, the Secretary may reduce or waive the non-Federal share.

"OBLIGATION OF FUNDS"

"SEC. 204. Not later than December 31 of each fiscal year, the Secretary shall obligate for grants under section 201, 90 per centum of the funds appropriated for such fiscal year pursuant to this title (other than those funds available for purposes of section 202). The remainder of such funds shall be obligated during such fiscal year only for making grants under section 201 in areas meeting the criteria set forth in section 105(a)(3) of this Act.

"AUTHORIZATION OF APPROPRIATIONS"

"SEC. 205. (a) There is authorized to be appropriated to carry out this title, to be available until expended, \$75,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985.

"(b) Of sums authorized to be appropriated under subsection (a) of this section, not to exceed \$15,000,000 in each of the fiscal years ending September 30, 1983, September 30, 1984, and September 30, 1985, shall be available for the purposes of section 202.

"TITLE III—ADMINISTRATION"**"DEFINITIONS"**

"SEC. 301. For purposes of this Act—

"(1) the term 'economic development district' means—

"(A) an economic development district designated on or before January 1, 1982, under section 403(a)(1) of the Public Works and Economic Development Act of 1965; and

"(B) any district within a State which is designated by the Secretary, which district is of sufficient size or population and contains sufficient resources to foster economic development on a scale involving more than one county and does not contain within its boundaries any part of another economic development district designated under subparagraph (A) or under this subparagraph;

"(2) the term 'qualified employee ownership organizations' include—

"(A) a qualified employee trust as defined in section 3(c)(2) of the Small Business Act, except that—

"(i) such term shall not be limited to plans maintained by small business concerns or to loans guaranteed under such Act;

"(ii) in the case of any form of financial assistance, the principles of section 3(c)(2)(B) of such Act shall apply under regulations prescribed by the Secretary; and

"(iii) there shall be periodic reviews of the role, in the management of the concern involved, of employees to whose account stock is allocated; and

"(B) any business organized on a cooperative basis;

"(3) the term 'Indian tribe' means the governing body of a tribe, an Indian authority or tribal organization or entity, an Alaskan Native village, or any Indian group which is recognized as an Indian tribe by the Secretary of the Interior;

"(4) the term 'unit of local government' means any city, county, town, parish, vil-

lage, or other general purpose political subdivision of a State;

"(5) the term 'small business' means a business that is independently owned and operated, is not dominant in its field of operations, and meets such other criteria as the Secretary, after consultation with the Administrator of the Small Business Administration, may by regulation establish, including but not limited to, numbers of employees and dollar volume of business by industrial classes;

"(6) the term 'Secretary' means the Secretary of Commerce; and

"(7) the term 'State' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Marianas.

"APPOINTMENT OF ASSISTANT SECRETARY"

"SEC. 302. The Secretary shall administer this Act with the assistance of an Assistant Secretary of Commerce, created by section 601 of the Public Works and Economic Development Act of 1965. Such Assistant Secretary shall perform such functions as the Secretary may prescribe.

"CONSULTATION WITH OTHER PERSONS AND AGENCIES"

"SEC. 303. (a) The Secretary is authorized from time to time to call together and confer with any persons, including representatives of labor, management, agriculture, and government, who can assist in meeting the problems of area and regional unemployment or underemployment.

"(b) The Secretary may make provisions for such consultation with interested departments and agencies as he may deem appropriate in the performance of the functions vested in him by this Act.

"ADMINISTRATION OF ASSISTANCE"

"SEC. 304. No grant shall be approved under this Act unless the Secretary is satisfied that the project for which Federal assistance is granted will be properly and efficiently administered, operated, and maintained.

"POWERS OF THE SECRETARY"

"SEC. 305. In performing his duties under this Act, the Secretary is authorized to—

"(1) adopt, alter, and use a seal, which shall be judicially noticed;

"(2) hold such hearings, sit and act at such times and places, and take such testimony, as he may deem advisable;

"(3) request directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics needed to carry out the purposes of this Act; and each department, bureau, agency, board, commission, office, establishment or instrumentality is authorized to furnish such information, suggestions, estimates, and statistics directly to the Secretary;

"(4) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized by this Act;

"(5) procure by contract the temporary or intermittent services of experts and consultants or organizations therefor as authorized by section 3109(b) of title 5, United States Code, compensate individuals so employed at rates not in excess of \$100 per diem, including travel time, and allow them, while away from their homes or regular places of business, travel expenses (including per

diem in lieu of subsistence) in accordance with section 5703 of title 5, United States Code, for persons in the Government service employed intermittently, while so employed;

"(6) sue and be sued in any court of record of a State having general jurisdiction or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne, or final, shall be issued against the Secretary or his property. Nothing herein shall be construed to except the activities under this Act from the application of sections 517, 547, and 2679 of title 28, United States Code; and

"(7) establish such rules, regulations, and procedures as he may deem appropriate in carrying out the provisions of this Act.

"CERTIFICATION"

"SEC. 306. (a) The Secretary may discharge any of his responsibilities relative to a project for which a grant may be made under title I of this Act by accepting a certification by the applicant of the applicant's performance of such responsibilities. The Secretary shall promulgate such guidelines and regulations as may be necessary to carry out this section.

"(b) Acceptance by the Secretary of an applicant's certification under this section may be rescinded by the Secretary at any time if, in his opinion, it is necessary to do so.

"SAVINGS PROVISIONS"

"SEC. 307. (a) No suit, action, or other proceedings lawfully commenced by or against the Secretary or Assistant Secretary or any other officer in his official capacity or in relation to the discharge of his official duties under the Public Works and Economic Development Act of 1965, shall abate by reason of the taking effect of the provisions of this Act, but the court may, on motion or supplemental petition filed at any time within twelve months after such taking effect, showing a necessity for the survival of such suit, action, or other proceeding to obtain a settlement of the questions involved, allow the same to be maintained by or against the Secretary or Assistant Secretary or such other officer of the Department of Commerce as may be appropriate.

"(b) Except as may be otherwise expressly provided in this Act, all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. All rules, regulations, orders, authorizations, delegations, or other actions duly issued, made, or taken by or pursuant to applicable law, prior to the effective date of this Act, by any agency, officer, or office pertaining to any functions, powers, and duties under the Public Works and Economic Development Act of 1965 shall continue in full force and effect after the effective date of this Act until modified or rescinded by the Secretary or such other officer of the Department of Commerce as, in accordance with applicable law, may be appropriate.

"ANNUAL REPORT"

"SEC. 308. The Secretary shall make a comprehensive and detailed annual report to the Congress of his operations under this Act for each fiscal year beginning with the fiscal year ending September 30, 1983. Such report shall be printed and shall be transmitted to the Congress not later than February 1 of the year following the fiscal year with respect to which such report is made.

"PREVAILING RATE OF WAGE"

"SEC. 309. All laborers and mechanics employed by contractors or subcontractors on projects assisted by the Secretary under this Act shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5). The Secretary shall not extend any financial assistance under this Act for such project without first obtaining adequate assurance that these labor standards will be maintained upon the construction work. The Secretary of Labor shall have, with respect to the labor standards specified in this provision, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267; 5 U.S.C. 1332-15), and section 2 of the Act of June 13, 1964, as amended (40 U.S.C. 276c).

"RECORD OF APPLICATIONS"

"SEC. 310. The Secretary shall maintain as a permanent part of the records of the Department of Commerce a list of applications approved for a grant under this Act, which shall be kept available for public inspection during the regular business hours of the Department of Commerce. The following information shall be posted in such list as soon as each application is approved: (1) the name of the applicant, (2) the amount and duration of the grant for which application is made, and (3) the purposes for which the proceeds of the grant are to be used.

"RECORDS AND AUDIT"

"SEC. 311. (a)(1) Each recipient of a grant under this Act shall keep such records as the Secretary shall prescribe, including records which (A) fully disclose the amount and the disposition by such recipient of the proceeds of such grant, the total cost of the project or undertaking in connection with which such grant is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and (B) review the efficiency, economy, and effectiveness of the project carried out under this Act.

"(2) Not later than ten days after January 1, and July 1 of each year, each recipient shall transmit a report to the Secretary containing all information prescribed under paragraph (1) which relates to all activities carried out during the preceding period relating to grants made to it under this Act. Each report submitted in January of each year shall include an audited statement of all funds spent on the project or undertaking during the preceding fiscal year prepared by an independent certified public accountant in accordance with the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions issued by the Comptroller General of the United States.

"(b) For the purpose of reviewing the efficiency, economy, and effectiveness of programs carried out under the provisions of the Act, including audit and examination, the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of any recipient, subrecipient, contractor, or subcontractor that are pertinent to assistance received under this Act.

"AUTHORIZATION OF APPROPRIATIONS"

"SEC. 312. There is hereby authorized to be appropriated for salaries and administrative expenses to carry out the provisions of this Act \$30,000,000 for the fiscal year ending September 30, 1983, \$35,000,000 for

the fiscal year ending September 30, 1984, and \$40,000,000 for the fiscal year ending September 30, 1985. Appropriations authorized under this Act shall remain available until expended unless otherwise provided by appropriations Acts. Any contract entered into pursuant to this Act shall be effective only to such extent and in such amounts as may be provided in advance in an appropriation Act."

The CHAIRMAN. Are there amendments to title I?

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Massachusetts (Mr. DONNELLY), a member of the subcommittee, who has contributed considerably in time and effort and ideas to the formulation of this legislation.

Mr. DONNELLY. Mr. Chairman, I wish there was substantial time so I could join the chorus of praise for the leadership of the gentleman from Minnesota and my friend from Pennsylvania.

Mr. Chairman, this is a good bill. The committee has worked very diligently and put a lot of effort into the restructuring of this agency. Let me just simply say I hope the legislation passes.

The CHAIRMAN. Are there amendments to title I?

AMENDMENT OFFERED BY MR. HAGEDORN

Mr. HAGEDORN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HAGEDORN:

Page 28, line 16, strike out "All" and insert in lieu thereof "(a) Except as provided in subsection (b), all"

Page 29, after line 5, insert the following:

(b) If, on any portion of a project assisted by the Secretary under this Act, the lowest bid on construction work, not based on paying wages in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), is at least 10 percent less than the lowest bid based on paying wages for such work in accordance with such Act, and the bid of the contractor or subcontractor whose bid, not based on paying wages in accordance with such Act, is accepted, subsection (a) of this section shall not apply to such construction work.

Mr. HAGEDORN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. HAGEDORN. Mr. Chairman, the elimination of excessive Federal spending is something that most Members of Congress like to talk about when we are back in our districts. An amendment I am offering today to the National Development Investment Act gives Congress the means to put those words into action.

Budget cuts have made it incumbent upon us to make the most out of each

Federal dollar spent. We need to make sure that each dollar we devote to economic development is used wisely to combat poverty and to create new jobs rather than to pay excessive wage rates mandated by the half century old Davis-Bacon Act.

I have said in this Chamber many times before that Davis-Bacon adds significantly to the cost of Federal construction projects.

Conservative estimates show that the Davis-Bacon costs your taxpaying constituents at least \$1 billion each year in unnecessary construction and administrative costs. That billion dollar figure is twice the total yearly authorization that the gentleman from Minnesota (Mr. OSBERSTAR) and the gentleman from Pennsylvania (Mr. CLINGER) are seeking for EDA and H.R. 6100.

I believe that the time has come to take a fresh look at the Davis-Bacon issue from a cost versus savings standpoint and from a point of view rather than from a labor versus business perspective.

Both advocates and opponents of the Davis-Bacon Act can support this amendment because it will provide each side with the opportunity to prove the point once and for all. The way this amendment would work is simple.

EDA projects would be open to both Davis-Bacon and non-Davis-Bacon bids. If the lowest non-Davis-Bacon bid comes in at 10 percent or more below the cost of Davis-Bacon bids, the prevailing wage provided in that act will be waived. If the non-Davis-Bacon bid is lower but not a full 10-percent lower, then the contract will be awarded to the lowest Davis-Bacon bidder.

I urge that each Member support this amendment. If supporters of the Davis-Bacon Act are right and it does not add at least 10 percent to the cost of Federal construction on EDA projects nothing will change. If, on the other hand, millions of dollars can be saved for the taxpayers, we owe it to the American people to prevent the continued foolish waste of their tax dollars.

I believe we need to find out if these savings can actually be realized.

I do not need to remind anyone here that we are living in difficult economic times that require fiscal restraint and some tough political votes. Passage of my amendment would be just one small way of demonstrating that Congress is serious about bringing spending under control.

My amendment is procompetition. It eliminates the anti-small-business aspect of the Davis-Bacon Act, and it is protaxpayer. We simply cannot afford to miss another opportunity for significant savings.

So let us put our money where our mouths have been and vote to save the American taxpayers this continued excess expenditure of their tax dollars.

Mr. HAMMERSCHMIDT. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Arkansas.

Mr. HAMMERSCHMIDT. Mr. Chairman, during our hearings to consider H.R. 6100 and other legislative proposals under the jurisdiction of the Economic Development Subcommittee we received testimony on the impact of Davis-Bacon legislation on the cost of Federal construction projects and its effects on local contractors.

At that time, we heard testimony from the U.S. Chamber of Commerce, the American Farm Bureau, the National Federation of Independent Business, the Associated Builders and Contractors and the Associated General Contractors. Every witness spoke of the overwhelming extra expense tacked onto Federal construction costs as a result of Davis-Bacon legislation. Estimates ran as high as \$2 billion per year. But to take the most conservative estimate—that proposed by a group of House Democrats, the Conservative Democratic Forum—an estimated outlay savings of \$560 million would have occurred in fiscal year 1982 from the repeal of Davis-Bacon. To put this figure in perspective, the Federal Government could recoup the entire authorization for H.R. 6100 and more by repealing Davis-Bacon.

The American Farm Bureau testified that a scientific study conducted by Oregon State University reached two highly significant conclusions: First, in a study of 215 projects in 100 counties, costs were from 26 percent to 38 percent higher on federally funded projects as compared to similar buildings built in the same counties during the same 2 years by the private sector. Second, local contractors were used on 47 percent of the private—non-Davis-Bacon—projects; but only on 28 percent of the federally aided projects. Contractors on the Davis-Bacon projects more often came from adjacent counties or even further away, and were more likely to come from an urban center. The unavoidable conclusion from this data is that Davis-Bacon does increase the construction cost of federally funded projects and is actually working to the detriment of those whom it was designed to protect—the local contractors. I believe the only total solution to the problems created by Davis-Bacon is its repeal. However, one modification has been proposed by my colleague Mr. HAGEDORN, which would go a long way toward ameliorating the negative effects of this provision in H.R. 6100. Basically, this amendment would waive the Davis-Bacon requirement only when at least a 10-percent savings of tax dollars would result. It would

call for this exemption when the winning bid on an EDA project comes in at least 10 percent lower than the next lowest bid. Of course, if the full 10 percent cannot be saved the Davis-Bacon requirements remain in effect.

I appreciate this opportunity to bring into focus the severe impact of Davis-Bacon legislation on EDA, and urge adoption of the Hagedorn amendment.

Mr. HAGEDORN. Mr. Chairman, I thank the gentleman for his contribution.

The American Farm Bureau did testify before our subcommittee. They have conducted a study, utilizing the facilities of the Oregon State University and they found that in a study of about 250 projects, both Davis-Bacon and non-Davis-Bacon that the cost savings would range in the area of 26 to 38 percent to the American taxpayer if we were to repeal Davis-Bacon.

I am not suggesting we repeal it. I am giving them a full 10-percent advantage.

And I must think in these times we can muster the courage to vote in the interest of the American taxpayer in this area, and use it as an example of what can be done by changing this archaic law.

Mr. WEBER of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. I yield to the gentleman from Minnesota.

Mr. WEBER of Minnesota. I thank the gentleman for yielding.

I would like to rise in support of the amendment that my colleague from Minnesota is offering.

In addition to the savings argument, I would like to point out one additional argument on this whole Davis-Bacon area.

Often, as the gentleman pointed out in his opening statement, this is portrayed as a business versus labor issue. I do not think that is accurate, either. I agree with the gentleman it should be considered as a cost versus savings issue. But furthermore, in a district like mine that consists of 31 rural counties in southwestern Minnesota, there are many small contractors in small towns who are in effect prohibited from being competitive on many of these projects.

In these cases we find that the Davis-Bacon Act actually has an anti-labor and antibusiness discriminatory effect when it comes to small towns. Is that not the general effect of the act?

Mr. HAGEDORN. That is a very important observation. Originally the reverse was intended.

The CHAIRMAN. The time of the gentleman from Minnesota (Mr. HAGEDORN) has expired.

(At the request of Mr. WEBER of Minnesota and by unanimous consent, Mr. HAGEDORN was allowed to proceed for 2 additional minutes.)

Mr. HAGEDORN. What has been occurring, of course, is originally it was meant to keep migrant workers from moving into the industrial areas and taking away jobs from the big cities. In this day and age we find just the opposite, where the people from the larger communities are moving in taking over the public construction jobs in our small rural areas, because of the fact that small contractors cannot meet the prevailing wage standards as interpreted by the Department of Labor which have a strong union bias, and therefore they just operate out of the bidding process.

This is very discriminatory against small business. And we hear a lot in this Chamber again, rhetoric about helping small business.

Well, this is an opportunity once again to put one's voting card in the slot and vote.

Mr. WEBER of Minnesota. If the gentleman will yield further, can we say in addition to its other benefits this amendment would be pro-rural development in a very real sense of the word and encourage job formation in our rural areas.

Mr. HAGEDORN. Most importantly. If all the good things come out of EDA, as the chairman and the ranking member and many of us have heard that allegedly do, then we need more infrastructure, we need new facilities to build and to provide job opportunities and job expansion.

And we ought to leverage our money to the maximum extent and not blow it with the highest-cost proposals that we can push through this Congress. This is a competitive procompetition piece of legislation, an amendment that I believe deserves and warrants support.

Mr. WEBER of Minnesota. I thank the gentleman.

□ 1740

Mr. CLAUSEN. Mr. Chairman, will the gentleman yield.

Mr. HAGEDORN. Yes. I will be happy to yield to the distinguished ranking member.

Mr. CLAUSEN. Well, this matter has been a subject of discussion in the Public Works and Transportation Committee, where the gentleman has previously addressed the subject of Davis-Bacon.

I would like to ask two or three questions.

First of all, does this directly or indirectly repeal the Davis-Bacon Act?

Mr. HAGEDORN. No, sir. I say to the gentleman from California (Mr. CLAUSEN), this absolutely does not repeal Davis-Bacon. It would merely waive it in this one small area of Federal construction loans and grants.

Mr. CLAUSEN. Well, does it in any way tamper with the way in which the

Davis-Bacon Act is being administered?

Mr. HAGEDORN. It does not in any way tamper, other than it would waive it if there is a 10-percent differential between the lowest Davis-Bacon contractor versus the non-Davis-Bacon contractor.

Mr. CLAUSEN. Finally, does it in any way exempt any of the agencies from the application of the Davis-Bacon regulations?

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

(By unanimous consent, Mr. HAGEDORN was allowed to proceed for 2 additional minutes.)

Mr. HAGEDORN. Not in any way, other than in this instance: if there are 10 percent or less differences. It does not waive Davis-Bacon, and it only applies to the EDA administration. There is no other single area of the Federal Government involved with this amendment today.

Mr. CLAUSEN. So the triggering device is, in effect, the 10-percent figure, where there would be, in effect, a 10-percent advantage given to a Davis-Bacon contractor; is that correct?

Mr. HAGEDORN. That is exactly right. I am so confident that this will work that I am willing to give the Davis-Bacon contractor a 10-percent advantage and if we cannot get a competitive bid of more than 10 percent submitted on one of these projects that we allow them to go under existing law.

Mr. WEBER of Minnesota. Mr. Chairman, will the gentleman yield?

Mr. HAGEDORN. Yes; I will be happy to yield to the gentleman.

Mr. WEBER of Minnesota. So if I understand correctly then, this amendment is guaranteed either to save money or to have no effect at all. In other words, if it does not save us dollars for sure, it would not even go into effect; is that correct?

Mr. HAGEDORN. That is exactly correct. If we cannot save 10 percent for the American taxpayers, we will continue to pay the highest bids that are submitted.

Mr. WEBER of Minnesota. So Members voting in favor of this amendment can be assured that it will save them money or have no effect whatsoever?

Mr. HAGEDORN. Absolutely.

Mr. WEBER of Minnesota. I thank the gentleman for yielding.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I listened with great interest to the amendment of my friend here dealing with Davis-Bacon. It has been very interesting over the years that I have been in the Congress to see repeated attempts of a variety

of sorts—and I must admit this is a little different variety than we have had before—to really start getting at Davis-Bacon and defeating it.

While someone says this really does not impact Davis-Bacon, it really does impact Davis-Bacon.

It is also interesting to note that over the last 20 years every President of the United States has supported Davis-Bacon, including the present President in the White House. The only difference is that the President in the White House today, through his Department of Labor, just a month and a half ago issued a set of regulations that were supposed to go into effect on the 27th of July that would be very similar to what the gentleman has stated in his amendment, that they are not trying to hurt or kill Davis-Bacon, but they just want to make a few changes.

Those few changes that the Department of Labor put in, with the approval of the administration, would absolutely wipe out Davis-Bacon and leave a nice framework there. However, the courts, when the case was taken to court by members of the building trades, have issued a temporary injunction against the Labor Department because the changes, frankly, are so flagrant and this will hopefully result in a permanent injunction against the change in regulations.

Now, I would also like to call to the attention of the Members of the House that I received, as I am sure many of you did, a card from the National Federation of Independent Business. This is supposed to be small businesses' representative in Washington. This is the same organization that rated every Democratic Member of Congress this year and any other Member who voted against the Gramm-Latta budget and the tax bill last year. In the ratings, as you know, that each organization puts out, we received a zero if we voted against Gramm-Latta and against the tax program. That was the rating.

This organization, in my opinion, really does not represent small business at all, or it never would have taken the steps that led small business into the desperate situation they are in today.

They come out in very strong support of the amendment of the gentleman from Minnesota (Mr. HAGEDORN). That by itself, I think, is a clear reason not to support the amendment because of the actions of this organization; but I think in truth we have to look at one thing: Davis-Bacon has served and is serving this country well. The attempts to chisel away at it and to make little bites here and there are really, I believe, something that is like spring coming every year, someone tries to do this. Fortunately, the Congress has had the courage not to fall prey to this type of action.

Therefore, I would say at this time, one, do not fall into the trap of saying, well, this really does not do anything and it is just going to save 10 percent. I do not think this has anything to do with material costs. Basically, the gentleman is talking about labor costs.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman.

Mr. HAGEDORN. The total contract.

I am amazed. We have all heard all the accolades about cleaning up the great piece of legislation that existed and how many improvements we are making today, and yet the gentleman from New York will stand in the well and suggest that a law that has been on the books for 50 years is perfect and should never be examined. I think the gentleman is out of touch with the times as much as the legislation is.

Mr. PEYSER. Well, I would like to take back my time and simply say to the gentleman that this legislation, Davis-Bacon, has been examined every year that I have been in the Congress. Every year somebody has a new method of improving, which really is a method of destroying Davis-Bacon.

Now, I understand the gentleman does not approve of Davis-Bacon and the gentleman feels, I am sure, because I can recall a few years back if the gentleman had his option to eliminate Davis-Bacon, the gentleman would vote for that, but that is not what is coming up today. What is coming up is a little chiseling effect of it and which will have a very detrimental effect on the whole program.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. HAGEDORN, and by unanimous consent, Mr. PEYSER was allowed to proceed for 1 additional minute.)

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I will be glad to yield to the gentleman.

Mr. HAGEDORN. In regard to chiseling away at Davis-Bacon, saving the American taxpayers 10 percent, I think the American voters would wish there were a few more chiselers in the Congress that would chisel away at these types of laws that appear to be carved in stone, never to be looked at, never to be amended.

We have had GAO studies. I do not know who the gentleman's favorite economist is today. I am sure it is not Milton Freedman; maybe Walter Heller.

Mr. PEYSER. I assure the gentleman, it was not Mr. Laffer.

Mr. HAGEDORN. The gentleman can name the economist and most likely we can find where the economist has called for the repeal of Davis-

Bacon, not just reform; so clearly the gentleman is in the minority on that issue.

Mr. PEYSER. I think that I will be in the majority on this vote, though, which will reject this amendment.

I hope that everyone recognizes this for what it really is, an effort to defeat Davis-Bacon. That is the way it will be viewed and that is the way it actually is.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I was planning to vote against this amendment, until I heard the gentleman in the well. I may still vote against it, despite what the gentleman has said.

I think to characterize the independent businessmen, who represent thousands and thousands of small businesses, as we have heard in the well, is unfortunate, and I resent that on their behalf.

□ 1750

Now, as to the Davis-Bacon Act, I happen to think it is a good law. I do not think the Government of the United States ought to be in the position of using Federal funds to drive down wages. Neither do I believe that the Government of the United States should be in the position of using Federal funds to inflate them.

There is not an honest person in this room who does not know that this has happened. We know it has happened. We know that people, contractors and governments—both local and State—have been paying more than they might have.

The General Accounting Office itself told us that \$480 million more was spent on the Metro because we have the Davis-Bacon law.

It has had some effects that have been difficult, but I still think it is a good law because of the principle which it establishes. But the issue is in the courts, the injunction which the gentleman in the well referred to, is now going on appeal. I do not think it is appropriate now to take an action that certainly would affect the Davis-Bacon Act; whether we admit it or not, we know it, and I do not think we should take it while it is still in the courts.

I hope very much that the amendment will be defeated, and I yield back the balance of my time.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN pro tempore (Mr. MURTHA). The gentleman is recognized for 5 minutes.

Mr. MILLER of California. Mr. Chairman, I think the gentleman from New Jersey hit on the exact point of this debate, and that is the principle for which the Davis-Bacon law was passed.

The principle for which the Davis-Bacon law was passed was to make sure that in hard times, hard times like the Depression, the Federal Government did not use its dollars to undermine the wages and the working conditions of people in this country because at that time there were contractors, moving around, coming into areas, trying to siphon off the few jobs there were and undermine the wages of organized working people in this country.

It is very interesting that we now find, in the worst times since the Great Depression, that the other side of the aisle would raise an amendment to do exactly the opposite, because what this amendment mandates is that we undermine the wages, the prevailing wage in an area paid to working men and women.

That is what this amendment does, because interestingly enough, this amendment does not reform Davis-Bacon; this amendment takes it, with all its warts, that the other side does not like, and simply says, "We will accept that. And if you can undercut wages by 10 percent." The Government will finance the undercutting of those wages.

Now, if you are putting up a building, concrete costs so much per yard, steel costs so much per ton; so where are you going to negotiate? You are going to negotiate on the wages, exactly contrary to the purpose of the Davis-Bacon Act.

Let us review what has happened here: The administration, no fan of Davis-Bacon, the Secretary of Labor, no fan of Davis-Bacon, have decided that they would change the manner in which Davis-Bacon was administered.

The gentleman from Minnesota and others have raised problems with Davis-Bacon regarding wage area determinations, how we determine prevailing wages, how we classify workers. The administration has obviously heard his arguments and has sought to change the administration of the law.

They have been temporarily restrained by the courts, and that will be worked out. That is a reform, if you happen to believe it is necessary, a reform of the law.

This is not. This is a direct attack on the purpose and the principle of the Davis-Bacon Act of this country, to protect workers in hard economic times; and it comes at a time when we find unemployment in the building trades and related trades running into double digits at a minimum. We find it at a time when people have packed up and left the Northeast, they have left the Midwest, they have driven to Arizona, they have driven to Alaska, they have driven to California looking for jobs. They are the modern-day Okies.

Yet we have here a mandate that undermines the principle of the law

that, in similar times, the Congress, the President of the United States, enacted for the purpose of protecting the American worker.

We have had disagreements, the gentleman on the other side and myself, about how Davis-Bacon is administered. As the gentleman from Illinois knows, I currently have an investigation underway investigating the administration of Davis-Bacon. This is not to say that Davis-Bacon is a holy act, but this is to suggest that this amendment goes nowhere near the questions that have been raised, some legitimately so, by opponents of the Davis-Bacon Act.

I would hope that Members of this Congress would not, in these economic times, make what is a very direct attack on the wages of construction workers across this country, at a time when we have seen the best organized unions in this country, in an effort to deal with inflation, give back hours, give back working conditions, give back holidays, give back time.

We have seen it in the industrial unions and we have seen it in the construction unions, and I think for this Congress to speak in this fashion is very bad in these economic times.

So I hope the Members would be very clear about this amendment. If you have trouble with Davis-Bacon, the administration has taken action. You may wish them to go further. That is the political process. They may go further. I do not happen to agree with everything they have done, but this is not the way to correct it.

Mr. HOLLENBECK. Mr. Chairman, I rise in support of the legislation and in opposition to the amendment.

Mr. Chairman, I am opposed to exempting Federal construction programs authorized under the National Development Investment Act from the prevailing wage standards established by the Davis-Bacon Act.

First of all, I think that creating piecemeal exemptions from the Davis-Bacon Act is absolutely the wrong approach. I know of no reason to treat economic development construction projects differently from other types of Federal construction. The same skills are required, and such projects are equally subject to abuses as all other types of Federal construction.

Second, this experimental exemption plan ignores the really crucial question of the whole Davis-Bacon debate: What is the purpose of the act?

We must consider the purpose of the Davis-Bacon Act.

The object of the law was, and is to prevent the Federal Government from undercutting local labor standards in the process of awarding contracts for Federal construction work. The act is intended to protect all construction

workers and contractors, union and nonunion. The need for a prevailing wage law is inherent in the Government contracting industry, since the Government is required by law to award contracts to the lowest bidder, unless there is a compelling case that the firm is unqualified. And it is very difficult to establish this before the work is started. In view of the pressure of competition, and the fact that contractors have little control over interest rates and the cost of materials, I feel that without a prevailing wage law there would be every opportunity to unscrupulous contractors to slash wages in order to win Government contracts. The reputable business, committed to paying sufficiently high wages to attract and keep skilled and experienced construction workers, cannot hope to compete with these tactics. The repeal of the Davis-Bacon Act would enable disreputable contractors to win contracts because they hire low-wage workers.

By encouraging uniform wage rates which are consistent with local practice, I believe the Davis-Bacon Act fosters competition based on merit, and not on how little contractors can pay their workers.

As well as being a matter of basic fairness to workers and reputable contractors, Davis-Bacon also protects Government and taxpayers. Skilled and experienced construction workers are not generally willing to work for substandard wages. The contractor trying to win Government work by drastic reductions in wage rates will hire the lowest-paid people available. These are almost certain to be those with the least training and experience in the industry. The likely consequence will be a shoddy construction job, extra costs when faulty work must be redone, and higher expenses for maintenance and repairs over the life of the project.

These are the basic reasons which led Congress to pass the Davis-Bacon Act 50 years ago. Conditions in the construction industry have improved greatly since 1931, partly because of the Davis-Bacon Act and other labor laws. However, the number of violations of the act increases every year. This alone demonstrates that the act is still needed, and that unscrupulous contractors can still exist despite the protections of the law.

Mr. Chairman, the act has an important role to play in preventing serious abuses on Government construction work. It should be retained, and applied to all Federal construction projects. The exemption for economic development projects should not be made.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield to me?

Mr. HOLLENBECK. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

Mr. Chairman, I just want to ask the gentleman, does he really believe that the American people will only get shoddy construction unless it is done under Davis-Bacon when so much of the construction in America today goes and is being done without union labor and under a procompetitive business?

□ 1800

Mr. HOLLENBECK. The gentleman from Minnesota is misrepresenting my remarks.

Mr. HAGEDORN. The gentleman said, "shoddy."

Mr. HOLLENBECK. I did not say, if the Davis-Bacon Act were repealed, or exemptions were allowed, shoddy work would result. I said that is one of the threats inherent in his approach and in the repeal of Davis-Bacon.

Mr. HAGEDORN. I do not believe it is a threat, if the gentleman will continue to yield. I just certainly hope that the gentleman did not mean that those public construction projects, if there are any, and especially those in the private sector that did not have to deal with Davis-Bacon, are being done in a shoddy manner in any such case.

Mr. DENARDIS. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. I yield to the gentleman from Connecticut who has a long record of support for the working person's rights and dignity.

Mr. DENARDIS. Mr. Chairman, I rise in opposition to the Hagedorn amendment which calls for a Davis-Bacon exemption when the winning bid on an EDA project comes in at least 10 percent lower than the next lowest bid. I need not remind my colleagues that one of the primary purposes of the Davis-Bacon Act was to prevent cutthroat competition by so-called fly-by-night firms that undercut local wages and working conditions. It seems to me that the amendment under consideration promotes and invites just such cutthroat competition. To place the Federal Government in the position of rewarding those undercut local wages and working conditions is a proposition I simply cannot support. While I am not opposed to the consideration of possible refinements in administration of the act, I cannot support the amendment before us, and I urge my colleagues to oppose it.

I would like to think that we could solve the problems on Federal construction projects by simply looking at costs. Unfortunately, I do not think we can. We have all been tempted with "a deal you can't turn down," and in most instances we have all lived to regret it.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. HOLLENBECK was allowed to proceed for 5 additional minutes.)

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. I yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I have just a brief comment I would like to state at this time. When the gentleman was referring to the ability of laborers to do their jobs, one of the main things organized labor does is to develop a course of apprentice programs that turn out the kind of workers that really can do a fine job. I think it is vitally important, if we attack things like Davis-Bacon and attempts of this kind of an amendment, what we are going to do is to end those apprentice programs and end the opportunity for young men and women to learn these skills.

Mr. ERLBORN. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do rise in support of the amendment offered by the gentleman from Minnesota. I am not going to repeat all the arguments that have already been made in support of the amendment, but I would like to comment on and respond to some of the observations that have been made by the opponents.

The gentleman from New York (Mr. PEYSER) suggested that every President since the act was passed has supported Davis-Bacon, have been opposed to its repeal, which may be correct. I have not looked at that history with that in mind. But, let me say that I think there are other Government officials who have consistently recommended in the last 20 years that the Davis-Bacon Act should be repealed because it no longer performs the function it should.

I think there is a notable difference between those Government officials and the Presidents the gentleman refers to. Presidents get elected through a political process and with the support or the opposition of labor unions. The other public officials that I have reference to are the Comptrollers General of the United States, who neither seek political support nor who utilize it, who are an arm of this Congress and who have consistently over the last 15 or 20 years in more than one formal report recommended the repeal of Davis-Bacon because not only does it no longer perform the function for which it was intended, but it is counterproductive.

The most recent of these reports was issued only a year or two ago. The title of that report stands starkly in my mind because it was quite expressive. The title was, "The Davis-Bacon Act Should Be Repealed."

The Comptroller General had looked at all the problems with the act, had seen and reported its inflationary impact, had pointed out it no longer does perform the functions that it was intended to, and looked at all the alternatives for changing the regulations trying to lessen its adverse impact, and rejected all of them because they were unworkable. He came to that very simple conclusion that Davis-Bacon should be repealed.

I think we all should understand that, like Presidents, the people in this Chamber are elected with the support or the opposition of groups like organized labor. So, it is really unlikely, in my opinion, particularly with the current President not in favor of repeal, that we might do that. I think, therefore, the suggestion contained in this amendment is quite a valid one. Those who have consistently supported the Davis-Bacon Act have said, "Oh, it doesn't have any inflationary impact. It doesn't cause greater costs in these projects."

Well, let us find out. Let us find out whether they are right or they are wrong. Let us just try this one little, small experiment affecting only the projects under this act.

Someone else said, "Well, this doesn't really have any great impact on local governments."

That certainly also is false. Under the projects that would be authorized in this act, 50 percent of the cost of the projects would be borne by your local communities.

The Comptroller General has pointed out that costs of these contracts are driven upward by the Davis-Bacon Act, and therefore the costs borne by your local governments will be driven upward. In these times that are so difficult economically, we do not need to drive up costs for local governments.

Lastly, my good friend, the gentleman from New Jersey, said that this matter is in the courts, and therefore we should not disturb it. I think that is a total misunderstanding of what is in the courts and what is in this amendment. What is in the courts is a challenge to the regulations promulgated by the Secretary of Labor. This amendment does not go to those regulations whatsoever. This has nothing to do with what area they are considering for determining the prevailing wage, how many apprentices can be utilized on the job, or the 30-percent rule as opposed to the 50-percent rule. We are not going to get into that area whatsoever. So, we are not going to disturb the courts or their challenge that is now being heard in the courts between building trade unions.

What we are doing with this amendment is saying, can we experiment to see if we can save your local taxpayers and the Federal taxpayers with this approach of having a small exception to Davis-Bacon.

I hope the amendment will be adopted.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has expired.

(By unanimous consent, Mr. ERLBORN was allowed to proceed for 1 additional minute.)

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. ERLBORN. I will be happy to yield.

Mr. DUNN. Mr. Chairman, let me just try to put some light on the rhetoric here. I have heard everything from nonunion contractors or fly-by-night operators to the original concept of Davis-Bacon. I have not spent 20 years in the White House or 20 years on the floor here, but I have spent 20 years in the construction business, and nonunion contractors are not fly-by-night operators.

The original concept of Davis-Bacon, like the gentleman from California correctly said, was to prevent the Federal Government from coming in and taking the contractors from outside the area and undercutting the prevailing wage. That was the original intent of Davis-Bacon. I support that original intent, but believe me, that is not the way Davis-Bacon works today.

The scenario, the speech, the rhetoric about prevailing wage does not exist. Davis-Bacon uses highest prevailing union wage rates in any given area. I have had 20 years' experience in dealing with this.

The CHAIRMAN. The time of the gentleman from Illinois has again expired.

(At the request of Mr. DUNN and by unanimous consent, Mr. ERLBORN was allowed to proceed for 2 additional minutes.)

Mr. ERLBORN. I yield to the gentleman from Michigan.

□ 1810

Mr. DUNN. It is my own personal experience where I have operated the largest single company in a metropolitan area and my company was the prevailing wage rate in that area. We were a nonunion company.

Davis-Bacon with its regulations came in, skipped over the number of people that I employed on a daily basis, and went to the prevailing union wage, a minuscule part of our community.

The end result to the Federal taxpayers, to the community, was much more than 10 percent.

This is a good amendment. It is pro-competition. It involves the local contractors, the small guy, and gives them a chance to skip the paperwork and bid.

It is an anti-big-union labor amendment.

I urge my colleagues to support this amendment.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. ERLBORN. I yield to the gentleman from Florida.

Mr. SHAW. The gentleman made reference to an additional cost to local government. I was not going to speak on this particular amendment until you struck that familiar chord.

I was the mayor of Fort Lauderdale for three terms. In that position I had many contracts, both union and non-union because of Federal involvement. There is no question but that those with Federal money, where Davis-Bacon was strictly applied, cost the city of Fort Lauderdale a lot more money. There is no question about that.

I can also testify here that the quality was no better.

We have simply, by the application of this law, the application, not the word of the law, but the application of the law, we have destroyed competition. We have taken the small businessman completely out of the competitive stream and in doing so we have paid substantially more for Federal projects.

In these particular days when we are talking about going back and cutting human services, and that is what this is about, cutting human services, we have to also look, and if unions cannot compete in this particular situation they are going to have to be able to take these particular cuts.

I think it is a good amendment. I compliment it and I certainly would urge its support.

Mr. ERLBORN. I thank the gentleman for his contribution and yield back the balance of my time.

Mr. LEVITAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Minnesota, the chairman of the subcommittee.

Mr. OBERSTAR. The gentleman from Georgia is the chairman of the Subcommittee on Investigations and Oversight and has had under consideration for some time extended hearings into the application of the Davis-Bacon Act as it applies to programs under the jurisdiction generally of the Public Works and Transportation Committee.

Could the gentleman tell us what further plans he has for hearings on that matter?

Mr. LEVITAS. Yes. I thank the distinguished chairman of the subcommittee for making this point because it was as a result of the hearings in the full committee on the markup of this particular piece of legislation and as a result of the request and suggestion of the gentleman from Minnesota, the chairman of the Subcommittee on

Economic Development, that, I as chairman of the Subcommittee on Investigations and Oversight, initiated a major study into the entire range of Davis-Bacon impact.

As the Members know, our committee probably has as many programs relating to Davis-Bacon matters as any committee in the Congress.

There has been a great deal of discussion over the last few years about problems in Davis-Bacon. Many of them are those which have been referred to by the gentleman from Minnesota (Mr. HAGEDORN) and the gentleman from Illinois (Mr. ERLÉNBERG), and others. I refer to problems involving administration, the 30-percent rate, where the areas of wage determination are to be made, what is covered and, of course, basically, whether the additional costs are justified at all. Others, in labor, complain that the Davis-Bacon law is poorly administered and poorly enforced.

It is my belief that the time has come for there to be a comprehensive, not a piecemeal, investigation dealing with this entire matter, resulting in a report with specific recommendations. We can no longer sweep this problem and issue under the rug.

I am extremely pleased that the gentleman from Minnesota (Mr. HAGEDORN) is now the ranking Republican member on the Subcommittee on Investigations and Oversight. I know in light of his interest that we will cooperate fully in having these hearings go forward, so once and for all the charges and the countercharges, the claims and the counter claims can be brought into the public and resolved.

Witnesses who believe that Davis-Bacon should be maintained in its present form will be afforded every opportunity to be heard. Those who desire the repeal of Davis-Bacon will be heard. Those who want to see modifications will be heard.

As the Members know, President Reagan has not recommended the repeal of this Davis-Bacon legislation but there are many of us who believe, at the very least, there needs to be some revision and, at the very least, there needs to be, for once and for all time, a comprehensive addressing of the entire matter, not a piecemeal dealing with it. Some proponents of Davis-Bacon shy away from such an approach, and some opponents prefer little nibbles that do not address the real concerns.

So for that reason I can say, as chairman of the subcommittee, that our subcommittee, in light of the recommendation and suggestion of the gentleman from Minnesota (Mr. OBERSTAR), is moving forward at the present time and we will have these hearings and investigation. There will be public hearings and any Member and any outside person who is interested will be afforded the opportunity

to participate. We will determine the facts, and we will make recommendations of a specific nature for the first time in modern history.

Mr. HAGEDORN. Will the gentleman yield?

Mr. OBERSTAR. I am happy to yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman very much for his comments. I look forward to the exhaustive studies and the analysis of the impact of Davis-Bacon.

But, Mr. Chairman, I believe the best analysis of all is still in the marketplace. That is why I ask today for your support for this tiny little program, \$500 million out of \$41 billion in capital budget that this Government spends annually.

When you leverage that with the impact on counties and municipalities and States, Mr. Chairman, is it too much to ask for a real test out there in the private sector rather than wait for more hearings by our committee?

Just one little test and then we will put that in with all of the data that you and I collect.

Mr. LEVITAS. Let me say to my good friend, and I say this in sincerity, and the gentleman has worked with me long enough to know that when I say it I mean it—

Mr. HAGEDORN. I know you do.

Mr. LEVITAS. I do not believe that we are going to accomplish anything of significance unless we really take a very hard look at the whole problem.

I think what would happen if we made another piecemeal attempt to deal with this is that that piecemeal attempt would come and go and we still would not have really looked at what needs to be done.

The General Accounting Office has issued this report and they have issued others. There have been articles in important journals, some of them, like the Washington Monthly, considered to be liberal in its views, which recommend changes or repeal of Davis-Bacon.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

(By unanimous consent Mr. LEVITAS was allowed to proceed for 1 additional minute.)

Mr. LEVITAS. We will let all of those people come in and let us get to the bottom of this once and for all and stop making it a political football.

Let us find out what we need to do to change, if change is needed.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding and I rise in opposition to the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN), which would

exempt from the coverage of the Davis-Bacon Act certain projects authorized for assistance under this bill if a nonunion contractor succeeded in undercutting the total cost of a project by more than 10 percent.

Mr. Chairman, this is an unnecessary amendment. Although it is billed as an amendment that would save money, there is little doubt that it will cost the American people money. There is no doubt in my mind, for instance, that this bill will result in increased unemployment and in substandard construction practices. What kind of bargain would that be?

I think that this amendment, which, in effect, represents a piecemeal repeal of the act, is ill-timed. I cannot think of a worse time to take this kind of action against the livelihood of our construction workers. I think that we ought to take a more thoughtful approach, by appropriate legislative oversight, to make certain that the Davis-Bacon program works properly. I do, therefore, salute the gentleman from Georgia (Mr. LEVITAS) who has just informed us of his plans to study the program and to recommend improvements, if necessary. Then we can consider the matter calmly and on its merits. At this time, speaking as a long-time supporter of the Davis-Bacon program, and one who has voted repeatedly against amendments restricting its application, I urge my colleagues to reject this amendment.

Mr. PASHAYAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I look with interest upon the whole notion that the amendment before the committee would save money. I have no doubt that it would save money.

But I must oppose the amendment because I do not think that asking people who work and build this country to reduce their wages is a good way to go about saving money.

I do not think there is anything wrong with the Federal Government adopting a policy—when Federal money is involved—of paying substantial wages rather than a policy of paying subsistence wages.

We are talking here not about people who want to be on unemployment or want to be on welfare. We are talking about people who work and build this country. These are working people who work.

I think for that they should be rewarded.

There are a lot of other ways that this Government could save money. It could save money by reducing the profits of the companies that supply the construction. It could save money by reducing the costs of supplies. It could save money by reducing the amount of Government spending over-

all and reducing the level of interest as well.

I do not think it is good policy for this Government to select one particular group of people, the people who work to build this country, and under the guise of saving money to put an unfair burden on their backs.

□ 1820

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. PASHAYAN. I yield to the gentleman from Illinois.

Mr. SIMON. I simply want to commend the gentleman, and I agree wholeheartedly with what he has to say. And the net impact, if we start down this road, right now, in my district in Southern Illinois, 4 counties have over 20 percent unemployment; I have a bricklayers' local with 9 percent of its people working; operating engineers with 20 percent working. And what this kind of an approach is going to do it to put these hard-working people, who desperately want work, out of work. I commend my colleague.

Mr. PASHAYAN. I thank my colleague.

I do not think it is worthwhile to experiment with the livelihood of people who work. Although the author of the amendment says that this is just a small adjustment, still we are asking people to experiment with their livelihood. And these are not the best of times, let us face it.

No one is saying that Davis-Bacon is perfect. It is going to need some adjustment here and there. It sometimes has a very heavy effect in remote rural areas. But what my colleague from California (Mr. MILLER) is trying to work out, the adjustments that have to be made, I do not think are best made by this amendment or an amendment like it.

Mr. SIMON. I commend my colleague, and I hope we will resoundingly defeat the amendment.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, attempts like this to piecemeal reach the Davis-Bacon Act—that is what we have here, not an attempt to repeal or amend the Davis-Bacon Act, but an attempt to limit its application in a very narrow part of a particular program or set of programs in the Government—have been going on for years here. I have been recalling to the Members for years that we are not talking about some modern scheme that came from the bowels of the Democratic National Committee, but we are talking about a well-thought-out policy that was initially designed to provide stability for the construction industry—not only for people who work as laborers in the industry, but

also for people who are the entrepreneurs. Indeed the strongest lobby for the adoption of this kind of a law was small construction companies—as evidenced by the States that adopted Davis-Bacon-type laws before the Federal Government did. The first Davis-Bacon-type laws to protect local contractors against outsiders coming into a stable community and undercutting the local businessmen go way back to Kansas in 1891 and Idaho, Arizona and Oklahoma soon after—States not known ever in their history to be dominated by organized labor. Those four States, together with New York, Massachusetts and New Jersey, all enacted prevailing wage laws before the Federal statute was passed in 1931.

It took Mr. Davis and Mr. Bacon 4 years to succeed passing a law which they originally introduced in 1927. The Davis-Bacon Act was finally enacted when Herbert Hoover gave the measure his vigorous support and signed it into law in 1931. And no one ever has in my generation accused Herbert Hoover of deliberately trying to hurt American business.

Mr. PASHAYAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. PASHAYAN. Will the gentleman agree with me when I say that every institution in this country needs a certain amount of minimum legal protection? Banks need it against debtors, business needs it in all sorts of ways, and labor needs it, as well. And this is one of those fundamental protections, the protection of local labor and contractors, really, that the construction trades are still very much in need of. I do not think this kind of an unscientific tinkering is the best way to go about whatever adjustments might be necessary.

Mr. FORD of Michigan. I agree completely with the gentleman, and I compliment him on his perception of what is really at stake. I think it is necessary however, to recognize that when you try to characterize this in some fashion, as some special benefit for some segment of organized labor that has to be attacked because it is costing the taxpayers money, you are doing real violence to the history of the act and the application of the act.

The essential center of it is that the Federal Government should not, by spending Federal funds, undercut any local community's labor base or business base.

Someone over there mentioned Dade County in Florida and said that they could have saved money if they got nonunion labor from outside of Dade County to perform their contracts. I do not think that anybody running for office in Dade County would like to advocate that to save money you let a nonunion contractor come in from another State and pay below prevailing

wages in the area to get a public project.

Mr. SHAW. Mr. Chairman, will the gentleman yield on that point?

Mr. FORD of Michigan. No, I do not yield at this time. The gentleman had his own time.

Mr. SHAW. I would like to set the gentleman straight as to where the city of Fort Lauderdale is located. It is in Broward County, not Dade County.

Mr. FORD of Michigan. Excuse me if I have insulted either Broward County or Dade County. I will apologize to both of them simultaneously.

But the very point the gentleman makes illustrates the importance of not fooling around program by program with this kind of a basic policy. It is a basic policy that has been around for a long time. It was valid when it started. It is valid today. And I have to say to the gentleman from Minnesota, I have seen a lot of attacks on Davis-Bacon. This one makes the least sense of any that I have ever seen, because you not only place a premium on undercutting the wage base for you citizens in an area getting a Government project, but you give a special consideration for somebody who is a champion wage undercutter. If a contractor cuts his employees' wages 6 or 8 percent you ignore his bid, but if he cuts their wages 20 percent you reward him with the contract. If you mean to tell me that you can help the constituents of your district or mine by promoting cutthroat competition against local contractors and local workers by your kind of an amendment and benefit them, I would be interested to hear the gentleman's explanation.

Mr. STANGELAND. Mr. Chairman, the debate on this amendment has gone on for a good deal of time. I think our minds are made up.

I ask unanimous consent that all debate on this amendment and all amendments thereto cease at 6:40 p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

Mr. HOWARD. Reserving the right to object, Mr. Chairman—and I do intend to object—I believe this is an important amendment, and I would like to state that I shall object to extensions of time for Members who are speaking, but I shall also object to an attempt to not permit Members to have a full 5 minutes debate on it.

So, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. DERWINSKI. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, fairly often, proposals are made to remove prevailing wage protections from various Federal construction projects.

Let us remember that the Davis-Bacon Act was established to improve the equity and efficiency of the construction industry. Therefore, in evaluating the success of such a law the question to be asked is whether the conditions perform the function for which they were designed. Also whether the benefits provided justify the costs that may be involved. Let us look at the benefits the Davis-Bacon provides? It insures the local contractors, committed to upholding local labor standards, have a fair chance to compete for Government projects, rather than being undercut by outside firms bringing in outside cut-rate labor. Further, it affords a measure of stability to a notoriously unstable industry. Then the act helps insure that wages in construction will be sufficiently stable and predictable to allow for the recruitment, training and maintenance of a fully skilled construction labor force within the locality. Also it helps protect the Government against operators who might seek to win Government contracts by paying wages too low to attract competent craft workers. While such a move might be profitable for the contractor, it would be dangerous for the Government. The actual consequence could be shoddy work, since those willing to work for substandard wages would tend to be least skilled and least experienced workers.

Finally, the Davis-Bacon Act prevents the economic power of the Government from being used as a device to force down construction wages.

These benefits will be reflected in the overall costs of new installations—operating and maintenance costs as well as the initial construction charges. Other benefits accrue to the local construction industry in the form of stability, the maintenance of a skilled work force, and the guarantee of a fair chance for local contractors to compete for Government work. Other benefits are provided to the local economy, including incomes for area business and employees, reduced unemployment, and a stabilized community.

Mr. Chairman, mindful of the few shouts of "vote" I will be brief.

We have in some form debated this Davis-Bacon amendment or versions thereof every 2 years. Thus the propositioning of the Members I think will be demonstrated by the RECORD. But I do believe that the most practical points made in the debate is the fact that you should not in piecemeal fashion attempt to correct something as embrace as the Davis-Bacon Act. I think it would be far more practical, as the gentleman from Georgia (Mr. LEVITAS) pointed out, to go into it in a full-scale, total committee fashion.

With all due respect to my good friend from Illinois (Mr. ERLBORN) and my good friend from Minnesota,

the sponsor of this amendment, this is not an experiment. It would cause a very complicated procedure, and I do not think it would give a clear picture to anyone, proponent or opponent, of the Davis-Bacon Act, as to what the results would really be.

So I would suggest that practicality dictate at this time that the amendment be rejected.

Mr. JOHNSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is an intriguing idea that we have here. Down in North Carolina we play a lot of basketball. We do it fairly well. But the idea of giving the other side a 10-percent head start and then calling it, as the gentleman from Connecticut called it, cutthroat competition, is the most incredible idea I have ever heard. I wonder how many athletic events, with one side given a 10-percent head start, would even have anything but a foregone conclusion. If this is this Congress idea of cutthroat competition, then it is so far removed from the reality that my colleague, the gentleman from Minnesota, seems to try to inject into this body, that it is incapable of considering this whole proposition.

I realize, my distinguished colleagues, that we have carefully exempted ourselves from things like social security taxes and EEOC and OSHA, and all of these other problems that the rest of the country has got to encounter, but this one other example of our removing ourselves from reality, giving the unionized contractor a 10-percent headstart and then calling it cutthroat competition. But for those of you who are tuned to reality, let me remind you that we have a \$100-billion-plus deficit.

□ 1830

And bills like this are the way we got a \$100-billion-plus deficit. A little more spending, a little more inefficiency, a little more zinging it to the American taxpayer so that some special interest group can be given a 10-percent headstart at the expense of all those working men and women out there who do not have a 10-percent headstart, who have got to scramble, who have got to have cutthroat competition. They are the ones we are penalizing so we can get a few votes from organized labor.

Mr. OXLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I shall not take the full 5 minutes.

It occurred to me most of the people, if not all of the people who were opposed to the amendment come from major metropolitan areas. Many of us represent rural areas or areas that have small towns.

I might relate one particular instance that I had when I talked to a

mayor of a small town in my district. The town is about 20,000 people. He told me that the Davis-Bacon Act alone in his community costs him over \$100,000 a year, a town of 20,000 people, and the Davis-Bacon Act costs him that much money.

That is the case throughout my congressional district. Many small towns, medium-sized cities, that are under the pressure of having to conform with the prevailing wage that perhaps is in Dayton or Toledo, Ohio. It is extremely unfair to those people who live in those types of communities, not only taxpayers, but certainly the local government as well. I think it is important to keep that in mind.

If I had my choice I would offer an amendment that would totally do away with Davis-Bacon. I think its time is far gone.

If my colleagues will remember, back when we had the fair trade laws, and those fair trade laws were enacted to protect small businesses back after the Second World War, those have been since repealed either by legislative activity or by the Federal Trade Commission.

I think the Davis-Bacon Act in many cases represents the same problem that developed with the statutes in the past.

But all throughout this debate the important person that we have to remember besides talking about local government, particularly small towns, is the taxpayer. It is important to remember that \$1 billion—\$1 billion is spent each year as a result of Davis-Bacon, and that is what it costs the taxpayers in this country.

If you bring it down to a lower level, down to the real level of small towns, you are talking \$100,000 to a town of 20,000 people, I think that brings it home.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for yielding.

I appreciate very much the point that the gentleman makes about the cost, particularly to the small communities. But what the gentleman neglects to mention is that what really results is the opportunities for public projects are foregone or abandoned as a result of the additional cost which this imposes. Not only additional labor cost, but the additional administrative costs and all the problems that go with it.

So I want to join with my colleagues in support of this amendment and congratulate the gentleman from Minnesota in a very unique way of bringing it forward to us. It is a very simple amendment. It is not going to complicate the process. It is going to make it much simpler. And in the long run it

presents us with an opportunity to save substantial Federal dollars so that more dollars will be made available for public projects and more jobs will be created.

I cannot see what is wrong with saving the taxpayers money in this area so that more money and more jobs can be created. I am in strong support of the amendment.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from Minnesota (Mr. HAGEDORN), the sponsor of the amendment.

Mr. HAGEDORN. I thank the gentleman for yielding.

I heard earlier tonight remarks that "I cannot vote for this because it hurts the unions."

My friends and colleagues, there is more than the AFL-CIO union. There is the American taxpayers union for one. There are hundreds of millions of tired taxpayers today that are looking for relief from this kind of legislation that this Congress insists on perpetrating, and I hope that you will just give this one little experiment an opportunity to work, and then let us take an evaluation of it 2 or 3 years down the road.

I am going to stop bothering my colleagues, if you just give it a chance. I promise the Members that. Just give it a chance. Let us see if it will work once.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. OXLEY. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I would just like to say that the gentleman has raised many of the points that people who have had problems with Davis-Bacon have raised over the years.

That is why the White House has taken action, they happen to agree with the gentleman. That is a reform of Davis-Bacon. They are contending they may save \$800 million with that. This does not do any of that. This is simply directed at the prevailing wage in that area.

A lot of small communities have said they do not like the way the prevailing wage is arrived at. The White House is addressing that problem. That is not what this amendment does at all. This directs and undercuts the prevailing wage, not the union wage, not the union worker, the prevailing wage in that geographical area.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have spent scarcely 2 minutes under the 5-minute rule on the substance of H.R. 6100 in which most everyone has been in general agreement. And better than an hour in debate on a very important issue, one that is far reaching in its scope and significance but one I

submit that is not the subject of this legislation.

A very similar amendment, but not identical, was offered in the subcommittee and again in full committee by the gentleman from Minnesota and in full committee was soundly defeated by a vote of 26 to 11.

Now, we have talked about erosion of the Davis-Bacon Act this afternoon and about social experimentation in this legislation with a labor matter. Perhaps all of those things apply.

What concerns me is that it has perhaps obscured the central issue of this legislation. We are attempting with this bill to help communities who have suffered economic distress and unemployment to deal with their problems locally in their own way, their own creativity and ingenuity.

Now, as an issue by itself, Davis-Bacon is a very fundamental issue in labor relations. It is one that the gentleman who is chairman of the Subcommittee on Investigations and Oversight of Public Works has said hearings will be conducted on it. The Education and Labor Committee has also indicated they, too, have the jurisdiction and properly should inquire into this issue and they will do so.

But if I may deal with this matter as it relates to economic development, it really does not belong in this legislation.

Just yesterday there was a \$7½ billion construction bill on the floor and no one attempted to deal with Davis-Bacon in that bill. This is relatively a small piece of legislation that really ought not to be encumbered with an experiment in labor relations.

On the substance of the measure, though, I must say that while the effect may be to cut wages 10 percent, there is no attempt in this measure to put a limit on prevailing profits. There is no attempt to put a limit on interest rates. There is no attempt in this amendment to put a percentage limitation on building material costs. There is no attempt to limit the amount of profit and overhead that a contractor may charge. Only the wages are singled out. That is unfair. And on the test of fairness, the amendment fails.

I urge the committee to reject the amendment on the basis of fairness.

Mr. HOWARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just briefly and very simply what the Davis-Bacon Act says is that when this Government, using the taxpayer's money, is going to be involved in a construction project, the workers on that project must be paid the prevailing wage as that prevailing wage is determined by the Government.

A few years ago in our hearings we had the President of the National Association of Manufacturers before us,

certainly not a prounion or proworker or prolabor organization, and I asked him directly whether he had any problems with the philosophy of when the taxpayers' money is being used that the workers get a prevailing wage and he had no problem with the philosophy.

□ 1840

What we are dealing with here is not how it is implemented. What we are dealing with here is basic national policy and the philosophy that this Government will use. And who are the taxpayers, by the way? The taxpayers are the working people who pay the money for these construction projects as well as the construction people themselves. For some reason or another, we seem to think that the only people's money that is involved here are the contractors themselves and somehow someone is trying to take away their money. The workers pay the taxes to build things in this country, also.

This amendment says that this provision can be waived if you can get the contract price 10 percent below what the prevailing wage would be. Now, where does the contractor look? There is going to be no difference in the equipment cost. There is going to be no difference in the material cost. There is certainly going to be no reduction in the contractor's profit, and it is interesting that we have no provision if we want to save the taxpayers money by putting a limitation on the profit a contractor can make in this area. So the only place he can get it is out of wages and if he can find workers who will work 10 percent or more below what the prevailing wage is, then by this amendment he must, because the amendment says shall, he must be given that contract. If he is an employer who wants to pay the prevailing wage to his workers, then by law the Government is saying that you cannot have the contract.

I think this is everybody's money involved and I think we have to be fair with everyone and this would be the most unfair thing we could do to accept this.

So I urge the committee to reject this amendment and reject it overwhelmingly and then get on to passing this fine piece of legislation.

● Mr. EVANS of Delaware. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Minnesota, Mr. HAGEDORN, that would repeal the requirements of the Davis-Bacon Act in this legislation.

The Davis-Bacon Act was implemented with perhaps the most indisputably fair and worthy goal possible: That every working man and woman deserves an honest day's wages for an honest day's work.

Unfortunately, some problems have arisen in connection with the act, problems that certainly deserve the careful attention of the Federal Government. The administration is currently drafting proposals to deal with some of the shortcomings of the act administratively. These proposals will be carefully examined by this Congress as we fulfill our oversight responsibilities.

I believe this sort of comprehensive examination of the entire complex and important issue is the correct way to approach some of the problems with Davis-Bacon. We should not try to deal with this important issue in a piecemeal, bill-by-bill manner, as this amendment does.

I urge my colleagues to join me in voting "no" on the Hagedorn amendment.

● Mr. FRENZEL. Mr. Chairman, the Davis-Bacon Act has been controversial since its enactment in 1931. The record is replete with evidence that Davis-Bacon has had an inflationary effect on the construction industry and on our economy.

In addition, administering this program has become a tremendous cost burden to the American taxpayer. Even with the massive body of regulations that has grown around the act during the last 50 years, the Department of Labor has still been unable to come up with a workable or comprehensive way to collect or interpret data.

In my judgment, the Hagedorn amendment provides a reasonable test method for proving whether the program does indeed push up the cost of Government construction projects. In those cases where the Davis-Bacon bids are truly reflective of the prevailing wages in a local area, the Hagedorn amendment would effect no one, either employer or employee.

However, if the bids that contain Davis-Bacon provisions are unreasonably out of line with the prevailing local rates, the Hagedorn amendment would allow for alternative bids to be considered. Only if Davis-Bacon is inflationary will the Hagedorn amendment have any effect. In those cases, all it will do is save the taxpayer some money. I believe that Mr. HAGEDORN has provided the House with a unique opportunity for putting the Davis-Bacon Act to the test, and I encourage my colleagues to vote in favor of his amendment.

● Mr. ROBERTS of South Dakota. Mr. Chairman, I rise in support of the Hagedorn amendment to H.R. 6100.

The Hagedorn amendment will allow contractors bidding on EDA projects to submit bids which are not bound by Davis-Bacon prevailing wages. If the lowest non-Davis-Bacon bid is 10 percent or more below the lowest Davis-Bacon bid, an exemption from the act would be granted. But, if a full 10 per-

cent savings cannot be achieved, normal procedures would prevail.

This is an ideal opportunity for Congress to reduce the costs of Federal construction. The Government Accounting Office has estimated that the Department of Labor's prevailing wage under Davis-Bacon runs 5 to 15 percent higher than the actual wages paid in comparable non-Federal construction projects.

I agree with Congressman HAGEDORN that this is an opportunity that Congress cannot pass up. Savings from Federal construction is a goal I strongly support, and I urge my colleagues to vote for the Hagedorn amendment.

Mr. WEISS. Mr. Chairman, the Hagedorn amendment to the National Development Investment Act (H.R. 6100) would undermine the effectiveness of the Davis-Bacon Act. If this amendment were approved the Federal Government would be in the business of forcing wages down for labor thus damaging the labor market, and generally weakening the economy.

The Davis-Bacon Act was landmark legislation adopted to protect both business and labor and to stabilize local economies. Passed primarily to prevent carpetbagging businesses from depressing wages, this act continues to provide a buffer against activities that would harm a labor market.

The Hagedorn amendment is a deliberate effort to cripple Davis-Bacon. The Hagedorn amendment would permit the Federal Government to award construction contracts to non-union contractors who bid 10 percent or more below union bids, based on prevailing wages costs. This would encourage the exploitation of immigrant and, perhaps, illegal laborers who have been forced in the past to accept illegally low wages under threat of exposure by their employers. The Hagedorn amendment also reflects the dangerous and irresponsible leanings of many conservatives to lower labor costs regardless of the consequences.

When the Labor Department issued a notice of proposed rulemaking for teenage labor just a few weeks ago the intent was to cheapen labor costs. But what would have resulted was the abuse of teenage workers, possibly costing jobs for adults and encouraging teenagers to go to work rather than get an education. I joined with many of my colleagues in Congress at that time in urging the Labor Department to recall the proposed regulation. After much public furor over the Labor Department's proposal, the President dropped the plan.

More to the point, however, were the proposed regulations issued this spring by the Labor Department to accomplish much the same thing that the Hagedorn amendment seeks to do. Despite strong opposition and warnings that the changes violated the intent of Congress in passing Davis-Bacon, the

Labor Department went ahead and issued the regulations. Several labor organizations joined together and filed suit to seek an injunction against enactment of the rules for the reason I have just given, and a temporary injunction was issued.

That suite is not yet resolved, but I am confident that the courts will rule in favor of the unions. Congress did not intend for there to be gaping loopholes in Davis-Bacon, because it was understood that any loophole could effectively undercut that act.

At this time it would be inappropriate for Congress to do what the courts already have indicated may well be illegal. Congress has a responsibility to allow the ongoing judicial review to be seen through.

I strongly oppose the Hagedorn amendment, and support protection of the Davis-Bacon Act, and urge my colleagues to do likewise.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. HAGEDORN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HAGEDORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 140, noes 237, not voting 57, as follows:

[Roll No. 274]

AYES—140

Andrews	Gramm	Myers
Anthony	Gregg	Napier
Archer	Grisham	Neal
Ashbrook	Hagedorn	Nelson
Badham	Hall, Ralph	Oxley
Bailey (MO)	Hall, Sam	Parris
Barnard	Hammerschmidt	Paul
Beard	Hance	Porter
Bereuter	Hansen (ID)	Roberts (KS)
Bethune	Hartnett	Roberts (SD)
Bliley	Hefner	Robinson
Breaux	Hendon	Roemer
Brown (CO)	Hightower	Rogers
Broyhill	Hill	Rose
Butler	Hillis	Roukema
Byron	Holt	Rousselot
Chappell	Hopkins	Rudd
Cheney	Hunter	Schulze
Coats	Hutto	Sensenbrenner
Coleman	Hyde	Shaw
Corcoran	Jeffries	Shuster
Crane, Daniel	Jenkins	Skeen
Crane, Philip	Johnston	Smith (AL)
Daniel, Dan	Jones (OK)	Smith (NE)
Dannemeyer	Kazen	Smith (OR)
Daub	Kindness	Snowe
Deckard	Kramer	Snyder
Derrick	Latta	Spence
Dickinson	Leach	Stangeland
Dreier	Leath	Stenholm
Duncan	Livingston	Stump
Dunn	Loeffler	Tauke
Edwards (OK)	Long (MD)	Tauzin
Emerson	Lowery (CA)	Thomas
Emery	Lujan	Walker
English	Lungren	Wampler
Erdahl	Martin (NC)	Watkins
Erlenborn	McClory	Weber (MN)
Evans (IA)	McCollum	White
Felds	McDonald	Whitley
Forsythe	McEwen	Whittaker
Fountain	Mica	Whitten
Fuqua	Miller (OH)	Winn
Gibbons	Molinari	Wolf
Gingrich	Montgomery	Wortley
Goldwater	Moore	Young (FL)
Goodling	Moorhead	

NOES—237

Addabbo	Foglietta	Murphy
Akaka	Foley	Murtha
Albosta	Ford (MI)	Natcher
Alexander	Ford (TN)	Nelligan
Anderson	Fowler	Nowak
Annunzio	Frank	O'Brien
Applegate	Frost	Oakar
Aspin	Gaydos	Oberstar
Atkinson	Gejdenson	Obey
AuCoin	Gephardt	Ottinger
Bailey (PA)	Gilman	Panetta
Barnes	Glickman	Pashayan
Beilenson	Gonzalez	Patman
Benedict	Gore	Patterson
Benjamin	Gradison	Pease
Bennett	Gray	Pepper
Bevill	Green	Perkins
Biaggi	Guarini	Petri
Bingham	Gunderson	Peyser
Blanchard	Hamilton	Pickle
Boggs	Harkin	Price
Boland	Hatcher	Pritchard
Bolling	Hawkins	Quillen
Boner	Heckler	Rahall
Bonior	Heftel	Ratchford
Bonker	Hertel	Regula
Bouquard	Holland	Reuss
Bowen	Hollenbeck	Ritter
Brinkley	Horton	Rodino
Brodhead	Howard	Roe
Brooks	Hoyer	Rostenkowski
Burton, Phillip	Hubbard	Roybal
Carman	Hughes	Russo
Carney	Jacobs	Sabo
Chapple	Jeffords	Savage
Clausen	Jones (TN)	Sawyer
Clinger	Kastenmeier	Scheuer
Coelho	Kemp	Schroeder
Collins (IL)	Kennelly	Schumer
Conable	Kildee	Seiberling
Conte	Kogovsek	Shamansky
Coughlin	LaFalce	Shannon
Coyne, James	Lagomarsino	Sharp
Coyne, William	Lantos	Shelby
D'Amours	LeBoutillier	Simon
Daschle	Lee	Skelton
Davis	Leland	Smith (IA)
de la Garza	Lent	Smith (NJ)
Dellums	Levitas	Smith (PA)
DeNardis	Lewis	Solarz
Derwinski	Long (LA)	St Germain
Dicks	Lott	Stark
Dingell	Lowry (WA)	Staton
Dixon	Lundine	Stokes
Donnelly	Madigan	Stratton
Dorgan	Markey	Studds
Dougherty	Marks	Swift
Dowdy	Marlenee	Synar
Downey	Martin (IL)	Taylor
Dwyer	Martin (NY)	Traxler
Dymally	Martinez	Vander Jagt
Dyson	Matsui	Vento
Early	Mattox	Volkmer
Eckart	Mavroules	Walgren
Edgar	Mazzoli	Washington
Edwards (AL)	McDade	Waxman
Edwards (CA)	McGrath	Weber (OH)
Evans (DE)	McHugh	Weiss
Evans (GA)	McKinney	Williams (MT)
Evans (IN)	Michel	Williams (OH)
Fary	Mikulski	Wilson
Fascell	Miller (CA)	Wolpe
Fazio	Mineta	Wright
Fenwick	Minish	Wyden
Fiedler	Mitchell (NY)	Wyllie
Findley	Moakley	Yatron
Fish	Mollohan	Young (MO)
Flippo	Morrison	Zablocki
Florio	Mottl	Zerferetti

NOT VOTING—57

Bafalis	Craig	Ireland
Bedell	Crockett	Jones (NC)
Broomfield	Daniel, R. W.	Lehman
Brown (CA)	Dorman	Lukens
Brown (OH)	Ertel	Marriott
Burgener	Ferraro	McCloskey
Burton, John	Pithian	McCurdy
Campbell	Frenzel	Mitchell (MD)
Chisholm	Garcia	Moffett
Clay	Ginn	Nichols
Collins (TX)	Hall (OH)	Pursell
Conyers	Hansen (UT)	Rallsback
Courter	Huckaby	Rangel

Rhodes	Schneider	Udall
Richmond	Shumway	Weaver
Rinaldo	Siljander	Whitehurst
Rosenthal	Solomon	Wirth
Roth	Stanton	Yates
Santini	Trumble	Young (AK)

□ 1850

The Clerk announced the following pairs:

On this vote:

Mr. Craig for, with Mr. Rangel against.
Mr. Tribble for, with Mr. Mitchell of Maryland against.

Mr. Frenzel for, with Mr. Garcia against.
Messrs. SAVAGE, CHAPPIE, ATKINSON, and SAWYER changed their votes from "aye" to "no."

Mr. DUNCAN and Mr. TAUZIN changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. FIEDLER, Mr. Chairman, on rollcall No. 274 I was recorded incorrectly by the computer. My intention was to vote "aye."

□ 1900

The CHAIRMAN. The Clerk will designate title II.

Title II reads as follows:

TITLE II—APPALACHIAN REGIONAL DEVELOPMENT

SEC. 201. This title may be cited as the "Appalachian Regional Development Act Amendments of 1982".

SEC. 202. The sixth sentence of subsection (a) of section 2 of the Appalachian Regional Development Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "and in severely distressed and underdeveloped counties lacking resources for basic services."

SEC. 203. Subsection (b) of section 105 of the Appalachian Regional Development Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and not to exceed \$5,800,000 for the two-fiscal-year period ending September 30, 1984 (of such amount not to exceed \$900,000 shall be available for expenses of the Federal co-chairman, his alternate and his staff), and not to exceed \$5,800,000 for the two-fiscal-year period ending September 30, 1986 (of such amount not to exceed \$900,000 shall be available for expenses of the Federal co-chairman, his alternate, and his staff), and not to exceed \$2,900,000 for the fiscal year ending September 30, 1987 (of such amount not to exceed \$450,000 shall be available for expenses of the Federal cochairman, his alternate, and his staff)."

SEC. 204. Paragraph (7) of section 106 of the Appalachian Regional Development Act of 1965 is amended by striking out "1982" and inserting in lieu thereof "1987".

SEC. 205. (a) Subsection (g) of section 201 of the Appalachian Regional Development Act of 1965 is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: "\$215,000,000 for fiscal year 1983; \$234,000,000 for fiscal year 1984; \$250,000,000 for fiscal year 1985; \$270,000,000 for fiscal year 1986;

\$289,000,000 for fiscal year 1987; \$312,000,000 for fiscal year 1988; \$337,000,000 for fiscal year 1989; and \$364,000,000 for fiscal year 1990."

(b) Subsection (h)(1) of section 201 of the Appalachian Regional Development Act of 1965 is amended by striking out "70 per centum" and inserting in lieu thereof "80 per centum". The amendment made by the preceding sentence shall apply to projects approved after March 31, 1979.

SEC. 206. Subsection (c) of section 214 of the Appalachian Regional Development Act of 1965 is amended by striking out "December 31, 1980" and inserting in lieu thereof "October 1, 1987" in the first sentence, and by inserting "authorized by title 23, United States Code" after "road construction" in the second sentence.

SEC. 207. Part B of title II of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following new section:

"SEC. 215. The Commission is authorized to make grants to States and public and nonprofit entities for projects, approved pursuant to section 303 of this Act, which will—

"(1) assist in the creation or retention of permanent private sector jobs, the upgrading of the region's manpower, or the attraction of private investment;

"(2) provide special assistance to severely distressed and underdeveloped counties which lack financial resources for improving basic services;

"(3) assist in achieving the goal of making primary health care accessible in the region; or

"(4) otherwise serve the purposes of this Act."

SEC. 208. Clause (2) of subsection (b) of section 224 of the Appalachian Regional Development Act of 1965 is amended to read as follows: "(2) to enable plant subcontractors to undertake work theretofore performed in another area by other subcontractors or contractors."

SEC. 209. Section 224 of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of this Act, grants with funds authorized under this Act shall not, after October 1, 1982, exceed 50 per centum of the costs of any project approved under this Act (except projects under section 201); but such grants may increase the Federal contribution to any project, notwithstanding limitations in other Federal laws, to such percentage as the Commission determines within the limitations in this Act."

SEC. 210. Section 401 of the Appalachian Regional Development Act of 1965 is amended by adding at the end thereof the following: "In addition to the appropriations authorized in section 105 for administrative expenses, and in section 201(g) for the Appalachian development highway system and local access roads, there is authorized to be appropriated to the President, to be available until expended, to carry out this Act, \$166,000,000 for the two-fiscal-year period ending September 30, 1984; \$158,000,000 for the two-fiscal-year period ending September 30, 1986; and \$75,000,000 for the fiscal year period ending September 30, 1987."

SEC. 211. Section 405 of the Appalachian Regional Development Act of 1965 is amended by striking out "1982" and inserting in lieu thereof "1987".

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

I will be very brief, Mr. Chairman. I want to take this opportunity to thank our colleagues on both sides who addressed the just recently defeated amendment with dignity, with respect, with full discussion of the issues, without any acrimony. It was a very commendable debate.

We bring to the House floor a measure designed to generate economic growth at the community level. We have fashioned a bill that is responsible in its funding, that is broad-based in its appeal across this country—East and West, North and South. It is a bill for the 1980's.

Mr. Chairman, I would like to yield at this time to the gentleman from Pennsylvania, to whom I want to express my deep appreciation for the splendid cooperation and thoughtful contribution that he has made to the passing of this landmark piece of legislation.

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his comments. I would just like to make one point. The question has been raised about funding levels for this program, and I think it should be pointed out that probably under any circumstances we are going to have a continuation of the Economic Development program. There is approximately \$200 million in the budget. There is about \$200 million that has been passed by the Appropriations Committee. The administration itself must more or less concede that we will have funding for the Economic Development Administration next year.

My point is this: If we do not change this authorization, then the money that is appropriated and that will be available for the Economic Development Administration will be spent in some of those programs which we all concede were not as effective as others. Beyond that, we will also have still 84 percent of the country eligible to apply for this assistance, and clearly that is one of the things we tried to cut in this legislation.

I believe, and I am sure the Members agree, that we should change that authorization so that the money we are sure is going to be there will be focused, targeted to those areas of the country which are in greatest need of that aid, and it will be in those programs which all of our testimony indicated are effective, meaningful contributions to economic development.

Mr. OBERSTAR. The gentleman has made a very, very important point. Funds are available; they will be spent. We should spend them in a reasonable way, targeted and focused in a way that will best generate economic development, and in a way that can be man-

aged through the will of the Congress and the spirit of the 1980's.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. GEPHARDT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6100) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, pursuant to House Resolution 539, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The CHAIRMAN. The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes appeared to have it.

Mr. JOHNSTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 281, nays 95, not voting 58, as follows:

[Roll No. 275]

YEAS—281

Addabbo	Byron	Emerson
Akaka	Carney	Emery
Albosta	Chappell	Erdahl
Alexander	Clausen	Evans (DE)
Anderson	Clinger	Evans (GA)
Andrews	Coats	Evans (IA)
Annunzio	Coelho	Evans (IN)
Anthony	Coleman	Fary
Applegate	Collins (IL)	Fascell
Aspin	Conte	Fazio
Atkinson	Coyne, James	Fenwick
AuCoin	Coyne, William	Findley
Bailey (PA)	D'Amours	Fish
Barnard	Daschle	Filippo
Barnes	Davis	Florio
Beard	de la Garza	Foglietta
Bellenson	Deckard	Foley
Benedict	Dellums	Ford (MI)
Benjamin	DeNardis	Ford (TN)
Bennett	Derrick	Fowler
Bereuter	Dicks	Frank
Bevill	Dingell	Frost
Biaggi	Dixon	Fuqua
Blanchard	Donnelly	Gaydos
Boggs	Dorgan	Geldenson
Boland	Dougherty	Gephardt
Boner	Dowdy	Gilman
Bonior	Downey	Glickman
Bonker	Duncan	Gonzalez
Bouquard	Dunn	Goodling
Bowen	Dwyer	Gore
Breaux	Dymally	Gradison
Brinkley	Early	Gray
Brodhead	Eckart	Green
Brooks	Edgar	Guarini
Burton, Phillip	Edwards (CA)	Hagedorn

Hall, Ralph	McEwen	Savage
Hall, Sam	McGrath	Sawyer
Hamilton	McHugh	Scheuer
Hammerschmidt	McKinney	Schroeder
Harkin	Mica	Schulze
Hatcher	Mikulski	Schumer
Hawkins	Miller (CA)	Seiberling
Heckler	Miller (OH)	Shamansky
Hefner	Mineta	Shannon
Heftel	Minish	Sharp
Hendon	Mitchell (NY)	Shaw
Hertel	Moakley	Shelby
Hightower	Molinari	Shuster
Hillis	Mollohan	Simon
Holland	Montgomery	Skelton
Hollenbeck	Morrison	Smith (IA)
Horton	Mottl	Smith (NJ)
Howard	Murphy	Smith (PA)
Hubbard	Murtha	Snowe
Hughes	Myers	Solarz
Hutto	Napier	Solomon
Hyde	Natcher	Spence
Jacobs	Neal	St Germain
Jeffords	Nelligan	Stangeland
Jenkins	Nelson	Stark
Jones (OK)	Nowak	Stokes
Jones (TN)	O'Brien	Stratton
Kastenmeier	Oaker	Studds
Kazen	Oberstar	Swift
Kennelly	Obey	Synar
Kildee	Ottinger	Tauke
Kogovsek	Panetta	Tauzin
LaFalce	Pashayan	Taylor
Lantos	Patman	Traxler
Leach	Patterson	Vander Jagt
Leath	Pease	Vento
LeBoutillier	Pepper	Volkmer
Lee	Perkins	Walgren
Leland	Peyser	Wampler
Lent	Pickle	Washington
Levit	Porter	Watkins
Long (LA)	Price	Waxman
Long (MD)	Pritchard	Weiss
Lott	Quillen	White
Lowry (WA)	Rahall	Whitley
Lujan	Rangel	Whitten
Lundine	Ratchford	Williams (MT)
Madigan	Regula	Williams (OH)
Markey	Reuss	Wolf
Marks	Ritter	Wolpe
Marlenee	Rodino	Wortley
Martin (NY)	Roe	Wright
Martinez	Rogers	Wyden
Matsui	Rose	Yatron
Mattox	Rostenkowski	Young (MO)
Mavroules	Roybal	Zablocki
Mazzoli	Russo	Zeferetti
McDade	Sabo	

NAYS—95

Gibbons	Moore
Gingrich	Moorhead
Goldwater	Oxley
Gramm	Parris
Gregg	Paul
Grisham	Petri
Gunderson	Roberts (KS)
Hance	Roberts (SD)
Hansen (ID)	Robinson
Hartnett	Roemer
Hiler	Roukema
Holt	Roussot
Hopkins	Rudd
Hunter	Sensenbrenner
Jeffries	Skeen
Johnston	Smith (AL)
Kemp	Smith (NE)
Kindness	Smith (OR)
Kramer	Snyder
Lagomarsino	Stanton
Latta	Stenholm
Lewis	Stump
Livingston	Thomas
Loeffler	Walker
Lowery (CA)	Weber (MN)
Lungren	Weber (OH)
Martin (IL)	Whittaker
Martin (NC)	Wilson
McClory	Winn
McCollum	Wylie
McDonald	Young (FL)
Michel	

NOT VOTING—58

Bafalis	Bedell	Bingham
---------	--------	---------

Bolling	Frenzel	Rhodes
Broomfield	Garcia	Richmond
Brown (CA)	Ginn	Rinaldo
Brown (OH)	Hall (OH)	Rosenthal
Burgener	Hansen (UT)	Roth
Burton, John	Hoyer	Santini
Campbell	Huckaby	Schneider
Chisholm	Ireland	Shumway
Clay	Jones (NC)	Siljander
Collins (TX)	Lehman	Stanton
Conyers	Lukens	Tribble
Courter	Marriott	Udall
Craig	McCloskey	Weaver
Crockett	McCurdy	Whitehurst
Daniel, R. W.	Mitchell (MD)	Wirth
Dornan	Moffett	Yates
Ertel	Nichols	Young (AK)
Ferraro	Pursell	
Pithian	Rallsback	

□ 1920

The Clerk announced the following pairs:

On this vote:

Mr. Garcia for, with Mr. Frenzel against.

Mr. Mitchell of Maryland for, with Mr. Craig against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have a 5 legislative days within which to revise and extend their remarks on the bill, H.R. 6100, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. OBERSTAR. Mr. Speaker, pursuant to the provisions of House Resolution 539, I call up from the Speaker's table the Senate bill (S. 2144) Appalachian Regional Development Act Amendments of 1982, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. OBERSTAR

Mr. OBERSTAR. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. OBERSTAR moves to strike out all after the enacting clause of the Senate bill, S. 2144, and to insert in lieu thereof the provisions of the bill, H.R. 6100, as passed.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 6100) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 2144

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that the House insist on the House amendment to the

Senate bill, S. 2144, and request a conference with the Senate thereon.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota? The Chair hears none, and appoints the following conferees: Messrs. OBERSTAR, ROE, EDGAR, and RAHALL, Mrs. BOUQUARD, and Messrs. CLAUSEN, CLINGER, HAMMERSCHMIDT, and McEWEN.

A further message from the Senate, by Mr. Spanner one of its clerks, announced that the Senate agrees to the amendment of the House with amendments to a bill of the Senate of the following title:

S. 2271. An act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2036) entitled "An act to provide for a job training program and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HATCH, Mr. QUAYLE, Mrs. HAWKINS, Mr. KENNEDY, and Mr. METZENBAUM to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S.J. Res. 230. Joint resolution to authorize and request the President to designate August 15, 1982, as "Will Rogers and Wiley Post's Day."

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 6956, HOUSING AND URBAN DEVELOPMENT-INDEPENDENT APPROPRIATION ACT, 1983

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-738) on the resolution (H. Res. 559) waiving certain points of order against the bill (H.R. 6956) making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 6957, COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1983

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-739) on the reso-

lution (H. Res. 560) waiving certain points of order against the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 6968, MILITARY CONSTRUCTION APPROPRIATION ACT, 1983

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-740) on the resolution (H. Res. 561) waiving certain points of order against the bill (H.R. 6968) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6755, CENTRAL AMERICA ECONOMIC REVITALIZATION ACT OF 1982

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-741) on the resolution (H. Res. 562) providing for the consideration of the bill (H.R. 6755) to authorize assistance to promote economic revitalization in the Caribbean Basin region, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3432, WATER RESOURCES POLICY ACT OF 1981

Mr. ZEFERETTI, from the Committee on Rules, submitted a privileged report (Rept. No. 97-742) on the resolution (H. Res. 563) providing for the consideration of the bill (H.R. 3432) to amend the Water Resources Development Act of 1974 relating to planning and evaluating water resources projects, and for other purposes, which was referred to the House Calendar and ordered to be printed.

RESIGNATION OF MEMBER AND APPOINTMENT AS MEMBER OF SELECT COMMITTEE ON AGING

The SPEAKER laid before the House the following resignation as a Member of the Select Committee on Aging:

HOUSE OF REPRESENTATIVES,
August 12, 1982.

HON. THOMAS P. O'NEILL, JR.,
Speaker of the House,
Washington, D.C.

DEAR MR. SPEAKER: Due to a significant amount of unfinished business to which I must attend as Chairman of the Task Force of American Prisoners and Missing in Action in Southeast Asia, as well as the increased demands on my time as a member of the Select Committee on Narcotics Abuse and Control, I respectfully request that I may be relieved of my position as a member of the Select Committee on Aging. I do this with great reluctance, but I sincerely feel that this is the appropriate action to take.

Sincerely,

ROBERT K. DORNAN,
Member of Congress.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

The SPEAKER. Pursuant to clauses 6 (e) and (g) of rule X, the Chair appoints the gentlewoman from Massachusetts (Mrs. HECKLER) to the Select Committee on Aging to fill the existing vacancy thereon.

REPORT ON HOUSE RESOLUTION 521 DISAPPROVING PRESIDENT'S RECOMMENDATION TO EXTEND CERTAIN WAIVER AUTHORITY UNDER TRADE ACT OF 1974 WITH RESPECT TO ROMANIA

Mr. GIBBONS, from the Committee on Ways and Means, submitted a privileged report (Rept. No. 97-743) on the resolution (H. Res. 521) disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania, which was referred to the Union Calendar and ordered to be printed.

PERMISSION FOR COMMITTEE ON ARMED SERVICES TO HAVE UNTIL MIDNIGHT, AUGUST 13, 1982, TO FILE REPORT ON H.R. 6954

Mr. WHITE. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services may have until midnight tomorrow, August 13, 1982, to file a report on H.R. 6954.

The SPEAKER pro tempore (Mr. ECKART). Is there objection to the request of the gentleman from Florida? There was no objection.

PERSONAL EXPLANATION

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDAHL. Mr. Speaker, this afternoon during rollcall No. 271, the Wilderness Protection Act of 1982, I was unavoidably delayed. Had I been present, I would have voted in the affirmative.

□ 1930

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6530, ESTABLISHING MOUNT ST. HELENS NATIONAL VOLCANIC AREA

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the managers of the Committee on Agriculture and the Committee on Interior and Insular Affairs may have until midnight tonight to file a conference report on the bill, H.R. 6530.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington? There was no objection.

NONVIOLENT PROTESTERS ARRESTED FOR ACTS OF CIVIL DISOBEDIENCE

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and to include extraneous matter.)

Mr. VENTO. Mr. Speaker, I take this time to call attention to the fact that within the hour at Puget Sound a number of nonviolent protesters have been arrested with regard to their acts of civil disobedience in trying to prevent or demonstrate their concern about the loading of a Trident submarine with nuclear warheads.

Mr. Speaker, I wrote to the President last week concerning this, not because I agree with this type of nonviolent display; I believe clearly, as many of my colleagues do, that the answer is within the political process, not within the concept of this type of behavior. But I wrote because I am concerned that the President confronted the problem by increasing the penalty by a factor of 10.

Some weeks before this, the President invoked his powers, which in fact increased the jail term to 10 years and the penalty to \$10,000 fine for this particular act of civil disobedience. I object to that, and I appeal to the fairness of this House, this country, and this President not to impose this type of chilling effect on those who want to exercise and express an opinion which is contrary to ours or contrary to the President's.

Mr. Speaker, the letter which I wrote to the President, along with other material, is as follows:

AUGUST 6, 1982.

HON. RONALD REAGAN,
President of the United States, The White House, Washington, D.C.

DEAR MR. PRESIDENT: Recently, I have learned that under the Executive Order 10173, a Presidential determination was made that the security of the United States is endangered by reason of the planned protests associated with the arrival of the U.S.S. Ohio at Bangor submarine base in the State of Washington.

Mr. President, I am extremely concerned about the arbitrary exercise of this impor-

tant Presidential power that is reserved under 50 USC 191. I am requesting that you rescind this declaration and reconsider the course of action that you have taken to deal so harshly with these expected non-violent protesters.

While I do not agree with the tactics of the civil disobedience expressed by some groups, I am equally appalled at the combative and confrontational policy which is being pursued by your Administration. The proposed protest in the Puget Sound area upon the arrival of the U.S.S. Ohio clearly is an over-ambitious outgrowth of the constitutional guarantees afforded U.S. citizens. These protesters understand that they are involved in an act of civil disobedience and that there is a legal liability associated with their actions.

What concerns me is not the actions taken to provide for the secure passage of the U.S.S. Ohio, but the substantial increase in the penalties that could be imposed for violations of these security measures. This arbitrary action has a chilling effect on any non-violent protest associated with nuclear arms reduction and will lead to expanded confrontation rather than resolution.

These protesters have acted in "good faith" by alerting military authorities and others of their proposed action. Ironically, if they had not publicly stated their proposed action and surprised the military authorities, it is quite likely that the executive action would not have occurred and hence, the legal liability would be considerably less. Is this the signal that we want to send to non-violent protesters? The contingent of protesters, including ministers and families, is hardly a covert group that is a threat to national security. The message they are trying to communicate is a message of peace, a message of nuclear disarmament. Perhaps this is a message, Mr. President, that you and I ought to heed.

Mr. President, I appeal to your common sense and fairness that the policy in these matters ought to be even-handed and not aggravate or compound the problem.

Thank you for your consideration.

Sincerely,

BRUCE F. VENTO,
Member of Congress.

PASTOR'S FLOTILLA TO CONFRONT TRIDENT

(By Jackie Roodler)

The Rev. Jon Nelson is embarking on a carefully planned act of civil disobedience that could send him to jail for 10 years when a brand new Trident nuclear submarine glides through the picturesque Hood Canal near Seattle in the next few days.

Nelson, a member of the politically and religiously active Youngdahl family of Minnesota, will be one of 37 people waiting in three boats to stop the mammoth sub in restricted waters near the Bangor submarine base in Washington State, where it is to be outfitted with 408 nuclear warheads.

Among Nelson's crew members will be his 78-year-old mother, Ruth Youngdahl Nelson of Edina, the national Mother of the Year in 1973 and wife of the late Rev. Clarence Nelson, formerly pastor of Arlington Hills Lutheran Church. Also in the flotilla of protesters will be Nelson's sister, Elizabeth Lompp of Stuttgart, Germany, a participant in the European peace movement.

Nelson believes the Trident and its dozen sister subs represent a "suicidal end of the world."

"The Trident is this country's first first-strike weapon because its missiles are tar-

geted on Russian missiles instead of cities," Nelson said, "That's why it is called a destabilizing force. If the Russians see anything on their computers, they will be much quicker to fire."

When Pentagon officials recently testified before Congress on the Trident's capabilities, Nelson said, they indicated its missiles could kill 60 million to 80 million Russians. Another 10 million to 12 million people in the United States and other free world countries would be killed within two weeks by radiation "drift."

The Pentagon, Nelson said, termed those deaths "acceptable collateral damage."

Nelson, 48, is a graduate of Gustavus Adolphus College in St. Peter. He is now a Lutheran campus pastor at the University of Washington in Seattle. Nelson was in St. Paul Tuesday to attend a Lutheran campus ministers' conference at Macalester College. He admits he comes by his activism naturally.

The nephew of three-term Gov. Luther Youngdahl and numerous other politicians and clergymen, including the Rev. Clifford Nelson, a former pastor at Gloria Dei Lutheran Church who is now pastor at Fort Snelling Chapel. Nelson became involved in social issues as a college student.

He said he worked closely with the late Rev. Martin Luther King, took part in civil disobedience measures during the Vietnam War, and went to jail for 90 days for trespassing at the Bangor submarine base.

And with 13 children—"three born to us," seven adopted and three permanent foster children—Nelson said he and his wife, who also runs a day care center, have a lot invested in the future. "So it's clear to me we have to say no to this insanity."

Blocking the path of the Trident, which stands five stories tall and is longer than two football fields, will be no small challenge. Thirty Coast Guard helicopters and a convoy of helicopters will be escorting it.

"People ask me what good I can do," Nelson said. "I say this is an act of prayer—it's where I belong. I have to be faithful to the human instincts God has given me. But you don't just leap to do civil disobedience. It comes as a last alternative when you work through the system and all political methods fail."

"But it is our conviction that the government, not us, is illegal. If international laws and treaties were given a fair test, it would be found they outlaw weapons that threaten enemy weapons that are in place."

The eventual confrontation, which could take place anytime between Thursday and Sunday, won't catch the government by surprise. About three weeks ago "and without fanfare," Nelson said, President Reagan declared a national emergency in the Puget Sound area and raised the penalty for protesting against the Trident from one year in prison to 10 years and a \$10,000 fine. Injunction to block enforcement of the law, Nelson said. But the judge ordered them to negotiate with the government. The negotiations are still going on.

The 37 protesters, who represent several countries, are part of a group of 100 people who trained at Ground Zero, a center for non-violent resistance training adjacent to the submarine base. They also leased property near the canal, and it's likely they'll launch Nelson's motorized SS. *Plovshares* and two sailboats from there. They've already been warned to expect an attack with water guns, Nelson said.

Why has the group given the government detailed information on its plan? Civil dis-

obedience in the best tradition, Nelson said, "is open, non-violent and accepting of penalties because it's an act of prayer."

Nelson seems to have hope for the future, although he said Reagan represents a "stage of genetic development I don't hold out a lot of hope for."

"The little people will have to mature as a species or we won't survive," he said. "The question is whether political leaders will pick up on it (the growing international anti-nuclear movement) fast enough."

REINTRODUCTION OF NUCLEAR FREEZE RESOLUTIONS

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. MARKEY. Mr. Speaker, today we are reintroducing the nuclear weapons freeze and reductions resolution.

All across this country the movement to freeze the nuclear arms race is growing and growing. Millions and millions of people are standing up and saying enough is enough.

Last week the nuclear freeze resolution was defeated by the slimmest of margins. But for the nuclear freeze movement across this country, the vote was a victory.

It was a victory for those who wanted to bring this issue before the Congress. It was a victory for those who wanted to wake up the White House to the public outrage over its nuclear war-fighting policies. It was a victory for those who are questioning the mindless stockpiling of nuclear weapons, on both sides.

The freeze movement is here to stay. It will not go away.

The movement will only stop when the arms race stops.

That is why we are reintroducing this resolution today. It is the people's resolution. And no one vote, no one defeat, on one massive lobbying effort by the White House is going to bend the will of the people.

H.J. RES. 571

Joint resolution calling for a mutual and verifiable freeze and reduction in nuclear weapons

Whereas the greatest challenge facing the Earth is to prevent the occurrence of nuclear war by accident or design;

Whereas the nuclear arms race is dangerously increasing the risk of a holocaust that would be humanity's final war; and

Whereas a freeze followed by reductions in nuclear warheads, missiles, and other delivery systems is needed to halt the nuclear arms race and to reduce the risk of nuclear war: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (1) as an immediate strategic arms control objective, the United States and the Soviet Union should—

(a) pursue a complete halt to the nuclear arms race;

(b) decide when and how to achieve a mutual verifiable freeze on the testing, pro-

duction, and further deployment of nuclear warheads, missiles, and other delivery systems; and

(c) give special attention to destabilizing weapons whose deployment would make such a freeze more difficult to achieve.

(2) Proceeding from this freeze, the United States and the Soviet Union should pursue major, mutual, and verifiable reductions in nuclear warheads, missiles, and other delivery systems, through annual percentages or equally effective means, in a manner that enhances stability.

H.R. 5158 HITS THE DUST AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 30 minutes.

● Mr. CORCORAN. Mr. Speaker, the media this week is making U.S. District Court Judge Harold H. Greene almost as famous in the telecommunications field as our friend and colleague TIMOTHY E. WIRTH of Colorado. Since Judge Greene's fair and timely decision on Wednesday, he has been a major newsworthy all over this country, as well as inside this Congress. And since congressional turf is important, especially regarding telecommunications in the U.S. House of Representatives, you can be sure, Mr. Speaker, that our colleague from Colorado has had much to say about Judge Greene's decision. That is not surprising, nor inappropriate. But what is surprising and inappropriate to principle is his change in tune.

Mr. Speaker, H.R. 5158 was designed as a substitute restructuring plan for A.T. & T. from the U.S. Department of Justice antitrust settlement with A.T. & T. for the benefit of many special interests, large and small. After listening to what the proponents of H.R. 5158 are now saying, one would think the Greene decision is the original H.R. 5158. Nothing could be further from the truth. The Greene decision repudiates H.R. 5158 and justifies its ignoble defeat in the Energy and Commerce Committee of this House.

Mr. Speaker, I say this for many reasons, but let me mention just three. H.R. 5158 First, required A.T. & T. to separate its regulated and unregulated activities in ways that many thought were anticompetitive; second, required that the divestiture of the BOC's occur before the assets of the divested companies were valued rather than after those assets were valued; and third, required that so-called embedded terminal equipment would be included in the assets that were transferred to the BOC's.

Our colleague from Colorado has steadfastly insisted that these controversial provisions must remain in the bill on grounds that they constituted an essential supplement to the proposed antitrust agreement which did not contain similar provisions. In his public statement announcing his deci-

sion to withdraw H.R. 5158 from Commerce Committee consideration, Mr. WIRTH referred specifically to each of these provisions. In doing so, however, he made it absolutely clear that he would not, under any circumstances, delete any of them:

Bell has made it very clear, for instance, that it will not tolerate an independent voice for its local companies during divestiture. It will not tolerate effective safeguards to protect ratepayers against its own monopoly. It insists upon taking ownership of installed telephones away from the local companies.

Mr. Chairman, I have been willing to compromise language; I have been willing to compromise substance. I cannot in good conscience, however, compromise fundamental principles.

In the 178-page opinion that accompanied his order requiring certain revisions in the proposed settlement, Judge Green considered carefully the arguments that had been made by those who had filed comments with him urging that he require modification of the decree to include the three controversial provisions referred to above. After a full analysis of all the comments, the Judge decided to require none of the suggested modifications, as discussed below.

Judge Green concluded that it was unnecessary for A.T. & T. to separate its regulated activities from its unregulated activities as several commenting parties had proposed and as Mr. WIRTH had so strongly advocated. The judge noted that such separation might be justified if, after divestiture, A.T. & T. would have monopoly power in any market. But the judge concluded that A.T. & T.'s local telephone service was its only monopoly and, after divestiture of its local telephone operations, this monopoly would be lost:

There is substantial merit in the suggestion that, absent divestiture, A.T. & T. would still possess significant monopoly power, and that whatever competition developed in the past did so despite anticompetitive conditions * * *. But the overriding fact is that the principal means by which A.T. & T. has maintained monopoly power in telecommunications has been its control of the Operating Companies with their strategic bottleneck position. The divestiture required by the proposed decree will thus remove the * * * main barriers that previously deterred firms from entering or competing effectively in the interexchange market * * *. For these reasons, it appears that after divestiture, A.T. & T. will largely lack the monopoly power that the opponents of the decree suggest, and the trend of increasing competition may therefore be expected to continue. [Judge Green Opinion, pp. 70 and 72.]

Similarly, Judge Green considered, and rejected, requests that he demand that the proposed settlement be modified to require that the BOC's be divested prior to the time their assets were valued. The judge rejected this proposal largely because he thought it was a foolish and unworkable idea:

An immediate spin-off of the Operating Companies, while superficially appealing, would be entirely impractical and, notwithstanding the Court's urging, none of those who has advocated such a spin-off has presented a plan that is even remotely feasible. In fact, such an action would leave entirely unresolved all of the problems of administering coordination, interconnection, and continuity of service that are addressed in the proposed decree. [Judge Green Opinion, p. 168-69.]

Judge Green also explicitly rejected requests that he order a modification in the proposed settlement to take away from A.T. & T. all embedded terminal equipment and give that equipment instead to the divested BOC's. The judge ruled that the equipment properly belongs to A.T. & T.:

The embedded CPE consists primarily of Western Electric equipment, and it is therefore appropriately allocated to A.T. & T. [Judge Green Opinion, p. 111.]

Mr. Speaker, as you know in his decision, Judge Greene ordered A.T. & T. and the Department of Justice to make certain modifications within 15 days to the proposed agreement settling the Government's antitrust suit against A.T. & T. What the final result will be I do not know. That properly depends on the parties to the court suit and the judge. However, I do know this: Like the House Energy and Commerce Committee, Judge Greene rejected H.R. 5158. ●

THE FUTURE OF SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. LATTI) is recognized for 30 minutes.

Mr. LATTI. Mr. Speaker, every congressional office has been receiving countless letters from citizens worried about the future of the social security system. Those who have retired and dependent upon their monthly social security checks are worried about media reports that benefits may be cut and those who have not yet retired worry whether adequate funds will remain in the trust fund to pay them benefits when they retire in the years ahead. Those paying into the fund are concerned over the increased amounts being deducted from their paychecks for social security taxes and are weighing future benefits against today's payments. These are but a few of the many questions being posed across the length and breadth of this land. I have, therefore, taken this time to speak to the social security system and to review its history, its growth, its problems, and its future.

ITS HISTORY

The Social Security Act which passed in 1935 was a relatively simple and straightforward program. It established a social security trust fund into which a worker paid a small premium during his or her working years for an

insurance policy (FICA) which would pay a given sum of money upon retirement at age 65 based upon the amount contributed. At the time of passage, both President Roosevelt and the Congress emphasized that this insurance would be a supplement to other sources of income of the retirees. At the time he signed the law on August 14, 1935, President Roosevelt stated:

We can never insure 100 percent of the population against 100 percent of the hazards and vicissitudes of life, but we have tried to frame a law which will give some measure of protection to the average citizen and to his family * * * against poverty-ridden old age.

When one considers the many additional benefits which have been added to this supplemental retirement program since its enactment, it is needless for me to say that President Roosevelt's admonishment was not heeded.

ITS GROWTH

When the social security program began, a 1-percent tax was paid on earned income up to \$3,000 annually. This represented a total payment of \$30 per worker into the fund each year with the employer making a matching payment. This rate of payment remained until 1950 when it was increased to 1½ percent. Since 1950, both the amount of the tax and the earnings base have been gradually increased. In 1982 the maximum tax is \$2,170.80 on earnings of \$32,400 at a 6.7-percent rate. Under present law, the maximum tax is scheduled to go to \$4,360.50 in 1990.

Not only have the taxes been increased over the years, so have the benefits. Initially benefits averaged \$22.60 a month. The first social security check went to a person in Vermont in January 1940. The recipient had paid \$22 into the trust fund and collected benefits totalling \$20,944.42. The last monthly check, having been gradually increased over the years to \$112.60, was paid in December 1974.

A worker retiring at age 65 in 1982 who has paid the maximum tax on the maximum earnings allowable under the law will have paid \$14,766 into the trust fund. This person will receive \$8,148 annually in monthly payments of \$679 during his or her retirement plus all subsequent increases provided by law. A nonworking spouse of this worker will also be eligible for an additional 50 percent in retirement benefits at age 65 notwithstanding the fact that no contributions were made by said spouse into this account number. The actuaries say a worker retiring today can expect to live an average of 15 years, thereby drawing a minimum of \$122,220 in social security benefits. When the social security system began only 62 percent of all women and 54 percent of all men were expected to live until age 65; today, 82 percent of all women and 68 percent of all men

are expected to live until age 65. This means more people to collect retirement benefits for longer periods than was originally projected.

In 1940 Congress added survivors' benefits. A few years later, coverage was expanded to the self-employed including farmers, doctors, lawyers, merchants, ministers, and others. In 1954, disability benefits were added and later liberalized. The law was changed in 1956 to permit women to retire at age 62 rather than 65 on their own accounts at 80 percent of benefits; in 1961, men were permitted to make the same choice. Two-thirds of all social security retirees are taking advantage of this early retirement which means they pay into the trust fund for a shorter period and collect the reduced benefits for a longer period. Medicare was enacted in 1965 in order to help defray the hospital and doctor bills of people 65 and older. In 1965 student benefits were added to the social security program, liberalized in 1972, and scheduled to be phased out in 1985 after Congress finally realized other taxpayer-financed programs were available.

ITS PROBLEMS

In addition to the tremendous financial demands made on the trust fund by the above program additions, the Congress has from time to time in the past granted increases to the retirees and then in 1975 indexed social security benefits to the Consumer Price Index. From January 1940 to June 1981 social security benefits were increased for a combined total of 788 percent. During that same 41-year period, the Consumer Price Index rose by only 522 percent.

The ratio of workers paying into the trust fund to those drawing benefits has gone from 20 to 1 in 1940 to 3.2 to 1 at the present. By the year 2030, it is projected there will be only two workers to one retiree. This declining ratio of workers to retirees naturally means less money paid into the fund every year despite the increased tax burden being placed on the individual worker.

Thirty-six million retirees are now receiving monthly checks. Social security annual benefit costs have gone from \$33.8 billion in fiscal year 1970 to an estimated \$206.5 billion in fiscal year 1983—including medicare. This will be 26 percent of the total Federal budget for the year.

Notwithstanding the huge tax increases which have taken place over the years to support the program, by 1975 the trust fund was paying out more money than it was taking in. As a matter of fact, it is now paying out \$17,000 more in benefits every minute than it collects in payroll taxes.

The social security system now has three trust funds. The original and largest is the old age and survivors insurance (OASI) trust fund, which provides benefits to retirees, their depend-

ents, and their survivors. In 1956, the disability insurance (DI) trust fund was created to provide benefits to disabled workers and their dependents. In 1965 the hospital insurance (HI) trust fund was created for medicare. Since the OASI trust fund was being rapidly depleted, Congress approved legislation last year to authorize inter-fund borrowing from the financially healthier disability insurance (DI) and hospital insurance (HI) trust funds. This temporary borrowing authority expires in June 1983. At that time the combined reserves of all three funds will be dangerously low and a simple extension of the borrowing authority will not suffice. Total end-of-year combined reserves are projected at \$36 billion—enough to fund less than 9 weeks of benefit payments and medicare reimbursements.

ITS FUTURE

A recent NBC-Associated Press poll revealed that 73 percent of all Americans have no or little confidence that social security benefits will be there and available to them when it is their turn to retire. To these people and to those now on social security worried that their benefits may be cut, let me say no administration or Congress is about to permit the system to go into default with 36 million people drawing checks. At the time President Reagan announced that current retirees would receive their full 7.4 percent cost-of-living increases this year, he stated he was "determined to protect the current benefits of all social security recipients." In order to make certain that current checks go out without being cut and that future retirees receive the benefits for which they are presently being taxed, it is obvious from the facts set forth that attention to the funding problem confronting social security can no longer be ignored by the Congress.

A bipartisan commission has been established and is presently considering various methods to solve both the short-term and long-term financial problems of the system. The commission not only has a December 1982 reporting time, the Treasury Department has already announced that the checks cannot go out next July unless action is taken. Both of these dates will keep the pressure on the Congress as well as the commission. Action by the Congress will come shortly after the commission makes its report.

COMPETITIVE SHIPPING AND SHIPBUILDING REVITALIZATION ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana (Mrs. Boggs) is recognized for 60 minutes.

Mrs. BOGGS. Mr. Speaker, today I am introducing legislation that I believe will help support and maintain

two of this Nation's most valuable yet overlooked assets, the U.S. merchant marine and the shipbuilding mobilization base. In turn, passage of this legislation will help achieve one of President Reagan's goals, as well as a long-standing objective of the Congress; namely, to insure a merchant fleet capable of carrying a fair portion of our Nation's foreign trade. I am joined in sponsoring this legislation by Representatives PAUL TRIBLE, ADAM BENJAMIN, CHARLES BENNETT, DAVE BONIOR, DON BONKER, CHARLIE DOUGHERTY, TRENT LOTT, HAROLD FORD, JOE GAYDOS, TOM HARTNETT, ARLAN STANGELAND, CHARLIE WILSON, DON YOUNG, LEO ZEFERETTI, BARBARA MIKULSKI, GENE SNYDER, GLENN ANDERSON, and JOHN MURTHA.

Enactment of H.R. 6979 would provide the following benefits:

It will strengthen our national defense by providing a bulk fleet that is capable of serving as a naval and military auxiliary in time of national emergency.

It will strengthen the Nation's shipbuilding mobilization base by providing critical work for commercial shipyards, many of which will close if the bill is not enacted.

It will generate new Federal and State tax revenues.

It will provide jobs to thousands of shipyard and shipboard workers at a time when unemployment is at its worst in 30 years.

It will provide substantial work for the hundreds of allied industries dependent upon shipbuilding in every State, and

It will furnish the stated advantages at no cost to the American taxpayer; the U.S. Treasury will spend no additional funds if the bill is enacted.

These benefits would be derived through the transport of 5 percent of our Nation's bulk cargoes on U.S.-flag, U.S.-built ships in 1983 and increased 1 percent per year thereafter until a minimum of 20 percent of U.S. bulk cargoes would be carried on U.S.-flag, U.S.-built ships by 1998.

These modest measures will help fulfill a commitment made by President Reagan in August 1980, covering the points that he specifically stressed as necessary to the vitality of the maritime industry and the Nation:

ON CARGO POLICY

A specific naval-maritime program must be developed that will . . . recognize the challenges created by cargo policies of other nations. The United States has traditionally espoused free trade. However, the international shipping trade is laced with a network of foreign governmental preferences and priorities designed to strengthen foreign fleets, often at the expense of U.S. maritime interests. We must be prepared to respond constructively for our own interests to the restrictive shipping policies of other nations. A major goal of the United States must be to insure that American-flag ships carry an equitable portion of our trade con-

sistent with the legitimate aspirations and policies of our trading partners.

ON SHIPBUILDING MOBILIZATION CAPABILITY

Should our shipbuilding capability continue to decline, America's mobilization potential will be seriously undermined because a large reduction in a skilled shipbuilding workforce today makes any increase tomorrow very difficult. This is a dangerous threat to our national security, jobs, and a key U.S. industry.

ON THE STATE OF THE MARITIME INDUSTRY

America is a maritime nation. Yet our maritime industry is at a critical stage. Ninety-five percent of our trade moves in foreign vessels—a serious situation. Our active U.S.-flag fleet has declined to 533 ships—about 1/4 the total lost (1,787) by our country during World War II.

The United States does not have a merchant fleet capable of moving a significant portion of its foreign waterborne trade, nor does it have a merchant fleet that could function as an effective auxiliary in time of war or national emergency. We do not even have the ability to maintain and preserve a shipyard mobilization base sufficient to meet national defense requirements. Further, U.S. operators and shipbuilders are hard pressed to compete with other countries, such as Japan, where special financing subsidies for domestic vessel construction are available.

I ask my colleagues to give this bill their full consideration. I have compiled information documenting the need for this legislation, and the benefits that will be derived from its enactment. I request that this information, which follows, be inserted into the RECORD in its entirety.

This Nation cannot survive and prosper as an economic and political entity without the ships and shipyards necessary to support national defense and the industrial economy. I strongly believe that the trend we see in American shipping and shipbuilding can and must be reversed. With the support of the Congress, that objective can be achieved.

Mr. Speaker, the purpose of the Competitive Shipping and Shipbuilding Revitalization Act of 1982 is to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in U.S.-flag, U.S.-built ships, to strengthen the defense industrial base, and for other purposes.

H.R. 6979 would achieve these objectives by requiring all exporters and importers of bulk commodities in the foreign commerce of the United States to ship 5 percent of their cargoes on U.S.-flag, U.S.-built ships beginning in 1983, and to increase the use of U.S.-flag, U.S.-built ships by 1 percent of all bulk cargoes per year until 20 percent of all U.S. bulk tonnage is shipped in U.S.-flag, U.S.-built ships.

Enactment of this legislation would:

Decrease this country's dependence on foreign shipping for strategic materials;

Rebuild the bulk component of the U.S.-flag merchant fleet engaged in international commerce that today numbers a mere 40 ships—most of which are near the end of their useful life; and

Provide needed work for the commercial shipyards located in the following States which compose the Nation's shipbuilding mobilization base: Alabama, California, Connecticut, Florida, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, Washington, and Wisconsin.

Provide substantial work for support industries such as mining, steel mills, and foundries, as well as manufacturers of fabricated metals/alloys, pipes and valves, propulsions and machines, and other materials and equipment.

WHY IS IT NEEDED?

The ranking of the U.S. bulk fleet among world fleets has fallen. In 1970, the U.S.-flag, liquid and dry bulk fleet engaged in international commerce totaled 81—today it consists of only 48 ships. If provisions are not made for replacement we can most assuredly expect a further, perhaps irreversible decline in the U.S. bulk fleet. In addition:

Since 1950, the U.S.-flag, U.S.-built fleet carriage of U.S. foreign commerce has shrunk from 42 percent to less than 4 percent (1980) of its total foreign tonnage. In the liquid bulk trades, the U.S. carried approximately 3.9 percent and in the dry bulk foreign trades, a mere 1.3 percent. Liberia, Greece, Panama, Canada, Great Britain, Japan, and Norway, however, carry a substantial portion, almost 75 percent, of our foreign waterborne commerce.

Other countries, especially the U.S.S.R., are expanding their bulk fleets as we allow ours to atrophy. More than 270 new shipbuildings totaling approximately 2,610,000 deadweight tons have been added to the Soviet fleet since 1978, with emphasis on bulk carriage. In contrast, U.S. shipyards received orders for only seven bulk vessels last year. If the trend continues, not only will our fleets dwindle, but also our resources to rebuild them.

Our country requires merchant ships capable of serving the national defense. The Falkland Islands crisis proved that naval and merchant vessels are complementary. Warships guard men and cargo, while civilian ships help transport troops and supplies.

Of the 71 critical raw materials needed to maintain our industrial security, 68 are imported. Most of these imports are currently carried on foreign-flag vessels. This dependency on foreign-flag carriage jeopardizes our

ability to function successfully in a national emergency. U.S. national security interests can best be served by an active U.S.-flag, U.S.-built bulk fleet.

Many countries reserve a portion of their seagoing trade for vessels of their national fleets. Even lesser developed countries are planning or proposing cargo-sharing regimes. The United Nations Conference on Trade and Development (UNCTAD) has formulated a code for liner conferences that provides for a large share of general cargoes to be served for nations that adopt the code and that participate in bilateral cargo-sharing agreements. The United States is currently not a signatory to the code.

RANK CHANGES IN THE WORLD'S LEADING MERCHANT FLEETS: 1938—1950—1980

Rank	Country	Million GRT ¹
1938		
1.	U.K.	17.6
2.	U.S.A.	11.4
3.	Japan	5.0
4.	Norway	4.6
5.	Germany	4.2
6.	Italy	3.2
7.	France	2.9
8.	Netherlands	2.8
9.	Greece	1.9
10.	Sweden	1.5
11.	U.S.S.R.	1.3
12.	Canada	1.2

Total 57.6

Percentage of world's fleet 86.6

1950		
1.	U.S.A.	27.5
2.	U.K.	18.2
3.	Norway	5.4
4.	Panama	3.4
5.	France	3.2
6.	Netherlands	3.1
7.	Italy	2.6
8.	U.S.S.R.	2.1
9.	Sweden	2.0
10.	Canada	1.9
11.	Japan	1.9
12.	Greece	1.3

Total 72.6

Percentage of world's fleet 85.8

1980		
1.	Liberia	80.3
2.	Japan	41.0
3.	Greece	39.5
4.	U.K.	27.0
5.	Panama	24.1
6.	U.S.S.R.	23.4
7.	Norway	22.0
8.	U.S.A.	18.5
9.	France	11.9
10.	Italy	11.1
11.	Germany, F.R.	8.3
12.	Spain	8.1

Total 315.2

Percentage of world's fleet 75.1

¹ GRT: Gross registered tons—the weight of the vessel without cargo.
Source: "Transport 2000," July/August 1982, p. 24.

SUMMARY—BULK CARRIERS IN THE WORLD FLEET—OCEANGOING SHIPS OF 1,000 GROSS TONS AND OVER, AS OF JAN. 1, 1981

(Tonnage in thousands)

Country of registry (descending order)	Total	
	Number	Dwt. ¹
Liberia	1,742	147,410.2
Greece	1,358	54,614.0
Japan	1,037	55,464.3
Panama	700	24,484.3
U.S.S.R.	628	10,387.7

**SUMMARY—BULK CARRIERS IN THE WORLD FLEET—
OCEANGOING SHIPS OF 1,000 GROSS TONS AND OVER,
AS OF JAN. 1, 1981—Continued**

[Tonnage in thousands]

Country of registry (descending order)	Total	
	Number	Dwt. ¹
United Kingdom	594	37,409.4
Norway	399	36,495.8
Spain	188	10,729.1
Singapore	183	7,814.2
China (People's Republic of)	182	5,055.4
France	165	17,500.6
Korea (Republic of)	153	4,784.1
Germany (Federal Republic)	111	8,202.6
Denmark	102	6,336.7
Sweden	97	4,895.5
Poland	94	2,987.8
Argentina	87	2,184.9
Yugoslavia	66	1,998.0
Canada	60	798.0
China (Republic of)	52	1,977.5
Rumania	51	1,585.3
Turkey	51	1,493.8
United States ²	48	2,317.6
Israel	11	331.0
United Arab Republic	15	156.3

¹ Dwt.—Dead weight tons: a vessel's cargo carrying capacity in terms of weight measurement.

² U.S. carriers engaged in foreign commerce.

Source: U.S. Department of Transportation, Office of Trade Studies and Statistics.

**COMPARATIVE VESSEL STATISTICS FOR SELECTED YEARS:
U.S.—U.S.S.R.**

Year	Merchant Marine ¹	
	Soviet Union	United States (Privately-owned merchant fleet)
1960	873	1,008
1965	1,345	948
1970	1,942	793
1975	2,404	580
1976	2,420	577

¹ 1,000 gross tons and over.

Sources: U.S. Department of Transportation, Maritime Administration; U.S. Department of the Navy, Public Information Office.

**WHAT ARE THE NATIONAL SECURITY
IMPLICATIONS?**

Shipbuilding, a strong maritime industry and our national security go hand in hand. As the world's leading trading nation, as an island nation of have-nots in the area of strategic commodities, and as the chief guarantor of freedom of the Western World, the U.S. is in dire need of a rational, reasonable and effective maritime industry. Ronald Reagan, August 19, 1980.

In assessing the role of the merchant marine and shipbuilding industry in support of national security, the concept of "national security" must be considered in its broadest context. It must be extended beyond questions of reinforcements and/or resupply of troops overseas . . . to include the contribution made by these industries to the nation's economy. Adm. Isaac C. Kidd, Jr., former NATO Supreme Allied Commander, Atlantic.

A shipyard mobilization base, with a trained pool of shipbuilding labor is a national necessity. Currently, 26 yards make up this base, but many are in danger of closing. This bill would provide substantial building and repair work for U.S. commercial shipyards for years to come.

A liquid bulk ship operating capability is also essential. In the recent Falklands dispute, three of every four British ships were commercial vessels. Of

these, almost half were tankers. Vice Adm. J. Kent Carroll, commander, the Military Sealift Command, has called the need for the right type of U.S.-flag tankers one of the most pressing current needs for military planners. This bill would help meet that need.

Because we import vast quantities of strategic commodities, and because most of these move in foreign-flag dry bulk ships, we are vulnerable to a cutoff of supplies that are vital to the U.S. industrial base. This vulnerability increases when one considers that the Soviet Union is more self-sufficient with regard to strategic raw materials than any other nation in the world, relying on foreign sources for only seven strategic minerals. This bill would substantially reduce our vulnerability to a supply cutoff. Further, U.S. Industries involved in production of military products would suffer in the event of supply cutoff. The inability of these industries to continue to import and export goods would also strike a serious blow to U.S. defense capabilities.

USES FOR U.S. IMPORT OF SPECIFIC METALS

Material	Material usage
Antimony	Flame retardant batteries, ceramics, chemicals.
Asbestos	Pipe, floorings, roofing, friction products, insulation, coatings.
Bauxite and alumina	90 percent for aluminum; remainder for chemicals, abrasives, refractories.
Cadmium	Plating, batteries, pigments.
Cesium	R & D in MHD power.
Chromium	Construction, machinery, transportation, paints, chemicals, ceramics.
Cobalt	Aerospace, cutting tools, electrical, magnetic materials, catalysts.
Columbium	Construction, petroleum industry, transportation, machinery.
Copper	Electrical, construction, machinery, transportation.
Corundum	Grinding and polishing optical components, fabricated metal products.
Diamond (industrial)	Machinery, transportation equipment, grinding and cutting equipment.
Fluorspar	Steel and aluminum production, fluorine compounds.
Gallium	Electronics.
Gold	Jewelry and arts, electronics, dental, investment bullion.
Gypsum	Building products, agriculture.
Iron ore	Pigments, titanium metal, drilling mud, chemicals.
Lead	Steel.
Lithium	Batteries, paint, chemicals, ammunition, construction, electrical.
Magnesium	Aluminum production, glass, ceramics, lubricants.
Manganese	Refractories, magnesium compounds.
Mercury	Steel production, batteries, chemicals.
Sheet mica	Electrical, paint, chlorine production.
Molybdenum	Electric, electronics.
Nickel	Machinery, transportation, oil and gas industry, transportation, chemical industry, electrical, construction materials.
Phosphate rock	Fertilizers, animal feed, food products.
Platinum	Automotive, chemical.
Potash	Fertilizer.
Salt	Chemical industry, highway deicing, food products.
Selenium	Electronics, glass, chemicals, pigments.
Silver	Photography, electrical, silverware, solders.
Strontium	Color TV tubes, signals, pyrotechnics.
Sulfur	Agricultural chemicals, chemical products.
Tantalum	Electronic components, machinery, transportation.
Tin	Cans and containers, electrical, construction, transportation.
Tungsten	Metal working and construction machinery, transportation, lamps, electrical.
Vanadium	Steel and titanium alloys, catalyst.
Zinc	Construction materials, transportation and electrical equipment, machinery, chemicals.

Source: U.S. Department of the Interior, Bureau of Mines.

WHAT ARE THE ECONOMIC BENEFITS?

Enactment of H.R. 6979 offers numerous important economic benefits to the United States at no cost to the U.S. Treasury.

Passage of this bill would provide for:

Construction of 158 bulk ships of 120,000 deadweight ton capacity by 1998. The availability of assured cargo would stimulate investment in the construction of vessels in U.S. shipyards to meet the need for new tonnage and to replace existing tonnage that becomes obsolete.

Increased business to shipbuilding support industries. The shipbuilding industry has a great impact on other industrial concerns in the United States. The Defense economic impact modeling system, prepared by the Office of the Secretary of Defense, identifies mining, steel mills, and foundries as support industries along with fabricated metals/alloys, pipes and valves, machinery and propulsion, and semiconductor as supporting products. According to this source, each dollar invested in the shipbuilding industry, yields an additional dollar generated throughout the private sector.

Thousands of job opportunities for American workers, in maritime-related service, supply and material industries. This legislation would create 146,150 man/years of employment in American shipyards, as well as 6,162 seagoing jobs. Especially important, more than 200,000 existing American jobs in ship construction and repair, ship operation, and maritime-related service, supply, and material industries would be saved. Absent this legislation, jobs will be lost. One group that undoubtedly would be hit hardest by an employment cutback would be minorities. Approximately 28 percent of the U.S. shipyard work force and approximately 17.5 percent of the shipboard work force consists of minorities.

Millions of dollars annually to the U.S. Treasury through corporate taxes on both shipbuilding and shipping profits and income taxes on shipyard workers and seamen. The Treasury Department has estimated that multinational companies escape over \$100 million per year in U.S. taxation by registering vessels under foreign flags and using foreign crews. Subpart F of the Internal Revenue Code provides a special exclusion for shipping income of foreign-based companies. This exclusion amounts to an indirect subsidy of foreign-flag shipping.

A boost in our international balance of payments. When U.S. companies and U.S. crews are used to transport America's imports and exports, dollars are retained in or transferred to the American economy via the services U.S. operators provide to foreign countries. These dollars are used to purchase American goods and services. For the past decade, however, more money has been paid out to foreigners for ocean transportation than to domestic operators. Of the \$8 billion

worth of shipping services recorded in the balance of payments for 1980, only \$2.6 billion was paid to U.S.-flag carriers.

The remaining \$5.4 billion was paid to foreign carriers, leaving a deficit of some \$2.8 billion. If U.S.-flag vessels had a larger share of American bulk cargo imports and exports, this trend would be quickly reversed.

PROJECTED EFFECTS OF 20-PERCENT BULK CARGO RESERVATION

	1982	1983	1984	1986	1988	1990	1992	1994	1996	1998
Oil (million long tons)	266	264	262	260	258	256	254	252	250	248
Coal (million long tons)	103	106	111	124	140	156	172	188	204	220
Dry bulk (million long tons)	340	351	362	379	391	402	414	426	438	450
Total (million long tons)	709	721	735	763	789	814	840	866	892	918
U.S. carriage (percent)		5	6	8	10	12	14	16	18	20
U.S. ships required		36	44	61	79	97	118	138	160	184
U.S. ships current		21	21	19	17	15	13	11	9	7
Ships transferred from layup or other trades		15	8							
Cumulative		15	23	25	25	25	25	23	21	19
Ships to be built in United States				9	10	10	12	12	13	14
Cumulative				17	37	57	80	104	130	158

Source: U.S. Department of Transportation, Maritime Administration. Shipbuilders Council of America.

WHAT STATES WOULD BENEFIT FROM THE BILL

Shipyards and their related allied industries are scattered in approximately 26 States across the Nation. Enactment of this bill would have a positive economic impact on these shipyards and their allied industries. Without such legislation, the impact on the shipbuilding industry would be severe. Twelve of the twenty-six active shipyards would be in danger of closing, perhaps permanently. In turn this could damage the growth of many companies directly and indirectly related to the shipbuilding industry.

SHIPBUILDING SUPPORT INDUSTRIES

CALIFORNIA

Alloys

Kaiser Aluminum & Chemical Sales, Inc., Oakland, California.

Cable hangers

Kinnaman Electric, Wilmington, California.

Electric cables

Kinnaman Electric, Wilmington, California.

Hose (fire and deck)

The American Rubber Manufacturing Co., Oakland, California.

Ladders (accommodation)

Kings Point Machinery, Inc., San Francisco, California.

Life rafts; or life floats

C. J. Hendry Co., San Francisco, California.

Lighting equipment and fixtures

Kinnaman Electric, Wilmington, California.

Loran

Raytheon Co., South San Francisco, California.

Navigating instruments

Raytheon Co., San Francisco, California.

Pipe (corrosion-resisting)

Amercoat Corp., Brea, California.

Pipe fittings

Amercoat Corp., Brea, California.

Pumps

Pacific Pumps, Inc., Huntington Park, California.

Borg-Warner Corp., Byron-Jackson Div., Los Angeles, California.

Wire rope

C. J. Hendry Co., San Francisco, California.

CONNECTICUT

Bushings

Chase Brass & Copper Co., Waterbury, Connecticut.

Distillers

American Machine & Foundry Co., Waterford, Connecticut.

Ducts

Anaconda American Brass Co., Waterbury, Connecticut.

Expansion joints

Croll-Reynolds Engineering Co., Inc., Stamford, Connecticut.

Expansion joints

Anaconda American Brass Co., Waterbury, Connecticut.

Hose (fire and deck)

Hewitt-Robins Ind., Stamford, Connecticut.

Hydraulic machine drives

Vickers Incorporated, Waterbury, Connecticut.

Lighting equipment and fixtures

Rostand Mfg. Co., Milford, Connecticut.
Safety Electrical Equipment Corp., New Haven, Connecticut.

Thermometers, gages

Dresser Industries, Inc., Manning, Maxwell & Moore Div., Stratford, Connecticut.

Tubes

Chase Brass & Copper Co., Waterbury, Connecticut.

Anaconda American Brass Co., Waterbury, Connecticut.

Bridgeport Brass Co., Div. of National Distillers & Chemical Corp., Bridgeport, Connecticut.

ILLINOIS

Diesel engines

Caterpillar Tractor Co., Peoria, Illinois.
General Motors Corp., LaGrange, Illinois.

Gratings

U.S. Steel Supply Div., U.S. Steel Corp., Chicago, Illinois.

Insulation (acoustical)

Ozite Corp., Chicago, Illinois.

Pumps

Aurora Pump Div., The New York Air Brake Co., Aurora, Illinois.

Welding tees

Taylor Forge & Pipe Works, Chicago, Illinois.

INDIANA

Pipe (corrosion-resisting)

Stellite Div., Union Carbide Corp., Kokomo, Indiana.

Pumps

Dean Brothers Pumps, Inc., Indianapolis, Indiana.

KANSAS

Pumps

Colt Industries, Kansas City, Kansas.

KENTUCKY

Alloys

Tube Turns, Division of Chemetron Corp., Louisville, Kentucky.

Expansion joints

Tube Turns, Louisville, Kentucky.

Pipe fittings

Tube Turns, Louisville, Kentucky.

Welding tees

Tube Turns, Div. of Chemetron Corp., Louisville, Kentucky.

MARYLAND

Distillers

Tate Engineering, Inc., Baltimore, Maryland.

Furniture

Turnbull Enterprises, Inc., Baltimore, Maryland.

Hatch covers

Wiley Manufacturing Corp., Port Deposit, Maryland.

Joiner doors

Jamison Cold Storage Door Co., Hagerstown, Maryland.

Manifolds (bilge, ballast, feed and fire pump, etc.)

Tate Engineering, Inc., Baltimore, Maryland.

Thermometers, gages

Tate Engineering, Inc., Baltimore, Maryland.

MASSACHUSETTS

Blowers

Coppus Engineering Corp., Worcester, Massachusetts.

Panelboards

Henschel Corp., Amesbury, Massachusetts.

Pumps

Warren Pumps, Inc., Warren, Massachusetts.

Telegraphs (electric; engine and fireroom, docking, steering, etc.)

Henschel Corp., Amesbury, Massachusetts.

MICHIGAN

Blowers

American Standard Industrial Div., Detroit Michigan.

Clarage Fan Co., Kalamazoo, Michigan.

Capstans

Jered Industries, Inc., Birmingham, Michigan.

Controllers

American-Standard Controls Div., Detroit, Michigan.

Pipe fittings

Aeroquip Corp., Jackson, Michigan.

MINNESOTA

Controllers

Honeywell, Inc., Minneapolis, Minnesota.

Thermometers, gages

Honeywell, Inc., Minneapolis, Minnesota.

MISSOURI

Insulation (acoustical)

Gustin-Bacon Manufacturing Co., Kansas City, Missouri.

Pipe fittings

Gustin-Bacon Manufacturing Co., Kansas City, Missouri.

Welding tees

Midwest Piping & Supply Co., Inc., St. Louis, Missouri.

Wire Rope Corp. of America, Inc., St. Joseph, Missouri.

NEW JERSEY

Alarm systems

Walter Kidde & Co., Inc., Belleville, New Jersey.

Bearings

Lignum-Vitae Products Corp., Kearny, New Jersey.

Blowers

L. J. Wing Mfg. Co., Linden, New Jersey.

Boiler feed systems

Leslie Co., Lyndhurst, New Jersey.

Cable hangers

Indmar Sales Co., Hoboken, New Jersey.

Controllers

Leslie Co., Lyndhurst, New Jersey.

Davits

Welin Davit & Boat, Perth Amboy, New Jersey.

Electrical boxes

Lovell-Dressel Co., Inc., Kearny, New Jersey.

Fire extinguishing systems

Walter Kidde & Co., Inc., Belleville, New Jersey.

Food service equipment

S. Blickman Inc., Weehawken, New Jersey.

Furniture

S. Blickman, Inc., Weehawken, New Jersey.

Gratings

Great Bend Mfg. Corp., Paterson, New Jersey.

Hatch covers

Marryatt, Lane & Co., Inc., Paterson, New Jersey.

Insulation (acoustical)

National Distributing Co., Inc., Little Ferry, New Jersey.

Joiner bulkheads

National Distributing Co., Inc., Little Ferry, New Jersey.

Ladders (accommodation)

Great Bend Mfg. Corp., Paterson, New Jersey.

Lighting equipment and fixtures

Lovell-Dressel Co., Inc., Kearny, New Jersey.

Loran

Radio Corp. of America, Radiomarine Products Department, Camden, New Jersey.

ITT Mackay Marine, Clark, New Jersey.

Navigating instruments

Radio Corp. of America, Radiomarine Products Department, Camden, New Jersey.

Propellers

Ferguson Propeller and Reconditioning, Ltd., Hoboken, New Jersey.

Pumps

Coffin Turbo Pump Co., Englewood, New Jersey.

Wire rope

Colorado Fuel & Iron Corp., Trenton, New Jersey.

NEW YORK

Alloys

Federated Metals Div., American Smelting & Refining Co., New York, New York.

Bearings

Farrel Corp., Rochester, New York.

Capstans

Marine Engine Specialties Corp., New York, New York.

Superior-Lidgerwood-Mundy Corp., New York, New York.

Lake Shore, Inc., New York, New York.

Davits

Lake Shore, Inc., New York, New York.

Davits

Lane Lifeboat and Davit Corp., Brooklyn, New York.

Smith-Meeker Engineering Co., New York, New York.

Diesel engines

Marine Engine Specialties Corp., New York, New York.

Alco Products, Inc., New York, New York.

Igersoll-Rand Co., New York, New York.

Distillers

Adscos Div., Yuba Consolidated Industries, Inc., Buffalo, New York.

Ducts

Juniper Elbow Co., Inc., Middle Village, New York.

Rudman & Scofield, Inc., New York, New York.

Electric cables

Graybar Electric Co., Inc., New York, New York.

Normandy Electric Wire Corp., Brooklyn, New York.

Electrical boxes

Graybar Electric Co., Inc., New York, New York.

Arnessen Electric Co., Inc., Brooklyn, New York.

Expansion joints

Garlock, Inc., Palmyra, New York.

United States Rubber Co., New York, New York.

Adscos Div., Yuba Consolidated Industries, Inc., Buffalo, New York.

Fire extinguishing systems

American LaFrance, Elmira, New York.

Food service equipment

Frigitemp Corp., Brooklyn, New York.

Rudman & Scofield, Inc., New York, New York.

Furniture

Martin-Parry Marine Corp., New York, New York.

Rudman & Scofield, Inc., New York, New York.

Furniture

Jamestown Metal Corp., Jamestown, New York.

Hatch covers

MacGregor-Comarain, Inc., New York, New York.

Hose (fire and deck)

American LaFrance, Elmira, New York.

Insulation (acoustical)

Eastern Cold Storage Insulation Co., Inc., New York, New York.

Joiner bulkheads

Martin-Parry Marine Corp., New York, New York.

Arnot Marine, New York, New York.

Joiner doors

Jamestown Metal Corp., Jamestown, New York.

Arnot Marine, New York, New York.

Life rafts; or life floats

C. C. Galbraith & Son, Inc., New York, New York.

Lane Lifeboat & Davit Corp., Brooklyn, New York.

Lighting equipment and fixtures

Graybar Electric Co., Inc., New York, New York.

Modern Metal Manufacturing Co., Inc., Brooklyn, New York.

Arnessen Electric Co., Inc., Brooklyn, New York.

Crouse-Hinds Co., Syracuse, New York.

Russell & Stoll Co., Inc., New York, New York.

Loran

Edo Corp., Long Island, New York.

Navigating instruments

Moeller Instrument Co., Inc., Richmond Hill, New York.

Panelboards

Graybar Electric Co., Inc., New York, New York.

Modern Metal Manufacturing Co., Inc., Brooklyn, New York.

Arnessen Electric Co., Inc., Brooklyn, New York.

Propellers

Columbian Bronze Corp., Long Island, New York.

Pumps

Goulds Pumps, Inc., Seneca Falls, New York.

Purifiers

De Laval Separator Co., Poughkeepsie, New York.

Scaffolding

Patent Scaffolding Co. Inc., Long Island City, New York.

Telegraphs (electric; engine and fireroom, docking, steering, etc.)

McNab Incorporated, New York, New York.

Marine Electric Corp., Galbraith-Pilot Marine Corp., Brooklyn, New York.

Thermometers, gages

Moeller Instrument Co., Inc., Richmond Hill, New York.

Taylor Instrument Companies, Rochester, New York.
Weksler Instruments Corp., Freeport, New York.

Tubes

Marine Engine Specialties Corp., New York, New York.
Revere Copper and Brass, Incorporated, New York, New York.

*OHIO**Bearings*

The Timken Roller Bearing Co., Canton, Ohio.
Shenango-Penn, Dover, Ohio.

Bushings

Sandusky Foundry & Machine Co., Sandusky, Ohio.
Shenango-Penn, Dover, Ohio.

Cable hangers

Nelson Stud Welding, Lorain, Ohio.

Diesel engines

The White Motor Corp., Springfield, Ohio.

Fire extinguishing systems

The Fyr-Fyter Co., Dayton, Ohio.

Food service equipment

Hobart Mfg. Co., Troy, Ohio.

Hatch covers

The Overbeke-Kain Co., Marine Products Div., Bedford, Ohio.

Hose (fire and deck)

The B. F. Goodrich Co., Akron, Ohio.

Hydraulic machine drives

Denison Engineering Div., American Brake Shoe Co., Columbus, Ohio.

Insulation (acoustical)

Owens-Corning Fiberglass Corp., Toledo, Ohio.

Joiner doors

The Overbeke-Kain Co., Marine Products Div., Bedford, Ohio.

Life rafts; or life floats

B. F. Goodrich Industrial Products Co., Akron, Ohio.

Lighting equipment and fixtures

Mink-Dayton, Inc., Dayton, Ohio.
Carlisle & Finch Co., Cincinnati, Ohio.

Panelboards

Lake Shore Electric Corp., Bedford, Ohio.

Pipe (corrosion-resisting)

Sandusky Foundry & Machine Co., Sandusky, Ohio.

Welding tees

Lunkenheimer Co., Inc., Cincinnati, Ohio.

Wire rope

Armco Steel Corp., Middletown, Ohio.

*OREGON**Pumps*

Bingham Pump Co., Portland, Oregon.

Scaffolding

Albina Engine & Machine Works, Inc., Portland, Oregon.

*PENNSYLVANIA**Alloys*

Aluminum Co. of America, Pittsburgh, Pennsylvania.

Anchor

Baldt Anchor, Chain & Forge Div., Boston Metals Co., Chester, Pennsylvania.

Bearings

Cooper Split Roller Bearing Corp., Carnegie, Pennsylvania.

Bearings

Kingsbury Machine Works, Inc., Philadelphia, Pennsylvania.

Blowers

Joy Manufacturing Co., Pittsburgh, Pennsylvania.

Bushings

American Manganese Bronze Co., Philadelphia, Pennsylvania.
American Brake Shoe Co., Pittsburgh, Pennsylvania.

Capstans

Erie Forge & Steel Corp., Erie, Pennsylvania.

Controllers

Copes-Vulcan Div., Blaw-Knox Co., Erie, Pennsylvania.

Davits

Erie Forge & Steel Corp., Erie, Pennsylvania.

Diesel engines

Baldwin-Lima-Hamilton Corp., Philadelphia, Pennsylvania.

Expansion joints

Yarway Corp., Philadelphia, Pennsylvania.

Dresser Manufacturing Div., Dresser Industries, Inc., Bradford, Pennsylvania.

Gratings

Beaver-Advance Corp., Ellwood City, Pennsylvania.

Hatch covers

Lukens Steel Co., Coatesville, Pennsylvania.

Greer Marine, Div. of Fuller Co., Catasauqua, Pennsylvania.

Hose (fire and deck)

The General Fire Extinguisher Corp., Philadelphia, Pennsylvania.

Ladders (accommodation)

General Engineering Works, Inc., Philadelphia, Pennsylvania.

Lighting equipment and fixtures

Joy Manufacturing Co., Pittsburgh, Pennsylvania.

Manifolds (bilge, ballast, feed and fire pump, etc.)

General Engineering Works, Inc., Philadelphia, Pennsylvania.

Pipe (corrosion-resisting)

A. M. Byers Co., Ambridge, Pennsylvania.
Allegheny Ludlum Steel Corp., Pittsburgh, Pennsylvania.

Standard Pipe & Supply Co., Inc., Philadelphia, Pennsylvania.

Pipe (corrosion-resisting)

United States Steel Corp., Pittsburgh, Pennsylvania.

Pipe fittings

Aluminum Co. of America, Pittsburgh, Pennsylvania.

Standard Pipe & Supply Co., Inc., Philadelphia, Pennsylvania.

Propellers

American Manganese Bronze Co., Philadelphia, Pennsylvania.

Baldwin-Lima-Hamilton Corp., Philadelphia, Pennsylvania.

Purifiers

Sharples Corp., Philadelphia, Pennsylvania.

Scaffolding

Beaver-Advance Corp., Ellwood City, Pennsylvania.

Soot Blowers

Copes-Vulcan Div., Blaw-Knox Co., Erie, Pennsylvania.

Tubes

United States Steel Corp., Pittsburgh, Pennsylvania.

Wire rope

Jones & Laughlin Steel Corp., Pittsburgh, Pennsylvania.

Wire rope

American Cable Div. of American Chain & Cable Co., Inc., Wilkes-Barre, Pennsylvania.
Wire Rope Sling Dept. of American Chain & Cable Co., Inc., Wilkes-Barre, Pennsylvania.

*RHODE ISLAND**capstans*

Ideal Windlass Co., Inc., East Greenwich, Rhode Island.

Davits

Ideal Windlass Co., Inc., East Greenwich, Rhode Island.

*TENNESSEE**Capstans*

Nashville Bridge Co., Nashville, Tennessee.

*VIRGINIA**Alloys*

Reynolds Metals Co., Richmond, Virginia.

Loran

Sperry Piedmont Co., Div. of Sperry Rand Corp., Charlottesville, Virginia.

*WASHINGTON**Capstans*

Western Gear Corp., Seattle, Washington.
Skagit Corp., Sedro-Woolley, Washington.

*WISCONSIN**Bearings*

Waukesha Bearings Corp., Waukesha, Wisconsin.

Bushings

Kahlenberg Brothers Co., Two Rivers, Wisconsin.

Diesel Engines

Waukesha Motor Co., Waukesha, Wisconsin.

Allis-Chalmers, Milwaukee, Wisconsin.
Nordberg Manufacturing Co., Milwaukee, Wisconsin.

Fairbanks Morse Power Systems Div., Colt Industries, Beloit, Wisconsin.

Distillers

Cleaver-Brooks Co. (Aqua-Chem, Inc. Affiliate), Milwaukee, Wisconsin.

Davis Engineering, Waukesha, Wisconsin.

Fire Extinguishing Systems

Ansul Chemical Co., Marinette, Wisconsin.

Hydraulic Machine Drives

Oilgear Co., Milwaukee, Wisconsin.

Panelboards

Allis-Chalmers Manufacturing Co., Milwaukee, Wisconsin.

Pipe (Corrosion-Resisting)

Ampco Metal, Inc., Milwaukee, Wisconsin.

Pipe Fittings

Ampco Metal, Inc., Milwaukee, Wisconsin.

Pumps

Allis-Chalmers, Milwaukee, Wisconsin.

Tubes

Ampco Metals, Inc., Milwaukee, Wisconsin.

Welding Tees

Ampco Metal, Inc., Milwaukee, Wisconsin.

WHAT DO OTHER COUNTRIES DO

Maritime nations throughout the world have enacted legislation reserving a substantial portion of trade for their own merchant fleets.

At least 45 maritime countries reserve cargo for their fleets through laws or discriminatory practices.

Ten of the thirteen members of the Organization of Petroleum Exporting Countries have enacted cargo preference laws or decrees.

Communist countries, especially the Soviet Union, have effectively supported their merchant fleets through government control of all cargo booking functions.

Other non-Communist nations routinely route cargoes to their own flag ships by controlling cargo booking functions through law. This list includes major oil exporters such as Algeria, Iran, Libya, and Nigeria.

Major shipbuilding nations, including Japan, Korea, and Taiwan, offer heavily subsidized financing plans to shipping companies placing orders in their domestic shipyards. This allows foreign shipyards to offer effective interest rates substantially lower than U.S. yards can offer.

The major trading partners of the United States support their merchant fleets through subsidies, generous tax advantages, and investment financing assistance.

Nations such as Liberia and Panama offer total corporate tax exemption to attract U.S. companies to register their merchant tonnage under the Liberian or Panamanian flag.

The United States is the world's greatest trading nation. Yet, U.S. vessels carry less than 4 percent of the total tonnage moving in U.S. foreign trade. In the liquid bulk arena, U.S. vessels carried only 3.9 percent of the total foreign trade in 1980. In the dry bulk trades, this figure falls to a mere 1.3 percent. Liberia, Greece, and Panama carry approximately 53 percent of U.S. foreign oceanborne commerce, primarily in the bulk trades, while 43 percent is shared by 87 additional countries.

Other maritime nations carry significantly more of their own foreign oceanborne trade than the United States. For example, the Soviet Union transports 50 percent on its state vessels; Great Britain transports 32 percent on its merchant vessels; Japan carries 39 percent; Greece carries 48 percent; and Norway carries 37 percent.

CARGO PREFERENCE POLICIES OF OTHER COUNTRIES

Algeria—100% carriage of liquefied natural gas shipments.

Argentina—50% of all trade, 100% of government cargoes.

Brazil—40% of all trade, 100% of government cargoes.

Chile—50% of all trade.

Colombia—50% of all trade.

Ecuador—50% of all trade, 100% of all hydrocarbons.

France—66% of oil imports, 50% of coal imports.

Gabon—100% of government cargoes, 40% of liner cargoes through unilateral implementation of UNCTAD.

Indonesia—100% of fertilizer, 45% of European cargoes.

Korea—100% of certain specified cargoes.

Kuwait—Oil contracts specify preference for Kuwait-flag.

Mexico*—100% of government cargoes, 100% of oil exports.

Morocco—40% of all imports, 30% of all exports.

Peru—50% of all trade.

Philippines*—100% of government cargoes.

Saudi Arabia—Royal decree providing preference for all cargoes.

Spain—Limited preference on certain imported commodities.

Thailand—100% of all government cargoes.

Venezuela—50% of all trade, 100% of government cargoes.

Zaire—100% of government cargoes.

ABSENCE OF THE FREE MARKET

The realities of world shipping clearly demonstrate that the free market theory is not the mechanism governing the supply and demand of vessels in international trade. Government intervention in the form of subsidies, tax-breaks, cargo allocations, and other preferential treatment has altered the way business is done in the shipping market. Furthermore, many socialist governments operate their state-owned fleets with political rather than profit-oriented goals in mind. Vessels of these fleets charge rates well below those rates that a free market would produce. The result is a market dominated by the actions and policies of national governments intent upon building and maintaining merchant fleets under their national flags regardless of the cost.

Other nations, pursuing valid national security goals, have fundamentally biased the international market in shipbuilding and ocean transportation services. France, for example, pursues an aggressive maritime growth policy including a cargo preference plan reserving two-thirds of oil imports and 50 percent of coal imports for French-flag vessels. France carries approximately 25 percent of its total foreign trade aboard French-flag vessels.

Government-backed low interest financing for shipbuilding, as practiced by countries such as Japan and Korea, among others, creates demand for their shipbuilding services. Foreign shipowners or Korean exporters can receive loans from the Korean Export-Import Bank for up to 80 percent of the cost of vessels with repayment

*Mexico and the Philippines are currently updating their laws to reserve a greater percentage of their commerce for their domestic fleets.

over 8 years at interest rates between 8 and 8.5 percent.

Other countries use national standards policies, taxation policies, regulatory frameworks, insurance practices, and subsidies to promote their own maritime services. Shippers covered by the government-backed French export insurance company, Coface, must make all shipments on French-flag vessels. Brazil levies a stamp tax on freight carried in non-Brazilian bottoms. Argentinian regulations include reduced port charges, rebates on wharfage fees, and elimination of consular fees for national-flag vessels.

State-controlled fleets, such as the U.S.S.R.'s, are 100 percent government subsidized, can operate without a primary regard for profit, and have seriously eroded market opportunities for free world maritime fleets.

WHAT ARE THE COSTS OF THE BILL

COSTS TO THE GOVERNMENT

The Treasury will expend no additional funds if this legislation is enacted.

The U.S. Treasury will, in fact, receive added revenues from corporate and personal taxes paid by shipyards, shipping companies, supporting industries, and their employees.

Without this legislation, the U.S. Government will be burdened with the added costs associated with high unemployment in shipbuilding and related industries. An increase in unemployment affects the Federal Government's costs associated with Medicaid, unemployment insurance, food stamps, and interest charges on the national debt.

State governments carry a large share of the strain of unemployment, too. If, for example, two shipyards were shut down, State costs for unemployment compensation in the first year alone could exceed \$40 million. In addition, U.S. Government costs for food stamps could exceed \$10 million, bringing the total to \$50 million.

Approximately 13,000 additional shipboard and shipyard workers would be hired as a result of this legislation. If those individuals who would be added to the employment rosters by newly created jobs under this bill were left on unemployment instead, the costs associated with unemployment and food stamps benefits could approach \$80 million for a 1-year period.

COST SAVINGS

Series construction of the 158 ships required under this program will reduce current U.S. shipyard costs by 15 percent. This cost reduction is based on a minimum of 10 ships of similar design being constructed by each individual shipyard. In addition, with this commercial shipbuilding program, shipyard overhead applied to naval work would be reduced.

A reliable, long-term workload would increase shipyard labor productivity,

and effect reduction in component costs of shipyard suppliers and manufacturers, as well as create the necessary stability for increased capital improvements in facilities.

The steady workload of this program will create conditions similar to those under the very successful mariner construction program of the fifties, which had standard designs and common components. This will significantly reduce construction times with attendant cost savings.

Several maritime unions have pledged:

Further reductions in manning scales. The union training schools will provide skilled personnel to crew the newer and more technologically advanced vessels.

Contractual arrangements consistent with required skills and the need for higher productivity.

No interruption of service for long-term contractual arrangements.

Joint contracts for each new vessel providing for a top-to-bottom, three-crew, two-ship operation, whereby three crews rotate between two ships on a regular basis. This increases familiarity with the vessels, and productivity of the seamen. Present daily crew costs for U.S. bulk carriers built in the 1970's and operating with a shipboard work force of 26 averages \$6,398.06 per day. Proposals being made in the context of this bill would reduce crews from 26 to 22. Through crew reductions and other measures, average costs would be reduced to \$4,847.79 per day, a savings of \$1,550.27 per vessel per day. On an annual basis this would reduce operating costs by approximately \$565,000 per vessel.

COSTS TO THE SHIPPER

The U.S.-foreign cost differential per ton of cargo on a new 120,000 DWT dry-bulk vessel, produced in a 10-ship series, is estimated by the U.S. Maritime Administration to be \$10.98. When the 15 percent cost-savings by shipbuilders and labor for the program are applied, the differential, is reduced to \$8.05 per ton. If applied to the total value per ton of bulk exports and imports in 1982, this differential would represent only a 3-percent increase.

A 1977 GAO report estimated that a 20-percent U.S.-flag transport requirement would add eight-tenths of 1 cent per gallon to the cost of petroleum.

The bill would establish policy to insure that importers and exporters of bulk commodities would be able to ship goods on U.S.-flag, U.S.-built vessels. To this end, the Department of Transportation would review U.S. bulk ship operation and shipbuilding activities annually.

IS THIS TOO MUCH TO PAY FOR NATIONAL SECURITY

Mr. Speaker, the merchant marine, ocean transportation and shipbuilding

mobilization base are major logistical elements of this Nation's commercial and strategic security. The declaration of policy (title I) of the Merchant Marine Act of 1936 delineates this national policy. I believe that the U.S. merchant fleet and shipbuilding industry can be revitalized through this legislation to meet the national requirements for an efficient and well-equipped merchant fleet. In summary, I urge my colleagues to consider these points:

In light of the national security benefits to be gained this legislation is an inexpensive way to foster the development of two essential components of national defense, the U.S.-flag, U.S.-built merchant marine and the U.S. commercial shipyard industry.

Failure to enact this bill could add to the continuing strain of a declining U.S.-flag, U.S.-built merchant fleet and shipyard mobilization base and increase U.S. dependence on foreign carriage, of both imported and exported bulk commodities. This could pose a situation in which this Nation would have virtually no control.

Enactment of this bill would stimulate vital industrial segments of this Nation's economy, increase employment, impact beneficially on our balance of payments, add tax dollars to the U.S. Treasury, and foster the growth of the U.S.-flag bulk merchant fleet.

This legislation provides for a U.S.-flag merchant marine and shipbuilding mobilization base capable of fulfilling national requirements during peace and war, both industries that are indispensable to this Nation's military and defense structure.

In order to afford the costs of an adequate defense, this Nation must have the means to guarantee its economic security. As this legislation would result in no additional cost to the U.S. Treasury, and only a very low percentage increase in cost to the bulk commodity exporters and importers, it is obvious that we cannot afford the alternative substantial dependence on foreign shipping, even possibly including ships of the Soviet bloc.

In conclusion, Mr. Speaker, I would like to have the text of the Competitive Shipping and Shipbuilding Revitalization Act of 1982 appear in the RECORD along with a section-by-section analysis of the legislation and a series of questions and answers on the proposal.

Thank you.

The material follows:

H.R. 6979

A bill to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in United States flag ships, to strengthen the defense industrial base, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That this Act may be cited as the "Competitive Shipping and Shipbuilding Act of 1982".

FINDINGS, PURPOSES, AND POLICY

SEC. 2. (a) The Congress finds and declares the following:

(1) The United States is totally dependent upon foreign-flag bulk shipping services in that United States-flag vessels now carry less than 4 percent of its bulk import and export commodities in international trade.

(2) Virtually all bulk imports of the United States are critical to American industrial production or to the maintenance of adequate energy supplies.

(3) Bulk exports of the United States contribute substantially to the United States balance of trade, provide major sources of employment in the United States, and contribute to the food supply and other essential requirements on a worldwide basis.

(4) The United States cannot afford to rely heavily upon foreign sources to provide the transportation services needed to maintain the flow of essential bulk imports and exports if it is to ensure its economic and political independence in times of emergency.

(5) The United States has substantially lost and is continuing to lose the major portion of revenues generated by the carriage of its bulk imports and exports in international trade.

(b) It is therefore declared to be purpose and policy of the Congress in this Act—

(1) to take immediate and positive steps to promote the orderly and rapid growth of the bulk cargo carrying capability of the United States merchant marine in order to transport 20 percent of our bulk imports and exports in United States flag ships within fifteen years or less;

(2) to assist and cooperate with the importers and exporters of bulk commodities so that they will be able to ship their goods in United States flag ships in a commercially practicable manner; and

(3) to encourage the construction of new efficient and environmentally safe bulk carrying merchant vessels in United States shipyards.

DEFINITIONS

SEC. 3. As used in this Act—

(1) The term "United States flag ship" means an ocean going ship or vessel of whatever description having United States citizen crews and built in, and documented under the laws of, the United States, and with respect to the construction, hull, superstructure, main propulsion machinery and other machinery articles or components of which not more than 50 percent of the cost thereof is attributed to foreign manufacture.

(2) The terms "bulk commodity" and "bulk cargo" mean cargo transported in bulk without mark or count by an oceangoing ship or vessel of whatever description in the foreign commerce of the United States.

CARRIAGE OF BULK CARGOES ON UNITED STATES FLAG SHIPS

SEC. 4. (a) For the purpose of this section, any percentage of bulk commodities shall be measured by the aggregate tonnage of all such shipments landed at the port at which they enter or leave the United States.

(b) In calendar year 1983, at least five percent of all bulk commodities moved by water and imported to or exported from any point in the United States shall be carried on United States flag ships.

(c) In each calendar year after calendar year 1983, the percentage set forth subparagraph (b) of this section shall increase by one percent until the percentage of bulk commodities carried on United States flag ships during any year is 20 percent.

(d)(1) The Secretary of Transportation, in consultation with representative maritime industry associations of owners, operators, shipbuilders, manufacturers, and labor, shall prepare estimates of current and projected costs of United States flag bulk ship operation and United States bulk shipbuilding.

(2) The estimates prepared under paragraph (1) shall be updated on an annual basis and shall be considered as information vital to the security of the United States. As such, these estimates shall not be released to foreign interests under any circumstances.

(3) In order for the percentages of bulk cargo imports and exports required to be carried in United States flag ships as set forth in this section to be enforced, the actual cost of United States flag bulk ship operation and United States bulk shipbuilding under this program shall be at least fifteen percent below the estimates of projected costs determined as above. To the extent that the percentages of United States flag carriage are not enforceable, they shall be credited against the annual required percentage for each importer and exporter concerned.

REPORTING OF AMOUNT SHIPPED ON U.S. FLAG SHIPS

SEC. 5. (a) Any person, corporation, partnership or other business entity which imports or exports bulk commodities in the foreign commerce of the United States, and whose volume of business exceeds \$1 million annually (in imports or exports or any combination thereof) shall submit to the Secretary of Commerce, on or before January 31 of each year, a sworn statement certifying that the percentages of its imports and exports carried on United States flag ships in the preceding year were at least the percentage of trade reserved to United States flag ships under section 4 of this Act.

(b) Any exporter or importer who fails in any calendar year to use United States flag ships to carry the percentage of his imports or exports required under this Act shall, in the next calendar year, use exclusively United States flag ships to carry all shipments until he has recouped the deficiency from the preceding year. Any importer or exporter who fails to recoup the deficiency and meet the required percentage in this second calendar year shall be subject to the penalties set forth in subsection (c) of this section.

(c) Any exporter or importer who fails to comply with the requirements of this Act shall be prohibited from importing to or exporting from the United States any bulk commodities for a period of one year.

(d) In the event that the Secretary of Commerce has reason to believe that any person or business entity has violated the terms of this Act, he shall within thirty days investigate the possible violation. In the event that his investigation develops any substantial evidence of a violation, the Secretary shall appoint an administrative law judge who shall notify said person of the suspected violation and afford him reasonable opportunity to refute the charges at a public hearing. The judge shall then promptly determine whether the charges were well founded and issue a decision either suspending the person from import-

ing and exporting for a period of one year or dismissing the charges.

(e) Any person suspended from importing and exporting may appeal the decision of the judge to the United States district court for the District of Columbia within thirty days of being notified of the decision. Such appeal may be heard pursuant to chapter 7 of title 5, United States Code, and section 1331 of title 28, United States Code.

(f) The Secretary of Transportation is hereby authorized to issue such regulations as may be necessary to carry out the provisions of this Act.

COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1982—SECTION-BY-SECTION ANALYSIS

SECTION 1. COMPETITIVE SHIPPING AND SHIPBUILDING ACT OF 1982

SECTION 2. FINDINGS, PURPOSES, AND POLICY

In Section 2(a) the Congress declares that: the United States is dependent upon foreign-flag bulk shipping services; U.S.-flag vessels now carry less than four percent of its bulk import and export commodities; virtually all bulk imports are critical to American industrial production or maintenance of energy supplies; bulk exports contribute substantially to the U.S. balance of trade, provide major sources of employment, and contribute to the food supply on a worldwide basis; the United States cannot rely upon foreign sources to provide transportation services in times of national emergency; and, the United States has substantially lost the major portion of revenues generated by the carriage of its bulk imports and exports in international trade.

In Section 2(b) the Congress declares that the purposes and policy of the Act are to: take immediate and positive steps so as to transport 20 percent of U.S. bulk imports and exports in U.S.-flag ships within 15 years or less; make it possible for importers and exporters to be able to ship their goods in U.S.-flag ships in a commercially practicable manner; and, encourage the construction of bulk carrying merchant vessels in U.S. shipyards.

SECTION 3. DEFINITIONS

Section 3(1) defines "United States flag ship" as an oceangoing ship having U.S. citizen crews and built in, and documented under U.S. laws. Section 3(1) also requires that no more than 50 percent of the total materials and components of the vessel can be attributed to foreign manufacture.

Section 3(2) defines the terms "bulk commodity" and "bulk cargo" as cargo transported in bulk without mark or count by an oceangoing ship engaged in the foreign commerce of the United States.

SECTION 4. CARRIAGE OF BULK CARGOES ON U.S. FLAG SHIPS

Section 4(a) makes it clear that when bulk commodities are expressed as a percentage, that percentage shall be measured by adding the tonnage of all bulk shipments coming into or leaving the United States.

Section 4(b) requires that in 1983, at least five percent of all bulk commodities moved by water and imported to or exported from the United States must be carried on U.S.-flag ships.

Section 4(c) requires that the five percent figure set forth in Section 4(b) be increased by one percent each year until a maximum of 20 percent is reached. Thus, in 15 years, a minimum of 20 percent of all U.S. bulk imports and exports will be transported on U.S.-flag ships.

Section 4(d) requires the Secretary of Transportation, in consultation with speci-

cally cited members of the maritime industry, to prepare estimates of current and projected costs of U.S.-flag bulk ship operation and U.S.-bulk shipbuilding. These estimates will be used to determine the enforceability of the Act against each importer and exporter concerned. The estimates shall be updated on an annual basis and shall remain confidential. As required by Section 4(d)(3), before the Act is enforceable, the actual U.S. cost of bulk ship operation and shipbuilding must be at least 15 percent below the determined estimates. To the extent that the required percentages are not enforceable, those percentages shall be credited against the annual required percentage for the following year.

SECTION 5. REPORTING OF AMOUNT SHIPPED ON U.S. FLAG SHIPS

Section 5(a) sets forth the reporting requirements for determining whether or not the importer or exporter has met the required percentage of trade reserved to U.S.-flag ships. The provisions and reporting requirements of the bill are applicable to U.S. import and export bulk shippers in the foreign commerce, whose volume of business exceeds \$1 million annually.

Section 5(b) requires that any exporter or importer who fails to carry his required percentage of cargo on U.S.-flag ships shall, in the next year, use exclusively U.S.-flag ships to carry all shipments until he has recouped the deficiency from the preceding year. Should the deficiency not be recouped in the second year, the party will be subject to the penalties set forth in Section 5(c).

Section 5(c) provides an enforcement mechanism whereby any exporter or importer who fails to comply with the Act shall be prohibited from importing or exporting bulk commodities for a period of one year.

Section 5(d) gives the Secretary of Commerce the authority to investigate any possible violations of the Act. Should substantial evidence of a violation be shown, an administrative law judge shall be appointed and the party under investigation shall be afforded an opportunity to refute the charges at a public hearing. A prompt determination shall be made and a decision issued to dismiss the charges or to exercise the penalty provisions of the Act.

Section 5(e) provides for an appeal process whereby any person suspended from importing or exporting may appeal the decision to the United States District Court for the District of Columbia within thirty days of being notified of the decision.

Section 5(f) authorizes the Secretary of Transportation to issue such regulations as may be necessary to carry out the provisions of the Act.

QUESTIONS AND ANSWERS

What is "bulk cargo"?

Bulk cargoes are raw materials, either liquid or dry, usually shipped in large quantities (full shiploads) between various ports. The major liquid bulks are oil and chemicals; the major dry bulks are minerals and agricultural products.

How many bulk ships are there in the United States?

There are only 40 oceangoing bulk ships operating in the foreign trade and registered in the United States.

What size fleet will the legislation generate?

This legislation will require a U.S.-flag bulk fleet operating in the foreign trades of at least 184 vessels by 1998.

What percent of U.S. foreign oceanborne commerce is carried on U.S.-flag ships?

Only 3.6 percent of all U.S. foreign oceanborne trade is carried on U.S.-flag ships. Approximately 3.9 percent of U.S. oceanborne foreign liquid bulk and 1.3 percent of U.S. oceanborne foreign dry bulk is carried on U.S.-flag ships.

If the "Competitive Shipping and Shipbuilding Revitalization Act of 1982" were enacted, what portion of U.S. bulk cargoes would be required to move on U.S.-flag vessels?

The bill provides for five percent of all bulk cargoes to be carried on U.S.-flag vessels in 1983 and increased by one percent annually until a minimum of twenty percent of bulk imports and exports is carried by the U.S. fleet. This goal would be reached by 1998.

What allied industries would be affected by this bill?

The Defense Impact Modeling System, prepared by the Office of the Secretary of Defense, identifies mining, steel mills and foundries as supporting industries, along with fabricated metals/alloys, pipes, and valves, and semi-conductions as supporting products for shipbuilding. It estimates that for each dollar that goes directly into the shipbuilding industry an additional dollar is generated throughout the private sector.

How would a shipper be penalized if he did not comply with the Act?

At the outset, the bill is designed to permit flexibility in meeting requirements. Should a shipper fail to comply with the designated share of cargo on U.S.-flag vessels, he would be permitted to make up the difference by carrying an additional percentage the following year. However, in the next year, if he again failed to ship the proper percentage of his exports and/or imports on U.S.-flag, U.S.-built vessels, he would be prohibited from carrying oceanborne foreign bulk cargo for a period of one year.

Does the "free market" really exist in international trade?

The answer is "no". International trade does not operate in a free and open market because of protectionist mechanisms such as cargo preference, bilateral shipping agreements, favorable tax and tariff policies, and preferential currency and customs treatments administered by foreign governments in their own interests.

How many nations reserve cargo for their national flag fleets?

At least 45 nations reserve cargo for their national flag fleets.

What is the cost to the government of this legislation?

The U.S. Treasury will expend no additional funds if this legislation is enacted.

Why is it mandatory that we maintain our shipbuilding capabilities and our shipbuilding mobilization base?

It is important in order to support our national security and economic needs in the event of war or emergency as well as to avoid future problems in recruiting, training and retaining shipyard workers, and to provide work for support industries essential to the economy.

Why are bulk vessels essential to national security?

Bulk vessels are essential for the transport of strategic raw materials used in defense planning and are designed to carry bulk military cargoes in time of national emergency. Bulk vessels can also be designed with certain "National Defense Features" to make them quickly and easily converted to carry non-bulk cargoes that will be needed in a defense emergency.

How can we reach our goal of a strong merchant marine, as required for the national security?

Many approaches have been tried, both in the United States and in other countries. The single most effective method is to reserve a fair and necessary share of cargoes for the national-flag fleet. This bill would achieve that for the United States, in much the same way that foreign nations successfully do for their own fleets.

Mr. Speaker, at this point I would like to yield to my distinguished colleague, the gentleman from Pennsylvania (Mr. GAYDOS).

Mr. GAYDOS. Mr. Speaker, I want to thank my colleague for yielding and wish at this time for the record to commend her for her outstanding leadership in this matter.

Repeatedly, this is not the first time. And I think the gentlewoman from Louisiana should be especially commended for leading this attack on the problem and taking out the special order today.

Mr. Speaker, I am a sponsor of the Competitive Shipping and Shipbuilding Revitalization Act because it clearly and squarely and effectively addresses the world and world trade as they exist today.

It is an act of self-help of the kind that must be repeated dozens of times across the industrial base if the United States is to increase its chances of surviving other than as a colony of more aggressive industrial nations.

What we have today is a world governed largely by European principles.

We have a world economy where strategies and tactics are based more on Karl von Clausewitz's book, "On War," than on the high-principled "Wealth of Nations."

We have a world in which the precepts of Niccolo Machiavelli on the survival of the state mean more than alliances and highly principled economic theories.

What we have is economic warfare on a complacent and slumbering United States.

This bill recognizes that fact and moves to shore up one point of attack.

Furthermore, it does nothing more than most of our political friends and economic enemies do.

In fact, it requires less than their measures.

To determine what our friends do, let us examine the policy of one of Europe's leading maritime nations. This nation ranks well above the United States in bulk carriers.

First, this nation is not England, Europe's traditional maritime power.

This nation is France, which has little sea-going tradition.

The French require that 66 percent of all oil imports and 50 percent of all coal imports—and I guess that includes coal from the United States—travel in French-flag ships.

This policy offends high principled theories about competition and open markets and the way the theorists want the world economy to work.

But it dovetails nicely with Mr. Mitterrand's announced plan to have France reconquer its economy.

And it recognizes fully the following advice from "The Prince" by Machiavelli:

There is such a GAP between how one lives and how one ought to live that anyone who abandons what is done for what ought to be done learns ruin rather than preservation.

American policymakers have ignored what has come to be customarily done around the world in favor of what high-principled theory says ought to be done.

And both our merchant marine and our shipbuilding industry have learned ruin.

Meanwhile, the French have a maritime-growth policy. Approximately one-quarter of France's foreign trade travels under the French flag.

Has anyone ever envisioned Mexico as a maritime force?

All of the oil Mexico exports must move in Mexican bottoms.

Furthermore, 10 of the 13 nations in OPEC have cargo preference laws.

As an Arabic proverb says:

When you are an anvil, you will suffer like an anvil; when you are a hammer, you will hit like a hammer.

You see, in matters of moving goods in world trade—as in world trade itself—the United States is an open and free market.

But the rest of the world is largely closed.

If not by law, then as custom, Japan carries 39 percent of its oceanborne foreign trade in Japanese ships and Great Britain carries 32 percent.

About 45 maritime countries reserve cargo for their fleets to help insure they have fleets, I am told.

The United States does not.

And the United States rapidly is losing its fleet.

This bill would begin a transformation from anvil to hammer.

As for shipbuilding, the magazine Business Week took a look last June and came to the following conclusion:

Not even subsidies of up to 50% of the cost of a ship have kept U.S. yards competitive with countries like Korea and Japan where the industry is even more heavily subsidized.

Mr. Speaker, I repeat for emphasis, Korea and Japan are even more heavily subsidized, and this makes it a question of something other than efficiency and comparative advantage.

In addition, these larger subsidies also come into play when other nations—and American companies—go ship shopping.

The warlike practices being used in shipbuilding were drawn to my atten-

tion not long ago by the President of Hudson Shipbuilders of Pascagoula, Miss.

Hudson makes utility-supply vessels for offshore operations, and its workers are trying to compete in the export market.

And the following is an answer Hudson got on a bid last April:

FYI, your prices were very favorable compared to the Japanese. Japanese finance of 80% loan at 8.75% over seven years won the day in the end.

Hudson's president wrote that Japanese exporters can provide Government-guaranteed loans in ways that effectively provide 100 percent financing for purchasers of Japanese ships. This Japanese industry has been heavily capitalized by the Government.

The Koreans make similar guarantees, Hudson's letter noted.

Furthermore, the practice is not confined to boats and small ships. I understand it applies to anything that floats.

So keeping work in their yards is not a matter of pure free-market economics as it is here but a matter of political policy.

And the policy is not only to keep their work for their yards, but to gather in all of the world's work that they can—gather it with subsidies and cartels and any other weapon they can forge.

Others will speak on defense implications, Mr. Speaker, but I want to touch them in passing.

In the Falklands war, the British commandeered the *Queen Elizabeth* and certain merchant ships to move their troops and supplies.

Should the United States face such a crisis as things stand today, we would have no choice but to do what the British did.

We, too, would have to commandeer the *Queen Elizabeth* and certain of England's merchant ships—or try to.

You see, we are not strong enough in this regard to rely on our resources for a force of more than 8,000, I have read.

This bill would make us stronger.

But the thing I like best about the Revitalization Act is the self-help it offers.

It is one strand of the bootstraps that American industry needs to pick itself up off the ground where the hammer blows of the trade warriors have driven it.

First, the 158 bulk ships it is designed to produce will require nearly 4 million tons of steel.

Since every 1 million tons of steel is the equivalent of 5,000 steelmaking jobs, it would create real work for 20,000 steelworkers over its life.

Mix in shipyard workers and those who make parts and components in mills and foundries and shops and factories across the country—and those who will transport them—and you have real economic activity.

You have people working and people buying, which puts still more people back to work.

Repeat it a few times across the industrial base and you have an economy that is showing signs of recovery, and the makings of a change of luck.

And making your luck is much better than waiting for it.

As a Japanese proverb says: "to wait for luck is the same thing as waiting for death."

American shipping and American shipbuilding have been on the anvil far too long.

□ 1940

In conclusion, Mr. Speaker, again I want to reiterate, and with the possibility of being repetitious, that the gentlewoman in the well has demonstrated repeatedly her dedication to this problem, not in words alone, but in her action. I take great pride in being a colleague of hers, joining with her, hopefully working hand in hand and we are going to follow this legislation, hopefully putting it into effect and make sure that all the good that is incorporated therein does come to bear fruit and that we have legislation once and for all, probably the first time in the history of the country, that is so practical to be effective in the terms that I have outlined.

Congratulations.

Mrs. BOGGS. Mr. Speaker, I thank the gentleman from Pennsylvania and I would like to say that the gentleman has outlined so magnificently the competitive disadvantage at which the U.S. shipbuilding industry finds itself, the market that is out there, the one world market in which we must, indeed, find America's fair share, the beautiful way in which the gentleman has put forward the need for jobs and the need for our defense capabilities, that I only wish that right now the gentleman's speech had been the concluding speech before the final vote on this legislation.

Mr. Speaker, I would hope that we would be able to go forward with this bill that has been cosponsored by so many of our colleagues and which has a great deal of interest to many others who will be coming along to cosponsor it as well and that we will be able to put forward the Competitive Shipping and Shipbuilding Revitalization Act of 1982, which as the gentleman from Pennsylvania has told us, will promote increased ocean transportation of bulk commodities in the foreign commerce of the United States, in U.S.-flag, U.S.-built ships, to strengthen the defense-industrial base and for other purposes; most especially for the purposes of being able to be competitive in an interdependent world.

● Mr. BONKER. Mr. Speaker, I am joining today with my distinguished colleague from Louisiana, Mrs. LINDY BOGGS, in sponsoring the Competitive

Shipping and Shipbuilding Act of 1982.

As a member of the House Merchant Marine Committee, I have seen the need for Congress to promote the use of U.S.-flag, U.S.-built vessels in the shipment of bulk commodities, and in so doing, increase U.S. national defense capabilities through the support of the U.S. merchant marine and shipbuilding mobilization base.

This legislation provides a necessary component to our efforts to revitalize the American economy. The mechanism is simple: It requires all exporters and importers of bulk commodities in the foreign commerce of the United States to ship 5 percent of their cargoes on U.S.-flag, U.S.-built ships beginning in 1983, and to increase this amount 1 percent per year thereafter until a minimum of 20 percent of all U.S. bulk tonnage is shipped in U.S.-flag, U.S.-built bottoms.

In marking up legislation to deal with port development to handle our emerging international coal trade, the Merchant Marine Committee added similar bulk cargo language to the bill. The committee then saw the positive benefits of such a requirement. A stable and economically healthy bulk fleet is essential for several reasons:

Our economy would benefit from transportation receipts—a medium-sized bulk carrier earns \$12 million per year.

Our economic security would be enhanced by an ability to carry crucial commodities essential to our economic and military well-being. Foreign-flag vessels carry almost all our imports of such precious materials such as nickel, chromite, manganese, and rubber.

National defense requirements would be met by being able to supply bulk commodities to allies and to ourselves, and providing the necessary transportation of military hardware abroad in periods of conflict.

Last but not least, this legislation will provide economic stimulus to a sector of the economy that too long has had to rely on promises alone. It will provide jobs to thousands of shipyard and shipboard workers at a time when unemployment is at its worst in 30 years.

Mr. Speaker, we on the Merchant Marine Committee have been sorry witnesses to the decline of our bulk fleet. In 1970, the U.S.-flag, liquid and dry bulk fleet engaged in international commerce totaled 81; today it consists of only 48 ships. We cannot allow this decline to continue.

I would refer my colleagues to the commendable material Mrs. Boggs has introduced into the record today along with the legislation. It should answer any of the questions that may arise.

This legislation represents a real commitment on the part of Congress to revitalizing a key sector of our econ-

omy, one that plays a vital role in our national security as well. I would urge my colleagues and the administration to support it.●

□ 1950

BANKRUPTCY COURT ACT OF 1982

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I am introducing legislation today, along with my colleagues, Representative DON EDWARDS, of California, Representative ROBERT MCCLORY, of Illinois and Representative M. CALDWELL BUTLER, of Virginia, to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution. This legislation is designed to remedy the constitutional crisis facing the bankruptcy court system as a result of the U.S. Supreme Court's decision in *Northern Pipeline Construction Co. v. Marathon Pipeline Co.* issued on June 28, 1982.

In a badly split decision, the Supreme Court ruled in *Northern Pipeline* that the present bankruptcy court system violates article III of the Constitution. The Court held that the jurisdiction conferred on the bankruptcy courts by the Bankruptcy Reform Act of 1978 cannot be constitutionally exercised by those courts, because bankruptcy judges are not afforded the constitutional protections set forth in article III to insure judicial independence—tenure during good behavior and guarantee against salary diminution while in office. The effective date of the *Northern Pipeline* decision was stayed until October 4, 1982, to give Congress time to remedy the problem and to protect the orderly administration and adjudication of bankruptcy proceedings in the interim.

The *Northern Pipeline* decision confirmed the express doubts of both the House Judiciary Committee and the House of Representatives as a whole about the constitutionality of the court provisions which were eventually included in the 1978 law. The Judiciary Committee and Civil Rights Subcommittee gave lengthy consideration to the constitutional issues surrounding the court system in both the 94th and 95th Congresses and concluded that the limited circumstances in which a departure from the requirements of Article III have been permitted were not present in the bankruptcy context. The original bankruptcy bill passed by the House—H.R. 8200, 95th Congress—created the bankruptcy courts as article III courts. The present bill is virtually identical to the article III bankruptcy court provisions which were previously passed by the House.

The Subcommittee on Monopolies and Commercial Law of the House Committee on the Judiciary held 2 days of hearings on this matter on July 21 and 22, 1982. Hearings were held by the Senate Judiciary Subcommittee on Courts on July 22 and 23. Both hearing records strongly support the need to create article III bankruptcy courts exercising unified jurisdiction as the only efficient court system to clear constitutionality.

The major provisions of the legislation which is being introduced today are as follows:

First. Beginning April 1, 1983, the President would be authorized to appoint, by and with the advice and consent of the Senate, 227 bankruptcy judges for the several judicial districts—proposed section 152, title 28, United States Code. Such judges would hold office during good behavior and would receive an annual salary of \$65,000. All judicial appointments would be made by October 1, 1983.

There are currently 241 bankruptcy judges—220 full-time and 21 part-time judges. In an April 2, 1982, report, the Advisory Committee, appointed by the Director of the Administrative Office of the U.S. Courts pursuant to section 407(a) of Public Law 95-598, has recommended that, based on the present workload, 303 bankruptcy positions are needed. There have been at least 180 full-time bankruptcy judges since 1969. The current salary of a bankruptcy judge is \$58,500; \$61,200 without the current cap on Federal salaries. The present salary of a Federal district court judge is \$70,300.

Second. Where the judicial workload necessitates, article III bankruptcy judges could be temporarily designated and assigned to perform judicial duties on the Federal district and circuit courts.

Third. An appeal from a final order or judgment of an article III bankruptcy court would be taken to a bankruptcy appellate panel, composed of three bankruptcy judges of the circuit, and then to the court of appeals for the circuit. If the parties to the proceeding agree, an appeal from a bankruptcy court judgment could be taken directly to the court of appeals.

Fourth. Jurisdiction and venue of the bankruptcy courts would be the same as under present law.

Fifth. The U.S. bankruptcy judges who are serving on the date of enactment of the legislation would constitute the bankruptcy courts for the period beginning on the date of enactment and ending on March 31, 1983—referred to as the "transition period." The terms of office of all U.S. bankruptcy judges who are serving on the date of enactment of the act would expire on March 31, 1983. During the transition period such judges would be authorized to exercise the jurisdiction and powers conferred by title 28,

United States Code, on bankruptcy courts. Such judges would be continued at their present salary level.

Sixth. After March 31, 1983, former U.S. bankruptcy judges whose terms expired on that date could be temporarily designated and appointed to hear bankruptcy cases. However, any such designation and appointment would terminate 30 days after all appointments of article III bankruptcy judges to the U.S. bankruptcy court involved had been made or on September 30, 1983, whichever is earlier.

Seventh. A former bankruptcy judge who is not appointed to the article III bankruptcy court after March 31, 1983, would be eligible to receive improved retirement benefits under proposed section 377, title 28, United States Code, if such judge continues in service until March 31, 1983, serves as a bankruptcy judge for at least 10 years, and advises the President in writing of his willingness to accept appointment to the article III court. Proposed section 377 is based on H.R. 5107 which was marked up by the Subcommittee on Monopolies and Commercial Law on November 20, 1981.

Absent congressional action by October 4, 1982, the bankruptcy court system will collapse. The bankruptcy courts will lack jurisdiction to determine any bankruptcy matter. Great uncertainty in the judicial system and credit community will result.

Such potential chaos could not occur at a less opportune time. The Nation has been in a period of severe financial distress for many months now, and no dramatic improvement in the economy is readily foreseeable. The rate of unemployment approaches 10 percent. Many major corporations, employing tens of thousands of employees and having billions of dollars of assets and liabilities, are now operating under chapter 11 of the Bankruptcy Code. Failure to remedy the problem by October 4, by creating a bankruptcy court system of clear constitutional authority, will jeopardize many jobs and threaten heavy losses for creditors and stockholders alike.

The priority and importance of this matter are obvious. If we are to avoid the chaos and confusion that would result from inaction, the Congress must move quickly.●

FINANCIAL DANGER AND THE FEDERAL RESERVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 30 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise tonight to continue and to round out what I said last night, which appears in yesterday's RECORD, concerning the calamitous situation that both the domestic as well as international finan-

cial situation and monetary systems of the world are confronted with.

I presented, in great detail, some statistics and specifics, but more importantly, I did not get an opportunity because of insufficient time to tie in the responsibility and the either malfeasance or nonfeasance of the Federal Reserve Board.

There is so much that is not known generally by Americans, and specifically by the Members of Congress, as to the nature of the Federal Reserve that I am simply astounded, and have been over the 20 years that I have served on the Committee on Banking, Finance and Urban Affairs, to find the greed, the indifference or the lack of knowledge because as it is not turning out, it has everything to do with the well-being of our country, its fundamental standard of living, which is what is at stake here.

But above all, and beyond that, there are questions so fundamental as war and peace that are being decided in those private directors' rooms of these huge financial institutions and their interconnected corporate interests, because of the almost illegal relationship—if not out and out illegal—the interconnecting directorships of the hugest interests in our country.

Now, they transcend national boundaries and are more than national entities; they are multinational. They go beyond and transcend the control of any one sovereign nation in the whole world.

Now such issues as war and peace, unbelievably, are decided there.

So this matter is a very grave concern. What impels the most immediate concern, however, is the situation with respect to the crisis that the Mexican currency finds itself in, and its unavoidable impact on the United States. At this point nationally it has not been registered. It certainly has not been reflected in the national press and even in the regional press along the border where the world is so self-contained. This is true not just in the United States. There are very important happenings just across the Canadian border or the Mexican border right next door, and the newspapers in Texas, upon reading them, will have no account of the most transcending things which are happening and have happened.

The recent so-called devaluation—and the reason I say it is so-called is because when you have a floating system in these international currency relationships there is no such thing as a devaluation because you have no fixed rate of exchange. This is the viciousness of the instability in this floating system that has been on us since about 1968 or 1969. But in Mexico at this time the situation is chaotic. It is ominous in its potential for grave and calamitous confrontations that our country might face.

We are not prepared any more than we have been for some of these other crises. That is what I find so inexcusable because it is not fair to this great country.

In the debate the other day on the Cuban Radio, Radio Marti, the debate on the defense authorization, the debate last December on the Sinai, Americans do not realize that we have over a thousand of the 82d Airborne Division in the Middle East right as a result of an unprecedented—I say unprecedented—congressional action. To think there were only just about 12 of us, and I was the only one who offered any kind of amendment or even debate. Yet we have these military—not observers, not civilians, but military—right now over there except that they are on the other side of that Lebanese geography.

But now the whole question is whether or not our country is going to further find itself held hostage because, as I said then, the only thing our military are now there for are as hostages. This is what they are looking for now, in addition, with the Lebanese situation. But all of this was anticipated. We should have anticipated it because in the great money circles and in the offices of the central banks, whether it is the Arabian oil money-bloated countries that now have such power over us that on the eve of the Israeli invasion reaching Beirut, the Prince of Saudi Arabia picked up the phone and called Mr. Reagan and said, "If you do not restrain Israel we will pull our money out of your banks right now and create a crisis." Within 12 hours, Mr. Reagan did do what he could to restrain Israel for the first time.

Now, all of this was in our newspapers. I could not believe it because most of this has not in the past been. Yet what was the basis of it? It was the basis of something that started to build up several years ago that some of us, solitarily, warned about, spoke about. In fact, I spoke on this House floor—back in 1976—and as a result of that speech the Chairman of the Federal Reserve Board at the time, Mr. Burns, called me and invited me to have breakfast with him at the Federal Reserve.

I will have this much to say for Chairman Burns: He at least took cognizance, which is more than I can say for any of the Chairmen previously serving or those who have been serving since Mr. Burns, since I have been on this committee, that is, which has been almost 21 years.

Mr. Burns said at the breakfast that he had read my remarks and that he agreed.

What were my remarks? My remarks were motivated, as mine are tonight, as I will show later, because it was obvious that the statistics revealed it, independent statistics—they did not em-

anate from the Fed; the Fed does not provide this to Congress or to anybody. The Fed is a runaway powerful monopoly out of total control, even though it is a child, a creature, of this Congress.

Most Congressmen and most Americans think that it is independent, autonomous; that it is something that was struck from the brow of the Greek God Jove and that it does not have to account to anybody.

The fact is that it is a creature of ours. Its legal description is that it is the fiscal agent of the U.S. Treasury. But instead of an agent, it is a master, where it is deciding these fateful decisions for this country.

It has already taken us a long way to bankruptcy, national bankruptcy, believe it or not.

□ 2000

This is not the profligate liberal spenders. These are the most conservative elements. I do not like to use the word "conservative" because it is not fair. I respect that word, although I do not label myself as such. I call them reactionaries—reactionaries, not conservatives, and they are the ones that have wasted the substance of this country and are leading us fast, irretrievably, to out and out bankruptcy. This is why I have been speaking out for more than 15 years, but specifically on this occasion that motivated me, the visit with Chairman Burns, I said that in less than 1 year and 3 months the amount of moneys that the largest banks in our country, concentrated in New York—Chase Manhattan, First City National, Hanover Trust, Manufacturers Trust—had invested in 1 year and 3 months from \$3 billion to over \$47 billion in so-called developing countries that had no financial structure that could insure any kind of a repayment of those loans. In less than 3 years—it is almost 2 years—from \$3 to \$47 billion. You do not have to be an expert to know that that is an overhang that can create a quivering or a shakeup in any financial market if there happens to be such a thing as a default.

Well, believe it or not, today that stands, the American banks, to over \$300 billion with the potential for total disaster now more than imminent, as I brought out last night. So, Chairman Burns wanted me to know that he was concerned and had been, and in fact he said to me, "I returned recently from the Bankers Convention in Honolulu, and I infuriated the bankers because I took them aside and chastised them for this, and told them they would have to restrain themselves, and they almost chased me out, they got so angry at me they almost cursed me."

I said, "Mr. Chairman, I am amazed. You mean to tell me you feel that is

all you can do? You mean you do not have the power, at least some implied and residual powers, you and the Fed have used that. Certainly you can do something more than just warn these greedy, predatory interests."

Franklin Roosevelt called them malefactors of great wealth, because indeed and in fact that is what they have been. They have not hesitated 1 minute to speculate against the dollar since 1970, 1971, when I first noted it. They have not hesitated 1 minute. Why? Because, in effect they have no nationality. They may be incorporated in the United States, but their heart and their soul is where the money is, and all through our history, from the Continental Congress, from the beginning of the formation of this country, our leaders, whether it was Jefferson—even Hamilton, who I guess by today's definition would be called a conservative—even he warned; and through history Jackson and his big battle with the Second United States Bank, and the like. There was Lincoln in 1864, and then later on Woodrow Wilson in 1916, who specifically said that this is the greatest threat to the well-being—and what is the word—independence of the Republic.

We have seen that now happening within the last three decades gradually, and believe it or not, by 1952 and 1953, with the obsequious cooperation of the Congress when it passed special legislation which was not debated at all, that enables this system—we are the only country in the world that handles our money in this way.

If any of you have a dollar, please look at it, and it says "Federal Reserve Note." It used to be a few years ago that you would find some that said, "U.S. Treasury Note." Not today. We are the only country in the world where the people, the Government, has to have a Federal Reserve Bank, which is really the private bankers, print their money and pay interest for it. Every dollar bill you have you are paying interest on it. Believe it or not. It is so fantastic Europeans do not want to believe it. We are the only country in the world that handles the money that way.

That became totally possible after 1952, along about 1953. But, more insidious has been the callous disregard of accountability, of responsibility; the wholesale sellout of the United States and its financial, whether it is monetary and fiscal, destiny to a handful of private power-using, insatiable bankers.

The issue is, shall the people govern or shall the bankers? That is the issue, and it has been, but now it has reached the point that I am afraid it is later than Americans realize. I think there is a point of no return now, and only catastrophe, and then what can come?

But, we may be facing it quicker because of developments south of the border, where the tensions are so great, the violence is already there, and it is going to grow. It is not going to decrease. Our next door neighbor, with 50 percent unemployment, with a labor force that has a potential of being increasing exponentially every year because the average age of the Mexican citizen right now is 15 years; inflation right now at this point exceeds 55 percent. Mexico has had and does now have the greatest external debt of any country. Our bankers have in Mexico exposed almost—almost in excess of \$200 billion.

It was the only one that reported a few months ago, a few weeks ago, that Mexico rushed through a secret deal that was made with our Government last year and acquired about 14 F-5's. Why? Mexico has always prided itself that it believed in self-determination. They call it Auto-Determinacion. Non-intervention, meddling in no other country's internal affairs.

This is the reason why Mexico all along has maintained relations with Cuba. They have prided themselves on being the first Latin American country to stabilize to the point where they could have successful, peaceful access to power by civilians, not military. It has prided itself in not having to have a standing army of any consequence, but now all of a sudden we make a deal, we tie sophisticated jets, and they got two of our destroyers just about 3 months ago. I was the only one revealing that, even though I am sure some of the Members of the House were invited to the ceremonies where they were going to decommission from the active duty list, the destroyer list, and sell them as scrap to the Mexican Government.

Why would Mexico all of a sudden want two destroyers? I asked the question then and I got criticized and assailed in Mexico for being anti-Mexican. I said, "Well, what is the purpose now? Is this to go out and get our shrimping boats," as they have been both in the Gulf of Mexico as well as over on the Pacific coast, but what is the real reason? The real reason is that our banking interests that have invested huge and initial investment, \$2.1 billion in this great Mexican development known as their gas and oil fields that some people say are as vast or greater than the Arabian potential—it was Chase Manhattan, First City National—it is our bankers here that control the whole thing.

All of a sudden they got rather squeamish because of what is happening in Guatemala, their next door neighbor to Mexico, which has already spilled over to Mexico. That does not get reported here. What is happening in El Salvador, the smallest nation in the Western Hemisphere, and we have our Secretary of State drawing the

line and saying, "Here is where we are going to have to gain a victory, this is where we draw the line on communism."

Down the line in Nicaragua, and now in some of the countries we also have just finished making a deal with Venezuela for the sale of 16 F-16's. Why would Venezuela want F-16's?

□ 2010

Then, on top of that, what has happened in the meanwhile with the war between Britain, that is I call it the Second War of Jenkins Year for the British because it is so similar to the Jenkins War in 1739 that I just cannot get over it.

I have always respected and admired and revered the British and the English for their tremendous capacity as diplomats, and I still cannot figure out the unbelievable venture in the Falklands.

Yet all of that had its impact on the United States. It is not being discussed. It is not being written about in this country.

Also our relations with Canada have deteriorated.

But all down the line what this means in the background is your financial relationship, just like in Poland. If it had not been for the overhang of the banks, mostly West German, no telling what we would have done with that big crisis of the Polish workers.

But the whole issue is banking, financial, money.

As I say, now it is in Mexico with the devaluation, so-called, which what it means is that Mexico is prostrate. Last weekend I was on the border and it was exchanging anywhere from 60 to 90 pesos for \$1. I cannot begin to describe to you the chaos and the potential for great mischief, and which we had better get ready to handle as a crisis.

I have always believed in anticipatory government. That is that you do not wait until you have a hot potato and then react out of a crisis, but you anticipate it. So you prepare yourself with some pincers so that you can get that hot potato off the fire without burning yourself or minimizing the damage. But we do not seem to be working that way.

Today I will follow through after rounding out the significance of the presentation of the specifics last night and its interrelationship with the Federal Reserve Board.

The Federal Reserve Board of the United States is the nearest equivalent we have to what other countries call their central banks. It is, therefore, a tremendous power nationally, internationally, but most of all domestically because it does not feel that it has to account to the President or Congress, which means to the people.

This is a reason for my bills. But most of all tonight I want to resume what I call the impeachment of Mr. Volcker, No. 4, I believe.

I have spoken three times in which I gave a general outline of the impeachment resolution language, plus three specific allegations or specifying the items of impeachable offense.

In other words, I was not satisfying myself with just a general clause, which is all that is necessary to present an impeachment resolution.

It is a highly privileged resolution. It can be brought up by any Member provided it is in the proper form.

As I said before in the RECORD, I tried to get the Judiciary Committee to look into it but the chairman apparently was of a different mind and, therefore, I decided, and I have so explained here previously, that I would bring it to the floor of the House.

In order to do so at the proper time I want to first prepare, as if I were arguing or as if I were a member of the Judiciary Committee.

So tonight I proceed with the support to the third charge in which I have alleged the wrongful, the malfeasance and the culpable actions of the Fed through the Open Market Committee, which is really the one that controls our fate.

It is the Open Market Committee that decides whether any administration is going to stay or fall, because they have the power of deciding what will be paid for Treasury bills and the like.

Also on top of this gimmick, where instead of agents they are the masters in this unique national financing scheme that no other country in the world has.

We talk about how democratic we are but, fellow citizens, in many, many ways it is moot. If we continue along the lines of economic slavery, which is what this is, what good does it do to boast of political freedom?

Today economic freedom is the issue.

I became aware of what I felt was improper leaks from the so-called Open Market Committee, which is secret, incidentally. I do not know why they call it the Open Market Committee. There is no reason for that name because it is anything but open. It is secret. It consists of five private bankers, plus the members of the board of the Federal Reserve Board. So you can imagine putting the same interests in charge of their own regulation.

We know what the history of that has been, reading through the history of this Nation back to its point of expansion after the Civil War. But here in this case it has been more than insidious. It has been sinister, catastrophic, abominable to the fate of American liberty, American democracy, American participatory democracy, representative democracy.

I became aware of speculation because of premature release of certain information that would enable certain financial interests, all of them headquartered in New York. We must remember that in New York, in less than a 3-square-mile area, you have over 33 percent of the financial wealth of this country concentrated. It is controlled. Maybe it is more than that by now.

So I raised issues but, of course, I could not get answers as an individual member of the committee.

At that point, and this was when Chairman Burns was still the chairman, which means before 1977, I could not get the chairman to join me in raising an interrogatory. So then Mr. Burns went out and Mr. Paul Volcker was appointed, and I had what seemed to me plain evidence that again something had happened.

So I raised my voice and I started talking about it and I came out and categorically said there have been improper leaks from the Federal Reserve.

As a result of that, the Hanover Bank in New York has had a windfall at the cost to the taxpayers.

Nobody listened either, but I finally did persuade some other Congressmen.

Let me say by way of parentheses, and this is something I have faced all of my career in the context of Washington, the social, ethnic framework of reference, there is only 5 Members that have names like mine in the whole Congress out of 535. But from what we call the Mexican-American side, there is only three of us, one from California and two of us from Texas.

But even here the atmosphere is such that I have many Members, some have been here some time, say "Hey, Henry, how is New Mexico today?"

Well, of course, I am from Texas.

Or I have Members say "Oh, Mr. DE LA GARZA," and I say, "You mean GONZALEZ."

"Oh."

This is the way it was back in my home territory about 45, 50 years ago, almost identical.

So if my name were Kennedy, and I noticed that Senator KENNEDY introduced an almost identical bill to the one I have been introducing for 15 years to bring the Federal Reserve within the accountability range which was intended when Congress debated what turned out to be the Federal Reserve Act of 1913, I noticed he got the newspapers to report it. He had quite a number of articles. In 15 years that I have been introducing it I have not had anybody report it, even my hometown papers, which is fine with me.

I feel impelled because of the tremendous importance and consequences of this unrestrained activity.

Anyway, going back to the second leak, we finally did make a request, and on one occasion the visit of Paul

Volcker to the other body, the committee demanded some action.

So what did the Feds do?

As I have said, we have no oversight. The General Accounting Office can not go on behalf of the Congress to look over the Fed's books. They do not have an independent audit. They do not even have an Inspector General.

So they appointed a committee, and at this point I include in the RECORD that I finally got hold of that special counsel to look into the matter.

The material referred to follows:

FULBRIGHT & JAWORSKI,

Washington, D.C., November 7, 1980.

To: The Board of Governors of the Federal Reserve System and The Federal Reserve Bank of New York.

Attached is the Report of Special Counsel on the Erroneous Money Supply Estimates Published During October 1979. This Report sets forth the results of Special Counsel's inquiry to determine whether any institution or individual, including Manufacturers Hanover Trust Company and persons connected with Manufacturers, the Federal Reserve Board or the Federal Reserve Bank of New York, improperly and knowingly profited from the preparation and release of erroneous money supply data during October 1979. This Report is accompanied by an Appendix and Exhibits which set forth a more detailed statement of the evidence obtained in the inquiry.

We would be pleased to meet with you at your convenience to discuss the Report and respond to any questions you might have.

Sincerely,

ALAN B. LEVENSON,
Special Counsel.

REPORT OF SPECIAL COUNSEL ON THE ERRONEOUS MONEY SUPPLY ESTIMATES PUBLISHED DURING OCTOBER 1979

I. INTRODUCTION

A. Purpose of report

This Report sets forth the results of Special Counsel's inquiry to determine whether any institution or individual, including Manufacturers Hanover Trust Company ("Manufacturers") and persons connected with Manufacturers, the Federal Reserve Board ("Board") or the Federal Reserve Bank of New York ("New York Fed"), improperly and knowingly profited from the preparation and release of erroneously money supply data during October 1979.

B. Background of engagement

On October 25, 1979, the Board announced it was revising downward certain money supply estimates it had released for the weeks ended October 3 and October 10, 1979 by approximately \$700 million and \$3 billion, respectively.¹ The Board attributed these revisions to errors in deposit data submitted to the New York Fed by a major money center bank. On October 26, 1979, Manufacturers stated, in response to inquiries, that it had made errors in computing

¹ The money supply estimates first published by the Board for the weeks ended October 3, 10 and 17, 1979 are generally referred to in this Report as "the erroneous money supply estimates." Errors in the estimate for the week ended October 17 were discovered shortly after the October 25 public announcement of the money supply estimate for that week.

the data it had previously reported to the New York Fed.²

On October 29, 1979, Vice Chairman Frederick H. Schultz and Governor J. Charles Partee of the Board testified before the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives ("House Banking Committee") concerning these revisions. Members of the House Banking Committee expressed concern with the possibility that the underlying errors had been the result of some plan or scheme, or that the institutions involved, or persons connected with those institutions, had used their knowledge of the errors for financial gain. The Chairman of the Committee requested that the Board conduct an investigation to determine if any institution or individual had improperly profited from these errors. Vice Chairman Schultz stated that the Board would do so.

C. Scope of engagement

On November 6, 1979, the Board and the New York Fed engaged Alan B. Levenson of the law firm of Fulbright & Jaworski as Special Counsel to conduct an inquiry to determine whether any institution or individual, including Manufacturers and persons connected with Manufacturers, the Board or the New York Fed, improperly and knowingly profited from the preparation and release of erroneous money supply data during October 1979. Mr. Levenson was directed to make a complete inquiry into the facts of the matter and to prepare a report on the results of the inquiry. He was authorized to select other persons in Fulbright & Jaworski to assist in the inquiry and to retain the services of a public accounting firm and other experts if deemed necessary. Mr. Levenson and the other persons in Fulbright & Jaworski who assisted in this inquiry are collectively referred to herein as "Special Counsel."

Consistent with the scope of the engagement, Special Counsel has not made any inquiry, and has not attempted to reach any conclusions, with regard to any other matter, including what action, if any, could have been taken to prevent the errors or erroneous money supply estimates.

D. Contents of report

This Report is divided into six parts. Part I introduces the Report, describes its purpose, and sets forth the background and scope of Special Counsel's engagement. Part II is a summary of facts and conclusions. Part III describes the investigative approach and the procedures used in the inquiry. Part IV sets forth comments on the nature and scope of the inquiry. Part V discusses the manner in which the erroneous money supply estimates were prepared, released and revised, and certain securities trading activities of Manufacturers and the individuals at each institution who could have had relevant confidential information. Part VI discusses the trading activities of major dealers in certain government securities markets during October 1979. The Report is self-contained, but is accompanied by an Appendix and Exhibits which set forth a more detailed statement of the evidence obtained in the inquiry.

II. SUMMARY

A. Background

The Board's primary function involves the formulation of monetary policy. The money

supply—the amount of money in circulation—is a critical component of monetary policy. During October 1979, the Board released money supply estimates on a weekly basis. The basic money supply estimate, M-1, generally represented the sum of demand deposits and currency in circulation.³ Like other estimates, the M-1 estimate was inherently imprecise, and it was often revised over a period of weeks following initial release as additional information became available. The Board had always stressed that the weekly money supply estimates should not be given undue attention because of their volatility and potential for revision. Nevertheless, professionals in the securities markets, and particularly the government securities markets, looked to the Board's weekly estimates as one indication of possible interest rate changes and of the general success of announced monetary policy.

On October 6, 1979, the Chairman of the Board of Governors, Paul A. Volcker, announced a new program intended to restrain the growth of the money supply and bank credit to help reduce inflation. This announcement appeared to increase the sensitivity of the securities markets to further Board announcements, such as publication of the money supply estimates, that might indicate the success or failure of the announced program. The securities markets were generally unstable during October 1979.

On October 11 and 18, 1979, the Board released money supply estimates for the weeks ended October 3 and 10, respectively, which showed unexpected strength in the money supply. On October 12, the day after release of the money supply estimate for the week ended October 3, the securities markets were relatively stable. On October 19, the day after release of the money supply estimate for the week ended October 10, the securities markets, and particularly the debt markets, fell sharply. Subsequently, on October 25, the Board announced there had been overstatements in the money supply estimates for those weeks of approximately \$700 million and \$3 billion, respectively, due to reporting errors by a major money center bank. On October 26, the securities markets advanced slightly.

A person with prior knowledge that the Board was going to release money supply estimates that were significantly overstated might have been in a position to have profited from this knowledge by entering into transactions in the securities markets, particularly the government securities markets, just before and after the release. It was predictable that the securities markets might react to this news, although it was only one item among others material to the markets. The critical dates for this purpose would have been just before and after October 11 and 18, 1979. In addition, a person who knew of the imminent revision of the money supply estimates might have been in a position to enter into profitable transactions just before and after release of the revisions on October 25.

B. Facts

The following is a summary of the facts based on the evidence obtained in our inquiry.

³ Those portions of this Report which discuss the compilation of the money supply estimates address only the compilation of M-1 before and during October 1979. The Board has since adopted differently defined measures of the money supply with different designations.

1. The Errors in Manufacturers' Reports of Deposits, Vault Cash and Federal Funds Transactions

Each week Manufacturers, like other member banks of the Federal Reserve System, was required to file with the New York Fed a report of its daily deposit balances on form FR 414, titled "Report of Deposits, Vault Cash and Federal Funds Transactions" (the "deposit report" or "FR 414"). On October 1, 1979, Manufacturers converted to a new automated general ledger system. This new system, which replaced a manual general ledger, increased the number of accounts significantly and, as a result, required changes in certain account classifications. The worksheet designed to accumulate data for the deposit reports under the new system incorrectly accounted for two significant items. In addition, the employees responsible for computing these data made a number of clerical errors, some of which appeared to result from unfamiliarity with the new general ledger system and the revised worksheet. Consequently, the FR 414's filed by Manufacturers with the New York Fed each week during October 1979 did not accurately reflect certain categories of Manufacturers' deposits.

2. The Use of Deposit Reports

Data from deposit reports during October 1979 were used to determine the reserve requirements for banks and, in addition, were used by the Board to compile money supply estimates. Individuals at Manufacturers responsible directly or indirectly for deposit reports were generally aware during October 1979 that the deposit reports were used in determining reserves. They were not aware, however, that these reports were used by the Board to compile the money supply estimates, and this use was not a matter of general knowledge.

3. Preparation of the Money Supply Estimates

New York Fed and Board personnel processed Manufacturers' deposit reports in the customary manner, which included inquiries to Manufacturers to obtain verification of the accuracy of certain of the data in the reports. Having received verification from Manufacturers through the New York Fed, and not knowing of any specific errors, the Board relied on the data in compiling the money supply estimates. As a result, the Board's first published money supply estimates for the weeks ended October 3 and 10 were overstated.

4. Revision of the Money Supply Estimates

By October 25, Manufacturers, the Board and the New York Fed had discovered, and Manufacturers had corrected, the most significant errors in Manufacturers' deposit reports for the weeks ended October 3 and 10. Therefore, on October 25, the Board revised downward the previously published estimates for the weeks ended October 3 and 10 and released a first published estimate for the week ended October 17. By Monday, October 29, however, Manufacturers and the New York Fed had discovered, and Manufacturers had corrected, errors in Manufacturers' deposit reports for the week ended October 17. These errors were disclosed by Vice Chairman Schultz during his testimony before the House Banking Committee on October 29. On the next regular publication date of the money supply estimates, November 1, the Board revised downward the estimate for the week ended October 17 and also announced further revisions to the esti-

² The errors in deposit reports initially submitted by Manufacturers to the New York Fed for the weeks ended October 3, 10, and 17, 1979, are generally referred to in this Report as "the errors."

mates for the weeks ended October 3 and 10.

Although the money supply estimates were frequently revised after publication, the revisions announced on October 25 were perceived to be out of the ordinary because of their magnitude. These revisions can be primarily traced to errors in deposit reports submitted to the New York Fed by Manufacturers during October 1979; there were, however, other revisions made for reasons unrelated to Manufacturers. The revisions announced after October 25 were not perceived to be as significant as those announced on October 25 because of their smaller size and the fact of the earlier announced revisions. A detailed description of Manufacturers' errors and their relationship to the erroneous money supply estimates can be found in Parts II and III of the Appendix to this Report.

5. Securities Trading

The large majority of persons interviewed and questioned in our inquiry did not engage in any securities trading activities during October 1979. Where individuals did engage in securities transactions, none of those transactions, with one possible exception discussed later in this Report, appeared to be related directly or indirectly to advance knowledge of the errors or the erroneous money supply estimates. The persons responsible for Manufacturers' securities trading activities stated that they did not have advance knowledge of the errors or the erroneous money supply estimates. Manufacturers' trading activities during October 1979 were consistent with those statements. Further, an analysis of reports of trading in certain government securities by major dealers filed with the New York Fed during October 1979 showed no unusual unexplained trading activities.

C. Conclusions

1. Manufacturers and persons connected with Manufacturers, the Board or the New York Fed did not improperly and knowingly profit from the preparation, release or revision of the erroneous money supply estimates during October 1979.

2. There is no indication that any other institution or individual improperly and knowingly profited from the preparation, release or revision of the erroneous money supply estimates during October 1979.

III. DESCRIPTION OF INVESTIGATIVE APPROACH AND PROCEDURES

A. Investigative approach

Improper and knowing benefit from the preparation, release or revision of the erroneous money supply estimates during October 1979 could have resulted from (1) participation in a plan or scheme intended to distort the money supply estimates so as to take advantage of any effect of the erroneous estimates on the financial markets, or (2) unauthorized disclosure of, or trading activity based on, confidential information about the errors or the erroneous money supply estimates.

Both of these possibilities were investigated. It was important to identify, and understand the roles of, the individuals at each of the three institutions involved in or responsible for the process of providing information used in estimating the money supply or in the actual compilation of the estimate. After doing so, we were able to reconstruct how the errors and revisions occurred and thus to reach a conclusion as to whether the errors were the result of a plan or scheme or where a mistake. In addition, identifying

those persons with advance knowledge enabled us to make inquiry into what use, if any, had been made of such information. Our reconstruction of the events leading to the erroneous money supply estimates and their revision is set forth in detail as a chronology in Part IV of the appendix to this Report.

To check the accuracy of the responses in the inquiry process, the statements of various persons were compared with written records, documents and our understanding of how events occurred. We also made a limited inquiry into trading activities in certain government securities markets, having determined that any attempt to benefit improperly would most likely have been reflected in these markets because these markets were most responsive to interest rate changes.

B. Investigative procedures

In our inquiry, we used the following investigative procedures:

1. Initial Briefings

Immediately following the engagement as Special Counsel, we requested and received briefings from certain individuals at Manufacturers, the Board and the New York Fed as to their understanding of what had been involved in the erroneous money supply estimates. We discussed with these individuals the components of the money supply estimates and the general practices for collection and processing of source data used in the compilation of those estimates. From these briefings, we identified the individuals at the Board, the New York Fed and Manufacturers who could have had access to or knowledge of the errors in Manufacturers' deposit reports or the erroneous money supply estimates before publication of the revised estimates.

2. Review of Documents

At the outset of our inquiry, to prevent routine document retention procedures from resulting in unavailability of data, we requested the three institutions to preserve all records relating to the errors in the money supply estimates and to trading in securities by Manufacturers and persons at the three institutions. Each institution agreed in writing to do so.

We obtained and reviewed copies of documents relevant to the collection and processing of the data used in compiling the erroneous money supply estimates and their subsequent revision. These documents included the deposit reports filed by Manufacturers with the New York Fed between October 1 and November 8, 1979, and the worksheets and ledgers underlying those reports; documents reflecting the processing of Manufacturers' deposit reports by the New York Fed and the Board and the Board's compilation of the money supply estimates; and documents, including individuals' notes and memoranda, relating to the discovery of the errors and their subsequent correction. In addition, we reviewed documents relevant to trading in securities by Manufacturers, persons at the three institutions, and major government securities dealers, including trading reports filed with the New York Fed and brokerage statements. We also reviewed miscellaneous other documents, including publications on the compilation of money supply estimates and their impact on the financial markets.

3. Interviews

We interviewed a total of 193 individuals at the three institutions who we determined

could have had access to or knowledge of confidential information about the errors or the erroneous money supply estimates. 46 of these individuals were employed at the Board, 63 were employed at the New York Fed and 84 were employed at Manufacturers and its subsidiaries. The transcripts of these interviews totalled approximately 4,200 pages.

We began interviews nearly simultaneously at the Board and the New York Fed. Before each of these interviews, the witness was advised of the purpose of our inquiry, the capacity in which we were acting, his or her right to be accompanied by counsel and his or her right to decline to answer our questions.

After completing most of the interviews initially planned at the Board and the New York Fed, we conducted interviews of employees at Manufacturers. Counsel for Manufacturers was present at each interview with the consent of the witness and Special Counsel.

At each interview the witness was sworn and a verbatim transcript of the interview was taken by a qualified court reporter. In only a few instances was it necessary to conduct more than one interview of the same witness. At none of the three institutions did any witness refuse to answer any questions asked about his or her knowledge of what had occurred. No witness asked to be accompanied by personal counsel.

4. Questionnaires

We sent questionnaires to 109 persons at the New York Fed and other Federal Reserve banks, the Board and the United States Department of the Treasury. This group consisted of persons who we learned from our interviews could have had secondary or other limited access to confidential information about the errors or the erroneous money supply estimates. These questionnaires were designed to identify whether or not the recipient or any other persons might have information relevant to our inquiry that should be obtained by personal interview.

Each recipient was informed of the nature and purpose of our inquiry before being asked to complete and swear to the accuracy of the responses to the questionnaire. All questionnaires were completed, executed and returned to us.

Based upon our review of the completed questionnaires, we determined that it was not necessary to conduct additional interviews.

5. Retention of a Public Accounting Firm

Because of the nature and complexity of the accounting, financial and other data involved in our inquiry and the need for systems analysis capability, we retained the accounting firm of Price Waterhouse & Co. ("PW") to assist us.

PW assisted us in the inquiry in two principal ways. First, PW prepared detailed analyses with flow charts tracing Manufacturers' deposit data into the deposit reports filed by Manufacturers with the New York Fed, through their processing at the New York Fed and into the data supplied by the New York Fed to the Board, and then through processing at the Board into the compilation of the erroneous money supply estimates and their revisions. Second, PW prepared working memoranda on various aspects of the inquiry, including: (i) an overview and analysis of the errors in the deposit data reported by Manufacturers; (ii) a reconciliation of the deposit data submitted by

Manufacturers with the records of the New York Fed and the Board; (iii) a report on the effect of the errors in the data submitted by Manufacturers on the erroneous money supply estimates and their revisions; (iv) an analysis of certain trading activities by Manufacturers' trust division and trading departments during October 1979; and (v) an analysis of certain government securities transactions by major dealers during October 1979.

6. Review of Reports Prepared by Manufacturers' Public Accounting Firm

Soon after announcement of the corrections to its deposit reports, Manufacturers requested its outside accountants to review its procedures relating to reporting deposit data to the New York Fed during each of the three weeks ended October 17, 1979, and to report their findings to a committee of the bank's board of directors. Subsequently, Manufacturers requested its outside accountants to recalculate the deposit data reported to the New York Fed for the month of October 1979. Manufacturers' outside counsel also asked the accountants to assist in their special review to determine whether Manufacturers, its parent, Manufacturers Hanover Corporation, or any of their officers or employees, considered to have possibly been in a position to have been aware of the submission of the incorrect reports, had obtained financial or monetary gain as a result of knowledge thereof prior to the October 25, 1979 announcement of the Board. At outside counsel's request, only accounting personnel not routinely engaged in the examination of Manufacturers' financial statements assisted in this review. We received copies of the accountants' two reports from Manufacturers' outside counsel. With the assistance of PW and the full cooperation of Manufacturers' outside accountants, we reviewed these reports and the underlying workpapers.

7. Analyses of Securities Trading Activities

We met with experts in the financial markets from the private sector and government to discuss methods of inquiry into market statistics for evidence of transactions based on advance knowledge of the erroneous money supply estimates.

With the assistance of PW, we analyzed certain trading activities of Manufacturers. This analysis is described in detail at pages 18 to 23. We also reviewed the trading activities of individuals at Manufacturers, the Board and the New York Fed who had access to or knowledge of relevant confidential information. In addition, we analyzed, with PW, reports of trading activities by major dealers in certain government securities markets during the relevant period. A description of this analysis is set forth at pages 26 to 28.

IV. COMMENTS ON NATURE AND SCOPE OF THE INQUIRY

No limitations were imposed by the Board or the New York Fed on our inquiry. Further, we received the full cooperation of the Board, the New York Fed and Manufacturers, as well as their respective employees and representatives.

As may be expected where the testimony and questionnaire responses of more than 300 persons are involved, statements by different individuals varied with respect to certain matters. None of these variances, however, reflects on any matter material to our conclusions.

As noted above, in addition to our interviews and questionnaires, we performed lim-

ited analyses of certain financial markets. These analyses were limited to certain government securities markets because we determined these were most likely to be affected by misuse of confidential information about money supply estimates. Further, it would have been impossible to investigate adequately activities in all markets.

V. MANUFACTURERS AND PERSONS CONNECTED WITH MANUFACTURERS, THE BOARD, OR THE NEW YORK FED DID NOT IMPROPERLY AND KNOWINGLY PROFIT FROM THE COMPILATION, RELEASE OR REVISION OF THE ERRONEOUS MONEY SUPPLY ESTIMATES DURING OCTOBER 1979

A. General

As discussed above under Investigative Approach, improper and knowing benefit from the compilation, release or revision of the erroneous money supply estimates during October 1979 could have resulted from (1) participation in a plan or scheme intended to distort the money supply estimates so as to take advantage of any effect of the erroneous estimates on the financial markets, or (2) unauthorized disclosures of, or trading activity based on, confidential information about the errors or the erroneous money supply estimates. Both these possibilities were investigated.

Based on the evidence obtained in our inquiry, we conclude that Manufacturers and persons connected with Manufacturers, the Board or the New York Fed, did not improperly and knowingly profit from the preparation, release or revision of the erroneous money supply estimates during October 1979.

B. The erroneous money supply estimates were not the result or part of a plan or scheme or international act by any person, institution of group of persons or institutions

As discussed above, we developed an understanding of the process of compiling the money supply estimates. Then we questioned the persons involved in either the collection and processing of Manufacturers' deposit data or the compilation and release of the money supply estimates about their knowledge of, and participation in, the process during October 1979. Through depositions and examination of relevant documents, we reconstructed the manner in which the errors occurred and the erroneous money supply estimates were developed, discovered and revised.

No witness had information indicating that there was any plan or scheme to distort the deposit reports or money supply estimates. All the witnesses with first hand knowledge of the errors identified their cause as errors in the deposit reports submitted to the New York Fed by Manufacturers. At the time the errors were made, those individuals at Manufacturers who had access to the deposit reports were unaware that data included in the deposit reports were used to compile the money supply estimates.⁴ Further, persons at the New York Fed and the Board, although concerned about the accuracy of certain data in Manufacturers' deposit reports, did not know that the money supply estimates were erroneous at the time the estimates were published.

⁴New York Fed officials testified that it was credible that these individuals at Manufacturers were not aware of the relationship between money supply estimates and the deposit reports.

With the assistance of PW, we analyzed certain government securities markets to see if there were any activities suggesting that someone was trading with advance knowledge that might have resulted from a plan or scheme. Nothing in this analysis indicated that there was such a plan or scheme.

1. The Erroneous Money Supply Estimates Were Primarily Traceable to Unintentional Errors Made in Deposit Reports Submitted by Manufacturers to the New York Fed During October 1979

a. Compilation of money supply estimates

During October 1979, the basic money supply estimate, M-1, was one of a series of estimates of the money supply published by the Board. The published figure, an estimate of the daily average for the week ending on Wednesday, was released by the Board to the public eight days later on Thursday afternoon. Estimates were often revised because of corrections by the suppliers of data or the by Board or Federal Reserve Banks. Revisions were published as part of the Board's usual press release on the following Thursday.

During the eight days between the end of a reporting week and the publication of the money supply estimate for that week, the Board also compiled a preliminary unpublished projection of the money supply estimate for the current week. This preliminary projection allowed the Board to monitor movements in the key components of the money supply and to detect potential problems that might be encountered at a later stage in the publication cycle. To compile the preliminary unpublished projection and the first published and revised estimates of the money supply, the Board relied on several data sources, including deposit reports submitted to the Federal Reserve System by member banks.⁵

b. Reporting errors

The erroneous money supply estimates reflected errors in the data reported by Manufacturers on the weekly deposit report FR 414.⁶ The FR 414 is a required weekly report of balances in demand, time and savings deposit accounts, vault cash and of federal funds transactions. The data reported were the basis for the computation of the reserves each bank was required to keep with the Federal Reserve System. Some of the data reported on the FR 414 were also used by the Board to compile the money supply estimates.

Each business day clerical employees at Manufacturers, using an internal worksheet based principally on the bank's daily general ledger, computed daily balances for the categories listed on the FR 414. The daily balances were reported orally to the New York Fed each day with a one-day lag and at the week's end, the FR 414 showing daily balances was filed with the New York Fed.

On October 1, 1979, Manufacturers put into effect a new automated general ledger system which replaced a manual ledger system. The new system expanded the

⁵For a detailed discussion of the components of M-1, see Beck, Sources of Data and Methods of Construction of the Monetary Aggregates, "Improving the Monetary Aggregates: Staff Papers" (November 1978).

⁶There were errors on other types of reports filed by Manufacturers during October 1979, but only the errors in the FR 414's had a direct impact on the published money supply estimates. See pages 2 and 29-30 of the Appendix.

number of accounts from approximately 200 to more than 700 and thus required revised account classifications as well as new worksheets, including the worksheet used in computing the deposit categories on the FR 414. Although Manufacturers ran selected portion tests of the new system, it did not run a parallel test of the computation of the deposit categories on the FR 414 under the old and new systems.

Reporting errors were made by Manufacturers in its FR 414's during October 1979. The cause of the most significant errors was an incorrectly designed worksheet used to compute the deposit categories for the FR 414 from the new automated general ledger. The most significant problem with this worksheet was the erroneous treatment of deposits due to Manufacturers's overseas branches in the calculation of the demand deposit category "due to banks." This error was reflected in Manufacturers' FR 414's for the weeks ended October 3 and 10. In addition, there were a number of clerical errors.

c. Effect of Manufacturers' FR 414 errors on the money supply estimates⁷

The errors in data reported by Manufacturers on its FR 414 for the week ended October 3 initially resulted in an overstatement of \$627 million in the money supply estimate of \$378,166 million released on October 11.⁸ As of November 8, Manufacturers' corrections totalled \$496 million. In addition, corrections of data from sources unrelated to Manufacturers increased the estimate by \$555 million, resulting in a net increase of \$59 million from the first published estimate on October 11 to the revised estimate on November 8.

The errors in data reported by Manufacturers on its FR 414 for the week ended October 10 initially resulted in an overstatement of \$3,225 million in the money supply estimate of \$385,532 million released on October 18.⁹ As of November 8, Manufacturers' corrections totalled \$2,883 million. In addition, corrections of data from sources unrelated to Manufacturers increased the estimate by \$160 million, resulting in a net decrease of \$2,723 million from the first published estimate on October 17 to the revised estimate on November 8.

The errors in data reported by Manufacturers on its FR 414 for the week ended October 17 resulted in an overstatement of \$501 million in the money supply estimate of \$382,160 million released on October 25. Later corrections of data from sources unrelated to Manufacturers decreased the estimate by an additional \$267 million, resulting in a net decrease of \$768 million from the first published estimate on October 25 to the revised estimate on November 8.

⁷For purposes of this Report we have rounded the money supply estimates to the nearest million dollars. The figures actually released by the Board are rounded to the nearest \$100 million. In addition, the figures cited are not seasonally adjusted. A more detailed analysis and description of the effect of the errors on the money supply estimates appear in Part III of the Appendix.

⁸On October 25, the Board announced revisions in the money supply estimate for this week of \$725 million, based in large part on corrections to Manufacturers' deposit reports of \$627 million.

⁹On October 25, the Board announced revisions in the money supply estimate for this week of \$3,055 million, based in large part on corrections to Manufacturers' deposit reports of \$3,225 million.

The errors in data reported by Manufacturers for the week ended October 24 were minimal.

2. There Was Nothing Irregular About the Manner in Which the New York Fed and the Board Processed Manufacturers' Deposit Reports and Relied on Them in Compiling Erroneous Money Supply Estimates

a. Summary of customary procedures¹⁰

During October 1979, FR 414's of New York member banks were submitted to the New York Fed. Customary operating procedures at the New York Fed included quality edits on these reports as a check on their accuracy. An "edit" was the process of manually comparing one day's deposit data to the previous day's data or, by computer, testing reported data against pre-established tolerance levels. An unusual change in any category was discussed with the reporting bank, which was asked to verify that the figures were correct or to make appropriate changes. Because of the volatility of the amounts of some categories of deposits, it was not unusual for data reported by a large bank to show significant weekly changes. Neither was it unusual for a bank to correct its data.

Edited FR 414's were sent to the Board, where they were edited again. If the Board data processors or Board economists responsible for compiling the money supply estimates raised questions about data submitted by New York member banks, the data were referred back to the New York Fed to be explained or to be verified by the reporting bank.

b. Processing of Manufacturers' deposit reports during October 1979¹¹

We were unable to reconstruct all details of the transmission, editing and verification of Manufacturers' erroneous deposit reports through the New York Fed to the Board and into the money supply estimates because of the lack of complete documentation. However, it is clear that Manufacturers' erroneous deposit reports that were rejected by the computer as showing a degree of change beyond tolerance levels or that were, during a manual examination, found to be unusual were questioned repeatedly by both the New York Fed and the Board.

In response to questions from persons at the New York Fed, Manufacturers disclosed that it had installed a new computer system, was having some difficulties, and that revisions might be necessary. However, Manufacturers also indicated that its FR 414's were correct so far as it knew. These verifications were accepted by the New York Fed and, through the New York Fed, by the Board, and the data were relied on to compile the money supply estimates.

3. There Was Nothing Irregular About the Manner in Which the Errors in Manufacturers' Deposit Reports and in the Money Supply Estimates Were Discovered and Corrected by the Board, the New York Fed and Manufacturers

Discovery and correction of the errors occurred as a result of the application of customary procedures within each of the three institutions. Shortly before publication on October 18 of the money supply estimate for the week ended October 10, a significant

error in the FR 2416¹² filed by Manufacturers was discovered and corrected.¹³ Some of the deposit categories on the FR 2416 were roughly comparable to those on the FR 414. Thus, discovery of the FR 2416 error and continuing concern about certain data on Manufacturers' FR 414's, despite verification, led persons at the New York Fed to believe shortly after publication of the money supply estimate on October 18, that there could have been significant errors in Manufacturers' deposit reports. The problems with the data that Manufacturers had provided in its deposit reports were gradually discovered by the Board, the New York Fed and Manufacturers. Between October 18 and 25, certain officials at the Board, the New York Fed and the Department of the Treasury learned of the probability of large revisions in the money supply estimates for the weeks ended October 3 and 10. On October 25, the Board announced significant revisions in the money supply estimates for those weeks.

After the announcement on October 25, upper level management at Manufacturers first became aware that errors in Manufacturers' deposit reports had caused the revisions. Manufacturers then drafted a statement to be used in responding to press inquiries which acknowledged that there had been reporting errors which grew out of a new form used to calculate data reported to the Federal Reserve System.

Errors were also made in the data provided by Manufacturers for the week ended October 17 which were included in the money supply estimate released October 25. These were discovered by the New York Fed and Manufacturers and corrected by Manufacturers. Other insignificant errors were made in the data for the week ended October 24. All of the corrections of the data were reflected in revised estimates published in November 1979.

4. Those Persons Who Were in a Position to Have Profited Improperly From a Plan or Scheme to Distort the Money Supply Estimates Did Not Engage in Any Securities Trading Activities in October 1979 Inconsistent With Their Previous Securities Trading Activities.¹⁴

A plan or scheme to distort the money supply estimates would probably be reflected in unusual securities trading activity by persons with access to or knowledge of confidential information about the errors, the erroneous money supply estimates or their revisions or in unusual activity in the securities markets most responsive to interest rate changes. Our inquiry, as discussed in the following sections of the Report, revealed no unusual securities trading activity by Manufacturers as an institution or by individuals at Manufacturers, the Board or the New York Fed. In addition, our inquiry revealed no unusual unexplained activity reported by major dealers in certain government securities markets.

¹²FR 2416, "Weekly Report of Assets and Liabilities for Large Banks," is a detailed report of assets and liabilities for a single day, Wednesday, filed voluntarily each week with the various Federal Reserve Banks by 171 large commercial banks throughout the country.

¹³A more detailed description appears at pages 29-30 of the Appendix.

¹⁴There is one possible exception to this; see pages 23-24, *infra*.

¹⁰A more detailed description appears in Part IV A of the Appendix.

¹¹A more detailed description appears in Part IV B of the Appendix.

C. Manufacturers and those individuals at Manufacturers, the Board and the New York Fed who had access to or knowledge of confidential information about the errors in Manufacturers' deposit reports, the erroneous money supply estimates or their revisions did not misuse such information

With the assistance of PW, we analyzed the activities of Manufacturers' commercial banking trading departments, its trust division and Lionel D. Edie & Company, Inc. (a wholly owned subsidiary of Manufacturers that provides investment management) during October 1979 to determine whether Manufacturers as an institution might have taken improper advantage of knowledge of the errors in the deposit reports or in the money supply estimates. The analysis focused on transactions and positions taken by Manufacturers that might have anticipated the announcement of the erroneous estimates, particularly on October 18, or the subsequent announcements of revisions of the estimates, particularly on October 25.

The analysis of the commercial banking trading activities concentrated on the following areas: (1) investment portfolio; (2) trading portfolio; (3) domestic liability management department; (4) foreign exchange; (5) international department liability management; (6) major overseas branches and subsidiaries (on the basis of the limited information readily available); and (7) treasurer's department of Manufacturers Hanover Corporation, Manufacturer's parent company. The analysis of the activities of the trust division and Lionel D. Edie focused on fixed income securities. We understood that these were more likely than were equity securities to be affected by information about the money supply estimates.

Although the type and extent of analysis varied according to the nature of the particular trading activity and the availability of information within each area, the general approach was as follows. Through interviews with key managers in each area, depositions, and examination of relevant internal documents, we reviewed management policies and decisions underlying trading activity during October 1979. We obtained the automated and manually prepared reports used in each area, such as the daily dealer records of transactions, the daily records of trading positions and the monthly statements of profits and losses, balance sheets, and average positions or balances. We analyzed trading positions and transactions in comparison to internal trading limits, to movements in the relevant financial markets in October, and to the chronology of events associated with the submission by Manufacturers of the erroneous deposit data and the discovery of the errors. In the commercial area, we compared Manufacturers' average balances and trading volumes or positions taken in October to Manufacturers' prior balances volumes and positions to determine whether trading activity during October appeared to be unusual, and we compared profits earned in October to those in prior months to determine whether there were any unusual or unexplained variations during October.

To determine whether any person used confidential information concerning the errors in the deposit reports or in the money supply estimates for the purpose of trading for personal benefit, we identified the persons with access to such confidential information. We interviewed or sent questionnaires to the persons at each of the three institutions who were involved in the

preparation or processing of data used to compile the money supply estimates, or who we knew had access to such data or to the estimates.

In addition, with the assistance of PW, we conducted a limited inquiry into certain government securities market activities by major dealers for the period from late September through early November 1979.¹⁵ The purpose of this inquiry was to identify for further investigation any anomalies in market activity, i.e., significant variations in trading volume or direction by a dealer with respect to the timing of the money supply announcements and as compared with comparable dealers, all dealers in the aggregate and the dealer's usual activity. In addition, the information obtained was used to check the direct statements of the persons interviewed. The absence of any anomalous market activity, although not determinative, tended to corroborate statements by these persons that confidential information had not been improperly used.

1. Manufacturers, and Those Individuals at Manufacturers, the Board and the New York Fed Who Had Access to or Knowledge of Confidential Information About the Errors in Manufacturers' Deposit Reports, the Erroneous Money Supply Estimates or Their Revisions Did Not Engage in Securities Trading Activities for Their Own or Related Accounts Inconsistent With Their Previous Securities Trading Activities

a. Securities trading activities by Manufacturers

Our analysis, performed in conjunction with PW, revealed that there were no unusual securities trading activities in October and specifically on or about the critical dates of October 11, 18 and 25 by Manufacturers' commercial banking trading departments or, with regard to fixed income securities, by its trust division or Lionel D. Edie.

In each instance, unless otherwise noted, management responsible for the relevant investment portfolio stated that they had no knowledge of the erroneous money supply estimates or of errors in deposit data submitted by Manufacturers until such errors were made public when the revisions were announced.

(1) *Investment Portfolio.* There was no evidence of unusual activity in the investment portfolio in the month of October.

(2) *Trading Portfolio.* Profits earned from trading in government, federal agency and municipal securities, and bankers' acceptances did not represent a significant part of Manufacturers' net income in October 1979. Average closing positions and net trading profits and losses earned in October 1979 did not appear to show any unusual or unexplained variances from previous months.

Positions taken in the government and agency portfolio were reduced following the announcement of new reserve requirements on October 6, and, after that date, Manufacturers largely stayed out of the market. Long and short positions taken in the latter half of October appeared to react to market conditions and public information affecting interest rates and prices. There was no evidence of unusual trading activity.

The Municipal Securities Department also attempted to reduce the size of its portfolio following the October 6 announcement. No significant increases or decreases in the portfolio occurred in the latter half of October.

¹⁵ See pages 26 to 28, *infra*.

The Bankers' Acceptance Department carried out a selling, rather than a trading, function. Its function was to generate funds by selling discounted drafts drawn under letters of credit issued by Manufacturers' International Lending Department. Following the announcement on October 6, Manufacturers attempted to reduce gradually the size of its acceptance portfolio. There were no significant fluctuations in the size of this portfolio during the latter half of October.

(3) *Domestic Liability Management Department.* The Domestic Liability Management Department was responsible for obtaining "wholesale" deposit funds from banks, large companies, and other financial institutions. No evidence was found of efforts to anticipate any changes in interest rates that might result from the announcement of the erroneous money supply estimates, or the subsequent revisions of those estimates.

A section of the Department called the Money Desk was responsible for maintaining Manufacturers' Federal Reserve Account at the level required by the Board through transactions in federal funds and repurchase agreements. The Assistant Vice President responsible for the Money Desk stated that he was informed of errors in Manufacturers' deposit data on October 22 and, on October 23, of the estimated effects of these errors on Manufacturers' reserve requirements for the week ending October 24. As a result of this information, he took action on October 23 and 24 to reduce the reserve account balance so as to meet the revised reserve requirement for that period. He testified that he was not aware that there was any connection between the errors in deposit data and the money supply estimates until the causes of the erroneous money supply estimates were made public. The record reveals that, before public announcement, he discussed the errors only with others assigned to the Money Desk, and neither he nor they engaged in any securities trading for personal benefit.

Manufacturers' wholesale deposit liabilities during October 1979 were maintained at levels close to the goals set by management. Balances in Manufacturers' Federal Reserve Account fluctuated considerably from day to day. These fluctuations appeared to relate primarily to the weekly pattern of inflows and outflows of funds across Manufacturers' demand deposit, commercial loan, and other accounts, and the need to control the day-to-day balance in the Reserve Account so as to meet as closely as possible the aggregate reserve requirements each week. The average balances of wholesale deposit and other funding sources during October 1979 did not show any unusual variances from previous months.

The increase in the aggregate cost of wholesale money provided by the Domestic Liability Management Department in October and November 1979 appeared to be consistent with the general level of increase in market interest rates in that period. There was no evidence that Manufacturers was able to avoid a substantial increase in its interest costs as a result of the general increase in market rates.

The volume of federal funds sold during October did not show any unusual or unexplained variations either in the pattern of day-to-day trading during the month or in comparison to previous months. The increase in profits from federal funds trading in October appeared to be due primarily to a significant increase in the spreads available in the market following October 6.

Most of these profits appeared to have been earned in the period immediately following the October 6 announcement of increased reserve requirements.

(4) *Foreign Exchange.* Foreign exchange limits and positions taken were small in comparison to Manufacturers' total assets and the profits were not a significant part of net income. There was no evidence of any attempt by Manufacturers to take foreign exchange positions in anticipation of any exchange rate movements that might result from the announcement of the erroneous money supply estimates or the subsequent revision of those estimates. Foreign exchange profits earned in October 1979 did not show unusual features in comparison to previous months.

(5) *International Department Liability Management.* Positions taken by the International Department Liability Management (Nassau branch) during October 1979 showed no evidence of trading patterns in anticipation of changes in market interest rates which might have occurred following the announcement of the erroneous money supply estimates or their subsequent revisions. Average asset and liability balances maintained in October did not show any unusual fluctuations in comparison to previous months. Fluctuations in profits earned in the October and November accounting periods (to the 21st of each month) did not appear to be related to the erroneous money supply estimates or their subsequent revisions.

(6) *Major Overseas Branches and Subsidiaries.* Daily commentaries on United States market conditions telexed by Manufacturers' International Department to overseas locations during October 1979 included no statements which indicated advance knowledge of the erroneous money supply estimates or of their subsequent revisions. Based only on summarized data available, the general level of overseas branch foreign exchange and deposit trading in October did not show significant fluctuations compared to other months in 1979. Balance sheets and income statements for October for four major trading branches did not show significant unexplained fluctuations in October compared to September or November 1979.

(7) *Manufacturers Hanover Corporation.* Treasury Department activities of Manufacturers' parent company consisted of short-term money market investments, issuance of commercial paper, and loans to subsidiaries. These activities did not show patterns indicating anticipation of significant changes in market interest rates that might follow publication of the erroneous and revised money supply estimates. Funding activity carried out by the parent company during October did not show any unusual fluctuations in comparison to previous months.

(8) *Trust Division.* The Trust Division stayed out of the long term bond market during October 1979. The Division maintained a substantial proportion of its fixed income portfolio in short maturities. In accordance with the needs of individual portfolios, the Trust Division purchased and sold bonds with maturities greater than one year and swapped bonds of a particular type or quality for another. Towards the end of October, the Division purchased longer term securities. There was no evidence of unusual activity in fixed income securities by the Trust Division in October 1979.

(9) *Lionel D. Edie & Company, Inc.* In mid-September, Lionel D. Edie's New York Office issued fixed income investment

guidelines. These guidelines were not changed during the time period relevant to the erroneous money supply estimates and were implemented by the New York Office in accordance with the needs of individual portfolios during September, October and November. Most of the long term securities purchased were corporate bonds. During October 1979 other purchases and sales of long term securities and swaps of one bond of a particular type or quality for another were made in accordance with the needs of individual portfolios. There was no evidence of unusual trading in fixed income securities by Lionel D. Edie in October 1979.

b. *Securities trading activities by persons at Manufacturers, the Board and the New York Fed*

The large majority of persons interviewed or responding to questionnaires did not engage in any securities transactions in October 1979. Others whom we questioned had engaged in transactions during October. However, with one possible exception discussed below, none of these transactions appeared to be related, directly or indirectly, to confidential information about the errors, the erroneous money supply estimates or their revisions, and none appeared to be inconsistent with previous trading activity. In addition, each person interviewed or responding to a questionnaire stated that he or she had no knowledge of any person engaging in securities trading activities on the basis of nonpublic information concerning the erroneous money supply estimates.

We found only one securities transaction by any person at Manufacturers, the Board or the New York Fed that raised questions we were unable to resolve. This transaction involved Rudolph Thunberg, then a Vice President of the New York Fed. Mr. Thunberg, who is no longer with the New York Fed, testified under oath to the following effect. Upon returning to his office at the New York Fed on October 25, having been out of town since October 16, he was informed of the erroneous money supply estimates and their impending revision. Later in the morning, in response to a telephone message, he called someone whose name he did not recognize. That person was a broker at Bear Stearns & Co. who informed him about a new municipal bond fund (a unit investment trust) similar to one Mr. Thunberg had inquired about previously. Mr. Thunberg had earlier decided to make this type of investment if presented with a yield he believed attractive. He asked the broker to send him a prospectus for the fund, which arrived several days later, but he was otherwise noncommittal. That afternoon, after waiting for the revisions to the money supply estimates to be released at 4:10 p.m., and seeing that they had appeared on the Dow Jones wire at 4:13 p.m., Mr. Thunberg called the Bear Stearns & Co. broker at approximately 4:30 p.m. to place an order for 25 units (for approximately \$25,000) of the fund. That broker was out of his office but another broker took Mr. Thunberg's order, which was stamped 4:39 p.m. Mr. Thunberg did not discuss the money supply error or revision with the broker.

We note that Mr. Thunberg testified that his account with Bear Stearns & Co. was his first and only brokerage account and was opened for purposes of this transaction. The investment constituted a significant portion of his portfolio and was in fact the largest investment he had ever made. Mr. Thunberg also testified to the effect that his other assets were substantial in relation to his investment in the municipal bond fund.

In addition, we note that the value of the units in the fund advanced very slightly during the week following Mr. Thunberg's purchase.

Mr. Thunberg cooperated with our investigation in testifying under oath about the transaction and providing documents. We had one brief telephone interview with the two brokers at Bear Stearns & Co., and they gave us the documents we requested. The limited information obtained from them is consistent with Mr. Thunberg's account of the transaction. In response to our request for sworn testimony from the brokers, the Director of the Legal Compliance Division of Bear Stearns & Co. told us that the firm had no objection but that the brokers declined to be interviewed under oath. We were given no explanation for their refusal. Without the brokers' sworn testimony, we were unable to reach any conclusions with regard to the matter. For this reason, we referred the matter to the Securities and Exchange Commission and requested that they make an inquiry. We understand that the matter is under consideration by the Commission staff.

2. *Persons at Manufacturers, the Board and the New York Fed Who Had Access to or Knowledge of Confidential Information About the Errors in Manufacturers' Deposit Reports, the Erroneous Money Supply Estimates or Their Revisions Did Not Disclose This Information Outside of the Official Course of Business*

Based on interviews and our reconstruction of the events, we determined that, prior to the public release of the revisions, most of the discussions about the errors, the erroneous money supply estimates or their revisions occurred among three classes of persons: those involved in or responsible for the collection and processing of the erroneous data; those who relied on the erroneous data in developing the money supply estimates; and those high-level officials who normally have access to money supply estimates before publication. In addition, information concerning the errors was disclosed to certain persons at the Department of the Treasury in the official course of business by high-level Board and New York Fed officials during a meeting and luncheon. The Treasury officials did not discuss the errors with any persons other than those present at the meeting or luncheon prior to the time that information concerning such errors became public.

The only advance disclosure of confidential information to a non-government person occurred on the evening of October 24, 1979. The public information officer of the New York Fed was responsible for the public release of the estimates. In the belief that Manufacturers' high-level management had been fully briefed on the errors, he called Manufacturers' public information officer to find out how Manufacturers was planning to handle disclosure of the revised money supply estimates. He told the officer that revisions to previously published money supply estimates due to errors in Manufacturers' deposit reports would be released the following day. Manufacturers' public information officer was not then aware of this fact, and he was asked to keep it in confidence until the revisions to the money supply estimates were released to the public. The record reveals that he did not discuss the matter with anyone before the following day's press conference, nor did he engage in any securities transactions before public release of the information.

Individuals' statements that they did not disclose information to anyone outside of the ordinary course of business were corroborated by our analysis of the most relevant securities markets, those for government securities. Had there been a leak of the information about the errors, one would have expected to find evidence of activity in these markets. There were no unusual unexplained market transactions reported by any major government securities dealers during October.

VI. NO OTHER INSTITUTION OR INDIVIDUAL APPEARS TO HAVE ENGAGED IN SECURITIES TRANSACTIONS WITH CONFIDENTIAL INFORMATION ABOUT THE ERRORS IN MANUFACTURERS' DEPOSIT REPORTS, THE ERRONEOUS MONEY SUPPLY ESTIMATES OR THEIR REVISIONS

We undertook, with the assistance of PW, an analysis of the securities markets in which transactions by a knowledgeable person with advance information about the erroneous money supply estimates would probably have occurred. Our inquiry was limited for practical reasons to the financial markets considered most likely to be involved in any attempt to profit from improper and knowing use of advance information about the errors or the erroneous money supply estimates. In theory, of course, virtually any investment medium could be affected by expectations about the money supply and its relationship to interest rates. We concluded that it would be impossible to investigate adequately all markets, and the experts whom we consulted indicated that advance information about the errors would probably have been used by a knowledgeable person, if at all, to purchase or sell government securities, including government-backed securities and futures contracts therein. Accordingly, our inquiry was limited to an analysis of certain government securities transactions.

The largest dealers in government securities voluntarily filed with the New York Fed a daily report on form FR 2004. These reports provided data on the dealers' transactions, positions, borrowings and financing in several varieties of U.S. Government securities. It is our understanding that substantially all transactions in U.S. Government and agency securities were reflected in transactions reported on form FR 2004.

The FR 2004 data were the best available data on transactions in the government securities markets. However, a substantial portion of the data was filed by telephone and telex and was transcribed onto forms at the New York Fed and the reports were not confirmed by the New York Fed. In addition, the forms, issued by the Federal Reserve in 1976, did not include information on sophisticated financing arrangements developed since that time.

The New York Fed provided this data to us in automated form for the period from September 26 through November 5, 1979. With the assistance of PW, we extracted from the FR 2004's the data for purchases and sales of the types of securities that would be most sensitive to interest rate fluctuations. These included Treasury Bills of 92 days or less, U.S. Government Coupon Securities due after one year and Federal Agency Securities due after one year.

Unusual trading activity was defined as trading activity in any of the three classes of securities that deviated significantly in volume and/or direction from the trading by other dealers within the same group (large commercial banks, brokerage and investment firms, unaffiliated dealers) or by all other dealers or from the individual deal-

er's normal trading activities. Although data for the entire period were analyzed, our focus was on trading that took place on or about October 18, the date on which the erroneous estimate for the week ended October 10 was released, and October 25, the date on which the revisions were announced to the public.

A. There was no unusual unexplained trading activity reported by major government securities dealers in October

Review of dealer trading activity during October had to take into account the major events affecting the securities markets at that time. For a period prior to October 6, 1979, market volumes were steady, at apparently normal levels. After Chairman Volcker's announcement on October 6 that the Board was adopting a new policy on money supply, however, market volumes and interest rates became volatile and remained so for the rest of the month of October.

Three instances of reported trading activity that on first examination appeared to be unusual were identified from the FR 2004 reports; these were investigated. What appeared to be the largest anomaly, a large net sale and a large net purchase for one dealer, resulted from a typographical error on the dealer's FR 2004's. A decimal point was erroneously misplaced by two digits in the report of a sale and a purchase.

The second anomaly, net sales of a class of government securities on two consecutive days, was significantly smaller than the first anomaly. After inquiry, we found that the dealer had received a large allotment of that class of securities, and most of the net sales were accounted for by sales of the securities taken in the allotment. The net sales were small relative to the gross positions this dealer held in this class of securities and relative to its total volume of trading reported on its FR 2004.

The last anomaly, net sales of a class of government securities on two days in October 1979, was also significantly smaller than the first anomaly. The dealer had taken two allotments of this class of securities early in the month of October, and as a result, maintained a net long position. Following the Board's announcement on October 6, and the subsequent fall in securities prices, the dealer reduced its long position by selling securities from the allotments. The net sales which were identified as an anomaly were primarily sales of the securities taken in these allotments.

Based upon our inquiry, we found and have concluded that there was nothing unusual about what initially appeared to be anomalous trading activity.

(This Report is accompanied by an Appendix and Exhibits that contain a more detailed statement of the evidence on which our findings and conclusions are based.)

Respectfully submitted,

ALAN B. LEVENSON,
Special Counsel.
FULBRIGHT & JAWORSKI.

□ 2020

FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT

(Mr. FISH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FISH. Mr. Speaker, yesterday the House passed H.R. 5203, the reau-

thorization of the Federal Insecticide, Fungicide, and Rodenticide Act. The action taken on the Harkin amendment to H.R. 5203 was an important victory for the sanctity of State responsibility over chemical registrations. No one should doubt the authority of Congress to act on chemical registrations. The issue raised by the Harkin amendment, which was answered in the affirmative, is whether it is a wise policy to tamper with existing law.

When a national problem involving public health and safety calls for a national response, the Constitution in article I, section 8 clearly empowers the Congress to act on behalf of the general welfare of the American people. In many such cases we make a finding that the response of the several States is uneven. So we set a Federal standard, a national norm. But out of a proper respect for the particular interests of our sister State governments, we normally defer to their judgment that a stricter standard would be more appropriate to their circumstances. We are asked now to limit a State's power to do just that. If we do, we would be diluting a principle long observed.

Over and over again, we have affirmed an appropriate balance in our federalist system between the clear constitutional powers of the Congress and the equally clear responsibility of the States to deal with their own health and safety needs by legislating more strictly than the Federal norm. For example, the Solid Waste Disposal Act specifically provides for retention of State authority to enact stricter standards than those required by the Federal Government. The Clean Air Act permits States to adopt certain standards that are at least as strict as Federal requirements.

Mr. Speaker, a decision by this House to abandon our usual deference to the elected State Representatives must be based only on the most compelling grounds. I can conceive of situations arising in a time of national mobilization in which expedition and the paramount interest of the Nation would call for curtailing the role of the States. This is clearly not the case before us. An inconvenience to manufacturers, a potential effect on trade are not equal in importance to fundamental principles of States responsibilities.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. SCHNEIDER (at the request of Mr. MICHEL), from 3 p.m. for the balance of the day, today on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HUNTER) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN, for 30 minutes, today.

Mr. GINGRICH, for 60 minutes, on August 16.

Mr. GINGRICH, for 60 minutes, on August 17.

Mr. LATTI, for 30 minutes, today.

Mr. SMITH of New Jersey, for 10 minutes, on August 13.

(The following Members (at the request of Mrs. Boggs) to revise and extend their remarks and include extraneous material:)

Mrs. Boggs, for 60 minutes, today.

Mr. RODINO, for 5 minutes, today.

Mr. GONZALEZ, for 30 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. ALEXANDER, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. SCHNEIDER, to revise and extend her remarks in support of the Wilderness Protection Act, H.R. 6542, in the body of the RECORD today.

Mr. PORTER, prior to the vote on H.R. 6542 today.

Mr. WIRTH, prior to the vote on H.R. 6542 today.

Mrs. Boggs, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost \$2,856.

(The following Members (at the request of Mr. HUNTER) and to include extraneous matter:)

Mr. McCLOSKEY.

Mr. HOPKINS.

Mr. BAILEY of Missouri.

Mr. RUDD.

Mr. DERWINSKI in three instances.

Mr. SENSENBRENNER.

Mr. CLINGER.

Mr. PORTER.

Mr. MOORHEAD.

Mr. OXLEY.

Mr. BEREUTER.

Mr. SHUSTER.

Mr. McGRATH.

Mr. LAGOMARSINO.

Mr. CRAIG.

Mr. COUGHLIN.

Mr. GILMAN in two instances.

Mr. GOODLING in two instances.

Mr. MARLENEE.

Mr. DOUGHERTY.

(The following Members (at the request of Mrs. Boggs) and to include extraneous matter:)

Mr. OTTINGER in two instances.

Mrs. Boggs in two instances.

Mr. BRINKLEY in two instances.

Mr. MAZZOLI.

Mr. SYNAR.

Mr. MONTGOMERY.

Mr. FORD of Michigan.

Mr. DIXON.

Mr. LaFALCE.

Mr. WYDEN.

Mr. FUQUA.

Mr. ZABLOCKI.

Mr. MATSUI.

Mr. MINETA in two instances.

Mr. LEHMAN.

Mr. ROSENTHAL.

Mr. BEDELL.

Mr. MILLER of California.

Mr. MOFFETT.

Mr. RATCHFORD.

SENATE BILL AND JOINT RESOLUTION REFERRED

A bill and joint resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 537. An act to aid State and local governments in strengthening and improving their judicial systems through the creation of a State Justice Institute; to the Committee on the Judiciary.

S.J. Res. 230. Joint resolution to authorize and request the President to designate August 15, 1982, as "Will Rogers and Wiley Post's Day"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1193. An act authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 22 minutes p.m.), the House adjourned until tomorrow, Friday, August 13, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4572. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of August 1, 1982, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. No. 97-225); to the Committee on Appropriations, and ordered to be printed.

4573. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the decision to convert to contractor performance the bus service and motor vehicle operation activity at Fort Ord, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4574. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting notice of the decision to convert to contractor performance the maintenance and repair of canvas, tents, tarps, furniture, upholstery, and other equipment at Fort Ord, Calif., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4575. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's decision to study the conversion to contractor performance the Marine Corps various functions at different installations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4576. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting a report of the value of property, supplies and commodities provided by the Berlin Magistrate for the quarter April 1, 1982 through June 30, 1982, pursuant to section 719 of Public Law 97-114; to the Committee on Appropriations.

4577. A letter from the President and Chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction involving U.S. exports to Indonesia exceeding \$100,000,000 or more, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4578. A letter from the General Counsel, Federal Emergency Management Agency, transmitting a draft of proposed legislation to amend the National Flood Insurance Act of 1968, as amended; to the Committee on Banking, Finance and Urban Affairs.

4579. A letter from the Secretary of Education, transmitting the annual report on the status of vocational education in fiscal year 1981, pursuant to the Vocational Education Act of 1963, as amended; to the Committee on Education and Labor.

4580. A letter from the Director of ACTION, transmitting final notice of Young Volunteers in ACTION (YVA) guidelines, pursuant to section 420(d) of the Domestic Volunteer Act of 1973, as amended; to the Committee on Education and Labor.

4581. A letter from the Chairman, Federal Communications Commission, transmitting a summary of actions taken in connection with the rulemaking proceeding relating to revision of its uniform system of accounts, pursuant to section 1253 of Public Law 97-

35; to the Committee on Energy and Commerce.

4582. A letter from the Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of March 1982, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4583. A letter from the Director, Federal Emergency Management Agency, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4584. A letter from the Executive Director, the President's Commission on Executive Exchange, transmitting a draft of proposed legislation to amend section 209(e) of title 18, United States Code; to the Committee on the Judiciary.

4585. A letter from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting the fourth annual report on fishery allocations, permits and foreign import barriers, pursuant to section 201(f) of the Fishery Conservation and Management Act of 1976, as amended; to the Committee on Merchant Marine and Fisheries.

4586. A letter from the Assistant Administrator for Water, Environmental Protection Agency, transmitting final and proposed regulations of the Clean Water Act relating to variances from secondary treatment requirements for municipal discharges to marine waters, pursuant to section 301(h) of Public Law 97-117; to the Committee on Public Works and Transportation.

4587. A letter from the Comptroller General of the United States, transmitting a report on appropriated funds for Defense Commissary Operations (GAO/AFMD-82-45, August 11, 1982); jointly, to the Committees on Government Operations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report entitled "Failure of Federal Departments and Agencies To Collect Audit-Related Debts" (Rept. No. 97-727). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report entitled "Failure of the Air Force and Navy To Develop Common Radar Warning Receivers Is Costly" (Rept. No. 97-728). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report entitled "DOD Wastes Hundreds of Millions of Dollars by Duplicating Base Support Services" (Rept. No. 97-729). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report entitled "Direct Broadcast Satellites: International Representation and Domestic Regulation" (Rept. No. 97-730). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report entitled "Security Classification and Executive Order 12356" (Rept. No. 97-731). Referred to the Commit-

tee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on Government Operations. Report on "Presidential Libraries: Unexplored Funding Alternatives" (Rept. No. 97-732). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 5618. A bill to require the Secretary of Agriculture to establish a network of volunteers to assist in making available information and advice on organic agriculture for family farms and other agricultural enterprises, to establish pilot projects to carry out research and education activities involving organic farming, and to perform certain other functions relating to organic farming, with special emphasis on family farms; with an amendment (Rept. No. 97-733). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 4828. A bill to set aside certain surplus vessels for use in the provision of health and other humanitarian services to developing countries; with an amendment (Rept. No. 97-734). Referred to the Committee of the Whole House on the State of the Union.

Mr. PERKINS: Committee on Education and Labor. House Joint Resolution 429. Joint resolution to establish State commissions on teacher excellence; with amendments (Rept. No. 97-735). Referred to the House Calendar.

Mr. PERKINS: Committee on Education and Labor. H.R. 6485. A bill to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes; with an amendment (Rept. No. 97-736). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 6732. A bill to amend the International State Container Act; with an amendment (Rept. No. 97-737). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 559. Resolution waiving certain points of order against H.R. 6956, a bill making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-738). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 560. Resolution waiving certain points of order against H.R. 6957, a bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-739). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 561. Resolution waiving certain points of order against H.R. 6968, a bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1983, and for other purposes (Rept. No. 97-740). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 562. Resolution providing for the consideration of H.R. 6755, a bill to authorize assistance to promote economic revitalization in the Caribbean Basin region (Rept. No. 97-741). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 563. Resolution providing for the consideration of H.R. 3432, a bill to amend the Water Resources Development Act of 1974 relating to planning and evaluating water resources projects, and for other purposes (Rept. No. 97-742). Referred to the House Calendar.

Mr. ROSTENKOWSKI: Committee on Ways and Means. House Resolution 521. Resolution disapproving the President's recommendation to extend certain waiver authority under the Trade Act of 1974 with respect to Romania (Adverse report No. 97-743). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITE: Committee on Armed Services. H.R. 6954. A bill to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff and to establish a Senior Strategy Advisory Board in the Department of Defense (Rept. No. 97-744). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO (for himself, Mr. EDWARDS of California, Mr. McCORMY, and Mr. BUTLER):

H.R. 6978. A bill to provide for the appointment of U.S. bankruptcy judges under article III of the Constitution, and for other purposes; to the Committee on the Judiciary.

By Mrs. BOGGS (for herself, Mr. TRIBLE, Mr. ANDERSON, Mr. BENJAMIN, Mr. BENNETT, Mr. BONIOR of Michigan, Mr. BONKER, Mr. DOUGHERTY, Mr. LOTT, Mr. FORD of Tennessee, Mr. GAYDOS, Mr. HARTNETT, Ms. MIKULSKI, Mr. SNYDER, Mr. STANGELAND, Mr. WILSON, Mr. YOUNG of Alaska, Mr. MURTHA, and Mr. ZEFERETTI):

H.R. 6979. A bill to promote increased ocean transportation of bulk commodities in the foreign commerce of the United States in U.S.-flag ships, to strengthen the defense industrial base, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BROWN of Colorado:

H.R. 6980. A bill to amend the Wild and Scenic Rivers Act of 1968 as amended by designating portions of the Elk River, Colo. and the Encampment River, Colo.; to the Committee on Interior and Insular Affairs.

By Mr. GUNDERSON:

H.R. 6981. A bill to amend chapter 44 (relating to firearms) of title 18 of the United States Code to modify the Federal gun control system; to the Committee on the Judiciary.

By Mr. HOPKINS (for himself, Mr. SNYDER, Mr. HUBBARD, and Mr. ROGERS):

H.R. 6982. A bill to temporarily waive the 120-percent factor used in determining whether extended unemployment benefits are payable in a State; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 6983. A bill to amend title 17 of the United States Code to improve the protection afforded to computer software, and for

other purposes; to the Committee on the Judiciary.

By Mr. PEYSER:

H.R. 6984. A bill to amend title II of the Social Security Act to restore eligibility for child's insurance benefits in the case of children aged 18 through 22 who attend post-secondary schools and whose family income is \$30,000 or less; to the Committee on Ways and Means.

By Mr. RATCHFORD (for himself, Mr. PEPPER, Mr. GOODLING, and Mr. WEISS):

H.R. 6985. A bill to amend the Vocational Education Act of 1963 to make grants available for vocational programs for older persons and to establish a grant program for the establishment of model centers for vocational education for older persons; to the Committee on Education and Labor.

By Mr. REGULA (for himself, Mr. FORSYTHE, Mr. GOODLING, Mr. MITCHELL of New York, Mr. JACOBS, Mr. BEVILL, Mr. HENDON, Mr. SOLOMON, Mr. KINDNESS, Mr. SUNIA, Mr. DOUGHERTY, Mr. HAMMERSCHMIDT, Mr. HILER, Mr. WEBER of Ohio, Mr. MINISH, Mr. YOUNG of Alaska, Ms. MIKULSKI, and Mrs. MARTIN of Illinois):

H.R. 6986. A bill to authorize the President to impose a tariff surcharge on the products of certain countries in order to offset the expense of providing U.S. defense assistance to such countries; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 6987. A bill to permit the investment by employee benefit plans in residential mortgages; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. SHARP:

H.R. 6988. A bill to amend the Federal Election Campaign Act of 1971 to reduce the contribution limitation for multicandidate political committees with respect to elections for Federal office and to impose additional limitations with respect to congressional elections; to the Committee on House Administration.

By Mr. FUQUA:

H.J. Res. 570. Joint resolution proposing an amendment to the Constitution of the United States providing for a procedure for removal from office, in every 10th year of service, of the judges of the Supreme Court and inferior Federal courts; to the Committee on the Judiciary.

By Mr. MARKEY (for himself, Mr. CONTE, Mr. BINGHAM, Mr. MOAKLEY, Mr. UDALL, Mr. LOWRY of Washington, Mr. WEISS, Mr. WAXMAN, Mr. EVANS of Iowa, Mr. YATES, Mr. BLANCHARD, Mr. RICHMOND, Mr. LUNDINE, Mr. MOFFETT, Mr. FOWLER, Mr. RODINO, Mr. REUSS, Mr. MOTT, Mr. DENARDIS, Mr. EDGAR, Mr. HALL of Ohio, Mr. ROYBAL, Mr. MCHUGH, Mr. EVANS of Indiana, Mr. ECKART, Mr. D'AMOURS, Mr. LAFALCE, Mr. FAUNTRON, Ms. MIKULSKI, Mr. BARNES, Mr. KOGOVSEK, Mr. GRAY, Mr. OTTINGER, Mr. LANTOS, Mr. WEAVER, Mr. GEJDENSON, Mr. SHANNON, Mr. STARK, Mr. KASTENMEIER, Mr. AUCCOIN, Mr. DASCHLE, Mr. EARLY, Mr. KILDEE, Mr. BEILSON, Mr. COELHO, Mr. FOGLETTA, Mr. PEASE, Mr. FORD of Michigan, Mr. MAZZOLI, Mr. MATSUI, Mr. MINETA, Mr. STOKES, Mr. FASCELL, Mr. OBERSTAR, Mr. SHAMANSKY, Mr. SCHUMER, Mr. DORGAN of North Dakota, Mr. HOWARD, Mr. GLICKMAN, Mr. BROWN of California, Mrs. KEN-

NELLY, Mrs. SCHNEIDER, Mr. HARKIN, Mr. EDWARDS of California, Mr. DIXON, Mr. BEDELL, Mr. ROSENTHAL, Mr. GARCIA, Mr. RATCHFORD, Mr. RANGEL, Mr. LEACH of Iowa, Mr. BOLAND, Mr. FRANK, Mr. SEIBERLING, Mrs. MARTIN of Illinois, Mr. MINISH, Mr. MCKINNEY, Mr. RUSSO, Mr. WILLIAM J. COYNE, Mr. LUKE, Mr. MAVEROULES, Mr. PEYSER, Mr. DWYER, Mr. SMITH of Iowa, Mrs. FENWICK, Mrs. SCHROEDER, Mr. LEHMAN, Mr. WILLIAMS of Montana, Mr. BRODHEAD, Mr. PATTERSON, Mrs. HECKLER, Mr. SCHEUER, Ms. OAKAR, Mr. WASHINGTON, Mr. HOLLENBECK, Mr. STUDDS, Mr. JOHN L. BURTON, Mrs. CHISHOLM, Mr. DELLUMS, Mr. NEAL, Mr. PEPPER, Mr. FLORIO, Mr. ADDABBO, Mr. BONIOR of Michigan, Mr. PANETTA, Mr. MARTINEZ, Mr. NOWAK, Mr. HORTON, Mr. SOLARZ, Mr. BONER of Tennessee, and Mr. WIRTH):

H.J. Res. 571. Joint resolution calling for a mutual and verifiable freeze and reduction in nuclear weapons; to the Committee on Foreign Affairs.

By Mr. MOORE:

H.J. Res. 572. Joint resolution establishing May 15, 1983, as "Peace Officers' Memorial Day"; to the Committee on Post Office and Civil Service.

By Mr. NEAL:

H.J. Res. 573. Joint resolution calling for a mutual and verifiable freeze on and reductions in nuclear weapons; to the Committee on Foreign Affairs.

By Mr. SIMON:

H.J. Res. 574. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

H.J. Res. 575. Joint resolution proposing an amendment to the Constitution of the United States which prohibits the Congress from making any law which causes the total amount of money expended by the United States in any fiscal year to exceed the total amount of revenue of the United States received during that fiscal year; to the Committee on the Judiciary.

By Mr. GILMAN (for himself, Mr. BARNES, Mr. BEDELL, Mr. BINGHAM, Mr. BROWN of California, Mrs. CHISHOLM, Mr. DENARDIS, Mr. DYMALLY, Mr. EDGAR, Mr. FAUNTRON, Mrs. FENWICK, Mr. JEFFORDS, Mr. LEACH of Iowa, Mr. MATSUI, Mr. MOFFETT, Mr. MCHUGH, Mr. MCCLOSKEY, Mr. PRITCHARD, Mrs. SCHNEIDER, Mr. SEIBERLING, Mr. SIMON, Mr. STUDDS, Mr. WON PAT, and Mr. ZABLOCKI):

H. Con. Res. 394. Concurrent resolution expressing the sense of the Congress concerning continuing U.S. participation with respect to a comprehensive law of the sea treaty; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

456. By the SPEAKER: A memorial of the House of Representatives of the State of Illinois, relative to the acquisition by the University of Illinois of the federally owned land currently being used by the Dixon Springs Agricultural Center; to the Committee on Agriculture.

457. Also, a memorial of the Legislature of the State of New York, relative to section

504 of the Rehabilitation Act of 1973; to the Committee on Education and Labor.

458. Also, a memorial of the Legislature of the State of New York, relative to the whereabouts of Raoul Wallenberg; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 450: Mr. PARRIS.
H.R. 1454: Mr. SOLARZ and Mr. SCHUMER.
H.R. 1784: Mr. VENTO, Mr. CROCKETT, Mrs. COLLINS of Illinois, Mr. LOWRY of Washington, Mr. MITCHELL of Maryland, Mr. DELLUMS, and Mr. STOKES.
H.R. 1919: Mrs. SCHNEIDER.
H.R. 2322: Mr. YOUNG of Florida, Mr. ROBERTS of South Dakota, and Mr. SAVAGE.
H.R. 3399: Mr. FRENZEL.
H.R. 4617: Mr. PEYSER.
H.R. 5310: Mr. GEPHARDT, Mr. BREAUX, Mr. FRENZEL, Mr. PRICE, Mr. SKELTON, Mrs. BOGGS, Mr. EMERSON, Mr. RAHALL, Mr. HAGEDORN, Mrs. BOUQUARD, Mr. LEACH of Iowa, Mr. FARY, and Mr. SIMON.
H.R. 5362: Mr. MATTOX.
H.R. 6087: Mr. RAHALL, Mrs. KENNELLY, Mr. GLICKMAN, Mr. COELHO, Mr. MADIGAN, Mr. BOWEN, Mr. MCKINNEY, Mr. FORD of Tennessee, and Mr. SABO.
H.R. 6190: Mr. CLINGER, Mr. ERTTEL, Mr. WALGREEN, Mr. NAPIER, Mr. LAFALCE, and Mr. LEE.
H.R. 6219: Mr. TRAXLER.
H.R. 6311: Ms. FERRARO and Mr. STUMP.
H.R. 6467: Mr. HUNTER, Mr. SENSENBRENNER, Mr. ZABLOCKI, Mr. HUBBARD, Ms. FERRARO, Mr. SNYDER, Mr. GUNDERSON, and Mr. BEARD.
H.R. 6591: Ms. FERRARO and Mr. MAVEROULES.
H.R. 6613: Mr. HYDE, Mr. RUDD, Mr. COURTER, and Mr. LAFALCE.
H.R. 6623: Mr. CROCKETT and Mr. RANGEL.
H.R. 6690: Mr. GOODLING.
H.R. 6783: Mr. SYNAR and Mr. HUGHES.
H.R. 6852: Mr. SMITH of Oregon.
H.R. 6885: Mr. CONABLE, Mr. FISH, and Mr. DASCHLE.
H.R. 6963: Mrs. BOGGS, Mr. BREAUX, Mr. HUCKABY, Mr. LIVINGSTON, Mr. LONG of Louisiana, Mr. MOORE, and Mr. TAUZIN.
H.J. Res. 172: Mr. ROEMER.
H.J. Res. 323: Mr. HIGHTOWER, Mr. FLORIO, and Mr. KASTENMEIER.
H.J. Res. 454: Mr. TAUKE, Mr. FORSYTHE, Mr. HOWARD, Mr. MARKEY, Mr. GORE, Mr. FORD of Michigan, Mr. GOLDWATER, Mr. EMERSON, Mr. CONABLE, Mr. ARCHER, Mr. BEARD, Mr. BIAGGI, Mr. HEFTTEL, Mr. MOORHEAD, Mr. SABO, Mr. RICHMOND, Mr. HUNTER, Mr. MURTHA, Mr. HAWKINS, Mr. PURSELL, Mr. ERDAHL, Mr. HUTTO, Mr. HOLLAND, Mrs. FENWICK, Mrs. KENNELLY, Mr. JONES of Tennessee, Mr. LATTI, Mr. KAZEN, Mr. CORRADA, Mr. FORD of Tennessee, Mr. FROST, Mr. WHITTAKER, Mr. MOAKLEY, Mr. MOTT, Mr. DICKS, Mr. JACOBS, Mr. HOPKINS, Mr. NATCHER, Mr. HANSEN of Idaho, Mr. WIRTH, Mr. MILLER of California, Mr. WHITTEN, Mr. BEILSON, Mr. PAUL, Mr. COUGHLIN, Mr. CROCKETT, Mr. DAN DANIEL, Mr. DICKINSON, Mr. DOWNEY, Mr. DYMALLY, Mr. FOUNTAIN, Mr. MCDADE, Mr. LEATH of Texas, Mr. MARRIOTT, and Mr. OXLEY.
H.J. Res. 472: Mr. WEAVER and Mr. DASCHLE.
H.J. Res. 523: Mr. RATCHFORD, Mr. SHAMANSKY, Mr. LENT, Mr. BRINKLEY, Mr.

McHUGH, Mr. GARCIA, Mr. BENJAMIN, Mr. CLINGER, and Mr. WILLIAM J. COYNE.

H. Con. Res. 383: Mr. PEYSER.

H. Res. 456: Mr. MINETA.

H. Res. 553: Mr. DOWNEY, Mr. EDGAR, Mr. BARNES, Mr. RATCHFORD, and Mr. FOGLIETTA.

H. Res. 558: Mr. FORD of Michigan, Mr. NELLIGAN, Mr. MATSUI, and Mrs. KENNELLY.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

560. By the SPEAKER: Petition of the American Legion, Quezon City, Philippines, relative to issuing discharges or statements of service to certain Philippine veterans; to the Committee on Armed Services.

561. Also, petition of the County Council, County of Hawaii, Hilo, Hawaii, relative to support of S. 2036, reauthorizing the Comprehensive Employment Training Act; to the Committee on Education and Labor.

562. Also, petition of the American Legion, Quezon City, Philippines, relative to "Special Immigrants"; to the Committee on the Judiciary.

563. Also, petition of the American Legion, Quezon City, Philippines; relative to repeal of section 107 of title 38 United States Code, to expand beneficiaries; to the Committee on Veterans' Affairs.

564. Also, petition of the American Legion, Quezon City, Philippines, relative to extending the grants-in-aid program to the Veterans' Memorial Medical Center; to the Committee on Veterans' Affairs.

565. Also, petition of the American Legion, Quezon City, Philippines, relative to allowing judicial review of claims denied by the Veterans' Administration; to the Committee on Veterans' Affairs.

566. Also, petition of the American Legion, Quezon City, Philippines, relative to restoration of recognition of the Philippine Commonwealth Army Veterans; to the Committee on Veterans' Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4230

Mr. LEE:

—Page 9, after line 9, insert the following:

"(7) Notwithstanding any other provision of this Act, the Commission shall not issue a certificate of public convenience and necessity to construct, operate, or maintain a coal pipeline until the U.S. Geological Survey conducts a comprehensive study of the uses of the coal pipeline's water sources over the life of the coal pipeline and, to the extent feasible, beyond the life of the coal pipeline, and considering the cumulative effect of all uses of the water sources certifies to the Commission that the use of the water sources will not cause a significant adverse impact on the quality and quantity of the water sources. The U.S. Geological Survey shall include in its determination of a coal pipeline's impact on its water sources a study of the pipeline's impact on water supplies in States surrounding those States from which water is proposed to be taken.

—Page 9, after line 9, insert the following:

"(7) Notwithstanding any other provision of this title, no certificate shall be issued unless the Commission determines that—

"(A) each source of water to be used by the proposed coal pipeline lies in only one state, or

"(B) for those sources of water to be used by the proposed coal pipeline which are located in more than one State, there is in effect for each of these sources an interstate compact between the States in which the source is located which governs the use by the pipeline of water from the source. A source of water which passes through or under a State is deemed to be located in that State even though the proposed pipeline would draw water from that source only when it passed through or under a different State.

—Page 12, after line 12, insert the following:

"(f) No certificate shall be issued under this section for a coal pipeline for which water would be taken from any aquifer or other body of groundwater which underlies more than one State unless—

"(1) there is in effect an interstate compact between the affected States which governs such sale or transfer; or

"(2) all the affected States consent to such sale or transfer."

Reletter the subsequent subsections accordingly.

—Page 13, after line 2, insert the following:

"(h)(1) In this subsection—

"(A) 'affiliate' means an entity which—

"(i) directly or indirectly is controlled by a carrier,

"(ii) directly or indirectly controls a carrier, or

"(iii) directly or indirectly is controlled by a person who also directly or indirectly controls a carrier.

"(B) 'control' means the possession, direct or indirect, of the power to direct the management and policies of a person. Any person, who—

"(i) is a director of another person, or

"(ii) owns in excess of 5 percent of the stock, partnership interest, or any like evidence of participation, of another person, shall be deemed to have control of the other person.

"(2) No carrier certificated under this section shall transport any coal mined or supplied by it or an affiliate, which is, has been, or will be owned by it or an affiliate, or which will be used by it or an affiliate."

—Page 30, line 18, after "Code," insert "or for which a right-of-way is granted over, under, upon, or through Federal lands under this Act or any other law of the United States."

—Page 31, line 3, after "Code," insert "or for which a right-of-way is granted over, under, upon, or through Federal lands under this Act or any other law of the United States."

By Mr. NOWAK:

—Congressional Findings

I. In section 2(2) change "is" to "may be."

—Page 4, strike out line 13 and all that follows through line 25 on page 5 and insert in lieu thereof the following:

"(a) Any certificated transporter of coal by pipeline desiring to acquire a right-of-way across lands belonging to a common carrier engaged in the interstate transportation of coal may apply to the Interstate Commerce Commission for an order requiring use of the common carrier's lands for a coal pipeline right-of-way. The Commission may by order require the use of the railroad rights-of-way or facilities and shall fix just and reasonable compensation therefor.

"(b) In determining whether to issue such an order, the Commission shall take into account the willingness of the respective parties to negotiate the terms and conditions

for a grant of the right-of-way and the need for the right-of-way."

—Page 8, line 7, strike out the comma and all that follows through line 12 and insert in lieu thereof "; and".

Page 8, after line 17, insert the following:

"(5) If the Commission finds that issuance of any certificate under this section will result in diversion of revenue or traffic from an existing carrier, the Commission shall not approve the application for the certificate."

Renumber the subsequent paragraphs accordingly.

—Page 8, strike out line 1 through 17 and insert in lieu thereof the following:

"(4) No application for a certificate may be approved under this section unless the Commission determines in writing that—

"(A) the coal pipeline or extension thereof will provide the capacity necessary to fulfill the requirements of a common carrier of coal;

"(B) there is a substantial likelihood the rates to be charged by the applicant for the transportation of coal will be less than those which would otherwise be actually charged by other common carriers for the transportation of such coal; and

"(C) there is a substantial likelihood that the coal pipeline will not materially impair the financial ability of any other common carrier to provide necessary transportation.

"(5) As part of the determination to be made under paragraph (1)(B) of subsection (b) of this section, the Commission shall consider and include in its written determinations under this subsection a discussion of at least the following issues:

"(A) The extent to which the rates to be charged by the applicant are reasonably expected to be lower than those which would otherwise be charged by other carriers for the transportation of such coal over the expected useful life of the coal pipeline.

"(B) The extent to which the coal pipeline or extension thereof would be likely to impair the financial integrity of other carriers or the existing level or type of transportation services any such carrier is able to provide.

"(C) The extent to which the coal pipeline or extension thereof would assist in meeting transportation needs for the attainment of national coal utilization goals in a safe, adequate, economical, and efficient manner.

"(D) The extent to which existing carriers have the ability to meet the same transportation needs as the coal pipeline or extension for the attainment of national coal utilization goals in a safe, adequate, economical, and efficient manner.

"(E) The environmental impact of the coal pipeline or extension and alternative routes, means of transportation of coal, or methods of utilization of coal.

"(F) The balance between the energy needs of the area to be benefited by the coal pipeline or extension and the impact on the area from which the coal is to be transported, including the impact on the water needs of such area.

"(G) The effect that the coal pipeline or extension thereof will have on other carriers.

"(H) The extent to which the coal pipeline or extension would affect surface or groundwater at the point of origin from which the coal is to be transported, at the point of destination to which the coal is to be transported, and at the point of disposal of water utilized in the transportation of coal.

“(I) The extent to which the coal pipeline or extension thereof would disrupt the coal industry in regions of the United States other than the region in which such pipeline will originate.

“(6) No certificate may be issued under this section unless an environmental impact statement is prepared under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and notice of the availability of such statement is published in the Federal Register.

“(7) No person may be issued a certificate under this section for construction or extension of a coal pipeline unless, before the issuance of the certificate, each State which has a legal interest in the groundwater to be used and beneath whose lands any part of the ground water aquifer constituting any part of the source of the groundwater to be used lies shall consent in writing to the use of its water before the issuance of the certificate.

Renumber the subsequent paragraphs accordingly.

—Page 12, after line 12, insert the following:

“(f) Not later than 10 days after any application under this section is filed with the Commission, the Commission shall notify the Secretary of Agriculture of the filing of the application, and the Commission and the pipeline applicant shall provide such information as the Secretary of Agriculture shall require to conduct a review of the effect of the diversion of water by the pipeline project on agriculture, including irrigation needs. The Secretary of Agriculture shall have 120 days from the date of receipt of such notification to conduct such review and to advise the Commission with respect thereto. The Commission shall make no final determination under this section with respect to the application until it has received a report and accompanying finding from the Secretary of Agriculture.

Reletter subsequent subsections accordingly.

By Mr. SHUSTER:

—Page 4, lines 16 and 17, strike out “private lands” and insert in lieu thereof “those lands owned by any common carrier engaged in the interstate transportation of coal which are needed for such transportation and are”.

—Page 5, line 16, strike out the semicolon and insert in lieu thereof a period.

Page 5, strike out lines 17 through 21.

Page 27, line 20, strike out “unless” and all that follows through line 25 and insert in lieu thereof a period.

—Page 5, after line 25, insert the following:

“(e) A person issued a certificate under section 10952 of this subchapter to construct a coal pipeline or extension thereof may not acquire by exercise of the power of eminent domain under this section rights-of-way over, under, upon, or through any lands located in any State if the chief executive officer of such State certifies to the Commission, within 90 days after the certificate is issued, that the laws of such State relating to eminent domain allow the acquisition of such rights-of-way by eminent domain, except that such person may acquire by exercise of the power of eminent domain under this section all or any part of the rights-of-way necessary to construct, operate, and maintain such coal pipeline or extension in such State if such person is unable to acquire such rights-of-way under the laws of such State within a reasonable period of time.”

Page 25, after line 21, add the following:

“(f) The amendments made by this section shall take effect on the date of enactment

of this Act, except that section 10951 of title 49, United States Code, as added by subsection (a) of this section, shall take effect two years after such date of enactment.

—Page 7, line 23, strike out “and”.

Page 7, line 24, strike out the period and insert in lieu thereof the following: “, and (D) establishing a maximum allowable cost for the construction of the coal pipeline or extension. For purposes of the preceding sentence, maximum allowable cost shall be exclusive of any cost increase that results from subsequent inflation or an unanticipated grave, natural disaster or other natural phenomenon of an exceptional, inevitable, and unavoidable character.”.

—Page 8, strike out lines 1 through 17 and insert in lieu thereof the following:

“(4) In making its findings under paragraph (1)(B) of this subsection with respect to any proposed coal pipeline, the Commission shall, at a minimum, determine the extent to which the pipeline—

“(A) would help meet national needs for coal utilization, considering, among other matters, alternate routes or means of transportation of coal and the relative costs of such alternative routes or means;

“(B) would balance the energy needs of the area to be benefited by the project and the water requirements and other impacts on the area from which the coal is to be transported;

“(C) would be likely to impair the financial integrity of other modes of transportation or the level or type of transportation services any such mode is able to offer;

“(D) would be likely to result in lower rates for the coal transported than would be in effect if such coal were transported by other modes of transportation; and

“(E) would unduly impact on the surface and ground water at the point of destination and disposal of such water in the environment.

—Page 9, after line 9, insert the following:

“(7) No certificate of public convenience and necessity may be issued to or held by any person under this section who controls, is controlled by, or is under common control with, any person who—

“(A) uses or will use coal transported by the coal pipeline constructed or proposed to be constructed pursuant to such certificate, or

“(B) supplies or will supply coal to such pipeline.

In addition to the meaning given the term ‘control’ by section 10102(6) of this subtitle, any person who owns 5 per centum of the voting stock of another person shall be deemed to control such other person for purposes of this paragraph.

—Page 12, after line 21, insert the following:

“(g) No application may be approved under this section unless an environmental impact statement is prepared with respect to such application under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) and notice of the availability of such statement is published in the Federal Register. Such statement shall be prepared by the Commission in consultation with the head of any other department, agency, or instrumentality of the United States which will be involved if such application is approved.

Page 12, line 22, strike out “(g)” and insert in lieu thereof “(h)”.

Page 12, line 24, insert after “costs” the following: “(including, but not limited to, the costs of preparing an environmental impact statement with respect to such application under subsection (g) of this section)”.

—Page 13, after line 2, insert the following:

“(h) No person may be issued a certificate under this section for construction or extension of a coal pipeline unless each State which has a legal interest in any part of the groundwater to be used for the pipeline or beneath which any part of an aquifer lies which contains any part of the groundwater to be used for the pipeline consents in writing, before the issuance of the certificate, to the use of such groundwater.

—Page 13, after line 2, insert the following:

“(h) Any person issued a certificate under this section shall be deemed to be a Federal agency for purposes of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 with respect of rights-of-way acquired by power of eminent domain under section 10951 of this title.

—Page 34, after line 24, add the following new section:

NONSEVERABILITY

Sec. 13. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall be invalid.

H.R. 6957

By Mr. BEARD:

—On page 30, line 2, after “Agriculture,” strike “\$449,815,000” and insert in lieu thereof “\$349,815,000”.

By Mr. BROYHILL:

—Page 14, strike out line 12 through line 19.

—Page 14, line 19, strike out “\$63,638,000” and insert in lieu thereof “\$31,819,000”.

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE COMMISSION

Sec. 101. (a) The restrictions upon the authority of the Federal Trade Commission established in section 20 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57c note) shall apply with respect to the use of funds appropriated for the Commission in this Act.

(b) The provisions of section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1) shall continue in effect until the end of the fiscal year ending September 30, 1983, notwithstanding subsection (l) of such section (15 U.S.C. 57a-1(l)).

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE COMMISSION

Sec. 101. (a) None of the funds appropriated in this Act may be used by the Federal Trade Commission to conduct any study, investigation, or prosecution of any agricultural cooperative for any conduct which, because of the provisions of the Act entitled “An Act to authorize association of producers of agricultural products”, approved February 18, 1922 (7 U.S.C. 291 et seq.), commonly known as the Capper-Volstead Act, is not a violation of any of the antitrust Acts (as defined in section 4 of the Federal Trade Commission Act (15 U.S.C. 44)) or the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) None of the funds appropriated in this Act may be used by the Federal Trade Commission to conduct any study or investigation of any agricultural marketing orders.

By Mr. LEVITAS:

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE
COMMISSION

SEC. 101. None of the funds appropriated in this Act may be used by the Federal Trade Commission (1) to promulgate any final rule under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than a rule described in section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)); or (2) to carry out any such rule which became final under such Act on or after August 1, 1982.

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE
COMMISSION

SEC. 101. None of the funds appropriated in this Act may be used by the Federal Trade Commission to promulgate any final rule under the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than a final rule described in section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)), unless such final rule is promulgated in accordance with the provisions of section 21 of the Federal Trade Commission Improvements Act of 1980, notwithstanding subsection (i) of such section.

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE
COMMISSION

SEC. 101. (a)(1) None of the funds appropriated in this Act may be used by the Federal Trade Commission to promulgate any final rule under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) unless such final rule is promulgated in accordance with this section.

(2) The Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively.

(3) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of 90 calendar days of continuous session after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) any concurrent resolution disapproving a final rule of the Commission shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Commission.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Commission, then it shall

not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2), then the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Commission considers necessary or appropriate.

(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) The Comptroller General shall prepare a report which examines the review of Commission rules under this section. Such report shall—

(A) list the final rules submitted to the Congress by the Commission during the period in which this section is in effect;

(B) list the final rules disapproved by the Congress under subsection (a)(2);

(C) specify the number of instances in which the Commission promulgates a final rule in accordance with subsection (c); and

(D) include an analysis of any impact which the provisions of this section have had upon the decisionmaking and rulemaking processes of the Commission.

(2) The Comptroller General shall submit the report required in paragraph (1) to the Congress before the end of fiscal year 1982.

(f)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under paragraph (1).

(g)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in

the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Commission has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Commission shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(h) For purposes of this section:

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of —, which final rule was submitted to the Congress on —." (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Commission pursuant to the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than any rule promulgated under section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)).

—Page 17, after line 8, insert the following:

GENERAL PROVISIONS—FEDERAL TRADE
COMMISSION

Sec. 101. (a)(1) None of the funds appropriated in this Act may be used by the Federal Trade Commission to promulgate any final rule under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) unless such final rule is promulgated in accordance with this section.

(2) The Commission, after promulgating a final rule, shall submit such final rule to the Congress for review in accordance with this section. Such final rule shall be delivered to each House of the Congress on the same date and to each House of the Congress while it is in session. Such final rule shall be referred to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Interstate and Foreign Commerce of the House, respectively.

(3) Any such final rule shall become effective in accordance with its terms unless, before the end of the period of 90 calendar days of continuous session after the date such final rule is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such final rule.

(b)(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2)(A) Any concurrent resolution disapproving a final rule of the Commission shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be.

(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 75 calendar days of continuous session of the Congress after the referral of such resolution to the Committee on Commerce, Science, and Transportation of the Senate or to the Committee on Interstate and Foreign Commerce of the House, as the case may be, under subsection (a)(1), it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same final rule of the Commission), and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same final rule of the Commission.

(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same rule). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

(4) Appeals from the decision of the Chair relating to the application of the rules of

the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

(5) Notwithstanding any other provision of this subsection, if a House has approved a concurrent resolution with respect to any final rule of the Commission, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same final rule.

(c)(1) If a final rule of the Commission is disapproved by the Congress under subsection (a)(2), then the Commission may promulgate a final rule which relates to the same acts or practices as the final rule disapproved by the Congress in accordance with this subsection. Such final rule—

(A) shall be based upon—

(i) the rulemaking record of the final rule disapproved by the Congress; or

(ii) such rulemaking record and the record established in supplemental rulemaking proceedings conducted by the Commission in accordance with section 553 of title 5, United States Code, in any case in which the Commission determines that it is necessary to supplement the existing rulemaking record; and

(B) may contain such changes as the Commission considers necessary or appropriate.

(2) The Commission, after promulgating a final rule under this subsection, shall submit the final rule to the Congress in accordance with subsection (a)(1).

(d) Congressional inaction on, or rejection of, a concurrent resolution of disapproval under this section shall not be construed as an expression of approval of the final rule involved, and shall not be construed to create any presumption of validity with respect to such final rule.

(e)(1) The Comptroller General shall prepare a report which examines the review of Commission rules under this section. Such report shall—

(A) list the final rules submitted to the Congress by the Commission during the period in which this section is in effect;

(B) list the final rules disapproved by the Congress under subsection (a)(2);

(C) specify the number of instances in which the Commission promulgates a final rule in accordance with subsection (c); and

(D) include an analysis of any impact which the provisions of this section have had upon the decisionmaking and rulemaking processes of the Commission.

(2) The Comptroller General shall submit the report required in paragraph (1) to the Congress before the end of fiscal year 1982.

(f)(1) Any interested party may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this section. The district court immediately shall certify all questions of the constitutionality of this section to the United States court of appeals for the circuit involved, which shall hear the matter sitting en banc.

(2) Notwithstanding any other provision of law, any decision on a matter certified under paragraph (1) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought not later than 20 days after the decision of the court of appeals.

(3) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent

the disposition of any matter certified under paragraph (1).

(g)(1) For purposes of this section—

(A) continuity of session is broken only by an adjournment sine die; and

(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

(2) If an adjournment sine die of the Congress occurs after the Commission has submitted a final rule under subsection (a)(1), but such adjournment occurs—

(A) before the end of the period specified in subsection (a)(2); and

(B) before any action necessary to disapprove the final rule is completed under subsection (a)(2);

then the Commission shall be required to resubmit the final rule involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

(h)(1) Notwithstanding the provisions of section 21(i) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(i)), the Commission shall not use funds appropriated in this Act in connection with the promulgation of a final rule after

the date of the enactment of this Act and before January 1, 1983, unless the Commission submits such final rule to the Congress in accordance with section 21 of such Act (15 U.S.C. 57a-1).

(2)(A) Any final rule promulgated by the Commission through the use of funds appropriated in this Act and submitted to the Congress on or after January 1, 1983, shall be subject to the provisions of this section.

(B) In any case in which—

(i) the Commission submitted a final rule to the Congress under section 21 of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1) before January 1, 1983;

(ii) such final rule was disapproved by the Congress under section 21 of such Act (15 U.S.C. 57a-1); and

(iii) the Commission did not submit a final rule relating to the same acts or practices, under section 21(c) of such Act (15 U.S.C. 57a-1(c)), before January 1, 1983;

the Commission may submit a final rule relating to the same acts or practices in accordance with subsection (c).

(C) In any case in which the Commission would have been required to resubmit a final rule under section 21(g)(2) of the Federal Trade Commission Improvements Act of 1980 (15 U.S.C. 57a-1(g)(2)), but for the

expiration of such provision in accordance with section 21(i) of such Act (15 U.S.C. 57a-1(i)), as modified by the provisions of paragraph (1), the Commission shall be required to resubmit such final rule in accordance with subsection (g)(2).

(i) For purposes of this section:

(1) The term "Commission" means the Federal Trade Commission.

(2) The term "concurrent resolution" means a concurrent resolution the matter after the resolving clause of which is as follows: "That the Congress disapproves the final rule promulgated by the Federal Trade Commission dealing with the matter of —, which final rule was submitted to the Congress on —." (The blank spaces shall be filled appropriately.)

(3) The term "rule" means any rule promulgated by the Commission pursuant to the Federal Trade Commission Act (15 U.S.C. 41 et seq.), other than any rule promulgated under section 18(a)(1)(A) of such Act (15 U.S.C. 57a(a)(1)(A)).

By Mr. WALKER:

—On page 25, after line 23, insert the following new section:

Sec. 203. No funds appropriated under this act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SENATE—Thursday, August 12, 1982

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

In the words of scripture, *Husbands love your wives as Christ loved the church and gave Himself for it . . . Ephesians 5:25, (KJV) . . . fathers do not frustrate your children . . . Ephesians 6:4, (RSV).*

Father in heaven, Thy Word is unequivocal in its teaching that the family is the nucleus of society, the basic unit of social order. History teaches that no culture can survive the disintegration of the home; and no unit of society—school, community or church—can replace parents or compensate for failure in the family. Forgive those of us who give family such a low priority.

Gracious God, help the Senate to take seriously the family, to put the family on its agenda. Help it not to perpetuate schedules that are destructive of family life. Help the Senators not to be so busy trying to save the Nation that they let their children go to hell. In the name of Thy Son. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the time for the two leaders has expired, the Senator from Florida (Mr. CHILES) will be recognized on special order for 15 minutes, to be followed by a period for the transaction of routine morning business in which Senators may speak for not more than 3 minutes each and to extend not past 10:45 a.m.

At 10:45 a.m. or the closing of the time for the transaction of routine

morning business, whichever occurs first, the Chair under the previous order will lay before the Senate S. 2222, calendar order No. 665, the Immigration Reform and Control Act of 1982, as was arranged yesterday and subject to an objection by the minority leader.

Mr. President, the Senate will continue the debate of the immigration bill during the day today. I have not yet conferred with the distinguished manager of the bill, the Senator from Wyoming, on how late he would propose to stay in tonight.

I remind Senators that for 2 weeks now we have been on notice that in these final days before our August recess it may be necessary to ask the Senate to remain past the usual recess or adjournment hour of 6 p.m. on any evening, and such is the case today. If we can make good progress on this bill, if the managers on both sides wish to stay past 6 p.m., I advise my colleagues that we will stay past 6.

Mr. CHILES. Is that past 6 today or tomorrow?

Mr. BAKER. Today.

Mr. President, it is my hope that we could finish this bill even today. Once again, I will confer with the managers on both sides about that when we have an opportunity to confer. If we cannot do that, then we will be on the bill tomorrow and there will be votes tomorrow.

Mr. President, I will try to have a further announcement in respect to the schedule later in the day after I have had an opportunity to confer with Senators, and especially with the minority leader.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished majority leader will yield, I am ready to state that there is no objection on this side of the aisle to proceeding with the immigration bill today.

Mr. BAKER. I thank the Senator.

Mr. ROBERT C. BYRD. Secondly, I should like to ask the distinguished majority leader, if I may, what his plans are, if he can state them at this time, with respect to the antitrust bill?

Mr. BAKER. Yes.

Mr. ROBERT C. BYRD. And the bankruptcy bill.

Mr. BAKER. I thank the Senator.

Mr. President, on the antitrust bill—that is S. 995—I have had a number of inquiries about whether that might be scheduled prior to the August 20 recess. My reply has been and is now to the distinguished minority leader that having stated a must list that we

must deal with in order to go out on August 20, I would not anticipate that S. 995 could be called up before August 20, unless we have finished all of the items on the must list, and that would include the debt limit. If we have finished all of the items on the must list before August 20, then I would be perfectly willing to try to proceed to S. 995 before August 20 but only on that condition.

I might say, parenthetically, that I have no desire to bottle up S. 995. It would be my intention to schedule it at some point after the August recess if we cannot reach it before August 20.

On the bankruptcy reform bill, I must say to my friend, the minority leader, I have not conferred with my staff on that and I will do so and give him a further statement at that time.

Mr. ROBERT C. BYRD. I thank the majority leader.

Mr. BAKER. Mr. President, I have no need for any further time that remains under the standing order. I offer it to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader. I accept his offer of time and will yield it back to him if I do not use it.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. KASTEN). The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield 3 minutes to the distinguished Senator from Wisconsin and the remaining time to the distinguished Senator from Florida (Mr. CHILES).

CARNEGIE PANEL OF EXPERTS ASSESSES NUCLEAR BALANCE

Mr. PROXMIER. Mr. President, the Carnegie Endowment recently assembled a panel of 32 experts in diplomacy, international relations, and nuclear warfare for a conference on the status of the nuclear balance. The results of their deliberations are important to the Senate's continuing review of the relative balance of power between the U.S.S.R. and the United States.

The panel has made a number of distinct and pertinent observations. First, they conclude that the command, control, and communications capabilities of this Nation are our weakest link in the nuclear preparedness field. The ability to react to warnings; the response time to place strategic systems

on higher levels of alert; the need for clear and unambiguous channels of communications—all of these are generally not discussed by Congress in the same detail as the more glamorous weapons systems. Yet command and control is, in many ways, more important, not only to our war fighting ability, but to arms control and the elimination of risk taking.

The panel also concluded that the United States is not vulnerable to a blinding attack and that a surprise attack is not likely. When coupled with their stated analysis that the United States and Soviet strategic forces are in rough balance, this provides a much welcomed relief from the more alarmist positions taken by some in the administration.

The Carnegie experts did not conclude their analysis without addressing the long-term goals of our strategic program. They called for improving the deterrent capability of the U.S. submarine force and bomber force. They suggested that more time and attention be spent on antisubmarine warfare research. And in a more controversial point, they recommended developing more and larger accurate weapons for our land-based ICBM's. This latter argument does not carry the same weight of logic as the others, it seems to me, given the increasing vulnerability of all fixed based land systems. We should be considering alternatives to vulnerable land-based systems rather than improving their warhead characteristics.

Mr. President, I ask unanimous consent that a Milwaukee Journal article about the Carnegie panel be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Milwaukee Journal, Aug. 6, 1982]

UNITED STATES CAN RESPOND TO FIRST STRIKE

WASHINGTON, D.C.—UPI—Although the command and communications system controlling U.S. nuclear forces is the country's "weakest link," the nation is not vulnerable to a first strike that would knock out its ability to respond, a panel of experts says.

The Carnegie Endowment's Panel on U.S. Security and the Future of Arms Control said that, without remedial steps in communications, the U.S. ability to respond to an attack—given a warning of as little as 10 minutes—was questionable.

But, it said, even with the existing communications system, the U.S. is not vulnerable to a "blinding attack" that would knock out its early warning system or prevent the president or his successors from issuing orders for a "controlled and effective response."

Survival of the decision-making authority is essential, the panel said.

"Convincing the Soviet Union that the United States could continue to manage its forces effectively after a Soviet attack in itself makes an important contribution to deterrence," it concluded.

At the same time, the panel said, a surprise attack is unlikely.

"A real risk of outbreak of nuclear war is far more likely to arise in the context of a grave crisis, in which external pressures, not abstract calculations of the theoretical possibility of a surprise decapitating strike, might make Soviet leaders think seriously about a nuclear attack and be prepared to take greater risks," the panel said.

The panel—composed of 32 policy-makers, business leaders, technical experts and military strategists—includes Brent Scowcroft, the national security adviser in the Ford administration; Leslie Gelb, chief of State Department's Bureau of Politico-Military Affairs in the Carter administration; and Gen. Robert Pursley, former commander of U.S. forces in Japan.

With U.S. and Soviet forces in "rough balance," the panel said, "political and psychological factors"—especially perceptions of how vulnerable U.S. forces are to a debilitating first strike—assume greater importance.

SOVIETS GIVEN EDGE

President Reagan said at a news conference March 21 that the Soviet Union had "a definite margin of superiority," and "the Soviets' great edge is one in which they could absorb our retaliatory blow and hit us again" after launching a first strike.

However, the panel said, the strength of the U.S. nuclear arsenal is its reliance on a triad of overlapping forces—land-based missile, sea-launched missiles and bombers.

"To the extent that we exaggerate the significance of the vulnerability of one component of our forces and fail to put it into the context of overall vulnerability, we inflict this political damage upon ourselves," it said. "In this sense, rhetoric about a 'window of vulnerability' is not helpful."

The study acknowledged that the vulnerability of America's 1,052 land-based intercontinental ballistic missiles had increased as the Soviets built larger and more accurate missiles.

Failure to resolve the problem, it added, is eroding the U.S. ability to deter a Soviet attack and "could lead U.S. allies to reassess their dependence on the American nuclear guarantee."

Among the things the panel recommended were:

Larger and more accurate warheads for land-based missiles.

Larger and more accurate submarine-launched missiles.

Advances in technology to counter improved Soviet antisubmarine warfare.

Deployment of new cruise missiles aboard bombers better protected against attack.

The panel recommended continued emphasis on arms controls, despite its mixed results over the years.

REVIVAL OF KHATYN CONTROVERSY—ANOTHER REMINDER TO TAKE ACTION AGAINST GENOCIDE

Mr. PROXMIER. Mr. President, approximately 40 years ago, 4000 to 10,000 Polish officers were brutally murdered in the Khatyn Forest of the Soviet Union. Just who was responsible for the mass murder is a controversy that has yet to be resolved. Last week in Russia, a protest by a Nordic group was staged in order to revive that controversy.

The dispute over whether the executions of those Polish officers were ordered and carried out by the Soviets or

the Nazis is not the focus of my remarks. The point is that such brutal murders, in fact, did occur.

Mr. President, 40 years ago, this world witnessed the systematic annihilation of not only those Polish officers, but millions upon millions of other innocent lives. Those instances, and countless others, have left their mark on all historically conscious and compassionate human beings.

This mark, which has already stained the continents of Africa, South America, Asia, and Europe, was so significant that the world decided to adopt a treaty that would make acts committed with the "intent to destroy, in whole or in part, a national, ethnical, racial, or religious group," an international crime. The International Convention on the Prevention and Punishment of the Crime of Genocide was unanimously adopted by the General Assembly of the United Nations on December 9, 1948. Since that time, 88 nations have given their full support to the convention. The United States stands alone in our refusal to ratify this treaty.

Mr. President, the controversial incident which I cited in my opening paragraph is a poignant reminder that the experiences of genocide will never simply vanish.

What went on many years ago, whether it happened to the Polish officers, the Jews, the Armenians, or any group which has suffered this unthinkable crime, cannot be changed. What can be dramatically altered is the way a newer, more sophisticated, more compassionate, and more experienced world will handle such matters in the future.

We all must hope that 40 years from now, newer controversies, like the one in Khatyn, will not arise. I urge the Senate to help make this abstract concept of hope an admirable reality. Let us ratify the Genocide Convention.

Mr. President, I thank the Democratic leader, and I yield the floor.

THE CALENDAR

Mr. BAKER. Mr. President, is the distinguished minority leader in a position at this time to consider certain items that may be dealt with by unanimous consent according to our calendar?

Mr. ROBERT C. BYRD. Mr. President, we are ready to go forward on this side.

I yield back to the majority leader such time as he may require from the time of the two leaders under the standing order.

Mr. BAKER. I thank the Senator. I appreciate the typical cooperation of the minority leader in that respect.

Mr. President, there are several items, and I will go through them as they appear in my folder.

NATIONAL COIN WEEK

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 516, a resolution to designate April 17 to 23, 1983, as National Coin Week, and I ask for its immediate consideration.

Mr. ROBERT C. BYRD. There is no objection, Mr. President.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 516) to provide for the designation of April 17 to 23, 1983, as National Coin Week.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution (H.J. Res. 516) was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I am pleased that the Senate has approved today House Joint Resolution 516 to authorize the President to issue a proclamation designating the week of April 17 through 23, 1983, as "National Coin Week."

Coin collecting is a hobby enjoyed by millions of Americans. Coins are also popular as investments. There are few cities in the United States of any size that do not have a coin club. Numismatists are enthusiastic about their hobby and enjoy the opportunity to introduce noncollectors to this interesting and educational hobby.

National Coin Week was first introduced in 1924, and is now an annual event. Celebration of a "National Coin Week" provides an opportunity to coin collectors to foster the interest of young and old in a subject that is entertaining and instructive, as well as valuable in encouraging thrift.

I am pleased to cooperate in this effort.

POTATO RESEARCH AND PROMOTION ACT

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 2160.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendments of the Senate to the bill (H.R. 2160) entitled "An Act to amend the Potato Research and Promotion Act."

Mr. ARMSTRONG. Mr. President, it is often said that nothing is ever as easy as it seems. There was never a more clear example than this legislation, H.R. 2160, the Potato Research and Promotion Act Amendments of 1982. Making such a simple change in a simple law, a change that affects no one on Earth except potato growers and costs the taxpayers nothing, has been one of the more difficult pieces of legislation to move that I have been associated with.

I introduced the original Senate version of this bill, S. 862, on April 2, 1981—nearly 17 months ago. The bill was talked about a great deal early this year in the Agriculture Committees of both Houses. It was finally reported out of the Senate Agriculture Committee on March 31 of this year, but with an amendment that has greatly hindered the progress of the bill. Since this version had already passed the House, it would have made more sense, I think, to have simply passed it without amendment, so that the Nation's potato growers could continue a program that is very important to them. Instead, the presence of the Senate amendment forced it back into the House Agriculture Committee and the process began again.

The House wisely, in my view, returned the measure to us for action, again without the earlier amendment—which I might say was totally unrelated to the scope of this legislation.

The original Potato Research and Promotion Act was signed into law in January of 1971 and approved by a growers referendum shortly thereafter. The act established the National Potato Promotion Board under the Secretary of Agriculture, and authorized the board to assess potato growers up to 1 cent per hundredweight to fund advertising and marketing programs, export promotion, and to provide research assistance to the potato industry. The problem was that Congress did not foresee the rate of inflation we have faced since that time. As a result of steadily increasing prices, the fund provided by this "checkoff" system is simply inadequate for its purpose.

The current 1 cent assessment generates about \$2.5 million per year, representing over 97 percent grower participation in the program. Participation is strictly voluntary, though nearly all producers choose to take part, indicating strong producer support for the program.

Since 1971, though, the Consumer Price Index has risen over 100 percent, and the fund does not provide enough money for the kind of research and promotion that the producers want. This bill would provide additional funds by putting the checkoff level on a formula basis, like many other similar promotion boards, based on the av-

erage price of potatoes over the previous 10 years. In this way, the price could be adjusted as consumer prices change, up or down. In current dollars, the fund could then be increased to around \$5 million in the next year, with modest increases in later years.

It must be made clear that we are not talking about tax dollars. This is a program where potato growers can choose whether or not they wish to contribute to their own board. In fact, it is ludicrous on the surface that allowing people to contribute more of their own money to their own fund for their own purpose requires an act of Congress, but it does.

Finally, I want to point out that even with the adoption of this bill, producers will still have to approve the change in a referendum, and each individual producer will still have the opportunity to decline participation. This is a noncontroversial bill, since it affects only potato growers and results in no cost to the taxpayer.

I thank the Agriculture Committee chairman, Senator HELMS, for his help on this important bill, and urge my colleagues to support it.

Mr. SYMMS. Mr. President, I rise to support the passage of H.R. 2160 the Potato Research and Promotion Act.

The bill, which passed the House on March 9 and the Senate on May 5, 1982, will authorize a mechanism necessary to generate increased and much needed revenues from direct assessments to the Nation's potato producers. More specifically, it will change the method by which this assessment is calculated. Rather than a flat 1 percent per hundredweight, it would allow the National Potato Promotion Board to determine the assessment, so long as it does not exceed one-half of 1 percent of the average potato price received by growers over the past 10-year period.

These funds are used for research and development assistance, export promotion, and advertising and marketing of potatoes. It is a worthy cause, but it also carries with it a sense of urgency. Not only are current assessments insufficient to meet costs that have risen markedly over the past decade, but congressional action only opens the door for a producer referendum to approve the new assessment formula. Consequently, I note with concern and a growing sense of urgency the unfortunate delays that have plagued congressional action on H.R. 2160 and I urge its prompt adoption by this body.

Mr. BAKER. Mr. President, I move that the Senate recede from its amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EMERGENCY SERVICES IMPROVEMENT ACT OF 1982

Mr. BAKER. Mr. President, Calendar No. 701, S. 2625, as has been cleared for action on this side, if it is agreeable to the minority leader.

Mr. ROBERT C. BYRD. Yes, Mr. President, that is agreeable.

Mr. BAKER. I ask unanimous consent that the Senate proceed to the consideration of S. 2625.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2625) to amend the Federal Property and Administrative Services Act of 1949 to make Federal surplus property more accessible to local emergency preparedness and volunteer firefighting organizations and to authorize and direct the Federal Emergency Management Agency to recommend available Federal surplus to the Administrator of the General Services Administration for transfer to such organizations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 2, line 3, beginning with "section", strike through and including "amended", and insert the following:

"This bill may be cited as the 'Emergency Services Improvement Act of 1982'.

SECTION 1. Section 484(j) of title 40, United States Code is amended":

On page 2, line 19, strike "educational";

On page 3, line 12, strike "206", and insert "207";

On page 3, line 20, strike "excess", and insert "surplus";

On page 3, line 23, strike "excess", and insert "surplus";

On page 4, line 11, strike "207(a).", and insert "208(a).";

On page 4, line 13, strike "206", and insert "207"; and

On page 4, in the material after line 14, strike "207.", and insert "208."

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this bill may be cited as the "Emergency Services Improvement Act of 1982".

SECTION 1. Section 484(j) of title 40, United States Code, is amended by striking subsection (j)(2) and inserting in lieu thereof the following new paragraph:

"(2)(A) In the case of surplus personal property under the control of the Department of Defense, the Secretary of Defense shall determine whether such property is usable and necessary for the civil defense needs of the United States or for educational activities which are of special interest to the armed services, such as maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools. If the Secretary determines that such property is usable and necessary for said purposes, the Secretary shall allocate it for transfer by the Administrator to the appropriate State agency for distribution, through donation, to such activities. If the Secretary determines that

such property is not usable and necessary for such purposes, it may be disposed of in accordance with paragraph (3) of this subsection.

"(B) Before making any determination concerning the property described in paragraph (2)(A), the Secretary shall confer with and ask the guidance of the Director of the Federal Emergency Management Agency. The Director shall continuously review the available property under the control of the Department of Defense and shall immediately notify the Secretary whenever he has identified property appropriate for civil defense purposes.

"(C) The Director shall notify the Congress whenever the Secretary has refused to accept his recommendation to allocate property to the Administrator of the General Services Administration as provided under subsection (2)(A)."

SEC. 2. (a) The Federal Civil Defense Act of 1950 is amended by inserting after section 207 the following new section:

"TRANSFER OF PROPERTY TO STATE AND LOCAL GOVERNMENTS

"SEC. 208. (a) Upon notification of the Administrator of General Services in accordance with the Federal Property and Administrative Services Act of 1949 by any agency other than a department or organization within the Department of Defense that such agency has surplus property under its control, the Director shall be notified by the Administrator of General Services of the availability of such surplus property. Before transferring or allocating any such property, the Administrator shall consult with and ask the guidance of the Director of the Federal Emergency Management Agency concerning which such property would be suitable for civil defense purposes. The Administrator shall carefully and completely consider the recommendations of the Director and, based on such recommendations, shall transfer property to the appropriate State agency for distribution to the civil defense organizations identified by the Director.

"(b) The Director shall notify the Congress whenever the Administrator has refused to accept his recommendations to transfer property identified by the Director as provided in section 208(a)."

(b) The table of contents of such Act is amended by inserting after the item relating to section 207 the following new item:

"Sec. 208. Transfer of property to State and local governments."

Mr. ROTH. Mr. President, I am pleased that the Senate is acting today on legislation which I first introduced 3 years ago. This bill is intended to improve the availability of surplus Federal property to State and local emergency services organizations by establishing emergency preparedness as an important national priority. I believe the legislation is an efficient and effective way to assist State and local emergency preparedness organizations perform their lifesaving duties and I urge my colleagues to support it.

The Emergency Services Improvement Act would help address the needs of State and local emergency and disaster preparedness organizations for trucks, generators, firehoses, tools, and other emergency supplies. Currently, there are over 1½ million volunteer firefighters, 28,000 fire companies, some 6,000 civil defense agen-

cies, and countless local rescue squads providing services to their local communities in fighting fires, rescuing and treating hurt or trapped persons, and planning for natural or manmade disasters. Many of these organizations are volunteer based and operate on funds raised from private sources. They do not have the time or the money to become knowledgeable concerning Federal property programs and have found themselves, over the past 5 years, less and less accessible to Federal personal property declared as surplus.

Before 1977, many of these groups relied, to some degree, on their ability to obtain usable surplus equipment from the Federal Government to help them maintain and improve their services. Most often, the property they obtained was old and in a state of disrepair but they utilized their talents to restore the equipment to working order. In many cases, the trucks and generators they received were of Korean war vintage and their willingness and ability to devote considerable time and effort to revamp the aged Federal equipment was commendable. My Committee on Governmental Affairs received dozens of letters and photographs detailing how the equipment was being rebuilt and used from local disaster preparedness groups across the country.

Changes made in the law in the 1970's greatly reduced the availability of surplus Federal personal property to State and local firefighting rescue and civil defense organizations. Civil defense organizations at the local level have operated for many years as coordinating groups for all disaster preparedness organizations in their efforts to acquire surplus personal property from the Federal Government. In 1976, over \$170 million worth of surplus equipment was sent through civil defense organizations to volunteer firefighting companies, sheriffs' offices, and rescue squads. Last year, only \$30 million went to these same organizations. Many civil defense organizations have been unable to acquire equipment for disaster preparedness groups in their areas.

Local emergency preparedness organizations make good use of available Federal surplus property. In my own State, the Frankford Volunteer Fire Co., used surplus military equipment in the blizzard of 1980 to provide shelter and aid to 35 people in its firehouse. One of my constituents, Mr. Wayne Ellingsworth, director of Sussex County, Del., Department of Emergency Services, noted in testimony before my committee concerning a severe blizzard which struck the county in 1980:

Most of our success in saving lives during this blizzard was attributed to those 41 four-wheel drive vehicles that my department

had acquired through the excess equipment program then administered by the Defense Civil Preparedness Agency.

Mr. President, S. 2625 would establish emergency preparedness in the law as a priority need for the donation of surplus Federal property. It would require the Federal Emergency Management Agency (FEMA) to continuously survey available Federal property in the Defense Department and the civilian agencies to locate equipment appropriate for emergency services. When such equipment is found, FEMA would notify the General Services Administration (GSA) to transfer it to local emergency service organizations. GSA is the agency responsible for Federal property programs. The bill also specifically requires the Defense Department to consider the emergency preparedness needs of local organizations before sending its surplus equipment to the GSA for final disposal.

I think this legislation will improve the access of State and local emergency preparedness organizations to available surplus Federal property. It represents a cost-effective method of enhancing the ability of local volunteer fire and rescue squads to perform their lifesaving duties without increasing local taxes. I strongly urge my colleagues to support this measure.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, I intend to proceed to a budget waiver which is on the calendar as No. 738, Senate Resolution 434, and the waiver is to accompany Calendar No. 704, H.R. 6260, if that is agreeable to the minority leader.

Mr. ROBERT C. BYRD. Mr. President, both requests are agreeable.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate Resolution 434.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 434) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6260.

The resolution (S. Res. 434) was considered and agreed to, as follows:

S. RES. 434

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6260. Such waiver is necessary because H.R. 6260 authorizes appropriations for the Patent and Trademark Office which includes the implementation of new patent and trademark fee schedules on October 1, 1982, and such a bill or a companion Senate bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974.

The waiver of section 402(a) is necessary to permit enactment of H.R. 6260 in a timely manner so (1) the Patent and Trademark Office of the Department of Commerce can be authorized for fiscal years 1983, 1984, and 1985, and (2) new patent and trademark fee schedules can be implemented by October 1, 1982. With regard to the latter point, time is of the essence since a notice period and hearing on the proposed fee schedules must occur prior to October 1, 1982.

The levels of appropriations authorized by H.R. 6260, although \$8 million above the President's request for fiscal year 1982, are supported by the Reagan administration and would be within budget outlay levels for that purpose.

The Appropriations Committees of the Senate and House of Representatives have therefore had adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere with or delay the appropriations process.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION OF APPROPRIATIONS TO THE PATENT AND TRADEMARK OFFICE

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 6260, which is the accompanying bill to the budget resolution just adopted.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6260) to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. WEICKER. Mr. President, I am pleased that the Senate is today considering H.R. 6260, a bill to amend Public Law 96-517, the University and Small Business Patent Procedures Act. This is the House-passed version of S. 2326, which I introduced 3 months ago with Senators THURMOND, DECONCINI, HATCH, and KENNEDY.

S. 2326 was originally introduced as a substitute to S. 2211, the administra-

tion's proposed amendment to Public Law 96-517, which would have required all recipients of U.S. patents to pay 100 percent of the cost of patent user fees to be set by the Patent Commissioner.

While I generally support the concept of user fees in this time of budgetary restraint, as a way of making the Patent and Trademark Office (PTO) more self-sufficient, I am concerned that the 100-percent recovery fees being proposed by the administration would have a strong chilling effect on those who have been demonstrated to be the most innovative, job producing, sector of our economy—small businesses and independent inventors.

Under the administration's proposal, all patent recipients would be required to pay a minimum of \$800 in filing and issuance fees, and a minimum of \$2,400 in maintenance fees. While these costs are not likely to pose a significant financial burden for large firms, they could discourage small businesses and independent inventors from applying for patents.

Mr. President, we cannot allow this to happen. It is a well-known fact that small businesses account for a far greater number of inventions and innovations than do large firms. Moreover, small firms have been shown to have a faster growth rate, to create more jobs, and to create them more rapidly, and to contribute substantially more to the U.S. economy in terms of taxes paid.

Imposing the kind of user fees proposed by the administration could be just the thing to bring the innovative sector of this marvelous small business economic engine to a halt. And I do not need to tell any of you who have been reading the business pages that this is not the time to present any sector of the small business community with more hurdles to surmount.

On the contrary, this is the time when we should be doing everything in our power to encourage the development of new ideas and small innovative businesses.

S. 2326, the bill which we are considering today in the amended version of H.R. 6260, was designed to recognize the particular economic needs and circumstances of innovative small businesses, as well as those of universities and independent inventors.

Mr. President, I do not believe the right to protect the exclusivity of an idea should be determined solely by the ability to pay. My bill would allow small businesses and inventors to continue to exercise their full innovative capacity, while at the same time allowing them the uncontested right of ownership of their ideas. That right, as well as the overall state of innovation in this country, would be seriously jeopardized, in my opinion, if small firms and independent inventors were

required to pay fees at the 100-percent level.

My bill would establish a two-tier system for the payment of patent user fees. Simply stated, it requires that large firms pay at the 100-percent level, while smaller firms, independent inventors, and nonprofit organizations would pay at a 50-percent level.

I believe this two-tier approach is both reasonable and feasible. In fact, I have been assured by the PTO that no undue difficulty in administering such a system is anticipated.

The House Judiciary Committee incorporated the main provisions of S. 2326 in H.R. 6260 and added a section permitting arbitration of patent disputes when agreeable to both parties involved in the controversy. In addition, while the Senate measure would have allowed one consumer price indexing adjustment of the fees specified in the bill, H.R. 6260, makes such adjustments automatic every 3 years. The House version was unanimously approved by the House Judiciary Committee on May 11 and passed the full House by a voice vote on June 8.

H.R. 6260, the amended version of S. 2326, is a good bill and I strongly urge the Senate to adopt it.

I should like to take this opportunity to thank my colleagues, Senators THURMOND, DeCONCINI, HATCH, and KENNEDY for their help in promoting this legislation.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, another budget waiver is Calendar No. 740, Senate Resolution 438, which is to accompany S. 2059. If there is no objection by the minority leader, I ask unanimous consent that the Senate proceed to the consideration of the budget resolution.

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 438) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2059.

The resolution (S. Res. 438) was considered and agreed to, as follows:

S. RES. 438

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration

of S. 2059, a bill to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes. Such waiver is necessary to permit reauthorization of funds for the functions of the Department of Justice under section 601(c) of the Ethics in Government Act of 1978, with respect to independent counsels appointed under chapter 39 of title 28, United States Code.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1982

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate S. 2059, calendar order No. 707, the subject matter of the budget waiver.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2059) to change the coverage of officials and the standards for the appointment of a special prosecutor on the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs with amendments, as follows:

On page 3, line 6, after "amended", insert "by";

On page 3, line 7, strike "by";

On page 3, line 10, strike "by";

On page 3, line 13, strike "by";

On page 3, line 22, strike "5315", and insert "5313";

On page 4, line 10, strike "incumbency"; and insert the following: "incumbency, but in no event longer than five years after the individual leaves office;

"(7) any individual described in paragraph (6) who continues to hold office for not more than 90 days into the term of the next President during the period such individual serves plus one year after such individual leaves office;

On page 4, line 18, strike "(7)", and insert "(8)";

On page 4, line 22, strike "director; and", and insert "director, during the incumbency of the President; and";

On page 4, line 24, strike "(8)", and insert "(9)";

On page 5, line 3, after "(a)", insert "(1)"; On page 5, after line 6, insert the following:

(2) Section 591 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the

provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice may result in a personal, financial, or political conflict of interest, or the appearance thereof."

On page 6, line 1, strike "section 591(a)", and insert "subsection (a) or (c) of section 591";

On page 6, line 15, strike "28", and insert "28 of the";

On page 6, line 16, strike "Code," and insert "Code";

On page 6, line 16, strike "'finds that'", and insert "'that'";

On page 6, line 21, strike "28," and insert "28 of the";

On page 6, line 22, strike "Code," and insert "Code";

On page 6, line 22, after "amended", insert "by";

On page 6, line 23, strike "by";

On page 7, line 2, strike "by";

On page 7, line 8, strike "by";

On page 7, line 11, after "written", insert "or other established";

On page 7, strike line 14, through and including line 17, and insert the following:

(e) Section 592(c)(2) of title 28 of the United States Code is amended—

(1) in clause (A) by striking out "specific information" and inserting in lieu thereof "information sufficient to constitute grounds to investigate"; and

(2) in clause (B) by striking out "such information warrants" and inserting in lieu thereof "reasonable grounds exist to warrant";

On page 8, line 12, after "for", insert "all or part of";

On page 9, line 5, strike "by", through and including line 7, and insert the following: by—

(1) striking out "to the extent that such special prosecutor deems appropriate" and inserting in lieu thereof "except where not possible"; and

(2) striking out "written policies" and inserting in lieu thereof "written or other established policies";

On page 9, line 19, after "written", insert "or other established";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Ethics in Government Act Amendments of 1982".

SEC. 2. (a)(1) Chapter 39 of title 28 of the United States Code is amended by—

(A) striking out "special prosecutor" wherever it appears and inserting in lieu thereof "independent counsel"; and

(B) striking out "special prosecutors" wherever it appears and inserting in lieu thereof "independent counsel's";

(2) The tables of chapters for titles 28 of the United States Code and for part II of title 28 are amended by striking out the item relating to chapter 39 and inserting in lieu thereof the following new item: "39. Independent Counsel."

(b)(1) Section 49 of title 28 of the United States Code is amended by—

(A) striking out "special prosecutor" wherever it appears and inserting in lieu thereof "independent counsel";

(B) striking out "special prosecutors" wherever it appears and inserting in lieu thereof "independent counsels"; and

(C) striking out "special prosecutor's" wherever it appears and inserting in lieu thereof "independent counsel's".

(2) The item for section 49 in the table of sections for chapter 3 of title 28 of the United States Code is amended by striking out "special prosecutors" and inserting in lieu thereof "independent counsels".

(c) Title VI of the Ethics in Government Act of 1978 is amended by—

(1) striking out "SPECIAL PROSECUTOR" in the heading for section 601 and inserting in lieu thereof "INDEPENDENT COUNSEL";

(2) striking out "special prosecutors" in subsection (c) of section 601 and inserting in lieu thereof "independent counsels"; and

(3) striking out "SPECIAL PROSECUTORS" in the heading for section 602 and inserting in lieu thereof "INDEPENDENT COUNSELS".

Sec. 3. Paragraphs (3) through (6) of subsection (b) of section 591 of title 28 of the United States Code are amended to read as follows:

"(3) any individual working in the Executive Office of the President who is compensated at or above a rate equivalent to level II of the Executive Schedule under section 5313 of title 5;

"(4) any Assistant Attorney General and any individual working in the Department of Justice compensated at a rate at or above level III of the Executive Schedule under section 5314 of title 5;

"(5) the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the Commissioner of Internal Revenue;

"(6) any individual who held any office or position described in any of paragraphs (1) through (5) of this subsection during the period consisting of the incumbency of the President such individual serves plus one year after such incumbency, but in no event longer than five years after the individual leaves office;

"(7) any individual described in paragraph (6) who continues to hold office for not more than 90 days into the term of the next President during the period such individual serves plus one year after such individual leaves office;

"(8) the chairman and treasurer of the principal national campaign committee seeking the election or reelection of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director, during the incumbency of the President; and

"(9) the President's spouse, the President's children and their spouses, and the President's parents, brothers and sisters and their spouses during the incumbency of the President."

SEC. 4. (a)(1) Section 591(a) of title 28 of the United States Code is amended by striking out "specific information" and by inserting in lieu thereof "information sufficient to constitute grounds to investigate".

(2) Section 591 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(c) Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice

may result in a personal, financial, or political conflict of interest, or the appearance thereof."

(b) Section 592(a) of title 28 of the United States Code is amended to read as follows:

"(a)(1) Upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate that any person covered by the Act has engaged in conduct described in subsection (a) or (c) of section 591 of this title, the Attorney General shall conduct, for a period not to exceed ninety days, such preliminary investigation of the matter as the Attorney General deems appropriate. In determining whether grounds to investigate exist, the Attorney General shall consider—

"(A) the degree of specificity of the information received, and

"(B) the credibility of the source of the information.

"(2) In conducting preliminary investigations pursuant to this section, the Attorney General shall have no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas."

(c) Section 592(b)(1) of title 28 of the United States Code is amended by striking out "that the matter is so unsubstantiated that no further investigation or prosecution is warranted" and inserting in lieu thereof "that there are no reasonable grounds to believe that further investigation or prosecution is warranted".

(d) Section 592(c)(1) of title 28 of the United States Code is amended by—

(1) striking out "finds that the matter warrants further investigation or prosecution" and inserting in lieu thereof "finds reasonable grounds to believe that further investigation or prosecution is warranted";

(2) striking out "that the matter is so unsubstantiated as not to warrant further investigation or prosecution" and inserting in lieu thereof "that there are no reasonable grounds to believe that further investigation or prosecution is warranted"; and

(3) adding at the end thereof the following new sentence: "In determining whether reasonable grounds exist to warrant further investigation or prosecution, the Attorney General shall comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws."

(e) Section 592(c)(2) of title 28 of the United States Code is amended—

(1) in clause (A) by striking out "specific information" and inserting in lieu thereof "information sufficient to constitute grounds to investigate"; and

(2) in clause (B) by striking out "such information warrants" and inserting in lieu thereof "reasonable grounds exist to warrant".

SEC. 5. Section 593 of title 28 of the United States Code is amended by adding at the end thereof the following new subsections:

"(f) Upon a showing of good cause by the Attorney General, the division of the court may grant a single extension of the preliminary investigation conducted pursuant to section 592(a) of this title for a period not to exceed 6 days.

"(g) Upon request by the subject of an investigation conducted by an independent counsel pursuant to this chapter, the division of the court may, in its discretion, award reimbursement for all or part of the attorney's fees incurred by such subject during such investigation if—

"(1) no indictment is brought against such subject; and

"(2) the attorney's fees would not have been incurred but for the requirements of this chapter."

SEC. 6. (a) Subsection (a) of section 594 of title 28 of the United States Code is amended by—

(1) striking out "and" at the end of paragraph (8);

(2) striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon and "and"; and

(3) adding after paragraph (9) the following:

"(10) consulting with the United States Attorney for the district in which the violation was alleged to have occurred."

(b) Subsection (f) of section 594 of title 28 of the United States Code is amended by striking out "to the extent that such special prosecutor deems appropriate" and inserting in lieu thereof "except where not possible", by—

(1) striking out "to the extent that such special prosecutor deems appropriate" and inserting in lieu thereof "except where not possible"; and

(2) striking out "written policies" and inserting in lieu thereof "written or other established policies".

(c) Section 594 of title 28 of the United States Code is amended by adding at the end thereof the following new subsection:

"(g) The independent counsel shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws."

(d) Paragraph (1) of subsection (a) of section 596 of title 28 of the United States Code is amended by striking out "extraordinary impropriety" and inserting in lieu thereof "good cause".

SEC. 7. Section 598 of title 28 of the United States Code is amended by striking out "after the date of enactment of this chapter" and inserting in lieu thereof "after the date of enactment of the Ethics in Government Act Amendments of 1982".

Mr. COHEN. Mr. President, I am pleased that the Senate is considering today S. 2059, the Ethics in Government Act Amendments of 1982. This bill would amend the special prosecutor provisions of the Ethics in Government Act of 1978 to better insure impartial investigations of high-ranking executive branch campaign officials, as well as members of the President's family, and to remove inequities from the present law. Six of my distinguished colleagues—Senators LEVIN, RUDMAN, EAGLETON, STEVENS, SCHMITT, and SASSER—are cosponsors of my legislation, which was unanimously reported by the Committee on Governmental Affairs on June 17.

In the almost 4 years since the Ethics Act was passed, there has been substantial criticism of the special prosecutor provisions. Much of this publicity stemmed from the controversial nature of the first two cases in which special prosecutors were appointed pursuant to the act: two Carter administration officials were investigated for alleged possession of

cocaine. After extensive investigation, prolonged media attention, and high costs to both the Government and the officials investigated, the special prosecutor in each case concluded that there was no basis for an indictment. Some critics, however, have expressed larger concerns about the special prosecutor process itself, saying that the law creates unfairness by applying a higher standard of criminal law to public officials and that the act usurps the legitimate discretion and prosecutorial authority of the Attorney General.

To evaluate these and other concerns, the Subcommittee on Oversight of Government Management has studied the special prosecutor law for over a year. Last year, the subcommittee held extensive hearings on the law at which we received testimony from both its strong supporters and its critics. S. 2059 would implement recommendations which we made as a result of our investigation and hearings.

S. 2059 retains the basic structure of the current law because the subcommittee concluded that dangers of conflict of interest were not unique to Watergate, but rather are inherent in our system of government. As a political appointee of the President, a close adviser to the President, and part of an administration which hopes to gain political success, an Attorney General may be placed in a difficult situation when investigating allegations against a senior executive official. Even when such an investigation is truly handled impartially, the public may doubt that it was if the official is cleared by the Department. In other cases, the Attorney General may bend over backward and prosecute an official when prosecution is not warranted, in order to avoid the appearance of favoritism.

When such conflicts of interest exist, or when the public perceives there to be a conflict, public confidence in the investigation of public officials is eroded, if not totally lost. By providing a special prosecutor to conduct impartial and thorough investigations of officials, the present law guards against conflicts of interest and guarantees that public officials are not above the law.

The recent case of Secretary of Labor Donovan illustrates clearly the importance of the special prosecutor process to the official involved, the public, and the administration. In December of last year, Leon Silverman was appointed special prosecutor to investigate allegations of bribery and related offenses by Secretary Donovan. After conducting a thorough investigation, Mr. Silverman issued a fully documented report in which he concluded that there was insufficient credible evidence on which to base an indictment on any allegation. When Mr. Silverman's findings were made public, the cloud of suspicion was lifted from

Secretary Donovan. The public and the press accepted the findings of the special prosecutor as impartial and thorough. I do not doubt that the Department of Justice could have performed the same type of investigation; however, the same level of public confidence could not have been achieved if the Attorney General, a fellow Cabinet member of Secretary Donovan, had conducted the investigation and reached an identical conclusion.

S. 2059 reaffirms the need for the special prosecutor law by extending it for 5 years.

An endorsement of the special prosecutor process does not mean, however, that the present law is perfect. To the contrary, our investigation and hearings revealed that there are substantial weaknesses in the Ethics Act. The foremost problem is that the law has created unfairness by imposing a stricter application of criminal law on public officials. This inequity results from the very low standards for triggering a preliminary investigation and for appointing a special prosecutor. These standards leave the Attorney General little practical opportunity to dismiss even frivolous allegations without seeking a special prosecutor. This process subjects officials to exhaustive, costly, and lengthy investigations in cases which would not ordinarily be pursued against private citizens. For example, in both the Hamilton Jordan and Timothy Kraft cases, special prosecutors were appointed to investigate alleged possession of cocaine by these officials despite the fact that the Department of Justice rarely prosecutes for possession of cocaine in the quantities alleged.

The subcommittee also concluded that the coverage of the present law is flawed. The act does not cover persons who create great dangers of conflict of interest—the President's family—yet at the same time it covers persons who present little realistic dangers of conflict—for example, middle-level executive officials and officials who have long since left public service.

S. 2059 would remedy these and other problems of the present law. First, it would revise the standard which triggers a preliminary investigation to allow the Attorney General to consider the credibility of the accuser, as well as the specificity of the information, in deciding whether to pursue an allegation.

Second, the bill would tighten the standard for appointment of a special prosecutor from the present very low threshold requiring appointment unless the matter is "so unsubstantiated that no further investigation or prosecution is warranted" to one requiring appointment when the Attorney General "finds reasonable grounds to believe that further investigation or prosecution is warranted." In determining whether reasonable grounds

exist, the Attorney General would follow the written or other established prosecutorial policies of the Department of Justice. These changes would enable the Attorney General to screen out allegations which would not ordinarily be prosecuted, while assuring that serious cases are sent to a special prosecutor. Permitting the Attorney General to follow the prosecutorial guidelines of the Department, which govern ordinary criminal cases, would remove a major inequity in the law.

Third, S. 2059 would amend the law so that its coverage more closely reflects those instances posing the greatest danger of conflict of interest. It would restrict coverage to only those officials who occupy top-level executive branch positions close to either the President of the Attorney General but would extend coverage to members of the President's family. It would also more clearly define which campaign officials are subject to the act. In addition, the bill would permit the Attorney General to use the special prosecutor process to investigate an individual not otherwise covered by the act, such as a very close friend of the President, if a Department of Justice investigation of this person would create conflicts of interest. Other provisions of S. 2059 would limit and standardize the coverage of officials under the act, so that officials would no longer be covered for many years after they leave office.

S. 2059 also would make the law less burdensome to both the Government and the subject of the special prosecutor investigation. By changing the name of the special prosecutor to "independent counsel," this legislation would remove the Watergate connotation from an investigation. S. 2059 also would authorize the court to award attorneys' fees to the subject of a special prosecutor investigation under strictly limited circumstances.

Additional provisions would check the potential for abuse of power by the special prosecutor by requiring him or her to follow prosecutorial guidelines of the Department of Justice, by expressly enabling him or her to dismiss a case without further investigation and to consult with the U.S. attorney, and by allowing removal of a special prosecutor for the more definable standard of "good cause."

S. 2059 recognizes that statutory independence of a special prosecutor is crucial to public confidence in the prosecutor's findings and decisions. In amending the removal standard, S. 2059 retains three important provisions of the present law which guard against unwarranted removal of the special prosecutor. Upon removing a special prosecutor, the Attorney General must file reports with the court and the Judiciary Committees of both the Senate and the House fully speci-

fying the facts and grounds underlying the removal. These reports may be released to the public. S. 2059 also retains the provisions of present law that enable a special prosecutor to obtain judicial review of his removal and permit the court to reinstate the special prosecutor or to provide other appropriate relief for improper removal. By retaining these protections, I am confident that S. 2059 in no way compromises the independence of the special prosecutor.

Mr. President, it is crucial that the Senate address these issues immediately by passing S. 2059. Under a sunset provision, the special prosecutor law will expire in October 1983. Failure to correct the inequities of the present law now could produce another unfortunate case similar to those experienced during the Carter administration and could provide ammunition to those who favor outright repeal or expiration of the entire law.

The special prosecutor process was an important reform that must be retained. Congress would be remiss if it does not act swiftly to reaffirm its strong commitment to this reform by extending, and correcting deficiencies in the present law. Far from diluting the special prosecutor process, S. 2059 would improve the law by making it fairer and less burdensome. In this way, we can better insure that public officials and private citizens are treated impartially—and equally—under the law.

I wish to express my appreciation to my cosponsors and all the members of the Governmental Affairs Committee for their assistance in my subcommittee's efforts to reform the special prosecutor law.

Mr. President, I ask unanimous consent that a section-by-section analysis and an explanation of the provisions of S. 2059 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

**S. 2059: THE ETHICS IN GOVERNMENT ACT
AMENDMENTS OF 1982**

SECTION-BY-SECTION ANALYSIS

Short title

The first section sets forth the short title of this bill, the Ethics in Government Act Amendments of 1982.

Section 2: Name of Special Prosecutor

Section 2 would change the name of the special prosecutor to "independent counsel" in order to reduce the stigma of, and remove the Watergate connotation from, a special prosecutor investigation and to more accurately describe the purpose of appointing an individual to conduct an investigation.

Section 3: Coverage

Section 3 would amend the coverage of officials who are potential subjects of the special prosecutor process.

First, the present law (Section 591) would be amended to reduce coverage of middle-level Executive officials who, because they are close to neither Presidential nor Department of Justice decision-making, do not

present realistic dangers of conflict of interest. Under the proposed amendments, the President, Vice-President, Cabinet members, Director and Deputy Director of the Central Intelligence Agency, Commissioner of the Internal Revenue Service, and positions in the Department of Justice paid at amounts equivalent to or above Level III of the Executive Schedule would continue to be covered. The amendments would limit coverage of officials in the Executive Office of the President to persons compensated at rates of pay at or above Level II of the Executive Schedule rather than Level IV or above, as under present law.

Section 3 would more precisely define which campaign "officers" are subject to the Act by specifically covering the chairman and treasurer of the principal national campaign committee seeking election or reelection of the President and any other officers of the campaign exercising authority at the national level, such as the campaign manager or director. The present law's coverage of campaign officials (Section 591(b)(6)) is vague and overinclusive by not limiting coverage to only officers who hold positions of authority. This section also specifies that these campaign officials are covered only during the incumbency of the President. No length of coverage is specified under present law.

Section 3 would extend coverage to family members of the President for only the incumbency of the President. Under present law, family members of the President are not covered.

This section also would reduce and standardize the length of time during which executive officials remain subject to the Act. Under Section 591(b)(5) of the present law, an official remains covered for the entire incumbency of the President under which he serves and the full term or terms of the next President if the new President is of the same political party. Thus, an official can remain subject to the Act for as long as 16 years after he or she leaves public office. The proposed amendment would cover all Executive officials for the incumbency of the President under which they serve plus one year, but in no event longer than five years after the individual leaves office, regardless of which political party holds the presidency.

Finally, Section 3 would reduce the length of coverage of officials who remain in office only in a transitional capacity under a new administration. Under present law, these officials can continue to be covered for the entire incumbency of the new President. The proposed amendment would specify that officials who continue to hold office for not more than 90 days into the term of the next President shall be covered during the periods such individuals serve, plus one year.

Section 4: Standards for Conducting a Preliminary Investigation and Appointing a Special Prosecutor

Section 4(a)(1) and 4(b) would raise the present standard for determining whether a preliminary investigation is required. The proposed amendment states that "upon receiving information that the Attorney General determines is sufficient to constitute grounds to investigate" that any person covered by the Act has violated a federal criminal law, the Attorney General must conduct a preliminary investigation. The proposed amendment stipulates that in determining whether "grounds to investigate" exist, the Attorney General shall consider the degree of specificity of the information and the

credibility of the source of the allegation. The proposed standard differs from Section 592 of the present law which does not enable the Attorney General to consider the credibility of the accuser, but rather provides that a preliminary investigation must be conducted whenever the Attorney General receives "specific information" that a covered official has violated a federal criminal law. This standard can result in preliminary investigations for allegations with little or no factual merit.

Section 4(a)(2) adds a new subsection to the statute. This section vests discretionary authority in the Attorney General to conduct a preliminary investigation and apply for the appointment of a special prosecutor pursuant to the provisions of this chapter when the Attorney General receives information of criminal activity by a person not covered by the Act if he determines that investigation of such person by the Attorney General or other Department of Justice officer may result in a personal, financial, or political conflict of interest, or the appearance thereof. The present law does not allow the Attorney General to use the special prosecutor process for persons who are not expressly covered by the Act.

Section 4(b) adds a new section 592(a)(2) to the statute. This is a clarifying amendment which provides that in conducting the preliminary investigation the Attorney General has no authority to convene grand juries, plea bargain, grant immunity or issue subpoenas. Although the legislative history of the Act expressly denies these powers to the Attorney General, the Act itself is silent on this issue, thus giving rise to varying interpretations on the permissible extent of the preliminary investigation.

Section 4(c)-(d) would raise the standard for appointment of a special prosecutor to require appointment if the Attorney General "finds reasonable grounds to believe that further investigation or prosecution is warranted." The amendment directs the Attorney General to comply with written or other established policies of the Department of Justice with respect to the enforcement of criminal laws in determining whether reasonable grounds for further investigation or prosecution exist.

The present law (Section 592 (b)-(c)) requires appointment unless the Attorney General concludes that the matter under investigation "is so unsubstantiated that no further investigation or prosecution is warranted." This trigger of appointment is almost automatic, leaving little practical opportunity for the Attorney General to dismiss allegations supported by little or no factual support. The standard fails to incorporate the prosecutorial guidelines and policies of the Department of Justice, and requires a special prosecutor investigation even for offenses which would not be prosecuted if made by an ordinary citizen. By ignoring the standardized policies of the Department, the Act imposes a different, more stringent application of criminal law on public officials.

Section 5: Extension of Preliminary Investigation and Reimbursement of Attorneys' Fees

Section 5 provides that the Special Prosecutor Division of the court may, upon a showing of good cause by the Attorney General, grant a single extension of the preliminary investigation for a period not to exceed 60 days. The present law (592(a)) places a 90-day limitation on the preliminary investigation with no provision for extension. This

strict 90-day limitation may force the Attorney General to seek appointment of a special prosecutor simply because the 90-day period was too short.

Section 5 also would allow the court to grant, in its discretion, reimbursement of all or part of the attorneys' fees incurred by the subject of a special prosecutor investigation if no indictment is brought and if the fees would not have been incurred but for the special prosecutor appointment. No provision for reimbursement exists in the present law and officials may incur extensive legal fees during an investigation by a special prosecutor. The proposed amendment would not allow reimbursement for expenses incurred during a preliminary investigation as even private citizens would be subject to this type of investigation.

Section 6: Powers and Removal of the Special Prosecutor

Section 6(a) would authorize the special prosecutor to consult with the U.S. Attorney for the district in which the violation of criminal law was alleged to have occurred. Although this is not prohibited under present law, the proposed amendment would expressly authorize the special prosecutor to do so in order to assist him in determining the policy of the particular jurisdiction regarding prosecution of the alleged offense.

Section 6(b) would require the special prosecutor to follow the written or other established prosecutorial policies of the Department of Justice. Section 594(f) of the present law requires the special prosecutor to comply with the written policies of the Department "to the extent that the special prosecutor deems appropriate." Section 6(b) would amend this section to require compliance "except where not possible" in order to create a presumption that the special prosecutor will follow prosecutorial guidelines.

Section 6(c) states that the special prosecutor shall have full authority to dismiss matters within his prosecutorial jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice. Although this is permissible under present law, the proposed amendment clarifies this authority so that special prosecutors will not unduly prolong investigations.

Section 6(d) of the bill would provide for removal of the special prosecutor by the Attorney General for "good cause," a standard which is used for removal of some independent agency officials. The amendment would not change the present law's provisions for full reports to Congress upon removing a special prosecutor and opportunity for judicial review of such removal; these are maintained as checks against interference by the Attorney General in the independence of the special prosecutor.

The present law (Section 596(a)(1)) provides for removal by the Attorney General only on the grounds of "extraordinary impropriety" or mental or physical disability.

Section 7: Expiration of the Special Prosecutor Provisions

Section 7 would extend the sunset date of the Act to five years after the adoption of these amendments.

The present law (Section 598) provides that the special prosecutor provisions will expire in October, 1983, unless otherwise extended by Congress.

S. 2059: PROVISIONS OF THE ETHICS IN GOVERNMENT ACT AMENDMENTS OF 1982

1. COVERAGE

A. Amending the number of officials subject to the Special Prosecutor process

Current Law: Section 591(b) of the Act defines the federal executive and campaign officials who are potential subjects of the special prosecutor process. These covered positions include the President, Vice-President, all Cabinet members, the Director and Deputy Director of the Central Intelligence Agency, any Assistant Attorney General, and the Commissioner of the Internal Revenue Service. In addition, all positions in the Executive Office of the President above Level IV of the Executive Pay Scale and in the Department of Justice above Level III are subject to the Act. Finally, any officer of the principal national campaign for the election or re-election of the President is covered.

Problems with Current Law: Currently, there are over 120 positions subject to the special prosecutor provisions, 93 of which are in the Executive Office of the President. Based on testimony received at its hearings, the Subcommittee found that investigations of individuals holding many of these positions, who are close to neither Presidential nor Department of Justice decision-making, would create little danger of conflict of interest, or the public perception thereof, if conducted by the Department of Justice. In light of the extreme stigma and costs which a special prosecutor investigation can impose on its subject, coverage of the Act should be limited to those positions which present realistic dangers of conflict.

Also, the Subcommittee concluded that the Act's coverage of campaign officials is overinclusive, as many campaign "officers" do not hold positions of authority which would give rise to conflicts of interest.

S. 2059: The Act would be amended to reduce coverage of middle-level Executive officials. Section 3 of the proposed amendments specifies that the Act would cover: the President, Vice-President, Cabinet members, Director and Deputy Director of the Central Intelligence Agency, Commissioner of the Internal Revenue Service, any Assistant Attorney General, and officials in the Executive Office of the President receiving salaries at or equivalent to Level II or above, and Department of Justice officials paid at or above rates equivalent to Level III of the Executive Schedule.

Also, Section 3 of the proposed amendments would reduce the number of campaign "officers" subject to the Act by covering the chairman and the treasurer of the principal national campaign committee seeking election or re-election of the President, and any officer of the campaign exercising authority at the national level, such as the campaign manager or director during the incumbency of the President.

B. Amendment to cover family members of the President

Current Law: Under present law, only present or past government or campaign officials are subject to the Act.

Problem With Current Law: Ironically, while the Act's coverage of officials is overinclusive, the Act's coverage is underinclusive by failing to cover a class of persons very close to the President who would present dangers of conflict of interest if investigated by the Department of Justice: the President's family. The so-called "Billy-gate Affair," in which Billy Carter was suspected of having an improper relationship with the

Libyan government, illustrates the perceived conflict of interest which arises when the Department of Justice investigates the President's family members.

S. 2059: Section 3 of the proposed amendments specifies that the Act would cover the President's spouse, the President's children and their spouses, and the President's parents, brothers and sisters, and their spouses during the incumbency of the President.

C. Amendment to establish a catch-all provision for individuals not covered by the act

Current Law: Under present law, the Attorney General may use the special prosecutor provisions for only persons who are covered by the Act.

Problems with Current Law: The Department of Justice testified that there may be instances in which investigation of persons not covered by the Act would create actual or perceived conflict of interest problems if conducted by the Attorney General, e.g., business associates and close friends of the President. Under present law, the Attorney General has no discretion to use the special prosecutor mechanism to investigate these persons.

S. 2059: Section 4(a)(2) of the proposed amendments provides that: "Whenever the Attorney General receives information sufficient to constitute grounds to investigate that any person not described in subsection (b) of this section has committed a violation of any Federal criminal law other than a violation constituting a petty offense, the Attorney General may conduct an investigation and apply for an independent counsel pursuant to the provisions of this chapter if the Attorney General determines that investigation of such person by the Attorney General or other officer of the Department of Justice may result in a personnel, financial, or political conflict of interest, or the appearance thereof."

D. Reducing and standardizing length of coverage of persons subject to the act

Current Law: Section 591(b)(5) provides that individuals who hold covered positions, except campaign officers, continue to be covered for the full term of the President who appointed them and that President's second term, even if they have left government service. Also, these individuals continue to be covered for the full term or terms of the next President if he or she is of the same political party.

Problems with Current Law: Under existing law, an official can remain subject to the special prosecutor provisions for as long as 16 years after he or she leaves public office. There was a consensus at the Subcommittee's hearings that there can be no realistic fear of conflict of interest if an individual has been out of office that long. Also, this coverage turns on which political party wins the Presidential election, and thus creates a "politicization" of the administration of justice.

The present law also covers "holdover" officials long after they leave office. These are officials who continue to hold office into the term of the new President in merely a transitional capacity. Although these officials may serve for only a very short period of time, under the present law they would be covered for the entire term(s) of the new President and any successor of the same political party.

S. 2059: In order to reduce and standardize coverage, the proposed amendments provide that all officials would be covered by the Act for the incumbency of the President under which they serve plus one year, but in

no event longer than five years after the individual leaves office. This coverage would apply to all Executive Branch officials, regardless of which political party holds the Presidency. Campaign officials and the President's family would be covered only for that President's incumbency.

In order to remedy the "holdover" problem, the amendments state that: "Any individual . . . who continues to hold office for not more than 90 days into the term of the next President [shall be covered] during the period such individual serves plus one year."

This language enables an official to serve up to three months into the new term without subjecting himself or herself to coverage for the full incumbency of the new President. Although there may be holdovers who serve longer than 90 days, this new language should substantially ameliorate the problem of covering holdover officials for the entire incumbency of the new President.

2. AMENDMENTS OF THE PRELIMINARY INVESTIGATION PHASE OF THE PROCESS

A. Revise standard which triggers a preliminary investigation

Current Law: Section 592(a) requires the Attorney General to conduct a preliminary investigation whenever he receives "specific information" that any of the persons covered by the Act has violated a federal criminal law, other than a petty offense.

Problems with Current Law: This standard is so low that a preliminary investigation can result for allegations with little or no factual basis. The Department of Justice and others testified that preliminary investigations are required even when the source of an allegation is known to lack credibility. Such an automatic trigger wastes Departmental resources and creates unfairness by requiring investigations of officials for allegations which would not be pursued under ordinary circumstances.

S. 2059: Section 4(b) of the proposed amendments changes the standard to require the Attorney General to conduct a preliminary investigation whenever he receives "information that the Attorney General determines is sufficient to constitute grounds to investigate" that any person has violated a federal criminal law other than a petty offense. In determining whether "grounds to investigate" exist, the Attorney General shall consider (a) the specificity of the information received, and (b) the credibility of the source of the information.

B. Allow court to grant single extension of the preliminary investigation and restrict use of investigative tools during the preliminary investigation

Current Law: Section 592 of the Act provides that the preliminary investigation may not exceed 90 days and that the Attorney General may conduct a preliminary investigation "as the Attorney General deems appropriate." While the Act is silent on the powers the Attorney General has in conducting the preliminary investigation, the legislative history of the Act expressly denies the powers of subpoena, plea bargaining, use of grand jury or other prosecutorial functions during the preliminary investigation on the theory that the Attorney General's purpose is to merely screen cases which are referred to a special prosecutor.

Problems with Current Law: The strict 90-day limitation on the preliminary investigation ignores the reality that fact-gathering is time-consuming, particularly in light of the sensitive nature of cases involving public officials. Typical criminal investigations take between two and five years before

an indictment. The 90-day limit may force the Attorney General to seek appointment of a special prosecutor simply because he did not have sufficient time to investigate the allegations received.

By failing to prohibit specifically the use of investigative tools during the preliminary investigation, the Act can result in differing interpretations on the permissible extent of the preliminary investigation. The Subcommittee concluded that the express language of the Act should be clarified so that attorneys general will be prohibited from conducting a full-blown investigation rather than simply screening cases as the Act intends.

S. 2059: Section 5 of the bill authorizes the court to grant a single extension of the preliminary investigation upon a showing of good cause by the Attorney General. In no case would the extension exceed 60 days. The amendments allow only a single limited extension in order to prevent abuse or intentional delays by the Attorney General and to assure that public confidence is not jeopardized. The intent is that extending the preliminary investigation should not become a routine practice.

Section 4(b)(2) of the bill clarifies the intent of present law by providing that the Attorney General has no authority to convene grand juries, plea bargain, grant immunity, or issue subpoenas during the preliminary investigation.

3. RAISE THE STANDARD WHICH TRIGGERS APPOINTMENT OF A SPECIAL PROSECUTOR

Current Law: Unless the Attorney General can state in his application to the court that "the matter is so unsubstantiated that no further investigation or prosecution is warranted," he must apply for a special prosecutor.

Problems with Current Law: Extensive testimony at hearings indicated that this trigger of appointment leaves little practical opportunity for the Attorney General to dismiss allegations following the preliminary investigation. For example, former Attorney General Civiletti testified that in the case involving an allegation of cocaine use by Hamilton Jordan, although he specifically concluded that a prosecution would not have resulted on the basis of facts received, he was unable to dismiss the case because of the very low trigger. The standard is far lower than that generally used by prosecutors in both federal and state courts systems in determining whether a case should be investigated extensively, i.e., probable cause. Moreover, the present appointment standard ignores the legitimate use of prosecutorial discretion and guidelines that the Department has developed to standardize its discretion and policies of law enforcement. Consequently, persons subject to the act are held to a different, more stringent application of criminal law than are ordinary citizens. For example, in the Hamilton Jordan and Timothy Kraft cases, special prosecutors were appointed to investigate allegations of cocaine use, a violation which is not pursued extensively under normal circumstances. Former Attorney General Civiletti testified that the alleged violation in both of the cases would not have been prosecuted under the Carter administration or any administration except for the stringent requirements of this Act.

The Subcommittee concluded that the low threshold and failure to incorporate prosecutorial guidelines in the present standard create unfairness by imposing a special, stricter application of criminal law on public officials.

S. 2059: Section 4(c)-(d) of the bill raises the appointment standard to require appointment when the Attorney General "finds reasonable grounds to believe that further investigation or prosecution is warranted." In determining whether "reasonable grounds" exist, the bill requires the Attorney General to comply with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

This new standard would strike an appropriate balance between the need to permit the Attorney General to exercise limited discretion in evaluating the results of the preliminary investigation and the need to assure that ultimate prosecutorial decisions are left to the special prosecutor. The bill anticipates that the Attorney General will be able to justify his decision to the court that a special prosecutor is not needed upon a showing that the Department of Justice or the U.S. Attorney for the district involved does not, as a matter of established practice, prosecute the alleged violation of federal criminal law.

As under current law, the bill provides that if the Attorney General makes no determination at the end of the 90-day preliminary investigation period, the court shall appoint a special prosecutor.

4. REIMBURSEMENT TO SUBJECT OF INVESTIGATION

Current Law: There is no provision for reimbursement of persons who are investigated by a special prosecutor.

Problems with Current Law: Officials incur extensive legal fees, in some cases easily exceeding \$100,000, and receive much adverse publicity during a special prosecutor investigation.

S. 2059: Section 5 of the bill authorizes the court, in its discretion, to award all or part of the attorneys' fees incurred by the subject of a special prosecutor investigation if no indictment is brought and if the fees would not have been incurred but for the special prosecutor appointment. There is no provision for reimbursement of cost incurred during a preliminary investigation, as the Subcommittee concluded that under the amended version of the Act, even ordinary citizens would be subject to a preliminary investigation.

5. AMENDMENTS TO POWERS AND REMOVAL OF SPECIAL PROSECUTOR

A. Powers of Special Prosecutor

Problems with Current Law: There is no express provision in the law stating that the special prosecutor may dismiss matters without extensive investigation. It is possible that special prosecutors may extensively investigate allegations which would be dismissed in ordinary cases.

S. 2059: Section 6 of the bill specifies that the special prosecutor has full authority to dismiss matters within his jurisdiction without conducting an investigation or at any subsequent time prior to prosecution if to do so would be consistent with the written or other established policies of the Department of Justice with respect to the enforcement of criminal laws.

Section 6 of the bill also provides that the special prosecutor must follow the written or other established policies of the Department "except where not possible." This shifts the burden to the special prosecutor to substantiate to the court why he deviated from established policies and thus reduces the different treatment given to officials under the Act. Finally, the Act specifies

that the special prosecutor may consult with the U.S. Attorney for the district in which the violation allegedly occurred.

B. Removal of the Special Prosecutor

Current Law: Under Section 596, the Attorney General may remove the special prosecutor only on the grounds of extraordinary impropriety, or physical or mental incapacity.

Problem With Current Law: There is no standard defining what constitutes "extraordinary impropriety," and such a high standard may permit the special prosecutor to abuse his powers.

S. 2059: Section 6(d) of the bill amends the standard for removal from "extraordinary impropriety" to "good cause," a standard which is used for the removal of some independent agency officials. This allows the Attorney General to have a developed body of law on which to base removal. The current law's provisions for full reports to Congress upon removing a special prosecutor and opportunity for judicial review of such removal are maintained as checks against dangers that the Attorney General will interfere with the independence of the special prosecutor.

6. CHANGE NAME OF SPECIAL PROSECUTOR

S. 2059: The bill would change the name "special prosecutor" to "independent counsel" in order to remove the Watergate connotation from a special prosecutor investigation and to more accurately indicate that the investigation is being conducted by an impartial investigator.

7. AMEND SUNSET PROVISION

S. 2059: The special prosecutor provisions are scheduled to expire in October, 1983. S. 2059 would extend the expiration date to five years from the adoption of these amendments.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Mr. RUDMAN. Mr. President, I would first like to commend Senator COHEN for his leadership in holding hearings and promulgating legislation to reform the special prosecutor section of the Ethics in Government Act of 1978. This important aspect of the Ethics in Government Act of 1978 was one of the many pieces of legislation growing out of the Watergate controversy. As we all remember, only too well, the investigation into the affairs of President Nixon fostered within the general public an element of mistrust in the ability of the executive branch to properly investigate itself. In order to prevent any reoccurrence of the events of that time, Congress developed special prosecutor legislation which was enacted as title 6 of the Ethics in Government Act of 1978.

The last 4 years have served as a testing period for the act, providing Congress with an opportunity to appraise its application. The initial investigatory provisions of the act were triggered 11 times, and special prosecutors were appointed in three of those cases. However, none of the cases resulted in prosecution, and, in fact, the act has generated substantial

criticism. Hearings held by Senator COHEN indicate that some serious flaws exist in the law. In fact, some testimony, especially that of Ambassador Elliot Richardson, suggest that the act is unnecessary. In our opinion, the act remains necessary; however, it requires substantial revision. In saying this, I must point out that the act is not intended to imply any mistrust or doubt in the veracity and impartiality of our U.S. Attorney General. Indeed, I do not doubt that they would properly investigate allegations of malfeasance by high ranking officials in the executive branch. Instead, the act is intended to prevent potential conflicts of interest that would give rise to an appearance that the Attorney General would be incapable of impartially investigating allegations. Essentially, it prevents a problem before it arises.

During hearings before the Governmental Affairs Subcommittee on Oversight of Government Management it became clear that several changes would be needed to improve the special prosecutor legislation and develop it into a more equitable and fair method of investigating high ranking officials in the executive branch. Chief among the flaws in the present law are the trigger mechanisms prompting first, a preliminary investigation, and second, the appointment of a special prosecutor. Presently, the law requires a preliminary investigation whenever the Attorney General receives specific information that a subject violated a Federal criminal law. This standard is so low that a preliminary investigation can result from allegations with little or no factual basis. The end result is often a waste of departmental resources and an unfair investigation of the subjects involved. S. 2059 would respond to this problem by providing some leeway for the Attorney General to determine when there is sufficient information to constitute grounds for an investigation.

The standard which triggers appointment of a special prosecutor is also so low that it is almost automatic. Present law requires the appointment of a special prosecutor unless the information is "so unsubstantiated that no further investigation or prosecution is warranted." The evidence indicates that the standard for appointment leaves little practical opportunity for the Attorney General to dismiss allegations. Consequently, insignificant and unnecessary investigations can occur which are not only unfair but potentially damaging to individuals. Therefore, the ethics in Government Act Amendments of 1982 would provide additional flexibility for the Attorney General, requiring appointment when the Attorney General "finds reasonable grounds to believe that further investigation or prosecution is warranted." This would provide the Attorney General with additional

discretion so that unwarranted cases would not be pursued.

An additional major flaw in present law is the designated class of executive office and Department of Justice positions subject to the provisions of the act. The act applies to some individuals who are not close to either top officials to some individuals who are not close to either top officials of the President's office or the Department of Justice, and, therefore, investigations would not present the conflict of interest or public perception problems that gave rise to the act. Senator COHEN's legislation would respond to this problem by reducing the number of individuals covered by the act. On the other hand, the bill would also respond to the glaring problems associated with the Carter administration's "Billygate" affair. The proposed legislation would add family members to the class of persons subject to the act.

Since any designated class can also be underinclusive, Senator COHEN's legislation would take a simple step to insure that a potential conflict arising outside of the designated class would be covered. S. 2059 would provide the Attorney General with discretionary authority to use the special prosecutor provisions of the act to investigate any person not covered by the act if he perceives that a potential conflict may arise. In this manner, the rigidity of the class designation is eliminated.

In my mind, these are the major elements of the Ethics in Government Act Amendments of 1982. The changes provide a necessary adjustment to the present law, reaffirming the position that the law is necessary, but insuring additional measures of fairness. By accepting office, top officials in the executive branch subject themselves to increased public scrutiny. This justifies the special prosecutor provisions of the Ethics in Government Act. We must assure the public of impartial investigation of malfeasance by eliminating the appearance of a conflict of interest. Nonetheless, these procedures must be balanced with a measure of fairness for the individuals covered by the act. S. 2059 strikes such a balance and should be enacted into law.

Mr. SASSER. Mr. President, Watergate abuses of a decade ago inspired Congress to set up a statutory procedure for the appointment of a special prosecutor, independent of the Justice Department, to investigate allegations of criminal law violations by high-ranking executive branch officials. The 1978 Ethics in Government Act set the standards for the appointment of such a prosecutor.

Such a special prosecutor guards against conflicts of interest in the executive branch and assures impartial and thorough investigations of highly placed public officials. The legislation

before us, S. 2059, extends for 5 years the special prosecutor provisions of the Ethics Act.

It also draws on the experience of the past 4 years to correct certain inequities in the law. The coverage of the act is broadened to include members of the President's family who might otherwise receive favored treatment by the Justice Department. And the "trigger" for appointment of a special prosecutor is adjusted to allow the Attorney General to consider the credibility of an accuser before an investigation is launched. This is to prevent endless investigations of meritless allegations of wrongdoing made by unreliable sources.

I believe these adjustments are sound and the overall objectives of the Ethics in Government Act are well served by these and other changes made by S. 2059. That is why I am proud to cosponsor this legislation.

My congratulations to Senator COHEN, chairman of the Subcommittee on Oversight of Government Management, and to Senator LEVIN, the ranking Democrat on the subcommittee, for the work they have done on this legislation. The hearing held by the subcommittee on this bill was a comprehensive probe of the application of this law over the past 4 years.

I urge rapid passage of this legislation.

Mr. LEVIN. Mr. President, I am proud to speak in support of the legislation which Senator COHEN has just described so eloquently. Under Senator COHEN's able leadership as chairman of the Senate Governmental Affairs Oversight Subcommittee, on which I am the ranking minority member, the subcommittee held a series of extensive hearings on the special prosecutor provisions of the Ethics in Government Act of 1978. During those hearings, we heard and learned much from an array of distinguished witnesses who were all well experienced in the actual operation of these provisions.

At the time of those hearings, I stated that the special prosecutor provisions must reflect our best effort to balance two competing interests: to insure that persons in high office are prosecuted for their crimes without political favoritism, and to insure that these same persons are not unfairly prosecuted solely because of their positions.

I believed then, as I do now, that the statute as then on the books guaranteed that high public officials would be impartially prosecuted for their crimes. The focus of my concerns then was on the second of the competing public interests; whether the statute's provisions needlessly created disparate and unfairly harsh treatment of these officials, and if so, how this disparity could be remedied without weakening the law. Our goal should be that high

public officials be treated no better and no worse than other citizens.

Senator COHEN has already well described the changes which the subcommittee has proposed be made in the existing statute. Those changes address the concerns I have about the stigma and costs attendant to special prosecutor appointment, and the extent to which a public official would be prosecuted for a crime for which other citizens would not. Changes in the quality of the information necessary to trigger an investigation and in the number of officials covered by the act also insure that the existing law's effectiveness will be improved.

The changes proposed do not weaken the act's original intent and purpose. In proposing these changes, we have not lost sight of a matter of critical importance: The need for an independent, untainted investigation and prosecution of criminal allegations against high public officials. What we have attempted to do rather is to learn from the actual experience under the existing law, from those who have been on both sides of the process as it now works, and to fashion amendments which increase the fairness and efficiency necessary to meet the second public interest requirement I mentioned earlier. This legislation achieves just that.

Again I commend Senator COHEN and my colleagues on the subcommittee for their hard work on this legislation and urge its speedy passage.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROFESSIONAL TRAINING FOR CERTAIN STAFF OF THE SELECT COMMITTEE ON ETHICS

Mr. BAKER. Mr. President, Senate Resolution 425 has been cleared for action by unanimous consent on this side if it is cleared by the minority.

Mr. ROBERT C. BYRD. Mr. President, the resolution, Senate Resolution 425, has been cleared.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate, Senate Resolution 425, calendar order No. 714.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 425) to authorize the Select Committee on Ethics to provide training assistance to its professional staff.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 425) was agreed to as follows:

S. RES. 425

Resolved, That the Select Committee on Ethics (hereinafter referred to as the "Select Committee") is authorized, with the approval of the Committee on Rules and Administration, to provide assistance for members of its professional staff in obtaining specialized training, whenever the Select Committee determines that such training will aid it in the discharge of its responsibilities.

SEC. 2. (a) Assistance provided under authority of this resolution may be in the form of continuance of pay during periods of training or grants of funds to pay tuition, fees, or such other expenses of training, or both, as may be approved by the Committee on Rules and Administration.

(b) The Select Committee shall obtain from any employee receiving such assistance such agreement will respect to continued employment with the Select Committee as it may deem necessary to assure that it will receive the benefits of such employee's services upon completion of his training.

SEC. 3. The expenses of the Select Committee in providing assistance under authority of this resolution shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of the Select Committee.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BURNS PAIUTE INDIAN COLONY

Mr. BAKER. Mr. President, S. 1468 has been cleared on this side, if it is agreeable to the minority.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, then I ask that the Chair lay before the Senate calendar order No. 726, S. 1468.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1468) to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oregon, will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select

Committee on Indian Affairs with an amendment, as follows:

On page 2, after line 17, insert the following:

Sec. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022, 25 U.S.C. 373b), is amended by deleting "2,000" and inserting in lieu thereof "50,000".

So as to make the bill read:

S. 1468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, pursuant to section 2 of the Act of November 24, 1942 (56 Stat. 1022, 25 U.S.C. 373b), the estate of Jesse Joseph James, Burns 144-N1116, consisting of a public domain allotment, Burns Paiute domain allotment numbered 144-111, northwest quarter, section 32, township 23 south, range 32½ east, Willamette meridian, Harney County, Oregon, is hereby declared to be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and part of the Burns Paiute Indian Reservation.

Sec. 2. Section 2 of the Act of November 24, 1942 (56 Stat. 1022, 25 U.S.C. 373b), is amended by inserting the following immediately before the period at the end thereof: "Provided further, That interests in all Burns public domain allotments located in Harney County, Oregon, belonging to Indians who die intestate without heirs shall be held in trust by the United States for the Burns Paiute Indian Colony of Oregon and shall be part of the Burns Paiute Indian Reservation".

Sec. 3. Section 2 of the Act of November 24, 1942 (56 Stat. 1022, 25 U.S.C. 373b), is amended by deleting "2,000" and inserting in lieu thereof "50,000".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. HATFIELD. Mr. President, I am pleased that the Senate is turning its attention for a moment to the consideration of S. 1468, a bill which will designate a parcel of land in Harney County, Oreg., to be held in trust for the Burns Paiute Tribe pursuant to the requirements of Federal law 25 U.S.C. 373b. This statute provides that parcels of land, where the value of the land exceeds \$2,000 and the allottee dies without legal heirs, shall be held in trust by the United States for such Indians as Congress may designate. S. 1468 fulfills this affirmative duty to designate a deserving tribe the rightful possessor of the public allotment in question.

I introduced this bill in July of 1981 to address a matter that arose in 1978 in Harney County, Oreg., where a Burns Paiute Indian named Jesse T. James died intestate and without legal heirs. Included in his estate was a parcel of land stretching over 160 acres of trust land, land which is classified as a "public domain allotment." Federal law 25 U.S.C. 373b requires that such allotments "be held in trust for such needy Indians as the Secretary may designate, where the value of the estate does not exceed \$2,000, and

in the case of estates exceeding such sum, such estates shall be held in trust by the United States for such Indians as the Congress may designate."

Since the value of the allotment exceeds \$9,000, Congress must designate which Indians are to receive possessory rights to this property. During hearings on this matter before the Board of Hearings and Appeals in the Bureau of Indian Affairs, the Board stated:

Based on the record before the Board . . . were it within (our) authority to decree, (we) would allow the (Jesse T. James) allotment to go to the Burns Paiute Tribe.

Indeed, the record has ample evidence that the Burns Paiute Indians are deserving of this land allotment. They have occupied the southeast corner of the State of Oregon for the last several hundred years and the present Burns Paiute reservation comprises 770 acres. The Burns Paiute Tribe currently farms 110 acres of land on which they cultivate alfalfa, and proceeds from the sale of this crop compose a major source of tribe revenue. As is true with an overwhelming number of Indian tribes across this country, the poor economic conditions have occasioned high unemployment rates and, with respect to the Burns Paiute Indians, impoverished conditions. The Jesse T. James public allotment would expand the Burns Paiute Tribe's economic base, and in so doing, would double the Burns Paiute Indians' potential for farming since over 80 percent of the allotment is viable agricultural land. In light of the equities involved in this case, S. 1468 is a legitimate congressional response to a situation that requires, by statute, congressional action.

I would like to point out to my colleagues one other change this proposed legislation will make on the procedures to be followed in cases similar to the instant case. As I mentioned earlier, current Federal law requires Congress to act when the value of the property in dispute is greater than \$2,000. Section 2 of S. 1468 amends section 2 of 25 U.S.C. 373b by changing the threshold amount that triggers congressional action from the current \$2,000 to a more reasonable amount of \$50,000. The original amount, established in 1942, is far too low and it imposes an obligation on Congress which is both burdensome and unnecessary. Instituting a higher threshold amount will serve the intent of the original act and will conform to the interests of both the Congress and the executive branch. The Secretary of the Department of the Interior is capable of making the determination of need when the value of a public allotment to be probated is less than \$50,000.

Mr. President, I am grateful for the opportunity to speak on behalf of this needed piece of legislation. I urge the

Senate to adopt S. 1468 as reported by the Senate Select Committee on Indian Affairs.

The PRESIDING OFFICER. The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AWARDING OF SPECIAL CONGRESSIONAL GOLD MEDALS

Mr. BAKER. Mr. President, I am prepared to proceed to the consideration of H.R. 4647, if the minority leader is.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 734, H.R. 4647.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4647) to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour.

There being no objection, the Senate proceeded to consider the bill.

Mr. RIEGLE. Mr. President, on April 8, 1981, we witnessed the passing of a truly great American, Joe Louis. I believe that President Reagan's subsequent decision to grant special permission for Joe Louis to be buried in Arlington National Cemetery is a fitting tribute to a great champion and an outstanding athlete.

Joe Louis' professional boxing record is certainly impressive. He first took the world heavyweight title in 1937, only 3 years after winning the AAU title. He held the crown until 1949, defending his title 25 times. Of the 71 professional fights that Joe fought he lost only 3, scoring 54 knockouts. It is no wonder that he is recognized as one of the great boxing champions of all time.

Perhaps one of Louis' most spectacular victories was against Max Schmeling in 1938. This fight became more than just a simple heavyweight contest, and Joe Louis raised the pride of all Americans, becoming a symbol of hope in those severely troubled times.

Joe Louis' life was a string of victories. He broke the barrier of racial segregation in professional sports 10 years before Jackie Robinson became the first black man to play major league baseball. Joe also served his country with distinction in World War II—enlisting at the prime of his

boxing career and taking part in numerous exhibition fights which boosted Army morale and enhanced our national spirit.

Mr. President, on April 30, I introduced legislation authorizing the President of the United States to present a commemorative medal to the widow of Joe Louis. I am gratified that the Congress has finally acted on this matter, and know that my colleagues join me in this fitting tribute to a great American hero.

LOUIS L'AMOUR

Mr. ARMSTRONG. Mr. President, I am delighted that today we are recognizing the literary talents and contributions of Louis L'Amour, a man who has done much to celebrate the spirit of the American west.

Mr. L'Amour's thrilling but historically accurate western novels portray the courage, ruggedness, and character of the early west and the pioneers who settled it.

L'Amour, born in Jamestown, N. Dak., is a self-educated man, but his literary accomplishments are outstanding. He has authored more than 70 western novels which have been printed in several foreign languages and have sold over 82 million copies. Many of these novels have been adapted into motion pictures.

Although Mr. L'Amour's primary literary achievements are western novels, he has also written about the ancient civilization of the Fertile Crescent in the Middle East, the trade routes that sent European civilization across the globe, screen plays, television scripts, and a collection of poetry. He was chosen by the United Nations' Education, Science and Cultural Organization to write an indepth report on the Ute Indian Tribe of southwestern Colorado.

It is fitting in an age when courage, self-reliance, and boldness are needed so desperately throughout the land, that we take time to honor and appreciate the labor of this versatile American writer, whose works inspire us to work diligently to preserve the land and culture that means so much to us today.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill, H.R. 4647, was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL RECOVERY ROOM NURSES DAY

Mr. BAKER. Mr. President, I am prepared to go to Senate Joint Resolution 188, if there is no objection.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate Calendar Order No. 736, Senate Joint Resolution 188.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 188) to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day".

The joint resolution (S.J. Res. 188) was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution, and its preamble, are as follows:

S.J. Res. 188

Whereas the immediate postanesthetic period is the most critical in a patient's recovery;

Whereas the primary focus of the American Society of Post Anesthesia Nurses is the education of its membership, with a goal of excellence in the care of patients who have undergone surgery and the administration of anesthetic agents;

Whereas the postanesthesia recovery nurse is skilled in basic and sophisticated life support and monitoring techniques;

Whereas the availability of professional, skilled nursing personnel has been demonstrated to reduce the incidence of postoperative complications and mortality;

Whereas the postanesthesia recovery nurse provides safety and comfort to the patient who is unable to meet his or her own physical needs; and

Whereas the postanesthesia recovery nurse, in a single day, must care for patients who range in age from a few hours to one hundred years or more, and must treat each with calm, personalized, professional care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating March 1, 1983, as "National Recovery Room Nurses Day" and calling upon the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEAR 1983

Mr. BAKER. Mr. President, I have another matter, a House message on S. 2271. If the minority leader has no ob-

jection, I intend to proceed with consideration of that.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2271.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2271) entitled "An Act to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1983".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are hereby authorized to be appropriated to the Secretary of Commerce, hereinafter referred to as the Secretary, to carry out activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, for fiscal year 1983, \$50,389,000.

(2) Engineering Measurements and Standards, for fiscal year 1983, \$20,807,000.

(3) Computer Science and Technology, for fiscal year 1983, \$10,000,000.

(4) Core Research Program for Innovation and Productivity, for fiscal year 1983, \$11,188,000.

(5) Technical Competence Fund, for fiscal year 1983, \$6,986,000.

(6) Fire Research Center, for fiscal year 1983, \$4,991,000.

(7) Central Technical Support, for fiscal year 1983, \$13,500,000.

(b) Notwithstanding any other provision of this or any other Act, for fiscal year 1983:

(1) of the total amount authorized under subsection (a)(1) not less than \$1,000,000 shall be available for the "Office of Weights and Measures";

(2) of the total amounts authorized under subsections (a)(1) and (a)(2), not less than \$1,000,000 shall be available for "Measurement Standards for the Handicapped";

(3) of the total amount authorized under subsection (a)(3), not less than \$10,000,000 shall be available for "Computer Science and Technology"; and

(4) of the total amount authorized under subsection (a)(4), \$3,200,000 for "Discrete Process Technology (Robotics)".

EXCESS FOREIGN CURRENCY

SEC. 3. In addition to the sums authorized in section 2, not more than \$500,000 is authorized for fiscal year 1983 for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized in section 2, the sum of \$1,980,000 is authorized to be appropriated to the Assistant Secretary to carry out activities performed by the National Technical Information Service.

OFFICE OF PRODUCTIVITY, TECHNOLOGY AND INNOVATION

SEC. 5. In addition to the sums authorized in section 2, the sum of \$1,898,000 is authorized to be appropriated to the Assistant Secretary for fiscal year 1983 for the purpose of research, development, and related activities in the field of innovation and productivity.

SALARY ADJUSTMENTS

SEC. 6. In addition to the sums authorized to be appropriated by this Act, such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law are authorized to be appropriated for fiscal year 1983 and, if the full amount necessary to make such adjustments is not appropriated, the adjustments shall be made proportionately from sections 4 and 5 and in the line items in section 2(a) in a manner reflecting the extent to which the amount of each such line item in section 2(a) is attributable to employee benefits of the type involved.

AVAILABILITY OF APPROPRIATIONS

SEC. 7. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

ACTIVITIES PERFORMED FOR OTHER AGENCIES

SEC. 8. The Secretary of Commerce shall charge for any service performed by the Bureau, at the request of another Government agency, in compliance with any statute, enacted before, on, or after the date of enactment of this Act, which names the Secretary or the Bureau as a consultant to another Government agency, or calls upon the Secretary or the Bureau to support or perform any activity for or on behalf of another Government agency, or to cooperate with any Government agency in the performance by that agency of any activity, regardless of whether the statute specifically requires reimbursement to the Secretary or the Bureau by such other Government agency for such service, unless funds are specifically appropriated to the Secretary or the Bureau to perform such service. The Secretary may, however, waive any charge where the service rendered by the Bureau is such that the Bureau will incur only nominal costs in performing it. Costs shall be determined in accordance with section 12(e) of the Act of March 3, 1901, as amended (15 U.S.C. 278b(e)).

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment with two further Senate amendments which I send to the desk on behalf of the Senator from New Mexico (Mr. SCHMITT) and the Senator from Nevada (Mr. CANNON), and ask that they be considered en bloc.

The PRESIDING OFFICER. The clerk will report the amendments.

UP AMENDMENT NO. 1225

(Purpose: To amend the House amendment redefining Robotics research program, and to amend the House amendment to S. 2271 by eliminating a floor on the Office of Weights and Measures and providing a floor for Metals Processing)

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER), on behalf of Mr. SCHMITT and Mr. CANNON, proposes an unprinted amendment numbered 1225:

On page , line , insert the following: In section 2(b)(4) strike "Discrete Process Technology (Robotics)" and substitute "Robotics Research and Development".

On page , line , insert the following: In section 2(b)(1) strike "(a)(1) not less than \$1,000,000 shall be available for the 'Office of Weights and Measures';" and substitute "(a)(4) not less than \$3,000,000 shall be available for 'Metals Processing'".

Mr. SCHMITT. Mr. President, S. 2271, "The National Bureau of Standards Authorization Act for Fiscal Year 1983," was originally passed by the Senate on April 29, 1982. On May 19, 1982, the House of Representatives amended and passed S. 2271, authorizing funds for the National Bureau of Standards (NBS) and for the Office of Productivity, Technology, and Innovation. The House also set floors for four activities.

S. 2271, as amended and passed by the House of Representatives, is acceptable to the Committee on Commerce, Science, and Transportation with minor modifications to the House amendments. The modifications we recommend do not increase the total authorization.

In section 2b(1), strike "(a)(1) not less than \$1,000,000 shall be available for the 'Office of Weights and Measures'" and substitute "(a)(4) not less than \$3,000,000 shall be available for 'Metals Processing.'" The committee has been assured that the NBS will make available the \$1,200,000 for the "Office of Weights and Measures" and that no floor is necessary. The President proposed eliminating Federal support for "Metals Processing," a joint Federal Government-industry program initiated in fiscal year 1982. This program is important for developing new alloys and products, for conservation of critical materials, and for controlling metals-alloying processes. It conducts research and develops measurement standards for rapid solidification techniques and for alloy coatings and to generate new phase diagrams. The committee believes this is an important effort which requires continued Federal support in fiscal year 1983 and recommends adoption of this amendment which directs NBS to make available \$3,000,000 for continuing funding at the level provided in fiscal year 1982.

The committee recommends modifying section 2(b)(4) from "Discrete Process Technology (Robotics)" to "Robotics Research and Development." The committee believes a formal robotics R. & D. program to improve robotics performance measures, programing languages and standards, visual and tactile sensors, and hierarchical control strategies is needed along with a floor for these activities. The committee recommends changing the title to insure that NBS activities are focused on robotics research and

development and that \$3,200,000 are made available.

S. 2271, as amended by the House of Representatives, includes a funding floor of \$10,000,000 for the Institute for Computer Sciences and Technology (ICST). These funds are intended in part to meet previously mandated efforts, especially the Brooks Act (Public Law 89-306), for the economic and efficient purchase and use of ADP equipment by Federal agencies. The committee believes that ICST must also devote substantial effort and resources to assist in the development of international standards for ADP, to expand its research program for standards development, and to conduct policy-oriented research and analyses related to the efficient use of computers and data processing by the Federal and non-Federal sectors. These efforts are necessary for promoting the orderly growth and international competitiveness of U.S. computer and data processing industries and for determining the appropriate roles of the Federal Government in the computer and data processing fields and especially in the merging fields of computers and data processing, information processing, and communications.

Mr. President, this concludes my comments in support of the adoption of S. 2271, as amended by the House of Representatives, and with the two amendments proposed by the Committee on Commerce, Science, and Transportation. Senate passage of S. 2271 with these amendments is acceptable to the House Committee on Science and Technology and will likely be passed by the House of Representatives, thereby avoiding the need for conference.

Mr. CANNON. Mr. President, I am pleased to join with the distinguished chairman of the Commerce Subcommittee on Science, Technology, and Space, Senator JACK SCHMITT, to co-sponsor an amendment to enhance the metals processing research of the National Bureau of Standards.

I stress the value and importance of the provisions in this bill for support of the National Bureau of Standards program for research on metals processing. The industrial base of our country, so essential to our defense and civil needs, is in continuous jeopardy because of its dependence on foreign sources for a number of critical materials. Our national program to stockpile a safe reserve of such materials has been neglected by the administration. This makes it particularly important—indeed vital—that we pursue alternate metal processing which may be made possible by research in metallurgy. In this way, we may be able to develop required performance characteristics without use of certain critical alloys or with sharply reduced levels of such alloys.

This amendment will allocate \$3 million of the Bureau's budget in fiscal year 1983 for metals processing research involving such areas as rapid solidification techniques, new alloy coatings, and generation of new phase diagrams. It is a program which the 96th Congress initiated and is at least as vital to our national interest now as it was when first authorized. Major elements of our country's industrial activities involved in military and civil production depend upon advanced metal processing technology for competitive survival. This, in turn, affects the well-being of our metal mining industry, which has suffered severely in recent years.

I commend my colleague, JACK SCHMITT, and am pleased to join with him in restoring this important program to the National Bureau of Standards.

The motion to concur in the House amendment with the Senate amendments (UP No. 1225) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I thank the minority leader for permitting us to transact this routine business at this time, and I thank the Senator from Florida, who has a special order, for deferring his remarks so we might conclude these activities.

RECOGNITION OF SENATOR CHILES

The PRESIDING OFFICER. Under the previous order, the Senator from Florida (Mr. CHILES) is recognized for not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982: TITLE IV—HABEAS CORPUS REFORM

Mr. CHILES. Mr. President, for over 2½ months now, Senator NUNN and I have come to the floor of the Senate to urge our colleagues to move promptly to pass a package of anti-crime bills. We both were delighted, of course, that the Senate has come up with a time agreement for the consideration of one such package of anti-crime proposals, S. 2572. Both Senator NUNN and I are original cosponsors of that bill, and the fact that over 50 Senators have signed on as sponsors of S. 2572 indicates that crime fighting legislation has strong support here in the Senate. Senator NUNN and I also introduced our own package of crime fighting proposals, S. 2543, and we were able to have that bill placed di-

rectly onto the Senate Calendar. It too received support from some 18 other Senators. My hope is that the Senate can move on one of these proposals as soon as possible, so that we can try to put anticrime laws on the books this year.

One essential element of any reform in our criminal justice system has to be the overhaul of today's habeas corpus laws. Senator NUNN and I have focused on the need for reform in this area for over the last month, and we have taken turns speaking out every day on the shortcomings in the present law and on the broad base of support for habeas reform. Some of the strongest words of support come from those persons most directly involved in the criminal justice system. The National Conference of Chief Justices has endorsed the need for habeas reform, and has specifically endorsed the reform proposals contained in title 4 of S. 2543, the anticrime bill that Senator NUNN and I introduced.

Earlier this week, in a speech to the American Bar Association, Supreme Court Justice Lewis Powell outlined his concerns with the present habeas laws, and called for reforms to eliminate frivolous habeas appeals. I would like to share some of his remarks with my colleagues. Mr. Justice Powell was discussing the causes of the overload in the Supreme Court's docket. He said, and I quote:

Another cause of overload of the Federal system is the law conferring Federal habeas corpus jurisdiction to review State court criminal convictions. There is no statute of limitations, and no finality of Federal review of State convictions. Thus, repetitive recourse is commonplace. I know of no other system of justice structured in a way that assures no end to the litigation of a criminal conviction. Our practice in this respect is viewed with disbelief by lawyers and judges in other countries. Nor does the Constitution require this sort of redundancy.

In a note to his remarks, Justice Powell cited a specific example that occurred during the 1981 term of the Supreme Court, in which petitions were filed in more than 30 cases by a single prisoner. Each petition became a case on the Supreme Court's docket, duplicate copies were sent to each Justice, and each Justice had to make a personal decision as to the merits of each one of the petitions.

Justice Powell went on to point out that, while many of the habeas cases are not unduly burdensome, each case starts up a process, requires staff work, and ultimately requires a judicial decision. He also noted that the present system of dual review demeans our State courts, and the endless review process tends to frustrate rehabilitation within the penal system.

Justice Powell put his finger on what may be the root cause for today's system. He said and I quote:

We have tolerated a system under S. 2254 so easily abused because of the rare case in

which an unconstitutional and unjust conviction is not identified until years later. One would think that we are wise enough to provide for the exceptional case, without continuing a system that otherwise seems indefensible.

I agree with that observation, and I too believe that we are capable of providing for the exceptional case where a miscarriage of justice has occurred.

I also agree with Justice Powell's assertion that he does not favor the total repeal of our Federal habeas corpus statutes. That is not what our habeas reform proposals would do. Instead, the proposals in S. 2543 and the administration's proposals both attempt to carry out what Justice Powell thinks we must do, and that is to consider means of limiting collateral review by Federal courts of State convictions to cases of manifest injustice—where the issue is guilt or innocence. That was the original purpose of the writ of habeas corpus, and I believe that we in Congress need to act to bring the habeas statute back in line with that original purpose.

Mr. President, another distinguished jurist has added his voice to those in the academic community, the justice system, the Congress and the public who are calling for reform of our habeas laws. We in Congress have an opportunity to make those reforms, but unless we act promptly, our opportunity will slip away. Time is running out in this Congress, with as few as 26 days remaining in this session. We can take action to make the changes which Justice Powell and so many others have recommended, but only if we act now.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business to extend not beyond the hour of 10:45 a.m., with statements therein limited to 3 minutes each.

Mr. GORTON addressed the Chair. The PRESIDING OFFICER. The Senator from Washington.

THE IUS VERSUS CENTAUR DECISION

Mr. GORTON. Mr. President, the Sunday News Journal of Wilmington Del., recently carried an article respecting Congress decision to proceed with the sole-source development and procurement of a high-energy upper stage rocket to be used by NASA and the Defense Department in connection with the Space Shuttle. Although Senator HEFLIN and I succeeded in amending the urgent supplemental appropriations bill (H.R. 6685) to require the competitive procurement of any high-energy upper stage space booster that may be needed in the 1990's, that

language was deleted during conference. As a result, as this article points out, the American people are purchasing at a substantially greater cost the Centaur upper-stage booster made by General Dynamics Corp. even though the need for this upper-stage and the safety of it is seriously questioned by both NASA and DOD. I ask unanimous consent that a copy of the article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

(From the Sunday News Journal
(Wilmington, Del.), Aug. 1, 1982)

**COSTLY ROCKET RATTLES CRITICS—CENTAUR
CITED AS DUPLICATION**
(By Joe Trento)

WASHINGTON.—Obscure legislation will bring the General Dynamics Corp. a long-sought windfall and cost taxpayers \$2 billion to build a space booster that NASA and Department of Defense officials say is a wasteful duplication.

The \$2 billion Centaur would replace the already completed \$715 million Boeing Co.'s Inertial Upper Stage.

The purpose of the upper-stage rockets is to boost spacecraft to the planets and to high earth orbit that America's space shuttle fleet cannot reach.

The Boeing IUS was chosen by NASA and the Defense Department several years ago because experts said it was safer and more reliable than the Centaur. Spokesmen for both companies defended their upper-stage systems as being superior.

The legislation sponsored by former astronaut Sen. Harrison "Jack" Schmitt, R-N.M., was attached to an emergency federal budget bill signed into law by President Reagan earlier this month. It provides NASA funds for development of the Centaur, a liquid-fueled, upper-stage spacecraft booster, and stipulates that it replace the Boeing IUS on two key NASA planetary flights in 1986.

Critics of the measure say it:

Will mean wasting the almost \$715 million investment in the IUS.

May delay two important space missions.

Bypassed competitive bidding procedures. Simply is not safe enough.

Schmitt dismisses the critics, saying while the Centaur isn't perfect, it's needed.

The decade-long fight between General Dynamics and Boeing to build the upper stage has been fierce. NASA has switched back and forth between both contractors and finally settled on Boeing, for what the NASA program manager described as "safety reasons."

The contract Boeing won in 1976 was to be for an "interim" upper stage that would fulfill NASA and Air Force needs until the early 1990s.

NASA and the Air Force planned to have aerospace contractors bid again on a more powerful and possibly manned upper stage, called the high-energy upper stage, in the late 1980s.

Schmitt said the IUS was too limited to serve this purpose.

Schmitt, fearful that support for such a program would fade, said he forced NASA into the Centaur program to make certain that some move was made toward a high-energy upper-stage booster.

He added that neither the Reagan Administration nor the Defense Department

seemed interested in pushing the high-energy program. "It is a foot in the door," the former Apollo 17 astronaut said.

"This administration has no space policy. This was a way of getting a high-energy upper-stage in the budget... It is not a perfect solution," he added.

Other senators say they have received complaints that plans to open the bidding on the high-energy upper-stage, to be used in the 1990s, were sidetracked by Schmitt's legislation. These senators say that Schmitt in effect gave General Dynamics not just the contract for the interim upper stage, but for the final upper stage as well.

"Hell, after we put all this money into this, no one will vote for another upper stage," one California senator said.

Schmitt "snowed these guys on this. They just won't take him on cause he walked on the moon," an aide to Sen. John H. Glenn Jr., D-Ohio, said.

The day before the Schmitt legislation was passed, a letter to House Speaker Thomas P. "Tip" O'Neill Jr., from Vernon Orr, secretary of the Air Force, and NASA Administrator James M. Beggs, called the Schmitt legislation "restrictive and wasteful."

President Reagan, in his July veto of the 1983 supplemental budget appropriation, told the Congress that Schmitt's legislation forcing NASA to buy the Centaur was a wasteful duplication. "Language mandating minimum spending levels for certain NASA programs will severely disrupt two important scientific missions and lead to the waste of more than \$150 million..." the president told the Congress.

When the White House was asked last week why the president eventually signed legislation containing the Schmitt measure, a reporter was referred to the Office of Management and Budget.

A staffer there who's an expert on the NASA budget commented, "Because the bill gave money to government agencies that would have run out of funds, the President just held his nose and signed the thing." The staffer asked not to be identified.

Rep. Harold C. "Cap" Hollenbeck, R-N.J., the ranking Republican on the House Subcommittee on Space Science and Applications, said: "This action by Congress clearly bypassed competitive bidding, committee oversight. It exploited a weakness in the legislative system and it is going to cost NASA, the Defense Department and the American taxpayer plenty."

NASA and Air Force engineers originally selected Boeing because the company offered more reliable and safer solid-fuel design, officials said. General Dynamics wanted to revamp a proven and more powerful early version of the Centaur. That Centaur upper stage was originally designed to fly atop the old Atlas and Titan ICBMs for deep space probes launched during the 1960s.

But NASA had never launched an upper stage from a manned spacecraft, and wanted to be sure the system was safe and reliable. The stage had to have back-up and safety devices and at least 98 percent reliability. Boeing achieved this with solid-fuel rockets. But not before huge cost overruns and delays preceded the delivery of the first IUS in June.

Two years ago NASA was so discouraged with Boeing that it issued a contract to General Dynamics to start again on Centaur. The contract was canceled because of budget restrictions and after Boeing overcame its technical problems.

The first Boeing upper stage has exceeded all NASA and Defense Department design specifications, officials said.

The first operational IUS is to be launched aboard an Air Force Titan ICBM this fall. The first shuttle launch of the IUS is set to boost a NASA communications satellite aboard space shuttle Challenger in January.

Schmitt's legislation requires that NASA drop out of the IUS program, set to boost two planetary spacecraft in 1985, and replace them with Centaur. The now non-existent Centaur would be used to launch the \$600 million Galileo spacecraft on a mission to Jupiter and to launch the Solar-Polar mission from the cargo bay of a space shuttle. The Solar-Polar mission is a joint National Aeronautics and Space Administration/European Space Agency project to send a spacecraft to study the sun.

Frustrated members of the House Science Committee's subcommittee on Space Science and Applications, charged with overseeing NASA, are angry about the change and fear it may endanger key NASA missions.

Hollenbeck, like Schmitt a Republican, said: "NASA spends more than half a billion dollars to develop Galileo and designs it to fly on the IUS. By the time the mission was set to go in 1985, the IUS would have been tested a dozen times by the Air Force and NASA in space. Now by legislative fiat, NASA is forced to count on a booster that doesn't exist, when we have already paid \$715 million for one that works and is in hand."

"This is like building a successful moon rocket and then having some senator come in with a law and say, 'Well, I don't like the way it looks, or the name of the company that built it, so let's delay the whole program, spend another billion dollars or more and do it again,'" Hollenbeck said.

Schmitt concedes, "There is a chance the Centaur might not work, but I think it can be done and we have to try. I think there is room for both IUS and Centaur in the program."

Some members of Congress have been personally critical of Schmitt, who has picked up the nickname of "Moonrock" in the senate, for his legislation. One Republican congressman, who asked not to be named, attributed Schmitt's legislation to "his myopic view of his own expertise."

Schmitt's staff members, who are not permitted to speak for the record, hinted that their boss supported Centaur for national security reasons. "You know he is on the intelligence committee and is privy to secrets," one Schmitt aide said.

But sources on the intelligence committee, and at the CIA, say there is no mission planned requiring Centaur. These sources explained that intelligence satellites fly in low earth orbit and that the shuttle needs no assistance in placing them in space.

Schmitt concedes "that there is no military mission as yet... but I believe that such lifting capacity will be needed for anti-killer satellite defense. I think the problem is the military hasn't really thought about the uses of space."

The Air Force says it plans to spend \$8 billion in military uses of space this year.

According to Hollenbeck, no matter what the Congress does now, the General Dynamics Corp. will almost certainly receive \$150 million over the next two years for its liquid-fueled Centaur upper-stage system.

But the real costs of Schmitt's legislation could total \$2.1 billion. That figure includes changes NASA and the Defense Depart-

ment will have to make to alter its existing hardware to fit the Centaur.

NASA and the Air Force must reconfigure hardware to fit the 12-foot-diameter Centaur instead of the 9½-foot diameter IUS.

In addition, it will cost NASA about as much in penalties for breaking its contract with Boeing and shutting down production of the two planetary probes as it would have cost to purchase the two Boeing upper stages.

NASA spokesman William O'Donnell said that if "unforeseen problems develop with Centaur, such as incompatibility with the shuttle, we will have no back-up to launch those two planetary missions."

The Defense Department estimated that it would spend between \$200 million to \$500 million to modify payloads to fit the Centaur. Total Defense Department costs came to an additional \$1.1 billion to \$1.46 billion. NASA estimated that to switch to Centaur would cost the civilian space agency another \$626 million.

In the NASA figure is \$110 million to modify shuttles Columbia and Challenger to carry the pressurized and liquid-fueled Centaur.

It's these modifications that bother NASA engineers most. Although Centaur would have greater power in its liquid-fuel configuration than the existing IUS system built by Boeing, IUS is approved for manned flights. The 19-foot-long booster stage could fit in the shuttle cargo bay, be safely handled by the astronauts, released by spring latches and fired when the shuttle was safely away from its cargo.

The Centaur does not operate in the same manner. The Centaur must launch into precise mathematical windows in space. In addition, the liquid fuels aboard evaporate, which means that the stage must be launched within seven days, or run short of fuel.

If there is a malfunction that prevents launch, the solid-fuel IUS needs no special preparations to bring it back safely. The Centaur must be carried back, fully pressurized in the cargo bay, with gases from the boiling fuel being vented into the cargo bay during the critical re-entry process.

With the volatile liquid fuel aboard, the risk of an explosion is greater.

According to NASA upper-stage manager B. C. Lam, "this was the key problem with Centaur all the way."

The existing IUS also a compatible with both the Air Force's Titan and the shuttle. But while the early versions of the Centaur were compatible with throwaway rockets like the Titan, the version designed for the shuttle isn't.

The Air Force also objected to the fact that the Centaur was so much larger than IUS that it used up too much space in the 60-foot-long shuttle cargo bay, forcing extensive redesigning of Defense Department payloads.

To successfully compete with a commercial European consortium called Ariane Space, the space shuttle has to have an upper stage to launch communications satellites into what is called a geosynchronous orbit. This 22,500-mile-high orbit allows satellites to stay in the same place relative to earth to allow for uninterrupted communications. The space shuttle itself is capable of orbiting large payloads no higher than 700 miles without the upper stage.

The ability of the space shuttle to get commercial, military and scientific spacecraft into geosynchronous earth orbit will determine if the Space Transportation System is commercially viable.

Mr. GORTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUDGET ACT WAIVER

Mr. BAKER. Mr. President, before the Chair makes a further announcement on the immigration bill, I have been advised that all parties have cleared for consideration the budget waiver which must accompany this bill. That is calendar order 739.

Mr. President, I ask unanimous consent, and I am advised the minority leader is agreeable to this, that the Chair now lay before the Senate Calendar order No. 739, Senate Resolution 435, the budget waiver to accompany S. 2222.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 435) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2222.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 435) was agreed to, as follows:

S. RES. 435

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2222. Such waiver is necessary because S. 2222 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorization.

The waiver of section 402(a) is necessary to permit enactment of important reforms of the immigration laws and policies of the United States. S. 2222 is the result of two years of deliberations by the bipartisan Select Commission on Immigration and Refugee Policy, as well as a year's series of hearings in the Congress, including joint hearings conducted by the appropriate subcommittees in the Senate and the House of Representatives.

S. 2222 provides an authorization for fiscal year 1983 of \$60 million to implement measures which will improve control of both illegal and legal immigration to the United States.

At the time of the 1983 budget hearings, the Attorney General testified before both the Committees on the Judiciary and the Appropriations Committees of the Senate

and House of Representatives that the administration would support appropriations needed to carry out immigration reforms in 1983. Furthermore, because the 1983 appropriations process is not yet complete, congressional consideration of this authorization will in no way interfere with or delay the appropriations process.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2222, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

The Senate resumed the consideration of the bill.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the privileges of the floor be granted to the following members of the Subcommittee on Immigration and Refugee Policy staff:

Richard W. Day, Charles Wood, Donna Alvarado, Arnold Leibowitz, Valentine Jones, Frankey DeGooyer, Avelina Sabangan, Ellen Hughes, Ally Milder, Ed Baxter, Eric Hultman, and Jerry Tinker during the pendency of S. 2222, the Immigration Reform and Control Act of 1982, today, August 12, 1982, and each day the measure is pending and for rollcall vote thereon.

The PRESIDING OFFICER (Mr. ANDREWS). Without objection, it is so ordered.

COMMITTEE AMENDMENT AGREED TO

Mr. SIMPSON. Mr. President, I move that the committee substitute be agreed to, and that the bill, as so amended, be treated as original text for the purpose of amendment.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment in the nature of a substitute was agreed to.

Mr. SIMPSON. Mr. President, I wish to deeply thank the majority leader, Senator BAKER, for his courtesy and similar persistence in seeing that this matter is considered before the Senate, and also that same message to Senator ROBERT C. BYRD, with deep appreciation for his assistance in

seeing that this measure is before us for consideration.

I also thank the subcommittee members: Senator THURMOND; Senator GRASSLEY, who has done yeoman work; Senator DeCONCINI, who has been most helpful in his participation, and particularly tribute to Senator KENNEDY, the ranking minority member of the subcommittee, who has been an extraordinary helpmate in the crafting of this measure.

Senator KENNEDY has some reservations which he will present to you today, but I thank him deeply for his method in which he participated.

Mr. President, we have a phrase we use in Cheyenne during Frontier Days, "Grab a tight rein because here we come out of chute No. 4."

That is where we are with this one. Here is an issue that will consume our interest for a bit, our legislative deliberations, one that will not go away. The current U.S. immigration policy is hopelessly inadequate to deal with modern conditions, including the growing immigration pressure yet to come in this country.

The current policies no longer serve or promote the well-being of a majority of the American people. Immigration to the United States is out of control and it is so perceived at all levels of government by the American people—indeed, by people all over the world. I deeply feel that uncontrolled immigration is one of the greatest threats to the future of this Nation, to American values, traditions, institutions, to our public culture, and to our way of life. It exists in sharp contrast to controlled immigration, which, indeed, has been one of the finest traditions of our remarkable heritage.

Mr. President, let me present a few statistics. When I began my service on the Select Commission of Immigration and Refugee Policy 3 years ago, serving there with three other Members of this body—Senator KENNEDY, Senator MATHIAS, and Senator DeCONCINI—I think all of us sincerely trusted that we would never reach the point where we would come to talk so often about numbers, since behind every number is a very real face and a very real human being. Unfortunately, we do make this reference, since the numbers show so very clearly the essence and the extent of our problem.

In the 5 years just passed, total legal permanent admissions to the United States, including refugees, increased from a little over 450,000 in 1976 to 800,000 in 1980 if we include the 135,000 Cubans and Haitians entering in that year. As recently as 1965, the total was under 300,000. During that same 5-year period, the numerically unlimited category of "immediate relatives" of U.S. citizens grew 40 percent, from 114,000 to 152,000. In this same period, refugee admissions have ranged from 5,000 in 1977 to over

200,000 in 1980, 4 times the 50,000 level indicated as the normal flow in the Refugee Act of 1980.

The United States today is taking in more legal immigrants and refugees for permanent resettlement—that is a key definition; not just temporary camps or readying them for another country—than the rest of the world combined, perhaps twice as many. It is because of the inflow of the "immediate relatives" and refugees that legal immigration to the United States has reached so high a level.

Mr. President, as my colleagues are well aware, the level of refugee admissions is set by the President after consultation with the Judiciary Committees of the House and the Senate. As a result of the maturing of that consultation process, which has occurred through the fine assistance of my ranking member (Mr. KENNEDY) and the great assistance of my counterpart in the House, the chairman of the House Judiciary Subcommittee with regard to immigration—let me pay tribute to RON MAZZOLI, that able and articulate, dogged and determined, delightful friend. During the development of this legislation and during the period since the enactment of the Refugee Act, we, as I say, have reached a maturing process in consultation—all of us. I believe the process now provides an appropriate degree of control over refugee admissions. However, present law still provides no control whatsoever over the number of "immediate relative" admissions.

Mr. President, in addition, thousands of illegal immigrants now enter the United States every year. Some estimate the annual inflow at over 500,000. The present inflow is substantially higher than it was 10 years ago. Some indication of that can be found in these dramatic figures on apprehensions. In 1967, the number was 162,000. In 10 years, those apprehensions have increased to 1 million per year.

Consider, then, that just 4 years ago, applicants for asylum numbered less than 5,000 for the year. Today, that backlog is over 105,000. We are well informed that a significant fraction of those may actually be "economic migrants" and not, thus, legally qualified for asylum. Who would have ever dreamed we would have become a country of first asylum?

The number of illegal aliens already in the country is unknown. The select commission used a figure of 3.5 to 6 million for the best estimate for 1978. Whatever the number presented 4 years ago, there are surely many more now. Immigration—legal plus illegal—now appears to be accounting for 30 to 50 percent of our annual population growth of about 2 million.

Well, Mr. President, I am certain there may still be some of my colleagues thinking, "well, so what?"

Why should we do anything? Let me make an effort to explain why those persons, as elected representatives on behalf of the American public, should be concerned.

Net immigration, legal plus illegal, 750,000 per year. A net immigration of 750,000 would lead to a U.S. population in 100 years of 300 million, even if it were assumed that the fertility rate of the existing population remains at its present low level, which seems improbable, and if the fertility rate of the new immigrants immediately declines to that of the present population as a whole, which is even less probable, given the high fertility rates of the countries from which most of the immigrants now come. About 100 million of this 300 million would consist of immigrants arriving after 1980, and their descendants.

Indeed, these overall figures actually underestimate the impact of immigration, since it may actually be concentrated in only a few regions of the country. For example, under the same assumptions and assuming continuance of existing settlement patterns, the population of California would double by 2080. Over one-half of the State's population would consist of post-1980 immigrants and their descendants.

I am not going to delve into the problems of excessive population. Those items are well known and there are organizations that express that very clearly and very sincerely. I shall not discuss them.

Not only is the total number of legal and illegal immigrants high, but less than 5 percent even of the legal immigrants are individually admitted on the basis of characteristics which are likely to benefit the Nation as a whole, and this is limited only to an analysis of labor market impact.

As a result of this and of the fact that the present procedures for the determining of the effect on the labor market would appear to be of limited effectiveness, I believe that our present policies have produced adverse job impacts, especially upon low-income, low-skilled Americans—who are the most likely to face direct competition. Such adverse impacts include both unemployment and less favorable wages and working conditions than would otherwise be offered. Not only do such impacts cause economic harm to the directly affected Americans and their families, and in many cases a public assistance burden on the taxpayers, but it may also increase the social and political problems associated with unemployment and poverty.

Let me add here that if it is determined as a national objective that the use of foreign labor is beneficial under particular circumstances—and I believe such use should be limited—then the law should allow this use under

appropriate limitations and conditions. Obviously, however, if the necessary limitations and conditions cannot be enforced, then no beneficial results can be assured.

Although population and job impacts are of great significance, I think most people would agree that the national interest of the American people also includes certain even more important and fundamental aspects, such as the preservation of freedom, personal safety, and political stability—as well as the public cultural qualities and political institutions which are their foundation.

Mr. President, a careful comment, please, that must be carefully heard, because it is easily misunderstood and easily distorted.

If immigration is continued at a high level, and yet a substantial portion of these new persons and their descendants do not follow the historical patterns of earlier immigrant groups in becoming full participants in American society and our public culture, then they have the potential to create here a measure of the same social, political, and economic anguish which exist in the countries from which they have voluntarily chosen to depart. That is reality.

Mr. President, now that the problem has been presented, I should like to outline what we believe to be the solution—the form of immigration reform which we believe the American people desire and deserve, and which America's future requires.

First, I wish to firmly make the general point that immigration can always continue to benefit the United States if the law is reasonably amended to be appropriate for contemporary conditions—if the amended law can be enforced.

Mr. President, the major provisions of S. 2222 contains provisions intended to reduce the problem of illegal immigration.

The potential benefits and protections of even the most carefully designed statutory standards for determining who may enter the United States, as well as for how long and under what conditions they may remain, will not be available in practice if those statutory standards cannot be enforced.

All objective, comprehensive studies of the problem of illegal immigration, including those by the Ford, Carter, and Reagan administrations, as well as the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of U.S. immigration laws cannot be achieved by direct enforcement alone.

Why? Because as long as greater job opportunities are available to foreign nationals who succeed in physically entering this country, intense illegal immigration pressure on the United States will continue, and that pressure

will decline if the availability of U.S. employment is eliminated, or if the disparity in wages and working conditions is reduced, either through improvement in the Third World or deterioration in the United States.

The United States, of course, should always assist in Third World development activities but the achievement of substantially higher living standards in those nations is a prospect only for the long run. Since deterioration in the United States is certainly not an attractive resolution, only one approach remains: To prohibit the knowing employment of illegal aliens.

S. 2222 provides for penalties against employers who knowingly employ illegal aliens and also against persons who knowingly and for a fee recruit or refer for employment such illegal aliens. In order to protect persons subject to penalties and also the members of minority groups legally in this country, the bill provides for a system to verify that employees and potential employees are U.S. citizens, legal aliens, or authorized to work in the United States.

It has been claimed that any new verification system would be "too costly" and that it would pose a threat to privacy and to civil liberties. I respectfully disagree. The Social Security Administration recently estimated that the cost of replacing all social security cards with a tamper- and counterfeited-resistant version would be \$108 million per year for 10 years—but since total replacement would not be required, the cost would actually be much less. The Department of Labor has estimated that the cost of a verification system which would utilize a telephone call to a new Government data bank would average \$333 million per year for the first 5 years and about \$200 million per year thereafter.

These are not small numbers, but there are also tremendous costs in inadequate or no enforcement. For example, each unemployed person in the United States receives an average of about \$7,000 per year in unemployment and welfare benefits. If the number of illegal aliens in the United States today is estimated to be 6 million, and if even 2 percent of those hold jobs which unemployed Americans would take, then the savings would be \$840 million per year. Actual displacement is probably substantially higher. Thus, a new system to verify work eligibility may well not exceed in cost the amount directly saved as a result of reduced public assistance alone, not even considering the value of the other benefits of reducing illegal immigration.

The question of how the revising of the form of the social security card, which is one of the most attractive available alternatives, could pose risks to liberty was asked of many witnesses at the hearings of the Subcommittee

on Immigration and Refugee Policy. I do not believe that a satisfactory answer was ever presented. Many persons who are well known for their sincere interest in civil liberties agree that the threat is not serious, including Father Ted Hesburgh, former Chairman of the U.S. Commission on Civil Rights and also Chairman of the Select Commission on Immigration and Refugee Policy; the editorial writers of the New York Times, Washington Post, Los Angeles Times, Boston Globe, and other major newspapers across the country; former Attorneys General Elliot Richardson and Benjamin Civiletti, and many others.

Furthermore, the bill contains specifically crafted safeguards intended to minimize the risk of undue invasion of privacy and the risk of Government abuse. In addition, I think we should harken that there are far stronger protections already in place in this land, the most important being not "the law," which can always be changed, but rather the cultural elements which underlie the law, including the values and traditions of our form of government, which are part of the American character. There is no "slippery slope" toward loss of liberties, only a long staircase where each step downward must be first tolerated by the American people and their leaders.

In an attempt to further deter the violation of U.S. immigration law and to reduce the harmful impact of such violations when they do occur—through reducing the time illegal aliens are able to remain in the country after apprehension—S. 2222 contains improvements in exclusion, deportation, and asylum adjudication procedures.

The bill provides a summary exclusion proceeding without an appeal for those who enter the country without documents and who are not claiming asylum. For all cases involving asylum, the bill provides for extensive administrative consideration, within the Justice Department but outside of the Immigration and Naturalization Service: First a full due process hearing on the record before a specially trained immigration judge and then, if desired, an administrative appeal to a newly created U.S. Immigration Board. Consistent with the practices of most other countries, there will be no right of further review on the merits of an asylum claim. The constitutionally guaranteed right to seek a writ of habeas corpus will, of course, be available in order to remedy any violations of procedural due process.

In addition to tightening of asylum proceedings the bill streamlines the adjudication procedure for both deportation and exclusion. In exclusion cases not involving asylum and not subject to the summary exclusion pro-

cedure, an administrative hearing and appeal will be available as in asylum cases. In deportation, the procedure will be the same except that judicial review of the decision of the Board will be available.

As a result of the measures discussed and the increased resources that we anticipate will be devoted to enforcement by the Immigration and Naturalization Service, illegal immigration should be reduced substantially.

We fully recognize, I think, the possibility that substantial adverse economic impact might occur on certain employers who have, quite lawfully, become dependent on illegal foreign workers. We feel that we deal properly with this problem in the bill. First, the prohibition on the employment of illegal aliens will not apply—this is a key part of the legislation—to those who are hired before the bill is enacted. Second, the legalization or amnesty program will legalize many currently illegal workers. Third, the certification of the Department of Labor which must be obtained for certain job-related visa categories, is modified in order to allow for a more efficient and accurate determination as to when a foreign worker is needed. Finally, the H-2 program is modified so that employers who are able to demonstrate a genuine need for a foreign worker for temporary services or labor will receive an approval within a reasonable length of time.

In addition to reducing illegal immigration, S. 2222 is intended to modify legal immigration so that it will better serve the national interest—by increasing control over the number admitted and by amending the selection criteria.

Although "immediate relatives" of U.S. citizens will indeed continue to be exempt from numerical limitations, the number available for the family reunification preference categories would be determined by subtracting the number of "immediate relatives" admitted in the prior year from the cap of 350,000 in that category, therefore, and increase in the number of "immediate relatives" will be compensated for by a reduction in the visa numbers available for other family reunification categories. A similar approach will link the numerically exempt "special immigrants" with the independent preference categories. The limit will be the cap of 75,000 in that entire category minus the number of "special immigrants" admitted in the prior year.

So the effect of these changes is that at least for the next 10 to 30 years, the total of all new immigrants, excluding refugees, will not exceed 425,000, which is approximately the current level.

S. 2222 also makes several changes in the current criteria for allocating numerically limited immigrant visas.

The family preference categories would not include what is now referred to as the fifth preference.

There is an amendment pending to modify that. I think it may be acceptable. We will deal with that later in the debate.

But what we want to recall is that what we were trying to do is reserve for closer relatives the limited visas available for family reunification and to allow an increase in immigration opportunities for those who have no close relatives in the United States but do have skills that will benefit the American people as a whole—the so-called "seed immigrants," those who had already received fifth-preference status and where on the waiting list as of March 1, 1982, will be protected and applications processed. For these same reasons, the second preference will be narrowed somewhat to cover only spouses and minor children of permanent residents—more properly meeting the definition of "the nuclear family". The percentage of family reunification visas allocated to this category is, therefore, greatly increased.

The highest priority independent preference category is reserved for aliens with exceptional ability in the sciences, arts, professions, or business. This is the present third preference with certain modifications: "Business" is added to the fields covered and "exceptional ability" is required of members of the professions. There is also a new independent category for substantial investors in the U.S. economy who create jobs for U.S. Citizens and permanent residents other than their own relatives.

In addition to the changes with respect to immigrants, S. 2222 amends certain nonimmigrant categories as well. For example, the bill amends the current H-2 temporary worker program in order to establish a special procedure for seasonal workers in agriculture.

Mr. President, last, but certainly not least, in the controversy department, there is legalization or amnesty.

S. 2222 provides for the legalization of illegal aliens into two categories of legal status. An amendment will be presented to modify the provisions in the bill, and I think that may become quite acceptable.

First, aliens who have continuously resided illegally in the United States since before January 2, 1978—this is under the bill—will qualify for permanent resident status, not citizenship.

Second, those who have continuously resided illegally in the United States between the dates of January 1, 1978, and January 1, 1982—under the present bill—or who are in the Cuban/Haitian "entrant" status, will qualify for a temporary status, not citizenship, which may be adjusted to permanent status after 2 years if the alien meets certain conditions of present law.

Persons convicted of certain crimes, Nazis and other persons who have persecuted others, Communists, anarchists, saboteurs, and those seeking to overthrow the Government will be excluded from each category of legalization, as under present law. Most other classes of excludable alien, including aliens who are likely to become a "public charge" under present law, will also not qualify, unless a waiver is obtained.

We seek to achieve three major goals through legalization, which is very controversial.

The first is to avoid the wasteful use of the Immigration and Naturalization Service's limited enforcement resources, the United States is most unlikely to obtain as much enforcement for its dollar if the Immigration and Naturalization Service exhausts its efforts in attempts to locate and deport those who have become well settled in this country, rather than to prevent new illegal entry or visa abuse.

The second goal is to allow currently economically dependent employers to continue lawfully hiring from this pool of labor.

The third is to eliminate the illegal subclass of persons now present in our society. Not only does their illegal status and their resulting weak bargaining position cause these people to depress U.S. wages and working conditions, but it also limits their participation in U.S. society, which may have the effect of hindering the participation even of legal immigrants from the same country of origin, as they become people who are afraid to go to the police, afraid to go to the hospital unless it is for a birth, and afraid to go to their employer, who says, "One peep from you, and it's off to the I. & M." If you could not find them coming in, how are you going to find them to get them out?

Mr. President, that concludes my description of the major provisions of the bill. I will conclude with a few personal remarks.

I became chairman of the Immigration Subcommittee at the beginning of this session of Congress. It has been a fascinating year and a half—quite an educational process for me, as was my time on the Select Commission on Immigration and Refugee Policy.

Mr. President, in those nascent efforts I originally rejected certain of the key provisions now in this bill, possibly feeling a bit like some of my colleagues must feel at this moment on the issue. I wish all of my colleagues could have shared in that rich 3-year learning process, for I assure them that the longer one is in it, the more one understands that this is the approach we must take. ROM MAZZOLI, my House counterpart, and I have discovered that this is the approach we must take.

The bill we have drafted is the product of an evolutionary process of many years. It has to be clearly stated that this bill does not suddenly rise up as a solution to higher unemployment or as a panacea for some rough economic times. No, indeed. It has been incubating for many years, and now we hope we can bring it to fruition. It owes much to hundreds, yes, even thousands, of Americans, even to those who are not Americans. The subcommittee itself conducted 18 days of hearings and 5 formal consultations on the myriad subjects related to this bill. In addition to these extensive hearings, we had access to all of the excellent prior work on immigration reform done in the past few years, including the efforts of the administrations of Presidents Ford and Carter, the final report of the select commission—and I attended a good many hearings and meetings of that fine group during that process, too; the very perceptive and interesting proposals of that fine and able senior Senator from Kentucky, DEE HUDDLESTON; the efforts of my able colleague from Massachusetts, TED KENNEDY, the ranking member of the subcommittee, who chaired this subcommittee for 12 years and has given of his assistance and support through the hearings as has his capable and very bright staff, including the minority staff counsel, Jerry Tinker; the excellent ideas of the Reagan Task Force on Immigration, headed by our most capable and knowledgeable Attorney General Smith—a real trooper on this issue—and his staff; and, finally, the portions of the proposals and the bill submitted by the President in July of last year.

Those various proposals and recommendations are remarkably similar. This should not be surprising to anyone, since they were all the product of intelligent, caring men and women who were attempting to deal with the same problem—that immigration to the United States is out of control.

Because those of us involved in the drafting of S. 2222 faced the same problem, it is then not surprising that our solutions are not dramatically different from proposals of the recent past.

The entire issue is a very, very tough one. It evokes feelings and accusations of guilt, emotionalism, and racism and it is so susceptible for a vehicle to engage in high drama. RON MAZZOLI and I have done our level best to prevent the national debate from going in that way.

Some have suggested that now is not an appropriate time to debate immigration reform in the Congress. The mood is too "restrictive" they say. It brings out our "dark side." Fair immigration reform cannot be accomplished in such an atmosphere.

I want to express my strong disagreement with that view. First, I do not believe there is an atmosphere of restrictiveness or mean spiritedness—not in any Member here—concerning immigration reform in this body. Second, matters are only going to grow worse if we do not obtain control over immigration to this country.

Now is the time to act. Every poll taken in the Nation shows that over 90 percent of the American people believe our immigration laws and policies are out of control and must be reformed. Pressures to migrate are increasing worldwide and some of the greatest pressure is on this country. As long as people around the world know that once they arrive in the U.S. illegally they will be able to obtain jobs, they will obviously continue to come in increasing numbers.

I firmly believe that this is the time to reform our immigration laws. A wide diversity of public interest groups involved in immigration, the editorial writers of the major newspapers of this country, and the administration have agreed that this bill is a fair, workable, and humane approach to controlling illegal and legal immigration. If we do not act now in a rational way, I am deeply concerned that the debate in the future will become increasingly unpleasant and clouded by racism, restrictionism nativism, and other elements which we have successfully excised out of this reform effort.

I am pleased that the balance which we achieved in S. 2222 has received such wide acclaim throughout the country, including editorial support in the Washington Post, New York Times, Los Angeles Times, the Boston Globe, and many other of the fine newspapers across America.

The bill, of course has its critics, especially among certain special interest groups. Indeed, I get hammered pretty hard in Wyoming on this issue—I assure you I did not go into this fray to gain political support from my constituents. This is a "no win" issue in that sense. But I tell my wife, Annie, to keep up the housepayments in Cody, Wyo., so that if enough folks back home do not believe what I am doing is right for the country, or if they should wish a Senator who would use a lesser standard, I will at least have a roof over my old bald dome.

Actually, though, the people in Wyoming are like most Americans: If we have faith in their commonsense and let them know honestly what we are doing, they understand very well. In particular they understand that the future of America—the America of their immigrant ancestors, their children, and their grandchildren and their great grandchildren—is more important than some special short-term benefit for themselves.

Mr. President, this is one national issue that will not go away, and

anyone who feels that there is not a massive constituency out there for immigration reform is misreading the tea leaves. I say this to my colleagues: Do not be anxious or fearful that we here repeat the wretched racist overtones or previous immigration reform in this land. Here I hope you will consider that there are no hidden agendas or subtle meanings within this proposal—No mysteries or alchemy—but simply the expression of the national legislature that we intend to clearly exercise that first and primary function of a sovereign nation, which is to control its borders, and that we intend to send a signal to the rest of the watching world that to work in the United States of America, you must be in "legal" status. This legislation expresses nothing more profound than those two basics.

I look forward to the debate, the consideration of the amendments, and the legislative processes which will likely lead us really only to the beginnings of a solution of this destabilizing, disruptive, and gut-hard issue.

Mr. President, I yield to the Senator from South Carolina (Mr. THURMOND), who has to attend an urgent meeting.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, this is a subject in which I have long been interested. When I became chairman of the Judiciary Committee, I concluded that action must be taken to rectify the situation now existing in this country with regard to immigration.

I requested that I be made a cosponsor of the bill. I do not believe the RECORD shows that. If it does not show that, I ask unanimous consent that I be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, the Senate now has before it one of the most important measures considered by the Committee on the Judiciary this year. The Immigration Reform and Control Act of 1982 is directed at increasing control over both illegal and legal immigration, which has become a significant problem in this country.

The distinguished Attorney General of the United States, William French Smith, in testimony before the committee on April 20, 1982, stated:

It is now time for the Congress to act boldly and realistically by enacting comprehensive immigration reform in this session. The Administration continues in its firm commitment to this effort.

The Attorney General feels strongly about this legislation, as do a majority of the members of the Committee on the Judiciary. S. 2222 was reported by a vote of 16 to 1 on May 17, 1982. It is time for Congress to act on this measure.

NEED FOR LEGISLATION

Mr. President, in the last 5 years legal immigration to America has increased from 450,000 in 1976 to 800,000 in 1980, including the 135,000 Cubans and Haitians that entered in 1980. During that same period, the category of "immediate relatives," over which there is currently no limitation, increased by 40 percent. Refugee admissions went from 5,000 in 1977 to more than 200,000 in 1980.

We have no firm knowledge of the number of illegal aliens in this country. Some have estimated the flow to be in excess of 500,000 a year. One indicator is the number of apprehensions. In 1967, it was 162,000. In 1977, apprehensions were more than 1 million. The Select Commission on Immigration and Refugee Policy in 1978 used the figures of 3.5 to 6 million as an estimate for the number of illegal aliens in the United States. Now, 4 years later, we can only assume these figures are higher. In the words of Attorney General Smith, "we have lost control of our borders."

Presently, net immigration, which includes both legal and illegal, is approaching 800,000 annually. Although compared to a population of 230 million Americans, the figures seem acceptable, but such comparisons are deceiving. If we assume the same levels of immigration, fertility rates, and settlement patterns, the population of California would double by the year 2080. Other areas of the Nation would also be inordinately affected by continued levels of current immigration flow.

We are a Nation of freedom and opportunity. But that too is being threatened by a policy of unrestrained immigration and refugee admissions. The political stability, personal safety, and the preservation of our cultural and political institutions must be brought to account. We can no longer be the sole refuge for victims of the economic ills of other nations. Moreover, the record of the ability of certain immigrant groups to assimilate into our society has been questionable.

Although 50 to 60 percent of illegal aliens come from Mexico, of those who remained in the United States for 7 years, only 5 percent had naturalized. It is clear that Mexican nationals wish to share in the rewards of our capitalist system of government, but have reservations about becoming American citizens. Other immigrant groups have much higher percentage rates of naturalization. If these individuals cannot easily assimilate into our society, that poses social, economic, and political problems that must be recognized and addressed by Congress.

RESPONSE TO PROBLEM—S. 2222

Mr. President, S. 2222 is not the ultimate answer to the immigration and refugee problem in America. It is intended to pose solutions to the major

problem of illegal immigration. The bill approaches this in two ways.

First, it makes changes in the law that will enable the authorities of the Immigration and Naturalization Service (INS) to engage in better enforcement of the immigration laws. Improved border control and interior enforcement is provided for in S. 2222.

Second, it reduces the incentives to enter the United States illegally. S. 2222 seeks to accomplish this by providing increased penalties for employers who knowingly hire illegal aliens and the institution of an improved verification system so that honest employers are not punished for good faith efforts to hire foreign-looking workers.

These two policies, stronger enforcement and a reduction of incentives to enter and stay in the United States, are really the only ways of controlling our borders short of building a wall around the entire country. We must permit a certain flow of immigrants to meet the needs of certain sectors of our economy, including agriculture, as well as other areas of employment where U.S. labor is unavailable or unwilling to meet the demand. We must, however, increase border and interior enforcement, and reduce incentives for foreign workers to come to America and for U.S. employers to hire such individuals at below-market wages.

REFORM OF LEGAL IMMIGRATION

Mr. President, the other major aspect of S. 2222 is to make reform in the present law regarding legal immigration. Family reunification, which has been a major basis for legal immigration in the past, is retained, but with certain modifications. For example, the per-country ceiling for Mexico and Canada has been increased from 20,000 to 40,000 a year. The independent category of legal immigration is more closely tied to preference immigrants in "family reunification" categories. Thus, there will now be a limitation on overall relative immigration.

Changes are made in the labor certification process to make it more responsive to the needs of the domestic labor market. There are also new provisions which make changes in the nonimmigrant H-2 provisions which cover temporary agricultural or service employees.

The student visa program, long subject to abuse, has been changed to require that foreign students, whether academic or vocational, return to their native country for a period of 2 years after graduation and before they obtain permanent resident status in the United States. Students will also be required to adjust their status to permanent resident and receive it from abroad.

LEGALIZATION PROGRAM

Finally, Mr. President, S. 2222 provides for a legalization program for those illegal aliens who are presently

in this country, but who have developed equities that justify their receiving an adjustment to permanent resident status and receipt of a green card entitling them to work legally in the United States. The bill permits the Attorney General to adjust the status of an alien, not otherwise excludable or ineligible, who can establish residence prior to January 1, 1978. The Attorney General is also authorized to adjust the status of certain aliens who entered prior to January 1, 1982, to temporary resident. Such temporary residents will not be eligible for Federal financial benefits other than for old age, blindness, disability, or needed health care because of serious illness or injury.

Mr. President, this program of legalization is not something I support without reservation. If I did not believe that the only way the Federal Government can gain control over immigration and refugee policy is by way of a legalization program, I would be opposed to it. I supported the legalization program originally in S. 2222, but opposed the version reported by the committee. For that reason, I reserve my rights to reconsider the type of legalization provision, if any, that may be included in this measure. Frankly, the bill as now drafted is too generous. It rewards, unreasonably, illegal entrants who have had little or no time to build the equities generally recognized to be necessary in order for an immigrant, legal or not, to adjust status. I would prefer to see some changes in this provision.

Moreover, there are significant cost implications connected with this legalization program, whatever its form. The administration has indicated to me that it will propose a legalization program more consistent with the original legislation of the administration and within a reasonable budgetary range.

CONCLUSION

Mr. President, S. 2222 contains several other changes in asylum adjudication procedures, reports to Congress, and visa waivers which will further reform the current law. The Senator from Wyoming (Mr. SIMPSON), chairman of the Subcommittee on Immigration and Refugee Policy, has detailed those changes in this opening statement. I will not go over them here.

Speaking of the Senator from Wyoming, I must commend him for bringing this measure to the floor of the Senate. There is no way I can describe the long, arduous, and difficult path that Senator SIMPSON had to traverse in order to place this legislation before the Senate. It was a tough job, but Al SIMPSON was up to it. I knew he could do it when I asked him to chair the Subcommittee on Immigration and Refugee Policy. He has not let me down nor has he let the Senate down.

I trust my colleagues will recognize this effort and reward it with their support and their votes.

Mr. President, I wish to commend the distinguished Senator from Massachusetts for his interest in the immigration question and for the hours he has spent on this matter. I hope he will see fit to support this bill as it goes through the Senate.

Mr. President, I yield the floor.

Mr. SIMPSON. Mr. President, I thank the Senator from South Carolina for those generous remarks. I could not have had a more supportive chairman of a committee, and I deeply appreciate that, and will say it one more time with great sincerity.

I now yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. First of all, Mr. President, I want to express my very sincere appreciation and respect for the Senator from Wyoming, who has been the chairman of the Immigration Subcommittee, for the tireless work he has done on this particular subject which has enormous importance for this country here at home and in our relations abroad particularly in the Western Hemisphere.

This generally, Mr. President, is not what we call a front burner issue. Perhaps in the minds of many Americans it is, but I would say, given the general conditions we are facing here at home with the state of our economy and other challenges overseas and in our foreign policy, that this generally would not be considered an issue of that particular magnitude.

But it is an issue of enormous importance because what we do on the issue of immigration says a great deal about the kind of society that we are and that we want to become.

The issue of immigration is a public policy question which is as old as this Nation, and I think the Senator from Wyoming pointed it out very well, and I would certainly agree, that it has been over the history of this Nation one which has reflected the proud instincts of our country and our people but has also reflected the rather darker aspects of our Nation's people.

Mr. President, as the Senate initiates debate today on S. 2222, the Immigration Reform and Control Act, I want to take this opportunity to note the historic significance of our undertaking today—as well as to commend the unflagging dedication and leadership of Senator SIMPSON in moving forward this long overdue effort to achieve immigration reform.

The action we begin today marks the first significant effort by the Senate to reform our Nation's immigration laws since the major reforms of 1965—which I was honored to manage on the Senate floor. The 1965 act finally re-

moved from our laws the discriminatory national origins quota system and the notorious Asian-Pacific triangle provisions—perhaps the most discriminatory laws ever enacted by the U.S. Congress.

Until today, there has been no general effort to restructure our immigration law—even though we took a major step in 1980 in reforming our laws on the admission and resettlement of refugees.

In 1978, Congress acted to lay the basis for the reforms we are considering today, when we established the Select Commission on Immigration and Refugee Policy. As the chief Senate sponsor of the legislation creating the Select Commission, I did so in the hope that it would finally bring some high-level study and review of our outdated immigration laws, which previous executive branch interagency task force's had failed to achieve, and which Congress had failed to address.

It was also clear then that immigration was becoming a controversial issue, clouded by misunderstandings and false stereotypes, and overwhelmed by the fear of illegal immigration—all to the detriment of legal immigration.

Suddenly, one of the oldest themes in our Nation's history was becoming one of our most contentious and misunderstood public policy issues.

In part, this was a product of the times—a reflection of our preoccupation with stubborn and increasingly critical domestic and international challenges. But part of the problem derives as well from our existing immigration law, which is a generation out of date.

After 2 years of work—after 12 regional hearings around the country, dozens of consultations and exhaustive research—the Select Commission, under the chairmanship of Father Ted Hesburgh of Notre Dame, filed its recommendations with the President and Congress in March 1981. These recommendations have largely formed the basis for the bill we are considering today.

And this is due, Mr. President, in no small part to the efforts of my distinguished colleague and chairman of our Subcommittee on Immigration and Refugee Policy, Senator SIMPSON.

He served, as I did, on the Select Commission. He was immersed, as I was, in the complex and difficult immigration issues we confronted during our 2-year review. We sat together, all day in a room not far from here in the Capitol with 14 other commissioners—including our colleagues, Senator DeCONCINI and Senator MATHIAS—and we wrestled from 9 a.m. in the morning until late that night, over many of the immigration issues contained in the bill before us today.

To Senator SIMPSON's credit, following the submission of the Select Com-

mission's recommendations, he took them and moved them forward. He initiated, along with congressman MAZZOLI, the first joint hearings between the two immigration subcommittees of the House and Senate in more than 30 years. And he launched a year-long series of hearings to listen to all sides to this controversial issue.

Having joined him in many of those hearings—as well as in the numerous consultations we have held with representatives of the executive branch, the voluntary agencies and other interested groups—I know firsthand of the dedicated and thoughtful work he has devoted to the development of this bill. And I want to commend him for it.

As ranking minority member of the subcommittee I have been honored to work closely with him, in a bipartisan effort to achieve immigration reforms based upon reason, fairness, and careful study. We have attempted to review immigration policy in light of America's best interest, yet with full regard for our immigrant heritage and our humanitarian traditions.

We have rejected—as we must continue to reject—calls for harsh and discriminatory enforcement of our immigration laws, including the deputizing of local police officers to enforce our complex immigration policies.

We have rejected cruel and racist calls against immigration—of using immigrants and undocumented aliens as scapegoats for some of the problems our Nation faces today—problems that have nothing to do with immigration.

We have rejected calls to drastically reduce our annual immigration quotas or to restrict the admission of refugees—sometimes from the very people who also call for the establishment of a massive temporary worker program.

And we have rejected calls that we should begin the mass deportation of undocumented aliens who have been leading productive lives in our country for many years.

The Judiciary Committee rejected all of these proposals, Mr. President, because they are wrong—because they are shortsighted—and because they are contrary to our national interests and humanitarian traditions.

I am confident, Mr. President, that the Senate will also reject these proposals when they come to the floor.

We have come a long way, Mr. President, toward achieving immigration reforms that many of us have advocated for many years. But I believe we still have some distance to go.

That is the spirit in which I offered a number of amendments to this bill when it was marked up in the subcommittee, and when the full Judiciary Committee considered it in May. And this remains my intention in offering a series of amendments to the bill.

As my colleagues know, I voted against reporting the bill because of the serious concerns I had about it in its present form—concerns which I know from the tens of thousands of pieces of mail that I have received, are also the concerns of many Americans.

Therefore, at the outset of this debate, I would like to review for the record some of the issues I hope to address in my amendments—which I outlined in the minority views I filed with the committee's report.

EMPLOYER SANCTIONS

Mr. President, my overriding concern is that this bill must not become a vehicle for discriminatory action against Hispanic Americans and other minority groups.

The recent nationwide raids by the Immigration and Naturalization Service—called Operation Jobs—have spread unnecessary fear and alarm in the Hispanic community, whose members feel that the very name given the raids suggests that migrants and undocumented aliens are being unfairly blamed by the administration for the current high levels of unemployment in the United States.

I believe we must be extremely cautious to avoid legislation that raises the level of intolerance and discrimination in our society. The employer sanctions provisions contain this danger, and I regret that the committee did not accept my amendment that addresses this issue.

I have in the past supported legal sanctions against employers who knowingly hire undocumented aliens. I have done so as a matter of principle: It is wrong that the sanctions under current law fall solely on the undocumented aliens, not on employers who may be exploiting them. The Government needs stronger enforcement tools to deal with the serious problem of employers who engage in a pattern and practice of hiring and exploiting undocumented aliens.

However, throughout the select Commission's work, as well as during our extensive hearings, two central objections were raised again and again: First, that the proposed employer sanctions might result in discrimination against certain American workers, especially Hispanics and Asians; and second, that employers would be unnecessarily burdened with paperwork in implementing the sanctions.

The history of immigration legislation in recent decades is that once an immigration law is enacted, Congress does not act again for many years to come. To assure that Congress will not ignore any discrimination that arises in the implementation of employer sanctions, I believe an amendment should be added to provide the following two safeguards:

First, the employer sanctions should be "sunsetting" after 3 years, so that Congress will be obliged to face this

issue of discrimination squarely. If, as some fear, the sanctions become a pretext for discrimination, then they should expire—and properly so—unless Congress enacts new legislation with additional protections. If no discrimination materializes, then the sanctions will be continued.

Second, to insure that a fair and impartial study of the sanctions program is available to Congress, the General Accounting Office and the Commission on Civil Rights should be explicitly required in the statute to undertake an independent study of their implementation.

Finally, part of the incentive to hire undocumented aliens is their willingness to accept substandard wages and working conditions. We must intensify the enforcement of existing laws, including the minimum wage, the Fair Labor Standards Act, social security insurance, unemployment insurance, and title VII of the Civil Rights Act. Vigorous and effective enforcement of these laws will reduce the incentive for employers to hire undocumented aliens. To accomplish this, I propose authorizing additional funds to support these enforcement efforts while employer sanctions are implemented.

I hope the Senate will accept these reasonable proposals. If they are adopted, minorities in our society will be given a pledge that, if a pattern of discrimination emerges, Congress will not ignore it. Given the significant changes proposed by this legislation, this is the minimum assurance we should provide.

Surely, if the President of the United States cannot certify that no pattern—I repeat, no pattern—of discrimination has resulted from employer sanctions, then I think we must all agree that they should be terminated, forcing Congress to take remedial action if they are to be continued.

PREFERENCES FOR IMMIGRATION

Mr. President, the pending bill makes a number of unfortunate and unwise changes in the existing immigration preference system. These changes will jeopardize our country's historic commitment to family reunion as the principal goal of our immigration policy.

For the first time, this bill places the admission of the immediate relatives of U.S. citizens—spouses, children and parents—under a rigid annual ceiling. In addition, the current fifth preference for the admission of brothers and sisters of U.S. citizens is eliminated entirely.

These changes are contrary to the recommendations of the Select Commission as well as to the views of every recent administration—Republican or Democratic. I agree with the Reagan administration's view that these changes will compromise our traditional concern for family reunification.

Throughout our history we have never placed a ceiling on the admission of immediate relatives, and there is no valid reason for doing so now. Under the terms of the bill, immediate relatives of American citizens are still given the highest priority; but if their numbers increase in the years ahead, other family reunion preferences will be cut back.

We should also restore the fifth preference, at least for unmarried brothers and sisters. This would amount to only 17,000 persons a year—hardly a significant number—yet it represents an essential element in the family reunification goals of several communities in our society.

JUDICIAL REVIEW OF ASYLUM CLASS ACTIONS

Mr. President, I support the important reform of the asylum adjudication process that has been achieved in this legislation. However, I regret that the committee limited judicial review of the asylum process without granting full independence to the new Immigration Board, as originally proposed when the bill was introduced. As a result, the committee bill does not achieve the autonomy the asylum process needs in order to assure fair and nonpolitical adjudication of asylum claims. In this situation, the limitation of judicial review is particularly objectionable, since it has been the only avenue for challenging discriminatory decisions.

There are valid arguments for limiting judicial review of individual asylum applications under the new procedures, however, there is no justification for denying judicial review to asylum class actions, where there is an alleged pattern and practice of discrimination in the processing of asylum claims.

We must assure both the appearance and the reality of fairness in the asylum adjudication process by giving some recourse to the courts if a class of cases is questioned. I will want to review this issue with the distinguished manager of the bill.

TEMPORARY FOREIGN WORKERS

Mr. President, the select commission unanimously voted against establishing a massive, new temporary foreign worker program, and I support the actions of the committee in rejecting such proposals. Adoption of the legalization program and implementation of the new immigration system will result in the legal admission of additional immigrants and an adjustment in the status of undocumented aliens already working here.

Until the impact of these changes is assessed, there is no valid justification for a large new temporary foreign worker program. Any such program would have serious consequences for American labor and American wages. The committee has acted responsibly

in rejecting calls for a new "Bracero" program.

The need for temporary workers can be met by the existing H-2 visa program, and I intend to offer an amendment to restore the existing law and regulations.

Employers seeking H-2 workers must be required to seek American workers first, and we should plan the elimination of this program in the future, not its expansion.

FOREIGN STUDENTS

Mr. President, under the provisions of this bill, no future foreign students will be able to adjust their immigration status without first leaving the United States for 2 years, unless they marry an American citizen. I believe this provision is too restrictive, especially in areas such as engineering, computer sciences, and other areas of high technology, where the United States is facing critical shortages in industry and in teaching.

I believe it is essential that the pending bill should be amended to permit students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to remain in this country without leaving for 2 years. To do otherwise is contrary to our national interest. It also ignores the current reality that exceptionally qualified students do not return to their homes in the Third World or elsewhere; they simply move to Japan or Europe and use their skills to help those nations compete against the United States. It makes no sense, when our own faculties and firms are starved for scientific talent, for the United States to train engineers or computer specialists at MIT or Berkeley for jobs in Tokyo or Bonn.

My office has been deluged by letters from American companies, research institutions and universities documenting in very persuasive terms that this change in student visas would be contrary to our national interests. I am confident the Senate will see that too.

LEGALIZATION OF UNDOCUMENTED ALIENS

It is clear, Mr. President, that there will be attempts on the Senate floor to seriously restrict, or to reject altogether, the reasonable legalization proposals contained in the pending bill. I urge the Senate to reject these amendments—as did the Judiciary Committee, and as every governmental study of this question has done over the past decade.

The Select Commission voted unanimously to recommend that a flexible and generous program be established to adjust the status of undocumented aliens who are contributing members of their communities in the United States. It did so because the existence of a large undocumented/illegal migrant population should not be tolerated—and because the costs to society

of permitting a large group of persons to live in illegal, second-class status are enormous. The Commission recognized that mass deportations were out of the question, for both legal and humanitarian reasons. More importantly, such deportations would undermine new enforcement programs and would waste available enforcement resources.

For a legalization program to work, it must be comprehensive, it must reach out to as many undocumented aliens as possible, and it must have as few exceptions as possible. It is for this reason that I am gratified the committee voted to support my amendment to make the legalization program more inclusive by moving the cutoff date forward from January 1, 1980, to January 1, 1982. This will mean that as new enforcement programs are implemented, a large, subterranean, exploited class of people will not be left in limbo; it helps to finally resolve the issue of millions of undocumented aliens in our midst.

Although the legalization program is clearly a crucial element of immigration reform, concern has been expressed over the impact it may have on State and local social service programs. According to the Research of the Select Commission and others on the characteristics of the undocumented alien population, these concerns are exaggerated. Undocumented aliens are here to work, not to seek welfare; they are in many respects undocumented taxpayers contributing to the communities in which they live without the benefits of those taxes.

Despite this documented fact—and despite the estimates of the Congressional Budget Office—we have seen paraded before us a whole set of "scare statistics" which suggests a reasonable, workable legalization program will cost billions of dollars.

Mr. President, those figures are pulled out of thin air, and are based upon assumptions that all the undocumented aliens who came here to work—and who are working—will suddenly all go on welfare, and that their dependency rates will equal that of refugees or our population as a whole. But these assumptions fly in the face of logic and facts.

Opponents cannot have it both ways. They cannot be in favor of employer sanctions because it curtails the "magnate" of jobs which brings undocumented aliens to the United States, and they cannot support Operation Jobs because it proves that undocumented aliens are taking well-paying jobs from Americans—and then turn around and argue we cannot legalize them because they will all be going on welfare. If they are here to work on well-paying jobs, why would they go on welfare? On its face it is illogical and all available research does not support such fears.

And that is what they are, Mr. President, "fears"—false fears—raised by opponents to a humane and responsible legalization program. They have no real basis in fact, and I urge the Senate to reject them.

LEGAL IMMIGRATION

Finally, Mr. President, there is a tendency in many quarters to mix the issue of legal immigration and illegal aliens. In recent days we have seen a lot of lobbying for immigration reform from people who are really lobbying against immigration. In their arguments for immigration reform there is the unmistakable implication that immigration to the United States is bad—that the numbers are too high, the impact is undesirable, and the consequences for the future are negative.

Mr. President, these implications are contrary to American history, and I reject them, as did the Select Commission on Immigration and Refugee Policy.

Yes, illegal immigration must be controlled. But there is no evidence that the current levels of legal immigration are dangerous or contrary to our national interests. In fact, the Select Commission concluded quite the contrary. Their report unanimously stated:

Based on its research and analysis, the Commission has found the contributions of immigrants to the U.S. society to be overwhelmingly positive. It believes that an immigrant admissions policy that facilitates the entry of qualified applicants is in the U.S. national interest. Whether measured by the number of Nobel prize winners who have come to the United States as immigrants (30 percent of all U.S. Noble laureates), the introductions of new concepts in music, art and literature or the industries built by immigrant labor, immigration has been of enormous benefit to this country.

The Commission also rejected the notion that current immigration is destabilizing or somehow threatening to our national unity. Although the admission of immigrants and refugees to the United States has increased numerically over the past decade, the proportion of foreign-born citizens in the United States is dramatically lower than at any previous point in our history. In 1890, the percentage of foreign born was 14.7; in 1970, it was down to a bare 4.7.

Veiled reference is also frequently made to the more than 800,000 immigrants and refugees who entered the United States in 1980. But those who use that figure do so knowing it was an extraordinarily unusual year due to the influx of Cubans and Haitians. The numbers before and since are much lower, and they are going down rapidly. We will not reach the 1980 level again in the foreseeable future.

We must avoid scare statistics designed to feed false fears. Otherwise we will undermine the very goals and reforms this bill seeks to attain.

Mr. President, we have historically been a country which has welcomed individuals to our Nation, and I think we could just go over the individuals who serve in this body even today and find that there is a significant percentage of them who served in this body and in the House of Representatives, as Governors and in legislatures, in commerce, in the arts, in the churches, and find out it was not very long ago when either their parents or grandparents came to this country, and who have made an extraordinary contribution to it.

So, Mr. President, it is important that we deal with this issue, as the Senator from Wyoming pointed out, looking at the facts devoid of emotionalism, and trying to act in our Nation's interests today and for the ensuing months and years.

Mr. President, I mentioned I feel this body has been extremely fortunate and that we have been well served by the tireless efforts of the Senator from Wyoming in this important area of public policy.

Some of us come from and represent States, and proudly so, which have felt the benefit, but also have been stung by the discriminatory aspects of past immigration laws.

When I first came to the U.S. Senate and was appointed to the Judiciary Committee, I requested to be on the Immigration Subcommittee because there were many aspects of the immigration law that worked in a discriminatory and harsh way on the citizens of my State.

The State of Wyoming is blessed with many different people who have come from many different backgrounds, but I dare say that on the range of different concerns, the people of that State would probably not be as intense on this issue as people might be in my State or many other States of this Nation.

But in spite of that fact, I think the Senator from Wyoming has really performed a very important service to this body and to our Nation making this recommendation to the Senate, although I felt compelled to vote in the committee against this proposal for reasons I have outlined earlier and for the reasons I will outline when I offer my amendments.

Mr. President, I think it is important to recognize the important work of the Select Commission on Immigration, which studied this issue for about 18 months.

I take some satisfaction as the chief sponsor of that Commission, because I felt this issue deserved the thoughtful consideration, which I think it did receive by many dedicated individuals coming from a wide range of different backgrounds. It has been primarily because of those recommendations that the legislation is here before us. The work of that Commission, and the

hearings which have been held by the subcommittee, have done a great deal to clarify some of the difficulties we are facing as a country in terms of the flow of immigrants into this country.

Mr. President, a great deal has been said and will be said about numbers, individuals, coming to this country. I think it is important to look back upon the history of the flow of individuals to this country.

We can look back to the early part of this century where we see from 1900 to 1910 in excess of 800,000 people came to this Nation. From 1910 to 1920, about 550,000; from 1920 to 1930, some 450,000; and from 1970 to 1979, about 400,000.

Reference has been made about 1980 and 1981, about the high numbers in those years, but any reference to those numbers ought to also acknowledge that this Nation was faced with the extraordinarily complex situation of the hemorrhaging of South Vietnam and Indochina and the boat people which saw tens and tens of thousands of individuals seeking refuge, and who were admitted to this country.

We also faced the situation where tens of thousands of individuals left Cuba and were brought to this Nation, as a result of a public policy, Mr. President, which I deplored at that time and under the previous administration.

But when we look at the numbers which are coming to this country—and I am talking now just about the numbers which are legal, not undocumented, aliens—we ought to recognize that the projections into 1983 suggest we will soon be back around 550,000 numbers.

We all recognize that there was an important increase in the late 1970's, even last year, with the Indochina refugees and also with the Cuban refugees. But the flow lines are going back to 550,000, which is generally the same figure that this country has had over the period of these last 100 years. That is important, because there will be a great deal that will be said about the flow lines and birth rates and numbers coming to our shores. Those happen to be the facts and those happen to be the figures, Mr. President.

In 1965, Mr. President, we changed the immigration law in two very important ways, in other ways but in two very significant and important ways. First of all, we eliminated what was then known as the national origin quota system, which allocated quotas for individuals to come to this country on the basis of their ethnic background. If you were blue-eyed and blond, you could come to the United States of America virtually in unrestricted numbers. But if you traced your ancestry to the Mediterranean basin, to Italy, or to Greece, or to other countries in the Mediterranean

basin, there was strict restrictions—let alone Africa or let alone Asia—strict restrictions on family reunifications and on the numbers that would come to the United States of America.

There have been discriminatory aspects which have been incorporated in the statutes in this country. But that was one of the most insidious provisions that has ever been enshrined in American law.

A second provision, Mr. President, was a provision called the Asian Pacific triangle, a carefully devised geographic area which included generally all Asians—that said if you come from that particular geographical area, you were effectively denied the opportunity of coming here even to join your family that might have come here at some earlier period of time. You could measure the number of Asians that came here in the 1950's and the 1960's by a few hundred, if that many.

Well, we changed those provisions, Mr. President, and I think we changed them wisely. We eliminated the national origins quota system and we eliminated the Asian Pacific triangle and we said the countries around the world were going to be fairly and equitably treated on the basis of two important criteria: One was going to be family reunification. I think one of the proud values of this Nation is the importance of families and the reunification of families.

It was not that long ago, in terms of American history, where particular families were able to save up enough resources to send someone here to the United States. That individual saw the land of opportunity, worked hard, contributed. Their desire was to be reunited with their parents, reunified with their brothers, reunified with their sisters or reunified with their children. And that took place. That was part of the driving effort that saw this country develop into one of the strong economic and cultural nations of the world. It is a proud tradition, a proud part of our heritage, the reunification of families, husbands and wives, fathers and mothers and children, brothers and sisters together. That was the key element of the 1965 act. And, Mr. President, that is an aspect which is being eroded by the present legislation before this body and which I object to.

Second, Mr. President, we provided in that legislation that we would permit certain individuals to come to this country if they could show and demonstrate by their skills that they would be able to increase employment opportunities for American citizens.

So, Mr. President, those were the fundamental concepts which were built into the 1965 act.

We also had the provision later to deal with refugees, the Refugee Act of 1980.

I think, Mr. President, as we address this issue, we should be under no illusions. In spite of the comments and statements that have been made, in spite of the provisions which have been included in this legislation, the enforcement provisions, this legislation will not and cannot fully resolve the issue of the undocumented aliens. I think it is important to understand that, Mr. President.

We have, as the Senator from Wyoming has pointed out, estimates of 3.5 million, and there have been estimates as high as 6 million, undocumented aliens in this country. We are bordering a country, Mexico, that has 32 percent unemployment and whose population is going to double in the next 20 years. It is hard to believe that the limited enforcement provisions in this bill will control these pressures, especially when we look at the cutbacks in the enforcement of existing laws—the fair labor standards law, or farm contractor compliance provisions or minimum wage provisions.

How in the world do we think we will ever be able to enforce employer sanctions when we cannot enforce existing laws? I dare say even if they were enforced in a way that has been established even under the ideal situation of the primary sponsors of this provision, we should be under no illusion that we are not going to have to take some significant, important, and probably costly measures to try and do something about the flow of individuals coming across the borders, or we are going to be faced—and let us face it—with an issue that we are going to have to try and build a fence across our southern borders with spotlights and trenches. We can ask ourselves how that is going to affect our relations with certainly one of our most important allies and friends south of the border—Mexico.

Having said that, Mr. President, I recognize that we should not throw out the reasonable or the good in an effort to achieve the perfect. But I do believe that history would bear out that whenever the Congress has written into immigration legislation provisions that can be used to discriminate, they have been used to discriminate. I say that having studied this issue and having spent many, many hours on the general issue of immigration.

Mr. President, I believe that we have such a provision in this legislation, the employer sanctions provision, which has been described by the Senator from Wyoming and which I will talk about at the time I offer my amendment.

In the past, I have felt that if we could devise a procedure in which you could find a pattern or practice of an employer exploiting undocumented aliens, we ought to be prepared to address that issue. I am prepared to support such a provision and, for a rea-

sonable period of time to test that provision. If, at the end of that time, we could require a Presidential certification that employer sanctions were not being used in a discriminatory fashion, and if studies would be made available to the Congress on that particular issue, I would support it.

We provide Presidential certification on human rights in El Salvador. We provide Presidential certification on human rights with regards to Argentina. Why are we not prepared to ask for Presidential certification on the violation of human rights of American citizens in an area which provides enormous anxiety—and I think legitimately—to millions of Americans who have suffered the whip of discrimination over the period of the past years?

I do not think that is unreasonable, Mr. President, and I think it is extremely essential.

I think without those particular provisions, we may very well be taking steps which will write into this law a provision which can be used for discriminatory purposes.

"You do not look American. You may not quite have the papers. Therefore, we are not going to hire you."

That fear of millions of American citizens being denied the opportunity for employment because of this particular provision is a legitimate concern and one which I will address later.

Mr. President, I know there are probably others who want to speak on the general issue. Then I shall be prepared to offer an amendment.

Mr. SIMPSON. Mr. President, before we come to the opening remarks of Senator GRASSLEY and Senator HUDDLESTON, I feel I must respond to the remarks of the Senator from Massachusetts. I would like to think of something quite erudite and wise, but the one that came to me was, "Holy smokes, dig in for a long day!" I wondered, I guess, when that would come. I am very puzzled by those remarks of my colleague. I say I wondered when they would come. They have not come for 3½ years, and they are here.

Family reunification, the rich tapestry of that, is just as real to me as it is to the Senator from Massachusetts. The reason it is just as real is it is in the bill. The whole bill discusses family reunification. It remains the criterion; it is the very essence of our heritage.

I have worked with the Senator from Massachusetts for 3½ years in a spirit of accommodation and compromise and spirited discussion and friendship. That will remain, I can assure you, Mr. President, whatever occurs. In all that time together, in all these amendments presented by the Senator from Massachusetts—some 12 of them—we have reached accommodation on about half of them already. The only thing I have attempted to do

for the last 3½ years is to avoid high drama. It will serve no purpose whatsoever in this debate. It will rob it of everything appropriate and humane. Racism, spotlights, trenches—good heavens. That is the stuff that you have to wade through in this arena.

There are three ways you win or lose an issue in the U.S. Senate. You use equal parts of racism, emotionalism, or guilt and just mix them all up. You get the right mix to win one, you get the right mix to lose one. But those are the ingredients. Those are the principal ingredients of activity that I have observed in my short 3½ years.

The Mexican Government—I have been to Mexico to confer with them. I have talked to President Lopez Portillo and Garcia Ramirez, and Castaneda. I said, "What would you have us do in immigration reform?"

They have said, "You're a sovereign nation, we don't want to tell you what to do. But please do one thing for us, take care of our people."

I said, "How do you do that when they are there illegally?"

"Well, do the best you can, please."

Well, we cannot.

Mr. President, do you know who is going to be discriminated against if we do not do anything in this arena? The minorities of this country—the Hispanic Americans, the black Americans. Those are the people who are going to be discriminated against if we do nothing.

I can tell you what Congress will do in its wisdom if we do nothing. They will say, give the INS more money, give the border patrol more money, and get with it. What that means is more project jobs, more targeted searches, more intrusions in the workplace. And finally, we will have an employer portion of America which says, "I am never going to hire anybody again who looks foreign, because I keep getting busted."

How that can be good for the people of this country and its minorities, I fail to see.

To suggest, Mr. President, that now is not the time to debate immigration reform in Congress will not ring; that the mood is too restrictive, that it brings out the dark side in our country, will not ring.

For 8 years we have been grappling with this issue. Any fair immigration law cannot be accomplished in such an atmosphere.

So, as I say, I am totally puzzled, but not at all surprised. Spirited debate in 3½ years, but it will not wash. It will not wash.

The Senator from Massachusetts supported this measure in the subcommittee. That will be an item of record. He did vote for this measure in the subcommittee. I did not ever wish to make that any part of the discussion, but it must be.

Then he had very sincere reasons for not supporting it in the full committee, but I understood fully, as I will always understand whatever he will express to me with regard to them. But I think finally, you have to draw the cue ball back and get the right English on things. That is where we are at this point.

The other things that have to do with that type of flight do not fit the scope of the debate. They do not fit the intensity of the debate. They do not fit the decorum of the debate. They would lead only to a further degree of puzzlement and almost bemusement.

So I look forward to the amendments presented by the Senator from Massachusetts. I look forward to working with him. I look forward to his continuing friendship. But I am one who believes that, somewhere, the system will begin to work when we deal with each other in the privacy of our offices just exactly the way we deal with each other on the floor of the U.S. Senate. Maybe then we can clean away the stuff that we have a word for in Wyoming, which is very rich and very real, and get on with the business of trying to operate the country in a congressional manner.

Mr. KENNEDY addressed the Chair. The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, we shall have an opportunity to get into the details of the matters about family reunification. But I want to make it very clear that the Senator from Wyoming is enormously persuasive. He is a very compelling debater. But it is important for this body to understand the facts—the facts.

Fact number one: In the history of this country, we have never included in the total immigration ceilings the spouses and children of U.S. citizens.

Sure, they are going to be able to come in ahead of others, but once you put a ceiling on those particular numbers, then you begin to squeeze down other numbers. I will be interested in listening to the Senator from Wyoming explain how this legislation will permit what is permissible today, and that is the admission of brothers and sisters of American citizens to come to the United States, because in the expression of someone from Massachusetts or the expression of someone from Wyoming, "It ain't so."

As the Senator pointed out, I supported the subcommittee action to get the bill to the full committee. My views generally on these issues which I have outlined, Mr. President, with all due respect to the Senator from Wyoming, have been issues that I have stood for since I have been in the Senate. As the Senator will see from the 12 or so amendments that I will be offering, a heavy percentage of them deal with the issue of family reunifica-

tion. If there have been no changes in terms of the reunification of families, there will not be any trouble in getting those amendments accepted. If there have been, then the Senate will have a chance to vote on it. But I do not think that this body ought to be under any illusions that this issue does not alter and change existing laws on the reunification of families, because it does, and it does so in important ways.

One of the points that has not been mentioned by the Senator from Wyoming is that we only began to permit family reunifications since 1965 for hundreds of thousands of Asians. They were not like the Irish that came in over 100 years ago, and were able to bring in all their brothers and sisters. After eliminating the discriminatory provisions of the 1965 act, we permitted some of those individuals to come in. But we are saying now we are going to close that door.

So I do not yield on this issue, no matter what the dialog is or how far it is characterized, that this is a significant change and it is going to affect particular groups. It is important that this body understands that. They will make their judgement on it. I have no illusion about what the outcome is going to be; the Senator from Wyoming has the votes, but it is important I think that the membership of this body understand at least what is in the bill and what is not. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, before coming to this body last year, I was a Member of the other body for 6 years, and as a Member of that body I was never on any of the committees that dealt with the immigration issue. As an outsider looking in, I always was asking, as my constituents in my State were asking me, "Why can't this illegal immigration problem be solved? Why can't we protect our borders? Why can we not regulate the flow of people in and out of our country?"

I have to say that, as a Member of the other body, not being involved with the committees dealing with this legislation, I was one of those who asked those questions, expecting immediate answers, and wondering why there was not an immediate solution.

Then, having come to this body and having been appointed to the Judiciary Committee and the Immigration Subcommittee, and for a year and a half now dealing with this issue, with the experience and the in-depth view I have had as a member of this subcommittee, I can say that I have those questions answered now, not only for myself but also for my constituents—that this is probably one of the most complicated issues I have ever been involved with in my 24 years of public service—8 years in Congress and 16 years in the State legislative bodies.

It is an issue that cuts across all economic and philosophical bounds and brings together an odd assortment of people of philosophical backgrounds in favor of this legislation, and brings together a diverse group in opposition to this legislation.

Approximately 30 years have passed since the last major reform of the U.S. immigration policy. The time has arrived to undergo this painful process again.

Theodore H. White recently described in his book "America In Search of Itself," the situation America finds itself in resulting from our current set of chaotic complicated immigration laws, I quote from the book:

One starts with the obvious: That the United States has lost one of the cardinal attributes of sovereignty—it no longer controls its own borders. Its immigration laws are flouted by aliens and citizens alike, as no system of laws has been flouted since prohibition. And the impending transformation of our Nation, its culture, and its ethnic heritage could become one of the central debates of the politics of the 1980's.

I think one can see from that, this debate has already begun, and let us hope that S. 2222 is just the first step in the reformation process.

Though most Americans currently residing in the United States owe their presence here to the open door immigration policies of the past, perpetuation of the myth that this country is one without limits can only prove harmful in the long run. Technology is 1 of the major reasons why today's immigration phenomenon is entirely different from the immigration waves of the past. As Mr. White continued to explain:

... The earlier immigrants from Europe spent weeks trekking to ports, and then more weeks in the steerage of tramp steamers, to reach the promised land. A modern immigrant can be here in three or four hours from any airport from the Caribbean, in fifteen hours from Asia. . . . It once took years of work and savings for an honest man to buy passage for his family to join him. Now, after six months, a diligent immigrant can afford air passage for all the rest of his family. The result has been a stampede, almost an invasion.

America currently accepts over twice as many legal immigrants as the rest of the world combined. This does not include the estimated 3 million to 6 million aliens illegally in the country. Control of our borders is essential in order to protect U.S. citizens from a continued high unemployment rate and to foster a reliance on our laws and respect for our laws by those outside our country who wish to reside here.

Elected officials who loudly claim that illegal immigration is not a problem for this country are not only deluding themselves but doing a disservice to the Americans they represent. The illegal population estimate to which I just referred was first enunciated

ated in the report of the Select Commission on Immigration and Refugee Policy. It is a generally held view that approximately 500,000 people have continued to enter this country each year since that estimate was made, bringing the figures closer to between 6 million and 10 million. I fail to understand how anyone can perceive an ever-increasing population of this size to have little if any impact upon American life.

The current unemployment rate of 9.8 percent and the impact illegal immigration has on that rate cannot be ignored. This impact is demonstrated by INS's Operation Jobs, conducted in nine major cities, which freed up over 54,000 jobs.

INS conducted a random survey soon after the operation was completed which indicated that 73 percent of those vacancies created were filled later by legal workers. Though some newspaper accounts stated that 30 to 80 percent of those aliens apprehended returned to the same job, it is unequivocally clear that Americans are being displaced by illegal workers. As Senator SIMPSON indicated in his Tuesday editorial to the New York Times, if only 2 percent of the illegal alien population held jobs that unemployed Americans would take, this would result in a saving of \$490 to \$840 million in unemployment benefits and public assistance. If 1 million Americans are being displaced, it is estimated that \$7 to \$9 billion would be realized in aid savings. Not only that, but those 30 to 80 percent who allegedly returned to their jobs would be unable to do so if this legislation is passed.

If the illegal flow was substantially curtailed, not only would the effects on current unemployment rates be immediate, but also the future American employment atmosphere would be greatly enhanced. Sylvia Ann Hewlett in her article on coping with illegal immigration accurately describes the situation we will be facing in the not too distant future if the economic conditions in predominately sending countries persist. I quote a passage from her article:

The pressures that will make for an accelerating inflow (in the absence of tighter controls) are fairly obvious and stem from the inability of many Third World countries to absorb their rapidly expanding populations into productive, decently paid occupations. The world's population was about four billion in 1975 and will reach approximately 6.4 billion by the year 2000. Most of this population growth is in developing countries which already have serious unemployment and underemployment problems. These nations will need 600-700 million new jobs between 1980 and 2000 just to keep unemployment from rising.

To put this in perspective, this is more jobs than existed in all of the industrialized countries combined in 1980. These pressures will not be significantly lessened by declining birth rates, which tend to accompany

the industrialization of Third World nations, since most of the people who will enter the work force during the next two decades have already been born.

As half of our illegal immigrants are Mexican nationals, U.S. policy may well be more affected by the specifics of the Mexican situation than by the general characteristics of the Third World. Despite its high growth rates and oil wealth, Mexico, too, reflects the problems described above. The current Mexican population of over 70 million is projected to increase by at least two-thirds by the year 2000, and the total number of jobs that would have to be created in Mexico during the next 20 years in order to accommodate all new entrants to the labor force and absorb the present arrears of unemployed and underemployed into productive full-time employment is more than 30 million. Even if Mexico were to sustain a growth rate of 6.6 percent per year over the next 20 years (a record of sustained economic growth that is virtually unprecedented among developing countries), only 20 million new jobs would be created before the end of the century. This leaves a sizeable deficit. And no matter how many new jobs are created in Mexico, the huge real wage differential between the United States and Mexico (currently ten to one in many cases) will continue to drive workers to seek to cross the border.

It is clearly demonstrated, by Ms. Hewlett and countless other experts in the field, that the effect illegal aliens have on current and future unemployment rates is frankly staggering. In addition, what effect illegal status itself has on the alien cannot be dismissed. This status contributes to the creation of an underground society afraid to employ basic police and health related services necessary for not only their own protection, but for the general community's welfare. Crimes go unreported and diseases go untreated. All in all, this is a sad state of affairs.

This legislation contains the basic and necessary elements for a solution. The provisions in the bill relating to employer sanctions, increased interior and border enforcement, asylum adjudication, and a secure worker eligibility system are essential in order to regain control over our borders. With certain revisions in the area of legalization, which I will address later on in the debate, I believe this legislation will accomplish the important goal of immigration reform.

At this point, I should like to commend Senator ALAN SIMPSON and state how much I have enjoyed working with him on the Immigration Subcommittee over the past 2 years. I know of no other committee chairman who has given such careful attention and deliberation to an issue. He has attended what by this time has been, years of hearings, listened to a countless number of witnesses, and has digested innumerable pages of testimony. Though we have disagreed about certain specifics contained in the legislation, he has been nothing less than totally honest and candid with me throughout this process. I think I can safely say that we share common goals

in the area of immigration reform, we have resolved our differences, and now will work together in producing a final product acceptable to us both.

The staff of the Immigration Subcommittee is probably one of the most knowledgeable and hardworking staffs in the Senate. I commend Dick Day, Donna Alvarado, Chip Wood, and Arnold Leibowitz on their fine work. I also compliment Ally Milder of my staff for her diligent work as well. Of particular help to me has been the Federation for American Immigration Reform including Dr. John Tanton, Mr. Roger Conner, and Mr. Barnaby Zall. I truly appreciate their able assistance.

Finally, Mr. President, if the Senate does not take the opportunity to pass this legislation this year, another 30 years may go by before the opportunity comes again. This legislation will influence the character of American life for the foreseeable future. Should we fail in our duty now, I am afraid the outcome could be much worse than anyone has anticipated. Mr. President, I urge the passage of the Immigration Reform and Control Act of 1982.

I thank the Chair.

I yield the floor.

Mr. HUDDLESTON. Mr. President, in taking up the Immigration Reform and Control Act of 1982, S. 2222, the Senate is attempting to solve one of the most complex problems facing the United States today. Immigration, without question, is one of those rare policies which ultimately impacts upon almost every aspect of our society and economy, and to a large degree determines what kind of a country we are.

The question that faces us on this extremely complicated issue is how to assure the most beneficial results while minimizing the detrimental consequences. However, I am certain the distinguished chairman of the Subcommittee on Immigration and Refugee Reform, Senator SIMPSON, found out a long time ago that there are no easy answers. As he has threaded his way through this maze of special interests, he has discovered that for every solution to a particular problem, there are at least two or more groups opposed it. For the distinguished Senator from Wyoming, I am certain that at times he believes he has taken on the most thankless job in Congress.

Yet, I wish to assure him that he has the gratitude and thanks of this Senator and I think of the American people. We thank him for his perseverance, his good judgment, his compassion, his dedication, and his patience. Because of all of these good traits, the distinguished chairman has brought us to the point where we have an extremely good chance to address in a constructive manner many of the

immigration problems that this country faces.

Senator SIMPSON, along with his counterpart over in the House, my good friend, Congressman MAZZOLI, from Louisville, have worked diligently and hard and have approached this job without any preconceptions, in my judgment. They have taken into account the opinions and interests that have been expressed by every person who is interested in this subject matter throughout the country. I think they have produced a good starting point.

Of course, this expression of gratitude also goes to the members of the subcommittee—Senator THURMOND, Senator KENNEDY, Senator DeCONCINI, and Senator GRASSLEY. They have all contributed a great deal to this process and they too deserve our thanks.

As a nonmember of the Immigration Subcommittee, I may be one of the few Senators who can fully understand and appreciate all the frustrations and obstacles they have had to overcome to produce this immigration bill. Since 1975 I have actively fought for meaningful immigration reform without the benefit of any direct committee connection. During that period of time there were a number of successes that chipped away at some of the problems. These have included: In 1975, an amendment to require greater planning and direction in the refugee assistance program; in 1978, a bill I introduced with Senator DeCONCINI to permit the INS to confiscate vehicles used in smuggling illegal aliens; in 1980, several amendments to strengthen the Refugee Reform Act; and later, an amendment that put the Senate on record supporting the concept of an immigration ceiling. Nonetheless, we still have a great deal more to accomplish in the area of immigration control, and S. 2222 takes us much closer to that goal.

The need for this kind of legislation should be clear to all by now. In 1980 we admitted more people to the United States than in any other year in the history of this country. More than 800,000 people were admitted legally, and at least that number came illegally. Close to 1 million illegal immigrants were apprehended and another 900,000 ineligible aliens were turned away at ports of entry. Estimates of the illegal immigrant population in the United States have risen from 3.5 to 6 million 5 years ago to perhaps 8 or 10 million today.

How did we get to this state of affairs? For 15 years, from 1965 to 1980, Congress refused to face the problems of immigration. For 15 years we chose to ignore the problems that were thought to be too far in our future. However, while a few concerned individuals struggled to make us aware of the worsening situation, both legal

and illegal immigration continued to mount.

Then in 1979 we woke up to find what has turned into a ceaseless flow of "boat people." We resettled hundreds of thousands, far more than the rest of the world combined. And we are continuing to accept thousands of refugees each month, not just from Southeast Asia but from all around the world. In the process we have spent billions of dollars in this seemingly endless effort.

To help these refugees, Congress passed the first major change in our immigration laws since 1965, the Refugee Act of 1980. But even this major loosening of our immigration laws was not enough to meet the unending demand. The number of refugees has risen to 16 million worldwide and all our efforts, and those of the U.N. High Commission for Refugees, seem unable to reduce the number.

Americans are the most generous people in this planet in admitting immigrants and refugees. In fact, the United States admits more immigrants and refugees for permanent resettlement than the rest of the world combined. But as Americans continue their historical generosity in the face of unending pleas for entry, they have become increasingly concerned that the lack of control in immigration, as Senator SIMPSON has referred to it "compassion fatigue," has set in.

Resentment has turned to violence between Americans and new immigrants in Colorado and Texas. In Florida, researchers found that at least part of the cause for the 1980 riot in Miami was resentment about the large numbers of new Cuban entrants forcing blacks out of the growing economy.

Two-thirds of Americans wanted complete suspension of immigration until unemployment fell below 5 percent, according to a November 1980 Gallup-Newsweek poll. Think of the resentment that must exist now that unemployment is well over 10 million Americans and approaching 10 percent.

Some people blame the Cuban exodus of last year for the "great awakening" of the American people. However, I think that they have been concerned over uncontrolled immigration for much longer.

A 1977 Roper poll found that 91 percent of those polled wanted "an all-out effort" to stop illegal immigration, and 75 percent wanted legal immigration reduced below 400,000 per year. In 1980, that poll was repeated; again 91 percent wanted all-out action on illegal immigration, and the number calling for decreased legal admissions rose to 80 percent. In such a climate, comprehensive immigration reform is difficult. We must regain control over immigration before we can hope to completely reform it.

Fortunately, we are finally moving in that direction. S. 2222 addresses the more serious issues facing us on immigration—employment of illegal aliens, amnesty for illegal aliens, and an immigration ceiling. It also deals with many of the lesser problems. However, as I said when S. 2222 was introduced, it is a good beginning but it can be improved. Since that time the bill has undergone change and I believe additional improvements will be made here on the floor of the Senate.

I again thank the distinguished floor managers of the bill, Senator SIMPSON and Senator KENNEDY, for the outstanding work they both have done on this very complex issue. And, I again assure them, as I have in the past, that they will have my full support and cooperation in fully developing and passing this bill.

And, I urge all my colleagues to do likewise. Unless this Congress acts on these immigration control proposals, we may not be able to avoid a tremendous backlash, which could permanently endanger the most generous immigration policies on Earth.

I do have some changes that I might suggest during the course of this consideration. One, of course, would deal with an overall ceiling that would include the number of refugees that come into the country under the ceiling which will be established by the bill.

While I will await the appropriate time to discuss the merits of that particular issue, I would just like to make one comment here. Every writer I have read on this subject, every person who has expressed an opinion, has always included somewhere within his or her remarks that, "of course, the United States cannot take into this country all of the people who want to come here."

Everybody is willing to walk up to that problem, but very few so far have indicated the courage and the determination to develop a solution to that problem.

What I would hope we would be able to do during the course of this deliberation is to say, "We agree. The United States cannot take everybody who wants to come to this country." That is an almost irrefutable fact, and hardly anyone would ever disagree with it.

The question then is whom do we take? How many and what kind of a mechanism do we establish to make the determination as to who shall come and who shall not?

The Senator from Massachusetts has already indicated in his comments that there is competition existing among the various categories of immigrants who want to come to this country, and he wants to eliminate some of that competition. Well, there is a competition existing, and always has exist-

ed, among all categories and among all individuals who want to come to this country because of that single irrefutable fact that we cannot take everybody who wants to come here.

I have indicated before, and I think it is accurate, that there are at least 16 million refugees in the world. In our wildest dreams I have not heard anyone suggest that we ought to open our doors and welcome them all to this country. Obviously, we cannot.

There is another question, and that is is the United States really a part of the solution to the refugee problem in the world or are we a part of the problem? There is a significant amount of evidence, there is a significant amount of opinion that it has been the overly generous policies of the United States, the willingness of the United States to rush in and try to solve every problem that exists in the world with a gigantic resettlement program, the policies of the United States that amount to a recruiting policy that the State Department has followed particularly in Southeast Asia, which have contributed to the large flow of refugees that still exist in various parts of the world.

The problem of refugees is an international problem. If it is ever going to be solved it will be solved by international actions and not the action of any one country.

But, the fundamental fact is that: Of course, the United States can no longer take all who want to come.

I hope the Senate of the United States will face up to that during the debate and will decide that that being the case we ought to determine ourselves what the number ought to be and how we go about selecting that number.

In recent years, the immigration flow into this country has been determined more by Fidel Castro than it has by the Senate of the United States. It has been determined more by the despots in Southeast Asia than it has by the Senate or the President of the United States.

The question is, Are we willing to surrender that part of our sovereignty? Are we willing to say that this country has no right to control its borders, has no right to determine who comes and how many and under what conditions?

I do not think the American people want us to adopt that kind of policy. So we will have an opportunity during the course of these discussions to address head on the question of whether the Congress of the United States will make the determination or whether we will leave it to someone else and sit almost hopelessly by while more and more numbers come to our shores without our approval, without our consideration.

One of the great problems we have had over the years, of course, is that we always dealt with those problems

on an ad hoc basis. There is always a tremendous amount, a lot more, of emotion connected with the issue than there has been logic or commonsense, and we have always waited until we are in the middle of a crisis before we get very concerned about it. You cannot write immigration policy and refugee policy when thousands of people are approaching our shores in leaky boats or when a great exodus has already begun. Now is the time to put in place the kind of mechanism that will enable us to deal with the situations we are confronted with in the future.

Former Secretary of State Al Haig, looking over the situation that now exists in Central and South America, commented some time ago that what we are likely to see in the near future as far as immigrants coming into this country from that part of the world, will make the Mariel boatlift from Cuba look like a Sunday picnic.

So it is a serious matter, and it is one that ought to be approached in a serious and thoughtful way.

I feel confident that before we finish deliberation on this bill we will have an opportunity to give it the consideration it deserves.

Again I thank the sponsors of this bill for getting us to this point where we can consider these important issues. I think if we do not now enact the kind of legislation the people of the United States expect us to we may not be able to avoid a backlash throughout the country that could permanently endanger the best motives of many in this country who want us to continue to be the most generous country in the world as far as immigration policy is concerned.

I thank the Chair.

(Mr. HUMPHREY assumed the Chair.)

Mr. CHILES. Mr. President, I am delighted that today the Senate begins its consideration of S. 2222, a bill to reform our immigration laws and policies.

The need to act is clear. We know that our immigration laws have not been examined in any comprehensive way in years. We know the events of recent years have underscored the shortcomings of our current laws. We know that both legal and illegal immigration are at unprecedented levels. Our current laws set a cap of 270,000 a year. However, over 800,000 people legally immigrated into the United States in 1980, and over 600,000 in 1979.

While legal immigration is a serious problem, illegal immigration presents an even more serious problem. It is estimated that there are between 3.5 million and 6 million illegal immigrants in the United States.

The very fact that we have that kind of a variant is indicative of the kind of problems we have. We know that was

the estimate that was made in 1978. Goodness knows how much it has risen in the last 4 years, or how much it will continue to rise unless we reform our policies. In fact, the reports of the Judiciary Committee indicate that the immigration, legal and illegal, is now amounting to 30 to 50 percent of the annual population growth in the United States. Those figures show us that our present immigration policy is, in fact, not a policy at all. As a result of today's absence of policy, the United States, for all of its power and richness as a nation is unable to control one of the most fundamental aspects of national sovereignty, the ability to control our borders.

Mr. President, the issues, serious as they are, remain an abstract concern to many of the citizens of this country. They read about the Haitian situation in Florida; they have seen pictures of the Mariel boatlift; they have seen pictures of the boat people from Cambodia; they come across some news about immigration from Mexico and Latin America. But, by a large, their daily lives have not been affected by the immigration crisis that the country is facing.

That is not the case, Mr. President, with the people in my home State of Florida. Floridians have felt and, more importantly, continue to feel the impact of uncontrolled immigration which our present laws have created.

First, Florida had to contend with the Mariel boatlift, and the absence of U.S. policy which enabled Castro to force us to accept inmates of his prisons and mental institutions along with those fleeing his oppressive regime. Florida's State and local officials were left with the responsibility for thousands of people who needed food, shelter, medical care and education.

Our absence of policy ended up turning Cuban criminals loose onto the streets. Violent crime in Florida has skyrocketed. Miami has become the murder capital of the Nation, and Florida has 6 of the top 10 criminal cities in the country.

At the same time, we see thousands of Haitians and people from other countries beginning to land illegally on Florida shores. Once again the people of Florida have had to pay more than their share to provide for this new wave of entrants. The Federal Government stood idly by and did little or nothing to stop the flow of people. The Immigration and Naturalization Office of Florida was overwhelmed. Backlogs of literally thousands of immigration cases appeared overnight. A holding facility for newly arrived aliens was set up at an abandoned military base called Krome North.

The conditions at Krome were horrible. There was overcrowding, lack of

proper sanitation, and the real threat of the outbreak of diseases within the compound and throughout south Florida. That led the State of Florida to file suit against the Federal Government. I supported that lawsuit and encouraged the Governor to file it. In fact, I later introduced an amendment in the Senate to relieve the overcrowding at Krome and the threat it posed to the health and safety of south Florida.

In any case, it became clear to the people of south Florida that the Federal Government simply did not care about its problems. The irony, of course, Mr. President, is that the State of Florida was powerless to do anything about it. Immigration is a Federal responsibility. The Federal Government had failed to meet its responsibility in the first instance and then continued to fail to meet its responsibility.

For those of us who represent Florida here in the Congress, it was a time of tremendous frustration. We attempted, Democrat and Republican, Senator and Congressman alike, to get the Federal Government to recognize its responsibility to deal with this problem and to put policies into place that would assure that the problem would not occur again. All too often, though, what I heard was that, "LAWTON, this is a local problem. You all ought to take care of it. It is not the problem of the Federal Government."

Fortunately, however, we were able to get some help for Florida. Last fall, the administration established a policy of interdiction, turning back boats filled with aliens before they reached our shores. That was a move which all Floridians had called on the Government to take and its success was immediate. From the days of last summer, when 400 to 500 persons landed on Florida shores each week, the flow has been cut to a mere trickle.

Eventually, the Government opened a new processing center for illegal entrants in Puerto Rico and, under our prodding, the conditions at Krome were improved.

Last year, in order to assure that such crises would not occur again, I joined with Senator HUDDLESTON in introducing an immigration reform proposal, S. 776. That bill called for streamlining our appeals procedures and for closing the loopholes in the annual immigration ceiling and for doing something about illegal jobs, the magnet which attracts illegal migrants to the United States.

Nevertheless, despite these few bright spots, the problems facing Florida are far from being solved. Every attempt to get Federal reimbursement for costs incurred in providing for the refugees has been a major struggle and Florida has been forced to bear

many costs which the Federal Government should have carried.

Every time we passed a bill or received some aid, we found OMB or some agency trying to take that money away, or to put tremendous burdens on the State, or delaying the payments owed to the State. Little has been done about the backlog of some 17,000 asylum cases now pending in Florida. Some of the Haitians who came here last summer have been held in the Krome Detention Center for over a year pending the outcome of their applications for asylum.

It is not surprising, given the lack of policy and direction in today's immigration laws, that the Haitian issue ended up being decided in the courts. Homicide remains the major cause of death among Mariel refugees. Dade County is facing a critical shortage of jail space due to the 500 Mariel refugees who are being held there for crimes they committed in Florida. Those 500 have averaged over two felony arrests each in the 2 years they have been here. As a result of this overcrowding, Dade County is now under a court order to improve the conditions in its jails, but, at the same time, it has no money to do so.

Mr. President, the picture I paint is not a pretty one. I recognize that there has been some improvement and some positive steps taken, but serious problems remain. More importantly, the people of Florida feel, and rightfully so, that there is nothing to prevent the immigration crisis that they faced in the past from happening again in the future. They know that our laws do not work and they believe, with good reason, that the Federal Government's help is usually too little and too late.

Nevertheless, the people from Florida from all walks of life have worked together to try to seek solutions to these problems on an individual level. But there are limits to what individuals and States and localities can do when they are dealing with a problem that is the exclusive responsibility of the Federal Government. For that reason, they have come here to Washington to make their voices heard and to press for solutions both of the problems facing Florida and to our national immigration problem.

Earlier this year, a half dozen housewives from Miami came here with a petition signed by over 25,000 south Florida residents. The petition which these women had carried from door to door throughout south Florida called for immediate action on immigration reform legislation. The people of Florida have shown their hospitality. They have shown their compassion throughout this ordeal. Going back to 1960, when we had the first Cuban exodus, the people of Florida opened their doors, welcomed the people, and helped them assimilate into this coun-

try. But as long as the hopelessness of our present policy, or lack of policy, continues to exist, they will also show the tensions and the despair that go hand in hand with feeling that their Government has abandoned them.

I speak for all of them when I say that it is imperative that Congress act to put into place a new set of immigration policies that will enable the United States to control immigration.

To some extent, the fact that the bill is before us today is a tribute to the persistence of Floridians. Their voices are finally being heard. But it is also a tribute to the leadership, the will, and the determination of the Senator from Wyoming (Mr. SIMPSON) and the members of his subcommittee. I want to congratulate him and each of the members of the subcommittee for the work that they have done.

As I said earlier, immigration is an abstract problem to most Americans. The issues of immigration are not easy. They are certainly not very sexy. I am certain that immigration is not the hottest issue in Wyoming. But the Senator has managed to raise the public's attention and educate the public as to the nature of the immigration problems facing us. Moreover, he has conducted a comprehensive set of hearings on all aspects of the problem, and he has produced a bill which seeks to fairly address the concerns of all persons interested in this issue. He has kept the debate on a substantive level, and he has brought a well-thought-out proposal to the Senate floor. My hat is off to the Senator from Wyoming, and I congratulate him on his efforts.

The provisions of S. 2222 reflect the careful study and care which Senator SIMPSON has brought to the immigration issue. I would like to make a few comments on the bill itself. The most important reform it makes is the way that it deals with the question of illegal jobs.

The problem caused by illegal jobs cannot be overstated. It is estimated that there are as many as 6 million illegal aliens in the United States. Just last week 10.8 million Americans were unemployed. The Congressional Budget Office estimates that each unemployed worker costs \$7,000 in unemployment and welfare benefits. If only 1 percent of the jobs that are held by illegal aliens were held by unemployed Americans, the cost of unemployment could be reduced by over \$400 million. It is likely that much more than 1 percent of the illegal aliens work in jobs that unemployed Americans would be delighted to fill.

Mr. RANDOLPH. Will the able Senator from Florida (Mr. CHILES) yield?

Mr. CHILES. I yield.

Mr. RANDOLPH. Mr. President, the Senator speaks of the unemployment in this country. It is approximately 10 percent in West Virginia, with thou-

sands of steelworkers and aluminum workers unemployed. In a cross-section of our State, regardless of where it is, we are hit heavily by unemployment. The only reason I mention unemployment there is because we are perhaps the fourth or fifth State in unemployment figures, compared with other States.

It is estimated that there are more than 10,000 illegal aliens working in the District of Columbia. Does the Senator believe that is a high, low, or medium figure?

Mr. CHILES. I would say to the distinguished Senator from West Virginia that there is no way of knowing. I would not say that it is high. I think that it might be a median figure or maybe lower. I would not guess that it is high, given the fact that we have no control over the situation today.

Mr. RANDOLPH. I believe the estimate that I have mentioned has validity to it, and I wanted to have it made a part of the RECORD. I thank the Senator.

Mr. CHILES. Displacement of American workers is just one of the costs of illegal immigration. Illegal aliens exist as a subclass within our society. They are beyond the obligations and protections of our laws. The Supreme Court recently decided that illegal aliens have a constitutional right to a free public education. At this point, it is uncertain what the impact of that ruling is going to be on other benefits, but it is clear that illegal immigration is a costly burden to the American economy and the taxpayers.

Illegal aliens have come to the United States for one reason. That is to work. As long as they are able to find employment in the United States, they are going to send word back to others to join them, and the others are going to come as long as they can get those jobs.

We can try to solve that problem by increasing the border patrol, but with thousands of miles of border, there is no way that we will ever be able to provide enough border patrols, enough guards, enough fence, enough boats, enough dogs to thoroughly police the border. Thousands of people will enter the United States illegally each year, and many of them will succeed.

Mr. RANDOLPH. Will my colleague yield again?

Mr. CHILES. I yield.

Mr. RANDOLPH. If the illegal aliens within the United States that the Senator mentioned are working here in very, very large numbers in every State, in the larger cities, is it not also illegal for those citizens of the United States who are the owners of these businesses to hire these people?

Mr. CHILES. It should be, but it is not.

Mr. RANDOLPH. I thank the Senator.

Mr. CHILES. S. 2222 takes a direct approach and, I believe, the proper approach to curbing illegal immigration. It attempts to eliminate the magnet which draws the illegal aliens to the United States, the magnet of illegal American jobs. Quite simply, it closes the loophole in our present laws and makes it a crime for an employer to knowingly hire an illegal alien. I believe this prohibition is the key to controlling illegal immigration. Unless we remove the incentive that brings illegal aliens to the United States, other attempts to solve the problem are going to be futile.

S. 2222 calls for the Justice Department to develop a secure worker verification system that cannot be easily counterfeited. The system is necessary to make the prohibitions against employing illegal aliens enforceable. It will protect employers from inadvertently hiring an illegal alien. At the same time, it will provide a method for identifying an employer who intentionally violates the law. The verification system will also protect American workers from discriminatory hiring practices by placing the same documentary requirements on everyone.

In order for the system to be effective, it must be designed to encourage the cooperation of the business community. In addition to being secure against fraud, it has to be efficient and easy to use. It should minimize the paperwork requirements and expense to employers.

Prohibitions against hiring illegal aliens, coupled with an effective worker verification system, will go to the source of our illegal immigration problem and give us a method for controlling it.

The alternative is to do nothing and to allow the current situation to continue, unchecked.

Another equally important provision is the reform of the asylum process. Our laws currently guarantee that the United States will provide asylum to any alien who is in the United States and who can prove that he has a well-founded fear of political persecution if he returns to his homeland.

In the past we had relatively few aliens who requested asylum. Just 4 years ago, as few as 5,000 requests for asylum were pending with the Immigration and Naturalization Service.

Today the backlog of pending asylum cases is over 105,000. That may seem like an abstract number to some people, but I assure you it is not an abstract number to the people of Florida, where 200,000 Cubans and Haitians seeking political asylum entered the United States. There are currently 17,000 cases pending in Florida alone. Many of those cases have been pending since 1979.

Unfortunately, when the current law was written, Congress did not account for the possibility that the United

States would be a country of first asylum.

When we were changing the law in 1980, we envisioned, that the people would go from Cambodia to Thailand, or that they would go from one country to another, but that they would be set up in camps outside of the United States. We could then screen the refugees and determine who should be admitted to this country.

We did not know that the boats were going to land on our shores. Yet, during the Haitian influx, there were 400 to 500 refugees landing on Florida's beaches daily.

Now each one of them gets a case-by-case determination for their status. And now, under the court decisions, they have said that they can avail themselves to every right that a citizen has to use our courts. You can tie that process up forever. We are right back to where we were talking about habeas corpus. You can never have finality in the cases.

Some asylum cases have been pending since 1979. They are not near completion. If we do not do something to close off the process of allowing the alien to have all the constitutional rights of a citizen, then, again, we might as well admit that we have given up the game, we might as well get ready for the deluge of people who are going to come because that word is beginning to go out.

The word is going out that the Texas case says we now provide educational benefits to all illegal alien children. The word is now going out from the Spellman case that we cannot hold an illegal alien, we cannot detain them while they are seeking to determine their status.

So if we cannot hold them and if we have to give their kids educational rights, we have no reason to really claim that we are solvent, we have no reason to claim that we can have a border or any checkpoints, and we can invite everyone to come into this country.

As the epitome of a free and democratic Republic, the United States has a great responsibility to provide refuge to those who are fleeing persecution. But we cannot, and should not, accept every alien who arrives in the United States and makes a claim for asylum simply because he is here and wants a better life. If we are going to do that, let us just say that that is our policy. We might as well. Then everybody can come.

The legal definition of a refugee is very narrow. It needs to be reserved to those who are truly victims of persecution.

If we are going to grant asylum to refugees, we must have an efficient and equitable system for deciding who qualifies. To do less is a disservice to all those who apply, whether they are

eligible or not, as well as to the people of this country.

S. 2222 will expedite the asylum process by giving immigration officers the authority to summarily exclude undocumented aliens who do not appear to have a legitimate basis for making an asylum claim. Only those who express fear at returning to their homeland or who specifically request political asylum or would be admitted to the United States. They will receive a hearing before an immigration judge, who will be specifically trained to hear asylum cases. There will only be on appeal available to a newly created, independent immigration board, outside of the immigration and naturalization service. Asylum decisions would not be subject to judicial review.

I support this provision of S. 2222. It will put us in a much stronger enforcement position in the event of another mass migration. Had the system been in place 2 years ago, we could have avoided many of the administrative delays that characterized the Cuban/Haitian crisis.

Finally, Mr. President, I am pleased that S. 2222 requires a new annual immigration ceiling that includes immediate relatives of U.S. citizens. Immediate relatives of American citizens is one of the fastest growing immigration categories. Between 1976 and 1980, the number of immediate relatives increased 40 percent from 114,000 to 152,000. Yet this significant source of immigration into the United States is not counted against our annual immigration quota. This gives us an unrealistic impression of the number of aliens who are being admitted to the United States each year. Our immigration cap is 270,000 but the number of legal immigrants who actually enter the United States each year is over 400,000 refugee admissions raise the number of illegal immigrants to nearly 600,000 in an average year.

I believe that the United States should be able to decide in advance exactly how many new residents we will accept each year from foreign nations. Family reunification should be one of the primary objectives of our immigration policies. S. 2222 retains that objective by allowing for unlimited entry of immediate family members of U.S. citizens but it requires that those family members be counted against our annual immigration ceiling.

Mr. President, I believe that S. 2222 is a good bill that will make many improvements in our immigration laws. It will close some of the most glaring loopholes in our current laws and holds the promise of restoring order to our chaotic immigration policies, but I believe the bill could be strengthened to make it even more effective. I would like to take the opportunity today to mention ways in which I believe the bill could be made even more effective.

My first concern is with the failure to include refugees in the immigration ceiling. When Senator HUDDLESTON offers his amendment to include refugees in the cap, I will have some further remarks on this issue. At this point, it is worth noting that our immigration laws are among the most generous in the world. The United States accepts more immigrants and refugees than any other nation. In fact, we accept more than all the other nations put together. But if we are to provide jobs and a healthy economy for the people who are already here, we must place limits on that generosity. If we accept the premise that we need a ceiling on immigration, then it seems to me that all aliens who come to the United States, with the intention of staying should be included in the ceiling, regardless of whether they come to reunite with their families, to work, or to escape persecution. The failure to include refugees in the annual immigration cap is a serious omission in the bill which will perpetuate one of the loopholes in legal immigration policies today. I hope that we will act to correct this problem in the bill.

I am also concerned that S. 2222 does not provide adequate safeguards against the kind of immigration emergency that we experienced in Florida. We need to have a contingency plan in place which outlines exactly what steps the Federal Government will take in the event of another immigration emergency.

The reforms that S. 2222 calls for in the asylum procedures will greatly enhance our ability to control an immigration emergency, but those reforms do not go far enough. I feel strongly that we need to address the issue of the Federal Government's responsibility for averting another immigration crisis and that we must clarify the President's authority to act to prevent another massive, uncontrolled influx of aliens within the context of this bill.

In conclusion, Mr. President, again I commend Senator SIMPSON, Senator KENNEDY, and all of the members of the subcommittee for their efforts to bring about comprehensive reform of our immigration laws. This is a monumental task and I believe that S. 2222 is an admirable legislative package. It gives us an opportunity to eliminate the growing problems in our immigration laws, and to restore the United States to a position in which we, not other governments, or the people of other nations, control immigration to this country. I hope that the Senate will use this opportunity to close all of the loopholes in our immigration laws and to pass a strong, comprehensive immigration reform bill.

Mrs. HAWKINS. Will the Senator yield?

Mr. CHILES. I yield to my colleague.

Mrs. HAWKINS. Mr. President, I join my colleague from Florida in commending Senator SIMPSON and his fine staff for their dedication to the issue of immigration reform. While we disagree in several important respects on what should and should not be included in this bill, there is no question in my mind that the distinguished Senator from Wyoming deserves much credit for keeping this important issue alive and on the minds of Congress and the Nation. I do believe that before we proceed, we should outline the serious omissions in the bill before us today.

Our State of Florida, as the senior Senator has so ably outlined, has been seriously affected by an immigration policy that has lost its sense of direction and purpose. Nothing is more important to Florida than a purposeful, useful, and appropriate immigration bill. In a poll taken last week by the major newspapers across our State, immigration was the second highest issue of concern to Floridians. The health of the economy was No. 1, immigration No. 2, and crime No. 3, even though, as my colleague has stated, 6 of the top 11 cities with the highest crime rates are in our State. Immigration is now the No. 2 concern in the minds of our citizens.

To put it bluntly, however, Mr. President, this bill unfortunately does not deal with the most serious immigration problems we are experiencing in Florida today. What the bill does not include is my foremost concern.

Conspicuously absent from this legislation is a provision to protect States and cities in the event of an influx of undocumented aliens encouraged by a hostile foreign power. This kind of legislation is critical to a comprehensive immigration bill. During a period of 5 months in 1980, south Florida was inundated with 125,000 Cubans.

During that same year and in subsequent years, thousands of Haitians succeeded in reaching the shores of Florida. In Dade County alone, 1 out of every 18 people is now an undocumented Cuban or Haitian. The cost of Florida's good faith and good will has been tremendous. Florida's taxpayers have spent over \$150 million to help these aliens adjust to American society. This expense does not include the sacrifices made by the members of the community because of strains placed on local fire and police services, local governments, and courts.

Many of the people of Florida are rightly frustrated and downright angry because, although they have no control over our immigration or foreign policy, they are expected to support undocumented aliens invited by the Federal Government. The Federal Government has always been a gracious and benevolent host, offering food, housing, and medicine to foreign

guests who have suffered what we have never known: Religious and political persecution. I take no issue with the generosity of the Federal Government. All I ask is that someone other than Floridians foot the bill.

This bill contains no guarantee that the Federal Government will pay for its guests. In my opinion, this is a grave omission.

Senator SIMPSON has stated that this is related to the idea of immigration emergency powers. Senator SIMPSON is very sympathetic to my problem and to Florida's problem, and we have had many discussions on it. The Senator believes it would be better to hold separate hearings on the subject and to deal with it separately from the rest of the immigration issue.

I am open to that suggestion. However, I am convinced that unless we deal with this issue now, when we are dealing with all other major immigration problems, the time will come when we are once again inundated by undocumented aliens—with still no protection from the Government.

Another omission from this bill is the question of emergency powers. Senator CHILES has said quite a bit about emergency powers in his remarks, and I concur with everything he said. I have great confidence that should another immigration emergency like the 1980 Mariel boat lift occur, the Reagan administration would act promptly and decisively to deal with the situation. There are a range of actions an administration could take, under current law, to deal with an immigration emergency. I do believe there is a need significantly to expand those powers to give an administration greater control over such an emergency. We should actively support efforts to bring up this issue. I feel we ought to debate it, and we ought to talk about it. It may not receive the support that it needs, but I would like to emphasize that this is still a tremendous problem in Florida.

Everyday we have a line of immigrants, four deep, surrounding the INS building in Miami. You have to get in line by 4 a.m. in Miami just to get a card to walk inside. Immigrants have to sell the spots in the line simply to get in to talk to someone inside the immigration building.

That is a constant problem. It is one I saw again last week when I was there.

A final serious problem with this legislation concerns the amnesty provisions. Amnesty seems to me a very shortsighted way of dealing with our immigration problems. Indeed, it appears to me to guarantee that there will be even more illegal immigration. What it suggests to those who propose to come to this country illegally is this: If they can hide out long enough until more illegal aliens arrive, then another amnesty will be granted. It

perpetuates a vicious circle. If the United States once ignored its immigration laws and welcomed illegal aliens into its society, then it surely will do so again. Amnesty rewards law-breaking. It makes a mockery of American law. It will perpetuate the very immorality and lack of ethics that it seeks to end.

Who pays for amnesty? It is an expensive process. The cost to American taxpayers for the amnesty program is expected to run into billions of dollars in social services and welfare benefits. These costs will not be borne by the Federal Government alone. State and local governments will groan under the burden as well.

The entire idea of amnesty must be carefully rethought, and I will support efforts to restructure the amnesty provision into a more acceptable form. The bill as it stands now seems to ignore concerns of great importance to Floridians. I hope that the Senate will give careful consideration to the concerns I have mentioned. We must pass immigration legislation that meets the needs of all areas of the country.

In no way do I want to take away from the thoughtful, careful, and thorough work of those members of the Immigration Committee, including Senators SIMPSON, GRASSLEY, KENNEDY, and others. They have held meetings throughout the United States and have spent a great number of hours of work on this new immigration bill. It is a beginning tool for reformation of our immigration problems. I commend those who have worked on it. Florida simply asks you to consider the items that I mentioned—to find some way to assure Floridians that never again will they be called upon to bear such a financial burden as well as dangerous health problems and overcrowding.

I daresay there is not a community in the United States that could have accepted as many new people in such a short period of time with as much peace and harmony as did Dade County, Fla. Its residents are to be commended. They are still struggling and still making accommodations because of the great influx. I want to pay tribute to the citizens of Florida who have had to accept these invited and uninvited guests to our shores. All we ask is that there be some concern for the thoughts that are still uppermost on the minds of Floridians today as we take up this most important bill.

Mr. KENNEDY. Will the Senator from Florida yield?

Mrs. HAWKINS. Yes.

Mr. KENNEDY. I welcome the statements that have been made by both Senators from Florida on this extremely difficult issue for Florida. I was one that was sharply critical of the efforts undertaken by our Government in 1980, where we vacillated the policy between opening our shores and closing our shores to Cubans, and

failed to utilize the international machinery which is available and which President Ford used in 1975 during the Vietnam refugee crisis—actually, a diplomacy which was worked out even under President Johnson with Cuba in 1965 which resulted in a negotiation and an orderly movement of some individuals and reunification of families, in which the voluntary agencies were very much involved and which was an orderly and humane process.

The statements that have been made by both of the Senators from Florida I think are important to this dialog. I have voted in support of assistance to local communities in the past, I want to give the assurance that I will contribute every bit of help and assistance I can in the future to Florida and other States and communities who are bearing that particular burden.

Mrs. HAWKINS. I thank the Senator.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I share the observations of the Senator from Massachusetts, and indeed in our discussions and as we worked together with the refugee resettlement issues and the Refugee Act of 1980, we did not consider this simply a Florida issue. It is a national issue. I pledge, win, lose, or draw with regard to this effort, that we will receive the President's emergency powers provisions. They are in the final draft. There are administrative procedures now in place which would take care, we are advised, of the Mariel Harbor situation. But I pledge that regardless of what may occur with this legislation, or any other aspect of the refugee settlement reauthorization, we will have in the subcommittee the receipt of the legislation, hearings on the legislation and markup on the legislation prior to the election day recess. That is a pledge of the chairman of the subcommittee.

I believe we are now ready to proceed with amendments to the legislation.

Mr. RANDOLPH addressed the Chair.

Mr. SIMPSON. I am sorry. I yield to Senator RANDOLPH.

Mr. RANDOLPH. Will the Senator yield to me? I will speak just very briefly.

Mr. SIMPSON. I will certainly yield to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, I commend all the members of the Senate committee as they bring to this forum S. 2222.

There will be times during the discussion when this Senator from West Virginia, now speaking, and others may actively support amendments that will be offered. I ask at this time, if I may be permitted, not as one who

has been in the hearings or who has gone through the process of intensive study, but as a concerned Senator among the 100 Senators, whether I may be listed as a cosponsor of S. 2222. I ask unanimous consent, Mr. President, to be so listed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I thank the Senator from West Virginia, one of the most gracious men in this Chamber, who was chairman of the first committee I served on in this body and who has been very attentive, helpful, and supportive in almost all the things I have been involved in. I deeply appreciate his asking to be a cosponsor of this measure.

Mr. RANDOLPH. Mr. President, I am grateful for the Senator's words.

I had the pleasure of serving with ALAN's father. I am going to use his name now, and it can be stricken from the RECORD later, if that is the proper procedure. There are Members of the Senate who do not know that ALAN SIMPSON's father was a Member of this body for several years. The Senate changes in membership. New Members come and sometimes, understandably, do not know those Members who were here 10 or 20 years before.

So, when a father is succeeded here by his son, both constructive Senators, I wish to have that made part of my tribute, not only to the son but to the father as well.

I am delighted to know that the father is going to be celebrating a very wonderful occasion in Casper, Wyo., in a very few days. I wish I might be there with those friends who will salute him on that occasion.

Mr. President, it may seem that I go back too far, but I quote from the Farewell Address of George Washington. It was never spoken; it was written. In that address, our first President of the United States said these words:

Citizens by birth or choice of a common country, that country has a right to concentrate your affections.

The word affection was used at that time perhaps more than now, but the word meant commitment. Washington spoke of commitment to a country—a country, of course, that was going to be peopled by native and naturalized citizens.

So, today, although this bill may not appear to have the national attention or impact that other measures have had in the past few days here, there perhaps is no more vital and crucial subject matter to be discussed and decided in the Senate than what we are now beginning.

So I commend not only the Senator from Wyoming (Mr. SIMPSON) but also the Senator from Massachusetts (Mr. KENNEDY) and all those who have given painstaking study to this problem. I thank especially Senator SIMP-

son, whom I have come to know, to respect, and to honor.

Mr. President, S. 2222, the Immigration Reform and Control Act is an urgently needed measure. The problems of uncontrolled immigration and illegal aliens are of great concern to citizens throughout our Nation. We are not unsympathetic to the plight of people who wish to come to this country and we will continue to be generous under S. 2222; but, we must as a nation secure control of our destiny.

The number of illegal immigrants residing in the United States is estimated at 3.5 to 6 million, and some experts have estimated a net growth of 500,000 new illegal immigrants per year. Current law cannot contain this problem because it is legal to employ aliens who are in the United States illegally. The major reason for illegal immigration is the prospect of employment in this country. Merely increasing levels of existing enforcement is unrealistic.

The procedure for granting political asylum to refugees reaching our shores is not working. It is increasingly used by immigrants seeking procedural delays to remain and work in the United States. There are currently five levels of appeals on asylum cases, which can take years to complete. In 1979, there were approximately 4,000 asylum cases pending; currently there are over 105,000 backlogged in various states of adjudication.

Finally, our programs for the admission of legal immigrants and temporary workers must be refined.

S. 2222 makes substantial progress toward resolving these problems. It contains provisions to prohibit the hiring of illegal aliens and imposes sanctions against employers who knowingly employ such persons.

It establishes a streamlined system to handle asylum cases and the cases of persons who attempt to enter this country with or without documentation.

S. 2222 also sets an annual ceiling on legal admissions to the United States of 425,000 per year. Unfortunately, this ceiling does not include refugees. In this regard, I am cosponsoring an amendment to bring refugees under this ceiling. This amendment is sponsored by the very able Senator from Kentucky (Mr. HUDDLESTON) who has been a knowledgeable and active student in this field.

There may be other amendments to S. 2222 that I will support. However, this is a sound and reasonable measure and it is my sincere hope that the Senate will act affirmatively.

Mr. DOLE. Mr. President, the challenge presented to our Nation of immigrants as we attempt to assimilate hundreds of thousands of new entrants has caused us to question the vitality of our world reputation as a safe harbor and land of freedom and opportunity for the oppressed and

homeless. It is a tribute to our free land and its citizens who extend their blessings to today's immigrants and refugees, that we continue to find strength in our ethnic and racial diversity as the globe's melting pot.

The economic, religious, and political freedom and opportunity sought by our ancestors is as strong a magnet today as it was in the early 19th century when waves of immigrants began to reach our shores. We must not forget that as we open our gate to the world, we invest in the future of our country, welcoming the many hard working and hopeful newcomers, most of whom develop strong community and patriotic ties and contribute to our Nation's strength.

The spirit of compassion that has marked our dealings with those who seek new roots here by staking their futures in our land is viewed by some as having been strained by the sheer overwhelming numbers of aliens entering our land for political freedom and family reunification.

Senator SIMPSON's characterization of a growing climate of "compassion fatigue" unfortunately describes the dilemma that this distinguished body faces in maintaining a reasonable level of legal immigration and controlling the mounting numbers of illegal aliens settling in the United States. Many, including the Attorney General, have concluded that we have lost control over our borders. Escaping detection, millions of illegal aliens have settled in communities throughout the land.

If the United States is to continue to preserve a stable economic and political sovereignty in the face of the multitudes yearning for freedom and opportunity, we must temper our compassion and generosity for those of other lands with a heartfelt concern for those legally here who must maintain the vitality and strength of our treasured way of life. The immigration laws of our land have developed with a recognition that there must be some reasonable limits to our generous open door policy, limits which can still make us the most welcoming nation in the world.

I support the fundamental values and judgments represented by this legislation. While we must keep the eternal flame at our gate held high, we should recognize that the strength and resilience of our way of life, the very things that attract the world's hopeful, must be weighed as we mold our Nation's immigration course for decades to come. Our immigration policy must be flexible and realistic enough to respond to world economic, population and political pressures that have pushed and pulled millions of migrants across the face of our Earth and have created a large subculture of illegal aliens in our Nation who submit

to social and economic exploitation, often creating social instability.

The Senator from Kansas believes that legalization and sanctions against the hiring of illegal aliens are a realistic and effective means of exercising humanitarian concerns and regaining control over the enforcement of our immigration laws. Many of the millions of cowering illegal aliens, failing to report crime or disease and often subjected to exploitation, have sunk their roots here, and have become contributing community members.

If we expect to effectively enforce our immigration laws we must support stepped-up enforcement and focus on stemming the daily tide of aliens drawn primarily by jobs. The bill's prohibition against knowingly hiring illegal aliens is critical to eliminating the irresistible magnet of economic opportunity that attracts the illegal alien. The fear of apprehension and deportation alone has not deterred enough aliens.

S. 2222 represents a compassionate as well as pragmatic approach to a problem that faces every nation fortunate enough to have been blessed with freedom and opportunity. It is the product of a true bipartisan effort with a solid foundation laid by the findings of the Select Commission on Immigration and Refugee Policy, weeks of joint congressional hearings and the efforts of the administration's task force.

The carefully considered provisions of this omnibus bill represent a comprehensive and propitious vehicle to guide our immigration policy into the next century in the face of unprecedented world migration. It carefully balances the vital concerns for our Nation's economic and political welfare with a long and proud tradition of compassion for those who flee persecution to seek the blessings of our land as did our immigrant ancestors. I urge my colleagues to support Senator SIMPSON's legislation which represents a fundamentally compassionate and pragmatic blueprint for regaining control over immigration problems that must be laid to rest.

DOLE AMENDMENT TO S. 2222

The Senator from Kansas will introduce an amendment to strengthen provisions for the protection of personal information contained in any permanent worker verification system developed to enforce certain immigration laws and to encourage the utilization of available Federal and State identification system resources to avoid the development of a costly and redundant system to detect illegal aliens seeking employment.

Mr. MATTINGLY. Mr. President, my colleague from Wyoming, Senator SIMPSON, has done a masterful job of dealing with some significant and controversial issues inherent in any immigration reform bill. He should be com-

mended for his knowledge, his dedication, and his enthusiasm for tackling this difficult task. The fact that the basic structure of immigration law is changed about once a generation attests to the immense difficulty of this task.

On Tuesday, March 23, I stood on the Senate floor and expressed my support for Senate bill 2222. The United States as a sovereign nation must insure the well-being of its people. While protecting our borders is essential, we have failed miserably to control illegal entry. There are currently between 4 and 6 million illegal aliens in our Nation's work force. This has an enormous negative impact on our own citizens and on the economic condition of our Nation.

The problem of illegal immigration is only one of the problems that we must deal with in this legislation. Under current law, 270,000 immigrants may enter for permanent residence annually. This is in addition to certain relatives of U.S. citizens and refugees designated by the President in consultation with the Congress. In 1980 alone, total immigration, including Cuban and Haitian entrants and Indonesian refugees, was estimated at more than 800,000. The United States admits more of the world's stock of 14 million refugees than any other nation.

Responsible immigration policy must be our goal. History has proven that our country is strong because of the diverse backgrounds of our people. Thirty percent of all U.S. Nobel laureates came to the United States as immigrants. Legal immigrant residents have contributed greatly to the strength of the Nation.

I am sure that the debate on many provisions of S. 2222 will be heated and controversial. I would urge my colleagues to remember that we must act in a manner which will insure that those who currently reside in America and those new Americans that will come to our shores in the future will be protected. As I have said before, Senator SIMPSON's bill, S. 2222, is fair and does not fatigue the compassion of America.

Mr. SIMPSON. Mr. President, I thank the Senator from West Virginia.

I will communicate those remarks to my father, who will be "roasted" in Casper, Wyo., on August 17. His intellect is undiminished, although his physical limitations are severe, and he will be most appreciative of those remarks.

Mr. KENNEDY. Mr. President, I should like to inquire of the manager of the bill as to his reaction to a procedure I will offer at this time for the convenience of the Members of the Senate.

I have three amendments that relate to family reunification. Even though they are independent issues, they obvi-

ously are related to each other in this particular legislative proposal.

I suggest that I be able to offer the amendments *seriatim*, and we could talk about each one. We will have an opportunity ourselves to debate this issue, and we will have an opportunity to exchange our views on those issues. Then I would like to have a rollcall vote on each. I am prepared to vote on them together, for the convenience of the Senate and for the understanding of Senators. It would probably be in their best interests and in the best interests of public policy.

Mr. SIMPSON. Mr. President, the suggestion is a helpful one. We could deal with the amendment of immediate relatives, second preference, and fifth preference. They are all interrelated. We could handle them in that order.

Perhaps we could have 1 hour of debate on those amendments. A half-hour equally divided might do it. I like that suggestion.

Then we could have three rollcall votes of 10 minutes each in a series. I await some negotiation to be assured that that is agreeable to Members on this side of the aisle.

So, if the Senator wishes to proceed with the debate, we will seek an agreement on the three stacked votes a little later.

Mr. KENNEDY. Mr. President, why do we not proceed along that line, in consideration of the amendments, and then we can consider the time for the vote later?

AMENDMENT NO. 1997

(Purpose: To strike out provisions by which the number of available family reunification visas would be reduced by the number of immediate relatives admitted in the previous fiscal year)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1997.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, line 25, strike out "three hundred and fifty thousand" insert in lieu thereof "two hundred and fifty thousand".

On page 122, beginning on line 1 with "(i)", strike out all through "residence," on line 5.

On page 122, line 6, strike out "(ii)" and insert in lieu thereof "(i)".

On page 122, line 8, strike out "such".

On page 122, line 9, strike out "(iii)" and insert in lieu thereof "(ii)".

On page 122, line 11, strike out "(iv)" and insert in lieu thereof "(iii)".

On page 124, lines 12 and 13, strike out "immediate relatives specified in section 201(b)."

On page 124, line 15, strike out "such".

On page 130, lines 19 and 20, strike out "immediate relatives specified in section 201(b)."

Mr. KENNEDY. Mr. President, what this amendment does is recognize that throughout our history we have considered it a basic right of an American citizen to bring his or her spouse and child without regard to ceilings and limitations, and I see no reason why we should abandon this principle now.

Mr. President, I believe the pending legislation takes a major step away from our Nation's historic commitment to the reunification of families as the fundamental objective of our immigration laws. For the first time in our history, this bill places an annual ceiling on all legal immigration—except for refugees. The spouses and children of American citizens will not come under a ceiling. Although they are given the highest priority and are assured of admission, their admission could come at the expense of other family reunification preferences.

Unless my amendment is adopted, we will seriously penalize the admission of families under the established preferences, creating backlogs where none exist, and making existing backlogs even longer.

Mr. President, the administration has indicated it supports the objectives of this amendment. In fact, it was contained in the amendments the administration forwarded to the subcommittee during our markup of the bill.

In addition, the Select Commission voted almost unanimously—15 to 1—in support of the provisions of this amendment. Let me read from the Commission's discussion of its recommendation on continuing the present system where some immigrants are numerically limited but certain others—such as immediate relatives—are exempt:

Proposals have been made to the Commission which maintain that regardless of what number is set, all immigrants and refugees should be admitted under a total, fixed ceiling, with adjustments made within the immigrant categories as a result of any fluctuations in the number of refugee admissions each year. While attracted by the fact that a firm ceiling on total numbers of immigrants would facilitate planning, the Commission, nevertheless, concludes that the present system—under which a varying number of refugees may be admitted subject to Presidential/congressional consultation, and the immediate relatives of U.S. citizens and certain special immigrants are admitted outside of any numerical limitation—provides the proper flexibility to meet U.S. needs. Therefore, while favoring numerical limits on most groups of immigrants, the Commission recommends that, to allow for flexibility in refugee, immediate relative and special immigrant admissions, total U.S. immigrant and refugee admissions be subject to no total cap or ceiling.

Mr. President, I hope that this amendment will be accepted and I also point out again that it is consistent with the administration's position. When the administration testified before the subcommittee, for the reasons that I have mentioned and that is primarily the reunification of families, they had an identical position.

Mr. SIMPSON. Mr. President, right off the bat, we come to one of the critical issues that have to do with the title of the bill and that is control, and that is where we are with this amendment. Immediate relatives of U.S. citizens is the designation.

Now immediate relatives of U.S. citizens are not presently subject to any numerical limitation under our law.

Under S. 2222, they are not subject to any numerical limitation under our law but here is the condition: The bill does require, in effect, that if the number of immediate relatives increases, then offsetting reductions will be required in numerically limited family reunification categories.

The State Department has advised us in our previous hearings and debates that immediate relative admissions increase at the rate of 7,000 to 10,000 per year. That number may well increase after some of the newly legalized group—legalization is an important part of this bill—are naturalized. Presently 155,000 immediate relatives are admitted each year. It is the largest immigrant category and it is neither accounted for nor controlled.

So there are only two ways to achieve control over total legal admission of immigrants. We either impose a cap, and include immediate relatives in that cap, or we require offsetting reductions elsewhere while not restricting immediate relatives.

A U.S. citizen I do not think should be told that he cannot bring in his spouse or minor children. Therefore, we have chosen the second course. Unrestricted admission of immediate relatives with offsetting reductions against the total cap of 425,000.

So that is the essence of the argument in opposition to the amendment of the Senator from Massachusetts. I do oppose it because the amendment would very effectively simply remove the cap and, if there is one thing I sense in the debate at least in the past 2 or 3 years, it is that somewhere in this debate we will place a cap on legal immigration. As unfortunate or fortunate as we may believe that to be, a cap will be set.

So this amendment would effectively remove the cap. It would restore the present situation and it would prevent us from obtaining control over immigration. It is indeed the true opening, the true wedge in the control aspects of the legislation.

So those are our choices. That is why we arrived at this inclusion of im-

mediate relatives, and I conclude my remarks for the moment.

Mr. KENNEDY. Mr. President, I am not opposed to putting caps on particular categories. We did that in the 1965 act. But I think it is important to note, as the Senator from Wyoming has pointed out, this will be the first time in our history where we have done it for immediate relatives, the spouses and children of U.S. citizens, and, as the Senator from Wyoming has rightfully pointed out, if we look at those numbers from 1976 through 1981 they have gone from 114,000 up to 151,000 in 1981. They are estimated to be 155,000 this year, and that is the figure in the bill offered by the Senator from Wyoming.

But as that figure increases and the 425,000 ceiling remains the same, it is going to mean that there will have to be a reduction in other categories.

The other categories relate to the reunification of families too. So we should be under no illusion about what the implication of this ceiling means.

Again, as I stated at the outset, I think on the issue of members of families we should be able to give the assurance to American families that under an immigration law there will be the opportunity for their reunification. And my concern is that, first of all, we have never limited this, and I do not think it is a wise thing to do—but second, I think it should be very clear to Members of this body, if we do not accept this particular amendment, we are deferring and delaying, if not perhaps for all intents and purposes, in some instances eliminating the possibilities of members of families to be reunified.

As I said, I know that the Senator has given this a great deal of thought and attention.

I point out, as I mentioned earlier, that the Select Commission supported this position 15 to 1 and that reflected a wide range of different opinions, both politically, ideologically, and from those who had strong differing views on other provisions of this act.

So that is what the amendment would do and that is the reason that I proposed the amendment.

Mr. SIMPSON. Mr. President, that is a fair resumé of the issue.

I think I would make one statement, that actually we do not place the cap on immediate relatives of U.S. citizens, but I do not want to get into sophistry of meaning. We do say that in this legislation we do not limit immediate relatives but we do indeed, as the Senator points out, then require offsetting reductions in what are other areas of the preference system that have to do with family reunification. But again immediate relatives of U.S. citizens, in the sense of a cap, are not within there, but, of course, those numbers

are offset down in the numerically restricted preference system.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. SIMPSON. Yes; I yield to the Senator from Florida.

Mr. CHILES. It sounds to me as if the thrust of the bill is to say the debate really should be as to what the cap should be. But the whole idea of the cap, as I understand it, is that the people of this country are going to know how many people a year we are going to attempt to assimilate. If we have provisions not covered by that cap, then saying we have a cap is kind of meaningless, just as saying that we have a cap today is meaningless.

The cap today is 270,000. In 1980 we took in 800,000; the year before that, 1979 over 600,000. As we said, only since 1965 did we start having a family preference, and it is a growing thing. All of us support that, but we should recognize that it is growing. To say you are going to have a cap on immigration but that you are not going to cover the family in that cap may produce a situation where the exception will quickly be bigger than your cap. And it might just turn out that way if you really start thinking about it. It is as if you were saying "I only want my land and the land that borders on mine. That is all I want."

Well, it is the same thing. If we are going to allow a preference to everybody who has family, you just geometrically start measuring that. In the end, there is no restraint, unless you have an overall cap.

It would seem to me if we are debating how many people should come into this country, the debate necessarily should come on what the total number should be. But if you exclude the family, and members who come in under the family preference, then there is no way we have made any kind of constraint on what the total number would be.

Mr. BUMPERS. Mr. President, will the Senator from Massachusetts yield for a question?

Mr. KENNEDY. Yes.

Mr. BUMPERS. The Senator from Wyoming has said that while there is no cap on immigration of members of an immediate family of American citizens, there must be some kind of a cap or the Senator would not be offering his amendment. I do not understand that. The Senator from Wyoming has said that what the bill does is it does not limit the members of an immediate family that can come in but it reduces the overall cap of 425,000, is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. BUMPERS. What is the effect of the Senator's amendment then?

Mr. KENNEDY. First of all, historically there never has been a cap on the immediate members of the fami-

lies of U.S. citizens. But what the Senate has done under this legislation is to put an overall figure of 425,000, and put the immediate members of families within that 425,000.

The fact of the matter is there are only 155,000 who are coming now, and they get the first preference, so they will not be adversely affected in and of themselves because of what the historic trends may be because it may go up to 55,000 or go up 10,000 more, to 165,000. Maybe it will be 175,000 in another year. So for all intents and purposes for the next 20 years or so that particular group would never likely reach 425,000.

Once we see that group growing, what it does do is squeeze down the other categories, which are all family reunification categories as well.

Mr. BUMPERS. Does the Senator's amendment merely say there is some kind of a subcelling, is there not, on this first preference group—within 425,000 is there not a subcelling on how many can be members of the immediate family before you start squeezing other groups?

Mr. KENNEDY. The Senator is correct.

Mr. BUMPERS. What is that figure?

Mr. KENNEDY. 270,000.

Mr. BUMPERS. All right.

Is the effect of the Senator's amendment to raise that sublevel limit or to remove the cap?

Mr. KENNEDY. No. We would retain that level, we would retain that 270,000.

Mr. BUMPERS. But you would not squeeze the others.

Mr. KENNEDY. But you would not squeeze the others, that is exactly right. So we would retain the cap. We say, "Look, you say 155,000. All right, we will just take that group out and follow historic precedent and we will leave 270,000 for all the others." But at least we know that that is going to be the level for the future. Even within those categories, there will be some delay in family reunification.

It is not the contention of the Senator from Massachusetts just to eliminate 155,000 and say that is just going to be an open figure for whoever wants to come in here. What we are saying though is with regard to the families, the immediate relatives, they should not be included.

Mr. BUMPERS. Does the Senator have other amendments that do the same thing for other categories?

Mr. KENNEDY. No; the Senator will have two other amendments dealing with the existing second preference and the fifth preference. One deals with spouses and unmarried sons and daughters of permanent resident aliens. Under the Simpson proposal it says the nuclear family ends when you turn 21 years of age, even if they are unmarried sons and daughters that you cannot bring them to the United

States. I think that works a particular hardship on some groups.

Mr. HUDDLESTON. Mr. President, if the Senator will yield, it does not say you cannot bring them to the United States. They are still eligible for immigration under the immigration laws of the land. We are not excluding them by that.

Mr. KENNEDY. You are excluding them for all intents and purposes.

Mr. HUDDLESTON. It does not make it automatic.

Mr. KENNEDY. If we can come back to the second and fifth in just a few minutes and deal with this one here, I think we might argue about that one.

Mr. BUMPERS. Let me ask one final question. We have an overall cap of 425,000 immigrants and refugees; is that correct?

Mr. KENNEDY. The refugees are outside.

Mr. BUMPERS. I guess I am thinking about the Senator from Kentucky's amendment. Refugees are outside of the 425,000.

Mr. KENNEDY. The refugee figure is outside. It is covered by the Refugee Act of 1980, and that has been outside. It has fluctuated from 19,000 in 1977 to 111,000 in 1979, but has basically averaged 50,000 over the past 20 to 30 years.

(Mr. SPECTER assumed the chair.)

Mr. BUMPERS. My question really is a hypothetical one that is certainly not likely to occur in the immediate future. But, under the Senator's amendment, is it conceivable that—the Senator from Wyoming said that there is no limit on how many members of an immediate family can come to the United States, emigrate to the United States. Now, what if the figure could conceivably exceed 425,000? Would that be permissible?

Mr. KENNEDY. Well, if they are immediate relatives, I think it is inconceivable that you would go in excess of 425,000. It is not conceivable to me that it would go in excess of 425,000. But in these other preference categories, we take unmarried adult sons and daughters of U.S. citizens. That is considered an immediate member of the family for the purposes of this definition.

Mr. BUMPERS. My question is: You do have a ceiling of 425,000 in the bill; is that not correct?

Mr. KENNEDY. The Senator is correct.

Mr. BUMPERS. Now, forget the amendment, under the bill—this, I recognize, is a wild assumption and not likely to occur, but just thinking for a moment—if we had 500,000 immediate family members who wanted to come to this country, would that be permissible under the bill?

Mr. KENNEDY. No; the answer would be no. If you had 500,000 wives

and children of U.S. citizens, 75,000 would not be able to come to the United States because of the ceiling.

Mr. BUMPERS. But would 425,000 be eligible?

Mr. KENNEDY. The Senator is correct, 425,000 would be eligible, and that is all.

Mr. BUMPERS. What the Senator does is take the cap off on immediate family to this extent: You say that however many come in under that category, which is first preference, if it exceeds the subcelling level you cannot squeeze the other preferences in because of that excess; is that correct?

Mr. KENNEDY. That would be the effect of the amendment. What I want to do is just follow current law with regard to the immediate families.

Mr. BUMPERS. I thank the Senator.

Mr. SARBANES. Will the Senator yield for a question?

Mr. KENNEDY. Yes.

Mr. SARBANES. As I understand it, at the same time the Senator's amendment would exclude immediate relatives from the count against the overall figure, and it would at the same time lower the overall figure remaining for the other preference categories; is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. And with respect to the other two amendments which the Senator has indicated he intends to offer, which I think involve important concern for the definition of family, I understand the Senator's amendments would count unmarried sons and daughters in the second preference category and unmarried brothers and sisters in the fifth preference category against any figure established for the preference categories; is that correct?

Mr. KENNEDY. The Senator is correct. So that there probably would be some delay, but at least they would be on a faster track system.

Mr. SARBANES. The amendment before us, which goes to the immediate family, as I understand it, is to maintain the existing approach under which that limited group is treated as being outside the preference categories with respect to the numbers; is that correct?

Mr. KENNEDY. The Senator is exactly correct. The history of our immigration laws is that immediate spouses and children of U.S. citizens have never been included in a ceiling. It is 155,000 now, but it is not expected to alter or change dramatically from that figure. But it will obviously go up in the years ahead.

Mr. SARBANES. Am I correct that, under the existing law, to be included in the immediate family category, means first of all the immediate family of an American citizen?

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. Not a permanent resident. So you must start with an American citizen. The immediate family then runs to the spouse of an American citizen, the children of an American citizen.

Mr. KENNEDY. Minor children.

Mr. SARBANES. The minor children of an American citizen and the parents of an American citizen; is that correct?

Mr. KENNEDY. That is correct.

Mr. HART. Mr. President, at some point in time, would the Senator from Wyoming or the Senator from Massachusetts yield me 3 minutes just for a general statement on the bill?

Mr. SIMPSON. I certainly will yield. Let me just respond to the inquiries of the Senator from Arkansas and the Senator from Maryland, then I will propose a unanimous-consent request and then I will slice out 3 minutes for the Senator from Colorado.

This is a very difficult issue of comprehension. I know, because I have been dabbling around in it for 3½ years. But let me say that there is no limit on immediate relatives in the United States right now. And there will be none in this bill.

I do not want it to be read that we are capping immediate relatives—we are not. We are, however, saying that that issue then, when we impose a cap, which we do in this bill of 425,000, and we include in that cap immediate relatives, we are not saying how many may come. Maybe 150,000 will come. But whatever the number is that comes, there will be a reduction in other preference categories down the list.

So I think that, for the purposes at least of debate, to say that there is a limitation or a cap on immediate relatives, that is just not so.

But the kicker is that if they come in great numbers, and I respectfully comment to the Senator from Massachusetts, as many could come to the United States as could possibly be numbered and there would be no limitation on them under present law. Right now, the numbers are in the figure of a 10-year attitude or feeling that it might increase 70,000 to 100,000 in 10 years, incrementally up in 20 years, and so on. But there is no limit right now to how many could come: 100,000 could come, 200,000 could come, 300,000 could come, and there is no limitation upon that whatsoever.

Mr. BUMPERS. Mr. President, let me ask the Senator this question: Is there a sublevel that the number that could come in before you deducted from other categories? Is there a 150,000 level for members of an immediate family before you deducted from some other preference within the

425,000? I want to be sure I am clear on that.

Mr. SIMPSON. Mr. President, the number that we have chosen is 155,000.

Mr. BUMPERS. So if 175,000 come, you have to take the 25,000 off the other categories?

Mr. SIMPSON. It would be after it reaches that figure.

Mr. BUMPERS. After 150,000?

Mr. SIMPSON. That we would begin to reduce the other categories.

Mr. BUMPERS. What the Senator from Massachusetts is saying is if they exceed 150,000, you will not deduct the excess from other categories.

Mr. KENNEDY. That would be the effect.

Mr. BUMPERS. Is that the effect of what he is trying to do?

Mr. SIMPSON. That would be the effect of the Senator's amendment.

Mr. KENNEDY. Mr. President, if I could just add one other point, because we have talked a good deal about whether this affects family reunification or whether it does not affect family reunification.

I just heard the statement of the Senator from Wyoming that we are really not affecting family reunification. Let me point out that unless you think that a brother or a sister is not a member of the family, you will be affecting family reunification under this bill. I will have more to say about that on the fifth preference later.

But I think it is extremely important for the Members of the Senate, whose attention has been diverted with the second supplemental and the debt ceiling and other matters, to understand that the position of the Senator from Massachusetts is that I am not opposed to caps. We wrote them in the 1965 act and I support them in this provision, with a certain very important exception—and that is with regards to the immediate spouses and minor children of American citizens, which have never been included in a ceiling.

But also understand, in this other preference category, under the bill that is before us, we have effectively excluded brothers and sisters of American citizens. To that extent, I will have more to say about it. But they, as far as I always thought, are members of a family.

THE NEED FOR IMMIGRATION REFORM

Mr. PERCY. Mr. President, I want to commend the members of the Senate Judiciary Committee, in particular the distinguished chairman, Senator SIMPSON, for their work in bringing to the Senate floor the Immigration Reform and Control Act of 1982, S. 2222. No one can deny that consideration of immigration law reform is long overdue.

In the last 5 years, total legal permanent admissions to the United States

increased from a little over 450,000 in 1976 to 800,000 in 1980. In addition, the population of illegal immigrants residing in the United States at any one time has been estimated at between 3.5 and 6 million. Some experts have estimated a net growth of 500,000 new illegal immigrants per year since then. Apprehensions of illegal aliens, one measure of the flow of illegal immigrants, grew from 162,000 in 1967 to more than 1 million in 1977.

Perhaps the most important part of S. 2222 is title I which addresses the problem of illegal immigration. Its key provision makes it unlawful for an employer to knowingly hire an illegal alien, a measure I have long supported.

All independent, comprehensive studies of the problem of illegal immigration, including those by the previous two administrations, the present administration and the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of our immigration laws cannot be achieved by direct enforcement alone. It is, therefore, essential to reduce the incentives to persons who enter this country illegally.

S. 2222 takes the very necessary step of prohibiting the knowing employment of undocumented aliens. The bill also provides for increased border patrol and other enforcement activities.

Legal immigration control is also addressed by S. 2222. The bill puts an overall limit on legal immigration and reforms existing preference categories for both family reunification and independent immigrants. I have reservations about the proposed changes in the family reunification preferences. I intend to support amendments to reinstate the fifth preference category for unmarried brothers and sisters of adult citizens, and to retain second preference status for adult unmarried sons and daughters of permanent residents.

I do, however, believe we should have an overall limit on legal immigration. Obviously, there is no way this country can accommodate all persons who wish to immigrate here. The ever-increasing numbers of persons who wish to immigrate demand that we establish some limit. This bill takes a reasonable approach by not specifically limiting the number of immediate relatives that may be admitted under the first preference but does put a limit on total legal immigration with the exception of refugees who are admitted under a separate admissions system authorized by the Refugee Act of 1980.

Last, the bill provides for legalization of undocumented aliens already in this country within certain limitations. I support this part of the bill as the only solution to a serious problem. Legalization has three major goals:

First, not to expend the efforts of the Immigration and Naturalization Service in locating and deporting those aliens who have settled in this country; second, to allow currently economically dependent employers to continue lawfully employing this pool of labor; and third, to eliminate this subclass of people who have little or no rights or protection under our laws.

I am, however, concerned about the projected costs of the legalization program to not only the Federal Government, but State and local government as well.

I have several other concerns about the bill and possible amendments to it.

I do not support the amendment that will be offered to place refugees under the same numerical ceiling with other legal immigrant categories and intend to speak at more length when it is offered.

I am also concerned about the elimination of judicial review of asylum class actions and the potential for discrimination against minority groups and will give close and careful review to amendments offered to address these concerns.

On balance, Mr. President, I support S. 2222 and urge my colleagues to do so as well.

Mr. SIMPSON. Mr. President, may I state the unanimous-consent request which I believe has been agreed to on both sides of the aisle?

I ask unanimous consent that there now be 40 minutes of debate on three Kennedy amendments dealing with family preference, all three amendments to be debated during the 40-minute period, and that there be three back-to-back votes on those amendments at the conclusion or the yielding back of time, with the first vote to be 15 minutes and each succeeding vote 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. That is satisfactory. The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Since I have the floor, Mr. President, I yield now on a separate time schedule for 3 minutes to the Senator from Colorado—is that a different matter?

Mr. HART. It is a general statement on the bill itself.

Mr. SARBANES. Is this time being yielded from the bill?

Mr. SIMPSON. There is no time limit on his bill.

Mr. SARBANES. Mr. President, I ask unanimous consent that the time used by the Senator from Colorado not be charged against the time agreement with respect to the amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. The Senator has not called up his amendment.

The PRESIDING OFFICER. The first amendment has been called up.

Mr. HART. Mr. President, I thank the Senator from Wyoming for his indulgence.

Mr. President, the distinguished Senator from Wyoming and his colleagues in the Senate and the House have made a tremendous effort to modernize our immigration laws. To a large extent, many of us believe they have succeeded, and the bipartisan support the bill has attracted is testimony to their efforts.

However, a number of us are very concerned that several provisions of the bill as it now stands do not provide adequate safeguards against possible hiring discrimination against American citizens, nor adequate provision for due process of law in class-action suits involving refugees.

I plan to support Senator KENNEDY's amendment to require monitoring of the employer sanctions provision over the next 3 years, and to provide for GAO and Civil Rights Commission participation in the monitoring process. I also plan to support efforts to insure judicial review for class-action suits in refugee asylum cases.

In addition, I am concerned about a possible amendment which would permit State and local law enforcement officers to assume immigration enforcement responsibilities which are the proper prerogative of the INS. This amendment is strongly opposed not only by civil liberties and Hispanic organization, but by the Police Executive Research Forum, which believes local police involvement in enforcing immigration laws would harm already tenuous police-minority relations and strains limited local resources.

We also need to waive the 2-year foreign residency requirement for students with critical skills. William Perry, former Under Secretary of Defense for Research and Engineering, has estimated in 1985, U.S. colleges will produce only 15,000 electrical and computer engineers, while the market will require 51,000 such graduates. I plan to support Senator KENNEDY's efforts to amend the bill in this area; labor certification requirements will insure that no American jobs will be at risk.

Finally, I am concerned that State and local governments should not be saddled with any financial burden that may result from passage and implementation of this bill. I will therefore support reasonable efforts to reimburse States and municipalities for financial costs incurred as a result of the legislation program.

Beyond these issues and in the long run, I have serious reservations about the practical effects of both current law and this bill. Immigration is a domestic problem, but it is also a foreign affairs problem, an international relations problem. More comprehensive solutions to immigration problems

than those contained in current or proposed legislation must ultimately be developed with the cooperation—and participation—of other governments.

For example, proposals which would provide tax and investment incentives to American and Mexican firms willing to locate in the five northern States of Mexico, from which most undocumented Mexican aliens come, in return for increased Mexican efforts to direct citizens from those states to local industries, warrant serious consideration. A consistent human rights and foreign policy in the Caribbean Basin would facilitate intergovernment action on immigration problems. Examination and development of long-term proposals such as these should be the next step in immigration policy reform.

In the meantime, Mr. President, all of us add a word of thanks and congratulations to those who have spent such a considerable amount of time in fashioning this legislation before us.

I thank the Senator from Wyoming.

Mr. SIMPSON. I thank the distinguished Senator from Colorado, with whom I have worked so closely for so long, for his comments.

I might say, Mr. President, that indeed we will address each of the issues raised by the Senator, if not here then in future revisions of the Immigration and Nationality Act.

Now, Mr. President, I believe we are back within the scope of the time agreement, 20 minutes on each side. I yield myself 2 minutes. I want to return to the issue of the immediate family and the cap.

It is not pleasant for any of us to consider reducing the numbers for other categories, but we have a choice here of either attempting to reduce the increases in immigration, as apparently it is clearly indicated the American people wish to do, or not trying to do that and allowing immigration then to increase in a nonaccounted for area, increase by numbers where we really do not know what the numbers will be, but we know they will be larger with any legalization process, or they will get larger.

Our feeling throughout that the issue was, if we are going to take care of immigrants, let us take care of spouses and minor children of U.S. citizens. That is what we do in this bill because we put no limit on that. But whatever number of spouses and minor children of U.S. citizens come, whatever those numbers, they are not heavy enough to impede in any way on a figure of 155,000. But whatever they are, they will go under the cap and as that cap is set we will then have to reduce the areas of the other preferences.

That is the issue. It did come before the Select Commission on Immigra-

tion and Refugee Policy. It was a serious debate in the Select Commission.

In that time that we debated it, the vote was 15 to 1 against an absolute cap, but the bill did not contain an absolute cap on immediate relatives.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMPSON. I yield myself 1 additional minute.

I would repeat, then, that this bill is not inconsistent with the Select Commission's recommendations because there is no absolute cap set on immediate relatives. There is, as I say as clearly as I can, a reduction on the preferences below, when and if that time should come.

I emphasize again that the cap, by that definition, is not there.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on all three amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I ask for the yeas and nays on all three amendments.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent to be able to set aside my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1951

(Purpose: To accord a second preference in the allocation of family reunification visas to qualified immigrants who are the adult unmarried sons and daughters of permanent resident aliens)

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1951.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 126, strike out lines 3 through 14, and insert in lieu thereof the following:

"(2) SPOUSES AND UNMARRIED SONS AND DAUGHTERS OF PERMANENT RESIDENT ALIENS.—Qualified immigrants who are the spouses, unmarried sons, or unmarried daughters of an alien lawfully admitted for permanent residence shall be allocated visas in a number not to exceed 65 per centum of such numerical limitation, plus any visas not required for the class specified in paragraph (1)."

Mr. KENNEDY. Mr. President, in this second category we have talked about earlier, we have altered the second preference in a way that says

that if an individual is here as a permanent resident alien—for example, admitted here into the United States because they have certain skills for employment in the United States—we are putting a limitation which has not existed heretofore on their ability to bring their children to the United States. The bill establishes a cutoff in the legislation at the age of 21. My amendment just says that they can bring unmarried sons and daughters, without regard to age.

This amendment simply restores the existing terms of the second preference immigration category.

I support the efforts by my distinguished colleague, Senator SIMPSON, to increase the numbers available for this preference—to help relieve some of the enormous backlogs that have developed especially in Mexico.

However, I think it was unnecessary to limit the admission of unmarried sons and daughters to those who are under 21 years of age. According to the committee's report,

The elimination of unmarried sons and daughters over 21 reflects the committee's view that the limited visas available for this preference should be used to reunite "nuclear families."

Mr. President, I do not know of any legal definition of what a "nuclear family" is, but commonsense and past practice tells us that simply because a son or daughter reaches 21 he does not leave the nuclear family—especially if he is unmarried.

If this provision in the bill is left to stand, we will have established a preference that will divide families, rather than uniting them.

I agree with the provisions of current law, that sons and daughters of permanent resident aliens who are married should be assumed to have left the nuclear family. But it is totally unjustifiable to say that simply because a son or daughter turns 21 he should be barred from living with his family in this country.

Again, I think it is an issue of family unity. I think most of us would say that once the individuals of a family are married, then they are no longer immediate family members. Make no mistake about it, Mr. President, with the limitations and the caps that have been placed in this bill, unless we do this, what we are saying to those unmarried sons and daughters is that they just will not be able to be reunited with their families if they turn 21. This amendment would address that problem. We recognize that if they are married, they have a different situation.

We understand that those who would be affected are about 25 percent of the second preference category.

I want finally to point out that we are not increasing the 270,000 cap, so that they would have to be in line

with others. But at least, they would not be denied the ability to be reunited.

Mr. President, I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, there is only a limited number of visas available for family reunification for permanent residents. Therefore, it is the feeling of the subcommittee and the full committee that visas should be reserved for reuniting the very closest family members—those who are most likely to live together in the United States. The legalization program will bring additional heavy pressures for visas in the second preference—aliens who will be legalized if this bill should pass within the permanent resident status—that type of legalization. They will petition, then, for family members under this second preference. Indeed they will. By limiting this preference to spouses and children, there is some assurance that permanent residents will be able to bring in their immediate families.

An expansion of this preference under this amendment would simply mean that children of permanent residents may have to wait in line for many years. That may result in new illegal immigration, since the immediate family is always most unlikely to stay separated.

We have tried to avoid those periods of separation and here, as with the fifth preference, aliens on the second preference waiting list as of March 1, 1982, who do not fit the new definition—the old group includes the adult or married sons and daughters of permanent residents—would retain their preference under a savings clause. That would be as of the date of the approval of their visas. So, again, it was one of those choices which one finds painful at the time. But if we are going to put a cap on—and, as the Senator from Massachusetts has said also, there is a cap coming; we know that; we knew that in the Select Commission. We have known it in this legislation. Then we have to find priorities within the cap. Here, we think, is a way to do that when we reserve those for reuniting the closest family members in that procedure.

I thank the Chair.

Mr. SARBANES. Will the Senator yield, Mr. President?

Mr. KENNEDY. Yes; I yield on my time.

Mr. SARBANES. Mr. President, I support the amendment offered by the Senator from Massachusetts. It seems to me that the response made by the able chairman of the subcommittee, and I join with others in commending the extraordinary effort he has given to developing this legislation, really ends up defining the family unit in a way that is inapplicable to the concept of the family held not only by recent immigrant groups

but also by many Americans of long lineage in this country. It seems to me one of our great strengths as a nation, if we can maintain the concept, is the broader definition of the family unit which is contained in the amendment offered by the Senator from Massachusetts.

Mr. President, we should be clear about one thing. This amendment does not involve any additional numbers so it does not carry with it any question that the numbers would be increased. It simply includes within the preference—here we are talking about the second preference—unmarried sons and daughters. I submit that they ought to be regarded as members of the family unit.

I think one of the undesirable trends that has taken place in this country is a narrowing definition of the family unit and the resultant concept of the nuclear family, which loses any sense of a broader family network and the reciprocal reinforcement to its numbers in terms of support and assistance provided to one another which comes from that view of a family.

If this amendment carried with it additional numbers, I could understand the concern of some. It does not do that. And I understand that the other amendment to be offered by the Senator with respect to the fifth preference will not increase the numbers, either.

Therefore we ought to maintain the concept which now exists in the law and I hope the Senate will support the amendment which has been offered by the Senator from Massachusetts.

I believe any parent wishing to be joined by an unmarried son or daughter, would naturally consider them part of the family unit. The Senator's amendment concedes that if they were married, a different situation would be obtained. I gather that same distinction is carried over in the proposal to be made with respect to the fifth preference, which actually would be an adjustment in the existing law with respect to fifth preference. It is important to note this distinction on the basis of marital status with the idea that if you are married you have set up a separate family unit and receive different treatment.

Mr. SIMPSON. Mr. President, the number available for family reunification categories is limited. If the second preference is to include adult sons and daughters, then the result is inevitable, because a permanent resident will bring in an adult son or daughter, and when they do bring in an adult son or daughter, some other permanent resident will not be able to bring in his minor son or daughter.

The issue is this—and I address the questions back to the perceptive Senator from Maryland—does an adult son or daughter need the care and attention of a parent as does the minor

child? That is what we were trying to assure by the amendment within the bill.

Mr. SARBANES. Will the Senator yield on that point? As I understand it, with the numbers provided here, within a reasonable period of time we would be able to accommodate all of the unmarried sons and daughters, whether minors or not.

Mr. SIMPSON. Mr. President, married sons and daughters were always omitted from this preference. They were never in it.

Mr. SARBANES. I am not talking about married sons and daughters. I am talking about unmarried sons and daughters, whether minors or not, and making the point that, as I understand it, with the numbers provided in the committee bill—which are not changed by this amendment; they are not increased—we would be able to communicate within a reasonable period of time all such unmarried sons and daughters, whether minor or not, that is, whether below or above the age of majority.

Mr. SIMPSON. Mr. President, the issue dovetails in with what we did with the fifth preference in the bill, which is elimination of it except to take care of the backlog which is there, which is now about 700,000 people. We then opened up the second preference; from a previous percentage of entire legal immigration which was 26 percent of 270,000, we now open that up to 65 percent. The reason for doing that is to try to take care of some of the problems that come from the elimination of the fifth preference, which is brothers and sisters of adult U.S. citizens. And even though I may not directly address the Senator's concerns at least it gives the Senator the rationale as to why the fifth preference and the second preference are addressed together.

Mr. SARBANES. Will the Senator yield for a question?

Mr. SIMPSON. I will.

Mr. SARBANES. What is the waiting list on the second preference; what is the time period?

Mr. SIMPSON. The time as of clearance of applications in second preference? I can get that information for the Senator.

Mr. KENNEDY. If I may directly respond to the question of the Senator from Maryland, he is exactly correct. There are only three or four countries where there is a waiting list at the present time. We are increasing the percentages for second preference from 26 percent to 65 percent of the 270,000 ceiling, so we are making an adjustment to deal with those particular backlogs. I think the point that has been taken by the Senator from Maryland is certainly an accurate one. We would not expect that there would be any unreasonable delay. I think the

Senator from Maryland has stated the reasons well.

Mr. SIMPSON. Mr. President, I cannot give the Senator the numbers of human beings, but I can give the Senator the dates with regard to the waiting period in second preference: Mainland China, January 1982; Jamaica, November 1981; Korea, January 1982; Mexico, May 1973; Philippines, April 1979; Hong Kong and the Colony, February 1977. I cannot furnish the numbers, but those are the figures of the waiting period.

Mr. SARBANES. Are those the only countries with waiting periods?

Mr. SIMPSON. In the second preference?

Mr. SARBANES. Yes.

Mr. SIMPSON. That is correct, under the system now.

Mr. SARBANES. Then I submit to the distinguished chairman of the subcommittee that the conflict which he posited only a few minutes ago with respect to second preference as between unmarried sons and daughters in a minor status and unmarried sons and daughters who have reached the age of majority is not a conflict which exists in the current law with respect to almost all countries.

Second, if we are going to make a change in the fifth preference—and we will address that in a moment; as I understand it your proposal eliminates it altogether, and the Senator from Massachusetts addresses part of that—we will still get a shift in the percentages available in the second preference, which again lends some assurance that this conflict will not arise.

In light of that, it is very difficult for me to see what the argument is against the amendment offered by the Senator from Massachusetts.

Mr. SIMPSON. Mr. President, may I inquire as to the time remaining?

The PRESIDING OFFICER. The time remaining is 10 minutes and 13 seconds on the Senator's side and 11 minutes and 45 seconds to the opposition.

Mr. HUDDLESTON. Will the Senator yield me 1 minute?

Mr. SIMPSON. I will yield to the Senator from Kentucky.

Mr. HUDDLESTON. I suggest that there is one element that is being somewhat overlooked. If we are talking about the potential pressures that may build up of adding the legislation number to the family reunification numbers that would exist otherwise—then once these persons are made legal residents and achieve permanent resident status, all of them and all of their families become immediately eligible for this particular category. And while no numbers are involved as far as the ceilings are concerned, the additional numbers that would be built up, we would be under very heavy pressure in short time to do something

about the big backlog that would occur.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMPSON. I yield an additional 30 seconds to the Senator.

Mr. HUDDLESTON. I yield back the time.

Mr. SIMPSON. Mr. President, I would direct this to the Senator from Maryland. We are told that the number available in the preference categories will decrease as the number of immediate relatives increases. That I think we could call a given. The number legalized may well be in the millions. If legalization takes place under this bill, and we designate that people who came here prior to January 1, 1977, as permanent resident aliens who will therefore have the opportunity to seek to bring in their relatives, the Senator may be assured that that figure may well be in the millions. Therefore, I think whether we have numbers today that one can draw on or refer to, it is only unrealistic to expect that backlogs will not increase heavily in the future under the new system.

Mr. SARBANES. Will the Senator yield on that point?

Mr. KENNEDY. I yield 2 minutes.

Mr. SARBANES. If the number, as the Senator from Wyoming asserts, is going to be in the millions, then, of course, we are going to have tremendous waiting lists in any event, any way we look at it—if that is a correct assertion. It seems to me then that the scheme proposed by the committee will not under any circumstance enable us to avoid the difficulties mentioned by the Senator. Given that situation, it is better to maintain the view of the family reflected in the amendment of the Senator from Massachusetts.

Otherwise, what you are doing, is imposing a definition of the family, again without any benefit on the overall numbers, that does not reflect the close family relationship which exist in many instances—relationships which we should seek to enhance and maintain.

I think it is a good thing for the family unit to be brought together. What we are talking about here are unmarried sons and daughters and parents who wish to reunite with one another and in the fifth preference are talking about unmarried brothers and sisters wishing to be reunited with their siblings.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. Ten minutes and 7 seconds.

AMENDMENT NO. 1998

(Purpose: To allocate visas for qualified immigrants who are the unmarried brothers or sisters of certain citizens of the United States and for certain immigrants qualifying under the previous fifth preference category)

Mr. KENNEDY. Mr. President, under the previous agreement, I ask unanimous consent that the amendment before the Senate be temporarily set aside, and I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1998.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 126 with line 22, strike out all through line 6 of page 127 and insert in lieu thereof the following:

"(4) Unmarried brothers and sisters of citizens and previous fifth preference.—

"(A) Qualified immigrants who are the unmarried brothers or sisters of citizens of the United States, if such citizens are at least twenty-one years of age, and

"(B) qualified immigrants who (i) as of the date of enactment of the Immigration Reform and Control Act of 1982 had received approval of a petition made on their behalf for preference status by reason of the relationship described in paragraph (5) of section 203(a) of this Act as in effect on the day before such date, and (ii) continue to qualify under the terms of this Act as in effect on the day before such date,

shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3)."

Mr. KENNEDY. Mr. President, the purpose of this amendment is to recognize that the fifth preference, which under existing law provides for the reunification of brothers and sisters of U.S. citizens, would be modified to permit the reunification of brothers and sisters of U.S. citizens if they are unmarried. This, I think, is a very modest adjustment to what I consider an extremely unfortunate action to eliminate entirely the possibility of brothers and sisters of American citizens to be united.

Following the logic of the earlier amendment, this amendment is very limited in stating that it will restore the fifth preference for the admission of brothers and sisters of United States citizens, but limiting it to unmarried brothers and sisters.

I know my distinguished colleague, Senator SIMPSON, will recall from our service on the Select Commission, that this issue was one of those on which the Commission was deeply divided. A

majority—nine commissioners—voted to maintain the existing fifth preference, and seven commissioners voted to limit it to unmarried brothers and sisters.

I voted to keep the preference as it is, and the Senator knows that I offered similar amendments during the subcommittee and full Judiciary Committee markup of this bill.

I would like to see us restore the fifth preference as it is under current law. However, in a spirit of compromise—and to acknowledge the concerns of many that this preference should be limited in order to give greater numbers to more immediate family reunion categories—I am offering an amendment that allows at least unmarried brothers and sisters to join their families here.

I believe it would be wrong to totally close the door to all brothers and sisters, as this bill does. The fifth preference represents an essential element in the family reunification goals of several communities in our society—especially Asian families—whose opportunity to take advantage of this provision began only after the 1965 reforms, which removed the racist national origins quota system. Now, just 17 years later, we are again closing the door.

Mr. President, if we limit fifth preference to unmarried brothers and sisters, the demand for numbers would be considerably smaller than they are now—only 17,000 persons a year. This is hardly a significant number, and will not result in the huge backlogs that have developed in recent years.

In any case, I do not believe the existence of a backlog in a certain immigration category should be the basis for eliminating it. We should judge the category on the merits, whether it serves to foster family reunification.

Eliminating the fifth preference entirely, as this bill does, is contrary to those family reunification goals, and I hope the Senate will support my amendment to restore the opportunity for unmarried brothers and sisters of U.S. citizens to join their families in our country.

For many reasons which have been pointed out in the discussion of the earlier amendment and for the reasons I outlined in my opening statements, if we do not accept this amendment, we are placing an extremely harsh and unfair burden on those families who were severely and adversely affected prior to the enactment of the 1965 act, which were limited by the national origins quota system and the Asian Pacific triangle, and who have not had the opportunity that other groups have had in our society to be able to reunify their families in the United States.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. CRANSTON. Mr. President, I compliment the Senator on these amendments. He has a number of amendments which I believe have a great deal of merit.

I am very interested in the fifth preference amendment. In terms of justice, equity, compassion, and commonsense, it should be supported, and I hope it will be.

Mr. KENNEDY. Mr. President, I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, what is the time remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 8 minutes and 17 seconds, and the other side has 4 minutes and 32 seconds.

Mr. SIMPSON. Mr. President, this has been a difficult portion of the legislation; but I remind Senators that the fifth preference backlog is now nearly 700,000 persons. That is more than three times the 1978 level. That backlog is going to continue to grow, under this amendment.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a question?

Mr. SIMPSON. I will yield for a question, for 30 seconds. I have a limited amount of time.

Mr. BOSCHWITZ. Then, I will wait until the Senator finishes his statement.

Mr. SIMPSON. I appreciate that. I have 8 minutes.

The backlog is going to continue to grow, under this amendment.

It should be recalled that less than half of that backlog was the brothers and sisters of U.S. citizens themselves. The rest are the spouses and children of those brothers and sisters. We do intend to clear up the existing backlog.

That date should be amended from March 1 to April 9, which I think is a more appropriate date, because that was the day the subcommittee fully addressed that issue, and that would mean an extension of the fifth preference—as to those who have been approved for fifth preference as of April 9, rather than March 1.

Those backlogs are most desirable, as they create continuing pressure for private bills—if you look, you will see where we have gone with that over the years—remedial legislation, and illegal entry.

So the issue is back to this: If numbers are made available for brothers and sisters of U.S. citizens, these numbers will be taken away from the closer family members—that is, spouses, sons and daughters of permanent resident aliens, and married sons and daughters of U.S. citizens.

The committee decided that it was preferable to make the limited visa numbers available to the closer family members. That is what we had to do throughout the situation, because of one thing—we know that a cap is coming. There is no question—I doubt

that anyone in this Chamber or within hearing of my voice knows—that we are going to put a cap on legal immigration.

When we do, the sorting process gets tough. So throughout in what we did with S. 2222 was recognize who should be reunited first and we felt it should be the very closest family members. I hate to use that definition “nuclear family.” It has all sorts of connotations for me with my other duties. But what we do define it as is a spouse and minor children. That is unfortunate perhaps but in hearings it was clear that the American definition of a nuclear family includes a spouse and minor children. It certainly does not fit an Asian definition of a nuclear family, and that is painful indeed.

So what we are doing throughout and what we did throughout was try to see that we reunited the closest family members first, and that minor children would be recognized first in these situations and that adult children would take a lesser position in the squeezed categories that are going to come under a total cap. Those were the reasons.

The date I mentioned as a proposed amendment of mine at a later time will be the one that the committee proposed. It was either the April date or May 27, and we will have that defined carefully at the time of the amendment.

I thank the Chair.

Mr. BOSCHWITZ. Mr. President, will the Senator now yield for a question?

Mr. SIMPSON. I yield.

Mr. BOSCHWITZ. The Senator talked about 700,000 backlog. This amendment, as I understand it, really does not apply to approximately 79 percent of that backlog. This amendment applies only to adult unmarried brothers and sisters. Is that correct?

Mr. SIMPSON. Excuse me. Will Senator Boschwitz state that again?

Mr. BOSCHWITZ. I say this amendment by the distinguished Senator from Massachusetts applies only to adult unmarried brothers and sisters, is that correct?

Mr. KENNEDY. Just unmarried brothers and sisters. It can be minor or over 21.

Mr. BOSCHWITZ. Right. That is correct, is it not?

Mr. SIMPSON. That is correct.

Mr. BOSCHWITZ. And really the question and numbers of the fifth preference has come from married brothers and sisters arriving and then the spouses bringing in their relatives under either that or other preferences as well but particularly that preference.

So I support the Senator from Massachusetts. This is a relatively narrow increase in the definition as he has it. As I understand the objectionable

parts of the preference that the Senator and I have talked about really come from the relatives of the married brothers and sisters.

Mr. SIMPSON. Mr. President, we have been advised it is maybe a higher figure, that perhaps as many as half within that preference are spouses and children of such brothers and sisters. But I am not able to furnish the numbers at this time.

Mr. BOSCHWITZ. Is the Senator saying that the unmarried brothers and sisters of U.S. citizens that this amendment applies to are half of the 700,000? I believe it is a very small fraction.

Perhaps I should address that question to the proponent, the senior Senator from Massachusetts.

Mr. KENNEDY. The Department of State has given us the figure of 17,000.

Mr. BOSCHWITZ. I thank the Senator.

Mr. SARBANES. Mr. President, will the Senator from Massachusetts yield me time?

Mr. KENNEDY. I think we have about 4 minutes remaining; is that correct?

The PRESIDING OFFICER (Mr. QUAYLE). The Senator has 4½ minutes remaining.

Mr. KENNEDY. I yield 2 minutes.

Mr. SARBANES. Mr. President, I rise in support of the amendment.

I point out to the distinguished chairman of the subcommittee that the existing law, and I hope he will correct me if this is not accurate, permits in the fifth preference both the unmarried and married brothers and sisters of a U.S. citizen. Is that not correct?

Mr. SIMPSON. That is correct, brothers and sisters of adult citizens?

Mr. SARBANES. The amendment of the Senator from Massachusetts is limited to unmarried brothers and sisters. So whatever problems there have been with the backlog, which is the issue that the Senator from Minnesota was touching upon, they are primarily the consequence of the numbers connected with married brothers and sisters of U.S. citizens. This would not arise on the basis of the amendment of the Senator from Massachusetts, which deals only with the unmarried brothers and sisters.

I give a hypothetical case of 25-year-old American citizen who has no parents, and no other brothers and sisters except one whom he wishes to bring into the country one who is unmarried and has not yet started his own family in some other place.

It seems to me that we should maintain the fifth preference for that sort of situation. It again goes back to the fact that these are unmarried brothers and sisters. They have not begun a family elsewhere and they are the unmarried brothers and sisters of an American citizen. Again, the inclusion

for continued eligibility under the fifth preference does not raise the figures. They are still subsumed within the overall figure placed on the preference categories.

It seems to me that this is a very reasonable and indeed modest proposal. The Senator from Massachusetts has indicated that a reliable estimate of the numbers we are talking about would be 17,000 in total to cover the unmarried brothers and sisters of American citizens and to continue, thereby to unite that family unit. It is a very narrow definition of the family that would preclude uniting an American citizen with his unmarried brother or sister.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Who yields time?

Mr. SIMPSON. I will use the remaining time on this.

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. SIMPSON. I will just say that, even with this amendment, we will still be giving up visas which would go to closer family members. And I am intrigued by the Senator from Maryland with his thoughtful approach to things, as I have learned it in this body. Indeed he is right. That is a reasonable approach. I do not choose to make it a substitute for the amendment by the Senator from Massachusetts. We shall see what occurs with that amendment, but I have been intrigued with the proposal of making it applicable to unmarried minor brothers and sisters or as the House of Representatives has discussed, even up to the age of 27. That is intriguing to me, but it does not fit well in this debate in context with this amendment.

Mr. KENNEDY. Mr. President, we have concluded the time on all three amendments but there is an underlying theme in all three of my amendments. That is, in the 1965 act we acted to recognize the importance of the family and the family unit, with secondary provisions with regard to the admission of skilled workers. But it was the family and family unit that was our priority. As this bill has come out of the committee I think we have eroded and weakened that priority.

We who support this amendment recognize that there has to be something done about the fifth preference. We have recognized that. That is where the principal backlog has been. That is why rather than restoring the fifth preference in its entirety we have limited it to the reunification of unmarried brothers and sisters with American citizens. We have also recognized the importance of permitting children to be reunited with their family, and not be prohibited because they turn 21. Third, this idea of the reunification of the family will be weakened because of the inclusion within a rigid ceiling for the first time

in our history of immediate relatives of American citizens.

I think that is a significant and important retreat upon what I consider to be the commitment of the American people to family reunification. Yes, we have to do something about the flow of people coming into this society. We cannot deal with all of those who want to come here, but I think the American people feel strongly that we should not compromise on the importance of the family unit. That is the underlying theme in all three of these amendments, and I am hopeful they will be accepted by the Senate.

Mr. SIMPSON. The remaining time, Mr. President?

The PRESIDING OFFICER. Twenty-eight seconds to the Senator from Wyoming.

Mr. SIMPSON. Indeed, the underlying theme is the historic commitment of family reunification and immediate family, and we meet that here, especially the immediate family, and we meet the other one, too, spouses and minor children.

Where we make our difference is we think they should take precedence over adult brothers and sisters, and what has happened to change the attitude of the past is that a cap on legal immigration is imminent.

Mr. KENNEDY. I am prepared to yield back the time.

The PRESIDING OFFICER. The Senator yields 37 seconds?

Mr. KENNEDY. I yield back 37 seconds.

Mr. SIMPSON. I shall yield back my 1½ seconds.

The PRESIDING OFFICER. Eight seconds.

VOTE ON AMENDMENT NO. 1997

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 30, nays 70, as follows:

(Rollcall Vote No. 312 Leg.)

YEAS—30

Biden	Eagleton	Metzenbaum
Boschwitz	Glenn	Mitchell
Bradley	Hart	Moynihan
Bumpers	Hayakawa	Pell
Cannon	Inouye	Proxmire
Chafee	Kennedy	Riegle
Cranston	Leahy	Sarbanes
D'Amato	Levin	Specter
Dixon	Matsunaga	Tsongas
Dodd	Melcher	Welcker

NAYS—70

Abdnor	Brady	Cohen
Andrews	Burdick	Danforth
Armstrong	Byrd	DeConcini
Baker	Harry F., Jr.	Denton
Baucus	Byrd, Robert C.	Dole
Bentsen	Chiles	Domenici
Boren	Cochran	Durenberger

East	Jepsen	Quayle
Exon	Johnston	Randolph
Ford	Kassebaum	Roth
Garn	Kasten	Rudman
Goldwater	Laxalt	Sasser
Gorton	Long	Schmitt
Grassley	Lugar	Simpson
Hatch	Mathias	Stafford
Hatfield	Mattingly	Stennis
Hawkins	McClure	Stevens
Heflin	Murkowski	Symms
Heinz	Nickles	Thurmond
Helms	Nunn	Tower
Hollings	Packwood	Wallop
Huddleston	Percy	Warner
Humphrey	Pressler	Zorinsky
Jackson	Pryor	

So the amendment (No. 1997) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1951

The PRESIDING OFFICER. The pending business before the Senate is amendment 1951 offered by the Senator from Massachusetts. This will be a 10-minute vote. The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 37, nays 63, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—37

Bentsen	Dodd	Melcher
Biden	Eagleton	Metzenbaum
Boren	Glenn	Mitchell
Boschwitz	Hart	Moynihan
Bradley	Heflin	Pell
Bumpers	Heinz	Percy
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Sarbanes
Chafee	Kasten	Specter
Cranston	Kennedy	Tsongas
D'Amato	Leahy	Weicker
DeConcini	Levin	
Dixon	Matsunaga	

NAYS—63

Abdnor	Gorton	Packwood
Andrews	Grassley	Pressler
Armstrong	Hatch	Proxmire
Baker	Hatfield	Pryor
Baucus	Hawkins	Quayle
Brady	Hayakawa	Randolph
Burdick	Helms	Roth
Byrd	Hollings	Rudman
Harry F., Jr.	Huddleston	Sasser
Chiles	Humphrey	Schmitt
Cochran	Jepsen	Simpson
Cohen	Johnston	Stafford
Danforth	Kassebaum	Stennis
Denton	Laxalt	Stevens
Dole	Long	Symms
Domenici	Lugar	Thurmond
Durenberger	Mathias	Tower
East	Mattingly	Wallop
Exon	McClure	Warner
Ford	Murkowski	Zorinsky
Garn	Nickles	
Goldwater	Nunn	

So Mr. KENNEDY's amendment (No. 1951) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1998

The PRESIDING OFFICER. The question now is agreeing to amendment numbered 1998 of the Senator from Massachusetts. The yeas and nays have been ordered. The clerk will call the roll. This will be a 10-minute vote.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 41, nay 59—as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—41

Bentsen	Domenici	Levin
Biden	Eagleton	Matsunaga
Boschwitz	Exon	Melcher
Bradley	Ford	Metzenbaum
Bumpers	Glenn	Mitchell
Byrd, Robert C.	Hart	Moynihan
Cannon	Heflin	Pell
Chafee	Heinz	Percy
Chiles	Hollings	Riegle
Cranston	Inouye	Sarbanes
D'Amato	Jackson	Specter
DeConcini	Kasten	Tsongas
Dixon	Kennedy	Weicker
Dodd	Leahy	

NAYS—59

Abdnor	Grassley	Packwood
Andrews	Hatch	Pressler
Armstrong	Hatfield	Proxmire
Baker	Hawkins	Pryor
Baucus	Hayakawa	Quayle
Boren	Helms	Randolph
Brady	Huddleston	Roth
Burdick	Humphrey	Rudman
Byrd	Jepsen	Sasser
Harry F., Jr.	Johnston	Schmitt
Cochran	Kassebaum	Simpson
Cohen	Laxalt	Stafford
Danforth	Long	Stennis
Denton	Lugar	Stevens
Dole	Mathias	Symms
Durenberger	Mattingly	Thurmond
East	McClure	Tower
Garn	Murkowski	Wallop
Goldwater	Nickles	Warner
Gorton	Nunn	Zorinsky

So the amendment (No. 1998) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. GLENN. Mr. President, my vote earlier today on the third Kennedy amendment (UP 1998) to S. 2222, rollcall vote No. 314 was inadvertently not recorded. I therefore ask unanimous consent that the Journal and the RECORD be corrected to record that I voted "aye."

The majority leader has approved this. He was on the floor, but he had to leave the Chamber.

Mr. President, I ask that this appear in the RECORD at a point not interfering with the present debate.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

(The foregoing vote has been changed to reflect the above order.)

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. HELMS. I am delighted to yield to the distinguished majority leader.

Mr. BAKER. I thank the Senator from North Carolina.

CONFERENCE REPORT ON H.R. 5930

Mr. BAKER. Mr. President, I wish to make an announcement.

I have been approached by Members who are urgently interested in doing the war risk conference report tonight—that is, the conference report on H.R. 5930, the aviation insurance bill. I have indicated that I would be willing to call up that privileged matter sometime around 6 or 6:30 p.m., after other amendments that the managers of the immigration bill think are available and appropriate until that time.

So the Senate should be on notice that sometime this evening, we will perhaps proceed to the consideration of that conference report.

I believe there is a 90-minute limitation on the conference report. I understand that the principals may be willing to reduce that to an hour, or perhaps even less.

JOB TRAINING PROGRAM

Mr. BAKER. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2036, the jobs training bill.

The Presiding Officer laid before the Senate the amendments of the House of Representatives to the bill (S. 2036) to provide for a job training program, and for other purposes.

Mr. BAKER. Mr. President, I move that the Senate disagree to the House amendments and request a conference with the House, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. HATCH, Mr. QUAYLE, Mrs. HAWKINS, Mr. KENNEDY, and Mr. METZENBAUM conferees on the part of the Senate.

Mr. BAKER. Mr. President, I take this brief additional time to commend the distinguished occupant of the chair, the Senator from Indiana (Mr. QUAYLE), for his participation in the passage of this measure.

SENATE SCHEDULE

Mr. BAKER. Mr. President, based on the information given to me by the

managers of the bill and the time it will take to do the conference report, I estimate that the Senate should be able to finish its work tonight by 7:30 or 8 o'clock.

It is the intention of the leadership to ask the Senate to convene in the morning at approximately 10 and to conduct business on the immigration bill.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President and upon recommendation of the majority leader, in accordance with section 276(a)(2) of title 22, United States Code, appoints the Senator from Vermont (Mr. STAFFORD), chairman, and the Senator from Iowa (Mr. GRASSLEY), vice chairman, to attend the Interparliamentary Union Conference, to be held in Rome, Italy, September 14-22, 1982.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The Senate continued with the consideration of S. 2222.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I yield to the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that Peter Levinson, a professional staff member of the House Immigration Subcommittee, be allowed to join me on the floor during the consideration of this measure.

Mr. BAKER. Mr. President, will the Senator yield to me to reserve on his request for the moment?

I discussed this with the Senator from Minnesota and indicated to him that I had no objection to that request. I wonder if he will postpone that request until I can confer with the minority leader, and then I will be in touch.

Mr. BOSCHWITZ. I withdraw my request.

The PRESIDING OFFICER. The Senator from North Carolina.

AMENDMENT NO. 1987

(Purpose: To eliminate provisions relating to the legalization of the status of certain aliens under the Immigration and Nationality Act)

Mr. HELMS. Mr. President, I call up amendment No. 1987 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS), for himself and Mr. EAST, proposes an amendment numbered 1987.

Mr. HELMS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 121, lines 14 and 15, strike out "and aliens whose status is adjusted to permanent residence status under section 245A."

Beginning on page 154, line 15, strike out all through line 10 on page 162.

On page 162, line 11, strike out "TITLE IV" and insert in lieu thereof "TITLE III".

On page 162, line 13, strike out "Sec. 401." and insert in lieu thereof "Sec. 301."

Beginning on page 165, with line 23, strike out all through line 10 on page 166.

Mr. HELMS. Mr. President, I say to the distinguished manager of the bill, if I can entice him a little, that I am willing to enter into a time agreement on this amendment, if he has any interest in doing so.

Mr. SIMPSON. Indeed, I do. I will receive the proposal with great glee.

Mr. HELMS. I thought the Senator would.

Thirty minutes equally divided—would that be acceptable to the Senator?

Mr. SIMPSON. That is acceptable to the Senator from Wyoming.

Mr. HELMS. Mr. President, I ask unanimous consent that the time limitation on this amendment be 30 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I have the highest admiration and even gratitude for the distinguished chairman of the Immigration and Refugee Policy Subcommittee. What a whale of a job he has done on this legislation.

Producing this legislation is something like presiding over the conference between the House and the Senate on a farm bill. The distinguished chairman has had all sorts of pulls and tugs on him, and I am reluctant to be pulling and tugging a little myself. He has shown perseverance in bringing this comprehensive immigration reform bill to the floor of the Senate.

While I commend the distinguished chairman of the Immigration and Refugee Policy Subcommittee for his perseverance in bringing a comprehensive immigration reform bill to the floor of this body, I respectfully disagree with the decision to grant amnesty to millions of foreigners who entered our country illegally and who are living here illegally.

My amendment therefore would delete the amnesty provisions of S. 2222. Basically, it would delete title III in its entirety, the title that supplies the authority for legalization. References in other sections relating to amnesty would also be deleted from the bill and the titles would be renumbered appropriately.

Mr. SYMMS. Mr. President, could we have order please?

The PRESIDING OFFICER. The Senate will please come to order.

Those Senators or staff desiring to converse please retire to the cloakroom.

Mr. HELMS. Mr. President, I thank the Chair. I do not mind if other Senators cannot hear me, but when I cannot hear myself, it does become a little confusing.

Mr. President, Attorney General William French Smith testified last year on the immigration crisis. He accurately summed up the problem where he declared: "We have lost control of our borders."

The National Commander of the American Legion in a letter to Members of the Senate on July 28 clearly described our predicament. He wrote:

This Nation stands virtually alone among Western nations in having failed even minimally to exercise its sovereign rights to police its own borders.

The American Legion and the Veterans of Foreign Wars are among those who oppose amnesty for illegal aliens. Their opposition reflects massive public concern over our present immigration crisis.

How many illegal aliens are here today? While it is impossible to calculate exactly, estimates range from some 3.5 million to over 10 million. Some estimates run as high as 15 million. The administration is currently using a figure of 6 million which, it would appear, is a conservative estimate. Whatever the exact figure is, it is clear that effective measures are necessary to regain control of our borders.

The bill before us provides for blanket amnesty for millions of illegal aliens. There are amendments which change various dates and alter welfare benefits. My amendment, on the other hand, is simple and direct. My amendment eliminates amnesty from the bill entirely by deleting title III.

Mr. President, it is wrong to reward lawbreakers. It is wrong to set in motion a program which will encourage further lawbreaking and which will polarize our society. Citizenship in our great Republic is too precious to grant in a vast blanket program to millions of foreign nationals who have flagrantly violated our laws. We expect our fellow citizens to obey the law. We proudly say that this is a nation of laws. Yet, amnesty for millions of illegal aliens—for millions of conscious lawbreakers—would show our own citizens and indeed the world, that our great country cannot muster the will necessary to enforce our own very generous immigration laws.

What will the working man and woman in this country think of this massive surrender? What will the children of the working man and woman of this country think of this surrender? Will it teach them respect for the law?

Or, will it engender disrespect for the law and for our institutions? My office has been deluged by phone calls and letters opposing amnesty for illegal aliens. The public outcry against amnesty for millions of illegal aliens may well exceed anything that we in this Congress have experienced in recent years.

Our duty, as representatives of the citizens of these United States of America, is to protect the interests of the American people. We are not here to legislate bailouts for foreign governments whose internal policies have led to severe problems in their own countries. These governments must accept the responsibility to improve the conditions in their own countries in order to achieve progress.

MEXICAN VIEWPOINT ON ILLEGALS

Mr. President, as Mexicans comprise the majority of illegal aliens inside our borders, it is worthwhile to reflect on what the Mexicans themselves are saying about the illegals here. I would like to read to this body some excerpts from an article by a well known Mexican columnist, Carlos Loret de Mola. The article is entitled, "The Great Invasion, Mexico Recovers Its Own" and it appeared in the July 20, 1982, edition of *Exelsior*, Mexico's leading newspaper.

Senor Loret states that the "Mexicanization of Los Angeles" has been a sociological phenomenon of tremendous implications. He calls the entry of illegal Mexican aliens into these United States an unstoppable invasion which in his view is the most important in human history. He draws attention to the idea that these illegal Mexican aliens are conquering a great region, once primitive and virgin, that belonged to our fatherland, and we lost it.

Senor Loret goes even further stating that the Southwest seems to be slowly returning to the jurisdiction of Mexico without firing a single shot, nor requiring the least diplomatic action, by means of a steady, spontaneous, and uninterrupted occupation.

Mr. President, the fundamental question before us is the preservation and enforcement of our sovereignty. Put simply, amnesty is a massive surrender in the face of what Senor Loret has characterized as an unstoppable invasion. Amnesty will legitimize what Senor Loret has characterized as an uninterrupted occupation.

Mr. President, I ask unanimous consent that the entire article from *Exelsior* be printed in the *RECORD* at the conclusion of my remarks, as well as an editorial from *Exelsior* on the same topic.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

AMNESTY COULD INCREASE ILLEGAL FLOW

Mr. HELMS. Mr. President, amnesty for the millions of illegal aliens cur-

rently in these United States would establish a dangerous precedent which could well encourage additional illegal immigration. Additional millions of desperate people could head to the United States on the heels of economic chaos or political chaos in their homelands. For example, between the Rio Grande and the Panama Canal there are over 100 million people. If only 10 percent of these people flee economic chaos or political chaos engendered by Communist expansion in this area the illegal population could very well be doubled in this country.

An Associated Press report from Mexico City on July 14, 1982, states that American officials predict that,

One of Mexico's worst recessions since World War II probably will increase the flow of Mexicans going illegally to the United States in search of jobs and a better life.

Inflation in Mexico is running at some 60 percent per year and Mexico's foreign debt could reach some \$80 billion in the near term. The Mexican peso was devalued by 40 percent in February of this year further adding to Mexico's economic problems.

By the end of 1982, it is expected that an additional 1 million Mexicans will be unemployed. Unemployment and underemployment now total about 45 percent of the labor force in Mexico and Mexico needs to create over 850,000 new jobs every year just to keep up with its population growth which is one of the highest in the world. Mexico is a resource-rich country with oil reserves which are well known as well as mineral and potential agricultural wealth. Yet, Mexico for decades has adopted a type of socialist experimentation—including so-called land reforms—which has brought the country to its current straits. We would hope that the Mexican Government and all governments in the region would encourage policies which will lead to real economic growth. We should not adopt our immigration laws just to bail out other nations from the effects of decades of poor economic policies.

Mr. President, I ask unanimous consent that an article from the current August 16 issue of *U.S. News & World Report* entitled "Mexico: Another Neighbor in Distress" be printed in the *RECORD* at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

AMNESTY WILL INCREASE WELFARE COSTS

Mr. HELMS. Mr. President, amnesty would increase welfare costs dramatically. Many millions of illegal aliens would qualify for various welfare programs—AFDC, SSI, medicaid, food stamps, State and local assistance, and public housing.

Today, a number of factors are holding down the use of welfare programs

by illegal aliens. These include fear of discovery by authorities as well as the fact that a large percentage of illegal aliens are working males with families across the border. Amnesty would change the situation dramatically.

Mr. President, I realize that there are a variety of amnesty proposals that have been discussed in recent days. By moving dates for permanent residency around, by moving dates for temporary residency around, and by suggesting a variety of welfare package benefits, all of these amendments are avoiding the fundamental cost issue in the long term. Whether we start paying out welfare benefits tomorrow or 3 years from now or 10 years from now, the bill will eventually come due for the American taxpayer. My amendment is simple and direct, it eliminates amnesty and thereby eliminates the problem of additional hundreds of millions—and even billions—of dollars of taxpayer money being spent on welfare for illegal aliens.

AMNESTY AND U.S. UNEMPLOYMENT

Mr. President, there are today almost 10 million Americans out of work. Congress should be making every effort to remove illegal aliens from our work forces and should avoid voting for legislation which will grant them legal rights and benefits through an amnesty program. It should be understood that illegals are at work in a broad spectrum of jobs. Attorney General William French Smith testified last July that, "Only 15 percent of the illegals are estimated to work in agriculture; 50 percent are employed in service industries; and 30 percent are in blue-collar jobs." The Federation for American Immigration Reform has pointed out that, "Half of all new jobs created in the late 1970's went to legal and illegal immigrants." F.A.I.R. also has pointed out that, "There is not a single labor market that immigrants enter in which the majority of workers are not Americans." Marvin Stone, editor of *U.S. News & World Report*, has pointed out in this regard that, "If newcomers show skill and initiative as workers and entrepreneurs, they often cut in on the livelihood of local people and arouse hostility; if not, they lean heavily on the public purse."

It is a myth that illegal aliens seek and obtain only low-paying jobs, indeed, a number of studies and reports have found that illegal aliens obtain well paying jobs. For example, the *Phoenix Gazette* of December 9, 1981, in reference to a nuclear reactor plant in Arizona stated that, "Immigration officials said they believe the relatively high wage scale, which begins at about \$10.50 per hour, has attracted a large population of illegal workers." Human Events ran a story on December 12, 1981, which described a case in Elgin, Ill., in which Immigra-

tion and Naturalization Service officers "arrested 69 aliens who earned between \$4.50 and \$13 an hour." Within hours, the Human Events story reported, "hundreds of local residents had applied for these jobs, all of which were filled within 3 days."

Prof. Donald L. Huddle of the Department of Economics at Rice University has written a report on "Undocumented Workers in Houston Non-Residential and Highway Construction: Local and National Implications of a Field Survey." Professor Huddle has estimated, for example, that one-third, and possibly more, of the workers in the construction industry in the Houston area are illegals. He notes that "residential construction is more heavily infiltrated by illegals than in commercial construction." This is because unions "still act as a partial barrier" in the commercial construction field. The wages earned by illegals ranged from \$4 to \$9.50 per hour. A study by Frank Bean and Allan King at the University of Texas for Governor Clement's Task Force on Immigration was quoted in the Houston Post of April 7, 1982, and estimated that one in every five Texas Hispanics is illegal.

From his research, Professor Huddle extrapolates that—

For the United States as a whole, the number of illegals working in construction may reach an estimated 1 million or more.

He then goes on to state that—

The wages collected by the illegals in construction nationally probably exceed \$7 billion per year and could well be over \$9.5 billion.

Former Secretary of Labor, Ray Marshall, has stated that removing illegal aliens from the work force could cut our unemployment rate in half. According to Professor Huddle's research,

The amnesty provisions of the Simpson-Mazzoli bill are too generous *** giving amnesty to illegals *** will be costly in terms of implementation, will cost unemployed American citizens hundreds of thousands if not millions of jobs, and lead to many more millions of relatives of illegals not now in the U.S. becoming legalized in the future.

It is important to consider a report by the Congressional Budget Office which shows that each unemployed American received \$7,000 annually in unemployment benefits and other public assistance. Thus, 10 million unemployed Americans cost the taxpayers a minimum of \$70 billion annually. This does not include the loss of revenues to the Federal Government from tax payments generated by working Americans.

Where there is a genuine need for seasonal foreign workers, for example, in the agricultural field, the answer is a temporary guest worker program. Amnesty is not the answer. In fact, by giving permanent resident status and access to our generous welfare pro-

grams to millions of illegals currently in low-paying agricultural jobs, amnesty will encourage legalized aliens to move away from this type of work and into the welfare system.

AMNESTY CAN POLARIZE OUR SOCIETY

Mr. President, I fear that the granting of amnesty to millions of illegal aliens could polarize our society. With 10 million Americans out of work, with our economy suffering from unbalanced budgets, and with increasing crime and lack of respect for our laws, amnesty could engender a tremendous backlash.

This backlash could affect relations between Hispanic and non-Hispanic Americans generally as well as between illegal Hispanic and Hispanic-Americans who have either legally settled here themselves or whose parents or ancestors came to our land to settle. It is not just illegal Hispanic aliens that we are talking about, of course, there are illegal aliens here from all parts of the world. We must not allow, through an amnesty program, the polarization of our society.

Referring to illegal Mexican aliens, it is important for this body to consider the opinion of Hispanic-Americans who are legal citizens. The Dallas Times Herald, for example, on June 3, 1982, carried an article entitled, "Illegal alien issue splits Hispanic citizens." The article pointed out that,

In Dallas, most of the complaints to the U.S. Immigration and Naturalization Service about illegal aliens come from Mexican-Americans.

The article goes on to state that the regional INS Director, William Chambers, reported that 85 percent of the complaints about illegal aliens are made by Mexican-American citizens. He added that,

A lot of people are surprised by this, and it used to be that Mexican-Americans did not get into reporting illegal aliens. But they (Mexican-Americans) are being much more adversely affected than previously. The illegal aliens go into their neighborhoods to live and they are in direct competition with them for jobs.

In an article published by the Washington Post on July 19, 1982, additional information is presented which demonstrates that polarization is already in progress. For example, the distinguished State Senator Hector Uribe who represents the lower Rio Grande Valley in Texas was quoted as warning that,

Those most traumatized (by the Supreme Court's education decision) are Mexican-Americans at the lower rung of the ladder. They see themselves paying for the education of illegal aliens' children. And they see their jobs being taken away by these illegal aliens.

The Post article pointed out a study by the Institute for Constructive Capitalism at the University of Texas which found that among various demographic groups, Mexican-American citizens were those most likely to be-

lieve that illegal immigration was the most important problem facing Texas. Another study, a poll taken by the Southwest Polymetrics Co. of Austin, Tex., found that 58 percent of those surveyed in the lower Rio Grande Valley—State Senator Uribe's district—opposed free education to illegal alien children. Among the Mexican-American respondents to the poll, the percentage of negative respondents was even higher.

Raul Besterio, superintendent of schools in Brownsville, Tex., expressed his sentiments in the Post article and the sentiments of many Mexican-American citizens stating that,

Think how I feel. I'm a Mexican-American. People say why are you against your own people. Well, I'm an American. I was born and raised here. The federal government made me a Mexican-American.

Mr. President, the polarization process has begun in our country between illegal aliens and our fellow citizens. This body must face up to this fact and act in a responsible manner to prevent any escalation in this process and to heal the wounds that already exist.

Mr. President, I hope that all Senators will carefully consider the far-reaching consequences of amnesty for illegal aliens. I realize that there is no easy way out. All of the choices before us are difficult when we confront the immigration crisis, and I say that to emphasize the respect that I have for the distinguished Senator from Wyoming (Mr. SIMPSON) and his committee.

The treatment of aliens and the question of citizenship have been issues throughout the ages. The consequences of the decisions made by ancient societies on these matters, by the Romans and others, endured for generations—indeed for centuries. The decisions that we make on these matters will affect our Nation's destiny and the lives of those who come after us.

Mr. President, the pending amendment, which will prevent the granting of amnesty for millions of aliens who are in this country illegally, is very important. I hope that Senators will carefully consider the implications of their vote and support the amendment.

EXHIBIT 1

THE HISPANIC MOVEMENT

EDITORIAL

In the United States for the first time in history Hispanic organizations and congressmen of Spanish or Latin American origins, surely with a preponderance of Mexican blood, have worked out a legislative agenda and program to strengthen and coordinate the power of this transcendent group. Member organizations plan to make themselves felt more than ever in the political life of that country, and they believe they can transform the decade of the 80s into the decade of the Hispanics.

Anything that contributes to unify and strengthen the Latinos and Hispanics in the United States constitutes an important step in the area of social justice and institutional progress. Every day there are more Hispanics in that gigantic nation to the north because of their demographic capacity and the well-known results of migration.

The world is for all its inhabitants. Nations that are located in privileged geographic areas in the long run will have to pay the price for their rich natural resources, and there will not be in any part of the world privileged minorities, nor territories reserved for selected races or dominant groups.

Latinity or Hispanicity is a powerful presence in the United States. They (the Hispanics) must make their intelligence, their capabilities, and their rights known in a political world that cannot, must not be hostile, nor reject them.

History repeats itself. There is no territory that does not belong to Man in the greatest sense of the word. The biblical teaching, people the earth, does not recognize frontiers nor admit of privileges.

The Hispanics will make their presence felt more and more in the United States as a great force, contributing also, as individuals and as a group, important cultural and social values.

THE GREAT INVASION—MEXICO RECOVERS ITS OWN

LOS ANGELES, CALIF.—This is the second largest Mexican City in the world for the number of our compatriots settled there, and it must have as many Spanish-speakers as Madrid. The Anglosaxons are still the most numerous and there are a lot of Negroes, but the numerical advance of the Mexicans is astonishing. Ten movie houses at once show the Cantinflas comedy "El Barrendero." On the streets one has the impression of a great Mexican city. "La Opinion," with a circulation of 60,000 copies, is one of three daily newspapers in Spanish in this enormous country. When did the Mexicanization of Los Angeles happen?

It has been a sociological phenomenon of tremendous implications.

A peaceful mass of people hardworking, carries out slowly and patiently an unstoppable invasion, the most important in human history. You cannot give me a similar example of such a large migratory wave by an ant-like multitude, stubborn, unarmed, and carried on in the face of the most powerful and best-armed nation on earth.

But neither barbed-wire fences, nor aggressive border guards, nor campaigns, nor laws, nor police raids against the undocumented, have stopped this movement of the masses that is unprecedented in any part of the world.

In 1950 they were called "Pachucos" (half-breeds); today they are called "Chicanos." They have marked social and family characteristics, ability for adapting to the environment and for conquering a great region, once primitive and virgin, that belonged to our fatherland, and we lost it. But it seems to be slowly returning to the jurisdiction of Mexico without firing a single shot, nor requiring the least diplomatic action, by means of a steady, spontaneous, and uninterrupted occupation.

These are not assault troops. Nor are they potentates who take over a territory through economic power and purchase of properties. They are a mass of workers, artisans, women, and students who arrive to

reinforce the base of the common people and the human virtues of this society in California. Much like them, despised and persecuted, were the humble Christians in the sovereign empire of Rome; but the meek brought down the Caesars and established—for some two thousand years now—their own style of life over those all-powerful enslavers of the ancient world.

There is a great difference in circumstances. Today we perceive as powerful those who control and manage U.S. society; and it seems crazy to dare to believe it, but let's not forget that great social movements, and changes in social structure, were done by populist forces, so long as they know how to work together.

The United States is the richest and best organized country in the world, within the limitations of the capitalistic system. Its industrial power and way of living absorbs immigrants and readily converts them to nationals. But the Mexicans in the southern part of this nation continue to be Mexican and even impress their personality on their surroundings, in limited proportions and yet ever growing.

Usually they take low-paying jobs, nevertheless, they put such industry, will-power, and self-interest into their efforts—precisely because of unequal status in a hostile and deprecatory ambience—that they end up making themselves indispensable.

California society does not dare to suppress them. The efforts of misguided authorities to expel them always end in failure. They (the Chicanos) are a social and physical reality that cannot be uprooted.

The U.S. upper classes in the western states live in increasing splendor. Their apogee of luxury and comfort doubtlessly marks the inevitable beginning of their decadence. The Mexican invasion continues.

Who are they? Those who have a great capacity to take risks, the more ambitious, those with more character, the strongest from the rural and suburban areas of their home country. A human current of natural selection flows out of Mexico and settles down in the United States, where a second selection takes place. Those who are selected must meet two tests: that of leaving, with fortitude, their family and society and giving up familiar ways and customs; and then that of having the character to adapt to new working conditions. A human current with these qualities, if it can succeed in maintaining itself united and coherent, will end by winning: It's a question of time.

The territory lost in the XIX century by a Mexico torn by internal strife and under centralist dictatorships led by paranoid chiefs, like Antonio López de Santa Ana, seems to be restoring itself through a humble people who go on settling various zones that once were ours on the old maps.

Land, under any concept of possession, ends up in the hands of those who deserve it. All of us Mexicans should prove ourselves worthy of what we have and what we want. The problem is one of organization.

And those humble Mexicans—the braceros, the "wetbacks" the undocumented—teach us with their example of tough, iron-like character and their spirit of great adventure how to overcome a hostile environment. Let us imitate them from within the Mexico that belongs to us.

EXHIBIT 2

MEXICO: ANOTHER NEIGHBOR IN DISTRESS

Despite billions in oil wealth, Mexico is a nation caught up in a mounting wave of unease and despair, marking it as yet another

other potential trouble spot in America's back yard.

The confidence once generated in this country of 71 million by petroleum riches has given way to jittery uncertainty in the face of inflation, unemployment, an ailing peso, huge foreign debts and rampant waste and corruption.

American officials analyzing Mexico's declining fortunes worry that they could lead to political instability. And turbulence in Mexico would make it a more vulnerable target for the Communist guerrillas already battling in Central America.

Other angers raised by the malaise here disturb Washington planners:

One is that an unstable Mexico will be unable to fill the role of oil supplier, as the Reagan administration hopes, to help offset the U.S. dependence of the flow from the volatile Mideast.

Another is that the stream of illegal immigrants from Mexico will continue on a massive scale if there is no dramatic turnaround in the economy.

A third: Without a firm hand in Mexico City, drugs and other contraband will continue to be smuggled from this country into the U.S.

Looking at the array of economic and social difficulties ahead, a frequent visitor to this country finds it easier to understand why Mexicans now use the terms "sad and crushed in spirit" and "resignation" to describe their mood.

Inflation is the most visible sign of Mexico's ills. Prices jumped by more than 30 percent in both 1980 and 1981 and are expected to shoot up 70 percent more this year. The value of the peso has plunged in the past year from 26 to 70 to the dollar in a new free market announced August 5, and more drops are expected.

A BULL DIET

All classes of society share in the discontent. A factory worker with two children, earning the minimum wage of around \$10 a day, complains of a diet consisting of nothing but "meat, beans and coffee."

Officially, there are wage and price controls in place to control inflation. But the public-administration system is limited and inefficient, allowing what one observer describes as "daily anarchy, with everybody charging what he can get away with."

Higher prices come at a time when more and more workers are out of jobs. Unemployment and underemployment in Mexico have long been estimated at nearly 50 percent. The economy must create 700,000 to 800,000 new jobs each year to keep up with Mexico's 3 percent annual birth rate, one of the world's highest.

Today's recession is creating an even larger pool of unemployed. Union leaders predict that a million additional Mexican workers may be laid off by the end of the year in the construction, automotive, textile, shoe, cotton and general manufacturing industries.

Jobless workers are not protected by unemployment insurance, and some here are bracing for trouble. "A major social disaster will probably hit this country in the next six to eight months," says one U.S. businessman.

The need to fight inflation and provide employment comes at a time when Mexico is strapped for revenue and is running out of borrowing power despite its rank as the world's fourth largest oil producer.

The worldwide decline in oil prices has reduced Mexico's revenue expectations drasti-

cally over the past two years, forcing heavy government borrowing to finance industrial-development projects and subsidize social services.

Result: Foreign debt is expected to reach 85 billion dollars by the end of 1982, making it one of the highest in the world. Of the estimated 26 billion dollars the government expects to borrow this year, 17 billion will go just to pay interest of foreign loans.

The government's massive need for credit is squeezing the private sector. Banks pay over 50 percent interest on deposits, and charge from 60 to 100 percent interest on business loans.

Borrowing money, Mexican business executives say, is a step you take only if you are "either desperate or crazy."

DYING BUSINESSES

The lack of credit, coupled with government-ordered wage increases, has forced more than 10,000 small and medium-size companies into bankruptcy so far in 1982.

Although graft and the mordida—the bribe—are deeply rooted in Mexico, the problem has worsened with the sudden influx of oil wealth in recent years. The magnitude of the corruption—highlighted by recent scandals involving police and government officials—has shocked even the most complacent Mexicans, who believe the nation's oil wealth has been squandered and mismanaged.

Adding to the sense of gloom is the evident deterioration of this once-lovely capital city. Officials admit privately that it is virtually impossible to provide efficient water, power and garbage-collection services.

An estimated 17 million people live in greater Mexico City. Some 2.5 million cars congest city streets combining with industrial pollution, to create a heavy cloud of dirty air that hangs over the city much of the time.

Crime, because of the economic crisis, has become a major problem. Local newspapers comment on "muggings, theft and now rampant crime on our streets."

Economic critics place a good deal of the blame for Mexico's plight on outgoing President José López Portillo. The main complaints:

The President poured billions of dollars of oil money into an economy incapable of absorbing it efficiently. Rapid development through large-scale borrowing was chosen over clamping down on inflation. The result, coming in the midst of worldwide recession, was an overheated economy that became overdependent on foreign loans and oil sales at the worst possible time.

Complicating the President's ambitious plans for development were the country's pervasive social programs. The official party, the Party of Revolutionary Institution (PRI), prides itself on its doctrine of social justice. Basic foods, transportation, water and gasoline are subsidized by the government, which also owns or shares control of more than 800 industries, many of them inefficient. As a result, the subsidy drain amounts to between 20 and 25 percent of the federal budget.

The task of grappling with Mexico's massive problems will fall to President-elect Miguel de la Madrid, 47, a U.S.-educated lawyer and economist who scored an easy victory in national elections last July 4.

The new leader will be inaugurated on December 1, but already he has made clear that austerity and sacrifice will be the cornerstones of his policies. Basic thrust of his strategy, as outlined by one adviser: Renegotiate the incredible foreign debt, strengthen

the private sector, eliminate wasteful subsidies, accelerate industrial development and create jobs by judicious use of oil income and public and private savings.

Enforcing austerity will not be easy. For example, the present government, in an effort to reduce the subsidy burden, announced on August 2 major price hikes for bread, tortillas, electricity and gasoline. But labor leaders are demanding pay increases for the workers and warn that they will call a general strike if prices continue to rise.

PRI leaders also worry that government moves to bail out business will produce a backlash. Says one: "In Mexico, you can't cut back on social justice without political dangers."

SLANT ON U.S.

The right-of-center de la Madrid is seen bringing a new view to foreign policy as well. While determined not to become dependent on the American economy, he hopes to improve Mexico-U.S. relations. López Portillo's warm support for Communist Cuba and Sandinista Nicaragua has irritated the Reagan administration. De la Madrid's advisers believe he will turn slowly—so as not to alienate Mexican leftists—away from that course.

He is said to feel the economy can be turned around in two years and that Mexicans will regain their traditional confidence in the future. Others here feel it will take far longer. There also are pessimists who warn that the problems may be unsolvable and that an eventual military takeover is a possibility. But there is no sign of such a scenario now. Some armed forces leaders have been critical of López Portillo's chumminess with Cuba and Nicaragua as well as the economy's deterioration, but the military, it is felt, still strongly backs the civilian government.

Still, some Mexicans fear that the slide toward economic and social chaos must be slowed or Mexico will plunge down a dangerous path challenging the basic foundations of democratic rule.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time.

Mr. HELMS. Mr. President, I yield to the Senator from North Carolina such time as he may require.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EAST. Mr. President, I have joined with my distinguished colleague from North Carolina in supporting this opposition to blanket full and complete amnesty in this legislation.

I also commend the Senator from Wyoming for his great work in bringing this matter before the Senate.

However, the concept of amnesty as espoused in this bill, in my opinion, is ill conceived and ill placed.

I know it is understandable to put this problem behind us of illegal aliens in this country and simply grant a blanket amnesty, but as a matter of public policy and public law, I do not think it is sound.

First of all, amnesty has the idea of forgiveness because of some unanticipated or some inequitable impact of the law. That is the origin of the concept.

In this case, I think it is clear that the rationale for amnesty is simply this: The sheer numbers of people who have poured into the country illegally—it becomes unmanageable, so we simply forgive it.

On that theory, we might forgive drug trafficking, we might forgive any kind of illegal activity simply because of the sheer numbers of people involved that we cannot cope with it.

I do not find, as a concept, that this is the sort of situation historically in Anglo-American law that amnesty is meant to apply.

Beyond that, I think it is inconsistent with the goals of this legislation. The purpose of this legislation is to gain control of our borders which many Americans concede today we no longer seem to have. We simply become a dumping ground.

I know we have had many fine people come in legally and illegally. But the problem remains that we are trying to regain control of our borders. That is the whole purpose of the legislation.

Mr. President, the concept does not apply here.

I respectfully urge my colleagues to delete it. I think the timing is poor. We should at least see if the legislation will work in allowing us to gain control of our borders, if we can, and then if amnesty would seem appropriate, let us do it.

But to put it in this bill at this point is premature, ill conceived, and I strongly urge my colleagues to strike it from the legislation.

Mr. President, since our time is limited, I yield back the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from North Carolina has 6 minutes and 45 seconds remaining. The Senator from Wyoming has 15 minutes remaining.

Mr. HELMS. Mr. President, I yield 4 minutes to the Senator from Idaho.

Mr. SYMMS. I thank the Senator from North Carolina for yielding, and I wish to express my support for the amendment offered by my good colleagues, Senators HELMS and EAST, and in expressing my support for this amendment which deletes from S. 2222 the provision granting amnesty to illegal aliens, I do not detract in any way from the monumental efforts made by Senator SIMPSON and others, and I voice the great admiration for the job that Senator SIMPSON has done and others on the committee, the distinguished Senators who brought this bill to this committee because I realize this has been a very long and difficult task for them and it has certainly been that I know for many of them, particularly Senator SIMPSON

working on this issue coming from a Western State. In a bill as comprehensive as this it does create a lot of disagreement as to the approach and the degrees of minor subjects. But I do believe, as Senator HELMS and Senator EAST have pointed out, that total blanket amnesty goes a little too far in this bill for illegal aliens residing in the United States prior to January 31, 1982.

It is a subject that, in my opinion, strikes right at the core of our national immigration policy. The problem, of course, is that we currently have residing, as has been talked about here, anywhere from 3.5 to 15 million people in the country, and the problem will further be compounded by the fact that to date we have not been able to devise a method of gathering and deporting these people. It seems to be an insoluble problem. But we are just talking about defining it out of existence by granting blanket amnesty.

I had the opportunity this morning, Mr. President, to visit with Mr. Tom Dunnigan who runs the labor association in my State, and where they are employing farm laborers, and in this case, in some instances, people who are illegal get in those work forces working in those crews, and he made the point with me that even though it would provide a lot of the people who are working in the farm community—it would make them legal, he feels that it is going to rapidly and very dramatically expand the use of many of the transfer payment welfare programs that the Federal Government operates because of these people.

The response of this bill is to solve the problem by defining it out of existence. If we have a problem of illegal aliens, we will no longer have a problem if we make or define them as legal aliens. No one is hurt, everything is fine, and everyone is happy.

The problem with the approach, Mr. President, is that it fails to address the issue and in fact postpones the day of reckoning while the problem grows worse. We have lost control of our borders and have not devised a viable means of controlling the illegal influx.

In another light, Mr. President, what do we gain by granting amnesty to those who have circumvented our laws at the expense of those who are seeking to enter our country by legal means? By what right or through whose decree do illegals merit such favored treatment?

I can think of no reason other than a desire on our part to avoid the issue by trying to make it go away, or define it out of existence. Have we fully thought out the consequences of such an action? Such a declaration of amnesty creates a dangerous precedent for the continuing handling of this problem. It is my feeling and the feeling of many of my constituents in Idaho that this bill does little in actu-

ally stemming further illegal immigration. Amnesty will only increase the flow.

Such a declaration creates the impression—and rightfully so—that there are no penalties or sanctions for disobeying our laws. It creates the feeling that those who abide by U.S. immigration laws—with the red tape and waiting periods—are suckers.

Such a declaration of amnesty will result in the loss of jobs of American citizens and aliens who are legally here. The administration uses the figure of 6 million illegal aliens that would surface and openly compete for jobs we need for our own citizens. This competition for jobs would occur not in the agricultural field but in the blue collar and service industry areas. We need these jobs for Americans.

In addition to the loss of jobs and job opportunities as a result of amnesty, we also face the very bleak prospect of Federal, State, and local treasuries being required to pay out additional sums in welfare. Many presently noneligible illegal aliens would automatically qualify for numerous welfare benefits as a result of the bill's amnesty provision. The administration's own figures indicate that the increased costs of welfare brought about by this bill would be as high as \$10 billion in the first 4 years.

Mr. President, the amnesty provisions of this bill must be deleted. I have no substitute or answer for this problem but I know that amnesty is "the ostrich hiding its head in the sand." If we must spend additional time and resources to reach a viable solution, then let us do so. Our citizens, indeed the entire world, must know that we have the will to establish and enforce realistic, effective immigration laws.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, may I emphasize, in opposition to this amendment, that under our measure, as presented by S. 2222, legalization is not a reward for violation of the immigration law. If we start with that premise I think we can work the issue a little more appropriately.

Legalization into this measure is a practical solution to a serious national problem.

There is in this country because of illegal immigration in the numbers we have had in years past a population estimated at 3.5 to 6 million by the Select Commissions, and that was 4 years ago. One identifiable fact is real: There is a fearful subclass of at least 3 to 6 million human beings in the United States, and most likely many more. This results in a group of human beings who live in enclaves or groups fearful to report crimes against their property or their person or their families; afraid to seek medical help, afraid to go to a hospital unless it is to

give birth, and then the individual is giving birth to a U.S. citizen. These persons have a weak bargaining position with their employers—indeed they do because if they complain too loudly or too long they will simply be reported to the INS, and that situation cannot be good for this country. I think that diminishes us.

We seek to achieve three major goals through legalization. When I first heard legalization proposed by the Select Commission I blanched. I said, "What for? Why should we do that?"

Again it is one of those issues that you realize is the only practical solution to the problem.

What are the three major goals we seek through legalization? The first is not to expend the efforts of the Immigration and Naturalization Service in these law enforcement activities. They have a limited, a totally limited, budget. We are very unlikely to see them obtain any kind of enforcement for the dollars that we expend if they are going to expend it in locating and deporting from the United States those who have become settled in this country rather than being about their job of preventing new illegal entries or visa abuse, which are the known factors and the known causes of our problem.

The second goal—and this is a very important one—is to allow the currently economically dependent employers to continue lawful hiring from that pool of labor. These employers have lawfully become dependent upon the illegal supply of human beings. Legalization will assist in that transition from an illegal flow and illegal use to a legal pool of labor.

The third is to eliminate, as I say, this illegal subclass of persons with the weakest of bargaining conditions, who are limited in their participation in U.S. society which, sadly enough, even has the effect of hindering the participation of legal immigrants from the same country of origin.

As I shared with you some hours ago, there is even a more pragmatic and fascinating reason for legalization, and that is, if you could not find them coming how are you going to find them to get them out? It is an impossible task. I believe if there is anything that would rupture the fabric of this country it would be the search for illegal undocumented aliens. I would hate to see it take place.

We need a reasonable legalization program. We are not out to reward illegal activity but to resolve a critically serious national problem.

I understand Senator GRASSLEY will be offering an amendment which contains a very reasonable and responsible and very thoughtful modification of the bill's legalization program. I intend to support that amendment of

Senator GRASSLEY, and I urge my colleagues, therefore, to reject the amendment of the Senator from North Carolina.

I appreciate his intent, but it is in no way to be considered as a reward, in no way then do we legalize those who are here illegally, and hinder those who have been waiting patiently. All those are very real arguments, but the issue indeed is one of avoiding a critical national problem.

I support the Grassley compromise, and will yield to the ranking member of the subcommittee, the minority floor manager.

Mr. KENNEDY. Mr. President, I join with my colleague from Wyoming in urging that the Senate resist and reject the amendment of the Senator from North Carolina. The Senator from Wyoming, I think, has stated very well the reasons why we should reject this amendment.

A legalization program has been recommended time and time again, by Republican and Democratic Presidents alike—by President Ford, by President Carter, and recently by President Reagan.

As the Senator from Wyoming and the past administrations have pointed out, unless we take these steps in terms of adjusting the status of these individuals we are going to have a permanent class in our society which is subject to extraordinary exploitation, that refuses to report crimes because of fear of the consequences.

We also find there will be a better opportunity for targeting the limited resources of the Immigration Service into the current challenges we are facing with the flow of individuals who are coming here illegally, even at the present time.

Mr. President, I am interested in the fact that the Senator from North Carolina has offered this amendment, although he must not object to the concept of amnesty, because he himself has introduced a private bill that has been before the Judiciary Committee to provide amnesty for one of his own illegal constituents. The amnesty for that individual—an individual who has been involved in visa fraud—was tabled in the last Congress but reintroduced in this Congress. I do not know the particular merits of that situation. I know the fact of the situation, but I do not know the particular merits.

One thing I think is important is the principle, and that is that we should free ourselves in this body from the series of private bills which all of us get called upon to introduce to take care of some aliens needing amnesty. And yet when the time comes to try and deal with amnesty for individuals who do not have the benefit, for whatever reason, of having a Member of the U.S. Senate to advance a private bill, we draw the line against those individuals.

Mr. President, I do not know whether the Senator, since he is here, wants to make any comment on the private bill that he has introduced with regard to granting permanent residency for an individual who was involved in visa fraud.

Mr. HELMS. I would just say that the Senator, by bringing up this matter, is making my point for me. Blanket amnesty is perilous for this country. There is a difference between 6 million cases, with no consideration of individual merits, and one case where careful examination of compassionate circumstance is possible. I think it ought to be on a case-by-case basis. The Senator has said that he does not know the merits of the situation in the private bill I introduced. I hope he will study the case carefully before he makes any harsh judgments on it. But I thank the Senator for bringing it up.

Mr. KENNEDY. Well, this individual was involved in visa fraud in behalf of his wife.

The PRESIDING OFFICER. The 4 minutes yielded to the Senator have expired.

Mr. KENNEDY. Will the Senator yield me 30 more seconds?

Mr. SIMPSON. Yes.

Mr. KENNEDY. It just seems to me, Mr. President, for the reasons that have been outlined here during the course of this discussion, as the Senator from Wyoming has pointed out, that the provisions in this bill offer the best practical solution of this troublesome problem. We cannot be involved in the mass deportation of these individuals. This legislation is trying to deal with the challenge that we are facing here and now, the fact that there are undocumented aliens who have lived here, their children live here, for many years, and to regularize their status and to deal with the current situation in a realistic and practical way. I hope the amendment will be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Will the Senator yield?

Mr. SIMPSON. Could I inquire of the time remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 3 minutes 35 seconds and the Senator from North Carolina has 2 minutes 47 seconds.

Mr. SIMPSON. I yield 3 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 3 minutes.

Mr. GRASSLEY. I thank the distinguished chairman of the subcommittee for yielding to me.

I, too, as does my friend from Wyoming, oppose the Helms amendment. I, too, had difficulty with the legalization proposal when I first got into the

issue of immigration reform. As I sat through the hours of hearings on the subject, I came to realize that to me there is really no practical alternative for either American citizens or for the majority of illegal aliens other than legalization.

I suppose that wherever you might go in most sections of America, and if any of us stand up and said that all these people should be rounded up and shipped home, there would be much agreement with our position. I think it would be very easy to go to Idaho, North Carolina, or even to Iowa and say those things and receive support. But when you look at the practical aspect, it just is not an answer. We do not have the resources to put forth. All you have to do, as I had an opportunity to do, is to fly with the border patrol over the Rio Grande and see so many people coming into our country, as that plane, a symbol of authority, is flying over. That plane is ignored. They come in and they do it every day. The problem is massive.

You must take the bill in its totality, not just the legalization aspects, but the employer sanctions as well and the other aspects of the bill. We have no way of saying, nor do we try to say, that the legalization aspects are the only answer. But they are part of an answer.

And I would ask the Senator from North Carolina to look at this as just one of the very important aspects of the bill. Even if his amendment is adopted, it would not solve the problems that we are trying to solve.

Such deportation proposals, if they were to be carried out, would lead to the disruption of peoples' lives. It would be extremely costly and it would contribute to racial tension.

As many may be aware, I had and still do have concerns regarding the legalization program. But I think we have worked that out. This solution will be presented by way of an amendment shortly. The amendment would move permanent residency back from January 1978 to January 1977. It would move temporary residency back from January 1982 to January 1980. In addition eligibility for welfare would be greatly diminished and a block grant would be provided to the States.

Therefore I urge the Senate to accept this amendment as I feel it answers many questions regarding legalization.

The PRESIDING OFFICER. The time yielded to the Senator has expired.

Mr. SIMPSON. Mr. President, the time remaining is 35 seconds, is that correct, if I quit talking?

The PRESIDING OFFICER (Mr. BRADY). Twenty seconds.

Mr. SIMPSON. Let me just say the reference to private bills is one of the things we can correct with legaliza-

tion. We will have equities for these people. Please understand one thing. Legalization does not mean suddenly that they are transferred into U.S. citizenship. That is not the issue.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SIMPSON. I ask unanimous consent for 1 additional minute to conclude my remarks.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. SIMPSON. These persons would not automatically become U.S. citizens. They would be designated, prior to a certain date, as permanent resident aliens; between a certain date, they would be designated as temporary resident aliens; and they would then be on the track to citizenship if they so desired. That is the purpose of the legalization.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Will the Senator yield a minute on the bill?

The PRESIDING OFFICER. There is no time limit on the bill.

Mr. DOMENICI. Can he yield off the bill?

The PRESIDING OFFICER. There is no time on the bill.

Mr. DOMENICI. I ask unanimous consent that the Senator from New Mexico be yielded a minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I want to ask the distinguished Senator from Wyoming a question. Do I understand correctly that illegal aliens entering America after the cut off dates as provided in the bill or as provided in the distinguished Senator from Iowa's amendment and those illegal aliens that enter from that date and on and on in the futures will not be part of the amnesty?

Mr. SIMPSON. Mr. President, under the proposal in Senator GRASSLEY's amendment, we say that those who come here before January 1, 1977, will be designated as permanent resident aliens. We say that those who come between January 1, 1977, and January 1, 1980, will be designated as temporary resident aliens, and those who come here after that date will be subject to deportation.

Mr. DOMENICI. I gather, then, it is the hope that there will be fewer illegal aliens in the future?

Mr. SIMPSON. That is the while thrust of the legislation, which is the Reform and Control Act.

Mr. DOMENICI. I have read the bill and I am not sure that is so, but I would like the Senator's view. What is the Senator's opinion as to the principal part of this bill that is going to cause there to be fewer in the future?

What is going to cause there to be fewer illegal aliens in the future under the new bill?

Mr. SIMPSON. Two things. Employer sanctions against those who knowingly hire illegal, undocumented workers, and some kind of a universal employment verification system, which will be put into place within 3 years using perhaps, a revised social security card, or data bank system, or a telephone system. That system, which must be in place within 3 years, must utilize a counterfeit-resistant, tamper-resistant method. Without those two elements, there will be no reform. It would make no difference if the legalization is there.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I ask unanimous consent for 1 additional minute.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Therefore, if we do not have employer sanctions that work, the Senator would conclude the cutoff date for amnesty would probably ultimately become a floating situation because in 10 or 15 years we would have to enact another amnesty, is that about right?

Mr. SIMPSON. The entire purpose of the legislation is a one-time only legalization. We do not know how many may come forward.

Mr. DOMENICI. With reference to tourists and students—which I happen to think also the United States is unique in the world in not being able to know how many of either we have left, even though they are supposed to leave—what is this bill going to do, if anything, to make sure that America's laws, which have both of those as temporaries, actually are enforced?

Mr. SIMPSON. Mr. President, we addressed both of those issues, the so-called nonimmigrant visa, which includes the tourist visa, and the student visa. They are both addressed here. We require that students, other than students trained in high technology and some other categories, must return to their country before they adjust status. They must remain there for 2 years before they adjust status into another category.

Tourists, will be monitored under a computer system, monitored by the State Department and INS, and a visa control system.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DOMENICI. I thank the distinguished Senator.

Mr. HELMS. Mr. President, in conclusion, let me say that there is no immediate mass deportation required by this amendment of mine which is pending. The crisis has been building for a decade and it may take a decade to wind it down. But if we set the precedent of amnesty once, we will be en-

couraging future millions of illegals to take a chance.

Let me say to Senators that if this amendment, or something closely akin to it, is not adopted, Senators will rue the day that they allowed this bill to go through with amnesty for 6 million aliens, or is it 10 million, or 15? We do not even know.

I repeat, there is not simple solution, there is not easy solution. Certainly, we need to strengthen our border patrol. We have more people guarding the Capitol of the United States today than we have guarding our entire southern borders. That is a ludicrous situation under the circumstances.

Let me warn the Senate that giving amnesty to illegals will be costly in terms of implementation. It will cost unemployed American citizens hundreds of thousands if not millions of jobs that they might otherwise get, and will lead to many more millions of relatives of illegal aliens not now in the United States becoming legalized in the future.

I am satisfied in my conscience in offering this amendment, Mr. President, no matter how it comes out. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES. Will the Senator yield?

Mr. HELMS. Have I time remaining?

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. HELMS. I yield.

Mr. CHILES. I want to say to the Senator from North Carolina that I really think we ought to try to close the borders first. We ought to try to find out if we can close the borders first. Then we all recognize that we have to do something about all those people who are here. I would like to do just what he has said. I have become persuaded that we are not going to be able to pass this bill if we do not have some amnesty feature in it. I am so concerned for the plight of my State, and the position that we are in. If we do not do something to be able to stop the flow and to set up a speedy procedure for determining who is alien and who is entitled to political asylum and who is not then the situation in my State will get even worse. We will just be overwhelmed. Because of that, this bill can help stop the flow and speed up procedures. I will support the bill. However, I hope we will come up with something that is much more restrictive than the amnesty the bill now holds. I am not going to vote for the Senator's amendment now, but if we do not get that more restrictive amnesty, I might ask him to offer it again.

Mr. HELMS. I am sorry the Senator will not vote for my amendment, but I understand his reasons.

Mr. CRANSTON. I wish to state my opposition to the amendment offered by the Senator from North Carolina to strike the legalization program from S. 2222.

Despite my criticisms of S. 2222, the legalization program is absolutely essential if the bill is to become law.

Legalization has its humanitarian aspect which is important.

But equally important is the pragmatic commonsense need to avoid the severe disruption of communities and places of business that will take place if there is not a legalization program from the hundreds of thousands of individuals estimated to be affected by S. 2222.

I remind my colleagues that American immigration policy has tolerated, and often actively encouraged, persons to enter the United States without proper immigration papers to work and to live here. S. 2222 marks a dramatic reversal of what has been our actual policy for many years. This is not a case where the law and practice have been clear and consistent. This is not an amnesty. As a matter of fact there is little for which to absolve undocumented workers.

They are significant contributors to American productivity. They aided the growth of my State and much of the Southwest. They continue to do so. They are honest, hardworking people and welcome members of many communities.

It would be a tragedy to drive them from this land as proposed by Senators HELMS and EAST. I urge rejection of this proposal.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from South Dakota (Mr. PRESSLER) is necessarily absent.

The PRESIDING OFFICER (Mr. HATCH). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 17, nays 82, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—17

Armstrong	East	Jepsen
Boren	Exon	Long
Byrd	Ford	McClure
Harry F., Jr.	Heflin	Nickles
Cohen	Helms	Symms
Denton	Humphrey	Zorinsky

NAYS—82

Abdnor	Byrd, Robert C.	Dole
Andrews	Cannon	Domenici
Baker	Chafee	Durenberger
Baucus	Chiles	Eagleton
Bentsen	Cochran	Garn
Biden	Cranston	Glenn
Boschwitz	D'Amato	Goldwater
Bradley	Danforth	Gorton
Brady	DeConcini	Grassley
Bumpers	Dixon	Hart
Burdick	Dodd	Hatch

Hatfield	Matsunaga	Rudman
Hawkins	Mattingly	Sarbanes
Hayakawa	Melcher	Sasser
Heinz	Metzenbaum	Schmitt
Hollings	Mitchell	Simpson
Huddleston	Moynihan	Specter
Inouye	Murkowski	Stafford
Jackson	Nunn	Stennis
Johnston	Packwood	Stevens
Kassebaum	Pell	Thurmond
Kasten	Percy	Tower
Kennedy	Proxmire	Tsongas
Laxalt	Pryor	Wallop
Leahy	Quayle	Warner
Levin	Randolph	Weicker
Lugar	Riegle	
Mathias	Roth	

NOT VOTING—1

Pressler

So Mr. HELMS' amendment No. 1987 was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

UP AMENDMENT NO. 1226

(Purpose: Revising legalization program and to provide State block grants for legalization impact assistance)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY), for himself, Mr. THURMOND, Mr. LAXALT, Mr. DENTON, and Mr. GORTON, proposes an unprinted amendment numbered 1226.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 154, line 21, and page 162, in the matter following line 8, strike out "1982" and insert in lieu thereof "1980".

Page 155, line 4, and page 156, line 10, strike out "one-year" and insert in lieu thereof "eighteen month".

Page 155, amend lines 6 through 13 to read as follows:

"(2)(A) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1977, and has resided continuously in the United States in an unlawful status since January 1, 1977, or

"(B) the alien entered the United States as a nonimmigrant before January 1, 1977, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1977, through a passage of time or the alien's unlawful status was known to the Government as of January 1, 1977, and the alien has resided continuously in the United States in an unlawful status since January 1, 1977, and

Page 156, amend lines 12 through 19 to read as follows:

"(B)(i)(I) the alien (other than an alien who entered as a nonimmigrant) establishes that he entered the United States prior to January 1, 1980, and has resided continuous-

ly in the United States in an unlawful status since January 1, 1980; or

"(II) the alien entered the United States as a nonimmigrant before January 1, 1980, the alien's period of authorized stay as a nonimmigrant expired before January 1, 1980, through the passage of time or the alien's unlawful status was known to the Government as of January 1, 1980, and the alien has resided continuously in the United States in an unlawful status since January 1, 1980; and

Page 157, amend lines 1 through 4 to read as follows:

"(ii) the alien is—

"(I) a national of Cuba who arrived in the United States and presented himself for inspection after April 20, 1980, and before January 1, 1981, and who is still physically present in the United States;

"(II) a national of Haiti who on December 31, 1980, was the subject of exclusion or deportation proceedings under section 236 or section 242 of the Immigration and Nationality Act, including a national of Haiti who on that date was under an order of exclusion and deportation or under an order of deportation which had not yet been executed;

"(III) a national of Haiti who was paroled into the United States under section 212(d)(5) of such Act or was granted voluntary departure before December 31, 1980, and was physically present in the United States on that date; or

"(IV) a national of Cuba or Haiti who on December 31, 1980, had an application for asylum pending with the Immigration and Naturalization Service;

Page 157, line 24, strike out the semicolon and insert in lieu thereof ", and".

Page 158, line 4, strike out the semicolon and insert in lieu thereof a period.

Page 158, strike out line 5 and all that follows through page 159, line 12.

Page 159, line 20, strike out "twenty-fifth" and insert in lieu thereof "thirty * * *

Page 160, line 21, strike out "thirty-first" and insert in lieu thereof "forty-second".

Page 161, after line 24, insert the following new subsection:

"(d)(1) During the period an alien is in lawful temporary resident status granted under subsection (b)(1) and during the three-year period beginning on the date an alien is granted lawful permanent resident status under subsection (a) or (b)(3), and notwithstanding any other provision of law—

"(A) except as provided in paragraph (2), the alien is not eligible for—

"(i) any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need, as such programs are identified by the Attorney General in consultation with other appropriate heads of the various departments and agencies of Government,

"(ii) medical assistance under a State plan approved under title XIX of the Social Security Act, and

"(iii) assistance under the Food Stamp Act of 1977, and "(B) a State or political subdivision therein may provide that the alien is not eligible for the programs of financial or medical assistance furnished under the law of that State or political subdivision.

"(2)(A) Paragraph (1) shall not apply to an alien described in subsection (b)(1)(B) to (ii) (relating to certain Cuban and Haitian entrants).

"(B) For the purpose of section 501 of the Refugee Education Assistance Act of 1980

(Public Law 96-122), assistance shall be continued under such section with respect to an alien without regard to the alien's adjustment of status under this section.

Page 162, line 1, strike out "(d)" and insert in lieu thereof "(e)".

Page 162, line 9, strike out "(c)" and insert in lieu thereof "(c)(1)".

Page 162, after line 10, insert the following new paragraph:

(2) The repeal made by paragraph (1) shall not apply to a native or citizen of Cuba who has been inspected and admitted or paroled into the United States before April 21, 1980.

Page 162, after line 10, insert the following new section (and insert a corresponding item in the table of contents):

STATE LEGALIZATION IMPACT-ASSISTANCE BLOCK GRANTS

Sec. 302. (a) There are authorized to be appropriated for grants (and related Federal administrative cost) to carry out this section such sums as may be necessary for fiscal year 1983 and for each of the five succeeding fiscal years.

(b)(1) From the sums appropriated under subsection (a) for a fiscal year (less the amount reserved for Federal administrative costs), the Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") shall allot to each State (as defined in subsection (g)(1)) meeting the requirements of subsection (b) an amount determined in accordance with a formula, established by the Secretary, which takes into account—

(A)(i) the number of eligible legalized aliens (as defined in subsection (g)(2)) residing in the State in that fiscal year and

(ii) the ratio of the number of eligible legalized aliens in the State to the total number of residents of that State and to the total number of such aliens in all the States in that fiscal year and

(iii) the amount of net expenditures the State is likely to incur in providing assistance for eligible legalized aliens under programs of public assistance (as defined in subsection (g)(3)), and

(B) such other factors as the Secretary deems appropriate to provide for an equitable distribution of such sums.

(2) For each fiscal year the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under paragraph (1). Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(c) A State may use amounts paid to it under subsection (b)(2) for the purpose of providing assistance with respect to eligible legalized aliens under programs of public assistance, but only to the extent such assistance is otherwise available under such programs to citizens residing in the State.

(d) In order to receive an allotment for a fiscal year under subsection (b), a State must prepare and transmit to the Secretary—

(1) a report describing the intended use of payments the State is to receive under this section for the fiscal year, including (A) a description of those programs of public assistance and localities of the State identified by the State as needing assistance from grants under this section, and (B) criteria for and administrative methods of disbursing funds received under this section, and

(2) a statement of assurances that certifies that (A) funds allotted to the State under

this section will only be used to carry out the purposes described in subsection (c), (B) the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this section among the programs and localities identified under paragraph (1)(A), and (C) fiscal control and fund accounting procedures will be established that are adequate to meet the requirements incorporated by subsection (e).

The State shall promptly revise the report referred to in paragraph (1) to reflect substantial changes in its intended use of the funds allotted to the State under this section. Such report (for fiscal years after fiscal year 1983), and any revisions proposed thereto, shall be made public within the State in such manner as to facilitate review of and comments from interested persons and local governments on the intended use and distribution of funds for the fiscal year.

(e) The provisions of sections 506, 507 (other than subsection (b) thereof), 508 of the Social Security Act (relating to reports and audits, criminal penalties, and nondiscrimination, respectively, under the maternal and child health service block grant) shall apply to activities, funds made available, and allotments under this section in the same manner as those provisions apply to activities, funds made available, and allotments under title V of such Act; and for this purpose—

(1) any reference to that title in any of those sections shall be deemed a reference to this section, and

(2) a reference to section 502(a) or 502(b) or to section 505 in any of those sections shall be deemed to be a reference to subsection (b) or to subsection (d), respectively, of this section.

(f) In establishing regulations and guidelines to carry out this section, the Secretary shall consult with representatives of State and local governments.

(g) For purposes of this section:

(1) The term "State" has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(2) The term "eligible legalized alien" means—

(A) an alien who has been granted permanent resident status under section 245A(a) of the Immigration and Nationality Act, but only until the end of the three-year period beginning on the date the alien was granted such status; and

(B) an alien who has been granted temporary resident status under section 245A(b)(1) of such Act, but only until—

(i) such temporary resident status is terminated or

(ii) if the alien has been subsequently granted permanent resident status under section 245A(b)(2) of such Act, until the end of the three-year period beginning on the date such permanent resident status was granted,

whichever is later. (3) The term "program of public assistance" means a program which provides for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health.

Mr. GRASSLEY. Mr. President, the crisis situation of rampant illegal immigration—

The PRESIDING OFFICER. The Senator will suspend. The Senate will please be in order. The Senator deserves to be heard.

The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the crisis situation of rampant illegal immigration to the United States is obviously a complex problem which has been steadily growing more serious over the past 20 years, and especially over the past decade.

The result is that we currently have a population of 3.5 to 6 million persons or maybe more who came to this country illegally because they knew they would find work and who are now living as a furtive underclass, afraid to claim even the most basic of human rights. The existence of such a class of underground residents undermines the fabric of our democratic society, and this problem must be addressed as part of a comprehensive effort to control illegal immigration.

The most obvious answer to this problem would seem to be to simply locate and to deport these aliens who are illegally in this country. However, as the distinguished Senator of the Subcommittee on Immigration and Refugee Policy has pointed out, "If they could not be located when they were coming in, how can we find them to get them out?" Even if we were to substantially beef up our interior enforcement for the INS, which is doubtful in these times of trimming the Federal budget, it would still be practically impossible to apprehend these persons who come from many countries and are located in all States.

During the Iranian crisis, as an example, the INS was unable to apprehend even the Iranian students who had entered legally and for whom INS had records.

Furthermore, we know that many of the illegal immigrants are concentrated disproportionately in certain industries and geographical areas which have grown dependent on their labor. Even if we could locate these persons, their sudden removal could cause severe economic disruption for a temporary period of time in those industries and areas of the country that have grown dependent upon these workers.

Also, attempts at mass deportation have been undertaken in the past such as Operation Wetback in 1954, and the rights of many citizens and permanent residents of Hispanic background were violated in the course of that drive.

Finally, this Nation, I believe, is unwilling to place an army on the borders, thereby straining the cordial relations with our neighbors Canada and Mexico.

If it is true that over half of the illegal immigrants—1.5 to 3 million—are from Mexico, then a sudden deportation of such a large number to a country that already has unemployment and underemployment rates of 30 to 40 percent, a burgeoning population, and a severe economic difficulty would

almost certainly jeopardize the stability of that country and possibly our own strategic interests. A stable country to the south is clearly in our national interest.

The only realistic remedy—and I say this after considerable thought—to deal with the current population of undocumented immigrants in the United States is to legitimize their status in a way which will insure that these people continue to work and will become productive and participating members of their communities.

I have worked very closely with Senator SIMPSON and with the Reagan administration on this problem. Clearly, a legalization program is needed, but the Reagan administration has indicated that the legalization provisions reported by the full Judiciary Committee in S. 2222 are likely to produce a heavy expense to the Federal Government, as these people would be able to adjust status after only 2 years to permanent residence and thereupon become eligible for the full range of public assistance benefits available to our citizens.

We hope these persons will continue to work, and we believe they will. Nevertheless, as we saw with the refugee program, access to cash assistance programs can create high rates of public dependency among groups that formerly were hard working in their homeland.

Therefore, I have worked closely with Senator SIMPSON and the administration in developing a compromise legalization program which will insure legal status for the vast majority of illegal immigrants, while limiting the eligibility to financial assistance programs for a period of time.

Because these persons may be eligible for medical or financial assistance programs available to citizens by the individual States, we have also added a provision for a block grant program to the impacted States in meeting excess costs attributable to this population.

Essentially, this amendment will grant permanent resident status to illegal immigrants who entered before January 1, 1977, and have resided here continuously; and it will grant temporary status to those who entered prior to January 1, 1980. After 3 years of temporary residence, the latter group may adjust status to permanent residency.

The temporary residents are ineligible for all Federal assistance programs, such as AFDC, food stamps, and Medicaid. The permanent residents are ineligible for Federal programs for the first 3 years of their permanent residence.

I believe this compromise reflects a workable legalization program which is fair to those illegal immigrants who have established ties with the United States as well as with the American people.

The PRESIDING OFFICER. There is no time agreement.

Mr. SIMPSON. Mr. President, I ask unanimous consent that we have a time agreement on this amendment of 30 minutes equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, is its 30 minutes to a side or 30 minutes equally divided?

Mr. SIMPSON. Thirty minutes equally divided.

Mr. DOMENICI. I object. I have a few questions, and I do not want to have to ask unanimous consent. If Senators want to have a time agreement, I would not need more than 5 minutes for my questions. If 5 minutes are added to the request, I will have no objection.

Mr. SIMPSON. Mr. President, 35 minutes equally divided, with 5 minutes for Senator DOMENICI.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the Senator.

Mr. SIMPSON. Mr. President, I think Senator GRASSLEY has come to a very reasonable compromise in connection with the legalization proposals, which I can certainly support. I do so and I think the cosponsors of the bill do so because it does not decrease the number of aliens eligible for legalization under the original bill.

It will not result in legalized aliens being held in any kind of temporary status for an unreasonable or unconscionable length of time. It does address the legitimate concerns about the possible cost of legalization in a way which does not place a large fiscal burden upon the Federal Government.

I thank Senator GRASSLEY. He has worked absolutely diligently in this area. He had a serious concern about it and as a result of that serious concern developed his compromise. He has done so with great skill.

We do restrict benefits under this amendment for persons legalized. That is in accord with U.S. policy for the past 100 years. We have always been concerned that legal immigrants not receive Federal payments.

The first immigration statute of 1882 prohibited entry of paupers and persons likely to become a public charge. Similar restrictions have been included in every immigration statute since that time. An immigrant who is likely to become a public charge is excludable initially, and an immigrant who becomes a public charge after admission is subject to deportation.

So, because of the adjustment of benefits contained in this amendment, OMB has indicated to us, through the Attorney General's office, that funds are available—this is a critical issue—for a block grant to the States to offset any emergency or other bene-

fits. It reduces the cost to State and local governments that they may have to provide in the future for legalized aliens.

As I say, the administration has embraced the concept of the block grant to the States.

Many groups, such as the National Association of Counties, the National Municipal League, and the National Governors Conference strongly support Senator GRASSLEY's amendment because it recognizes that this is a Federal responsibility, and it provides the State and local governments with the needed financial safeguards against these added financial burdens. I am pleased to announce that those groups have indicated that with this amendment, they are fully supportive of the legislation.

Mr. KENNEDY. Mr. President, if I may have the attention of the Senator from Iowa, one of the adjustments we made in the committee was to move the cutoff date from 1980 to 1982 so that we would deal fully with the problem we are faced with today. When we start moving back from 1982 to 1980, we are leaving in limbo a large number of undocumented aliens who are here today.

I do not think an argument can be made with regard to any prospective date, because that would serve, perhaps, as an inducement for individuals to come in order to be included. But those who were here in 1982, prior to the time this issue was addressed, if we are serious about dealing with the problem, they should be included, too.

What will be the status of those people between 1980 and 1982? It seems to me that they will be left in limbo.

Mr. GRASSLEY. To be perfectly candid, they are subject to deportation if they are illegally in this country.

Mr. KENNEDY. Why does the Senator take 1980, then? If you came here on January 1, 1981, you would be deported, and if you got here on Christmas Eve in 1979, you would be able to stay.

Mr. GRASSLEY. Any date we take in legislation is arbitrary. But let me say this: The word was out in the report of the Commission in 1980 that there may be legalization and there was probably an anticipation of legislation, and there were maybe 1 million people covered by the date since 1980 who came into this country in anticipation of legalization. That is one of the reasons. We are talking about numbers and costs associated with those numbers. Should we legalize people who purposefully came into the country in anticipation of legalization?

Second, I think it is legitimate that these people have some connection with the community, be part of the community, and I think those residing here prior to 1980 have established

some equity. They are a part of the community. Frankly, I am not prepared to extend the program to what may be a million people who have come to the country since that date and who in that short period of time, in my judgment, have not established that equity. I have tried to say to my friends particularly on this side of the aisle, who are opposed to any legalization, Listen, a lot of these people are part of the community; they have established equity.

It is a matter of justice. There is precedent in previous legislation, other times that immigration legislation has passed in which we have legalized people.

Those are the answers I feel confident in giving to the Senator and I am not expecting him necessarily to agree with them because I know the Senator feels strongly.

Mr. KENNEDY. I respect the views of the Senator from Iowa. It just seems to me that the reasons that were given by the Senator from Wyoming earlier about trying to put this issue behind us, first by the legalization program and second by the other provisions on enforcement, which I will have more to say about later, have a sense of logic to them. But what we will be doing if we accept the Grassley amendment—and I am not under any illusion that we will not because it has the support of the chairman of the subcommittee—but we will be saying that there still will be this subclass of individuals who will be subject to exploitation, as well as their children.

But let me ask the Senator this question: I take some issue about the fact that these individuals who come here are overutilizing the welfare system. For the most part, I think if one examines the facts, and I know the Senator has, those who are coming here are generally the more ambitious. They want to work. They are willing to work under extremely difficult circumstances. They are not individuals who exploit the system, as was stated by the Senator from Wyoming, perhaps with the exception of when they are giving birth to individuals here that changes their status. Generally they are not exploiting the system. I am most interested in regularizing their presence here and I am wondering if the Senator—and, as I indicated earlier to the Senator from Florida, I have supported in the past and will support in the future separate provisions to try and help communities that are particularly burdened—would he be willing to defer the benefits but at least permit the adjustment of the status? It puts them on the road to citizenship. It will, I think, go a long way from the continued exploitation of those individuals, but we would defer granting to them the kinds of inclusion in the welfare programs which the Senator is very much concerned

about in terms of the financial burdens to local communities and to the States and even to the Federal Government.

I have not had a chance to talk with the various interest groups, but it does seem to me if that is acceptable to the Senator we could work out the language and that would remove the financial burden yet permit the legalization of these individuals in the society and would, I think, go a long way toward avoiding the exploitation we have seen, and nonetheless meet the concerns of the Senator from Iowa—which I quite frankly do not believe are quite as significant as he does but albeit this would at least avoid that problem.

Mr. GRASSLEY. Let me say to the Senator from Massachusetts, and I might invite the attention of the Senator from Wyoming, because I worked very closely with him on this compromise, that those of us who worked on it were a long time coming to a compromise. Obviously, I think any time during the legislative process we should consider all alternatives. But I think that we have worked on this especially as far as cost was concerned and I know that the Senator's proposal does not affect the cost. I am satisfied particularly from the standpoint that we feel that this port of legalization should be available to those who have been in the community a certain period of time and we have chosen that to be January 1980, that being an important element of this compromise. The Senator's proposal does not answer that particular aspect of our compromise, regardless of costs, as I know his is not going to be any more costly than our proposal.

Mr. KENNEDY. We say that within that period from 1978 to 1982 they have to be in place, so to speak, for 2 years before they could adjust to the permanent residency, and then it takes 5 years to move toward citizenship. So they would have to have that 2 years, in any event. Then we would permit permanent residency. We would defer their opportunity or their ability to take advantage of the various benefit systems. So the cost would not be any different.

What I inquire of the Senator, if he is not concerned about the cost, is that we accept the concept in terms of limiting the cost, but we leave in place the legislation date of 1982.

This would seem to me to deal with the cost problems, yet make the legislation program as inclusive as possible to put this subclass, so to speak, on some road to legitimacy if they can meet these requirements.

Mr. GRASSLEY. Will the Senator yield?

Mr. KENNEDY. Do we have a little time? I think we are getting close.

Mr. GRASSLEY. I will take some of the time.

Mr. KENNEDY. All right.

Mr. GRASSLEY. Does the Senator's proposal also allow those people, who he would legalize in this country beyond the period of time that I do, to petition for relatives? And if so he is increasing further the backlog.

Mr. KENNEDY. It would not permit it for those between 1978 and 1982. Once they qualify as permanent resident aliens, they would then be entitled to petition and move toward citizenship.

I think what we are trying to do, if we are not going to deport all these individuals, is to try to legalize them, and take them out of a subclass of exploitation. But it would not alter or change their position in terms of application for the reunification of family until they qualify.

Mr. GRASSLEY. The Senator from Wyoming wanted to comment.

Mr. SIMPSON. How much time does the Senator have on the amendment?

The PRESIDING OFFICER. Six minutes 57 seconds.

Mr. SIMPSON. I will take 2 minutes, if I may.

Mr. GRASSLEY. I yield 2 minutes.

Mr. SIMPSON. Mr. President, we have covered the issue of why we have provided this legalization because they have attained "equities." They have contributed to their community, worked in their community, put roots down—participated. These are aliens that other people ask us to cover with private bills. Usually they are young, single males without families. They are working here. They came here to work. That was their sole reason for coming to the United States.

When they are involved in the cutoff date, after the date that Senator GRASSLEY is proposing, they are likely to run home if they are unable to work in the United States after the implementation of employer sanctions.

But I would say that each year we extend the date we include about 500,000 additional human beings, and when we do that then the local governments have serious reservations and complaints.

Let me say this. Of all the immigration laws I have studied and which have been on our books through our history, this is the most generous legalization date we have ever had.

In fact, the old method was to have a registry date, which was sometimes 15 years back. This is the most generous date which has ever been proposed in any statute of our country. I thank the Senator and I thank the Chair.

Mr. GRASSLEY. Mr. President, I yield 1½ minutes to the Senator from Alabama.

Mr. DENTON. Mr. President, I thank my colleague from Iowa.

I want to voice my support for his legalization amendment, and express my admiration for the chairman of the

subcommittee who has worked so long and so hard to make this a fair bill.

I consider the limited legalization program he proposes to be fair and a reasonable attempt to reduce substantially the ever-increasing number of illegal aliens.

I am convinced that the overwhelming majority of this Nation's citizens are unwilling to accept a near blanket amnesty for those who entered the United States in blatant disregard of our immigration laws. It would be patently unfair to the taxpayers of this country to enact a legalization program which is estimated to cost for fiscal years 1983 to 1990 \$26 billion in Federal, State, and local tax dollars, a program which would also be unfair to the thousands of foreign nationals, perhaps more certainly potential hard workers, who have waited patiently through the present backlog of visa applications in order to enter this country through legal procedures.

The Grassley amendment is stringent enough to avoid rewarding law-breakers and to discourage further illegal immigration. The amendment is expected to cut nearly \$21 billion in the anticipated costs that I mentioned previously, an 80-percent savings. I urge my distinguished colleagues to accept this compromise position.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Well, Senator, I inquired earlier, I gathered from that that the adjustment was not acceptable; am I correct?

Mr. GRASSLEY. Yes, Senator.

Mr. KENNEDY. Mr. President, I regret that because I do think, as the Senator from Wyoming has stated again, the individuals who are coming here are single, interested in jobs and in work. I do not think the case has been made about the heavy drain upon the various benefits programs. I have not seen the evidence.

I, for one, was quite prepared to see, since that was the case, that we exclude them from participating in certain benefit programs, but at least not deny them the opportunity for inclusion in the legalization program.

If we accept the Grassley amendment, we should not fool ourselves by not recognizing that we are still going to have a very substantial group of undocumented aliens in this Nation who are going to be subject to continued exploitation, with all of the implications that have been pointed out in the previous discussion and debate. So I hope the amendment will be defeated.

Mr. GRASSLEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes, 55 seconds.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to modify my amendment, striking the words "a program" in section 302(g)(3) on line 17 at

page 10 of the unprinted amendment, and insert in lieu thereof "State or local programs."

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. Will the Senator please send the modification to the desk?

The modification is as follows:

(3) The term "program of public assistance" means state or local programs which provides for cash, medical, or other assistance (as defined by the Secretary) designed to meet the basic subsistence or health needs of individuals or required in the interest of public health.

Mr. GRASSLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield 2 minutes to the senior Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in support of the Grassley amendment. This amendment strikes a good compromise, in my opinion, on this subject of legalization. First, it moves the date for permanent residency from January 1, 1978 to January 1, 1977.

Next, it moves the temporary residency date from January 1, 1982 to January 1, 1983.

Next, it provides for a block grant program to fund it.

Next, it prohibits permanent residents from getting welfare benefits for a period of 3 years after the enactment of S. 2222.

Mr. President, I commend the able Senator from Iowa for his willingness and effectiveness in putting this compromise together. It addresses the concerns of many Senators, including myself, the administration and those groups who have expressed concern about an amnesty for illegal aliens in this country.

I feel this is a good amendment, and I hope the Senate will approve it.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not know that I even need my 5 minutes, but I remember now when I was talking a few minutes ago I mistakenly, Senator GRASSLEY, in referring to your amendment, referred to the Senator from Idaho, and I know the Senator is not from Idaho and I regret having said that.

I ask unanimous consent that the Record be corrected, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Let me ask the distinguished sponsor of the amendment a question. Do I understand correctly that if the Senator's amendment passes, as far as social benefits available to the aliens legalized by this amnesty, that none could accrue and occur before the year 1986? Just arithmetically, is that not correct?

Mr. GRASSLEY. The Senator is correct.

Mr. DOMENICI. Does the Senator have an estimate of what that cost in 1986 to the Federal Government and to the local governments would be? I have a dollar number here. There are so many different estimates. CBO, OMB, and the Justice Department all have figures.

Mr. GRASSLEY. To the Senator from New Mexico, the only answer I can give him with any certainty, is that it is strictly dependent upon the number of people who come forth for identification and legalization.

Mr. DOMENICI. Of course, I understand that, and I say this respectfully, but that is the case in all these estimates. Yet we have had estimates for what the base bill would cost, and they are figuring some estimate of how many people will come forth and how many will be eligible for benefits. But if we use the same base, do we know what the cost might be?

Mr. GRASSLEY. It would be expected by the time those legalized become eligible to be the same as for U.S. citizens.

Mr. DOMENICI. We have a dollar number that I would use just for purposes of discussing it. We think about \$232 million in 1986 for the Federal share and about \$135 million for State and local share under the Grassley amendment.

Mr. GRASSLEY. We have some projections that include the figures that the Senator gave for the year that he suggested but we also have them extended out for 7 years—1983 to 1990—of course, there is no cost in the first 3 years. The final cost is estimated to be \$5.5 billion.

Mr. DOMENICI. For the entire period you just discussed?

Mr. GRASSLEY. Yes. But the figures the Senator gave for the year he suggested are similar to what we have.

Mr. DOMENICI. I thank the Senator.

Mr. GRASSLEY. Let me clarify that by saying that is a combination of Federal and State costs.

Mr. DOMENICI. The \$5.5 billion, I was going to say, must be Federal and State.

Mr. GRASSLEY. Yes.

Mr. DOMENICI. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 2 minutes and 17 seconds remaining.

Mr. GRASSLEY. The Senator from New Mexico understands that we have proposed as part of my amendment a block grant to States that are impacted to the greatest extent by the legalization provision.

Mr. DOMENICI. I understand that. And I thank the Senator.

Mr. President, I think we have before us one of the most difficult situations that Congress is ever going to face. And I am sure that after months of work and a lengthy set of committee hearings that we have a good bill before us. I personally think that the proposal that the distinguished Senator from Iowa offered makes it somewhat better.

But I really do not think we ought to be excited about the future because it is not going to work out as it is predicted here. Those who are saying that even with the employer sanctions that are going to be made into law and with the other disincentives that are allegedly here, I think it is safe—I will not be around probably—to predict that you are going to have hundreds and hundreds of thousands of illegal aliens in the country even after this becomes law, and I mean in the sense that they will be brandnew illegal aliens.

I think the issue is economic. As long as we have poverty in high proportions in the world and on our borders, man's ingenuity, pushed by the drive to survive, is going to bring hundreds of thousands here and they are going to be here. That does not mean the bill is not good. It is. That does not mean this amendment is not good. It is.

But I think to talk about this as if we are going to forever be rid of the problem that illegal aliens bring to our country and the problem that we bring to illegal aliens in our country is to delude ourselves.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. I ask unanimous consent for 1 additional minute, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I think we are just kidding ourselves. So I think that any notion that we ought to be yet more generous here that is premised upon the fact that we are not going to have the problems any more, so we ought to really solve them all by moving the date back to 1980 or move it up to 1982 for those who are here, I think that is premised on a proposition that is absolutely not going to happen.

It does not mean we ought not try this. We ought to. But I just think, unless and until we face up to the fact that there are millions of Mexican-Americans who are going to come here to seek work—and they are going to come here; there may not be quite as many, they are going to come regard-

less of this bill, they are going to come regardless of the employee sanctions—they are going to be another group with all the problems that have been discussed here on the floor.

So I think we ought to make it a privilege to become legal in this country. And the value of the privilege has always been based upon how much time a person has to spend to earn that privilege. So I think the longer we can insist that they are here, the more we preserve the privilege of being a citizen of the United States.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY addressed the Chair. The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Just on this issue of the cost to the Federal Government of the legalization program, I think it is important to put in the RECORD the CBO estimates of what the cost would be. They recognize the estimate is very uncertain. But their estimate of the costs in 1983 is only \$50 million. The GAO, on the other hand, have estimated that the undocumented aliens paid in 1976 in local, State, and Federal taxes, something between \$3.5 billion and \$5 billion in 1976 dollars. Billions of dollars going in, and here we are with an amendment trying to suggest—with no real documentation—there are these tremendous costs in benefits.

The fact of the matter is that I am sufficiently convinced that these needs and costs are so exaggerated, that I would be willing to see that they would not be eligible for these benefits.

I have no illusion about what the outcome of this vote is going to be. But I welcome the opportunity to vote against it, and I hope that my colleagues will do so as well. I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Have both Senators yielded back their time?

Mr. GRASSLEY. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator From Iowa (Mr. GRASSLEY). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. MATTINGLY). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 84, nays 16, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—84

Abdnor	Bentsen	Brady
Andrews	Biden	Bumpers
Armstrong	Boren	Burdick
Baker	Boschwitz	Byrd
Baucus	Bradley	Harry F., Jr.

Byrd, Robert C.	Heinz	Pell
Cannon	Helms	Percy
Chiles	Hollings	Pressler
Cochran	Huddleston	Proxmire
Cohen	Humphrey	Pryor
D'Amato	Jackson	Quayle
Danforth	Jepson	Randolph
Denton	Johnston	Riegle
Dole	Kassebaum	Roth
Domenici	Kasten	Rudman
Durenberger	Laxalt	Sasser
Eagleton	Leahy	Schmitt
East	Long	Simpson
Exon	Lugar	Stafford
Garn	Mathias	Stennis
Glenn	Matsunaga	Stevens
Goldwater	Mattingly	Symms
Gorton	McClure	Thurmond
Grassley	Melcher	Tower
Hatch	Mitchell	Wallace
Hatfield	Murkowski	Warner
Hawkins	Nickles	Weicker
Hayakawa	Nunn	
Heflin	Packwood	

NAYS—16

Chafee	Hart	Sarbanes
Cranston	Inouye	Specter
DeConcini	Kennedy	Tsongas
Dixon	Levin	Zorinsky
Dodd	Metzenbaum	
Ford	Moynihan	

So Mr. GRASSLEY's amendment (UP No. 1226) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. I send an amendment to the desk and ask for its immediate consideration.

Mr. SIMPSON. Mr. President, may I ask the Senator from Colorado if he would defer. I told the majority leader and the minority leader that the next amendment would be the amendment of Senator HUDDLESTON, and then immediately after that the body would turn to the war risk conference report. Will the Senator from Colorado defer that amendment until tomorrow? We will be involved in session between the hours of 10 and approximately 2 or 2:30 to conclude amendments on this legislation. Will the Senator from Colorado agree to that?

Mr. ARMSTRONG. Mr. President, I sort of like the Baskin-Robbins system of offering amendments where everybody takes a number and we do them in sequence. I am willing to do that, but if we are going to do that and if I am going to defer to the Huddleston amendment, I would just like to know what my number is. I do not have to offer it now, but either we have an ordering for amendments or we do not.

Mr. SIMPSON. I think that my fellow floor manager and I would indicate you might lay that amendment down tonight at the conclusion of the war risk conference because—

Mr. ARMSTRONG. Mr. President, that would suit me to a "T" although I

must say that if it is laid down, it will be finished so quickly that it will scarcely merit any discussion, so I will be glad to lay it down and then continue it over to tomorrow or handle it tonight, as the managers think best, and I withdraw the amendment.

Mr. SIMPSON. Mr. President, that is why we will lay it down.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that there be 1 hour of debate equally divided on the amendment of the Senator from Kentucky.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1227

(Purpose: To include refugees and asylees within the numerical limitations for family reunification immigrants and independent immigrants)

Mr. HUDDLESTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. BOSCHWITZ. May we have order, Mr. President.

The PRESIDING OFFICER. There will be order in the Chamber.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky (Mr. HUDDLESTON), for himself, Mr. COCHRAN, Mr. CHILES, Mr. GRASSLEY, Mr. RANDOLPH, Mr. PRESSLER, Mr. JOHNSTON, Mr. RUDMAN, Mr. FORD, and Mr. KASTEN, proposes an unprinted amendment numbered 1227.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 122, line 11, strike out "and".

On page 122, line 13, insert after "section 214(d)," the following: "and (v) 82 percent of the number of aliens admitted under section 207 or granted asylum under section 208 during the previous fiscal year,".

On page 123, line 1, insert "the sum of (1)" after "(B)".

On page 123, line 6, insert after "residence," the following: "and (ii) 18 percent of the number of aliens admitted under section 207 or granted asylum under section 208 during the previous fiscal year,".

Mr. HUDDLESTON. Mr. President, I advise the Members of the body that the cosponsors—

The PRESIDING OFFICER. Will the Senator refrain for just one moment?

Will the other Senators who desire to talk please leave the Chamber so we can give respect to the Senator from Kentucky so he can present his amendment?

The Senator from Kentucky.

Mr. HUDDLESTON. Mr. President, the cosponsors of this amendment are

Senators COCHRAN, CHILES, GRASSLEY, RANDOLPH, PRESSLER, JOHNSTON, RUDMAN, FORD, and KASTEN.

May I state very succinctly what the amendment does. It is a very short amendment. It merely places within the cap that is established in the legislation that is now pending, 425,000 immigrants per year, all immigrants that come into the country under the designation of refugees.

Mr. President, the Washington Post a few weeks ago editorialized, and I would like to quote from that editorial:

The burning desire of so many refugees and immigrants to come to this country is a tribute. They come not simply because we are prosperous but because also we are free. The sad fact is that we are no longer able to follow our humanitarian instincts and accept as we did for so many years anyone who wants to come. Because of economic conditions and the need to maintain social and political stability, we must regulate the flow and make hard choices about who will be admitted.

Just a couple of days ago that same newspaper editorialized in opposition to the amendment that we are presenting at this time.

Mr. President, I submit that the duplicity of the Washington Post on this issue on this question is characteristic of the attitude of many people who are genuinely concerned about the question of immigration, the question of refugees, the question of just what precisely the role of the United States should be.

What my amendment does is require that we address this issue face on, that we make some of those hard choices that were referred to in the first editorial that I quoted from.

Now, S. 2222 that is before us makes in my judgment some very significant improvements in the immigration and refugee policy of this country, but it does have a glaring flaw, a weakness, which is the failure to establish a comprehensive, all-inclusive immigration ceiling for the United States. What I mean, very simply, is that refugees must also be recognized as the immigrants that they are and that their numbers, with some flexibility, must come within the ceiling.

By failing to establish an all-inclusive ceiling, we are admitting that a substantial portion of our refugee policy will not be based on a rational and logical determination of what is in the best interest of our Nation. Instead, we will continue to permit special interest groups, outside pressures, the political process itself, to dictate our immigration policy.

The Refugee Act of 1980, which S. 2222 would continue to set refugee limits, has failed to keep refugee admissions under control.

Instead, it has created a vague open-ended admission process that has never come close to keeping refugee flows anywhere near the 50,000 per

year normal flow specified in that statute.

In reality, the 50,000 has now become a floor instead of an average and the admission levels will move upward from that floor, resulting in a significantly higher average over the coming years.

This is not just idle speculation. In the 3 years the Refugee Act has been in effect—assuming this year's admission level will be 140,000 as set by the admission—we have a yearly average of 177,000. In other words, we are running at over 300 percent of the so-called normal flow.

In fiscal year 1980, legal admissions of immigrants, including the massive influx from Cuba, was 808,000 persons. It is significant, Mr. President, I think, to reflect that if S. 2222 were in effect at that time, if this legislation applied in 1980, the legal admission level would still have been about 800,000 people. That is why we must have a ceiling and one written into this law through the amendment that I am offering.

The consultation process is not adequate for assuring congressional control over refugee admission policies. The most recent consultation process produced a situation whereby the administration dictated an admission level of 140,000 for fiscal year 1982, and that was done in the face of substantial opposition from the Congress.

I know that Chairman SIMPSON on this side and Congressman MAZZOLI on the other side have taken the position that the consultation process will be more strictly utilized to bring refugee admissions more under control. I personally believe that both of them will make every effort to fulfill that commitment. However, there are other serious considerations. First of all, the consultation process has no teeth. Judiciary Committees can do little more than was done last time, which is simply to recommend a different figure, a lower figure in this case, which was promptly ignored by the administration.

Mr. President, it is the responsibility of Congress and should be the responsibility of Congress to set the figures and the limits of our immigration and refugee policies. We have abdicated this authority and that responsibility and it has been assumed by the executive branch.

The current ambiguous and open-ended refugee law created the circumstances which permitted the U.S. Department of State to undertake a policy of recruiting large numbers of economic migrants in Indochina by bullying the Attorney General into making an unsubstantiated ruling which presumed that all migrants leaving Laos, Cambodia, and Vietnam were refugees.

This was done even though it was well known that many were economic migrants and therefore not entitled to the same benefits we have reserved for legal refugees.

While Indochinese economic migrants were being welcomed with open arms—indeed, there is much evidence that they were being actively encouraged to come—the Haitian economic migrants were being detained in camps awaiting deportation.

Where, I ask, is the fairness in this?

The Refugee Act of 1980 was designed to assure that all refugees were treated alike. Obviously, it has failed to accomplish that.

Mr. President, I think it is worth pointing out here what refugee status means. When a person is declared to be a refugee for purpose of admission to the United States, he immediately becomes a special, privileged person so far as the United States is concerned. He has available to him assistance programs and benefits with a criterion that is not the same as we apply to our own citizens. It is more generous. He has assistance given to him by the various voluntary agencies and others that is not available to our citizens.

I just say this to point out that with these situations existing, we should take some care. We should follow the law that has been written, which describes what a refugee is, before embarking upon massive programs of resettlement.

Our present open-ended refugee law has contributed substantially to a refugee assistance bill that costs U.S. taxpayers over \$2 billion each year. However, at a time when severe national economic problems are forcing the Congress to make draconian cuts in vital domestic assistance programs we do not see the same kinds of cuts in the refugee programs. Instead, we simply use a little sleight of hand to make it appear that the cuts are larger than they actually are.

The technique used here is to shift more of the assistance burden to the State and local governments.

The present ad hoc refugee policy which ignores the intent of Congress is merely a continuation of past policies which have done the same.

Mr. President, in my judgment, the only way to get a handle on the total immigration into this country is to establish a reasonable ceiling, one that can be abided by, one that is flexible enough to meet emergency situations that may arise; and the amendment I have offered on behalf of myself and the cosponsors has that flexibility. If a situation arises someplace in the world and the United States feels that we should extend open arms to meet a particular crisis, we can do that. We can bring in any number that might be required.

We simply then have the floating concept that is built into the bill. Of

course, there is nothing sacred about the 425,000 number. It is very generous. It still leaves the United States more generous than any other country in the world. Actually, from the terms of offering permanent resettlement to foreign persons, it is more generous than the rest of the world combined. But it can be changed, if necessary, if conditions exist. Congress can change the figure, but it should be Congress and not the executive branch that pulls a figure out of the air and determines how many new people will be brought into the country.

I believe this amendment strikes the necessary balance we need in dealing with this very serious problem.

I need not recite again the statistics gathered by the recent polls that indicate what the general public feels about this problem. They are beginning to see the difficulties with which we are confronted. I think the average American citizen basically maintains his outer generosity. He or she wants the United States to be the beacon of hope, the haven for those who are disadvantaged around the world. But because of the uncontrolled nature of our immigration and refugee policy in recent years and because of the difficult times we are experiencing now, the vast majority of the American people want substantial reductions in the immigration and refugee flow to this country. I think we can do that in a humane way, in a proper way.

As I have said, nearly everybody says that we cannot take them all. Somebody needs to say, "OK, that is true; we cannot." But let us develop a mechanism to determine whom we can take, how many we can take, and what process we go about in determining which ones we will take.

That is what this amendment does. It is a very simple amendment. I believe it will vastly improve this bill and will, for the first time, bring the immigration and refugee program of this country under control.

The flagrant misuse of refugee laws is not a new or unusual occurrence. The repeated abuse of the Attorney General's parole authority has been well documented over the years.

Attorney General Bell called this practice of ignoring the letter and intent of the statute doing an end run on the law. With this type of attitude going unchallenged by the Congress over the years, it should come as no surprise that this administration and the past administration felt very comfortable in going far beyond the bounds of the Refugee Act.

Unless Congress reasserts its power and authority in this area, future administrations will feel just as free to make their own refugee law. The political and economic pressures which have contributed to past flows of migrants will not only continue but most experts predict that they will increase.

The 1980's are expected to be the "Decade of the Refugees" due to increased tensions worldwide.

Even though the flow of migrants in Indochina may be slowing we now find ourselves faced with the same problem in an area much closer to home—the Caribbean Basin.

The Cuban mass migration in 1980 was merely a small taste of what could be yet to come. The former Secretary of State has publicly stated that we could be swamped with massive flows of refugees from that area. Unfortunately, the Secretary is a little late with his warning because we are already receiving a flood of migrants from that area.

Conservative estimates place the number of El Salvadorans in this country illegally at over 400,000. Special interest groups have already begun to demand that these illegal immigrants be given asylum.

It is also well known that Castro has identified at least 2 million of his people who might be expelled to this country when it suits his political or economic needs. What is not so well known is that this action could happen at any time. Without a very firm policy in place I do not believe we can deal effectively with this type of massive movement of people.

If the United States brings illegal immigration under control through fair and effective employer sanctions and if a ceiling is placed on legal immigration, the pressures to come into the United States under the open-ended refugee-asylum provisions will increase significantly. If we have learned anything from our past experience with immigration, it is that people will do nearly anything to immigrate to this country.

America is a Nation of immigrants and the children and grandchildren of immigrants who have come here seeking, and finding, a better life than they could have found anywhere else in the world.

We have that tradition to uphold, and we should uphold it proudly. But at the same time we have an obligation to our own citizens to restrict our immigration to numbers we can manage, both economically and socially. We must perform that obligation to the best of our abilities as well.

I believe a balance can be struck in which we can both uphold our traditions and perform our obligations to our own citizens. S. 2222 takes a giant step in that direction. I urge the Senate to take the extra step of committing to an overall ceiling on immigration, as my amendment would do.

Mr. COCHRAN. Mr. President, will the Senator yield?

Mr. HUDDLESTON. I yield to the Senator from Mississippi.

Mr. COCHRAN. I thank the Senator from Kentucky.

Mr. President, I commend the Senator for the leadership and the diligence he has shown in this area. For some time, he has been one of those in the Senate who has researched the facts and tried to focus the attention of the Senate on this very serious problem of how to control unlimited refugee immigration into the United States.

I have joined him in cosponsoring this amendment, and I urge the Senate to approve it. I am confident that without this amendment, the bill is going to fall short of its effort to establish effective controls over legal admissions into the country. This bill, as drafted, establishes only a partial limit on legal admissions. This amendment sets a comprehensive ceiling.

From what has developed over a period of years, 425,000 is a generous figure. During the period from 1921 to 1980, our average immigration level was only 274,469. As a matter of fact, I am confident that this figure is much more generous than public sentiment indicates it should be. I believe the public supports stricter controls over immigration.

Mr. President, it is obvious that unlimited numbers of people, however unfortunate their situation may be, coming into this country in large, unrestrained numbers, are necessarily forced to compete with American workers for jobs. This is causing problems in certain areas of the country already.

We have heard about events in Miami, in Denver, and along the Gulf Coast involving fishing practices which have been caused, in large part, by the unrestrained numbers of refugees who have been allowed to settle in the United States.

I think we all know that there is sentiment in this country to be a good neighbor, to be caring and concerned, and I think we are. As a nation, we do not have to prove that over and over every day. I think history bears that out and speaks much more strongly than any speech in this Chamber can to describe how humane and concerned we are as a nation. I think we will continue to be.

The adoption of this amendment would require that Congress determine how many people will be admitted into the country in any 1 year. If there is an international event that justifies, in the President's mind, the admission of more than that number, he is free to do that. But, of course, those extra numbers that are admitted have to be taken into account in future years to assure that the overall ceiling will not be surpassed.

This amendment recognizes the need for flexibility to respond to an international crisis by permitting unlimited admissions in any 1 year.

Mr. President, I must say before I sit down that I really think the Senator

from Wyoming, ALAN SIMPSON, and others who have worked with him have done a great job, not only in serving on the Commission but in working in the Judiciary Committee to report the recommendations that are contained in this bill. I intend to vote for the bill whether this amendment is agreed to or not. But I hope that it is included in the bill because it strengthens the commitment of Congress to take a more active role in establishing refugee policy.

When the Refugee Act of 1980 was adopted, a normal flow of refugees was expected to be 50,000 a year. Since then, as we have seen, the numbers have increased dramatically.

Mr. President, the amendment that the Senator from Kentucky is offering will provide needed control over the total number of those who are permitted to immigrate yet will maintain the flexibility that we must have in this area of responsibility.

Mr. JOHNSTON. Mr. President, will the Senator yield 2 minutes?

The PRESIDING OFFICER. Who yields time?

Mr. HUDDLESTON. May I ask the Chair who is controlling the time on my side?

The PRESIDING OFFICER. The Senator from Kentucky is controlling time on his side.

Mr. HUDDLESTON. Very good. Then I will yield to the Senator from Louisiana.

Mr. JOHNSTON. I want to engage the distinguished Senator from Kentucky in a colloquy and congratulate him on this amendment.

In my judgment, the immigration problem in this country is one of the most serious facing this country and will be for the rest of this century and unless we come to grips with it I think the country is in terrible shape.

I congratulate the Senator and ask him—perhaps he covered this in his opening statement, but if he did not I wish for him to explain to our colleagues in the Senate about the infrastructure which is out there which is being financed by the Government, paid by the Government in order to get refugees into this country. Is it not a fact that our Government is paying up to \$1,000 per person to get refugees?

Mr. HUDDLESTON. There is no question that a substantial industry has built up around the entire world, some if it legitimate, some of it very illegitimate, stemming principally from the generosity of the United States, the ease with which people are brought into this country and what is available to them once they get here.

The Senator from Louisiana may be referring to the voluntary agencies that exist for the purpose of assisting immigrants who come here, particularly refugees. Many of these do an outstanding job and provide a good serv-

ice. They are, in fact, of course paid a fee per refugee that they bring in. For instance, the last information I had relating to the Haitians who are being released is that the payment to the voluntary agency is \$650 for each one. They more or less commit that they will take care of the needs of that refugee, but in most cases that is not the case. The person probably will wind up on one or more of the public assistance programs.

Mr. JOHNSTON. In effect, what it amounts to is a \$650-bounty for which they do very little except get the alien here. Once they are here, then are they not those same organizations that bring lawsuits to free them from detention?

Mr. HUDDLESTON. Some of them do that. Many of them have been around the Capitol in the last few days lobbying very hard against this amendment and against some other provisions of this bill.

Mr. JOHNSTON. I do not criticize their motivation. It may be not only legitimate but wonderful. But the point is, we have an industry built up out there with jobs dependent upon the number of refugees brought into this country, financed by the Federal Government, and there is no reason to think that that industry is not going to continue to prosper and to increase the number of people it brings into this country, and to continue to operate, along with that profit motive, somewhat of a propaganda machine; is that not somewhat correct?

Mr. HUDDLESTON. I do not know that they suggest any kind of restriction on the numbers that are brought in. I think the Senator's assumption is right, that they contribute to the flow.

Mr. SARBANES. Mr. President, will the Senator yield on that point?

Mr. JOHNSTON. May I—

Mr. SARBANES. The assumption, I understood, is that they are not only concerned about the numbers, but out to make a profit. I do not think that is fair or legitimate with respect to the various church organizations and comparable groups that are involved with the question of resettling the refugees.

The Senator from Kentucky is not suggesting that in response to the Senator?

Mr. HUDDLESTON. I am not suggesting that. I do not believe the Senator from Louisiana did.

Mr. JOHNSTON. No, I am not suggesting that. I said the motivation is probably very good.

Mr. SARBANES. The Senator made reference to the profit motive. I do not understand that motivation or that reference. These are church groups.

Mr. JOHNSTON. Employment motives, shall we say? I think it is correct that there are many, many thousands of jobs of well-motivated people who

are dependent on bringing refugees into this country. Is that fair or not?

MR. HUDDLESTON. I do not know there are that many. But I certainly do not want to either question the—

MR. SARBANES. I say I do not think that is fair to the church groups that are involved.

MR. JOHNSTON. They are not all church groups.

MR. SARBANES. No, they are not all, but they are an important part of what is involved.

The PRESIDING OFFICER. Who yields time?

MR. HUDDLESTON. I have the floor.

MR. JOHNSTON. I do not mean to say all the groups are illegitimate or whatnot. But I do think there is, as I say, an industry.

That is not the principal motive for my supporting the Huddleston amendment. But can the Senator tell me how many people are poised in Central America ready to come here?

MR. HUDDLESTON. I do not think anyone can give the Senator that figure but I quoted earlier the former Secretary of State who said that if the conditions continue as they appear to be in South America, we can expect the influx will make the influx from Cuba of 130,000 look like a Sunday picnic.

We do know that Fidel Castro has the names of upward of 1 million people who signed up during the Mariel boat lift who he could at any time give reason to leave the country to come here.

So we do know that the number is substantial. The conservative estimates now are there are 400,000 El Salvadorans in this country illegally. We know there are a good many from all the other countries.

MR. JOHNSTON. What the Senator is saying is that there are out there on the starting blocks ready to come with the first excuse given or whatever with the first nose under the tent ready to come amounts that far exceed those who have already come, not just Salvadorans?

MR. HUDDLESTON. I think that is a safe assumption.

MR. JOHNSTON. But all over South America?

MR. HUDDLESTON. I think that is a safe assumption.

MR. JOHNSTON. I thank the distinguished Senator. I congratulate him on the leadership he has given.

MR. BRADLEY. Mr. President, will the Senator yield?

MR. HUDDLESTON. Let me make one statement that relates to the question the Senator from Louisiana asked first about the infrastructure out there. Many people do not realize that a great number of the Haitians who came here came here because they were recruited by entrepreneurs, very unsavory characters who promised

them safe passage, promised them entry into this country, and of course, all of the things this country has to offer. In exchange they took their savings. The standard fee was several hundred dollars to put them on a boat and set sail for our coast. That, too, is an industry that has been built up. That industry also exists in Southeast Asia. In Indochina many of those refugees get here through the same kind of system. It is not an inconsiderable industry that has been established.

I yield to the Senator.

MR. BRADLEY. Can the Senator from Kentucky confirm for me that his amendment would place refugees in the overall total of immigrants allowed into this country, 200,000, 250,000 of the total in that year. There are 100,000 refugees, and that means 325,000 minus the 75,000 exceptional ability immigrants, and that would be the total, is that correct?

MR. HUDDLESTON. That would put the refugee essentially on the same level as the immediate family.

MR. BRADLEY. And the category the Senator has referred to is refugees, is that correct?

MR. HUDDLESTON. I am sorry, I did not hear.

MR. BRADLEY. The category that the Senator's amendment refers to is refugees.

MR. HUDDLESTON. That is correct, and asylees also.

MR. BRADLEY. Does the Senator's amendment at all refer to a category called entrant?

MR. HUDDLESTON. No; so far as I know, there is no legal status of that category except that created by the statement of a former President.

MR. BRADLEY. Is it correct to state that if the Senator's amendment had been law in 1980, it would not have prevented any of the Cuban-Haitian immigration because they were not categorized as refugees but as entrants; is that correct?

MR. HUDDLESTON. I am not sure because their status has not been determined. Whenever their status is determined, they are either going to be deported as exclusionary or they are going to be asylees or refugees. They cannot stay in limbo forever. Once they are, then whatever category they come in would apply.

MR. BRADLEY. Is there a date by which the entrant category must become another category?

MR. HUDDLESTON. No.

MR. BRADLEY. So that it could in fact remain entrant forever.

MR. HUDDLESTON. The Senator is talking about the Asians now?

MR. BRADLEY. The Cuban and Haitian category called entrant.

MR. HUDDLESTON. Theoretically they could. They are still entrants. Their cases are being determined.

The PRESIDING OFFICER. All the time of the Senator has expired.

MR. HUDDLESTON. Their condition is in limbo until the Congress or the courts decide what their status is.

Is my time up?

The PRESIDING OFFICER. The time has expired.

The Senator from Wyoming.

MR. SIMPSON. Mr. President, I yield myself 3 minutes.

Refugees and immigrants are two distinct groups. I speak against the Huddleston amendment. There is no one I respect more on this issue. He has worked in this area for many years. He has been sensitive to it. He followed it even when he had no committee assignment. All of us on the subcommittee agree that he is most extraordinarily adept in this area.

But there are two distinct groups, and they must be treated separately. They should not be competing with each other for admission to the United States.

Refugee admissions are now controlled by the Refugee Act of 1980. The President requests and justifies refugee numbers for the next fiscal year. He justifies that proposal through a consultation with the Judiciary Committees, receiving a recommendation from Congress and setting the final figures.

Last year this administration proposed 173,000 admissions, and we on the committee, the manager of the bill on the opposite side, and myself, revised the limit downward. We reduced the numbers to 140,000 after congressional consultation. The House agreed.

In addition, at the request of Congress we agreed to manage that number so that entries to the United States, would if possible, be at even a lower rate. This has happened so that this year actual admissions to the United States of refugees will be probably less than 100,000. The consultation mechanism is working.

The administration I think needs the flexibility which is provided by the Refugee Act to consider both domestic and foreign policy interests in the U.S. refugee program.

If we include refugees in this total cap, we will seriously reduce this flexibility.

Here is the difference: Immigration policy is principally concerned with family reunification. We have discussed that for most of the day; whereas refugee policy is concerned with the United States accepting its fair share of persons who are fleeing persecution in their homeland. Both policies obviously have a humanitarian purpose, but the two groups should never be allowed to compete for admission.

This administration strongly opposes the amendment also because of the severe limitations it would place on the flexibility that it requires in ad-

dressing domestic and foreign policy interests.

So I say, Mr. President, in objecting to the amendment, that we do have control. It is finally working. Last year, as I indicated, the 173,000 figure is now down to less than 100,000, and we will reach the normal flow of 50,000 I feel quite assured within a very limited time.

Mr. SIMPSON. Mr. President, I yield 7 minutes to Senator DANFORTH.

Mr. DANFORTH. Mr. President, I rise to oppose the amendment offered by Senator HUDDLESTON. Before I speak, I would ask unanimous consent that a letter from the State Department in opposition to this amendment be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. COORDINATOR
FOR REFUGEE AFFAIRS,

Washington, D.C., August 12, 1982.

Hon. JOHN C. DANFORTH,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DANFORTH: The Immigration Reform and Control Act of 1982 (S. 2222) provides urgently needed reforms to improve our control over immigration to the United States. Its carefully balanced provisions have been developed over a long period in a truly bipartisan spirit.

Recently Senator Walter Huddleston proposed that S. 2222 be amended to include refugee admissions under the fixed numerical ceiling which the bill would impose on routine immigrant admissions. We urge that you oppose this amendment since we do not believe that it serves our national interest to combine immigrants and refugees in the same ceiling.

Refugees and immigrants pose separate problems and we should continue to treat them separately. S. 2222 will give us flexibility in selecting the categories and levels of immigration we desire while helping the United States regain control over its borders. As to refugees, the approach that Congress developed two years ago in the Refugee Act of 1980 best provides for the necessary degree of domestic controls while permitting the President the flexibility to cope with those emergency situations that generate refugees. We urge, therefore, that you oppose any amendment to S. 2222 which would alter the procedures which Congress just recently established in the Refugee Act of 1980.

The notion of a combined ceiling on immigrants and refugees is not new. Congress rejected it during its work on the Refugee Act of 1980. The Bipartisan Select Commission on Immigration and Refugee Policy, the Reagan Administration, and the authors of S. 2222—Senator Alan K. Simpson and Representative Romano Mazzoli—have also rejected it.

The Refugee Act has established a comprehensive statutory procedure to admit refugees. It replaces the limited conditional entry and open-ended parole provisions of previous laws. In transferring the responsibility for refugee policy decisions from the Attorney General to the President, it recognizes that refugee admissions are so important that they should be made at the highest level. Finally, while the Refugee Act provides for policy direction by the President, it

likewise establishes that the final decision on refugee admissions will be the product of consultations between the Administration and the Congress. This system is working. Refugee admissions are coming down as an act of conscious policy: from 212,000 in fiscal year 1980 to 159,000 in fiscal year 1981 and a fiscal year 1982 total of 100,000 or less. The Administration has now been engaged in extensive consultations with States, the voluntary agencies, and Congress on the admission levels for next fiscal year. We fully expect that admissions will continue to decline. The Huddleston Amendment would thoroughly disrupt these procedures.

The cornerstone of American immigration policy has been a commitment to family reunification. Within the framework of S. 2222, future immigration of immediate relatives of U.S. citizens and resident aliens would comprise roughly 75 percent of our immigrants. Senator Huddleston's Amendment in combining immigrants and refugees would pit these two groups with different origins and different problems against each other. Instead of giving the President the capability of providing separately for the unique problems of these two groups, it would put him in the impossible position of having to choose, for instance, between providing relief for refugees from Communist repression and the admission of parents or children of longtime U.S. residents. It is clearly not in the best interest of the U.S. to structure the President's choices in this invidious fashion.

The Huddleston Amendment would not only reduce the President's flexibility, it would also invite a return to the still all too familiar pattern of special interest legislation. Further, it would demoralize many of the American religious and non-sectarian groups and individual citizens who form the backbone of our proud record of refugee assistance. And finally, it would tell the world that the United States has retreated from its leadership position on the refugee question and thus set back the Administration's efforts to broaden the international base of refugee resettlement.

The American people want a clear statement on immigration policy. The Simpson/Mazzoli bill gives that clear statement. The Refugee Act of 1980 gives a clear statement on the separate refugee problem. Let us not confuse these issues.

As two of our country's public officials most concerned with America's proud record of human rights and humanitarian assistance, we urge you to speak out against Senator Huddleston's amendment. The Refugee Act of 1980 is working. The provisions of S. 2222 should be given an opportunity to prove effective.

ELLIOTT ABRAMS,
Assistant Secretary of
State for Humanitarian Affairs.
H. EUGENE DOUGLAS,
Ambassador at Large.

Mr. DANFORTH. Mr. President, this well-intentioned but misguided amendment runs directly against the proudest traditions of this country. It would pit against each other two types of people seeking to come into this country—immediate family members or persons already living in the United States—citizens or permanent resident aliens—and refugees, people fleeing persecution in their own countries.

We all know who would win that kind of perverse competition—the relatives of those already here.

I wish there were no refugees in the world, then we would not have this problem. But there are millions of them. They are fleeing Vietnam, Afghanistan, Ethiopia, Poland, and so on. I have seen these people.

In October 1979, I went to the border of Thailand and Cambodia with two of my colleagues, Senator SASSER and Senator BAUCUS. We were there at the height of the exodus of Cambodians fleeing their country. After suffering for years the ravages and atrocities of Pol Pot, the Cambodian people were starving under the rule of the Vietnamese puppet government.

The people we saw were dying. Walking skeletons, these human beings stared blankly at those around them. They crossed the border and lay down on the ground to die. The children did not laugh or play, their bellies were distended from malnutrition, and their faces were shriveled up like those of little old men.

This Nation's refugee policy helped keep those people alive—not because they would eventually come to the United States, but because we could credibly demonstrate to other countries in the region our willingness to help them with a large refugee population.

The biggest problem with the world's refugees is not finding them a third country for permanent resettlement. The biggest problem is finding a place of temporary refuge, a place of first asylum, where they can stay either until conditions in their home country permit their return or until resettlement can be arranged.

Vietnamese refugees had overloaded the capacity of friendly countries in that region to respond humanely. Hundreds of thousands more Cambodians exacerbated the problem. Thailand, the principal refuge for both groups, was having great logistical and political difficulty with the presence of so many refugees in their country. The Thai Government was able to withstand internal pressures against providing asylum for one reason, and one reason alone—the United States committed itself to resettling a large number of refugees in this country. Equipped with this knowledge, the Thais were able to withstand internal pressure to turn away those coming across their borders for refuge.

Tens of thousands of Cambodian lives were saved in 1979 and 1980. Those people are alive today not only because they were fed, and clothed, and sheltered. They are alive because there was a place to go for food and shelter. Our refugee policy was fundamental to that fact.

This amendment would effectively shut off our ability to respond similar-

ly at a time of future crisis. This is a life-threatening amendment, and it is wrong.

Others have made the arguments that ours is a nation of immigrants who often came seeking refuge from oppression. I agree. I also believe very strongly that the principal difference between America and the Soviet Union is the value that we as a society place on the sanctity of human life, dignity, and personal freedom. A flexible refugee policy personifies these proud American traits. Let us not reject our heritage. Let us not tie our hands. Let us vote down this insidious amendment.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. I yield 7 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I also rise in opposition to this amendment and state, as does my friend from Wyoming, that this amendment is the wrong forum, the wrong bill to discuss and to control refugees. We have a refugee bill. It has gone through committee in the House and it will be before us.

I agree with my friend and colleague from Kentucky that perhaps some redefinition of refugees and their rights and privileges in this country is proper. But this is not the bill to do it, nor is this the bill to limit the number that comes to this country.

We have talked, and I have heard other talks here, about the rich tradition that we have, and indeed it is. And nowhere is it better exemplified than in Russia and in Eastern Europe where they must build walls to keep their people in while, unfortunately, we must pass laws to restrict the number of people who come to this country.

It was mentioned here on the floor during the course of this debate that there are hard choices here—425,000 people were going to be admitted into this country other than the refugees. I do not consider that a hard choice, Mr. President. That is only one-fifth of 1 percent of our population. That is really not a large number to admit to a country of 240 million. That is approximately one-fifth of 1 percent, as I say.

During the two decades of 1956 to 1978, the U.S. ratio of legal immigrants was approximately 2.8 people per 1,000. My friend and seatmate, the Senator from Mississippi, says that we are more generous than any country in the world. It is just not so, Mr. President.

During that same period of 1956 to 1978, when admissions, legal admissions to this country were 2.8 per 1,000, in Canada it was 17 per 1,000,

and in Australia it was 15 per 1,000. So, indeed, it is a generous number, I do not dispute that; but it is not a number that is going to cast hardships on our society.

My friend from Mississippi pointed out that during a long period of time, starting in 1921, that the average number was 271,000 that came into this country legally. If he had gone back a few years, the numbers were over 1 million, year after year, and during that period of time most of the forebears of the Members of this body undoubtedly came to this country.

In considering this number, Mr. President, no one has spoken about emigration, the numbers that leave our country. And historically approximately 30 percent of as many people who have left have come in. So when you talk about 425,000, probably the net figure is closer to 300,000 who stay in this country, new entrants or net new entrants each year.

Even during the period of peak immigration, Mr. President, from 1908 to 1913, when each year over a million people came to this country, emigration averaged 32.1 percent of immigration. During that period of time we used to keep records and there was a commission and a report called "The Repatriation in American History," by Thomas Kessner. And during the highest time of our immigration, 32 percent of the number immigrating had emigrated and left our country. So that the net amount of immigration really is not the figure that is before us.

I heard a Senator say that they are competing for jobs in this country. I also want to add to that that they are the ultimate of consumers. They come to this country with nothing and they have to buy what we consider the most regular part of our lives, the most basic things in our society. So they not only come and take jobs, often jobs that others will not take, but they come and they consume as well. And they create jobs. Indeed, if you look back in the history of our country, among the most creative people are those who come to our shores and seek haven in our country.

One of my colleagues talked about all these folks who were out on the starting blocks about to come in, that if this bill—as though this bill would make a difference—were passed and if the refugees numbers were not taken as a diminution of a total of 425,000, that these people would somehow come quicker.

Of course, the flow of illegal immigrants needs to be checked. It is the first duty of any country to be secure within its borders. But while that needs to be checked, that is not going to be affected by this figure, Mr. President. Illegal immigration does not require quotas. Illegal immigration continues. The people who run these un-

fortunates, who charge \$2,000, I heard, are going to stop if we raise or decrease quotas.

Indeed, Mr. President, we do have that rich tradition, that proud tradition, and I am part of it, Mr. President. I am one of the two immigrants here in the Senate. Senator HAYAKAWA is the other. We are two Members of the Senate, indeed, who can seek higher office, who can run for President or Vice President. I believe at last count we may be the only two who are not seeking those offices. [Laughter.]

In any event, Mr. President, I came when I was too young to understand the promise of America and what it meant, but I heard it very often from my parents. That promise must be kept alive.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOSCHWITZ. May I have 1 additional minute?

Mr. SIMPSON. For the Senator, 1 additional minute.

Mr. BOSCHWITZ. Indeed, that promise has to be kept alive.

I thank my colleague from Wyoming. His generosity is always so marvelous.

The promise of America, Mr. President, is something that we have to keep alive. People, as my friend from Missouri, Senator DANFORTH, said, are kept alive because they feel that promise is out there. We have a marvelous tradition in this country. We are indeed the hope of mankind. It is something that we cannot allow to die. It is something that we have to kindle and increase. I yield the floor.

Mr. SIMPSON. Mr. President, may I inquire of the time remaining?

The PRESIDING OFFICER. The Senator has 15 minutes, 40 seconds.

Mr. SIMPSON. I yield 4 minutes to the Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to say in the beginning that no Member of the Senate has taken more interest in immigration matters and sounder positions than the able Senator from Kentucky. I have to disagree with him on this particular matter.

Mr. President, it is with some reluctance that I intend to vote against the Huddleston amendment because I am sympathetic with its purpose. As I understand the amendment, it would include annual refugee admissions within an overall ceiling on immigration and refugee admissions for each year. If the number of refugees exceeds the number provided for, it would be charged against other admission classifications.

Mr. President, I share the goals of the Senator from Kentucky to limit the number of immigrants and refugees coming into the United States. We cannot take them all. Senator HUDDLESTON has been in the forefront on immigration and refugee matters

for years and I respect and support his efforts to bring our immigration and refugee policy under control. I am afraid, however, that I cannot support him on this particular amendment.

Mr. President, the Committee on the Judiciary has wrestled with this question on refugee policy and the relationship between the executive and legislative branch authority to control it. Two years ago, the Congress passed the Refugee Act of 1980, which provided for an annual ceiling of 50,000 refugee admissions and required consultation between the President and the Congress before any refugee admissions beyond that level could be authorized. The track record of that law is fairly good.

In 1980, refugee admissions reached a high of 232,000, far in excess of the 50,000 emergency level in the Refugee Act. In 1981, refugee admissions dropped further, and in 1982, the Congress, pursuant to consultation with the President, authorized a ceiling of 140,000 refugee admissions. To date, only 100,000 refugees have been admitted during fiscal year 1982. Although these levels are not as low as I would like, the process is working.

Mr. President, we will also have an opportunity in the committee to study and review the proposal of the Senator from Kentucky when we take up those immigration and refugee reforms not contained in S. 2222. For example, emergency powers of the President in dealing with refugee matters will be the subject of consideration by the committee early next year. I can assure the Senator from Kentucky that his proposal to review the level of refugee admissions and the role of the Congress in that process will be given careful consideration.

Mr. President, this amendment is well intended, but it goes against the reforms we are trying to achieve in this bill, which is to focus on legal and illegal immigration. Refugee policy is important, but should be addressed separately. For these reasons, I will vote against the amendment.

Mr. President, I ask unanimous consent that a letter to me from the Secretary of State, Mr. Shultz, on this amendment be printed in the *RECORD* at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the *RECORD*, as follows:

THE SECRETARY OF STATE,
Washington, D.C., August 12, 1982.

HON. STROM THURMOND,
Chairman, Committee on the Judiciary,
U.S. Senate.

DEAR MR. CHAIRMAN: I am writing in regard to the amendment proposed by Senator Huddleston to S. 2222 which would include refugees in an overall "cap" on immigration.

The passage of such an amendment would seriously limit the President's flexibility to conduct foreign affairs, inasmuch as it would severely restrict his ability to formu-

late solutions for those international situations that can—and all too—frequently do—create refugees.

I am aware of the factors that originally underlay Senator Huddleston's approach, but I believe the Congress has dealt with them effectively. Thus, the concerns of some Members over the use by the Executive Branch of the parole authority were reflected in the amendments to the Immigration and Nationality Act that are contained in the Refugee Act of 1980, and these concerns should now have been met. Moreover, the consultations mandated by the Refugee Act have become an increasingly effective vehicle for the exercise of meaningful oversight of the U.S. refugee program by the appropriate Congressional committees. This is largely because the Congress has set forth comprehensive guidelines. The refugee admissions system is therefore now running smoothly, and there is no reason to believe that it will not continue to do so.

Under these circumstances, I do not believe that Senator Huddleston's amendment is necessary or desirable. I hope that you will oppose passage of the Huddleston amendment to S. 2222, the Immigration Reform and Control Act of 1982.

Sincerely,

GEORGE P. SHULTZ.

Mr. SIMPSON. Mr. President, would you please review the time situation?

The PRESIDING OFFICER. Ten minutes, nine seconds.

Mr. SIMPSON. I yield 4 minutes to the Senator from Illinois.

Mr. PERCY. Mr. President, I intend to oppose this amendment to the Immigration Reform and Control Act of 1982 that would place under a single numerical ceiling both refugee and immigration admissions.

S. 2222 places a limit on all legal immigration into this country with the exception of refugees. This bill leaves in place the refugee admissions system created by the Refugee Act of 1980. I strongly endorse a separate refugee admissions system and will oppose the amendment.

The present law provides for a "normal flow" of up to 50,000 refugees a year. It allows the President to increase this number after appropriate consultation with the Congress if it is justified by humanitarian concerns or is otherwise in the national interest. This system recognizes that immigration and refugee admissions serve different purposes. Immigration policy in large part reflects family reunification. Refugee admission levels are generally set in response to critical humanitarian situations or foreign policy considerations.

The Huddleston amendment will reduce considerably the ability of the U.S. Government to respond to refugee emergencies. The loss of this flexibility could have the unfortunate effect of undermining various foreign policy objectives.

As we all know, our Government offers assistance to refugees not simply out of compassion, but because large refugee populations can threaten the stability of countries of first

asylum. This is especially true for developing nations which are ill-equipped to cope with large influxes on their own. The presence of refugees can raise serious tensions between sending and receiving countries in a particular region, and the refugees can come to fear mistreatment in the first asylum country as much as they might fear persecution in their homeland if they were to return.

At the height of the Indochinese refugee crisis in 1979-80, the previously generous countries of first asylum in Southeast Asia adopted desperate measures in the face of new waves of refugees. Thousands of Khmer and "boat people" from Vietnam lost their lives after being pushed back across land borders or back out to sea. In time, however, many receiving countries were able and willing to offer refuge with assurances of support from the international community.

The granting of first asylum provides time for the development of humane solutions to refugee problems. These include voluntary repatriation when conditions in the homeland permit, settlement in the region or, as a last resort, resettlement in third countries. Africa is a good example of an area where first asylum countries have traditionally offered hospitality to refugees, where refugee problems have been resolved through regional cooperative efforts, and where requests for outside support have come only recently in response to rapidly increasing refugee populations.

It is to the credit of the international community and to the United States that its response has helped ease many African and other refugee situations in the last few years. After decades of ad hoc arrangements, there are now international mechanisms to help first asylum countries provide immediate humanitarian relief, longer term maintenance, and voluntary repatriation or resettlement where appropriate. The Geneva conference on Indochinese refugees in July 1979 and the conference on African refugees in April 1981 underlined the need for greater coordination and broader international participation.

One of the major reasons for the success of these efforts has been the leading role of the United States in pledging support and having the ability through the Refugee Act to accept large numbers of refugees in times of crisis. Our support at the 1979 and 1981 Geneva conferences set examples that many countries subsequently followed. Our lead also reassured the countries of first asylum in Africa and Southeast Asia that their plight would not be ignored by the international community.

The cooperation has led to an alliance between donor countries, recipient countries, and international orga-

nizations that has made it possible to manage refugee problems of unprecedented scope. While much remains to be done, the emergency stage is behind us in assuring the survival of Afghans in Pakistan, refugees in the Horn of Africa, and the Khmer people. What worries me is that this relief network is fragile. Any precipitous decrease in the ability of the United States to meet an unforeseen refugee crisis could lead to the unraveling of the system. Receiving countries may again believe their only recourse is to deny asylum to new arrivals and to treat harshly those who have already arrived. No one, including the United States, gains from a return to chaos and brutality.

As responsible members of the international community, we must work to resolve the root causes of refugee flows. We must also recognize the urgency of responding to refugee problems as they arise. In some situations, third-country resettlement of some refugees may be the only solution. The Huddleston amendment would eliminate our ability to respond to international emergencies. It would also undermine our efforts to encourage more nations to assist in refugee resettlement and to accept a larger share of the financial burdens associated with refugee care which bears so heavily on the United States. The Huddleston amendment which combines immigrants and refugees under one ceiling would undermine our position of leadership in the international community with respect to the humane treatment of refugees.

Mr. SIMPSON. Mr. President, will the Chair please review the time remaining?

The PRESIDING OFFICER (Mr. HEINZ). The Senator from Wyoming has 5 minutes, 46 seconds; the Senator from Kentucky has zero minutes and zero seconds.

Mr. SIMPSON. I yield such time as remains of my time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator from Wyoming.

I acknowledge both the interest and the expertise of the Senator from Kentucky (Mr. HUDDLESTON), who has taken very considerable interest in the whole issue of refugees and immigration policy. I do take issue with his recommendation to this body as to how this body and this Nation can best address those particular concerns.

I must join with my distinguished colleague, Senator SIMPSON, in opposing the amendment offered by our good friend from Kentucky. I do so because I believe it will be destructive of the important immigration reforms we have proposed in this carefully balanced bill—a bill that seeks greater control over immigration to our country, without undermining the flexibil-

ity of our laws or closing our doors to immigrants and refugees.

By placing refugees and immigrants under a single rigid ceiling, the pending amendment mixes two, totally separate categories of migration. It places us in the position of taking immigration numbers from family reunion cases if we attempt to respond to humanitarian emergencies involving refugees.

Under the provisions of this amendment, if our country chooses to accept additional refugees beyond the ceiling, we could do so only if we reduced future immigration numbers for family reunion and other immigrants standing in line around the world.

The questions involved in the admission of refugees and immigrants are different. Our response to them must also be different.

Immigrants come to our country in a predictable fashion. Under annual ceilings and quotas. Many are admitted under established preferences reflecting our concern for family reunification. They come in an orderly way, with no expenditure of taxpayer's funds. And when they apply for admission, or when their American citizen relatives petition for them, they do so knowing they may have to wait, but that they can expect to be admitted on a certain date.

Refugees, on the other hand, are admitted under extraordinary circumstances, reflecting the unpredictability of their plight and the urgency of their needs. We cannot foresee who or how many refugees may have a claim upon our attention or concern. Each refugee situation and each refugee must establish why they should be admitted, and why they are "of special humanitarian concern" to the United States, as stipulated by the Refugee Act of 1980.

Furthermore, their admission is dependent upon the authorization and appropriation of public funds.

The Senator from Kentucky has spoken of the lack of congressional control over the admission of refugees. But the admission of every single refugee to the United States involves the action of at least eight committees of both Houses of Congress. Every year, the Budget committees act to set overall spending ceilings. The authorizing committees act on budget requests. The appropriations committees allocate the funds, and the judiciary committees consult and approve the final admission levels. These steps hardly reflect a lack of congressional control. Some may disagree with the votes and actions of these eight committees—and they may disagree with the verdicts of the Judiciary committees after their consultations with the President on refugee admissions—but I do not think they can say there is "the flagrant misuse of refugee laws" or that there is a lack of congressional in-

volvement and control over the admission of refugees.

In fact, the Refugee Act of 1980 has proven to be a significant new tool in bringing greater order and control to the resettlement of refugees in our country, as all those who have worked in this field agree. No one—not the select commission on immigration and refugee policy, not the Reagan administration's task force on immigration, and not the Judiciary Committees of the House and Senate—has recommended changing the basic terms of the Refugee Act. The law is working well, and the act provides the controls Congress has long needed over the admission of refugees.

Reference has been made to the past abuse of the Attorney General's "parole authority." The Refugee Act explicitly abolished the use by the Attorney General of his parole authority for the admission of refugees.

Reference has also been made to the fact that every year the admission of refugees has exceeded the "normal flow" of 50,000. But that figure, Mr. President, was known to be inadequate for the past 2 years when the Refugee Act was written. We knew then, that we were in the midst of responding to the Indochinese refugee emergency, and that the numbers would be larger for the first few years. There was no secret about that.

But the numbers are now coming down—by more than 50 percent in 2 years. We will soon be near the so-called "normal flow" figure—a figure based upon the overall average of the past 20 years.

And, beginning this fiscal year, that "normal flow" figure will disappear from law—in accord with the "sunset" amendment of the Senator from Kentucky.

So, in the future, the annual authorization for the admission of refugees will be zero. The admission of a single refugee must now be justified by the President and come under the full range of controls established in the Refugee Act. The President must consult, and the judiciary committees must agree, before a single refugee can be admitted. For those who have argued that refugee ceilings have tended to become floors, it should be noted that there will soon be no ceiling—that any figure must be justified each year.

Finally, Mr. President, as justification for this amendment we have heard references to the Cuban influx of 1980—to the specter of the uncontrolled influx of tens of thousands of persons. But the fact is that this amendment is irrelevant to that issue. The Cuban influx came outside the Refugee Act. They were not admitted as "refugees," but given a new status called "entrants." If this amendment were law in 1980 it would not have

helped in dealing with such a mass influx, since the Cubans were deemed not to be refugees.

And even if they were classified as refugees, the terms of this amendment would not address the problem—it would only penalize the admission of family reunion and other legal immigrants the following year, and cripple our ability to respond to genuine refugee situations.

Other provisions in this bill are designed to help us deal with mass asylum problems.

Mr. President, I think it is worthy to note that all the national organizations and voluntary agencies involved in our Nation's effort to assist immigrants and refugees for more than 30 years, have unanimously urged the Senate to reject this amendment. I hope we will follow their sound advice. I ask unanimous consent that their views be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL OF VOLUNTARY
AGENCIES FOR FOREIGN SERVICE,
INC.,

New York, N.Y., July 22, 1982.

HON. EDWARD M. KENNEDY,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KENNEDY: As the national organizations who have been responsible for refugee resettlement in the United States since World War II and before, and as agencies also deeply concerned with broader immigration issues, we are writing to express our grave concern over a recent legislative initiative. In a letter dated June 21st, addressed to their colleagues, Senators HUDDLESTON and COCHRAN have urged that the Immigration Reform and Control Act of 1982 which will shortly be considered by the Senate, be amended so as to combine numerical limitations for both immigration and refugee admissions under the same ceiling. The purpose of our letter is not to advocate either higher or lower refugee or immigrant admission levels, but rather to express reservations about placing refugee and immigrant admission levels under the same ceiling. We believe that such a combined ceiling is unwarranted and would be contrary to the national interest of the United States.

The notion of combining refugee and immigrant admissions under one ceiling has been suggested periodically in the past. All recent major reviews of immigrant and refugee policy—the bipartisan Select Commission on Immigration and Refugee Policy, interagency reviews undertaken by the Ford, Carter and the most recent Reagan administration review, and the bipartisan Simpson-Mazzoli proposed legislation—all considered this proposal and rejected it for what we think are persuasive reasons.

We believe the current system for setting admission numbers is both a more thoughtful and realistic process than implied in the joint letter from Senators HUDDLESTON and COCHRAN. Recent admission numbers reflect the serious efforts of the responsible subcommittees charged with admissions oversight, and their chairmen, to consider both international and domestic concerns in setting admission levels.

The issues of immigration and refugee admissions are substantively different. Immigration policy reflects in large part family reunification considerations. Refugee admission levels are generally set in response to critical humanitarian situations and/or foreign policy concerns. Placing two conceptually different programs under a single admission ceiling would force destructive competition between responding to refugee crises and reuniting divided families, and would pit one ethnic group against another within our own society.

Interestingly enough, the single numerical ceiling would not address the very issue which seems to be the basis for many of the points made in the June 21st letter—uncontrolled immigration. For example, the 1980 influx of large numbers of Cubans to our shores was an aberration which would not have been addressed by the existence of a combined ceiling for immigrant/refugee admissions. Nor would such a ceiling in any way affect the chronically high numbers of illegal admissions to the United States. In short, the proposed ceiling will not help us deal with our most acute admissions problem—direct, unplanned arrivals in the United States.

Ironically, the single ceiling issue is proposed at a time when the number of refugee admissions has decreased dramatically (by nearly 50 percent over the last 2 years) due to both domestic and international considerations. It is important to note that under the current system the essential elements of both control of overall numbers as well as flexibility to respond to acute international problems has been maintained in the best American tradition. It is also worth noting that the United States is not bearing the burden of refugee resettlement alone. For instance, both Canada and Australia have recently resettled more refugees on a per capita basis than has the United States.

As national organizations representing broad and often overlapping religious, ethnic and generally concerned constituencies, it is our belief, based on decades of working with immigrants and refugees, that the combined ceiling proposal would have two critical effects: (1) it would virtually destroy the flexibility our country needs to respond to pressing humanitarian and foreign policy concerns—concerns to which the American public has traditionally responded—and would abrogate our historical international leadership in this area. (2) It would generate serious divisiveness within our own society over the allocation of numbers within the single ceiling. In view of these considerations we urge retention of the present system as provided for by current law.

Sincerely,

WELLS C. KLEIN,
Chairman, Committee on Migration
and Refugee Affairs.

On behalf of:
American Council for Nationalities Service.

American Fund for Czechoslovak Refugees.

Buddhist Council for Refugee Rescue and Resettlement.

Church World Service.

HIAS (Hebrew Immigrant Aid Society.)

International Rescue Committee.

Lutheran Immigration and Refugee Service.

Migration and Refugee Service, United States Catholic Conference.

Polish American Immigration and Relief Committee.

The Presiding Bishop's Fund for World Relief/The Episcopal Church.

Tolstoy Foundation.

World Relief of the National Association of Evangelicals.

YMCA of the USA.

U.S. COMMITTEE FOR REFUGEES.

New York, N.Y., July 20, 1982.

DEAR SENATOR KENNEDY: When the Simpson/Mazzoli bill (S. 2222) to reform U.S. immigration policy reaches the floor of the Senate this month, it is expected that an amendment with major negative implications for international refugee protection will be offered by Senator WALTER D. HUDDLESTON of Kentucky. The anticipated amendment would include refugees who may be resettled in the United States along with all other immigrants to the United States under a single numerical limitation.

Traditionally immigrant and refugee admissions procedures have been separated because their underlying bases have been recognized as distinct. The concept of a single ceiling is seductively simple, but its implications hold serious threats. The combined approach to admissions has been considered and rejected by the Select Commission on Immigration and Refugee Policy and all other responsible authorities who have studied the matter in recent years.

This letter does not concern any particular level of refugee admissions, but rather the way the United States makes its decisions regarding admissions. The U.S. Committee for Refugees, with its programs historically focused on international refugee concerns, feels that the impact of the Huddleston amendment will so affect U.S. refugee resettlement policy that the protection of refugees overseas is threatened.

Of course, resettlement has clear immigration impact which must be acknowledged directly and dealt with constructively. But the purposes, implications, and international outcomes of the two admissions processes are completely distinct. Whereas general immigration largely relates to family reunion, the rescue and resettlement of refugees is a human rights effort. Its base is ideological, seeking to uphold certain humanitarian principles and valuing the right of individuals to be free from persecution based on particular inherited or chosen distinctions.

Refugee resettlement has been kept separate from other immigration processes because of this intimate relationship with foreign policy and humanitarian concerns.

When the Refugee Act of 1980 was enacted, Congress chose to include what USCR believes is a sound procedure for determining the number of refugees to be admitted to the U.S. each year. To the extent there have been problems regarding refugee admissions in the 27 months since the "consultation" procedure was enacted, they are not attributable to the letter or intent of the law.

Senator HUDDLESTON seeks to change the existing refugee admissions framework, notwithstanding the fact that refugee admissions ceilings and actual admissions themselves have declined steadily since 1980. We believe his interest is to limit total admissions. There are serious questions about this objective; but even if the end were justified, the proposed approach is not. If a single numerical ceiling for immigrant and refugee admissions becomes law, USCR feels there would be four major unacceptable results:

1. Enactment would significantly limit the flexibility needed by the President to re-

spond promptly to foreign policy matters in which refugees are a factor.

2. This restricted ability to negotiate and respond would seriously undercut U.S. leadership in humanitarian, human rights, and related foreign policy areas.

3. A single numerical ceiling would be divisive domestically. Limited and undifferentiated numbers would pit those seeking to respond to refugee needs against nationality groups and those seeking to reunify families. Congress must be responsive to both groups, but through separate processes.

4. USCR believes enactment of a single numerical ceiling would send a chilling message to the world. The important principles of refugee protection are under assault in many areas. In some cases the actions and inaction of our government have directly contributed to this troubling phenomenon. Enactment now of such a restrictive amendment would further compromise the remaining moral leverage the United States has with the rest of the world in matters of refugee protection. In specific situations, such as that of Cambodians in Thailand, first asylum is so fragile that this enactment could cause the provision of haven there to be lost.

As citizens we all daily face the task of responding to many issues. So, of course, do Members of Congress. With respect to the particular issue of a single numerical limitation on refugee and immigrant admissions, we believe many members of the Senate do not have a clear understanding of the potential results as set forth in this letter. You may wish to consider contacting them promptly to share your own thoughts.

Sincerely,

ROGER P. WINTER,
Director.

NATIONAL ASSOCIATION OF
EVANGELICALS,
Washington, D.C., August 5, 1982.

Hon. EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The National Association of Evangelicals and its subsidiary World Relief Corporation are deeply concerned about Senator Huddleston's amendment to the Simpson-Mazzoli Immigration Reform and Control Act of 1982, S. 2222. We are strongly opposed to the recommendation that refugees and asylees be considered along with immigrants under a single numerical limitation. We urge you to be among those who oppose this amendment.

If adopted, this amendment would have several unacceptable results: (1) it would seriously undermine the ability of the United States to respond adequately to humanitarian and human rights concerns around the world; (2) it would be domestically divisive in that those responding to refugee needs would be competing with nationality groups and those seeking to reunify families; (3) acceptance of this amendment would send a chilling message to the international community and thus threaten important principles of refugee protection already under assault in many areas.

The National Association of Evangelicals through its humanitarian relief agency, World Relief Corporation, has resettled over 32,000 refugee immigrants and entrants since 1979. This has been made possible through the generous efforts of a concerned and involved constituency representing 42 denominations and millions of Americans.

We believe that your opposition to the Huddleston amendment will best enable the

United States to respond with justice and compassion.

Faithfully yours,
ROBERT P. DUGAN, JR.,
Director.

Mr. KENNEDY. In conclusion, Mr. President, I think the American people are concerned by what is in reality and also, I say, in appearance, an open border of this Nation. But the Huddleston amendment will not address these issues.

There is no question that there are as many as 1 million undocumented aliens who come into the United States every year. The Huddleston amendment will not deal with that problem.

It is true that we did accept tens of thousands of individuals who came from Cuba in recent times as a result, I think, of a misuse of Executive power. But the Huddleston amendment will not deal with that issue.

It is true that the Haitians have come here and landed on the shores of Florida and caused concern. But the Huddleston amendment will not deal with that issue.

So, although I think all of us are concerned about how we as a country are going to be able to deal with these rather fundamental and basic questions I dare say the Huddleston amendment does not help. It simply pits refugees against the reunification of family members, and this is not an attractive or compelling alternative. Yet, that is the choice he requires us to make.

Mr. President, I join with my colleagues here this afternoon and hope that we will reject the Huddleston amendment. If we do, I shall certainly work with not only the chairman of the subcommittee, but with the Senator from Kentucky, to consider how this Nation is going to be able to deal with the long-term problems, of refugees and immigrants.

As I stated earlier this morning, some 9 or 10 hours ago, this bill is basically a very measured bill at best. We are going to have to deal further with the flow of people into this Nation. I know the Senator from Kentucky understands that. I know he has worked long and hard on it and it is going to take the best efforts of all of us in Congress and also at the executive level in the conduct of American foreign policy to try to deal with that. I pledge to the Senator from Kentucky my willingness to try to deal with it, but I feel this amendment falls short of that objective.

Mr. SIMPSON. Mr. President, I believe the Senator from Florida would like—

Mr. CHILES. Mr. President, I would like to ask unanimous consent for 5 minutes. I have been waiting all through this debate to get some time on this amendment.

Mr. SIMPSON. Even though the Senator from Florida is on the oppos-

ing side of the issue, whatever remaining time I have I yield to him for that purpose.

The PRESIDING OFFICER. The Senator has 14 seconds.

Mr. CHILES. I ask unanimous consent for 5 minutes, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. The only point is, Mr. President, I would ask that there be 5 minutes available to the other side if that request is granted.

The PRESIDING OFFICER. Is there objection?

Mr. SIMPSON. Reserving the right to object, let it be expressed that with this 5 minutes, there be an additional 5 minutes for the opposing side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CHILES. Mr. President, I have been listening with interest to the debate. I heard the statement of the distinguished Senator from Missouri. I heard him say we should not pit these two proud groups of people against each other, the refugees and those people who are seeking to come in as immigrants.

Who represents the proud people in my State? Who keeps them from being pitted against each other when they are deluged with people who have been coming in because we have not had an immigration policy in this country?

Some have said refugees do not belong in this bill. I thought half of this bill covered illegal aliens, and trying to deal with them. We looked at what to do about amnesty for some who were already here, we are trying to do something about work certification, we are trying to do something about speeding up the determination of whether a person is entitled to political asylum or not. I thought the other half of the bill dealt with legal immigration. Now, if refugees do not intend to become immigrants, if they do not intend to become citizens in this country, then they do not belong in this bill. But if refugees are going to become citizens, if they are going to become permanent residents, where else should they be but in this bill?

We are talking about an annual cap on immigration. For the first time, we are talking about trying to put an annual ceiling in place. If the number in that ceiling is wrong because we have refugees in it, then we should increase the number. But we are also talking about doing something to protect the proud people who live in this country, the proud people who have jobs and families. Those are people who have come as refugees, or come as immigrants, as we all have, but who have worked their way through that system and maybe had to wait for years to be here. Perhaps, for those

people, we ought to be considering refugees and immigrants together.

We are going to just fool ourselves. We are going to say we will put a cap on but we are not really doing anything about refugees within that cap. What happens if there is an uprising in Poland and we decide we are going to allow some Poles to come into this country? I would be for that if they are fleeing communism. I would also be for saying there is a limit to what this country can assimilate in a year.

We ought to look at that. We ought to determine what that number we can assimilate is. If we make a special exception, we ought to do it. But we should not have a policy that says that the cap we set does not count. We ought to let in all the other people who are able to come and perhaps let these others come in, too. But should we not say at some stage: "Look, if we are going to allow these Poles to come in, we may have to take a look at the other people we are allowing to come in?" We may have to say that some will have to wait for another year.

It is interesting to hear the Senator from Minnesota talk, and I know how strongly he feels about this. But he may be speaking in the abstract when he says that there are no problems of immigration in this country, that we can take these scores of thousands who come in and look at them only as so many per thousand. Tell that to somebody in my State.

Tell that to somebody in my State. Tell them that there is no problem, when 6 of Florida's cities are among the top 10 in the Nation in terms of crime rates, and when Miami has become the murder capital of the world. To Florida, immigration is not abstract because we have been deluged by refugees; we have been deluged by immigrants.

What we in Florida are saying is that we want to do our share. Every day we come up here, and we try to get some money to see that we pay back the State and local government for their costs. Every day we fight all the way through Congress, and we fight the administration. The administration cut pay-back for immigrant costs from 36 months to 18, and we are fighting every day. Our hospitals are full. We do not know what to do. Our school system got 6,500 new pupils in 1 year and we got \$600 a pupil. That did not pay for the teachers, let alone the special bilingual classes, let alone the construction costs for those pupils. And now that money has been cut off too. We lost that now. And then we say having a single immigration cap is just an abstract problem; that we will cover this somewhere else; we say that we do not have to put refugees in the same bill.

As far as I am concerned, if we are really talking about doing something, if we are saying that we are going to

establish a policy for this country in regard to immigration, if we are going to have something to say about who comes in, then we have to have the Huddleston amendment. We have to have a total cap.

Mr. TSONGAS. Mr. President, I rise to speak in opposition to the amendment offered by my distinguished colleague, Mr. HUDDLESTON. It would lump refugees and other immigrants in the same category, thereby limiting their total immigration to 425,000 persons a year.

The proposed amendment would frustrate one of the central aims of the Nation's immigration policy. The tradition of the United States as a haven for refugees runs deep in our history, from the earliest landings of the Pilgrims in the 17th century to the arrival of Indochinese war victims in the past decade. The tradition of the United States as a haven for those fleeing persecution and hardship is fundamental to this Nation's identity.

This amendment puts that long and hallowed tradition in jeopardy. It would, for example, force refugees to compete with brothers and sisters of U.S. citizens desiring to immigrate. If this Nation is to remain true to its historic ideals, such a crimp on the immigration of refugees is intolerable.

Refugees are sometimes portrayed as a burden, exacerbating unemployment and straining the demand for scarce Federal funds. In fact, the vast majority of refugees have become hard-working and tax-paying Americans. The same kind of people that this amendment would unduly restrict from our shores have contributed importantly into building the United States into the great Nation it is.

If the proposed amendment passes, it would be a signal to the rest of the world that the United States has lost sight of one of its most cherished ideals.

Mr. President, I urge my colleagues to vote against this amendment and keep that ideal alive. Also, I ask that an article by Lawrence Fuchs, the former Executive Director of the Select Commission on Immigration and Refugee Policy, which appeared in the Washington Post on Friday, August 6, 1982, be placed in the RECORD.

The article follows:

[From the Washington Post, Aug. 6, 1982]

IMMIGRATION AND FEAR

(By Lawrence H. Fuchs)

The debate on immigration legislation is heating up in a climate of fear engendered by economic malaise, concern over Haitian immigrants, anger at Fidel Castro for pushing 125,000 Cubans on the United States in 1980 and the repeated—but factually wrong—assertion that the United States is now accepting more immigrants than at any time in its history and more than the rest of the world put together.

Fear is a major factor behind an amendment introduced by Sen. Walter Huddleston

(Ky.) that would lump refugees together with other immigrants under an overall world ceiling of 425,000 for all legal admissions to the United States.

The Select Commission on Immigration and Refugee Policy studied this and other immigration matters for two years. Finding that legally admitted immigrants and refugees contribute to the well-being of the United States in many ways (the creation of jobs, productivity, the strengthening of our Social Security base), it urged the Congress to distinguish between illegal and legal immigration and to differentiate further between lawfully admitted immigrants and refugees.

Should refugees be included in the cap? The answer of the 16-member bipartisan commission, which included eight members of Congress, was an emphatic and unanimous no. Rather, it endorsed the Refugee Act of 1980, which provides for a normal flow of 50,000 refugees annually and a process by which the president can increase that number in consultation with Congress.

The commission followed the principle of separating refugees from immigrants because to lump them together would be bad public policy.

First, it would compromise the United States morally, taking us back to the situation we faced in 1938, when we refused to admit orphan refugee children fleeing persecution and facing death because they came outside of the quotas set for immigrants.

Second, it is unwise to make refugees compete with close relative of U.S. citizens and resident aliens for scarce visas. If it became important for the United States to rescue refugees in any given year, the immigration of relatives of U.S. citizens and resident aliens would be delayed, causing tremendous resentment.

Third, refugee policy is often related to foreign policy, and the president needs flexibility with respect to refugee policy that is not required concerning immigrants. A sudden flare-up in Poland, another rebellion in Hungary, or comparable developments elsewhere might require the president to act quickly.

Finally, it would not work for long. Precisely because of the pressures of foreign policy, Congress, under stimulation from the White House, would violate its own cap, as it did repeatedly through special legislation before the passage of the Refugee Act of 1980.

Advocates of the Huddleston amendment repeatedly exaggerate the number of illegal entrants to the United States, asserting, contrary to the careful work of the Select Commission, that 500,000 of them come into this country each year to stay. That number simply has no basis in fact.

The restrictionists also repeatedly use the number of persons admitted to this country in 1980 to support their charge that there are now more immigrants coming to the United States than ever before. That year was extraordinary because of the admission of 135,000 Cubans and Haitians as "special entrants" who were not admitted as immigrants under our normal, lawful admissions procedure and because we admitted the largest number of refugees in our history, 233,000, far above the average of 50,000 between 1960 and 1980. Nineteen-eighty was not the largest year of immigration in U.S. history. That was 1907, one of six years in which more than 1 million were lawfully admitted to the United States.

The severe restrictionists frequently assert that the United States accepts more immigrants and refugees than the rest of the world put together. Evidently, they do not count the refugees in Somalia or Pakistan. Tiny Somalia, with a miserable per capita gross national product of \$130 has accepted more than 1.5 million refugees from Ethiopia—one for every 2.4 of its own population.

To permit the fear and confusion that underlies the Huddleston amendment to prevail in the Senate debate would constitute not just a concession to mean-spiritedness but also to irrationality.

Mr. HATFIELD. Mr. President, I am pleased to have this opportunity to speak on behalf of the many Senators who oppose this amendment offered by my distinguished colleague from Kentucky which would place refugees under the overall cap on legal admissions to the United States.

I understand Senator HUDDLESTON'S motivation for placing refugees under the 425,000 ceiling. He is concerned with the total number of entrants to the United States each year, and he wants to have refugees included with asylees and general and special immigrants to the United States. I share with him the concern that our domestic resources are dwindling and our resource needs are growing, and that our country's infrastructures cannot withstand an unregulated flow of immigrants. That is why I have supported the 425,000 cap. I think it strikes a fair balance between the interests of family reunification, which is primarily why we accept immigrants to the United States, and the awareness of the limitations on our country's ability to assimilate newcomers into our economy and our society.

But there is a fatal flaw in the logic of the Huddleston amendment. The amendment totally ignores the distinction that is drawn between why America accepts refugees and why America accepts general immigrants. There are two separate policies involved here. As I mentioned, America has traditionally accepted immigrants for the purposes of family reunification and "special" immigrants for particular job opportunities. That is why we have preference categories and an unlimited acceptance of "immediate family members."

However, when you talk about "refugees," you are not talking about family reunification any more. We met 17 months ago and passed the Refugee Act of 1980. Section 101 of that act states that it is the "historic policy of the United States to respond to the urgent needs of persons subject to persecution in their homelands." This historic policy is why America stretched out its arms to the refugees from Hungary in October of 1956, the refugees fleeing Castro in 1961, the Vietnamese refugees in 1975 and subsequent years, and to the other refugees who have found America as a shelter from persecution.

This historic policy is the cornerstone of our commitment to human rights and to the individual's inalienable right to be free from the grips of tyranny and political persecution. This commitment is what distinguishes the United States from the other world powers and is what gives us moral leverage in negotiating international disputes. It is important, therefore, for all of us in this Chamber to keep in mind that there are two separate policies involved with respect to general immigration and to refugees. The issue is not what happens to these foreigners once they are settled in the United States—that is the argument being offered by the proponents of this amendment. The issue is why we admit refugees to this country. People who are fleeing from a well-founded fear of persecution are not coming to the United States for family reunification purposes. And the decisions to admit these refugees involve very delicate and volatile international considerations that comprise our Nation's foreign policy.

The Senate and the President understand that the United States cannot become a haven for the world's 12 to 16 million refugees. That is why we passed the Refugee Act of 1980 that requires the President to submit to appropriate consultation whenever the President feels that it will be necessary to accept more than 50,000 refugees in a fiscal year because of humanitarian or national interests considerations.

I have seen literature being circulated by the proponents of this amendment which points to 1980 when 808,000 people were admitted to the United States. Conspicuously absent from their analysis of refugee and immigration issues are two crucial considerations. First, since 1980, the number of refugees has steadily dropped, from 159,000 in 1981, to this year's 75,000 figure. Second, the 808,000 number was inflated by the influx of Cuban and Haitian entrants. I say "entrants" because that is the title the Carter administration gave them. I want to emphasize that these Cubans and Haitians were not refugees but merely applicants for asylum, and without proof of a well-founded fear of persecution, they could not be considered refugees.

My point is that if this amendment is a response to the problems encountered with the stream of immigrants from Haiti and Cuba in 1980, or if it is designed to prevent similar occurrences, then this amendment is not necessary. Senator SIMPSON and others have instituted in S. 2222 various provisions which will address and prevent those types of occurrences. There are summary exclusion provisions, asylum procedure changes, and penalties for transporting an illegal alien to this country which, with the

other initiatives in S. 2222, will bring order to the admissions process. All the Huddleston amendment would do is abridge the President's powers to respond to international crises which involve refugees. This is precisely why the administration vehemently opposes this amendment. And while I disagree with numerous elements of the administration's refugee policy, I join with them in their opposition to an amendment which would restrict America's ability to negotiate and respond to international matters with human rights overtones.

There is another serious flaw in the amendment offered by my colleague from Kentucky which I feel should be considered by the Members of the Senate. What the amendment will do, quite simply, is put the interests of those seeking to immigrate for family reunification purposes against those seeking to immigrate to flee political persecution. This type of confrontation is unhealthy and unwise. Refugees admitted in year 1 would be deducted from the immigration visas granted in year 2. In effect, a year which sees a large number of refugees would mean that those individuals in the reunification preference categories would be out in the cold the following year. Unmarried adult sons and daughters of U.S. citizens, as well as spouses and unmarried sons and daughters of permanent residents, would be displaced because of the number of refugees admitted in the previous year. This is not what S. 2222 wants to happen. We don't want the interests of those coming in for family reunification purposes to be in direct conflict with those seeking refugee status.

To be blunt about this, the amendment being considered by the Senate at this time is a backdoor approach to cutting family reunification visas. The present total of aliens issued immigrant visas or adjusting their status to lawful permanent residents, excluding refugees, is approximately 425,000. The Simpson-Mazzoli bill is designed so that there is no reduction in the current level of legal immigration to this country. This 425,000 is a figure which has survived the scrutiny of committee after committee after committee.

What Senator Huddleston's amendment would do is to cut that number to a figure well below 425,000. In effect, the amendment is saying, "We only want 425,000 foreigners per year admitted to the United States, and whatever number we don't use for refugees and immediate family members, we'll apply to whoever else is in the pool." This flies in the face of our history and heritage as a country. The Huddleston amendment from year 2 on will cause nothing but chaos in this country. And it will send out a bleak

message to the international community on the future of America's role in refugee protection and on human rights issues.

If proponents of this amendment really wish to allow the President the flexibility to deal with the refugee matters, then they should be upfront about what this amendment will do. This amendment will drastically reduce the number of visas available for family reunification. The proponents of this legislation have clouded the issue by muddying the waters with the inclusion of refugees in the admitting pool. The Huddleston amendment will reduce nonrefugee admissions by a number anywhere from 90,000 to several hundred thousand, depending on the number of refugee admissions. The tension between refugee admissions and family reunifications is built into this amendment, and this tension will breed tremendous adverse consequences.

I think the United States should have control of its borders. We do have tough economic problems that are exacerbated by the flow of illegal aliens. That is why S. 2222 is so badly needed. We must rid our country of illegal immigration practices, and we must bring order to legal immigration. We will have a proper forum to address refugee issues when the Senate takes up the reauthorization of the Refugee Act. The challenge before this body is to bring order to legal immigration and to put an end to illegal immigration. We can do these things without crippling our country's commitment to humanitarian principles and to reunifying families. But we must not impair the President's powers in the area of foreign policy, and we must not blunt our country's duty to allow for an orderly reunion of family members. I am of the opinion that this amendment will do precisely that, and for that reason, I oppose this amendment.

The PRESIDING OFFICER. The time yielded the Senator has expired. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I yield back the remainder of my time to go to the rollcall vote.

The PRESIDING OFFICER. The yeas and nays have not yet been ordered.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MATTINGLY (after having voted in the affirmative). On this vote I have a live pair with the Senator from Oregon (Mr. HATFIELD). If he were present and voting, he would vote "nay." If I were permitted to vote, I would vote "aye." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

The result was announced—yeas 35, nays 63, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—35

Armstrong	East	Nickles
Boren	Ford	Nunn
Bumpers	Grassley	Pressler
Byrd	Hawkins	Pryor
Harry F., Jr.	Heflin	Randolph
Byrd, Robert C.	Helms	Roth
Cannon	Huddleston	Rudman
Chiles	Humphrey	Sasser
Cochran	Johnston	Stennis
Cohen	Kassebaum	Wallop
DeConcini	Kasten	Warner
Denton	Long	Zorinsky

NAYS—63

Abdnor	Garn	Metzenbaum
Andrews	Glenn	Mitchell
Baker	Goldwater	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Hart	Packwood
Biden	Hatch	Pell
Boschwitz	Hayakawa	Percy
Bradley	Heinz	Proxmire
Brady	Hollings	Quayle
Burdick	Inouye	Riegle
Chafee	Jackson	Sarbanes
Cranston	Jepsen	Schmitt
D'Amato	Kennedy	Simpson
Danforth	Laxalt	Specter
Dixon	Leahy	Stafford
Dodd	Levin	Stevens
Dole	Lugar	Symms
Domenici	Mathias	Thurmond
Durenberger	Matsunaga	Tower
Eagleton	McClure	Tsongas
Exon	Melcher	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Mattingly, for.

NOT VOTING—1

Hatfield

So Mr. HUDDLESTON's amendment (UP No. 1227) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. BAKER. Mr. President, if I could have the attention of the Senate, I have an important matter I wish to present in the form of a unanimous-consent agreement.

Mr. President, for some time now we have been struggling with the idea that in order to make the August 20 recess it was necessary to dispatch our responsibilities in respect to a list of items which included the supplemental appropriation bill, this immigration bill, and other matters.

The last major item other than conference reports that is on that list of must items is the debt limit. It has now been reported from the Finance Committee, and it is the intention of the leadership to ask the Senate to proceed to the consideration of the debt limit on Monday.

All Senators will perhaps remember that for a period of time now extend-

ing over the past almost 18 months I have indicated that we are going to have a debate on abortion when the parties principally involved in that matter could decide when they wanted to have that debate and choose the vehicle which would carry that debate.

The most recent development in that situation has been by general process of elimination or by osmosis. The debt limit was chosen as the vehicle for that debate and that will be indeed the vehicle for the abortion debate.

So it will be a difficult debate. It is a sensitive issue, one which divides the Senate and the country, but it deserves our attention and our careful thought.

Mr. President, it is not treating lightly that subject to say it does not require us to debate the issue forever.

I would hope that the Senate could agree voluntarily and by unanimous consent to an arrangement that would limit to a generous amount of time that period of time in which we will debate the abortion issue in connection with or contemporaneous with the debt limit.

Mr. President, I have discussed this matter at length with the principal parties involved in the debate on this side of the aisle, and they, I think, are in general agreement. I have discussed this matter with the minority leader and Members on that side of the aisle.

I shall now present a unanimous-consent agreement which represents my best efforts and I believe the synthesis of the best thought that we can put together on how we might go about having a full-fledged, thorough debate on this sensitive issue within a reasonable timeframe.

Mr. President, I put the request at this time.

Mr. President, I ask unanimous consent that, when the Senate turns to the consideration of House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit, an amendment by the Senator from North Carolina (Mr. HELMS) incorporating only those provisions of S. 2148, Calendar Order No. 478, page 1, line 1, through page 5, line 21, shall be in order; that there shall be 8 hours of debate equally divided on the Helms amendment; and that no amendment to the Helms amendment shall be in order.

Mr. President, I further ask unanimous consent that, following the final disposition of the Helms amendment, the Senate set aside House Joint Resolution 520 and turn immediately to the consideration of Senate Joint Resolution 110, Calendar Order No. 658, a joint resolution to amend the Constitution to establish legislative authority in Congress and the States with respect to abortion; that there shall be 8 hours of debate on such joint resolu-

tion equally divided; and that no amendment shall be in order to such joint resolution.

Mr. President, I further ask unanimous consent that, following final disposition of Senate Joint Resolution 110, the Senate immediately resume consideration of House Joint Resolution 520. When the Helms amendment dealing with abortion and Senate Joint Resolution 110 are disposed of, I further ask unanimous consent that no other matter or measure dealing with abortion shall be in order for the remainder of the second session of the 97th Congress, save those which will make or maintain present law which is as follows: None of the funds provided by this act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; provided, however, that the several States are and shall remain free not to fund abortions to the extent that they in their full discretion deem appropriate.

Mr. President, before the Chair puts the request, the essence of this request is that on the debt limit there will be two measures debated relating to abortion, the Helms amendment to the debt limit, and after the disposition of that measure, the Senate will proceed to the consideration of the Hatch constitutional amendment dealing with abortion. After the final disposition of that measure, we will resume consideration of the debt limit.

This proposed order does not put any limitation on the length of time we can debate the debt limit nor does it limit amendments to the debt limit except as they may relate to abortion.

Mr. President, this order also provides that after we have had our debate on abortion, on the Hatch amendment to the Constitution, and the Helms amendment in the nature of statutory language, that is the last we are going to debate abortion this session of Congress.

That is a tall order, Mr. President, but I think it is an orderly arrangement for the discharge of the Senate's responsibility to address an important and sensitive issue but to do so within a reasonable timeframe and to dispatch those questions in a methodical and orderly way as the people of this country want us to do.

I put the request.

Mr. GOLDWATER. Mr. President, reserving the right to object, what are we going to do with the Garn legislation on abortion?

Mr. BAKER. Mr. President, my understanding is that the Senator from Utah (Mr. GARN) is not going to offer that legislation. If this agreement were granted it would not be in order. But the Senator from Utah has indicated, I believe I am correct in saying this, if this order is granted he would not propose to offer it on this debt limit in any event.

Mr. GARN. If the majority leader would yield, Mr. President, that is the case. I have been the sponsor of two constitutional amendments for several years. But I am in agreement with this orderly disposal. It would preclude me from offering them this year, but certainly not in the new 98th Congress.

Mr. GOLDWATER. It seems to me that 8 hours are rather pushy on a constitutional amendment, especially one that has this country so divided. I want to do all I can to expedite matters, but I will be doggoned if I do not believe that is awfully fast work, especially when we have not done much all year. [Laughter.]

Mr. BAKER. The principal accomplishment of this Congress is that we have not so far contracted legislative indigestion, in my judgment.

Mr. GOLDWATER. Well, we have contracted diarrhea, which is not good. [Laughter.] I withhold my objection.

Mr. HUMPHREY. Mr. President, reserving the right to object, I have to agree with the Senator from Arizona about the brevity of the time. But in any case it strikes me that there might be a good deal of competition for that time. Apparently it is agreeable to the principal parties. I just want to be sure, I want to be assured, that the Senator from New Hampshire will be able to speak his mind fully on this issue. I do not want to be selfish, but I would like to be assured that I would have at least 30 minutes in this agreement, because I do believe that the 8-hour restriction—

Mr. BAKER. Mr. President, I assure the Senator from New Hampshire that if this order is entered into, to the extent that I have control of the time I will be glad to provide that 30 minutes; to the extent that the chairman of the Judiciary Committee will have control I will urge him to do the same. I believe there is no question but that the Senator will receive his time.

Mr. HUMPHREY. To the extent that the Senator controls time, I would like unequivocal assurance to be included as being a part of this unanimous-consent agreement, if necessary, that I may have 30 minutes.

Mr. BAKER. Mr. President, I wish to amend my request so that control of the time would be in the usual form.

Now, Mr. President, will the Chair state how the time will be controlled in the usual form.

The PRESIDING OFFICER. By the majority and minority leaders or their designees.

Mr. BAKER. I thank the Chair. Mr. President, I wish to assure the Senator I will designate 30 minutes to him.

Mr. HUMPHREY. Very well. I thank the majority leader.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not now intend to object, but with re-

spect to the position of the proposal relating to existing law, it is my understanding that that is referred to as the Hyde amendment, and it is my understanding it is part of the appropriations bill and not a part of the authorizing legislation. Am I correct in my understanding it will continue to be a part of the appropriation legislation and not become part of the permanent law?

Mr. BAKER. Yes, that is my interpretation.

Mr. METZENBAUM. I thank the Senator.

Mr. CHILES. Mr. President, reserving the right to object, I wonder whether the majority leader would explain under the time agreement, under both the Hatch and Helms bills, are they open to amendment or would amendments be in order?

Mr. BAKER. Mr. President, they would not be under the form of this agreement.

Mr. CHILES. Well, I listened to the majority leader and he said we were going to have full debate on this subject and the subjects were important and they were entitled to full debate. Can we really have that if there are no amendments that are in order?

Mr. BAKER. Of course there is a great deal of debate flexibility in offering amendments but, on the other hand, there is no requirement in my view at least that a Member must offer an amendment in order to make his views known. I think the net effect of the prohibition against amendments is to either increase or decrease the particular likelihood that a particular measure will be adopted. I think, on the other hand, if we were to open the way for amendments it is virtually certain, I think it is certain, we would have no agreement at all. I think this is the best that can be done. I think it is a reasonable arrangement, and I think it will give Senators a generous opportunity to express their views on the subject.

Mr. CHILES. Well, I think there are certainly some of us here who feel that how we would vote on one or both of these bills would certainly be influenced by whether or not we could offer amendments and whether or not those amendments could be adopted. Of course, we have unanimous-consent agreements all the time in which we provide some time for amendments, we provide a procedure where we can have amendments, and I am a little concerned about when we are talking about having a full debate on this very, very important subject, yet there cannot be any amendments.

I agree with the majority leader that these are subjects that ought to come up. I certainly do not want to keep them from coming up but, at the same time, it just seems to me that some of us, if we cannot have any amend-

ments, we are certainly going to be foreclosed from being able to work our will on this legislation.

Mr. BAKER. Mr. President, I hope the Senator will not object. I think it is remarkable that the parties, the Members who are as divided as they are on these issues, are this close to agreement, the principals are. I refer to principals only in a descriptive sense, those who have been most prominent in this debate on this side of the aisle that I am aware of.

We have, on the one hand, Senators PACKWOOD and HELMS. You have Senator HATCH, Senator HATFIELD and, believe me, it is no small feat to arrive at a place where they are agreeable to this arrangement, and essential to this arrangement is we know precisely what we are dealing with and what we are dealing with are two measures that are spelled out in exact detail, exact words. The language by reference is identified in this request, and if we must deal with other uncertain and unknown amendments I can tell the Senator that the thing will not go and we will be in what seems like an endless debate on this subject.

Mr. PACKWOOD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. PACKWOOD. Let me say to my good friend from Florida that I initially had some of the same misgivings he does, but I realized what the situation is going to be if we cannot proceed as stated by the majority leader. I will be very candid, I do not think the constitutional amendment is going to pass the House if it passes here, and whatever rights are reserved by the Senator from Utah as to introducing his amendment next year will depend on the outcome of the elections, and there would be some of us here who would be happy to put it off and not have any vote on the subject, those satisfied with the Supreme Court decision. Others want to vote and want to change it.

The only way we are going to have a relatively limited debate on a subject—and let us be serious, that we all are very familiar with—is if this particular agreement could be reached, and I can assure the Senator from Florida if it cannot be reached then what we are going to be faced with are not 2 votes but probably 20 on the subject of abortion, and the Senator will have ample opportunity for amendments and ample opportunity to vote on all kinds of amendments all during September.

I do not mean that as a threat. I just think realistically that is what is going to happen, and I think this was the best that could be fashioned, and it will give everybody who wants to vote an opportunity to vote on this subject. I have gone around with Senator HELMS and Senator HATFIELD on this, and this is as much as we could do.

Mr. CHILES. I assure the Senator—

The PRESIDING OFFICER. Does the Senator continue to reserve his right?

Mr. CHILES. I do.

On the constitutional amendment, on the Hatch amendment, I understand there was an amendment offered in committee that has been talked about widely as to whether the rights would be just for the States as opposed to the States and/or the Federal Government. That is an area which is persuasive to the Senator from Florida, that this should be a question reserved to the States.

Now, under the unanimous-consent agreement with no amendments that question will never be presented to the Senate because it will just be a vote as to whether you will take the provision as it is written, and you will never be able to express yourself on the other provision, and it seems to me that that is an amendment that is fairly close in the committee, there has been a lot of talk about that amendment. It is an amendment that happens to be persuasive with me. And yet, under the unanimous-consent agreement, I would not have an opportunity to vote for that amendment.

Mr. BUMPERS. Will the Senator yield while he still reserves the right to object?

Mr. CHILES. Yes.

Mr. BUMPERS. Mr. President, I would submit that I could not think of a better reason to vote against both proposals. I am not going to object. I am not even going to reserve the right to object, Mr. President.

But here is an amendment which has not been reported from anyplace. The Hatch amendment has been reported out of the Judiciary Committee. We debated the constitutional amendment on the balanced budget for roughly 10 days here. I was on the losing side of that, but we did have some very good debate; not as much as I would like and some of it was not as high level, but at least there was a lot of thoughtful consideration that went to that.

But, by the same token, here you have a constitutional amendment that you are going to be limited to 8 hours on and you cannot even debate it. I would like to ask any Senator how you are going to respond to your constituents who say, "You agreed to the agreement on the amendment and you had to vote yes or no and you could not even offer an amendment to perfect it even though you would have liked to and possibly voted for it after that."

I would suggest to the Senator that he not object on that ground.

Mr. CHILES. Mr. President, the Senator from Florida is not afraid to express himself and is not afraid to vote on any question, but he would like to

be able to state what his views would be and not be put in a position where, by virtue of the unanimous-consent agreement, he is not able to state those views.

Mr. BAKER. Mr. President, I understand what the Senator is saying, but I must say again that we worked on this for days now. There are good arguments on both sides, and one was expressed eloquently by the Senator from Arkansas that at least you are dealing with a certain quantity instead of an uncertain quantity.

Mr. CHILES. Is the majority leader saying that if the Senator from Florida requested the Hatch amendment be open to amendment that there would be no unanimous-consent agreement?

Mr. BAKER. Yes, Mr. President, I am expressing the view that if that were to occur I think there would be an objection. There may be an objection anyway. But what I am saying is this is the best way I know how to do it.

Mr. HUMPHREY. Mr. President, reserving the right to object, let me ask the majority leader: Is the Hatch amendment going to be considered as business separate from the debt limit?

Mr. BAKER. Yes, that is correct. The constitutional amendment cannot be added as an amendment to the debt limit. So this proposed unanimous-consent agreement provides that after we dispose of the Helms amendment we would temporarily set aside the debt limit and proceed to consider the Hatch constitutional amendment, free-standing, and after the disposition of the Hatch constitutional amendment, we would return to the consideration of the debt limit bill.

Mr. HUMPHREY. I thank the majority leader.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, as Members can probably tell, the issues dealt with, as sensitive as they are in the unanimous-consent request, have not yet been fully resolved. I think there is still a chance we could get an agreement, but so that Members may try to work out their differences on one remaining section of it, I withdraw the request at this time.

The PRESIDING OFFICER. The request is withdrawn.

ORDER OF PROCEDURE

Mr. HEFLIN. Mr. President, will the majority leader give us what the schedule will be tonight?

Mr. BAKER. Mr. President, what I want to do now is to put us on the conference report on the war risks. To do that, there is a 1-hour time limitation on that conference report.

After that conference report is finished or during the time we are in a position to do so, I will put the request once more.

The PRESIDING OFFICER. Will the majority leader send the time agreement to the desk?

Mr. BAKER. Mr. President, I understand the managers on both sides have agreed to this, and I will now state it for the consideration of the Senate.

TIME LIMITATION AGREEMENT, CONFERENCE
REPORT ON H.R. 5930

Mr. President, I ask unanimous consent that when the Senate turns to the consideration of the conference report on H.R. 5930, that there be a time limitation of 1 hour to be equally divided and controlled in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. DeCONCINI. Mr. President, reserving the right to object, I would like to ask the majority leader if he would consider having the vote on the conference report on tomorrow.

Mr. BAKER. Mr. President, I will be happy to consider that, but I wonder if the Senator from Arizona will consult with the principals, Senator CANNON, Senator PACKWOOD, and Senator KASSEBAUM. If it is agreeable with them, it is fine with me.

Mr. President, I would like to go on with this and if the Senator wishes to object, of course, he may, but a conference report is privileged.

Mr. DeCONCINI. Could I pose that question, if any principal would object?

Mrs. KASSEBAUM. Will the majority leader yield?

Mr. BAKER. I yield.

Mrs. KASSEBAUM. I could not agree to that because I have some who are supporting my position who have stayed tonight purposely and who will be leaving town tomorrow. I feel because they have made such an effort to stay, I am not agreeable to changing the time. I feel we ought to proceed.

The PRESIDING OFFICER. Is there objection?

Mr. DeCONCINI. I withdraw my objection. I find it very difficult to stay late in the evening when we do not have votes, as we did last night. It seems to me if we are going to spend the time away from our families, or whatever we may have planned for the evening time, it ought to be when we have votes and not to sit around here and wait for 2 or 3 hours and then

decide to have a voice vote on the subject matter.

That is why it seemed to me if there was a possibility of having it tomorrow, it would make more sense.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Mr. President, will the majority leader restate the request?

Mr. BAKER. The request is when the Senate turns to the consideration of the war risks conference report, there be a time limitation of 1 hour equally divided.

Mr. METZENBAUM. Does that include amendments? Is it 1 hour including amendments?

Mr. BAKER. Mr. President, I will amend the request. One hour on the conference report—Mr. President, is there no item in disagreement?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. No amendment would be in order in any event.

The PRESIDING OFFICER. Is there objection to the time limitation request of the majority leader? The Chair hears none, and it is so ordered.

Mr. SARBANES. Mr. President, will the majority leader let us know what the proposed program is for tomorrow?

Mr. BAKER. Yes.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REDUCTION IN LEADERSHIP TIME

Mr. BAKER. Mr. President, after consulting with the minority leader, I believe this is agreeable. I ask unanimous consent that the time allocated to the two leaders under the standing order for tomorrow only be reduced to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR NUNN
ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the recognition of the two leaders, the Senator from Georgia (Mr. NUNN) be recognized on a special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 2222
ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that at 9:30 a.m., the Senate resume consideration of S. 2222, the Immigration Reform and Control Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING PERIOD FOR THE TRANSACTION
OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that any time remaining after the execution of the special order be allocated to the transaction of routine morning business, in which Senators may speak for 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is not anticipated that the Senate would be asked to remain late tomorrow. I would expect we would be here until the middle of the afternoon, which is the reason for the early convening.

I would hope, Mr. President, that we could reach third reading on the immigration bill tomorrow. It is possible that it would be desired, or may be necessary, to put off a vote on final passage until Monday or Tuesday. But I hope we can complete all amendments to the immigration bill on tomorrow.

AVIATION INSURANCE EXTENSION—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on H.R. 5930 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5930) to extend the aviation insurance program for 5 years, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD August 10, 1982.)

Mr. BAKER. Mr. President, I understand that the managers of the conference report have agreed that the control of the time for proponents will be with the Senator from Oregon and the time in opposition will be with the Senator from Kansas. For my part, Mr. President, I designate the Senator from Oregon to manage and control the time for proponents.

Mr. ROBERT C. BYRD. Mr. President, inasmuch as I have half the time, after conferring with the distinguished Senator from Nevada (Mr. CANNON), I designate control of my half of the time to Senator KASSEBAUM.

Mrs. KASSEBAUM. Mr. President, I am sorry; I was conversing and I did

not hear the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, as I understand, the Senator is opposed to the conference report?

Mrs. KASSEBAUM. That is correct.

Mr. ROBERT C. BYRD. In order that there might be 30 minutes allotted to the opposition, I said that after conferring with Mr. CANNON, it was agreeable for me to yield the time that is under my control for the opposition to the distinguished Senator from Kansas.

Mrs. KASSEBAUM. I appreciate that very much, Mr. President. I thank the Democratic leader.

(Mr. HAYAKAWA assumed the chair.)

Mr. PACKWOOD. Mr. President, do I understand correctly that the other 30 minutes on behalf of the conference report is designated to me and under my control?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. Mr. President, the matters that we consider here tonight are relatively simple and easy to understand. This is the issue of labor protection: What are you going to do for employees in an industry that was regulated by the Federal Government, although it was private industry, when the Federal Government changes the rules and those employees are left in a lurch and, perhaps, dismissed? It is not a new subject to the Congress; it is not a new subject to this country.

The historic forerunner of labor protection was in the railroads. The Interstate Commerce Commission, before it would ever approve mergers, acquisition, or transfers between railroads, would always impose some kind of labor protection. I want to emphasize that this was on private industry.

The railroads were privately owned in those days when labor protection was started; they were mostly making a profit. But because they were regulated by the Government and because there were certain things they could and could not do and there were certain things the Government, even though this was private enterprise, said "thou shall and thou shall not," when we were going to change the rules, we said, we are going to make sure employees shall not be injured.

We started applying the same concept in the airline industry in 1950, in the United Airlines-Capital Airlines merger, and we called it the United-Capital provisions. We have done that ever since 1950, bearing in mind again these are private industries, but regulated by the Government.

We changed the rule slightly in 1972, in the Allegheny-Mohawk merger and we called them the Allegheny-Mohawk provisions. The Civil Aeronautics Board, in every case of acquisition or a merger, would put them

into effect so the employees would not be injured.

We even more dramatically put them into effect specifically in legislation in 1973 in the Conrail bill, in which we granted the most extraordinary labor protection terms that Congress has ever granted. We said that if you had 5 years or more of service working for Conrail, you could receive your full salary from the time you were terminated until you were 65.

Then came the Airline Deregulation Act of 1978. This is most important. As all of us are aware, much legislation around here is the result of compromise, compromise between the principal parties concerned—I mean directly, immediately, concerned—the airlines and the employees.

In that Airline Deregulation Act, in order to bring the parties together and to get some cooperation for moving us toward deregulation, Congress made a promise. We said if the Airline Deregulation Act were passed, the administration would issue within 6 months regulations guaranteeing higher protection. Unfortunately, the last administration, President's Carter's administration, did not get around to issuing those regulations until the very last hour of the administration, and as soon as this administration came in, they repealed the labor protection orders that the Carter administration had put forth and they have never issued any regulation since.

So the quid pro quo, the promise of this Congress that employees who lost their jobs because we were moving from regulation to deregulation, the promise that we made that they would be protected, has not been fulfilled. Those employees in that industry affected justifiably feel that they perhaps have been betrayed, because it was one of the agreements that brought them along to support the Airline Deregulation Act.

Then we come to 1979, the Milwaukee Railroad bill. In that bill, Congress—again, a private industry but regulated by the Government and we are moving toward deregulation in the railroad industry. In the Milwaukee Railroad bill, we provided that if you had 3 years of service, you were to receive 3 years of retirement at 80 percent of your salary—3 years, you got 3 years' retirement at 80 percent of your salary.

In the present bill that we are considering, if you worked 3 years in the airline industry, you would get a year-and-a-half of benefits at 60 percent of your salary—not nearly as generous as we treated the employees of the Milwaukee Railroad.

Then in 1980, the Rock Island Railroad bill was introduced by my distinguished colleague from Kansas (Mrs. KASSEBAUM) to take care of the Rock Island situation and the employees of the Rock Island Line. That bill, as we

addressed it on the floor of the Senate, had labor protection provisions in it. If I may quote my distinguished colleague from Kansas, as she was talking on the floor about this bill:

Another important aspect of this issue is jobs; 4,000 employees of the Rock Island stand to be dislocated as a result of the Rock Island's demise. The labor protection provisions we adopted in the Milwaukee Railroad Restructuring Act will be applicable to the lines purchased under the provisions of this proposal, to provide them with assistance.

Then, she said:

Regarding the labor protection—this was a difficult issue to deal with—one of the major concerns was about the employees on the lines that would be purchased—that there would be a possibility of wildcat strikes, and that is one of the things we were hoping to deal with in this legislation.

That is perfectly understandable. We supported it, the bulk of Congress did, the Senator from Kansas did. It was a private industry, previously regulated, and we were saying that if, because of any actions we take, the employees are going to be jeopardized we were going to help them tide over.

We come to the A.T. & T. breakup, the bill that passed the Senate not long ago, S. 898. In that bill, Congress provided—and it passed the Senate overwhelmingly, only four or five votes in opposition—that because, as we moved from a regulated to a deregulated climate in the communications industry, employees were adversely affected, if you had worked for A.T. & T. for what was called the probationary period—6 to 12 months depending upon your occupation—and you lost your job because we were moving toward deregulation you got 7 years full salary. We voted for that. The Senator from Kansas voted for it.

Now, we come to the present war risk bill in which we have agreed to try to give labor protection to those employees who will lose their jobs because of mergers or acquisitions or route changes, and I might say give them protections not nearly as great as we have given to employees of other regulated industries and giving it to them because we promised it in 1978 when we deregulated the airlines, or started toward the gradual deregulation, and we have not performed.

Now, the Senator from Kansas will raise one point that is not on the substance of these provisions but is on the procedure. She will say that we went beyond the bounds of the conference. The bill as it passed the House, the war risk bill, had no labor provisions in it. As it passed the Senate, it was discretionary. It said we will leave it up to the Civil Aeronautics Board until 1985 and then the discretionary authority to impose labor protection provisions will terminate. We went to

conference and we put in some mandatory provisions.

Now, interestingly, I think the Senator from Kansas will argue that the mandatory provisions are beyond the scope of the conference because there was nothing in the House bill and only discretionary provisions for the CAB in the Senate bill.

But the Senator from Kansas herself in very able efforts at negotiating this attempted prior to the meeting of the conference to bring the parties together and to get them to agree. She offered some labor protection provisions which were mandatory for 5 years as far as acquisitions and mergers were concerned—mandatory. But they were not acceptable to the conferees and instead we put in other provisions.

I raise that point only to say that if the Senator from Kansas raises the arguments that these mandatory provisions are beyond the scope of the conference, indeed, she was prepared and did offer mandatory provisions—5 years, the same length that ours are. I hope, therefore, she would not raise the argument. But if she does I want it to be fairly understood that she, too, was willing to go beyond the discretionary provisions in the Senate bill had her proposed compromise been accepted.

Mr. CANNON. Mr. President, will the Senator yield me some time?

Mr. PACKWOOD. I would be happy to yield as much time as the Senator from Nevada needs.

Mr. CANNON. Mr. President, I do not think I have ever seen an issue where the prospective results of a legislative provision were blown further out of proportion. We are not talking about something new or untried here; we are talking about the codification of protections which have been part of every airline merger or acquisition in recent history. The opposition can talk about how this authority has been permissive all they want, but the fact is these provisions have been included in every single case where a merger or acquisition has been finalized by the CAB. And to further demonstrate how preposterous some of the charges in the press have been recently, in the last 4 years of mergers or acquisitions handled by the Board, the airlines involved requested that these provisions be imposed. How can these provisions be so monstrous and debilitating to an airline when for the last 4 years under deregulation, every airline to come before the Board for a merger or acquisition has asked the Board to make these LPP's a condition of their combination?

I ask my colleagues not to be swayed by misrepresentations in the press. The key issue here is the fact that we are putting the unions on notice. The benefits section of this amendment is only effective for the next 5 years, so

if labor wants to retain these benefits in the future they will have to negotiate in the collective bargaining process to keep them beyond 5 years. But it is only fair to give employees that transition time before taking away something they have always had in the past, just as we gave the airlines time to transition to deregulation.

Finally, I want to note that this provision does not remove the collective bargaining process from 408 type cases even for the next 5 years. A key clause in this amendment says that any negotiated settlement for LPP's different from those imposed by statute shall take precedence and be controlling. So if a failing carrier can only be acquired if the employees will agree to give up all or part of these benefits, that can and probably will occur as part of the bargaining process.

This amendment is fair to employees and imposes nothing new on management. I urge my colleagues to support the conference report.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, at the close of debate I intend to raise a point of order against consideration of this conference report, 97-722. I will rely upon rule XXVIII of the Standing Rules of the Senate.

I would like to respond to my distinguished chairman, the Senator from Oregon, and say that this is not just a question of labor protection. I am glad he raised the Rock Island case because it shows indeed that in principle I am supportive of labor protective provisions, but we had lengthy and extensive hearings on the Rock Island case and it was debated on the floor of the Senate. It was also dealing with a railroad that had gone bankrupt and was being dismembered. It was a question of how best to provide protection for the employees.

Mr. President, as chairman of the Aviation Subcommittee, I cannot agree with my fellow conferees in their decision to include the extensive new substantive law governing labor-management relations in the airline industry. The amendment is beyond the scope of the conference. True, I did try and arrive at some compromise before we reached this particular situation that would be agreeable to both ALPA and the airlines. This was unsuccessful. But the scope of the conference report goes beyond even the suggestions that were made for compromise.

No one has indicated why the amendment is so important that the normal legislative route, based upon reasoned review by the subcommittee, must be totally abandoned and open debate of the issue avoided.

At the most fundamental level this amendment is a major step backward

in the deregulation process. While the industry which lived for 40 years in the hothouse of public utility regulation is now being thrust into a highly competitive environment, the committee is seeking to mandate a rigid form of labor protection provisions that were discretionary under regulation.

No other unregulated industry has ever been subject by legislative fiat to labor provisions of this magnitude. The provisions could subject virtually any transaction between two airlines to labor protection provisions. At a minimum every intercarrier transaction even indirectly affecting an airline route will require the airline to argue the labor issue at the Department of Transportation. Beyond this fundamental policy issue most of the provisions go well beyond prior precedent.

For example, LPP's will be imposed automatically on any transaction involving 20 percent of the aircraft or other property owned by the seller or lessor. This automatic trigger fails to take into account the scale of the transferor carrier's operations. A small carrier could be subject to the provisions if it sells one aircraft.

Section 408(b)(2)(C) governing the application of these provisions to any transaction that directly or indirectly affects a route is so broad that it could be applied to any transaction. The standard for the CAB to apply in imposing the LPP's in these cases is to prevent labor unrest which could "impair the continued stability and efficiency of the carriers involved." The CAB has stated that this is a new and much broader test than used in the past and was taken out of context from a single Board decision. In addition, the Government has no business deciding when to protect deregulated industries from their own decisions. They should know what is in their own best interest and can settle any labor dispute arising from the transaction.

The only argument my fellow Conferees could offer for this dramatic expansion of the role of the Federal Government into the affairs of the private sector is that they seek only to assure that what the CAB did as a matter of discretion to help employees of a regulated industry in some intercarrier transactions should be required as a matter of right to virtually all such transactions in an unregulated industry. I simply fail to see the logic or merit to this approach when it has not been thoroughly explored and debated in hearings.

Indeed the provisions go well beyond prior Board practice. Under the amendment, anytime there is a route transfer which DOT finds should be subject to LPP's, the full Allegheny-Mohawk provisions including seniority integration provisions must apply.

Although the CAB has applied LPP's to some route transactions, it has never applied the seniority integration provisions to those transactions. Under the proposed amendment, even if there is no transfer of equipment, pilots and flight crews will be forced to transfer. This is not only a potential problem for the airlines but can have serious negative effects on the work force of the acquiring carrier. For example, if this provision had been in effect when Braniff leased its South American route to Eastern the crew integration process would have resulted in substantial bumping and furloughs of Eastern crews. It was for this reason that Eastern's employees—including pilots—objected to the application of the LPP's.

Concerns have been raised that labor needs, and is entitled to, a transition since LPP's were imposed in the past. I am sympathetic to this concern. And the original Senate amendment—which passed by unanimous consent only 6 weeks ago—did just that by preserving the status quo for up to 2 more years while the Aviation Subcommittee held hearings to determine what additional protections might be necessary. I might add that the question of a transaction is not a new issue. Specifically, 3 years ago in the Pan American National Merger Case 79-12-163, the CAB stated clearly and succinctly that the historic rationale for applying LPP's was inconsistent with deregulation. The Board stated then that it would not impose LPP's routinely and that labor and management should rely on the collective bargaining process to take care of these situations. This provision may only delay the inclusion of the issue in the collective bargaining process.

Let us look at some of the other serious problems raised by this hastily drafted and unreviewed legislation. Section (b)(1)(2) would impose LPP's, to take effect in the future, if a large aircraft operator enters into a transaction with a commuter and the latter subsequently purchases an aircraft over 60 seats. The LPP's would take effect even if the commuter operated the large aircraft on a route that was not even linked to the qualifying carriers route system.

We already are seeing that many trunk carriers are entering into various arrangements with commuters. U.S. Air, Delta, Eastern, Pan Am, and United all have various joint ventures with commuters which involve or may involve exercise of control. The LPP trigger could deter these commuter carriers from purchasing large aircraft unless they were willing to jeopardize their relationship with the qualifying air carrier. This provision has serious anticompetitive implications that have not even been addressed in any hearing.

Under this bill, jurisdiction to impose LPP's is transferred to the Department of Transportation on January 1, 1983. Agency review of antitrust issues related to mergers and acquisitions is abolished but the CAB retains jurisdiction over the public convenience and necessity determinations of the certificate transfer under section 401 of the act and over approval of the underlying intercarrier agreements to which this section applies under section 412 of the act. So as of the first of next year virtually every single intercarrier transaction will be reviewed by three separate Federal agencies—looking at the same facts. The CAB will decide if the transaction is within the public interest under section 401, and not anticompetitive under section 412; the Justice Department will decide whether to seek to enjoin the transaction for antitrust reasons; and the Department of Transportation—for the first time in its history—will be holding evidentiary hearings to decide whether LPP's should be imposed. The bill totally emasculates the legislative scheme as set forth in the Federal Aviation Act without any review or direction from the congressional committees with aviation jurisdiction. Moreover, the total multiagency process could take months and cost parties a fortune in legal fees. How such a three-ring circus can benefit anyone is a question that, under the course of action chosen by the conference, will remain unanswered.

Section (d) of the amendment creates a new basis for Federal questions of jurisdiction over airline labor protective provisions in U.S. district courts without regard to the amount in controversy. A large transaction could result in hundreds of actions being filed all over the country adding new burdens for the district courts. In addition, because jurisdiction for review of the substance of these transactions will be in the Court of Appeals the judicial process will become completely fragmented. As far as I am aware, this provision has not been reviewed by the judiciary committees of either House.

Full application of the Allegheny Mohawk labor provisions can be very costly to the airlines. The provisions are actually derived from LPP's created for railroad mergers in the 1930's and 1940's. The provisions were applied to the airlines in 1950 and have remained virtually unchanged since 1960. These provisions provide, among other things, that:

Workers reassigned to lower paying jobs will receive up to 100 percent of their previous salary for up to 4 years.

Workers who lose their jobs are eligible for a lump sum payment of 1 year's salary if they have worked for the airlines for 5 years or they may elect 60 percent of their average monthly compensation for up to 5

years for a worker with 15 years seniority. Based on the average salary scale in the industry, a pilot with 12 years seniority could receive over \$185,000 in payment under the LPP's. A senior pilot might receive as much as \$450,000 over 5 years.

Prior to deregulation these costs were passed on to consumers. It was a price that we the travelling public paid to preserve the public utility character of the industry. Today, we are being asked to impose these public utility costs on a highly competitive industry without any serious public review of the possible benefit or detriment of the policy.

It was because of the obvious complexity of these issues that I initially proposed the amendment that was contained in the Senate bill which merely retained jurisdiction over domestic mergers at the CAB until 1985. I stated that the subcommittee intended to hold hearings on these issues this year.

Mr. President, I do intend to hold hearings if, indeed, my point of order is upheld by the Chair. I understand that in that event the matter would be recommitted to conference, and I hope at that point there would be consideration of the original Senate-passed request.

I hate to see this become a pro or con labor issue. It is not that. But I think we should be seriously concerned about a conference report that comes back to us, that has not been debated or passed on the floor of either body.

If the point of order is upheld, I do intend to go forward with hearings.

The conference committee has voted to proceed with a nongermane amendment. The conferees have no idea what the impact of the bill will be on the industry, why it is needed, and, most significantly, why it must be approved with such urgency that the normal legislative process should be completely ignored. Because there are no satisfactory answers to any of these questions, I cannot support the conference report. Mr. President, I raise a point of order under rule 28 that the conferees have exceeded their authority by including new matter not committed to them by either House.

I yield 5 minutes to the Senator from Arkansas.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The time has not expired on the conference report. A point of order is not in order.

Mr. BOSCHWITZ. Mr. President, I should like to ask a question of the Senator from Oregon with respect to Braniff Airlines, which had a large base in our State and has gone bankrupt.

How does that apply to Braniff? Do its employees of any type receive moneys from Braniff or somebody else?

Mr. PACKWOOD. It does not apply to bankruptcies. If Braniff were not in bankruptcy and transferred some of its lines to other carriers, it would apply; but it does not apply to a pure and simple bankruptcy.

Mr. BOSCHWITZ. Would not this provision prevent somebody from buying up Braniff? Suppose somebody decides to look at some of the Braniff routes and decides to create a new carrier?

Mr. PACKWOOD. Will the Senator repeat the question?

Mr. BOSCHWITZ. Suppose somebody saw some Braniff route they liked and decided to hire some Braniff employees for a new airline. Would there be any way for it to apply to Braniff employees?

Mr. PACKWOOD. Yes, it could apply to Braniff employees, if we are talking about mergers, acquisitions, and route transfers. But if Braniff goes belly-up, out of business, gone, there is no protection.

Mr. GLENN. Mr. President, will the Senator yield for a question along that line?

Mr. PACKWOOD. Whose time are we on?

Mrs. KASSEBAUM. I should like it to be on the time of the Senator from Oregon.

Mr. GLENN. If someone wanted to buy 20 percent of Braniff rolling stock or flying equipment—

The PRESIDING OFFICER. The Chair states to the Senator from Ohio—

Mr. PACKWOOD. Mr. President, I yield to the Senator for a question.

Mr. GLENN. If someone comes along and wants to buy over 20 percent of Braniff's airplanes, would they not also have to assume the liability for all these wages for the next 5 years, potentially up to 5 years, for the Braniff employees? Would this not tend to prevent someone from even purchasing any Braniff equipment?

Mr. PACKWOOD. This provides that the labor protection provisions would be superseded by any collective bargaining agreement that is agreed to.

If I were a Braniff employee and a company wanted to buy over 20 percent of the defunct Braniff, or if I were the unions representing those employees, I would quickly negotiate an agreement that might abrogate my labor protection rights or limit them, or do anything to get me back in the sky, rather than be in a situation where I am bankrupt and dependent solely on unemployment compensation. There is no guarantee that a union would do that.

The Senator's point is well taken, that these provisions could be im-

posed; and if that would deter anybody from buying a piece of Braniff, it would not be to the benefit of the employees.

Mr. GLENN. If I were considering buying something like that, why would I not go abroad and buy airplanes, rather than buying Braniff stock?

Mr. PACKWOOD. I am not quite sure I follow the Senator. You go abroad and bring here airplanes that you are going to hire people to fly?

Mr. GLENN. Yes. I would not buy Braniff, because I would have to take on a lot of unnecessary baggage, which I would not have to do if I went to Great Britain, for example, and bought planes.

Mr. PACKWOOD. What we are doing in these provisions, although they are less than we have imposed on other industries, is simply applying by statute roughly the same thing that the Civil Aeronautics Board has been applying since it started its Allegheny-Mohawk provisions in 1982.

The reason we are putting it in statute is that I feel the employees were betrayed when we did not follow up on the 1978 Airline Deregulation Act and issued regulations that would have guaranteed employee protection. Had we done that, we would not be in this situation today. Had the unions known we were not going to do it, I do not think we would have had any airline deregulation at all. So I can understand why they are now hesitant to trust to the good faith and discretion of the Government, if we adopt the position of the Senator from Kansas, that the Civil Aeronautics Board will voluntarily, and in its wisdom, apply the same standards that they have applied in the past.

Mr. GLENN. I thank the Senator. The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I yield 5 minutes to the Senator from Arkansas.

Mr. BUMPERS. I thank the Senator from Kansas.

Mr. President, I want to discuss two elements of this.

First, when I came to the Senate just 7½ years ago it occurs to me that the Senate was much more inclined to live with the rules of the Senate in a rather strict way than they are now, but I have seen in 7½ years not just a denigration but an absolute ignoring of some of the basic rules of the Senate.

It has gotten to where it is common for us to appeal the ruling of the Chair and vote against the Chair. When the Chair rules that an amendment is nongermane, we all know it is nongermane, but we vote on the substance of it rather than the procedure. We routinely—maybe this has always been done, but it has gotten to where it is just routine to legislate on appro-

priations and if someone challenges we appeal the ruling and we vote according to the substance of the legislation, not the fact that we know it is legislation on appropriations. And just 2 days ago we had a brouhaha on this floor about an appropriation with no authorization and it prevailed and it seems to me that this is just going on apace.

The Senator from Kansas has raised a very valid point. We are debating a provision that may have merit. I do not think it has merit, but I do not know. But there is one thing for sure: It was never debated in this body. It was never debated in the House of Representatives. It was not in the Senate bill. It was not in the House bill. And when the two committees went to conference it was just put in right out of the sky.

It is not that the Allegheny-Mohawk regulations have not been there before. They were, but to just say we are going to incorporate that into this bill and take it back into the conference report is dead wrong. It is a gross violation of the rules of this body, and the Senator from Kansas has correctly raised a point.

So far as the merits are concerned, I voted for airline deregulation. I said turn them loose, let them compete. I voted for trucking deregulation. And it has been tough on the airlines. It is tough to go in and buy a ticket anymore without being accosted about my vote on that.

Braniff is gone. Five more airlines are on the endangered species list.

Can we in good conscience, on the one hand, deregulate the airlines and on the other come back and say a matter which should always be left to collective bargaining is now in the hands of the Senate or Congress? We are going to tell the airlines that in the future if they merge they must pay these pilots or these machinists or whatever, 60 percent of their salary for 5 years.

The point has been made by the distinguished ranking minority member on that committee, "We are serving notice on labor that this only applies for 5 years and you have to get your own thing going by collective bargaining, then, if you want to keep these benefits."

What is sacred about 5 years? Why not 1? Why not 3? Why 5?

This is a fit subject for collective bargaining. We cannot in good conscience have it both ways.

Talk about Conrail and Rock Island. Every one of those have very serious distinctions. How about Tyco and Morton Norwich? They merged last week. What are we doing for them?

How about all the other mergers that are taking place in this country every day? What are we doing for them? Why the airlines?

It compounds the felony because we just deregulated the airlines and then come back and tell them how to run their business.

Mr. President, yesterday afternoon I was driving down Constitution Avenue. I saw on the Justice Building—I had never seen it before. On the Justice Building it says "A free nation can survive only by the supremacy of law."

And as a lawyer, one supremely dedicated to the Constitution as well as the laws of the country, I thought, what a magnificent statement that is. But I got to thinking: There is something that is inherent in that and it is supremacy of good laws. We have to make sure that we pass good laws. No one wants bad laws to be the supreme law of the land. This is bad law and it is bad precedent.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. BUMPERS. If the Senator will yield me 30 additional seconds, I want to say it is bad precedent, one that will come home to haunt us. We should be willing at some point, as every legislative body must if it is going to be viable and effective, live by our own rules, and I hope Senators will vote to sustain the point of order of the Senator from Kansas.

Mrs. KASSEBAUM. I thank the Senator from Arkansas, and I yield 5 minutes to the Senator from New Hampshire.

Mr. RUDMAN. I thank the Senator from Kansas.

Mr. President, I always enjoy listening to the chairman of the Commerce Committee who is one of the more artful debaters on this floor. Tonight the distinguished chairman has attempted, I think, to make a silk purse out of a sow's ear, but I do not think he has quite succeeded.

I think this is an outrage that we are asked to vote on this issue here tonight. I do not know what the implications of this issue are. I do not know what the economic impact is.

The Senator from Nevada wants to tell us that we are following a precedent for 20 years. I submit to this Senate that that is why we have elections every 2 years because some of us wish to change the precedents. I agree with very little that has happened around here for the last 20 years including whatever precedent is being cited.

There are only three issues involved here tonight.

The first issue is most of us do not know what we are voting on. Normally, we do this at 4 o'clock in the morning. We are about 6 hours early or 7 hours early tonight.

Second, I believe that before we give special treatment in the statutory form to the employees of the airline industry we should rather carefully look at a lot of other industries, for ex-

ample, the defense industries. Maybe we will cut the defense budget \$40 billion in 1986. Then I expect that that is Government action and we should do something about their executives and their employees.

And I submit to you, Mr. President, that if this goes through and the major American airlines find themselves in difficulty financially, they will come back to us to help them with a subsidy to pay the amount of money that will be accrued under this obligation.

Finally, let us just make something very clear here. The airlines will not pay this. The American people will pay it. They will pay it on their airline tickets. They will pay it through taxes. They will pay it.

The Senator from Ohio stated it exactly correctly. Under the Braniff transaction if Braniff should move under the bankruptcy laws under a chapter 11 reorganization this will apply and add that cost.

We have a lot of airline pilots living in New Hampshire and I have heard from many of them. The fact of the matter is we should give it a full hearing, exhaust it before the committee, have a report here and vote on something we know about instead of voting in the dark with the lights on.

I thank the Chair.

Mrs. KASSEBAUM. I thank the Senator from New Hampshire.

I yield 5 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. president, I thank the Senator from Kansas, and I compliment her for bringing this to the attention of the Senate.

I certainly concur with her, that this is certainly outside the legislative realm that should be considered, and I think her point of order is well taken and should be well taken.

I hope that we as Senators will support her for that reason if none other, but we also could support her and should support her on the substance of the issue.

I think of special interest legislation, this is certainly it. Talk about interfering with collective-bargaining process, talk about believing in free enterprise. What this is saying is let the Federal Government mandate collective bargaining. Let the Federal Government give the labor protections.

That is ridiculous.

Let us not mandate. This is an interference in the collective-bargaining process.

If the airline companies want to negotiate this with the airline unions, that is fine. Let them negotiate. Let us not mandate that they have to provide this.

When Senators look at this special interest legislation, I hope they will look at what some of these labor provi-

sions are that are in this. They are unbelievable.

Do Senators realize that if a person works more than 1 year or less than 2 he gets 6 months of payments at 60 percent of his salary, and I hope most Senators are aware of some of the provisions.

They say, yes, that the commercial airlines will pay compensation for furloughing employees up to 60 percent of their salary anywhere from 6 months up to 5 years, reparation of wages loss if an employee is transferred to a lower paying job. They have moving allowances. They merge seniority lists and they also provide for binding arbitration.

Some of the provisions in here are unbelievable.

I start looking at the provisions that say, yes, if a person works 3 years and less than 5, it provides for 18 months of compensation at 60 percent of pay or if they had 15 years they would receive 60 months or 5 years of compensation at 60 percent.

Mr. President, we are not talking about necessarily low-paid individuals. Looking at some of the averages, the average for the Airline Pilots Association pilots, the 21 top companies, the average compensation is \$96,000. So their 60 percent is equal to \$57,000 that they would receive for 5 years, if they had 15 years of service, \$57,000. Unbelievable.

That breaks down to \$1,100 a week, and the unemployment compensation in my State for an unemployed worker is \$129 a week. These people would be receiving \$1,100 a week.

Unemployment compensation nationally, unemployment compensation, is \$115 a week. Do you know what the pilots, the top paid pilots, of a 747 receive? One hundred and sixty thousand dollars a year, and we have some that make that much, and they would receive \$96,000 for 5 years. Unbelievable. Special interest legislation? I should guess so.

And to address Senator GLENN's statement about Braniff, I talked to the Braniff people today, and I will read a short part of the letter, Mr. President. I ask unanimous consent that this letter be printed in the RECORD. This is from Mr. Putnam, who is chairman, president, and chief executive officer of Braniff International.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

BRANIFF INTERNATIONAL,
Dallas-Fort Worth Regional Airport, Tex.

This is in response to the amendment to H.R. 5930 being proposed as labor protective provisions for the airline industry. The well publicized financial problems of the airline industry have been underscored by our own filing under Chapter 11 of the Federal Bankruptcy Statutes in May 1982. The proposed legislation, if enacted, would raise serious and perhaps insurmountable obstacles

in our path and make it far far more difficult for us ever to recognize and emerge from Chapter 11. If the issues dealt with under the proposed legislation are valid at all, they should properly be dealt with as part of the collective bargaining process and not as a special bill to serve special interests. The larger concern is that this legislation transcends Braniff and its current problems and has a quite serious implication for capital investment and traditional capital sources for the airline industry. Lenders to the industry normally look to the value of the underlying assets to reduce their risk to acceptable levels. This legislation, however, would significantly undermine the value of those assets by placing artificial constraints on an airline's ability to dispose of aircraft or to restructure its operation. We believe the public interest would be ill served by further hindering the restructuring efforts of a seriously troubled industry.

HOWARD D. PUTNAM,

Chairman, President and Chief Executive Officer.

Mr. NICKLES. Senator Glenn, Mr. Putnam's letter states:

The proposed legislation—

He is talking about this particular provision—

if enacted, would raise serious and perhaps insurmountable obstacles in our path and make it far more difficult for us to reorganize and emerge from chapter 11. If the issues dealt with under the proposed legislation are valid at all, they should properly be dealt with as part of the collective bargaining process and not as a special bill to serve special interests.

This legislation, however, would significantly undermine the value of those assets by placing artificial constraints on an airline's ability to dispose of aircraft or to restructure its operation. We believe the public interest would be ill-served by further hindering the restructuring efforts of a seriously troubled industry.

I might add, as to a conversation I had today with Mr. Sam Coats, vice president of Braniff, he said if this legislation was passed, "We would probably have to forget about Braniff being able to restructure, being able to sell parts of its rolling stock", and there really would not be protection of their employees but a hindrance of their employees getting back into the marketplace. These pilots would not be able to jump back into those planes and go up in the skies because nobody would be able to buy those planes.

Mr. President, in a very short time, this body will be asked to approve the work of a Senate-House conference committee on H.R. 5930, the war risk insurance extension bill. Unfortunately, the conference committee adopted an amendment to this bill which not only violates the norms of proper legislative procedure but which also set an extremely dangerous precedent for the future. If the Senate chooses to approve the work of the conference committee in this particular instance, I very strongly believe that we will be making a serious error.

The amendment that is in question here would codify and make mandatory certain "labor protective provi-

sions," known as the Allegheny-Mohawk protective provisions, for the commercial airline industry. These provisions had been discretionary and were sometimes used in mergers and acquisitions in the regulated airlines industry by the Civil Aeronautics Board between 1972 and the adoption of airline deregulation legislation in 1979.

The conference committee amendment would require commercial airlines to pay compensation for furloughed employees at up to 60 percent of salary for 6 months to 5 years; repatriation of wage loss if an employee is transferred to a lower paying job; moving allowances; merged seniority lists; and binding arbitration.

This amendment would require huge payments by commercial airlines to employees who are furloughed as a result of a merger, acquisition or even the sale of assets such as excess planes in their fleet. The Office of Management and Budget recently assessed the impact of these provisions as follows:

These provisions are expensive. In severance payments alone, assuming average airline salaries, they could provide \$190,000 to pilots, \$75,000 to maintenance personnel, \$63,000 to ticket takers, and \$57,000 to cabin attendants, over a period of 5 years. Similar provisions in effect for the Pan Am/Trans World route swap of 1975, cost Pan Am approximately \$4.5 million because 130 employees were severed. These are direct costs, excluding litigation, arbitration, and administration.

In addition, the proposed amendment is so broad that it may apply to transactions as minor as sale of aircraft. If so, the cost of severed employees alone, for 747 aircraft, could exceed \$6 million over a 5-year period.

The airlines are currently in poor financial shape—industry losses for 1981 were \$400 million. Braniff has gone bankrupt and several other large airlines are in serious financial difficulty. Federal imposition of labor protection payments at this time, particularly payments tied to mergers and acquisitions, could prevent airlines from taking sensible steps to restructure themselves in order to compete better in today's market. In short, the Federal Government would be limiting the ability of airlines to compete successfully.

Mr. President, I fully agree with these comments which were made by the Director of the Office of Management and Budget in a July 13 letter to Senator Packwood.

As Mr. Stockman noted, Braniff has gone bankrupt. The Braniff bankruptcy is of special interest to me because Braniff was a major air carrier in my State of Oklahoma. Mr. Howard D. Putnam, CEO of Braniff, has expressed strong concerns with the labor protective provisions. His statement is already in the record.

In addition, the adoption of this amendment would set a very dangerous precedent in the field of labor-management relations. The issues involved here should be considered not by the Congress but by labor and management in contract negotiations. For

us here to intervene at this particular time is both premature and unnecessary. If labor protection provisions are mandated by Congress for airline employees, we will be opening a Pandora's box in which employees in other fields—the automobile industry, the oil industry, steel, railroads, electric utilities, the merchant marine—will also be justified in seeking relief from the Congress and not through the negotiating process with management. Such a precedent not only undermines the collective bargaining process but it also grievously threatens the very heart of America's free enterprise system.

Finally, Mr. President, this amendment adopted by the conference committee makes a mockery of the legislative process. The backers of this amendment have chosen to avoid public discussion and debate on this issue by seeking to adopt a rider in conference that has not been considered by the appropriate legislative committees. In the Senate, no hearings have been held on this very far-reaching amendment. The Aviation Subcommittee heard only five paragraphs of testimony on this issue a year ago. There have been no other hearings held in either Chamber. To adopt a nongermane amendment, as the conference committee would have this body do, is the very height of foolishness. This amendment should be referred to the appropriate legislative committees so that the necessary groundwork that needs to be done by way of hearings and serious reflection can be accomplished before the entire Senate votes on this issue.

Mr. President, what we have here is at its core the mischief of factions. James Madison discussed this entire question in *Federalist No. 10*. Madison warned that democratic government is seriously threatened and undermined when a minority seeks to obtain and protect its interests at the expense of the national interest. In the amendment we are considering today, a small minority of 33,000 airline pilots are seeking to obtain legislation that will benefit them greatly. I myself very strongly believe that the national interest will be adversely affected if this amendment is approved. Mr. President, I urge the Members of this body to reject this amendment and to stand up and be counted as defenders of the national interest. The time has come for the Members of this body to demonstrate to the Nation that the Senate is a body where the interests of the country as a whole and not the interests of a narrow special interest group are the interests that shape and affect and determine the decisions we make and the votes we cast.

Mr. THURMOND. Mr. President, I rise today in opposition to the labor protection provisions contained in the

conference report to H.R. 5930, the war risk insurance bill.

Under these provisions, airlines engaging in a merger, acquisition or sale of as little as 20 percent of their assets would be required to pay demoted employees the difference in their salaries for up to 4 years, and furloughed employees up to 60 percent of their salaries for 5 years. Moreover, these provisions would virtually require the appropriate regulatory agency to impose equivalent sanctions in the event of a mere transfer of routes.

Mr. President, these provisions appear to me to be special interest legislation at its very worst. While I would oppose mandating such labor protection provisions in almost any industry, I believe they are particularly inappropriate for the airline industry.

Airline employees are among the most highly paid workers in our Nation. In 1981, the average annual compensation for pilots approached \$100,000. The average annual compensation industrywide exceeded \$35,000. Yet these are the workers who will be accorded protections virtually unknown in any other industry, if we enact these provisions.

To make matters worse, these provisions were adopted by the conferees on this bill without hearings in either House of Congress as to their necessity or probable impact on the industry. The airline industry is already reeling from ever-increasing fuel costs, decreased ridership, and flight cutbacks in profitable routes resulting from the illegal PATCO strike. Merger or acquisition may in many cases prove to be the only salvation from bankruptcy. These provisions, however, could very well have the effect of extinguishing this last ray of hope, leaving employees in even worse shape than they would have been without them.

Another matter that concerns me greatly as chairman of the Judiciary Committee is that the conference amendment provides Federal question jurisdiction over any controversy arising out of the application of these ill-conceived provisions. Federal courts are now straining under unbearable caseloads attributable in large measure to the expansive grants of Federal jurisdiction Congress has made over the past decade. This amendment can do nothing else but increase this caseload, and without any inquiry even as to the propriety of Federal jurisdiction in these matters, much less as to its necessity.

Mr. President, the labor protection provisions included in this bill are matters at which we should look long and hard—not adopt without any inquiry or inspection. I call on my colleagues to sustain the ruling of the Chair.

LABOR PROTECTION AND COLLECTIVE BARGAINING

Mr. HATCH. Mr. President, in this country's long history of collective

bargaining between labor and management, the legitimate areas and subject matters for such bargaining have been well defined. Understandably, parties on both sides of the table in industrial relations seek to avoid Government intrusion into areas better left to contract negotiators.

Airline employees are among the world's most highly compensated. In 1981, the average compensation for employees was \$36,900—66 percent higher than the U.S. industry average. This is the result of collective bargaining and labor contracts in which the unions have negotiated higher wages. Congress should not intercede into the collective bargaining process and impose—by Federal law—labor protective provisions.

This sound policy of keeping the Government on the sidelines in labor-management negotiations was ignored when so-called labor protection provisions were attached to an otherwise noncontroversial bill extending airline war risk insurance. The provisions would apply in the case of airline mergers, acquisitions, and in the sale of as little as one-fifth of an airline's planes or other assets.

The provisions include compensation for furloughed employees of up to 60 percent of salary for a period ranging from 6 months to 5 years. They also include reparation of wage loss if an employee is transferred to a lower paying job, moving allowances, merged seniority lists, and binding arbitration.

These are matters that go to the very core of collective bargaining. They are not matters that should be settled by Congress. Certainly, these are not matters that should be decided without congressional hearings.

These are costly provisions, particularly for an airline industry that suffered a record operating loss of \$420 million last year, and where losses continue in 1982 at an unprecedented level.

The Director of the Office of Management and Budget, David A. Stockman, has stated that "the administration is strongly opposed" to the provisions. Such opposition should be examined. Mr. Stockman and others should be heard. Here, we have another reason why the provisions should not have been slipped through in conference without a hearing.

We must prevent a reckless and costly action. We have the opportunity to see to it that this important subject is aired at an appropriate hearing or, better still, settled at the collective bargaining table where it belongs. Congress should stand clear of the negotiating table.

Mr. TOWER. Mr. President, I wish to include at the appropriate place in the RECORD a copy of Mr. Howard D. Putnam's statement made in regard to H.R. 5930, the war risk insurance conference report. In his position as presi-

dent and chief executive officer of Braniff International, Mr. Putnam strongly opposes inclusion of the labor protective provision (LPP) in H.R. 5930.

As you know, Braniff Airlines has sought protection under chapter 11 of the bankruptcy laws. Braniff is currently trying to reorganize so that they may resume service, even if on an extremely limited basis. Mr. Putnam points out that enactment of the labor protective provision included in H.R. 5930 would be severely detrimental to Braniff's attempts at reorganization. I concur with Mr. Putnam's assessment of the LPP. Not only will the LPP further cloud the hopes of the 9,000-plus unemployed Braniff workers, the LPP raises many unanswered questions with far-reaching implications the Congress must fully understand before enacting into law.

Enactment of H.R. 5930 with the LPP amendment would inadvertently prevent Braniff Airlines from regrouping and putting together a new organization which would bring many of the Braniff unemployed back into the work force. A vote in favor of H.R. 5930, as it is now written, is a vote against Braniff. The effect of passage would effectively close Braniff's doors interminably. I urge my colleagues to oppose this provision in consideration of the conference report.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

BRANIFF INTERNATIONAL,
DALLAS-FORT WORTH
REGIONAL AIRPORT,
August 10, 1982.

This is in response to the amendment to H.R. 5930 being proposed as labor protective provisions for the airline industry. The well publicized financial problems of the airline industry have been underscored by our own filing under Chapter 11 of the Federal Bankruptcy Statutes in May 1982. The proposed legislation, if enacted, would raise serious and perhaps insurmountable obstacles in our path and make it far more difficult for us ever to reorganize and emerge from Chapter 11.

If the issues dealt with under the proposed legislation are valid at all, they should properly be dealt with as part of the collective bargaining process and not as a special bill to serve special interests. The larger concern is that this legislation transcends Braniff and its current problems and has a quite serious implication for capital investment and traditional capital sources for the airline industry. Lenders to the industry normally look to the value of the underlying assets to reduce their risk to acceptable levels.

This legislation, however, would significantly undermine the value of those assets by placing artificial constraints on an airline's ability to dispose of aircraft or to restructure its operation. We believe the public interest would be ill served by fur-

ther hindering the restructuring efforts of a seriously troubled industry.

HOWARD D. PUTNAM,
Chairman, President and Chief
Executive Officer.

Mrs. KASSEBAUM. I yield 1 minute to the Senator from Florida.

Mrs. HAWKINS. Mr. President, I rise in opposition to the report of the conference committee as being a clearly nongermane amendment to the War Risk Insurance Act.

As I listened to the arguments—and there are many—I am sure we are just reaching the tip of the iceberg. I am convinced that there are many more arguments that could be made on many sides of this controversy, but I am mostly convinced that the proper place for these arguments is in committee not in conference and not on the Senate floor tonight.

We all have the right to know and to share in the knowledge that will be gained from those hearings, and we need to know these things.

The possible effects of this legislation on the airline industry are so far-reaching that it is hard to describe the impact it would have on the rest of the deregulation of this industry.

You need a thorough understanding, and I think one of the things we learned tonight is that really airlines are not deregulated; they have just been meddled with. I am asking my colleagues to support Senator KASSEBAUM's point of order.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. How much time is left, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon has 14 minutes and 38 seconds. The Senator from Kansas has 3 minutes and 56 seconds.

Mr. PACKWOOD. Mr. President, let me put some things in perspective, if I might. First, the arguments of the 747 pilots and the \$160,000 a year, that is an attempt to prove a generalization from a specific. Let us talk about the average salary of the people who are involved. Airline pilots are well paid, but they are in terms of numbers of the three principal collective-bargaining groups the least in terms of size. The other two that are involved are the Teamsters with roughly 35,000 members, and the Machinists with 60,000. The Teamsters make about \$22,000 a year on the average, and the Machinists \$21,000 to \$22,000. We are not talking about people making \$150,000 or \$160,000 a year. These are average Americans making average salaries who are going to lose their jobs possibly because of actions taken by this Congress.

We promised them in 1978 when they helped us to get deregulation that they would be taken care of, and we reneged on the promise. No wonder they do not believe us, we reneged. Now they want something written in

law, something the bureaucrats cannot renege on.

Let us talk about hearings. The distinguished chairman of the Aviation Subcommittee had hearings on sunset legislation for the CAB, and testimony was received on the issue of labor protection from the airline pilots, the Association of Flight Attendants, the International Association of Machinists & Aerospace Workers, the Transport Workers Union of America, the Brotherhood of Railway & Airline Clerks, and the flight engineers. Hearings were held on July 15 and 16, 1981, on sunset of the CAB, and the same unions testified as to labor protection. It is not an unknown issue.

Let us take also the issue that goes beyond the scope of Congress, and the Senator from Kansas can correct me if I am wrong. Her argument is that the House had nothing, the Senate allowed an extension of the discretionary authority of the CAB to impose these provisions, provisions they have imposed for years, and the conference, she says, went beyond that and added some mandatory provisions.

I have said before that the Senator from Kansas herself offered mandatory provisions. The conference did not accept them. She did not formally offer them in conference, but attempted to negotiate them between the parties. I will not read from this document which is a letter to the airline pilots saying that "we would work it out." It was a 5-year mandatory protection plan clearly beyond the scope of the conference. If her point is to be taken, and I bring this up only to say her point is not really that we have gone beyond the procedures, because I do not think she would have raised an objection had we adopted her substance. Her objection is to the policy we adopted, not the procedures we followed.

Let us talk once more about what this Congress has done. I missed my junior colleague from New Hampshire, Senator RUDMAN. He said, "I do not care what happened 20 years ago. I am here to change them." He was one of the ones who voted last year—and I know he always knows what he is doing when he votes—for the A.T. & T. settlement, the language here which would have guaranteed 7 years of labor protection.

What we are doing for the people in the airline industry is something they deserve to have done that we reneged on. It is comparatively modest in relation to what we have done for other industries. The only industries we do it for, we do not do it for General Motors, we do not do it for nonregulated industries.

The only industries we have ever done it for were railroads, airlines, communications, industries that are regulated, and because they are regulated certain obligations are placed

upon them, and then as we try to move to deregulate them we say:

Because you have been in a unique situation and because for years the relation between your unions and the Government has been controlled by the Government in many areas, as you gradually move toward deregulation we are going to put some phase-out provisions in.

Let us cut it all the way and let us understand why we got here. The airline industry went for all the marbles and they lost. We were trying to negotiate a 2-year earlier sunset of the Civil Aeronautics Board, 1983 instead of 1985. We came very close to getting the agreement. One of the agreements we wanted in terminating regulation sooner was statutory protection for the workers involved because they had been cheated by the 1978 act, cheated. We could not quite swing it, and I will give great credit to Paul Ignatius of the ATA. He did the best he could to make this arrangement come off whereby we would have terminated regulation 2 years earlier. But his association split. He could not hold them together. There are a number of airlines that support the conference report, but his association split. It happens every now and then.

And a majority of them stated:

The heck with it. We'll go 2 more years, phase out the CAB in 1985, and we won't have any labor protection at all. We are going to gamble all or nothing that Congress will not, by statute, impose labor protection.

And, my fellow Senators, they gambled all or nothing, and they lost, because they would not compromise and they would not bargain. Now that they have lost, they are making a last ditch effort to save themselves by objecting on a procedural motion to something that they, themselves, the airlines, were prepared to accept. They were prepared to accept the offer of the Senator from Kansas.

Well, first, we have cheated the employees for too long. Second the big boys played in a big-stakes game, and they lost. Now they do not want to pay their debt.

All I am asking this Senate to do is to fulfill a promise we made 4 years ago when when we deregulated the industry and treat these employees decently. Not as generously as we treated A.T. & T.'s employees, not as generously as we have treated other employees under the Conrail settlement, but to treat them decently. It is the least we can do.

The PRESIDING OFFICER. Who yields time?

Mr. CANNON. Will the Senator yield me 2 minutes?

Mr. PACKWOOD. I am happy to yield to the Senator from Nevada.

Mr. CANNON. Mr. President, I understand the parliamentary situation to be that if all the time is used and the Chair rules and an appeal of the

ruling of the Chair is taken that there would be no time for debate. Is that correct?

The PRESIDING OFFICER. When there is unanimous consent agreement on a matter, a subsidiary motion which is not provided for in the agreement is decided without debate.

Mr. CANNON. I thank the Chair. Therefore, I will make an assumption here that the Chair may make an unfavorable ruling in this case in which an appeal would, undoubtedly, be taken.

I just wish to briefly say that if the Chair should make such a ruling in favor of the point of order, it would be both wrong and inconsistent with past rulings on the scope of the conference. The Senate amended the law as it pertains to the administration of section 408 of the Federal Aviation Act. In conference, the House came in and insisted upon further amendment directly related to section 408 and its administration. And further still, the changes adopted by the conference simply continue in law the existing reality that LPP's are imposed or requested in major 408 cases.

Therefore, in the event that the Chair should rule in favor of the point of order, I would certainly urge my colleagues to vote for the appeal because the Chair would then, indeed, be in error on its ruling.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM. Mr. President, I yield 1 minute to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. GOLDWATER. Mr. President, 1 minute is not very long.

I have listened to the Senator from Oregon pontificate on the bad things that the airlines have done to their employees. Well, the airlines pay \$36,900 a year compared to \$22,200 for the rest of the U.S. industry.

But this is not the dangerous thing, Mr. President. Suppose they did cheat them. We are cheating the people of the United States when we try to conduct legislation the way we have conducted this one—no hearings, no debate.

The first I heard about it was when I came down one morning and somebody said, "Oh, they have raised airline employees' salaries. They made it possible for an airline pilot to pick up \$450,000 for not working for 5 years." I thought, by golly, I wish I could get a job like that.

The question is not whether we have done wrong or right by these employees. The question is whether we are following the rules of the Senate. And, Mr. President, we are not. I think it is a terrible, disgraceful thing for this body to accept what has been done under the hidden cloak of the labor

unions who have won a great point here.

How long is it going to be, let me ask you, before the same trick is used on the truckers, the people who drive this vehicle, the people who work there, the postmen?

"MANDATORY FEATHERBEDDING" IS A NIGHTMARE

It is not every day in the week, of course, that my views and that of the Washington Post coincide. Far from it.

But the editors of the Post were squarely on the mark when they warned against what they called a "Shakedown Flight" and said:

With all the signs of a typical Washington fast shuffle, moves are underway on Capitol Hill to saddle the airline industry with some mandatory featherbedding disguised as labor protection.

This jet speed featherbedding forebodes a nightmare for American industry.

What other group of American employees could receive up to \$450,000 if furloughed from their jobs?

That astonishing figure is what could be paid to the highest paid airline pilots who are furloughed. They could receive \$90,000 a year for 5 years, and that multiplies in 5 years to \$450,000. No wonder, then, that the pilots want to keep this hidden in the legislative clouds with no hearings.

If Congress endorses this featherbedding for some of the highest paid workers in the Nation, then obviously the doors will be flung wide open for costly and inflationary benefits to millions of other workers.

Is there a fundamental difference between the merger or other business transactions among two airlines than between any other businesses?

If we believe that the Government should keep its hands off the bargaining table; if we believe in the competition of the free marketplace; if we believe that featherbedding imposes drastic economic penalties which the Nation cannot afford, then we will agree—at least this once—with the Washington Post, when it concludes:

Before the airlines were deregulated, the Civil Aeronautics Board could make a case for insisting that jobs be protected in mergers and swaps, since airlines were benefiting from government-protected franchises. But today there is no case whatever for legalized shakedowns of financially shaky airlines.

I ask unanimous consent that the editorial from the Washington Post, an editorial from the New York Times, and a document showing compensation of U.S. airline employees be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post]

CONGRESS ON A SHAKEDOWN FLIGHT

With all the signs of a typical Washington fast shuffle, moves are under way on Capitol Hill to saddle the airline industry with

some mandatory featherbedding disguised as labor protection. House and Senate conferees are trying to slip into an otherwise noncontroversial bill a provision by which airlines would have to make costly payments to pilots and other employees affected by any mergers or possibly even sales of assets, including aircraft.

The proposal, which has undergone no hearings, would—among other things—guarantee furloughed employees 60 percent of their salaries for up to five years; and it would compensate for up to four years any employee for any wage loss suffered through transfer to a lower-paying job. This could mean that the highest-paid furloughed pilots would be entitled to demand \$90,000 a year for five years—whether their airlines could afford it or not. Isn't this the sort of thing better left to collective bargaining?

Of course—unless you're a member of the Air Line Pilots Association, which would much rather put the payments into law than bargain for them. This organization's president is the labor representative on the executive committee of the Republican National Committee. There, as in the White House, ALPA is remembered with gratitude for its support of President Reagan's decision to fire striking air traffic controllers last year. ALPA is just as fondly remembered on Capitol Hill, where the group has dropped more than \$425,000 in campaign contributions on carefully selected targets—namely, more than 200 representatives and senators, including key members of the congressional conference committee considering the provision.

Officially, the administration is on record against the measure. OMB director David Stockman has so argued, labeling the proposed amendment "unacceptable" and "an intrusion by the federal government into private collective bargaining negotiations." He points out that such provisions would be especially damaging for the airlines in serious financial difficulty—and could prevent them from taking "sensible steps to restructure" and compete.

Before the airlines were deregulated, the Civil Aeronautics Board could make a case for insisting that jobs be protected in mergers and swaps, since airlines were benefiting from government-protected franchises. But today there is no case whatever for legalized shakedowns of financially shaky airlines. The conferees should reject any such proposal.

[From the New York Times, Friday, July 16, 1982]

FROZEN IN THE COCKPIT?

Feudalism is an economic system long dead—except in the psyche of the airline unions. They want to attach airline workers to their planes and check-in counters, the way medieval serfs were tied to their land.

Under proposed legislation, airlines would have to guarantee equivalent jobs (or severance payments as high as \$190,000) to any employee affected by merger, sale or lease of facilities. The airlines argue, correctly, that Government should not impose rigid labor protection rules on their now-deregulated industry. If employees are more eager to win such costly protection than, say, higher wages, let them bargain for it.

Before the industry was deregulated in 1978, the Civil Aeronautics Board insisted that jobs be protected in mergers and route swaps. Where equivalent work was not avail-

able, workers could get 60 percent of their wages for five years.

Such broad Government protection for airline labor was only fair, the board argued, because airline management was benefiting from valuable Government-protected franchises.

But now the franchises are gone, and so is the regulators' rationale for "labor protection provisions." That is why the pilots and airline machinists' unions are pressing Congress for a law to accomplish the same thing.

Such legislation would make little sense even in good times. To adjust to market conditions, airlines need the flexibility to buy, sell and merge facilities. They could, if they wished, barter that flexibility for lower wages or reduced fringe benefits. But as Wallace Hendricks, a University of Illinois labor economist, points out, no airline union has valued protection provisions highly enough to pay the necessary price.

In any case, these are not good times. A half-dozen airlines are already in trouble; others will probably need to dump routes, merge facilities or lease out aircraft. No airline can afford to pay labor protection costs that might run as high as \$6 million for the sale of a single jumbo jet.

No hearings have been held on this labor protection provision. Neither the House nor the Senate voted to put such a provision in its version of an aviation insurance bill. Supporters will simply tack it on in conference committee next week, provided that influential conference members do not object. That, in effect, leaves it up to the senior uncommitted conferee, James Howard of New Jersey.

Representative Howard, chairman of the House Transportation Committee, is known both for his affection for organized labor and his practical commitment to airline deregulation. May his mind win out over his heart.

U.S. SCHEDULED AIRLINE INDUSTRY COMPENSATION PER EMPLOYEE, 1981

U.S. Airlines: \$36,900.

U.S. industries: \$22,200.

In 1981 the average compensation for 312,000 airline employees was 66 percent higher than the U.S. industry average. Annual airline compensation increases averaged 10.7 percent over the last five years.

COMPENSATION OF U.S. AIRLINE EMPLOYEES, 1981

	Total work force	Work force excluding pilots	Pilots (including copilots and flight engineers)
Compensation (including fringes, i.e., social security, unemploy- ment, insurance, and pension)....	\$36,900	\$29,755	\$96,309
Wages (excluding fringes).....	27,581	22,014	73,998

Airline employees are among the world's most highly compensated. This is the result of collective bargaining and labor contracts in which the unions have negotiated higher wages. Congress should not intercede into the collective bargaining process and impose—by federal law—labor protective provisions (LPPs).

Mrs. KASSEBAUM. I thank the Senator.

I yield 1 minute to the Senator from New Hampshire.

Mr. HUMPHREY. Mr. President, I want to say, first, the issue of salary

levels is not relative to this discussion. I hope that we could avoid the politics and end our debate in this Chamber.

As the Senator from Kansas has pointed out, the labor protection provision goes well beyond the previous practice under the circumstances. I say to my colleagues, as a former airline pilot, I have been a particular target of the parties involved in this dispute and the feelings run very high on both sides and there are good arguments on both sides. I think in fairness to all of the parties, we owe open and complete hearings to this subject.

Second, the Senator from Kansas is absolutely right. Unusual procedure has been resorted to in this case. Our usual procedures have been short circuited. I urge my colleagues to support the efforts of the Senator from Kansas out of fairness. Let us have full and open hearings on this issue so that, first of all, we deal fairly with the parties but, second, so we all fully understand the fine points of the issue at hand here.

I thank the Chair.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Many airlines lease the majority of the planes they operate. Many small airlines own only a small percentage of the planes they operate. The airline business is very seasonal. It has been sometimes necessary in the past and undoubtedly will be necessary in the future for some of these small carriers to sell a small number of aircraft due to these off seasons.

The sale of a very few aircraft could constitute more than 20 percent of the planes owned and therefore would be a qualifying transaction.

Sections (6)(A) & (B) of this legislation are intended to cover merger or merger-type situations where one qualifying air carrier takes over a substantial portion of the property or operations of another qualifying air carrier. The legislation is not intended to cover a situation where a small air carrier sells or leases a small number of planes strictly out of economic necessity.

Section (b)(1)(A) provides that the lease of a substantial portion of the properties of a carrier is a qualifying transaction. It should be made clear that this means the leasing of owned aircraft and not the subleasing of leased aircraft.

Mr. President, I yield 3 minutes to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise because I originally introduced airline deregulation legislation with the Senator from Nevada, Senator Cannon. I do have a memory of both the history of the hearings and also of the dialog and the discussion.

We went to extraordinary lengths, Mr. President, to accommodate the airlines in this country. The issue was: Is there an area of public policy that we can get the Federal Government out in order so we can release the forces of competition? One area which was suggested was the airline industry. So we fashioned and shaped a piece of legislation.

The airlines came to us and said, "Oh, no. Leave the Federal Government in. If you insist on deregulation we only want a certain number of routes opened to competition each year. So the Senate and the Congress of the United States said, "All right. In order to make some progress, we will do that."

Then the small towns said, "Look, you have to look out after us." The fact was that during the previous 10-year period, one-third of all of the small communities in the Nation lost air service.

So he said, "OK. For the small communities, we will assure comparable service." And we looked out after the small communities.

Then the airline employees said, "All right. If this is going to be done in the interest of competition and to provide more service for the consumers, we ought to have some degree of protection."

And we adopted an amendment offered by the Senator from Missouri, Senator DANFORTH, and others. We thought at that time we made some adjustment for the airlines, we made some adjustment for the small communities, and we made some adjustment for the employees. Well, the fact remains that we did make adjustments for the airlines and for the small communities, but not one thing has been done for the employees. Two successive administrations have failed to carry out the policy we adopted. And now, to make matters worse the protection employees have been able to rely on for 30 years will be eliminated unless we adopt this conference report.

As one who is very much involved in the fashioning and shaping of the legislation, listening to this discussion and debate, participating in the amendments that were put forward, I think that the Senator from Oregon is exactly right and we have a responsibility to those employees.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. KASSEBAUM. Mr. President, how much time remains in the debate?

The PRESIDING OFFICER. One minute 47 seconds.

Mrs. KASSEBAUM. Mr. President, I would like to offer my concluding remarks at this time.

I certainly agree with the Senator from Oregon that there should be protection for the airline employees

which was guaranteed to them under the deregulation act. But the enforcement of that is up to the administration that is in office and which bears that responsibility. We certainly do agree with that.

As I say, it is not just a question of the labor protection provisions, but how we address them in a legislative framework.

Mr. PACKWOOD. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Kansas is prepared to yield back the remainder of hers.

Mrs. KASSEBAUM. Mr. President, I am prepared to yield back the few seconds remaining.

Mr. PACKWOOD. Mr. President, I yield back my remaining time.

Mrs. KASSEBAUM. Mr. President, I raise a point of order under rule XVIII that the conferees have exceeded their authority by including new matter not committed to them by either House.

The PRESIDING OFFICER. Rule XXVIII states:

Conferees shall not insert in the report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report.

New matter has been inserted. The point of order is valid.

Mr. PACKWOOD. Mr. President, I take appeal from the decision of the Chair and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Shall the decision of the Chair stand as the judgment of the Senate. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.
Mr. HUMPHREY (When his name was called). Present.

Mr. RANDOLPH. Mr. President, a point of order. The Senate is not in order.

The PRESIDING OFFICER (Mr. WALLOP). The Senate will be in order.
Mr. RANDOLPH. Mr. President, I renew my point of order.

The PRESIDING OFFICER. In the opinion of the Chair, the Senate is in order. The clerk will resume the call of the roll.

The legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, the Senate is not in order. I do not like to say what I am saying, but let us have order when votes are being taken.

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order.

The rollcall may proceed.

The legislative clerk resumed the call of the roll.

Mr. RANDOLPH. Mr. President, it apparently does no good. I am grateful for your giving me no—

Mr. STEVENS. Mr. President, a point of order. A vote is in progress.

Mr. RANDOLPH. I can make a point of order during a vote. There is nothing that keeps me from doing that. The point of order is that the Senate has not been in order.

The PRESIDING OFFICER. The point of order is well taken. The Senate will be in order.

The rollcall may continue.

The legislative clerk resumed and concluded the call of the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) and the Senator from Idaho (Mr. SYMMS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 59, nays 38, as follows:

(Rollcall Vote No. 318 Leg.)

YEAS—59

Abdnor	Goldwater	Murkowski
Armstrong	Gorton	Nickles
Baker	Grassley	Nunn
Boren	Hatch	Pell
Boschwitz	Hawkins	Percy
Bradley	Hayakawa	Proxmire
Brady	Heflin	Pryor
Bumpers	Helms	Quayle
Byrd	Hollings	Randolph
Harry F., Jr.	Huddleston	Roth
Chafee	Jepsen	Rudman
Cohen	Johnston	Schmitt
Danforth	Kassebaum	Simpson
Denton	Kasten	Stennis
Domenici	Laxalt	Stevens
East	Leahy	Thurmond
Exon	Long	Tower
Ford	Lugar	Wallop
Garn	Mattlingly	Warner
Glenn	McClure	Zorinsky

NAYS—38

Andrews	Dodd	Metzenbaum
Baucus	Dole	Mitchell
Bentsen	Durenberger	Moynihan
Biden	Eagleton	Packwood
Burdick	Hart	Pressler
Byrd, Robert C.	Heinz	Riegle
Cannon	Inouye	Sarbanes
Chiles	Jackson	Sasser
Cochran	Kennedy	Specter
Cranston	Levin	Stafford
D'Amato	Mathias	Tsongas
DeConcini	Matsunaga	Weicker
Dixon	Melcher	

ANSWERED "PRESENT"—1

Humphrey

NOT VOTING—2

Hatfield Symms

So, the ruling of the Chair was sustained as the judgment of the Senate.

The PRESIDING OFFICER. The conference report is recommitted.

Mr. BAKER. Mr. President, there will be no more rollcall votes tonight.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business to extend not past 10 p.m. in which Senators may speak.

AUGUST 15, 1982, DESIGNATED AS WILL ROGERS AND WILEY POST DAY

Mr. MURKOWSKI. Mr. President, I send a joint resolution to the desk on behalf of myself, Mr. STEVENS, Mr. BOREN, and Mr. NICKLES, and ask for its immediate consideration. I might state that this request has been cleared with the minority leader.

The PRESIDING OFFICER. The clerk will state the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 230) to authorize and request the President to designate August 15, 1982, as "Will Rogers and Wiley Post Day."

The PRESIDING OFFICER. The joint resolution will be deemed to have been read once by title and once at length, and, without objection, the Senate will proceed to its consideration.

The Senate proceeded to consider the resolution.

Mr. MURKOWSKI. Mr. President, today I am introducing for passage a joint resolution requesting the President to designate Sunday, August 15, 1982, as "Will Rogers and Wiley Post Day." On August 15, 1935, Mr. Rogers and Mr. Post were killed in an airplane crash 24 kilometers south of Point Barrow, Alaska. Both aviators were in the process of flying to Siberia.

Wiley Post was the first aviator to complete a solo flight around the world. On June 23, 1931, Mr. Post took off in his plane, the "Winnie May" from New York City, and circumvented the Earth in the record time of 8 days, 15 hours, 51 minutes, returning to New York on July 1. His course traversed the British Isles and the Soviet Union, and is described in "Around the World in Eighty Days." Mr. Post repeated the flight in 1933, bettering his record by approximately 21 hours. He later performed historic experiments with stratospheric flights and made substantial breakthroughs with new equipment designed for that purpose. It is significant to report that Mr. Post made these achievements without the benefit of one eye, since he lost his left eye in 1926 in an oil-field accident.

Mr. President, Will Rogers is a well-known name in the homes and hearts of Americans, and has been recognized as the foremost American humorist of his day. He had the God-given faculty of making people laugh and think at the same time. He was, in a sense, an institution—possibly the greatest debunker of stuffed shirts and fanciful ideas in our history. He thrived in the developing years of our country the days when families would gather around the radio to hear his thoughts. In a few words, transmitted over the air, Will Rogers could say more and

say it better than most of the would-be statesmen could say in hours.

His wit was much revered and respected and discriminated against no one. He poked fun at Presidents, heads of state, Members of Congress—at everything and at everybody when he saw fit. However, he was able to make the victims of his wit like his barbs, simply because they were harmless. He had the ability to make people look at themselves and chuckle in a very healthy and natural fashion.

Born in 1879, in Oklahoma, Mr. Rogers might very well have been the most popular American of his day. Rogers twirled his lariat through much of the civilized and noncivilized world, with the portions of the world that he could not reach personally, being contacted by his motion pictures. He was the most enthusiastic air traveler covering 500,000 air miles before his death.

He shared his life openly and liberally, and I truly believe that "he never met a man he didn't like."

Mr. President, August 15, 1982, marks the 47th anniversary of the death of these two pioneers. I am pleased by the opportunity to present to the Senate a joint resolution making this anniversary their day.

Mr. STEVENS. Mr. President, it is with great pleasure that I join with my colleague from Alaska in sponsoring this resolution which asks the President to declare August 15, 1982 "Will Rogers and Wiley Post Day."

There will be ceremonies in Barrow on the 15th dedicating a monument to the two famous men. The monument is notable beyond being 27,000 pounds in that it is a joint project of the Will Rogers Lions Club of Claremore, Okla. and the Lions Club of Barrow.

It will be 47 years on August 15 since Wiley Post and Will Rogers died in an airplane accident on their way to Barrow to visit friends prior to flying on to Siberia. They had come from Fairbanks in interior Alaska where they had refueled and visited with friends.

Wiley Post and Will Rogers added immeasurably to the advancement of aviation in our country. Alaska, because of its dependence on air travel, was able to grow toward statehood through advances made due to the work of Wiley Post in aeronautics and Will Rogers' popularization of flying as a way to travel—particularly in Alaska.

As my colleagues probably know, Alaska has not been called the "flyingest" State in the Union for no reason. Ever since Carl Ben Eielson introduced airmail to Alaska's interior in the midtwenties we Alaskans have not been able to get enough of flying. The Federal Aviation Administration estimates, for example, that 1 out of every 39 Alaskans is a licensed pilot. That is six times as many pilots per capita as

compared to the rest of the United States.

The trip to Alaska in 1935 which ended so tragically near Barrow had not been Wiley Post's first. He had stopped in Alaska during his round-the-world flights in 1931 and 1933, the 1933 trip being a solo trip. The round-the-world flights brought positive attention to Alaska and its strategic location—both commercial and military.

North Slope Borough Mayor Eugene Brower has already declared the 15th Wiley Post/Will Rogers Day. It is only fitting that the U.S. Congress call on the President to do the same because these men belonged not only to Alaska, Oklahoma and Texas, but to the United States, if not the world. I urge my colleagues to join with us in recognizing these two great Americans by declaring August 15 Will Rogers and Wiley Post Day.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

The joint resolution (Senate Joint Resolution 230) with its preamble, follows:

S.J. RES. 230

Whereas the courageous and pioneering spirit of America's aviators and the service provided by that spirit, deserve to be properly commemorated and recognized;

Whereas Wiley Post and Will Rogers have been acknowledged as pioneer aviators in America;

Whereas Wiley Post was the first aviator to complete a solo flight around the world;

Whereas Wiley Post upon completion of that record flight continued to make substantial contributions to the development of American aviation;

Whereas Will Rogers was considered to be the most enthusiastic air traveler of his day, completing some 500,000 air miles by 1935;

Whereas Will Rogers contributed greatly to the development of the United States through his pioneering spirit;

Whereas Will Rogers and Wiley Post embarked on August 15, 1935, on a projected trip to Siberia;

Whereas Will Rogers and Wiley Post met with their death as their plane crashed on August 15, 1935, 24 kilometers south of Point Barrow, Alaska;

Whereas it is appropriate to honor the patriotism and sacrifice of all those individuals who honorably served the development of their country in times of peace as well as war;

Whereas August 15, 1982, marks the 47th anniversary of the death of Will Rogers and Wiley Post.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to designate August 15, 1982, as "Will Rogers and Wiley Post's Day", and to call upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

THE NEW RECORD UNEMPLOYMENT RATE

Mr. PELL. Mr. President, the Nation's new unemployment rate of 9.8 percent, announced Friday by the Department of Labor, marks the greatest economic tragedy that this country has experienced since the Great Depression.

More than 1 American in every 10 is out of work today. More than 10,790,000 workers throughout the country are now unemployed, and more than 1 million more are not counted because they have given up looking for work. In Rhode Island, the statistics are equally upsetting: 9.3 percent of the labor force, amounting to 44,700 workers, is counted as unemployed. The jewelry, machinery, and construction industries, in particular, have contributed the most to the unemployed workers who walk the streets and wait in line in Rhode Island.

If the size of the average American household is 2.7 members, we can estimate that more than 20,000,000 American family members, and more than 90,000 Rhode Island family members, are faced with unemployment, frustration, uncertainty, and disillusionment with their country's economic and political systems. These facts constitute a national tragedy, and it is a tragedy that the administration can no longer ignore.

I have stated before that unemployment is the most serious problem facing our country today, and that our highest priority as a nation should be to get our citizens back to work. The new record in the unemployment rate that we have set today makes our responsibility even more urgent than it has been.

It is not the fault of these workers or their families that national economic policies have resulted in such a deep and prolonged recession. It is time that we recognize that it is the economic policies of the administration that have caused hardship, unemployment, and bankruptcy throughout the Nation.

The monthly release of unemployment rates for the Nation and for Rhode Island have become the grimmest and most angering events in the public consciousness. Each month we are newly reminded that the economic policy of this administration is no policy at all, and that it in fact is nothing more than a senseless and brutal destruction of every responsibility that a government owes its people in favor of a military budget which grows ceaselessly and without reason. I share the grief and desolation which every unemployed worker feels. Congress must act to bring down the high jobless rate and restore economic growth.

CLEARING THE RECORD

Mr. PELL. Mr. President, one of the most unfortunate and anguishing human dramas occurs when an individual's reputation is needlessly damaged by a criminal prosecution. These instances are rare—a tribute to our judicial system—but when they do occur, the initial damage to personal reputation is never totally removed by an ultimate acquittal and exoneration. The headlines of indictments and criminal prosecution are front page news; acquittals are lucky to be found buried in the back pages.

Such is the story of Wharton Shober, a former president of the Hahnemann Medical College. He and his family suffered greatly as a result of his encounter with the criminal justice system, notwithstanding his eventual acquittal. I would like to share his experience with my colleagues. I ask unanimous consent the Mr. Shober's article in the February 22 Princeton Alumni Weekly, entitled "Absence of Redress" be printed in full in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Princeton Alumni Weekly, Feb. 22, 1982]

ABSENCE OF REDRESS

(By Wharton Shober)

On November 2, 1978, the Philadelphia newspaper headlines trumpeted: Ex-college President Indicted for Bribery and Mail Fraud Faces 107 Years Imprisonment. In shock, my 78-year-old father (Princeton '23), who was then recovering from a heart attack, telephoned the news to my home abroad. So began an ordeal for me and my family that lasted until June 28, 1980, when the charges against me were thrown out of court for lack of evidence. Indeed, the federal judge presiding indicated that the government had no case and never should have indicted me when he said: "If a crime has been committed here, it has been committed by the government prosecutor against defendant Shober."

It is still not over. The lurid headlines which marked the proceedings for 20 months remain a ghastly memory. My wife, teenage children, and other relatives will carry the scars for the rest of their lives. During my indictment and trial someone regularly sent photocopies of the newspaper articles to every potential customer of the overseas-based hospital management company I had helped found in early 1978. Obviously I was unable to take any aggressive business posture, and although my employers believed in my innocence, the company I headed effectively lost 20 months of business expansion. The personal financial results of the indictment were catastrophic: By the time I was acquitted, lawyers bills had taken my life's savings and placed me \$600,000 in debt.

THE HAHNEMANN STORY

The story began in late 1970 when the presidential search committee for Hahnemann Medical College & Hospital of Philadelphia asked me if I would be willing to be a candidate. I was available, having recently sold my interest in an international communications company which I had founded and

led for 13 years. At first, however, I wisely said no. Why in the world would anyone want responsibility for an insolvent, near-bankrupt medical school and hospital surrounded on three sides by innercity ghetto, with a campus composed of a decaying 50-year-old hospital and 75-year-old college buildings so run-down that they should have been carried on the books at their land value only? Hahnemann revenues were \$33 million, the true annual loss on operations exceeded \$1 million, there was no endowment, and there was an immediate danger of forced liquidation or bankruptcy.

A few months later, a loved one of mine almost died in a small community hospital. She probably would not have been in danger if her local physician had kept up with modern medicine and treated her accordingly. Upon investigation, I found there was no system, at that time, requiring physicians to "keep up." Yet, with medical knowledge doubling every 10 years, no physician could remain current unless he had continuing medical education. This was a major factor in my decision to see if Hahnemann could not be saved, put on a positive road, and encouraged to develop a system whereby physicians would embrace continuing education.

FINANCIAL TURNAROUND

I took up my duties as president and chief executive officer on August 30, 1971, and plunged into what would be the most interesting and challenging period of my life. When I resigned six years later, Hahnemann had a modern campus and hospital valued at \$165 million, revenues of \$120 million, and a positive cash flow. This had been achieved by reorganizing Hahnemann as an aggressive nonprofit private-enterprise institution built around individual profit centers. In addition, we gave a new emphasis to fund raising, encouraged the acquisition of government and private health care contracts, and developed an incentive system for clinical faculty, whereby they shared in profits they generated from patient care.

Profit-sharing encouraged the clinical faculty to visit community hospitals and organize seminars on their specialties for doctors all over the state. This resulted in the local doctors referring patients with complex diseases to our teaching hospital. Within 18 months we had a waiting list of referral patients for elective procedures. Soon our affiliate "feeder" network expanded from three to 61 hospitals. Meanwhile, I turned to the deplorable physical state of the campus. We financed Hahnemann's first student housing—one 16-story apartment building and a second 22-story building—by a federal grant, community fund raising, and a tax-exempt bond issue. We set up a college of health sciences, a cancer institute, a heart institute, and a state-wide physician continuing education system. In late June 1977, I resigned and was made president emeritus.

How did my activities on behalf of Hahnemann result in a criminal indictment and trial? One of the major government contracts we secured was to finance the Hahnemann Health Medical System, which was created to provide continuing education for physicians at community hospitals. This system was first introduced in Wilkes-Barre and Luzerne County, and it was an immediate success. So much so that Congressman Dan Flood, who represented this area in Washington, inserted a line item in a large appropriation bill for \$14.5 million to help Hahnemann build its new \$65-million hospital. When Flood, a man whose contributions

to American medicine are enormous, came up for re-election, I asked some friends to contribute to his campaign. They did, 17 persons, giving a total of \$10,000. Unknown to me, Flood was under investigation by the FBI at the time. Three years later he was indicted by a federal grand jury and eventually pleaded guilty to a misdemeanor and was fined one dollar. He was not indicted for anything in connection with Hahnemann.

LEGAL BLACKMAIL

In January 1978, Assistant U.S. Attorney Alan Lieberman summoned me to his Philadelphia office and told me that the \$10,000 my friends gave to Flood's re-election campaign made me guilty of bribery. He also said I was guilty of 17 counts of mail fraud. Each count carried five years in the slammer. This was a potential of 85 years plus 22 years for charges relating to "bribery of a public official." After attempting to terrify me (he succeeded), he then offered me immunity from prosecution if I would testify against Flood whom, he said, "the government wanted to get." He promised that if I refused, he would indict me, prosecute me, and send me to prison. I told him that he had absolutely no basis for these charges, that his only motive could be the headlines a college president's indictment would generate for him, that his threats put him in the same category as the late Senator McCarthy, and that his attempted blackmail made him a disgrace to the legal profession and to his oath of office.

Eleven months later I learned of my indictment from my father's telephone call. He had learned of it by reading the newspapers, which without exception assumed I was guilty. They embellished the negative half-truths leaked to them by the Assistant U.S. Attorney's Office until my acquittal 20 months later. One particularly onerous front-page article was entitled "Blue Blood, Black Mark" and traced the "previously" honorable tradition of my family from revolutionary times to the present "black mark." My indictment had to do only with my fund raising for Dan Flood. I was not accused of taking one cent or of having made any personal gains.

By the time of the trial, Assistant U.S. Attorney Lieberman had moved on to a cushy job in private practice, and his successors Frank Shermann and Jean Dimerjian prosecuted me. During the trial's seven-week duration all of the prosecution witnesses—even those granted immunity by the government in return for their testimony against me—attested to my innocence. The federal judge, E. Max Troutman, did not require my lawyer, Richard Sprague, to present a defense to the jury. We called no defense witnesses. We did not put on a defense of any kind. I was acquitted of all charges by the judge. The case didn't go to the jury. This was the first time Judge Troutman had thrown a government case out of court after hearing only the prosecution in his 12 years on the bench.

Before and during the trial Federal Prosecutors Shermann and Dimerjian offered me several "deals" if I would plead guilty to a misdemeanor. My wife and children, who stayed with me in the courtroom each day of the seven-week trial, supported me in my decision to refuse their offers. My defense attorney told me that Shermann and Dimerjian were surprised that I wouldn't accept their offer—after all, they reasoned, my downside risk was 107 years in jail. The prosecutors obviously believed that the guilt or innocence of the accused was immaterial.

The game of law was more important than the justice which they had sworn to uphold and defend.

The FBI investigation and the trial cost the taxpayers an estimated \$10 million. It cost me my life's savings and left me \$600,000 in debt. The cost in terms of my family's suffering could not be measured in dollars.

America's present criminal justice system, which permits an unprincipled federal prosecutor to secure an indictment from a grand jury that can hear only the evidence the prosecutor presents, is not fair and should be changed. The wrongfully accused should be given some means of redress to his accuser or to the government. Whether this ever comes to pass or not, I can tell you that a prosecutor's power, when leveled by a rogue against a single innocent individual, is awesome.

Imperfect as our legal system is, I nevertheless believe it to be one of the best in the world. If this had happened in a totalitarian country, I would surely have been convicted and imprisoned. In America, I lost only my money and my reputation, not my life.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEFLIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A TRIBUTE TO MRS. MARGUERITE HILDRETH HUEY

Mr. HEFLIN. Mr. President, just a few short weeks ago, I stood here to pay tribute to the Centennial Celebration of the city of Enterprise, Ala.

Today, I am saddened to rise to say a few words about an outstanding citizen of Enterprise who recently passed away, Mrs. Marguerite Hildreth Huey. Mrs. Huey was a beautiful, very gracious lady, a true southern lady. She will be sorely missed by all who knew her.

Mrs. Huey was a lifelong citizen of Enterprise, being the daughter of the town's first postman. After college, she was an elementary school teacher. When she married, she turned her time and energies toward being a dedicated housewife, mother, and civic leader. Following the death of her husband, she was called on to serve as city librarian, which she did for some 10 years.

Mrs. Huey loved her town of Enterprise, and she loved doing everything she could to help it prosper. She was active in her church, in school, and in civic organizations.

In the weeks before her death, she was as interested in Enterprise's centennial celebration as anyone else in town. She kept up with the plans and the progress, and only regretted not being able to be a more active help.

Mrs. Huey is a fine example of why cities and States are great. Enterprise,

Ala., and her countless friends will miss her.

Mr. President, I ask unanimous consent that an editorial from the Enterprise Ledger be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Enterprise Ledger, June 27, 1982]

A TRUE SOUTHERN LADY

This week, a very gracious lady of Enterprise was laid to rest. Enterprise will miss her. She brought to the city a love and refinement that was distinctive and stood out wherever she went. She was a true Southern lady in every sense of the word.

Mrs. Marguerite Hildreth Huey loved Enterprise. In her final days, she was as interested in the upcoming Centennial celebration as any member of the Centennial Committee. She wanted to know the very latest activities being planned. A few short weeks ago, it is reported that she wrote that she felt so privileged to have lived in the most wonderful town of the greatest country in the world during the most dramatic century of its history.

The daughter of Enterprise's first postman, (Hildreth) the Encoala of her graduating class contained the notation that she "is one who makes the day brighter with her smile." Her even disposition belied the proverbial thoughts associated with a "red head."

After working her way through Howard College, she returned to Enterprise to teach the sixth grade at City School (College Street Elementary School) for five years. Upon her marriage, she resigned and took up her duties as housewife and civic leader.

She changed her church upon her marriage and became as active in her new church as she had been in her old one. She served as president, among numerous other offices in the Womens Society of Christian Service and was also an honorary member of the Board of Stewards.

She served as president of one of the earliest Band Parents organizations at the high school and was also instrumental in reactivating the high school PTA. She served as chairman of the Mothers' March on Polio, and served for 29 years as a member of the Coffee County Board of Pensions and Security.

An active member of the Plerian Club, she served that organization on a number of occasions as president. She was constantly called on for her knowledge of parliamentary law.

Following the death of her husband, Mrs. Huey took over the duties of city librarian as the library moved to quarters in the City Recreation Center. For 10 years, she worked and expanded the library until it was bursting at the seams as new quarters became needed.

She was a master at handwriting and many a person in Enterprise or from Enterprise proudly possesses diplomas, certificates, inscribed Bibles, and guest registers which were prepared by her.

She was always a patriotic American—one who shamelessly displayed her emotions over the Flag, "The Star Spangled Banner," and "God Bless America." She was proud of the knowledge that her forefathers fought in the Revolution and played a prominent role in colonial Virginia.

She was a great mother, a splendid grandmother and great-grandmother. She loved her family like she did her city and her church.

And as she realized that her death was imminent, she accepted her fate with never a complaint. She was always concerned for others.

Mrs. Huey left a legacy of service, loyalty and gentility that will be long remembered by those she has come in contact with. We will miss her greatly.

A MAN OF PEACE, SHERIFF THOMAS E. GILMORE

Mr. HEFLIN. Mr. President, I rise today, out of admiration and respect, to pay tribute to a truly great Alabamian, Sheriff Thomas Gilmore of Greene County, Ala.

I do admit, however, that I am somewhat saddened to speak about Sheriff Gilmore in this context, for he has recently announced his decision to not seek reelection. In January, when he steps down after a dozen years of service, Alabama will lose one of the most capable, and well-known sheriffs in the State's history.

Thomas Earle Gilmore first ran for sheriff in 1966, and lost by a very small margin. In 1970, he ran again, and was elected—becoming the first black sheriff in Greene County history. He has been reelected ever since, and his decision to not seek the office again this year came as a great surprise to many citizens of that area.

In his 12 years in office, Tom Gilmore has done an outstanding job as sheriff, all the while advancing a non-violent philosophy of law enforcement. When he first took over as sheriff in 1971, he, as do most law enforcement officers, carried a gun. However, since he felt he could, and should, enforce the law nonviolently, the gun was soon put aside. Sheriff Gilmore went on to serve almost all of his 12 years in office in this nonviolent fashion. His dedication to his work is illustrated by his continued service despite a legal quirk under which his salary is at least some \$10,000 below all other sheriffs in Alabama.

Greene County, and all of Alabama, are certainly going to miss his talents in the field of law enforcement. Luckily, however, he will continue to be a benefit to those around him, as he plans to become involved in community-service work with the poor. An ordained minister, he also plans to continue as pastor of the Eastern Star Baptist Church in Demopolis.

Sheriff Gilmore has often said, "I'd like to have it said of me that I was a man of peace." Today, Mr. President, I say with all honesty that no truer words could be spoken. Thomas Gilmore was, and is, a man of peace, a man who for 12 years enforced the law with a badge and not a gun, a man of whom his country and State are rightfully proud.

I ask unanimous consent that an article from the Birmingham News and an editorial from the Tuscaloosa News

about Sheriff Gilmore be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Birmingham News, July 15, 1982]

**SHERIFF GILMORE, "A MAN OF PEACE," TO
TAKE OFF HIS BADGE
(By Frank Sikora)**

EUTAW.—He is probably Alabama's most famous, most underpaid sheriff. A man of the cloth, he wore a badge, but not a gun.

But Sheriff Thomas Earle Gilmore, 41, will step down come January, after a dozen years on the job.

He was the first black sheriff in Greene County history. His decision not to seek reelection has been one of the shockers in this campaign year.

"But it's been something I've been thinking about for some time," he said. "You'll never break away from something if you're afraid to get off the iceberg."

He has no plans, he says, except to pastor his church in Demopolis, Eastern Star Baptist, with a congregation of 300.

"I'm also thinking about doing community-service work," he said. "I want to work with the poor."

Greene County, always rated high in the area of poverty, should be a challenging arena, he said.

In the early 1960s Gilmore, who was born and reared in Forkland, went to California. But he came back in 1965 to take part in and eventually lead civil-rights demonstrations in his home county.

He was arrested with others and once was rapped on the head by then-Sheriff Bill Lee's walking stick.

"Facing the police lines," he said, "got me to thinking about running for sheriff."

He ran in 1966 and lost in a challenged election. But in 1970, it was a different story as he and other blacks swept the slate.

Whites were dubious of his ability in law enforcement, but within a short time he began to win approval. Former Eutaw Mayor William Tuck one day acknowledged: "I have to admit that Tom Gilmore there is doing a good job as sheriff. He's been fair."

Of his own career, Gilmore said:

"I'd like to have it said of me that I was a man of peace. That's what I was striving for. If it can be said of my stay in office that 'peace prevailed,' then I can ask no more."

When he took over the job in 1971, he toted a pistol. But he soon put it aside, he said.

"I wanted to respect the non-violent philosophy of Dr. Martin Luther King," he said. "I felt I could enforce the law non-violently. And I think I did."

"I was conscious of the police-community relations problems across the nation and I wanted to make some steps to make it better. I still feel there oughta be a non-violent unit in every police department."

In 1973, while he was helping residents flee the rising Tombigbee River, Gilmore was shot in the shoulder. He was alone at the time and thought he had been ambushed.

It turned out to be a stray bullet fired by a young man shooting at cans.

He also at times faced guns while making an arrest.

"But I was fortunate to come out without getting hurt and come out on the winning end."

His biggest disappointment, he said, was his inability to solve the shooting of a 5-

year-old girl who was wounded in the face by nightriders who fired into her home.

"I really tried," he said. "But it was one of those cases, it seems, where people wouldn't make the effort to do a bang-up investigation."

The girl recovered, but the case still weighs on his mind, he said.

Gilmore has been the state's lowest-paid sheriff, by law. Because Greene is a poor county, its sheriff through the years has had trouble collecting enough fees to earn a respectable living. In the late 1950s, the Legislature passed an act setting a salary of \$7,500.

In the 1970s, however, sheriffs went off the fee system and salaries are now \$22,000 and up, depending on size. But Greene was not included, because it would take a Constitutional amendment to change it.

The county did allow Gilmore about \$4,800 in expenses, bringing his total to \$12,300 a year, still far below his peers.

[From the Tuscaloosa News, July 4, 1982]

GILMORE WON RESPECT

With some justification, Thomas Gilmore could be called a leader in the movement for civil rights in Alabama. But one suspects the amiable Greene County sheriff would rather be known as a good, God-fearing man who won the respect and admiration of both races with his evenhanded enforcement of the law.

Gilmore, today one of the best-known black elected officials in the United States, announced Friday he is stepping down from the sheriff's post to which he was first elected in 1970.

For Gilmore, it will mark the end of a career in law enforcement. His retirement also caps a rather remarkable personal achievement.

When Gilmore was elected in 1970, there were doubts about his ability to function effectively as chief law enforcement officer in a rural, impoverished Alabama county. There were pressures and obstacles from many sides and citizens of both races were apprehensive for the future.

But Gilmore's performance in office silenced the doubters. He dispensed justice fairly, operating unarmored in often difficult situations, and he compiled a record of sound law enforcement.

His career was spotlighted in the 1979 televised movie titled "This Man Stands Alone." While there may have been times when Gilmore felt alienated and isolated in his job, nothing could be further from the truth today.

"I have tried to project this county in a real positive light," he said in announcing his retirement plans. The courage and quiet dignity he exhibited in performance of his duty went a long way toward accomplishing that goal. He retires with the admiration and friendship of residents of both races.

ANN FROEHLKE

Mr. STEVENS. Mr. President, today marks the last day of service for the U.S. Senate of Ann Froehlke. We will miss her.

Ann has worked on Capitol Hill since 1977 where she first worked for me as the assistant minority leader. Always the hard worker, Ann was dedicated, loyal, and totally selfless. In an arena where quid pro quo is the norm and success is often at the ex-

pense of others, Ann was more than willing to give without expecting anything in return. Where others put themselves ahead of their peers, Ann always deferred praise and worked without expectation of constant reward.

Ann's reputation gained her a position on the staff of the Vice President after the election in 1980. Although I depended upon her heavily, I was proud of the opportunity that was presented to her. Since 1980, Ann has served Vice President GEORGE BUSH with distinction. One has only to spend but a little time in the Vice President's office in order to appreciate the professionalism and patience it takes to provide direction to the scores of Senators, visitors, departmental liaisons, and staff members that depend upon her daily.

I wish Ann the very best. I will miss her and I know her friends and colleagues will feel a deep void with her absence. She has added something very special to all of our lives, and we wish her well in her future pursuits.

DUDLEY DIGGES MORGAN

Mr. STEVENS. Mr. President, I would like to take a moment to give recognition to a young man who recently left the service of the Republican cloakroom. I make reference to Dudley Digges Morgan.

Digges served with distinction in the Republican cloakroom for over 3 years. His leadership, professionalism, and congeniality were always appreciated and respected. His absence will be and is noticed.

The loss of Digges in the Republican cloakroom is the gain of the Department of Commerce where Digges will serve as a member of the congressional affairs team. Those Senators who know him, trust and respect his judgment; I must say it is well earned.

In the days ahead, I look forward to working with Digges in his new capacity at the Commerce Department. He will be an asset wherever he goes throughout his career.

**TERRORIST ATTACK KILLS TWO
ILLINOISANS IN PARIS, FRANCE**

Mr. PERCY. Mr. President, on Monday, August 9, terrorists attacked a Jewish neighborhood in Paris, France, and six people were killed. Two Illinoisans were among those killed and two Illinoisans were also wounded in this mindless criminal act. I have called upon the French Government to urgently take steps to insure that these acts cease and that those responsible will be apprehended and brought to trial swiftly. All of us are grieved by the attack and horrified that anti-Jewish terrorism has struck

yet again. Let us comfort all who mourn this tragedy.

There is a moving tribute to Ann Van Zanten, one of the six killed in the attack, published in the Chicago Sun-Times on August 11. Ann Van Zanten, age 30, was born in St. Louis. She was a historian of architecture at the University of Illinois at Chicago Circle. Those who knew her have said that she was one of Chicago's "most energetic, effective cultural resources," writes William Marton, who wrote the appreciation of Ann Van Zanten. I ask unanimous consent that the article from the Sun-Times be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Also killed was Grace Cutler, age 66, of Skokie, Ill. Olga Traficante, who worked with her at the law firm of Adamowski-Newey-Adamowski, said of Grace Cutler: "She was such an extraordinary woman, beautiful inside and out." I ask unanimous consent also that an article from the Chicago Tribune about Grace Cutler be included in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

[From the Chicago Sun-Times, Aug. 11, 1982]

ANN VAN ZANTEN—LOSS OF A CULTURAL ASSET (By William Marlin)

CHICAGO.—Paris, which is often romanticized as a city of light, was of great interest to Ann Van Zanten, an architectural historian, who was killed Monday in a terrorist attack on Goldenberg's restaurant, a popular Jewish establishment in the ancient Marais quarter near Notre Dame Cathedral.

Her husband, David Van Zanten, a history professor at Northwestern University in Evanston, Ill., and an architectural scholar, was slightly wounded.

Recently named curator of the Chicago Historical Society's fine collection of architectural drawings and records, Ann Van Zanten was born in St. Louis in 1952. She had been preparing for an exhibit on the pioneering Chicago architect Louis Sullivan that was scheduled to open at the St. Louis Art Museum in 1984.

She graduated with honors from Brandeis University in 1972 and earned a doctorate at Harvard in 1980. Her dissertation was on Cesar Daly, an Irish-French architectural journalist, and his influence publication, *Revue de l'Architecture Generale*.

In a very short time, it became clear to the students and stewards of Chicago's architectural heritage that Ann Van Zanten would become one of the city's most energetic, effective cultural resources. In addition to teaching at the University of Illinois at Chicago Circle and serving on the education committee of the Chicago Architecture Foundation, she was recently elected president of the Chicago chapter of the Society of Architectural Historians. Her grace and openness made her a sought-after spokesman for the city's past.

Still on view at the Historical Society is an exhibition for which she shared curator duties with Sally Chappel, a historian. The exhibition is on the work of the two architects—John Lloyd Wright, a son of Frank Lloyd Wright, and Barry Byrne. Upon hearing of the Paris attack, Elizabeth Ingraham, Wright's daughter, a Colorado-based educator and architect, said: "Ann was a sensitive, intelligent young historian. Her fine depiction and critique of my father's work will stand as a tribute to her promising talents. Her death is one more example of how the wanton fires of violent times put a shadow on the future."

That Ann Van Zanten nourished an emotional as well as intellectual affinity for both Paris and Chicago is pointed up by her writings about the Paris-based Ecole des Beaux Arts in connection with an exhibition at New York's Museum of Modern Art three years ago. In her interpretation of the Ecole, she was dealing with an institution where the consciousness of history was sent out in the building world like a beacon.

She knew that Louis Sullivan spent time there, learning at least enough about history to make a good deal of it himself; she knew that Chicago's affable titan, Daniel Burnham, saw sufficient promise in a young designer named Frank Lloyd Wright to offer to pay his way to the Ecole.

Kevin Harrington, assistant professor of architectural history at Illinois Institute of Technology, reflected: "When a friend is killed by insane violence, our protective insulation to such conflict is ripped away. We must really face the terror and horror of savage murder, and we also mourn the death of one whom we are not prepared or willing to lose."

"Ann Lorenz Van Zanten was a thoughtful, reflective scholar whose work so early in her career promised important contributions in the future. We have been robbed on that possibility. Scholars seek to expand our knowledge because they believe it will enrich our lives. Ann was interested in communicating what she learned to a wider public, and Chicago's architectural sophistication provided a wide audience of professional and amateur interest."

EXHIBIT 2

[From the Chicago Tribune, Aug. 12, 1982]

SKOKIE WOMAN'S DEATH IN PARIS STUNS FRIENDS (By Thomas Hardy)

Olga Traficante's first thought was that Jo Goldenberg's restaurant would be the last place her friend Grace Cutler would dine during her Paris vacation.

"When I saw that horrible scene on TV, I thought of Grace and told my husband she'd never go to a restaurant like that because there are so many wonderful Jewish restaurants in Skokie," where Cutler lived, Traficante said.

Tragically, the landmark Jewish restaurant was exactly where Cutler was eating lunch when terrorists tossed a hand grenade into the restaurant and then began firing at the screaming occupants with machine guns, killing 6 persons and injuring 22.

Cutler, 66, a longtime widow, was among those killed. Her companion, Eva Shure, 65, a Chicago teacher and a member of Cutler's bridge club, was injured in the attack, which was aimed at Paris' Jewish community.

Also killed was Ann VanZanten, 30, of Evanston, conservator of architecture for the Chicago Historical Society. Her husband, David VanZanten, 35, head of the art histo-

ry department at Northwestern University, was injured.

News of the Paris attack stunned Cutler's colleagues at the LaSalle Street law firm of Adamowski-Newey-Adamowski, where she had worked for 16 years as a legal secretary and office manager.

She left the firm July 1 because the partnership began to disband after Benjamin Adamowski, a former Cook County state's attorney who ran against Richard J. Daley for mayor in 1963, died in March and his son, Robert, moved to California.

Traficante, who also worked at the Adamowski firm, said she and Cutler "became immediate friends and wonderful colleagues" when Cutler joined the fledgling firm in 1966.

"She was such an extraordinary woman, beautiful inside and out, and she was a whiz of a secretary," Traficante said.

"She was delighted to be going on a one-week trip to Europe. She loved the theater, ballet and cultural things, and her friends were teachers and the like who had similar interests."

Cutler grew up in Chicago, attended Tuley High School and was a longtime resident of the Rogers Park neighborhood before moving to her Skokie condominium about six years ago, friends said.

"She was an excellent and hard-working employee," said Robert Adamowski. "Over the years, hers became more of a family situation than an employer-employee relationship."

Adamowski said Cutler's husband was killed in a car crash when her younger son, Howard, now a Chicago pharmacist, was 2 years old.

SINAI SUPPORT AND FIELD MISSIONS

Mr. PERCY. Mr. President, the U.S. Sinai Support and Field Missions have been a bright spot in the Middle East since they were established, first to operate a tactical early warning system and later to oversee adherence to the Egypt-Israel Peace Treaty articles.

The mission phased out its operations this spring, giving over many of its duties to the newly organized Multinational Force and Observers. But the accomplishments of the personnel and the effectiveness of both the Field and Support Mission should not go unnoticed here at home.

The highly technical operations was established in one of the world's most desolate and harsh environments. Inspection of military installations in the 15,000 square-mile area of the Sinai was conducted by field mission personnel and operation of a tactical early warning system in the Sinai was part of this effort from 1976 until early 1980.

The U.S. commitment to assisting in attaining peace in this troubled area of the world is demonstrated in the work of the people involved in the Sinai Support Mission. In an area where the political climate can be as volatile as the natural forces, the missions' objectives were undertaken with a sensitivity that insured its success.

The prime Government contractor—E-Systems of Dallas, Tex.—has achieved its charge with remarkable efficiency, bringing in the contract with cost underruns that have resulted in considerable savings to the U.S. Government.

In his transmittal letter to the President, Sinai Support Mission's Director Frank Maestroni noted, "The private American contractors who have worked with the mission since its inception in 1976 have responded rapidly and efficiently to the many varied challenges that have arisen over the last 6 years."

The skill with which the E-Systems project was handled continued through the phaseout operation, as the contractor ended activities prior to the completion date, without detriment to the operation or the morale of staff.

The success of the Field and Support Missions is a tribute to the private and public sectors, working together to insure the sanctity of the Middle East Peace Accords. We owe a word of thanks to our country's professional men and women and the American corporations, such as E-Systems, who offered their efforts and expertise to this mission of peace in the Middle East.

Mr. President, I ask unanimous consent that a statement by the President of the United States, commending the Sinai Support and Field Missions, be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, July 14, 1982.

A unique American peacekeeping operation in the harsh and isolated desert environment of the Sinai Peninsula ended on April 25, 1982, when Israel completed its withdrawal from the Sinai in accordance with the terms of the 1979 Egyptian-Israeli Peace Treaty. On that day, the Sinai Support Mission and its overseas arm, the Sinai Field Mission, concluded six years of keeping the peace between Egypt and Israel. As the Sinai Support Mission closes out this operation, I want to pay tribute to the many dedicated men and women who, during this critical period, served with distinction either with SSM here in Washington or with SFM in the Sinai.

"The orange men and women," as the Sinai Field Mission staff were called because of the international orange color of their clothing and their helicopters, played a crucial role in maintaining the peace in that area, first under the Second Sinai Disengagement Agreement of 1975 and then under the 1979 Peace Treaty. Initially, they operated an electronic early warning system guarding the approaches to the strategic Giddi and Mitla Passes. When the Israeli troops withdrew further east of these passes under the terms of the Peace Treaty, SFM was assigned a new role, the verification of Egyptian and Israeli compliance with the force and armament limitations specified in the Treaty for controlled areas in the western Sinai. The verifications involved on-site inspections of units and facilities scattered

over a 15,000 square mile area of the Sinai. During this period, SFM personnel earned the respect and confidence of both the Egyptians and the Israelis because of their expertise, professionalism, and impartiality.

In addition to these most important contributions to keeping the peace, the Sinai Support Mission rendered noteworthy assistance in the creation of its successor organization, the Multinational Force and Observers, which assumed Sinai peacekeeping responsibilities on April 25, 1982. The speed with which the MFO was created and made operational would have been hard to achieve without the expertise and cooperation of the Sinai Support Mission.

To all those who served in the Sinai Support and Field Missions, let me say, congratulations for a job well done. You have set a high standard for peacekeeping operations and made an important contribution on behalf of the United States to the cause of peace in the Middle East.

RONALD REAGAN.

HENRY FONDA—ONE OF THE MOST AUTHENTIC AMERICANS

Mr. KENNEDY. Mr. President, today is a time to mourn the passing of Henry Fonda, who was one of the most authentic Americans of all time. From "Young Mr. Lincoln" to "Mr. Roberts" to "On Golden Pond," he gave us extraordinary gifts of performance which reflect some of the greatest and most decent qualities of our country. In the characters he portrayed he helped to show us the essence of our national character.

For me, his presence brought the joy of friendship, and his loss is a deeply personal one. He was anything but a fair weather friend. In the hardest days of the 1980 campaign, Henry Fonda was always there, always ready to speak his mind, to offer his hand and his help. They say he died of heart failure, but I know this: All his life his great and generous heart never faltered or failed his friends. He was truly a man to share a hope with, the most caring and committed of allies to have, who made the happy times happier and the more difficult times more bearable.

The entire Kennedy family, which loved his movies long before we had the privilege of knowing him, joins me in expressing our sympathy to his wife Shirlee, his son Peter, his daughters Jane and Amy, his son-in-law Tom Hayden, and his grandchildren. We shall remember him, and we shall miss him now and always.

SOUTH BOSTON'S CHAMPIONSHIP SEASON

Mr. KENNEDY. Mr. President, for the first time in Babe Ruth baseball, a team from the city of Boston will be playing in the finals for the national championship. Last weekend, the South Boston team in the Babe Ruth League won the New England regional title and qualified for the 13-year-old

Babe Ruth world series that begins this weekend in Frederick, Md.

I take this opportunity to congratulate all the players on the team, their manager, and their coaches for the outstanding record they have compiled so far. The roster is Southies' newest honor roll:

1B Dominic Sulfar;
3B Keith Callow;
SS Dan Suplee;
1B Robert McGarrell;
OF Greg Yanovitch;
2B Edward Yalmokas;
OF Mike Burke;
3B John Gwynn;
SS Steve McKenna;
2B Tony Galvin;
OF Matt Mullen;
2B Mike Turner;
OF Paul Joseph;
OF Paul Walsh;
C Mike Doyle;
Manager George Feeley;
Coach Mal Hornsby; and
Coach Jim Greene.

I also congratulate the parents and families of the team, who have been such wonderful and supportive fans. All of Boston will be rooting for the team in the coming days. But win or lose, their sportsmanship, commitment, and come-from-behind tradition have already proved that they know how to play the game.

I ask unanimous consent that articles on the team from today's Boston Globe and South Boston Tribune may be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Boston Globe Aug. 12, 1982]

IN SOUTHIE, A REASON TO CHEER
(By Will McDonough)

In some ways, the scene is so familiar. The school bus carrying the youngsters stops at Columbia Circle on the edge of South Boston and waits for an escort.

Then it moves slowly up the Strandway, passing Carson Beach, McNary Field and the G Street hill, all of which had been pictured in the papers and on television in a bad light in recent years.

But instead of standing there staring grimly or hurling objects at the bus, the locals are jumping for joy, running out of their houses, leaping from the barstools at the L Street Tap or Flanagan's Lighthouse and dancing delightedly on the sidewalks.

"I think, more than anything else, this has brought Southie closer together than anything in a long time," says George Feeley, head coach of the South Boston 13-year-old Babe Ruth All-Star team, which heads to Frederick, Md., today to play for the national championship.

"In the past couple of weeks, everyone has put busing and Proposition 2½ and all of the other problems people have to deal with over here aside, and just gone crazy cheering for these kids. We in the town call them the Second Coming of the Bad News Bears."

Last Friday night in Cranston, R.I., the South Boston team characteristically refused to surrender and captured the New England championship by beating the home club in the finale.

"We had more people from Southie in Cranston watching the game and giving our kids standing ovations at the end of every inning than they had people from Cranston," says Feeley. What happened was that after being confronted by controversy for so long, the people of South Boston found something that could unite them in happiness, the way it was in the old days when they derived great pleasure from their high school teams . . . teams that vanished with busing, desegregation and Judge W. Arthur Garrity.

In this group of 15 youngsters, they rediscovered what they felt their community had always represented. Grit. The ability to bounce back. The courage to hang together in the face of heavy odds and still manage somehow to win.

This is a team that, due to 2½ and other budget cuts, played its regular-season games on a field that looks shabby compared to the others it visited in winning 13 of 15 playoff games.

"The managers in the league have to maintain the field because the city won't," Feeley says. Feeley and his fellow coaches, such as Jim Greene and Mel Hornsby, work on the fields on Saturday mornings. They keep the equipment in their cars because the city doesn't provide a place to store it.

During the playoffs, the Southie kids rode to the sites of the games in cars. "One night I had nine kids and the equipment in my two-door Chevy Nova," says Feeley. "We had to play some games at 5 o'clock, and the parents wouldn't be home from work yet, so we had to go around bumming rides from people on the street, and they came across for us."

Other teams in the playoffs drove to the games in air-conditioned buses, and their uniforms matched from head to toe. The Southie kids had caps and shirts that matched—the rest was mixed.

"We didn't look pretty but we got the job done," says Feeley. "Of the 13 games we won, we won eight of them by one run. In almost every game we played, we were behind. This team loved to play from behind. We didn't know what to do if we had the lead. Four times we were behind by four runs in the late innings and we came back to win." In its third game of the local regional, Southie fell behind by four to West Roxbury in the last inning, and elimination seemed imminent. Thinking the game was gone, but not telling the kids, Feeley put in five subs, and they came up with five runs in their last at-bat to keep the team alive.

Now Southie has become the first team from the City of Boston ever to qualify for a national final in baseball. That's a remarkable achievement, considering that, for the most part, baseball is dying within the city due to lack of money.

As a bonus, these kids have received honors that people from Southie don't expect and really don't know whether they want. "We were honored by Mayor White with a proclamation," says Feeley. "We accepted, and the kids were happy, even though the mayor isn't that popular. Then Tuesday night, I'm sitting at home and the phone rings. My wife answers it, and the voice on the other end says Senator Kennedy wants to talk with me."

"I think someone is pulling my leg," continues Feeley, "but when I get on, it is him. He is very nice. He says his house is not that far from Frederick, Md., and if we get a chance when we are at the nationals to bring all the kids over for a swim in the pool."

Because of his stand on the busing issue, Ted Kennedy is not big in Southie. But the parents, in a quick poll, voted to accept his offer.

The feeling is that these kids aren't old enough to truly understand the ramifications of busing or Proposition 2½. They have never flown in a plane before, and the prospect of being airborne intimidates some of them. Many of them have never worn a suit coat and tie before, which is why they have been scrambling around to cousins and neighbors, trying to acquire a wardrobe.

These kids are throwbacks in sneakers and T-shirts who preferred swimming at L Street to practicing. They didn't care if the other guys came in the air-conditioned buses, wore nicer uniforms and went through fancy drills in the warmups.

Southie hit a paltry .235 in the finals. Its best pitcher came down with a sore arm. It never played a home game. And still it won 13 times, with a different kid getting the winning hit in every triumph.

"We would like to do well in the finals," says Feeley, "but it is not the most important thing. These kids are going down there to have fun and enjoy themselves. We want it that way. Most of them have enrolled in Catholic schools. None will go to the high school. As far as most people are concerned over here, there is no high school. So this is probably the last time they will ever play together. We want them to remember how much fun it was—for them and for of us."

[From the South Boston Tribune, Aug. 12, 1982]

GOOD LUCK BABE RUTH ALL STARS

BABE RUTH ALL STARS ADVANCE TO WORLD SERIES

The South Boston Babe Ruth League's Thirteen Year Old All Stars are for real. This past Friday evening the rookies defeated Cranston, Rhode Island 6-3, to take the Babe Ruth New England Championship. The kids will leave from Logan Airport this afternoon for Frederick, Maryland to represent New England in the Babe Ruth World Series. This is the first time a team from the City of Boston will have a chance to win the World Championship.

Other teams that will take part are Frederick, Maryland; Brooklyn, New York; Nashville, Tennessee; Glendale, California; Appleton, Wisconsin; Pine Bluff, Arkansas; Idaho Falls, Idaho; Jefferson, Missouri; and Southie. The local team will play its first game Sunday afternoon at 3:00 p.m. against Idaho Falls, Idaho. All of the games will be played at McCurdy Stadium in Frederick. This is a double elimination tournament.

In order to make it to the finals the kids defeated Cranston, R.I. 10-7; Portland, Maine 10-7 in ten innings and then met undefeated East Haven, Connecticut. East Haven was holding a 1-0 lead when Matt Mullen walked, Greg Yunovitch singled, Ed Yalmokas and Mike Doyle walked and Dom Sulfaro singled to make it 3-1. Dom Sulfaro led off the sixth with a single, was sacrificed to second by Callow and scored on a ground ball by Mike Burke to make it 4-1. East Haven scored a run in the sixth and two more in the seventh with two outs to tie the game. Mike Doyle led off the eighth with a walk, stole second and third and scored on a ground ball for a 5-4 lead. Pitcher Dan Suplee got the final three outs of the game, striking out the last two for the win.

On Friday night, the Southie team, needing just one more win for the championship, took on Cranston who had won the losers bracket defeating Manchester, New Hamp-

shire; Blackstone Valley, Rhode Island; Westfield, Ma.; and East Haven. Cranston took an early 4-0 lead after just two innings, but the locals scored single runs in the third, fourth, fifth, and sixth innings to tie it up. In the top of the seventh the Southie defense fell apart allowing Cranston to score four runs. The local lads answered with two of their own but fell short and lost 8-6. Hitting for Southie were Ed Yalmokas, Dom Sulfaro, Keith Callow, and Dan Suplee.

One half hour later both teams returned to the field for the final game. Mike Doyle's single in the first inning was the big hit as Southie took a 2-0 lead. Cranston answered with one of its own but hits from Steve McKenna, Greg Yanovitch, and Keith Callow scored four more runs for a 6-1 lead. Cranston came back with a run in the third and fourth innings but relief ace Dan Suplee gave up just two more hits over the last five innings as the Southie nine took the Championship game 6-3. The Southie kids have now won the Suffolk County-Norfolk County East District Championship, the Eastern Mass. State Championship and the New England Regional Championship and who knows what might happen in the World Series.

Members of the team include: Tony Galvin, Mike Doyle, Dan Suplee, Paul Walsh, Keith Callow, Matt Mullen, Steve McKenna, Greg Yanovitch, John Gwynn, Mike Burke, Dom Sulfaro, Mike Turner, Paul Joseph, Ed Yalmokas, Bob McGarrell, Coaches Jim Greene, Mel Hornsby and George Feeley. The members of the team would like to extend their gratitude to the following people; Sam Moran for the use of the lights to prepare for the night games, the family of Bob McGarrell for the use of their facilities for the party Sunday, to the crazy Southie fans who were "Voluntarily" bused to Cranston to watch the games, to the kids from Old Harbor for the banner, the Boston Fire Dept. for their reception upon returning from Cranston, and of course the parents.

ANNIVERSARY OF THE BERLIN WALL—THE COMMITMENT ENDURES

Mr. GLENN, Mr. President, 21 years ago today the Berlin wall was quickly erected by East Germany. The city of West Berlin had all previous ties to the West severed in a matter of days. Because of the West's steadfast commitment to keeping West Berlin free regardless of cost, West Berlin today remains an island of democracy in a sea of suppression.

Despite the difficulties of doing so, West Berlin freely accepts any citizen from any country of the world. The Soviet-dominated Government of East Berlin continues to pose difficulties for anyone desiring to enter or leave its borders.

The Berlin wall represents a very important symbol in East-West relations. For as long as the symbolism of East Berlin and West Berlin is alive, so too will the realities of division endure. As long as there is an East Berlin and a West Berlin, there can be no real world unity.

Nowhere else in the world do democracy and tyranny thrive so near to one another. Nowhere else in the world is it more clear how far East and West have to go to achieve peace and understanding.

Just as bridges must be built between West Berlin and East Berlin, so must bridges be built between the United States and the Soviet Union. With nation states growing ever closer in interactions and dependencies, the choice is to either foster this evolution or discourage it. The lessons from history are that the costs of isolationism and indifference are too great.

But that choice, Mr. President, is not ours to make. Those moves away from isolation and indifference to human hopes must come from the Soviet Union, for it is they who have built walls to keep their people in, and to foster even greater distrust in an era that demands more openness, sincerity, and honesty in world dealings.

On this anniversary of the Berlin wall, let us renew the commitment of the United States to tearing down those barriers that exist between East and West. Let us reaffirm our intent to pursue world peace and understanding through more contact, not less.

If we truly live in an enlightened time, then may we mutually respect the right of persons to freely determine their own destiny—without walls of political repression.

SKILLED LABOR CRISIS VIII— INTERNATIONAL HIGH-TECH COMPETITION AND ENGINEERING SHORTAGES

Mr. BENTSEN. Mr. President, this is the eighth in a series of speeches I am devoting to the widening gap in our Nation between labor skills being demanded by employers and those skills possessed by men, women, and youths. My previous speech in this series—delivered last December—focused on the generic issue of robotics. It noted that as many as 1 million assembly line jobs could be permanently lost to the wave of robots expected to flood our factory floors during this decade. Other estimates run even higher.

The impact of automation and unemployment is a recurring theme, with its roots stretching back to Ned Ludd in 18th century Leicester. Those historians among us will recall the most pronounced manifestation of that theme when upward of 1,000 early textile mills were damaged by rampaging English workmen, justifiably fearful of skill obsolescence and technological unemployment. These Luddites gave vent to a frustration and fear that has been little recognized and certainly not addressed in the public policy of our Nation. That omission is curious because many of our ancestors were motivated to courageously join this great American adventure in the 18th,

19th, and 20th centuries because their agrarian skills did not match those demanded by firms in their homeland increasingly relying on steam and water to power assembly lines.

The robotics revolution is the tip of what may become the most pronounced economic issue of this decade: Rising technological unemployment side by side with labor shortages. For, while robotics and automation generally destroy jobs, they create new ones, as well. Indeed, the history of economic growth here and abroad is one of job and skill obsolescence matched eventually by the creation of even more, higher paying jobs as the emerging technology is harnessed to yield new consumer goods and services.

Training for these new jobs outside the classroom has historically been provided by the private sector and represents a substantial portion of the \$30 billion or more spent on skill development by that sector. In light of the Nation's virtually nonexistent public mechanism for retraining experienced workers with obsolete skills, every Member of this body should hope that this historical pattern repeats itself in the case of the robotic and electronic revolution sweeping through our plants, factories, and banks. For that revolution is certainly going to cost us millions of current jobs.

I, for one, Mr. President, am not totally satisfied to leave the creation of millions of new jobs for these displaced men and women to the occasionally slow workings of the market process alone. We must reinforce that process with positive efforts to retrain experienced displaced workers, and thereby avoid compounding the human tragedies of unemployment with the loss of scarce and valuable labor talent and skills needed to fully utilize our economic resources.

I will return, Mr. President, to the theme of updating experienced worker skills in my next speech. You will recall, however, that I introduced legislation—S. 2476, the Skilled Labor Training Act—on May 4, designed to deal with this major problem.

In my speech today, I look at the flip side of the unemployment-and-skill-shortage coin in reviewing the shortage of engineers—key factors in the emerging electronic and computer technologies. Those shortages are opportunities, of course, opportunities to minimize or even prevent substantial technological unemployment if displaced workers can acquire the technical skills increasingly in short supply.

In several of my earlier speeches in this series, I explored some areas, such as computer occupations, where these opportunities exist. And, I believe our Nation is best served by a national labor policy designed to exploit these opportunities and encourage the re-

training of displaced workers, as the Japanese and German Governments do, in short-handed skills.

But retraining is just part of the answer to our skilled labor shortage. Another aspect is to insure that our schools and colleges are providing the type skills to youths which will be in demand. It is far from clear that this elementary objective is being met today. It is unequivocally not being met in the area of engineering education.

HIGH-TECHNOLOGY COMPETITION

In my last speech, I mentioned the confluence of currents which will result in an unprecedented surge of Japanese high-technology goods this decade to world markets. The uniquely labor—and knowledge—intensive character of high-tech goods is particularly suited to the Japanese national resource mix. And the chronic and persistent need for that nation, poor in natural resources, to achieve balance-of-payment surpluses provides more than sufficient incentive for a sharp and robust national focus there on the export of high-tech goods. That focus will only sharpen in the future because such goods represent the most striking worldwide potential growth market—the clearest target for any nation seeking to maximize opportunities for real income growth through exports.

American firms face major and serious competition at home and abroad in dealing with the relentless Japanese drive to export. Fully one-half of our radios and recording equipment now comes from Japan; 25 percent of our autos, cameras, and TV's come from there.

Even more alarming for American firms and their workers dependent on exports are two other fundamental factors at work in the Western Pacific littoral.

Japanese firms long ago shook off the image of clever imitators. In industry after industry, they have applied the fruits of intensive and original innovation and R. & D. to become world leaders and carve out new markets. This innovative surge is reflected in the fact that domestic patent applications in Japan exceeded domestic applications in the United States as early as 1968. Domestic Japanese applications doubled in the following decade, even while applications here and in West Germany—the other leading technical R. & D. nation—stagnated. And, from 1966 to 1976, Japanese patent applications filed in the United States soared 600 percent, while applications from British firms, by way of comparison, actually slumped 40 percent.

During the 1970's, the terms of technology trade in Japan were sharply reversed: Technology imports rose slightly less than 11 percent, while ex-

ports jumped an astounding 140 percent. Companies on the first Tokyo Stock Exchange, in numbers reported by Dr. Gene Gregory of Tokyo's Sophia University, earned some \$425 million from technology process exports over that period, versus \$350 million they paid abroad for technology process imports. The short of it, Mr. President, is that we will be facing even higher quality and innovative high-technology exports from Japan as this decade unfolds.

The second phenomena posing dangers for the U.S. competitive position worldwide in the technology goods is the feverish activity in Hong Kong, Singapore, South Korea, and Taiwan to capture export markets. Many electronic firms in these nations are on the verge of moving from the initiator to the innovator stage themselves in a pattern destined to threaten Japanese ascendancy in many electronic commodity markets. That competition will spill over and exacerbate the diminished American potency in high-technology commodities. I do not suppose we need to concern ourselves with the importation of Korean autos, but when Japanese aluminum firms begin shutting capacity under a flood of cheaper Korean products, can electronic products be far behind? The danger is very real that American firms will soon be facing Japanese-quality products produced in nations like Korea and Taiwan by both native and Japanese-owned firms using labor paid one-fifth what Japanese workers earn and only one-tenth what U.S. workers earn.

In not too many years, we may be fondly gazing back at the early 1980's when only the Japanese offered us competition in the rich world market for 64K RAM systems, biotech monitoring devices and other high-tech goods.

AN IMPROVED COMPETITIVE BASE

I have no doubt that we are capable of gearing up to compete well with any foreign producer of high-technology hardware. To match that capability with deed is something else. It will require a notable shift in the way corporations utilize labor with technical knowledge and skills. Engineers must be brought into the mainstream of corporate policy decisions. Those decisions should become more driven by the technical avenues of new products opened up by engineers, rather than solely by efforts to squeeze technical advances to fit the mold of existing products and markets. In addition, American firms must pay more attention to longer term research and marketing factors capable of influencing their economic health well into the future, and not be blinded by the next quarter's earnings per share.

The public sector has a role to play in promoting American competitiveness in high technology, as well. That

role has both a macroeconomic and a microeconomic character. The present blend of tight money and excessive deficits has resulted in a recession and a halting recovery which will feature rising Government spending, not rising investment. That pattern must be reversed. A national economic policy featuring lower interest rates must be pursued in order to facilitate the flow of affordable resources into those sectors like electronics where the jobs of tomorrow will be created. The failure of Washington to deliver on its promise of lower interest rates and to create an environment conducive to greater investment threatens not only future unemployment, but the loss of what competitive edge our high-tech firms have today in world markets.

At the microeconomic level, I believe that public policy here—as it does in Japan and Germany—should be designed to reduce roadblocks and widen bottlenecks which unduly limit the ability of domestic firms to innovate and maintain a fair competitive situation. Perhaps the most glaring example of such a bottleneck currently is in electrical engineering education. Such education is one of the cornerstones of America's hopes for rising productivity and the preservation of our market shares around the world in the high-tech products of the future. Yet, as a nation, we are not providing a sufficiently large cadre of trained engineers to meet the demands of the labor market.

Typically, any such situation should be short lived. Rising wages would attract ambitious students to engineering curriculums and the market shortage would eventually be resolved. And, up to a point, that is precisely what has happened. The surge in demand for electrical engineers has indeed pushed wages up notably. College students are flocking to engineering courses.

ENGINEERING SHORTAGES

But there the textbook description of a labor market in operation ceases. Our engineering schools have become a bottleneck because they cannot enlarge enrollments to meet this surging demand. They cannot compete with the wage offers of private industry for aspiring young professors or increasingly even for senior ones. And therein lies the difficulty. Aspiring would-be engineers are not able to find spaces at our engineering schools and colleges, and we are consequently producing far fewer engineers than we should because we do not have the faculty to train them.

An international comparison is useful here. Japan—a nation with one-half the population of our own country—graduated 18,700 electrical engineers at the bachelor-degree level in 1980 versus only 14,600 here. They also awarded 7,000 more engineering

degrees of all types in 1980 than we did.

As a consequence of this education bottleneck, various industry groups, including the American Electronics Association, are projecting enormous gaps between demand and supply in engineering. For example, an AEA member survey identified an annual demand for 50,000 new electrical engineers by 1985—over three times the number we now graduate yearly. Including computer experts and other skilled professional occupations, those firms expect to be creating a total of 113,000 new jobs annually by then. The National Science Foundation recently forecasted a 47-percent shortage of industrial engineers, as well, in this decade.

The inability of colleges and universities to compete successfully for faculty with private industry is even more pronounced in the computer area. Some computer science faculties are only half filled. The identical problem exists in mathematics, as well, where industry is reaching even into high schools and elementary schools for mathematicians.

The heart of the problem in each case is that professionals holding graduate degrees cannot be recruited by schools to meet the surging demand of students for classroom slots. Over 10 percent of all authorized and funded faculty positions in engineering are vacant now. In Texas alone, according to a 1981 report to its commission on higher education, the 10 public and 5 private engineering schools had a total engineering faculty shortage of 130 slots. Nationally, some 2,000 faculty slots sit empty. And those 2,000 empty engineering faculty positions could swell to 7,000 by 1990 through retirements and the further loss of teachers to private enterprise.

These engineering faculty vacancies are widespread. A partial listing includes:

- University of Colorado: 15 vacant slots out of 157 positions.
- Iowa State: 24 vacant out of 275.
- University of Minnesota: 20 vacant out of 174.
- Oregon State: 9 vacant out of 88.
- Penn State: 30 vacant out of 248.
- University of Rhode Island: 12 vacant out of 71.
- University of Wyoming: 8 vacant out of 75.

The dangers posed by these faculty shortages and the lid they place on our supply of engineers can scarcely be exaggerated. Yet, these dangers will multiply because the pipeline of new prospective engineering faculty members is leaking badly. The same forces moving to limit the movement to education from private industry are at work on prospective graduate students, as well.

DECLINING GRADUATE STUDENT POOL

The national pool of graduate degree engineers, especially Ph. D.'s, are the source of replenishment for dwindling faculties. But American bachelor degree engineers are not continuing on to graduate school in search of Ph. D.'s. The decline is dramatic. In 1971, some 2,900 Ph. D.'s in engineering were awarded to U.S. nationals compared to only 1,800 in 1980—a 30-percent decline. In fact, we are awarding fewer new engineering Ph. D.'s to American citizens than at any time since 1964. Let me hasten to note, Mr. President, that our engineering graduate schools are not empty. For example, in 1980, about 1,000 Ph. D.'s were awarded to foreign nationals in addition to the 1,800 awarded U.S. citizens. Most of these foreign students promptly return home, however, and they take graduate slots which would sit vacant otherwise, unwanted by U.S. students.

In addition, the share of new Ph. D. students going into teaching is dwindling. For example, one-half of Stanford's engineering Ph. D.'s went into teaching in 1971; only 24 percent did so in 1980. The brain drain from graduate engineering programs is at least matched by the drain of prospective faculty from computer science graduate programs. In Texas, for example, 256 Ph. D. degrees in computer science were awarded in 1975 while only 200 were awarded in 1980. That 200 represents only one-third the number needed to fill computer science faculty positions. Even so, only one-half of these new Ph. D.'s entered teaching, producing only one-sixth the number of teachers needed for college computer science courses.

EQUIPMENT SHORTAGES

Engineering schools are having a difficult time dealing with the tidal wave of would-be engineers for reasons other than shrinking faculty. Foremost among these other limiting variables is the inadequate number and dismal condition of equipment used in the science classroom. Because of rapidly evolving technology, equipment becomes obsolete in about 7 years now, and the pace is accelerating. Yet, few engineering schools are blessed even with an adequate quantity of equipment for use in labs and classrooms much less with up-to-date equipment. As Federal support for research eased in the 1970's, engineering schools diverted funds from equipment purchase to subsidize graduate students and research assistants. The result, as the Engineering Education News reported in June, is that the average piece of engineering teaching equipment in use today is about 20 years old.

A similar survey last year by the Association of American Universities found that university research equipment is twice as old as that used in industry. The Wall Street Journal sur-

veyed our engineering schools this spring and termed the state of teaching equipment there a national disgrace, with most of it actually predating the computer era. Schools face enormous hurdles in merely stocking existing classrooms with contemporary equipment, much less in meeting the burgeoning demand for new undergraduate slots—a demand suppressed for the moment by limited faculty.

The magnitude of the equipment shortage can be gaged in several ways. For example, a recent National Science Foundation survey found that equipment needs are so pervasive in engineering schools that only one-fifth of their existing equipment will be replaced by engineering researchers over the next 5 years.

The Texas Society of Professional Engineers estimated recently that just nine public engineering schools in Texas had a critical need for \$36 million to modernize campus engineering equipment. And, a total of \$98 million was projected to be needed to replace hardware because of technical obsolescence at these institutions. That projection confirms similar estimates made in October 1981 by Prof. R. H. Page, dean of engineering at Texas A&M University. Dean Page projected that equipment replacement costs statewide would total \$88 million comparable to \$17,400 for each of the engineering bachelor degrees awarded in 1980-81.

The American Electronics Association gathered data this past June from a number of engineering schools on equipment needs while surveying faculty shortages. This survey found that these amounts were needed merely to update existing equipment:

University of Colorado: \$4 million.
University of Idaho: \$2 million
Iowa State University: \$5.1 million over the next 5 years.
University of Kansas: \$1.5 million.
University of Minnesota: \$2.75 million.
Oregon State University: \$750,000.
Portland State: \$1.35 million.
University of Rhode Island: \$1 million.
University of Wyoming: \$3.3 million.

It will be a major task for these schools to meet their equipment needs. And, to expand equipment in order to digest additional students poses simply unsurmountable hurdles for these schools, which typically have annual equipment acquisition budgets of \$40,000 to \$50,000. For example, to meet increased student demand just for undergraduate mechanical and electrical engineering and for computer courses, the Iowa State engineering school estimates it alone would need \$22.1 million in new equipment.

Nationally, the National Science Foundation's Deputy Director, Donald Langenberg, projected that engineering equipment replacement costs exceed \$1 billion now and could be as much as \$4 billion. Indeed, so critical

is the problem that the NSF intends to boost funding to universities for engineering equipment by 23.5 percent in fiscal year 1983, while its overall budget will rise at the far smaller rate of 7.7 percent. Independent and more detailed calculations by Dean Page confirm the \$1 billion figure.

REMEDIES

It would be convenient for Congress to focus just on engineering in designing public policy to deal with our critical skills shortages. But, the problem is far broader and more pervasive than that. And, I will be reviewing broader policy prescriptions in my next speech. Yet, the pivotal role of engineering technologies in productivity growth, in the future competitiveness of American products here and abroad, and in the creation of new domestic employment opportunities generates a special sense of urgency. That urgency is redoubled by the reality that the faculty shortage in engineering will require years to ameliorate.

What are the options for widening the bottleneck in engineering education? In crafting an answer, it is instructive to recall that Japan experiences an excess demand for bachelor degree engineers, just as we do. And that excess demand is resolved in a uniquely Japanese fashion. Universities and firms there do not compete for graduate students and employees by bidding wages up. Instead, Japanese firms implicitly collude to hold all beginning wages low—at \$7,800 this year, for example. Japanese universities do not face the chore of having to compete in the marketplace for graduate students and faculty by outbidding private firms.

Policy prescriptions for the engineering shortage in the near term here must involve devices to enlarge engineering education opportunities by encouraging graduate degree engineers in private enterprise to teach part time and full time on a sabbatical basis. Such a system would act to stretch out the existing fixed supply of qualified engineers to meet some faculty requirements. And, a variety of specific tax and other devices can be designed to encourage such sharing, including tax credits for employers of those engineers who go on sabbatical to teach as proposed in my legislation, S. 2474, the Scientific Research and Education Act.

Longer term solutions to the engineering shortage must involve more enduring steps to assure a greater flow of graduate students, and to make engineering teaching a more rewarding profession. Encouraging grants by the private sector to supplement graduate student and faculty salaries, as proposed in that same bill, is one relatively cost-effective option.

A similar private-sector role exists, I believe, in ameliorating our billion-

dollar engineering equipment shortage. For example, I introduced S. 2475, the Scientific and Technical Equipment Act on May 4, which would expand the charitable tax deduction provision to include engineering teaching equipment donated to vocational secondary schools, and postsecondary colleges and universities.

Many other options exist, Mr. President, including all sorts of Federal subsidies and grant programs. A word of caution here though. I am convinced that the current budget crisis and the \$100 billion plus deficits stretching out years ahead preclude a massive new Federal initiative in this area. Yet, the urgency to address our engineering shortage is real, and cannot be ignored. Therefore, I favor and certainly encourage my colleagues here, Mr. President, to consider steps to mobilize private-sector resources to fill the engineering gap. Such steps would certainly yield results more cost-effectively than would Federal handouts, and would yield prompt results, as well.

In any case, it is important that the debate on our engineering shortage be joined now by Congress. It is the tip of the critical skills shortage, and a tip that must be dealt with now.

Mr. President, in my next speech in this series, I will review what I consider the most promising broad-based remedy outside the classroom for our critical skills shortage.

HOUSE VOTE ON THE NUCLEAR FREEZE

Mr. KENNEDY. Mr. President, last week the House of Representatives voted by the narrowest of margins against a nuclear freeze resolution based on the initiative which Senator MARK HATFIELD and I, and Representatives CONTE, MARKEY, and BINGHAM cosponsored in the Congress last March. All those who champion the freeze should be greatly encouraged by the 204-202 House vote. In the short span of 5 months, the leaders of this country have been awakened to the nationwide call for an end to the nuclear arms race.

The nuclear freeze movement came into existence only 2 years ago. From town hall meetings and city hall councils to this summer's nuclear freeze rally in New York, millions of people have already said no to the arms race and yes to a nuclear freeze. In November of this year, fully one quarter of the people will vote on nuclear freeze initiatives on their ballots; it will be an issue in States, the localities, and in every congressional race as well. They will remember those in Congress who are heeding their call for a mutual and verifiable nuclear weapons freeze as the first step toward reversing the nuclear arms race—and those who are not.

On August 11, the Boston Globe published an editorial describing the success represented by the House vote. In demonstrating such extraordinary support for the freeze, Members of the House are demanding an end to the nuclear arms race and a change in the attitude of the Reagan administration. As the Globe points out, the freeze movement is "telling the administration it had better be serious in its pursuit of an arms control agreement." I ask unanimous consent that the full text of this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

KEEPING ARMS TALKS HONEST

Only in the narrowest sense could last week's rejection of the nuclear freeze petition by the U.S. House of Representatives be seen as a defeat for the arms control movement.

In the larger context, the preceding debate and the razor-thin margin show what remarkable progress has been made by freeze organizers in the past six months.

The House voted 204-202 for a substitute resolution backing the Reagan Administration's START approach to strategic arms talks in Geneva with the Soviet Union. But the central message is that three months before Election Day 1982 there is enormous nationwide interest in arms control—and widespread skepticism about the Administration's sincerity and effectiveness in pursuing that aim through START.

It would be mistake to view support for the freeze as an endorsement of any particular tactical strategy in the arms talks. What it is, in the view of many freeze proponents, is a vehicle to keep the Administration honest on arms control.

At a New Hampshire town meeting last winter, one supporter summed the freeze message in simple terms that still apply: "I support our government and I hate communism as much as anyone," he said. "I just want the government to work on this. I'm not able to sit down with the Russian leaders. All this vote is, is to ask our leaders to sit down with them and talk hard."

The freeze campaign began in a limited way two years ago, but as late as this past February its organizers were counting on a slow-and-steady effort that might take several years to reach national political prominence. Then suddenly the idea caught on.

Under normal circumstances, the fact that Geneva talks are under way could have been expected to deflate the movement, but that has not happened. Instead it is gaining force.

The Republicans paid a great compliment to the freeze movement last week. They sliced their victory as thin as they could, mustering an accordion-like majority so as to expose the minimum number of Republicans to the possibility of voter retribution in the fall.

The only New England legislator to vote against the freeze was David Emery who will challenge Senator George Mitchell for his seat this fall.

By placing arms control on the election agenda, the freeze is sending a message from the grass roots to two audiences.

It is telling the Administration it had better be serious in its pursuit of an arms control agreement. And it is telling legislators they had better do their homework on

national security or else face a grilling on the campaign trail by an aroused electorate.

As Harry Truman once explained about mules, before they'll do what you want, you first have to get their attention.

However Congress voted last week, the freeze is doing that.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:47 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, Ninety-seventh Congress); agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints the following as managers of the conference on the part of the House: From the Committee on the Budget, for consideration of the entire House bill and Senate amendment: Mr. JONES of Oklahoma, Mr. PANETTA, Mr. GEPHARDT, Mr. LATTI, and Mr. FRENZEL, and as additional conferees from the Committee on the Budget, solely for consideration of title I of the House bill and title I of the Senate amendment: Mr. ASPIN, Mr. DONNELLY, and Mrs. MARTIN of Illinois. From the Committee on Agriculture, solely for consideration of title I of the House bill and title I of the Senate amendment: Mr. DE LA GARZA, Mr. FOLEY, Mr. BOWEN, Mr. RICHMOND, Mr. HARKIN, Mr. WAMPLER, Mr. FINDLEY (on all matters except as listed below), Mr. HAGEDORN (on all matters except as listed below), Mr. COLEMAN (in lieu of Mr. HAGEDORN) on sections 160-186 of the House bill and sections 101-150 of the Senate amendment, and Mr. THOMAS (in lieu of Mr. FINDLEY) on sections 101-130 of the House bill and section 151 of the Senate amendment. From the Committee on Foreign Affairs, solely for consideration of section 130 of the House bill and that portion of section

101 of the House bill which adds subparagraphs 201(d)(8)(D)(iii)-(v) to the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981, and section 154 of the Senate amendment: Mr. ZABLOCKI, Mr. HAMILTON, Mr. BINGHAM, Mr. BROOMFIELD, and Mr. LAGOMARSINO. From the Committee on Banking, Finance and Urban Affairs, solely for consideration of title II of the House bill and title III of the Senate amendment: Mr. ST GERMAIN, Mr. GONZALEZ, Mr. ANNUNZIO, Mr. STANTON of Ohio, and Mr. WYLIE. From the Committee on Energy and Commerce, solely for consideration of sections 402 and 403 of the Senate amendment: Mr. DINGELL, Mr. WIRTH, Mr. FLORIO, Mr. BROYHILL, and Mr. LENT. From the Committee on Public Works and Transportation, solely for consideration of section 403 of the Senate amendment: Mr. ANDERSON, Mr. RAHALL, Mr. EDGAR, Mr. CLAUSEN, and Mr. SHUSTER. From the Committee on Post Office and Civil Service, solely for consideration of title III of the House bill and sections 601-604 and 606-610 of the Senate amendment: Mr. FORD of Michigan, Mr. UDALL, Mr. CLAY, Mr. DERWINSKI, and Mr. TAYLOR. From the Committee on Government Operations, solely for consideration of sections 605 and 611 of the Senate amendment: Mr. BROOKS, Mr. JOHN L. BURTON, Mr. EVANS of Indiana, Mr. HORTON, and Mr. WALKER. From the Committee on Veterans' Affairs, solely for consideration of title IV of the House bill and sections 701-706 and 708 of the Senate amendment: Mr. MONTGOMERY, Mr. APPLIGATE, Mr. LEATH of Texas, Mr. HAMMERSCHMIDT, and Mr. WYLIE.

The message also announced that the Speaker has signed the following enrolled bill:

S. 1193. An act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

At 1:05 p.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

The enrolled joint resolution was subsequently signed by the President pro tempore (Mr. THURMOND).

At 5:06 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 6863) making supplemental appropriations

for the fiscal year ending September 30, 1982, and for other purposes; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. WHITTEN, Mr. BOLAND, Mr. NATCHER, Mr. SMITH of Iowa, Mr. ADDABBO, Mr. LONG of Maryland, Mr. YATES, Mr. ROYBAL, Mr. BEVILL, Mr. BENJAMIN, Mr. DIXON, Mr. FAZIO, Mr. CONTE, Mr. McDADE, Mr. EDWARDS of Oklahoma, Mr. MYERS, Mr. MILLER of Ohio, Mr. COUGHLIN, Mr. KEMP, and Mr. O'BRIEN as managers of the conference on the part of the House.

The message also announced that pursuant to the provisions of title 22, United States Code, section 276a-1, as amended by Public Law 95-45, the Speaker appoints as members of the delegation to attend the conference of the Interparliamentary Union to be held in Rome, Italy, September 14-22, 1982, the following Members on the part of the House: Mr. PEPPER, chairman, Mr. DERWINSKI, vice chairman, Mr. FOUNTAIN, Mr. PICKLE, Mr. DE LA GARZA, Mr. BOWEN, Mrs. BOGGS, Mr. WASHINGTON, Mr. BROOMFIELD, Mr. McCLOREY, Mr. STANTON, and Mr. BUTLER.

The message further announced that the House has passed the following bill, without amendment:

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5427. An act to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5427. An act to provide for the broadcasting of accurate information to the people of Cuba, and for other purposes; to the Committee on Foreign Relations.

H.R. 6128. An act to revise, codify, and enact, without substantive change certain general and public permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance"; to the Committee on the Judiciary.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 12, 1982, he had presented to the President of the United States the following enrolled bill:

S. 1193. An act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency, and the Board for International Broadcasting, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-4061. A communication from the Navy transmitting, pursuant to law, a publication entitled "Register of Commissioned and Warrant Officers of the United States Navy and Reserve Officers on Active Duty"; to the Committee on Armed Services.

EC-4062. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military sale to Turkey; to the Committee on Armed Services.

EC-4063. A communication from the General Counsel of the Federal Emergency Management Agency transmitting a draft of proposed legislation entitled "National Flood Insurance Act Amendments of 1982"; to the Committee on Banking, Housing, and Urban Affairs.

EC-4064. A communication from the Chairman of the Federal Home Loan Bank Board transmitting, pursuant to law, the annual report of the Depository Institutions Deregulation Committee for April 1, 1981, to March 31, 1982; to the Committee on Banking, Housing, and Urban Affairs.

EC-4065. A communication from the Chairman of the Nuclear Regulatory Commission transmitting, pursuant to law, a report on the non-disclosure of safeguards information by the Commission for the quarter ending June 30, 1982; to the Committee on Environment and Public Works.

EC-4066. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of an act of the Council D.C. ACT 4-238; to the Committee on Governmental Affairs.

EC-4067. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Updating Interest Rates Charged on Outstanding Civil Service Retirement Contributions Would Save Millions"; to the Committee on Governmental Affairs.

EC-4068. A communication from the General Counsel of the Occupational Safety and Health Review Commission transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-4069. A communication from the Secretary of the Aviation Hall of Fame, Inc. transmitting, pursuant to law, the Audit Report for calendar 1981 and a current list of officers and trustees; to the Committee on the Judiciary.

EC-4070. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, the cumulative report on rescissions and deferrals as of August 1, 1982; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Commerce, Science, and Transportation, the Committee on Armed Services, the Committee on Labor and Human Resources, the Committee on Energy and Natural Resources, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Judiciary, the Committee on Governmental Affairs, the Committee on

Environment and Public Works, the Committee on Veterans' Affairs, the Committee on Foreign Relations, the Committee on Finance, the Select Committee on Indian Affairs, and the Committee on Small Business.

EC-4071. A communication from the Principal Deputy Assistant Secretary of Defense (Comptroller) transmitting, pursuant to law, a report on the value of property, supplies, and commodities provided by the Berlin Magistrate, and under the German Offset Agreement for the quarter April 1 through June 30, 1982; to the Committee on Armed Services.

EC-4072. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, reports on studies with respect to converting certain functions at certain installations to contractor performance; to the Committee on Armed Services.

EC-4073. A communication from the Commissioner of Social Security, transmitting, pursuant to law, a report on a new matching program under the Privacy Act; to the Committee on the Governmental Affairs.

EC-4074. A communication from the Director of the Federal Emergency Management Agency, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on the Governmental Affairs.

EC-4075. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for strengthening Research Library Resources Program; to the Committee on Labor and Human Resources.

EC-4076. A communication from the Director of ACTION, transmitting, pursuant to law, a copy of the final notice entitled "Young Volunteers in ACTION (YVA) Guidelines"; to the Committee on Labor and Human Resources.

EC-4077. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a required supplemental summary of the fiscal year 1983 budget; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget and the Committee on Appropriations.

EC-4078. A communication from the President of the Federal Financing Bank, transmitting, pursuant to law, notice that the annual report of the Federal Financing Bank will be included in the appendix to the budget; to the Committee on Banking, Housing, and Urban Affairs.

EC-4079. A communication from the Deputy Secretary of Energy, transmitting, pursuant to law, notice of a delay in the submission of the Public Utility Regulatory Policy Act Annual Report; to the Committee on Energy and Natural Resources.

EC-4080. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the annual report on Horse Protection for fiscal year 1981; to the Committee on Environment and Public Works.

EC-4081. A communication from the Secretary of Labor, transmitting, pursuant to law, the annual report on the administration of the responsibilities of the Department under the Employee Retirement Income Security Act (ERISA); to the Committee on Labor and Human Resources.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance:

Mary Ann Cohen, of California, to be a Judge of the United States Tax Court for a term expiring fifteen years after she takes office; and

Lapsley Walker Hamblen, Jr., of Virginia, to be a Judge of the United States Tax Court for a term expiring fifteen years after he takes office.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORTON (for himself, Mr. JACKSON, Mr. HATFIELD, Mr. BAUCUS, Mr. GARN and Mr. INOUE):

S. 2829. A bill granting the consent of Congress to the northwest interstate compact on low-level radioactive waste management; to the Committee on the Judiciary.

By Mr. PRESSLER:

S. 2830. A bill to provide primarily for the reduction of soil blowing; and to control snow deposition and conserve moisture; to protect crops, orchards, and livestock; to provide food and cover for wildlife; to conserve energy, to increase the natural beauty of the landscape; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATFIELD:

S. 2831. A bill for the relief of Beatriz Sandoval; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 2832. A bill for the relief of Seyed Ebrahim Seyedrezaei and Zohreh Hakim-Davar; to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 2833. A bill to designate Lincoln's Birthday as a legal public holiday and to provide that, for purposes of pay and leave, Federal Employees may select either Lincoln's Birthday or Washington's Birthday as a legal public holiday; to the Committee on the Judiciary.

By Mr. CHILES:

S. 2834. To amend title 10 of the United States Code to allow the Secretary concerned to take into consideration various factors in determining the amount of space in military medical facilities programed for retired members, their dependents and dependents of deceased members of the uniformed services; to the Committee on Armed Services.

By Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. BOREN and Mr. NICKLES):

S.J. Res. 230. A joint resolution to authorize and request the President to designate August 15, 1982 as "Will Rogers and Wiley Post day"; considered and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mr. GORTON (for himself, Mr. JACKSON, Mr. HATFIELD, Mr. BAUCUS, Mr. GARN, and Mr. INOUE):

S. 2829. A bill granting the consent of Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; to the Committee on the Judiciary.

INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT

Mr. GORTON. Mr. President, the bill I am introducing today on my behalf and on behalf of Mr. JACKSON, Mr. HATFIELD, Mr. BAUCUS, Mr. GARN, and Mr. INOUE is a bill granting the consent of the Congress to the Northwest Interstate Compact on Low-Level Radioactive Waste Management. In 1980, the 96th Congress passed the Low-Level Radioactive Waste Policy Act, Public Law 96-573. In that law, Congress declared the policy of the Federal Government that each State be responsible for providing for the availability of capacity for the disposal of low-level radioactive waste generated within its borders. This capacity may exist either within or outside the State. The Congress also declared that low-level radioactive waste can be most safely and efficiently managed on a regional basis. Pursuant to this declared policy, Congress authorized States to enter into interstate compacts in order to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste.

The bill which I now introduce is the compact which has been developed pursuant to the authority granted by Public Law 96-573 to develop regional compacts. It is the compact of the following States: Washington, Oregon, Idaho, Montana, Utah, Wyoming, Hawaii, and Alaska. It has been adopted by the legislative action of the States of Washington, Oregon, Idaho, and Utah. Legislative approval is pending in Hawaii. Executive order adopted in Montana anticipates legislative ratification in Montana.

Interstate compacts entered pursuant to the Low Level Radioactive Waste Policy Act of 1980 are required by that law to be consented to by the Congress. I introduce this bill in order to obtain that consent.

The issue of radioactive waste disposal is significant for persons residing in the State of Washington. This is so because of the existence of a large low-level radioactive waste disposal facility at the Hanford Nuclear Reservation near Richland, Wash.

Several years ago, the voters of the State of Washington passed Initiative 383. The purposes of that initiative were to cause Federal-State cooperation in the siting of low-level radioactive waste repositories, considering the interest of those residing close to those repositories, a recognition of the environmental and public health implications of radioactive waste disposal, and a Federal commitment to addressing the transportation of radioactive waste problem with regional responsibility for regionally generated radioactive waste.

The initiative was passed by a majority of over 73 percent of the State's electorate. Going under the banner

"Don't Waste Washington," the proponents argued that the State of Washington should not be responsible to all the other States in the Nation to provide a waste disposal facility for all their low-level radioactive waste. The initiative did not provide for, nor did its proponents advocate, a total exclusion of deposits of out-of-State nuclear waste within the State. Rather, the initiative asserted that management of low-level radioactive waste was safest and most efficient on a regional basis, a policy which is wholly consistent with the statement of Federal policy in Public Law 96-573.

I introduce this bill today at the request of Gov. John Spellman, Governor of the State of Washington. I do so because I feel that prompt congressional approval of this and other low-level radioactive waste interstate compacts is desirable. I am aware that other States and other regions are at this time at more developmental stages of establishing compacts than is the State of Washington or the Northwest region. I am also aware that informed action on the Northwest Interstate Compact on low-level radioactive waste management requires some knowledge of the extent to which this compact will interrelate with others, so as to accomplish some national efficiency and fairness in national low-level waste management policy. Nevertheless, introduction of this bill at this time serves to inform and speed development of other regional compacts and Congress consideration of them, rather than the contrary.

The bill which I introduce today does differ in one respect from that which I was requested to introduce by Governor Spellman. It is a change which I believe is essential to national acceptance of this compact. The Northwest Compact, as ratified by the several States, provides that party States must refuse to accept for disposal any low-level radioactive waste generated outside of the region, except as may be allowed by the Northwest Compact Committee, after July 1, 1983. Such a restriction is authorized by the Low Level Radioactive Waste Policy Act, Public Law 96-573, but may only become effective after January 1, 1986. Rather than propose congressional consent to the proposed effectiveness date of the exclusionary provision, section 3 of the bill I now offer ratifies the January 1, 1986, effectiveness date of Public Law 96-573.

Mr. President, this is an important issue for the citizens of the Northwest region of our country, and indeed for the entire country. I encourage the most prompt consideration of this bill.

Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming to enter into the Northwest Interstate Compact on Low-level Radioactive Waste Management, and to each and every part and article thereof. Such compact reads substantially as follows:

"NORTHWEST INTERSTATE COMPACT ON LOW-LEVEL RADIOACTIVE WASTE MANAGEMENT"

"ARTICLE I—Policy and Purpose

"The party states recognize that low-level radioactive wastes are generated by essential activities and services that benefit the citizens of the states. It is further recognized that the protection of the health and safety of the citizens of the party states and the most economical management of low-level radioactive wastes can be accomplished through cooperation of the states in minimizing the amount of handling and transportation required to dispose of such wastes and through the cooperation of the states in providing facilities that serve the region. It is the policy of the party states to undertake the necessary cooperation to protect the health and safety of the citizens of the party states and to provide for the most economical management of low-level radioactive wastes on a continuing basis. It is the purpose of this compact to provide the means for such a cooperative effort among the party states so that the protection of the citizens of the states and the maintenance of the viability of the states' economies will be enhanced while sharing the responsibilities of radioactive low-level waste management.

"ARTICLE II—Definitions

"As used in this compact:

"(1) 'Facility' means any site, location, structure, or property used or to be used for the storage, treatment, or disposal of low-level waste, excluding federal waste facilities;

"(2) 'Low-level waste' means waste material which contains radioactive nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities which exceed applicable federal or state standards for unrestricted release. Low-level waste does not include waste containing more than ten (10) nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor material classified as either high-level waste or waste which is unsuited for disposal by near-surface burial under any applicable federal regulation;

"(3) 'Generator' means any person, partnership, association, corporation, or any other entity whatsoever which, as a part of its activities, produces low-level radioactive waste;

"(4) 'Host state' means a state in which a facility is located.

"ARTICLE III—REGULATORY PRACTICES

"Each party state hereby agrees to adopt practices which will require low-level waste shipments originating within its borders and destined for a facility within another party state to conform to the applicable packaging and transportation requirements and regulations of the host state. Such practices shall include:

"(1) Maintaining an inventory of all generators within the state that have shipped or expect to ship low-level waste to facilities in another party state;

"(2) Periodic unannounced inspection of the premises of such generators and the waste management activities thereon;

"(3) Authorization of the containers in which such waste may be shipped, and a requirement that generators use only that type of container authorized by the state;

"(4) Assurance that inspections of the carriers which transport such waste are conducted by proper authorities, and appropriate enforcement action taken for violations;

"(5) After receiving notification from a host state that a generator within the party state is in violation of applicable packaging or transportation standards, the party state will take appropriate action to assure that such violations do not recur. Such action may include inspection of every individual low-level waste shipment by that generator.

"Each party state may impose fees upon generators and shippers to recover the cost of the inspections and other practices under this article. Nothing in this article shall be construed to limit any party state's authority to impose additional or more stringent standards on generators or carriers than those required under this article.

"ARTICLE IV—Regional Facilities

"(1) Facilities located in any party state, other than facilities established or maintained by individual low-level waste generators for the management of their own low-level waste, shall accept low-level waste generated in any party state if such waste has been packaged and transported according to applicable laws and regulations.

"(2) No facility located in any party state may accept low-level waste generated outside of the region comprised of the party states, except as provided in article V.

"(3) Until such time as paragraph (2) of article IV takes effect, facilities located in any party state may accept low-level waste generated outside of any of the party states only if such waste is accompanied by a certificate of compliance issued by an official of the state in which such waste shipment originated. Such certificate shall be in such form as may be required by the host state, and shall contain at least the following:

"(A) The generator's name and address;

"(B) A description of the contents of the low-level waste container;

"(C) A statement that the low-level waste being shipped has been inspected by the official who issued the certificate or by his agent or by a representative of the United States Nuclear Regulatory Commission, and found to have been packaged in compliance with applicable Federal regulations and such additional requirements as may be imposed by the host state;

"(D) A binding agreement by the state of origin to reimburse any party state for any liability or expense incurred as a result of an accidental release of such waste during shipment or after such waste reaches the facility.

"(4) Each party state shall cooperate with the other party states in determining the appropriate site of any facility that might be required within the region comprised of the party states, in order to maximize public health and safety while minimizing the use of any one (1) party state as the host of such facilities on a permanent basis. Each party state further agrees that decisions regarding low-level waste management facilities in their region will be reached through a good faith process which takes into account the burdens borne by each of the party states as well as the benefits each has received.

"(5) The party states recognize that the issue of hazardous chemical waste management is similar in many respects to that of low-level waste management. Therefore, in consideration of the State of Washington allowing access to its low-level waste disposal facility by generators in other party states, party states such as Oregon and Idaho which host hazardous chemical waste disposal facilities will allow access to such facilities by generators within other party states. Nothing in this compact shall be construed to prevent any party state from limiting the nature and type of hazardous chemical or low-level wastes to be accepted at facilities within its borders or from ordering the closure of such facilities, so long as such action by a host state is applied equally to all generators within the region comprised of the party states.

"(6) Any host state may establish a schedule of fees and requirements related to its facility, to assure that closure, perpetual care, and maintenance and contingency requirements are met, including adequate bonding.

"ARTICLE V—Northwest Low-Level Waste Compact Committee

"The governor of each party state shall designate one (1) official of that state as the person responsible for administration of this compact. The officials so designated shall together comprise the northwest low-level waste compact committee. The committee shall meet as required to consider matters arising under this compact. The parties shall inform the committee of existing regulations concerning low-level waste management in their states, and shall afford all parties a reasonable opportunity to review and comment upon any proposed modifications in such regulations. Notwithstanding any provision of article IV to the contrary, the committee may enter into arrangements with states, provinces, individual generators, or regional compact entities outside the region comprised of the party states for access to facilities on such terms and conditions as the committee may deem appropriate. However, it shall require a two-thirds (2/3) vote of all such members, including the affirmative vote of the member of any party state in which a facility affected by such arrangement is located, for the committee to enter into such arrangement.

ARTICLE VI—Eligible Parties and Effective Date

"(1) Each of the following states is eligible to become a party to this compact: Alaska, Hawaii, Idaho, Montana, Oregon, Utah, Washington, and Wyoming. As to any eligible party, this compact shall become effective upon enactment into law by that party, but it shall not become initially effective until enacted into law by two (2) states. Any party state may withdraw from this compact by enacting a statute repealing its approval.

"(2) After the compact has initially taken effect pursuant to paragraph (1) of this article, any eligible party state may become a party to this compact by the execution of an executive order by the governor of the state. Any state which becomes a party in this manner shall cease to be a party upon the final adjournment of the next general or regular session of its legislature or July 1, 1983, whichever occurs first, unless the compact has by then been enacted as a statute by that state.

"(3) Paragraph (2) of article IV of this compact shall take effect on July 1, 1983, if consent is given by Congress. As provided in

public law 96-573, Congress may withdraw its consent to the compact after every five (5) year period.

"ARTICLE VII—Severability

"If any provision of this compact, or its application to any person or circumstance, is held to be invalid, all other provisions of this compact, and the application of all of its provisions to all other persons and circumstances, shall remain valid; and to this end the provisions of this compact are severable."

Sec. 2. Congress finds that the compact consented to herein is in furtherance of the policy contained in section 4 (a) (1) of the Low-level Radioactive Waste Policy Act of 1980 and with the intent of Section 274 (b) of the Atomic Energy Act of 1954. In order that this compact may be given full effect, the Nuclear Regulatory Commission is authorized and directed to require licensees subject to its jurisdiction under the Atomic Energy Act of 1954 to comply with the provisions of this compact. The Commission shall consult and cooperate with the states which are parties to this compact in carrying out this section.

Sec. 3. The Consent of Congress granted pursuant to this act is limited by the following conditions:

a) Notwithstanding the provisions of Article V and Article VI, Paragraph (3) of the Northwest Interstate Compact on Low-Level Radioactive Waste Management, Article IV, paragraph (2) of that compact shall not take effect until January 1, 1986.

b) The right of Congress to alter, amend, or repeal this Act is hereby expressly reserved.

LOW-LEVEL RADIOACTIVE WASTE COMPACT

● Mr. HATFIELD. Mr. President, I am honored today in joining with my distinguished colleagues from the States of Washington, Montana, Utah, and Hawaii in cosponsoring the Northwest Interstate Compact on low-level radioactive waste management.

This legislation is very important to my State and to the other States that have either joined in the compact or are in the process of doing so. Public Law 96-573, passed by Congress in 1980, authorized States to organize in interstate compacts for the purpose of managing low-level radioactive wastes. The northwest region, including Oregon, Idaho, Washington, Utah, Montana, Wyoming, Alaska, and Hawaii, has formed the first such compact and has sent it to the Congress for ratification. The compact has been ratified by State legislatures in Oregon, Washington, Utah, and Idaho, and by executive order in the State of Montana.

Many schools and hospitals in Oregon produce low-level radioactive wastes that must be disposed. Oregon's only nuclear power generating facility, Trojan, located at Ranier, Ore., also produces quantities of low-level radioactive wastes that require special disposal. This compact, if ratified by Congress, will allow States, such as mine, to reach agreements on disposal of these wastes. In Oregon's case, an agreement to accept chemical wastes at the Arlington, Ore., site, from other States in exchange for the

acceptance of low-level radioactive wastes in other sites will be the result of passage of this important legislation.

Mr. President, it is my hope that the Senate can expeditiously move to consider this matter.●

● Mr. JACKSON. Mr. President, I join in the cosponsorship of this bill with Senator GORTON and others to approve the Northwest Interstate Compact on low-level radioactive waste management because the low-level radioactive waste disposal problem is in need of early resolution. I believe the problem must be dealt with by the States on a regional basis.

This was my position in 1979 when the comprehensive nuclear waste management bill, S. 685, was introduced with a title dealing with low-level radioactive waste. That title was inserted in the bill at my initiation because of my concern about finding a solution to the low-level radioactive waste management problem. In S. 2189, the later version of S. 685 which passed the Senate as the Comprehensive Nuclear Waste Policy Act, we provided in title VI for the development of a low-level radioactive waste disposal policy. When the House and the Senate were not able to arrive at a consensus on all facets of nuclear waste disposal in the waning days of the 96th Congress, we were able to provide, nevertheless, a clear policy for the disposal of low-level radioactive waste.

The Low-Level Radioactive Waste Policy Act, Public Law 96-573, made it national policy that the States were to assume the responsibility for disposal of low-level radioactive waste. To aid the States in this matter, the Congress proposed that regional interstate compacts be developed for disposal of the low-level radioactive waste from within the region and to deal with the disposal of any low-level waste shipped to a disposal site within the region from States not included in the regional compact.

States in the various regions of the country have moved to varying degrees toward establishment of regional affiliations for dealing with the low-level radioactive waste problem. The States of the Northwest which include Washington, Oregon, Idaho, Utah, Montana, Wyoming, Alaska, and Hawaii are the first to develop a formal compact which has been ratified by a number of the State legislatures and approved in other cases by executive order by the Governor. The Southeast States have also developed a compact which is in the process of being ratified by State legislatures, but it has not as yet been formally submitted to the Congress for its approval. It appears at this time that each State will be able to affiliate itself with one group of States in some region of the country for achieving

disposal of low-level radioactive waste generated within its borders. This regional approach is necessary because few States generate sufficient low-level waste to justify on an environmental or economic basis the opening of a separate site within each State for a disposal facility. At the present time, about six regionally located sites will meet the requirements of the Nation for disposal of low-level radioactive waste.

The Congress will have to review the Northwest Interstate Compact as to whether it is consistent with the provisions of Public Law 96-573, and may wish to compare this compact with regional compacts from other parts of the country to insure that a reasonable uniform approach is being achieved and that no State ends up being excluded from one of the regional compacts. Hopefully, we can achieve enactment of a law ratifying the regional compacts at an early date that no one State feels that it is becoming a regional disposal site for the low-level radioactive wastes from areas of the country far removed from its borders.

The State of Washington has cooperated in dealing with the current national problem in an exemplary fashion. It is time that we begin to develop regional disposal sites in other areas of the country so that the problems of low-level radioactive waste disposal of States far removed from the borders of the State of Washington are not visited upon it beyond the earliest possible time for other regions to solve their own low-level radioactive waste disposal problems.●

By Mr. PRESSLER:

S. 2830. A bill to provide primarily for the reduction of soil blowing; and to control snow deposition and conserve moisture; to protect crops, orchards, and livestock; to provide food and cover for wildlife; to conserve energy; to increase the natural beauty of the landscape; and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

SHELTERBELT ACT

Mr. PRESSLER. Mr. President, today I am introducing the Shelterbelt Act which I originally proposed in the House of Representatives and as an amendment to the 1981 farm bill. The amendment was included in the Senate version of the farm bill, but unfortunately, the provision was deleted in the conference committee.

The Shelterbelt Act would promote the preservation, restoration, improvement, and establishment of shelterbelts to reduce wind erosion and provide numerous additional benefits. Shelterbelts also provide protection for livestock, crops, and wildlife, as well as conserve energy. Many of our Nation's current shelterbelts were established under the planting programs of the 1930's and need to be restored

or replaced. For example, in South Dakota, three-fourths of our shelterbelts were planted between 1930 and 1965; only 10 percent were planted between 1965 and 1975. Also, many of the shelterbelts established during the 1930's have been destroyed, due to the economic pressure on farmers to farm all available land. It is important that the present shelterbelts be maintained and the destroyed shelterbelts be replaced.

The Shelterbelt Act of 1982 would provide farmers with assistance to establish and maintain shelterbelts. The establishment of shelterbelts is essential to preserving our Nation's agricultural productivity. Topsoil losses due to wind erosion in recent years have dramatically increased. If this trend is permitted to continue, the productivity of American farm land will decrease. A recent USDA study on soil erosion estimated that if current erosion rates continue, corn and soybean yields could be reduced by as much as 30 percent in the next 50 years as soil fertility declines. A loss of productive topsoil will reduce yields, increase consumer food prices and reduce the available grain for export.

With the current depressed farm economy, farmers cannot afford to take land out of production and invest to establish shelterbelts without some assistance. Farm income is at the lowest level since the 1930's, and farmers cannot afford to borrow money at the current high interest rates to plant trees. Shelterbelts are a long-term investment—it takes many years for the trees to reach maturity and provide protection for the topsoil. The shelterbelts must also be replaced and maintained if wind erosion is to be controlled. If farmers are to control wind erosion, they must be given some assistance to establish shelterbelts. This legislation would aid farmers in establishing shelterbelts.

This legislation would authorize the Secretary of Agriculture to enter into agreements with landowners and operators to establish and maintain shelterbelts in cooperation with the soil and water conservation district under the regulations prescribed by the Secretary. The agreement would be for a period of 5 years, in which, in return for establishing a shelterbelt and maintaining it within the prescribed regulations, the Secretary of Agriculture shall make an annual payment to the landowner or operator and bear such costs of establishing and maintaining shelterbelts as the Secretary determines appropriate.

Mr. President, I urge my colleagues to join me in supporting the Shelterbelt Act.

By Mr. HATFIELD:

S. 2833. A bill to designate Lincoln's Birthday as a legal public holiday and

to provide that, for purposes of pay and leave, Federal employees may select either Lincoln's Birthday or Washington's Birthday as a legal public holiday; to the Committee on the Judiciary.

LEGISLATION RELATING TO PUBLIC HOLIDAYS

● Mr. HATFIELD. Mr. President, a source of continuing wonder and awe that I feel for my country is its having been blessed with extraordinary men and women to lead it through formative times and times of crisis. Men like George Washington, Thomas Jefferson, Alexander Hamilton, the Adams, Benjamin Franklin, and others, from the vantage point of the 20th century, have the appearance of being far larger than life. I sometimes find it difficult to picture them in the midst of the ordinary routine of daily life. They seem to have been individuals that lived, in some sense, at a higher plane of existence—with higher motives than those that motivate us, higher thoughts than those that clog our minds, and grander, more courageous deeds than those to which we even have the opportunity to aspire.

The man that stands above them all in my own mind is Abraham Lincoln. His wisdom, endurance, and sense of perspective never fail to amaze me as I read about his life. Is there anyone who has visited the monument in which his life is memorialized, the Lincoln Memorial, who has not felt the thrill of touching greatness when reading the Gettysburg Address or President Lincoln's Second Inaugural Address.

I say all this simply to bring the attention of the Senate to the obvious: Abraham Lincoln is a gigantic figure in American history. For this reason, today I am introducing a bill to provide for the celebration of President Lincoln's birth each year. This legislation would permit Federal employees to select either Lincoln's Birthday or President Washington's Birthday as a legal public holiday.

At present, we celebrate a President's Day on a date in February that changes each year. Since that date rarely falls on either of the former Presidents' birthdays, the significance of the celebrations have been diminished. The bill I am introducing would rectify that situation without adding any costs to the Federal budget. The same number of leave hours available to Federal employees in honor of the Presidents would be maintained, but those hours of leave would be divided between two different dates each year. I have hopes that such an arrangement would actually be of benefit to the Federal work force because of the fact that Federal offices would not be completely closed on those two days, while Federal employees would have a greater choice of days in which to take paid leave.

I am pleased to recognize the efforts of the distinguished Representative of the 12th District of Illinois in the House of Representatives, Hon. PAUL FINDLEY, who has introduced a companion measure, H.R. 6667, in the other body. The 12th district, which currently is privileged to be represented by Congressman FINDLEY, was also privileged to be represented by Congressman Abraham Lincoln in the 19th century. The bill we have introduced into our respective Chambers is a fitting tribute to one of America's greatest heroes.

I ask unanimous consent that the text of the bill be printed following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2833

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 6103(a) of title 5, United States Code, is amended by inserting "Lincoln's Birthday, February 12."

after

"New Year's Day, January 1."

(b) Section 6103 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(d) For the purpose of statutes relating to pay and leave of employees—

"(1) each employee in each year may select either Washington's Birthday, the third Monday in February, or Lincoln's Birthday, February 12, as a legal public holiday; and

"(2) the day not selected under paragraph (1) shall not be considered to be a legal public holiday with respect to such employee in such year."

SEC. 2. This Act shall take effect January 1, 1983.●

By Mr. CHILES:

S. 2834. A bill to amend title 10 of the United States Code to allow the Secretary concerned to take into consideration various factors in determining the amount of space in military medical facilities programed for retired members, their dependents and dependents of deceased members of the uniformed services; to the Committee on Armed Services.

LEGISLATION ON SIZING MILITARY MEDICAL FACILITIES

● Mr. CHILES. Mr. President, over the past several years, the ability of our military hospital system to meet its obligations to serve the needs of eligible patients, has been reduced. I rise to offer legislation which will relieve this situation and right a wrong we have done to our retired military personnel.

Today, we in some parts of this country we face critical facility and personnel shortages, which have had the effect of driving up CHAMPUS costs as patients are forced to go outside for necessary medical services.

The General Accounting Office has reviewed this situation and completed

a study titled "Legislation on Sizing Military Medical Facilities Needed To Correct Improper Practices, Save Money, and Resolve Policy Conflicts." This report recommends that the criteria for planning the size of new military hospitals and clinics should be based on commonsense considerations of first, cost effectiveness; second, staff availability; third, realistic workload projections; and fourth, teaching and training requirements.

It is hard to believe, but today, only teaching and training requirements are considered. Law and regulation do not permit considerations of workload, or heaven forbid, cost effectiveness.

Two studies have been done to assess the cost of direct medical care by the military compared to the use of civilian facilities. The studies looked at the projected life-cycle costs over a 20-year period. The analyses showed that it is considerably less costly to the Federal Government to provide services in its own facilities rather than providing care through local civilian providers under CHAMPUS.

Mr. President, CHAMPUS costs are going through the roof. In an attempt to gain control of CHAMPUS, guidelines were issued to require "nonavailability" statements before inpatient care could be sought in civilian hospitals by beneficiaries living within 40 miles of a military hospital. This has not resulted in significant savings because no additional resources have been programed in the military's direct care system for additional workloads. Today, the CHAMPUS budget exceeds a billion dollars yearly, and will continue to rise, unless something sensible is done.

The major problem seems to be that the military is unable to consider projected workload for other than active duty personnel and their dependents. This despite the Defense Department's obligation to retired personnel and their dependents, who are becoming a large and fast growing segment of the population, and who are now being poorly served.

It is no wonder that the General Accounting Office recommends:

DOD should have the flexibility to add space in its plans for new or replacement medical facilities to treat retirees and dependents of retired and deceased members.

Mr. President, the House Armed Services Subcommittees on Military Installations, and Facilities and on Military Personnel and Compensation recently held hearings. The Acting Assistant Secretary of Defense for Health Affairs, Dr. John F. Beary III, testified that "efforts to provide cost effective medical care to the retirees and their dependents" could be hampered without remedial legislation. The Surgeon General of the Air Force, Lt. Gen. Paul W. Myers, testified that—

If medical treatment facilities were sized to provide care for the eligible beneficiary

population, the overall cost to the Government and to the beneficiary would be less.

The Surgeon General of the Navy, Vice Adm. J. William Cox, testified that he "fully endorsed a change in the sizing policy that would make military health care systems more cost effective." And the Deputy Surgeon General of the Army, Maj. Gen. Quinn H. Becker testified that—

We feel that inclusion of factors which will address mobilization capacity and care to retired and their dependents is appropriate and will result in adequately sized, cost-effective facilities that will respond positively to all aspects of the Army's medical mission.

Mr. President, the legislation I am introducing today will give the Defense Department the flexibility to size its facilities based on what is cost effective to the Federal Government. It will also recognize our obligation to treat our retired military personnel, their dependents, and the dependents of deceased military personnel with the same respect and care given to active duty personnel. We can do no more.

Mr. President, I ask unanimous consent that the bill be placed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1087 of title 10 of the United States Code is amended by striking out the second sentence and inserting in lieu thereof the following:

The amount of space so programed shall be limited to that amount determined by the Secretary concerned to be either (1) necessary to support teaching and training requirements in uniformed services facilities or (2) most cost effective to the federal government based on the results of a complete life-cycle cost analysis which considers all reasonable and available medical care treatment alternatives. Space so programed shall be further limited based on the best available projections of expected inpatient and outpatient workloads and based on the number of physicians and other medical personnel which the Secretary concerned determines can and will be made available to staff the facility.●

ADDITIONAL COSPONSORS

S. 1256

At the request of Mr. EXON, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1256, a bill to regulate interstate commerce by protecting the rights of consumers, dealers, and end-users.

S. 2222

At the request of Mr. THURMOND, his name was added as a cosponsor of S. 2222, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

At the request of Mr. SIMPSON, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2222, *supra*.

S. 2585

At the request of Mr. CRANSTON, the names of the Senator from Wisconsin (Mr. KASTEN), the Senator from Indiana (Mr. LUGAR), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Georgia (Mr. MARTINGLY) were added as cosponsors of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2631

At the request of Mr. KASTEN, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2631, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 2648

At the request of Mr. PELL, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. RIEGLE), and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 2648, a bill to provide for the continuation of the national diffusion network.

S. 2676

At the request of Mr. DODD, the names of the Senator from North Carolina (Mr. HELMS), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of S. 2676, a bill to establish a national hostel system plan, and for other purposes.

S. 2702

At the request of Mr. ANDREWS, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2702, a bill to amend section 8(a) of the Small Business Act to treat businesses owned by Indian tribes as socially and economically disadvantaged small business concerns.

S. 2806

At the request of Mr. HATFIELD, the names of the Senator from South Dakota (Mr. ABDNOR), the Senator from Utah (Mr. GARN), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 2806, a bill to restrict Federal funding of abortions.

S. 2807

At the request of Mr. ROBERT C. BYRD, the names of the Senator from Louisiana (Mr. LONG), and the Senator from Nebraska (Mr. EXON) were added as cosponsors of S. 2807, a bill to amend the Federal Reserve Act.

SENATE JOINT RESOLUTION 200

At the request of Mr. GLENN, the names of the Senator from Arizona (Mr. GOLDWATER), and the Senator from Maine (Mr. COHEN) were added as cosponsors of Senate Joint Resolution 200, a joint resolution to designate October 1982 as "National Car Care Month."

AMENDMENT NO. 2016

At the request of Mr. QUAYLE, the name of the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of amendment No. 2016 intended to be proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

AMENDMENTS SUBMITTED FOR PRINTING

IMMIGRATION REFORM AND REVISION

AMENDMENT NO. 2021

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

AMENDMENT NO. 2022

(Ordered to be printed and to lie on the table.)

Mr. TOWER (for himself and Mr. BENTSEN) submitted an amendment intended to be proposed by them to the bill S. 2222, *supra*.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BAKER. Mr. President. I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, August 12, at 10 a.m., to consider the nominations of Milton Masson and John Carter to be members of the Board of Directors of the U.S. Synthetic Fuels Corporation, and Oliver Richard to be a member of the Federal Energy Regulatory Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. BAKER. Mr. President. I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water, of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Thursday, August 12, at 2 p.m., to conduct a hearing to consider S. 2186 and S. 2710, bills dealing with Indiana wilderness.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SECURITY AND TERRORISM

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Security and Terrorism, of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Thursday, August 12, at 2 p.m., to consider the Levi guidelines.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTRY, WATER RESOURCES, AND ENVIRONMENT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Subcommittee on Forestry, Water Resources, and Environment, of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Thursday, August 12, at 9:30 a.m., to consider S. 2805, a bill which would permit the Government to modify existing contracts for the sale of Federal timber.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE TAX CODE—FROM BIAS TO FAIRNESS

Mr. GRASSLEY. Mr. President, Dr. Paul Craig Roberts has written an article which I believe captures, in excellent perspective, the advantages of a flat-rate income tax, and the disadvantages of the present system. Dr. Roberts' article appeared in the Los Angeles Times last month, and today I ask that it be reprinted in the RECORD for the benefit of my colleagues.

Mr. President, this is one of several articles that I have put into the RECORD regarding tax reform. It is my hope that by the time hearings on the flat-rate tax are held this fall in the Finance Committee, my colleagues in the Senate will have had the benefit of a wide range of views and critiques on this issue.

At the same time, Mr. President, I again urge the Secretary of the Treasury, Donald Regan, and his able staff, to continue their study of the feasibility of low-rate, broad based alternative tax systems, in accordance with the bill I introduced, S. 2376, earlier this year.

It continues to be my belief that only thorough analysis and study, and a very broad understanding of the problems in the current tax system, can set us on our way toward desirable tax reform.

The article follows:

[From the Los Angeles Times, July 7, 1982]

IN BEHALF OF FAIRNESS, A FLAT-RATE TAX

(By Paul Craig Roberts)

Rarely do the left and the right agree on matters of taxation, but the recent spate of new bills introduced in Congress indicates a bipartisan convergence toward replacing the

existing income-tax structure with a flat-rate tax.

With support for the issue ranging from Sen. Bill Bradley of New Jersey on the Democratic left to Sen. Jesse Helms of North Carolina on the Republican right, there is wide room for agreement.

The current tax code is highly progressive and riddled with deductions and exemptions. The result is that some income is highly taxed and other income is not taxed at all. In fact, a large industry that is expert in shifting income from high-taxed to low-taxed areas has developed.

Even worse, under the current tax code it often pays for people in high brackets not to make profitable and productive investments that would increase both their taxable income and, through the higher employment that would result, the incomes of others. Instead, it pays for them to purchase tax shelters that lower the taxes on their existing income. There is something wrong with a tax system that lets people do better by minimizing their taxes than by maximizing their earnings. The rising rate of unemployment over the last decade is one of the costs of a tax system that encourages capital to move out of productive investments and into tax shelters.

A flat-rate tax would eliminate all deductions and exemptions, taxing all income at the same rate. And, since the tax base would be much larger, the tax rate would be much lower. A 13% flat-rate tax would raise the same revenues as the existing progressive income tax. Such a reasonable tax rate would encourage people to use their talents to maximize their taxable incomes rather than to avoid taxes.

Is a flat-rate tax fair? Definitely.

First, it treats all income the same, whereas the current tax system discriminates in favor of, and against, different sources of income. For example, there is nothing fair about taxing income from private pensions but not from Social Security pensions, or taxing income from saving accounts and investments at a higher rate than income from wages and salaries, or taxing wages from overtime higher than wages from a normal workweek. These are just a few of the many ways in which a progressive tax system discriminates against different sources of income.

Second, a flat-rate tax would treat all individuals and households the same, whereas the current tax system discriminates against individuals and households on the basis of marital status and the size of income. For example, the current tax system discriminates against married income-earners and against people who achieve financial success by requiring them to pay a disproportionate share of the tax burden. This is an anachronism at a time when all other forms of personal discrimination—race, sex and age—have been declared illegal.

Fairness is requiring a person or household with 10 times as much income to pay 10 times as much in taxes, which is what a flat rate tax does. No one has ever proved, nor can it be proved, that fairness is requiring a person with 10 times as much income to pay 20 times as much in taxes. The "ability to pay" argument in favor of soaking the rich does not claim that a progressive tax system is fair; it merely says that the rich can be treated unfairly because they are better able to afford it.

For most people, the gains and losses of the transition from the current tax system to a flat-rate system would balance out, leaving their average tax rate the same. For

example, homeowners would lose their mortgage-interest deduction but would be paying a comparable amount less in income taxes.

For the poor, who are already paying less than 13%, an income exclusion could be instituted to protect lower-income earners. The exclusion would introduce de facto progressivity into the system, and only taxpayers with above-median incomes would pay the full flat rate.

In addition to fairness, there are two important economic gains to be had from a flat-tax rate system:

All taxpayers would be allowed to keep a much larger percentage of all future income earned, whether from a raise or promotion, overtime or saving and investing.

Part of the tax burden would be shifted from currently taxed productive activities to activities that are now off the books in the underground economy. In addition, the tax burden would be shifted to capital that is currently employed in tax shelters, where it produces tax savings instead of taxable income. A low flat-rate tax would make shelters or off-the-books activities unprofitable and bring those activities and that capital back into the tax base.

That in itself would greatly improve the fairness of the tax system—for all of us.●

SEEING TOMORROW'S WORLD TODAY

● Mr. HATFIELD. Mr. President, last fall, I introduced S. 1771, the Global Resources, Environment, and Population Act of 1981, which is now pending before the Governmental Affairs Committee. Because I believe the current U.S. Government's global foresight capability—its ability to project and analyze long-range global resource, environment, and population trends—is grossly deficient, I am seeking through this legislation the establishment of an interagency Council on Global Resources, Environment, and Population to be chaired by the head of the President's Council on Environmental Quality.

Recently, in the July 29 issue of the *Christian Science Monitor*, Gov. Russell Peterson writes persuasively of the ever-more pressing need of the Federal Government to face up to its inadequate foresight capability. Dr. Peterson knows of what he speaks when he says that the "United States and its leaders are beset by crises which cannot be understood, much less resolved, without an adequate appreciation of their cause beyond our borders and their consequences beyond the next decade or even the next election." In addition to his career in private business, he has served as Governor of the State of Delaware, Chairman of the Council on Environmental Quality under Presidents Nixon and Ford, and Director of the Office of Technology Assessment. Today, he is president of the National Audubon Society and chairman of the Global Tomorrow Coalition.

Mr. President, I ask that the full text of Governor Peterson's article be printed in the *RECORD*.

The article follows:

[From the *Christian Science Monitor*, July 29, 1982]

SEEING TOMORROW'S WORLD TODAY

(By Russell W. Peterson)

In this day and age, it is inexcusable that the U.S. federal government does not have an organized and coordinated "foresight capability" to aid policymakers in understanding the global population, resource, and environmental trends that shape the world in which we exist.

The United States and its leaders are beset by crises which cannot be understood, much less resolved, without an appreciation of their causes beyond our borders and their consequences beyond the next decade or even the next election. Yet, if anything, since the "Global 2000 Report to the President" two years ago first documented the federal government's lack of foresight capability, the situation has deteriorated.

In its simplest terms, foresight capability is a matter of sound data, coordinated projections of global trends, analysis of their interactions, and informed policymaking. Based on the work of the 13 federal agencies and departments which went into the preparation of "Global 2000," the Council on Environmental Quality (CEQ) and the State Department concluded that "the executive agencies of the U.S. government are not now capable of presenting the President with internally consistent projections of world trends . . . for the next two decades."

Just what does this mean for U.S. policymaking? Misinformation and misperception.

For example, the health of the economy, at home and abroad, is currently the most politically pressing problem in the U.S. Yet at a time when our economic interdependence with other countries is greater than ever (the third world alone accounts for more than 25 percent of our overseas investment, more than 35 percent of our exports, and more than 45 percent of our imports), "Global 2000" found that the government's measure of worldwide economic health—GNP—is based on questionable assumptions. Among other things, federally used projections assumed major expansion in agricultural production as a result of stepped up fertilizer use. But they didn't consider possible changes in climate or explicit environmental impacts. They did assume unlimited water availability at constant real prices and no deterioration of the land resulting from urbanization.

I believe the government's lack of foresight capability exists at three levels—data analysis, projections coordination, and political commitment. And I am convinced that at every level we are witnessing serious setbacks. The quality of government data, particularly the already limited global data, is being undercut dramatically by budget reductions in federal resource agencies.

Efforts to ensure consistency of assumptions and data, which go into projections for different sectors, are almost impossible without clear coordination. The only existing mechanism for coordination, the Office of Management and Budget's Statistical Policy Branch, has been eliminated. Political commitment to calling attention to issues that look across jurisdictions and beyond elections is vital. But despite its theoretical potential, the administration's "Interagency Global Issues Working Group" chaired by CEQ has thus far failed to respond substantively to even the problems of technical coordination so basic to

providing useful foresight capability. I know of no instance in which the President personally has used his office to call attention to this problem.

Such setbacks are totally out of sync with growing public interest, both at home and abroad. Since the publication of "Global 2000," countries such as Japan, Canada and Mexico have begun their own Global 2000 inquiries. In the US, 56 separate organizations, including the National Audubon Society, the League of Women Voters, the Overseas Development Council, and the Planned Parenthood Federation of America, have joined together in the new Global Tomorrow Coalition to call attention precisely to the need for understanding global interdependence. Their initial action supported unanimously has been to call out for the creation in the Executive Office of the President of "an improved capacity to coordinate and analyze data collected by federal agencies and other pertinent sources on the long-term interactions of trends in population, resources, and environment—and their relationship to social and economic development."

Clearly, this is not a question of government "planning for the world." It is the question of whether the right hand of the government knows what the left is doing. That requires central coordination and communication, backed up by commitments to improve agency resources and educate officials on a regular basis. Congress has begun to explore the issue of foresight capability—reports on government computer projections are being prepared; House hearings have examined the problem conceptually; and three bills touch upon it legislatively.

In the Senate, S. 1771 includes among its requirements an interagency Council on Global Resources, Environment, and Population, to be chaired by CEQ and funded by the member departments. It would coordinate agencies' biennial production of long-term projections of global populations, resource, and environment trends; encourage their analysis, particularly in light of current policy; and report regularly to Congress on these efforts. The fact that this bill is authored by Sen. Mark Hatfield and co-sponsored by such senators as Charles Mathias, Slade Gorton, Alan Cranston, and Bill Bradley is proof of serious congressional concern about foresight capability.

The time for action is now. S. 1771 is pending before the Governmental Affairs Committee, chaired by Sen. William Roth whose experience with the problems and relations of federal, state and local governments should be helpful in focusing on the problems that permeate and plague the global community. The Governmental Affairs Committee should undertake during the summer the kind of critical debate this issue and this bill warrant.

Its goal should be Senate enactment of legislation on foresight capability in 1982, signaling to both the administration and the nation that we cannot afford even in an election year to lose sight of global population, resource, and environment trends and their impacts on social and economic factors.●

THE SUGAR LOAN PROGRAM

● Mr. INOUE. Mr. President, on Monday, August 9, Senator QUAYLE introduced an amendment, No. 2016, to the public debt limit bill, House Joint Resolution 520, which would reduce

the sugar loan program from 17 to 14 cents a pound.

Mr. President, never in the history of our Nation's agricultural programs has the Congress promised American farmers one support level when they planted a crop and then reduced it before they had a chance to harvest that crop. Not only does Senator QUAYLE seek to reduce the sugar price support level after American sugar farmers have planted their crops, he seeks to reduce the program by a whopping 18 percent.

Mr. President, less than 1 year ago the U.S. Senate voted against reducing the sugar support program from 18 cents to 16½ cents by a margin of two-to-one. Why the Senate should now cut the level agreed upon in conference from 17 cents to 14 cents defies understanding. To do so would clearly break faith with the American sugar producer. It would also benefit no one except for a few large corporations who want to buy sugar at what is currently a depressed price on the world market. As we all know, the so-called world market is a dumping ground for surplus sugar wherein the present price of 7 cents per pound is well below the actual cost of producing sugar.

In promoting his amendment, my colleague has seriously misstated the facts and misled other Senators. For example, Senator QUAYLE charges that the cost of the sugar program has "gotten completely out of line" and that it "has proven much more costly and inflationary than even its severest critics had anticipated." Nothing could be further from the truth. The sugar program has operated at no cost to the U.S. Government. Instead, it has provided the Treasury with several hundred million dollars in fees and duties levied on sugar imports.

The average price of raw sugar in New York, fee and duty paid, was 30.09 cents per pound in 1980 and 19.66 cents per pound in 1981. Using Senator QUAYLE's own assumption that a penny's change in the price of raw sugar makes a \$300 million difference in the cost to the consumer (which is not true), the American consumer should have saved \$3,129,000,000 on sugar and sugar-containing products last year as a result of the drop in the price of that commodity. This did not happen. In fact, the National Soft Drink Association's survey of sales in the soft drink industry, as reported in the Food Institute Weekly Digest of July 31, 1982, stated that the wholesale value of soft drinks rose some 13.2 percent (\$2,330,000,000) in 1981, on a volume increase of only 3.8 percent. We now find this \$20 billion soft drink industry, which recently came before this Congress to get a special exemption from the Antitrust Act for their bottlers, is back in an attempt to increase their profits even further at the expense of American

sugar growers and consumers. The actions of these industries and their supporters are shameful, as are their attempts to portray our hardworking and efficient domestic sugar industry as the beneficiary of an unwarranted windfall.

Senator QUAYLE asserts that the retail price of sugar in the United States is higher than any other country, except Japan and Denmark. This is also untrue, although I recognize that he may have based his statement on a source that was incorrect. The publication in question, *Foreign Agriculture* (December 1981), cited the retail price of sugar in Washington, D.C. at \$1.32 per kilogram when it was really half that amount. In the same vein, the city of New York's August 5 Department of Consumer Affairs Bulletin shows that the price of sugar in July is actually below last year's price for the same month.

Senator QUAYLE goes on to argue that the United States enjoys no comparative advantage in the production of sugar. He claims that cane sugar growers in a number of countries including Colombia, Peru, Kenya, and Australia, achieve much higher yields than those achieved in the continental United States. He further states that the yields in Peru and Colombia exceed those in Hawaii.

Mr. President, this just simply is not so. The July 1982 *Foreign Agricultural Circular*, published by the U.S. Department of Agriculture, summarizes sugar yields in metric tons per hectare. Perhaps this was his source. For the 1981-82 crop, it gives the following yields:

	Tons
Mexico	5.78
Hawaii (a 2-year crop)	23.68
U.S. Mainland	6.36
Argentina	6.35
Brazil	4.91
Colombia (13 to 18 months between harvest)	13.58
Ecuador	7.17
Peru (average crop 18½ months)	13
Venezuela	4.24
Costa Rica	5.11
Dominican Republic	5.64
Kenya (a 2-year crop)	11.5

From these figures we can see that Hawaiian growers produce more tons of sugar per acre per year and more tons of sugar per man-hour than any other place in the world. We produce as much sugar in Hawaii with 8,500 workers as they do in the Dominican Republic with 85,000 workers.

Regardless of what Senator QUAYLE says, the American sugar farmer is the same kind of farmer as the American corn, soybean, wheat and dairy farmer. He is the world's most productive farmer, certainly as measured in production per man-hour. I am certain that if our Government were to guarantee American sugar beet and sugar cane growers the same prices that gov-

ernments in Europe guarantee their farmers, the United States would be a major sugar exporter.

Mr. President, Senator QUAYLE says he sees no real reason why we should spend billions of dollars to protect an industry which has no real comparative advantage in world markets. I agree. But no one is asking that one dime be spent to protect an inefficient industry that is unable to compete in the world market. What is being asked is that the American sugar producer be given the same kind of protection that is given to producers in other countries—protection from dumping at ruinous prices during periods of excess production. Sugar, unlike other crops, is a commodity for which the demand is inelastic and for which consumption increases little even with a massive drop in price. The world sugar market, which is limited to less than one-fifth of the world's production, is a most volatile market for the most volatile of all commodities.

Mr. President, Senator QUAYLE berates the U.S. Government for its imposition of sugar quotas this past May, when the collapse of prices on the world market made such protection necessary. In imposing these quotas, the administration acted both within the law and our agreements under GATT. The U.S. Cane Sugar Refiners Association brought suit before the U.S. Court of International Trade in New York in an effort to halt the use of quotas to defend our sugar program. Judge Newman ruled in favor of the Government. The association then appealed the case to the Court of Patent and Customs Appeals in Washington, and again the court found that the President had acted within his authority and consistently with established trade practices. Now these same opponents of the domestic sugar industry are seeking to undo the price support program with the claim that a 14-cent level will permit the Government to uphold the program without imposing quotas. Authorities in the U.S. Department of Agriculture say that this is impossible given the current price of sugar being dumped on the international market.

Not content to denounce the sugar program with bogus numbers about consumer cost and false charges of inefficiency, certain Senators allege that the program hurts those developing countries that supply us with sugar. This too is false. Let me illustrate by way of a table that shows the premium which a foreign country receives for selling its sugar in the United States under the current price support program:

Price of raw sugar in New York, Aug. 10, 1982.....	\$22.61
Less CIF (freight and insurance).....	-1.50
Less Import fee (current).....	-1.42
Less Duty	-2.81

Less Price raw sugar world market, Aug. 10, 1982	-7.00
Premium from U.S. quota.....	\$9.88
¹ Cents per pound.	

The foreign producer now receives a price in New York which is more than double the price abroad. The Dominican Republic, which has 17.6 percent of the import quota established by the USDA, will earn almost \$200 a ton next year. Using today's prices, that will mean \$115 million in additional income, thanks to the quota program.

I challenge anyone to find a single ambassador from a sugar-exporting country who would publicly opt to sell the United States unlimited quantities of sugar at the current world price as opposed to selling us the amount set under the current quota system at the much higher price established by the U.S. price-support program.

Senator QUAYLE quotes the European Economic Community's concerns in defense of his amendment. The EEC is, in fact, a major source of the trade problem which we have had to address through the sugar price support program. Up until 1975, the EEC was a net importer of sugar. Then, because of its subsidies which guaranteed the European producer between 27 and 30 cents a pound for sugar, European sugar beet production expanded rapidly. Last year, the EEC became a primary source of the surplus sugar dumped on the world market. Moreover, the EEC has refused to join the International Sugar Agreement, of which the United States is a member. The ISA's goal is to maintain world sugar prices between 13 and 23 cents a pound, but it has been unsuccessful largely because of the EEC's lack of cooperation. In response to Senator QUAYLE's arguments about trade, I would say that sugar quotas are no more a violation of our trade philosophy than are quotas on textiles, cheese, peanuts, beef, steel, automobiles, or a host of other commodities.

Mr. President, the Mid-Atlantic and Northeastern States have historically been dependent on imported sugar which is refined along the eastern seaboard—sometimes in foreign-owned plants. It is thus understandable why editorials from this region, which have been extensively reproduced by Senator QUAYLE, often support these refiners of foreign cane and the big industrial users who buy sugar abroad. However, I find it difficult to comprehend why anyone from the other regions of our country which depend on our domestic sugar industry would support the Quayle amendment.

Mr. President, I wish to enclose a number of news stories, editorials, and articles on this subject which will further enlighten and illustrate the need to support American sugar producers. I ask that they be printed in the RECORD immediately following my remarks.

Mr. President, I urge my colleagues to join with me in voting down Senator QUAYLE's ill-timed, ill-conceived, and illogical amendment.

The material follows:

[From the Christian Science Monitor, Aug. 4, 1982]

THE SWEETER SIDE OF SUGAR QUOTAS

(By Thomas O. Enders)

Our recent imposition of quotas on US sugar imports was an action taken only as a measure of last resort in defense of the domestic support program passed by the Congress last fall.

Quotas were forced upon us by the declining world price for sugar. The situation was further aggravated by unusually low US demand for sugar in 1982, due in part to higher than average imports last year. We expect that our demand for imported sugar will revert to a more normal level in 1983. At that time we would expect country quota levels to reflect more fully traditional levels of sugar exports to the US.

Secondly, there will be some positive impact on exporters' revenues derived from the imposition of quotas. Because the US support program will no longer have to be protected solely by duties and fees, imported sugar will get a price closer to the internal US price than it had. The higher price will help to offset the reduced quantities allowed into the US market.

Export earnings will, therefore, be higher for many, if not all, foreign suppliers than under the fee-based system.

Finally, the US action is not an isolated incident but part of a pattern of worldwide and deeply rooted imbalances in the international sugar economy—imbalances which have had serious results for both developing-country and US producers.

US sugar policy has been aimed at addressing some of the fundamental conditions which account for these imbalances. We have been working to make the International Sugar Agreement function effectively, so as to dampen the violent supply and price fluctuations which have long characterized the so-called "free" sugar market. The cooperation of the European Community in those efforts was crucial to their success.

I regret that we were unable to persuade the community to reduce or end its subsidy of sugar exports nor to cooperate effectively with the sugar agreement. However, we will continue to work with the community and with other major sugar producers to try to devise a workable international system for sugar.

[From the Arkansas Gazette, July 25, 1982]

PROGRAM STABILIZES SUGAR PRICES; ULTIMATE WINNER U.S. CONSUMER

(By Leland DuVall)

Arkansas farmers do not grow sugar beets. They concentrate on soybeans, rice, cotton, wheat, corn and a variety of specialty crops. Therefore, it might seem that people in the state would have little or no interest in the kind of "sugar program" the Agriculture Department might offer.

The whole system under which commodities are produced and marketed in this country is interrelated—economically and politically—and farmers may be able to use the "sugar model" to help them understand such factors as how we got a farm program in the first place, the effects of government market intervention, and the reaction of the

nonfarm population to the production-marketing system.

The "sugar title" of the Agriculture and Food Act of 1981 commanded special treatment, which removes it from the mainstream of farm legislation. President Reagan needed the votes of a few members of Congress to get approval for his "larger" program. He "struck a deal" with a few lawmakers who represented sugar growing districts and promised price supports for the crop in return for their vote.

Under the present sugar program, the price is supported at 17 cents a pound. Given the other factor that go into wholesale markets, this was expected to mean that sugar would reach the market at a price of about 20 cents a pound. Actually, the "delivered" price of raw cane sugar at New York is about 22 cents a pound, refined beet sugar at Chicago is about 27 cents a pound, the price of refined cane sugar at New York is 33 cents, and the world price of raw sugar is 7.5 cents a pound. Quotas limit our sugar imports.

No special understanding of markets is needed to see that the United States offers an attractive premium over the world price. If sugar moved freely, imports would hit the trade centers in such volume that the price would come down to meet the slightly strengthened world price. Raw sugar might be available at 10 cents a pound, instead of 22 cents. Those who argue the government has no business tinkering with the market make the case that the support program is adding 12 cents a pound to the "cost" of sugar at the retail level at a time when people are concerned about inflation.

Since per capita consumption of sugar in the United States is about 80 pounds, an analyst might be tempted to multiply that amount by the 12 cents that is supposed to be the premium extracted because of the sugar program to determine how much the law adds to the cost-of-living. That works out to \$9.60 a year per person in a higher cost for all food and drinks that contain sugar.

Nothing is that simple. Different people consume different quantities. Retail prices seldom come down just because the ingredients are cheaper. Once in place, the higher prices remain because consumers have become accustomed to the prices and volume would not be increased significantly by price cutting.

This tendency of retail prices for consumer goods to be highly sensitive to rising prices of raw materials and to ignore collapses in the market is the basis for arguments in favor of a "stabilized" commodity price. In the case of sugar, and of many other commodities the role of the United States is that of the balancer.

1. This country is the world's major wheat producer and the supplier of grain where shortages develop. Large subsidies are offered in the European Common Market and in many other growing regions with the argument that the users do not want to rely exclusively on imports. The price of wheat grown in the European Community may be twice the price received by American farmers. Without import limits, the Europeans argue, United States would bury their farmers, force them out of business, and monopolize the market. Therefore, the amount of wheat brought in this country is determined by a formula designed to hold imports to the amount needed to assure adequate supplies—after their own wheat is marketed. Purchase in this country is at the lowest available price, but the resale to the mills is at the European premium price.

The same situation applies to many other commodities grown in abundance in this country and purchased around the world.

2. In the case of sugar, the roles are reversed. The United States currently produces about 55 percent of the sugar consumed in this country and imports the remaining 45 percent. Sugar is grown in at least 100 countries and all of them expect to export their surpluses. On balance, about 80 percent of the world sugar supply is consumed in the country where it is grown.

The average cost of producing sugar (world basis) has been estimated at about 19 cents a pound. Farmers in the United States apparently just about match that level or they may be a little ahead of the game. Obviously, they could not hope to stay in business by meeting head on the price at which the other producing countries are willing to sell their "surplus," or the amount left over after they have taken care of domestic needs. The simple truth is that the major sugar producing countries are prepared to sell their surplus at the price that will move the product.

This leaves American sugar farmers in position to be whip-sawed between their production costs and the price at the ports for the "surplus" of other producing countries or, under current conditions, 7.5 to 10 cents a pound. Maybe next year or the year after, other sugar-producing countries would experience crop failures as they did prior to 1974 when the price soared to 65 cents a pound. In the absence of a "Sugar program," we might be able to buy raw sugar this year at 10 cents a pound or less.

If that happened, sugar production in the United States would be abandoned by reason of wholesale bankruptcy and we would depend entirely on foreign supplies. Remember that each producing country with excess capacity takes care of its own needs first then exports the "surplus" at the price needed to move the commodity. This summer, it is 7.5 to 10 cents; next year and the year after, there might be a smaller supply and a larger demand, with the United States bidding for virtually all its supply. The result could be "1974 with an adjustment for inflation." Maybe we need all the stability we can get in the commodity markets.

[From the Star-Bulletin & Advertiser, Dec. 13, 1981]

AMERICAN SUGAR NEEDS SUPPORT TO COMPETE

(By Dr. Thomas K. Hitch)

The United States has not had an affirmative sugar policy since 1974 when the 1934 Sugar Act expired. Our sugar policy from 1934 to 1974 (40 years) was to have sugar prices stabilized in the American market by assigning marketing quotas, based on U.S. requirements, to domestic and foreign producers so that prices found a level that would be fair to both the American consumer and the American sugar producer.

Since 1974—with no sugar policy—the price of raw sugar in the American market has been on a roller coaster—as high as 65 cents in 1974, as low as 9 cents in 1976, as high as 44 cents in 1980 and now at about 16 cents.

The U.S. beet and cane sugar producers cannot remain in business on a permanent basis with this kind of wildly fluctuating price level—with two of the last eight years being boom years ('74 and '80), one being barely profitable (1975), and the over five being deeply depressed years with tremendous losses.

Even during these years the American consumer has not benefited, because while there have been more years of cheap sugar than of dear sugar, the price of sugar in the years when there was a world sugar shortage rose to such astronomical heights that it probably hurt the consumer more in those years than he has helped in the cheap years. Also, when very high sugar prices push the price of candies, ice cream, soft drinks, and baked goods up they tend to stay up after the price of sugar falls so that the American consumer to a certain extent lives with high sweetening prices even when sugar becomes cheap again.

To understand the world sugar market, one has to realize that some 80 percent of the sugar produced in the world has a guaranteed home at a guaranteed price; that prices in these countries do not fluctuate up and down with world under- and over-production; and that the so-called "world price" for sugar is set by demand and supply forces that affect only that 18 percent of the world's sugar production that is uncommitted—and therefore very cheap when world production is surplus and very dear when world production is short.

To put it another way, all the major sugar exporting countries of the world have a government guaranteed set price for sugar consumed in that country with the price set at a level that will make it profitable to grow sugar in such large quantities that it is a major export item. This is true for Cuba, Brazil, Australia, Philippines, South Africa, Argentina, India, Mexico, and the EEC as well as the rest of the smaller sugar exporting countries.

Take the EEC. Through its Common Agricultural Policy (CAP) European growers are not only guaranteed 27 cents a pound, but are encouraged to produce excess sugar for export, and in the last decade the EEC has become a major exporter of subsidized sugar in contrast to having traditionally been a net importer of sugar. European sugar is now being sold in large quantities in the U.S. market when the price for raws is about 15 cents after paying shipping and insurance, while the price in Europe is 27 cents.

This situation is demonstrated by the fact that when the "world sugar market" price skyrocketed from about 10 cents a pound in 1973 to 65 cents a pound in 1974, there was no change in the domestic price of refined sugar in the countries that produced 60 percent of the world's export sugar and only a modest change upward in the other exporting countries—while the price in the U.S. more than doubled. The same thing happened when "world" sugar prices fell.

Furthermore, most of the world's sugar importing countries are buffered against fluctuations in this small but highly volatile world market—buffered generally by long-term agreements with sugar exporting countries to provide them with a normal supply at a normal price. This is shown by the fact that in that same period of rapid price rise (1973-1974) the countries that consumed 22 percent of all world sugar imports had no change in the domestic price of sugar, those accounting for 12 percent of world imports only a 1 to 15 percent rise, and with only a handful of countries (with the U.S. being far and away the major one) suffering from the full inflation of prices.

The so-called world sugar market, being only a small fraction of world sugar production, is a market where in periods of world sugar shortage the buyer pays exorbitant prices and where in periods of world surplus

all homeless sugar is dumped. If the U.S. does not adopt a constructive sugar policy it will ultimately lose its domestic sugar industry—which will be a considerable economic loss since among agricultural products sugar ranks tenth in terms of acreage, fifth in terms of tonnage, and sixth or seventh in terms of dollars to the farmer.

The U.S. sugar industry will not be killed by cheap foreign sugar that is produced more efficiently than ours: it will be killed by foreign sugar that is dumped into our market at either a loss to the producer or at a profit that is provided by subsidies from the government of origin. U.S. sugar production is probably among the most efficient in the world—just like our production of wheat, corn, rice, soy beans, and many other agricultural products. But it cannot live on a 12 cents, or 15 cents, or even 17 cents per pound price—a price which incidentally is about the same as good top soil at your corner garden shop. In short, if the U.S. were to require that foreign sugar not be allowed to be sold in the American market at a lesser price than it is sold for in the country of origin, the U.S. sugar industry would be profitable and have a long and successful life.

Furthermore, if we lost our domestic sugar industry, the nation and its consumers would have to live with the roller coaster of the "world" sugar market, and could even find itself facing an OPEC-like foreign sugar cartel since the top 13 sugar exporting nations ship about 80 percent of the sugar entering world trade—numbers much like those in the oil cartel.

Finally, if the U.S. lost its domestic sugar industry it would face catastrophe in the event of war or major shipping interruptions. Let us remember that in such times, sugar has always been about the first commodity to be rationed, that Napoleon developed the beet sugar industry when the British blockade stopped the flow of essential foreign sugar to Europe; and that all the countries of the world that protect their domestic sugar industries do so primarily because of these strategic considerations.

Let's get an affirmative U.S. sugar policy before it is too late.

[From the New York Times, July 18, 1982]

IS THE U.S. SUGAR SUBSIDY TOO SWEET?

(Washington) It is in another tangle over imports. This time it's the sugar growers insisting on continued protection against lower-priced imports. Otherwise they say, the domestic industry will not survive. The companies that use sugar the most disagree.

(Last December, President Reagan signed legislation that set a price support level of 17 cents a pound on raw sugar. With existing import duties and fees, the new support price was expected to keep domestic sugar prices at about 20 cents a pound.

(But a world sugar glut since then has overwhelmed the effort, threatening to drive prices below 20 cents. To avoid the possibility of a costly stockpiling operation, the President in May set import quotas on sugar for the first time since 1974. In response, Senator Paul E. Tsongas, Democrat of Massachusetts, and Dan Quayle, Republican of Indiana, proposed legislation that would reduce sugar price supports to 14 cents. The Senate will soon tackle this issue.

(The question, examined below, is whether protection for the industry is justified. Daniel K. Inouye, the Democratic Senator from Hawaii, the largest sugar-producing state, argues one side. Nicholas Kominus,

president of the United States Cane Sugar Refiners Association, tackles the other.)

NO, IT OFFSETS DUMPING

(By Daniel K. Inouye)

To understand the need for a sugar program, one must first know something about the "world sugar market," where the United States buys 45 percent of its sugar.

Sugar is the most tightly controlled commodity in the world. Over 100 countries produce sugar, 80 percent of which is consumed locally or sold to others under long-term contracts. The other 20 percent is released on the world market, with one-fifth coming to this country.

The "free" sugar market is a residual market, where countries, most with strict import controls and subsidy programs for their own sugar industries, dump their surpluses—often at a loss. Slight variations in world production can therefore cause tremendous fluctuations in the volume of sugar available on the free market, where only a fraction of the world's sugar is sold.

Since the consumption of sugar changes only very gradually, its price on the world market fluctuates wildly. This is why we saw raw sugar prices go from 65 cents a pound in 1974 to between 7 and 10 cents in 1976-78, then to 42 cents in late 1980 and finally back to 7 cents in June of this year.

If the United States were an inefficient, high-cost producer, an argument could be made that we should buy our sugar more cheaply abroad and concentrate on producing corn, wheat, cotton and soybeans. However, we are not a high-cost sugar producer. The average cost of production worldwide is more than 19 cents a pound, only slightly below the average cost in the United States. We are a lower-cost producer than the Common Market, which is now a leading sugar exporter thanks to its subsidy program and which pays its producers far more than the United States and then dumps the surplus abroad.

In Hawaii, where three-fourths of the available cropland is planted in sugar, the domestic industry produces more sugar per acre and more sugar per man-hour than any other place in the world. We are highly efficient, but no one can afford to grow sugar at the current world price of 9 cents per pound. The world's lowest-cost producer, South Africa, expects to lose \$156 million on its sugar exports this year. Meanwhile, our Hawaiian industry, which lost \$83.5 million on a comparable volume in 1981, expects to lose more than \$25 million this year.

Opponents of the present sugar price support program charge that it is unduly generous to the domestic industry. In fact, it is inadequate to meet the industry's needs, as can be seen from what is happening to sugar producers across the country. An example is the sugar beet industry, whose acreage has declined almost 15 percent since the enactment of the sugar program last December. In Hawaii, the sugar cane industry has announced similar reductions over the next few years. The Louisiana industry has reduced its production by 10 percent. Only the more efficient producers in an already efficient industry are able to stay in business.

Opponents of the sugar program are apt to compare the difference between the world price and the price that domestic users pay for sugar and conclude that this represents the program's cost to the consumer. However, the cost of shipping, refining of raw sugar and marketing, which are not functions of the world price, are con-

stantly ignored. Yet, these factors account for most of the price differential.

It is important to note that most of the average American's annual consumption of sugar (80 pounds) is consumed as a sweetener in commercially prepared food and soft drinks. The value of sugar constitutes a very small portion of the price of these products. While increases in sugar prices are frequently used to explain increases in the price of soft drinks, candy, or baked goods, those prices do not come down when the price of sugar drops.

Moreover, consumers pay more for sugar in the mid-Atlantic and Northeastern states, which rely heavily on imported sugar, than elsewhere in our nation, where much of our domestic sugar is produced. This has been true for decades, yet one would expect the opposite if one accepted the argument that the sugar program unfairly prevents customers from buying cheap world market sugar.

Ultimately the consumer must pay a price that reflects the average cost of producing a commodity. Allowing foreign producers, who dump their sugar on the world market at a loss, to drive efficient American producers out of business would only increase the cost of sugar to the American consumer in the long run.

Our domestic sugar program is once again under attack in Congress and some sectors of the press. Should these attacks—prompted largely by the importers and users of what is, for the time being, cheap sugar—be successful, then we will soon witness the rapid decline of our domestic sugar industry. We will also see, as the Department of Agriculture has warned, "an increase in sugar prices of several hundred percent" as domestic sugar disappears and we become totally dependent on the world market.

The United States needs to protect its domestic sugar industry from unfair competition abroad. The current price support program does this in a modest way by providing a floor under which the price of domestically produced sugar cannot fall. Indeed, the sugar loan level of 17 cents a pound mandated by the 1981 Farm Bill is the lowest for any commodity program.

Both our American producers and our consumers need the protection of the sugar program. Failure to provide this protection will mean another domestic industry down the drain with all its attendant misery and costs.

YES, IT COSTS TOO MUCH

(By Nicholas Kominus)

H. L. Mencken may have had the sugar producer in mind when in an essay entitled "The Husbandman" he wrote: "When the going is good for him he robs the rest of us up to the extreme limit of our endurance; when the going is bad he comes bawling for help out of the public till."

In 1980, when the world price of sugar shot up, the nation's sugar producers did not hesitate to increase their own prices. As a result, they enjoyed record profits. But, as much as the producers enjoy riding the world market up, they hate riding it down. So last year they came to Washington, lobbying for help. Unfortunately, they got help—much help. The sugar program that emerged is dreadful.

The producers got the program, in part, by resorting to scare tactics. They argued that the program was needed to protect consumers from a so-called "sugar OPEC." This was nonsense. Sugar, unlike petroleum, is

produced in practically every nation of the world, and substitutes are available. At the time, some were impressed by the argument. But the recent drop in the world price of sugar from 44 to 8 cents a pound has put the "sugar OPEC" argument to rest.

Meanwhile, consumers are stuck with a program that is artificially forcing up the price of sugar, and thereby contributing to the disturbing reappearance of inflation. As the price of sugar goes up, it inflates the price of many processed foods and beverages.

When President Reagan implemented the current sugar price support program, he said, "I personally regret the necessity for signing these proclamations. The sugar program enacted by Congress to protect higher-cost domestic producers will result in higher costs for all American sugar consumers."

The program is, indeed, forcing American consumers to pay more for sugar than consumers in most of the other nations of the world.

Today, the price of raw sugar on the world market is around 8 cents a pound, a result of overproduction in the United States and other parts of the world. Despite producer attempts to discredit it, the world sugar market is not a dumping ground. It is a viable and important market, which accounts for as large a percent of total sugar trade as do the world markets for wheat, feed grains and soybeans.

The United States price, which is forced up by import quotas, duties and fees, is around 22 cents, or nearly three times higher than the world price. By artificially maintaining the United States price that high the program is costing consumers an estimated \$3 billion a year in higher sweetener costs.

That price tag becomes even more significant when it is measured against the small number of sugar producers. There are, in fact, fewer than 14,000 sugar producers. Thus, the cost of the \$3 billion program is an astounding \$215,000 per producer.

By comparison, the annual cost of the dairy program, in which 324,000 producers participate, is estimated to be \$11,250 per producer. The wheat program, in which 879,000 producers participate, is estimated to cost \$475 per producer. It is also interesting to note that the school lunch program costs \$113 a year per child, and that the food stamp program costs \$622 per participant.

The sugar producers enjoy these lopsided Government benefits without any strings attached. Unlike the other crop programs, they can produce all they want. In addition, huge sugar producers get to "play" with the taxpayers' money. Under the program, they can offer sugar to the Government as collateral for loans and these loans are expected to total around \$1 billion in the coming crop year. Producers can reinvest the loan money in money markets, as some have in the past, reaping windfalls from the spread between the low interest rates charged by the Government and the currently high market rates. Moreover, if producers decide to default, they pay no interest.

The sugar program is also proving to be a total embarrassment to the Reagan Administration, which has been forced to impose restrictive import quotas in order to avoid the possibility of the Government having to buy domestically produced sugar. The quotas have been a cause of no small irritation in the developing sugar nations, most of which are in the Caribbean and Latin America. And the quotas have all but deci-

mated the Administration's Caribbean Basin initiative.

More important, the quota problem transcends the sugar trade. It could have a serious impact upon our foreign trade generally. Sugar quotas will, as special trade representative William E. Brock said, "make it more difficult" to argue against trade barriers in the European Economic Community and Japan. As long as the quotas remain in force, every nation we have a trade problem with will gleefully point to them as an example of our transgressions.

It is ludicrous to jeopardize our \$42 billion agricultural export trade to overprotect a minor industry. The sugar beet and cane crops are produced on less than 1 percent of the nation's farms, and they account for less than 1 percent of crop acreage.

Ironically, the sugar program is pricing sugar out of the sweetener market. High sugar price supports are permitting the corn sweeteners to capture more of sugar's traditional markets. As a result, some sugar refineries and factories are closing.

In recent months, all Government programs have been re-examined, and Government benefits to millions of Americans have been reduced. Sugar and its producers should be no exception.

[From the Honolulu Star-Bulletin, July 28, 1982]

FALSE SUGAR COMPARISONS

(By Eiler C. Rounholt)

In printing the pro and con articles on the sugar program, pitting Sen. Daniel K. Inouye against Nick Kominus, president of the U.S. Cane Sugar Refiners' Association, which had appeared in the New York Times, you performed a distinct public service.

It provides some insight into what we are confronted with here in trying to defend our domestic sugar industry. Inouye's remarks added significantly to an understanding of the problem. I fear Kominus served merely to confuse.

I was particularly disturbed at Kominus tactics in comparing the cost of the sugar program per producer with the cost of the dairy and wheat program per producer. Had the same standard of comparison been used for each, the result is zero cost per producer for the sugar program. Let me explain.

Kominus used the estimated cost to the government per producer of the dairy and wheat programs. In the case of sugar, he used an estimated cost to the consumer. Moreover, he used a cost estimate which includes the cost of all sweeteners; alternative sweeteners constitute some 40 percent of U.S. sweetener consumption. Although the estimated cost included all sweeteners, he divided that cost by the number of sugar producers; excluding the many hundreds of thousands of corn producers who get 40 percent of the benefit of our domestic sweetener program from the denominator.

I do not know what consumer cost can be ascribed to the dairy and wheat programs. We do know that Americans consume more dollars worth of dairy products and of wheat than they do sugar. We have no world dump price standard against which we can measure dairy or wheat and estimate consumer costs.

Kominus' compilation contains a further unwarranted assumption that the consumer benefits from low sugar prices. In the price he pays for sugar-containing products. Almost three-fourths of our sugar consumption is in that form and the record clearly shows that a drop in the price of raw sugar

is not translated into a drop in consumer prices.

The price of raw sugar on the New York market fell by 70 percent from October 1980 to October 1981. Meantime the price of 14 major sugar-containing products increased by an average of 8.4 percent. The average American buys some 20 pounds of sugar a year for home consumption. The price which he pays for that sugar may increase slightly as a result of the sugar program but that is a small price to pay for the increased stability and for maintaining the domestic production of more than half of our sugar needs.

As the Department of Agriculture has testified, the price of sugar would increase several hundred percent on the world market without the U.S. production.

Kominus' artful attack on the sugar program also criticizes sugar processors for making money by placing sugar under loan to the government. In 1978 some processors did invest low interest loan funds in higher interest money market instruments at a profit. These loan funds replaced funds processors already had paid to growers, the principal beneficiaries of the program. As the Commodity Credit Corp. now charges the government's cost of borrowing to the recipient of the loan (the rate is currently 13.5 percent) this opportunity for gain no longer exists. Kominus, well aware of that fact, sought once again to deceive.

The sugar program is essential to the survival of our domestic industry and to the welfare of the hundred thousand Americans directly employed in the production of sugar. It is a program which operates at no cost to the government, a program which assures a sufficient supply of sugar at reasonable and more stable prices.

It is a program which provides significant economic benefit to the many less developed countries which have duty-free access to our market under the Generalized System of Preferences. It is a program which provides significant economic benefit to our traditional suppliers of foreign sugar by assuring them of their historic share of the higher price U.S. market in periods of sharply depressed prices on the world market.

[From the Honolulu Star-Bulletin, July 20, 1982]

THE BATTLE OVER SUGAR PRICES

Since we have regularly contended the sugar industry must do more to tell its story to the media in Washington and New York, it was a pleasure to see U.S. Sen. Daniel K. Inouye's byline over a story on sugar in the Sunday New York Times.

Inouye argued effectively, we thought, that the world sugar market is a mercurial dumping grounds where prices fluctuate wildly. And that to protect the U.S. market from such unreasonable swings is a rational national policy.

His article appears in the adjoining columns. We trust many readers will find it persuasive.

But the Times pitted Inouye's arguments against those of the president of the United States Cane Sugar Refiners Association.

These also are reprinted in the adjoining columns and they contain some figures that have Hawaii sugar growers suspecting unfair comparisons.

Nicholas Kominus claims the sugar program is adding \$3 billion a year to the U.S. sweetener bill and benefiting 14,000 sugar producers at the rate of \$215,000 per pro-

ducer versus a mere \$475 in help for each of 870,000 wheat producers.

The basis for Kominus' figures is not yet known here but they are seen as sharply overstated.

In any event, the sugar debate is on again and it is going to be a tough one for the domestic sugar industry. Some sense of it may be gained from the adjoining articles.

We'll be back with more when the Hawaii industry has its answer to the figures being tossed against it.

[Letter: On Price Supports]

THE SUGAR INDUSTRY HAS TAKEN ITS LUMPS
To the Editor: Your May 19 editorial claiming that Congress is adopting "Too Sweet a Deal for Sugar Growers" reflects a lack of understanding about the sugar industry.

The editorial contends that "Sugar producers . . . have never fully appreciated the virtues of the free market." But since 1974, producers and consumers have been victimized by the wild price swings of the so-called free market.

Domestic sugar producers have operated without the benefit of Federal legislative protection since 1974, and fully understand the devastating impact of the so-called free market. Twice during those past seven years world production has been low, and the prices paid by consumers have been extremely high.

Those low supplies and high prices undoubtedly benefited producers. But each boom has been followed by an equally sharp bust. The busts have driven thousands of sugar producers out of business, and have forced the closure of eight of Colorado's 11 sugar-processing facilities.

Because we have no Federal sugar legislation today, there is no mechanism in existence to provide for domestic supply stability.

Americans consume 14 percent of the world's sugar, and we import an average of 40 percent of our supply each year. This heavy dependence on imports, coupled with the lack of a domestic sugar program, places the American farmers and consumer at the mercy of the world market. Our costly petroleum experience should have taught us to avoid this situation.

In adopting a sugar program as part of the 1981 Farm Bill, the House and Senate Agriculture Committees are seeking to free domestic producers and consumers from booms and busts.

The 19.6-cents-per-pound support level being considered by the committees is hardly a "rich price support program," as your editorial claims. The average cost of production for sugar cane is 23 cents a pound, and beet growers must spend an average of 24 cents a pound to produce their commodity. The levels being considered by the House and Senate Agriculture Committees fall far short of the cost of production, let alone any profitable level.

You also estimate a Federal expenditure of close to \$1 billion for this proposed sugar program. But the costs of sugar programs have historically been balanced by the income produced by the tariffs on imported sugar. In fact, most of those tariffs produced a net profit for the U.S. Treasury.

The proposed sugar program will not only provide supply and price stability for our domestic consumers; it will probably generate income for the Treasury. That type of program deserves the full support of everyone including *The Times*.

JOHN STENCEL, President,
Rocky Mountain Farmers Union,
DENVER, May 20, 1981.

[From the Honolulu Star-Bulletin, June 29, 1982]

AN UPHILL BATTLE FOR SUGAR GROWERS

The American sugar growers have a terrible public relations problem on the U.S. East Coast.

The press there, including the Wall Street Journal and New York Times, is extremely hostile to federal programs to protect sugar, taking a consumer viewpoint in favor of a free market.

What these publications fail to acknowledge is that the world sugar market is not a free market. It is a dumping ground that responds violently to relatively small surpluses or shortages.

In 1974 these prices soared to more than 40 cents a pound because of shortages. Currently they are down around 6.5 cents or about one-third the production cost in Hawaii, which is close to the world average in production costs.

The "world market" handles less than 20 percent of the sugar produced in the world. That is what explains its high volatility in reaction to dumping of surpluses from protected markets or shortages in them.

It seems to us totally unfair to throw an important domestic industry to the wolves of this market as the Easterners would like to do. If U.S. consumers fully understood the situation they wouldn't want to be on that price roller coaster either.

[From the Hawaii Tribune-Herald, June 14, 1982]

SUGAR NO LONGER SO SWEET IN HAWAII

(By Gordon Sakamoto)

HONOLULU.—Hawaii produces 20 percent of the sugar used in the United States, but the "dumping" of foreign sugar is upsetting the delicate economic balance in the islands.

The Hawaiian sugar industry accounts for eight percent of the state's revenue and eight percent of its jobs.

The dramatic slide in the world price of sugar, temporarily slowed by the recent imposition of emergency import quotas by President Reagan, has made growers—among them some of the biggest corporations in Hawaii—reconsider their century-long affiliation with sugar.

In 1981, sugar production resulted in a staggering \$83.5 million loss to the Hawaii industry, despite strenuous efforts by all parties, including the union, to reduce costs. The outlook for 1982 is discouraging. There will be another loss in the millions of dollars, according to economists.

In cost-cutting moves this year, three major plantations went on a two-week enforced shutdown that put half of the industry's 8,400 employees off the payroll. Another shutdown is planned for the fall. Executives also took hefty pay cuts, the sugar workers' union, the International Longshoremen's and Warehousemen's Union, agreed to defer half of a 10 percent contract wage increase. The companies looked also to other means of trimming losses.

Additionally, the Hawaii Sugar Planters Association, which represents the industry, asked the Hawaii Legislature for a \$50 million "Sugar Stabilization Fund." The request was not granted, but the industry won some tax relief and other financial benefits.

The arithmetic for the Hawaii sugar industry is simple: It costs 21 to 22 cents to produce a pound of raw sugar in the state. The federal government, under the 1981 Farm Act, will subsidize sugar up to 19.08 cents a pound. But the world price, because of the huge infusion of foreign sugar, has dropped to as low as 8.02 cents a pound.

The import quota has helped ease the difference, but not to a point where the industry can turn a profit.

Given that picture, some of the major growers have given a clear indication they will not absorb further losses.

Amfac already has announced it will phase out the 12,000-acre Puna Sugar Co. on the island of Hawaii by the end of 1984. It will mean the layoff of 500 sugar workers.

Since the Puna announcement, Amfac also has cut back sugar acreage at another plantation. A second company has made a similar move.

The cuts mean acreage in sugar cane will be reduced to the 200,000-acre level, down from the high of 242,476 acres in 1968.

Of additional concern to Hawaii sugar growers is President Reagan's Caribbean Basin Initiative, which could further add to the industry's woes. As it now stand, the initiative will allow duty-free imports, among them sugar, from Caribbean nations into the United States.

Henry A. Walker, president of Amfac, was blunt in sounding a warning.

At the company's stockholders' meeting, he said "Never again must Amfac be plagued to the extent it has been by sugar's cyclical swings. Never again can we risk the existence of this company now, otherwise, on the verge of joining the front ranks of American corporations. We cannot and will not, let sugar get in the way."

But he also made it clear it is not the wish of Amfac to pull out of sugar in Hawaii.

"There are times when we feel we should get out of sugar. But we have long-term leases, commitments to our employees, long-term benefits, pension programs, obligations to our communities. We simply do not want to walk out of the communities if there is an alternative."

Tommy Trask, regional director of the ILWU, agreed that the industry needs union support.

In accepting the wage increase deferral, he said, "We wanted to indicate to the general public this and that we are prepared to help the industry. We recognize their plight. We are concerned about the whole sugar scene and we're nervous about what we see happening."

"But we have to look at it in bittersweet fashion. The vast majority of the work force will retain their jobs. Survival is the key to this whole thing."

A bank economist offered additional numbers that would result were sugar to go out of business in Hawaii.

"Massive unemployment would develop in Hawaii with an accompanying recession if the sugar industry were to fold," he said.

"There are about 9,500 sugar workers on whom a total 30,000 jobs depend."

"If sugar went down entirely, the statewide unemployment rate, which presently is five percent, would become 13 percent, and welfare costs would go up 17 percent from the present \$250 million to \$300 million."

Especially hurt would be the economy on Kauai, where 96 percent of the cropland is in sugar cane. On the island of Hawaii, it's 82 percent of 91,000 acres, on Maui 47,000 and Oahu 32,000 acres.

The employment rates would be 20 percent on Kauai, 16 percent on Hawaii and 14 percent on Maui.

Between 1934 and 1974, regulation of the sugar industry in the United States took the form of several legislative acts. However, in 1974, legislation to extend the Sugar Act was defeated. Since then, the U.S. has been

the only major producing nation without a national sugar policy.

As a result, the domestic industry has been at the mercy of fluctuating world prices that characterize the market for the small part of the world's sugar that is not regulated. Unfortunately, the world market for sugar has low prices more often than high.

Hawaii's sugar industry has experienced both extremes in the last decade, from the very good profits of 1974 and 1980 to the major losses of 1981 and lesser losses in between.

Since 1974, the Department of Agriculture has operated under "permanent authority" of the Agriculture Adjustment Act of 1949, which authorized the Secretary of Agriculture to support prices of selected non-basic commodities. Cane sugar and sugar beets were covered by the act.

Sugar prices have been on a roller coaster, with high prices in 1974 and extremely low prices in 1976 and the first half of 1982.

The U.S. spot price for sugar rose to a peak of 65 cents per pound for one day in November 1974. Two years later, it was down to 8.9 cents per pound, and earlier this year 8.02 cents a pound.

According to Robert Hughes, president of HSPA, when the Sugar Act was terminated in 1974, the consumer was subjected to the vagaries of the world market.

"Beginning in 1975, when we were dependent on the world market, we were subjected to these volatile prices," he said. "We had never suffered such losses before. A company cannot tolerate or stand to take such losses for very long. And that's why it threatens the entire sugar industry in Hawaii since it is the third largest contributor to the state economy and sugar is the largest agricultural export commodity in the state."

The most recent problems began after the 1980 shortage.

"That reaction caused a tremendous increase throughout the world—roughly eight million tons worth," said Hughes. "That's eight million tons on top of the yearly average of 87 million tons."

"Suddenly, the world went from a shortage to surplus in a very short time. Until the surplus is eroded through the reduction of production, world prices are going to be on the low side."

Hughes said reaction already has begun in some areas.

"In the United States, preliminary planting of beet sugar will be down by about 11 percent. Also, the European Economic Community has indicated it is going to exercise some restraints in the planting of beet sugar."

Hawaii's sugar cane growers cannot match the flexibility of beet sugar growers on the U.S. Mainland and Europe.

When sugar prices go up, beet sugar growers increase acreage. When prices sag, farmers switch to economic crops such as cotton, wheat, corn and soybeans.

In Hawaii, said a University of Hawaii agriculture professor, "We know of no crop—or combination of crops—that can entirely replace sugar. And we know of no agricultural activity that is as compatible with tourism as large-scale cultivation of sugar."

[From the New York Times, June 1, 1982]
A WAY OF LIFE IN HAWAII IS THREATENED BY SQUEEZE IN THE SUGAR INDUSTRY

(By Robert Lindsey)

KEAAU, HAWAII, May 26.—For three generations, members of the Tony Cawagas'

family have turned the green stands of cane that blanket the hills and valleys around here for as far as anyone can see into sugar for a world beyond the Hawaiian Islands that they never saw.

Just as he followed his father and his grandfather to the sugar mill, Mr. Cawagas expected that one day his son, too, would be there.

Now, at the age of 38 years, he is looking for a job and says that he has little hope of finding one.

The Puna sugar mill at Keaau is closing and, with it, a way of life is ending.

LONG A DOMINANT CROP

For most of the last 150 years the economy of the Hawaiian Islands has been rooted in agriculture, predominantly sugar cane and pineapple.

Dense stands of tall sugar cane are as ubiquitous as fields of corn are in Nebraska. Successive waves of Chinese, Portuguese, Japanese, Filipinos and, most recently, Koreans have come to work the fields.

For generations, families have lived and died on the great sugar plantations that covered much of the islands with a green mantle that swept from ocean's edge to mountain peaks.

But now, under assault from other countries that produce sugar more cheaply, the Hawaiian sugar industry is receding, causing a painful transition for the islands' economy and jarring the lives of people who have known no other life but the plantation.

Growers here say that last year they lost more than \$80 million on sugar production. This year, despite a much criticized decision by the Reagan Administration to impose import quotas on sugar that are raising consumer prices while increasing the growers' income, the growers say that they still expect heavy losses.

HIGHEST PAID IN WORLD

The 7,000 or so workers in the Hawaiian sugar industry are the highest paid agricultural workers in the world, the growers say.

Mr. Cawagas earns about \$20,000 a year, including fringe benefits, a wage that does not guarantee affluence in a state where the cost of living ranks among the highest in the nation. But he says he understands enough about world trade to know that Hawaii is pricing itself out of the sugar market.

"We can't compete with the other countries," he said. Cheaper labor costs account largely for the price advantage of sugar produced in the Philippine Islands, Thailand, Latin America and elsewhere.

None of the major growers have predicted that the Hawaiian sugar industry is doomed, but representatives of the state government, labor and industry agree that it is in serious trouble even with the controversial new import quotas.

"Our membership has got to realize these are changing times," Thomas Trask, regional director of the International Longshoremen's and Warehousemen's Union, which represents sugar workers, said recently. The union says it is working with growers in an effort to increase workers' productivity. "The survival of these plantations, and jobs, has to be uppermost in the minds of the membership," Mr. Trask said.

Here on the island of Hawaii, Amfac Inc., the state's largest sugar producer, and one of its oldest, which is aggressively diversifying into nonagricultural pursuits, announced earlier this year that it would close its 16,000-acre Puna Sugar Company plantation and mill when the last of its cane was har-

vested two years from now. Almost 150 of its 479 employees are already gone.

Last week, Amfac announced that it would reduce operations at one of its four remaining plantations on the island of Oahu, by 20 percent.

"We still don't know if we can save Oahu Sugar Company," said Robert Rostron, a company executive, "but we believe we have a workable plan that gives us a fighting chance." Amfac and other major landowners in the state say they are continuing to study the possibility of still further curtailments in sugar production.

To a large extent, the problems plaguing Hawaii's sugar industry are similar to those being experienced by the automobile industry and others hurt by cheap foreign imports. But in Keaau and surrounding communities, the townspeople see the closing of the plantation as the passing of an era.

Noboru Shimauku, 60, who took a job at the plantation store when he was graduated from high school and has worked at the mill since then, said that the cane fields and mill were so much a part of his life and that of the community that he never imagined life without them. "It was always here," he said. "It's like a dream that you never expect to have."

NO PLANTATION FOR THEM

"I worry most about the middle-aged people," said Carmelito Arkangel, industrial relations director of the plantation, an employee since 1938. "Most of their working careers has been with the plantation. Now there is no plantation to go to."

The Puna plantation opened in 1899 and has been virtually the only economic resource in this community, which is about nine miles south of Hilo.

The company store is gone now, as are most of the small houses that for decades employees rented from the plantation, but Keaau is still very much a company town. Its employees support the local shops and churches, and everyone in town is wondering what will happen when the mill finally closes. On an island with an unemployment rate of 9 percent, 50 percent higher than the state average, prospects are not good for finding more work.

"When I was young, my father told me, 'As long as the smokestack is standing you'll have a job,'" and Hiroshi Kawazoe, the plant manager, who has been an employee since 1947.

"We had peaks and valleys before, but lately there were more valleys and they got longer and longer," he continued. "And now the smokestack will be coming down. It's going to be very hard on the economy when you take 16,000 acres out of production. There's no other crop that can replace it."

OVERCAME EARLIER TROUBLES

The plantation and the surrounding community have had troubles before, but they weathered them.

In the early 1950's, when bulldozers and trucks were introduced to mechanize much of the hand labor of the past, the community was hit hard by layoffs of hundreds of workers, and there have been periodic slumps when sugar prices were depressed.

Because of variations in climate, terrain, age and other factors, the cost of producing sugar varies widely among Hawaii's 14 sugar plantations, and the Puna plantation is one of the least efficient. Amfac officials say that the cost of producing a pound of sugar here last year was 23 cents, as against an average of 19.3 cents in the state. Even with the recent price increase resulting from the

Reagan Administration's import restrictions, Puna is still not economically viable, the company says.

Amfac, in a kind of voluntary land reform program, has agreed to give each of the laid-off workers five acres of plantation property, as well as to donate \$2 million to an employee trust for roads and other development costs. State and zoning officials have not yet approved the unusual land subdivision, and there is considerable skepticism that five acres will be adequate for anyone to make a living as a farmer. Still, some employees say they will try to farm the land.

Zacarias Bermudez, 58, said he would give it a try and, if it did not work out, he would return to the Philippine Islands, from which he embarked for Puna 14 years ago.

[From the Wall Street Journal, Aug. 5, 1982]

COCA-COLA CO. PROFIT ROSE 10 PERCENT IN 2ND QUARTER—OVERSEAS SALES GAINS HELPED, BUT STRENGTH OF DOLLAR LIMITED GROWTH OF NET

ATLANTA.—Coca-Cola Co. said net income for the second quarter increased slightly more than 10 percent and revenue declined 2 percent.

Overseas sales gains helped the profit increase, according to Sam Ayoub, chief financial officer. But the company said the strength of the dollar against weakened foreign currencies limited Coke's earnings growth to 10 percent instead of 15 percent.

"When margins improve overseas, it affects everything because that's 63 percent of our business," Mr. Ayoub said.

Analysts said the results were in line with their expectations for the soft drink giant.

In the second quarter Coke earned \$139.8 million, or \$1.13 a share, compared with year-earlier profit from continuing operations of \$127 million, or \$1.03 per share. In the 1981 period, a gain of \$1.9 million from discontinued operations made net \$129 million, or \$1.04 a share. Revenue fell to \$1.57 billion from \$1.6 billion.

For the first half, Coke earned \$247.4 million, or \$2 a share, up 10 percent from profit from continuing operations of \$224.6 million, or \$1.82 a share. In the 1981 period, a gain of \$4.3 million from discontinued operations made net \$229 million, or \$1.85 a share. Revenue fell 3.7 percent to \$2.84 billion from \$2.95 billion.

Last June, in a move partly intended to lessen its dependence on foreign operations, Coke acquired Columbia Pictures Industries Inc.

"We want to increase our activities in the U.S. That's why we acquired Columbia. Our target is for Columbia to grow at 20%, our wine business to grow faster, so eventually, the U.S. business will be a larger chunk of total profit," Mr. Ayoub said.

Coke noted that Columbia's earnings won't be consolidated into its operations until the third quarter.

The company also said that its adoption of a change in the method of accounting for foreign-currency translation had "aided" its results for the 1982 second quarter and six months.

"If 1981 results had been restated for (the accounting change), their earnings gain would have been more on the order of 7% to 8%," said Emanuel Goldman, an analyst with Sanford C. Bernstein & Co. He added, however, that Coke's earnings "would have been 5% higher if the U.S. dollar hadn't been so strong. Coke is one of the many companies that has been hurt by the strength of the dollar."

Nonetheless, analysts said the soft-drink giant is weathering economic storms both here and abroad fairly well.

In the U.S., Coke said soft drink case sales increased 3% to 4% during the first half. Presumably that growth rate is better than some of its competitors, because Coke said it continued to gain in U.S. market share.

In overseas markets, Coke said soft-drink sales increased 4% overall during the first half, with Western Europe, Canada, Japan and Mexico showing sales increases between 5% and 12%. Only Brazil and Argentina failed to post increases, the company said.

In other business areas, Coke said juice unit sales increased during the quarter and first half, while coffee unit sales increased during the second quarter but declined for the six months.

Coke also said its wine business had a sales increase of 11% in the quarter while the rest of the industry generally experienced flat sales.

[From the New York Times, July 29, 1982]

GENERAL FOODS

General Foods said that an improving worldwide coffee business and higher margins on several convenience foods helped it raise profits for its first fiscal quarter of 1983 to \$61.5 million, or \$1.24 a share, from \$49.3 million, or 99 cents a share, in the period last year. Sales remained flat at \$2.07 billion.

James L. Ferguson, chairman of the White Plains-based company, said that besides coffee, General Foods was pleased with the performance of certain packaged food lines, especially Jell-O brand Pudding Pops, a new product that one analyst predicted would bring annual sales of \$125 million.

Liquidation of inventories by many grocery stores because of high interest rates helped cause flat sales, Mr. Ferguson said.

NABISCO BRANDS

Nabisco Brands, based in New York, said second-quarter profits increased to \$70.5 million, or \$1.11 a share, from \$52.3 million, or 83 cents a share, in the period last year. The report included nontax-deductible expenses of \$9.3 million, or 15 cents a share, for the July 1981 merger of Nabisco Inc. and Standard Brands.

Sales increased by 7.8 percent, to \$1.52 billion, from \$1.41 billion the previous year.

"This was a case of a very strong showing in their core business, cookies and crackers," said Alan S. Greditor, food analyst for Drexel Burnham Lambert. Nabisco is trying to expand this core and divest itself of unrelated divisions.

For the first half of the year, Nabisco Brands' profits rose 18.8 percent, to \$129.7 million, or \$2.04 a share, from \$109.2 million, or \$1.73 a share, in the period last year. Revenues increased by 4.3 percent, to \$2.92 billion, from \$2.80 billion in 1981.

[From the Food Institute's Weekly Digest, July 31, 1982]

HIGHLIGHTS OF NSDA'S SOFT DRINK SURVEY—1981

Soft drink sales grew at a 3.8% rate, while value rose 13.2% to \$20 billion at the whole-sale level, according to the results of the National Soft Drink Association's Sales Survey of the Soft Drink Industry—1981. A total of 3.9 billion cases of soft drinks of all types were sold, and per capita consumption increased to 412.3 12-ounce unit equivalents.

Regular soft drinks accounted for 85% of the market, and diet drinks the remaining

15%. Categorized by flavor, cola represented 63% of the regular market, lemon lime 10.4%, pepper-type 5.4%, and orange 4.9% of sales. In the diet market, cola held a 65.3% share, lemon-lime 13.3%, and other flavors 21.4%.

Soft drink sales through food stores represented 59.4% of 1981 sales, while vending machines represented 16.4% of sales and other retail outlets 24.2%. Soft drinks packaged in cans accounted for 36% of the market, refillable glass 29%, plastic 19.9% and one-way glass 15.1% of the market. While sales in cans continued to decline from 1980's 37.2% share, the amount of soft drinks sold in plastic containers continued to increase from 1980's 17.9% share of the container market.

[From Reuters, Aug. 2, 1982]

CASTRO SAYS CUBA WILL NOT REDUCE SUGAR OUTPUT DESPITE LOW WORLD PRICES

HAVANA.—Cuban president Fidel Castro said his country will not cut sugar production, despite low world sugar prices. "Sugar is the principal staple of our commerce with Socialist nations, at good prices, and we are protected by clauses in our agreements with them against the increase in the price of imported products we receive from them," he said in a nationwide address. Cuba's 151 mills produced 8.2 million tons raw sugar from the 1982 harvest ended in June, the second highest ever for Cuba.

But, he said, with world sugar prices around seven cents a pound and the ever-increasing price of imports from developed nations, it now takes two and a half tons of Cuban raw sugar to buy what one ton bought in 1970. "We have difficulties and our difficulties in coming years could be even greater," he said. They are due to the low price of sugar and other exports, "the pressure of imperialism" to limit credit, high interest rates on the financial market, the high price of imports and the difficulty in finding markets, he said.

The Soviet Union is expected to buy over three million tons of raw sugar from Cuba in 1982. Other communist states, including China, will buy one million tons. Past indicators suggest the Soviet Union will pay at least three to four times the world market price for Cuban sugar, western diplomats said.

"When one considers that Cuba receives its petroleum and many industrial products for about half the world price from the Soviet Union, and receives its military hardware virtually free of charge, it becomes clear just how much the viability of the Cuban economy owes to this aid," one diplomat said.

[From Sugar y Azucar, July 1982]

BRAZIL SUGAR EXPORTS A PROBLEM

At the moment, sugar represents the main commodity for export for Brazil, but presents the biggest problems from the point of view of price in the international market, principally because of the record harvests which have been obtained by competing producer countries and the recuperation of production of countries such as Cuba and India. Brazilian export specialists say the situation worsened when the Common Market decided to reduce the volume of beet sugar that should be used for the formation of stocks (2.0 million tons) and, consequently, increase its exportable surplus by 5.0 million tons.

Planters in Pernambuco and Alagoas, the main northeastern sugar cane production

states, will not have their debts (U.S. \$201 million) absorbed by the Institute of Sugar and Alcohol (I.A.A.), as has been hoped. The I.A.A. has absorbed the debts of planters in the state of Rio de Janeiro since these farmers were penalized by a delay in irrigation projects. Northeastern planters have large debts with foreign institutions and they had proposed that the I.A.A. receive in exchange for assuming these debts an equivalent quantity of export-type demerara and/or refined sugar.

[From Reuters, July 26, 1982]

PHILIPPINES TO MAINTAIN SUGAR LIQUIDATION PRICES

MANILA.—The Philippine Sugar Commission announced it is maintaining the liquidation prices of export and domestic sugar at 168 pesos and 165 pesos per picul, respectively, for crop year 1982-1983 despite the depressed market price of sugar. It said the move implements the directive of President Ferdinand Marcos for the Commission to encourage the expansion of sugar production and improve income of sugar farmers, planters and millers.

It was also designed to enable sugar producers to overcome the present softness of the world sugar price which is eight cents per pound or the equivalent of about 80 pesos per picul, the commission said. Commission chairman Roberto Benedicto said that the maintenance of the present sugar liquidation prices above the prevailing world market price is made possible by the government's protective pricing policy, under which the Philippines entered into long-term contracts for the export of sugar at an average price of 23.5 U.S. cents per pound or 271.90 pesos per picul.

[From Reuters, July 16, 1982]

BRAZIL IN DEFICIT \$680,000,000 BECAUSE OF LOW WORLD SUGAR PRICES WHICH ARE LESS THAN HALF THEIR COSTS TO PRODUCE—GOVERNMENT ATTEMPTING TO FINANCE LOSSES

BRASILIA.—Brazil announced a series of measures aimed at wiping out a 680 million dollar public spending deficit brought on by a fall in world sugar prices.

"The depression of international sugar prices, now at a level equivalent to less than half our internal production and transport costs... has put enormous pressure on government finances," ministers said in a statement.

Industry and commerce ministry officials said the authorities faced a deficit in the sugar sector of 120 billion cruzeiros.

They are forced to make a number of decisions to fill the gap. A presidential decree last night introduced an additional contribution on the producer price of sugar of up to 20 percent.

Government officials said other measures included a 35 percent rise in the consumer price of white sugar to 86 cruzeiros per kg, a 5.6 percent increase in the pump price of petrol and a 5.4 percent increase for alcohol.

The fall in world sugar prices could cut Brazil's export earnings from the commodity this year to 750 million dollars from 1.1 billion last year, the officials said in Brasilia.

The additional contribution provided for under the presidential decree will initially be set at 10 percent but can be raised to 20 percent in accordance with the financing needs for the sugar sector, the officials said.

The government also plans to rearrange some agricultural and agro/industrial pro-

grams, saving 15 billion cruzeiros, and the treasury will cover another 30 billion cruzeiros by issuing new money, they said.

The remainder of the deficit will be funded equally by the additional contribution and price increase for white sugar.

Producer prices for sugar, alcohol and cane will also go up between 22 and 24 percent but these are regular adjustments made to keep up with inflation, the officials said.

Industry and commerce ministry officials denied rumors that sugar and alcohol institute (IAA) president Hugo De Almeida may resign following the latest package of measures.

The officials said the latest moves had not changed the functions of the institute to plan and execute domestic policy and export sugar.

The only change is that the running of a fund financing sugar policy would be transferred to the central bank which would open a "sugar account" in the same way as it already has a "coffee account."

Almeida had been concerned, however by recent criticisms by Sao Paulo factory owners of government sugar policy, published in several newspapers, the officials added.

[From Reuters, July 14, 1982]

BARBADOS GOVERNMENT ANNOUNCES \$10,000,000 LOAN FOR ITS SUGAR INDUSTRY WILL ALSO GIVE PRICE SUPPORTS

BRIDGETOWN.—Barbados has announced a 10 million dollar soft loan and a new price support mechanism for its ailing sugar industry.

Prime Minister Tom Adams told parliament the government is offering the loan to Barbados sugar factories LTD, which owns the country's six sugar factories. This will be coupled with a 1982 support price of about 46.25 cents a kilo.

He said "without a strong and viable export agriculture Barbados will stagnate economically for many years to come. The earnings of the Barbados sugar industry abroad correspond almost exactly with the available cash foreign reserves of Barbados and have done so for many years."

Falling production, unseasonal weather, an alarming number of illegal cane fires and low export prices have hit the industry hard.

Export earnings fell from a 1980 high of 54.7 million dollars, when production reached 135,000 tons, to 25.7 million last year as it fell to 96,000, a figure expected to be repeated this year.

Some of the mainly private plantation owners have said, because of heavy losses suffered last year and this year, they cannot guarantee to produce a 1983 crop. Sugar industry officials said they need 25 million dollars to prepare for next year's harvest. Adams said the loan conditions will be announced later.

[From the Honolulu Advertiser, July 15, 1982]

PHILIPPINES LIKE U.S. SUGAR QUOTAS (By Fernando Del Mundo)

MANILA.—President Reagan's imposition of import quotas on sugar could be a "saving grace" for the Philippines—not only helping its economy but also putting a lid on a potential "social volcano."

Analysts say Reagan's move could provide the Philippines a market for its sugar with a guaranteed price. They say it may prove a "saving grace" for a country that depends

on sugar as its major dollar earner amidst a slump in the world sugar markets.

With other traditional exports, such as coconut and copper, battered by the recession in the west, the nation's economy has been foundering.

The outlawed Communist party of the Philippines has taken advantage, stoking peasant discontent. It has gained adherents and the party's military wing, the 5,000-strong New People's Army (NPA), is growing.

Guerrillas regularly come down from the hills to collect "taxes" from peasants and warn sugar planters to pay workers just wages or face "NPA justice."

Recently, Communist guerrillas assassinated a town mayor and four of his aides in the "sugar bowl" island of Negros. The attack came after the mayor was set free despite charges that he murdered seven farmhands and was responsible for the disappearance of eight others.

In Calatrava town, also in Negros, authorities are looking into the murders of 23 people, allegedly committed by a vigilante group led by a former national police officer.

Activist priests and nuns say the Philippines could become the "Cuba of the Far East." They say the revolt could erupt in Negros, where the disparity between rich and poor is more pronounced than anywhere in this largely Roman Catholic country.

A study commissioned by the Association of Major Religious Superiors called Negros a "social volcano." Says the study, "Unless something radical and immediate is done about this situation, there will be an explosion which will shake the entire nation."

Philippine officials scoff at such talk. "I've heard of this volcano in my youth," said a sugar planter. "I still have to see an eruption."

As for the nation's sugar market, the government of President Ferdinand Marcos has done a creditable job in easing the impact of the depressed sugar economy.

Since post-World War II years, all of the sugar the Philippines produced went to the U.S. until 1974 when the U.S. Sugar Act lapsed and import quotas were scrapped.

That forced the Philippines to sell on world markets, where prices have been erratic, from a high of 64 U.S. cents a pound in 1974 to about 6 cents a pound at present.

Last May, Reagan announced the U.S. was temporarily reviving import quotas to protect American farmers. Traditional U.S. sugar suppliers were given a fixed share with the Philippines getting 13.5 percent, the third largest after the Dominican Republic and Brazil.

Reagan's move further dampened sugar trade, hitting most Third World suppliers severely. However, it has had no impact on the Philippines.

In December 1979 when the price of raw sugar was 40 cents a pound, the Philippines sold 2 million metric tons at 23 cents a pound, spread over a four-year period. The contracts held despite market booms and busts.

Apparently the government, which tightly controls sugar trading, has learned its lesson. In 1974, it lost an estimated \$250 million by waiting for the price to go up from 64 cents. The market suddenly collapsed and sugar stored in warehouses and swimming pools rotted.

This year, the Philippines—one of the world's leading sugar suppliers—is expected to produce about 2.3 million metric tons of

the crop. Half for export and half for domestic use.

The volume allotted for export is split between long-term buyers and the open market. However, domestic consumption has gone up in recent years, forcing the government to renege on some of its contracts, with the U.S. again giving the Philippines quotas, the government's marketing problems appear solved.

"It's a long way away from 6 cents a pound to 20 cents a pound," one analyst said. "Reagan is not going to remove the quotas unless the American farmers are assured of profits."

[From the Honolulu Star-Bulletin, May 12, 1982]

PROTECTING DOMESTIC SUGAR PRODUCERS

Every time the issue of protecting domestic sugar producers comes up in Washington, the critics claim that the consumer is being cheated. Funny that we don't hear the same outcry against wheat or dairy price supports.

The domestic sugar industry, in particular the Hawaii sugar industry, is fighting for its life against a flood of subsidized foreign sugar that is being dumped on the American market at prices far below production costs.

The Reagan administration is no friend of agricultural subsidies, but it agreed last year to go along with price supports for sugar in exchange for Southern votes for the administration budget proposals. That sort of a deal is as old as politics, but you'd think it was totally unprecedented if you read comments like those of columnist William Safire on this page last Friday.

Now the administration is being further berated for imposing import quotas on sugar rather than pay millions of dollars in price supports. Besides the obvious financial consideration, this alternative has the advantage of discouraging foreign exporters and perhaps cutting back world production.

It has been widely accepted that agriculture requires special treatment from government to ensure its survival, even in countries that are otherwise committed to a policy of nonintervention in economic matters. To quote Claude Villain, agriculture director of the European Economic Community: "Obviously we could not allow the storms and tempests of international markets simply to destroy our agricultural economy."

Nowhere is that observation more apt than in Hawaii. Loss of the sugar industry would be nothing less than a disaster for Hawaii's economy, agricultural and otherwise.

If the domestic sugar industry were allowed to be destroyed by dumping of foreign sugar, American consumers would be entirely at the mercy of foreign suppliers and the notoriously volatile world market. It is by no means clear that they would get cheaper sugar over the long run that way.

We cannot endorse protection for domestic sugar at levels that permit large profits, but that is not at issue. We are talking about survival. The case for protection is strong.

[From the Washington Post, Aug. 11, 1982]

AMBER WAVES OF GRAIN BLIGHT TRADE AMITY WITH EUROPEAN ALLIES (By Ward Sinclair)

Chris Righton, a prosperous wheat farmer in England's central cereal belt, doesn't much like it, but some people think of him as a bogeyman taking food from the table of his American farmer friends.

Righton is a bit player in the drama of growing tension between the United States and the 10-member European Economic Community.

Most of the sources of that tension are well known: defense policy, the Soviet gas pipeline, steel subsidies. Less well known but equally central is agriculture.

Hounded by recession at home and sagging farm sales overseas, the Reagan administration, U.S. farm organizations and farm state members of Congress have begun a fierce attack on the agricultural policies of the European Economic Community, stirring concern on both sides of the Atlantic over the possibility of a farm trade war.

The U.S. complaint is that European governments are unfairly denying U.S. farmers sales they would otherwise have, partly through outright protectionism, partly through subsidies without which European farmers could not compete.

A basic goal of EEC policy is to promote domestic social stability by keeping farmers prosperous and by keeping them on their farms, even though they may not be efficient enough to be competitive with American farmers.

The EEC achieves its aim by keeping internal prices high and shielding its farmers from foreign competition through a complicated system of price supports, common pricing, minimum import prices, import duties and export subsidies.

Some U.S. products—notably corn gluten, soybeans, vegetable fats and oils—go into the EEC duty free, largely because they are unavailable domestically.

But many other U.S. products are subject to import duties that make them unattractive and to an EEC policy of buying first from member nations. The EEC policy has encouraged production and has led to surpluses of some commodities, which are moved into world markets.

"A major concern here," said one U.S. official, "is that these EEC policies will lead to a rewriting of world agricultural trade practices. Under their approach, Europe would be insulated from these changes. When the world has too much and other countries reduce production, the EEC members don't adjust because they are protected. It has happened with wheat, wheat flour, poultry and eggs, meat and sugar. The EEC is not responding."

Yet there is an opposite side to this story. Notwithstanding U.S. complaints, huge ironies run through the picture. For example:

As a whole, the EEC is the United States' most lucrative agricultural market. This country will sell \$9 billion worth of agricultural goods to EEC nations this year, yet in return buy only \$2 billion worth, much of it in the form of dairy products and wine.

While the administration criticizes EEC subsidies, the EEC points right back at U.S. farmers' government help: price support loans, direct income supplements, grain storage payments, marketing orders, export credits, low-interest operating and farm-purchase loans and other devices.

Subsidy, as such, may be in the eye of the beholder. An Organization for Economic Cooperation and Development study found that between 1976 and 1978 U.S. and European national governmental budget outlays for agriculture—that is, "subsidies"—were almost the same. Spending averaged 39.2 percent of agricultural value added in the EEC, 37.6 percent in the United States.

A new paper by the Department of Agriculture (USDA), following the line that the Europeans are plunging into new export

markets, reports that EEC shipments to the Soviet Union are up more than 200 percent since 1979. The report does not note that the United States cut its share of the Soviet market in a major way by imposing a partial grain embargo in 1980.

A frequent charge that EEC exports impinge on U.S. market runs into statistical trouble. In wheat, for example, EEC exports doubled between 1969 and 1981 to 14 million tons, but the EEC's share of the world market dropped from 16.6 to 14.9 percent.

U.S. exports, meanwhile, went from 16.5 million tons to 41.9 million tons, and the market share moved from 38.4 to 44.8 percent.

This is roughly where a Chris Righton comes in.

When an American wheat farmer sends a bushel of his grain to, say, the Soviet Union, he will get about \$2.50 for it. Because the United States dominates world wheat trade, the American price effectively becomes the world price.

But when Righton sends a bushel of his wheat to the Soviets, he will get about \$4.53 for it. Same type of wheat, same quality, same purchaser, perhaps even the same export trader. The difference is that EEC policy guarantees Righton a price for his grain by subsidizing his effort, and U.S. farm policy does not.

An argument put forth by EEC members is that the United States, instead of complaining about the subsidy, should take steps to force up world prices. That appeals to U.S. farmers, but the Reagan administration says such a move would intrude in free markets and price U.S. farmers out of world markets.

Farmer Righton, on a visit here this year, expressed a common EEC outlook: "I don't think we're as damaging to U.S. interests as we are made out to be. We in Europe are, after all, your very best customers. Your administration is putting a smokescreen over American farmers' eyes: By promising to discipline the EEC, they avoid having to do anything directly for farmers at home."

The whys and wherefores are in hot dispute, but the gloves, clearly, have been removed. Both here and in Europe there is concern that Agriculture Secretary John R. Block's threats will turn to more contention reminiscent of the painful "Chicken War" over curbs on U.S. poultry sales in the 1960's.

After Block told the House Agriculture Committee last winter that "we are going to do battle with the EEC wherever and whenever it is necessary," Chairman E. (Kika) de la Garza (D-Tex.) admonished him to cool it.

Don't pick a fight with America's best farm market, de la Garza warned. But the warnings continue to roll from the administration.

"We have only one alternative," Block said in a speech this summer. "That alternative is to deviate temporarily from our free-market stance and engage in costly short-run trade wars. If that is what it takes to achieve the principles of free markets, then we'll have to start looking more seriously in that direction."

As one approach, U.S. agricultural interests have taken complaints about unfair subsidy and competition to the General Agreement on Tariffs and Trade (GATT) over such issues as wheat flour, poultry, pasta, canned fruits and raisins, Mediterranean citrus policy.

More are likely to come as the United States presses its cases.

The Europeans, for their part, seem not cowed. Claude Villain, EEC director general for agriculture, recently told a Minnesota audience, "Europe is not going to abandon its agriculture. . . . It is important that you on this side of the Atlantic should realize this."

Edith Cresson, the French minister of agriculture, met with Block late last month and, according to sources, delivered the same message in an acrimonious encounter. European embassy agricultural attaches repeat the theme whenever meeting with Americans.

Block and other administration farm spokesmen have tempered their rhetoric somewhat since June, but the tensions remain. And on Capitol Hill there are moves to convert Block's talk into legislative remedies to boost U.S. farm exports with the same type of subsidies the secretary denounces.

Congress already has begun moving to implant a new system of export subsidies for American farmers. The Senate, for example, adopted in its budget reconciliation bill last week a provision allowing up to \$190 million in payment to farmers to meet "unfair competition" from abroad.

Sen. Jesse Helms (R-N.C.), Agriculture Committee chairman, was the chief sponsor of the subsidy proposal. "The EC has not stopped their unfair trade practices," Helms said. "It's time we gave them a dose of their own medicine."

The House version of the reconciliation bill contains no such provision, but Rep. Tom Hagedorn (R-Minn.), among others, is pushing legislation similar to the Helms approach. The House Agriculture and Foreign Affairs committees have scheduled a general hearing for today on the agricultural export issue.

The administration has not yet taken a formal position, but officials at USDA see these legislative approaches as ways of putting pressure on the European Economic Community to be more conciliatory in allowing U.S. products into their markets and in reducing its subsidies to farmers.

"We have had no export subsidies since 1974," one official said, "but if we did this, we would impress the Europeans. But it could lead to some serious give-and-take. . . . No one wants a trade war, but this is highly political."

Tony Bond, a British agricultural attache here, agreed, but from another perspective.

"If the United States retaliates, we could be back to the chicken wars," he said. "We couldn't complain if Congress approved export subsidies because we have them. We would say it's all very well, but it makes nonsense of the row you're supposed to be having with us." ●

A SALUTE TO EDWARD J. DERWINSKI

● Mr. DOMENICI. Mr. President, occasionally, those of us in public service are privileged enough to be remembered by a constituent whose loyalty goes beyond the boundaries of the voting booth at election time, and whose high regard for the efforts of his representatives leave the realm of the political and manifests itself in a more personal manner.

Recently, I received such a tribute by a newcomer to the State of New Mexico, Mr. Leopold Sobanski, in

honor of his Representative of many years, the Honorable EDWARD J. DERWINSKI of the Fourth Congressional District of Illinois, who, regrettably, will soon be leaving public office after many years of dedicated service.

Leopold Sobanski's salute to his former Congressman provides us with a model for the kind of excellence that all public servants should strive to achieve, and a welcome reminder that our efforts do not go unnoticed, nor is our job without the most heart warming of rewards.

Mr. President, I ask that Mr. Sobanski's tribute to Congressman DERWINSKI be printed in the RECORD for all of us to enjoy.

The tribute follows:

A SALUTE TO EDWARD J. DERWINSKI

Earnest was he in each action
Did his best to serve the land,
Warned against all foolish spending
A man trusted to the end.

Reaching out for good of nation
Dared he face his critics all,
Justice was idealism—

He obeyed its every call
Definite was he in opinion,
Ever kept an open mind,
Represented well his people

Placed his heart in task assigned.
Win or lose he cast his wisdom
In debate in Congress Hall
'Nd won trust of those around him,
Was admired by them all.

So his curtain now is lowered
King who wielded well his pen
Instrument he told his people
To use readily now and then.

Let us rise now, shout our tribute to Ed
Derwinski, Congressman.

JULY 29, 1982. ●

REGULATION OF PECANS

● Mr. HOLLINGS. Mr. President, I call attention to the very unwise action taking place at the U.S. Department of Agriculture regarding pecans. The Department has proposed regulations that greatly change how this crop is marketed. While the White House goes forward with efforts to limit Federal regulation and governmental involvement, I find it curious that the administration would press forward with an agricultural marketing order for pecans. The order would be a burden for small producers and shellers resulting in a price increase to consumers.

Mr. President, I ask that a cogent article by Mr. Edward H. Sims of the Editor's Copy Syndicate (Vol. 56, No. 32) be printed in the RECORD at the close of my remarks. Mr. Sims does an excellent job of presenting the case against the proposed pecan marketing order and I commend it to the Senate.

The article follows:

BLOCK AND PECANS

Most Americans may not know it but until recently pecans grew only in the U.S. southeast and southwest. They are a uniquely American nut and only in recent years have

the Israelis and others begun to grow pecans.

The best thing about the American pecan is that it's so tasty that every year for many years all nuts have been sold at high prices—without regulation, controls or supports from the federal government.

The pecan crop and industry, then, has been a model of the American free enterprise system. Growers could easily sell their nuts, at good prices; shellers could and did sell their shelled product at good prices.

This is exactly the kind of marketing system that best exemplifies the philosophy of Ronald Reagan and his administration. No controls, no regulation from Washington. Success and sellouts every year. (By contract, almonds and walnuts are subject to federal regulation; the government has storage warehouses full of both.)

Ironically, there is now an effort being made—by the Reagan Administration—to begin federal regulation of the pecan industry. Certain large growers, and others, believe they can make more money if the industry is regulated by a joint board in Washington. The consumer will, of course, pay if they make more money with higher prices.

A not very ingenious idea among growers is to tax shellers; in other words, to make them pay for the regulation program—which shellers don't want, naturally enough, to do.

When news of this regulatory attempt reached certain members of Congress they protested vigorously. But for some reason the move within the Department of Agriculture was so committed even warnings and protests from one or two top White House advisors, and key senators, went unheeded. Secretary of Agriculture John Block avoided telephone calls from protesting senators and congressmen until he had announced the effort would be continued with several department hearings.

Interestingly, the department had just finished asking for views from the industry; opposition to the idea of regulating the pecan industry ran over four to one against the new tax and control effort.

What, then, is behind this unReagan-like effort to increase the regulatory power of the federal government where not needed or justified? Who seeks control of the industry, a new tax and, almost certainly, higher prices to the consumer? ●

FISCAL YEAR 1982 DEFICIT AND OUTLAYS

● Mr. HOLLINGS. Mr. President, the Wednesday, August 4, edition of the Wall Street Journal carried an editorial entitled "Stealth in the Night." In it, the paper claimed the Congressional Budget Office's estimate of the fiscal year 1982 deficit is about \$140 billion and that fiscal year 1982 outlays are expected to run about \$30 billion over the OMB estimate of \$731 billion. Both these statements are false.

The Director of CBO, Dr. Alice Rivlin, testified before the Budget Committee on July 27. In her testimony, she stated that the fiscal year 1982 deficit would be in the range of \$109 to \$114 billion and that outlays were projected to be approximately \$734 billion.

Mr. President, I ask that a copy of a letter from Dr. Rivlin to the editor of the Wall Street Journal which points out the error be printed in the RECORD.

The letter follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 5, 1982.

Mr. ROBERT BARTLEY,
Editor, the Wall Street Journal,
Washington, D.C.

DEAR MR. BARTLEY: In your editorial "Stealth in the Night" of August 4, 1982, you erroneously reported that the Congressional Budget Office would soon release a revised estimate of the fiscal year 1982 deficit at around \$140 billion. You indicated that this estimate would be based on a \$30 billion increase in expenditures above the \$731 billion estimated by the Office of Management and Budget in its mid-session review. These numbers are totally inaccurate.

In fact, I already released CBO's updated estimates for 1982 in testimony before the Senate Budget Committee on July 27, 1982. This testimony was summarized in your own newspaper (page 3 of your July 28th edition). I stated that outlays for 1982 would be approximately \$734 billion, very close to the \$731 billion estimated by OMB. I estimated 1982 revenues at between \$620 and \$625 billion, leaving a total 1982 deficit of between \$109 and \$114 billion—again, this is similar to the OMB estimate of \$109 billion.

The CBO has no intention of issuing a re-estimate of the Fiscal Year 1982 deficit next week. Moreover, since Fiscal Year 1982 is nearly over, it would not be possible for the estimates to change by the amounts indicated in your editorial.

Sincerely,

ALICE M. RIVLIN,
Director.●

JUDGE GREENE'S OPINION ON THE SETTLEMENT OF THE UNITED STATES AGAINST A.T. & T. ANTITRUST SUIT

● Mr. HOLLINGS. Mr. President, yesterday Judge Greene issued a truly historical opinion on the settlement presented by the Department of Justice and A.T. & T. to resolve the current antitrust litigation. In this opinion, Judge Greene states that the Government had presented sufficient evidence of antitrust violations by A.T. & T. in numerous areas of the telecommunications business. Further, the judge found that the heart of the proposed settlement—the divestiture of the local operations of A.T. & T.—was in the public interest. This finding coincides directly with this Senator's consistently held view that only through such divestiture could we have a genuinely competitive telecommunications industry.

Judge Greene also found that the settlement proposed by the parties had certain deficiencies and ordered a series of important modifications that I believe are in the public interest and that must be agreed to if the settlement is to be accepted. First, the judge helped insure the financial viability of the local telephone operations by al-

lowing these companies to market terminal equipment, to keep publishing the "Yellow Pages," and to enter new fields upon a showing that such entry would not impede competition. He also made sure these local companies would have a favorable debt/equity ratio. Second, the judge found that because of first amendment concerns, A.T. & T. should be prevented from becoming an "electronic publisher" over its own transmission facilities for at least 7 years.

Finally, the judge will continue close oversight of the implementation of the settlement. All of these modifications are certainly beneficial to the health of our national telecommunications and information system.

I am particularly glad to see that Judge Greene will maintain his tight control over this case. The A.T. & T. antitrust case is of tremendous historical import. It has required great skill, persistence, judgment, and professionalism by all involved. But the person who has truly risen not only to but above the task has been Judge Greene. Yesterday's masterful opinion by the judge again shows how fortunate we all are to have him on the bench and to have him in charge of this case. The public has greatly benefited from his impressive work, and I congratulate him.●

S. 2828—OLDER AMERICANS HOUSING DEMONSTRATION ACT OF 1982

● Mr. DODD. Mr. President, yesterday I introduced S. 2828, the Older Americans Housing Demonstration Act of 1982, and explained why we desperately need such legislation. I ask that the text of this bill be printed in the RECORD.

The text follows:

S. 2828

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Older Americans' Housing Demonstration Act of 1982".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

- (1) older Americans face unique housing problems created by their often lower, fixed incomes and today's tight housing market;
- (2) many older Americans live in dwellings which have more space than they need, want, or can afford, and some wish to sell their large homes and move to smaller, more manageable units, but cannot;
- (3) other older Americans wish to remain living in their homes but find themselves "house rich" and "cash poor" and cannot unlock their home equity to help pay ever-spilling utility, tax, repair, and maintenance bills;
- (4) housing assistance programs now available do not address the special needs of these older Americans; and
- (5) programs should be designed and implemented so that those senior citizens who wish to remain in their homes can convert home equity into income through such means as deferring property taxes, and

those senior citizens who wish to sell their homes can buy or rent smaller units thereby making the large homes vacated available for younger, lower income families.

(b) It is the purpose of this Act to provide for a demonstration and evaluation of programs to meet the housing needs of older homeowners.

AUTHORIZATION OF DEMONSTRATION PROGRAM

SEC. 3. (a) The Secretary of Housing and Urban Development shall promptly initiate and carry out during the fiscal year beginning on October 1, 1982, a program for the development, demonstration, and evaluation of improved methods, concepts, and techniques which will assist older homeowners who (1) wish to sell their homes but are unable to purchase or rent a smaller unit without assistance, or (2) wish to stay in their homes but are unable to pay the utility, tax, repair, and maintenance costs.

(b) In selecting groups of homeowners and projects to receive assistance under this Act, the Secretary shall assure that a broad spectrum of senior citizens, localities, and project types is represented.

SCOPE OF DEMONSTRATION

SEC. 4. (a) The housing assistance methods, concepts, and techniques to be demonstrated under this Act shall include—

(1) in the case of older homeowners who wish to sell their houses, a demonstration of the advisability of (A) giving such homeowners priority under existing programs, and (B) revising regulations such as the asset test which may prevent such a priority from being given;

(2) a demonstration of the feasibility of implementing procedures to assure the availability of large homes which are vacated by older homeowners to nonelderly, lower income families receiving assistance under section 8 of the United States Housing Act of 1937; and

(3) a study and demonstration of ways for older homeowners who do not wish to relinquish residency to convert their home equity into income.

(b) In carrying out the provisions of this Act, the Secretary shall coordinate and jointly target resources with appropriate other agencies such as the Administration on Aging of the Department of Health and Human Services.

REPORTING REQUIREMENT

SEC. 5. (a) Not later than December 31, 1982, the Secretary shall transmit to the Congress proposed regulations to carry out the demonstration program authorized by this Act. The Secretary may not enter into any contracts or other obligations pursuant to this Act prior to the expiration of 30 days following the transmittal of the report required by this subsection.

(b) Not later than December 31, 1983, the Secretary shall transmit to the Congress a final report on the activities undertaken pursuant to this Act.

AUTHORIZATION

SEC. 6. Of the additional authority to enter into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 for the fiscal year beginning on October 1, 1982, the Secretary may utilize up to \$10 million, to the extent approved in an appropriation Act, in that fiscal year to carry out the older Americans housing demonstration program authorized by this Act.●

THE HIGH COST OF DEFENDING AMERICA: IS THE PRICE OUT OF LINE?

● Mr. GOLDWATER. Mr. President, inflation has been the overriding problem of our economy and it has been reflected not only in the increased costs of weaponry for our military, but also in the increased costs of just plain day-to-day living. For example, we can look at an aircraft like the F-15 Eagle fighter and we see that in a matter of 6 years it has increased 137 percent in price.

Now, if we look at our new Senate Office Building, we will see that it has gone up well over 200 percent. Likewise, the Rayburn House Office Building, finished some time ago, had a cost increase greater than that being experienced by our weapons system. A commercial aircraft, the Boeing 747, has increased 137 percent in the same time. The jeep, with which all of us are acquainted, has increased 69 percent.

Yet, at the same time, a man's two-piece suit has gone up 121 percent, a sirloin steak 152 percent, bread 187 percent, a four-bedroom house 200 percent; so as we level our guns in this period of excitement when we are debating an unheard of tax increase, a period in which we continue to be afraid of tackling the items in the budget that can really be effectively cut, let us not aim all of our shots at the armed services and our weapons, because their increases do not begin to compare with just the plain ordinary costs of daily living. I ask to have printed in the RECORD a very effective article on this by Deborah Meyer, appearing in the Armed Forces Journal of August 1982.

The article follows:

[From the Armed Forces Journal, August 1982]

THE HIGH COST OF DEFENDING AMERICA: IS THE PRICE OUT OF LINE? (By Deborah G. Meyer)

Cost overruns are not simply a 20th century curse. Governments have been plagued by them for as long as governments and government projects have existed. It's an easily explained phenomenon, but not easily corrected. Poor estimating procedures; unrealistic inflation rates; stretched out procurement schedules; labor disputes; technical problems; budget perturbations; and elaboration of original requirements are but a few of the many factors that can wreak havoc on the best price estimates offered by the most well-intentioned bureaucrats.

INFLATION: HARD TO DESCRIBE, EASY TO RECOGNIZE

There is no way to deny the fact that the cost of weapons systems has increased dramatically over the past five, 10, 15, years; a \$2,200 ¼-ton jeep in 1967 now costs well over \$12,000. A look at other standard weapons in the table on page 42 will show that costs of other basic military essentials have also risen substantially.

But skyrocketing prices have affected every facet of American life over the past decade, not just weapons systems. You don't

get change back from your dollar at McDonald's anymore. Most couples can't afford to buy a home while they're still young, and little Johnny down the street is going to have to save every penny of his dollar-a-week allowance for a couple of years before he can afford to buy his first bicycle.

Rapid rises in energy costs, food prices, new home and car prices, and exorbitant mortgage interest rates have had basically the same effect on consumer prices that other factors have had on defense items. A comparison of the Consumer Price Index (see accompanying table) for new homes, new cars, and other relevant consumer items shows that the same general cost growth trend existed over the past decade in both the civilian and military sectors.

Prices and increases shown in tables and graphs throughout this article to illustrate similarities in consumer and military cost growth are not, of course, directly comparable. Many of the variables that affect cost growth in a weapons system (learning curves, technological improvements, production rates, etc.) would not affect, say, the cost of a loaf of bread. It is not the intention of this article to purify the data for those kinds of differences. It should be noted, however, that a number of factors can also perturb consumer prices, i.e., a poor grain crop may send the price of that loaf of bread through the ceiling, while other food stuffs remain fairly stable.

The great nemesis of all cost estimates, inflation, probably more than any other factor over the past decade and half, is responsible for the great variations in price from original cost estimates. As one analyst points out to AFJ, "I wonder how well General Motors would do if they were asked to predict what a Cadillac would cost in 1992?" According to an April 13, 1982, GAO study—"Defense Budget Increases: How Well Are They Planned and Spent?"—the defense budget grew by \$72 million in current dollars from 1980 to 1982 (\$41.4 billion in FY82 dollars) and of that amount, \$30.6 billion—or nearly 43 percent—was directly attributable to inflation.

DoD's inflation figures are much higher than the national average during the same time period, and part of that is due to the types of materials (strategic metals, for example) that are needed to build many of the weapons systems.

A comparison of similar types of hardware sold commercially over the past five years, compared with some of the weapons programs identified by the Services in accordance with the Nunn Amendment requirements (cost growth of over 15 percent), illustrates that even in the highly competitive commercial market, prices have still risen significantly.

COMPARING THE COST GROWTH OF MILITARY VERSUS COMMERCIAL HARDWARE

(Dollars in millions)

	1977	1982	Percent change
Weapons systems:			
F-14 Tomcat fighter	\$18.9	35.7	89
F-15 Eagle fighter	12.9	30.6	137
A-10 Thunderbolt	5.8	11.5	98
SSN-688 submarine	319.6	671.5	110
Trident missile	20.2	12.5	-38
Commercial items:			
Boeing 747	35	83	137
Ship (containership)	75	110	47
Jeep (commercial)	4,599	7,765	69
Calculators (printing)	129	145	-65
Lawnmowers (riding)	775	1,100	42

¹ Dollars.

Sources: Military data from Merrill Lynch "Aerospace Defense 1982 Review." All other data obtained from private commercial sources.

DOD: CLOSELY WATCHED BY BIG BROTHER, BUT WHAT ABOUT EVERYONE ELSE?

When an Administration deems it necessary to make drastic cuts in social programs, the clamor of the perennial guns vs. butter debate is expected to get louder; when that Administration couples those cuts with increased defense spending the hue and cry is deafening.

As a result, the Department of Defense is now more closely scrutinized, in terms of how it spends this country's money, than any other Federal agency or department. Congress, while still a staunch supporter of a strong defense, feels a tremendous responsibility to the American public to ensure that what money does go into DoD's coffers is wisely spent.

That is not to say, of course, that DoD had a blank check from Administrations past and the blessings of Congress for whatever it wanted. In 1969, the Selected Acquisition Reporting (SAR) system was established, requiring the armed Services to provide quarterly updates on the progress of certain selected defense programs, including data on cost and performance. The SAR system became a legal requirement in 1976 under the DoD Authorization Act.

More recently, in an amendment to the FY82 Defense Authorization Bill, Sen. Sam Nunn (D-GA), in what has been hailed as one of the most important pieces of legislation in some time, introduced a requirement for the individual Services to report in addition to the SARs on any program under their purview that has increased in cost more than 15 percent in a given time period. When a particular system does exceed those cost levels, no additional funds may be obligated until the Service can justify the increase.

Although DoD and now NASA are required to report periodically to Congress on the status of selected major acquisitions, there is no standardized reporting system for any of the other Federal agencies or departments. Many show significantly higher cost overruns in their budget than does DoD, according to an April GAO report to Congress on the "Status of Major Acquisitions as of September 30, 1981: Better Reporting Essential to Cost Growth." Its data showed that 18% of the Federal government's 22 departments or agencies showed cost overruns greater than DoD's, in spite of the fact that most had fewer programs underway, and for the most part of much shorter duration. A comparison of randomly selected civilian programs which are fairly comparable in terms of length, shows that DoD actually fares better than average in terms of annual cost growth on a percentage basis.

Legislation has been proposed recently by Rep. Toby A. Roth (R-WI) to put the same onus of responsibility on all Federal agencies to report on selected programs in the same manner as DoD and NASA. Jack Borsting, Assistant Secretary of Defense Comptroller, has represented DoD at those hearings and, along with the GAO, supports the need for such a system.

A common example of how difficult it may be for the government to estimate the cost of any long-term project is the cost of government buildings. The Rayburn House Office Building for example, was originally budgeted for \$81-million; it ultimately cost taxpayers \$125-million. The Phillip A. Hart Building, now one year old, increased in cost

from \$47.9-million to \$137.7-million. Other examples are the Library of Congress' James Madison Building (from \$75.0-million to \$130.7-million) and the House of Representatives' Annex #2 (from \$15.0-million to \$25.5-million).

COST GROWTH COMPARISONS: MILITARY VERSUS NON-MILITARY GOVERNMENT PROGRAMS¹

[As of Sept. 30, 1981]

Program (year baseline estimate was made)	Agency/Department	Placement change from baseline estimate	Percent annual change (average)
Next generation radar (1981)	Commerce	104	104
Gas demonstration plant (1979)	Energy	72	36
Irrigation project (CO) (1967)	Interior	494	35
Distribution of terminals (social security) (1979)	Health and Human Services	88	44
Frangible approach light towers (1975)	Federal Aviation Administration	256	43
Space transportation systems (1972)	NASA	92	10
Sequoyah nuclear plant (1969)	Tennessee Valley Authority	514	43
Washington rapid transit (1969)	Washington Metro Transit Authority	225	19
Average		231	42
F-15 fighter aircraft (1970)	Defense	109	11
Pershing II missile (1978)	Defense	14	5
M-1 tank (1976)	Defense	293	59
MLRS rocket system (1979)	Defense	15	8
AH-1P (scout helicopter) (1980)	Defense	51	51
AV-8B Harrier (1979)	Defense	0	0
F-18 Hornet (1975)	Defense	220	37
Average		100	24

¹ Cost changes for military items are not based on cost estimates provided in original justifications for authorization appropriations from Congress. GAO says, but from estimates developed after the major portion of RDT & E had been accomplished.

² Editor's Note: Pershing II costs have increased 57 percent since GAO did this study.

Source: General Accounting Office's Report to the Congress, April 22, 1982, "Status of Major Acquisitions as of Sept. 30, 1981: Better Reporting Essential to Controlling Cost Growth."

HOW FEDERAL AGENCIES COMPARE IN ESTIMATING COSTS

[Projects with cost growth of more than 50 percent from baseline estimates]

Department or agency	Number of projects	Average cost growth in percent
Architect of Capitol	2	68
Appalachian Regional Commission	1	1,014
Corps of Engineers	130	51
Department of Commerce	8	53
Department of Defense	147	82
Department of Interior	33	152
NASA	14	54
Tennessee Valley Authority	10	264
Veterans Administration	12	74
Washington Metropolitan Area Transit Authority	2	220
Total	359	203

Source: General Accounting Office's Report to the Congress, Apr. 22, 1982, "Status of Major Acquisitions as of Sept. 30, 1981: Better Reporting Essential to Controlling Cost Growth."

ECONOMIC TROUBLES OVERSEAS

The U.S. of course, isn't the only place suffering from high prices. Continued inflation, low economic growth, and still rising unemployment have plagued Europe in much the same way, with similar effects on European prices. As a result, European weapons systems are no bargain. The British Ministry of Defense will not release figures on the unit cost of individual weapons systems to the press, and the French Embassy was unwilling to supply AFJ with those figures either. However, we were able

to obtain some comparable per unit figures on German systems. Comparing the costs of the German Leopard I and II with the US M-60 and M-1 tanks, US tanks may be a relative bargain. The Torando aircraft, roughly similar to an F-5E but configured with a swing wing, is also more expensive.

HOW WEAPONS COST HAVE INCREASED OVERSEAS:¹

[Costs per unit, in millions of dollars]

System	Cost at IOC	Cost today	Percent change
Leopard I (German)	\$0.6	\$1.3	116
Leopard II (German)	1.6	2.0	25
Torpedo (multi-national)	27.5	36.7	33

¹ Figures are approximate. Due to fluctuations in currency, inflation factors, pricing structure, etc., precise figures are not obtainable. Rate of exchange based on 2.45 deutsch marks. (Information obtained from German Liaison Office.)

VICTIM OF "HONEST" INFLATION FACTORS?

The Reagan Administration and the Pentagon fully realize that in a nation beset by economic woes, huge cost overruns in even the most important government programs are not acceptable. As a result, they are making every effort to ensure that poor management and unrealistic projections on the basis of low inflation rates are not the cause of increased costs in DOD. Much ado was made in February of the Administration's "honest" inflation factors (Mar AFJ) and how those factors will make per unit cost for weapons over the next several years seem much higher. Whether or not these more realistic numbers will make a difference in future weapons systems costs remains to be seen.

HOW INFLATION AFFECTS OUR LIVES: REMEMBER 1967?

Item	1967	1982	Percent change
Brooks Brothers 2-piece suit	\$145	\$320	121
Sirloin steak	1.14	2.87	152
Pepperidge Farm bread	.31	.89	187
4-bedroom house	39,000	120,000	208
Olds station wagon	4,807	11,849	149
Rolax men's watch	800	7,950	884
Machinegun	500	2,400	380
M-60 tank	198,000	1,200,000	506
1/4-ton jeep	2,218	12,549	466

Sources: Consumer prices from Forbes, Apr. 26, 1982. Military prices supplied by DOD.

● **Mr. SARBANES.** Mr. President, this year marks the 60th anniversary of the founding of the American Hellenic Educational & Progressive Association (AHEPA), an outstanding organization which for most of this century has provided a multitude of services to Greek Americans and has made many contributions to that great mosaic which is American pluralism.

Since 1922, when this organization was founded in Atlanta, Ga., its membership has grown to such an extent there are now AHEPA chapters throughout our Nation. AHEPA's membership continues to grow and includes a host of prominent Greek Americans and others, including many Members of the Congress of the United States.

The order of AHEPA, as its name indicates, was founded to assist Greek immigrants in adjusting to their new home and Nation. It has not, however, been limited to this effort. The nota-

ble achievements of AHEPA and its members over the past 60 years are ones in which we can all truly take pride. AHEPA has provided relief for victims of natural disasters both in this country and in Greece; built a dormitory for the residents of St. Basil's Academy in Garrison, N.Y.; promoted research and screening for Cooley's anemia; established an outstanding scholarship program which allows many young people to continue their education. In addition, AHEPA has undertaken many other projects to benefit Hellenic College and the Holy Cross Orthodox School of Theology, as well as the Greek Orthodox Church in this country as a whole.

Among AHEPA's main functions is the promotion of good citizenship, loyalty to this great Nation, and close and cordial relations between Greek Americans and Greece. AHEPA's have a special pride in both their country of origin, Greece, and their country of choice, the United States. Unquestionably AHEPA carries forward the enduring Greek principle of responsible participation in government and society.

The AHEPA family, which includes the auxiliary organizations of the Daughters of Penelope, Maids of Athena, and Sons of Pericles, has helped its members, their families, and friends to develop a keen sense of civic responsibility and patriotism, a love of family and church, and a devotion to democratic practices and ideals, all reflected in their concern for their fellow men and women and a dedication to a just society. AHEPA has expressed the finest precepts of Hellenism, formulated by the brilliant philosophers and lawgivers of ancient Greece, and vibrant today in the democratic ideals and institutions of the United States.

The AHEPA has succeeded in combining the best traditions of both the United States and Greece whose histories have been marked by a dedication to human justice and freedom. I know that my colleagues join me in wishing the Order of AHEPA continued success and good fortune in their efforts to carry on the finest traditions of both the Greek and American peoples. ●

THE MOREHOUSE SCHOOL OF MEDICINE

● **Mr. MATTINGLY.** Mr. President, I rise today to pay tribute to an institution in my State of Georgia and our capital city of Atlanta—Morehouse School of Medicine. Morehouse is the first predominantly black medical institution to be established in the United States in this century and one of only three in the Nation.

This school, which was established in 1975 with the mission of training

family-care physicians to serve inner city and rural areas of the country, observed a significant milestone on July 21 with the dedication of its \$6.5 million Basic Medical Sciences Building. This is the school's first permanent facility and was built with Federal and private funds.

The keynote speaker at the dedication ceremonies in Atlanta was the distinguished Vice President of the United States, the Honorable GEORGE BUSH.

My colleague, Senator NUNN, and I, being members of the Board of Trustees of Morehouse School of Medicine, had planned to be in Atlanta for the dedication. We were prevented from doing so at the last minute because of the Senate consideration of the tax bill on that date. I was particularly disappointed because I had been accorded the high honor of introducing the Vice President.

Mr. President, I take this opportunity to commend and congratulate those individuals and organizations who have worked tirelessly to bring this new medical school into being. I ask to have printed in the RECORD at this point the prepared remarks of the Vice President.

The material referred to follows:

REMARKS OF VICE PRESIDENT GEORGE BUSH

Thank you very much ladies and gentlemen. I am very pleased to be here today with many outstanding educators—wonderful men and women who have dedicated themselves to helping people from all walks of life, people of all colors and political persuasions and especially our nation's poor.

I feel most comfortable and at home here. Certainly, I don't feel like William Allen White did in 1928. White was attending a Democratic convention as a reporter. Senator James Reed was scheduled to open the proceedings. As he stood at the rostrum, Reed looked around and found there were no ministers present to open the proceedings with a prayer, but he did notice White, a Republican, seated in the press gallery. So he said, "Gentlemen, since there are no ministers present, I shall call on my good friend, William Allen White, to open the convention with prayer."

White, boiling mad, strode to the podium and said, "Ladies and gentlemen, you will have to excuse me. You see, I am a little out of my element, and the fact is, I prefer the Lord does not know that I am here."

Well, ladies and gentlemen, I feel very much in my element here, and I am very glad that the Lord does know I am here.

I not only want the Lord to know, but the American people to know how important it is that we have gathered to dedicate the New Basic Medical Science Building of Morehouse School of Medicine. It is difficult for me to express my admiration and appreciation to you who have devoted your lives to the advancement of medicine in order that all men and women may lead healthier, longer and more productive lives.

Morehouse School of Medicine is the first and only predominantly black medical school to be established in the United States in the 20th Century. This is not a particularly impressive record for our country, in fact it is a tragic record, considering the burdens of our needy in today's society. But

no one can deny that the faculty and students of Morehouse are deserving of our praise and warrant our continued support for what they have done to advance the health care of our most needy citizens.

I read in your brochure that the mission of the Morehouse School of Medicine is "to train more minority students as primary care physicians by preparing them to appreciate the health needs of underserved populations and to understand the role of primary care physicians in meeting those needs." It is a simple declaration of purpose. It is also one that, in its subtlety, underscores all you have done and all strive to do.

Today as we consider the problems of the present and the burdens of the future, it is glaringly apparent that additional schools of medicine, such as this great institution, are needed throughout the United States.

In 1985, Morehouse School of Medicine will award its first, four year, medical degree. In order to assist in this endeavor, President Reagan, last September 15th, reinforced his belief that Morehouse and other historically black colleges and universities must be treated uniquely.

In an Executive Order, the President mandated that the Secretary of Education supervise the development of a Federal program designed to achieve a significant increase in the participation by historically black colleges and universities in federally sponsored programs. "This program seeks to identify, reduce, and eliminate barriers which may have unfairly resulted in reduced participation, and reduced benefits from, federally sponsored programs." The President added that: "This program will also seek to involve private sector institutions in strengthening historically black colleges." On a personal note, it is a source of pride that I have been asked by the President to actively participate in the development of black colleges and universities—an endeavor in which I am deeply involved and deeply committed.

It is in this spirit that Morehouse School of Medicine will receive \$2.6 million from the Department of Education.

The President has also taken action to save Meharry Medical College in Nashville, Tennessee from closing. We are absolutely determined that this prestigious institution, founded more than 100 years ago, which has educated more than 40 percent of all black physicians in the United States, will survive and maintain its stature as one of the great schools of medicine in this country.

We in the Administration strongly share your opinion that our black colleges and universities are a national treasure. We are determined not only to see them survive, but to see them grow and to see them prosper. We hope you join with us in making schools such as Morehouse, Howard, Tuskegee and others shining examples not only for generations to come, but as inspirations to men and women of our generation—those who are dedicated to seeking excellence for our society.

I am hopeful that we together will also inspire state and local governments along with the private sector, to involve themselves more actively in the affairs of this and other great black institutions and in the goals that we seek.

All of us have a responsibility to carry out what de Tocqueville saw as the uniqueness of the American people—and that is the propensity of one American helping another. We are, in a vitally important way, doing precisely that through institutions such as Morehouse School of Medicine.

To the students of this and other institutions, we must, as Mary McLeod Bethune wrote, leave, "a responsibility to our young people." It was in her Last Will and Testament in which she said, "The world around us really belongs to youth for youth will take over its future management. Our brethren must never lose their zeal for building a better world. They must not be discouraged from aspiring toward greatness, for they are to be the leaders of tomorrow. Nor must they forget that the masses of our people are still underprivileged, ill-housed, impoverished and victimized by discrimination. We have a powerful potential in our youth and we must have the courage to change old ideas and practices so that we may direct the power toward good ends."

Those beautiful words do not mask, but underscore the difficult challenge that Mary McLeod Bethune left to us. But we must pursue this challenge in our daily lives if we are to make America the land of liberty, justice, equality and opportunity for coming generations.

It will be through education that new opportunities for our nation's less fortunate will be provided. It will be through education that justice is furthered and bigotry scorched from the consciousness of people and by which true equality no longer is a dream, but a reality.

The responsibility educators and educational institutions face is enormous. But the achievement of great goals and the pursuit of high ideals are at best difficult. Together we accept these responsibilities, these challenges. And, in the face of all the burdens that make us weary, we must remember the words of Cicero and be inspired and comforted by them: "Courage is that virtue which champions the cause of right."

Congratulations to Dr. Sullivan, the faculty and the students of Morehouse. This is a great day for all of you. It's an honor for me to be part of this ceremony which commences a new era for this great institution.●

SENIOR EMPLOYMENT PROGRAM FUNDING

● Mr. BAUCUS. Mr. President, I am very pleased that both the Senate and the House of Representatives have included \$210.6 million for the senior community services employment program (SCSEP) in the supplemental appropriations bill, H.R. 6863. This funding will allow the program to continue operation beyond September 30.

The Senate has repeatedly affirmed its support for this successful program, most recently by passing Senate Resolution 340. This resolution, introduced by the distinguished Democratic leader, expresses the sense of the Senate that no action should be taken to terminate or otherwise weaken this program, which is authorized under title V of the Older Americans Act.

Title V programs have proven to be productive and cost-effective all over the country. Older Americans have found useful and satisfying jobs that have helped keep them active, involved, and self-supporting.

Mr. President, I fail to understand why President Reagan has proposed to eliminate this program. Thousands of hardworking older Americans are able

to share their experience and skills with others in their communities through title V programs. If SCSEP were terminated, these low-income senior citizens would be forced to rely instead on increased public assistance, such as food stamps and welfare.

While I believe that we must reduce Federal spending to get the budget deficit down to acceptable levels, I think it is shortsighted to pick the best, most cost-effective programs to make spending cuts.

Mr. President, I continue to be impressed by the achievements of the Green Thumb program in Montana, which operates under SCSEP. I would like to share with my colleagues some reports and profiles from that program, and I ask that they be printed in the RECORD.

The material follows:

WORKER PROFILE

Richard "Dick" Klang is a worker who was selected to go to work as a bus driver for the Shelby Senior Center. During the course of his Green Thumb physical, the doctor discovered that he had an aneurism and would not okay him to go to work. Area Supervisor, Dale Munyon, talked to the doctor to see if Dick would ever be able to go to work; the doctor would not give details but did say that in his experience, complete recovery for someone Dick's age was somewhat unusual, but he didn't rule it out completely.

After the diagnosis of the aneurism, Dick spent about a month in a Great Falls hospital and was then transferred to Spokane for surgery. In about another month, he was released from the Spokane hospital and returned to the Shelby area to continue his recuperation. This is an instance where the physical required by Green Thumb probably saved this man's life as he had no idea he was in any danger.

The bus driving job was still open as the Center Director thought all along that Dick would recover and that he would be able to work for them. As it turned out, she was correct and he is driving for the Center. After Dick was released by his doctor to return to work, he started slowly and is now up to completing a day's work, regardless of the number of hours that might be required. Some of his assignments consist of driving to Great Falls and he handles the trip well.

When this project was first discussed with Center Director, Elsie Robbins, it was agreed that she would place Dick on their payroll after a 90 day period (which will be up shortly). This is one of our better Centers as far as hiring Green Thumb workers is concerned as they have hired one worker as a cook and were instrumental in the hiring of another Green Thumb worker for the Senior Center in Kevin, Montana.

Dick is a very active, young-looking 77 and is well thought of by the people he works for and with. He praises Green Thumb for the opportunity to get back into the flow of life. He had the idea that he was of little use to anyone until his involvement with Green Thumb showed him that he was still important to his community.

PROJECT PROFILE

When the Department of Natural Resources and Conservation (DNRC) Forestry Division, at Missoula, Montana asked for

Green Thumb help, we had no idea of the many projects the workers would be involved in. The Forestry Division has a field approximately 10 acres in size of Ponderosa pine seedlings. Green Thumb workers fertilize, hoe, weed and prepare seedlings for transplanting throughout Montana. They also cull and tie bundles of willow and cottonwood seedlings for transplantation to the countryside as windbreaks. The DNRC buys Fir, Spruce, Tamarack, Ponderosa, and Lodgepole cones; the workers then thresh, sort, and weigh the seeds and start new trees.

Buildings and nurseries on the ground needed repair for office and storage space. The workers have painted, paneled, repaired ceilings, roofs, and floors, hung doors, insulated, and installed storm windows. Elsewhere on the grounds, the workers have repaired fence, rototilled pathways, and built a bridge over a drain ditch.

One of the most important "crews" in the State of Montana are the Smokejumpers and the Missoula Fire Coordination Center is known throughout the Northwest for its excellence. Green Thumb workers painted the Smokejumpers' dormitories and caulked windows. They have repaired fire fighting equipment and built new storage compartments.

Regina Munroe, 61, is a seamstress performing valuable support work for the Fire Coordination Center. She repairs sleeping bags, patches tents, and sews canvas covers for axes, shovels, and canteens. Periodically, she makes huge canvas "cardholders" that are designed to show when a fire fighter goes out and returns from a fire. The card holder is hung on a tree at the campsite.

Other Green Thumb workers involved in the projects are Charles Hackman, 62, John Lizotte, 61, George Kulju, 67, and Jack Sharman, 65.

The supervisors of these projects have nothing but praise for all of the Green Thumb workers.

WORKER PROFILE

In the autumn of 1903 a baby girl was born to the Lester family near Poplar, Montana on the Fort Peck Indian Reservation. They named the tiny papoose, Sarah. She grew up in the country. Her father provided for his family by raising vegetables, poultry, horses and from an occasional job cutting hay. The rest of the time he spent trying to collect wood for the winter. Fortunately, Sarah was able to enter school at age 10. She attended the Presbyterian Mission school in Wolf Point from 1913 to 1921.

In 1922, Sarah married Theodore Taylor Crowe. Her husband worked for farmers in the spring and fall. They had eight children, 7 boys and 1 daughter. Since then four of her children have died but she has gained 13 grandchildren and 14 great-grandchildren.

From 1938 to 1940, Sarah worked for the WPA in a sewing room. She made Khaki pants and shirts and baby blankets. In July of 1946, Theodore died from a liver ailment. She was left to raise 5 children alone. Sarah went to work wherever she could find it. She picked up maid work, washed dishes, and did work as a kitchen helper.

As Sarah neared retirement age, she applied for Social Security but was told she couldn't draw it because she didn't have enough steady work to build up her account. She received Supplemental Security Income until she went to work for Green Thumb. Sarah has worked for Green Thumb since 1979. She will finally have

enough paid into Social Security by 1983 to qualify for her own benefits. Her only other income is a \$75 monthly Veterans benefit she receives because one son was killed in Korea.

Sarah has worked for the past three years teaching others Indian handicrafts. She now works in the Tribal Cultural Center at Poplar where she will represent Sioux history through artifacts made and displayed at the center.

PROJECT PROFILE

The rural community of Geyser, Montana is located just off Highway 200, halfway between Great Falls and Lewistown. Older folks in Geyser and from the nearby community of Raynesford gather weekly at the school for a pot-luck style dinner and business meeting. It was at such a gathering on April 19, 1982 that Toni Austad and Dale Munyon met with the group to show the Green Thumb film and talk about the program.

While there, Dale and Toni learned that the Seniors were building a center in Geyser; that materials were available but there were no funds to hire anyone to do the work that would complete the center. Within a few weeks, Dale had completed a project intake with center representatives and begun a search for eligible workers. Unfortunately, he ran into considerable difficulty as the people he interviewed from the area were all above Green Thumb income guidelines.

The problem was solved by transferring a Great Falls worker to Geyser. Henry Clinton, who had previously requested a transfer, moved his home (a converted school bus) right next to the center. Henry, age 58, will be joined by another Great Falls worker, Robert Braun, age 61, who will share living quarters and expenses.

To date, work on the center has consisted of installing energy-saving windows and doors. Electrical wiring has been strung and pipes for plumbing placed in position—actual hook-ups will be done by local professionals. The balance of work to be completed will be installing insulation, partitions, and trim for doors and windows. The interior will also be sheetrocked, taped, and painted. In addition, a solar panel, donated by a Geyser resident, will be installed.

Members of the center are pleased with the progress made so far. In fact, one resident will be hiring Henry after the project is completed to remodel a bunkhouse.

[From the Circle Banner, Apr. 22, 1982]

DISPATCHERS PROVIDED BY GREEN THUMB

When a Circle or McCone County citizen is in an emergency situation or otherwise urgently needs assistance, they immediately think of the telephone number, 485-3405, and who answers? Often it is one of two Green Thumb employees Verna Wilhelm or Frank Vejtas, who are dispatchers at the sheriff's office and relay messages that are called in. Actually they are the liaison between the private citizen and the police, sheriff and the ambulance and are trained to relay messages.

McCone County has been benefitting from these two people, who are provided by Green Thumb, Inc. Sponsored by the National Farmers Union, the program is funded under Title V of the Older Americans Act. They hire people 55 and over, with limited income to work in local communities. Green Thumb employees work about 20 hours a week and do needed services that

otherwise would not be affordable by local communities.

Wilhelm has been a dispatcher here for two years and says, "It's a challenge and really interesting." When first taking the job it made her a bit apprehensive. There is a squawking two-way radio, a special line to the hospital, the ambulance and the log book. Every call is written into the log book, recording the message and time for a reference.

"The job is important and there's satisfaction in it, when it's done right," Wilhelm said. She lives in Circle now after farming and ranching near here for many years with her late husband. Now that it's spring she spends more time on the farm to help her son with the calving.

Summing it all up, Vejtasas says, a dispatcher is the central point for emergency calls—any emergency, fire, police, crime calls. "We receive the calls, then contact the proper authorities," Vejtasas remarked. "We have direct contact with other towns in the area too, like Glendive, Wolf Point, Richey and Jordan. Every call is logged."

A Circle native, Vejtasas entered the Army Air Corps after high school. Following that he was in the photographic business for ten years in Salt Lake City. The next 20 years Vejtasas was in the construction business in Denver, building homes.

Retiring now in his home town, he finds the dispatcher's job both interesting and feels he is providing a valuable service.

So Wilhelm and Vejtasas are among 250 Montana Green Thumb workers who demonstrate the assets of hiring older people. Green Thumb has discovered that older workers are more reliable and miss work less time for all reasons than younger people.

Presently, with President Reagan's budget slashes, the Green Thumb rates precariously on the verge of being abolished in September, unless it is reinstated. For this area the contact person for Green Thumb is Byron Erickson. Employers or applicants may contact him at 1105 E. Montana, Livingston, MT 59047 or call 222-7879 for information.●

S. 2784—THE MAJOR LEAGUE SPORTS COMMUNITY PROTECTION ACT OF 1982

● Mr. QUAYLE. Mr. President, I have been visited of late by a veritable parade of corporate executives whose missions have been to inform me of the possibility or probability of a plant closing in one or another Indiana city. Fort Wayne, Ind., waits anxiously for International Harvester to make a decision on whether or not to maintain its operations in that city. The strain on the city's economic and emotional stability is tremendous.

Oakland, Calif., faces the same dilemma as the courts ponder the Raiders' contemplated move to Los Angeles. Oakland will be left with \$1.5 million in unfunded annual indebtedness for their stadium without a professional team. It is interesting to note that the Raiders were the third most profitable league team last year, but the recent California court ruling will eliminate any need for loyalty on the part of the Raiders' owners, or for that matter, any NFL owner, to the city that has made them so successful.

The Major League Sports Community Protection Act of 1982, S. 2784, offers a city a sense of security relative to the investment that it must make in any major league team. S. 2784 clarifies the intent of Congress that the antitrust laws not apply to league decisions disallowing teams from abandoning a profitable location for the purposes of enhanced revenues. It also provides a similar antitrust exemption for any plan for sharing revenues among league teams, so that teams in smaller communities can be assured of economic strength and stability.

Baseball has enjoyed an antitrust exemption since 1922. This bill would provide an element of consistency in congressional policy toward all major league sports. The exemption will serve the interests of the entire league and the participating communities. Equally important is the protection provided the local taxpayers who have a proprietary interest in the success of their local sports facility.

We must approach any antitrust exemption with extreme caution. Antitrust law is a mainstay of our free enterprise system. However, the Supreme Court itself has urged the Congress to address the unique problem presented by sports and antitrust. Current litigation involving the Oakland Raiders has produced a clear conflict between Federal and State law. The Congress can clarify this conflict through passage of this legislation. Hearings have been held on the issue of sports and antitrust on nine different occasions since 1951. It is clear to me that the issue continues to surface, but has yet to be resolved.

There are many cities around the country that are very anxious to have an NFL franchise. A major league sports team provides an economic boost to cities—a happy note in these difficult times. Indianapolis, Ind., is one of those cities that has an eye on an expansion team. I fear that the NFL's thoughts of expansion will be fleeting dreams in the absence of a narrower antitrust definition for league sports. I, and many of my colleagues, want our home States to have the opportunity to compete for expansion teams. Those of you who already have teams want to keep them.

As I watch the industry exodus to the South, I am frightened by the implications for the economic stability of our Nation. I see its impact on individual communities in Indiana every day. My sympathies are with Lionel Wilson, mayor of the city of Oakland, as are the sympathies of at least 27 mayors who have signed a resolution in support of this legislation. I feel the same sense of remorse as I watch the pursuit of individual gain at the expense of so many.

A team that is an asset to a community and a community that is an asset

to a team should stick together. This type of cooperative community spirit is the essence of all team sports—and the essence of this legislation. Mr. President, I ask unanimous consent that I be added as a cosponsor of S. 2784 and I urge my colleagues to support this important step toward the stabilization and overall enhancement of team sports in the United States.●

JOSEPH MATLUK—OLDEST MEMBER OF UKRAINIAN AMERICAN VETERANS

● Mr. SPECTER. Mr. President, I am pleased to congratulate Joseph Matluk, a resident of Pennsylvania, who will be celebrating his 87th birthday on August 22. This occasion will be used to honor Mr. Matluk as the oldest veteran member of the Ukrainian American Veterans.

Mr. Matluk was born on August 22, 1895, in Western Ukraine and emigrated to the United States at the age of 18. He enlisted in the U.S. Army in 1917 and was assigned to Company B, 306th Sanitary Unit Ambulance Field Hospital in Columbia, S.C. He served until 1918 and received an honorable discharge.

Mr. Matluk is distinguished not only as the oldest member of the UAV, but also as one of the founders of the organization. The Ukrainian American Veterans was founded in Philadelphia in 1948. The group is composed of men and women of Ukrainian descent who have served in the Armed Forces of the United States. Although the UAV was not organized until after World War II, its membership includes veterans from World War I, World War II, the Korean conflict, and the Vietnam era. Mr. Matluk continues to be active in the UAV at Post No. 4 in Philadelphia.

The United States owes a great debt to all our veterans, but it is particularly heartening to learn of immigrants who, having spent only a few short years in this country, willingly enlisted in our Armed Forces when we needed them. My father was one of these people who after arriving from Russia in 1911, fought in World War I as a member of the U.S. Army. I have always been proud of my father's act of patriotism and Mr. Matluk and his family can be justifiably proud of his role in World War I and in the founding of the Ukrainian American Veterans.●

S. 1095: JUST WHAT DOES IT DO?

● Mr. ABDNOR. Mr. President, I believe it has been most unfortunate that Senate floor action on S. 1095 has been stalled for more than a year. Much of this failure, I believe, can be traced to a variety of misunderstand-

ings over this bill—both its scope and its intent.

This is a sound bill, one that has received wide support. The Southern Governors' Association met earlier this year. During the course of that session, the Southern Governors' Association adopted a resolution supporting the approach that was reported by the Committee on Environment and Public Works in S. 1095.

To help my colleagues understand what S. 1095 does—and does not do—I ask that a copy of the Southern Governors' Association resolution, together with a copy of key portions of the report by the Committee on Environment and Public Works, be printed at the conclusion of my remarks in the RECORD.

The material that is printed in the RECORD does not include information on what is in title III of S. 1095. As my colleagues know, the Senate has passed S. 2494. That important legislation, authorizing a water resources research program, extracts language that is essentially identical to title III of S. 1095. S. 2494 does not replace language in title I, II, or IV of S. 1095.

Therefore, whenever S. 1095 is considered by the Senate, I intend to move to delete title III. The remaining portions of S. 1095 should be addressed by the Senate. I would hope the Senate will be able to move forward on this bill before this year is over.

The material follows:

SOUTHERN GOVERNORS' ASSOCIATION—WATER POLICY IN THE SOUTH

The continued availability of water for all uses is an issue of major concern to the state government leaders of the South; and while some areas of the South are enjoying economic development and population growth in excess of the national average, this growth brings with it far greater demands on finite water supplies.

As major energy facilities and energy production in general require large amounts of water, a severe water shortage could hinder domestic energy production and impede progress toward energy independence. A lack of water in the South has national implications since the Southern States comprise the energy-producing region of the country. If existing energy production capacity is threatened by the current water shortage, the potential for expanded energy production capacity eventually will become non-existent.

Despite substantial investment, use of much of the nation's water remains restricted due to contamination, and water problems have begun to loom as a possible threat to the traditional mobility of American population and economic activity. This has been caused, in part, by the relegation of water programs to the academic and technical realm, which has resulted in inattention at the executive level to the major policy issues raised by water problems. Critical state resource decisions therefore are made at the program management level.

Unless the Administration, Congress, the states, and interest groups unite behind a comprehensive national water resource management strategy, critical decisions on

national water supplies and quality more than likely will be made through confrontational politics, with the prospects of long-term solutions dim.

Water policy in the South must be developed in such a way as to recognize the need for some uniformity in the management approach taken by each state. The need to insure adequate supplies of water for each sector, including energy production, must be a cornerstone of regional water policy.

Congress is currently considering legislation for a National Water Resources Research and Planning Act, which would establish a five-member National Board for Water Policy to replace the Water Resources Council. A five-member state advisory board would also be established to issue policy recommendations to the national board. Development of a sound basis for analysis will help to ensure that the Southern Governors are properly represented on the state advisory board, if legislation is enacted, and that water policies equitable to the South are considered. In addition, during 1982, Congress will review and reauthorize the Clean Water Act. The Southern Region should develop and have available sound information to input to this process.

The Southern Governors' Association, through its Lead Governor for Energy and Environment, should develop specific positions on these issues and communicate those positions to the Congress, or other appropriate body, to ensure that the unique needs of the South are considered in the development of national water policy.

GENERAL STATEMENT—BACKGROUND

The Federal Government spends several billion dollars a year for the construction of traditional water resources projects—dams, levees, sewage treatment plants, and harbor channels. Much of this work is undertaken with little participation by the affected states, and without the incentive to utilize scientific advances, which might dramatically improve the effectiveness of the project, or lead to less costly and more efficient alternatives.

This bill seeks to consolidate several existing programs into a less costly, more competitive approach that stresses continued assistance to various state water resources planning and research programs, and improve coordination among Federal agencies.

In recent years, members of Congress, officials of the Administration, and other levels of government, and members of the public have expressed a need for greater attention to our national water resources program. As a focus for an effective national water policy, it was argued that a more independent organization was needed. Existing organizations, for a variety of reasons to be discussed later, proved ineffective.

At the same time, many argued that it was essential to encourage greater state participation in the development and administration of our water resources.

Despite these concerns, the Administration's budget proposes to rescind \$5,000,000 in fiscal year 1981 funds for the Water Resources Council (WRC) and \$11,800,000 for the Office of Water Research and Technology (OWRT), a branch of the Department of the Interior. The budget then recommended the abolition of both of these offices by not providing any fiscal year 1982 funds. The Water Resources Council is the only inter-agency group empowered to oversee a coordinated national water policy. The Office of Water Research and Technology, a combination of earlier programs, funds the 54

state water research institutes, as well as other important water research programs.

In place of the WRC, the budget document announced the creation of an Office of Water Policy within the Department of the Interior. As the vast majority of the dollars spent on water resources work is appropriated to departments other than Interior, there is concern that such a change would produce a lack of independence which would be detrimental to water resources. Further, there is concern over the cutoff of funds, especially for the state planning agencies, funded by WRC, and the state water research institutes, funded by OWRT.

While the amounts of money are modest in the overall perspective on the Federal budget, these funds are often critical to the effective operation of these state-oriented organizations.

The Committee voted, in its March 15 recommendation to the Budget Committee, to transfer \$40,000,000 from the Corps of Engineers construction general account to finance a reduced level of WRC and OWRT activity in fiscal year 1982.

Subsequently, the Subcommittee on Water Resources scheduled hearings to discuss these issues. Following those hearings, S. 1095 was introduced. The legislation was designed to address three issues: the need for a more independent organization to address issues relating to national water policy, the role of the Federal Government in assisting state and regional planning, and the need for a program of federally-assisted water research. This bill was amended and reported by the Subcommittee on Water Resources on May 8. It was further amended and ordered reported by the Committee on Environment and Public Works on May 13.

PREVIOUS LEGISLATION AND EXISTING PRACTICE

This bill is drafted as a substitute for the Water Resources Planning Act. That Act (Public Law 89-80) established the Water Resources Council (WRC), and charged it with the responsibility to develop standards by which water projects are designed and constructed, and to coordinate Federal water resources policy.

The WRC has never functioned effectively. Its large membership proved unwieldy. As one hearing witness noted, meetings were usually attended by assistants to assistants to assistants. The WRC could not act unless there was unanimity among its members. Finally, under the preceding Administration, the WRC was charged with the responsibility for undertaking independent project review. Whether independent project review was valuable or not, the WRC gradually grew less effective.

The Water Resources Planning Act also provides planning assistance to state water resources agencies (title III), and to river basin commissions (title II). In many States, these funds are a valuable supplement to state resources and are used effectively for planning activities.

This bill also repeals Public Law 95-467, which covered various aspects of the Federal water research program. Public Law 95-467, coordinating earlier Acts of Congress, provided money to the water research institutes, established at each land grant college. In addition, OWRT has provided grants on a competitive basis to individuals and organizations to study specific problems, and to construct demonstration desalination plants.

SPECIFIC PROVISIONS—TITLE I

The bill establishes a National Board for Water Policy. Members of the Board include four Cabinet-level officers, and a chairman appointed by the President, with the advice and consent of the Senate. The bill also creates a State Advisory Committee, to react to issues before the Board and bring additional matters to the attention of the Board. The Chairman of this State Committee will serve as a non-voting participant at all Board meetings.

The Board will have a broad mandate to address the water resources needs of this nation, and to encourage improved coordination among agencies.

The Board's establishment will in no way affect Congressional action this year on major water resources legislation. The Board, however, will be expected to undertake an assessment of the success of such changes in law later this year, as well as analyze future needs for further changes in law to meet more effectively our national goals.

It is important to note that this Board will provide advice not only to the President, but also to the Congress. While the Board is obviously an agency of the Executive Branch, the reporting requirement should enable the Congress and the Executive Branch to work together more effectively than before toward development of a sound water resources program for our nation.

This Title also establishes an Office of Water Programs which will administer the programs described in subsequent titles of this bill. The Office may also advise the Secretary of Interior on policy matters relating to the programs within the Department of the Interior.

TITLE II

With respect to State and regional planning and water resources research, this bill generally continues the existing Federal commitment, although at a reduced funding level, during fiscal year 1982 and fiscal year 1983, while evolving toward a more competitive approach beginning in fiscal year 1984.

In title II, the bill proposes a major change in the State planning assistance program, as it is now operated. Following a two-year transition period, the State water program grants will be come competitive. Not all States will automatically receive such grants. States may submit plans to the new Office of Water Programs for 50-50 financing of the State water program. The Office will examine these, then fund them selectively according to criteria it will develop. The Committee anticipates that probably half the States and river basin commissions will qualify under this competitive approach for Federal support.

The system of competitive State planning grants will not adversely affect the smaller States. In fact, it is intended that the program grants will be evaluated and administered by the new Office of Water Programs in a manner that assures equal access by large and small States, and provides regional equity.

The Office will be expected to reject a State application that simply seeks funding for the salaries of State personnel to continue past programs. Rather, the Federal assistance will be focused on those States developing or implementing a State-wide plan for the management of its waters, and on States that have an integrated quality-quantity approach to water problems. The basis, however, must be an overall program to better address the State's needs.

TITLE IV

The bill continues a Federal relationship with the river basin commissions, but in a manner that should make them more effective. Rather than perpetuate the present law that separately funds the River Basin Commissions, this bill places these commissions, together with the States, under one funding umbrella. Thus, the Office of Water Programs should be able to better assess the program needs for a state and its region.

The reasons the basin commission concept failed in the past, are numerous. The reasons are all grounded in the law, not the theory. The chairman was a Federal agent, and the commissions were often treated as simply another Federal agency, rather than a regional organization designed to benefit the State. The commissions were never expected to assess, in any realistic manner, the priorities for the basin. When a commission prepared a report, it went to the Water Resources Council, but was never used or submitted to Congress.

This bill seeks to overcome each of those problems, by reducing the Federal presence on each commission, directing certain new responsibilities on a commission's planning, and establishing a procedure for a submission of basin studies, and recommendations to the Congress. If the legislation as implemented fails to achieve these improvements, then the commissions cannot expect to be funded beginning in fiscal year 1984, when the competitive program grants begin. The river basin concept remains a sound one. It deserves two additional years to see if can be made to work under a stronger law.●

ORDER FOR RECESS UNTIL 10 A.M., AND PRIOR PROVISIONS ADVANCED 1 HOUR

Mr. BAKER. Mr. President, I indicated that the Senate would convene at 9 a.m., and I am advised now by the managers of the immigration bill that they wish to change that to 10 a.m.

I ask unanimous consent that the convening hour be changed to 10 a.m., and the other arrangements provided for earlier in the evening be advanced by 1 hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROPOSED INTRODUCTION OF CRIME BILL

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I send to the desk a bill and ask that it be read.

The PRESIDING OFFICER. Is there objection to the introduction of the bill?

Mr. BIDEN. Yes, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, an objection is heard to the introduction of the bill on this day which, of course, is the prerogative of any Senator.

May I inquire of the Chair, is it not true that on the next legislative day the Senator from South Carolina would have the absolute right to introduce the bill?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. I thank the Chair.

Mr. President, not now but after conferring with the minority leader, it will be the intention of the leadership to adjourn the Senate and create a new legislative day so that the Senator from South Carolina may introduce this bill as a matter of right.

Mr. President, does any other Senator now seek recognition?

Mr. President, will the Chair inquire if there is further morning business?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

RECESS UNTIL TOMORROW AT 10 A.M.

Mr. BAKER. Mr. President, I move that the Senate now stand in recess, pursuant to the order previously entered, until 10 a.m. tomorrow.

The motion was agreed to and, at 9:46 p.m., the Senate recessed until tomorrow, August 13, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate, August 12, 1982:

INTERNATIONAL COMMUNICATION AGENCY

W. Scott Thompson, of Massachusetts, to be an Associate Director of the International Communication Agency, vice Robert John Hughes.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Robert B. Hotz, of Maryland, to be a Member of the General Advisory Committee of the U.S. Arms Control and Disarmament Agency, vice Margaret Bush Wilson, resigned.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be general

Lt. Gen. Roscoe Robinson, Jr., xxx-xx-xxxx
xxx-... U.S. Army.

IN THE AIR FORCE

The following-named officers for promotion as a Reserve of the Air Force, under the appropriate provisions of chapter 35 and 837, title 10, United States Code.

LINE OF THE AIR FORCE

Major to lieutenant colonel

Adams, John S., Jr., xxx-xx-xxxx

Adams, John W., xxx-xx-xxxx

Alberti, Arthur R., xxx-xx-xxxx

Aldridge, Alfred G., Jr., xxx-xx-xxxx

Alexander, Robert N., xxx-xx-xxxx
 Allen, Edward B., Jr., xxx-xx-xxxx
 Anderson, Wesley R., xxx-xx-xxxx
 Andreoni, Alan J., xxx-xx-xxxx
 Andres, John C., xxx-xx-xxxx
 Arthur, Hayward B., xxx-xx-xxxx
 Ayotte, Jean G., xxx-xx-xxxx
 Bach, Lloyd C., xxx-xx-xxxx
 Baldwin, Donald A., xxx-xx-xxxx
 Ballard, Almon B., xxx-xx-xxxx
 Ballister, Joseph C., xxx-xx-xxxx
 Barfield, James E., xxx-xx-xxxx
 Barfield, James E., Jr., xxx-xx-xxxx
 Barrow, Robert R., xxx-xx-xxxx
 Bartoski, Joseph N., xxx-xx-xxxx
 Bates, Thomas M., xxx-xx-xxxx
 Bauer, Raymond M., xxx-xx-xxxx
 Beck, Paul H., xxx-xx-xxxx
 Becksted, Dennis P., xxx-xx-xxxx
 Besecker, Raymond F., xxx-xx-xxxx
 Bevers, Charles R., xxx-xx-xxxx
 Biegalski, Conrad S., xxx-xx-xxxx
 Biehunko, Robert L., xxx-xx-xxxx
 Bihler, Richard P., xxx-xx-xxxx
 Birkenstock, Jesse, xxx-xx-xxxx
 Bitonti, David F., xxx-xx-xxxx
 Bjork, Herum P., xxx-xx-xxxx
 Blackburn, Ronald B., xxx-xx-xxxx
 Bloomgren, Edwin L., xxx-xx-xxxx
 Bodnar, James J., xxx-xx-xxxx
 Bogy, Peter E., xxx-xx-xxxx
 Borandi, Bernard A., xxx-xx-xxxx
 Bourque, Paul F., xxx-xx-xxxx
 Bowers, Ellis M., xxx-xx-xxxx
 Bowman, Richard L., xxx-xx-xxxx
 Bowman, Robert C., xxx-xx-xxxx
 Brant, Roger F., xxx-xx-xxxx
 Brickey, Robert E., xxx-xx-xxxx
 Brown, Sudro, xxx-xx-xxxx
 Bruce, Alan H., xxx-xx-xxxx
 Burgner, Gary A., xxx-xx-xxxx
 Burkhead, Hubert W., xxx-xx-xxxx
 Burry, Lyle W. Jr., xxx-xx-xxxx
 Bush, William J., II, xxx-xx-xxxx
 Busse, Roger H., xxx-xx-xxxx
 Bynes, Robert H., xxx-xx-xxxx
 Caffery, John M., III, xxx-xx-xxxx
 Callaway, Patrick W., xxx-xx-xxxx
 Campbell, Alan D., xxx-xx-xxxx
 Canfield, Robert W., Jr., xxx-xx-xxxx
 Cantrell, James E., xxx-xx-xxxx
 Carle, Edward R., xxx-xx-xxxx
 Carpenter, Myron B., Jr., xxx-xx-xxxx
 Carroll, Edward G., Jr., xxx-xx-xxxx
 Carter, Charles R., xxx-xx-xxxx
 Casey, William J., xxx-xx-xxxx
 Cernohous, Arthur B., Jr., xxx-xx-xxxx
 Cetola, Robert T., xxx-xx-xxxx
 Chancellor, James J., xxx-xx-xxxx
 Christo, Thomas A., xxx-xx-xxxx
 Clark, John W., xxx-xx-xxxx
 Clark, Kirk B., xxx-xx-xxxx
 Claunch, Jon E., xxx-xx-xxxx
 Clemons, Charles A., xxx-xx-xxxx
 Clifford, George B., xxx-xx-xxxx
 Cloud, Charles M., xxx-xx-xxxx
 Cly, Robert P., xxx-xx-xxxx
 Coakley, Roger L., xxx-xx-xxxx
 Cobb, Lawrence D., II, xxx-xx-xxxx
 Coffey, Earle E., xxx-xx-xxxx
 Cole, Clifford A., xxx-xx-xxxx
 Cole, Leon R., xxx-xx-xxxx
 Colwell, David L., xxx-xx-xxxx
 Cone, Kenneth B., xxx-xx-xxxx
 Conklin, Howard L., xxx-xx-xxxx
 Cook, Raymond A., xxx-xx-xxxx
 Cooper, Earl J., xxx-xx-xxxx
 Coppin, Edward C., xxx-xx-xxxx
 Coronado, Jose, xxx-xx-xxxx
 Cory, David B., xxx-xx-xxxx
 Cory, James R., xxx-xx-xxxx
 Cotton, Ralph A., xxx-xx-xxxx
 Courtney, Henry T., xxx-xx-xxxx
 Craige, Fitzgerald F., xxx-xx-xxxx

Crawford, Timothy S., xxx-xx-xxxx
 Crews, Donald A., xxx-xx-xxxx
 Csady, John M., xxx-xx-xxxx
 Cummings, Robert W., xxx-xx-xxxx
 Czech, Felix, xxx-xx-xxxx
 Dagley, Larry K., xxx-xx-xxxx
 Dahl, Martin J., xxx-xx-xxxx
 Daigneau, John R., xxx-xx-xxxx
 Dake, Terrence L., xxx-xx-xxxx
 Dandridge, Robert E., xxx-xx-xxxx
 Daniels, Ralph F., xxx-xx-xxxx
 Davis, Charles E., xxx-xx-xxxx
 Davis, Winston R., xxx-xx-xxxx
 Davison, Edwin G., JR., xxx-xx-xxxx
 Debenedictis, Pasquale B., xxx-xx-xxxx
 Dee, William, xxx-xx-xxxx
 Denkinger, Marc G., xxx-xx-xxxx
 Dibeler, Vernon H., II, xxx-xx-xxxx
 Dix, Thomas J., xxx-xx-xxxx
 Docekal, Charles E., xxx-xx-xxxx
 Dorough, Robert E., JR., xxx-xx-xxxx
 Dougherty, Terry E., xxx-xx-xxxx
 Driggs, James D., xxx-xx-xxxx
 Duckworth, Kenneth J., xxx-xx-xxxx
 Dudek, Albert G., xxx-xx-xxxx
 Dugar, James V., xxx-xx-xxxx
 Eaton, Dallas G., xxx-xx-xxxx
 Ehrenberger, Edward D., xxx-xx-xxxx
 Emmons, Edwin L., xxx-xx-xxxx
 Evans, Charles E., xxx-xx-xxxx
 Eyster, David R., xxx-xx-xxxx
 Facey Edward A., III, xxx-xx-xxxx
 Fadel, Chaker J., xxx-xx-xxxx
 Fagin, Vincent B., Jr., xxx-xx-xxxx
 Feindt, Theodore H., xxx-xx-xxxx
 Fellin, John N., xxx-xx-xxxx
 Ferguson, William G., xxx-xx-xxxx
 Ferrell, Charles W., xxx-xx-xxxx
 Finkleman, David, xxx-xx-xxxx
 Fitzgibbons, Thomas B., xxx-xx-xxxx
 Foster, Carl H., Jr., xxx-xx-xxxx
 Foster, Walter N., Jr., xxx-xx-xxxx
 Fox, Leo H., xxx-xx-xxxx
 Francis, Ralph L., xxx-xx-xxxx
 Funk, Charles R., III, xxx-xx-xxxx
 Fuos, Alton C., xxx-xx-xxxx
 Gaither, Henry M., III, xxx-xx-xxxx
 Galloway, Terrence L., xxx-xx-xxxx
 Gardner, Benjamin A., Jr., xxx-xx-xxxx
 Garten, John W., xxx-xx-xxxx
 Garver, Edward G., Jr., xxx-xx-xxxx
 Gassner, John F., xxx-xx-xxxx
 Gaston, Thomas D., xxx-xx-xxxx
 Gately, Joseph M., xxx-xx-xxxx
 Gehres, Loran L., xxx-xx-xxxx
 Gentile, John L., xxx-xx-xxxx
 George, David I., xxx-xx-xxxx
 Gibbons, Paul, xxx-xx-xxxx
 Giermanski, James R., xxx-xx-xxxx
 Gilbert James A., xxx-xx-xxxx
 Gillson, Arthur W., xxx-xx-xxxx
 Glynn, Michael O., xxx-xx-xxxx
 Goddard, Welsey H., xxx-xx-xxxx
 Governor, Richard P., xxx-xx-xxxx
 Gowdy, Thomas H., xxx-xx-xxxx
 Green, Peter M., xxx-xx-xxxx
 Greenman, John A., xxx-xx-xxxx
 Grove, David A., xxx-xx-xxxx
 Grove, James B., II, xxx-xx-xxxx
 Guenther, Frank J., xxx-xx-xxxx
 Guerin, Frank J., Jr., xxx-xx-xxxx
 Guidry, Robert J., xxx-xx-xxxx
 Gutermuth, William E., xxx-xx-xxxx
 Hagstrom, George T., xxx-xx-xxxx
 Haith, Paul R., xxx-xx-xxxx
 Hall, David M., xxx-xx-xxxx
 Hamilton, John J., Jr., xxx-xx-xxxx
 Hammock, Paul G., xxx-xx-xxxx
 Hamner, Reginald T., xxx-xx-xxxx
 Handy, James H., xxx-xx-xxxx
 Hannan, Jon E., xxx-xx-xxxx
 Harris, James A., Jr., xxx-xx-xxxx
 Hartke, Edwin J., xxx-xx-xxxx
 Hartmann, John R., xxx-xx-xxxx

Hartnagel, Richard L., xxx-xx-xxxx
 Haruguchi, James S., xxx-xx-xxxx
 Haverstock, Laban C., xxx-xx-xxxx
 Hayes, Norman L., xxx-xx-xxxx
 Healy, Timothy W., xxx-xx-xxxx
 Heim, Donald C., xxx-xx-xxxx
 Heiney, Otto K., xxx-xx-xxxx
 Heisz, Jimmy L., xxx-xx-xxxx
 Heller, George H., xxx-xx-xxxx
 Hendrickson, Alven M., xxx-xx-xxxx
 Henshaw, Robert A., xxx-xx-xxxx
 Hepburn, Philip R., Jr., xxx-xx-xxxx
 Heslin, John H., xxx-xx-xxxx
 Hickman, David B., xxx-xx-xxxx
 Hoffer, Leland H., xxx-xx-xxxx
 Hogan, Danny A., xxx-xx-xxxx
 Holliday, Jimmy C., xxx-xx-xxxx
 Hollingshead, Craig A., xxx-xx-xxxx
 Holloway, Jay, xxx-xx-xxxx
 Holmes, Edward T., xxx-xx-xxxx
 Hone, Stephen A., xxx-xx-xxxx
 Horihan, Charles R., xxx-xx-xxxx
 Horton, Burrell M., xxx-xx-xxxx
 Horton, Donald R., xxx-xx-xxxx
 Hottle, Warren P., xxx-xx-xxxx
 Houston, John L., xxx-xx-xxxx
 Huberman, Robert K., xxx-xx-xxxx
 Hudack, Larry J., xxx-xx-xxxx
 Hunter, Ronald A., xxx-xx-xxxx
 Hunter, Sammie R., xxx-xx-xxxx
 Hurst, Wendell L., xxx-xx-xxxx
 Isackson, Richard J., xxx-xx-xxxx
 Jack, Tharon L., xxx-xx-xxxx
 Jackson, Hugh M., xxx-xx-xxxx
 Jacob, William A., III, xxx-xx-xxxx
 Jenkins, Carlton, xxx-xx-xxxx
 Johnson, David T., xxx-xx-xxxx
 Johnson, Marion H., xxx-xx-xxxx
 Johnson, Robert E., xxx-xx-xxxx
 Joslin, Charles S., Jr., xxx-xx-xxxx
 Jourdan, Ronald N., xxx-xx-xxxx
 Jurko, Robert C., xxx-xx-xxxx
 Kaim, Edmund R., xxx-xx-xxxx
 Keller, Peter A., xxx-xx-xxxx
 Kelsay, William F., xxx-xx-xxxx
 Kerkman, Dennis J., xxx-xx-xxxx
 Kessler, Thomas M., xxx-xx-xxxx
 Kiehle, James H., xxx-xx-xxxx
 Kingman, Richard E., xxx-xx-xxxx
 Kirkpatrick, Edward E., xxx-xx-xxxx
 Kish, Stephen J., Jr., xxx-xx-xxxx
 Kitow, Edwin K., xxx-xx-xxxx
 Kitto, Albert R., xxx-xx-xxxx
 Klobucar, Frank E., xxx-xx-xxxx
 Klotzkin, Kenneth C., xxx-xx-xxxx
 Knox, Paul D., xxx-xx-xxxx
 Kohout, William R., xxx-xx-xxxx
 Kollar, Joseph J., xxx-xx-xxxx
 Kramer, Ross E., xxx-xx-xxxx
 Kramer, Terrence L., xxx-xx-xxxx
 Kulwicki, Joseph F., III, xxx-xx-xxxx
 Kurtz, Hugo E., xxx-xx-xxxx
 Landreth, Jay H., xxx-xx-xxxx
 Laroche, Andre L., xxx-xx-xxxx
 Laugen, Elwood N., xxx-xx-xxxx
 Leach, Maurice R., xxx-xx-xxxx
 Lemaster, David R., xxx-xx-xxxx
 Lester, John R., xxx-xx-xxxx
 Levanduski, Robert J., xxx-xx-xxxx
 Lewis, Thomas E., Jr., xxx-xx-xxxx
 Lightsey, Leon G., xxx-xx-xxxx
 Lindenfelser, Kenneth H., xxx-xx-xxxx
 Loan, Charles J., Jr., xxx-xx-xxxx
 Lucas, James H., xxx-xx-xxxx
 Lunquist, William J., xxx-xx-xxxx
 Lusk, Kermit R., xxx-xx-xxxx
 Lutz, Dale M., xxx-xx-xxxx
 Luzzatto, Ernesto V., xxx-xx-xxxx
 Macner, Francis J., Jr., xxx-xx-xxxx
 Mages, James G., xxx-xx-xxxx
 Maher, James P., xxx-xx-xxxx
 Malbasa, Joseph, xxx-xx-xxxx
 Malone, Robert H., III, xxx-xx-xxxx
 Marker, Richard L., xxx-xx-xxxx

Markstaller, Gary E., xxx-xx-xxxx
 Martin, Gerald W., xxx-xx-xxxx
 Mason, Earl S., xxx-xx-xxxx
 Mason, Larry B., xxx-xx-xxxx
 Mate, Joseph J., xxx-xx-xxxx
 Matheson, Lorne D., xxx-xx-xxxx
 Matney, Bascom B., xxx-xx-xxxx
 Matthews, John W., xxx-xx-xxxx
 Maxton, Gary L., xxx-xx-xxxx
 McCarthy, John T., xxx-xx-xxxx
 McCormick, James M., xxx-xx-xxxx
 McDonald, Clinton R., xxx-xx-xxxx
 McHugh, Robert, xxx-xx-xxxx
 McKelvey, James A., xxx-xx-xxxx
 McLester, Judson C., III, xxx-xx-xxxx
 McMillan, Robert J., xxx-xx-xxxx
 Mesh, Richard I., xxx-xx-xxxx
 Messerian, Lazarus A., xxx-xx-xxxx
 Meyer, John P., xxx-xx-xxxx
 Miles, Richard P., xxx-xx-xxxx
 Miley, Robert T., xxx-xx-xxxx
 Miller, George P., xxx-xx-xxxx
 Miller, John C., xxx-xx-xxxx
 Miller, John M., xxx-xx-xxxx
 Miller, Larry L., xxx-xx-xxxx
 Minerman, Charles M., xxx-xx-xxxx
 Misek, David W., xxx-xx-xxxx
 Mishev, Boyan N., xxx-xx-xxxx
 Modders, John N., xxx-xx-xxxx
 Moore, Dale E., xxx-xx-xxxx
 Moore, Donald B., xxx-xx-xxxx
 Moore, Harry E., Jr., xxx-xx-xxxx
 Moore, Robert H., xxx-xx-xxxx
 Morley, Edward C., xxx-xx-xxxx
 Morse, James L., xxx-xx-xxxx
 Mosher, Alan L., xxx-xx-xxxx
 Mullen, David E., xxx-xx-xxxx
 Mullis, James M., Jr., xxx-xx-xxxx
 Mummert, George W., xxx-xx-xxxx
 Murphy, Edward M., xxx-xx-xxxx
 Murr, James C., xxx-xx-xxxx
 Nelson, Charles H., xxx-xx-xxxx
 Nelson, Donald E., xxx-xx-xxxx
 Nelson, Gerald W., xxx-xx-xxxx
 Nelson, Jerald D., xxx-xx-xxxx
 Nelson, Roger A., xxx-xx-xxxx
 Neville, Frank H., xxx-xx-xxxx
 Newnam, Albert H., xxx-xx-xxxx
 Nicholson, Hollis W., xxx-xx-xxxx
 Nielsen, Reese R., xxx-xx-xxxx
 Niland, Joseph F., xxx-xx-xxxx
 Nishina, Vincent H., xxx-xx-xxxx
 Nolan, Richard J., xxx-xx-xxxx
 Noonan, Michael W., xxx-xx-xxxx
 Nordstrom, Thomas R., xxx-xx-xxxx
 Norris, Terry D., xxx-xx-xxxx
 Oakman, Walter H., xxx-xx-xxxx
 Oates, Ralph H., xxx-xx-xxxx
 O'benland, Carl T., xxx-xx-xxxx
 O'Connell, Dennis F., xxx-xx-xxxx
 Olsen, Douglas O., xxx-xx-xxxx
 Oltorik, Thomas F., xxx-xx-xxxx
 Oyler, Thomas O., Jr., xxx-xx-xxxx
 Palitto, Robert V., xxx-xx-xxxx
 Parsons, Vernon H., xxx-xx-xxxx
 Patrick, Herbert L., III, xxx-xx-xxxx
 Patterson, James A., xxx-xx-xxxx
 Pearce, Harry T., xxx-xx-xxxx
 Pearlman, Joseph, xxx-xx-xxxx
 Peters, Michael J., xxx-xx-xxxx
 Pfalzgraf, John R., xxx-xx-xxxx
 Pfohl, Donald E., xxx-xx-xxxx
 Pierce, James E., xxx-xx-xxxx
 Pierson, David E., xxx-xx-xxxx
 Piwnica, John S., Jr., xxx-xx-xxxx
 Poche, Stephen S., xxx-xx-xxxx
 Poe, Thomas W., Jr., xxx-xx-xxxx
 Potochick, Michael R., xxx-xx-xxxx
 Powell, Thomas S., Jr., xxx-xx-xxxx
 Pressey, Michael L., xxx-xx-xxxx
 Pritchard, Clyde B., xxx-xx-xxxx
 Puckett, Benjamin C., Jr., xxx-xx-xxxx
 Putlock, Robert J., xxx-xx-xxxx
 Quamme, Harlan J., xxx-xx-xxxx

Quarnaccio, Michael J., xxx-xx-xxxx
 Quinn, William J., xxx-xx-xxxx
 Quon, Chu E., xxx-xx-xxxx
 Ramsell, Richard B., xxx-xx-xxxx
 Rand, William C., xxx-xx-xxxx
 Ranslam, Michael E., xxx-xx-xxxx
 Rauch, Francis A., Jr., xxx-xx-xxxx
 Rausch, Raymond J., xxx-xx-xxxx
 Reiling, Keith T., xxx-xx-xxxx
 Reilly, Edward A., Jr., xxx-xx-xxxx
 Reimers, James P., xxx-xx-xxxx
 Rennick, Alan L., xxx-xx-xxxx
 Rennie, David T., xxx-xx-xxxx
 Reynolds, Randolph S., xxx-xx-xxxx
 Rick, Robert S., xxx-xx-xxxx
 Rickman, William T., xxx-xx-xxxx
 Riddell, Gordon A., xxx-xx-xxxx
 Riessen, Herbert P., xxx-xx-xxxx
 Riffey, Douglas G., Jr., xxx-xx-xxxx
 Roberts, Julian C., xxx-xx-xxxx
 Robinson, Curran A., xxx-xx-xxxx
 Robinson, Freddie G., xxx-xx-xxxx
 Rollins, Ashton, II, xxx-xx-xxxx
 Rosborough, Donald L., xxx-xx-xxxx
 Rothman, Frederick P., xxx-xx-xxxx
 Rotker, Kenneth I., xxx-xx-xxxx
 Rowe, William J., III, xxx-xx-xxxx
 Rucker, Jack L., xxx-xx-xxxx
 Ruehl, Terrence E., xxx-xx-xxxx
 Ryan, Larry G., xxx-xx-xxxx
 Saban, William D., xxx-xx-xxxx
 Salmans, Larry D., xxx-xx-xxxx
 Sanders, Richard D., xxx-xx-xxxx
 Schadle, Clark W., xxx-xx-xxxx
 Schaefer, Gene E., xxx-xx-xxxx
 Schellhase, Milton G., xxx-xx-xxxx
 Schimmel, Charles, Jr., xxx-xx-xxxx
 Schlag, Alfred L., xxx-xx-xxxx
 Schorr, Robert W., xxx-xx-xxxx
 Schredl, Michael G., xxx-xx-xxxx
 Scott, Richard W., xxx-xx-xxxx
 Scott, Robert W., xxx-xx-xxxx
 Search, David E., xxx-xx-xxxx
 Seibold, Ronald R., xxx-xx-xxxx
 Seidt, Richard J., xxx-xx-xxxx
 Shanks, Theodore E., xxx-xx-xxxx
 Sharp, Allen, xxx-xx-xxxx
 Shawl, Robert M., xxx-xx-xxxx
 Shivers, Walter W., xxx-xx-xxxx
 Shoff, Firman E., xxx-xx-xxxx
 Skartvedt, David A., xxx-xx-xxxx
 Skinner, Robert R., xxx-xx-xxxx
 Smaldone, Gerard A., xxx-xx-xxxx
 Smith, Howard O., xxx-xx-xxxx
 Smith, John H., xxx-xx-xxxx
 Smith, William W., Jr., xxx-xx-xxxx
 Smittle, Nelson D., xxx-xx-xxxx
 Smullen, Robert A., xxx-xx-xxxx
 Soistman, Edward C., Jr., xxx-xx-xxxx
 Spencer, Clifford M., Jr., xxx-xx-xxxx
 Stabenow, Karl R., xxx-xx-xxxx
 Stanley, David J., xxx-xx-xxxx
 Statzer, Charles E., Jr., xxx-xx-xxxx
 Steinbrink, Loren G., xxx-xx-xxxx
 Stephens, Robert B., xxx-xx-xxxx
 Sternick, Michael A., xxx-xx-xxxx
 Stewart, Jerry R., xxx-xx-xxxx
 Stief, Mahlon H., xxx-xx-xxxx
 Storgaard, Richard D., xxx-xx-xxxx
 Straber, Richard A., xxx-xx-xxxx
 Sule, Robert J., xxx-xx-xxxx
 Swansiger, William A., xxx-xx-xxxx
 Sweet, Charles R., xxx-xx-xxxx
 Taylor, James R., xxx-xx-xxxx
 Tharrington, John C., xxx-xx-xxxx
 Thieme, Alfred, Jr., xxx-xx-xxxx
 Thomas, Joseph M., xxx-xx-xxxx
 Thomas, Robert P., xxx-xx-xxxx
 Thompson, Lane A., xxx-xx-xxxx
 Thompson, Russell D., xxx-xx-xxxx
 Thompson, William J., xxx-xx-xxxx
 Thune, George O., xxx-xx-xxxx
 Tierney, John P., xxx-xx-xxxx
 Treadaway, Robert E., xxx-xx-xxxx

Truax, John E., xxx-xx-xxxx
 Turner, Pierce D., xxx-xx-xxxx
 Valentine, Jon N., xxx-xx-xxxx
 Van Doren, Emerson B., xxx-xx-xxxx
 Vandendriessche, Dean, xxx-xx-xxxx
 Ventura, Joe E., xxx-xx-xxxx
 Vinup, Glen W., xxx-xx-xxxx
 Wagner, Albert M., xxx-xx-xxxx
 Walker, Robert W., xxx-xx-xxxx
 Ware, Billy I., xxx-xx-xxxx
 Weber, David C., xxx-xx-xxxx
 Werne, Thomas, xxx-xx-xxxx
 Werner, Arthur D., xxx-xx-xxxx
 West, Lyle H., xxx-xx-xxxx
 Weyler, Kenneth L., xxx-xx-xxxx
 Whaley, Wallace W., xxx-xx-xxxx
 Whiddon, Edward H., xxx-xx-xxxx
 White, Edward R., III, xxx-xx-xxxx
 White, Henry J., Jr., xxx-xx-xxxx
 Whitman, Horace T., II, xxx-xx-xxxx
 Wiese, Richard R., xxx-xx-xxxx
 Williams, Leonard D., xxx-xx-xxxx
 Williams, Robert E., xxx-xx-xxxx
 Williams, Roger E., xxx-xx-xxxx
 Wilson, Kelly T., xxx-xx-xxxx
 Wilson, Lowell H., xxx-xx-xxxx
 Wiltuck, Robert, xxx-xx-xxxx
 Winkler, James F., xxx-xx-xxxx
 Wirstrom, William C., xxx-xx-xxxx
 Wolff, Warren W., xxx-xx-xxxx
 Woodcock, Larry A., xxx-xx-xxxx
 Woodman, Donald K., xxx-xx-xxxx
 Wordell, Lynden E., xxx-xx-xxxx
 Wright, Gerald W., xxx-xx-xxxx
 Wrucha, Jerry A., xxx-xx-xxxx
 Yingling, Carl G., xxx-xx-xxxx
 Yoder, Phillip D., xxx-xx-xxxx
 Youd, Henry S., xxx-xx-xxxx
 Young, Richard S., xxx-xx-xxxx
 Youngblood, John S., xxx-xx-xxxx

CHAPLAIN CORPS

Fernandez, Nobincio, xxx-xx-xxxx
 Luncford, Joe E., xxx-xx-xxxx
 Morgan, Hugh H., xxx-xx-xxxx
 Schwartz, Barry D., xxx-xx-xxxx

DENTAL CORPS

Benson, Glenn F., xxx-xx-xxxx
 Brigle, Richard C., xxx-xx-xxxx
 Goodman, John T., xxx-xx-xxxx
 Hochenedel, August M., Jr., xxx-xx-xxxx
 Jumbelic, Russell G., Jr., xxx-xx-xxxx
 McIntosh, James N., xxx-xx-xxxx
 O'Hara, James K., xxx-xx-xxxx
 Smith, Robert N., xxx-xx-xxxx
 White, Philip H., xxx-xx-xxxx

MEDICAL CORPS

Adams, Richard C., xxx-xx-xxxx
 Boyd, Carl R., xxx-xx-xxxx
 Campbell, James M., xxx-xx-xxxx
 Carpenter, James L., xxx-xx-xxxx
 Corvalan, Juan C., xxx-xx-xxxx
 Garretson, Richard H., xxx-xx-xxxx
 Gregg, Paul T., xxx-xx-xxxx
 Kutner, Stephen S., xxx-xx-xxxx
 Legaspi, Linda S. E., xxx-xx-xxxx
 McGee, Hugh E., Jr., xxx-xx-xxxx
 Mojicamorales, Victor M., xxx-xx-xxxx
 Nell, Patricia A., xxx-xx-xxxx
 Noltimier, Louis A., xxx-xx-xxxx
 Remo, Elvira C., xxx-xx-xxxx
 Rolle, Albert E., xxx-xx-xxxx
 Simmons, John W., Jr., xxx-xx-xxxx
 Tengelsen, Clifford L., xxx-xx-xxxx
 Tessier, Paul A., xxx-xx-xxxx
 Tolentino, Naty M., xxx-xx-xxxx
 Wooming, Geoffrey E., xxx-xx-xxxx

NURSE CORPS

Acosta, Norma N., xxx-xx-xxxx
 Asberry, Beryl, xxx-xx-xxxx
 Bauer, Verdella M., xxx-xx-xxxx
 Buth, Virginia W., xxx-xx-xxxx
 Cartledge, Alice M., xxx-xx-xxxx

Cassidy, Freida M., xxx-xx-xxxx
 Chambers, James L., xxx-xx-xxxx
 Clapp, Mary A., xxx-xx-xxxx
 Clark, Shirley C., xxx-xx-xxxx
 Coyle, Mary C., xxx-xx-xxxx
 Decker, Carla L., xxx-xx-xxxx
 Devine, Sheila A., xxx-xx-xxxx
 Eakin, Margaret A., xxx-xx-xxxx
 Ehardt, Joseph W., xxx-xx-xxxx
 Elliott, Donald E. W., xxx-xx-xxxx
 Fairchild, Verna D., xxx-xx-xxxx
 Flood, Mary A., xxx-xx-xxxx
 Garrison, Howard, xxx-xx-xxxx
 Gates, Dorothy E., xxx-xx-xxxx
 Holdys, Delores J., xxx-xx-xxxx
 Joseph, Desiree R., xxx-xx-xxxx
 King, Kathleen F., xxx-xx-xxxx
 Mercereau, Mae D., xxx-xx-xxxx
 Miner, Wilmer G., xxx-xx-xxxx
 Mock, Lois A., xxx-xx-xxxx
 Moquin, Thomas F., xxx-xx-xxxx
 Morgan, Mary E., xxx-xx-xxxx
 Nutt, Mae K., xxx-xx-xxxx
 O'Neil, Richard J., xxx-xx-xxxx
 Palmer, Paula E., xxx-xx-xxxx
 Payes, Elizabeth A., xxx-xx-xxxx
 Phelan, Phyllis A., xxx-xx-xxxx
 Purcell, Helen A., xxx-xx-xxxx
 Rafai, Elizabeth H., xxx-xx-xxxx
 Rasmussen, Dorothy Y., xxx-xx-xxxx
 Richier, Betty J., xxx-xx-xxxx
 Shaifer, Andrea C., xxx-xx-xxxx
 Shaner, Nancy J., xxx-xx-xxxx
 Smith, Mary R., xxx-xx-xxxx
 Stern, Barbara A., xxx-xx-xxxx
 Thompson, Christina T., xxx-xx-xxxx
 Walls, Elizabeth A., xxx-xx-xxxx
 Whittemore, Kathleen, xxx-xx-xxxx
 Williams, Jeanette C., xxx-xx-xxxx
 Zauner, Alice A., xxx-xx-xxxx

MEDICAL SERVICE CORPS

Boyd, Kenneth L., xxx-xx-xxxx
 Butler, Charles H., xxx-xx-xxxx
 Carroll, Robert G., xxx-xx-xxxx
 Demoss, Robert W., xxx-xx-xxxx
 Fritz, Andrew A. Jr., xxx-xx-xxxx
 Gill, Richard A., xxx-xx-xxxx
 Hearn, Charles J., xxx-xx-xxxx
 Lucchest, Mario C., xxx-xx-xxxx
 Pacheco, Richard R., xxx-xx-xxxx
 Press, David, xxx-xx-xxxx
 Sarbach, Douglas L., xxx-xx-xxxx
 Scheffer, Richard H., xxx-xx-xxxx
 Smith, Richard H., xxx-xx-xxxx
 Wallace, Edward A., xxx-xx-xxxx
 Watson, James M., xxx-xx-xxxx
 Weisz, Willis G. Jr., xxx-xx-xxxx
 Westin, Charles A., xxx-xx-xxxx
 Wood, Verl H., xxx-xx-xxxx

BIOMEDICAL SCIENCE

Allison, Darrell C., xxx-xx-xxxx
 Bleakley, Neil M., xxx-xx-xxxx
 Bronstein, Leroy J., xxx-xx-xxxx
 Glaze, William C. H., xxx-xx-xxxx
 Jillson, Theresa J., xxx-xx-xxxx
 Lefsky, Lawrence H., xxx-xx-xxxx
 Lopez, Carmen R., xxx-xx-xxxx
 Mcowen, James S., xxx-xx-xxxx
 Morgan, Shelah G., xxx-xx-xxxx
 Schwertner, Harvey A., xxx-xx-xxxx
 Shoff, Charles M., xxx-xx-xxxx
 Stein, Franklin J., xxx-xx-xxxx
 Wallach, Joel D., xxx-xx-xxxx
 Wexler, Allan V., xxx-xx-xxxx

IN THE ARMY

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3359:

MEDICAL CORPS

To be colonel

Del Campo, Enrique, xxx-xx-xxxx

Ten Eyck, James R., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Gay, William D., xxx-xx-xxxx
 Mehlich, David F., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Anderson, John, xxx-xx-xxxx
 Austin, Robert G., xxx-xx-xxxx
 Bronshuag, Michael, xxx-xx-xxxx
 Brown, Frederick B., xxx-xx-xxxx
 Danto, Bruce L., xxx-xx-xxxx
 Davis, Joseph E., xxx-xx-xxxx
 DeSimone, Theresa V., xxx-xx-xxxx
 Dorsey, John M., xxx-xx-xxxx
 Everett, Elwood D., xxx-xx-xxxx
 Gretz, Herbert F., Jr., xxx-xx-xxxx
 Halpern, Abraham L., xxx-xx-xxxx
 Iapaolo, Felice M., xxx-xx-xxxx
 Jackson, Carmault, Jr., xxx-xx-xxxx
 Lufkin, Edward G., xxx-xx-xxxx
 Manuel, Wilbert J., xxx-xx-xxxx
 Morse, James A., xxx-xx-xxxx
 Nghiem, Quang X., xxx-xx-xxxx
 Owings, William O., xxx-xx-xxxx
 Paule, James M., xxx-xx-xxxx
 Powell, Malcolm R., xxx-xx-xxxx
 Ralla, Frank A., xxx-xx-xxxx
 Ringler, Harold, xxx-xx-xxxx
 Slawson, Robert G., xxx-xx-xxxx
 Van Norman, Russel, xxx-xx-xxxx
 Wilson, Robert M., xxx-xx-xxxx

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Barnes, Bert G., xxx-xx-xxxx
 Campbell, Rupert C., xxx-xx-xxxx
 Carlson, John W., xxx-xx-xxxx
 Fox, Oren R., xxx-xx-xxxx
 Gabaldon, Antonio, Jr., xxx-xx-xxxx
 Holgate, Clifford W., xxx-xx-xxxx
 Mason, John T., xxx-xx-xxxx
 Matthews, Charles G., xxx-xx-xxxx
 Mialaret, Gerard J., xxx-xx-xxxx
 Nienas, Jimmie D., xxx-xx-xxxx
 Peck, Ernest G., xxx-xx-xxxx
 Polson, James D., Jr., xxx-xx-xxxx
 Ray, Dudley C., xxx-xx-xxxx
 Shaughnessy, M. E., xxx-xx-xxxx
 Sivilla, John M., xxx-xx-xxxx
 Snyder, Ernest M., xxx-xx-xxxx
 Tech, Larry L., xxx-xx-xxxx
 Westergard, Raymond, xxx-xx-xxxx
 Winslett, Ronald D., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

Henry, David A., xxx-xx-xxxx
 Hudgins, James J., xxx-xx-xxxx
 Zusman, Jack, xxx-xx-xxxx

ARMY PROMOTION LIST

To be lieutenant colonel

Abernathy, Claude A., xxx-xx-xxxx
 Barton, Dennis R., xxx-xx-xxxx
 Bimler, Joseph R., xxx-xx-xxxx
 Blazier, John C., xxx-xx-xxxx
 Brackett, Louis V., xxx-xx-xxxx
 Cacioppe, Richard C., xxx-xx-xxxx
 Cardis, Douglas B., xxx-xx-xxxx
 Chisholm, Leslie F., xxx-xx-xxxx
 Coon, Albert C., xxx-xx-xxxx
 Dorsey, Clayton E., xxx-xx-xxxx
 Fenner, Arlan L., xxx-xx-xxxx
 Fey, Henry F., xxx-xx-xxxx
 Fiarkoski, Joseph A., xxx-xx-xxxx
 Gaspard, Milbon J., xxx-xx-xxxx
 Giroux, Norman R., xxx-xx-xxxx

Goar, Douglas J., xxx-xx-xxxx
 Gray, Richard L., xxx-xx-xxxx
 Guarino, William J., xxx-xx-xxxx
 Hannon, John J., xxx-xx-xxxx
 Harvey, William R., xxx-xx-xxxx
 Hatley, Patrick B., xxx-xx-xxxx
 Herb, Joseph C., xxx-xx-xxxx
 Hihnala, Jack E., xxx-xx-xxxx
 Kanaczet, Richard P., xxx-xx-xxxx
 Kennedy, Robert J., xxx-xx-xxxx
 Lack, John A., xxx-xx-xxxx
 Leinweber, Don L., xxx-xx-xxxx
 Lewer, Larry W., xxx-xx-xxxx
 Lundy, Robert J., Jr., xxx-xx-xxxx
 McIntosh, Donald R., xxx-xx-xxxx
 McWhirter, Johnny L., xxx-xx-xxxx
 Maner, Omer E., xxx-xx-xxxx
 Middeler, Thomas A., xxx-xx-xxxx
 Musk, Gautrey J., xxx-xx-xxxx
 Nelson, Broxie J., xxx-xx-xxxx
 Newhall, David G., xxx-xx-xxxx
 Norman, Joel W., xxx-xx-xxxx
 Pinta, Robert J., xxx-xx-xxxx
 Rees, Harold R., Jr., xxx-xx-xxxx
 Rees, Raymond F., xxx-xx-xxxx
 Reeves, Larry W., xxx-xx-xxxx
 Rose, Robert R., xxx-xx-xxxx
 Ruggiero, John T., Jr., xxx-xx-xxxx
 Saunders, Shelley M., xxx-xx-xxxx
 Smith, Wayne A., xxx-xx-xxxx
 Stansberry, Tony L., xxx-xx-xxxx
 Steinhart, Norbert, xxx-xx-xxxx
 Stewart, Ronald B., xxx-xx-xxxx
 Tourville, Kenneth, xxx-xx-xxxx
 Whitman, William T., xxx-xx-xxxx
 Williams, Frank C., xxx-xx-xxxx
 Wood, Walter R., xxx-xx-xxxx
 Yoas, Lynn F., xxx-xx-xxxx
 Zeigler, Paul L., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Chrietzberg, V. S., xxx-xx-xxxx

DENTAL CORPS

To be lieutenant colonel

Adams, William C., xxx-xx-xxxx

MEDICAL CORPS

To be lieutenant colonel

Fewell, Ronald D., xxx-xx-xxxx
 Inguito, Galicano B., xxx-xx-xxxx
 Pierce, John A., xxx-xx-xxxx
 Rastogi, Shivanandan, xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Beasley, Glenn D., xxx-xx-xxxx
 Darby, Lester A., xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

Hagle, Richard, xxx-xx-xxxx

IN THE MARINE CORPS

The following-named officer of the Marine Corps for permanent appointment to the grade of lieutenant colonel under provisions of title 10, United States Code, section 624, subject to qualification therefor as provided by law:

Peterson, Robert L., xxx-

The following-named officers of the Marine Corps Reserve for permanent appointment to the grade of colonel under provisions of title 10, United States Code, section 5912, subject to qualification therefor as provided by law:

Akers, Olen S., xxx-
 Arms, John P., xxx-
 Ayers, George W., xxx-
 Baker, Richard F., xxx-
 Bianchini, Victor E., xxx-
 Bowman, James H., xxx-

Brady, James J., xxx-
 Brutch, Paul P., xxx-
 Buethe, Frank A., xxx-
 Burke, Arthur B., Jr., xxx-
 Buxton, Cole J., xxx-
 Campbell, Thomas J., xxx-
 Candelori, Angelo V., xxx-
 Carman, James P., xxx-
 Carter, Jacques W., Jr., xxx-
 Clark, Arthur L., xxx-
 Cleary, James J., xxx-
 Councilman, John D., xxx-
 Coyne, John T., xxx-
 Cronin, John F., xxx-
 Culp, Leonard D., xxx-
 Deaver, John H., Jr., xxx-
 Detweiler, Robert C., xxx-
 Dickerson, Michael G., xxx-
 Dill, Glenn V., xxx-
 Dilworth, Eldon R., xxx-
 Donnelly, Francis L., xxx-
 Downey, Lawrence L., xxx-
 Farmer, Frank E., xxx-
 Fitzgerald, Richard J., xxx-
 Flynn, Robert G., xxx-
 Gannon, John J., xxx-
 Gardner, Michael R., xxx-
 Gardner, Winston W., Jr., xxx-
 Halvorsen, John P., xxx-
 Harvey, Albert C., Jr., xxx-
 Hixson, Michael J., xxx-
 Jeffries, James H., III, xxx-
 Jordan, John E., xxx-
 Kendrick, Gardner S., xxx-
 Kennedy, Agnes M., xxx-
 Kindt, David J., xxx-
 Lawson, Walter J., xxx-
 Lince, Ronald D., xxx-
 Marshall, Robert D., xxx-
 Massenburg, Joseph W., Jr., xxx-
 McDonald, Patrick G., xxx-
 McGuinness, James C., Jr., xxx-
 McLean, Ralph T., xxx-
 Meyers, George F., Jr., xxx-
 Miller, Ronald G., xxx-
 Nelson, Stanley R., xxx-
 Nippard, Roos E., xxx-
 Petty, Charles R., xxx-
 Prior, William A., Jr., xxx-
 Pristavec, Thomas L., xxx-
 Rivers, John F., xxx-
 Rogers, Milton B., xxx-
 Rule, Gordon, xxx-
 Sampson, Charles W., xxx-
 Sattler, Albert J., Jr., xxx-
 Sherretz, Lundie L., xxx-
 Snell, James C., xxx-
 Snowden, John B., III, xxx-
 Sowers, Ronald L., xxx-
 Venditto, Carl R., xxx-
 Vogel, James R., xxx-
 Wallace, Terry P., xxx-
 Walton, Rodney, xxx-
 Wilder, Raymond E., xxx-
 Wilkinson, George C., Jr., xxx-

The following-named officers of the Marine Corps for permanent appointment to the grade of Chief Warrant Officer, W-4, under provisions of title 10, United States Code, section 563, subject to qualification therefor as provided by law:

Alger, Duff E., xxx-
 Allen, George R., xxx-
 Amoroso, Daniel L., xxx-
 Bancroft, Alfred M., xxx-
 Beard, Joseph F., xxx-
 Bookhardt, Henry, xxx-
 Borowitz, Thomas J., xxx-
 Boyd, Joseph S., xxx-
 Brown, Lemuel F., xxx-
 Burroughs, Joseph B., Jr., xxx-
 Carver, David A., xxx-
 Class, George N., xxx-
 Collier, Michael L., xxx-

Combs, Willie L., xxx-
 Conner, James R., xxx-
 Crawford, Truman W., xxx-
 Creech, Joseph H., xxx-
 Czaikoski, Stephen H., xxx-
 Czosnyka, Ronald J., xxx-
 Davenport, John W., xxx-
 Deberry, Mickey L., xxx-
 Doggett, Donald L., xxx-
 Douglas, Donald D., xxx-
 Epley, Stephen A., xxx-
 Farley, William C., xxx-
 Farmer, Robert D., xxx-
 Filla, Paul T., xxx-
 Flanagan, Robert W., xxx-
 Flihan, Frederick J., xxx-
 Gaston, Michael W., xxx-
 Gaulin, George V., xxx-
 Giglia, Alfonso N., xxx-
 Gutierrez, Elias, xxx-
 Hamm, Michael D., xxx-
 Hannappel, Michael R., xxx-
 Helms, Tony A., xxx-
 Hopton, Raymond F., xxx-
 Hunter, Martin L., xxx-
 Hurst, Douglas M., xxx-
 James, Richard E., xxx-
 Jewell, James E., xxx-
 Jones, Charles L., xxx-
 Jones, Joseph M., xxx-
 Jungwirth, Kenneth J., xxx-
 Klepper, Paul J. II, xxx-
 Knight, Chester E., xxx-
 Leiston, Robert J., xxx-
 Livensparger, Stuart A., xxx-
 Livingston, Jerome E., xxx-
 Lloyd, James R., xxx-
 Lofton, Morgan J., xxx-
 Long, John E., xxx-
 Long, Paul E., Jr., xxx-
 Lopez, Homero R., xxx-
 Mackie, Merle E., Sr., xxx-
 Mahoney, Patrick T., xxx-
 McGrath, Gary L., xxx-
 McKinney, Francis W., xxx-
 Moore, Robert H., xxx-
 Mosman, Thomas W., xxx-
 Mullins, Daniel S., xxx-
 Myers, Clarence E., xxx-
 Neu, Melvin P., xxx-
 Noel, John B., xxx-
 O'Connell, Daniel J., xxx-
 Patch, Bradley P., xxx-
 Polanco, Geronimo, Jr., xxx-
 Rander, Howard W., xxx-
 Ricker, Ralph J., xxx-
 Robinson, Lloyd A., xxx-
 Rodney, Marvin C., xxx-
 Rolle, Castell S., Jr., xxx-
 Rosanelli, Louis L., xxx-
 Rowe, David T., xxx-
 Rowinsky, Bob A., xxx-
 Sanford, Thomas H., xxx-
 Santacruz, Javier, Jr., xxx-
 Scanlon, Donald L., Jr., xxx-
 Shane, Fred J., xxx-
 Shepard, William H., xxx-
 Sherry, Charles K., Jr., xxx-
 Simmons, Gary G., xxx-
 Smith, Charlie F., xxx-
 Smith, Lyle W., xxx-
 Sofranac, Paul, xxx-
 Stannard, Clinton D., xxx-
 Sterling, Thomas S., xxx-
 Strickland, Joseph E., xxx-
 Sunn, Steven E., xxx-
 Tampleton, Doyle W., xxx-
 Thompson, Charles E., xxx-
 Tootle, Garvin O., xxx-
 Torres, Felipe, xxx-
 Twilliger, Wayne G., xxx-
 White, Gerald L., xxx-
 White, Lawrence J., Jr., xxx-
 Whittaker, William E., Jr., xxx-

Wiggins, Donald E., xxx-
 Wilson, Leonard D., xxx-
 Winchester, John D., xxx-
 Wolf, W. L., xxx-
 Wood, David R., xxx-
 Young, Billie, xxx-

The following-named officers of the Marine Corps for permanent appointment to the grade of Chief Warrant Officer, W-3, under provisions of title 10, United States Code, section 563, subject to qualification therefor as provided by law:

Adkins, William D., xxx-
 Ainsworth, James M., xxx-
 Aldrich, William J., xxx-
 Albritton, Ronald H., xxx-
 Amano, Richard, xxx-
 Artis, George W., xxx-
 Ash, Michael D., xxx-
 Ashe, Johnnie E., xxx-
 Atwell, Everett R., xxx-
 Ayers, William S., xxx-
 Back, Robert R., xxx-
 Bahr, Timmy A., xxx-
 Bailey, Wesley W., xxx-
 Baker, James D., xxx-
 Ballentine, Richard J., Jr., xxx-
 Bath, Robert A., xxx-
 Blakley, James R., xxx-
 Blaschak, James M., xxx-
 Bobo, Frederick S., xxx-
 Bolton, Burl D., xxx-
 Bonaro, Anthony, xxx-
 Bowen, Donald H., xxx-
 Brevell, James E., xxx-
 Brown, John E., xxx-
 Canterbury, Michael G., xxx-
 Carter, Dandridge S., xxx-
 Carter, Michael D., xxx-
 Carver, Dennis, xxx-
 Cary, Daniel D., xxx-
 Case, Douglas L., xxx-
 Castro, Robert, Jr., xxx-
 Chandler, John W., xxx-
 Chavez, Jose C., Jr., xxx-
 Cifelli, Donald G., xxx-
 Cone, Donald P., xxx-
 Craig, Douglas B., xxx-
 Craig, Dwight D., xxx-
 Crooks, Kevin R., xxx-
 Crowl, Daniel F., xxx-
 Cyphers, Arlene J., xxx-
 Daniels, Richard C., xxx-
 Davidson, Ronald J., xxx-
 Davis, Gunnar F., xxx-
 Davis, Joseph R., xxx-
 Davis, Michael R., xxx-
 Davis, Rickey D., xxx-
 Deanes, Joseph W., xxx-
 Denoncourt, Roger D., xxx-
 Dorssom, David L., xxx-
 Downie, Rodney R., xxx-
 Earnest, Gerald W., xxx-
 Edelbrock, Robert C., Jr., xxx-
 Edwards, James R., xxx-
 Ellis, Ernie L., xxx-
 Ewadinger, James L., xxx-
 Finklea, Gordon R., xxx-
 Fraley, Gary D., xxx-
 France, Clarence N., xxx-
 Freeman, Edward D., xxx-
 Frierson, Douglas, xxx-
 Fryer, Frederick G., xxx-
 Gaerttner, William J., xxx-
 Ganey, Michael J., xxx-
 Garber, Jan D., xxx-
 Garner, Robert M., xxx-
 Georgeson, Robert C., xxx-
 Giddings, Dennis E., xxx-
 Gomez, Mario A., xxx-
 Grant, Frederick H., xxx-
 Green, Kenneth R., xxx-
 Green, Melvin D., xxx-
 Greer, William T., xxx-

Guido, Rose, xxx-
 Guthrie, Charles S., Jr., xxx-
 Haase, George M., xxx-
 Hambrick, David W., xxx-
 Hamm, David E., xxx-
 Hasty, Boyette S., xxx-
 Hazelwood, James W., Jr., xxx-
 Herbert, Richard E., xxx-
 Hester, Michael P., xxx-
 Heuman, Terry L., xxx-
 Hill, Benjamin F., III, xxx-
 Hodson, Shari L., xxx-
 Houghtaling, Leonard J., xxx-
 Hullopeter, Gary L., xxx-
 Jamieson, Robert C., xxx-
 Johnson, Mark A., xxx-
 Johnson, Michael D., xxx-
 Jolicoeur, Paul J., xxx-
 Jones, Claud R., xxx-
 Jones, Wayne D., xxx-
 Jungel, Paul M., xxx-
 Karlson, Kenneth E., xxx-
 Karras, Ralph E., xxx-
 Kassay, John J., Jr., xxx-
 Kidwell, David L., xxx-
 King, Stanley F., Jr., xxx-
 Kiser, Marvin, xxx-
 Knight, Franklin T., xxx-
 Knippel, Bruce W., xxx-
 Kobe, Leon G., xxx-
 Kosar, William M., xxx-
 Kreps, Robert D., xxx-
 Kroener, Christian, III, xxx-
 Labrousse, Robert M., xxx-
 Lake, Dawaine H., xxx-
 Landenberger, Michael A., xxx-
 Langford, James D., xxx-
 Larkin, Herman C., xxx-
 Lawson, Frank R., xxx-
 Lawson, Walter S., xxx-
 Lease, Paul F., xxx-
 Ledbetter, Jimmy P., xxx-
 Lee, Joung O., xxx-
 Legeyt, Charles H., III, xxx-
 Lemasters, Richard G., xxx-
 Loconto, Stephen A., xxx-
 Lovato, Benjamin, Jr., xxx-
 Lowery, William D., xxx-
 Martin, Brian R., xxx-
 Martin, Raymond I., Jr., xxx-
 McConnell, Charles S., III, xxx-
 McGrath, Patrick J., xxx-
 McNutt, Gerald L., xxx-
 McWilliams, Charles A., xxx-
 Midgley, Howard D., xxx-
 Miller, Dannie A., xxx-
 Miller, David K., III, xxx-
 Miller, Joseph A., xxx-
 Miller, Stanley H., xxx-
 Miller, Steven C., xxx-
 Mitchell, Dwight W., xxx-
 Moon, Nathaniel, xxx-
 Moore, Stephen J., xxx-
 Moser, David L., xxx-
 Mullins, Cleve L., xxx-
 Nall, Mark A., xxx-
 Newton, William W., xxx-
 Nix, James A., xxx-
 O'Donnell, Charles P., xxx-
 Oermann, Dennis K., xxx-
 Oseguera, Benjamin P., xxx-
 Owens, Andy G., xxx-
 Parrish, Jerry D., xxx-
 Parslow, James F., xxx-
 Paulson, Wayne I., xxx-
 Penn, David T., xxx-
 Perez, Domingo, xxx-
 Perry, Bruno F., xxx-
 Peterson, Willie J., xxx-
 Pfaffenberger, Thomas J., xxx-
 Pierre, Clarence G., Jr., xxx-
 Pitt, Thomas I., xxx-
 Preece, Winnis G., xxx-
 Puhr, Michael A., xxx-

Rademann, Terry A., xxx-
 Rauch, Floyd A., xxx-
 Reed, Marcus T., xxx-
 Reese, Alec W., xxx-
 Riley, Michael T., xxx-
 Ripley, Charles E., xxx-
 Ritacco, Steven G., xxx-
 Robinson, Michael L., xxx-
 Ross, Robert R., Jr., xxx-
 Rowan, Joseph A., Jr., xxx-
 Runa, Frank L., Jr., xxx-
 Santiago, Edwin, xxx-
 Schelle, Jerome F., xxx-
 Shea, Daniel P., xxx-
 Sheffer, James M., xxx-
 Sherwood, George S., xxx-
 Slock, Douglas G., xxx-
 Smarsty, Dennis G., xxx-
 Smith, Jerry W., xxx-
 Smith, Thomas F., xxx-
 Smith, William J., xxx-
 Snipes, Karl P., xxx-
 Soetekouw, Robert A., xxx-
 Starnes, Larry M., xxx-
 Stiltner, Johnny J., xxx-
 Stone, Dale W., xxx-
 Taff, Charles W., xxx-
 Tate, Robert R., xxx-
 Thames, James V., Jr., xxx-
 Thompson, James E., xxx-
 Thornton, John M., xxx-
 Tomerlin, James D., xxx-
 Tucke, John L., xxx-
 Tucker, Michael P., xxx-
 Turbyfill, Charles L., xxx-
 Vanaken, Alan G., xxx-
 Vickers, Jerry M., xxx-
 Warford, Jack L., xxx-
 Watkins, William S., xxx-
 Westerman, Terrence M., xxx-
 Wherry, David J., xxx-
 Wieckowski, Wesley, xxx-
 Willis, Henry, xxx-
 Willmon, James R., xxx-
 Winbush, Joe L., xxx-
 Woodruff, Roger L., xxx-
 Wyatt, Richard E., xxx-
 Wyss, Douglas E., xxx-
 Yates, Charles W., Jr., xxx-
 Yinger, Raymond R., III, xxx-
 Young, Allen F., xxx-

The following-named officers of the Marine Corps for permanent appointment to the grade of Chief Warrant Officer, W-2, under provisions of title 10, United States Code, section 563, subject to qualification therefor as provided by law:

Aaron, Harold S., xxx-
 Adams, William S., Jr., xxx-
 Addington, Ernest W., xxx-
 Aguirre, Jose L., xxx-
 Alston, Allen D., xxx-
 Alvarado, Jimmy, xxx-
 Anders, William M., xxx-
 Andrews, Michael L., xxx-
 Angel, William M., xxx-
 Anthony, Rick L., xxx-
 Arnold, Clifford, xxx-
 Ashworth, Edwin R., xxx-
 Asterman, Timothy A., xxx-
 Austin, David A., xxx-
 Austin, John M., xxx-
 Bacon, Edward F., III, xxx-
 Baker, Clacy E., xxx-
 Baker, Robert R., xxx-
 Barfield, Richard L., xxx-
 Beasley, William J., Jr., xxx-
 Bell, Raymond C., xxx-
 Bennett, Francis P., Jr., xxx-
 Bennett, Robert T., xxx-
 Bernat, Leonard L., xxx-
 Betts, John R., Jr., xxx-
 Biedenbender, George A., IV, xxx-
 Bilderback, Charles L., xxx-

Bourda, Clifton, xxx-
 Boyer, Mark E., xxx-
 Boze, Jere C., Jr., xxx-
 Bresnahan, Daniel J., xxx-
 Brooks, Jeff F., xxx-
 Browarski, Paul E., xxx-
 Brown, John W., xxx-
 Bruce, George L., xxx-
 Buckle, Daniel J., Jr., xxx-
 Bunch, Ralph E., xxx-
 Burden, Edwin O., Jr., xxx-
 Burford, David A., xxx-
 Burke, Steven M., xxx-
 Burkhart, Ted M., xxx-
 Camp, George M., xxx-
 Canales, Jeffrey A., xxx-
 Cannon, Carlton L., xxx-
 Carter, Rodney D., xxx-
 Cerveney, Dennis A., xxx-
 Cicciocioppo, Robert E., xxx-
 Clark, Johnnie Jr., xxx-
 Clifford, John R., xxx-
 Clouthier, Louis J., xxx-
 Coggins, George M., Jr., xxx-
 Collette, Carl L., xxx-
 Collins, Kenneth P., xxx-
 Combs, Willie J., xxx-
 Connelly, Richard L., xxx-
 Conner, Steven R., xxx-
 Cornwell, John F., III, xxx-
 Cox, Richard L., xxx-
 Cronin, Garrett M., xxx-
 Crouson, Lewis E., xxx-
 Cruse, Earl E., Jr., xxx-
 Dann, Gerald E., xxx-
 Davis, Kenneth M., xxx-
 Davis, Richard L., xxx-
 Debramaletta, Mattie B., xxx-
 Deffenbacher, James G., xxx-
 Dejournett, Paul E., xxx-
 Denham, Thomas G., xxx-
 Devlin, Theodore E., xxx-
 Dodson, James M., xxx-
 Dooley, Robert V., Jr., xxx-
 Downard, Clarence K., xxx-
 Drenkhahn, Mahlon T., xxx-
 Dunn, Larry R., xxx-
 Edwards, Albert L., Jr., xxx-
 Edwards, Charles F., xxx-
 Edwards, Minerva S., xxx-
 Eller, Richard A., xxx-
 Erickson, Martin E., xxx-
 Esrey, John J., xxx-
 Faben, Ira M., xxx-
 Farley, Michael J., xxx-
 Feierday, Brian S., xxx-
 Fensler, Robert K., Jr., xxx-
 Fetzner, Morris W., Jr., xxx-
 Fitzhugh, Johnny D., xxx-
 Fitzsimmons, Michael H., xxx-
 Fowler, Robert E., xxx-
 Frank, Milton M., xxx-
 Frazier, Clyde, Jr., xxx-
 Freeman, Donald E., xxx-
 Frye, Stanley S., xxx-
 Gaffney, Martin F., xxx-
 Gallagher, Richard J., Jr., xxx-
 Garcia, Ralph E., xxx-
 Garza, Reynaldo, xxx-
 Gentry, Reuben C., xxx-
 George, John P., xxx-
 Gibbs, Mary E., xxx-
 Gibson, Wylie R., xxx-
 Gillies, Walter, Jr., xxx-
 Glenn, James B., xxx-
 Glocke, Michael A., xxx-
 Glover, Russell E., xxx-
 Graham, Howard J., xxx-
 Green, Douglas M., xxx-
 Gregory, Teddie A., xxx-
 Gremillion, John T., xxx-
 Grezlik, John R., xxx-
 Gripp, William A., xxx-
 Guy, Glovie, xxx-

Harkey, Wayne N., xxx-
 Hart, George L., xxx-
 Hartzell, William D., xxx-
 Hefner, Bobby L., xxx-
 Hellgrath, Michael A., xxx-
 Henslee, William L., xxx-
 Hobbs, Larry L., xxx-
 Holloway, Larry D., xxx-
 Hoskins, Jimmie L., xxx-
 Houston, William R., xxx-
 Howland, Harry R., Jr., xxx-
 Huber, David D., xxx-
 Hudson, Anthony L., xxx-
 Hughes, Leon D., xxx-
 Ignaczak, Julian J., Jr., xxx-
 Ives, Thomas G., xxx-
 Jackson, William H., xxx-
 Jacobsen, John B., xxx-
 James, Robert E., Jr., xxx-
 Jerrolds, James E., xxx-
 Jones, Gary J., xxx-
 Kalnas, Michael, xxx-
 Kase, Lawrence J., xxx-
 Kelly, Edward A., xxx-
 Kelnhofer, Arthur J., xxx-
 Kelty, James M., xxx-
 Kendley, George D., xxx-
 Kille, Samuel L., Jr., xxx-
 Kindred, Marshall L., xxx-
 Kraus, James J., xxx-
 Lashbrook, Thomas R., xxx-
 Lawrence, Gregory C., xxx-
 Leaverton, Gregg W., xxx-
 Letzring, Franklin M., xxx-
 Lindsey, David C., Jr., xxx-
 Lopez, Frank, xxx-
 Lovelett, Alan L., xxx-
 Lowe, Carl W., xxx-
 Lucas, Elmer L., xxx-
 Lute, Richard L., Jr., xxx-
 Lyons, Kenneth E., xxx-
 Mace, Ronald G., xxx-
 Martin, James E., xxx-
 Martin, Richard D., xxx-
 Mather, Richard S., xxx-
 Maygar, Richard A., xxx-

McAllister, Clifton, xxx-
 McCray, Emanuel, xxx-
 McDaniel, Harold A., Jr., xxx-
 McIntosh, Kirk, xxx-
 McNamara, William F., xxx-
 Mendoza, David R., xxx-
 Miller, Patrick E., xxx-
 Mills, Walter G., xxx-
 Minshew, Joseph R., xxx-
 Montrieff, Michael C., xxx-
 Moreland, Steven M., xxx-
 Moren, Irvin L., xxx-
 Moroney, Stephen T., xxx-
 Moser, David M., xxx-
 Neel, Kenneth E., xxx-
 Negahnquet, Stephen H., xxx-
 Nelson, Richard G., xxx-
 Nelson, Romeo, xxx-
 Nersesian, Robert F., xxx-
 Neutze, Terry E., xxx-
 Nicholson, Ronald E., xxx-
 Norman, Thomas F., xxx-
 O'Donnell, Michael J., xxx-
 Owens, J. C., xxx-
 Pabst, Robert T., xxx-
 Parker, Marvin D., xxx-
 Pasalano, George, Jr., xxx-
 Pate, Alvin A., xxx-
 Patterson, Hughes V., xxx-
 Pearson, David K., xxx-
 Perkins, Ronald L., xxx-
 Piburn, Edward H., Jr., xxx-
 Pompa, Peter W., xxx-
 Redfern, Ronald W., xxx-
 Reed, Thomas E., xxx-
 Reitz, Merle R., xxx-
 Repp, Raymond A., xxx-
 Robberson, Michael W., xxx-
 Roberts, John W., Jr., xxx-
 Robinson, Harvey M., xxx-
 Ryan, George M., xxx-
 Ryon, Kevin L., xxx-
 Sablan, Vincent T., xxx-
 Saltzman, George L., xxx-
 Sargent, Albert L., xxx-
 Schafer, John B., xxx-

Simpler, Richard C., xxx-
 Singer, Clifford J., xxx-
 Sliva, Joseph A., xxx-
 Smith, Monte L., xxx-
 Snapp, John W., xxx-
 Snyder, James E., Jr., xxx-
 Sorensen, Harry P., Jr., xxx-
 Spradley, Jesse R., xxx-
 Stanch, Steven M., xxx-
 Starks, Floyd B., xxx-
 Stewart, Alexander, III, xxx-
 Striker, Dennis M., xxx-
 Surratt, Randall R., xxx-
 Sutton, Carl L., Jr., xxx-
 Taylor, Cecil L., xxx-
 Taylor, Michael I., xxx-
 Thomas, Jack S., xxx-
 Thomas, Leroy, Jr., xxx-
 Thomas, Ray, xxx-
 Thorsten, Leif K., xxx-
 Tillar, Melvin M., xxx-
 Tinker, Michael L., xxx-
 Toellner, Michael K., xxx-
 Tokvam, John H., xxx-
 Trickett, Verl J., xxx-
 Turner, Thomas H., xxx-
 Utter, Gary L., xxx-
 Vance, Lloyd G., xxx-
 Vanhemel, Paul A., xxx-
 Vanmeter, Larry O., xxx-
 Wagner, Roy E., Jr., xxx-
 Walters, Dennis L., Jr., xxx-
 Wale, Gene L., Jr., xxx-
 Wallace, Edwin R., xxx-
 Ward, Andrew L., xxx-
 Waters, Russell L., Jr., xxx-
 Whalen, Mark H., xxx-
 Wheeler, Dennis A., xxx-
 Whitt, Randall C., xxx-
 Williams, Julian G., xxx-
 Williams, Rex A., xxx-
 Winkelmann, Bruce, xxx-
 Wolfe, John T., xxx-
 Wuornos, Reginald C., xxx-
 Young, Bobby, xxx-
 Zanotti, Michael L., xxx-

EXTENSIONS OF REMARKS

FREEDOM FOR MYKOLA
HORBAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. GILMAN. Mr. Speaker, the Soviet Union, along with the United States and 33 other nations, signed the Final Act of the Helsinki Conference on Security and Cooperation in Europe in 1975. The Soviets agreed to respect the human rights and fundamental freedoms of their citizens. Also by reference to the Universal Declaration of Human Rights, they also agreed to guarantee the fundamental right to emigrate. However, not only have the Soviets not kept their agreement, but they have singled out members of the Helsinki Watch Groups for particular harassment.

The Ukrainian Helsinki Group was founded in 1976, a year after the Moscow Group, to monitor the Soviet Government's compliance with the human rights clauses of the Helsinki Accords. The Helsinki Group demands that the Government respect such fundamental rights of the individual as freedom of religion, expression, and movement. It also calls for the Government to support the Ukrainians' right to self-determination, the signatories to the Helsinki Final Act having agreed to "respect the equal rights of peoples and their right to self-determination."

Mykola Horbal, a Ukrainian poet and a member of the Ukrainian Helsinki Group, has been unjustly imprisoned in the Soviet Union because of his application for emigration to the United States and his participation in the Helsinki Group. Mr. Horbal, who is married and has one son, was arrested by the Soviets in 1970 for circulating a poem he had written. That arrest occurred shortly after he had received his affidavit to emigrate to the United States. Mr. Horbal was sentenced to 5 years in a labor camp and 2 years in internal exile. He was subsequently released in 1977, the year in which he joined the Ukrainian Helsinki Group. He was arrested again in 1979, on a fabricated charge of rape, and was then sentenced to 5 years in prison.

Many of us are concerned about Mr. Horbal's unjust imprisonment but also about his physical and mental health. Reports smuggled out of the Ukraine reveal that he has been physically mistreated and is so depressed psychologically that he has even contemplated

suicide. For these reasons, I have written to Ambassador Dobrynin expressing my concern about Mr. Horbal's situation and asking the Ambassador to secure Mykola Horbal's release, and to permit him to exercise his right to emigrate from the Soviet Union, if he so chooses. I have also written to the American Ambassador to the Soviet Union, Hon. Arthur A. Hartman, and asked him to pursue with the Soviet authorities the release of Mr. Horbal.

In a recent interview with Mr. Horbal, he stated that he was very interested in the effect that the Helsinki Accords could have on improving the human rights of citizens in totalitarian countries. He regretted the fact that the European nations were not more united in their efforts to fight for the freedom of the individual. But he did express faith in the United States, referring to it as the "country which has provided a safe haven for millions of the world's poor and deprived."

On July 27, the House Foreign Affairs' Subcommittee on Human Rights and International Organizations held a hearing on the status of the Pente-costals who have been living in the U.S. Embassy in Moscow since 1978. Witnesses at that hearing reminded us that persistent focus by Members of Congress on human rights violations in the Soviet Union is extremely important. Only by frequently and consistently speaking out on these issues can we help courageous individuals, such as Mykola Horbal, secure their freedom. ●

THE IMMIGRATION REFORM
AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MAZZOLI. Mr. Speaker, the Immigration Reform and Control Act of 1982 (H.R. 6514) has a Senate counterpart, S. 2222, which is sponsored by Senator ALAN K. SIMPSON, chairman of the Senate Subcommittee on Immigration and Refugee Policy.

Senator SIMPSON is one of the most knowledgeable people in the country about immigration and refugee matters. As a member of the Select Commission on Immigration and Refugee Policy and as chairman of the Senate Immigration Subcommittee, he has studied all aspects of the immigration matter from every possible perspective.

Senator SIMPSON has come to the same conclusion as I have about the best method of controlling illegal immigration to this country—penalties against employers who knowingly hire undocumented workers. There simply is no other workable alternative. Undocumented workers come here to get jobs. That is the lure, that is the magnet.

We have to end that lure, turn off that magnet, by making it illegal for employers knowingly to hire those who do not have permission to be in this country.

In his usual straightforward and sensible fashion, AL SIMPSON made the strongest case possible for penalties against employers who knowingly hire undocumented aliens in the New York Times earlier this week.

He made the point, which has become obvious to all those who have studied the immigration issue in great detail, that our immigration reform bill contains a simple straightforward employer sanctions provision which protects both employers and employees.

In the early 1970's, under the leadership of Chairman PETER W. RODINO, JR., the House of Representatives twice passed employer sanctions bills. Unfortunately, both times the Senate took no action.

This year, under Senator SIMPSON's strong leadership, the Senate seems determined to push ahead. Yesterday's Washington Post also endorses the Simpson/Mazzoli bill, especially the employer sanctions provisions. As the Post points out, employer sanctions is the right way to go.

For the benefit of my colleagues, I am including a copy of Senator SIMPSON's article from the New York Times of August 10, 1982, and the editorial from the Washington Post about the Simpson/Mazzoli bill.

The articles follow:

[From the New York Times, Aug. 10, 1982]

ILLEGAL ALIENS

(By Senator ALAN K. SIMPSON)

WASHINGTON.—All objective, comprehensive studies of the problem of illegal immigration, including those by the Ford, Carter and Reagan Administrations, and by the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of immigration laws cannot be achieved without greatly reducing the incentive represented by the temptation of employment in the United States.

For this reason, section 101 of the proposed Immigration Reform and Control Act of 1982 is the single provision most urgently needed to assist in reducing illegal immigration. This section would make unlawful the knowing hiring or illegal aliens and would

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

provide a system that enables employers to verify that job applicants are American citizens or legal aliens. Section 101 and the bill's other provisions are strongly supported by the Administration, by an impact of illegal immigration, we must consider long-term effects. Moreover, even a totally selfish person does not act solely to achieve economic goals; adverse noneconomic impacts can often make an economic benefit unpalatable. Thus, consideration of the effects of illegal immigration on our population, of potential social and political changes and of historical immigration objectives must be part of the decision-making process.

The Chamber argues that any secure verification system would be "too expensive." As evidence, it has published some extraordinarily high cost estimates. More objective sources present less-alarming figures: \$100 million to \$300 million per year. Certainly, these are not small numbers, but inadequate enforcement also involves major costs. The number of illegal aliens in this country in 1978 has been estimated at 3.5 million to six million. Even if those estimates are used and it is assumed that only 2 percent hold jobs that unemployed Americans would take, then the cost in public assistance and unemployment benefits to the jobless is \$490 million to \$840 million. The actual number of people displaced from jobs is probably substantially higher. The number of illegal aliens is estimated to have increased by 500,000 per year. This calculation does not even consider the other, less easily quantifiable costs of illegal immigration.

The Chamber states that the verification procedure would be "too burdensome" for employers. Actually, the procedure would be optional for those with three or fewer employees. Larger employers would be required simply to examine in good faith a United States passport or two other documents—say, a driver's license, birth certificate, Social Security card—complete and sign a short form and have that form signed by the employee. The employer would not be responsible for the authenticity of the documents, only for their reasonably appearing genuine. Without this system, the two key goals of section 101 could not both be achieved: screening illegal aliens out of the workforce and avoiding discrimination against citizens and legal aliens who look or sound "foreign" to employers.

The most disappointing part of the Chamber's argument is the assertion that individuals, including businessmen, have no obligation to assist the Government in enforcing our laws. That view is certainly not consistent with our tradition of responsible citizenship and limited government.

Does the Chamber feel that businesses' legal obligation to withhold income and Social Security taxes is also unreasonable? There is no practical alternative. Moreover, a legitimate businessman ought not knowingly hire illegal aliens and thereby provide the major incentive for violating one of the most fundamental laws of a sovereign nation—the one controlling its borders.

Fortunately, most businessmen do not share the Chamber's view. Other business groups support the bill—the National Association of Manufacturers, for example. Many local Chambers of Commerce, including those in Texas and California, where there are great numbers of illegal immigrants, have acknowledged the need for such reform.

The sponsors are attempting to protect America from uncontrolled immigration for the sake of their children and grandchildren,

while keeping at bay the specter of meanness, nativism and racism. Fortunately, a sizable majority of Americans are willing to hark to an appeal to rise above any special interest they may have in order to obtain workable immigration reform. It is puzzling why the United States Chamber of Commerce is not.

[From the Washington Post, Aug. 11, 1982]

LAW AND THE ILLEGALS

The Senate is about to begin consideration of the Simpson-Mazzoli bill, a comprehensive revision of our immigration laws. The proposal is the result of years of study, extensive hearings and wise compromise on some of the more controversial aspects of this problem. One of the most important provisions is designed to control illegal immigration by penalizing employers who hire undocumented workers. Such a sanction, sponsors of the bill believe, is the only way to control borders, since most illegal immigrants come here specifically to work.

The Select Commission on Immigration and Refugee Policies, created by Congress in 1979, estimated that between 4 million and 9 million undocumented workers are now in this country, but former labor secretary Ray Marshall, who was a member of that commission, admits that the estimate is a result of a compromise among a widely varying set of guesses as to the actual number. Officials simply don't know how many illegal aliens are here, but they do know that unemployment in this country is now at 9.8 percent, and that every job held by an illegal alien is one not available to an American citizen.

Many employers oppose any change in the present law-enforcement system since they prefer to pay very low wages to workers who cannot avail themselves of their rights. Mr. Marshall and many labor leaders believe that the only way to preserve these jobs and improve wages and working conditions in some industries is to eliminate that option for employers. He is right.

Another controversial question concerns refugees. Under the provisions of the Simpson-Mazzoli bill, 425,000 new immigrants would be allowed to enter the United States each year. This ceiling does not include refugees who, under existing law, may be admitted in any number on the authority of the president as long as he notifies Congress of his intentions. Such flexibility is needed to deal with emergency situations where quick action must be taken for humanitarian reasons.

It was assumed that under the provisions of the law, about 50,000 refugees a year would enter the country, but for a variety of reasons—the continuing needs of Indochinese refugees, the Cuban boat lift—that figure has been much higher in recent years. Sen. Walter Huddleston (D-Ky.) would apply the 425,000 ceiling to immigrants and refugees combined. He would continue the president's flexible power to meet emergency situations by allowing large numbers of refugees in during any given year, but would then subtract numbers over the ceiling from the following year's quotas.

Those supporting the Huddleston position believe that Americans are suffering from "compassion fatigue," that we are already doing more than our share to accept the homeless and the persecuted of the world and that, for purposes of our own long-range economic planning, we must have a firm and fixed number of new admissions to the country. To disagree with this position

is not to accuse its proponents of mean-spiritedness.

The United States has accepted on a permanent basis large numbers of refugees in recent years, and it has not always been easy. And we should take care that the total numbers do not regularly substantially exceed the original expectations of Congress. Nevertheless, the Huddleston amendment should be rejected because it will inevitably curtail this country's ability to accept its share of the world's refugees. In stark political terms, if refugees have to compete for quota numbers with the brothers and sisters of American citizens, there is no doubt who will be admitted.

This nation was founded as a haven. That quality is part of our national character, and there will always be room here for those who come without connections and without special skills simply because they must come here to survive. The Huddleston amendment severely restricts that tradition when a prudent application of existing law ought to be enough. The Simpson-Mazzoli bill should be passed without the Huddleston limitation, and the House should concur. ●

DR. H. M. S. RICHARDS

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MOORHEAD. Mr. Speaker, on August 29, there will be a special celebration and festival of thanksgiving to honor Dr. H. M. S. Richards on his 88th birthday.

The son and grandson of preachers, Dr. Richards is the founder and speaker-emeritus of the Voice of Prophecy radio broadcasts. He is a pioneer radio evangelist who first conceived of radio ministry in 1920 but it was not until 10 years later that KNX radio began daily broadcasts of his "Family Worship" program.

In 1937, the program received a new name, "The Voice of Prophecy," and wider distribution over the Don Lee Broadcasting System. Five years later, the program went nationwide when it was picked up by the 89 stations of the Mutual Broadcasting System.

Today, the VOP program is carried by the NBC and intermountain radio networks and hundreds of independent stations in the United States and Canada. Across North America, some 750 stations air the program either Sunday or daily, and overseas, another 1,100 stations carry programs that bear the same name or are closely affiliated with the Voice of Prophecy.

In 1967 and 1970, Dr. Richards was recognized by his fellow broadcasters of the National Religious Broadcasters organization with the honor citation for his dedication and steadfastness to humanity and Christianity.

Simply put, Dr. Richards is an uncommon man of wisdom and compassion. In his dealings and teachings with people, he has always sought to

bring them together, not to divide them; he has always stressed their vast commonality, not their differences; he has always appealed to their desire for union, not discord.

He is a man of special insight and grace who rises above the banal and mundane, yet never belittles those who cannot. He does not become embroiled in the small and unimportant. He shuts out no man by closing his mind to that man's ideas or beliefs.

Mr. Speaker, it is a pleasure for me to play a small part in honoring a great man.●

BUFFALO EVENING NEWS CALLS PROPOSED BALANCED BUDGET AMENDMENT A SHAM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. LaFALCE. Mr. Speaker, the Buffalo Evening News published last week a thoughtful editorial that labels the proposed balanced budget amendment what it really is—a sham. This editorial is required reading.

The editorial subjected the amendment passed by the Senate last week to the scrutiny that is required as we approach consideration of this matter. It raised very serious questions that all of us must consider if we are to treat this issue responsibly. Amending the Constitution is something that is not done lightly, especially when there are such serious policy and practical questions about the amendment.

Let me highlight the editorial's key points:

More than a loophole, the proposed amendment borders on sham. If it were a commercial product, it might be hauled into court for violation of truth-in-advertising statutes.

While we don't doubt the sincerity of many amendment supporters, they have chosen a tool both ineffective and inappropriate. The Constitution is no place for complex codes of economic policy, however, precise or porous. There is, moreover, a fatal contradiction in the approach. The tougher the amendment, the greater its destructive impact on the economy could be; yet the more special exemptions and escape hatches that are included, the less it can pretend to really fulfill its intent.

The hard fact is that the disease of irresponsible budgeting is not so instantly cured. This amendment is a placebo, not the sturdy medicine of steady, disciplined budgeting decisions by men and women elected to do that job each year. The House, where the amendment is now headed, ought to bury this illusion in the reality of defeat.

Following is the full text of the editorial that appeared in the Buffalo Evening News of August 7, 1982:

HOUSE SHOULD REJECT BALANCED-BUDGET SHAM

The balanced-budget amendment to the U.S. Constitution approved 69 to 31 by the

Senate offers the wrong answer to the genuine ills of irresponsible budgeting in Washington.

More loophole than law, the proposed amendment borders on sham. If it were a commercial product, it might be hauled into court for violation of truth-in-advertising statutes.

This is not to contend that its proponents don't voice the legitimate worries of millions of their constituents.

The nation has not seen a balanced federal budget since 1969. It has had only one in the last 23 years. Regrettably, balanced budgets have become a curiosity, a virtually extinct species. Further, federal spending, which consumed just under 20 percent of the nation's total goods and services in 1964, is expected to consume more than 24 percent this year. So the lack of discipline in Washington on fiscal policies is mercilessly evident, the danger of this inexorable spending spiral incontestably real.

But what an irony! Some of the same politicians who for years have demonstrated an inability or unwillingness to bring spending and taxation into rough balance, now want to order this goal with the snap of a constitutional finger. They would insert into the Constitution a standard they themselves have repeatedly breached.

But even this proposed prohibition is riddled with escape hatches, as if the proponents doubt their ability or desire to put the principle into practice. The proposed amendment does call for Congress, prior to each budget year, to adopt "a statement of receipts and outlays for that year in which total outlays are no greater than total receipts."

But this would not apply, as it should not, in wartime. It would not apply whenever 60 percent of the membership of each house of Congress agreed to violate it. Still another exception adds: "Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays . . . except those for repayment of debt principal."

Concerning the latter exemption, it is worth noting that billions of dollars each year are involved in debt repayment. Other billions are placed in "off-budget" programs. Unlike states and cities, the federal government does not now write separate capital budgets for road, building and other similar projects. But with receipts from borrowing exempted, Washington presumably could circumvent the proposed balanced-budget mandate by the simple expedient of creating multi-billion dollar capital budgets.

While we don't doubt the sincerity of many amendment supporters, they have chosen a tool both ineffective and, worse, inappropriate. The Constitution is no place for complex codes of economic policy, however precise or porous. There is, moreover, a fatal contradiction in the approach. The tougher the amendment, the greater its destructive impact on the economy could be; yet the more special exemptions and escape hatches that are included, the less it can pretend to really fulfill its intent.

The hard fact is that the disease of irresponsible budgeting in Washington is not so instantly cured. This amendment is a placebo, not the sturdy medicine of steady, disciplined budgeting decisions by men and women elected to do that job each year. The House, where the amendment is now headed, ought to bury this illusion in the reality of defeat.●

THIS IS HOW IT USED TO BE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. RUDD. Mr. Speaker, a constituent of mine, Mr. Robert F. Flowers of Scottsdale, Ariz., has brought to my attention some very thought-provoking reminders of then and now. Let me share these reminders with my colleagues.

I commend this short piece of wisdom to all of my colleagues:

THIS IS HOW IT USED TO BE

Do you remember when:

Attending college was a privilege rather than a right?

A farmer could plant what he wished?

Taxes were a nuisance rather than a burden?

The Supreme Court protected society rather than the criminals?

The aged were cared for by their children?

Foreign officials visited the White House without asking for money?

We entered a war to win it?

A life sentence didn't mean "parole in 10 years"?

Our flag was respected—at home and abroad?

America conducted her foreign affairs without consulting the U.N.?

A father went on welfare only out of desperation, and got off it as soon as possible?

Charity was a virtue instead of big business?

We could laugh at jokes about the Irish, Negroes, Italians, Jews, or Polacks without being considered bigots?

The doctor's first question was, "Where does it hurt?" instead of "Do you have insurance?"

U. S. Grant was the name of a president rather than a federal handout?

Giving aid to the enemy was treason? (Now it is called foreign aid.)

We had prayers in our schools? (Now we have sex education.)

The churches preached religion instead of politics?

You were safe on the streets and in your home?

The news media presented the truth rather than false propaganda?

The motion pictures were wholesome family entertainment instead of violence and sex?

A policeman was a human being instead of a fascist pig?

The three R's were reading, writing and arithmetic instead of robbery, rape and riot?

The Supreme Court consisted of judges instead of political hacks?

A radical had to have a soap box to reach 40 people? Now the news media provides him with a microphone to reach 40 million.

The country was run by Americans instead of a group of aliens?

This was a Christian nation?

—AUTHOR UNKNOWN●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. CLINGER. Mr. Speaker, on August 10, 1982, I was absent from the floor of the House for a vote. Had I been present, I would have voted in the following fashion:

Rollcall No. 259: H.R. 5427, Radio Marti, the House by a recorded vote of 78 ayes to 284 noes with 1 voting "present," rejected an amendment that sought to authorize the Board for International Broadcasting to prepare material for voluntary broadcasting by commercial radio stations, "no."●

GEORGE ALEXANDER

HON. JACK BRINKLEY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. BRINKLEY. Mr. Speaker, too often our public servants are taken to task because of real or imagined inadequacies such as a late social security check or lost mail. Therefore, it is my particular pleasure to present kudos to George Alexander, staff assistant for manufactured housing of the Veterans' Administration's Loan Guaranty Service.

During my tenure in the House of Representatives, I have known few Federal employees more dedicated than George to his fellow man. His diligence in trying to provide alternative housing to this Nation's veterans at a reasonable price has provided him with a nationally recognized reputation as one of the most knowledgeable men in the manufactured housing industry.

George's experience with the manufactured housing industry has grown with the development of the mobile home. He has seen firsthand the growth of small box-like trailers we knew decades ago to the establishment of standards which have created prefabricated factory-built houses comparable to site-built homes, but at a much lower price.

A native and resident of Canton, Ga., before joining the VA, George spent 17 years in this native State representing a major appliance manufacturer. It was during this period that his love for the industry was nurtured. In tribute to his assistance to manufactured housing, he was twice elected president of the Georgia Manufactured Housing Association, and twice elected president of the Southeast Manufactured Housing Institute. His leadership was further recognized in his home State when he was named to the Georgia Manufactured Housing Association's Hall of Fame.

The recognition of his talents grew as he was asked to join public service 8 years ago by the Veterans' Administration. As staff assistant for manufactured housing, his input into new regulations and laws has assisted many veterans in acquiring affordable housing not previously available. As former chairman of the Subcommittee on Housing of the House Committee on Veterans' Affairs, I will be forever indebted to George for his assistance with Public Law 95-476, the Veterans' Housing Benefits Act of 1978. This law put manufactured housing on a standard formula with conventional housing, and enabled many veterans with marginal incomes to become homeowners. VA guaranteed home loans for conventional housing have faltered in the last few years, but VA guaranteed home loans for manufactured housing have continued to rise. This is in no small part due to the efforts of George Alexander.

George Alexander has always given of himself, not only in the area of alternative housing, but in civic affairs as well. He is a deacon of the First Baptist Church in Clarendon, Va., a member of the Lions Club, a Mason, and a member of the Veterans of Foreign Wars—having once served as post commander in his hometown of Canton, Ga. He is a veteran of service in the Pacific theatre during world War II, and was honorably discharged with the rank of first lieutenant. He and his dear wife, Patricia, are the proud parents of three children, George, Ada, and Anne Marie.

Mr. Speaker, today, in recognition of his lifelong dedication to manufactured housing and to his fellow man, George is being given the highest national honor in the manufactured housing industry. Today, during the 28th annual Midwest Manufactured Housing and Recreational Vehicle Show in South Bend, Ind., George will be named to the Recreational Vehicle/Manufactured Housing Hall of Fame. He will join a select group of individuals who have been so honored. The naming of George Alexander to the RV/MH Hall of Fame brings great credit to him and to the Veterans' Administration.

I am proud to call George Alexander my friend because he is an uncommon man given to uncommon deeds.●

SONGS OF LABOR

HON. WENDELL BAILEY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. BAILEY of Missouri. Mr. Speaker, this Labor Day, September 6, 1982, will celebrate the 100th anniversary of the first Labor Day. In honor

of this occasion Mr. Rudy Grother, librarian at the Whittier Elementary School in Sedalia, Mo., submitted the following poem written by John Greenleaf Whittier, who died 90 years ago on September 7, 1892:

SONGS OF LABOR

Haply from them the toiler, bent
Above his forge or plough, may gain
A manlier spirit of content,
And feel that life is wisest spent
Where the strong working hand makes
Strong the working brain.●

PAUL HEKLER HONORED

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MOORHEAD. Mr. Speaker, Mr. Paul Hekler will be honored by his many friends, associates, and well-wishers at a retirement dinner on August 18 in Burbank, Calif.

After 11½ years as executive director of the Burbank Chamber of Commerce, Mr. Hekler is putting the cap on a distinguished career.

Much of that career was spent with the Burbank Chamber, where as executive director he was responsible for a growth in membership from 500 members to 760 members. During that period, the chamber's revenues also increased from \$41,000 to \$175,000.

He was the principal reason for the 1975 accreditation of the Burbank Chamber by the U.S. Chamber of Commerce, a distinction that only 370 of the Nation's 5,000 chambers enjoy.

In 1972, he was presented with the William E. Hammond Memorial Award as the outstanding first year chamber executive in California. In 1978, he became the president of the Southern California Association of Chamber Executives. He was a director in the California Chamber Executives Association, a member for the American Chamber Executives Association and a class adviser for training chamber managers.

Mr. Hekler has long been active in other community affairs. He held positions of leadership in the Disabled American Veterans Charities, the Burbank Rotary Club, the Burbank Community Hospital, Toastmasters, Sertoma, and the Lions Club. He was a director with Friends of the Airport.

Mr. Speaker, Mr. Hekler has given a great deal to his community and his neighbors. I am grateful for his contributions and I wish him a long and fruitful retirement.●

AN EDITOR'S THOUGHTS ON
LEBANON

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. BEREUTER. Mr. Speaker, the world's attention continues to be riveted on the tragic events occurring in Lebanon.

The Lincoln, Nebr., Star recently editorialized on the issue of how the United States should respond to the continued violence and Mr. Begin's apparent arrogance. As we ponder this critical life and death matter, I urge my colleagues to at least consider the Star's point of view and have inserted the full text in the RECORD.

[From the Lincoln Star, Aug. 5, 1982]

LET HIM GO IT ALONE

As Menachem Begin's army strengthens its diabolic grip on West Beirut, crushing the Palestinian resistance and innocent civilians alike, a couple more observations are appropriate:

Many Israelis, worried about their worsening image in the world, are adopting a kill-the-messenger mentality. They apparently are blaming television—which shows daily the raids on Beirut—for adverse world opinion, instead of their government's war policy. They and Israel's friends should not forget, however, that the unblinking camera recorded the aftermaths of the 1972 Munich atrocity and others committed by the PLO. The violent acts themselves, and the one-sided media treatment long afforded the subject, combined to picture the entire, complex Palestinian problem as one dimensional—that dimension being Palestinian terrorism. The cameras now bring another dimension to the problem.

Begin says, in response to the possibility the U.S. will impose sanctions against Israel if the violence in Lebanon doesn't stop, that his people "do not kneel but to God." He said he'll resist the sanctions. Very well, let him continue the war and answer to the God he says he is communing with. But American citizens ought not to have to pay for the slaughter. Not with another round of ammunition or another dollar of aid.●

RESEARCH AND DEVELOPMENT:
TO PRUNE, PROMOTE, AND
PRESERVE

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. FUQUA. Mr. Speaker, a number of my colleagues and I have been increasingly concerned about maintaining the health of our Nation's overall science and technology base. Limited Federal budgets have curtailed real growth in long-term investments in research and development. This has created some apprehension about our future economic competitiveness in this highly technological world. Obviously new relations between govern-

ment, industry, and the university research community need to be explored.

Dr. Edward E. David, Jr., president of Exxon Research and Engineering Corp., in a recent Science editorial made a number of thoughtful comments. Noting increases in industrial-university cooperation, he stated:

Even so, we must remember that R. & D. does not prosper through funding alone; there are values to preserve. Essential are the integrity of the scientific research process, the freedom of academic opinion and expression, and the dominance of excellence. These and other necessities will be harder to preserve in this era as new techniques and relationships are brought into play.

Attached is the entire text of Dr. David's article as it appeared in the August 13, 1982, issue of Science magazine.

TO PRUNE, PROMOTE, AND PRESERVE

In times of austerity and turbulence, it is essential to prune, yet to promote new growth and, above all, to preserve values for tomorrow. These are such times. The United States still supports the most extensive and the most successful scientific enterprise in history. But low investment, high interest rates, and demands for instant gratification have combined over the past decade to erode long-term commitments. Thus, while the 1970's were marked by a striving in the science community to recreate the conditions of the golden age following World War II, when the federal-academic research axis reigned supreme, few believe it is practical today.

Science is indeed an endless frontier, but federal science budgets most decidedly are not. There is lip service to the Bushian ethic in Washington, but at the core there is skepticism of research and development as autonomous functions. Autonomy is giving way in industry, government, and academia alike to a closer integration with the innovation system. A symptom of this trend is the rapid growth of industrial funding for academic research—one of the only growth segments of university and college support.

Regardless of how this trend may be perceived, there is little doubt that we are entering a new era in the funding and performance of R. & D. in the United States. And, as befits a new era, new initiatives are emerging. Much of academia is showing verve and ingenuity in meeting such critical problems as uncompetitive faculty salaries, a paucity of U.S. graduate students, inadequate research funds, and antiquated laboratories. In fields such as microelectronics, robotics, microbiology, and catalysis, industry-university research consortia are achieving prominence. University and industry groups have banded together to support common goals in organizations such as the Council for Chemical Research and efforts such as the National Engineering Action Conference, held on 7 April (Science, 30 April 1982, page 456).

To procure vitally needed instruments and facilities, Colorado State University has used debt financing. George Olson, Vice President for Research at Colorado State, has pioneered this technique successfully for more than 10 years. Similarly, there is thinking that mechanisms for setting up limited partnerships to finance development projects might be applied to financing academic research as well.

Despite these vigorous responses, it is possible that not all needs will be met. Even so, we must remember that R. & D. does not prosper through funding alone; there are values to preserve. Essential are the integrity of the scientific research process, the freedom of academic opinion and expression, and the dominance of excellence. These and other necessities will be harder to preserve in this era as new techniques and relationships are brought into play.

Less well recognized is the need to preserve the privilege of decision in R. & D. activities. In order to tap the creativity of people, it is necessary to give them a certain freedom of action and leeway to follow their ideas. Otherwise, society cannot take advantage of their talents. On the other hand, the funder, whether it be a corporation, government agency, or limited partnership, must set a framework for evaluating technical activities in relation to its own purposes.

Balancing the influence of the performer and that of the funder is a delicate matter and a prime test of R. & D. leadership. Today the balance is tipping again toward the funder and away from those who tend the base of knowledge and technique. A priority for scientists and engineers is preservation of the balance, and this will be achieved most effectively through persuasion. Those in industry must recognize that their institutions cannot micromanage academic or industrial fundamental research. Even if that were possible, it would negate much of the value to be found in first-class research. This point must be stressed; funders of research will, first and foremost, be buying human talents. It is those talents which will create a better future.—Edward E. David, Jr., President, Exxon Research and Engineering Company, Florham Park, New Jersey 07932.●

II. ISRAEL, FRIEND OR ENEMY?

HON. PAUL N. McCLOSKEY, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. McCLOSKEY. Mr. Speaker, yesterday, I commented upon the need to reconsider our longstanding "special relationship" with Israel.

Today, after 34 years of solid support and friendship for Israel, the United States has suddenly come face to face with an unpleasant possibility: Israel has become a liability to U.S. interests and policies abroad, and may rapidly be becoming a potential enemy.

It was only 3 years ago, in August 1979, that Presidential candidate Ronald Reagan spoke of Israel as "perhaps the only strategic asset in the area (the Middle East) that the United States can really rely on."

In September 1978, Israel had joined with the United States in the Camp David accords, subscribing to U.N. Resolution 242 "in all of its parts," and thereby laying the basis, at least so we thought at the time, for the eventual creation of a Palestinian homeland on the West Bank and Gaza.

Secretary of State Cyrus Vance stated to the U.N. General Assembly on September 29, 1978:

We believe that the Palestinian people must be assured that they and their descendants can live with dignity and freedom and have the opportunity for economic fulfillment and political expression.

In 4 short years, however, the government of Menachem Begin has made it clear that it has renounced both its acceptance of Resolution 242 in 1967 and its agreement at Camp David in 1978.

Begin has made it crystal clear that he intends to annex both the West Bank (Judea and Samaria) and Gaza. He has referred to both as part of the historic "Eretz Israel" (land of Israel).

In April 1982, Israel Defense Minister Ariel Sharon said the Sinai withdrawal was Israel's final territorial concession.

In Sinai, at Yamit, we have reached the limits of our concessions. . . . We shall turn to increasing and consolidating our settlements on the Golan Heights, in Judea, Samaria and the Gaza District.

When asked about annexation of the West Bank, Begin has responded: "How can we annex what is already ours?"

The enormity of Begin's change of position from that taken at Camp David can be compared to Hitler's change of position after Munich.

Resolution 242, the foundation for Camp David, is clear:

The establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

(i) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;

(ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.

In essence, Israel agreed at the United Nations in 1967, and reaffirmed at Camp David in 1978, to withdraw its military forces from the Golan Heights, West Bank, and Gaza (the occupied territories) at such time as Israel was accorded the right to live within secure and recognized boundaries, recognized as a nation, and free from threats or acts of force.

It has been firm U.S. policy to secure these rights for Israel since 1967. We have given Israel more than \$20 billion in aid to achieve these rights. This year one-fifth of U.S. foreign aid, \$2.2 billion, goes to Israel, a nation of 3.5 million people.

But Resolution 242 cuts both ways. It imposes duties on Israel as well as conveying rights.

The Begin government has now demanded the rights but renounced the accompanying duties. His administration has just published a map of the

West Bank showing 40 percent of the lands set aside for Jewish settlements, 50 percent for agriculture, and only 10 percent for the existing Arab population of more than 700,000 people. Israel is rushing to expand and increase its existing settlements, a process which the United States has said violates the Camp David accords.

These are not Israel's only defiant breaches of solemn agreements with the United States.

In 1952, Israel agreed to limit its use of U.S. supplied arms to defensive purposes.

After we gave the fearsome CBU, or cluster bomb, to Israel in 1973, Israel executed a specific, secret agreement in December 1976 that cluster bombs would be used only in the defense of Israel against regular forces in a war of the intensity of 1967 or 1973, when Israel confronted two or more nations; they were not to be used in areas of civilian population.

I found cluster bombs in the streets of west Beirut and in the courtyard of an 800-bed Lebanese mental hospital on July 25. Two days later in Jerusalem, I asked Defense Minister Ariel Sharon why he had ordered use of cluster bombs in Beirut in violation of that agreement. He replied:

In wartime you look at agreements through different eyes.

Those are U.S. bombs and shells that have been savagely destroying a city of 600,000 civilians, block by block. Every Arab in the Islamic world knows that the United States has the power to cut off military aid to Israel when Israel violates its agreement with us.

In every Arab heart, as the Omani Ambassador told me a few weeks ago, there is the growing conviction that America, and Americans, are condoning the killing of the innocent Lebanese civilians of Beirut. A 12-year-old Lebanese boy said bitterly to Representative MARY ROSE OAKAR on the streets of west Beirut last week:

You Americans have killed my little sister.

The anger of 100 million Arabs is not a light burden. A friend of the United States, Egypt's President Hosni Mubarak, told our congressional group on July 28:

Unless the United States takes action soon, you will need armored divisions to defend your embassies.

Our Ambassador to Jordan told us the following day:

If we don't change our policies soon, a lot of us are going to be returning to Andrews Air Force Base in wooden caskets.

An Israel that cannot be trusted to honor agreements, an Israel that feels it proper to destroy a city of 600,000 civilians to wipe out 6,000 PLO soldiers, an Israel that subscribes to Resolution 242 in order to remove the Egyptian threat on its southern border in 1978, but then renounces its

agreement 4 years later to annex the West Bank and Gaza—that is not the Israel we have respected for more than 30 years.

There is no benefit in having a strong ally in the Middle East if that ally makes us the enemy of 100 million Arabs upon whom we are counting to stop the expansion of Soviet influence.

It is clearly a time to recognize Israel as a potential enemy of all that the United States seeks to achieve in the world, not just peace in the Middle East, but acceptance of the principle that the use of force does not justify an incredibly greater force in return.

There is one hope: Secretary of State George Shultz has expressed his desire to resolve the Palestinian issue. If America's Jewish community supports Shultz and voices its disagreement with Begin, perhaps we can get back on the track to a lasting peace in the Middle East.

As writer I. F. Stone put it recently:

If a Jewish state in Palestine, why not a Palestinian state too? Who better than we should understand Palestinian desperation and homelessness? Can we not open our hearts?●

JOB FOR VOCATIONAL EDUCATION STUDENTS

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. ROBERTS of South Dakota. Mr. Speaker, I am in strong support of vocational education programs throughout the Nation that teach our students valuable and marketable skills in today's economy. In South Dakota, vocational education has proven to be one of the best investments of our educational dollars as students receive practical training in areas such as agriculture, home economics, construction, electronics, auto mechanics, sheet metal, and many other trades. For the benefit of my colleagues, I am enclosing an excellent testimony on the employment statistics of students who have graduated from the Mitchell Vo-Tech School in Mitchell, S. Dak. I have visited this school several times and have seen the program firsthand. This editorial appeared in the July 27, 1982, edition of the Mitchell Daily Republic.

VO-TECH STUDENTS FINDING WORK

When bad economic conditions and high unemployment rates are making big headlines these days, it's inspiring to know that students graduating from the Vo-Tech are finding work. Assistant Director of the Mitchell Vo-Tech Dick Ziegler informed us last week that the average placement figure for students graduating in sheet metal, agricultural business, architectural drafting, building construction, air conditioning and heating and electrical construction and maintenance and cooking is 70 percent.

This 70 percent figure doesn't compare with the 93 percent placement figure in 1980 and the 85 percent figure in 1981, but is very good considering how high unemployment and youth unemployment rates are right now.

One reason Vo-Tech students are faring better in getting employment than young people overall is that their training gives them an advantage, Ziegler said. He said companies especially sheet metal companies, have come back to look for Vo-Tech graduates after hiring them in the past. Apparently, companies are much happier with employees who have Vo-Tech training than with those who have to be trained on the job.

Vo-Tech training is less expensive and more practical in some cases than college training. That's probably why the Mitchell Vo-Tech has seen more college graduates coming in its doors to seek training for second careers. And, colleges are wise to consider letting students transfer credits from Vo-Techs. This would allow students who don't have money for four years of college a new option and would be an advantage to colleges as well.

Ziegler said it was surprising to find that students graduating in drafting and construction are doing so well, with these areas down in general. We think this is a reflection of the excellent training these students are receiving at the Vo-Tech and their high motivation to find jobs.

Ziegler said students, aware of the economy, are preparing themselves for work through good study habits, class attendance and attitudes. He said they are carefully preparing resumes and begin looking for employment before they graduate. Some went out-of-state during Easter breaks to look, Ziegler said. We think the Vo-Tech is doing an excellent job of preparing students for the market and warning them ahead of time how to be prepared.

Students are more aware of needing saleable skills and parents are encouraging them to acquire these skills. Some are applying for Vo-Tech programs much earlier and families are sending several children to the Vo-Tech, Ziegler said.

It's good news, when all we hear these days is bad news about people finding work, that Mitchell Vo-Tech graduates are doing so well. Teachers and administrators at the Vo-Tech are making it a point to encourage and motivate their students in spite of the economy.●

PERSONAL EXPLANATION

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. McGRATH. Mr. Speaker, on Thursday, August 5, I was absent for a series of votes on House Joint Resolution 521, the nuclear weapons freeze resolution. I was necessarily absent because of illness. Had I been present, I would have voted as follows:

Rollcall No. 249: On the Broomfield substitute, I would have voted "no."

Rollcall No. 250: On the motion to recommit, I would have voted "yea."

Rollcall No. 251: On final passage, I would have voted "yea."●

THE PRESIDENT'S BALANCING ACT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. OTTINGER. Mr. Speaker, appearing in the New York Times recently was an editorial column by Tom Wicker on the subject of President Reagan's advocacy of the proposed balanced budget amendment.

Mr. Wicker concentrates on the President's continued efforts to force a military buildup in our country, at the same time he asks Americans to sacrifice everything to "help save our economy." The deficits caused by Mr. Reagan's military buildup are being covered by his supporting the balanced budget amendment. It is quite clear to me that he is trying to fool the American people.

I hope that, as the balanced budget amendment comes to the House, my colleagues will keep Wicker's arguments in mind.

[From the New York Times]

THE BIGGEST HOAX

(By Tom Wicker)

David Brinkley recently posed this question to his television audience: Has there ever been a bigger hoax in Washington than the so-called "balanced budget amendment" supported by the Reagan Administration?

After President Reagan's latest news conference, the answer clearly is "yes." The biggest hoax in memory is Mr. Reagan's effort to cover up his own unmatched performance as a deficit spender by plugging that illusory amendment. At best, it could have no effect on the budget for several years—and that not necessarily good—while the Reagan deficits are here, now, huge, growing and unnecessary.

The President said that these deficits "I don't think can be laid at an individual's door"—although he never hesitated to lay earlier deficits at Jimmy Carter's door. As for those projected during his Administration, there's one easily identifiable individual who proposed and pushed through Congress a three-year \$750 billion tax cut, who scheduled 7 percent annual increases in real military spending, and who supported a Federal Reserve monetary policy to slow inflation that also induced recession and now inhibits recovery.

These are the primary causes of the deficits now impending, and that individual is Ronald Reagan. If he's not responsible for those deficits, who is? The Democrats? Even if they still controlled Congress, they could have made all the spending cuts Mr. Reagan originally asked and still not have reduced the projected deficits significantly.

Just this week, the Congressional Budget Office—so far a more reliable prognosticator than the Reagan White House—estimated that the deficits in each of the next three years would range from \$140 billion to \$160 billion, even after approval of the proposed \$99 billion tax increase for the same years. Without a shred of evidence other than voodoo throbings, the White House pronounced this "too pessimistic."

Not according to chairman Paul Volcker of the Federal Reserve Board, who said the

C.B.O. projections "came as no surprise to us." He said there was "a lot more to be done"—both spending cuts and tax increases—to bring down the deficits and permit interest rates to decline and the economy to expand.

But what is Mr. Reagan doing? He is proposing to renege on (he calls it "flexibility") the budget agreement he had reached with Senate Republican leaders, in which they settled upon military spending of \$214 billion for 1983, \$243 billion for 1984 and \$279 billion for 1985—hardly small change. The President now says he will propose higher military spending for 1984 and 1985, because—as a Defense Department official put it—"Cap [Weinberger] wants everything he can get his hands on."

At his news conference, Mr. Reagan insisted he would nevertheless keep his 1984 and 1985 budget requests within the overall total agreed upon with the Senate. That means the military increases would have to be taken out of non-military spending, no doubt laying added burdens on the poor.

Even so, the President's decision to give Cap everything he wants damages the economic outlook for at least three reasons:

Depending on what non-military programs are cut, the shift to military spending would reduce consumer purchasing power, thus further hindering recovery.

Military spending contributes little to economic growth and is inflationary in that it makes a high demand on skilled manpower and scarce materials, driving up their costs.

By reneging on a major part of the budget agreement, Mr. Reagan is bound to have created doubts that he and/or Congress will stick to the rest of it.

Ironically, Mr. Reagan himself pointed to the importance of creating "the psychological effect that would indicate that the Government is really determined to . . . have some real fiscal integrity. . . ." But his actions on his own budgets are likely to speak louder than his words on a balanced budget amendment.

Besides, Chairman Pete Domenici of the Budget Committee said that increases in proposed military spending would be "unreasonable and unjustified." Yet Mr. Reagan continues to portray himself as the champion of reduced spending and balanced budgets, and his discredited economic "program" as the only proper way of "working our way back to prosperity."

Congress, of course, need not appropriate the additional military funds for 1984 and 1985, and it probably won't—particularly if the November election results can be read as a rebuke to the Reagan Administration.

That doesn't alter the fact—or its "psychological effect"—that while advocating a constitutional requirement for balanced budgets in the future, Mr. Reagan is willing to undercut the agreement with Congress by which he supposedly is trying to reach one now.●

KEN DAVIS TO RECEIVE NATIONAL ENGINEERING AWARD

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. FUQUA. Mr. Speaker, being chairman of the Science and Technology Committee has afforded me an op-

portunity to meet scientists and engineers and I have developed a deep respect for those in the engineering field who labor to give Americans a better life. Among those is one who stands above most of the others. He is W. Kenneth Davis, who has had a highly successful career starting with Standard Oil of California and continuing with the Atomic Energy Commission in its early days, then to the Bechtel Corp. and currently as Deputy Secretary of Energy.

Plaudits to him include the Arthur S. Fleming Award, the American Institute of Chemical Engineers' Professional Progress, and Robert E. Wilson Awards. He has also received the Atomic Industrial Forum's Oliver Townsend Award and was selected twice the UCLA regents' lecturer. He has been elected to the National Academies of Science and Engineering and served as vice president of the latter.

Ken has authored hundreds of technical papers and served on vital committees and boards too numerous to mention here, but all having a positive impact on our struggle to become energy self-sufficient.

Ken's success in his field and dedication to his country must be a role model to young men and women who choose engineering as their life's work.

Ken Davis is respected the world over as one of the most able engineers in his field. To underscore his superior performance over many years, the American Association of Engineering Societies has chosen him to receive its National Engineering Award. This prestigious award is certainly warranted and I would ask, Mr. Speaker, that all Members of the House join me in saluting a truly outstanding engineer and American, Ken Davis.●

PORTER ASSAILS SOVIET UNION DISINFORMATION PRACTICES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. PORTER. Mr. Speaker, I rise to protest the Soviet Union's continued propaganda and disinformation blitz spreading confusion and erroneous media impressions about U.S. diplomatic practices. Recently, we have seen examples of blatant Soviet efforts to forge important diplomatic and State documents to hurt the United States and its allies and foster cynicism about American intentions.

At a time of heightened tension and of renewed warfare in key regions of the world, the Soviets continue to exacerbate differences and undermine peace efforts. The latest themes stressed in Soviet external propaganda devoted to attacking the United States are summarized in the July 30 Inter-

national Communication Agency's Soviet Propaganda Alert," which I insert in today's CONGRESSIONAL RECORD:

SUMMARY

In June and July, Soviet external propaganda stressed:

ARMS CONTROL AND PEACE MOVEMENTS

Soviet propaganda focused on alleged U.S. duplicity at the Geneva START talks. President Reagan's speech at the U.N. Special Session on Disarmament (SSOD) was seen as an attempt to hide Washington's bid for military superiority by portraying the U.S. as a "peace-maker." Peace demonstrations in the U.S. and Western Europe supposedly showed increasing worldwide realization that Washington, not Moscow, is the true threat to peace. A related major theme, following the space shuttle's latest flight, concerned U.S. military plans for space.

ISRAELI INVASION OF LEBANON

Soviets accused the U.S. of collusion with Israel in its move against the PLO in Lebanon. According to Soviet charges, the U.S. wants to impose a Camp David-type arrangement on Lebanon and neighboring territories, leading to "U.S. imperialist domination over all the area."

GAS PIPELINE SANCTIONS

Soviet propagandists decried the sanctions as economic warfare. They claimed that this new version of the Cold War would not damage the Soviet economy, which could resist such pressures. The sanctions allegedly undermine the Versailles economic summit agreements and are designed to increase U.S. economic control over its allies.

HAIG RESIGNATION

Alexander Haig's resignation became an opportunity for Soviets to highlight U.S. "problems" in international relations. The former Secretary of State was described as a scapegoat for the administration's foreign policy failures, not as resigning over policy or personal disagreements.

ESCALATION OF THE IDEOLOGICAL WAR

President Reagan's European visit was seen as launching a stepped-up anti-Soviet campaign. Soviet propagandists kept up their attacks on VOA and ICA, accusing the U.S. of increasing its psychological warfare against the USSR.

CHEMICAL AND BIOLOGICAL WARFARE

Soviet propaganda continued to emphasize alleged U.S. hypocrisy in condemning the USSR for the use of chemical and biological warfare (CBW). Soviets maintained their claim of innocence on all charges of CBW.●

HOUSE BINARY VOTE ANSWERS "HOW MUCH IS ENOUGH?"

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. ZABLOCKI. Mr. Speaker, last month the House of Representatives rejected the Reagan administration's plans to resume production of lethal chemical weapons, after a 13-year moratorium on such production. By a vote of 251 to 159, the House adopted my amendment to the fiscal year 1983 Defense authorization bill which deleted

the \$54 million requested for lethal binary chemical weapons production.

As our House and Senate colleagues take up this important issue in the Defense authorization bill conference this week, I would like to bring to their attention an article and editorial which appeared recently in the Salt Lake Tribune.

I regret that the photo accompanying the editorial cannot be included in the CONGRESSIONAL RECORD. What it shows so graphically and dramatically, over a headline which reads "How Much is Enough?", are storage containers of nerve agent stretching as far as the eye can see into the horizon.

My colleagues will recall that Tooele Army Depot in Utah, the site shown in the photograph, is a major storage location for the existing U.S. stockpile of lethal chemical weapons. According to the Tribune, "There is already enough nerve gas stored at Tooele Army Depot to theoretically kill every human on Earth, possibly several times over."

I commend the following article and editorial from the Salt Lake Tribune to the attention of my colleagues:

[From the Salt Lake Tribune, July 25, 1982]

HOUSE WISE IN KNOCKING DOWN APPEAL FOR MORE NERVE GAS

The Senate-passed authorization of \$56 million to start production of a new-generation nerve gas, ultimately a \$10 billion program, fortunately has been defeated by an overwhelming vote in the House. Hopefully the House view will prevail when this item is reviewed in a later conference between members of both houses on the overall Defense Authorization Bill.

There is already enough nerve gas stored at Tooele Army Depot to theoretically kill every human on earth, possibly several times over. The stock was examined several years ago by Salt Lake Tribune representatives, with permission of the TAD commander. One-ton drums of the liquid human insecticide were stacked on wooden platforms over an open area roughly two city blocks long and 60 yards wide. (They are shown in photograph at right, taken at that time. The drums have since been moved to inside storage.)

Just a tiny fraction of one drop of the liquid, contacting human skin or inhaled, can kill a person within minutes through paralysis of the central nervous system. And the U.S. military arsenal already has enough nuclear capacity to kill every Russian 10 times over.

The continued expenditure of billions of dollars for redundant weaponry, particularly the horror of nerve gas, is morally repugnant and fiscally insane.

How many times can you kill an enemy? What is rational about spending \$10 billion for a new batch of chemical weapons designed to destroy human beings when the same \$10 billion could relieve so much suffering and anxiety among America's growing army of poor?

Opponents in the House pointed out that renewed U.S. output of the gas would weaken NATO, whose European members have not requested deployment of the gas on their soil and reportedly fear being asked by Washington to do so. It was also noted

that, since soldiers wear gas masks and protective clothing, civilians would be the main victims, possibly dying by the millions.

The Pentagon considers chemical warfare capacity necessary in case the Russians initiate its use. The U.S. already has that capacity.

The GB gas at Tooele is not hazardous to handle, a depot spokesman said. But the military wanted second-generation weapons, consisting of two non-lethal chemicals that mix to form the deadly gas only after firing. Safety procedures in implementing use of the Tooele liquid presumably are well established and its use as a weapon still viable if the decision were made. That's enough.

Of all the weapons man has devised in his lemming-like penchant for self-destruction, none is more repugnant than the chemical and biological killers.

If Russia did use them in an invasion of Western Europe, the U.S. has the option of using its present stocks at Tooele and elsewhere. And if the Russians were desperate enough to risk world condemnation by resorting to chemical warfare in Europe, it would likely provoke retaliatory escalation of the conflict to nuclear. In which case chemicals would be superfluous.

[From the Salt Lake Tribune, July 20, 1982]
NERVE GAS PLAN FACES DEFEAT?

WASHINGTON.—A bipartisan House coalition predicted Monday it will successfully block President Reagan's proposal that the United States resume production of lethal nerve gas.

Reagan has urged Congress to approve \$56 million for so-called binary nerve gas next year as part of a program estimated to cost an ultimate total of \$10 billion.

The administration maintains the binaries—which consist of two non-lethal chemicals that mix to form deadly nerve gas only after firing—are safer to store than existing gas stocks and are needed to deter Soviet chemical warfare.

But congressional opponents of the Reagan plan told a press conference Monday that resuming U.S. production of nerve gas after a 13-year moratorium would seriously hurt relations with allies in NATO.

"The plan weakens NATO," said Foreign Relations Committee member Clement Zablocki, a Wisconsin Democrat, who is sponsoring an amendment to cut out funds for nerve gas production. He noted none of the governments of Western Europe have requested deployment of the gas on their soil.

Rep. Jim Leach of Iowa, one of 14 House Republicans working actively to block the program, said the prospect of being asked by Washington to deploy the new gas has led to considerable anguish in West European capitals.

Defense Secretary Caspar Weinberger has repeatedly told Congress no NATO government has been asked to accept new American nerve gas. Weinberger says it could be stored in the United States and rushed to the battlefield by air transport at the last moment.

However, opponents of the binary gas production say it could not possibly serve the Pentagon's stated goal of deterring Soviet chemical attacks unless the U.S. weapons were stored in Europe for ready access.

They charge that, because soldiers in any war would wear gas masks and protective clothing, civilians would be the chief victims of nerve gas and might die by the millions.

The Pentagon maintains, however, it is vital to have the capacity to wage chemical

war if the Soviets initiate it, thus forcing the Kremlin's troops into bulky protective gear that would slow their advance and disrupt their strategy of fast and relentless attack.●

PERSONAL EXPLANATION

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. OXLEY. Mr. Speaker, on Wednesday, August 11, I was at the White House on official business and was unable to cast my vote on rollcall Nos. 258 and 259. Had I been present, I would have voted in this fashion: "no" on rollcall No. 258, and "no" on rollcall No. 259.●

GERM WARFARE SAFEGUARDS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. LAGOMARSINO. Mr. Speaker, I would like to call to the attention of my colleagues two editorials that appeared in the July 31 edition of the Press-Courier of Oxnard, Calif., in my district.

The first editorial entitled "Germ Warfare Safeguards" describes the Soviet dedication to development of chemical warfare agents and the dangers faced by the United States by not having a comparable capability to serve as a deterrent.

The second editorial entitled "Free Trade Productive" is critical of a decision by the Mexican Government to phase out the free trade zone status of Baja, California.

GERM WARFARE SAFEGUARDS

The House voted its concept of righteousness recently when it refused, by a 251 to 159 margin, to appropriate \$54 million for the production of artillery shells containing nerve gas.

That would be fine if only the Soviets were motivated by a similar code of good behavior. But, of course, they are not.

The Soviets have systematically developed an immense chemical warfare capability. Their stocks of lethal chemical agents are estimated to total 350,000 tons—nearly nine times that maintained by the United States as a deterrent to chemical attacks on U.S. forces.

Every Soviet and Warsaw Pact military unit has specially trained chemical warfare personnel attached. Every one of the Soviet army's 170 divisions are trained and equipped for chemical warfare using such weapons as sarin and soman nerve gas, mustard blistering gas, and hydrogen cyanide blood agents.

Other components of the Soviet's chemical arsenal include phosgene choking gas, lewisite blistering agent, Adamsite vapor gas, and chloropicrin, a lethal liquid produced by combining chloroform with concentrated nitric acid.

Moreover, the Soviets have also developed a range of biological weapons, most notably the deadly mycotoxin known as "yellow rain."

In short, the Soviets take both chemical and biological warfare seriously and their armed forces train extensively to use it effectively. Any doubts about their willingness to use such loathsome weapons in violation of explicit arms control agreements and international treaties should have vanished with evidence of soman nerve gas victims in Afghanistan and yellow rain casualties in Laos and Cambodia.

What the Reagan administration wants is a minimal deterrent that could threaten the Soviets with retaliation in kind if chemical weapons are used against American troops. The last U.S. nerve gas shells were produced nearly 15 years ago; most date from the Korean War era.

Many of these munitions are deteriorating. Some actually leak, posing hazards to those who work around storage depots. The \$54 million would have begun production of a safer alternative—binary shells featuring inert chemicals that do not produce nerve gas until they are combined in flight.

Maintaining at least a minimal deterrent is the best way to ensure that Soviet chemical and biological weapons are never used against U.S. forces or their allies.

Unless the House can be persuaded to reverse itself, its vote will have increased the chance that Soviet chemical and biological weapons will someday be used against the West.

FREE TRADE PRODUCTIVE

The Mexican government indicates it will begin phasing out the 50-year-old free trade zone status of Baja California—and that's bad news for businessmen on both sides of the border.

The free trade zone has allowed Baja California residents to shop in the United States and return home with their purchases without paying normal duty.

The reason the free zone was established was that Baja California and its major city of Tijuana are nearly 2,000 miles from Mexico City and its manufacturing plants. The special importing arrangement was set up to allow Baja Californians to make their purchases only a few miles away. Americans have enjoyed shopping in Tijuana.

The Mexican government should go slow on such changes. Business on both sides of the border is slack because of the devaluation of the peso and a drop in tourism. Cutting back on free zone status will not help the economy along the border or in the Mexico City area.●

THE FOOD AND AGRICULTURE RECONCILIATION ACT—FISCAL YEAR 1983

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. CRAIG. Mr. Chairman, in order to offset the growing Federal deficit, Congress is now contemplating a huge tax increase because it is unwilling to control wild Federal spending, especially in the entitlement programs such as food stamps. Contained within

H.R. 6892, the Food and Agriculture Act, are the reconciliation instructions to strengthen various commodity programs and to delineate the requirements for food stamps. I could not accept, however, the sections dealing specifically with the food stamp provisions. Thus, I was unable to vote in favor of this bill.

The growth of the food stamp program is staggering to the imagination. In 1965, the program spent \$35.6 million. The program in 1981 was over \$11.4 billion. For fiscal year 1983, this Congress is looking to spend \$12.4 billion of the taxpayers' hard-earned money. Just 7 years ago, the entire food stamp program operated nationwide at a cost of \$4.6 billion. Over the next 3 years, funding will be increased by \$4.6 billion. Congress is now increasing the funding of the program by the very amount it used to run on in 1975.

This legislation goes nowhere near far enough to reduce spending and tighten the administration of the program. I would not be concerned if all these tax dollars were being spent to assist those persons who are unable, through no fault of their own, to provide for their own subsistence.

Congress should keep in mind that there is a tempest brewing among many hard-working Americans and Idahoans who do not believe it is right that wages from their work go to support others who choose not to work, but to receive food stamps. I had introduced legislation, H.R. 6478, which would have helped bring this program under control and eliminate the voluntarily unemployed from the food stamp program. The essence of this legislation was contained in the supplemental views on food stamps in H.R. 6892.

I heartily endorsed the efforts of Congressman COLEMAN, ranking minority member on the Subcommittee on Domestic Marketing, Consumer Relations and Nutrition, in his attempts to reduce the abuses in the program. Specifically, I felt the need to include legislation to strengthen the provisions of error-rate reductions and sanctions, the thrifty food plan, the job search system, and the expedited service.

The committee bill contains a section that will require States to reduce their error rates to 5 percent by 1985. I supported the minority substitute, which would have saved an additional \$120 million; and would have required the States to repay all benefits issued in error by over 9 percent in 1983, 7 percent in 1984, and 5 percent in 1985 and succeeding years. These are reasonable goals for the States to achieve, and would require them to act more fiscally responsible. Obviously, however, this Congress does not think so. All it has to do is dip down into the

taxpayers' pockets and pull out more cash in order to cover its mistakes.

Another item of concern is the thrifty food plan. The minority substitute would have indexed food stamps. Currently, there are increases every October. With the indexes, this Congress could have saved \$430 million. The thrifty food plan, for a family of four, could have increased from \$233 per month to \$257 per month—only \$2 less each month than they would have received.

Since the Agriculture Committee and the House have agreed with the concept of having people look for jobs when they apply for food stamps, it follows that it should be the Secretary of Agriculture who determines how and when this law should be enforced. The House chose to adopt language which allows the State to decide whether or not they wished to employ the rule of requiring food stamp applicants to look for a job. Consequently, a total of \$32 million in savings was lost because this provision was adopted.

Further, I support legislation which would have tightened the rules governing emergency food stamp cases. Currently, people can come into the food stamp office, state they have no income and then receive food stamps within 2 or 3 days. No verification of income or assets is required. The General Accounting Office supported revisions in expedited service because of the volume of abuse. Congress needs to have language which requires verification of income and assets, and provides that the States process these applications as quickly as possible; but in not more than 7 days.

No one should be misled by these recommendations. I am all for protecting the truly needy of this country. But, to provide increased assistance to those who really need help, Congress must remove those people from the system who are fully capable of helping themselves. I believe the Government lacks compassion by encouraging able-bodied people to remain idle. Further, the Government is penalizing over 100 million American workers who are now supporting the food stamp program.●

LEGISLATION TO CONTINUE UNEMPLOYMENT BENEFITS

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. HOPKINS. Mr. Speaker, today I want to alert my colleagues to an urgent problem which the people of Kentucky, as well as many others will soon face. The problem is that many States will soon lose their eligibility for extended unemployment benefits

which are currently available to their citizens.

The extended benefits program provides up to 13 additional weeks of benefits to unemployed workers who have exhausted their 26 weeks of regular benefits. The State and Federal governments equally share the cost of this program.

The reason Kentucky and many other States will trigger off and become ineligible for extended benefits is that they no longer meet the 120-percent criteria. This requirement states that the number of people in the State receiving unemployment benefits must be 120 percent of the average rate of the same period over the past 2 years. Many States are in danger of losing their benefits for a variety of reasons having to do with the individual employment makeup of the State and Federal eligibility criteria. However, the 120-percent requirement shows up repeatedly as a reason for a State's ineligibility.

Today I am introducing a bill which would temporarily waive the 120-percent criteria and allow States who desperately need these benefits to continue to receive them. My bill would also waive the current 13 week waiting period between extended benefit periods. With this waiver, a State could immediately start extended benefits once it triggered on.

Waiving the 120-percent criteria has been done a number of times before. The most recent time was in 1975. I believe this is a workable and reasonable approach to help our unemployed workers as soon as they need assistance. This method will continue the benefits currently available to workers in the most cost-effective way. As I stated earlier, States may lose their eligibility for a variety of reasons, but I believe this bill contains a provision that many States need and support.

Mr. Speaker, I am fortunate to represent central Kentucky—an area with one of the lowest unemployment rates in the State. However, that statistic is of little comfort to the individuals in the Sixth District who are currently on extended benefits after having been involuntarily laid off and who face losing this means of providing their families with basic necessities. I am introducing this bill on their behalf, and also on the behalf of the entire 17,421 people on extended benefits and 62,477 people drawing regular benefits in Kentucky who may need extended benefits after September.

I am introducing this bill with the hope that there will not be a need for the extension of the benefits for very long. However, at this time I think there is a need for these benefits. I urge my colleagues to support me in this effort to solve this problem now, while there is still time, rather than hurriedly react after it is too late.

The bill follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF 120-PERCENT FACTOR.

(a) GENERAL RULE.—Effective with respect to compensation for weeks of unemployment beginning after the date of the enactment of this Act and before January 1, 1983, subsection (d) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 shall be applied as if—

(1) paragraph (1) of such subsection did not contain subparagraph (A), and

(2) such subsection did not include the second sentence thereof.

(b) WAIVER OF REQUIRED 13-WEEK PERIOD BETWEEN EXTENDED BENEFIT PERIODS.—For purposes of determining whether an extended benefit period is in effect for weeks beginning after the date of the enactment of this Act, subsection (b)(1)(B) of section 203 of such Act shall not apply if the close of the prior extended benefit period referred to in such subsection was before the date of the enactment of this Act.●

SLAVE LABOR ON SOVIET'S GAS PIPELINE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. DERWINSKI. Mr. Speaker, one of the major issues surrounding the Soviet Union's natural gas pipeline, is the use of slave labor. A recent report from Bonn, West Germany, confirms that the Soviet Union is using tens of thousands of human rights activists and political prisoners to complete the pipeline. This point needs to be made in lieu of the unfortunate way in which the bill, H.R. 6838, was raced from the Subcommittee on International Economic Policy and Trade directly for consideration by full Foreign Affairs Committee without full and due deliberation. It is my hope that the House will give thoughtful consideration of the damage that could be caused by the misdirected foreign policy impact of this bill which terminates certain export controls.

I wish to insert an article by Alice Siegert of the Chicago Tribune of July 21, which gives direct insight into the Soviet's need for our technology for the completion of the pipeline.

The article follows:

[From the Chicago Tribune, July 21, 1982]

SOVIET PROJECT CITED—LABOR FORCED ON PIPELINE, GROUP SAYS

(By Alice Siegert)

BONN.—A West German human rights organization claims that the Soviet Union is using tens of thousands of convicts and political prisoners to speed completion of the controversial pipeline that will pump natural gas from the gas fields in Siberia to Western Europe.

The International Society for Human Rights in Frankfurt said seven forced labor camps had been set up in the last two years on construction stretches along the 3,000-mile line.

Among prisoners forced to work on the pipeline project were human rights activists and citizens persecuted for their religious or political activities. They included Semyon Glusman, a psychiatrist who had exposed the application of psychiatry for political purposes in the Soviet Union, Lithuanian architect Julius Sasnauskas, Ukrainian writer Sinovi Krassivski, ethnic German human rights activist Juri Grimm and Baptist ministers Vladimir Marmus and Alexander Ussatyuk.

The rights organization said sticking to the pipeline deal seems scandalous in view of the conditions under which the prisoners have to work.

During the long Siberian winter, the organization said in a statement, the forced laborers are housed in railroad cars that offer no protection against the bitter cold.

"Earth-moving work machines are hardly used," the statement said. "Heavy loads must be carried by men. Work accidents are the rule. Women, whose job is to insulate the pipes with asbestos and glass wool suffer water blisters and boils on their hands."

"Protective gloves are issued only every six months. Convicts working with asbestos often suffer from exzema. Severe cases of atrophy of the lungs occur among prisoners forced to work continuously with glass wool."

The human rights group said that forced labor camps had been set up at Ust Izhim, Urengoy, Surgut, Tavda, Tyumen, Irbit and Lysva.

"These camps are right on the course of the planned pipeline," a spokesman said.

The disclosures were made just before Chancellor Helmut Schmidt flew to the United States where he will try to overcome objections by the Reagan administration to the pipeline deal.

Washington's embargo on vital components for the pipeline has exploded in a bitter conflict between the U.S. and the European Common Market. Though Schmidt's trip originally was intended as a private visit, the rift in trans-Atlantic relations has forced a change in plans.

He now will try to allay the irritations and at the same time seek a revision of the U.S. sanctions in his talks with Secretary of State George Schultz and other leading Republicans. Economics Minister Otto Lambsdorff already is in the U.S. to press the European case with Reagan administration officials, U.S. senators and congressmen.

Also on Tuesday the Common Market foreign ministers, meeting in Brussels, appealed to the U.S. to lift the export controls.

The Europeans deny that the anticipated natural gas supplies from Siberia will make them dependent on the Soviet Union. Moreover, they argue that the ban on U.S.-licensed technology violates their national sovereignty.

"For the first time in times of peace, the U.S. President has tried to seize control of non-U.S. territory," German business leader Otto Wolff von Amerongen said in an interview.

"American parent companies have been coerced no longer to make licenses available, existing contracts notwithstanding and despite the common practice of recent decades. That is a blow against international division of labor. . . ."●

JACK KEMP'S FINEST HOUR

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. SHUSTER. Mr. Speaker, both publicly and privately, I have witnessed Congressman JACK KEMP's response to the vituperative, slanderous, cheap-shot attacks inflicted upon him for his opposition to the proposed tax hike. Rather than responding in kind to such vilification, his replies have been restrained, reasoned, and responsible.

For the architects of the \$99 billion tax increase to whisper that Republican opposition represents disloyalty is to expect Republicans to be disloyal to their basic principle of limited government.

For proponents of the increased tax bite to imply that U.S. Representatives have no right to speak out on a major tax issue is to ignore the U.S. Constitution, which clearly gives primacy to the U.S. House of Representatives on tax matters.

For a Republican administration to embrace a massive tax increase after promising to reduce taxes is, at best, to confuse the American people with its inconsistency, and, at worst, destroy their confidence in the integrity of this administration.

Rather than being disloyal to their party or its principles, JACK KEMP and the Republican Members of Congress who oppose this tax increase are the keepers of the flame that lights the principles of the GOP.

One need not agree with Congressman KEMP to respect the manner in which he is handling himself in this trying situation. He continues on the high road of principle, while some of his opponents apparently have chosen a different path.

In this incredible debate for the soul of the Republican Party, we are witnessing JACK KEMP's finest hour.●

HOUSING CRISIS IN MICHIGAN

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. FORD of Michigan. Mr. Speaker, we are in a housing crisis. In an article which appeared in the Macomb Daily on Saturday, July 24, staff writer Robert A. Selwa examined how it affects Wayne County. In my district, Dearborn Heights, Flat Rock, Inkster, and Taylor are among the municipalities which experienced actual net losses in housing stock.

Tight money and exorbitant interest rates are killing home construction

and home buying. President Reagan's veto of the housing bill stopped 250,000 homes from being built and 500,000 jobs from being created. That veto and other Reagan vetoes of bills to stimulate the economy and create jobs and alleviate human suffering explain the persistence of the Reagan recession.

I call this article to your attention, Mr. Speaker, so that my colleagues will have a full understanding of just how serious the situation is in my district and the surrounding areas.

REHABILITATION COULD SAVE THE HOUSING INDUSTRY

We are in a housing crisis. The housing situation is at its worst in metropolitan Detroit since the keeping of statistics on the subject began in the post-World War II era.

For the first time in the history of the region, there were more dwellings demolished than built last year.

The shrinking housing market reflects the economy, but the issue is deeper than that. The need remains, and is growing greater instead of lessening, for decent housing—the goal of the nation since the Great Depression and a goal toward which we were advancing until recently in metropolitan Detroit.

The latest housing report of the Southeast Michigan Council of Governments shows the grim picture.

A net loss of 1,309 housing units was registered the past year in the seven counties that make up metropolitan Detroit for SEMCOG: Macomb, Wayne, Oakland, Livingston, Monroe, St. Clair and Washtenaw.

Never before has that occurred.

Detroit led the way in net loss of dwellings, but some of the suburbs also had net losses, even in Macomb County with its previously ever-expanding bedroom communities.

If the family is a basic unit of society, the home is a basic structure of a block, a neighborhood, a city.

The United States Census of 1980 showed that in the past decade Detroit had a net loss of 58,696 housing units, the largest loss of housing for any city in American history.

The housing construction industry came to a virtual standstill in metropolitan Detroit three years ago. Destruction of houses continues in Detroit, and now some of the other municipalities are experiencing a diminishing housing stock as well.

SEMCOG shows the disastrous trend continues in Detroit. Slipping to sixth place in population nationally with the 1980 Census, Detroit—using \$5.1 million a year in federal block grant funds specifically for housing demolition—has a net loss of 3,459 housing units in 1980 and a net loss of 4,630 housing units in 1981. That's more than 8,089 dwellings as a net loss for this decade already.

While the suburban cities are nowhere near that crisis amount, small net losses are being experienced in many of them, such as Mount Clemens, New Haven, Roseville and Utica in Macomb County, Hazel Park, Keego Harbor, Lake Orion, Northville, Pleasant Ridge, Pontiac, Pontiac Township, Royal Oak Township and South Lyon in Oakland County, Dearborn Heights, Ecorse, Flat Rock, Hamtramck, Highland Park, Inkster, Lincoln Park, Melvindale, River Rouge and Taylor in Wayne County.

Even Grosse Pointe and Grosse Pointe Park had net losses in housing this past year.

During the National League of Cities convention in Detroit last year, Councilwoman Joan Specter of Philadelphia asked:

"How can you tear down homes when you have so many homeless people? In Detroit, they're leveled. To tear down a building in Philadelphia is sacrilege. I ask, what have you done with the people?"

If the argument is that the older cities of the Northeast-Midwest region are in trouble, take a look at the housing statistics for Philadelphia—a net gain this past decade of 11,406 dwellings in a city close in area and population to Detroit.

Look at New York—a net gain of 21,217 housing units.

Look at Boston—a gain of 8,996.

Or Milwaukee—a gain of 7,397.

Minneapolis had a housing gain of 1,645 units; Columbus, of 54,203 units, Toledo, of 13,259 units.

And, elsewhere in Michigan, Grand Rapids had a net gain of 1,682 housing units.

Our older cities and our older suburbs are capable of conserving and improving their housing stock.

Our older homes are our greatest urban natural resource.

The National Association of Realtors notes that the number of people in the prime home-buying age group of 20 to 39 years is increasing to 31 percent of the population during the 1980's. The association holds that a home is a symbol of a sound way of life.

Housing demolition is carried out with federal block grant funds using the Congressional statement of intent that the funds may be used to eliminate blight. This runs counter to two other specific Congressional statements of intent for the funds: to increase the supply of low and moderate income housing; and to conserve the existing housing stock.

Good, affordable homes are needed too much by people for federal funds to be going toward demolition.

As an intricate part of a total strategy of reviving the housing industry, measures need to be taken by Congress so as to assure that the funds intended to increase the supply of housing and conserve the existing housing stock will be used as intended.

A specific provision needs to be written into the law prohibiting the use of funds for housing demolition.

When the emphasis shifts, as intended, to housing rehabilitation, both the housing situation and the economy will be improved.

Jobs will be created in housing rehab and related fields, permanent jobs because of the skills developed. This kind of employment is particularly needed in an economy in which housing construction has virtually ended and the existing housing stock needs to be cared for.

This is the time to re-emphasize our national goal of a decent home for every American, and bring to the forefront the realization that our older homes are our greatest urban natural resource.■

RESOLUTION 242

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. ROSENTHAL. Mr. Speaker, I would like to introduce into the

RECORD a letter from a constituent that raises a point deserving wider attention.

As the dust begins to settle and immediate peace in Lebanon is, we all hope, close at hand, the point raised by my constituent's letter is one that we must not lose sight of: That for all the verbal manipulations of the PLO, they have still not repudiated their central aim—the liquidation of Israel.

Peace arbitrators from many countries have worked long hours to bring an end to the current crisis. Many points have been compromised but it must be remembered that, despite Arafat's deception efforts, the PLO has not accepted United Nations Resolution 242 which requires "acknowledgement of the sovereignty, territorial integrity, and political independence of every state in the area."

If the PLO were to acknowledge Israel's right to exist, it would be difficult to reconcile with the PLO charter, established in 1968, that states:

ARTICLE 15

The liberation of Palestine, from an Arab viewpoint, is a national duty and it attempts to repel the Zionist and imperialist aggression against the Arab homeland and aims at the elimination of Zionism in Palestine.

The world must recognize the PLO for what it stands for and not be fooled by protestations of peace. Arafat is still a wolf in sheep's clothing, trying to pull the wool over our eyes.

My constituent's letter follows:

KWELLER & DUBIN ASSOCIATES,
Hollis, N.Y., July 30, 1982.

HON. R. REAGAN,
White House, Washington, D.C.

DEAR MR. PRESIDENT: Your special envoy, Ambassador Philip Habib, has been seeking for some six weeks to bring a peaceful end to the occupation of Lebanon by the terrorist PLO. Mr. Habib has demonstrated extraordinary patience, but it is now clear that the PLO has been playing for time, that the terrorists have no wish to resolve the Beirut crisis peacefully but intend, rather, to so delay and lengthen the negotiations as to wear out the patience of our country and force the United States to recognize and negotiate with them.

I am confident that your Administration will not fall prey to such an effort. That confidence is based on your Administration's refusal to give credence to the false report that Yasir Arafat was ready to recognize Israel. All Americans may take comfort in your Administration's wise and prudent evaluation of the Arafat "breakthrough" as a mere propaganda device designed not to advance the cause of peaceful reconciliation among the parties to the conflict but to confound and confuse Americans of good will.

No mere mouthing of adherence to any UN resolution will qualify the PLO for a role in the Middle East negotiations. Rather, our country must make clear that the PLO must abandon its charter, which vows the destruction of Israel by military means, which calls the establishment of the Jewish state null and void and which seeks to purge the Jewish presence from the Holy

Land. Only then can the PLO claim the right to sit at the peace table.

I agree with you, the goals of American policy that you have spelled out so well: To restore a central government in Lebanon so that the Lebanese people will have control of their own country; to guarantee the northern border of Israel, so that there would no longer be a force in Lebanon that could, when it chose, create acts of terror across that border; and to get all the foreign forces—Syrians, Israelis and the PLO—out of Lebanon.

Israel shares these goals. So do the people of Lebanon, whose land and people was ravaged by years of PLO terrorism, as documented recently in the New York Times. That is why the Lebanese people, Moslem as well as Christian, welcomed the Israeli forces as Liberators. . . .

**DISTINGUISHED CONGRESSMAN
ADDRESSES UNIVERSITY OF
NORTH CAROLINA, CHAR-
LOTTE**

HON. STEPHEN L. NEAL

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. NEAL. Mr. Speaker, our distinguished colleague from Illinois, the Honorable PAUL SIMON, visited my home State recently to deliver a commencement speech at the University of North Carolina at Charlotte. While he was there, Mr. SIMON was interviewed by Ed Williams, associate editor of the Charlotte Observer.

In this interview, Mr. SIMON made some thoughtful, provocative, and sensible observations about our Nation's problems and about the future of the Democratic Party. I would like to submit a copy of the interview for the RECORD at this time so that his colleagues may have the benefit of his comments. The article from the June 26, 1982, Charlotte Observer follows:

[From the Charlotte (N.C.) Observer, June 26, 1982]

DREAMING LIBERAL DREAMS AND PAYING FOR THEM

(NOTE.—Paul Simon, 53, has been a congressman from southern Illinois since 1974. He is a member of the House Budget Committee where, though known as a liberal, he is "not of the knee-jerk variety" and "does not necessarily push for higher spending," the Almanac of American Politics notes.)

(Simon is the author of a new book, "The Once and Future Democrats: Strategies for Change" (Continuum, \$12.95). When Simon was in Charlotte recently to speak at the UNCC graduation, Observer Associate Editor Ed Williams talked with him about the book and the Democrats. Here's part of that conversation.)

Q. What's the problem with the Democrats, and how do they solve it?

A. My assumption is you shouldn't win just because the other guy is doing a bad job. There are those who say the Democratic Party should not focus on any issues, we should simply let the Republicans foul up and we take over by default. I don't think the country moves in the direction we ought to go doing that.

There are three thrusts in the book. One is that we have to be the party of compassion. We have to stand up for those who face real problems in our society.

Second, we have to be a party that stresses productivity. At some point in our history—I think it can be pinpointed to the LBJ years—we continued to stress that everybody ought to get a piece of the pie, but we forgot that for that piece of the pie to grow the pie had to grow.

Third is the whole issue of quality—the quality of life, through culture, in education, in what we produce in our factories, everywhere.

Q. How does that make Democrats different from Republicans?

A. I think the one area where they have contributed is productivity, though I think they're so out of balance that the productivity contribution has been minimized. We're now at about 70% plant capacity. If you solve the society's capital formation problems, but you don't solve the distribution problems, you've failed. All the capital formation help you give to Chrysler, GM or anyone else isn't going to help if people can't buy cars. So you can't solve one problem while you're causing other problems.

I think the parties differ in the area of compassion. I don't think Reagan is a badly motivated man, but I don't think he understands what poor people face in Charlotte, or in Carbondale, Ill. His program reflects that.

In some instances, his party is on the popular side. In my district food stamps are unpopular, and it's the poorest district in Illinois. And yet, I think someone writing 50 years from now will regard food stamps as one of the finest things we have done. We have virtually eliminated severe malnutrition in this country through food stamps.

And in the area of quality, we're not doing anything at all. In fact, one of the basic problems with the Reagan budget was that it was put together without asking. How does this impact on the quality of life in our country?

Q. In the past, it has seemed to be that the Democrats were so overcome by either compassion or the desire to build up political capital that they created programs the nation couldn't pay for. How do you combine the qualities about Democrats that are attractive with more efficiency in running programs and a better grasp of economics?

A. We can run programs more efficiently, no question about it. We've made some mistakes in that area.

I think your assumption is wrong when you say we can't afford these programs, but correct when you said we have not budgeted properly. Democrats, along with Republicans, have not been balancing the budget. In percentage terms, the great growth in the budget is not social programs or defense, it's interest. Dave Stockman testified before the Budget Committee the other day that he thought by '85 or '86 we would be spending about 19% of the budget on interest. That is a reflection on Democrats and Republicans. The worst, ironically, of any president is Ronald Reagan, right now, in terms of the deficit.

But when you say we can't afford it, we have a smaller revenue base than any Western European country. It's interesting that a conservative columnist like George Will says we have to expand the revenue base of this country. The Reagan move to the \$750 billion tax cut over five years was extremely popular. It was also irresponsible, and I think the deficit figures we are seeing show

that. Reagan said when the tax bill passed, said in a speech, by fiscal '85 we'll have a \$7 billion surplus. Now, that same administration projects a \$233 billion deficit by fiscal '85.

Q. Public opinion polls consistently show that Americans believe in helping people who can't help themselves, but also think the programs by which we do it are wasteful, inefficient and in some cases corrupt. How should Democrats conduct those programs so as to do what Americans want to do but do it better?

A. Part of it is leadership that appeals to the best in us, not the worst. If you took a poll in my district, should we eliminate or cut back on foreign aid, it would be overwhelming in favor of doing so. But ask those same people, should we help starving people overseas, and they'd say yes. A party has to appeal in constructive ways.

I think the chapter in the book that is probably the most controversial is the one where I advocate that we guarantee everyone a job through the public sector if they can't get jobs in the private sector. I don't think it's enough to simply tell the stories about the welfare mother in Chicago, you know the anecdotes that Reagan repeats over and over again. He has repeated those anecdotes, yet we now have more people on AFDC than we've had at any time since the Depression. Somehow just repeating the anecdotes and condemning welfare doesn't get people off welfare.

We're not going to let people starve. We're either going to pay them for being productive or we'll pay them for being non-productive. And we have devised a system—our welfare-unemployment compensation system—where we pay people for being non-productive. We ought to have programs that pay people for planting trees, for teaching functionally illiterate people how to read and write, for doing a thousand and one things that could enrich our society, and will not cost any more.

Q. The real problem with the Democrats, Sen. Ernest Hollings said, is that a lot of people don't believe they will pay the bills.

A. That has to be dealt with. While there's a difference between conservatives and liberals, it should not be over whether we pay the bills. I would favor a higher level of government expenditures than my more conservative friends. But whichever program we favor, we ought to pay for it as we go along.

Q. What do you think will be the outcome of Reagan's programs?

A. The Reagan program is not working. It could have worked. What basically we had was a shift from spending for social programs to defense. If that had been the only change, it would have been a wash, and while I would not have agreed with that shift, no great economic damage would have been done. When he combined that with that tax cut, then real damage was done.

The theory was that our economy would take off. In fact, the stock market went down, the bond market went down, real interest rates are at an all-time high. It's because, I think, the financial markets think the Reagan program has real inflationary pressures built into it.

The one that concerns me, and that we're modifying a little, is in defense. Harry Truman asked for a tax increase at the beginning of the Korean war, and we had a lower inflation rate at the end of it than we had at the beginning. In the Vietnam period, from fiscal year '65 to '70, we had a defense increase of \$26.9 billion. I think

most people would agree that one reason for inflation today is that LBJ did not ask for a tax increase to fund it.

Now, from fiscal year '81 to '86 we're being asked for a \$197 billion defense increase—even with inflation, that's three or four times what LBJ did during the Vietnam period. And with it a tax cut. That scares the financial markets.

Q. Your vision of the Democratic Party is attractive to a lot of Democrats, but to a lot of other Democrats it seems wrong—a resurrection of a New Deal philosophy that doesn't fit today's realities. Are you trying to make the Democratic Party something it can't be?

A. I think there are enough things that appeal to conservatives that you can pull at least the bulk of them. The program I espouse is not going to appeal to Larry McDonald in Georgia, who is a regional vice president for the John Birch Society. FDR brought along the conservative Democrats, because he had things that appealed to them also. Conservative Democrats are interested in a balanced budget, one of the things I talk about in the book. Conservative Democrats are interested in restructuring the welfare program, in taking another look at unemployment compensation. I don't think conservative Democrats are necessarily opposed to doing more in the arts and humanities than we do. I think the right kind of leadership can pull it together.

There is a word you used that is important, and seems to have been forgotten: vision. A country has to dream dreams and have a vision. A nation is never on a plateau; it's either going uphill or its going downhill. I think we're going downhill now.

Instead of dreaming dreams and having a vision of where we ought to go and what we ought to do, we're now trying to defend the status quo. That's not good for a country. That's one of the most unfortunate things about the Reagan program.●

NICARAGUA RULERS SHOW FEW SIGNS OF DEMOCRACY

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. DERWINSKI. Mr. Speaker, I wish to direct the attention of the Members to an article in the July 18 Chicago Sun-Times which comments on the unfortunate events in Nicaragua. Patrick Oster, the Washington Bureau Chief of the Sun-Times, provides a fascinating and objective look at the tragic political situation in that land. The article follows:

[From the Sunday Sun-Times, July 18, 1982]

NICARAGUA RULERS SHOW FEW SIGNS OF DEMOCRACY

(By Patrick Oster)

MANAGUA.—As Nicaragua marks the third anniversary of the July 19, 1979, ouster of dictator Anastasio Somoza Debayle, there are signs that the democratic promise of the Sandinista-inspired revolution is finished.

Several of the moderate officials who once held high positions in the initial coalition government have fled the country, disillusioned by the increasingly Marxist ways of the radical left leadership that really runs this country of 2.7 million people.

Nicaragua is not yet totalitarian. But it is becoming increasingly difficult to argue it is pluralistic, non-aligned and has a mixed economy as the Sandinistas promised.

Today, political parties not aligned with the Sandinista National Liberation Front (FSLN), the Sandinista party, are banned from criticizing the government—as are private citizens—because of laws imposing a "state of emergency" March 15. The press is censored, too.

The emergency was declared because the threat of invasion from Honduras by counterrevolutionaries—mostly former national guardsmen of the Somoza regime.

The active armed forces have been built up to an unprecedented level of 22,000.

Critics charge that the counterrevolutionary activities are more nuisance than threat and are being used as an excuse to move Nicaragua to the left. The government, in turn, which accuses the Reagan administration of supporting counterrevolution, says it's not unreasonable to fear an invasion inspired by the United States, which has invaded Nicaragua 14 times.

Whatever the merits of the state of emergency, it's clear that even before it was declared the Sandinistas loved to monopolize political power.

Two non-Sandinista members of the junta quit in the spring of 1980 after the Sandinistas packed the Council of State to give themselves a majority.

Financial expert Arturo Cruz, who took one of the junta vacancies, also left when it became clear that the nine-member Directorate of the FSLN, not the junta, was running things.

The private sector still controls about half the economy. But increasingly, the government is nationalizing firms that are lucrative or key to the economy. Business owners complain they don't know where they stand.

The Sandinistas promised elections when they took over in 1979. But they have postponed them until 1985. Even then, FSLN officials have made it clear that the elections will be designed to strengthen Sandinista control, not jeopardize it.

Leaders of the only two free trade unions in Nicaragua have been beat up or threatened. Attempts to organize workers in factories or on farm cooperatives are viewed as counterrevolutionary.

Through impressive literacy and health campaigns, the Sandinistas have improved the lives of campesinos, who make up a majority of the population. But campesinos in private trade unions aren't being given land under reform programs like Sandinista union members.

Nicaragua joined the organization of non-aligned nations after 1979. But its pro-Soviet votes at the United Nations make its independent stand questionable.

There has been a close relationship with Cuba, whose Premier, Fidel Castro, helped unite the once-warring three factions of the FSLN. The CIA estimates there are about 6,000 Cubans in Nicaragua, 2,000 of whom are military advisers.

Members of the Sandinista Directorate have made numerous trips to Communist-bloc countries. But they have made many trips to Western Europe, Africa and Asia, too.

Most of these trips have been to seek aid for Nicaragua's ailing economy. The gross national product dropped 25 percent in 1979, putting the country back to its 1962 level. Slow growth since then has been complicated by damage caused by torrential rains in May.

The pressure to improve economic conditions, the cause of some dissension could force the Sandinistas to keep what pluralistic elements they have in order to please moderate governments helping them.

Likewise, they are feeling pressure from criticism from Eden Pastora, the famous Commander Zero, who left the country in disgust over its increasingly Marxist character.

Some hope this pressure will stop the drive left. But it seems a slim hope.●

SOUTH BOSTON 13-YEAR-OLD BABE RUTH ALL-STAR TEAM

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MOAKLEY. Mr. Speaker, on Monday, August 16, South Boston's 13-year-old Babe Ruth All-Star Team will be in Washington, D.C. The team, which recently captured the New England championship for its league, will be competing for the national championship in Frederick, Md., under the leadership of Coach George W. Seeley, Jr., this weekend.

Mr. Speaker, these boys deserve special praise for the special happiness and pride they have given to the residents of South Boston. They have worked hard with what little resources given to them, combined with the dilemma of inevitable injuries, in order to produce a first-rate ball team.

Below is a list of the coaches and players of this magnificent team. The South Boston Babe Ruth All-Star Baseball Team will go to bat for the championship this Sunday. I hope all of my colleagues will join me in wishing these outstanding boys the best of luck in their endeavor.

Coaches: George Seeley, Jim Greene, and Mal Hornsby.

Players: Paul Walsh, Dominic Sulpharo, Keith Callow, Dan Suplee, Bob McGarrell, Mike Doyle, Greg Yanovitch, Edward Yamoullkas, Mike Burke, John Glynn, Steve McKenna, Tony Galvin, Matt Mullen, Mike Turner, and Paul Joseph.●

PROPOSED BALANCED BUDGET AMENDMENT

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mrs. BOGGS. Mr. Speaker, the Senate has now approved an amendment to the Constitution to require a balanced Federal budget. The focus of attention on this issue is shifting to the House of Representatives. Last week the Committee on the Judiciary completed a series of hearings on pro-

posals to write a balanced budget amendment into the Constitution.

While the House of Representatives is making progress in considering these balanced budget proposals, many questions still remain to be resolved about the effect of writing economic policy or theory into such a venerable document as our Constitution. The New Orleans Times-Picayune/States-Item newspaper in my congressional district has raised serious questions about this approach in recent editorials I would like to share the latest one with my colleagues.

The editorial follows:

[New Orleans Times-Picayune/States-Item
Aug. 9, 1982]

POLITICAL BALANCING ACT

In theory, everybody wants a balanced budget, regardless of whether he is a laborer trying to make sense of his checking account, a mogul heading a multinational conglomerate or a leader putting together a country's economic policy.

That much is easy to accept, and there's nothing wrong with this basic desire for fiscal security.

So what's wrong with a constitutional amendment to require a balanced federal budget? For starters, the Constitution is supposed to be an outline, full of broad, sweeping statements about the rights of people and their relationship to their government. The balanced-budget amendment before Congress, with its restrictions on the use of taxes and its complex conditions for allowing an unbalanced budget, is a verbal quagmire.

Ratification of such an amendment would set a precedent for littering of the Constitution with nit-picking amendments.

At this point, the congressional debate over the proposal is a waste of time. Besides taking up time that should be devoted to important matters, the debate does nothing more than let its backers say how much they oppose wasteful spending.

Since this is an election year, such congressional grandstanding is directed more toward the voters back home, and members doubtless are hoping their constituents will hear those statements and somehow disregard the fact that next year's unbalanced budget—the one threatening to strangle economic recovery aborning—is projected to carry a deficit of at least \$140 billion.

The proposed amendment carries about as much might as one requiring sunny days. What would happen, once the amendment were part of the Constitution, if Congress decided to pass an unbalanced budget? Would all 535 representatives and senators be thrown into jail? And what would have to be cut to balance the budget?

The amendment is silent on such matters. Instead, it is rife with procedures for unbalancing the budget—in wartime, for instance, or when Congress votes to create a deficit—along with a provision for raising the national debt and with a prohibition against using taxes to balance the budget.

All this is too unwieldy to be acceptable as anything but a political device to obfuscate the inability of the president and Congress to balance the budget at a time when it rarely needed balancing, or at least reducing, more. ●

TERRORISTS ARE NOT VICTIMS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. LEHMAN. Mr. Speaker, with the very serious questions raised by the one-sided reporting about the Lebanon crisis, I would like to recommend that my colleagues read the "Viewpoint" article published in the July 18, 1982, Miami Herald. Rabbi Abraham Cooper of the Simon Wiesenthal Center in Los Angeles has written a thought-provoking piece reflecting on some of the ironies that have surfaced during the recent conflict in the Middle East.

The article follows:

[From the Miami Herald, July 18, 1982]

TERRORISTS, NOT VICTIMS

(By Rabbi Abraham Cooper)

ENTEBBE, July 4, 1976.—Six years ago, the world applauded the daring of Israel's military as it saved the hijacked passengers and crew of an Air France jumbo jet from under the nose of Idi Amin. Congratulations poured in; books, films, and articles followed. But though there have been many victories on the battlefield, Israel's image has continued to erode in the eyes of the world. There are profound ironies in the latest anti-Israel blasts.

Imagine the outpouring of adulation from U.S. public opinion had England announced that, as a result of the conflict with Argentina, it succeeded in foiling a Soviet sea missile and passed on the technological breakthrough to the President. Or if the Swedes had exhibited enough guts to confiscate the fully armed Soviet nuclear spy submarine beached last fall at Karlskrona. Yet Israel's smashing defeat of Soviet technology, military strategy, and hardware—and its immediate shipping of Soviet tanks and SAM-6 missile units to U.S. military experts—have barely raised a whisper outside the Pentagon.

Imagine the sense of satisfaction in the State Department if Angola were willing and able to expel the Cuban troops from Central Africa. Yet the resounding defeat of two major Soviet clients—the Syrians and the Palestine Liberation Organization (PLO)—evoke anger and frustration in Washington.

Why does Israel continue to lose on the public-opinion front in direct proportion to its military achievements? There are many theories, but I suggest that one central reason is America's traditional love of the underdog.

Clearly, in the last 15 years, despite the growth of OPEC's stranglehold over the West, Israel has shed the underdog image and has emerged, however reluctantly, as a regional power. Conversely, the Palestinian issue is now touted as the key to "a lasting peace" in the Middle East even though it played at best only a minor role in the major conflicts through the 1973 Yom Kippur War.

The PLO and its supporters successfully portray their cause not only as classic underdogs but indeed have utilized and perverted terminology often associated with Jewish suffering. By labeling Lebanon as their "Holocaust," by hurling charges of "systematic genocide," they manage to de-

flect public opinion from the fact that it is they, along with the Syrians, who destroyed the sovereign state of Lebanon, who slaughtered 60,000 Lebanese civilians, who displaced whole villages.

Why has Israel failed so miserably to get its point across effectively? An additional cause is the more-universal failure by Western institutions to perceive the true nature and threat of international terrorism.

By claiming eminent domain of their people's struggles and by labeling themselves the voice of the oppressed, international terrorists have in effect issued themselves blank checks to strike anybody, any institution, anywhere in the world.

Incredibly, the PLO chameleon has struck again. The unending arms caches cynically hidden in basements of apartment houses, schools, hospitals, and even mosques are overlooked as the very people who brought Lebanon to its knees coolly and automatically act the helpless victim. Suddenly, Arafat and his commanders are kissing babies in West Beirut, and the gullible media are there to record yet another public-relations ploy. These same "brave leaders" have proven their courage during the battle by staying in bunkers three stories underground while combatants and innocents alike are left to pay the consequences of their policies.

The time has come for our allies abroad and many people here to shed unjustified romantic visions of these terrorists.

If we want to help the peace process, let's mobilize behind the Camp David Accords, which bind Israel, Egypt, and any other Arab party ready to address legitimate Palestinian problems. But before there are any more Beirutis, it is time we learned to separate the firefighter from the arsonist. ●

THE GENTLEMAN FROM MISSISSIPPI, JOHN SHARP WILLIAMS

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MONTGOMERY. Mr. Speaker, a copy of an article in the Saturday Evening Post, dated July 22, 1911, was recently brought to my attention. The subject of the column was John Sharp Williams, who served as both Congressman and Senator from my State of Mississippi. I want to share it with my colleagues.

[From the Saturday Evening Post, July 22, 1911]

WHO'S WHO AND WHY—THE GENTLEMAN FROM MISSISSIPPI

When John Sharp Williams stuck his head through the door of the Democratic cloakroom in the Senate the other day and took a calm and contemplative look around, with a corn-cob pipe in his teeth the while and little rings of smoke festooning themselves on the tattered remains of what was once his curly hair, and then dodged back to his chair in the cloakroom to continue his narrative, we all knew everything was all right.

For a time we had been a little uncertain about John Sharp. We had doubts whether he would run true to his old House form, or would be impressed with his dignity as a Senator and have his toga valet every

morning. However the fears were groundless. John Sharp wears his dignity as a Senator with the same nonchalance with which he wears the bow of his black tie around under his left ear and all is well.

You see, John Sharp has been away from our seething midst for quite a spell. They are wise in Mississippi; and they fixed it so their legislature meets but once in four years or six—or something like that. At any rate, their legislature does not get to pestering around every year as legislatures do in most states; and the result is that when they elect a Senator down there they elect him far enough in advance of the beginning of his term to give him ample time to appreciate what has been done for him, and to allow him a period of rest, reflection and resolve. Thus, though John Sharp was chosen in the Senate primaries on Aug. 1, 1907 and elected to the Senate on Jan. 23, 1908, he didn't begin to be Senator, the strict sense of being on the payroll until March 4, 1911.

Meantime John Sharp, after leaving the House of Representatives at the close of the Sixtieth Congress, lived on Cedar Grove Road in Benton, Miss. which is on Rural Free Delivery Route Number One, following the varied pursuits of a planter, which include the scholarly and reverent cultivation of a mint patch, the higher education of some hounds, calm contemplation with Epictetus, communion with Marcus Aurelius, occasional excursions with Empedocles, Horace, Seneca and others of the restful old boys, and the consumption of hot bread for breakfast. Two years of this agricultural labor and John Sharp came back to Washington, his hair a little grayer, his mustache a little scraggler, but his eyes just as bright and his mind just as clear and his trousers needing to be pressed just as much.

Still he said nothing. When the Senate finally decided to fix up its committees they put John Sharp on the Finance and Military Affairs among others, and he sat for hours in the reciprocity hearings held by Senator Penrose's bunch of loyal and loving friends of that great Administration measure—that is, as loyal as they are loving, both of which they are neither, as Coe I. Crawford would say—and listened to various delegations and deputations tell how reciprocity would hurt them on the one hand, and enrich them on the other; but he didn't sparkle a single spark on the floor of the Senate, where practically every other new Senator had increased the wonder as to how he got there by making a public address—and some of them seven or eight.

John Sharp said nary a word. Then on May 25, when Senator Root was pointing out how gravely the foundations of the Republic are threatened by the incendiary scheme of electing Senators by direct vote of the people—and his own foundations too, by the way—John Sharp climbed aboard of Mr. Root for a brief space. And just as he began to mount he explained it all. "Mr. President," he said, "I had not intended to open my mouth at this session of the Senate of the United States, but it seems to me it is necessary that my own position should be made clear on this question." Then he made it clear in about 500 words, not only to the Senate but to Senator Root. Making things clear is one of John Sharp's specialties. After that he retired to the cloakroom and his corn-cob pipe; and save for a question or two, he has said nothing up to the moment of writing.

Presently, however, we shall hope to see and hear John Sharp in action. What the Senate of the United States needs more at

the present time than any one thing is the presence of somebody who has a sense of humor. It takes itself so seriously these days that it creaks with dignity. Admitting that it is a great and solemn thing to be a Senator, it must be admitted that many solemn if not great things are Senators. Never a ray of sunshine penetrates that turbid assemblage. First Heyburn talks and then Bacon talks, and then Bacon talks and Heyburn follows; and even the bronze lady of the dome weeps dolorously every minute they are in session. So if John Sharp isn't scared of his surroundings and hasn't left that pretty wit of his down on the plantation, we shall live in palpitating anticipation that some day he will cut loose and give the presiding officer the chance to say, for the first time in this session: "The Senator will suspend while the chair informs the galleries that laughter and other evidences of approval and disapproval are forbidden by the rules of the Senate."

Not that John Sharp is a jokesmith or humorist, but that he has concealed about him ideas that can be clothed otherwise than in the usual ceremonial language that prevails and not lose any of their force or appositeness at that. When he was in the House it was a joy to hear him speak, especially when he was removing the hide of Gen. Grosvenor or ex-Uncle Joe Cannon or the melancholy John Dalzell. Heaven knows he has ample field for his hide-remover where he is now; and its advent will be hailed with loud cheers by all and sundry, and particularly by those unfortunates who make their living by observing what the Senators do and how they do it.

John Sharp doesn't seem a day older than when he was with us before. He isn't any more impressed apparently with the sacred traditions of the Senate than he was with the sacred traditions of the House. What he is doing, most likely is studying his associates in that select body—watching them work out—with an eye cocked to one side and a chew of tobacco in the right place, fixing them in his mind and getting them sized up, so he can tell where to begin when it seems necessary to let a little light into the scull of a benighted but dignified brother. Well, John Sharp is somewhat of a light-lever when he gets at it. He sure knows how.

He hasn't changed any. He is the same whimsical, delightful, brilliant chap he always was—absentminded, preoccupied and unimpressed by any but the essentials, careless, happy-go-lucky and smarter than a steel trap. Did you ever hear of the time when he was living down at the old hotel on the Avenue and was going to dine at the White House? His wife was not here at the time and John had to look out for himself in the way of sartorial embellishment. He began work on his toilet at half past six—the dinner was at eight—and he made heavy weather of it. From time to time he went to the room of his neighbor, Cooper of Texas, to consult about details.

"I suppose I've got to wear a high collar and one of the dabbled white ties?" he suggested to Cooper.

"Sure you have, John Sharp—and tie the tie yourself."

John Sharp went back and struggled with the tie. Finally he got it in shape.

"Shall I put on a black waistcoat or a white one?" he asked plaintively. "You know I don't bother my head about these things."

"Put on a white one, John Sharp," counseled friendly Cooper.

John Sharp went back to his room and fussed around some more. Then, complete and superb as he thought, he went in to have Cooper take a final look at him. He burst in and struck an attitude.

"Observe me Cooper," he shouted. "Observe the sartorial model from Yazoo, Mississippi! Take a look at the mold of fashion and the glass of form! How do I look, Cooper? How do I look?"

"Well, John Sharp," Cooper replied mildly, "I think you would look a little mite better if you went back to that room of yours and put on your pants!"

OLDER AMERICANS VOCATIONAL EDUCATION ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. GOODLING. Mr. Speaker, I am pleased to cosponsor the Older Americans Vocational Education Act along with my colleague from Connecticut (Mr. RATCHFORD). I feel that it is important to raise the issue of skill training and age discrimination in the context of Education and Labor Committee's hearings on the reauthorization of the Vocational Education Act.

The bill proposes to establish a 3-year demonstration program to encourage the development of training and retraining efforts for workers age 55 or older. In addition, the bill would amend the current Vocational Education Act to provide for the inclusion of the older worker in State plans. This legislation embodies a crucial concept which has been overlooked in the past.

While I support this concept and endorse this legislation because it raises the issue of vocational training for older workers, I also have several concerns which I hope to address when the committee begins to markup the vocational education amendments.

Without a comprehensive look at the Vocational Education Act, I am concerned that by merely broadening the pool of eligible recipients, the vocational services might be seriously diluted.

In the present fiscal environment, it will be necessary to carefully craft the authorization to insure inclusion of the older worker without harming programs designed for youth and young adults.

In addition, I am concerned with the proposal to set up demonstration programs without an appropriate role for State boards of vocational education. If training centers for the elderly are ever to take root, State level involvement will be essential. This is another area which must be carefully examined in committee.

While I think these concerns are legitimate and ones that must be addressed in committee, I am positive that this bill will play a vital role in

placing the issue of vocational training for the older worker before the committee and ultimately before Congress. This is a concept that must be dealt with as the committee proceeds with its consideration of the Vocational Education Act. ●

SOVIET DAY OF SHAME

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● **Mr. DERWINSKI.** Mr. Speaker, just 14 years ago on the 21st of this month, the Soviet military forces crushed the reform-minded government of Alexander Dubcek of Czechoslovakia by invading that country and occupying it with military troops. With its recent invasion and occupation of Afghanistan and the continued suppression that exists in Poland and the other captive nations, the Soviet Union continues to pursue its quest for world domination.

On August 21, 1968, a day which has appropriately been called the Soviet Day of Shame, Russian troops dealt the devastating blow to the liberalization that was developing in that small country. Although a Soviet satellite for 21 years prior to the invasion, Czechoslovakia had tried to maintain a degree of self-government. This Soviet military occupation violated the sovereignty of Czechoslovakia and it clearly was a transgression of international law. This unprovoked aggression was a clear infraction of the United Nations Charter although this world body was ignored by the tyrants in the Kremlin.

Although the invasion of Czechoslovakia by the Soviet Army and forces of its satellite states squelched the independence of a sovereign state and denied its people the right of self-determination, it is important to note that there exists a strong yearning for freedom and a strong nationalistic spirit in the people of Czechoslovakia. Their opposition to Soviet domination has never ended. Although there is a certain tightening in the Government's policies toward the dissidents, more than 1,000 courageous Czechoslovak citizens, signed a petition to require the Government to adhere to the Helsinki Final Act. They demanded restoration of their fundamental civil and political rights in the manifesto, "charter 77." This was followed by "petition 78" which was developed for the practical purpose of supporting the signers of charter 77.

The signatories of these two human rights manifestos and their supporters have been consistently prosecuted by the Czechoslovak Communist government. Based on reports from Western

European publications, the Red regime is highly displeased with the charter 77 document, and is monitoring the actions of the nearly 1,000 signatories. To express an unpopular view in any Soviet-occupied country may lead to police reprisals and imprisonment. Reports have verified that such action is being used on those signers of the human rights manifestos. Despite the severe oppression, their numbers have been growing.

It is of paramount importance for us to encourage the brave people of Czechoslovakia in their ongoing struggle for their political, economic, and national rights. We must continue to dramatize and object to the heavy-handed reprisals which are a way of life under Communist regimes.

Therefore, I join with the millions of freedom loving people throughout the world in supporting the people of Czechoslovakia in their hopes and prayers for the withdrawal of Soviet troops. Someday they will regain the freedom that was once theirs. ●

INTRODUCTION OF THE OLDER AMERICANS VOCATIONAL EDUCATION ACT

HON. BILL RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● **Mr. RATCHFORD.** Mr. Speaker, a remarkable phenomenon is unfolding that will have far-reaching implications for our society. The aging of the American population is no secret to any of us, yet at few levels of public policy formulation has this dramatic demographic shift been considered in a meaningful way.

It is estimated that by the year 2000, the number of persons age 55 or over will increase by 19 percent. As policymakers, we must begin to consider the implications of a population that will not only live longer, but an increasing proportion of which will want to work longer. Sadly, this trend will be accompanied by a sharp increase in the poverty rate—the worst being among older women and minorities. The pressures of inflation and the disproportionate cuts in Federal programs for the elderly have influenced the attitude of many older persons toward work. Recent surveys show that 74 percent of 55- to 64-year-old persons wanted to continue in some type of part-time work beyond retirement. A 1981 Lou Harris poll showed the figure to be as high as 79 percent.

However, many individuals over the age of 50 who have lost their jobs or who have never worked, are experiencing great difficulty in entering or reentering the work force. We know that many are forced into social security at

age 62 because they cannot find employment. Critical barriers to employment or reemployment of the older worker include obsolete job skills, lack of skills, individual attitudes, lack of job search skills, and employer discrimination in hiring older persons, particularly when training is involved.

Obsolete skills and the lack of skills are hardly the result of declining learning abilities. These problems are especially prevalent among the male population of older workers, displaced by plant closings or the influx of new technology. The lack of skills is most characteristic of older women entering the labor force for the first time after years of work in the home raising a family.

As a result of this dilemma, there has been a sharp increase in the number of older individuals taking educational courses to acquire job skills. According to a 1981 Lou Harris/NCOA survey, the number of people over the age of 40 seeking specific job skills has more than doubled in the past 7 years. Presently, and with few exceptions, programs funded through the Vocational Education Act have focused primarily on younger persons. Those focused on older persons are, for the most part, geared to preretirement counseling. Further, despite Federal mandates, funding required to broaden the scope and number of educational programs for the adult learner has been absent.

Federal job training programs that serve the older person are quite limited and primarily serve the low-income, chronically unemployed or hard to employ. Displaced homemaker programs do not assist persons over the age of 60, and the States by and large have failed to provide these services on their own. This is why I have introduced legislation today which would provide a greater focus on the older worker in vocational education programs, and provide for the establishment of a 3-year \$20 million demonstration program to encourage the development of training and retraining for the older worker.

Under this legislation, entitled "The Older Workers Vocational Education Act," model centers would be established to focus greater attention on the special vocational needs of the older worker, and to promote employment opportunities for them. Serving those age 55 and older, these model centers would provide training and retraining in the following areas: to update skills and prepare the older worker for new careers when technological advances have rendered their current skills obsolete; promote employment in areas of job potential in growth industries. The centers would also provide assistance for: later-life career changes, with special emphasis

on the older displaced homemaker; information counseling and support services to assist older persons in obtaining employment; encourage vocational education providers, including community colleges and technical schools, to offer more job training opportunities targeted and easily accessible to the older person. Finally the centers would also promote the training of paraprofessionals in gerontology and geriatrics, to help meet the increasing demand for such services.

Under my legislation, the Secretary of the Department of Education would be given broad authority for the design and conduct of the demonstration program. By placing a \$400,000 cap on the level of any one grant, I expect that some 50 to 70 grants could be funded each year throughout the Nation. Eligible recipients of grants under this program would include States, State or local education agencies, postsecondary and vocational training institutions, any business or labor organization, and a public agency, non-profit or for-profit organization. State sponsored model centers could readily tap other available resources at the State level and could be easily coordinated with other employment and training programs. In addition, the private sector has demonstrated its willingness and competence in conducting training and retraining programs.

It is my hope that the adoption of this legislation will provide a greater focus on the special needs of the older worker in vocational education. It is aimed at fostering the development of skills development and employment counseling programs that will assist the many older Americans who want to continue to work or reenter the work force. As with the promotion policies and procedures of many firms which discriminate against the older worker, so too is the case with training opportunities. For many firms, there are powerful economic and organizational forces that lead to the selection of younger workers for the most intensive and expensive forms of training—this despite the discovery by some firms that older workers are more committed to company objectives than younger workers, that they hold vast experience and are willing to learn new skills, and that they are reliable. One recent study reveals that many executives report that it was by sheer accident that they discovered the value of their retired workers when, in desperation, they called upon them for assistance in handling backlogs of work. The executives reported that it proved to be more economical to have their own experienced former employees handle the extra work on a part-time or temporary basis than to call in outsiders with no experience whatsoever.

The Grumman Corp. in New York has successfully used about 600 older workers over the past 10 years in positions ranging from skilled technicians and engineers to publications writers. Grumman executives found the older workers to be experienced, talented, and willing to get back to work. The Bankers Life & Casualty in Chicago is also serious about the use of older workers. Bankers recruits older workers from outside the company, and has established a temporary pool to provide full- and part-time jobs for its own retirees. At IBM, retirees hold a number of positions throughout the company and many work up to 120 hours per year. They are hired to run preretirement sessions and health education programs for other retirees, active employees, and the spouses of both; to be call dispatchers and switchboard operators, among other things. In the Greater Hartford, Conn., area, the Travelers Insurance Co. has formed a consortium with other insurance companies to provide training in computer processing for retirees. Monsanto has established a successful program which relocates middle-level executives to St. Louis for a year-long retraining program conducted at Washington University. General Electric re-trains middle-aged engineers at its Utica plant, and has found this practice to be more cost-effective than hiring younger college graduates. In responding to the adverse impact of foreign competition on its business, the International Silver Co. converted one of its plants and retrained many of its older employees as toolmakers.

The second careers program in Los Angeles helps mandatorily retired corporate executives find a way to remain active in either volunteer capacities or through full- and part-time work. They service many of the largest corporations in southern California by helping them fill their needs not only for permanent help, but also for vocational relief personnel, for experienced people needed temporarily on short-term projects, or for help in meeting a deadline. This program has met with tremendous success, and the staff has found the older worker to embody a unique combination of experience, skill, and maturity, making training and placement easy. The College Emeriti in San Diego, Calif., has operated a job development and job search and training program for those over 55 years of age for the past 5 years. Courses offered include training for apartment house management, court conservator, volunteer leadership, computer work, and office skills. Yet another example of a successful program in this area is the Grassmont Adult Career Center health education reentry program based in LaMesa, Calif. This program offers training to adults for a variety of health related

jobs such as medical clerk, nurse assistant, medical office management, medical transcription specialist, dental health assistant, psychiatric technician, and vocational nursing. It also offers reentry courses for nurses and licenses vocational nurses. About 900 students go through this program each year with as many as 60 percent over the age of 55. Many at the age of 70 or older have been enrolled, and job placement has been high.

These examples of both private and public sector sponsored employment and training programs demonstrate the possibilities for dramatically increasing the number of older workers that can remain in or reenter the work force. While these examples are quite impressive, the availability of such services has been severely limited to date. Relatively few private sector concerns have undertaken such bold initiatives, and the Federal and State governments have been remiss in their responsibilities toward the older worker. One recent study revealed that while many States provide consumer and life-coping programs to meet the psychological and social needs of the older person, few offer opportunities for the older person to gain the vocational skills necessary to reenter the labor force when they may lack the skills to do so, or who are unemployed due to a lack of competencies.

Additional evidence exists at the Federal level. Another recent study found that 270 programs concerned with adult education and training existed in 29 Cabinet-level departments and agencies, with Federal support estimated to be in excess of \$14 billion. However, only a small fraction of this money supported learning opportunities for adults beyond the traditional college age. It has also been found that academic institutions, because of a shortage of funds, have been unable to support such programs in the absence of any Federal mandates for lifelong learning.

Under my legislation, Mr. Speaker, the Vocational Education Act would be amended to provide a greater focus on the special training and employment needs of the older person, and to provide for this important new demonstration program, I hope these actions would pave the way for broad-scale efforts in the future to address a growing desire by an expanding aging population to remain active in the work force. It is also important to note that increased labor force participation by the older worker will not only help their economic status, but improve the general economy as well. In a noted Data Resources, Inc., study, it was found that increased older worker participation would yield an additional \$10 billion in revenues to the ailing social security trust funds by the year

2005, and would have a very positive effect on the overall economy.

The reasons for prompt enactment of this legislation, Mr. Speaker, are compelling and I call upon my colleagues in the House to join me today in cosponsoring the Older Americans Vocational Education Act.●

COUGHLIN POLL: A MAJORITY BACKS ECONOMIC PROGRAM OF ADMINISTRATION

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. COUGHLIN. Mr. Speaker, in keeping with past practice, I want to share with colleagues the results of my yearly mail questionnaire poll of the 13th Congressional District of Pennsylvania.

The response again was heavy with a total of 14,401 individual replies received before the July 15 deadline. In addition to the completed questionnaires, many constituents expressed additional views with comments on the survey pages and through separate letters.

Among the key results:

A majority of 59 percent express faith in President Reagan's economic program and believe we must continue with relatively minor modification. Thirty-two percent expressed no faith in the President's economic program.

When asked about raising taxes to lower the Federal deficit, 70 percent cited from a number of choices that they would raise excise taxes on tobacco, alcohol, and other so-called luxury items.

On controlling inflation, 52 percent believe the Federal Reserve's tight-money policy has brought down the rate of inflation and must be maintained for now despite high interest rates. A constitutional amendment to require a balanced budget was supported by 49 percent while 24 percent were undecided.

In foreign affairs, 61 percent favor an immediate freeze on nuclear weapons deployment regardless of comparative strengths of United States and Soviet missile forces, but a plurality of 48 percent opposes the United States initiating a unilateral freeze. A plurality of 44 percent opposes President Reagan's Caribbean Initiative to extend more economic aid to stabilize governments and economies in friendly nations in Central and South America while a majority of 56 percent opposes continued military aid to El Salvador.

In addition, I asked other questions involving ranking by choice, listing more than one choice of action, and "yes" and "no" questions.

A majority favor major cutbacks in funding for foreign aid including aid to Israel and Egypt, as well as some cutbacks in funding for the poor including welfare and food stamps. Aid to the elderly including social security benefits led the field for those calling for no cutbacks. This was followed by no cutbacks for health care including medicare and medicaid.

Respondents split almost evenly on whether the Environmental Protection Agency was basically doing a good job of protecting the quality of our land, air, and water resources. The actual percentage responses to these and other questions are detailed below.

The questionnaires were mailed to homes and postal boxes throughout the congressional district. Each questionnaire afforded space for two residents to respond. A message in the survey informed constituents that additional questionnaires were available from my district office.

The results were compiled by my staff and doublechecked for accuracy. To insure accurate results, responses were weighted by ZIP code.

I will mail a copy of the results to the White House.

QUESTIONNAIRE RESULTS—1982

1. The state of the economy concerns us as individuals and as a Nation.

A. Which statement best describes your views? (one only)

I have faith in the thrust of President Reagan's economic program and believe we must continue it with relatively minor modifications.....	59%
I have no faith in President Reagan's economic program and believe we must change it substantially.....	32%
Other (specify):.....	9%

B. Faced with a \$100 billion Federal deficit, how would you fund the following programs? (Totals more than 100 percent.)

	No cutback	An increase
Education (including student loans, grants).....	31%	10%
Mass transportation (including operating subsidies).....	31%	18%
Aid to poor (including welfare, food stamps).....	21%	6%
Health care (including medicare, medicaid).....	42%	9%
Aid to elderly (including social security benefits).....	52%	11%
Defense (including MX missile, B-1 bomber).....	25%	9%
Foreign aid (including aid to Israel, Egypt).....	12%	1%

	Some cutback	Major cutback
Education (including student loans, grants).....	30%	28%
Mass transportation (including operating subsidies).....	37%	14%
Aid to poor (including welfare, food stamps).....	50%	23%
Health care (including medicare, medicaid).....	38%	10%
Aid to elderly (including social security benefits).....	27%	9%
Defense (including MX missile, B-1 bomber).....	47%	18%
Foreign aid (including aid to Israel, Egypt).....	47%	18%

C. If you were to raise taxes to lower the Federal deficit, which, if any, of the following actions would you take? (One or more—totals more than 100%.)

Cancel the 10 percent income tax rate reduction for everyone scheduled for July 1, 1983.....	32%
Increase the Federal tax on gasoline by five cents a gallon.....	27%
Raise excise taxes on tobacco, alcohol and other so-called luxury items.....	70%
Modify the tax leasing rule to raise corporate taxes.....	47%
Place a temporary tax surcharge of four or five percent on incomes above \$40,000 a year.....	35%
Other (specify):.....	19%
D. Do you favor a Constitutional amendment to require a balanced budget and, at the same time, limit the amount taxes can be raised.	
Yes.....	49%
No.....	27%
Undecided.....	24%

2. Because of the way cost-of-living adjustments (COLA's) are calculated, Social Security and other Federal retirement payments have increased at a faster rate than real (adjusted for inflation) wages and salaries paid to workers.

A. Do you favor tying Social Security and other retirement COLA's to the increase in real wages and salaries paid to workers?

Yes.....	65%
No.....	19%
Undecided.....	16%

B. Are you currently receiving Social Security or other Federal retirement benefits?

Yes.....	23%
No.....	77%

3. The Federal Reserve has pursued a "tight money" policy to control inflation although it has kept interest rates high. Which statement would you support?

The "tight money" policy has brought down the rate of inflation and must be maintained for now.....	52%
The "tight money" policy has gone too far and control over the money supply must be loosened in order to bring interest rates down faster.	48%

4. U.S.-Soviet relations remain troubled, causing worldwide concern.

A. Regardless of comparative strengths of U.S. and Soviet missile forces, do you favor an immediate freeze on nuclear weapons deployments?

Yes.....	61%
No.....	29%
Undecided.....	10%

B. Should the U.S. initiate such a freeze unilaterally?

Yes.....	38%
No.....	48%
Undecided.....	14%

5. U.S. relations with Central and South American countries are becoming more important.

A. Do you support President Reagan's Caribbean initiative to extend more economic aid to stabilize governments and economies in friendly nations in that region?

Yes.....	39%
No.....	44%
Undecided.....	17%

B. With elections concluded and a new government installed in El Salvador, do you favor continued military aid to that country?

Yes.....	20%
No.....	56%
Undecided.....	24%

6. Considering the effect on the economy and jobs, do you believe the Environmental Protection Agency basically is doing a good job of protecting the quality of our land, air and water resources?

Yes..... 40%
No..... 42%
Undecided..... 18%

7. Given the increase in crime, would you favor spending as much as \$2 billion for additional prisons despite its impact on the deficit?

Yes..... 50%
No..... 37%
Undecided..... 13%

8. Should government-supported family planning clinics be required to inform parents or guardians when unmarried minors seek contraceptive prescriptions or devices?

Yes..... 34%
No..... 60%
Undecided..... 6%

Party preference of those responding

Republican..... 66%
Democrat..... 21%
Non-partisan..... 12%
Other..... 1%

Ages of those responding

18 to 21..... 1%
21 to 35..... 20%
35 to 50..... 23%
50 to 65..... 33%
65 and over..... 23%

**THIRD U.N. CONFERENCE ON
THE LAW OF THE SEA**

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● **Mr. GILMAN.** Mr. Speaker, I rise today to introduce a resolution expressing the sense of Congress concerning continuing U.S. participation with respect to a comprehensive law of the sea treaty. The sense of this resolution has been expressed in House Concurrent Resolutions 271 and House Concurrent Resolution 361 both introduced by the gentlewoman from Rhode Island (Mrs. SCHNEIDER,) earlier this year and of which I am a cosponsor.

The resolution I am introducing today updates these earlier resolutions by taking note of the President's decision of July 9 that the United States would not sign the Convention on the Law of the Sea. That convention was adopted by the Third U.N. Conference on the Law of the Sea last April 30, when 130 states abstained and 4 states opposed adoption. The United States, you will recall, called for the vote and opposed adoption because of the seabeds provisions, part XI, of the treaty.

Although the United States voted against and has decided not to sign the treaty, we have been informed that the Government plans to sign the final act of the conference. The final act is an instrument common to inter-

national treaty negotiations and it is common practice for participants in such negotiations to sign such an act, thereby certifying that they have participated in the negotiations. The U.S. decision to sign the final act thus certifies we have participated in the 10-year negotiating effort of the Third U.N. Conference on the Law of the Sea. However, this final act also enables the U.S. Government to participate as observers in the preparatory commission of the conference. That commission will be established 60 days after 50 states have signed the final act and consists of representatives of signatories of the final act. The commission will prepare draft rules of procedure for the assembly and the council of the first financial period of the authority, personnel for the secretariat of the authority, make recommendations on various matters such as the budget of the authority, and prepare draft rules, regulations, and procedures to enable the authority to begin its functions regarding seabed mining. The commission will exist until the first session of the assembly has met, at which time its property and records will be transferred to the authority.

It is important to note that members of the preparatory commission who sign the final act can participate fully in the deliberations as observers, but not in making decisions. Thus the United States can take part in deliberations but not in the voting on the various measures I have identified above. In order to vote, the member state must have signed the convention as well.

Based on the April 30 vote in which the conference adopted the convention and the fact that 137 coastal states of the world—the remainder are landlocked—perceive benefits in signing the treaty, there is a high probability that the preparatory commission will come into being within 2 or 3 months following the December 1982, signing ceremony.

The administration says it will sign the final act but not send an observer to the preparatory commission. We would only be able to observe, not vote, says the administration.

Such a posture is not only unbecoming to the U.S. Government, but would result in further isolating ourselves from deliberations on fundamentally important aspects of the LOS regime that most countries will sign and ratify. We owe it to ourselves not only to be fully informed on what happens at the preparatory commission, but by sending an observer to influence in the corridors the deliberations on the rules and regulations for seabed mining as well as the rules of procedure for the council and assembly. Mr. Speaker, it seems to me that our minimal responsibility as a world leader is to continue to participate in the continuing process of this treaty and par-

ticipate fully in the deliberations of the preparatory commission.

Accordingly, I urge our colleagues to support this resolution, the text of which I am inserting at this point in the RECORD.

H. CON. RES. 394

Whereas a comprehensive ocean law treaty is of strategic importance to the United States and to the protection of its foreign policy interests;

Whereas for more than ten years the United States has taken a leadership role in promoting a comprehensive treaty on the law of the sea;

Whereas the United States supported the resolution adopted by the United Nations in 1970 which endorsed, inter alia, the principle that the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction are the common heritage of mankind;

Whereas the Third United Nations Conference on the Law of the Sea, representing more than one hundred and fifty countries, formulated a comprehensive treaty over an eight-year period;

Whereas the United States reviewed the draft treaty on the Law of the Sea and participated in the eleventh session of the Third United Nations Conference on the Law of the Sea in March and April of 1982;

Whereas on April 30, 1982, the Conference adopted the draft treaty, the Convention on the Law of the Sea, by an overwhelming majority despite the objection by the United States to certain provisions of the treaty;

Whereas the provisions of the treaty make vital and valuable revisions in and additions to the existing body of international law of the sea, including provisions governing fishing, marine scientific research, protection of the marine environment, and exploitation of offshore energy resources;

Whereas provisions of the treaty relating to military navigation and overflight are vital to the national security interests of the United States;

Whereas the treaty establishes a regime of uniform national boundaries that is vital to the efficient transportation of energy resources and other goods in international commerce;

Whereas the establishment of such a regime of uniform national boundaries would limit the steady seaward expansion by certain countries of their national boundaries;

Whereas the seabed contains an abundant supply of hard minerals such as nickel, copper, manganese, and cobalt, and it is in the national interest of the United States for these minerals to be available independently of the export policies of foreign countries;

Whereas, although the President on July 9, 1982, announced that the United States would not sign the Convention on the Law of the Sea at the official signing ceremony in December 1982, the President did state that the United States would sign the Final Act of the Conference on the Law of the Sea certifying the participation of the United States in the Conference; and

Whereas, since signing the Final Act of the Conference will entitle the United States to participate as an observer at the meetings of the Preparatory Commission of the Conference, which will formulate the rules and regulations for seabed mining, the United States will have an opportunity to influence those rules and regulations

through participation at those meetings: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress urges the President—

(1) to avoid taking any actions which could foreclose eventual United States participation in the Convention on the Law of the Sea;

(2) to conduct an evaluation of the objectives of the United States for ocean use and the relevant foreign policy interests of the United States with respect to the Convention, weighing the different alternatives available to the United States; and

(3) to designate a high level United States representative as an observer to the meetings of the Preparatory Commission of the Conference on the Law of the Sea that will formulate the rules and regulations for seabed mining, in order to demonstrate the continuing commitment of the United States to the multilateral process of formulating a law of the sea and to demonstrate the strategic importance to the United States of the Convention on the Law of the Sea.●

THE ROLE OF RELIGION AND THE CHURCH IN OUR NATIONAL LIFE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. GOODLING. Mr. Speaker, I commend the attention of this body to the following sermon of Dr. Benjamin Griffin before the congregation of the Trinity United Church of Christ, York, Pa. on June 29, 1975, and again on July 4 of this year. As a matter of historical and religious significance, this sermon recounts the role of York in the American Revolution. However, of particular importance is the timely question of the role of religion and the church in our national life.

Mr. Speaker, this sermon was brought to my attention by Andrew T. Schumacher of York, Pa. I thank him for sharing this message with me and giving me the opportunity to share it with my colleagues in the House of Representatives.

The sermon follows:

[Sermon preached by the Rev. Dr. Benjamin Griffin before the Congregation of Trinity United Church of Christ, York, Pa.]

FOR GOD AND COUNTRY

"And you shall proclaim liberty throughout all your land." Lev. 15:10

Two hundred years ago Captain Michael Doudel, his officers, and sixty-eight riflemen marched as a body to the German Reformed Church to hear a patriotic sermon by Daniel Wagner, the pastor, who told them "to keep God before their eyes continually and they would be assured of his guidance and protection." At one o'clock that same Sunday afternoon this Company of York County Continental Army soldiers began their long march to General Washington in Cambridge, Massachusetts. They arrived in Massachusetts on July 25th and by July 30th they saw action at Bunker Hill.

One of the members of the York Committee, which prepared and no doubt helped finance Yankee Doudel's Company, was that sturdy patriot, Colonel Thomas Hartley, whose home stood on the very ground on which Trinity Church now stands. It was this same Colonel Hartley who in 1791 brought George Washington to worship in our German reformed Church.

I do not know why the York Company under Captain Doudel chose to come to the German Reformed Church of which Trinity Church is its direct descendant. Perhaps because it was situated on the way out of town, it was convenient. But there were other churches on what is now Market Street. I doubt if they came to our church because there were large numbers of Pennsylvania Germans in the Doudel Company; extant records reveal few German names. I suspect, although I have no way of knowing this with any certainty, that one of the reasons the riflemen came to our church on that historic Sunday was that the pastor and the congregation were known as firm supporters of the Revolution. I mention this guess because at the time of the Revolution not all citizens and not all churches backed the revolt against the King. Some historians estimate that less than half of the population of the American colonies actively supported the Revolution in 1775. There can be no doubt that Pastor Wagner and our church were strong supporters of the Revolutionary cause. York County joined the Revolution two hundred years ago this week. Trinity Church through its pastor gave its blessing and sent forth its prayers for this great adventure in liberty.

In the United Church of Christ we are the Church of the New England Congregationalists and the Pennsylvania German Reformed people. There was a direct relation in our parent denominations of religious convictions and political ideals. In the mid-eighteenth century there was a major religious revival called the Great Awakening. This gave rise to a new interest in education and in humanitarian causes. Some, especially the clergy, who were most influenced by this revival were also becoming more and more sure that they should resist authoritarian control from England. In this setting, John Wise, an early Congregational pastor, was probably the first to proclaim that taxation without representation was tyranny.

Pennsylvania German Reformed people were more and more touched by the political unrest in the colonies. They felt bound by conscience to fulfill obligations to the movement for independence. Members of those small Reformed congregations in Pennsylvania served in the war effort as soldiers and on town committees. Michael Schlatter, the great German Reformed founding missionary to our churches in this Commonwealth, and the founder of the German Reformed Church in York County, enlisted as a chaplain in the Continental Army. When the Constitution was adopted and George Washington became President in 1789, the Reformed ministers congratulated the new president for "the happy and peaceful establishment of the new government."

Today we too quickly assume that in 1775 it was an easy thing to support the Revolution and to enlist in the cause. Today we tend to glorify and romanticize the Revolution. Yet when Thomas Hartley and the other leading merchants and farmers of York County took the active lead in organizing and raising funds for the support of Michael Doudel's Company they were risk-

ing not only their economic fortunes but their lives as well. Some of those eager York County farmers who could "hit the nose at one hundred and fifty yards" did not come home again to this beautiful county. And, no doubt, there were good people in York churches, including the Reformed Church, who believed that Pastor Wagner should not have gotten himself involved in such a political cause as a revolt against the established government. In 1775 it was not at all clear and certain that the Revolution would succeed. Indeed, in 1775 many who were later to be strong patriots were not convinced that independence from the Crown was either necessary or desirable.

It is not enough today for us to recount and to remember the day when York joined the Revolution. Nor is it enough to be proud of the role Trinity Church and the German Reformed people played in the whole enterprise of the founding of our Republic. We need to ask, "what does the American Revolution mean today to us?" We need also to ask about the role of religion and the church in our national life. I hope that we can all admit that part of what it means to honor our tradition is to continue that tradition in our own time. Otherwise, all that we are doing today is taking a tourist trip back into the past.

George Washington believed that religion and morality are indispensable supports to the national welfare. Washington did not believe, as indeed, none of the Founding Fathers believed, that this meant blind support. Yet in a democratic republic the spiritual life of the people and their basic moral decency and trust are absolutely essential if the nation is to remain a nation of free men and women. Watergate symbolizes many things, but what it means, I think, more than anything else is what can happen when there is a corruption of basic morality—and by that I mean that some things are always right and some things are always wrong—and when there is a breaking of the trust between the elected government and, we, the people. Theodore White in his book about the fall of our former president, a book he calls *Breach of Faith*, argues that what finally happened was that the trust we, the people freely give to our chief magistrate was abused.

I am one of those who believes that Watergate was our greatest national crisis since the Civil War. Like the Civil War it was fundamentally a moral crisis. I know that it is easy in these days to be cynical about politicians and the courts. Yet one of the things we learned through Watergate is that there are politicians of both parties who still retain a deep moral consciousness and that the courts still have on their benches men of impeccable moral character with a firm loyalty to the rule of law. As this nation is about to begin the third century of its independence, we must rededicate ourselves to those moral virtues of honesty, fairness, and decency without which this nation cannot survive.

One of our national slogans is "One Nation Under God." I think we need to underline that word "under". The nation is not supreme and ultimate; God alone is. The nation deserves our support and our loyalty, but our ultimate and final trust and allegiance is to God alone. Our destiny and that of our nation depend not on guns and butter but upon the sovereign will and care of Almighty God. Our Judea-Christian tradition constantly reminds us that God is God not only of individuals but of nations as well. Religion has a responsibility of ever

keeping before us the ultimate sovereignty of God. Pastor Wagner two hundred years ago told the Doudel Company, "to keep God before your eyes continually and you will be assured of his guidance and protection." That is still good advice to us as individuals and as a nation as we today rededicate ourselves "to a reaffirmation of faith, democratic ideals and love of country."●

CONFIRMATION OF CONGRESSIONAL INTENT ON SECTION 213(b)(1)(c) of H.R. 4961

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MATSUI. Mr. Speaker, section 213 of the Senate amendment to the Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961, prohibits the Internal Revenue Service from retroactively reclassifying a motor vehicle operating lease that includes a terminal rental adjustment or TRAC clause as other than a true lease. A question of legislative intent has arisen as to whether section 213 and its specific reference to commercial leases should be interpreted so as to carry a negative implication that a lease of a vehicle for the lessee's personal use necessarily requires that the lessor of such vehicle be subject to a different tax treatment than that provided by section 213 to a lessor of a vehicle used for commercial purposes.

To address this concern, I wrote Senator BENTSEN, the principal sponsor of this provision, and requested that he respond to a number of specific inquiries on the matter. The following correspondence details this exchange:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., August 2, 1982.

HON. LLOYD M. BENTSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BENTSEN: I am writing to you as the principal sponsor of the provisions contained in section 213 of the Senate Amendment to the "Tax Equity and Fiscal Responsibility Act of 1982," H.R. 4961, which would prevent the Internal Revenue Service from retroactively reclassifying a motor vehicle operating lease that includes a terminal rental adjustment or TRAC clause as other than a true lease.

As you are aware, the need for this remedial legislation arose when the IRS in May 1980 published a "technical advice memorandum" that took the position that the presence of a TRAC clause in the standard lease form which the motor vehicle leasing industry had used for over 30 years should cause such a lease transaction to be treated for federal income tax purposes as a conditional sale. Despite the fact that this position was a reversal of that which the IRS had generally followed on audit in years past, and despite the fact that the position was adopted without notice to the Congress or to the public and without the benefit of public hearings in which interested parties could state their views on the serious economic and tax issues connected with the

change of position, the IRS refused to exercise its discretion to apply the new position on a prospective basis only. Moreover, notwithstanding the April, 1981 decision of the United States Tax Court in the *Swift Dodge* case that the new position was wrong as a matter of law, the IRS has continued to apply the changed position retroactively in the audit of selected motor vehicle lessors.

I became aware of, and concerned about, this problem both because the taxpayer in the *Swift Dodge* case is headquartered in my Sacramento, California, district and because my broader constituency includes numerous commercial and consumer leasing interests throughout the state of California. I have followed closely efforts on the House side by my colleagues on the Ways and Means Committee directed at the problems caused by the 1980 IRS technical advice memorandum. In particular, I have been supportive of H.R. 6358 introduced this spring by Mr. Holland and cosponsored by Mr. Vander Jagt, which included the substance of the proposal you sought to include in a Senate approved tax bill. The purpose of this letter to you, the primary mover of the Senate version of this legislation, is to ask that you confirm my understanding and that of my constituents interested in this proposal of several provisions of section 213.

First, I am concerned as to the effect of the language in section 213(b)(1)(C) which limits the applicability of the protection provided by section 213 to motor vehicle operating leases under which the lessee uses the leased property in a trade or business or for the production of income. It is my understanding that this language was not intended by the Senate Committee on Finance to carry any negative implication that a lease of a vehicle for the lessee's personal use, or for both business and personal use, necessarily requires the lessor to be given a different tax treatment than where the vehicle is leased exclusively for the lessee's business use. I also understand that it was not the intent of the Finance Committee to change, or to imply any need for change, in existing law as reflected by the Tax Court's 1981 decision in the *Swift Dodge* case which rejects the notion that presence of a terminal rental adjustment clause in a lease for personal use prevents the lease from being respected as such for federal income tax purposes.

On a related issue, I understand that section 213 was not intended to create any negative inference that the effect of a TRAC clause in a motor vehicle operating lease should be different than the effect of such a clause in a lease for some other type of equipment. I also understand that the committee similarly did not intend that the rule of law set forth by the Tax Court in the *Swift Dodge* case concerning the effect of TRAC clauses generally should not be applicable to leases for equipment other than motor vehicles.

Second, I seek your confirmation of the Finance Committee's intent with regard to clause (ii) of section 213(b)(1)(A) of the Senate approved amendment to H.R. 4961. This provision appears to permit, but not require, publication by the Secretary of Treasury or his delegate of a regulation providing that a motor vehicle operating agreement which includes a TRAC clause is not a lease for federal tax purposes. It is my understanding that by approving this language, the Senate was neither authorizing nor anticipating any substantive change by Treasury regulation of existing law as confirmed by the *Swift Dodge* decision. To the con-

trary, I understand that you and other members of the Finance Committee intended to allow such a change to be effected only in the most extraordinary circumstances and, in any event, only after a thorough analysis has first been made and communicated to Congress by high-level Treasury and IRS officials as to why such a change might be warranted.

It is also my understanding that the language of this clause was chosen, with the protections of the Administrative Procedures Act in mind, so that it can be satisfied only by Treasury promulgation of a final, substantive rule or regulation prescribed in the future after publication of notice of the proposed rulemaking in the Federal Register showing the text of the proposed regulation, and after providing opportunity for public hearing at which any affected taxpayers or any other interested members of the public could personally appear to submit their comments or suggestions for revision of the proposed regulation.

In closing, I want to take this opportunity to express again my support and that of my constituents for your efforts and those of other members of the Finance Committee to provide a much needed and long overdue legislative solution on this issue which is of critical importance to numerous industries in my state and across the nation.

Very truly yours,

ROBERT T. MATSUI,
Member of Congress.

U.S. SENATE,

Washington, D.C., August 4, 1982.

HON. ROBERT T. MATSUI,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MATSUI: I write in response to your letter of July 28, 1982, in which you raised several inquiries concerning section 213 of the Senate amendment to H.R. 4961 which provides that the presence of a terminal rental adjustment or TRAC clause in a qualified motor vehicle agreement shall not be taken into account in determining whether the agreement is a lease for federal tax purposes.

As you correctly noted, I together with Senator Armstrong and other members of the Senate Finance Committee, worked actively to include in the Committee-approved tax bill the substance of legislation we had drafted which was identical to H.R. 6358, introduced this spring by two of your distinguished colleagues on the House Committee on Ways and Means, Mr. Holland and Mr. Vander Jagt. Our proposal as well as the Holland bill, H.R. 6358, and earlier legislative efforts directed at solving the problems caused by the May 1980 IRS technical advice memorandum, would all have applied to any motor vehicle lease which included a TRAC clause without regard to how the vehicle was used by the lessee.

During the course of the Senate Finance Committee's markup proceedings, however, our proposal was modified to include the provisions in subparagraph (C) of section 213(b)(1) at the urging of Treasury Department and IRS officials present who were apparently concerned that estimates made on our proposal showing no appreciable revenue effect were based on assumptions that the property would be used only for business purposes by the lessee.

I can assure you that the Finance Committee accepted this modification because of its deep concern over revenue impacts generally, and not because the Committee intended that a different rule of law or tax

treatment should apply to lessors of non-business use motor vehicles or other types of equipment. As a matter of fact, I and a number of other members of the Finance Committee believe that a good case can be made that there would be no adverse revenue effect even if section 213 were to apply across the board to all leases with TRAC clauses, including those covering personal and dual use vehicles. I can also assure you that the Committee would view any negative inference that lessors under consumer leases should be subject to different substantive tax rules than lessors under commercial leases by virtue of section 213(b)(1)(C) as both bad law and bad tax policy.

The notion that the tax treatment of lessors under otherwise valid leases should depend on the actual use to which a lessee puts the leased property is contrary to both the theory and the result of *Swift Dodge* which rejects the notion that the presence of a TRAC clause in a lease for personal use prevents the lease from being treated as such for federal income tax purposes. Moreover, any requirement that a lessor substantiate his entitlement to the tax attributes associated with the leased property on the basis of how a lessee actually uses the property would create such hopelessly complex and costly administrative problems for both the IRS and lessor taxpayers as to defy resolution. I should also add that the Committee did not intend to create any negative inference that for federal tax purposes the effect of a TRAC clause in a motor vehicle lease should be different than the effect of such a clause in a lease for some other type of equipment.

With regard to your second inquiry, I can also confirm your understanding of the effect of the language in clause (ii) of section 213(b)(1)(A) of the Senate passed amendment to H.R. 4961. As I stated above, when my colleagues from Colorado and I initiated action on this provision in the Finance Committee, it was our intent to include in the Committee-reported bill the substance of legislation we had drafted which was identical to the Holland bill, H.R. 6358. In explanatory remarks accompanying H.R. 6358, Mr. Holland stated that he viewed his bill, in accordance with the theory and result of the Tax Court decision in *Swift Dodge*, as declaratory of existing law. (128 Cong. Rec. 9769 May 12, 1982.) Mr. Holland also stated that his bill was based on the premise neither Congress nor the Treasury Department would consider any changes to existing law unless the Department had previously conducted a major policy level study of the economic and tax issues bearing on the question whether there is sufficient reason to deny lessors the depreciation and investment tax credits otherwise allowed owner-lessors of depreciable business property.

In urging our colleagues on the Finance Committee to support our proposal, Mr. Armstrong and I made it clear that by including the provisions of section 213(b)(1)(A)(ii), the Senate Finance Committee would not be contemplating a change in existing law as confirmed by the Tax Court in *Swift Dodge*. We made it clear that we shared Mr. Holland's view that such a change could be effected by prospective Treasury Department regulations only in the most extraordinary circumstances. Indeed, I and others on the Committee assume that no court could find reasonable a Treasury regulation that was contrary to the *Swift Dodge* holding unless Treasury

had first come to Congress with a thorough study of the type described above.

In addition, the Committee also understood and intended that prior to promulgation of a final substantive rule in accordance with the protections provided by the Administrative Procedures Act, Treasury would first have to publish a notice of the proposed rulemaking in the Federal Register showing the text of the proposed regulation, and provide opportunity for public hearing at which affected taxpayers or other interested members of the public could personally appear to submit their comments or suggestions for revision of the proposed regulation.

Thus, the intent and understanding of the Committee with respect to section 213 was to provide a statutory rule of law that the presence of a terminal rental adjustment clause in a qualified motor vehicle operating lease shall not be taken into account in determining whether the agreement is a lease. The statutory rule is intended to, and will continue to, apply unless the Congress enacts a law (or Treasury publishes a regulation) which provides that any agreement with a terminal rental adjustment clause is not a lease.

The Committee clearly did not intend that Treasury exercise an unfettered discretion in publishing a regulation. In addition to the general statutory requirements of notice of proposed rulemaking (which includes notice of time, place, and nature of the public rulemaking proceedings, reference to legal authority, and the terms or substance of the proposed rule) and opportunity to participate in the rulemaking process, the statutory requirement that there be a basis and purpose for the regulation must be complied with. The general requirement of reasonableness in the exercise of delegated legislative power must be satisfied. Thus, if and when a regulation is proposed, it must be made known to the Congress and to the public at large why the regulation is proposed.

I hope this discussion serves to clarify both the understanding and intent of the Members of the Finance Committee who, without objection from any Committee member, approved the inclusion of section 213 in the Senate Amendment to H.R. 4961. I look forward to working with you and other members of the Ways and Means Committee who support this provision to secure its final enactment.

Sincerely,

LLOYD BENTSEN.

OUR HANDICAPPED CHILDREN

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. DOUGHERTY. Mr. Speaker, I am a cosponsor of House Resolution 558, expressing the sense of the House that regulations recently proposed by the Secretary of Education should not be permitted to take effect because of my very real concern that this action would seriously threaten the free, appropriate public education which Congress voted to insure for the millions of deserving handicapped children.

In 1977, Public Law 94-142 was enacted only after an extensive study of

the exclusion and neglect of handicapped children that resulted from the policies of the State and local school systems. It was then the intention of Congress that this law would, and I quote from the act itself, provide for "full educational opportunity to all handicapped children" and guarantee "specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child."

Unfortunately, it has become apparent that these intentions are being circumvented and even disregarded in the recent decisions of the Supreme Court and the Department of Education.

On June 28, the decision of Hendrick Hudson School Board against Rowley was read. This case was the first judicial interpretation of Public Law 94-142 and the majority opinion stated that "to require the furnishing of every special service necessary to maximize each handicapped child's potential is further than Congress intended to go."

This is, however, exactly where we intended to go. As was recognized in the dissenting opinion, in both the House and Senate reports, it was clearly stated that the act would "guarantee that handicapped children are provided equal educational opportunity" and that each child would be given "an educational plan that is tailored to achieve his or her maximum potential." Surely words such as these should not be misunderstood to mean anything less than opportunity commensurate with the education provided other children.

The second decision taken was the most direct and, by far, the most scathing. The Department of Education has proposed new regulations that could severely erode the law's provisions. If we allow this deregulation to be adopted, we would be allowing our intentions to be subverted and we would be giving tacit consent to the undermining of the program and all it has done for handicapped children.

The issue at hand is fast becoming fear. The fear of parents that their handicapped children will not be given the chance to learn and lead a normal life. The fear of professionals and educators that a return to the shameful practices of segregation, exclusion, and warehouse programs are imminent. The fear that the child will be forced away from the regular classroom—away from a regular way of life.

And, finally, this fear should be ours. For if we choose to let these new regulations pass and if we allow our intentions to be consciously subverted, then we will have failed. The threat posed is real and the potential harm is clear. A decade of work on behalf of all our handicapped children could

easily be destroyed by regressive changes.●

TRIBUTE TO ADDIE AND MATHEW BARNES

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MILLER of California. Mr. Speaker, on August 23 my good friends, Addie and Mathew Barnes of Richmond, Calif., will be celebrating their 50th wedding anniversary. I would like to recognize this momentous occasion, and I know that my colleagues will join me in paying tribute to a wonderful couple whose family has contributed so much to our community. In their 50 years of marriage they have raised 8 children, and have been blessed with 16 grandchildren and 3 great grandchildren.

Mr. Speaker, I know you will join me in wishing this family many years of continued health and happiness.●

IT IS TIME WE BECOME AGGRESSIVE TRADERS

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. MARLENEE. Mr. Speaker, I would like to bring to my colleagues attention a recent article written by Pat Goggins, publisher of the Western Livestock Reporter, on Japanese lobbying efforts in the United States.

As I See It

(By Pat Goggins)

Like the old saying goes, "you've got to make hay when the sun shines."

You as a rancher are out there going day and night attempting to get that big crop of hay put away. It's true you're busy, you've hardly had time to think or read. But as you're sitting on that swather or baler and you're done reading this column do some thinking.

The Japanese are "making a lot of hay" here in the United States.

The Beef Industry Council of the United States is, at the present time, budgeting somewhere around \$7 million to educate and promote the beef product to several key areas of the United States consumers.

I hope this opens the eyes, not so much of the American consumer, but I hope it opens the eyes more so of the American producer and feeder. After all, it's the 'buck' that makes the world go around.

Do you realize that of the ten top agricultural banks in the United States, nine of them are in the West and Northwest, in California, Washington, Oregon, Idaho and Arizona.

That's the same area for the most part that the Japanese are looking at in a big way. Not only from the standpoint of wanting our products from those areas but more-so, they are buying land in this part of the country in a big way.

I just returned from a short jaunt to California and I couldn't believe how things have changed from the Oriental influx and in the business sector, Japan has a real foothold.

Let me give you a few facts that certainly opened my eyes and I think would be interesting to you.

In Washington, D.C. for instance, one of the strongest lobbies there is the Japanese Lobby. As late as 1977, only 17 foreign agents for Japan were registered with the Justice Department. Today there are 140.

Within the last five years, Japanese trading with the United States has increased from just over \$10 billion to \$37 billion.

Now get this. In this same period of time, the Japanese annual direct investment here in lobbying has risen from \$1.8 billion to more than \$6.5 billion.

While we are talking about approximately \$7 million promoting America's greatest product, beef, the Japanese are spending \$6.5 billion here to get our market and keep it. Yes, they have quietly become the largest, best funded foreign contingent in Washington.

You ask, who is representing them. Do they have Japanese people over here themselves?

Well, they do in the background, but the front boys, the boys that get the job done, the boys that do the arm twisting, the officials that get the job done with their buddies are all Americans and I might add, well paid Americans at that.

There are many law firms receiving fees in the six figure retainer bracket.

From Japanese fishing, electronics, auto, trade interests, what kind of people are they?

Well, let me point out a few you will recognize. I suppose one of the oddest figures I ran across on the whole list was former Idaho Senator, Frank Church, who was, just a short time ago, head of the Senate Foreign Relations Committee, the same committee that denounced U.S. businessmen for foreign payoffs. He chaired the investigation of Lockheed's businesses in Japan that toppled the government and led to congressional probes that tore apart the CIA in that country.

Of course, a man like Church offers an awful lot to these Japanese for a correct fee. He would call a former Senator friend or call a Senate secretary or talk with a reluctant bureaucrat, it's no doubt he'll get things done for past favors he conceded along the line. Church is now an agent of the Japan External Trade Organization and the Daiwa Steel.

Frank Church is with a firm called Whitman and Ransom, a law firm that brings in thousands annually for what the former Senator describes as routine legal work... passports, legal transactions, visas. But say, don't let anybody kid you, it's more than that for the long six figure price the Japanese are paying, they aren't looking for someone to look for a passport or visa.

They've got people like Robert Strauss, for Special Trade Representative and the Democratic National Chairman as one of their team here in America.

They have William Colby, former CIA director, and former Transportation Secretary Brock Adams. They've got former Reagan campaign manager John Sears and the current Democratic National Chairman, Charles Manett.

They are all there and doing business for the Japanese and they're putting their political contacts on the line for a fee.

So you see, we in the cow business, you and I have to buckle up, brace up and get with it if we're going to keep our outfit going. We cannot compete with these kind of figures with a \$6 to \$7 million budget.

If we could just get a dollar a head from everybody in the United States, pay back half of that to the people who will spay heifers, use the other \$15 to \$18 million and educate and promote you'd see the greatest industry in the history of the world here in an American livestock endeavor.

It's there to be had. It's up to you and me.

A quick look at some statistics makes it clear this lobbying has brought increased sales. Last year Japanese exports to the United States increased 23 percent while its U.S. imports increased only 2 percent, and we currently have an \$18 billion trade deficit with Japan.

We often think in terms of the problems this trade imbalance creates for U.S. producers, but there is also another problem area that needs to be addressed—the difficulties U.S. retail office machine dealers face when negotiating with Japanese suppliers. The following letter I received outlines what these problems involve:

DEAR MR. MARLENEE: I am the owner of a small, family-owned office machine dealership, selling a number of product lines. I, as well as my customers base, have over the past several years become totally dependent on foreign equipment. American office machine manufacturers have either gone out of business or sell mainly through their own sales forces, not through dealers.

Now, these Japanese companies plus a few European manufacturers are engaging in practices which are likely to bankrupt us. We, as small dealers, simply cannot force them to negotiate in good faith, much less treat us fairly and equitably. Most of the problems center around the following:

1. New products not adequately field-tested;
2. False product claims by the manufacturers, resulting in customer dissatisfaction with the equipment purchased;
3. Unfair quotas and dealer agreements presented to dealers on a take-it-or-leave-it basis;
4. Terminations and cancellations without cause;
5. Delays in supply and delivery of machines, replacement parts and supplies.

There is no doubt that the United States needs to be more aggressive to reduce our current trade deficit with the Japanese, but let us not forget the United States dealer of Japanese products in our efforts to end unfair Japanese trade practices.

SHIPPING ACT OF 1982

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 12, 1982

● Mr. SENSENBRENNER. Mr. Speaker, recently the House Judiciary Committee considered H.R. 4374, the Shipping Act of 1982. I voted against

this bill because I believe that granting antitrust immunity is counter-productive for the shipping industry and consumers. However, since the bill has been reported out of the Judiciary Committee, it has come to my attention that H.R. 4374 would have a serious effect on U.S. ports. I would like to make a part of this an analysis of the Shipping Act of 1982 as it affects American port cities.

ANALYSIS: POTENTIAL EFFECT OF THE "SHIPPING ACT OF 1982" ON AMERICAN PORT CITIES

(By Prof. George E. Garvey, Columbus School of Law, Catholic University of America, formerly Counsel, Committee on the Judiciary, U.S. House of Representatives and Jerome M. Zeifman, General Counsel, National Institute of Economics and Law, formerly General Counsel, Committee on the Judiciary, U.S. House of Representatives)

The proposed Shipping Act of 1982 (S. 1593 and H.R. 4374) contains several procedural and substantive changes to existing law that could adversely affect United States port cities. The most significant sections grant total immunity from the antitrust laws to ocean common carriers and allow them to: "allot ports or restrict or otherwise regulate the number and character of sailings between ports," and to "engage in exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators . . ."

BACKGROUND

There are significant restrictions under the existing Shipping Act of 1916 on activities among carriers and/or ports that discriminate against other port facilities. The most significant sections are:

1. Sec. 14b(4) prohibits the FMC from approving any dual-rate contract that requires "the contract shipper to divert shipment of goods from natural routings not served by the carrier or conference of carriers where direct carriage is available." A dual-rate contract provides lower rates to shippers that commit all or a portion of their traffic to the contract carrier or conference.

2. Sec. 15 requires the FMC to disapprove any agreement "that it finds to be unjustly discriminatory or unfair as between . . . ports."

3. Sec. 16 prohibits a carrier or other person from giving "any undue or unreasonable preference or advantage to any particular person, locality, or description of traffic in any respect whatsoever, or to subject any particular person, locality, or description of traffic to any undue or unreasonable prejudice or disadvantage . . ."

4. Sec. 17 states that "no common carrier by water in foreign commerce shall demand, charge or collect any rate, fare or charge which is unjustly discriminatory between shippers or ports. . ."

Further, the FMC has read the policies of related statutes, e.g., Sec. 8 of the Merchant Marine Act of 1920 and Sec. 205 of the 1936 Merchant Marine Act, into the "public interest" standard of Sec. 15.

The Federal Maritime Commission strictly scrutinizes any agreement that diverts traffic from a port that would be the natural routing for the goods. It will not, for example, approve conference agreements containing port equalization provisions (provisions to pay shippers the difference between the cost of transportation to a nearby port and that to a more distant port designated by

the carrier or conference) when adequate service is available at the more convenient port. See, *Port of New York Authority v. Federal Maritime Commission*, 429 F.2d 663 (5th Cir. 1970); *Pacific Far East Line v. United States*, 246 F.2d 711 (D.C. Cir. 1957). The FMC will generally find any carrier rate agreement that attracts cargo from an area "naturally tributary" to a port to some other port to be unjustly discriminatory.

Any agreement allocating or restricting the use of a port today must be filed with and approved by the FMC. The proponents of the restrictive agreement must establish that there are substantial transportation needs or important public benefits that justify the restriction. *Federal Maritime Commission v. Aktiebolaget Svenska Amerika Linien*, 390 U.S. 238 (1968). Further, the FMC must conduct an adequate investigation prior to approving any agreement discriminating against a port. *Marine Space Enclosures v. Federal Maritime Commission*, 420 F.2d 577 (D.C. Cir. 1969). As a result, an agreement diverting traffic from its natural port now comes to the Commission with a strong presumption of invalidity.

S. 1593, THE GORTON BILL

The Senate bill substantially dilutes the existing rights of less powerful terminal operators.

As noted earlier, sec. 14b presently prohibits the use of any dual-rate contract that requires a contract shipper to divert goods from their "natural routings." S. 1593 would prohibit agreements that deny contract shippers "the right to utilize competing services that involve loading to or from a vessel at a port or ports located beyond a carrier's or conference's geographic scope . . ." The Senate Report explains that this section guarantees a contract shipper "the right to use competing services of ports outside the geographic range served by the conference . . ." Senate Report, p. 33. The bill would not, however, require the conference to provide a vessel, and the use of a non-conference vessels would be a breach of the loyalty contract. The right to use any port is meaningless to a contract shipper without the right to utilize a non-contract carrier.

It is also noteworthy that the restriction on loyalty contracts relates only to ports beyond the "geographic range served by the conference." Implicitly, a conference may require contract shippers to use only one or more designated ports within the range it serves. This could mean, for example, that a conference serving the North Atlantic could require contract shippers to use the Ports of New York and Baltimore, or perhaps Montreal, to the exclusion of Ports in Boston or Hampton Roads.

The fundamental shift the legislation makes in favor of strong, "rationalized" shipping cartels is inherently unfavorable to ports. Under existing law, agreements that allocate or discriminate against ports are highly suspect. Under S. 1593, such agreements would enjoy a strong presumption of validity. Common carriers would, for example, be authorized to allot ports and restrict sailings between ports, Sec. 4(a)(5), and both carriers and marine terminal operators are likewise authorized to enter into "exclusive, preferential, or cooperative working arrangements." Sec. 4(a)(6) and 4(b)(3).

Section 12 of S. 1593 retains some of the restrictions of existing law. Among other things, common carriers may not unjustly discriminate against ports, Sec. 12(a)(6), or give undue preference to any particular person or locality, Sec. 12(d)(2). These re-

strictions, however, would have to be read as part of a regulatory scheme intended to promote full rationalization of shipping services, while explicitly rejecting the principles of antitrust law. In addition, the law would expressly authorize the allocation of ports and exclusive, preferential agreements between ports and carriers.

The Senate Report demonstrates that the proposed law would minimize the existing concern over agreements that divert traffic from its natural routings and with abuses of dominant economic power. It would not "prohibit carriers from treating shippers or ports differently when the transportation circumstances surrounding the services are not substantially similar," Senate Report, p. 40. Further, "rates, charges, and services should not be found to be unjustly discriminatory because they result in changes in transportation patterns," *id.* The parties to a contract allocating ports must now establish that there is some pressing justification for the agreement. S. 1593 would make such agreements presumptively valid and require an objecting port to establish that the agreement is not justified by different "transportation circumstances."

Finally, the remedies available to an injured port would be substantially reduced by S. 1593. A port injured by unreasonably discriminatory provisions of an unapproved agreement may presently have a statutory right to three times its damages under the Clayton Act. S. 1593 would eliminate that right and limit any recovery to reparations to be awarded at the discretion of the Federal Maritime Commission.

S. 1593 intentionally strengthens the power of shipping cartels to control all aspects of international ocean borne carriage. Consistent with this goal, it is unlikely that agreements diverting conference traffic through favored ports would be found "unjust" or "unreasonable" if they increase conference convenience or profitability.

H.R. 4374, THE BIAGGI BILL

The problems that the Senate Bill would create for ports would be greatly aggravated if the House Bill, H.R. 4374, were enacted.

Ports are presently able to obtain antitrust immunity under the 1916 Act for agreements approved by the FMC. H.R. 4374, however, may not exempt ports that enter into agreements with carriers. Section 3, for example, allows common carriers to enter into "exclusive, preferential, or cooperative working arrangements among themselves or with one or more marine terminal operators." A carrier acting under such agreement would immediately have antitrust immunity but the status of the marine terminal operator is not clear. This uncertainty is particularly pronounced in the Judiciary Committee amendment to H.R. 4374, which limits the application of the Act to "agreements among ocean carriers." The consequences for a port could be extremely grave. Marine terminal operators would be liable for acts of immunized carriers and potentially subject to criminal prosecution and treble damages.

The loyalty (dual-rate) contract provisions of H.R. 4374 would remove the protection currently afforded ports. The restriction against diverting traffic from its natural routing would be deleted and no similar provision created. Powerful conferences could use loyalty contracts to divert all traffic to favored ports.

Section 10 restricts certain unfair or discriminatory practices and prohibits undue or unreasonable preferences regarding par-

ticular persons or localities. Like S. 1593, however, the House Bill would require an interpretation that promotes the development of strong, profitable conferences.

If the carriers determined to operate through a "consortium" or "joint service" agreement, they could greatly increase their power under H.R. 4374. Unlike other groups acting in concert, consortia and joint services are free of the restraints of Sec. 10(c) of the Act. They would, therefore, not be prohibited from engaging in boycotts or predatory practices.

RIGHT OF INDEPENDENT ACTION

Representatives of port authorities have sought to have the proposed legislation protect the right of all conference members to act independently. See, Testimony of John M. Brady, Chairman, Traffic Board, North Atlantic Ports Association, Inc., before Senate Commerce Committee Sept. 24, 1981; Letter from J. Ron Brimston to Senator Gorton, Feb. 8, 1982. When carriers operate in two adjoining conferences, one allowing independent action and the other not, ports have experienced the diversion of traffic to terminal facilities in the range where independent action is allowed. To avoid this problem, the ports have sought an amendment that would ensure an absolute right of independent action on ten days notice.

Neither the House nor Senate Bills would provide the right of independent action sought by port authorities. Both bills would provide a limited right of independent action conditioned on the use of loyalty contracts and any combination designating itself a consortium or joint service would be totally free of the obligation to provide a right of independent action.

CONCLUSION

The Shipping Act of 1982 would, if enacted, substantially dilute the substantive and procedural protection that ports presently enjoy under the Shipping Act of 1916. Conferences would likely be able to exact substantial concessions from all ports, and smaller ports could be precluded from any meaningful participation in conference controlled traffic. The possibility that large volumes of ocean traffic could be channeled through several preferred ports would increase dramatically.

The primary purpose of existing law has been to protect less powerful carriers, shippers and ports from monopolistic abuses by foreign controlled shipping cartels. The primary goal of the proposed legislation would be to promote strong, a fully "rationalized" shipping cartels able to control all aspects of traffic from point of origin to final destination. This change would seriously jeopardize the ability of cities to develop and promote their port facilities without making unreasonable concessions to any conference that dominates the trade served by the port.●

TRIBUTE TO JONATHAN BINGHAM

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. DeNARDIS. Mr. Speaker, let me first thank the gentleman from New York, Mr. Addabbo, for conducting this special order on one of our most esteemed colleagues.

Mr. Speaker, I envy my senior colleagues. They have had the privilege of serving in the same body with JONATHAN BINGHAM longer than I. They have had him before them for years as a constant model of decency in politics, honesty in Government.

JACK BINGHAM has served in the U.S. House of Representatives for 18 years, I for 20 months. But in that time, my admiration for JACK has deepened immeasurably. Every day he demonstrates his devotion to the principle of respectful dissent and debate, which is the heart's core of democracy. He brings honor to the legislative process. He dignifies debate by his participation. He focuses attention always on the merits of the issues, not on personalities or politics. Although I greatly admire JACK's initiative in the nuclear arms freeze and his unflinching support of our ally Israel, I have often disagreed with him. Yet even in disagreement, I have rested assured that JACK BINGHAM would guide discussion with the high-mindedness that so becomes him and this Chamber.

My esteem for JACK actually began long before I entered Congress. And when I was elected in 1980, I eagerly awaited the privilege of having JACK BINGHAM as my colleague. You see, JACK was born in New Haven, Conn., which I now represent. The Bingham's remain a prominent and venerated family in that city. Hiram Bingham, JACK's father, served as Governor of Connecticut and then as U.S. Senator from Connecticut from 1924 to 1933. He was, in addition, a scholar, a professor at Harvard, Yale, and Princeton, an explorer, an aviator, a military man, a banker, and a man of letters. JACK inherited his father's gifted talents as well as his sense of duty, and has served New York and the United States as well as his father served his State and country.

And now we are assembled to bid farewell to our friend and colleague. When we look on it, we are really the ones who will lose by JACK's retirement. Whatever path he chooses next, there is no doubt that JACK will continue to serve the people of this country. But there will never be another JACK BINGHAM in this body again. I just want to offer him my gratitude and to wish him and his family Godspeed. I consider it a challenge to live up to JACK's standard of fairness and decency during my future years in Congress. I pray that all of us can.●

HON. JONATHAN BINGHAM

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. SCHUMER. Mr. Speaker, JACK BINGHAM has not only been a faithful and conscientious public servant to

the members of New York's 22d Congressional District but also a personable and respected colleague to his fellow Members in the House of Representatives. He has served the Bronx, our city, and our State with compassion and integrity. Over the years, JACK has displayed an uncanny ability, which I very much admire, to present an argument in such a calm and articulate fashion that it is accepted by even its most staunch opponents. When he was an aide to Adlai E. Stevenson at the United Nations in the early 1960's, JACK refined the subtle diplomacy for which he is well known.

Ever since he upset Charles Buckley, head of the Bronx Democratic organization, in 1964, JACK has proved that he is indeed worthy of the acclaim we are bestowing upon him. A respected reformer throughout his career, JACK presided over many of the changes the House has undertaken since Watergate. One of his greatest contributions to the reform movement occurred in 1974 when he proposed to the Democratic Steering Committee that all committee chairmen be voted upon separately, thus making them accountable for their committee's actions and effectively eliminating the antiquated and prejudicial seniority system. In addition, JACK has always given his utmost support to Israel and to the plight of Jews around the world. As a ranking member of the House Foreign Affairs Committee, he helped enact the Soviet-Jewish Refugee Assistance Act of 1972 which sent \$264 million to Israel in aid in the resettlement of Soviet Jews. JACK has consistently raised his voice in defense of Israel whenever the situation mandated it.

Furthermore, JACK has served as a watchdog for the public interest regarding nuclear energy. He has established himself as one of the prime authorities on the subject and his opinion is highly regarded. He successfully led a movement to abolish the pronuclear Joint Atomic Energy Commission in 1977, transferring most nuclear jurisdiction to the Interior. In 1976, his bill prohibiting private industry from beginning production of enriched uranium failed only when the Speaker, then Carl Albert, who rarely casts his vote except in cases of ties or close votes, voted against him. He authored the Nuclear Nonproliferation Act of 1978, banning the exportation of nuclear reactors and fuel to countries that refuse to submit their facilities to international inspection. Following the Three Mile Island accident, he fought for a mandatory 6-month moratorium on the issuance of construction permits for atomic powerplants.

JACK BINGHAM will be a hard man to replace in Congress. I do not know of many people who possess those inherent characteristics which make JACK so unique.●

HOUSE OF REPRESENTATIVES—Friday, August 13, 1982

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, from whom all blessings flow, guard and guide Your people in all the paths of life and in all parts of our world. We pray for those who know the dangers of war and destruction and who face despair. Give to people everywhere the desire for peace and nurture within them the knowledge that all men and women are created in Your image and share in the unity of Your divine handiwork. May not our own interests—so easily seen—blind us from the goals and interests of others that together we may rejoice in joy and wonder and love of life, which are Your gifts to us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. RAHALL. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. RAHALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 312, nays 28, answered "present" 1, not voting 93, as follows:

[Roll No. 276]

YEAS—312

Addabbo	Bereuter	Burton, Phillip
Akaka	Bethune	Byron
Albosta	Bevill	Campbell
Alexander	Biaggi	Carman
Anderson	Bingham	Carney
Annuzio	Blanchard	Chapple
Archer	Billey	Clausen
Ashbrook	Boland	Clinger
Badham	Boner	Coats
Bailey (MO)	Bonior	Coelho
Bailey (PA)	Bouquard	Coleman
Beard	Bowen	Collins (IL)
Bellenson	Brinkley	Collins (TX)
Benedict	Brodhead	Conable
Benjamin	Broomfield	Conte
Bennett	Broyhill	Corcoran

Courter	Hughes	Perkins
Coyne, James	Hunter	Petri
Coyne, William	Hutto	Peyser
Crane, Phillip	Hyde	Pickle
Crockett	Jeffords	Porter
D'Amours	Jeffries	Price
Daniel, Dan	Jenkins	Pritchard
Daniel, R. W.	Jones (OK)	Quillen
Dannemeyer	Jones (TN)	Rahall
Daub	Kastenmeier	Rallsback
Davis	Kazen	Rangel
de la Garza	Kemp	Regula
Deckard	Kennelly	Reuss
Dellums	Kildee	Rhodes
DeNardis	Kindness	Rinaldo
Derrick	Kogovsek	Ritter
Dicks	Kramer	Roberts (SD)
Dingell	LaFalce	Robinson
Donnelly	Lagomarsino	Rodino
Dorgan	Lantos	Roe
Dougherty	Latta	Rogers
Dowdy	Leach	Rose
Downey	Leath	Rostenkowski
Duncan	LeBoutillier	Rousselot
Dunn	Lee	Roybal
Dwyer	Leland	Rudd
Dymally	Lent	Russo
Dyson	Levit	Sawyer
Early	Lewis	Scheuer
Eckart	Livingston	Schneider
Edgar	Loeffler	Schulze
Edwards (CA)	Long (LA)	Schumer
Edwards (OK)	Lott	Sensenbrenner
English	Lowery (CA)	Shannon
Erdahl	Lowry (WA)	Sharp
Erlenborn	Lungren	Shaw
Evans (DE)	Madigan	Shuster
Evans (IN)	Marlenee	Simon
Fary	Martin (IL)	Skeen
Fasell	Martin (NC)	Skelton
Fazio	Martin (NY)	Smith (IA)
Ferraro	Martinez	Smith (NE)
Fiedler	Matsui	Smith (NJ)
Findley	Mavroules	Snowe
Fish	Mazzoli	Snyder
Florio	McClory	Solarz
Foglietta	McCollum	Solomon
Foley	McDade	Spence
Fowler	McDonald	St Germain
Frost	McGrath	Stangeland
Fuqua	McHugh	Stark
Gaydos	McKinney	Stanton
Gephardt	Mica	Stenholm
Gilman	Michel	Stokes
Gingrich	Miller (CA)	Stratton
Glickman	Mineta	Studds
Gonzalez	Minish	Stump
Gore	Mitchell (NY)	Swift
Gramm	Moakley	Synar
Gray	Mollinari	Tauke
Green	Mollohan	Tauzin
Gregg	Montgomery	Taylor
Grisham	Moore	Thomas
Guarini	Moorhead	Traxler
Gunderson	Morrison	Udall
Hagedorn	Mottl	Vander Jagt
Hall, Sam	Murtha	Vento
Hamilton	Myers	Volkmer
Hammerschmidt	Napier	Walgren
Hance	Natcher	Wampler
Hartnett	Neal	Waxman
Hatcher	Nelligan	Weber (MN)
Hawkins	Nelson	Weber (OH)
Hefner	Nowak	Weiss
Hendon	O'Brien	White
Hertel	Obey	Whitehurst
Hightower	Oxley	Whitley
Hiller	Panetta	Whittaker
Hollenbeck	Parris	Whitten
Holt	Pashayan	Williams (MT)
Hopkins	Patman	Williams (OH)
Horton	Patterson	Winn
Howard	Paul	Wirth
Hoyer	Pease	Wolf
Hubbard	Pepper	Wolpe

Wortley	Wyllie	Young (FL)
Wright	Yates	Zablocki
Wyden	Yatron	Zerferetti

NAYS—28

Atkinson	Fields	Murphy
Barnes	Gejdenson	Roberts (KS)
Brown (CO)	Goodling	Roemer
Butler	Hall, Ralph	Sabo
Coughlin	Harkin	Schroeder
Derwinski	Jacobs	Smith (AL)
Dickinson	Johnston	Walker
Dreier	Markey	Washington
Emerson	Miller (OH)	
Evans (IA)	Mitchell (MD)	

ANSWERED "PRESENT"—1

Oberstar

NOT VOTING—93

Andrews	Fenwick	Mattox
Anthony	Fithian	McCloskey
Applegate	Flippo	McCurdy
Aspin	Ford (MI)	McEwen
AuCoin	Ford (TN)	Mikulski
Bafalls	Forsythe	Moffett
Barnard	Fountain	Nichols
Bedell	Frank	Oaker
Boggs	Frenzel	Ottiger
Bolling	Garcia	Pursell
Bonker	Gibbons	Ratchford
Breaux	Ginn	Richmond
Brooks	Goldwater	Rosenthal
Brown (CA)	Gradison	Roth
Brown (OH)	Hall (OH)	Roukema
Burgener	Hansen (ID)	Santini
Burton, John	Hansen (UT)	Savage
Chappell	Heckler	Selberling
Cheney	Heftel	Shamansky
Chisholm	Hillis	Shelby
Clay	Holland	Shumway
Conyers	Huckaby	Siljander
Craig	Ireland	Smith (OR)
Crane, Daniel	Jones (NC)	Smith (PA)
Daschle	Lehman	Stanton
Dixon	Long (MD)	Tribe
Dornan	Lujan	Watkins
Edwards (AL)	Luken	Weaver
Emery	Lundine	Wilson
Ertel	Marks	Young (AK)
Evans (GA)	Marriott	Young (MO)

□ 1020

So the Journal was approved.
The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate recedes from its amendments to the bill (H.R. 2160) entitled "An Act To Amend the Potato Research and Promotion Act."

The message also announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

H.R. 4647. An act to award special congressional gold medals to Fred Waring, the widow of Joe Louis, and Louis L'Amour;

H.R. 6260. An act to authorize appropriations to the Patent and Trademark Office in the Department of Commerce, and for other purposes; and

H.J. Res. 516. Joint resolution to provide for the designation of April 17 to April 23, 1983, as "National Coin Week."

The message also announced that the Vice President and upon the recommendation of the majority leader, pursuant to section 276(a)(2) of title 22, United States Code, appointed Mr. STAFFORD (chairman) and Mr. GRASSLEY (vice chairman) to attend, on the part of the Senate, the Interparliamentary Union Conference, to be held in Rome, Italy, September 14-22, 1982.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. It is the intention of the Chair to adjourn the House at 3 o'clock this afternoon. We do have an appropriation bill and a couple of rules that we would like to complete. Therefore, we will forgo the 1-minute speeches this morning.

WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 6957, COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1983

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 560 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 560

Resolution waiving certain points of order against the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes

Resolved, That upon the adoption of this resolution it shall be in order, clause 7, rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, rule XXI are hereby waived: beginning on page 3, line 1 through page 8, line 2; beginning on page 8, lines 14 through 20; beginning on page 9, line 1 through page 10, line 6; beginning on page 11, line 2 through page 12, line 4; beginning on page 14, lines 12 through 24; beginning on page 15, lines 6 through 13; beginning on page 15, line 20 through page 16, line 6; beginning on page 17, line 13 through page 24, line 17; beginning on page 26, lines 2 through 6; beginning on page 26, line 18 through page 27,

line 2; beginning on page 27, line 2 through the figure "\$449,815,000" on page 30, line 2; beginning on page 30, line 9 through page 33, line 10; beginning on page 34, lines 11 through 23; beginning on page 35, line 15 through page 37, line 18; and beginning on page 40, lines 10 through 23; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, rule XXI are hereby waived: beginning on page 3, line 6 through page 4, line 14; beginning on page 7, line 1 through page 8, line 2; and beginning on page 15, line 20 through page 16, line 6: *Provided*, That in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

The SPEAKER. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 560 provides waivers of clause 2, rule XXI, and clause 6, rule XXI against certain provisions of House Resolution 6957, Departments of Commerce, Justice, State, the Judiciary, and related agencies appropriations bill for fiscal year 1983. These provisions are specified within the resolution.

Clause 2 of rule XXI prohibits unauthorized appropriations and legislation in an appropriation bill. H.R. 6957 includes various programs which have not yet completed the authorization process and without this waiver would be subject to a point of order.

Clause 6 of rule XXI prohibits reappropriations in an appropriations bill. The waiver is required due to three programs, the economic development assistance program, the National Oceanic and Atmospheric Administration, and the Small Business Administration. All three of these programs have unobligated funds remaining from fiscal year 1982 which the committee plans to use in fiscal year 1983.

Further, the rule provides that in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph.

This proviso is necessary because the rule does not extend protection to a portion of the paragraph on page 30, lines 2 through 8, of the bill regarding contributions to international organizations. The specific language prohibits the use of funds appropriated by the act for payment of certain interest costs for loans incurred by international agencies. The chairman of the Committee on Foreign Affairs, Mr. ZABLOCKI, appeared before the Rules Committee asking that the waiver not

be granted because the language was legislative in nature.

The Rules Committee did not grant the waiver for the language in dispute but wanted to make sure that other provisions in the paragraph were protected.

Mr. Speaker, this measure appropriates \$9,069,567,000 for fiscal year 1983. This amount is a net increase of \$546,692,000, \$692,000 over fiscal year 1982 appropriations.

Under this measure \$193,450,000 will be appropriated for the Economic Development Administration. This has been a great program for the people of New York and I applaud the committee for showing wisdom and foresight in making this allocation of funds.

Further, as chairman of the Select Committee on Narcotics Abuse and Control, I was pleased to see a slight increase in the appropriations for the Drug Enforcement Administration and the FBI. I realize that presently we are under tight budget constraints, however, I hope the committee in the near future will consider even a larger increase in funds.

Mr. Speaker, this is a very straightforward and noncontroversial rule and I urge my colleagues to support its adoption.

□ 1030

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding the customary time, and I yield myself such time as I may consume.

Mr. Speaker, let me say right up front that I am urging my colleagues to vote against the previous question on this rule so that we can offer a substitute rule making in order two vital amendments relating to the Federal Trade Commission—one which would extend the legislative veto authority over FTC regulations beyond September 30, of this year; and the other of which would extend existing restrictions on the Commission's authority over agricultural cooperatives beyond September 30.

Mr. Speaker, having said that let me say that even if it were not for the bill's back door attempt to continue the FTC without the important restraints we placed on it in the 1980 FTC authorization, I would still oppose this rule because the bill is a budget buster. To quote from an administration policy statement of August 12,

The Administration is strongly opposed to the unwarranted and unrequested increases in annually funded discretionary programs in H.R. 6957. . . . The bill, as reported, represents an increase of \$633 million over the 302(b) allocation for discretionary programs consistent with the Budget Resolution and \$169 million over the Committee 302(b) allocation for annually funded discretionary programs.

Mr. Speaker, I hesitate to say this is the customary rule for appropriations

bills nowadays, but I am afraid that is getting to be the case. As my colleagues know, appropriations bills are privileged, and ordinarily do not need a special rule. But in recent years more and more appropriations bills have required special rules waiving points of order because the authorizations have not yet been enacted for many of the items contained in the appropriations bills. And clause 2 of rule XXI prohibits legislating in an appropriations bill or appropriations for matters not previously authorized by law.

In his letter to the Rules Committee of August 10 on this appropriations bill, Chairman WHITTEN listed some 28 matters in this bill for which authorizations have not yet been enacted. Most of those 28 authorization bills are in the works in one House or another at this time. On the Federal Trade Commission, an authorization was reported in the other body on May 28, but, according to the testimony of the gentleman from North Carolina (Mr. BROYHILL), before the Rules Committee, "No bill to reauthorize the FTC has been scheduled by the Energy and Commerce Committee to date," though a subcommittee has reported a straight 1-year authorization.

Mr. Speaker, I think my colleagues will appreciate the special case presented by the \$63.6 million appropriated for the FTC contained in the bill. The only reason we have an FTC today is because we finally forced the issue in late 1980 after closing down the agency, and we adopted the FTC improvements bill which placed new restrictions on the agency. Two of the most important provisions were the legislative veto over regulations, and restrictions on FTC interference with agricultural cooperatives and marketing orders. If the previous question is defeated on this rule, as I hope it will be, I intend to make those two amendments in order as printed in yesterday's RECORD by the gentleman from North Carolina (Mr. BROYHILL), and the gentleman from Georgia (Mr. LEVITAS). I would hasten to point out to my colleagues that it will still be in order under this rule to offer an amendment to strike all funding for the FTC as an alternative. I know there is concern about other provisions in that 1980 act that cannot be brought up at this time. Let me say that such matters would be in order as amendments to a continuing appropriations bill without needing special waivers. But, hopefully, by our action on this rule today, we will be sending a clear signal to the appropriate committee that it should move on bringing an authorization bill to the floor at the earliest practical date.

I would like to point out also for my own part that this is the first appropriations bill that has hit the floor this year, the first one. We clearly

have indications that it is over the budget.

Also it is the appropriation bill for State, Justice, Commerce, and other related agencies. For myself, I have a lot of questions about a lot of the funding for Justice and the State Department and a number of the things that they are doing.

Let me just read some of the funding that is included in this appropriation bill.

It, of course, includes the funding for the United Nations, the World Intellectual Property Organization, the World Health Organization, the Food and Agriculture Organization, the International Labor Organization, the World Meteorological Organization, Universal Postal Union, Inter-American Indian Institute, Inter-American Institute for Cooperation on Agriculture, International Office for Epizootics, and a whole long list of organizations that are included in this bill that is over the budget.

So I would hope that my colleagues would vote down the previous question so that I can offer the substitute rule and that you will listen very closely to the debate.

Let us try to cut back on the funding included in this appropriations bill.

Mr. Speaker, I yield 5 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, today the House is considering the Commerce, Justice, State, and related agencies appropriations bill appropriating moneys for these agencies for fiscal year 1983.

This bill includes appropriations for the Federal Trade Commission for 1983.

I am very troubled by the fact that this bill has reached the floor without an authorization bill in place. This rule waives any points of order that might be made with respect to the bill.

The Energy and Commerce Committee is the authorizing committee with respect to the Federal Trade Commission. Unfortunately, no reauthorization bill for the FTC has been scheduled for full committee markup. The only action that was taken occurred last May, when the subcommittee considered a committee print, not an introduced bill. The subcommittee considered a committee print which contained only a 1-year authorization for the continuation of funding for the FTC for another year.

Let me recount the legislative history so as to explain why I am concerned about this.

A little over 2 years ago, in the last Congress, we had quite a debate with respect to the various authorities and various regulatory activities that the FTC was taking at that time. We began to consider a number of amendments to counter those particular actions that were being taken.

When the FTC was reauthorized, there were several major changes that were made to the act at that time.

One of these changes was the inclusion of a provision which we call the legislative veto. It provided that any trade rule promulgated by the Federal Trade Commission would have to be submitted to the Congress. This gave the Congress a chance to review that rule before it went into effect. And if the Congress vetoed that trade rule, that rule would not go into effect.

There was another proposed restriction on the Commission's authorities that was extensively debated at that time, and that was with respect to agricultural co-ops. Many of you remember that the Federal Trade Commission had initiated several proceedings against agricultural co-ops. These proceedings were in violation of the Capper-Volstead Act, which is a Federal law under the jurisdiction of another committee that regulates agricultural co-ops.

So section 20 of Public Law 96-252 provided that the Federal Trade Commission would not have authority to use funds to conduct any study, investigation or prosecution of agricultural co-ops because of the provisions of the Capper-Volstead Act. Section 21 of that public law provided for a congressional review of trade regulation rules.

Now, the problem is that these two amendments, sections 20 and 21, were sunsetted in Public Law 96-252. These two sections of the Federal Trade Act expire on September 30, about 6 weeks from today if we do nothing.

Many of the Members recall there was very substantial support for these two provisions in the House of Representatives. Now, there is still substantial support for these two provisions in the House. I am not advocating any new amendments to the Federal Trade Act. All I am asking the House to do is that they defeat the previous question so that we may offer amendments so as to maintain the status quo.

We are advocating these amendments to do no more or no less than to maintain the law as it is today, to keep in the law the restriction on Commission authority relating to agricultural co-ops and to keep in the law the congressional review of any Federal Trade rules.

I might add that since the September 30 deadline is rapidly approaching, when these provisions will expire, the only choice we have is to act today.

The SPEAKER pro tempore (Mr. KILDEE). The time of the gentleman from North Carolina (Mr. BROYHILL) has expired.

Mr. LOTT. Mr. Speaker, I yield 3 additional minutes to the gentleman.

Mr. BROYHILL. The only choice that we have is to defeat the previous question because if the appropriation

goes through today, there is no incentive to bring an authorization bill forward. If we defeat the previous question, we can then adopt a rule that would allow full consideration of these amendments that would continue for 1 more year the legislative veto and the restrictions on the Commission's authority relating to agricultural co-ops and marketing orders.

I do not advocate, and I do not believe the Members advocate, allowing either of these amendments to expire on September 30, so I would urge the Members to support us in defeating the previous question so as to permit these amendments to continue the law as it is today, no more and no less.

I thank the gentleman for the courtesy of extending me extra time.

Mr. ZEFERETTI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during consideration in the Rules Committee meeting yesterday, Congressman BROYHILL testified in regard to the two amendments he proposes to offer on the floor. One amendment would have prevented the FTC from conducting any study or investigation into the agricultural co-ops, and the other would have allowed the continuation of a legislative veto for FTC rules.

To offer these amendments would have required the waiver of clause 2, rule XXI, since these amendments obviously would constitute legislation in an appropriation measure.

It has been the practice of the Rules Committee to look very carefully at any request for this waiver, and the committee feels that a situation has to be of an emergency nature, or one where the waiver not being granted, would result in serious consequences.

The committee has heard testimony from several committee chairmen regarding what they believe to be the indiscriminate use of this waiver. That was the case yesterday on this very bill. In yesterday's hearings the Rules Committee felt Mr. BROYHILL's amendments were not of an emergency nature and should be properly discussed and acted on in consideration of the FTC authorization.

Further, Mr. Speaker, Mr. BROYHILL's amendment, on agricultural co-ops can be written to be a straight limitation, and would not have any problems being offered in the Committee of the Whole.

The second amendment, a legislative veto, is in violation of the rules of the House because it is again legislation on an appropriation bill, and is nongermane to the bill.

Mr. Speaker, I yield 6 minutes to the gentleman from Georgia (Mr. LEVITAS).

Mr. LEVITAS. Mr. Speaker, I am rising for purposes of asking the Members to defeat the previous question on this rule so that an amended rule can

be offered which would make it possible to offer two amendments, one dealing with the agricultural co-ops, and the other dealing with legislative veto with respect to the Federal Trade Commission.

Now, why do I make this request? The reason is very simple. What has been attempted by the rule as it is now presented is a back door attempt to repeal and undo what this very House did overwhelmingly just about 2½ years ago—and to do so not through the authorization process, but through the appropriations process.

Now, my good friend, the distinguished gentleman from New York, mentioned that these two amendments would constitute a violation of the rules of the House, and the gentleman is absolutely correct. They would. That is why we need to have a rule which would make them in order. But by the same token, what the Appropriations Committee has brought to the floor is an appropriation for the Federal Trade Commission which has not yet been authorized by the authorizing committee. And that is a violation of the rules of this House, and that is why the waivers exist in this rule this morning.

If it were not for the waiver in this rule, a point of order could be made against the FTC appropriation.

Now, it is not the fault of the Appropriations Committee. I want to make that very clear. It is not the fault of the Appropriations Committee. The authorizing committee has not yet reported out an authorization. And the Appropriations Committee is faced with the alternative of trying to bring some funding forward in violation of the rules of the House in seeking a waiver.

Well, all I am suggesting to you is that if that violation of the rules is to be condoned, then at least give the Members of this House an opportunity to maintain the position we took without this back door effort to strip out and undo what we did before.

The American people understand what this is about. There are many Members of this House, quite frankly, in light of the history of the Federal Trade Commission in recent years, who would like to see no funding for this agency. I do not share that view, but there is a need to focus on this problem. And if you remember, I suggest to my colleagues, several years ago, because of the same type of situation we are in today, the exact same type of situation, the FTC was not authorized and ultimately did not get funds appropriated because of this same type of fight. What we are seeing here is a minority of the Members of the House attempting to impose their will through the use of the rules of the House on the majority of the Members of this House. And not just a

narrow majority. An overwhelming, bipartisan majority.

What we are going to be dealing with in voting on this rule and the previous question is whether or not the Members of this House want to go on record as wanting to keep the legislative veto on the FTC, to let the American people, through their elected Representatives, decide whether these rules which have the effect of law be subject to consideration by the people they elect.

□ 1050

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Iowa, the chairman of the Appropriations Subcommittee.

Mr. SMITH of Iowa. Mr. Speaker, I think the gentleman has covered this but I do want to make clear that anything that results in legislation on the Appropriations Committee is not the fault of the subcommittee. We do not want to get into legislation on this appropriations bill. Sixty-seven percent of this bill has not been authorized and we would never have a bill if we do not go forward with some programs for which authorization has not been extended.

It is not our intention to get involved in the writing of legislative programs. Those are arguments for the legislative committee.

Mr. LEVITAS. I appreciate the statement of the chairman of the subcommittee. And that is precisely why I wanted to exculpate and exonerate the Appropriations Subcommittee for their role in this matter. The responsibility lies in the authorizing committee.

Mr. ZEFERETTI. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. ZEFERETTI. I thank the gentleman for yielding.

My distinguished friend from Georgia, there is no backdoor effort here to suppress any process. As the chairman has indicated, two-thirds of that bill has not been authorized. There is no backdoor effort here. This is a process that we follow under the recommendations of the Rules Committee, under the precedents and rulings of the House. It has been the practice of the Rules Committee to seldom allow legislation on an appropriations bill. This is not a practice that has been limited to just this bill or the FTC. It is a process that we follow in the Rules Committee often.

Mr. LEVITAS. Would the gentleman let me just comment on that.

First of all, as the gentleman knows, there have been occasions where legislation on appropriations bills has been made in order by rules. That is a fact. And I know the gentleman would

agree with it. But the gentleman, I am sure, also understands that the Federal Trade Commission is a special case, because this is not the first time this issue has come to the floor of this House.

We have had this exact same argument and this exact same dispute at least four times.

The SPEAKER pro tempore. The time of the gentleman from Georgia (Mr. LEVITAS) has expired.

Mr. LOTT. Mr. Speaker, I would like to yield the gentleman 3 additional minutes from my time so I can ask the gentleman some questions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LEVITAS) is recognized for 3 additional minutes.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Mississippi.

Mr. LOTT. First of all, I would like to ask the gentleman from Georgia, how many cosponsors does the gentleman have on his legislative veto bill in the House at this time?

Mr. LEVITAS. As of the last time I checked there were about 253 Members of this House in both parties who have cosponsored this.

Mr. LOTT. Is it not a fact that this may be the only chance that we will have this year to vote on this very important legislative veto issue?

Mr. LEVITAS. Well, from the looks of things that may well be the case, I am sorry to say, because as the gentleman knows it is being pigeonholed at the present time. This is the only chance we will have to veto the issue. The American people are going to have a chance to veto this issue in November.

Mr. McCLODY. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Illinois.

Mr. McCLODY. I thank the gentleman for yielding.

I think the gentleman's position on this measure points up a deficiency in the present Congress.

The regulatory reform bill, which provides specifically for a legislative veto, has been languishing in the Rules Committee now for months and months. We have reported it out of the Judiciary Committee.

Mr. LEVITAS. In February.

Mr. McCLODY. And all we need to do is just have the Rules Committee grant us a rule and let us debate this substantive issue. Then the arguments that are being made that we are attempting to legislate on appropriations measures could not be advanced. We can legislate on the substantive subject that the gentleman is presenting in the regulatory reform measure and we should do it.

And it is a sorry reflection on this Congress that we are not taking up the regulatory reform bill, not only be-

cause of the issues that the gentleman raises but for a multiplicity of issues that are involved in the whole regulatory process.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Mississippi.

Mr. LOTT. I thank the gentleman for yielding.

Is the gentleman aware as a matter of fact in this rule and in this appropriations bill that there are some 28 instances, as I understand it, when points of order were waived against legislation on this appropriations bill?

Mr. LEVITAS. I understand there are a number of points of order waived in this bill. It seems to me that we are sort of picking and choosing. And the reason it seems to me to be so outrageous is this is not a new issue. This is exactly the same issue this House struggled with for 3½ years.

We reached a decision. We expressed our will. The law was signed. All that the gentleman from North Carolina (Mr. BROYHILL) and I seek to do is take two of those provisions which this House expressed itself on and continue them if the FTC is going to continue. That is all we are asking. I do not think that is unfair.

Mr. ZEPHERETTI. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from New York.

Mr. ZEPHERETTI. I thank the gentleman for yielding.

Does the gentleman realize his amendment is a nongermane amendment?

Mr. LEVITAS. Yes.

Mr. ZEPHERETTI. Does the gentleman realize we have never in the Rules Committee waived nongermaneness on an appropriations bill?

Mr. LEVITAS. I have seen nongermaneness waived on conference reports.

Mr. ZEPHERETTI. But not on appropriations bills. That is what I am talking about.

Again, as I indicated earlier the amendment of the gentleman from North Carolina (Mr. BROYHILL) could be handled as a straightforward limitation on an appropriation amendment, and we could act on that without any type of waiver.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. McCLODY).

(By unanimous consent, Mr. McCLODY was allowed to speak out of order.)

DISCHARGE PETITION ON BALANCED BUDGET CONSTITUTIONAL AMENDMENT

Mr. McCLODY. Mr. Speaker, my remarks are relevant to the subject that we discuss as far as the languishing in the Judiciary Committee of the regulatory reform measure is concerned.

Mr. Speaker, I do not believe I have ever before signed a discharge petition

to deprive a committee of the House of its authority over pending legislation. Certainly, I have never signed a petition to discharge my own committee—the Judiciary Committee—of its appropriate consideration of any measure pending before it. But the balanced budget constitutional amendment proposal has been delayed to the point that unless the committee is discharged from its further consideration the Members of the House will be deprived of the opportunity to debate and vote upon this all-important issue. Yesterday, I added my name to discharge petition No. 18 which if signed by 218 Members will have the effect of bringing the balanced budget proposal to the floor of the House for 10 hours of debate and for a vote.

Our colleague, BILLY LEE EVANS of Georgia, and I are urging Members on both sides of the aisle to sign this discharge petition today so that the proposal sponsored by 222 Members, of which ED JENKINS of Georgia and BARBER CONABLE of New York are the principal sponsors, may come to the floor. Unless 218 names are added to that petition today, this measure may well be dead for the 97th Congress. Indeed, the only reason I have signed the petition and the reason BILLY LEE EVANS and I are urging Members to sign the discharge petition is that the Judiciary Committee itself will frustrate our opportunity to consider this measure in this Congress. Whether you are for the amendment or not, I urge you to sign the discharge petition and to give every Member of this House the chance to express his or her views and to vote on this crucial issue.

Mr. ZEPHERETTI. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. FLORIO).

Mr. FLORIO. Mr. Speaker, I rise in support of the previous question on the rule.

Mr. Speaker, the subcommittee that I chair has jurisdiction over the FTC. We have been working since early this year to develop a bipartisan consensus on the Energy and Commerce Committee regarding an FTC reauthorization bill.

I cannot expect the gentleman from Georgia to be aware of that, but I can expect the gentleman from North Carolina to be aware of it, because he has been a participant in the negotiations. There has been a full consensus, particularly on the two points that concern him, and there has been no dispute that those matters should go forward and will be contained in the authorization bill.

We have made substantial progress toward our objective and I believe we will shortly have a bipartisan bill for the consideration of our full Energy and Commerce Committee.

In these circumstances, I hope the House will agree with me that it would

be most disruptive and inappropriate for provisions dictating the conduct of the Commission's activities to be enacted through the appropriations process. The ordinary reasons for avoiding such a use of the appropriations process are compounded in this instance by the recent history of the FTC and the complex and controversial nature of some proposals that have been made with regard to some radical changes in the FTC's authorization authority that have been coming out of the other body.

As the Members of the House are undoubtedly aware, in 1980 we enacted the FTC Improvement Act to fine tune the procedures of the Commission to insure fair procedures and full deliberation without doing fundamental damage to the crucial role of the FTC in preserving free and fair competition.

This year, a number of groups have contended that there are additional changes which should be made in the Federal Trade Commission Act. Some of these proposals raise legitimate questions and entail only further fine tuning of the FTC Act. Others, however, would involve radical changes in the jurisdiction of the Commission, removing whole classes of people from the scrutiny of the FTC.

In developing the consensus bill that we hope shortly to introduce, we have attempted to accommodate legitimate concerns, without adopting radical measures that would damage businesses, balk hard-pressed consumers, and fuel inflation.

But the House is not faced today with the question of whether particular proposals reflect a fair accommodation of the arguments that have been raised regarding the FTC. I am confident that when those issues are considered through the appropriate deliberative procedures of the authorization process, we will arrive at an acceptable outcome.

Instead, what we are faced with today is whether we should attempt to resolve complex and controversial matters through the hasty approach of last minute floor amendments to an appropriations bill. That question answers itself.

Commendably, the Appropriations Committee resisted any temptation to add riders to its bill regarding the FTC. Yet without any prior deliberation, such riders are now offered on the floor.

A special word may be in order concerning efforts to add a legislative veto as a rider to the FTC appropriations bill. Members of the House may differ strongly on the merits of the legislative veto. Nevertheless, if there is support for such a measure it will emerge from the authorization process. And I have been prepared to accept a legislative veto as part of the compromise package we are very close to complet-

ing for consideration by the Energy and Commerce Committee.

But the legislative veto is a very sensitive item. It should not be hastily considered and adopted today without even a chance for Members to examine its terms. I submit that we owe the importance of this issue a much greater degree of deliberation.

In sum, I urge the House to follow the example of the Appropriations Committee and reject FTC riders to this bill. Subversion of the orderly procedures of the House will serve no one's purposes in the long run.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has expired.

Mr. ZEFERETTI. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. FLORIO. Mr. Speaker, I think this is particularly inappropriate because of the other body's concern and apparent support for radical changes.

I think it would be particularly unwise to have an appropriation conference committee dealing with authorizing measures with no members of the authorizing committee as conferees.

If the gentleman's apprehension is that we get to the end of this fiscal year and nothing has been done, which I fully expect not to be the case, there is always going to be an opportunity for a continuing resolution to be considered by this body, at which time there is the authority to go forward to deal with the problems that the gentleman from North Carolina and the gentleman from Georgia are concerned about, that is, the lapse of certain provisions of the authorizing legislation.

Mr. Chairman, I would suggest that this is a highly unusual approach that is being advocated by some here today and this House would be well served, and the Nation would be well served, by defeating that approach.

The SPEAKER pro tempore. The time of the gentleman from New Jersey has again expired.

Mr. ZEFERETTI. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. LEE. Mr. Speaker, will the gentleman yield?

Mr. FLORIO. I would be happy to yield.

Mr. LEE. Mr. Speaker, the rightful concern that the gentleman expresses that a conference committee dealing with the appropriations matter with authorization elements are contained within, why not withdraw this appropriation proposal, go back to the authorizing committee, which we both serve on, and give the committee the opportunity to work its will?

Mr. FLORIO. Mr. Speaker, reclaiming my time, the gentleman certainly has his opportunity to advocate that and urge defeat of this appropriation,

if he thinks that is the appropriate way to go. That is in accordance with the normal rules of the House, approve it or do not approve it.

I may very well find myself in support of the gentleman's position. I have seen some amendments that are going to be offered with regard to cutting the FTC, cutting FTC funding for rules. If those things go forward, I may very well support the gentleman's efforts not to approve the appropriation; but I think that is totally different than the question we are faced with now as to whether we should give legislative sanction to authorizing on an appropriation bill.

Mr. LEE. I thank the gentleman.

Mr. LOTT. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Speaker, I thank the gentleman for yielding.

I have asked for this time so that I could reply at least in part to the statement that has been made by the gentleman from New Jersey. The gentleman has stated that attempts have been made to work out a consensus in the authorizing committee on this bill.

I agree that perhaps the gentleman and I could work out some consensus on various parts of an FTC reauthorization bill. But there is absolutely no way, and I have told this to the gentleman, that I can make a deal with the gentleman that would prevent other Members from offering their amendments here on the floor and having the House work its will with respect to those amendments.

Whenever you bring up an FTC reauthorization bill, you are going to have some controversy on it because that particular agency is involved in a number of controversial issues. Members tend to react to these issues as they arise.

I might point out that as far as I know, there has been no consensus worked out with the gentleman from New Jersey with respect to the legislative veto or the agricultural cooperative amendments.

As I recall, when I offered those amendments in the subcommittee, the gentleman voted against them and voted the proxies that he had in his pocket, defeating our amendments on those particular items.

The issue, of course, has been raised here with respect to amendments to appropriation bills. I am reluctant to offer amendments to appropriation bills, but the reason that we see more and more Members coming to the floor and offering amendments to appropriation bills is in response to their inability to offer amendments on authorization bills.

This legislative veto issue is one that has been around for a long time. We have had to offer that amendment from time to time on a piecemeal

basis. We were fortunate enough to get it adopted in the last Congress to the FTC reauthorization bill.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. LOTT. Mr. Speaker, I yield 2 additional minutes to the gentleman.

Mr. BROTHILL. Unfortunately, the conference committee sunsetted that particular section, section 21 of Public Law 96-252. It expires on September 30, 1982.

I would remind Members that the Federal Trade Commission, in contrast with other Federal agencies has very broad rulemaking powers. In effect, what we are saying is that the FTC has very broad lawmaking powers, because those rules have the force and effect of law.

We as a Congress have turned over to this independent agency the responsibility to make laws. It seems to me that we have some responsibility as elected representatives to oversee their work product.

I remind Members again that the legislative veto and the restrictions on FTC authority with respect to agricultural cooperatives expires on September 30. We are asking no more, no less, than the present law be extended for an additional year. We are not advocating any new amendments.

Mr. FLORIO. Mr. Speaker, will the gentleman yield for a question?

Mr. BROTHILL. I would be glad to yield.

Mr. FLORIO. Mr. Speaker, just to set the record straight with regard to my own thoughts and my own position on the legislative veto and the existing agricultural cooperatives, I have conveyed to the gentleman, I hope he understood, that I have no difficulty continuing those provisions on the authorization bill.

Mr. BROTHILL. I will reclaim my time. I would like to ask the gentleman why he voted against the amendments in the subcommittee.

Mr. FLORIO. The gentleman is fully aware of the fact that the bill that came out of the subcommittee was a straight authorization in terms of just the money.

The gentleman is certainly privy to our conversations that have indicated that that has not been the dispute in the negotiations. My apprehension about the gentleman's course of conduct now is not with regard to the legislative veto, not with regard to the agricultural cooperative exemption, which we agree on and want to improve with the concurrence of the gentleman. My apprehension is that we will go to conference on an appropriation bill, knowing the feeling in the other body with regard to the exemption for the professions.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. ZEPERETTI. Mr. Speaker, I yield 1 additional minute to the gentleman.

Mr. FLORIO. Mr. Speaker, I will ask the gentleman to yield to me.

Mr. BROTHILL. I yield to the gentleman.

Mr. FLORIO. I am concerned that we are talking about a backdoor way to write into the authorization through the appropriation process an exemption from the FTC of the professions on a very controversial matter that the gentleman, I think shares my views about, but the gentleman is opening the door to have the appropriations conferees write into law that exemption, because it could not stand the heat of the normal legislative process.

Mr. BROTHILL. Mr. Speaker, if I may reclaim my time, this is the first that any other amendment has been mentioned that could be proposed in the authorizing committee. I am not proposing any amendment other than the ones that we have discussed here today.

Mr. FLORIO. Mr. Speaker, if the gentleman will yield further, I know he is not; but the gentleman is either inadvertently—I assume inadvertently—providing the mechanism when we go to conference, the other body has less stringent rules on germaneness, to get that provision into this bill and then we will change the authorizing legislation.

Mr. BROTHILL. The gentleman is raising an issue that has not been raised and is not the intent of this gentleman or the intent of the gentleman from Georgia.

Mr. ZEPERETTI. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. SCHEUER).

Mr. SCHEUER. Mr. Speaker, I rise here today, not to support or to oppose this amendment, but just to reflect on it.

I was chairman of the subcommittee that had jurisdiction over the FTC when for the first time in more than 3 years we actually got an authorization bill passed in this House. At that time I was in very close touch with the gentleman from North Carolina (Mr. BROTHILL) and the gentleman from Georgia (Mr. LEVITAS) on the question of the legislative veto. We worked closely with them in structuring a form of the legislative veto in the FTC bill.

I felt, somewhat reluctantly, that as a practical matter its time had come. We had not been able to get an FTC authorization bill through the House in 3 years without it. The House had expressed its will quite clearly on the matter; so as a matter of political pragmatism, I accepted the legislative veto and worked with the gentleman from Georgia and the gentleman from North Carolina to put in an acceptable form of the legislative veto.

This is perhaps a throwaway, but I would have to tell you that while as a matter of principle I agree with many, if not most of the things that the gentleman from Georgia has been saying about Congress reflecting the will of the American people and having some input into the work of the FTC and factoring in, cranking into their computer our feelings about some of their work, while that is very well and good as a matter of principle, as a matter of actual practice in the first exercise of the legislative veto process here, the result was violently and flagrantly anticonsumer and, in my opinion, grossly against the wishes of the American people.

□ 1110

The only example we have had so far of the legislative veto as a living, throbbing, human force in our work was the used-car amendment. I suggest to you that if we had put this very modest proposal to the American people in a national referendum, the purchasers of used cars, that great American public out there, would approve 95 to 5 the proposal that they would like to have a sticker on that car informing them as to whether the car had any known defects, letting them know whether that car had a warranty or not.

That was a very modest proposal. I cannot believe that that great American public that buys used cars would not have happily received that information.

Yet this Congress, in its infinite wisdom, chose to deprive them, chose to kill that FTC rule and deprive the used-car buying public of that very modest, basic information for them, the very basic knowledge that they needed to exercise in their choice.

The SPEAKER pro tempore. The time of the gentleman from New York (Mr. SCHEUER) has expired.

Mr. LOTT. Mr. Speaker, if I could just conclude, I would like to again urge my colleagues to vote "no" on the previous question so we can vote for the legislative veto for FTC regulations and on the amendment offered by the gentleman from North Carolina with regard to agricultural cooperatives, being covered by the FTC.

Mr. LEVITAS. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Georgia.

Mr. LEVITAS. Mr. Speaker, I appreciate the gentleman yielding to me.

The reason I do so, if I could get the attention of the gentleman from New Jersey, is to say that the reason that the timing of this is important is that, as the gentleman knows, the legislative veto provision expires on September 30.

We do not know at this point when, if at all, either a reauthorization or a

continuing resolution will be coming to the floor and passed through both Houses of Congress. The need to get this provision on legislative veto in this bill at this time is to make certain that if we do not have a continuing resolution or an authorization passed by September 30, this provision will not disappear.

It is only for that reason, and for that reason alone, that if there is going to be any reauthorization—any appropriation for the FTC—it should be accompanied by this provision so that it will not expire.

I would be perfectly willing to see all funds dropped from the FTC under the waiver provided for in the bill so you could have your authorization. But in the absence of that, it seems to me that we have got to have these provisions as amendments or else they will expire on September 30 without any assurance that they will be continued through any other process.

I thank the gentleman for yielding.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, I want to echo the remarks that have just been made. It is not the intent of the gentleman from Georgia, nor my intent, to go beyond keeping what is presently in the law. We can still have an authorization bill that addresses any other issues that we might want to address or that other Members may want to bring up; but our concern is that these two provisions which are in present law may expire on September 30, and we have no other choice but to take this avenue, this legislative avenue, to try to continue those authorities, to continue the status quo.

Mr. FLORIO. Mr. Speaker, will the gentleman yield to me?

Mr. LOTT. I yield to the gentleman from New Jersey.

Mr. FLORIO. I thank the gentleman for yielding.

Mr. Speaker, I appreciate the gentleman's concern. I think it is ill-founded at this point. There is time to go forward with the authorization or the continuing resolution with the gentleman's amendatory language to insure the preservation of the matter that the gentleman is concerned about.

I am apprehensive, and I think with good justification, because it has been represented to me that the other body fully intends to attempt to put the professional exemption into the appropriation. We, then, by taking the action the gentleman advocates, would be sanctioning authorizing in an appropriation, and I am just concerned that the action that the gentleman advocates, in fact, provides for a professional exemption.

Mr. BROYHILL. Mr. Speaker, I would like to reclaim my time.

The SPEAKER pro tempore. The Chair announces that the gentleman from Mississippi (Mr. LOTT) controls the time.

Mr. LOTT. Mr. Speaker, I yield, for a final comment before we vote, to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, we are apprehensive because there has been inaction on an authorization bill, we have no part in anything that might be done by the other body, and I know that the gentleman from Iowa will certainly protect the rights of the House and the position taken by the House in any conference.

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. ZEFERETTI. Mr. Speaker, I would like to conclude by making just two points.

One, Mr. BROYHILL's amendment, the agricultural co-op amendment, can be rewritten to be a straight limitation amendment, and that would be in order. I think the gentleman from New Jersey, who is chairman of the authorization committee, has expressed a desire to work with the gentleman from North Carolina on the legislative veto issue.

Mr. BROYHILL. Mr. Speaker, will the gentleman yield?

Mr. ZEFERETTI. I yield to the gentleman from North Carolina.

Mr. BROYHILL. I thank the gentleman for yielding.

Mr. Speaker, we can offer an amendment like that. However, it would go somewhat beyond what present law is. Our position was that we wanted to maintain the status quo, the present law as it is; no more, no less. We will do that if necessary, but it would be better to do it this other way so as to maintain the law as is and not to go beyond it.

Mr. ZEFERETTI. Mr. Speaker, the objective of the agriculture co-op amendment can be achieved as a limitation, but on the other one, the legislative veto amendment, it is really in violation of the rules of the House. It is an authorization kind of responsibility, not appropriate as legislation on an appropriation bill as well as being nongermane.

I would suggest that my colleague support us and vote for the previous question.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LOTT. Mr. Speaker, I object to the vote on the ground that a quorum

is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 144, nays 208, not voting 82, as follows:

[Roll No. 277]

YEAS—144

Addabbo	Gaydos	Panetta
Akaka	Gejdenson	Patterson
Alexander	Gephardt	Pease
Anderson	Gibbons	Pepper
Annunzio	Glickman	Perkins
Aspin	Gonzalez	Peyser
Bailey (PA)	Gore	Price
Barnes	Gray	Quillen
Bellenson	Green	Rahall
Benjamin	Guarini	Rangel
Biaggi	Hance	Reuss
Bingham	Harkin	Richmond
Blanchard	Hawkins	Rinaldo
Boggs	Hightower	Rodino
Boland	Hollenbeck	Roe
Bonior	Howard	Rostenkowski
Brinkley	Hoyer	Roybal
Brodhead	Hughes	Sabo
Burton, Phillip	Jeffords	Scheuer
Coelho	Kastenmeier	Schneider
Collins (IL)	Kennelly	Schumer
Coyne, William	Kildee	Seiberling
Crockett	LaFalce	Sharp
D'Amours	Lantos	Shelby
Dellums	Leach	Simon
DeNardis	Leland	Smith (IA)
Derrick	Long (LA)	Solarz
Dicks	Lowry (WA)	St Germain
Dingell	Markey	Stark
Donnelly	Marks	Stokes
Downey	Martinez	Stratton
Dwyer	Matsui	Studds
Dymally	Mavroules	Swift
Early	McHugh	Traxler
Eckart	Mikulski	Udall
Edgar	Miller (CA)	Vento
Edwards (CA)	Miller (OH)	Walgren
Evans (IN)	Mineta	Washington
Fary	Minsh	Waxman
Fascell	Mitchell (MD)	Wells
Fazio	Moakley	Williams (MT)
Ferraro	Murphy	Wirth
Florio	Murtha	Wright
Foglietta	Nowak	Wyden
Foley	O'Brien	Yates
Ford (MI)	Oberstar	Yatron
Ford (TN)	Obey	Zablocki
Frost	Ottinger	Zeferettti

NAYS—208

Albosta	Collins (TX)	Fiedler
Anthony	Conable	Fields
Archer	Conte	Findley
Ashbrook	Corcoran	Fish
Atkinson	Coughlin	Flippo
AuCoin	Courter	Forsythe
Bailey (MO)	Coyne, James	Fountain
Barnard	Crane, Philip	Fuqua
Beard	Daniel, Dan	Gilman
Benedict	Daniel, R. W.	Gingrich
Bennett	Dannemeyer	Goldwater
Bereuter	Daschle	Goodling
Bethune	Daub	Gramm
Bevill	de la Garza	Gregg
Bliley	Deckard	Gunderson
Boner	Derwinski	Hagedorn
Bouquard	Dickinson	Hall, Ralph
Bowen	Dorgan	Hall, Sam
Broomfield	Dougherty	Hamilton
Brown (CO)	Dowdy	Hammerschmidt
Broyhill	Dreier	Hansen (ID)
Butler	Duncan	Hartnett
Byron	Dunn	Hatcher
Campbell	Dyson	Hefner
Carman	Edwards (AL)	Hendon
Carney	Edwards (OK)	Hertel
Chapple	Emerson	Hiler
Clausen	English	Holt
Clinger	Erlenborn	Hopkins
Coats	Evans (DE)	Horton
Coleman	Evans (IA)	Hubbard

Hunter	Michel	Skeen
Hutto	Mitchell (NY)	Skelton
Hyde	Mollinari	Smith (AL)
Jacobs	Montgomery	Smith (NE)
Jeffries	Moore	Smith (NJ)
Jenkins	Moorhead	Snowe
Johnston	Morrison	Snyder
Jones (OK)	Mottl	Solomon
Jones (TN)	Myers	Spence
Kazen	Napier	Stangeland
Kemp	Natcher	Stanton
Kindness	Neal	Stenholm
Lagomarsino	Nelligan	Stump
Latta	Nelson	Synar
Leath	Oxley	Tauke
LeBoutillier	Parris	Tauzin
Lee	Pashayan	Taylor
Lent	Patman	Thomas
Levitas	Paul	Vander Jagt
Lewis	Petri	Volkmer
Livingston	Pickle	Walker
Loeffler	Porter	Wampler
Long (MD)	Pritchard	Weber (MN)
Lott	Rallsback	Weber (OH)
Lowery (CA)	Regula	White
Lunnen	Rhodes	Whitehurst
Madigan	Ritter	Whitley
Marlenee	Roberts (SD)	Whittaker
Martin (IL)	Robinson	Whitten
Martin (NC)	Roemer	Williams (OH)
Martin (NY)	Rogers	Wilson
Mazzoli	Rose	Winn
McClary	Rudd	Wolf
McCollum	Russo	Wolpe
McDade	Schroeder	Wortley
McDonald	Schulze	Wylie
McGrath	Sensenbrenner	Young (FL)
McKinney	Shaw	
Mica	Shuster	

NOT VOTING—82

Andrews	Fithian	Moffett
Applegate	Fowler	Mollohan
Badham	Frank	Nichols
Bafalis	Frenzel	Oaker
Bedell	Garcia	Pursell
Bolling	Ginn	Ratchford
Bonker	Gradison	Roberts (KS)
Breaux	Grisham	Rosenthal
Brooks	Hall (OH)	Roth
Brown (CA)	Hansen (UT)	Roukema
Brown (OH)	Heckler	Rousset
Burgener	Heftel	Santini
Burton, John	Hillis	Savage
Chappell	Holland	Sawyer
Cheney	Huckaby	Shamansky
Chisholm	Ireland	Shannon
Clay	Jones (NC)	Shumway
Conyers	Kogovsek	Siljander
Craig	Kramer	Smith (OR)
Crane, Daniel	Lehman	Smith (PA)
Davis	Lujan	Stanton
Dixon	Lukens	Tribble
Dornan	Lundine	Watkins
Emery	Marriott	Weaver
Erdahl	Mattox	Young (AK)
Ertel	McCloskey	Young (MO)
Evans (GA)	McCurdy	
Penwick	McEwen	

□ 1130

Mr. LONG of Maryland and Mr. BEVILL changed their votes from "yea" to "nay."

Mr. OTTINGER, Mr. DONNELLY, Mrs. SCHNEIDER, and Mr. PEYSER changed their votes from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. LOTT

Mr. LOTT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. LOTT:

Strike all after the resolving clause and insert in lieu thereof the following: "that upon the adoption of this resolution it shall be in order, clause 7, Rule XXI to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 6957) making appropriations for the Departments of Commerce, Justice, State, the Judiciary, and related agencies for the fiscal year ending September 30, 1983, and for other purposes. During the consideration of said bill, all points of order against the following provisions in said bill for failure to comply with the provisions of clause 2, Rule XXI are hereby waived: beginning on page 3, line 1 through page 8, line 2; beginning on page 8, lines 14 through 20; beginning on page 9, line 1 through page 10, line 6; beginning on page 11, line 2 through page 12, line 4; beginning on page 14, lines 12 through 24; beginning on page 15, lines 6 through 13; beginning on page 15, line 20 through page 16, line 6; beginning on page 17, line 13 through page 24, line 17; beginning on page 26, lines 2 through 6; beginning on page 26, line 18 through page 27, line 2; beginning on page 27, line 2 through the figure "\$449,815,000" on page 30, line 2; beginning on page 30, line 9 through page 33, line 10; beginning on page 34, lines 11 through 23; beginning on page 35, line 15 through page 37, line 18; and beginning on page 40, lines 10 through 23; and all points of order against the following provisions in said bill for failure to comply with the provisions of clause 6, Rule XXI are hereby waived: beginning on page 3, line 6 through page 4, line 14; beginning on page 7, line 1 through page 8, line 2; and beginning on page 15, line 20 through page 16, line 6. *Provided*, That in any case where this resolution waives points of order against only a portion of a paragraph, a point of order against any other provision in such paragraph may be made only against such provision and not against the entire paragraph. It shall be in order to consider amendments to said bill printed in the Congressional Record of August 12, 1982, by and if offered by Representative Broyhill of North Carolina and Representative Levitas of Georgia, and all points of order against said amendments are hereby waived."

POINT OF ORDER

Mr. ZEPHERETTI. Mr. Speaker, I make a point of order against the amendment in the nature of a substitute.

The SPEAKER. The gentleman will state his point of order.

Mr. ZEPHERETTI. Mr. Speaker, I make a point of order that the amendment in the nature of a substitute offered by the gentleman from Mississippi (Mr. LOTT) is not germane to House Resolution 560, the rule providing for the consideration of H.R. 6957, the bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies.

□ 1140

Under the rules of the House and the precedents by which we are guided it is not in order to amend an order of business resolution or, as we commonly refer to it, a rule, to accomplish by indirect means that which may not be achieved by direct means.

In other words, it is not in order to amend a rule to allow the offering of an amendment to a bill or resolution which otherwise would not be germane.

Mr. Speaker, the Broyhill-Levitas amendment provides legislative veto over certain FTC regulations and would provide expedited procedures in the House and an accelerated discharge petition procedure.

Mr. Speaker, this amendment amends the rules of the House and is clearly within the jurisdiction of the Rules Committee and not germane to this bill.

The Chair has very clearly set out this principle. Most recently on May 29, 1980, the Chair sustained a point of order which was made against the offering of an amendment to House Resolution 682 providing for the consideration of H.R. 7428, the temporary extension of the debt limit.

In that instance an amendment to the rule was offered to allow an oil import fee amendment to be offered to the debt limit bill.

The amendment obviously was not germane to the bill and the Chair ruled that an amendment to the resolution making it in order also would not be germane.

The substitute amendment to the rule offered by the gentleman from Mississippi (Mr. LOTT) would make in order amendments to H.R. 6957 which are not germane to the bill and, therefore, clearly would not be germane to House Resolution 560.

The SPEAKER. The Chair recognizes the gentleman from Mississippi, (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I would like to be heard in opposition to the point of order.

Mr. Speaker, for the life of me I do not quite understand why there is the continuing effort here to thwart the efforts to get a vote on the will of the House on this FTC issue.

The point of order has been made on this substitute rule saying it is not germane to the original rule.

The test of germaneness, though, is whether an amendment addresses the same purpose as that which seeks to amend the purpose of the House Resolution 560, and that purpose is to waive certain points of order against numerous provisions of the bill, H.R. 6957; namely, either legislative provision or unauthorized programs or agencies.

This substitute rule only makes one minimal change at the end of the rule which was read. It makes in order two amendments printed in yesterday's RECORD and waives all points of order against those amendments.

The purpose of this substitute is, therefore, the same as the purpose of the original rule, to waive points of

order against certain legislative provisions.

I do not think it will do any good to claim that this rule is nongermane because one of the amendments goes to the jurisdiction of another committee, since all of the legislative provisions go to the jurisdiction of a number of other legislative committees and that is the purpose of the rule originally offered and my substitute.

It is germane, Mr. Speaker, and I would urge that the Chair overrule the point of order that has been made by the gentleman from New York (Mr. ZEPERETTI).

The SPEAKER. Is there any other discussion on the point of order?

The Chair is ready to rule.

The gentleman from New York (Mr. ZEPERETTI) makes the point of order that the amendment offered by the gentleman from Mississippi (Mr. LOTT) to House Resolution 560 is not germane to that special order as reported from the Committee on Rules. Specifically, House Resolution 560 waives certain points of order against H.R. 6957, the Commerce, Justice, State, and Judiciary appropriation bill for fiscal 1983, because the report on that bill has not been available for 3 days and because certain provisions in that bill are unauthorized by law or contain changes in existing law in violation of clause 2, rule XXI. Nothing in that special order waives points of order against nongermane amendments which might be offered to the bill.

The precedents of the House on page 492 of the House Rules and Manual indicate that a resolution reported from the Committee on Rules providing for consideration of a bill relating to a certain subject may not be amended by an amendment which would permit the additional consideration of a nongermane amendment to the bill. In the opinion of the Chair, the amendment to be made in order not only constitutes legislation on an appropriation bill but would be nongermane if offered to H.R. 6957. Nothing in that general appropriation bill amends the rules of the House, and the amendment which would be made in order provides a privileged procedure for expedited review of FTC regulations, and constitutes a change in the rules of the House. The precedents indicate that such rules changes are not germane to a bill not containing rules changes. P. 506—House rules and Manual. Although the procedures contained in the amendment are the same as those currently contained in the FTC Improvement Act of 1980 with respect to congressional review, section 21 of that act ceases to be effective after September 30, 1982. The amendment would, therefore, constitute a change in law for fiscal 1983. The Chair rules that the amendment is not germane to House Resolution 560 and sustains the point of order.

Mr. LOTT. Mr. Speaker, in view of the ruling of the Chair, I have a substitute rule at the desk.

PREFERENTIAL MOTION OFFERED BY MR. ZEPERETTI

Mr. ZEPERETTI. Mr. Speaker, I offer a preferential motion.

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. LOTT. Mr. Speaker, should not the substitute rule be read first, before the preferential motion?

The SPEAKER. A preferential motion to refer takes precedence over the motion to amend, as ascertained by the Chair's inquiry "for what purpose did the gentleman rise?"

The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. ZEPERETTI moves to refer House Resolution 560 to the Committee on Rules.

MOTION TO TABLE

Mr. LOTT. Mr. Speaker, I have a motion to table at the desk.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. LOTT moves to lay on the table the motion to refer.

The SPEAKER. The question is on the motion to lay on the table offered by the gentleman from Mississippi (Mr. LOTT).

The question was taken; and the Speaker announced that the yeas appeared to have it.

Mr. LOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 173, nays 179, not voting 82, as follows:

[Roll No. 278]

YEAS—173

Archer	Crane, Philip	Gramm
Ashbrook	Daniel, Dan	Gregg
Atkinson	Daniel, R. W.	Grisham
Bailey (MO)	Dannemeyer	Gunderson
Beard	Daub	Hagedorn
Benedict	Davis	Hall, Ralph
Bennett	Deckard	Hamilton
Bereuter	Derwinski	Hammerschmidt
Bethune	Dickinson	Hansen (ID)
Bliley	Dougherty	Hartnett
Boner	Dreier	Hendon
Bouquard	Duncan	Hill
Broomfield	Dunn	Holt
Brown (CO)	Edwards (AL)	Hopkins
Broyhill	Edwards (OK)	Horton
Butler	Emerson	Hunter
Byron	English	Hutto
Campbell	Erdahl	Hyde
Carman	Erlenborn	Jeffries
Carney	Evans (DE)	Johnston
Chapple	Evans (IA)	Kazen
Clausen	Fiedler	Kemp
Clinger	Flelds	Kinness
Coats	Findley	Lagomarsino
Coleman	Fish	Latta
Collins (TX)	Forsythe	Leath
Conable	Fountain	LeBoutillier
Conte	Fuqua	Lee
Corcoran	Gilman	Lent
Coughlin	Gingrich	Levitas
Courter	Goldwater	Lewis
Coyne, James	Goodling	Livingston

Loeffler	Parris	Snyder
Lott	Pashayan	Solomon
Lowery (CA)	Paul	Spence
Lungren	Petri	Stangeland
Madigan	Pickle	Stanton
Marlenee	Porter	Stenholm
Martin (IL)	Pritchard	Stump
Martin (NC)	Regula	Tauke
Martin (NY)	Rhodes	Tauzin
Mazzoli	Ritter	Taylor
McClory	Roberts (SD)	Thomas
McCollum	Robinson	Vander Jagt
McDade	Roemer	Walker
McDonald	Rogers	Wampler
McGrath	Rudd	Weber (MN)
Michel	Sawyer	Weber (OH)
Mitchell (NY)	Schulze	White
Molinar	Sensenbrenner	Whitehurst
Moore	Shaw	Whittaker
Moorhead	Shelby	Williams (OH)
Morrison	Shuster	Winn
Myers	Skeen	Wolf
Napier	Smith (AL)	Wortley
Neal	Smith (NE)	Wylie
Nelligan	Smith (NJ)	Young (FL)
Oxley	Snowe	

NAYS—179

Addabbo	Gaydos	Ottenger
Albosta	Gejdenson	Panetta
Alexander	Gephardt	Patman
Anderson	Gibbons	Patterson
Annunzio	Glickman	Pease
Anthony	Gonzalez	Pepper
Aspin	Gore	Perkins
AuCoin	Green	Peyser
Bailey (PA)	Guarini	Price
Barnard	Hall, Sam	Rahall
Barnes	Hance	Rangel
Beilenson	Harkin	Reuss
Benjamin	Hatcher	Richmond
Bevill	Hawkins	Rinaldo
Biaggi	Hefner	Rodino
Bingham	Hertel	Roe
Blanchard	Hightower	Rose
Boggs	Hollenbeck	Rostenkowski
Boland	Howard	Roybal
Bonior	Hoyer	Russo
Bowen	Hubbard	Sabo
Brinkley	Hughes	Scheuer
Brodhead	Jacobs	Schneider
Burton, Phillip	Jeffords	Schroeder
Coelho	Jenkins	Schumer
Collins (IL)	Jones (OK)	Seiberling
Conyers	Jones (TN)	Shannon
Coyne, William	Kastenmeier	Sharp
Crockett	Kennelly	Simon
D'Amours	Kildee	Smith (IA)
Daschle	LaFalce	Solarz
de la Garza	Lantos	St. Germain
Dellums	Leach	Stark
DeNardis	Leland	Stokes
Derrick	Long (LA)	Stratton
Dicks	Long (MD)	Studds
Dingell	Lowry (WA)	Swift
Donnelly	Markey	Synar
Dorgan	Martinez	Traxler
Dowdy	Matsui	Udall
Downey	Mavroules	Vento
Dwyer	McHugh	Volkmer
Dymally	Mica	Walgren
Dyson	Mikulski	Washington
Early	Miller (CA)	Waxman
Eckart	Mineta	Weaver
Edgar	Minish	Weiss
Edwards (CA)	Mitchell (MD)	Whitley
Evans (IN)	Moakley	Whitten
Fary	Mollohan	Williams (MT)
Fascell	Montgomery	Wilson
Fazio	Mottl	Wirth
Ferraro	Murphy	Wolpe
Flippo	Murtha	Wright
Florio	Natcher	Wyden
Foglietta	Nelson	Yates
Foley	Nowak	Yatron
Ford (MI)	O'Brien	Zablocki
Ford (TN)	Oberstar	Zepheretti
Frost	Obey	

NOT VOTING—82

Akaka	Bedell	Brown (CA)
Andrews	Bolling	Brown (OH)
Applegate	Bonker	Burgener
Badham	Breaux	Burton, John
Bafalis	Brooks	Chappell

Cheney
Chisholm
Clay
Craig
Crane, Daniel
Dixon
Dornan
Emery
Ertel
Evans (GA)
Fenwick
Fithian
Fowler
Frank
Frenzel
Garcia
Ginn
Gradison
Gray
Hall (OH)
Hansen (UT)
Heckler
Heftel

Hillis
Holland
Huckaby
Ireland
Jones (NC)
Kogovsek
Kramer
Lehman
Lujan
Luken
Lundine
Marks
Marriott
Mattox
McCloskey
McCurdy
McEwen
McKinney
Miller (OH)
Moffett
Nichols
Oskar
Pursell

Quillen
Rallsback
Ratchford
Roberts (KS)
Rosenthal
Roth
Roukema
Roussetot
Santini
Savage
Shamansky
Shumway
Siljander
Skeltan
Smith (OR)
Smith (PA)
Stanton
Tribble
Watkins
Young (AK)
Young (MO)

□ 1200

Mr. JENKINS changed his vote from "yea" to "nay."

Mr. GILMAN changed his vote from "nay" to "yea."

So the motion to table was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. LOTT. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. LOTT. Mr. Speaker on the previous question would it be in order, if the previous question is defeated, to have a motion to recommit with instructions to the Rules Committee to report back a rule with the amendments in order that have been defeated here today on the FTC legislative veto and the agriculture cooperatives matters?

A motion to refer with instructions, Mr. Speaker, is what I am referring to.

If that is the case, Mr. Speaker, I would urge my colleagues to vote "no" on the previous question.

The SPEAKER. The Chair could not anticipate what the motion to instruct would be and consequently he cannot rule on such an inquiry until such time as he saw the motion.

Mr. LOTT. Mr. Speaker, if I could inquire further on a parliamentary inquiry, would instructions be in order if the previous question is defeated on the motion to refer back to the Rules Committee?

The SPEAKER. The Chair would advise the gentleman if a proper motion to recommit with instructions were offered, the answer is "Yes."

The Chair cannot rule that all such motions would be in order.

Mr. LOTT. Mr. Speaker, I would urge my colleagues to vote "no" on the previous question then so we can have instructions on the motion to refer to the Rules Committee.

Mr. ZEFERETTI. Mr. Speaker, I want to make sure my colleagues know we are going to vote "aye" on the previous question so we can continue the process.

Mr. Speaker, I move the previous question on the preferential motion.

The SPEAKER. The question is on ordering the previous question.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LOTT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—ayes 183, noes 170, not voting 81, as follows:

[Roll No. 279]

AYES—183

Addabbo	Ford (TN)	Oberstar
Albosta	Frost	Oby
Alexander	Gaydos	Ottinger
Anderson	Gedden	Panetta
Annunzio	Gephardt	Patman
Anthony	Gibbons	Patterson
Aspin	Glickman	Pease
AuCoin	Gonzalez	Pepper
Bailey (PA)	Gore	Perkins
Barnard	Gray	Peyser
Barnes	Green	Pickle
Beilenson	Guarini	Price
Benjamin	Hance	Rahall
Bennett	Harkin	Rangel
Bevill	Hatcher	Reuss
Biaggi	Hawkins	Richmond
Bingham	Hefner	Rinaldo
Blanchard	Hertel	Rodino
Boggs	Hightower	Roe
Boner	Hollenbeck	Rostenkowski
Bonior	Howard	Roybal
Bowen	Hoyer	Russo
Brinkley	Hubbard	Sabo
Brodhead	Hughes	Scheuer
Burton, Phillip	Jeffords	Schneider
Byron	Jenkins	Schroeder
Coelho	Jones (OK)	Schumer
Collins (IL)	Jones (TN)	Seiberling
Conyers	Kastenmeier	Shamansky
Coyne, William	Kazen	Shannon
Crockett	Kennelly	Sharp
D'Amours	Kildee	Simon
Daschle	LaFalce	Smith (IA)
de la Garza	Lantos	Solarz
Dellums	Leach	St Germain
DeNardis	Leland	Stark
Derrick	Long (LA)	Stokes
Dicks	Long (MD)	Stratton
Dingell	Lowry (WA)	Studds
Donnelly	Markley	Swift
Dorgan	Martinez	Synar
Dowdy	Matsui	Traxler
Downey	Mavroules	Udall
Dwyer	Mazzoli	Vento
Dymally	McHugh	Walgren
Dyson	Mica	Washington
Early	Mikulski	Waxman
Eckart	Miller (CA)	Weaver
Edgar	Mineta	Weiss
Edwards (CA)	Miniah	Whitley
English	Mitchell (MD)	Whitten
Evans (IN)	Moakley	Williams (MT)
Fary	Mollohan	Wilson
Fascell	Montgomery	Wirth
Fazio	Mottl	Wolpe
Ferraro	Murphy	Wright
Flippo	Murtha	Wyden
Florio	Natcher	Yates
Foglietta	Nelson	Yatron
Foley	Nowak	Zablocki
Ford (MI)	O'Brien	Zerfetti

NOES—170

Archer	Brown (CO)	Conable
Ashbrook	Broyhill	Conte
Atkinson	Butler	Coughlin
Bailey (MO)	Campbell	Courter
Beard	Carman	Coyne, James
Benedict	Carney	Crane, Philip
Bereuter	Chapple	Daniel, Dan
Bethune	Clausen	Daniel, R. W.
Billiey	Clinger	Dannemeyer
Bouquard	Coleman	Daub
Broomfield	Collins (TX)	Davis

Deckard	Johnston	Rhodes
Derwinski	Kemp	Ritter
Dickinson	Kindness	Roberts (KS)
Dougherty	Lagomarsino	Roberts (SD)
Dreier	Latta	Robinson
Duncan	Leath	Roemer
Dunn	LeBoutillier	Rogers
Edwards (AL)	Lee	Rudd
Edwards (OK)	Lent	Sawyer
Emerson	Levitas	Schulze
Erdahl	Lewis	Sensenbrenner
Erlenborn	Livingston	Shaw
Evans (DE)	Loeffler	Shelby
Evans (IA)	Lott	Shuster
Fiedler	Lowery (CA)	Skeen
Fields	Lungren	Smith (AL)
Findley	Madigan	Smith (NE)
Fish	Marlenee	Smith (NJ)
Forsythe	Martin (IL)	Snowe
Fountain	Martin (NC)	Snyder
Fuqua	Martin (NY)	Solomon
Gilman	McClory	Spence
Gingrich	McCollum	Stangeland
Goldwater	McDade	Stanton
Goodling	McDonald	Stenholm
Gramm	McGrath	Stump
Gregg	Michel	Tauke
Grisham	Miller (OH)	Tauzin
Gunderson	Mitchell (NY)	Taylor
Hagedorn	Molnari	Thomas
Hall, Ralph	Moore	Vander Jagt
Hall, Sam	Moorhead	Volkmer
Hamilton	Morrison	Walker
Hammerschmidt	Myers	Wampler
Hansen (ID)	Napier	Weber (MN)
Hartnett	Neal	Weber (OH)
Hendon	Neilligan	White
Hiller	Oxley	Whitehurst
Holt	Parris	Whittaker
Hopkins	Pashayan	Williams (OH)
Horton	Paul	Winn
Hunter	Petri	Wolf
Hutto	Porter	Wortley
Hyde	Pritchard	Wyle
Jacobs	Quillen	Young (FL)
Jeffries	Regula	

NOT VOTING—81

Akaka	Evans (GA)	McCloskey
Andrews	Fenwick	McCurdy
Applegate	Fithian	McEwen
Badham	Fowler	McKinney
Bafalis	Frank	Moffett
Bedell	Frenzel	Nichols
Boland	Garcia	Oskar
Bolling	Ginn	Pursell
Bonker	Gradison	Rallsback
Breaux	Hall (OH)	Ratchford
Brooks	Hansen (UT)	Rose
Brown (CA)	Heckler	Rosenthal
Brown (OH)	Heftel	Roth
Burgener	Hillis	Roukema
Burton, John	Holland	Roussetot
Chappell	Huckaby	Santini
Cheney	Ireland	Savage
Chisholm	Jones (NC)	Shumway
Clay	Kogovsek	Siljander
Coats	Kramer	Skeltan
Corcoran	Lehman	Smith (OR)
Craig	Lujan	Smith (PA)
Crane, Daniel	Luken	Stanton
Dixon	Lundine	Tribble
Dornan	Marks	Watkins
Emery	Marriott	Young (AK)
Ertel	Mattox	Young (MO)

□ 1220

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the preferential motion offered by the gentleman from New York (Mr. ZEFERETTI).

The preferential motion was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 6863, SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 6863), making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair would like to make the following statement:

One of the Members, a respected member of the Republican Party, thought that I denied him the opportunity on the vote previous to the last vote of having the ability to change his vote. He thought it was an extremely fast gavel.

Let me say to the Member, I want to apologize if such a thing happened. I did not see him. Even though the vote would be against my principles, or the vote would be against my philosophy, I would never deny a man the opportunity of voting in this well.

So the Member, if he feels that way, I apologize to him. I just did not see the gentleman.

APPOINTMENT OF CONFEREES ON S. 2036, JOB TRAINING PROGRAM

Mr. PERKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2036) providing for State and local employment and training assistance, insist on the House amendments thereto, agree to a conference with the Senate, and ask that the Chair be authorized to appoint conferees on the part of the House.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. LOTT. Mr. Speaker, reserving the right to object, the gentleman from Kentucky is asking for a late filing?

The SPEAKER. The gentleman is asking for a conference committee.

Mr. LOTT. A conference committee? It is on the CETA bill?

The SPEAKER. The gentleman is correct.

Mr. LOTT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky (Mr. PERKINS)?

Mr. SOLOMON. Mr. Speaker, reserving the right to object, and I will not object, but I wanted to call to the

attention of the gentleman from Kentucky that I would be offering a motion to instruct the conferees as soon as the objection is cleared up.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Speaker, let me state that I think his motion would be premature before we ever go to conference. I do not know just how the House conferees will feel, but he will have ample time in the future. We would like to get by without an instruction here and will try to resolve the gentleman's problem, if we are afforded that opportunity, before he instructs us.

Mr. SOLOMON. Further reserving the right to object, Mr. Speaker, the gentleman from Kentucky knows that this amendment passed by a voice vote in this House. A similar amendment passed, dealing with draft registration and student loans and grants, by an overwhelming majority, more than a 3-to-1 vote, and we have reason to believe that the Senate is going to accept this legislation, but there are those who are going to be appointed as conferees who are going to be opposing it.

I think it is a terribly important issue. Therefore, I would like to offer it now.

Mr. PERKINS. Mr. Speaker, if the gentleman wants to offer it, he has that right, but I think that he is jumping the gun. The conferees may want to accept this amendment, but I would like to discuss it with the conferees before he offers his motion to instruct us.

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, is it the gentleman's opinion that I would have the opportunity to offer this motion at a later time?

Mr. PERKINS. If the gentleman will yield further, Mr. Speaker, absolutely, he will have that right.

Mr. SOLOMON. The gentleman can assure me of that?

Mr. PERKINS. Mr. Speaker, I can assure him of that. I can assure him of that. I have been instructed, with the conference going on for weeks and weeks and weeks—

PARLIAMENTARY INQUIRY

Mr. SOLOMON. Mr. Speaker, further reserving the right to object, if I may, while I am further objecting, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SOLOMON. As I understand it, the rules would not allow me to offer this at a future time, which is why I am doing it now, unless the conference goes for more than 20 days.

The SPEAKER. If the House has a motion to recommit, the gentleman could offer it at that time or after 20 days.

Mr. SOLOMON. Mr. Speaker, I do not want to recommit. I think it is a terribly important piece of legislation. I think the amendment is terribly important and, therefore, I think everybody on this floor understands the issue, and with all due respect to the chairman, I would like to offer it at the appropriate time.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky (Mr. PERKINS)?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. SOLOMON, of New York, moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on the bill S. 2036, be instructed to agree to the following provision of the bill:

TITLE VI—ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

ELIGIBILITY FOR PARTICIPATION AND ASSISTANCE

SEC. 601. The Secretary shall insure that each individual participating in any program established under this Act, or receiving any assistance or benefit under this Act, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary in carrying out this section.

The SPEAKER. Does the gentleman wish to debate the motion?

Mr. SOLOMON. Mr. Speaker, I would just like the time allocated in case other Members wish to debate. I do not intend to take more than 1 minute.

The SPEAKER. The gentleman from New York (Mr. SOLOMON) is recognized for 1 hour.

Mr. SOLOMON. I thank the Speaker.

Mr. Speaker, I will not use anywhere near that time. I just want to point out that this is the amendment which prohibits those who are in violation of the Draft Registration Act from participating or being eligible for the jobs training program.

This amendment passed by a voice vote in this House when the legislation passed; a similar amendment passed dealing with grants and loans to college students by an overwhelming vote, and unless there is requested time from that side of the aisle—is there, Mr. Chairman?

I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Speaker, first let me state that during my tenure in the House there have been very few occasions that I have heard a motion to instruct conferees before the conferees are appointed.

The gentleman from California (Mr. HAWKINS) is not here today. He is

chairman of this subcommittee. He is not on the floor.

The gentleman from Illinois (Mr. ERLBORN) is not on the floor.

I think the conferees should have the right to go to conference, and if at a later date, if it is necessary that this motion be offered, the gentleman will have that right. But at this time I feel that it is untimely, unwise, and ties the hands of the conferees.

We have always tried to act fairly and to uphold what the House has done, and I would hope that this motion at this time would be voted down.

Mr. RHODES. Mr. Speaker, will the gentleman yield to me?

Mr. SOLOMON. I yield to the honorable gentleman from Arizona (Mr. RHODES) for purposes of debate only.

Mr. RHODES. I thank the gentleman for yielding.

Mr. Speaker, the thought occurs to me that before the motion to go to conference was brought to the floor, the ranking minority members of the Committee on Education and Labor and its subcommittee should have been notified and should have been given the opportunity to be on the floor.

□ 1230

I think the gentleman's motion is absolutely timely considering the fact that the matter was brought up. I suggest to my good friend from Kentucky that if indeed he feels that the presence of other Members is necessary before the debate on the gentleman's motion, that it might be good policy to withdraw his motion to go to conference until such time as they can be here.

Mr. SOLOMON. I thank the gentleman for his remarks. I would be most willing to withdraw the motion if the gentleman would withdraw his motion, and I would be glad to take it up later. I have been trying to get hold of Mr. HAWKINS and Mr. ERLBORN and others. They were not on the floor earlier.

Mr. PERKINS. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Kentucky for debate purposes only.

Mr. PERKINS. Let me say in response to the Speaker that I have never made a motion of this type and then withdrawn it. I want the Speaker to rule. I certainly do not feel that I should withdraw the motion at this time. We want to go to conference. We want to do the right thing, and we certainly do not want to have our hands tied.

Mr. SOLOMON. If I may reclaim my time, Mr. Speaker, I know that there is a lot of pressure that many Members have to catch planes. We all know this issue. This motion is to instruct the conferees on the amendment that

overwhelmingly passed this House by a voice vote, and was passed on different legislation, on the student aid loan legislation, which simply prohibits anyone who is in violation of the Draft Registration Act from being eligible. It sets a requirement as we did in the other legislation, from being eligible to participate in this program.

Mr. PERKINS. Mr. Speaker, will the gentleman yield further?

Mr. SOLOMON. I yield to the gentleman for debate purposes only.

Mr. PERKINS. Let me state that I know the gentleman's amendment is very popular among all the Members of this Chamber. I think we are all aware of that. But, I cannot see any reason, unless it is for publicity purposes, for a motion of this type being made at this time. I would still hope that the gentleman would withdraw this motion and let the conferees go to conference.

Mr. SOLOMON. I have a great deal of respect for the chairman, but I will tell him, this matter is so important, and it is going to do a favor for these young men who are not aware that they have to register. I do not want to see them saddled with a felony conviction for the rest of their lives. We are doing them a favor by passing this legislation.

Mr. Speaker, I move the previous question on the motion to instruct.

The previous question was ordered.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New York (Mr. SOLOMON).

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees: Messrs. PERKINS, HAWKINS, FORD of Michigan, CLAY, BIAGGI, SIMON, WEISS, CORRADA, WASHINGTON, ERLBORN, JEFFORDS, and PETRI, Mrs. FENWICK and Mr. DENARDIS.

PERMISSION TO HAVE UNTIL NOON, MONDAY, AUGUST 16, 1982, TO FILE CONFERENCE REPORT ON H.R. 6955, OMNIBUS RECONCILIATION ACT OF 1982

Mr. JONES of Oklahoma. Mr. Speaker, I ask unanimous consent that the conferees on the bill (H.R. 6955) to provide for reconciliation pursuant to the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Cong.), have until noon on Monday, August 16, 1982, to file a conference report.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I take this time for the purpose of receiving the legislative schedule for the balance of today and next week. I am pleased to yield to the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, I thank the gentleman for yielding.

This concludes the legislative business for the day and for the week. Members may expect confidently to catch their planes, if that is their desire.

I will ask unanimous consent that we come in at 10 o'clock on Tuesday.

On Monday, we will have 11 bills under suspension of the rules. They are as follows:

H.R. 6188, Platte River water resource studies;

H.R. 5536, feasibility studies, Central Platte Valley, Nebr.;

H.R. 6162, NTIA (National Telecommunications and Information Administration) authorizations, fiscal years 1983 and 1984;

H.R. 5008, Communications Technical Amendments Act of 1982;

H.R. 6954, National Security Act amendments re JCS;

H.R. 6222, adjust Federal Reserve requirements;

H.R. 6732, International Safe Container Act;

H.R. 1489, Puerto Rican passenger vessels;

H.R. 4828, surplus vessels for humanitarian purposes;

H.R. 5618, Organic Farming Act; and S. 1894, Indian tribe mineral resources.

We will have general debate only on the following two bills, on which the rules are already adopted:

H.R. 6323, EPA research authorization; and

H.R. 6324, NOAA (Oceans and Atmosphere) authorizations.

We will have no votes on Monday.

On Tuesday, we will ask to come in at 10 o'clock. We will have the Private Calendar, followed by any votes on whatever suspensions may have been required from the day before. Members should be aware that we may take the conference report on the budget reconciliation, the conference report on the 1982 Tax Act and/or the supplemental appropriations conference report sometime next week. We are not certain, but it is conceivable that we may have those.

Mr. LOTT. Mr. Speaker, I would like to get a clear understanding for the Members that are here as far as this schedule for the rest of the day. Did I understand the gentleman to indicate that there would not be any further business?

Mr. WRIGHT. The gentleman is correct.

Mr. LOTT. I thank the gentleman for that clarification, and I yield further to the gentleman.

Mr. WRIGHT. For the balance of the week we will consider the following bills:

H.R. 6956, HUD appropriations, fiscal year 1983;

H.R. 6957, State-Justice, appropriations, fiscal year 1983;

H.R. 6986, military construction appropriations, fiscal year 1983;

H.R. 6755, Central American Economic Revitalization Act of 1982; open rule, 1 hour;

H.R. 5540, Defense Production Act; open rule, 1½ hours;

H.R. 6323, EPA research authorization; complete consideration;

H.R. 6324, NOAA (oceans and atmosphere) authorization; complete consideration;

H.R. 5831, consolidated farm and rural development; open rule, 1 hour, rule already adopted; and

H.R. 6307, Resource Conservation and Recovery Reauthorization Act of 1982; open rule, 1 hour.

Adjournment times will be announced daily, and as we have already noted, Members may expect to be in late sessions. At the close of the week's business, the House will adjourn for its summer district work period, and will reconvene at noon on Wednesday, September 8, 1982. Conference reports may be brought up at any time, and any further program will be announced later.

ADJOURNMENT TO MONDAY, AUGUST 16, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. MURTHA). Is there objection to the request of the gentleman from Texas?

There was no objection.

HOUSE OF MEETING ON TUESDAY, AUGUST 17, 1982

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that when the House meets on Tuesday, it meet at 10 a.m.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY ON WEDNESDAY NEXT

Mr. WRIGHT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule, be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to ask the majority leader whether or not there is any chance of taking up the regulatory reform bill next week. I did not hear this mentioned as a part of the schedule, and that has been something which has been discussed on regular occasions. Is that at all contemplated?

Mr. WRIGHT. The gentleman is correct. It was not mentioned. It has been discussed on numerous occasions, and it is not contemplated for next week.

Mr. WALKER. If we do not take it up next week, of course the House would be going into recess, and there would be no chance of getting into that until sometime in September at the very earliest?

Mr. WRIGHT. The gentleman is correct also.

Mr. WALKER. That concerns me a great deal, because that is the one that has been around since February.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. LOTT. Mr. Speaker, I would like to reemphasize again that we will be coming in at 10 o'clock on Tuesday and the balance of the week. Members need to be aware of that, and it will include probably Friday.

Mr. WRIGHT. The gentleman is absolutely correct. We had initially scheduled the home district work period at the close of business on Thursday. We cannot be absolutely certain of that. We are attempting and hope to achieve that goal, but Members should expect to come in earlier and probably stay late on Tuesday, Wednesday, and Thursday.

Mr. LOTT. Does that include the possibility of a Friday session?

Mr. WRIGHT. That is exactly what I was trying to address. The possibility must always be held open. We hope to be able to conclude business on Thursday as planned in order that at the close of business on Thursday we may begin our home district work period, but it is conceivable, because of the urgency of some piece of legislation incapable of being completed on Thursday, that we might have a Friday session. I do not expect one. We do not plan one. Members, however, should be on notice that there will be long sessions beginning at 10 o'clock on Tuesday, Wednesday, and Thursday, and quite possibly going late on those 3 days.

No votes are planned on Monday.

Mr. LOTT. I thank the gentleman.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6467, PROFESSIONAL SPORTS STABILIZATION ACT OF 1982

Mr. MITCHELL of Maryland. Mr. Speaker, I respectfully ask unanimous consent that my name be withdrawn from cosponsorship of H.R. 6467, Professional Sports Stabilization Act of 1982, sponsored by Congressman Don Edwards.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 6529, THE JOBS AND BUSINESS OPPORTUNITIES FOR THE HANDICAPPED ACT OF 1982

Mr. MITCHELL of Maryland. Mr. Speaker, I respectfully ask unanimous consent that my name be withdrawn from cosponsorship of H.R. 6529, the Jobs and Business Opportunities for the Handicapped Act of 1982, sponsored by Congressman BARRY M. GOLDWATER, JR.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

TRIBUTE TO HENRY FONDA

(Mr. DAUB asked and was given permission to address the House for 1 minute.)

Mr. DAUB. Mr. Speaker, in 1925, at a small community playhouse in Omaha, Nebr., a young actor began a career that would span over five decades and win him the love and respect of the American people. That actor was Henry Fonda who passed away yesterday at the age of 77.

In both his personal life and the roles he played, Henry Fonda taught us life's lessons—lessons of moral strength and of justice, of caring and of courage.

We in Nebraska are particularly proud of our native son—and particularly grateful to Henry Fonda. Throughout his life he stayed in close touch with his family and friends in Omaha and gave his support to our local theater groups. His family has asked that memorial contributions be made to the Henry Fonda Memorial Wing of the Omaha Community Playhouse where his career began.

Our American heritage is rich because of the contributions of great men and women. Henry Fonda epitomized the American character and became an integral part of this heritage. We will always remember him, and because his unparalleled career is captured on over 80 films, generations of Americans after us will remember him as well. Henry Fonda is a part of America—and always will be.

□ 1240

A TRIBUTE TO THE LATE HENRY FONDA

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, I want to associate myself with the remarks that were just made by the gentleman

from Omaha, Nebr. (Mr. DAUB) in tribute to the deceased Henry Fonda.

Mr. Speaker, it is with great sadness that I join with my colleagues to mark the passing of an actor, who, like no one else before him, captured the spirit of America and the aspects of the American character that we prize the most—rugged individualism, courage, and steadfast adherence to one's principles no matter what the challenge. That actor was Henry Jaynes Fonda, who died at the age of 77 yesterday in Los Angeles, Calif.

From childhood, throughout my youth, and during my later years, I have witnessed this man's dedication to the work he so loved. Whatever the role he played, whether outlaw or hero, he played it with spirit, and yet with such studious care that the public tended to transfer the attributes of his roles to his personal character. Perhaps there is a message for all of us in this dedication of his—whatever we are called to do, let us strive to do it well.

Acting did not come easily to Henry Fonda—he was by nature shy and retiring, an essentially private man. Usually we think of actors as extroverts. It was the mother of another famous actor, Marlon Brando, who persuaded young Henry to try his hand at what was to become his life's work.

Born on May 16, 1905, in Grand Island, Nebr., Henry Fonda's acting career began in Omaha, where in 1925 he played in Philip Barry's "You and I" at the Omaha Community Playhouse. It ended, appropriately enough, with his capture of an Academy Award for best actor of the year for his role in "On Golden Pond," in which he starred with Katharine Hepburn. In the 56 years of his career, he made an indelible impression on the heart of the people of this country with his roles in such classic American films as "Drums Along the Mohawk" (1939), "The Grapes of Wrath" (1940), based on John Steinbeck's novel, "My Darling Clementine" (1946), "The Ox-Bow Incident" (1943), and "Fort Apache," among others. In 1978, the American Film Institute gave him its Life Achievement Award and in 1979 he was honored by the Kennedy Center in Washington.

Mr. Speaker, it is with great honor and respect that we mark the passing of Henry Jaynes Fonda. No words can fully express the emptiness we all feel and the void which he has left. Our prayers go out to his family, for we know what a loss they have suffered and pray that God will give them strength.

GOVERNING INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND SPAIN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. 97-227)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries and ordered to be printed:

(For message, see proceedings of the Senate of today, Friday, August 13, 1982.)

SOCIAL SECURITY: LET US SET THE RECORD STRAIGHT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. SMITH) is recognized for 10 minutes.

Mr. SMITH of New Jersey. Mr. Speaker, it is indeed unfortunate that the American people have been subjected to an overabundance of misinformation and political demagoguery about the program that directly affects the lives of more citizens than any other program—social security.

We have seen bumper stickers that politicize the issue, mailings by a congressional campaign committee that advocate sending money to a particular political party in order to save social security, a traveling political road show by a prominent Member of the House, and television commercials with charges and countercharges about who is really proposing to cut social security.

Mr. Speaker, it is a matter of record that I did not agree with the social security changes that were proposed by the Reagan administration last year. However, I was very distressed when I learned that the House leadership told Social Security Subcommittee Chairman JAKE PICKLE, a Member for whom I have great respect, to cease holding meetings on the social security issue. For several weeks, Chairman PICKLE had been working cooperatively to develop a bipartisan plan so that social security benefits would not be interrupted. The rug was pulled out from under the chairman and his subcommittee for what can only be described as political reasons.

We have also heard a great deal of self-righteous political rhetoric about the administration-backed budget which passed last year. It is interesting to note that those who attack that budget rarely, if ever, refer to the changes in social security benefits that were proposed on the other side of the aisle by the House Budget Committee. That budget package proposed to:

Phase out the minimum benefit after 1982; phase out college student

benefits after 1982; eliminate summer student benefits and COLA for student benefits; terminate parent's survivor benefits for those with children over 16; round benefits to the lower dime; to reimburse the Social Security Administration for documents; and to pay benefits only if eligible on the first of the month.

Another major provision that was included in the Budget Committee proposal—but not the administration-backed bill—would have delayed half of the 1982 cost-of-living adjustment from July 1982 to October 1982. If the committee's bill had passed, social security recipients would have received only half of the cost-of-living adjustment they actually received on July 1, 1982.

Mr. Speaker, it is also important to note that major social security benefit reductions that were enacted under the Carter administration in 1977 are just now taking effect. The Senate Finance Committee has calculated that the average beneficiary retiring this year at age 65 will realize a \$130 per month reduction in benefits, or more than a \$5,000 reduction over the next 3 years because of the Carter amendments.

The 1977 social security amendments also provided for a reduction in social security benefits to a dependent spouse by the amount of any Federal, State, or local civil service pension received by that spouse and established a 5-year period for implementing the benefit cuts. In addition, this 1977 legislation froze the level of the minimum benefit at the 1978 level.

Furthermore Mr. Speaker, my caseworkers and I have been hearing from a large number of my constituents who have had their social security disability benefits terminated as a result of eligibility reviews that were mandated by the Social Security Amendments of 1980. This legislation, I point out to my colleagues, was signed into law by former President Carter, a year before I took office.

Mr. Speaker, in order to alleviate the serious hardships that these people have been experiencing as a result of the Social Security Administration's abrupt termination of their disability benefits, I have cosponsored legislation that is designed to correct this serious problem. Mr. Speaker, I hope you will use your influence to see that this legislation is reported from committee in a manner that provides for an equitable appeal process. Furthermore, let us hope that this will be done at the earliest possible date.

Finally, Mr. Speaker, the bipartisan National Commission on Social Security Reform is currently meeting in an effort to reach a consensus on the best means to provide for the short-term and long-term solvency of the social security system. Let us put partisan

politics aside and make a sincere and concerted effort to do what is best for the American people while not cutting social security benefits.

THE PENDING RESOLUTION OF IMPEACHMENT OF THE CHAIRMAN OF THE FEDERAL RESERVE BOARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise to continue yesterday's presentation, and first I would point out that in today's RECORD, that is, yesterday's record of proceedings, I included for the first time the report that I had not been able to get. In fact, I did not even know it had been pursued and had been made available until fairly recently. I was finally able to get a copy of it, and it is included in today's RECORD, that is, in the record of the proceedings of August 12, specifically last night, when I continued my discussion on my pending resolution of impeachment of Paul Volcker, the Chairman of the Federal Reserve Board, and the two bills calling for a revision of the 1913 Federal Reserve Act in order to bring this powerful, runaway monopoly under the control of people. I would like to see control brought back to the people, at least as far as feasible, although, as I said last night, I think time is on us; it is just too late. I feel that there is no way we can reverse the course that seems to be inexorably leading us to national bankruptcy and economic prostration.

□ 1250

In this report, which the record has a complete copy to the report except for the appendixes to the report, that report has some of what the special counsel that was hired referred to as documentary supporting evidentiary facts to the course of their investigation.

I want to point out that in that report, to show you how self-serving these inquiries have been and how even in the guise of a report the Federal Reserve does not render an accounting to the Congress. I explained last night that before 1979, to be exact, when the Chairman of the Board was Mr. Arthur Burns, around about 1976 I became aware of what was apparent to me, a leak from the so-called Open Market Committee of the Federal Reserve, which, as I explained last night, it is not open, it is secret. Usually the actions and decisions made are so sensitive that they must be maintained in secret.

Once this anomaly known as the Open Market Committee was created in 1923 the control over the destiny of this country's economic, financial, fiscal, and monetary well-being and

policies left the people, left the Government, left the Presidency, left the Congress, and went to the hands of the bankers who now, as I said last night, have complete control of our destinies to the point where such grievous decisions as war or peace are being decided by these elements.

I became aware of the leak because of the sudden thrust of some financial decisions in New York and that looked to me as if they were made only on the basis of information that had been leaked out in time for one or two of these financial interests, these big banks like the Manufacturers Hanover Trust, to make a big killing; that is, a tremendous windfall of improper profit at the cost of the financial stability of the Nation's financial system.

So in this report, and I am now referring to the printed record today, the special counsel that was hired by the Federal Reserve Board after 1979 and after I finally got this matter before the attention of the proper committee, which I belong to, in 1976 when I first learned of that first leak I could not get anybody interested.

But I did raise speculation that caused the gentleman that was ostensibly responsible for the leak to find himself having to explain to some reporters, but who never printed the story, and then went back to his home place in Philadelphia and died. So that ended the matter. I could not do much.

But when the second leak was obvious, by then Mr. Paul Volcker had become Chairman of the Board. It was obvious to me that the same thing had happened.

This time I was able to get some interest and finally the special counsel's report indicates, and I am going to read from it in order to give you the history of it—incidentally, the special counsel was the lawyer from the law firm of Fulbright and Jaworski. In other words, only after pressure from the committee did the Board decide to get an outside counsel to get into the matter.

I am going to read now this history. The special counsel says in his introduction of this report on page 20792 of the CONGRESSIONAL RECORD for the House of August 12, and I quote:

On October 29, 1979, Vice Chairman Frederick H. Schultz and Governor J. Charles Partee of the Board testified before the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives—

That is the one I belong to and have belonged to for 21 years almost, otherwise known as the House Banking Committee—

concerning these revisions.

This is what they called the leaks:

Members of the House Banking Committee expressed concern with the possibility that the underlying errors . . .

And these, again, are a description of the leaks—

had been the result of some plan or scheme or that the institutions involved, or persons connected with those institutions, had used their knowledge of the errors for financial gain. The chairman of the committee requested that the Board conduct an investigation to determine if any institution or individual had improperly profited from these errors. Vice Chairman Schultz stated that the Board would do so.

On November 6, 1979, the Board and the New York Fed engaged Alan B. Levenson of the law firm of Fulbright and Jaworski as special counsel to conduct an inquiry to determine whether any institution or individual, including Manufacturers . . .

Meaning Manufacturers Hanover Trust—

and persons connected with Manufacturers, the Board or the New York Fed, improperly and knowingly profited from the preparation and release of erroneous money supply data during October 1979. Mr. Levenson was directed to make a complete inquiry into the facts of the matter and to prepare a report on the results of the inquiry. He was authorized to select other persons in Fulbright and Jaworski to assist in the inquiry and to retain the services of a public accounting firm and other experts if deemed necessary. Mr. Levenson and the other persons in Fulbright and Jaworski who assisted in this inquiry are collectively referred to as "Special Counsel."

Mind you, this was done only after we had raised speculation and finally got some of the colleagues to exert a little bit of pressure and make a request. Lo and behold, one of the few times that the Federal Reserve acceded to it and they said, "OK, we will conduct an inquiry."

But we did not even have available this report. I had to dig and dig and dig and finally just a few weeks ago I got my hands on it.

But you read the report, and it is printed here in the RECORD for the citizenry to see. I defy anybody, lawyer or not, to define this as anything but the most nervy whitewashing of any kind of an inquiry I have ever known of and particularly on these high levels of Government.

□ 1300

It was obvious from the very beginning, since the Feds apparently do not have an Inspector General. We do not know. The Congress does not have control. It cannot even send the General Accounting Office over there and examine, like it does any other Federal agency. But not the Feds. They are independent. Even though they are creatures of the Congress. The overwhelming number of Americans I have talked to and Members of the Congress do not seem to know that. They are under the impression that the Federal Reserve Board is an autonomous, independent, free-wheeling agency of the Government.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. HANCE. It is very interesting, what the gentleman is saying, and I find that very true with the public. They think that the Federal Reserve Board reports to Congress, that they are under our control. And yet when you talk to the people who are strong supporters of the Fed, they say, "Well, we want them to remain independent."

My question always is: Independent of whom? Should they be independent of the Congress? Should they be independent of the public? I say that they should not be.

If you look at the present state of the economy right now, with unemployment being as high as it is, you can go back to October 1979, and look at the present problem, because they started changing their policies at that time, setting the interest rates not by the discount rate, which had been done in the past, but by doing it through the so-called supply of the money, when they did not even know exactly what money was.

It carried President Carter into a recession in the 1980's. They let up briefly at one time, and they got President Reagan into a recession. Last year the tax cut was designed to stimulate the economy. But it is not going to do so when interest rates are running 15 to 20 percent.

Mr. GONZALEZ. No way.

Mr. HANCE. There is no business in this country that can continue for a long period of time paying 15 to 20 percent off the top and continue in business.

I think that the time has come for us to look at the makeup of the Federal Reserve Board and bring them under control of Congress, that we do not need to be giving our rights away to some other agency, to let them be independent of the elected officials. We are the ones who are elected by the people in our districts. We have taken an oath of office. We are held accountable. Those people should be held accountable.

I think the gentleman is exactly right, in that the general public has no idea that these people are completely running loose on their own. The people think they are under the control of Congress, and they are not.

I applaud the gentleman for bringing this to the attention of the Congress and the attention the gentleman has been bringing on this issue for some time.

Mr. GONZALEZ. I really thank most sincerely my distinguished colleague from Texas. I really thank him for this presentation, even though it saddens me to hear corroboration of what I had suspected as an individual Member, and I really welcome this support.

I have been speaking out for more than 18 years, actually, since Mr. Johnson was President. So it is not anything now that I have any political motivation. But I realize that one man can do so much, and that is it. But the main thing is that I know, and I have faith in the processes. I have faith. The thing that spurs me on is that all of this has not been fair to our country. Our country is a great country. The people are great. They deserve to be by us represented faithfully and truthfully. I think the overwhelming preponderance, if not 100 percent, of our Congresses have been Members who are very diligent. In the very beginning, in the Continental Congress, for instance, the greatest leaders, the Founding Fathers of this country, had to wrestle with this problem. But they were able to control through their integrity and basic commitment to the public interest. But they feared it and said so and spoke out very specifically.

And then subsequent to that, Presidents like Andrew Jackson then very specifically, with finally the National Currency Act of 1865; before that, President Lincoln was very apprehensive. He spoke out almost in the same words that his predecessors had in 1775, 1776, 1777. And then later, Woodrow Wilson, in 1916, very specifically, after the passage of the Federal Reserve Act.

What happened was that what they feared, that is, the loss of control by the people. After all, the Constitution has the most radical words, even today—certainly in 1789. The very first words of the preamble, "We the people of the United States, in order to form a more perfect Union . . ." It does not say, "We the Congress," it does not say, "I the President," it does not say, "We the judiciary." It says, "We the people." That is the sovereign. Where we come from, all power comes from the people. That was revolutionary in a world where all of the power was supposed to be in sovereign kings, who in turn got their sovereignty from God, divine right. That was very startling and revolutionary. Even the French Revolution did not go that far in its battle cry, which was coincidental with the American Revolution.

Even today, it is still revolutionary. But we have lost that, because we have now this superoligarchic combine in our country that has taken over control. The decisions are not being made in Congress. Congress would never have legalized usury. The Feds have.

The idea that in this country we would have a prime rate of 21 percent interest, that today we are supposed to genuflect and thank these mighty, powerful beings because they have gone down to 15½ percent—that is still usury. It is still extortionate.

The gentleman is dead right, I say to my distinguished colleague from

Texas, there is no society, much less ours, predicated on the kind of economy we are, there is no business that can remain alive, like mine are in San Antonio, trying to stay alive, if they have to floor inventory to be able to stay. At 18 percent, 19 percent, 20 percent, how in the world can they stay alive and pay that extortionate rate of interest? No way.

And yet these people have told me, these chairmen, and all, that it is like an act of God. You cannot do anything about it. That is a lot of baloney. It is hogwash. Of course, a lot can be done about it.

In fact, as I pointed out here, something has been done about that since 7,000 years before Jesus Christ, in the reign of Hammurabi. They even had laws against usury. And all through our history. But the idea that this country would be having an economy that is more equated with a lesser developed country, where you have a different economy, there is no such thing as mass production, mass consumption, mass credit availability.

Mr. ANDREWS. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from North Carolina.

Mr. ANDREWS. I am very impressed with what the gentleman says and with his obviously extensive research, reading and study on the subject. And it is a very important one. The one thing that bothers me about what the gentleman is saying is, how can the Federal Reserve be accountable to Congress without the Congress in effect acquiring the authority to tell the Federal Reserve, in effect, what to do? And if that should happen, then do you not in essence cause the Federal Reserve just to become an instrument that would execute the will of Congress, and hence Congress becomes in effect the Federal Reserve, and the authority that the Federal Reserve now has would be bestowed in Congress?

I do not know how you can split the difference. Somebody has to have control.

Mr. GONZALEZ. I understand the gentleman's question and his concern. I think I have a pretty good comprehension. But I think what we have got to remember is the definition of the Federal Reserve. It is a creature of Congress, to begin with. The Congress created it with the passage of the Federal Reserve Act which, incidentally, was the result of a special committee from the House. It could never get to the Senate. After the 1907 terrible panic and depression. And it was called the Pujo committee, named after the then-member of the House and the committee. It was not until 1912 that they finally got that committee. It went into the matter. The same thing happened at that period; that is, you

had restrictions and unyielding credit allocations to this country that was continuing to burgeon and grow.

Our country today, this is why our leaders are failing, because they are assuming our country has reached limits. It is a dynamic country. This country is producing, and its capacity for production has not even been tapped. We proved that during World War II.

But you have to have the engines of credit to go along, especially in an economy such as ours where you have mass production predicated on mass consumption and, in turn—and especially since World War II—mass credit is what I call it, but actually what it is, is consumer credit available. You cannot have it available if you are going to go into extortionate interest rates. But the definition of the Federal Reserve Board is that it is the fiscal agent of the U.S. Treasury.

□ 1310

Now, if it does not account to its principal—after all an agent is an agent for somebody, a principal.

But the Feds have been acting and continue to do as if they do not have to account to anybody, and they do not. They do not account to Presidents. They do not account to the Congress. Certainly we cannot get information. We requested information—and I again was one of those pressuring and yelling until we got them, and the committee requested the Federal Reserve Board to give us the statistics on the number of American banks taken over or heavily infiltrated by Arabian or Middle East oil-producing nations—most of those that had exercised the embargo on us in 1973. To this day, we cannot get it because the Feds came back and said—we wanted it country by country and they said, "No, all we can give you is region by region."

Well, that brings in Turkey and Greece and everybody else.

Now, what happened the other day, to show how prostrate we have become as a result of the absence of the people having protection.

Right at the time of the initial phase of the invasion or rather the penetration of the Israeli forces into Beirut, the Saudi prince called President Reagan and said, "If you don't restrain Israel, we will pull out all our money from your banks and create chaos."

And the President responded within 12 hours.

But we do not know. There is nobody who can tell you. The other day when we had the Chairman of the Feds on a more important matter—what I discussed the night before last, and that is the crisis that is imminent, on our head. Banks are falling over, savings and loans are going out like popcorn in a popper, businesses are

collapsing at a higher rate per week than ever since the Depression, even during the Depression.

Now, I asked the Chairman, I said, "Mr. Chairman, what can you tell us." We had him there on the Penn Square Bank failure in Oklahoma. I asked him, I said, "Can you tell us how many more of these banks are out there in that wild blue banking yonder." And he grinned and he puffed—he has a cigar he always puffs on, and then he shook his head and he said, no, he could not tell us.

I said, "Then how can you come and tell us that you have solidity in the resources available to avoid a crisis when all the Federal Deposit Insurance Agency has is no more than \$15 billion to try to cover \$1 trillion of insured deposits."

Now, who is kidding who?

The savings and loan deposit insurance—rather insurance corporation, it has no more than about \$6 billion to cover, well, about 20 times that amount. So that is what we are talking about? Naturally they have limits. I said the Federal Reserve is not unlimited because you have now converted the Federal Reserve into a giant bank of Sark. This was this great scheme, on this Island of Sark, near England, in which all they had was a computer device there taking these flight capitals, and they finally speculated and it collapsed with great impairment to the banking system and lost the money of many innocent people.

All this the Feds have brought us because of the lack of accountability, they do not have to come and account for the decisions.

Congress never intended that when it passed the Federal Reserve Act. But through certain functions and appendages, and then also some sleeper clauses in some legislation, we have ended up where we are the only nation that conducts our monetary and fiscal policies this way. We are the only nation that handles its money matters—

Mr. DORGAN of North Dakota. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Speaker, I do not mean to interrupt the gentleman's presentation, but I want to say that the gentleman has been consistent in his criticism of the Federal Reserve Board over the months and the years. I appreciate that because there are far too few Members of Congress who are interested in taking a whack at this issue of monetary policy.

We get mired down in questions of fiscal policy and tend to forget monetary policy. We leave that to the Federal Reserve.

As the gentleman points out, the Federal Reserve has in its palm about half of the economic game plan in this

country. Half of the economic plan is controlled by people who are not elected by or accountable to anyone.

I know the gentleman has a resolution to impeach Paul Volcker. I do not think he should be impeached. I think Paul Volcker ought to be fired. The reason he cannot be fired is because Congress does not have the mechanism to replace the Chairman of the Federal Reserve Board and we ought to have that mechanism in place.

The first bill I introduced here in the U.S. Congress was a bill I called the Paul Volcker Retirement Act. It was a bill designed to make the Chairman of the Federal Reserve Board accountable.

People in this Chamber seem to think that monetary policy is some mysterious force that they cannot control or they do not understand. Look. Anybody serving in Congress ought to know enough economics to understand one fundamental fact and that is this. You cannot have Reaganomic supply-side economics, expansionary fiscal policy, and at the same time have high interest rates. That sort of approach will not do anything but throw America into the deepest recession that we have seen in decades.

Mr. GONZALEZ. Exactly.

Mr. DORGAN of North Dakota. The point I am trying to make is this. It is not a mystery to the gentleman in the well nor is it a mystery to me why we have the recession we have in America today. We have the recession in this country today because we have a misallocation of resources. We have got a whole series of structural problems in several areas.

But when Paul Volcker took over the helm of the Federal Reserve Board, he decided he would no longer be interested in the level of interest rates. He decided to look instead at the amount of money in circulation—at M_{1B} and several other components. As a result of that change in policy we saw a dramatic change in the way interest rates behaved.

Unfortunately interest rates went to a tremendously high level. They have fluctuated around that level. But they have not come back down into a moderate area. As long as we do not have a moderate interest rate policy—and I am not talking about easy credit for everybody, I am talking about moderate interest rates for those who are creditworthy—we will not have economic recovery in America.

The gentleman in the well has been one of the few people who has consistently pushed for inspection of this country's monetary policy and for reform of the structure of the Federal Reserve Board.

Let me say also that there have been people from the gentleman's State who have preceded him in Congress, such as the late Wright Patman, who

spent a lifetime here trying to get structural change in the Federal Reserve Board. I think we are working for a very worthwhile goal that such people labored long and hard to achieve.

They call some of us "radical" who want to change the Federal Reserve Board. They say we want to do something unusual. You bet we want to do something unusual. We want to get interest rates back down to something that is reasonable, because if we do not do that we are not going to have the economic growth and jobs and profits that keep America strong and where it ought to be in the scheme of this world of ours.

So I just wanted to say that although I do not agree with every approach the gentleman suggests—as he does not agree with all of my approaches—at least both of us understand, and more people should understand, that the core problem in our economy today is the structure of the Federal Reserve Board and the ascendence to power there of the "monetarists" who think they can keep interest rates at 16 percent without bringing economic calamity to this country. They are wrong.

And it seems to me they ought to be replaced.

I appreciate the efforts the gentleman is making in that regard.

Mr. GONZALEZ. I in turn want to thank this distinguished colleague once again, because I have expressed by gratitude to him. And also I note, and I think the record should reflect since the inception of his service he has also rendered very valuable service. And I think we share the experience of being like what I call lonely coyotes out in the brush country baying to the Moon as if nobody is going to listen. But we have, and the interest is there.

I think we both will agree that it is a matter in which Members outside of those belonging to the pertinent committee or committees, plagued as they are with a plethora of issues and all, find it very difficult to drop everything and concentrate on this. This is our challenge.

This is the only thing I really hope to accomplish. I am not doing anything more. In fact just three nights ago I rendered tribute to Chairman Wright Patman because he has been my inspiration. I have probably the biggest debt in what ever I am trying to do here in my ability to do so to him.

□ 1320

All I say is that I want to thank the gentleman very much for his participation and his support on concentrating now congressional attention on this very important and grievous matter.

Mr. Speaker, I resume this report because it is part of the exhibit attached to my individual specific allegations or bill of particulars on the impeachment resolution, known as No. 3.

The record will show that over the course of weeks I have presented three specific allegations, or what they call bill of particulars on the resolution of impeachment.

Again, there are many, many folks, especially those not connected with this legislative world, that do not understand the nature of this very sensitive resolution.

Also, I have tried to go through channels. I urged the Committee on the Judiciary by contacting its chairman to please give me a hearing, if nothing else, just a hearing; but that has been denied me; so I then had to make the decision to present the case to the House and at the proper time bring up the resolution of impeachment, which as everybody knows, is a highly privileged resolution; but I did not want to do so until on the record I had made the case as if I had been a counsel or a member of the Committee on the Judiciary. I will do so; but on article III, or the bill of particulars known as No. 3, I allege specifically that Mr. Volcker has been guilty of a usurpation of authority, an act of malfeasance, in having secret meetings with such individuals as the president of the First City National Bank, Walter Riston in Florida, with such individuals as Bunker Hunt from Texas, in order to make deals involving the banking system and in aid the pursuance of Mr. Hunt's speculation and speculative activity, which involved banking lines of credit in excess of \$15 and \$20 billion in the most speculative field of all, which is silver and its ally, the gold market speculative ventures, and where they simply lost their shirts as banks are doing now in wholesale amounts in the gold speculative field where we become so vulnerable that if a country wanted to, like Russia, as they have on two occasions in December 1976 and again 1 year later in 1977, all they have to do is just move some of that gold into Switzerland in the international and they put pressure on the dollar.

Now, the fact that Russia has not lately does not mean anything, other than their policy for the moment does not call for that, but the power is there; and yet we have been led by Secretaries of the Treasury, against stout resistance from individuals like myself, but again kind of let down by my colleagues on the committee at the time with the repeal of that 1932 Gold Restriction Act without any protection; but again on that occasion I had the chairman of the Federal Reserve Board then, Mr. Burns, called me and invited me to breakfast and I had breakfast.

He said, "Look, I agree with you. You are right on this whole thing. We are vulnerable."

And I said, "I think it is abominable that we should be doing it and leaving the public unprotected and the banks themselves, because they are soon going to get into speculation on gold."

Now it is even part of the commodity market speculation. If all the statistics were to be published today, I can tell you that tremendous amounts of depositors' money have been blown away because the gold and silver markets are the most speculative control of any economic activity. They are controlled by people that have been in that for 450 years, in London, in Zurich, even in France; but nobody would listen.

The Treasury, in fact, even had gold sales and at the time I was protesting that we did not have protection, I said that all this gold is going to end up in the vaults of the Central Bank of France, in England, and others.

Then Secretary Simon said, "Oh, no, that cannot happen because we have restrictions in our bids. They can bid."

I said, how innocent, how naive can anybody be? The central banks are not going to come in themselves. They will have agents. Well, that is exactly what happened.

I say that over 75 percent of those gold sales ended up in the central banks of France, England, and other countries, as reserves. Can you imagine that?

It is the pressure from those countries and the development of the European monetary system, the European monetary fund, where our central bank has done nothing to protect the American interests. That is part of the charges that I will be drawing up. Before I finish the bill of particulars on the resolution of impeachment, I will have quite a number of specifics. The element of specificity will not be lacking; but what a shame that I should have to be doing this. I do not have the resources. I do not have the staff. I will do what I can; but what a shame that the permanent Committee on the Judiciary could not be doing this. They are the ones that ought to be evaluating.

I am presenting the documentation, the specifics and the evidentiary facts.

This one specific instance, here is what this counsel, and nobody knows how much money they paid that firm, half a million dollars or what; but the report says:

Oh, there is no evidence to show that this error was evidence of guilt of any kind.

In other words, it says, "The report sets forth the results of special counsel's inquiry to determine whether any institution or individual, including Manufacturers Hanover Trust Co. and persons connected with the Board or the Federal Reserve Bank of New

York improperly and knowingly profited from the preparation and release of erroneous money supply data."

In other words, it was just an error that somebody made oodles of money out of—and we cannot prove that anybody intended it, when in the report in another section they say the only ones they contacted were the people that would be guilty of such a thing that happened.

Well, since when has anybody in the law enforcement aspect, whether they are lawyers in the Justice Department or prosecutors in the State system or police officers attempting to enforce the law, when do you think they will ever find a suspect that is going to gratuitously admit that he had bad intentions? This is all this report says. After interviewing all these persons involved—who were the persons involved? The agents, the officers of the Fed in New York, the Federal Board, the Hanover Manufacturers Trust Bank.

Well, that is exactly what the Fed has been doing. We Americans have put the fox to take care of that chicken in the roost.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. Yes, I yield.

Mr. HANCE. What the gentleman is saying is that they asked them if they had done anything wrong.

Mr. GONZALEZ. That is exactly what it amounts to.

Mr. HANCE. So it would be like in a criminal case if they asked the criminal, "Have you done anything wrong?"

Mr. GONZALEZ. Exactly.

Mr. HANCE. Then even if he told the truth and said yes, he probably would want to come back and plead insanity.

Mr. GONZALEZ. Well, I will tell you the truth, with what is happening now, you would not blame him for that plea, would you?

Mr. HANCE. Not at all; but I think Congress will address that and change that this year.

Mr. GONZALEZ. But what if the counsel had said, well, you know, even if it were an unintended error, this reveals that there is some possibility here that there was improperly released information. That error could not have been profited by unless that information had been released prior to the public disclosure weeks later of the decision made in secret by the open market committee as to what interest would be paid, what the worth of Treasury bills are.

Now, this is the agent telling its principal what it is going to do.

Mr. HANCE. Mr. Speaker, if the gentleman will yield further, did they at any time ask that it be turned over to Congress, that Congress investigate it fully?

Mr. GONZALEZ. Well, all we have asked for through the years, and I was

one of those that vociferously joined Chairman PATMAN when we made the last request, that the General Accounting Office be permitted to go in and audit the Federal Reserve. That is all.

Then we have had several bills. I have joined in a couple, one by Representative RON PAUL, that out and out asked for an independent audit of the Federal Reserve.

□ 1330

Now, I think, even though I am for it, I still think that the first thing we ought to do is make sure that the General Accounting Office, which is the only agency directly available to the Congress, have that authority. They can do it.

For instance, have you ever heard of the Federal Reserve Board having an Inspector General? In other words, the presumption is there that they can do no wrong. But all history shows us that power, that uncontrollable power, corrupts. I am pointing to specific actions of corruption. How else can we interpret? What availability, what accessibility does a commercial bank that happens to be a member of the Federal Reserve System and has a meeting or a need for a meeting and needs to consult with the Chairman of the Federal Reserve Board have? Do you think he can get it? No.

But why should the Chairman be meeting in secret in Florida with the head of the First City National, Walter Wriston, and a speculator like Bunker Hunt, in Florida, in secret, accountable to nobody? This whole arrangement is incestuous.

To begin with, you should not even have the Open Market Committee. What is the Open Market Committee? The Open Market Committee consists of five private bankers—five select bankers from the system, bankers, private bankers—plus the members of the Federal Reserve Board.

They meet in secret to determine the fate of any administration, because they determine the Treasury bill rate and everything else.

In other words, I will conclude by saying that this is one more addition, in the bill of particulars to my third specific allegation of impeachment of the Chairman, specifically, although I have a separate resolution of impeachment for the Open Market Committee and its members because the Chairman alone does not act, even though he has tremendous power. Yet he is a principal accessory.

The way it operates, it operates like some public entities have in the past, where they have had bosses. In other words, he is pretty much the law.

What I am saying is that the destiny of this country is in the balance. We have already been economically impaired so badly—I am not a pessimist by nature but I do not see how it can be retrieved now.

They boast about having reduced the prime interest to somewhat, where is it now, about 15 percent? That means nothing. Your merchant back home is still paying 17, 18, 19 percent if he wants credit. That is obnoxious. It is wrong.

The people have a right to demand action. The people back home do not understand, when they say nothing can really be done, and the President says he has no control over the Fed. In fact, the President had a secret meeting with Paul Volcker after he invited him, and Volcker acquiesced and went. It is still secret. We do not know what came out of it. It is just as if the President had asked a foreign potentate to meet with him. They never even issued a communique.

Mr. HANCE. Mr. Speaker, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Texas.

Mr. HANCE. I thank the gentleman for yielding.

Mr. Speaker, one thing that was obvious after the meeting between the President and Mr. Volcker back in January and February is that the President did endorse the policies of Mr. Volcker at that time.

Mr. GONZALEZ. Absolutely.

Mr. HANCE. If you compare the tax cuts with those of President John F. Kennedy, President Kennedy did just the opposite. He tried to get interest rates down so that the tax cut would work. But under the present conditions, with a 20-percent interest rate, the tax cut will not work to stimulate the economy.

Mr. GONZALEZ. Oh, no. You cannot compound a wrong with a worse one. To me, the whole tragedy is even today the proposed tax matter is being debated on the basis of whether you are for or against the President. That is ridiculous. The thing we have to have in mind is: Is this a fair tax? Is this a right tax? Is this tax consonant with the basic principles of taxation we have always legislated on? This was the principle that I thought ought to have ruled us last year, but it has not.

The tragedy is that now you are beginning to get the pressure from businessmen who say you have to support the President, not "Is this a right bill? Is it conscionable? Is it fair? Is it equitable?"

Look at what happened as a result of last year's bill: General Electric will not pay one penny in taxes on its income this year. That tax burden has to be shifted to somebody else. We are finding out now in the tax bill they want us to approve where some poor widow or citizen who is trying to save a little money will have to pay 10 percent on the interest on that money. That is so unconscionable that I just do not know what to do other than to say that unless we bring this back

around and the people assert their authority through their representative agents, who are us, and their President, that we have lost our liberty, because today, economic liberty is what is at stake for the average American.

What good does it do to have political freedom if you do not have economic freedom? That is what is at stake.

It is an issue as between whether the people will rule or the bankers will rule. That is what it amounts to.

Mr. Speaker, I yield back the balance of my time.

A BILL FOR SPORTS FANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FISH) is recognized for 15 minutes.

● Mr. FISH. Mr. Speaker, in July, I became a cosponsor of H.R. 6467, the Major League Sports Community Protection Act of 1982. This bill, introduced in May by my distinguished colleagues Messrs. EDWARDS, STARK, and HYDE, would help to restore stability to our Nation's professional sports leagues and give fans and communities a much-deserved degree of protection for the enormous investments they make on behalf of their sports teams. It deserves prompt and favorable consideration by every Member of this body.

Mr. Speaker, my decision to cosponsor this legislation was not arrived at lightly. I am no opponent of our free enterprise system. Nor is this bill a bailout of the owners of National Football League clubs. Quite simply, this bill is necessary to protect fans and communities from irresponsible actions by team owners who have forgotten on whose behalf the games are played. It will entitle leagues to refuse to permit well-supported and financially successful clubs from relocating, and it encourages leagues to maintain geographic and competitive balance by permitting revenue sharing.

H.R. 6467 will protect the loyal fans who are, after all, the lifeblood of professional sports. The simple truth is that sports teams could not survive without the support of the local fan who buys the tickets, attends the games, and watches the telecasts. Sports teams and their home communities traditionally have a unique and very special relationship with one another—a relationship that involves each adopting the other as its own. Here in Washington, for example, the Redskins are our Redskins. And it is our hockey team, the Capitals, that so many residents are working to keep in Washington. It is this bond between team and community that makes professional sports so different from any other business. No other business exists for its customers the way a sports team exists for its fans. It is the

interests of those fans that we in Congress are obligated to protect.

Moreover, communities have substantial interests in the continued operation of their local franchises that deserve protection. The presence of a major league franchise results in tremendous economic and psychic benefits to a community. The contribution a club makes to the local economy is measured in the tens, and sometimes hundreds of millions of dollars. Dozens of local businesses depend on the continuing operation of professional sports teams, and major league teams help to boost tourism and investment. Moreover, these franchises are an indispensable unifying force to their communities, and bring together people of all ages, races, and economic stations. The players are an inspiration to a community's youth, and the clubs and their players are often intimately involved in a wide variety of civic, charitable, and cultural programs.

For their part, communities make significant contributions to the success of their local sports teams. They construct and maintain, often at substantial public expense, stadiums and related facilities that are so essential to a team's economic and playing field success. More importantly, though, the communities and their residents identify with their teams. The team's victories belong to the whole community, and the civic pride that a sports team provides cannot be measured in dollars. The loss of a franchise is immeasurable, and communities should not be forced to bear such losses simply because a particular owner wants to fatten his bottom line.

Mr. Speaker, I am at a loss to understand some of the opposition that has arisen to this measure. H.R. 6467 is an extremely narrow bill that will have no effect on any player or collective bargaining issue. It has no effect on any competing league. It has no effect on broadcasting or cable television. And it has no effect on baseball's current antitrust status.

Other arguments raised against H.R. 6467 are equally spurious. It does not, as its opponents contend, give leagues a blank check to move teams at will. Precisely the opposite—H.R. 6467 only protects league decisions to maintain clubs in their existing locations. In addition, because H.R. 6467 would encourage more equal sharing of revenues among the clubs of a league, it would discourage franchise shifts that are motivated by an owner's desire to move to larger, more profitable markets.

Finally, I have heard it said that H.R. 6467 is unfair because it would deprive the Oakland Raiders of their recent court victory over the NFL. To the contrary, no single event more clearly underscores the need for legislative action to protect the sports fan

of America than the attempt by the Raiders to abandon Oakland for the cable-TV riches of Los Angeles.

When the Raiders announced their intention to abandon Oakland, they had just concluded their 12th consecutive sellout season—a record of support virtually unmatched in professional sports. Mayor Lionel Wilson, in his testimony last February before our Subcommittee on Monopolies, told of the tremendous psychological loss that the entire East Bay would suffer if the Raiders' threatened departure were to become a reality. As the New York Times reported on June 2, "The Raiders put Oakland on the map." To the fans in the East Bay who so loyally supported the Raiders, the team was "The most dynamic thing to happen" to Oakland, and rooting for them was "almost a religious experience." I am inserting the New York Times article in the RECORD at the end of my remarks. Perhaps the relationship between Oakland and the Raiders was best summarized by the team's captain, Gene Upshaw, who said on national television that "The Raiders and Oakland have given each other pride and identity."

When the Raiders announced their plan to move—despite the unanimous opposition of the other 27 NFL clubs—they ranked near the top of the league in ticket receipts and total income. They had been enormously successful on the field throughout the 1970's and had always been a highly profitable franchise. In short, there was no reason for them to move except Al Davis' desire to seek even larger profits in Los Angeles.

Finally, it should not be overlooked that the Raiders earned these revenues and profits while playing in the publicly financed Oakland-Alameda County Coliseum. This modern facility was built especially for the Raiders, largely on the strength of commitments made by the team and AFL Commissioner Joe Foss that they were in Oakland to stay. If they are now permitted to abandon Oakland, that stadium—which local residents will be forced to pay off—will be an ever-present reminder to fans and taxpayers everywhere of the cost of misplaced trust.

If the Federal antitrust laws require the NFL—or any other sports league—to stand by and permit its most successful and well-supported franchises to relocate at will, and in express disregard of past commitments to the fans, the Congress, and other members of the league, then those laws are not serving the public interest and should be changed. Unless Congress acts now, the door will remain open for a series of hit-and-run transfers that would benefit individual owners at the expense of the communities and

loyal fans that have supported the clubs over the years.

In circumstances such as these, there is every reason for Congress affirmatively to act to protect the rights and interests of fans and communities. No injustice will be worked by requiring the Raiders to honor their contractual obligations to their partners in the NFL and their civic and moral obligations to the fans and community of Oakland.

The Committee on the Judiciary, of which I am a member, has already held several days of hearings on sports and antitrust issues. Those hearings, conducted under the skilled direction of Chairman RODINO, have been extremely valuable in defining the relationship of antitrust principle to professional sports leagues and clarifying the form that any remedial legislation should take. I look forward to early hearings on H.R. 6467 and to the prompt enactment of this valuable and much-needed protection of our Nation's sports fans.

[From the New York Times, June 2, 1982]

AS RAIDERS SET SIGHTS SOUTH, FANS IN OAKLAND FEEL BETRAYED

(By Wallace Turner)

OAKLAND, CALIF., June 1.—The Oakland Raiders have left a lot of fans here feeling like a wife whose husband has left her for an ugly but rich rival.

"Rooting for a team is like a marriage," said Dan Vigil, a regular in the Cactus Room, a bar that is almost a shrine honoring the Raiders. "If the team leaves, there will be no repairing the divorce."

"I feel as betrayed as any of the other fans of the Raiders," said Don Henson, manager of Sam's Hof Brau near the Alameda County Coliseum, where the Raiders have played although they now want to go to Los Angeles, where the Coliseum has more seats and a potentially richer cable television market.

After battling through two trials in Federal District Court in Los Angeles, the Raiders have won a preliminary victory that may allow them to move despite the National Football League's last-ditch resistance. Even though appeals have begun, the heart has gone out of many fans who look on the breakup as inevitable and now want the offender out of the house quickly.

GREED IS ASSAILED

"It's wrong to bust up a relationship like this for greed," Mr. Henson said. His restaurant's walls are plastered with framed photographs of Oakland teams, with the Raiders' football victories getting more space than the Oakland A's or the Golden State Warriors. These teams were once national champions, in baseball and basketball, as the Raiders were in football two seasons back.

"People don't know where Oakland is, but they know the Raiders," Mr. Henson said, putting his finger on another aspect of the distress. "The Raiders put Oakland on the map."

Something downgrades Oakland's image among its residents. The Raiders' frequent success helped overcome that. The feeling is that if the Raiders go, can total failure be far behind?

Al Puncsak, 63 years old, has owned the Cactus Room in downtown Oakland for 25

years. He has followed the team since 1960, when the Raiders played their first games at Kezar Stadium in San Francisco. The Cactus Room is lined with Raider mementos: Jerseys marked Stabler, Villapiano, Banaszek, Upshaw, Cannon. There are 23 footballs autographed to "Big Al" Puncsak.

ALMOST A RELIGIOUS EXPERIENCE

"Watching this team has almost been a religious experience," he said. "It brings tears to my eyes to think about them leaving. They have been the most dynamic thing to happen to this city. We gave them life, we gave them birth, and the thought that they might leave really hurts. They are more than football players to the people who come in here. They are like sons to us."

David Self is director of the quasipublic Oakland Economic Development Corporation, which is fighting hard to keep the Raiders. As a lawyer, he is pushing a suit that attempts to extend the city's right of eminent domain so it would require a sale to the city of the Raiders' N.F.L. franchise. So far, he has failed.

Calling Oakland a "viable, sound, progressive city with bright prospects for the future," Mr. Self said development would be cut back.

"Loss of the Raiders," he said, "would be like losing a son or a daughter that you raised since infancy, like having him snatched away by adoption."

TEAM BRINGS BUSINESS TO CITY

Mr. Self estimated that the team was worth \$25 million to \$50 million a year to Oakland. The Chamber of Commerce says \$36 million. Rudy McMillan, a Holiday Inn food and beverage manager, said that brunches on game day drew up to 300 people and that the food and bar business jumped 70 percent. Joe Litjens, general manager of the Hyatt Oakland Hotel, said half the visiting teams stayed in his place, using 45 to 75 rooms. A football weekend means \$300,000 additional gross receipts for the hotel's many functions, he said.

People come from all over to stay overnight, see the game, eat, drink and spend money, Mr. Litjens said.

What this can mean was explained by Mike O'Callaghan, who was Governor of Nevada from January 1971 to January 1979, some of the Raiders' most glorious years. It was a drive of four and a half hours from the Governor's Mansion in Carson City to the Coliseum.

"After you left Reno, you didn't stop until the parking lot," he said. "We'd go over on Saturday night, get up and go to mass on Sunday before breakfast with John Madden and Pete Banaszek and some others, see the game, have dinner afterward and then drive home Sunday night. I guess I saw at least half their home games in those years."

I'M GLAD HE'S LEAVING

Resentment focuses on Al Davis, managing partner of the football club, who pushed the move.

"I'm glad he's leaving," said Ken Prote, 29, a house painter. "If that's how Al Davis is, then good riddance to him. With the right management we can always get another team here to love."

Skip Ulrich, 35, who parks cars on game days, said, "If Al Davis leaves, he will really be blowing it. The fans here are really dedicated to the team. They have sold out the stadium for years. How could they be more faithful anywhere else?"

Bruce Henderson, 24, sells T-shirts and bumper stickers. One that sells well now is "Oakland Traitors" with Mr. Davis's picture

in place of the pirate that adorns the team's emblem. Mr. Henderson said, "I'm not a football fan, but I cater to what the market wants."

Not everyone is bitter. Former Governor O'Callaghan left Carson City when his second term ended. He lives in Las Vegas as executive vice president of The Las Vegas Sun. Los Angeles is five hours away.

"I've already ordered my tickets in Los Angeles," he said. "A group of us got together and ordered a box." ●

PLO HOLDS LEBANON HOSTAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. HANCE) is recognized for 5 minutes.

Mr. HANCE. Mr. Speaker, I rise today in support of one of America's allies at a time when world opinion is slowly responding to the propaganda campaigns fueled by our common enemies.

On June the 6th, the Israeli Army entered Lebanon hoping to achieve two goals: Push the PLO out of Lebanon and return control of Lebanon to the Lebanese.

Today, the Israeli Army sits on the outskirts of Beirut close to completing its mission. The Russian-backed band of terrorists and murderers known as the PLO have the choice of either leaving Lebanon or to continue hiding behind the innocent civilian population.

None of us like to see the kind of bloodshed and killing and violence that has erupted since June the 6th. But this is not the time for any of us to fall prey to the propaganda efforts that would have us review our thinking of the PLO.

I submit to this distinguished body that our vision is becoming blurred, our memories hazy, if we think for a moment that Israel should be condemned for taking aggressive action against a foe whose past atrocities shocked the world, a foe who has robbed Lebanon of its sovereignty and inflicted years of bloodshed on the Lebanese people, a foe who has been a constant hurdle in the path of peace.

We should applaud Israel's resolve. We should urge the PLO to stop hiding behind the skirts of innocent women and the tears of their children, urge them to lay their Russian weapons on the streets of Beirut and leave Lebanon.

The Camp David peace process will never work as long as the PLO holds Lebanon hostage.

But with the PLO disarmed and rightfully disgraced in the eyes of peace-loving people throughout the world, those nations who desire a lasting peace in the Middle East can come to the bargaining table in good faith. Lebanon, Israel, Egypt, Saudi Arabia, and all our Arab friends in the region can get on with the business of build-

ing a safe and secure future for themselves and all nations of the world.

CONFERENCE REPORT ON H.R. 6863

Mr. WHITTEN submitted the following conference report and statement on the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 97-747)

The Committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6863) making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 7, 9, 14, 31, 38, 39, 40, 52, 53, 56, 75, 76, 80, 81, 94, 102, 109, 116, 118, 129, 133, 141, 142, 148, 152, 154, 155, 162, 163, 164, 171, 173, 179, and 181.

That the House recede from its disagreement to the amendments of the Senate numbered 20, 23, 25, 26, 28, 30, 32, 33, 34, 35, 36, 46, 48, 54, 61, 68, 70, 77, 78, 79, 87, 99, 101, 104, 105, 106, 110, 111, 125, 127, 134, 136, 139, 156, 157, 165, 167, 168, 170, 174, 175, and 176, and agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$4,400,000; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$53,700,000; and the Senate agree to the same.

Amendment numbered 29:

That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$37,145,000; and the Senate agree to the same.

Amendment numbered 71:

That the House recede from its disagreement to the amendment of the Senate numbered 71, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the first sum named in said amendment, insert \$4,000,000; and the Senate agree to the same.

Amendment numbered 72:

That the House recede from its disagreement to the amendment of the Senate numbered 72, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$10,680,000; and the Senate agree to the same.

Amendment numbered 73:

That the House recede from its disagreement to the amendment of the Senate numbered 73, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in

lieu of the sum named in said amendment, insert \$2,000,000; and the Senate agree to the same.

Amendment numbered 82:

That the House recede from its disagreement to the amendment of the Senate numbered 82, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$18,100,000; and the Senate agree to the same.

Amendment numbered 85:

That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$24,957,000; and the Senate agree to the same.

Amendment numbered 90:

That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For an additional amount for "Fossil energy research and development", \$1,080,000, to remain available until expended: *Provided*, That there are transferred to, and vested in, the Secretary of the Interior all functions vested in, or delegated to, the Secretary of Energy and the Department of Energy under or with respect to (1) the Act of May 16, 1910, and other authorities formerly exercised by the Bureau of Mines, but limited to research and development relating to increased efficiency of production technology of solid fuel minerals; (2) section 908 of the Surface Mining Control and Reclamation Act of 1977, relating to research and development concerning alternative coal mining technologies (30 U.S.C. 1328); (3) sections 5(g)(2), 8(a)(4), 8(a)(9), 27(b)(2)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(g)(2) and 1337(a)(4) and 1337(a)(9)); and (4) section 105 of the Energy Policy and Conservation Act (42 U.S.C. 6213): *Provided further*, That the personnel employed, personnel positions, equipment, facilities, and unexpended balances of the aforementioned transferred programs shall be merged with the "Mines and minerals" account of the Bureau of Mines.

And the Senate agree to the same.

Amendment numbered 92:

That the House recede from its disagreement to the amendment of the Senate numbered 92, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$11,200,000; and the Senate agree to the same.

Amendment numbered 95:

That the House recede from its disagreement to the amendment of the Senate numbered 95, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert \$4,000,000; and the Senate agree to the same.

Amendment numbered 113:

That the House recede from its disagreement to the amendment of the Senate numbered 113, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert \$40,000,000; and the Senate agree to the same.

Amendment numbered 122:

That the House recede from its disagreement to the amendment of the Senate numbered 122, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert \$112,500,000; and the Senate agree to the same.

Amendment numbered 130:

That the House recede from its disagreement to the amendment of the Senate numbered 130, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows:

For necessary expenses to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act (45 U.S.C. 601), as amended, \$5,000,000, and for necessary expenses to carry out section 1139(b) of Public Law 97-35, \$5,000,000, to remain available until expended.

And the Senate agree to the same.

Amendment numbered 131:

That the House recede from its disagreement to the amendment of the Senate numbered 131, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment, insert \$15,000,000; and the Senate agree to the same.

Amendment numbered 144:

That the House recede from its disagreement to the amendment of the Senate numbered 144, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$8,998,000; and the Senate agree to the same.

Amendment numbered 147:

That the House recede from its disagreement to the amendment of the Senate numbered 147, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment insert \$39,000,000; and the Senate agree to the same.

Amendment numbered 158:

That the House recede from its disagreement to the amendment of the Senate numbered 158, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$180,000,000; and the Senate agree to the same.

Amendment numbered 159:

That the House recede from its disagreement to the amendment of the Senate numbered 159, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert \$86,774,000; and the Senate agree to the same.

Amendment numbered 160:

That the House recede from its disagreement to the amendment of the Senate numbered 160, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment amended to read as follows: \$75,726,000 of which; and the Senate agree to the same.

Amendment numbered 169:

That the House recede from its disagreement to the amendment of the Senate numbered 169, and agree to the same with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows: in lieu of the sum named in said amendment,

insert; \$375,000 and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 1, 2, 3, 4, 5, 6, 8, 10, 11, 12, 13, 15, 17, 18, 19, 21, 22, 24, 37, 41, 42, 43, 44, 45, 47, 49, 50, 51, 55, 57, 58, 59, 60, 62, 63, 64, 65, 66, 67, 69, 74, 83, 84, 86, 88, 89, 91, 93, 96, 97, 98, 100, 103, 107, 108, 112, 114, 115, 117, 119, 120, 121, 123, 124, 126, 128, 132, 135, 137, 138, 140, 143, 145, 146, 149, 150, 151, 153, 161, 166, 172, 177, 178, 180, 182, and 183.

JAMIE L. WHITTEN
(except amendments
58 and 115),

EDWARD P. BOLAND
(except amendment
115),

WILLIAM H. NATCHER
(except amendment
115),

NEAL SMITH,
JOSEPH P. ADDABBO,
CLARENCE D. LONG,
SIDNEY R. YATES
(except amendment
115),

EDWARD R. ROYBAL
TOM BEVILL
ADAM BENJAMIN, JR.,
JULIAN C. DIXON,
VIC FAZIO,
SILVIO O. CONTE,
JOSEPH M. MCDADE,
JACK EDWARDS,
JOHN T. MYERS (except
amendments 54 and
177),

CLARENCE E. MILLER,
LAWRENCE COUGHLIN,
JACK F. KEMP,
GEORGE M. O'BRIEN,

Managers on the Part of the House.

MARK O. HATFIELD,
TED STEVENS,
LOWELL P. WEICKER,
JAMES A. MCCLURE,
JAKE GARN,
HARRISON SCHMITT
(except amendment
150),

MARK ANDREWS,
JAMES ABDNOR,
ALFONSE M. D'AMATO,
MACK MATTINGLY,
WILLIAM PROXMIER,
JOHN C. STENNIS,
DANIEL K. INOUE,
ERNEST F. HOLLINGS,
THOMAS F. EAGLETON,
LAWTON CHILES,
J. BENNETT JOHNSTON,
WALTER D. HUDDLESTON,
PATRICK J. LEAHY,
DENNIS DECONCINI,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6863), making supplemental appropriations for the fiscal year 1982, rescinding certain budget authority, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I CHAPTER I—DEPARTMENT OF AGRICULTURE

SOIL CONSERVATION SERVICE CONSERVATION OPERATIONS

Amendment No. 1: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which allows the Soil Conservation Service to exchange a parcel of land in Bellingham, Washington, for other land.

FOOD AND NUTRITION SERVICE CHILD NUTRITION PROGRAMS

Amendment No. 2: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

FOOD AND NUTRITION SERVICE CHILD NUTRITION PROGRAMS

If the funds available for Nutrition Education and Training grants authorized under section 19 of the Child Nutrition Act of 1966, as amended, require a ratable reduction in those grants, the minimum grant for each State shall be \$50,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SCHOOL LUNCH DEMONSTRATION PROJECTS

The conferees note that bonus commodities constitute a program separate and distinct from the school lunch program, and will remain so, as long as the Department is in possession of surplus agricultural commodities for distribution. The conferees have received assurances from officials of the Department of Agriculture that the study methodology will allow a separate accounting of the value of bonus commodities in these demonstration projects. The conferees are in agreement that the purpose of this study is to analyze alternative approaches to the current operation of the school lunch program, but not to analyze alternatives to the distribution of actual bonus commodities. Therefore, the pilot projects may proceed as planned by the Department, with distribution of bonus cash or bonus letters of credit in lieu of bonus commodities, but the Department is directed to eliminate such bonuses from consideration in the evaluation phase of the school lunch demonstration projects.

Because the Department has stated that it is possible to provide a sufficient assessment of the projects within only two years of operation and still submit a full report to Congress by December 15, 1984, the conferees agree that plans for continuance beyond the end of the 1983-84 school year shall not be made unless the projects are extended by the Congress.

AGRICULTURAL RESEARCH SERVICE OREGON STATE UNIVERSITY BIOMASS ENERGY PROJECT

The Oregon State University, in cooperation with private energy and biomass consultants, has developed a proposal for a feasibility study on the use of agricultural residues and forest slash as fuel resources for a combined-cycle, closed-loop electrical powerplant. This approach offers great potential for the utilization of current waste products in a highly efficient power generation facility, which also has rural utility applications. The conferees are concerned that the Department has taken no positive action on

the funding of this meritorious proposal since the inclusion of report language in the conference report on the Agriculture, Rural Development, and Related Agencies Appropriations Act for fiscal year 1982 (H. Rept. 97-313). Therefore, the conferees urge the Department to give careful consideration to this worthwhile proposal.

CHAPTER II—DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS (Disapproval of Deferral)

Amendment No. 3: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which disapproves \$100,000 of the proposed deferral D82-225 relating to the Department of Commerce, Bureau of the Census, "Periodic censuses and programs", effective upon enactment into law of this bill.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

Amendment No. 4: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which provides that during fiscal year 1982, obligations for direct loans shall not exceed \$30,000,000 and total commitments to guarantee loans shall not exceed \$150,000,000 of contingent liability for loan principal, and that unobligated balances in the Economic Development Revolving Fund shall be available for necessary expenses of protecting the Government's liability in Federally guaranteed loans made prior to October 1, 1981 under title II of the Trade Act of 1974, including defaults of loan guarantees and care and protection of collateral and other costs necessary to protect the Government's investments.

INTERNATIONAL TRADE ADMINISTRATION

PARTICIPATION IN UNITED STATES EXPOSITIONS

Amendment No. 5: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which appropriates \$10,000,000 for the participation of the United States in the Louisiana World Exposition, to remain available through September 30, 1985. The amendment also provides that no additional Federal funds shall be available for this purpose and that the funds appropriated shall be available only upon enactment into law of authorizing legislation.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 6: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate, amended to read as follows:

In lieu of the matter proposed by said amendment, insert the following:

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", \$2,163,000, to remain available until expended: Provided, That of the funds appropriated under this head, \$200,000 shall be for necessary expenses for research to develop life history information on the bowhead whale in high level and low level area surveys and not to exceed \$50,000 shall be for implementation of the 1982 Cooperative Agreement between the National Oceanic and Atmospheric Ad-

ministration and the Alaska Eskimo Whaling Commission as amended in July 1982.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This amendment provides \$200,000 for research on bowhead whales, \$50,000 for implementation of the 1982 amendments to the cooperative agreement between the National Oceanic and Atmospheric Administration and the Alaska Eskimo Whaling Commission, and \$1,913,000 for increased FTS costs.

The conferees are agreed that any further absorption of funds in this account for any purpose shall not be derived from the FY 1982 program level of \$35,000,000 established in prior FY 1982 appropriations acts for the Sea Grant Program.

COASTAL ZONE MANAGEMENT

(Transfer of Funds)

Amendment No. 7: Provides \$3,000,000 by transfer as proposed by the House instead of \$3,600,000 by transfer as proposed by the Senate.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

FEDERAL SHIP FINANCING FUND

Amendment No. 8: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate which provides that during 1982, total commitments to guarantee loans shall not exceed \$675,000,000 of contingent liability for loan principal.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

Amendment No. 9: Appropriates \$400,000 as proposed by the House instead of \$200,000 as proposed by the Senate.

This amendment will permit the SEC to fill 79 currently vacant positions and will provide \$232,000 for the acquisition of ADP equipment.

SMALL BUSINESS ADMINISTRATION

BUSINESS LOAN AND INVESTMENT FUND

Amendment No. 10: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that during fiscal year 1982, total commitments to guarantee loans shall not exceed \$3,000,000,000 of contingent liability for loan principal.

(Disapproval of Deferral)

Amendment No. 11: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which disapproves \$2,500,000 of the proposed deferral D82-233A for the Business Loan and Investment Fund, effective the date of enactment into law of this bill.

SURETY BOND GUARANTEES REVOLVING FUND

(Disapproval of Deferral)

Amendment No. 12: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which disapproves the proposed deferral D82-234 for the Surety Bond Guarantees Revolving Fund effective the date of enactment into law of this bill.

POLLUTION CONTROL EQUIPMENT CONTRACT GUARANTEE REVOLVING FUND

Amendment No. 13: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate which provides that during fiscal year 1982, total commitments to guarantee loans shall not exceed \$250,000,000 of contingent liability for loan principal.

The conferees are extremely concerned that the Small Business Administration has limited this program to a level of \$150,000,000 for fiscal year 1982, despite the fact that the House and Senate Appropriations Committees disapproved a reprogramming proposal to limit the program to this amount and directed SBA to make available the full authorization of \$250,000,000 for the program. The conferees note that this disregard of the Committees' directives has had an extremely detrimental effect on the ability of small businesses to obtain necessary funds to comply with State and local pollution control requirements. Therefore, the conferees expect that the Small Business Administration will take all necessary action to comply with the original directives of the Appropriations Committees on this matter so that as many applications for such guarantee assistance as possible can be funded up to the authorized level during the remainder of the current fiscal year.

DEPARTMENT OF JUSTICE

SALARIES AND EXPENSES, UNITED STATES

ATTORNEYS AND MARSHALS

Amendment No. 14: Appropriates \$9,015,000 as proposed by the House instead of \$10,000,000 as proposed by the Senate.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

Amendment No. 15: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available not to exceed \$80,290 in fiscal year 1982 funds for payment of a settlement pursuant to the Back Pay Act for back wages from prior fiscal years.

FEDERAL BUREAU OF INVESTIGATION

Amendment No. 16: Appropriates \$4,400,000 instead of \$4,000,000 as proposed by the House and \$4,750,000 as proposed by the Senate.

Amendment No. 17: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *Provided further, That notwithstanding the provisions of title 31 U.S.C. 483(a) and 484, the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for non-criminal employment and licensing purposes, and credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: Provided further, That the funds available for carrying out these services shall be available only to the extent provided in advance in appropriation acts*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

IMMIGRATION AND NATURALIZATION SERVICE

Amendment No. 18: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which clarifies the language with regard to the purchase of automobiles.

DRUG ENFORCEMENT ADMINISTRATION

Amendment No. 19: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate which clarifies the language with regard to the purchase of automobiles.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

(Including Transfer of Funds)

Amendment No. 20: Appropriates \$41,750,000 as proposed by the Senate instead of \$1,500,000 as proposed by the House. Of the \$41,750,000 provided, \$1,000,000 will be made available by transfer, as provided for in Amendment No. 21.

Amendment No. 21: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes available \$1,000,000 by transfer from the Antitrust Division.

Amendment No. 22: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that sites for location of an alien processing facility not be excluded from consideration by the Department of Justice solely because such sites are not presently Federally owned and that the building to house aliens be constructed in a separate building from an existing Bureau of Prisons building housing Federal prisoners.

The conferees are agreed that the Department of Justice is not to locate the alien detention facility, for which funds are provided by this conference agreement, in any location other than El Reno, Oklahoma, or Oakdale, Louisiana, unless the Department submits a proposal and receives approval for another location for such facility under the reprogramming procedures established by the Committees on Appropriations of the House and Senate.

FEDERAL PRISON INDUSTRIES, INCORPORATED

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL TRAINING EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Amendment No. 23: Increases the limitation on vocational training expenses to \$2,983,000 as proposed by the Senate instead of to \$3,162,000 as proposed by the House.

OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

RESEARCH AND STATISTICS

(Transfer of Funds)

Amendment No. 24: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed, insert the following:

OFFICE OF JUSTICE ASSISTANCE, RESEARCH AND STATISTICS

RESEARCH AND STATISTICS

(Transfer of Funds)

For an additional amount for "Research and statistics", \$450,000, to be derived by transfer from "Law enforcement assistance" for a study of the victims of crime in the District of Columbia to be submitted to the Congress not later than September 30, 1983.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

DEPARTMENT OF STATE
ADMINISTRATION OF FOREIGN AFFAIRS
Salaries and Expenses

Amendment No. 25: Appropriates \$37,978,000 as proposed by the Senate instead of \$37,378,000 as proposed by the House.

The conferees are agreed that of the \$1,600,000 provided for preparation of the United States legal case for arbitration of the Gulf of Maine Boundary dispute by the International Court of Justice, not more than \$260,000 shall be available for contractual services unless the Department of State submits a reprogramming proposal for such a purpose and receives approval of the proposal in accordance with the procedures established by the Committees on Appropriations of the House and Senate. The conferees are concerned that the Department of State's justification submitted in support of this request failed to accurately represent the actual obligations already incurred for this activity. The conferees note that the Department has already incurred obligations approximating \$1,400,000. The conferees direct the Department of State to submit a full and complete justification in support of these actions.

RELATED AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING
(Rescission)

Amendment No. 26: Changes "Grant" to "Grants" in the language of the bill.

CHAPTER III—DEPARTMENT OF
DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

Amendment No. 27: Appropriates \$53,700,000 instead of \$61,900,000 as proposed by the House and \$14,400,000 as proposed by the Senate.

Summary.—The agreement on items in conference is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
Foreign duty pay	4,500		4,500	4,500
European Brigade	39,300	39,300		39,300
Temporary storage	1,300	1,300		
Discretionary skill shortage pay			11,400	11,400

MILITARY PERSONNEL, NAVY

Amendment No. 28: Appropriates \$57,474,000 as proposed by the Senate instead of \$55,656,000 as proposed by the House.

Summary.—The agreement on items in conference appears in the following table. Although the conferees have denied the request for \$156,000 for Navy nuclear officer accession bonuses, it is agreed that the Navy may proceed with the program within funds already available.

(In thousands of dollars)

	Budget	House	Senate	Conference
Foreign duty pay	1,974		1,974	1,974
Nuclear officer accessions	156	156		

MILITARY PERSONNEL, MARINE CORPS

Amendment No. 29: Appropriates \$37,145,000 instead of \$31,945,000 as proposed by the House and \$40,645,000 as proposed by the Senate.

Summary.—The agreement on items in conference is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
Foreign duty pay	1,400		1,400	1,400
Selective reenlistment bonus	9,000		9,000	5,500
Weight allowance, Okinawa	1,700	1,700		

RESERVE PERSONNEL, ARMY

Amendment No. 30: Appropriates \$9,000,000 as proposed by the Senate instead of \$4,200,000 as proposed by the House.

Summary.—The agreement on the item in conference is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
Drill attendance	4,800		4,800	4,800

RESERVE PERSONNEL, MARINE CORPS

Amendment No. 31: Appropriates \$2,000,000 as proposed by the House instead of \$800,000 as proposed by the Senate.

Summary.—The agreement on items in conference is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
Platoon leaders class	900	900		900
Subsistence cost increase	300	300		300

RESERVE PERSONNEL, AIR FORCE

Amendment No. 32: Appropriates \$3,650,000 as proposed by the Senate instead of \$4,000,000 as proposed by the House.

Summary.—The agreement on the item in conference is as follows:

(In thousands of dollars)

	Budget	House	Senate	Conference
ROTC subsistence	400	400	50	50

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

Amendment No. 33: Appropriates \$4,300,000 as proposed by the Senate instead of \$27,300,000 as proposed by the House.

Army European Brigade.—The conferees agree that the brigade should be disestablished and deleted from the force structure as proposed by the Senate. However, it is also agreed that the 4,100 manyears should not be deleted but rather should be utilized to fill out other existing Army units in the United States which are presently undermanned.

OPERATION AND MAINTENANCE, NAVY

Amendment No. 34: Provides \$117,400,000 in transfers as proposed by the Senate in

stead of a direct appropriation of \$40,974,000 and transfers of \$76,426,000 as proposed by the House.

A summary of the transfers approved by the conferees is as follows:

(In thousands of dollars)

Source of transfer	Program	Amount
Aircraft procurement, Navy—1982/84	RDF Support	26,200
Do	AV-8B Modification	13,700
Do	SH-60B advance procurement	9,100
Do	EC-130 modification	2,100
Weapons, procurement, Navy—1982/84	Tomahawk	2,000
Do	Phoenix modification	2,000
Do	Mk75/Mk76 gun mounts	3,500
Research, development, test, and evaluation, Navy—1982/83	Dual mini sines	470

Amendment No. 35: Provides \$19,600,000 in transfers, as proposed by the Senate instead of \$37,226,000 as proposed by the House.

Amendment No. 36: Provides \$71,100,000 in transfers as proposed by the Senate instead of \$20,000,000 as proposed by the House.

Amendment No. 37: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides \$7,500,000 in transfers from Weapons procurement, Navy, 1982/1984.

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 38: Appropriates \$23,000,000 as proposed by the House instead of \$18,000,000 as proposed by the Senate.

PROCUREMENT

OTHER PROCUREMENT, ARMY

Amendment No. 39: Deletes the language proposed by the Senate which would have appropriated for transfer \$20,000,000 from Other Procurement, Army to appropriations available to the Federal Emergency Management Agency.

SHIPBUILDING AND CONVERSION, NAVY

Amendment No. 40: Deletes the language proposed by the Senate which would have appropriated \$57,000,000 for the MCM Mine Countermeasures ship program and the TAO Fleet-oiler ship program.

AIRCRAFT PROCUREMENT, AIR FORCE

Amendment No. 41: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment insert the following:

"AIRCRAFT PROCUREMENT, AIR FORCE"

"For an additional amount for 'Aircraft procurement, Air Force', \$120,000,000, to remain available until September 30, 1984, only for the purchase of two new KC-10 aircraft or for fully funding the purchase and modification of an appropriate number of used DC-10 aircraft to the KC-10 configuration."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees note that the only official budget document before the Congress on this matter requested fully funding two new KC-10s at a cost of \$120,000,000 including \$5,000,000 for initial spares. A subsequent letter from the Deputy Secretary of Defense which recommended using these funds

to initiate a \$3,200,000,000 multi-year procurement buy of KC-10s is not an amendment to the President's budget. It is the sense of the Conferees that a change in the budget of that magnitude clearly requires the submission of an amendment from the President.

The conferees have agreed not to require the reprogramming at this time of the \$50,000,000 appropriated in fiscal year 1982 for wide-bodied aircraft procurement as proposed by the Senate. However, these funds should not be obligated without the prior approval of the House and Senate Appropriations Committees, and the Department should use the reprogramming process to request such approval.

OTHER PROCUREMENT, AIR FORCE

Amendment No. 42: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum proposed by said amendment, insert "\$19,700,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The details of this amendment are set forth in the classified annex to this report.

PROCUREMENT, DEFENSE AGENCIES

Amendment No. 43: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum named in said amendment, insert "\$6,500,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. The effect and details of this amendment are set forth in the classified annex to this report.

ADMINISTRATIVE PROVISIONS

Amendment No. 44: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which includes language prohibiting the Defense Department from purchasing coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

Amendment No. 45: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

In lieu of the sum named in said amendment, insert "\$800,000,000".

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

This provision increases the Defense Department transfer authority limitation from \$750,000,000 to \$800,000,000.

CHAPTER IV—DISTRICT OF COLUMBIA

DISTRICT OF COLUMBIA FUNDS

PUBLIC SAFETY AND JUSTICE

(Including Rescission and Transfer of Funds)

Amendment No. 46: Changes heading as proposed by the Senate.

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates \$3,401,500 of which \$800,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution

of the District of Columbia Council. The increase of \$800,000 above the House allowance is for court-appointed attorneys assigned to indigent defendants under the Criminal Justice Act program.

HUMAN SUPPORT SERVICES

(Including Rescission and Transfer of Funds)

Amendment No. 48: Changes heading as proposed by the Senate.

Amendment No. 49: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates \$40,044,000 of which \$1,900,000 shall be derived by transfer from the appropriation "Transportation services and assistance" upon approval by resolution of the District of Columbia Council. The increase of \$1,900,000 above the House allowance is for the city's youth employment program.

ADMINISTRATIVE PROVISIONS

Amendment No. 50: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate adding a new section which amends Title 11 of the District of Columbia code. The new section authorizes the use of hearing commissioners to perform the more ministerial functions presently carried out by judges of the Superior Court. The provisions of this section will remain in effect until September 30, 1983, thereby permitting the appropriate authorizing committees the opportunity to consider comprehensive court reform legislation.

The conferees are aware of a severe case-load backlog in both the Superior and Appeals courts of the District. The Superior Court has 1,851 felony cases pending with an average time of 240 days from arrest to disposition. This situation could be seriously exacerbated by ongoing efforts of the Mayor and Police Chief, with the assistance of the U.S. Attorney's Office, in the area of repeat offenders. The courts must be able to respond to this initiative and reduce the existing backlog. The conferees feel that this pilot effort will prove useful and become an important part of the criminal justice system in the District of Columbia.

Furthermore, the conferees direct that the courts work with the appropriate committees of the Congress in determining the number and status of the hearing officer positions.

ACCUMULATED GENERAL FUND DEFICIT

The conferees are concerned with the District government's accumulated general fund deficit of \$309 million (as of September 30, 1981) and what appears to be a somewhat less than vigorous commitment to reduce the deficit through every possible means. The conferees strongly urge District officials to renew their efforts to reduce the deficit without relying solely on their pending proposal to sell deficit bonds. Although the plan to retire the accumulated deficit by purchasing bonds has been pending before the Congress for several months, the conferees direct District officials to develop and submit an alternative plan by April 15, 1983, for eliminating the deficit.

The conferees remind District officials that the \$10 million appropriated in the regular bill for fiscal year 1982 is to be applied to reducing the cash portion of the general fund deficit.

CHAPTER V

The conferees agree that for the purposes of Chapter V report language included by

the House which is not changed by the report of the Senate, and Senate report language which is not changed by the conference is approved by the Committee of Conference. The statement of the managers, which may repeat some report language for emphasis, does not negate the language referred to above unless expressly provided herein.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

OPERATION AND MAINTENANCE

(Transfer of Funds)

Amendment No. 51: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that \$2,000,000 be transferred to Operation and Maintenance from the Construction program.

DEPARTMENT OF ENERGY

OPERATING EXPENSES

ATOMIC ENERGY DEFENSE ACTIVITIES

Amendment No. 52: Appropriates \$57,000,000 for Operating Expenses, Atomic Energy Defense Activities as proposed by the House instead of \$48,900,000 as proposed by the Senate.

PLANT AND CAPITAL EQUIPMENT

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(Transfer of Funds)

Amendment No. 53: Transfers \$14,000,000 to Plant and Capital Equipment, Energy Supply, Research and Development Activities from the Geothermal Resources Development Fund as proposed by the House.

The conferees have agreed to a transfer of \$14,000,000 currently appropriated to a default reserve for geothermal loan guarantees issued and to be issued pursuant to the authorities provided in Public Law 93-410, as amended. This transfer of funds is agreed to with the understanding, which has been confirmed by the Department and the Office of Management and Budget, that the funds currently in the default reserve are not necessary to support either existing loan guarantees or new loan guarantees which may be issued; and that notwithstanding this transfer of funds, the current ongoing program to evaluate applications for loan guarantees pending at the Department and where appropriate to award loan guarantees for worthy geothermal projects will be continued in an expeditious fashion and that this transfer will not adversely affect implementation of the program. The conferees also wish to note that in light of the fact that these geothermal loan guarantees are issued with and supported by the full faith and credit of the United States, a default reserve is not necessary. Therefore, on the basis of these assurances from the Administration, and the full faith and credit backing of the United States for these guarantees, and transfer of funds is approved. As noted in the Senate report, additional funds may be necessary to complete this project in future years.

ATOMIC ENERGY DEFENSE ACTIVITIES

Amendment No. 54: Appropriates \$7,300,000 for Plant and Capital Equipment, Atomic Energy Defense Activities as proposed by the Senate instead of \$35,700,000 as proposed by the House.

ADMINISTRATIVE PROVISIONS

Amendment No. 55: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate relating to the execution of work pursuant to section 202 of the 1981 Energy and Water Development Appropriations Act.

The Committee of Conference notes that the Sholey Bridge across the Little Tallahatchie River below the Sardis Reservoir, which was restored by Tallahatchie County, has become damaged and if not repaired will seriously affect the flow in the river and adversely affect drainage in the basin. The conferees, therefore, direct the Corps of Engineers, within available funds, to stabilize the banks of the river in the vicinity of the bridge and to provide necessary protection to the bridge supports and provide other assistance as necessary to prevent recurrence of the problem. This action is necessary to prevent obstruction in the water flow to the detriment of the flood control project.

The Corps of Engineers is directed to accept, without interest penalty, payments or in-kind contributions by School District No. 52 for its portion of the separable recreation costs for development and management at Sky Camp, Fall Creek Lake in Lane County, Oregon, until July 28, 1998.

CHAPTER VI—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT AGENCY FOR INTERNATIONAL DEVELOPMENT OVERSEAS AND SPECIAL DEVELOPMENT ACTIVITIES

(Foreign currency program)

Amendment No. 56: Restores the phrase "to remain available until expended", as proposed by the House.

LEBANON EMERGENCY RELIEF

(Transfer of funds)

Amendment No. 57: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. The Senate amendment earmarks \$10,000,000 in emergency relief funds for the American University of Beirut.

ECONOMIC SUPPORT FUND

CARIBBEAN BASIN INITIATIVE

Amendment No. 58: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

"ECONOMIC SUPPORT FUND

CARIBBEAN BASIN INITIATIVE

For an additional amount for necessary expenses to carry out chapter 4 of part II of the Foreign Assistance Act of 1961, \$350,000,000, to remain available until March 31, 1983, notwithstanding section 10 of Public Law 91-672: Provided, That the funds in this paragraph shall be available only to the extent and in the manner provided as follows: not less than \$20,000,000 for the Eastern Caribbean; not less than \$41,000,000 for the Dominican Republic; not less than \$10,000,000 for Haiti; not less than \$50,000,000 for Jamaica; not less than \$10,000,000 for Belize; not less than \$70,000,000 for Costa Rica; not more than \$10,000,000 for Guatemala; not less than \$35,000,000 for Honduras; not more than \$75,000,000 for El Salvador; not less than \$2,000,000 for the American Institute for Free Labor Development; not less than \$2,000,000 for the Inter-American Foundation; and \$25,000,000 unallocated: Provided,

That none of the funds appropriated for this purpose may be obligated until September 15, 1982, or until the enactment of authorizing legislation, whichever comes first: Provided further, That none of the funds appropriated under this heading and made available only for a country referred to in the first proviso may be available for such country while such country is not taking adequate steps to cooperate with the United States, as certified monthly by the President to the Congress, to prevent narcotic drugs and other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812)) which are produced, processed, or transported in such country from entering the United States unlawfully. Notwithstanding any other provision of the act, none of the funds appropriated in this paragraph may be obligated or expended in any manner inconsistent with the policy hereby reaffirmed, which is stated in S.J. 230 (76 Stat. 697), to wit:

"Whereas President James Monroe, announcing the Monroe Doctrine in 1823, declared that the United States would consider any attempt on the part of European powers 'To extend their system to any portion of this Hemisphere as dangerous to our peace and safety'; and

"Whereas in the Rio Treaty of 1947 the parties agreed that 'an armed attack by any State against an American State shall be considered as an attack against all the American States, and, consequently, each one of the said contracting parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by article 51 of the Charter of the United Nations'; and

"Whereas the Foreign Ministers of the Organization of American States at Punta del Este in January 1962 declared: 'The present Government of Cuba has identified itself with the principles of Marxist-Leninist ideology, has established a political, economic, and social system based on that doctrine, and accepts military assistance from extra-continental Communist powers, including even the threat of military intervention in America on the part of the Soviet Union'; and

"Whereas the international Communist movement has increasingly extended into Cuba, its political, economic, and military sphere of influence: Now, therefore, be it

"Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States is determined—

"(a) to prevent by whatever means may be necessary, including the use of arms, the Marxist-Leninist regime in Cuba from extending by force or the threat of force its aggressive or subversive activities to any part of this hemisphere;

"(b) to prevent in Cuba the creation or use of an externally supported military capability endangering the security of the United States; and

"(c) to work with the Organization of American States and with freedom-loving Cubans to support the aspirations of the Cuban people for self-determination."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers on the part of the House and the Managers on the part of the Senate are in agreement that funds appropriated in this Act for the Economic Support Fund may be approved for use for Haiti only in

accordance with the provisions of Section 721 of the International Security and Development Cooperation Act of 1981.

Amendment No. 59: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. The amendment of the Senate is as follows: "Nothing in this Act shall be deemed to change or otherwise affect the standards and procedures provided in the National Security Act of 1947, as amended; the Foreign Assistance Act of 1961, as amended; and the War Powers Resolution of 1973. This Act does not constitute the statutory authorization for introduction of United States Armed Forces contemplated by the War Powers Resolution."

MILITARY ASSISTANCE PROGRAM

Amendment No. 60: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

MILITARY ASSISTANCE PROGRAM

For an additional amount for necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, \$2,000,000, to remain available for obligation until September 30, 1983: Provided, That such amount and \$25,000,000 of funds reprogrammed during the fiscal year 1982 to carry out such section shall be available only to the extent and in the manner provided as follows: \$10,000,000 shall be available only for Honduras; \$5,000,000 shall be available only for Somalia; \$2,000,000 shall be available only for Costa Rica; and, \$10,000,000 shall be available only for Portugal.

The managers on the part of the Senate will move to concur in the amendment of the Senate.

The conferees are concerned over the increasing number of reports that refugee agencies operating in Honduras, including the United Nations High Commissioner for Refugees, are having difficulties because of alleged harassment by Honduran military forces. The conferees expect the Administration to do everything it can to ensure that the operation of refugee receiving centers and the safe flow of refugees are not impaired. It is expected that this concern will be made known to the government of Honduras before making available to Honduras the MAP assistance provided in this bill.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

Amendment No. 61: Appropriates \$3,512,000 for the International Military Education and Training Program as proposed by the Senate.

FOREIGN MILITARY CREDIT SALES

Amendment No. 62: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

FOREIGN MILITARY CREDIT SALES

For an additional amount for necessary expenses to enable the President to carry out the provisions of sections 23 and 24 of the Arms Export Control Act, \$50,000,000, which sum shall be available only for Sudan.

In addition to the total amount of gross obligations for the principal amount of direct loans, exclusive of loan guarantee defaults, which may be made during the fiscal year 1982 pursuant to the heading "Foreign Military Credit Sales" of Public Law 97-121, there may be made \$50,000,000 of such gross obligations during such fiscal year.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

SPECIAL DEFENSE ACQUISITION FUND
(Limitation on obligations)

Amendment No. 63: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SPECIAL DEFENSE ACQUISITION FUND
(Limitation on obligations)

There are authorized to be made available for the Special Defense Acquisition Fund for the fiscal year 1982, \$125,000,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers on the part of the House and the Senate recognize that the SDAF is a new program and can, if properly used, serve as a valuable management tool in regard to foreign military arms sales. The managers expect that the SDAF will be utilized according to the purposes which were originally presented to the Congress; namely that procurement of items for the SDAF would be those of high foreign demand that are in short supply and in U.S. inventory; would consist of relatively unsophisticated military items such as medium tanks, artillery, ammunition, antitank missiles, and basic communications systems; would have no adverse impact on U.S. defense readiness; and would not stimulate unnecessary foreign arms sales.

DEPARTMENT OF STATE

MIGRATION AND REFUGEE ASSISTANCE

Amendment No. 64: Reported in true disagreement.

CHAPTER VII—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

Amendment No. 65: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The Urgent Supplemental Appropriations Act, 1982 (Public Law 97-216) is amended by striking the seventh and eighth provisos under this heading and inserting in lieu thereof the following: *Provided further, That to the extent the amount of budget authority (including budget authority internally transferred by State Housing Finance Development agencies pursuant to 24 C.F.R. Section 883.207) which is recaptured or deobligated during fiscal year 1982 exceeds \$3,250,000,000, the amount of recaptured or deobligated contract authority and budget authority which exceeds such \$3,250,000,000, if any, shall be deferred until October 1, 1982, except that budget authority internally transferred pursuant to 24 C.F.R. Section 883.207 shall not be deferred: Provided further, That the first \$89,321,727 of budget au-*

thority deferred in accordance with the immediately preceding proviso, or such lesser amount as is available on October 1, 1982, shall be made available for the modernization of 5,073 vacant uninhabitable public housing units, pursuant to section 14 of the United States Housing Act of 1937, as amended, other than section 14(f) of such Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees have deleted the language which would have reduced the Department's personnel compensation and benefits. The conferees are concerned that the Department is moving too slowly in implementing the reforms contained in Part 2 of the Housing and Community Development Amendments of 1981. The conferees hereby direct the Secretary of Housing and Urban Development to prepare a report on the current status of the regulations by August 23, 1982. Such report shall contain the target publication and implementation dates for each of these regulations.

INDEPENDENT AGENCIES

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

Amendment No. 66: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", \$150,000: Provided, That the Director of the Selective Service System shall establish at the time of mobilization a Civilian Review Board(s) to review appeals made by alternative service workers to their job assignments or reassignments.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Committee of Conference has included language which would require that the Selective Service System establish, at the time of mobilization, civilian review boards for the purpose of reviewing appeals made by alternative service workers to their job assignments or reassignments. The \$150,000 provided is for program development and training costs of the civilian review boards.

VETERANS ADMINISTRATION

Amendment No. 67: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate transferring \$4,198,000 to the medical and prosthetic research appropriation for agent orange studies.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

The House and Senate reports on the Supplemental Appropriation Bill, 1982, address the item of Grants to the Republic of the Philippines. Both reports specifically state that, "The funds are to assure the continued effective care and treatment of United States veterans at the Veterans Memorial Medical Center at Manila." This language needs to be clarified insofar as the term "U.S. veterans" is concerned. Those veterans eligible for this "continued and effective care and treatment" by this medical facility are those who have served under the command and control of U.S. forces and were engaged in combat operations during World War II for and on behalf of the United States.

CHAPTER VIII—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

Amendment No. 68: Appropriates \$55,000,000 for management of lands and resources as proposed by the Senate instead of \$60,000,000 as proposed by the House for fire suppression costs.

Amendment No. 69: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

LAND ACQUISITION

For an additional amount for "Land acquisition", \$700,000: Provided, That notwithstanding the date cited in section 119(d) of Public Law 96-199, this amount together with \$1,920,000 appropriated under this head in Public Law 97-100 shall be available for acquisition of lands in the Yaquina Head Outstanding Natural Area, Oregon, to remain available until expended.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

It is expected that this sum will permit the Bureau of Land Management to complete acquisition of the Yaquina Head Outstanding Natural Area, Oregon.

UNITED STATES FISH AND WILDLIFE SERVICE

Amendment No. 70: Appropriates \$1,800,000 for resource management as proposed by the Senate instead of \$2,000,000 as proposed by the House. The reduction from the amount provided by the House is \$200,000 for additional training in fire fighting for Fish and Wildlife Service employees.

Amendment No. 71: Appropriates \$4,000,000 for construction and anadromous fish instead of \$8,000,000 as proposed by the House. The reduction from the amount provided by the House is \$4,000,000 for construction of the Gainesville, Florida national fish research facility.

NATIONAL PARK SERVICE

Amendment No. 72: Appropriates \$10,680,000 for construction instead of \$17,680,000 as proposed by the House and \$6,000,000 as proposed by the Senate. The increase above the amount proposed by the Senate includes \$2,000,000 for restoration of fire-damaged portions of the Home of Franklin Delano Roosevelt National Historic Site; \$680,000 for construction of a water system for the Kalaupapa National Historic Site, Hawaii, on Molokai Island; and \$2,000,000 for plans and specifications necessary for reconstruction of the Filene Center at Wolf Trap Farm Park for the Performing Arts. The managers agree on the importance of prompt Federal support for reconstruction, and expect that this strong support will prompt vigorous and generous support from the private sector. The Filene Center funds are provided subject to enactment of authorization which will address issues such as facility location, facility design, and loan payback provisions.

Amendment No. 73: Earmarks \$2,000,000 for construction instead of \$9,000,000 as proposed by the House for the Filene Center at the Wolf Trap Farm Park for the Performing Arts.

Amendment No. 74: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which requires the Part Service to obligate up to \$160,000 to rehabilitate the mounted

police training barn at the Rock Creek Park Horse Center for use by the National Center for Therapeutic Riding by November 1, 1982. The managers direct the Service to reprogram necessary funds to rehabilitate the Edgewater Stables as a replacement mounted police training facility.

Amendment No. 75: Appropriates \$30,000,000 for land acquisition and state assistance as proposed by the House instead of \$29,000,000 as proposed by the Senate.

Amendment No. 76: Earmarks \$13,500,000 for land acquisition for Big Cypress National Preserve, Florida, as proposed by the House instead of \$12,500,000 as proposed by the Senate.

Amendment No. 77: Earmarks \$5,500,000 for land acquisition for Cape Cod National Seashore, Massachusetts, as proposed by the Senate instead of \$6,500,000 as proposed by the House.

Amendment No. 78: Earmarks \$1,000,000 for land acquisition for the Cumberland Island National Seashore, Georgia, as proposed by the Senate.

GEOLOGICAL SURVEY

Amendment No. 79: Deletes the rescission of \$16,200,000 proposed by the House for the Exploration of National Petroleum Reserve in Alaska.

BUREAU OF MINES

Amendment No. 80: Provides \$4,073,000 in new budget authority and \$991,000 by transfer for mines and minerals as proposed by the House instead of \$4,198,000 in new budget authority and \$991,000 by transfer as proposed by the Senate.

The managers agree that within previously appropriated funds the Bureau of Mines is to provide \$100,000 for the initial phase of a project to apply the latest subsidence monitoring instruments in an integrated system for abandoned mines in Eastern Pennsylvania, and \$125,000 for planning and design of a controlled burnout technology demonstration.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

Amendment No. 81: Appropriates \$13,251,000 for abandoned mine reclamation fund as proposed by the House.

Although funds have been provided in this Supplemental for the Rural Abandoned Mine Program to take advantage of the design work that is already complete, the managers agree that no further such projects will be funded in the manner described in section 406 of Public Law 95-87, the Surface Mining Reclamation and Control Act. Future projects of this type, including those currently in the planning stage, will be funded through the reclamation grants made available to the individual States. In this regard, the States are encouraged to utilize the expertise of the Soil Conservation Service and State and local conservation districts in planning reclamation projects.

BUREAU OF INDIAN AFFAIRS

Amendment No. 82: Appropriates \$18,100,000 for operation of Indian programs instead of \$7,000,000 as proposed by the House and \$22,900,000 as proposed by the Senate.

Up to \$5,450,000 of the funds identified for implementation of the proposed reorganization plan of the Bureau of Indian Affairs shall be reprogrammed to the social services program to meet the fiscal year 1982 requirements for general assistance and child welfare payments.

Amendment No. 83: Reported in technical disagreement. The managers on the part of

the House will offer a motion to recede and concur in the amendment of the Senate which provides \$11,100,000 for transfer to the State of Alaska.

The managers expect the State of Alaska to take action at the earliest possible date to provide the balance of the required funding for upgrading, operations and maintenance of the seventeen day schools which will be transferred to the State as of the 1982-83 school year.

Amendment No. 84: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *Provided further, That the Act of December 23, 1981 (95 Stat. 1391, 1400) is amended under the heading "Indian Affairs" in the paragraph headed "Tribal Trust Funds" by deleting the last sentence of said paragraph and inserting the following in lieu thereof:*

"No funds shall be deposited in such Indian money, proceeds of labor (IMPL) accounts after September 30, 1982. The unobligated balance in IMPL accounts as of the close of business on September 30, 1982, including the income resulting from the investment of funds from such accounts prior to such date, shall be transferred to and held in escrow accounts at the locations of the IMPL accounts from which they are transferred. Funds in such escrow accounts may be invested as provided in section 1 of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a) and the investment income added to such accounts. The Secretary shall determine no later than September 30, 1985 (after consultation with appropriate tribes and individual Indians) the extent to which the funds held in such escrow accounts represent income from the investment of special deposits relating to specific tribes or individual Indians. Upon such a determination by the Secretary and express acceptance of the determination by the beneficiary, the Secretary shall transfer such funds to trust accounts for such tribes or individual Indians. Not more than 10 percent of the funds transferred to trust accounts for any tribe or individual Indian under this provision may be utilized to pay for legal or other representation relating to claims for such funds. Not to exceed two percent of the funds transferred from the IMPL accounts shall be available to reimburse the Bureau of Indian Affairs for administrative expenses incurred in determining ownership of the funds. Acceptance of a determination by the Secretary and the transfer of funds under this provision shall constitute a complete release and waiver of any and all claims by the beneficiary against the United States relating to the unobligated balance of IMPL accounts as of the close of business on September 30, 1982. During the period of October 1, 1985, through September 30, 1987, or earlier if a Secretarial determination on ownership and appropriate fund transfers has been completed, the funds remaining in such escrow accounts because they have not been transferred to trust accounts, may be expended subject to the approval of the Secretary for any purpose authorized under the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13) and requested by the respective governing bodies of the tribes at the locations where such accounts are maintained. The unobligated balances of such escrow accounts as of the close of business on September 30, 1987, shall be deposited into miscellaneous receipts of the Treasury."

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

OFFICE OF TERRITORIAL AFFAIRS

Amendment No. 85: Appropriates \$24,957,000 for Trust Territory of the Pacific Islands instead of \$21,400,000 as proposed by the House and \$26,457,500 as proposed by the Senate.

Amendment No. 86: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following: *to remain available until expended, of which \$1,000,000 shall be available for immediate payment to the people of Bikini under the terms and conditions as set forth in a trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: Provided, That \$19,600,000 shall be available for the relocation and resettlement of the Bikini people in the Marshall Islands, principally on Kili and Ejit Islands: Provided further, That such sum shall be paid to a trustee selected by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior to be held in trust pursuant to the provisions of the aforementioned trust agreement or amendment thereto approved by the Bikini/Kili Council subject only to the disapproval of the Secretary of the Interior: Provided further, That such fund and the earnings and distribution therefrom shall not be subject to any form of Federal, State, or local taxation: Provided further, That \$2,000,000 of such fund shall remain available for future ex gratia distribution to the people of Bikini Atoll pursuant to the provisions of the trust agreement: Provided further, That the Governments of the United States and Trust Territory of the Pacific Islands shall not be liable in any cause of action in law or equity from the administration and distribution of the trust funds: Provided further, That of the remaining funds, \$2,500,000 shall be transferred to the "Administration of territories" account for technical assistance activities, to remain available until expended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that within the funds made available in this Supplemental, \$517,000 shall be made available for purchase of construction equipment for Ponape, Federated States of Micronesia, and \$2,500,000 shall be transferred to the administration of territories account for technical assistance activities. The managers direct the Office of Territorial and International Affairs to concentrate such technical assistance in the areas of financial management, communications, and maintenance training.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Amendment No. 87: Appropriates \$64,900,000 for national forest system as proposed by the Senate instead of \$69,400,000 as proposed by the House. The reduction from the amount provided by the House is \$4,500,000 for timber stand improvement.

Amendment No. 88: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate

which provides \$3,000,000 for a partial payment in partial settlement of land claims of the Chugach Natives, Incorporated.

Amendment No. 89: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides that the uniform allowance for each uniformed employee of the Forest Service shall not exceed \$400 annually.

DEPARTMENT OF ENERGY

Amendment No. 90: Appropriates \$1,080,000 for fossil energy research and development instead of \$2,580,000 as proposed by the House and deleted by the Senate.

The agreement provides \$1,080,000 for additional funds for the Waltz Mill, Pennsylvania, fluid gasification research facility as proposed by the House. The Department of Energy is directed to propose a reprogramming to initiate planning and engineering design to convert the Homer City, Pennsylvania, facility into a test center capable of accommodating a variety of tests on different coal gasification processes.

The managers agree that the coal mining research and development activity is to be transferred from the Department of Energy to the Department of the Interior. The coal preparation program is to remain in the Department of Energy.

The managers further agree to language to conform action taken in Public Law 97-100 to consolidate leasing functions in the Department of the Interior.

Language proposed by the House to prohibit the Department of Energy from proceeding with a reduction in force in Fossil Energy headquarters is stricken.

Amendment No. 91: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment insert the following:

FOSSIL ENERGY CONSTRUCTION (Deferral)

Of the funds made available for obligation under this heading in the Department of the Interior and Related Agencies Appropriation Act, 1982 (Public Law 97-100) for the continued design of the Solvent Refined Coal-I (SRC-I) demonstration facility (Project No. 78-2-d), \$64,000,000 is hereby deferred until the enactment of the Department of the Interior and Related Agencies Appropriation Act, 1983. Of the remaining funds, \$28,100,000 shall be used to undertake SRC-I post-baseline activities of the type specified in ICRC-DOE letter numbered 1629 entitled Technical Scope of Work for the Post-Baseline Period; \$22,000,000 shall be used for the termination costs of SRC-I; and \$5,000,000 shall be used for administrative expenses incurred by the Department of Energy in carrying out the aforementioned activities.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers agree that of the \$28,100,000 made available for undertaking the various SRC-I Post-Baseline activities, \$4,500,000 shall be used for toxicological studies and no funds shall be made available for identified market development activities.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH SERVICES ADMINISTRATION

Amendment No. 92: Appropriates \$11,200,000 for Indian health facilities instead of \$17,000,000 as proposed by the

House and \$4,400,000 as proposed by the Senate.

The increase above the amount provided by the Senate will allow for construction of sanitation facilities needed for housing units constructed with HUD funds which will be completed in this fiscal year.

The managers agree that no funding for sanitation facilities associated with HUD unit will be provided to the Indian Health Service in fiscal year 1983. HUD and the Indian Health Service are, therefore, directed to continue implementation of the Memorandum of Understanding in order to provide the necessary sewer and water facilities for HUD Indian housing units.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

INSTITUTE OF MUSEUM SERVICES

Amendment No. 93: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which provides \$720,000 for the Institute of Museum Services to remain available for expenditure until September 30, 1983.

The managers agree that not to exceed \$75,000 may be used for moving expenses and increased administrative costs related to the move.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

The managers agree that \$8,000,000 previously appropriated for relocation, historic preservation and demolition shall be reprogrammed to purchase real estate which will be converted to public park use.

Amendment No. 94: Restores House language which prohibits the use of funds for any activity related to mineral or geothermal leasing on certain designated Federal lands in the municipal watersheds of the cities of Seattle and Tacoma, Washington.

CHAPTER IX—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

EMPLOYMENT AND TRAINING ASSISTANCE

Amendment No. 95: Appropriates \$4,000,000 for construction of facilities at the Joliet, Illinois Job Corps Center, instead of \$8,500,000 as proposed by the House.

(Rescission)

Amendment No. 96: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which rescinds \$48,186,000 of unobligated balances. The House did not consider this rescission.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Amendment No. 97: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows: *Provided, That not more than \$46,325,840 shall be for grants to States under paragraphs (3) of section 506(a) of the Older Americans Act of 1965, as amended.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Amendment No. 98: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment with an amendment as follows:

GRANTS TO STATES FOR UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICES

For an additional amount for "Grants to States for Unemployment Insurance and Employment Services", \$20,000,000, to remain available until September 30, 1983, to be used only for necessary administrative expenses for carrying out a Federal supplemental benefits program, subject to enactment of authorizing legislation.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

Funds appropriated under this head shall be available for non-repayable advances for a Federal supplemental benefits program, subject to enactment of authorizing legislation.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees agree with the intent of the Senate amendment to make funding available for a Federal supplemental benefits program automatically upon enactment of authorizing legislation. The bill language agreed to by the Conferees clarifies that available uncommitted balances in the Advances account be utilized for such benefit payments.

The Conferees are agreed that if additional appropriations are necessary, they will be made available in a subsequent appropriations bill.

LABOR-MANAGEMENT SERVICES ADMINISTRATION SALARIES AND EXPENSES (Transfer of funds)

Amendment No. 99: Transfers \$400,000 to this account as proposed by the Senate instead of \$1,157,000 as proposed by the House.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Amendment No. 100: Reported in technical disagreement. The managers on the part of the House will move to recede and concur in the Senate amendment which permits the Secretary of Labor to grant final approval to those State plans under section 18 of the Act that have staffing levels that are at least equivalent to Federal staffing levels.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

Amendment No. 101: Appropriates \$11,500,000 as proposed by the Senate, instead of \$11,000,000 as proposed by the House.

HEALTH RESOURCES ADMINISTRATION HEALTH RESOURCES

Amendment No. 102: Restores appropriations of \$7,000,000 for a grant for construction of a health teaching facility under section 720 (a)(1) of the Public Health Service Act, as proposed by the House.

Amendment No. 103: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment, which provides that funds shall not be withheld from health systems agencies which meet certain staffing criteria.

HEALTH CARE FINANCING ADMINISTRATION GRANTS TO STATES FOR MEDICAID

Amendment No. 104: Appropriates \$112,000,000 as proposed by the Senate instead of \$142,000,000 as proposed by the House.

DEPARTMENT OF EDUCATION
COMPENSATORY EDUCATION FOR THE
DISADVANTAGED

Amendment No. 105: Changes reference to "each county" as proposed by the Senate, instead of "State and local educational agencies" as proposed by the House.

Amendment No. 106: Changes reference to "county" as proposed by the Senate, instead of "local educational agency" as proposed by the House.

Amendment No. 107: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which provides that in the case of Puerto Rico, poverty data gathered by the Bureau of the Census in the 1975 survey of income and education shall be used if 1980 census data are not available.

The Conferees are agreed that the \$148,000,000 in supplemental funds made available for fiscal year 1982 will be allocated only to those counties which stand to gain or lose depending on whether 1970 or 1980 Census data are used. The intent is to ensure that if 1970 Census data are used in the distribution of the regular Title I appropriations for the 1982-1983 school year, supplemental funds would be allocated only to those counties which would realize a gain if 1980 Census data were used as the basis for allocating funds. Conversely, if 1980 Census data are the basis for making Title I allocations under the regular appropriation, funds under the supplemental appropriation would be allocated only to those counties which would have a lower allocation as a result of not using 1970 Census data.

In addition the Conferees further note that in cases where Title I funds are allocated to counties on the basis of 1980 Census data, the Department shall use the criteria of poverty established under the 1980 Census for determining each county's allocation.

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED
AREAS

Amendment No. 108: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment which appropriates \$200,000 under section 7 of Public Law 81-874 for the Waubay School District in South Dakota. The House bill proposed no funding for this purpose.

VOCATIONAL AND ADULT EDUCATION

Amendment No. 109: Appropriates \$2,520,000 as proposed by the House. The Senate bill proposed to delete this appropriation.

STUDENT FINANCIAL ASSISTANCE

Amendment No. 110: Appropriates \$217,000,000 as proposed by the Senate, instead of \$169,000,000 as proposed by the House.

Amendment No. 111: Earmarks \$77,000,000 for Title IV, part A, subpart 2 (supplemental educational opportunity grants) of the Higher Education Act as proposed by the Senate, instead of \$2,000,000 as proposed by the House.

HIGHER AND CONTINUING EDUCATION

Amendment No. 112: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate, amended to read as follows:

For an additional amount to carry out title III of the Higher Education Act, notwithstanding section 516(c)(1) of the Omnibus Reconciliation Act of 1981, \$10,000,000

which shall remain available for obligation by the Secretary of Education through September 30, 1983, of which \$5,000,000 shall enable the Secretary (1) to award grants under title III of the Higher Education Act notwithstanding section 347 of that Act and (2) to pay expenditures of the Secretary in connection with the awarding of such grants: Provided, That the Secretary may award these funds to an eligible institution only if the institution is not eligible to receive title III funds under section 347(e) of the Act in fiscal year 1982 and its enrollment of Hispanic and Native American students, as reported on the latest available Education Department Higher Education General Information Survey (HEGIS), is at least 45 per centum: Provided further, That the remaining \$5,000,000 shall enable the Secretary to award grants under parts A and B of title III of the Act to eligible institutions which has an application approved, but did not receive a grant in fiscal year 1982: Provided further, That any funds that were appropriated for part B of title III of the Higher Education Act for fiscal year 1982 and were reserved in accordance with section 347 (e) of the Act but not awarded in fiscal year 1982 to institutions with special needs that historically serve substantial numbers of black students, shall remain available for obligation by the Secretary of Education through September 30, 1983 to enable the Secretary (1) to award such funds to those institutions with special needs that historically serve black students that were not selected for funding by the Secretary under title III of the Act in fiscal year 1982, and (2) to provide technical assistance to such institutions to assist them in applying for such funds, notwithstanding section 321 (b) of the Act: Provided further, That of the amounts that shall remain available for obligation under part B of title III of the Higher Education Act, \$300,000 shall be for two institutions of higher learning in Vermont under part A of title III of that Act.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

COLLEGE HOUSING LOANS

Amendment No. 113: Directs that the college housing loan program shall operate under the terms and conditions contained in H.R. 4560 as passed by the House of Representatives on October 6, 1981 except that the gross commitments for the principal amount of direct loans shall be \$40,000,000, instead of \$75,000,000 as proposed by the House. The Senate proposed to strike the directive in the House bill.

The Conferees are aware that between \$300,000,000 and \$400,000,000 will be required to redeem participation sales certificates maturing in 1987 and 1988. Redemption of the principal of these certificates is left to the Department's discretion; however the Government National Mortgage Association requires that all principal must be paid at the time the certificates mature. In order to deal with this problem in appropriation bills for 1983 and beyond, the conferees direct the Secretary of Education to develop and submit a clear-cut, long-term plan to the House and Senate Committees on Appropriations. The plan should be submitted by September 15, 1982 and should also include a schedule for the repayment of the certificates showing how much of the certificates can be redeemed each year under current assumptions of receipts and expenses, as well as the sources of receipts and expenses.

CHAPTER X—LEGISLATIVE BRANCH

SENATE

Amendment No. 114: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

Amendment No. 115: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur with the Senate amendment which appropriates \$160,000 for the expenses of the Commission on Executive, Legislative, and Judicial Salaries.

HOUSE OF REPRESENTATIVES

ALLOWANCES AND EXPENSES

Amendment No. 116: Appropriates \$5,987,000 for allowances and expenses, contingent fund of the House, as proposed by the House.

CHAPTER XII—DEPARTMENT OF
TRANSPORTATION

COAST GUARD

ACQUISITION, CONSTRUCTION, AND
IMPROVEMENTS

Amendment No. 117: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following:

ACQUISITION, CONSTRUCTION, AND
IMPROVEMENTS

Of the unobligated balances available under this heading, not to exceed \$16,000,000 shall be reprogrammed upon the approval of the House and Senate Committees on Appropriations for the acquisition of an aircraft to replace a C-130 aircraft which had been based at Kodiak, Alaska.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees expect the Coast Guard to promptly submit a reprogramming request regarding the acquisition of a replacement aircraft for the C-130 that was recently destroyed. For the interim, the Coast Guard shall make every reasonable effort to deploy an existing aircraft to Kodiak, Alaska.

ALTERATION OF BRIDGES

Amendment No. 118: Appropriates \$3,000,000 as proposed by the House.

FEDERAL AVIATION ADMINISTRATION
OPERATIONS

Amendment No. 119: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter stricken and inserted by said amendment, insert the following: \$93,200,000, of which \$57,500,000 shall remain available until September 30, 1983.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 120: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes the funds appropriated for international security charges available until expended.

Amendment No. 121: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which makes the funds transferred from the appropriation "Construction, Metropolitan Washington airports" available until expended.

FEDERAL HIGHWAY ADMINISTRATION

INTERSTATE TRANSFER GRANTS—HIGHWAYS

Amendment No. 122: Appropriates \$112,500,000 instead of \$197,000,000 as proposed by the House. The conference agreement includes the following amounts:

Albany	\$8,000,000
New York	1,000,000
Iowa	1,000,000
Twin Cities, Minn.	1,400,000
Omaha	4,000,000
New Jersey	7,500,000
Washington, D.C.	5,000,000
Philadelphia	5,000,000
Hartford-New Britain	10,000,000
Minneapolis	2,200,000
Northeast Illinois	20,000,000
Tucson	3,000,000
Denver	5,000,000
Oregon	10,000,000
Baltimore	1,500,000
Duluth	2,400,000
Indianapolis	8,000,000
Cleveland	12,500,000
Memphis	5,000,000

Total 112,500,000

The conferees recognize that this level of funding is far below what is necessary to fulfill the obligation that the Federal Government has to fund Interstate transfer grant projects. The conferees note that many meritorious Interstate transfer projects have been brought to the attention of the Appropriations Committees and these projects will be given full consideration in the fiscal year 1983 bill. The conferees continue to acknowledge the special consideration which should be given to cities which had original contract authority under this program.

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Amendment No. 123: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates \$6,875,000.

FEDERAL RAILROAD ADMINISTRATION

RAIL SERVICE ASSISTANCE

Amendment No. 124: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which has the effect of making Rail service assistance funds available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

Amendment No. 125: Deletes transfer of \$8,400,000 proposed by the House.

The conferees direct Amtrak and the Department of Transportation to jointly evaluate the merits of extending the Hoosier State route from its present route between Chicago and Indianapolis to a new route between Chicago and Cincinnati via Indianapolis and Shelbyville, Indiana. This study shall determine if operation of two trains per day over this expanded route will produce a short term avoidable loss of less than 9 cents per passenger mile (as adjusted to reflect constant 1979 dollars); ridership of more than 80 passenger miles per train mile; and a revenue to operating cost

ratio of at least 50 percent. Results of this evaluation are to be reported to the Appropriations Committees no later than October 15, 1982.

Amtrak is also directed to immediately set aside \$33,400,000 from its fiscal year 1982 operating and capital appropriation for possible use in the Indianapolis to Cincinnati corridor. Should the joint Amtrak-DOT study conclude that the extended Hoosier State route will meet all of the above mentioned criteria, Amtrak is directed to immediately proceed to submit to Congress an amendment to the statutory Route and Service Criteria pursuant to 45 U.S.C. 563(c)(3)(B) which waives Amtrak's procedures for making route and service decisions. Upon the effective date of this amendment, Amtrak shall immediately proceed to purchase this line from Conrail for the agreed upon price of \$8,400,000, and to upgrade the Indianapolis to Cincinnati line to Class 5 track standards. The conferees expect this track rehabilitation work to be accomplished over two work seasons.

The conferees also strongly encourage Amtrak to secure assistance from the State of Indiana, local governments and the private sector to share the cost of improving rail passenger service in the Chicago to Cincinnati corridor. Such assistance could include grade crossing safety improvements, marketing of Amtrak services, station improvements, assistance for local rail freight service, or other capital rehabilitation improvements.

The conferees expect the Department of Transportation to take all necessary actions to ensure that the October 15, 1982, deadline is met.

Amendment No. 126: Reported in technical disagreement. Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which converts the existing deferral to a permanent exemption from State and local taxes.

REDEEMABLE PREFERENCE SHARES

Amendment No. 127: Deletes heading "Including Transfer of Funds" as proposed by the Senate.

Amendment No. 128: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates \$20,000,000 and has the effect of making redeemable preference share funds available until expended. The House proposed appropriating \$25,000,000 for fiscal year 1982, of which \$5,000,000 was to be derived by transfer.

COMMUTER RAIL SERVICE

Amendment No. 129: Inserts "Including" in the heading as proposed by the House.

Amendment No. 130: Appropriates \$5,000,000 to carry out the commuter rail activities authorized by section 601(d) of the Rail Passenger Service Act and \$5,000,000 to carry out section 1139(b) of Public Law 97-35 as proposed by the House and deletes restrictive language proposed by the House.

URBAN MASS TRANSPORTATION ADMINISTRATION

URBAN DISCRETIONARY GRANTS

Amendment No. 131: Appropriates \$15,000,000 instead of \$29,500,000 as proposed by the House. The conference agreement includes \$15,000,000 for the Wilshire Corridor project in Los Angeles.

The conferees will not accept any further delay in releasing preliminary engineering funds for the Santa Clara County Guadalupe Corridor project. The conferees direct

UMTA to release these funds immediately and expect notification to that effect by September 1, 1982.

Amendment No. 132: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: In lieu of the matter inserted by said amendment, insert the following: *From funds previously appropriated for the Urban Mass Transportation Administration, Urban discretionary grants advances shall be made immediately, upon the approval of the House and Senate Committees on Appropriations, toward extraordinary costs permitted under full funding contracts as necessary to insure project continuity.*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree to language permitting advances toward extraordinary cost payments, following approval by the House and Senate Committees on Appropriations, and direct that this authority be used to make the payments to Buffalo, New York, Dade County, Florida and other locations as mutually agreed to by the Urban Mass Transportation Administration and the appropriate transit authorities.

INTERSTATE TRANSFER GRANTS—TRANSIT

Amendment No. 133: Appropriates \$22,000,000 as proposed by the House. The conference agreement includes the following amounts:

Chicago	\$5,000,000
Boston	10,000,000
Sacramento	5,500,000
Duluth	500,000
Portland	1,000,000

Total 22,000,000

RELATED AGENCIES

Amendment No. 134: Conforms heading.

NATIONAL TRANSPORTATION SAFETY BOARD

EMERGENCY FUND

Amendment No. 135: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates \$1,000,000.

DEPARTMENT OF THE TREASURY

OFFICE OF THE SECRETARY

INVESTMENT IN FUND ANTICIPATION NOTES

Amendment No. 136: Deletes heading "Including Transfer of Funds" as proposed by the Senate.

Amendment No. 137: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which appropriates \$20,000,000 and has the effect of making redeemable preference share funds available until expended. The House proposed appropriating \$25,000,000 for fiscal year 1982, of which \$5,000,000 was to be derived by transfer.

CHAPTER XIII—DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

Amendment No. 138: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following: *Provided, That none of the funds appropriated by this act shall be used to impose or assess any tax*

due on custom-made firearms under subchapter D of chapter 32 of the Internal Revenue Code of 1954, as amended, sections 4161 and 4181, in all cases where less than fifty items are manufactured or produced per annum.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

This amendment prohibits the appropriation of funds to collect certain taxes due on custom-made firearms.

Amendment No. 139: Appropriates \$72,354,000 for taxpayer service and returns processing as proposed by the Senate instead of \$77,232,000 as proposed by the House.

Amendment No. 140: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment provides \$340,000 for the tax counseling for the elderly program to retroactively reimburse volunteer tax counselors.

Amendment No. 141: Appropriates \$15,563,000 for examinations and appeals as proposed by the House instead of \$14,563,000 as proposed by the Senate.

Amendment No. 142: Appropriates \$19,121,000 for investigations and collections as proposed by the House instead of \$16,604,000 as proposed by the Senate.

ADMINISTRATIVE PROVISION

Amendment No. 143: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment prohibits the expenditure of funds for redecorating and remodeling the offices of the Commissioner and Chief Counsel of the Internal Revenue Service.

UNITED STATES SECRET SERVICE

Amendment No. 144: Appropriates \$8,998,000 for salaries and expenses instead of \$7,080,000 as proposed by the House and \$11,272,000 as proposed by the Senate. These funds would provide for essential protective travel, overtime, and related basic functions of the Secret Service for the remainder of fiscal year 1982.

Amendment No. 145: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment provides that \$1,518,000 for expansion of the Beltsville, Maryland, training facility, shall remain available until expended.

ADMINISTRATIVE PROVISION

Amendment No. 146: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate. This amendment would restrict the authority of the Treasury Department Inspector General to non-law enforcement activities until such time as this matter is resolved by basic legislation.

UNITED STATES POSTAL SERVICE

Amendment No. 147: Appropriates \$39,000,000 for payment to the Postal Service Fund as proposed by the Senate instead of \$20,000,000 as proposed by the House and deletes language proposed by the Senate. This amendment appropriates \$39,000,000 for revenue foregone to subsidize certain preferred rate mailers.

Amendment No. 148: Rescinds \$208,660,000 from the appropriation ac-

count, "Payment to the Postal Service Fund" as proposed by the House instead of \$189,660,000 as proposed by the Senate.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

NATIONAL ARCHIVES AND RECORDS SERVICE

Amendment No. 149: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate amended to read as follows:

In lieu of the matter inserted by said amendment, insert the following:

NATIONAL ARCHIVES AND RECORDS SERVICE OPERATING EXPENSES

For an additional amount for "Operating expenses", \$4,100,000, to remain available until expended, of which \$1,500,000 shall be for allocations and grants for historical publications and records, and \$600,000 shall be for the preservation of House and Senate historical records.

The managers on the part of the Senate will offer a motion to concur in the amendment of the House to the amendment of the Senate.

This amendment appropriates \$4,100,000 for operating expenses, of which \$1,500,000 is for allocations and grants for historical publications and \$300,000 each for the preservation of House and Senate historical records.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

Amendment No. 150: Reported in disagreement.

TITLE II

INCREASED PAY COSTS

LEGISLATIVE BRANCH

SENATE

Amendment No. 151: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

HOUSE OF REPRESENTATIVES

Amendment No. 132: Appropriates \$10,484,000 for increased pay costs, as proposed by the House.

SENATE OFFICE BUILDINGS

Amendment No. 153: Reported in technical disagreement. Inasmuch as the amendment relates solely to the Senate and in accord with long practice, under which each body determines its own housekeeping requirements and the other concurs without intervention, the managers on the part of the House will offer a motion to recede and concur in the Senate amendment.

HOUSE OFFICE BUILDINGS

Amendment No. 154: Appropriates \$200,000 as proposed by the House.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

Amendment No. 155: Appropriates \$18,813,000 for the national forest system as proposed by the House instead of \$16,813,000 as proposed by the Senate.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

Amendment No. 156: Appropriates \$21,294,000 as proposed by the Senate instead of \$20,000,000 as proposed by the House.

DEPARTMENT OF DEFENSE— MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, AIR FORCE

Amendment No. 157: Appropriates \$1,198,858,000 as proposed by the Senate instead of \$1,202,558,000 as proposed by the House.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

Amendment No. 158: Appropriates \$180,000,000 instead of \$234,500,000 as proposed by the House and \$125,500,000 as proposed by the Senate.

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 159: Appropriates \$86,774,000 instead of \$67,300,000 as proposed by the House and \$126,400,000 as proposed by the Senate.

Amendment No. 160: Provides \$75,526,000 in transfers instead of \$95,200,000 as proposed by the House and \$36,100,000 as proposed by the Senate.

Amendment No. 161: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: Restore the matter stricken by said amendment, amended to read as follows: , \$10,000,000 shall be derived by transfer from "Missile procurement, Air Force, 1982/1984", \$12,000,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1982/1984", and \$17,626,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1982/1983"

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

A summary of the transfers approved by the conferees is as follows:

[In thousands of dollars]

Source of transfer	Program	Amount
Missile procurement, Air Force—1982/1984	Maverick	10,000
Aircraft procurement, Air Force—1982/1984	E-3A	12,000
Research, Development, Test, and Evaluation, Navy 1982/1983	Seafire	17,100
Do	Dual mini sins	526

With regard to Seafire, the conferees agree to transfer of funds from Research, Development, Test, and Evaluation, Navy, 1982/1983. The conferees understand that the Navy is now restructuring the Seafire program and is in the process of developing a new Request for Proposal for a semi-active laser guided projectile. These actions are being taken pursuant to direction received from the authorizing committees to continue the development of these programs for placement on DDG-51 class ships.

The conferees agree that transfer of funds from Missile Procurement, Air Force, 1982/1984, shall be from the Maverick program in lieu of the Rapier program, as requested by the Department.

The conferees agree that transfer of funds shall be from the E-3A program in Aircraft Procurement, Air Force, 1982/1984, in lieu of the ABRES program in Research, Development, Test, and Evaluation, Air Force, 1982/1983, as requested by the Department.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
HEALTH SERVICES ADMINISTRATION

Amendment No. 162: Appropriates \$18,160,000 for Indian health services as proposed by the House instead of \$16,250,000 as proposed by the Senate.

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICES
Amendment No. 163: Appropriates \$4,572,000 for resource management as proposed by the House instead of \$3,400,000 as proposed by the Senate.

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

Amendment No. 164: Restores language proposed by the House temporarily suspending the Federal Highway Administration's rule regarding design standards for resurfacing, restoration and rehabilitation of streets and highways other than freeways.

COAST GUARD

Amendment No. 165: Appropriates \$78,100,000 for Operating expenses as proposed by the Senate instead of \$92,100,000 as proposed by the House.

NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

Amendment No. 166: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing that \$50,000,000 of the \$80,000,000 appropriated for research and program management shall remain available until September 30, 1983.

VETERANS ADMINISTRATION

Amendment No. 167: Deletes language proposed by the House appropriating \$1,078,000 for medical administration and miscellaneous operating expenses.

OTHER INDEPENDENT AGENCIES

ADVISORY COUNCIL ON HISTORIC
PRESERVATION

Amendment No. 168: Deletes funds for salaries and expenses proposed by the House for pay costs.

CIVIL AERONAUTICS BOARD

Amendment No. 169: Appropriates \$375,000 for Salaries and expenses instead of \$700,000 as proposed by the House. The conferees are pleased that they have been able to effect a substantial savings relative to the Board's request. In addition, the Board should realize that it must more aggressively cut expenses and prepare for the early transfer of its remaining functions to other agencies, since "sunset" legislation is expected to be promptly forthcoming.

FEDERAL COMMUNICATIONS COMMISSION

Amendment No. 170: Appropriates \$3,000,000 as proposed by the Senate instead of \$3,124,000 as proposed by the House.

FEDERAL EMERGENCY MANAGEMENT AGENCY

Amendment No. 171: Restores language proposed by the House and stricken by the Senate indicating that the funds are to be derived by transfer from the State and local assistance appropriation.

Amendment No. 172: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows: and an additional \$500,000 to be derived by transfer from "Emergency planning and assistance", for a total available by transfer of \$2,584,000.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conferees agree that none of the transferred funds are to be derived from the flood plain management or fire prevention and control programs.

INTERNATIONAL COMMUNICATION AGENCY
SALARIES AND EXPENSES

Amendment No. 173: Appropriates \$7,115,000 in new budget (obligational) authority instead of making this amount available by transfer from "Acquisition and Construction of Radio Facilities" as proposed by the Senate.

NATIONAL FOUNDATION ON THE ARTS AND THE
HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS
Amendment No. 174: Appropriates \$170,000 for salaries and expenses as proposed by the Senator instead of \$250,000 as proposed by the House.

SMITHSONIAN INSTITUTION

Amendment No. 175: Deletes funds for the National Gallery of Art proposed by the House for pay costs.

TITLE III—GENERAL PROVISIONS

Amendment No. 176: Deletes House language which limits outside income of Members of Congress. Members of the House will remain subject to the existing House rule on this matter.

Amendment No. 177: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert the following:

Sec. 303. Notwithstanding any other provision of law, funds provided to the Department of Energy by this Act or any other Act for any fiscal year shall be used to maintain not less than the number of full-time permanent Federal employees specified herein for each of the following offices, agencies, or categories of activity: (1) The Office of the Assistant Secretary for Conservation and Renewables, 352 employees, of which not less than 154 employees shall be assigned to conservation research and development activities, and not less than 180 employees shall be assigned to State and local conservation activities; (2) The Office of the Assistant Secretary for Fossil Energy, 754 employees, of which not less than 150 employees shall be assigned to activities of the headquarters organization, not less than 280 employees shall be assigned to the Pittsburgh Energy Technology Center, and not less than 250 employees shall be assigned to the Morgantown Energy Technology Center; (3) The Economic Regulatory Administration, 450 employees, of which not less than 40 employees shall be assigned to the Office of Fuels Conversion; and (4) The Energy Information Administration, 490 employees: Provided, That, notwithstanding any other provision of law, in any case in which the President proposes to rescind, reserve, or defer funds which are available to maintain the Federal personnel levels required by this section, the President shall continue to obligate such funds in order to maintain such levels until a period of 45 days of continuous session of Congress has expired after the President has transmitted to the Congress a special message with respect to such rescission, reservation, or deferral under section 1012 or 1013 of the Impoundment Control Act of 1974, as the case may be: Provided further, That if, within such 45-day period, the Con-

gress passes a rescission bill with respect to any such rescission or reservation or fails to pass an impoundment resolution with respect to any such reservation, the President may withhold from obligation the funds for which such special message was transmitted with respect to such rescission, reservation, or deferral; Provided further, That nothing in the foregoing provisions shall permit the transfer of funding or full-time permanent positions provided for programs and activities funded in Energy and Water Development Appropriation Acts to programs or activities funded in Interior and Related Agencies Appropriation Acts or vice versa.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The managers reluctantly have included language in section 303 of the bill which requires the Department to maintain employment at no less than the levels specified for certain programs. The managers are concerned that recent and proposed personnel reductions in the Department of Energy may contribute to ineffective execution of certain departmental programs funded in appropriations acts for the Department of Interior and Related Agencies. A July 19, 1982 report by the General Accounting Office confirms these misgivings. Actions by the Department ignoring previous report guidance, a letter from the Chairman and Ranking Minority Members of the House and Senate Department of the Interior and Related Agencies Appropriations subcommittees, and the intent of the House as expressed in passage of H.R. 6863 on July 29, 1982, have left the managers no alternative to recommending the language which appears in section 303.

Should the Department determine that a lower than specified level of employment would be appropriate for a particular program, a special message in accordance with the provisions of the Impoundment Control Act of 1974 shall be transmitted to the Congress, supplemented by a detailed analysis in support of the recommended level. The language also prohibits the withholding of funds necessary to maintain the specified employment levels unless Congress has approved a special message or, in the event of a deferral proposal, a period of forty-five continuous days of legislative session has elapsed.

Within the 450 employees allocated to the Economic Regulatory Administration, the Managers concur that no less than 160 shall be auditors.

With respect to the Fossil Energy Program, the Department of Energy has indicated to the Office of Management and Budget the need for an allocation of 93 additional full-time equivalent positions on a temporary basis for the operation of the energy technology centers in Bartlesville, Oklahoma; Grand Forks, North Dakota; and Laramie, Wyoming. This allocation would permit the continued Federal operation of the Grand Forks and Laramie Centers until January 1, 1983, and the Bartlesville Center until May 1, 1983. The managers understand that the Department of Energy assumes that the operation of these centers may be transferred to non-Federal entities before the dates cited. Because a specific allocation of Federal positions in law could interfere with the orderly transfer of these facilities to private operators, no such allocation is included in the language contained in section 303.

The managers reserve judgement on the merits of any conversion of these three cen-

ters to a government-owned-contractor-operated arrangement. The Department is directed to maintain the present Federal employment levels at the Bartlesville, Grand Forks, and Laramie technology centers until a transition plan detailing cost saving and contractual obligations is presented to the House and Senate Committees on Appropriations for review. This approach will permit a smooth and efficient transfer of the functions of the centers at some future date.

For programs and activities funded in Energy and Water Development Appropriation Acts, the managers expect the Department to honor its commitments to make no major personnel adjustments from May 26, 1982, staffing levels pending completion of Congressional action to resolve appropriate funding and staffing levels in the regular fiscal year 1983 appropriation bill.

Amendment No. 178: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate relating to funds earmarked for use for flood control and related measures on the Cowlitz and Toutle Rivers in the Urgent Supplemental Appropriations Act of 1982.

Amendment No. 179: Deletes language proposed by the Senate prohibiting the Department of Transportation from using funds contained in this Act to obtain judicial review with respect to Federal Motor Vehicle Safety Standard No. 208.

Amendment No. 180: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment changing the section number. The amendment expresses the sense of Congress that the proposed regulations of the Department of Education implementing part B of the Education of the Handicapped Act should not become effective until after the 97th Congress reconvenes for a special session or the 98th Congress has convened, whichever first occurs.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 181: Deletes language proposed by the Senate regarding testing procedures of certain Federal agencies.

Amendment No. 182: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert the following:

SEC. 306. Effective upon enactment of this Act and for the remainder of fiscal year 1983, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agree-

ment with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 183: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed, insert the following:

SEC. 307. Notwithstanding any other provision of law, none of the funds made available by this or any other Act, heretofore or hereafter enacted, may be used to carry out section 103 and section 305(d)(3) of S. 1193 "An Act to authorize appropriations for fiscal years 1982 and 1983 for the Department of State, the International Communication Agency and the Board for International Broadcasting, and for other purposes", unless reprogrammed in accordance with the procedures established by the Committees on Appropriations of the House and Senate.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

CONFERENCE TOTAL—WITH COMPARISONS

NEW BUDGET AUTHORITY

The total new budget (obligational) authority for the fiscal year 1982 recommended by the Committee of Conference, with comparisons to the fiscal year 1982 budget estimates, and the House and Senate bills for 1982 follow:

Budget estimates of new (obligational) authority, fiscal year 1982.....	\$16,343,043,000
House bill, fiscal year 1982	14,021,579,924
Senate bill, fiscal year 1982.....	14,391,507,424
Conference agreement, fiscal year 1982	14,578,111,924
Conference agreement compared with:	
Budget estimates of new (obligational) authority, fiscal year 1982.....	-1,764,931,076
House bill, fiscal year 1982	+556,532,000
Senate bill, fiscal year 1982	+186,604,500

RESCISSIONS

In addition, the total rescission of budget authority recommended by the Committee of Conference, with comparisons to the President's proposals, and the House and Senate bills follow:

President's proposals	-\$286,859,000
House bill	-264,860,000
Senate bill	-381,846,000
Conference agreement.....	-400,846,000
Conference agreement compared with:	
President's proposals.....	-113,987,000
House bill.....	-135,986,000
Senate bill.....	-19,000,000

JAMIE L. WHITTEN

(except amendments 58 and 115),

EDWARD P. BOLAND (except amendment 115),

WILLIAM H. NATCHER (except amendment 115),

NEAL SMITH, JOSEPH P. ADDABBO,

CLARENCE D. LONG,

SIDNEY R. YATES (except amendment 115),

EDWARD R. ROYBAL,

TOM BEVILL,

ADAM BENJAMIN, JR.,

JULIAN C. DIXON,

VIC FAZIO,

SILVIO O. CONTE,

JOSEPH M. MCDADE,

JACK EDWARDS,

JOHN T. MYERS

(except amendments 54 and 177),

CLARENCE E. MILLER,

LAWRENCE COUGHLIN,

JACK F. KEMP,

GEORGE M. O'BRIEN,

Managers on the Part of the House.

MARK O. HATFIELD,

TED STEVENS,

LOWELL P. WEICKER,

JAMES A. MCCLURE,

JAKE GARN,

HARRISON SCHMITT

(except amendment 150),

MARK ANDREWS,

JAMES ABDNOR,

ALFONSO M. D'AMATO,

MACK MATTINGLY,

WILLIAM PROXMIER,

JOHN C. STENNIS,

DANIEL K. INOUE,

ERNEST F. HOLLINGS,

THOMAS F. EAGLETON,

LAWTON CHILES,

J. BENNETT JOHNSTON,

WALTER D. HUDDLESTON,

PATRICK J. LEAHY,

DENNIS DECONCINI,

Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 6530

Mr. FOLEY submitted the following conference report and statement on the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 97-748)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

ESTABLISHMENT OF NATIONAL VOLCANIC MONUMENT

SECTION 1. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest in the State of Washington, which comprise approximately one hundred and ten thousand acres, as generally depicted on a map entitled "Mount St. Helens National Volcanic Monument, August 1982", are hereby designated as the Mount St. Helens National Volcanic Monument (hereafter in this Act referred to as the "Monument").

(b)(1) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file a map and a legal description of the Monument established under subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committees on Agriculture and on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act. Such map and description shall be on file and available for public inspection in the office of the Forest Supervisor, Gifford Pinchot National Forest and in the office of the chief of the Forest Service, Department of Agriculture.

(2) The Secretary may correct clerical and typographical errors in the legal description referred to in paragraph (1), and the Secretary may, from time to time, make minor revisions of the boundary of the Monument. Such minor boundary revisions may be made by the Secretary only after publication of notice of the proposed revision in the Federal Register and after submission of notice thereof to the committees referred to in paragraph (1). Such notice shall be published and submitted at least 60 days before the revision is made. Notice of final action regarding such revision shall also be published in the Federal Register.

EXTENSION OF NATIONAL FOREST BOUNDARY

Sec. 2. (a) The exterior boundary of the Gifford Pinchot National Forest is hereby extended to include all lands and waters within the boundaries of the Monument. Lands and interests therein acquired pursuant to section 3 shall become national forest system lands.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897; 16 U.S.C. 4601-4 through 4601-11), the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

ACQUISITION

Sec. 3. (a) The Secretary shall acquire all lands and interests in lands within the boundaries of the Monument by donation, exchange in accordance with this Act or other provisions of law, or purchase with donated or appropriated funds, except as provided in subsection (c) and except that the Secretary may acquire mineral and geothermal interests only by exchange. It is the sense of the Congress that in the case of mineral and geothermal interests such exchanges should be completed within one year after the date of enactment of this Act. Any lands owned by the State of Washington or any political subdivision thereof may be acquired only by exchange. Those mining claims in the Green River-Polar Star area shall not be acquired without the consent of the owner.

(b) In recognition of the rapidly deteriorating nature of much of the timber in the Monument, any timber acquired pursuant to this section shall be valued for purposes of any acquisition under subsection (a) at an amount not less than the fair market value of such timber on July 1, 1982.

(c)(1) Notwithstanding any other provision of law, the Secretary shall exchange lands and interests in lands referred to in paragraphs (2) and (3) in accordance with the provisions of this subsection. With respect to the lands and interests in lands referred to in paragraphs (2) and (3), the Sec-

retary may exercise the authorities of subsection (a) only to the extent necessary to acquire any lands or interests in lands which are not acquired pursuant to the provisions of this subsection.

(2)(A) If Burlington Northern Incorporated offers to the United States the following described lands and interests therein, except mineral and geothermal interests, the Secretary shall accept such lands and interests therein (for the purposes of this Act, the term "Burlington Northern Incorporated" shall include any subsidiary of that corporation):

Township 7 North, Range 6 East:	Acres
Section 1: Lots 1, 2, and 3, south half northeast quarter, and north half southeast quarter	310.11
Township 8 North, Range 5 East:	
Section 21: All	640.00
Section 23: All	640.00
Section 25: All	640.00
Section 27: All	640.00
Section 29: All	640.00
Section 31: All fractional	623.52
Section 33: All	640.00
Section 35: All	640.00
Township 8 North, Range 6 East:	
Section 5: All fractional	480.44
Section 7: All fractional	637.58
Section 9: All	640.00
Section 15: West half	320.00
Section 17: All	640.00
Section 19: All fractional	631.76
Section 21: All	640.00
Section 27: West half	320.00
Section 29: All	640.00
Section 31: All fractional	630.44
Section 33: All	640.00
Township 9 North, Range 5 East:	
Section 25: All	640.00
Township 9 North, Range 6 East:	
Section 5: Lot 1, southeast quarter northeast quarter, and southeast quarter	240.41
Section 9: All	640.00
Section 17: All	640.00
Section 21: All	640.00
Section 29: All	640.00
Section 31: All fractional	639.52
Section 33: All	640.00

(B) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Burlington Northern Incorporated all right, title, and interest of the United States to the following described national forest system lands and interests therein, except mineral and geothermal interests:

Township 7 North, Range 6 East:	Acres
Section 4: All fractional	680.88
Section 6: All fractional	670.04
Section 10: All	640.00
Section 22: All	640.00

(3)(A) If the Weyerhaeuser Company offers to the United States the following described lands and interests in lands, except mineral and geothermal interests, the Secretary shall accept such lands and interests therein:

Township 9 North, Range 3 East:	Acres
Section 1: South half	320.00
Township 7 North, Range 4 East:	
Section 25: Northwest quarter northwest quarter	40.00
Township 8 North, Range 4 East:	
Section 2: All fractional	494.28
Township 9 North, Range 4 East:	
Section 1: All fractional	658.52
Section 3: South half northeast quarter, and south half	400.00
Section 4: Lots 2 and 3, south half north half, and south half	560.30
Section 5: South half northeast quarter, and south half	400.00

Section 6: Lot 7, southeast quarter southwest quarter, and south half southeast quarter	155.38
Section 7: All fractional	623.44
Section 8: All	640.00
Section 9: All	640.00
Section 11: All	640.00
Section 13: All	640.00
Section 15: East half east half	160.00
Section 16: North half northwest quarter	80.00
Section 17: North half northeast quarter	80.00
Section 22: A portion of east half and east half west half	271.±
Section 23: All	640.00
Section 24: All	640.00
Section 25: All	640.00
Section 26: North half, southeast quarter, and a portion of the southwest quarter	572.±
Section 27: A portion of the northeast quarter	66.±
Section 35: A portion of the northeast quarter	105.±
Township 10 North, Range 4 East:	
Section 25: Southeast quarter	160.00
Township 9 North, Range 5 East:	
Section 5: All fractional	640.32
Section 6: All fractional	679.52
Section 7: Lots 1 and 2, northeast quarter, and east half northwest quarter	340.57
Section 8: North half	320.00
Section 17: All	640.00
Section 19: All fractional	694.72
Township 10 North, Range 5 East:	
Section 5: A portion of the east half northeast quarter northwest quarter and east half	233.±
Section 17: Northeast quarter northeast quarter, and a portion of the northeast quarter and east half southeast quarter	154.±
Section 19: A portion of the south half southeast quarter	20.±
Section 20: A portion of the south half south half	60.±
Section 21: East half, east half northwest quarter, northwest quarter northwest quarter, northeast quarter southwest quarter, and a portion of the southwest quarter, northwest quarter southwest quarter	523.±
Section 29: All	640.00
Section 30: Northeast quarter, south half, and a portion of the east half northwest quarter	550.±
Section 31: All fractional	688.55
Section 32: All	640.00
Section 33: North half	320.00
Township 11 North, Range 5 East:	
Section 32: Lots 1 and 2	16.43
(B) Upon acceptance of title by the United States to such lands and interests therein, the Secretary shall convey to Weyerhaeuser Company all right, title, and interest of the United States to the following described national forest system lands and interests therein, except mineral and geothermal interests:	
Township 10 North, Range 5 East:	Acres
Section 6: Mineral survey	193.96
Section 7: Mineral survey	12.65
Township 11 North, Range 5 East:	
Section 23: Mineral survey	24.89
Section 29: Portion of mineral survey 837	5.20
Township 8 North, Range 4 East:	
Section 29: All	640.00
Section 30: All fractional	604.07
Section 32: All fractional	702.99

Township 13 North, Range 3 East:

Section 6: All fractional	652.25
Township 4 North, Range 3 East:	
Section 10: All	640.00
Section 16: All	640.00
Section 20: All	640.00

(4) Except as provided in paragraph (7), the instruments of conveyance respecting the lands and interests exchanged under this subsection may contain such reservations as may be agreed upon by the Secretary and the Weyerhaeuser Company or the Secretary and Burlington Northern Incorporated, as the case may be.

(5) It is the sense of the Congress that the exchanges authorized pursuant to this subsection should be completed within ninety days after the date of the enactment of this Act. The Secretary shall use the authorities of subsection (a) if the exchanges authorized by this subsection are not completed within a reasonable time after the expiration of such ninety day period.

(6) The Secretary shall certify in writing that to his satisfaction, at the time of conveyance, there has been no reduction in the values of the lands or interests therein caused by a direct action on the part of the current landowner below that which formed the basis for the exchanges provided for in this section. If the Secretary finds that a reduction in the value of the lands or interests therein has occurred caused by direct action on the part of the current landowner, the Secretary shall not carry out the exchange for those lands of interests so affected under this subsection, and acquisition of those lands and interests shall be undertaken by the Secretary in accordance with the provisions of subsection (a).

(7) The provisions of this subsection (except for the provisions of paragraphs (5) and (6)) do not authorize the exercise by the Secretary of the power of eminent domain, and any exchange of lands or interests in lands carried out under this subsection shall be pursuant to a voluntary agreement entered into between the Secretary and Burlington Northern Incorporated, or the Secretary and Weyerhaeuser Company, as the case may be, with the full consent of each of the parties to such agreement.

(d) Nothing in this Act shall affect any prior contractual obligation of Burlington Northern Incorporated or Weyerhaeuser Company regarding lands owned by them and included in an exchange pursuant to this Act nor shall such obligations be transferred pursuant to this legislation to the United States.

(e) Any terms, conditions, or obligations imposed by the Act of July 2, 1864 (13 Stat. 365), as amended, that apply to lands and interests in lands exchanged under this Act by Burlington Northern Incorporated shall apply in equivalent manner to lands and interests in lands obtained by Burlington Northern Incorporated under this Act.

(f) Notwithstanding any other provision of law, the Secretary shall only be required to prepare an environmental assessment of any exchange of mineral or geothermal interests authorized by this Act. In the course of preparing the assessment, the Secretary shall conduct at least one public hearing in the vicinity of the mineral or geothermal interests to be conveyed by the United States in such exchange. Any exchange of mineral or geothermal interests may be made by the Secretary only after providing the Committee referred to in section 1 of this Act thirty days' notice of his intention to do so.

ADMINISTRATION

SEC. 4. (a) The Secretary acting through the Forest Service shall administer the Monument as a separate unit within the boundary of the Gifford Pinchot National Forest, in accordance with the appropriate laws pertaining to the national forest system, and in accordance with the provisions of this Act.

(D)(1) The Secretary shall manage the Monument to protect the geologic, ecologic, and cultural resources, in accordance with the provisions of this Act allowing geologic forces and ecological succession to continue substantially unimpeded.

(2) The Secretary may take action to control fire, insects, diseases, and other agents that might (A) endanger irreplaceable features within the Monument or (B) cause substantial damage to significant resources adjacent to the Monument.

(3) Nothing in this Act shall prohibit the Secretary from undertaking or permitting those measures within the Monument reasonably necessary to ensure public safety and prevent loss of life and property.

(c) The Secretary shall permit the full use of the Monument for scientific study and research, except that the Secretary may impose such restrictions as may be necessary to protect public health and safety and to prevent undue modification of the natural conditions of the Monument.

(d) In order to protect the significant features of the Monument, reduce user conflicts, and ensure visitor safety, the Secretary is authorized to control times and means of access and use of the Monument or parts thereof: Provided, That nothing in this section shall be construed as to prohibit the use of motorized vehicles, aircraft or motorboats for emergency and other essential administrative services, including those provided by State and local governments, or when necessary, for authorized scientific research.

(e)(1) The Secretary shall provide for recreational use of the Monument and shall provide recreational and interpretive facilities (including trails and campgrounds) for the use of the public which are compatible with the provisions of this Act, and may assist adjacent affected local governmental agencies in the development of related interpretive programs.

(2) Except for roads needed for recreational and interpretive purposes as may be recommended by the comprehensive management plan submitted in accordance with the provisions of subsection (i), roads or other developed facilities within the Monument should be located generally in areas which were developed prior to the 1980 eruption.

(f) Subject to valid existing rights, all Federal lands within the Monument are hereby withdrawn from all forms of entry or appropriation of disposal under the public land laws, and from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto. Any mining activity carried out pursuant to valid existing rights shall be conducted in accordance with applicable Federal and State law.

(g) Timber harvesting shall not be permitted on Federal lands within the Monument except (1) for timber salvage contracts awarded by the Forest Service before the date of enactment of this Act, and (2) to the minimum extent necessary to control fire, insects, diseases and other agents that would endanger irreplaceable features within the Monument, cause substantial

damage to significant resources adjacent to the Monument, or endanger public safety. National forest system roads within the Monument may be used to the extent necessary for such timber harvesting activities. If the Secretary intends to carry out timber harvesting activities under clause (2), the Secretary shall advise the Committee on Energy and Natural Resources of the Senate and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives of the action the Secretary intends to take at least 30 days in advance of initiating action to contract for such sales, except that in emergency situations the Secretary shall submit a report to such Committees, describing the action taken within 30 days thereafter.

(h) The Secretary shall permit hunting and fishing on lands and waters within the Monument in accordance with applicable Federal and State law, except that the Secretary may designate zones within the Monument where, and establish periods when, no hunting or fishing shall be permitted for reasons of public health and safety, the protection of resources, scientific research activities, or public use and enjoyment. Except in emergencies, any regulations issued by the Secretary under this subsection shall be put into effect only after consultation with the appropriate State agencies responsible for hunting and fishing activities. Nothing in this subsection shall be construed as affecting the jurisdiction or responsibilities of the State of Washington with respect to wildlife and fish within the Monument.

(i) Within three years after the date of enactment of this Act, the Secretary shall submit to the committees referred to in section 1(b), a detailed and comprehensive management plan for the Monument. The initial Monument management plan may be expressed as an amendment to the October 1981 Mount St. Helens Land Management Plan. Subsequent Monument plans shall be integrated with and periodically revised as a component of the Gifford Pinchot land management planning process. The plan shall include but not be limited to:

(1) measures for the preservation of the natural geologic and ecologic processes and integrity of the resources;

(2) indications of types, locations, and general intensities of development and access routes associated with the public understanding, use, and enjoyment of the area, including anticipated timetables and costs;

(3) identification of, and implementation plans for, visitor carrying capacities of the area; and

(4) indications of any potential modifications of the external boundaries of the area, and the reasons therefor.

MANAGEMENT OF ADJACENT FEDERAL LANDS

SEC. 6. Nothing in this Act shall be construed as authorizing or directing the establishment of protective perimeters or buffer zones around the Monument for the purpose of precluding activities outside the Monument boundary which would otherwise be permitted under applicable law. Nothing in this Act shall be construed as limiting the existing authority of the Secretary to take actions on Federal lands adjacent to the Monument necessary to protect public health and safety in emergencies involving volcanic activity.

SCIENTIFIC ADVISORY BOARD

SEC. 7. (a) There is hereby established the Mount St. Helens Scientific Advisory Board (hereinafter referred to as the "Board"). The Secretary shall consult with and seek the

advice and recommendations of the Board with respect to—

(1) the measures needed to protect and manage the natural and scientific values of the Monument; and

(2) the administration of the Monument with respect to policies, programs, and activities which are specifically intended to retain the natural ecologic and geologic processes and integrity of the Monument.

The Board may make recommendations to the Secretary in regard to new research opportunities which may exist within the Monument designed to gain scientific information for future interpretation and enjoyment by visitors to the Monument. No recommendation by the Board shall be binding upon the Secretary.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines, as follows:

(1) three members appointed by the Secretary (one of whom shall be a professional employee of the Forest Service);

(2) two members appointed by the Secretary of the Interior (one of whom shall be a professional employee of the United States Geological Survey);

(3) two members appointed by the Governor of the State of Washington from among professional employees of the State of Washington; and

(4) two members appointed by the Chairman of the National Science Foundation.

(c) Each member shall be appointed to serve for a term of three years, except that one of the initial appointees of each appointing official shall serve an initial term of four years, one of the initial appointees of each appointing official shall serve an initial term of two years, and one of the initial appointees of the Secretary shall serve an initial term of one year.

(d) The members of the Board shall be appointed within ninety days of the date of enactment of this Act. The members of the Board shall, at their first meeting, elect a chairman.

(e) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the protection of the Monument and potential and ongoing research programs within the Monument.

(f) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairman, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(g) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(h) The Board shall terminate ten years from the date of its first meeting.

EXPENDITURE OF CERTAIN REVENUES FROM GIFFORD PINCHOT NATIONAL FOREST BY SKAMANIA COUNTY, WASHINGTON

SEC. 8. (a) Notwithstanding the provisions of the last paragraph under the heading "Forest Service" of the Act of May 23, 1908 (16 U.S.C. 500), and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), of the amount which is paid under such provisions to the State of Washington with respect to Gifford Pinchot National Forest, to be expended for the benefit of Skamania County—

(1) not less than fifty percent shall be expended for the benefit of the public schools of Skamania County, as Skamania County may specify, and

(2) the remainder shall be expended for the benefit of public roads and other public purposes of Skamania County, as Skamania County may specify.

(b) Subsection (a) shall not apply to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (a) at the end of any fiscal year ending before the date of the enactment of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There is hereby authorized to be appropriated to carry out the provisions of this Act, not to exceed \$12,000,000 for the Fiscal Year Beginning October 1, 1982, and such sums as may be necessary for each fiscal year thereafter.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same,

E DE LA GARZA,
MORRIS K. UDALL,
JAMES WEAVER,
JOHN F. SEIBERLING,
THOMAS S. FOLEY,
PAT WILLIAMS,
GEORGE E. BROWN,
JOE SKEEN,
DON H. CLAUSEN,
SID MORRISON,
CHARLES PASHAYAN, JR.,
GENE CHAPPIE,

Managers on the Part of the House.

JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
DALE BUMPERS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

FINDINGS

The House bill contains a section setting forth findings regarding Mount St. Helens and the resource values of the area. The Senate amendment includes no such section.

The Conferees agreed to adopt the Senate position.

DESIGNATION

The House bill designates a "Mount St. Helens National Volcanic Area" while the Senate amendment designates a "Mount St. Helens National Volcanic Monument."

The Conferees agreed to adopt the Senate position. The Conferees stress that this new Monument is to be administered by the U.S. Forest Service in accordance with this Act and laws generally applicable to the Forest Service. The Monument is not under the jurisdiction of the Department of the Interior and should in no way be considered a National Park or a unit of the Park System. The Monument created by this legislation will be treated in the same manner as the two existing National Forest Monuments, Misty Fjords and Admiralty Island, in the Tongass National Forest in Alaska.

BOUNDARY DIFFERENCES

The House bill included approximately 115,000 acres in the area while the Senate amendment encompassed some 105,400 acres.

The Conferees resolved these differences by establishing a boundary for the National Volcanic Monument which includes approximately 110,000 acres.

The agreed upon boundary is referenced on a new map dated August 1982.

BOUNDARY ADJUSTMENT AUTHORITY

The House bill includes a provision authorizing the Secretary of agriculture to make minor adjustments in the Monument boundary (up to 320 acres in size) after appropriate notice in the Federal Register and the pertinent committees of Congress. The Senate amendment includes no such provision.

The Conferees agreed to adopt the House provision modified to exclude references to specific acreage limits. The Conferees expect that this authority will be used by the Secretary only for truly "minor" boundary adjustments. This authority should not be viewed as giving the Secretary the ability to make significant additions to or deletions from the Monument. It is expected that this authority will most likely be used to adjust the boundaries in response to the changing land ownership pattern around the area which will result from the land exchanges authorized by Sec. 3.

EXPANSION OF THE NATIONAL FOREST BOUNDARY

Both the House bill and the Senate amendment include a provision extending the exterior boundary of the Gifford Pinchot National Forest to include certain lands affected by the May 1980 eruption. The two versions are very similar with only minor technical differences.

The Conferees agreed to adopt the House provision.

LAND ACQUISITION

General Authority/timber valuation date

Both the House bill and the Senate amendment provide essentially the same general authority for acquisition of non-federal lands in the Monument and a set timber valuation date on July 1, 1982, because of potential insect and disease damage if acquisition is delayed. In addition, some minor technical differences exist between the two versions.

The Conferees agreed to adopt the House position with addition of a cross-reference to the Forest Service's existing exchange authority making it clear that land exchanges within the area are to be accomplished under the provisions of this Act and other applicable law governing land exchanges.

State-owned lands

The House bill limits the Secretary's authority to acquire lands within the Monument owned by the State of Washington to exchange only. The Senate amendment permits acquisition by both exchange and donation.

The Conferees agree that State-owned lands should be acquired only by exchange and agreed to adopt the House position.

Land exchange packages for Burlington Northern Inc. (BN) and Weyerhaeuser

The House bill includes specific tract-by-tract legislated exchanges for the two major landowners in the area—BN and Weyerhaeuser. Exchanges are specified for both surface and subsurface for Weyerhaeuser,

but only a surface exchange is provided for BN.

The Senate amendment designates "pools" of national forest lands which the Secretary and the landowners are to use to facilitate and consummate an exchange agreement.

The Conferees agreed to adopt the House approach with regard to the surface exchange and have included specific tract-by-tract exchanges for Burlington Northern and Weyerhaeuser. The Conferees also agreed not to legislate the exchange of specific mineral interests of the two companies. The Conferees also agreed to limit the acquisition authority of all mineral and geothermal interests within the Monument to exchange only.

The Conferees recognize that certain lands owned by Burlington Northern included in the Monument are subject to a contract under which International Paper Company has a right to cut and remove timber until the year 2000. The Conference Report includes language making it clear that the United States shall not assume Burlington Northern's obligations under the contract nor shall any rights International Paper may have against Burlington Northern be extinguished by an exchange of lands between Burlington Northern and the United States.

The Conferees assume that when any exchange is consummated pursuant to this Act, the U.S. will receive clear title to the interests conveyed.

The Conferees wish to reaffirm the clear intent of this legislation that acquisition of lands and interests in lands within the Monument should be completed as expeditiously as possible, and acquisition by exchange shall be carried out to the maximum extent feasible.

The Conferees wish particularly to encourage the Department to expedite, insofar as possible, while providing for a public hearing and Congressional review, the environmental assessment prepared for any exchanges contemplated under this Act for mineral and geothermal interests.

Acquisition of mining claims

The House bill includes a provision prohibiting the acquisition of mining claims in the Green River/Polar Star area without the consent of the owner. The Senate amendment includes no such provision.

The Conferees agreed to adopt the House language and note that the boundary agreed to in this area excludes all but a very small portion of the existing claims. The Conferees note that the boundary adjustment authority contained in Section 1 of the bill can be used by the Secretary at his discretion to exclude these remaining claims.

MANAGEMENT POLICIES AND DIRECTION

General direction

Both the House bill and the Senate amendment include a section providing a general statement regarding how the new Monument is to be managed.

The Conferees agreed to adopt the House position modified to insure flexibility necessary to provide for a variety of different activities and uses within the Monument.

Authority to protect life and property

Both the House bill and the Senate amendment include a provision authorizing the Secretary to take reasonable actions to protect life and property both within and outside the Monument.

Although the two versions are similar, the Conferees agreed to accept the Senate posi-

tion which provides for slightly broader authority than the House language. The Conferees want to emphasize the importance of protecting the health, safety, and property of Monument visitors as well as those residents living in the general area.

For example, the Conferees are aware that there is considerable concern regarding the condition at Spirit Lake where there is serious danger of downstream flooding as the water backs up behind the unstable lakeshore. The Conferees note that the Act provides sufficient authority to take appropriate actions to prevent loss of life and property.

Recreation-related roads and developments within the monument

Both the House bill and the Senate amendment contain similar provisions regarding visitor facilities and recreation uses within the Monument. The House version includes specific language generally limiting the construction of roads and developments in the area to those which existed prior to the May 1980 eruption. The Senate amendment does not include such a limitation on roads and developments.

The Conferees agreed to accept the House provisions modified to ensure that recreation-related roads and developments which are recommended in accordance with the management plan for the Monument may be permitted without regard to their location prior to the May 1980 eruption.

Mining and mineral leasing withdrawal

Both the House bill and the Senate amendment contain a provision withdrawing federal lands in the Monument from mining and mineral leasing, subject to valid existing rights. The versions are essentially the same with only minor technical differences.

The Conferees agreed to adopt the Senate position.

Water quality protection

The House bill includes a provision directing that any mining in the Monument take place in such a manner so as to "maintain the water quality in existence in the affected area immediately prior to the commencement of such activity." The Senate amendment has no comparable provision.

The Conferees agreed to delete House language with regard to water quality and include instead a provision directing that any mining be carried out in accordance with applicable state and federal law.

Scientific study/motorized equipment

Both the House bill and the Senate amendment include language regarding the need to ensure opportunities for continued scientific research and the use of motorized equipment in the area for emergency and scientific study. The language of the two versions is similar in form and substance.

The Conferees agreed to adopt House language with regard to scientific study and adopted slightly modified House language with regard to motorized vehicles, making it clear that essential administrative and emergency services provided by state and local governments are to be permitted within the Monument.

Timber harvesting in the monument

Both the House bill and the Senate amendment place certain limitations on timber harvesting activities in the Monument.

The Conferees agreed to adopt Senate language modified to ensure that commercial harvesting, while permitted in limited circumstances is to be undertaken only to

the minimum extent necessary to control fire, insects, and disease on federal lands that would endanger irreplaceable features within the Monument, cause substantial damage to significant resources adjacent to the Monument, or endanger public safety. The respective Committees of Congress are to be kept apprised regarding the use of this authority.

The Conference agree that the "control" of fire and/or insect infestations in the area could include preventative or suppression activities provided they are kept to the minimum level necessary and carried out only to the extent necessary to deal with those emergency situations or those imminent emergency situations identified in Subsection 4(g).

The Conferees stressed that this authority was very narrowly drawn and should definitely not be considered as general authority to provide for commercial timber harvesting operations within the Monument.

The Conferees expect that the Secretary will seek the advice of the Scientific Advisory Board regarding the effects of possible timber removal authorized by subsection 4(g) on areas of special scientific concern within the Monument. While the final management decisions regarding the implementation of timber removal activities rests solely with the U.S. Forest Service, the Conferees felt that the Board could make a contribution by making its scientific and research expertise available to the Forest Service on a regular basis with regard to this matter.

The Conferees further expect that the Secretary will provide the Scientific Advisory Board, as soon as reasonably possible, copies of any notices of timber salvage operations submitted to the Committee of Congress pursuant to Subsection 4(g).

Limitation on timber hauling on national forest system roads

The House bill includes a provision placing limits on the use of National Forest roads in the Monument for timber harvesting purposes. While such activity is permitted under certain circumstances, the language provides limits on the Secretary's authority based on public notice, evaluation of alternatives and effect on the resources. The Senate amendment includes no comparable provision.

The Conferees agreed to adopt the House provision slightly modified to reflect the compromise language regarding timber harvesting activities in the Monument in general.

Hunting and fishing

Both the House bill and the Senate amendment contain a provision making it clear that hunting and fishing are to be permitted in the Monument subject to reasonable limitations.

The Conferees agreed to adopt the House language with the addition of the Senate provision regarding the jurisdiction of the State of Washington over fish and wildlife management within the Monument.

Management plan

Both the House bill and the Senate amendment include provisions directing that a management plan be prepared for the Monument. The House bill includes fairly detailed language regarding what the plan is to contain. The Senate amendment does not include this specific language.

The Conferees agreed to adopt the House position.

SCIENTIFIC ADVISORY BOARD

Both the House bill and the Senate amendment include essentially the same provisions regarding the establishment of a Scientific Advisory Board to advise the Secretary with regard to the management of the Monument—especially those aspects associated with opportunities for scientific research and study. The language is essentially the same in both the bills.

The Conferees agreed to adopt the House language modified to give the Governor of Washington some additional flexibility with regard to the appointments he is authorized to make.

MANAGEMENT OF ADJACENT FEDERAL LANDS

The Senate amendment includes language making it clear that nothing in the Act authorizes or directs the Secretary to establish buffer zones surrounding the area as a result of the creation of the Mount St. Helens National Monument. The House bill has no such provision.

The Conferees agreed to adopt the Senate position. The Conferees note that the primary intent of this provision is to ensure that federal lands surrounding the new Monument will continue to be managed in accordance with existing law—including applicable land management plans—and that the Monument status should not be viewed as placing additional management constraints on adjacent federal lands.

EXEMPTION FROM THE NATIONAL ENVIRONMENTAL POLICY ACT

The Senate amendment specifically exempts the exchanges authorized pursuant to the Act from the requirement of the National Environmental Policy Act that an Environmental Impact Statement be prepared. The House bill includes no comparable provision.

The Conferees agreed to adopt a provision requiring only that the Secretary prepare an environmental assessment with regard to the exchange of any mineral interests within the Monument. The Committee expects that such an assessment can be prepared in a more expeditious manner than an Environmental Impact Statement which might be required under NEPA. A requirement for public hearings and an opportunity for the Senate Committee on Energy and Natural Resources and the House Interior and Insular Affairs and Agriculture Committees to review and comment on any proposed exchange are also included.

Conferees note that the legislated exchanges set forth in Subsection 3(c) do not require an environmental assessment or impact statement.

AUTHORIZATION/BUDGET COMPLIANCE

Both the House bill and the Senate amendment authorize the appropriation of funds to carry out the purposes of the Act. The Senate amendment authorizes \$12 million in fiscal year 1983 and such sums as necessary thereafter. The House bill authorizes such sums as may be necessary effective only for fiscal years beginning after September 30, 1983, and includes a section regarding compliance with the Budget Act.

The Conferees agreed to adopt the Senate position.

TITLE

The title of the House bill refers to the "Mount St. Helens National Volcanic Area". The title of the Senate amendment refers to a "Mount St. Helens National Volcanic Monument".

In accordance with the Conferees' decision to designate the area as a National Vol-

canic Monument, the Conferees agreed to adopt the Senate position.

E DE LA GARZA,
MORRIS K. UDALL,
JAMES WEAVER,
JOHN F. SEIBERLING,
THOMAS S. FOLEY,
PAT WILLIAMS,
GEORGE E. BROWN,
JOE SKEEN,
DON H. CLAUSEN,
SID MORRISON,
CHARLES PASHAYAN, Jr.,
GENE CHAPPIE,

Managers on the Part of the House.

JAMES A. MCCLURE,
MARK O. HATFIELD,
MALCOLM WALLOP,
HENRY M. JACKSON,
DALE BUMPERS,

Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. GONZALEZ, for today, for 60 minutes, and for Monday, Tuesday, and Wednesday, August 16, 17, 18, for 60 minutes each.

(The following Members (at the request of Mr. HILER) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN, for 30 minutes, today.

Mr. FISH, for 15 minutes, today.

Mr. MARKS, for 60 minutes, August 16, 1982.

Mr. MARKS, for 60 minutes, August 17, 1982.

(The following Members (at the request of Mr. HOYER) to revise and extend their remarks and include extraneous material:)

Mr. HANCE, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HILER) and to include extraneous matter:)

Mr. EVANS of Delaware.

Mr. BROOMFIELD.

Mr. FISH.

Mr. CLINGER.

Mr. RINALDO.

Mr. PORTER in two instances.

Mr. LUNGREN.

(The following Members (at the request of Mr. HOYER) and to include extraneous matter:)

Mr. AU COIN.

Mr. MOFFETT.

Mr. WEISS.

Mr. COELHO.

Mr. WILLIAMS of Montana.

Mr. OTTINGER.

Mr. BINGHAM.

Mr. GAYDOS.

Mr. SYNAR.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on August 12, 1982, present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res. 541. An act concerning the successful completion of the test flight phase of the Space Shuttle program.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 39 minutes p.m.), under its previous order, the House adjourned until Monday, August 16, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

4588. Under clause 2 of rule XXIV, a letter from the Secretary of Education, transmitting certain amendments to the act of September 30, 1950 (Public Law 874, 81st Congress) and Public Law 93-380, and for other purposes, was taken from the Speaker's table and referred to the Committee on Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the clerk for printing and reference to the proper calendar, as follows:

Mr. FUQUA: Committee on Science and Technology. House Concurrent Resolution 204. Concurrent resolution expressing the sense of Congress that, to encourage educational programs in science and technology, a National Science Center for Communications and Electronics should be established (Rept. No. 97-745). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 1894. A bill to permit Indian tribes to enter into certain agreements for the disposition of trial mineral resources, and for other purposes; with an amendment (Rept. No. 97-746). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee of conference. Conference report on H.R. 6863 (Rept. No. 97-747). Ordered to be printed.

Mr. FOLEY: Committee of conference. Conference report H.R. 6530 (Rept. No. 97-748). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Ms. FIEDLER:

H.R. 6989. A bill to amend the Internal Revenue Code of 1954 to provide a refundable tax credit for taxpayers who maintain households which include elderly persons who are determined by a physician to be disabled; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 6990. A bill to provide a program of Federal supplemental unemployment compensation; to the Committee on Ways and Means.

By Mr. ST GERMAIN:

H.R. 6991. A bill to amend title 10, United States Code, to authorize an alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam; to the Committee on Armed Services.

By Mr. BLILEY:

H.J. Res. 576. Joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day"; to the Committee on Post Office and Civil Service.

By Mr. BREAUX (for himself and Mr. FORSYTHE):

H.J. Res. 577. Joint resolution to disapprove the governing international fishery agreement between the United States and Korea; to the Committee on Merchant Marine and Fisheries.

By Mr. BROOMFIELD:

H.J. Res. 578. Joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day"; to the Committee on Post Office and Civil Service.

PRIVATE BILL AND RESOLUTION

Under clause 1 of rule XXII.

Mr. EDWARDS of Alabama introduced a bill (H.R. 6992) to confer jurisdiction upon the U.S. Court of Claims to hear, determine, and render judgment upon the claim of Jack L. Williams, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3252: Mr. BLILEY.
H.R. 3649: Mr. STUMP.
H.R. 5054: Mr. CROCKETT.
H.R. 6054: Mr. JOHNSTON.
H.R. 6066: Mr. SCHEUER.
H.R. 6483: Mr. LEBOUTILLIER and Mr. GUARINI.
H.R. 6506: Mr. BADHAM.
H.R. 6527: Mr. ECKART, Mr. NELLIGAN, Mr. LEBOUTILLIER, Mr. KINDNESS, Mr. ARCHER, Ms. OAKAR, Mr. GILMAN, and Mr. MILLER of Ohio.
H.R. 6576: Mr. ADDABBO, Mr. COURTER, Mr. DANIEL B. CRANE, Mr. DENARDIS, Mr. DORGAN of North Dakota, Mr. FITHIAN, Mr. HAGEDORN, Mr. HAMMERSCHMIDT, Mr. HART-

NETT, Mr. HEFTL, Mr. LAGOMARSINO, Mr. LAFALCE, Mr. LUJAN, Mr. MARRIOTT, Mr. McEWEN, Mr. McHUGH, Mr. MILLER of California, Mr. MITCHELL of New York, Mr. MOLINARI, Mr. MURTHA, Mr. NEAL, Mr. OBERSTAR, Mr. PEYSER, Mr. RANGEL, Mr. RATCHFORD, Mr. ROBERTS of South Dakota, Mr. SCHUMER, Mr. SHAMANSKY, Mr. STOKES, Mr. STUDDS, Mr. WILLIAMS of Montana, and Mr. WILLIAMS of Ohio.

H.R. 6789: Mr. TAUKE.

H.R. 6833: Mr. BEVILL, Mr. LATTI, Mr. KINDNESS, Mr. STATON of West Virginia, Mr. ROBERT W. DANIEL, JR., Mr. RUDD, Mr. STUMP, Mr. DREIER, Mr. ROUSSELOT, Mr. CHAPPIE, Mr. HARTNETT, Mr. JOHNSTON, Mr. WEBER of Minnesota, Mr. HILER, Mr. GREGG, Mr. HIGHTOWER, Mr. RALPH M. HALL, Mr. MONTGOMERY, Mr. STENHOLM, Mr. GRAMM, Mr. ROEMER, Mr. WHITE, Mr. McDONALD, Mr. WILSON, Mr. KEMP, Mr. WILLIAMS of Ohio, Mr. KAZEN, Mr. LEWIS, and Mr. MARTIN of North Carolina.

H.J. Res. 157: Mr. PATMAN.

H.J. Res. 454: Mr. LEHMAN, Mr. QUILLEN, Mr. FRANK, Mr. FAUNTROY, Mr. BARNES, Mr. NELLIGAN, Mr. PASHAYAN, Mr. EDGAR, Mr. MONTGOMERY, Mr. SOLARZ, Mr. KEMP, Mr. BURGNER, Mrs. HECKLER, Mr. RODINO, Mr. FRENZEL, Mr. WAXMAN, Mr. SMITH of Pennsylvania, Mr. DORNAN of California, Mrs. HOLT, Mr. HANCE, Mr. GUARINI, Mr. DOUGHERTY, Mr. MINETA, Mr. GRADISON, Mr. FISH, Mr. SMITH of New Jersey, Mr. HUBBARD, Mr. McEWEN, Mr. WASHINGTON, Mr. MYERS, Mr. MAVROULES, Mr. FAZIO, Mr. DIXON, Mr. O'BRIEN, Mr. HORTON, Mr. GINGRICH, Mr. BAILEY of Pennsylvania, Mr. BEVILL, Mr. BINGHAM, Mr. BOWEN, Mr. BREAUX, Mr. BROWN of California, Mr. PHILIP M. CRANE, Mr. DONNELLY, Mr. FOGLIETTA, Mr. JONES of North Carolina, Mr. PEPPER, Mr. SNYDER, Mr. SOLOMON, Mr. STANTON of Ohio, Mr. SUNIA, Mr. SWIFT, Mr. TRAXLER, Mr. WILLIAMS of Ohio, Mr. WON PAT, Mr. YOUNG of Missouri, and Mr. RAILSBACK.

H.J. Res. 504: Mr. MCCOLLUM and Mr. TAUKE.

H.J. Res. 557: Mr. BENJAMIN, Mr. BIAGGI, Mr. BONER of Tennessee, Mrs. COLLINS of Illinois, Mr. CORRADA, Mr. DAUB, Mr. DORNAN of California, Mr. EDGAR, Mr. FAUNTROY, Mrs. FENWICK, Mr. FISH, Mr. FORD of Michigan, Mr. FRANK, Mr. FUQUA, Mr. HOLLENBECK, Mr. MAZZOLI, Mr. MINISH, Mr. PEPPER, Mr. RANGEL, Mr. ROSENTHAL, Mr. SHAMANSKY, Mr. SCHEUER, Mr. TAUZIN, Mr. WHITEHURST, Mr. WILSON, Mr. ZEFERETTI, and Mr. GREEN.

H. Res. 421: Mr. BEDELL, Mr. EVANS of Georgia, Mr. FOWLER, Mr. GEPHARDT, Mr. JENKINS, Mr. LUNDINE, Mr. PEASE, and Mr. SEIBERLING.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under Clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 6467: Mr. MITCHELL of Maryland.
H.R. 6529: Mr. MITCHELL of Maryland.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4230

By Mr. BEDELL:

—In section 10(b) of the bill, insert after "United States Constitution," the following:

"except as provided in subsection (c) of this section."

Strike out section 10(c) of the bill and insert in lieu thereof the following:

(c) No State shall sell or otherwise transfer, for use outside of such State in a coal pipeline or extension thereof with respect to which a certificate is issued under section 10952 of title 49, United States Code, water which is taken from any river or other body of surface water which is located in or which passes through more than one State or any aquifer or other body of ground water which underlies more than one State unless—

(1) there is in effect an interstate compact (A) between the States in the drainage basin of such river or other body of surface water, or (B) between the affected States in the case of such an aquifer or other body of ground water, which governs such sale or transfer, and

(2) all the States which are parties to such compact consent to such sale or transfer.

By Mr. LENT:

—Page 4, line 17, strike out "necessary to construct such pipeline or extension" and insert in lieu thereof "owned by any common carrier engaged in the interstate transportation of coal".

Page 5, after line 2, insert the following:

"(b) The power granted in subsection (a) of this section may be exercised to acquire a property interest greater than that needed to effect a crossing, but in no event greater than 200 feet."

Reletter subsequent subsections accordingly.

—Page 7, after line 12, insert the following:

"(2) No certificate may be issued unless the Commission determines in writing, including the reasons for the determinations, that—

"(A) there is a substantial likelihood the rates to be charged by the applicant for the transportation of coal will be less than those which would be charged by other common carriers for the transportation of the same coal over the expected useful life of the coal pipeline; and

"(B) the coal pipeline will not materially impair the financial integrity of another carrier or the existing level or type of transportation services that carrier is able to provide, nor require another carrier to significantly raise its rates on other traffic in order to achieve or maintain adequate revenues.

"(3) In making the determinations required by subsections (b)(1) and (b)(2) of this section, the Commission shall consider and include in its written determinations a discussion of the additional following issues:

"(A) the environmental impact of the coal pipeline or extension and alternative routes, means of transportation of coal, and methods of utilization of coal;

"(B) the extent to which existing carriers have the ability to meet the same transportation needs as the coal pipeline or extension for the attainment of national coal utilization goals in a safe, adequate, economical, and efficient manner;

"(C) the balance between the energy needs of the area to be benefited by the coal pipeline or extension and the impact on the area from which the coal is to be transported, including the impact or the water needs of such area;

"(D) the extent to which the coal pipeline or extension would affect surface or ground water at the point of origin from which the coal is to be transported, at the point of destination to which the coal is to be transported—

ed, and at the point of disposal of water utilized in the transportation of the coal;

"(E) the extent to which the coal pipeline or extension thereof would disrupt the coal industry in regions of the United States other than the region in which such pipeline will originate; and

"(F) the extent to which the construction of the pipeline or extension thereof would be impeded or delayed unless the power of eminent domain is granted to the applicant under this Act.

"(4) If the Commission fails to make the determinations under paragraphs (b)(1) and (b)(2) of this section, the application for a certificate shall be denied."

Redesignate the subsequent paragraphs accordingly.

—Page 14, line 1, strike out the semicolon and all that follows through the period on line 10 and insert in lieu thereof a period and the following: "In addition, the coal pipeline shall be constructed with a capacity 25 percent greater than the capacity necessary to transport the total volume of coal of the original supporters."

—Page 22, after line 19, insert the following: "§ 10957. Abandonment

"(a) A person holding a certificate issued under section 10952 of this title may—

"(1) abandon any part of its coal pipeline; or

"(2) discontinue the operation of all coal pipeline transportation over any part of its coal pipeline;

only if the Commission finds (A) that the present or future public convenience and necessity require or permit the abandonment or discontinuance, or (B) that water used for transporting the coal has been reduced by circumstances beyond the control of such person to an amount insufficient to continue the transportation of coal, or (C) that the available supply of coal is depleted to the extent that continued service is unwarranted.

"(b)(1) A proceeding to permit abandonment or discontinuance under subsection (a) of this section begins on application filed with the Commission. If the Commission—

"(A) finds public convenience and necessity requires or permits abandonment or discontinuance, it shall—

"(i) approve the application as filed; or

"(ii) approve the application with modifications and require compliance with conditions that the Commission finds are required by public convenience and necessity; or

"(B) fails to find public convenience and necessity requires or permits abandonment or discontinuance, it shall deny the application.

"(2) On approval, the Commission shall issue to the person holding a certificate issued under section 10952 a certificate describing the abandonment or discontinuance approved by the Commission.

"(c) The abandonment or discontinuance approved by the Commission shall take effect on the 60th day after the date of issuance of the certificate under this section."

Renumber the subsequent sections accordingly and conform the analysis beginning on page 24, after line 23, accordingly.

—Page 23, after line 2, insert the following: "§ 10958. Financing

"A purchaser, consumer, or user of coal to be transported through a certificated coal pipeline shall not, through use of a tariff or otherwise, require a customer of theirs to pay a fee, surcharge, or other payment relating to the coal pipeline at any time prior

to the receipt of coal delivered through the pipeline."

Renumber the subsequent section accordingly and conform the analysis beginning on page 24, after line 23, accordingly.

By Mr. RAHALL:

—Page 7, line 12, before the period insert the following: "provided, that no such application shall be approved unless the Commission finds that the applicant has provided fair arrangements for the protection of the interests of railroad, water and motor carrier employees who may be affected thereby at least as protective of employee interests as those established under section 11347 of this title."

H.R. 5540

By Mr. WEBER of Ohio:

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section unless the Administrator of the Small Business Administration determines that such loan, loan guarantee, or commitment for a loan guarantee will not tend to restrict the availability of credit, or increase the cost of credit, to small business."

Redesignate the following subsections accordingly.

—Page 30, after line 10, insert the following:

"(h) No loan, loan guarantee, or commitment for a loan guarantee may be made under this section to any small- or medium-sized defense-related business firm unless the Secretary of Commerce determines that such loan, loan guarantee, or commitment for a loan guarantee will not give such business firm a competitive advantage over other small- or medium-sized defense-related business firms."

Redesignate the following subsections accordingly.

H.R. 6755

By Mr. ROTH:

—Page 2, line 9, strike out "\$350,000,000" and insert in lieu thereof "\$342,500,000".

Page 2, line 25, strike out "\$43,750,000" and insert in lieu thereof "\$36,250,000".

Page 3, strike out lines 5 through 9; and in line 10, strike out "(3)" and insert in lieu thereof "(2)".

H.R. 6956

By Mr. DASCHLE:

—Page 32, after line 7, insert the following:

SMALL BUSINESS LOAN REVOLVING FUND

To carry out the purposes of the "Veterans' Administration Small Business Loan Revolving Fund", as authorized by law (Public Law 97-72, title III), \$25,000,000.

H.R. 6957

By Mr. COLLINS of Texas:

—Page 33, after line 24, insert the following new section:

Sec. 303. None of the funds appropriated in this title may be used to pay any contribution for expenses necessary to meet annual obligations of membership in the United Nations or any affiliated agency in excess of 20 percent of the total annual assessment of the United Nations or such agency. This section shall not apply to the International Atomic Energy Agency and to the joint financing program of the International Civil Aviation Organization.

—Page 43, after line 21, insert the following new section:

Sec. 404. (a) This section may be cited as the "Neighborhood School Act of 1982".

(b) The Congress finds that—

(1) court orders requiring transportation of students to or attendance at public schools other than the one closest to their residences for the purpose of achieving racial balance or racial desegregation have proven to be ineffective remedies to achieve unitary school systems;

(2) such orders frequently result in the exodus from public school systems of children causing even greater racial imbalance and diminished public support for public school systems;

(3) assignment and transportation of students to public schools other than the one closest to their residence is expensive and wasteful of scarce petroleum fuels;

(4) there is an absence of social science evidence to suggest that the costs of school busing outweigh the disruptiveness of busing; and

(5) assignment of students to public schools closest to their residence (neighborhood public schools) is the preferred method to public school attendance.

(c) The Congress is hereby exercising its power under article III, section 1, and under section 5 of the fourteenth amendment.

(d) Section 1651 of title 28, United States Code, is amended by adding the following new subsection (c):

"(c)(1) No court of the United States may order or issue any writ directly or indirectly ordering any student to be assigned or to be transported to a public school other than that which is closest to the student's residence unless—

"(i) such assignment of transportation is provided incident to the voluntary attendance of a student at a public school, including a magnet, vocational, technical, or other school of specialized or individualized instruction; or

"(ii) the requirement of such transportation is reasonable.

"(2) The assignment or transportation of students shall not be reasonable if—

"(i) there are reasonable alternatives available which involve less time in travel, distance, danger, or inconvenience;

"(ii) such assignment or transportation requires a student to cross a school district having the same grade level as that of the student;

"(iii) such transportation plan or order or part thereof is likely to result in a greater degree of racial imbalance in the public school system than was in existence on the date of the order for such assignment or transportation plan or is likely to have a net harmful effect on the quality of education in the public school district;

"(iv) the total actual daily time consumed in travel by schoolbus for any student exceeds thirty minutes unless such transportation is to and from a public school closest to the student's residence with a grade level identical to that of the student; or

"(v) the total actual round trip distance traveled by schoolbus for any student exceeds 10 miles unless the actual round trip distance traveled by schoolbus is to and from the public school closest to the student's residence with a grade level identical to that of the student."

Definition

(e) The school closest to the student's residence with a grade level identical to that of the student shall, for purpose of calculating the time and distance limitations of this Act, be deemed to be that school containing the appropriate grade level which existed immediately prior to any court order or writ

resulting in the reassignment by whatever means, direct or indirect including rezoning, reassignment, pairing, clustering, school closings, magnet schools or other methods of school assignment and whether or not such court order or writ predated the effective date of this legislation.

Suits by the Attorney General

(f) Section 407(a) of title IV of the Civil Rights Act of 1964 (Public Law 88-352, section 407(a); 78 Stat. 241, section 407(a); 42 U.S.C. 2000c-6(a)), is amended by inserting after the last sentence the following new subparagraph:

"Whenever the Attorney General receives a complaint in writing signed by an individual, or his parent, to the effect that he has been required directly or indirectly to attend or to be transported to a public school in violation of the Neighborhood

School Act and the Attorney General believes that the complaint is meritorious and certifies that the signers of such complaint are unable, in his judgment, to initiate and maintain appropriate legal proceedings for relief, the Attorney General is authorized to institute for or in the name of the United States a civil action in any appropriate district court of the United States against such parties and for such relief as may be appropriate, and such court shall have and shall exercise jurisdiction of proceedings instituted pursuant to this section. The Attorney General may implead as defendants such additional parties as are or become necessary to the grant of effective relief hereunder."

(g) For the purpose of this Act, "transportation to a public school in violation of the Neighborhood School Act" shall be deemed to have occurred whether or not the order

requiring directly or indirectly such transportation or assignment was entered prior to or subsequent to the effective date of this Act.

(h) If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

(i) It is the sense of the Senate that the Senate Committee on the Judiciary report out, before the August recess of the Senate, legislation to establish permanent limitations upon the ability of the Federal courts to issue orders or writs directly or indirectly requiring the transportation of public school students.

By Mr. SENSENBRENNER:

—On page 26, line 22, strike "241,000,000" and insert in lieu thereof "100,000,000".

SENATE—Friday, August 13, 1982

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Father in Heaven, forgive our indifference toward Thee which causes us to presume upon Thy lavish provision. Forgive us for taking for granted common gifts which cannot be bought or earned—the gifts of heart and lungs and bodily organs that function unremittably; the gifts of sight and hearing, taste and touch. Thank Thee for daily food and comfortable beds which so many do without; for work when so many are unemployed; for friends when so many are lonely and friendless.

Help us, gracious God, to comprehend and accept Thy love which is unconditional, impartial, and eternal. May we realize that there is nothing we can do to cause Thee to love us more—and there is nothing we can do to cause Thee to love us any less. We thank Thee for Thy perfect love; forgive our nonresponse and receive our inexpressible gratitude. We ask this in the name of Him who demonstrated Thy love supremely on a cross. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized for 2 minutes.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

COMMENDATION TO THE CHAPLAIN

Mr. BAKER. Mr. President, I commend the Chaplain on his prayer this morning and express great relief that he did not again pray against the hard and arduous schedule of the Senate.

REASON NO. 14: THE REFUND GAME

Mr. BAKER. Mr. President, I want to take this opportunity to address my

good friends the Senate photographers and members of the press corps, and to indicate to them that next Friday may not turn out to be the best day for photo opportunities with Members of the Senate. Then, again, next Friday could turn out to be a wonderful day for photographs of Members of the Senate.

If, and only if, the Senate completes those legislative items which have been publicly designated as "essential," then my friends in the camera crews will be able to catch Members with big smiles on their faces as they leave the Capitol for the Labor Day recess. But if those items on the "must list" have not been completed, there will be a mass of frowns and long faces, maybe even some tears, because it will then be necessary for the Senate to remain in town until the 27th of August.

Mr. President, I extend this warning not only as an individual who appreciates a good picture, but also as one who is protective of the best interests of his colleagues.

I remind Members that we have finished everything now except the debt limit and the immigration bill, and I hope we can get to third reading on the immigration bill today and finish the debt limit next week, together with any essential conference reports or other matters of urgent importance.

Here is reason No. 14 of my 18 reasons why the Senate should make the effort to make the most of next week and go home on Friday. Reason No. 14 is the refund game. You are tired. You are overworked. As the Chaplain points out, your family misses you. There is no time for privacy. You suddenly realize you cannot take it any more. What will you do? What will you do?

If you are really thoughtful and really frustrated, you will rent a condominium in the mountains or at the beach, so that you can escape from all the frustration with your family. But such plans are popular, so you make early reservations to assure that your plans will not be thwarted.

You hear the majority leader say one day that there is a good possibility that the Senate can recess on August 20 and make our recess coincide with that of the House of Representatives. So you make a deposit, to make sure that your reservation on your rented condominium will stick. You tell your family that their day in the Sun is approaching, and you begin to count the days.

Mr. President, what may be forgotten is that the majority leader said that there is a possibility of recessing on the 20th and that there were no guarantees.

So, Mr. President, reason No. 14 is simply this: Make your deposits, but make them refundable. [Laughter.]

Mr. STAFFORD. Mr. President, will the majority leader yield?

Mr. BAKER. I yield.

Mr. STAFFORD. The Senator from Vermont, on behalf of those of his colleagues who are candidates for reelection, notes that reason No. 14 did not cover the Members who will have to go home this weekend and campaign, rather than go to the beach.

Mr. BAKER. Mr. President, it is easy to tell that the majority leader is not up for reelection. [Laughter.]

How quickly those thoughts pass from one's mind. The Senator is exactly right.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I understand that the Senator from Georgia has a special order for 15 minutes.

Before I yield the floor, I ask unanimous consent to reserve to the minority leader such time as he may wish under the standing order, as abbreviated, for his use during the course of this day.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, after the recognition of the Senator from Georgia on special order, there will be a period for the transaction of routine morning business, not to extend past 10:30 a.m., with the proviso that Senators may speak therein for not more than 1 minute each.

At 10:30 a.m., the Senate will resume consideration of S. 2222, the immigration bill. It is the hope of the leadership that we can reach third reading on that bill today. It is not anticipated that we will have a vote on final passage today.

I hope to have a further announcement on this matter later today.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER (Mr. SYMMS). Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982: TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, Senator CHILES and I have been daily emphasizing the importance of prompt reform of our habeas corpus proceedings. I have discussed, with example after example, the drastic need for legislative action designed to stop career criminals from continually abusing the writ of habeas corpus. This procedural abuse has grown and increased every year. As a result, every year more and more local, State, and Federal judges have been expressing the need to eradicate this crippling abuse.

Not surprisingly, Senator CHILES and I do not stand alone in our concern over the burden which misuse of the writ poses for our criminal justice system. The cases, which we have cited to the Senate, have generated great alarm beyond this legislature. Individuals most closely involved in the daily operations of the judicial system have repeatedly spoken out on the dire need for legislative reform in the area of habeas corpus.

As I pointed out previously, the Conference of Chief Justices and the National Association of Attorneys General have adopted resolutions strongly supporting reform of the laws now pertaining to habeas corpus proceedings. The Department of Justice has endorsed similar measures. Previously, I mentioned the case *Schnecko* against Bustamonte in which Justice Lewis Powell suggested that habeas corpus abuse was creating a serious credibility gap as to the merits of the State court decisions.

As recently as last week, the problems of our overcrowded courts were publicly addressed by Justice John Paul Stevens and reemphasized by Justice Powell. Justice Stevens' speech before the American Judicature Society dealt with the difficulties facing a court system continually overburdened with litigation. He revealed that his colleagues on the Supreme Court faced roughly 4,000 petitions for full review each term. The number continues to increase dramatically every year. Yet, the Supreme Court is only capable of considering 150 to 200 of these cases for full briefing, oral arguments, and opinions per year. Justice Stevens pointed out that fundamental changes are needed to reduce the caseload problem in the Federal court system. Justice Powell echoed similar concerns, noting that the dramatic increase in cases the past decade "may prevent the degree of judicial care, in selecting cases for full review, that probably existed a decade or more ago." Justice Powell stressed the need for reform limiting review of State cases by Federal courts.

Certainly large portions of the rising caseloads plaguing our courts can be directly traced to frivolous habeas

corpus petitions. Senator CHILES and I have detailed to the Senate case upon case of this type of unnecessary and repetitive litigation. The time is long overdue for this Senate to initiate legislation to alleviate this procedural headache. Clearly, we are not without the power to help our courts maintain an efficient system of criminal justice in this country. Senator CHILES and I continue to support and recommend that this Congress act soon to resolve these problems. We have introduced S. 2543, the Crime Control Act of 1982, as a piece of legislation including effective measures for reform in habeas corpus proceedings. Our bill would eliminate needless petitions by enacting a 3-year statute of limitations as well as requiring increased deference to State court findings by the Federal courts.

I again urge the Senate to heed the recent comments of both Justices Stevens and Powell and act promptly, through S. 2543, to end the flood of unnecessary, repetitive, and costly litigation which now plagues our criminal justice system.

Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond 10:30 a.m. with statements therein limited to 1 minute each.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAGE INCREASE LIMITATION ON NORTH PACIFIC DIVISION CORPS OF ENGINEERS

Mr. GORTON. Mr. President, the distinguished chairman of the Appropriations Committee has included a provision in the supplemental appropriations bill which will greatly benefit a number of constituents in my State, and for which we are very grateful to him. There is currently a large disparity that exists between wages paid North Pacific Division Corps of Engineers and their counterparts in the Bonneville Power Administration and the Bureau of Reclamation. Legislation passed in the last few years imposed a limitation on wage increases for Corps of Engineers employees while it has not affected wages of employees of other Federal agencies of similar positions in the Pacific

Northwest. Thus, for example, an employee working at a Corps of Engineers dam project will automatically earn less money than an employee performing the same duties at a Bureau of Reclamation dam project. This unjustified discrepancy has caused a considerable amount of unrest among the workers affected by this wage limitation, particularly at Chief Joseph Dam, a Corps project, where the workers are paid less than their counterparts at Grand Coulee, a Bureau of Reclamation project just 40 miles down the Columbia River from Chief Joseph.

Senator HATFIELD has included a provision in H.R. 6863, the supplemental appropriations bill, which would rectify this unfair situation. The provision requires that Corps employees who are currently paid from Corps of Engineers special power rate schedules be paid wages determined by the Department of Defense Wage Fixing Authority. This change will assure that wages of the Corps employees currently paid from the special power rate schedules will be consistent with wages of the Department of Energy and the Department of the Interior employees performing similar work in the Pacific Northwest.

Senator HATFIELD is to be commended for working to achieve equity in this situation. The people of my State are affected by this provision, and I extend to him our sincere thanks for attempting to terminate this discriminatory wage discrepancy.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now resume consideration of the pending business, S. 2222, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

UP AMENDMENT NO. 1228

(Purpose: To require that the Attorney General consult with certain committees of the Congress and voluntary agencies before prescribing certain regulation regarding the legalization program)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN) proposes an unprinted amendment numbered 1228.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the top of page 162, before line 1, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(e) The Attorney General, after consultation with the Committees on the Judiciary of the House of Representatives and the Senate and with qualified voluntary agencies designated pursuant to subsection (c)(1), shall prescribe regulations establishing a definition of the term 'resided continuously', as used in this section, and for establishing the requirements necessary to prove eligibility for immigration benefits under this section. Such regulations may be prescribed to take effect on an interim basis if the Attorney General determines that this is necessary in order to implement this section in a timely manner.

Mr. BENTSEN. Mr. President, my amendment is a simple one. It calls for the Attorney General to promulgate regulations establishing a definition of the phrase "resided continuously", as used in the legalization section of this bill, and for establishing the requirements necessary to prove eligibility for benefits under this section, after consultation with the Judiciary Committees on the Congress and with the voluntary agencies who will assist in implementing the legalization program.

This bill gives the Attorney General the discretion in two essential areas of eligibility for the legalization program. First, the evidence and procedure that will be required to establish entry into the United States on a date certain to acquire either permanent resident or temporary resident status, and second, in arriving at the definition of the phrase "resided continuously".

My amendment does not negate this discretion. It leaves the discretion for the implementation of these particu-

lar matters with the Attorney General and simply requires a consultation process designed to insure that the congressional intent and the practical logistics of implementing the legalization provisions are considered by the Attorney General. Consultation with Judiciary Committees will insure that the Members of Congress who have worked so diligently in formulating this bill, continue to have input in the very important decisionmaking process involved in implementing the legalization program. I think this concept has proven very effective, and successful, with the Refugee Act, which requires that the administration consult with the Congress in arriving at annual refugee quotas. I believe that this consultation would guarantee that the standards promulgated by the Attorney General in this area will be clear, consistent, and realistic.

I also believe it would be extremely helpful for the Attorney General to consult with the members of the respective Judiciary Committees on the definition of the phrase "resided continuously." I have reviewed some of the case law in this area and there is disagreement among the Federal circuits on what constitutes continuous residence. It is clear that continuous residence does not mean uninterrupted physical presence. What is not clear is the length of the interruption that will be tolerated. The standard applied appears to be that one has not resided continuously in the United States if there has been a "meaningful interruption" of the alien's presence in the country. That standard is subject to interpretation and disagreement.

As I mentioned earlier, the legalization program is not and should not be considered a "reward" for illegal immigration. It is a recognition of our past failures in controlling illegal immigration. It is an attempt to "wipe the slate clean" and start anew. This can be accomplished only if the standards set forth in these provisions are followed. My amendment would, therefore, facilitate the promulgation of those standards by providing for input from the committees of the Congress most familiar with the problem. So I would urge my colleagues to support this amendment. It is an uncontroversial amendment and I hope that the Senator from Wyoming will be amenable to accepting amendment.

Mr. SIMPSON. Mr. President, I support the amendment of the Senator from Texas. I appreciate his patience this morning in dealing with the amendment.

The amendment simply clarifies the procedure which is now required under the Administrative Procedure Act in allowing public and congressional comment on Federal rules. That consultation is necessary to insure that the Congress has an opportunity to review the implementation of legal-

ization in terms of legislative intent, and that the voluntary agencies, which are such a key part of any operation with regard to resettlement or immigration, will have the opportunity to comment on rules which they will follow in assisting the Justice Department to process those eligible for legalization.

Because the legalization program technically begins at the date of enactment, the Attorney General must devise some interim regulations, and those can be issued on an interim or interim-final basis before the consultation process is completed.

That is agreeable to the sponsors.

We think the amendment is helpful and mandates that consultation must occur before final regulations are completed.

I thank the Senator from Texas for offering the amendment. I think it is appropriate. It is acceptable.

Mr. BENTSEN. Mr. President, I appreciate the attitude of the chairman of the subcommittee, who has worked so hard in this particular regard. I move adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment (UP No. 1228) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Colorado.

UP AMENDMENT NO. 1229

(Purpose: Expressing the sense of the Congress with respect to the enforcement of the immigration laws of the United States)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1229.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 162; line 11, strike out "REPORTS TO CONGRESS" and insert in lieu thereof "GENERAL PROVISIONS".

At the bottom of page 166, add the following:

ENFORCEMENT OF THE IMMIGRATION LAWS OF THE UNITED STATES

Sec. 402. It is the sense of the Congress that—

(1) the immigration laws of the United States should be enforced vigorously and uniformly; and

(2) in the enforcement of such laws, the Attorney General should take due and deliberate actions necessary to safeguard the constitutional rights, personal safety, and human dignity of U.S. citizens and aliens.

On page 79, in the table of contents, strike out "TITLE IV—REPORTS TO CONGRESS" and insert in lieu thereof "TITLE IV—GENERAL PROVISIONS".

On page 79, in the table of contents, after the item relating to section 401, add the following new item:

"Sec. 402. Enforcement of the immigration laws of the United States."

Mr. ARMSTRONG. Mr. President, I offer this amendment because I believe it important that the Senate seriously consider the conduct of the so-called operation jobs, an attempt to roundup illegal aliens launched earlier this year by the Immigration and Naturalization Service, and, having reflected upon the conduct of Operation Jobs, to make an unequivocal statement that we expect, that we demand, that we insist upon the highest possible standard of law enforcement, not only to the end that those who are violating the law be brought to justice, but even more important to the end that those citizens whose rights might be affected are accorded in every respect the full protection of the law. And even those persons who may not be citizens, even in fact may be illegal aliens, are accorded those human rights to which their personhood entitles them.

Mr. President, I bring this to the attention of the Senate because in the conduct of operation jobs in the Denver metropolitan area there is some question whether or not, in fact, such standards of law enforcement were entirely observed. It is not my purpose to rehash this in any great degree, but let me just tick off the facts that prompted me to contact the U.S. attorney for Colorado and also the U.S. Attorney General at the time Operation Jobs was underway.

First, in the course of conducting this roundup of illegal aliens, there was a sort of atmosphere which suggested a publicity stunt. I am not suggesting that everything that was done was wrong, but there was just something about it which did not smack of law enforcement as it did of public relations. Not being entirely unfamiliar with public relations myself, and I judge that most Senators know something about that subject, I do not entirely criticize that either. But the area of law enforcement, anything which in any sense might appear to prejudice the rights of any person in the cause of public relations is something that ought to be very seriously considered.

Specifically, I note with dismay that two U.S. citizens were, in fact, included in this roundup and were detained for several hours under circumstances

which do not suggest the most scrupulous regard for their constitutional rights.

In addition, during the course of this roundup, officers entered a number of public places, which may, but in my opinion may not, reflect good judgment. There is no question in my mind that they were within their legal rights to enter public places to look for aliens, but these particular places which they entered, specifically some taverns and so on, raise a question of whether or not good judgment was actually used.

In addition, there were allegations, which I have not been able to substantiate, that they improperly entered some public places, including schools.

On at least one occasion the result of this roundup was to frighten a young man who saw the approaching officers, with the result that he fled the scene. Unfortunately, in the process of fleeing, he was killed.

I do not necessarily blame that on the immigration officers. In that particular instance, I have no reason to think that they were acting beyond the scope of their authority. And yet it is a fact that a young man is dead, a young man who I believe to have entered his country illegally but nonetheless it is an episode which should cause some concern.

The very worst of it, Mr. President, is that after officers entered some places where, frankly, I have doubts that they should have entered, after the atmosphere in which the entire roundup was conducted, after the episode with the young man which I have just described, there was, within the Hispanic community in Colorado, a sort of feeling of hysteria, a feeling that anyone who was Hispanic or who even looked like they might be Hispanic, whether they were aliens, legal or not, whether they were U.S. citizens, might be subject to being stopped on the street and forced to prove their citizenship; that they might, in fact, be subject to harassment.

Mr. President, I do not suggest that this is the moment for us to attempt to evaluate the success of operation jobs, nor am I one of those who thinks that it is possible to conduct any law enforcement operation of this type without some incidents that we wish had not occurred. I do say that in this particular case, enough concern was raised that I wanted to draw it to the attention of my colleagues and, having done so, to ask for the adoption of the sense-of-the-Senate resolution which I have offered as a new section 402 of the bill. That is just to make it clear to anyone who follows that procedure or who intends to take action under this statute if it is adopted that the Senate cares about the legal position of the people involved, that the Senate cares about the constitutional rights of

those citizens, and even cares about the rights of those who are not citizens.

Mr. President, I see no reason for extended discussion. I shall be happy to respond to any questions. Other than that, I am prepared to move the adoption of the amendment.

Mr. SIMPSON. Mr. President, I thank the Senator from Colorado. He again proves his sensitive nature in this amendment, because this is, indeed, what we are trying to do. I concur with the amendment, which reaffirms that our immigration laws are enforced in a humane fashion—that is certainly the intent—and that the rights of citizens and aliens are protected in the enforcement of these laws. Certainly, we do increase the protection and we do assure that the enforcement will be carried out in a humane manner. As I say, that is what we have been trying to do throughout the entire hearing process and the drafting process on S. 2222. This very well reaffirms our intent.

Let me say that some of the rather unfortunate—indeed unfortunate—situations the Senator from Colorado has outlined could very likely be resolved by the passage of this legislation so we would not have those types of operation throughout the country.

I thank the Senator from Colorado, Mr. President. We do accept the amendment.

Mr. KENNEDY. Mr. President, I join my colleague from Wyoming in commending the Senator from Colorado for making his recommendation. There is no question, that, over a period of years, there have been raids both in communities and in jobsite areas which have resulted in discrimination against American workers.

I know the Senator has commented on the operation jobs program and the indignities which were brought about by that operation. These searches, these raids, cause enormous concern to American citizens and permanent resident aliens. I think the recommendation that has been made by the Senator from Colorado will, for the first time, establish in the law some important guidelines which should be followed. I think it is a very helpful and constructive recommendation. I certainly welcome seeing such language included in this bill.

Mr. DOMENICI. Mr. President, I commend the Senator from Colorado for what I heard him say—may I ask him his intention with reference to the concept, in the sense-of-the-Senate resolution?

Could he briefly tell the Senator from New Mexico what it says? What specifically will we be recommending by this sense-of-the-Senate approach?

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, I shall be happy to respond.

The sense-of-the-Senate language which is contained in the amendment I have offered simply expresses the sense of this body that we call upon those who are charged with enforcing immigration laws to do so vigorously and uniformly and that, in doing so, the Attorney General and other responsible law enforcement officials should take all due care and those deliberate actions which are necessary to safeguard the constitutional rights, personal safety, and human dignity of U.S. citizens and aliens.

I distinguished, in this recommended language, U.S. citizens from aliens because, obviously, U.S. citizens have certain rights that stem from their citizenship, while those persons who are here as aliens have other kinds of rights of a more limited nature. But, I point out to my colleague from New Mexico, someone who may be here as an alien, even as an illegal alien, even as somebody who has entered this country under circumstances that may be reprehensible, even though those rights may be different from a U.S. citizen's rights, nevertheless, it would be the desire, I am sure, to accord to such persons, even those here under the wrong circumstances, the human dignity and the human rights to which his personhood itself entitles him.

I do not think that in this resolution, we establish any new legal rights for anyone. What we are saying is how we feel about the enforcement process. I particularly wanted to reflect in my remarks a concern about the specifics of an enforcement operation which occurred in my State, the details of which I am familiar with, so that, laid down beside this sense-of-the-Senate language, it would provide a degree of guidance to law enforcement officers.

Mr. DOMENICI. Let me say to my friend from Colorado that I commend him for his statement on the floor and for the resolution. I have a little different perspective than some in that both of my parents were immigrants. One was an illegal alien for a long time and did not even know that she was. I had an experience, when I was a very young boy, with the Immigration and Naturalization Service. The INS officers visited my home and the experience was one of the most frightening memories of my childhood. From that experience, and from reports I hear from others I think I would add that it appears to me that frequently, there is an absence of common, ordinary horsesense on the part of immigration officers in the manner that they discharge their official duties.

I hope that our intent in this resolution is to expect the highest level of professional conduct from the INS in dealing with people, citizens or aliens alike, with regard to their human dignity. I do not want to add my interpretation of it; I have just given it. I do not think we can accord people that

basic right of human dignity without using good commonsense.

I know the INS officers have a difficult job and I would not burden the Senate with the experience that I had as a young boy with my family, but it appears to me that there is a propensity for some kind of hysteria—the Senator mentioned it—in the community of Hispanics.

I think sometimes the Immigration officials act as if they are hysterical. They frequently do things that, with the Senator's language in mind, in retrospect, they conclude did not evidence common ordinary sense in dealing with people. I commend the Senator for good language. I think we ought to make it eminently clear that we do not think these problems are all going to go away because we pass this bill. Even if this bill is going to be everything everybody says it is going to be, we are still going to have illegal aliens. We are going to have them here for a long time. We are going to have large numbers of them. They may not even sign up for either the permanent or the temporary designation and may thus remain illegal aliens. History indicates when you have one of these kinds of programs, illegal aliens are fearful to sign up. They are afraid of the Immigration officials. We are going to have them here and they will not even prove they qualify.

History in other countries such as Belgium, Holland, and England would indicate that huge percentages are going to remain in their illegal status out of fear and trepidation. They are not going to have enough confidence to come forward to prove their eligibility for legalization. They are going to remain in the subculture classification that concerns the Senator here today. They will remain undocumented. Some will be exploited. This bill will not solve their problems any more than it solves all of our immigration problems. We have to continue to look for and approach them in an effort to carry out the laws.

I do not think those episodes are going to go away. Those instances are going to be there. I personally think that we need very levelheaded, stable, consistent people running these operations. I think the Senator's sense-of-the-Senate resolution will clearly indicate that that is a high quality and standard that is going to be required in carrying out the responsibilities of this sense-of-the-Senate resolution.

I thank the Senator for it, and I support his approach.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1229) was agreed to.

Mr. ARMSTRONG. I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1230

(Purpose: To protect the privacy and security of a system to determine employment eligibility in the United States, and for other purposes)

Mr. SIMPSON. Mr. President, I send to the desk an unprinted amendment on behalf of the Senator from Kansas (Mr. DOLE) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), on behalf of the Senator from Kansas (Mr. DOLE), proposes an unprinted amendment numbered 1230.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, between lines 20 and 21, insert the following:

"(D) the system will protect the privacy and security of personal information and identifiers utilized in the system including recommendations to the Congress for the establishment of civil and criminal sanctions for unauthorized use or disclosure of the information or identifiers contained in such system;

On page 84, line 21, strike out "(D)" and insert in lieu thereof "(E)".

On page 85, line 1, strike out "(E)" and insert in lieu thereof "(F)".

On page 85, line 5, strike out "(F)" and insert in lieu thereof "(G)".

On page 85, between lines 11 and 12, insert the following:

"(H) the President shall examine existing Federal and State identification systems, or the systems referred to in subsection (b) of this section, to determine suitability for use with the permanent system authorized to be developed by this section.

● Mr. DOLE. Mr. President, part A of title 1 of S. 2222, as reported from the Committee on the Judiciary, establishes Federal criminal sanctions for employers who knowingly hire illegal aliens. The employer, under this process, must verify he has examined documents which establish both (a) eligibility to work, and (b) identity showing that the individual presenting proof of eligibility is not presenting false identification. A valid U.S. passport would establish both. Otherwise one document in each of the following categories would be presented: (a) Social security card or birth certificate, and (b) INS-issued "adit" card, drivers license, other State-issued card, or other documents approved by the Attorney General.

The above verification procedure would be in effect for a 3-year transitional period. During that time, the

President would be directed to develop and implement a secure system to verify work eligibility. The system would not be available for any other law enforcement purpose and if it were to involve the use of a card, the card could not be used for any other purpose. However, if the transitional procedures proved to be effective, the new system would not be required.

These provisions, which constitute an attempt to deal with a highly complex set of issues relating to personal identification systems, could lead to the establishment of a Federal database on every employed person in the United States which would be very costly and fraught with potential violations of individual privacy and freedom.

This proposed amendment to section 101(c)(1), title 1, of S. 2222 would broaden the scope of the Presidential directive described above. The President would be directed to examine existing Federal and State identification systems including but not limited to: Social Security, drivers license, food-stamp eligibility, passports, and others to evaluate their suitability for purposes of this act. The proposed amendment also directs the President to make recommendations to Congress for the establishment of civil and criminal sanctions for unauthorized misuse or disclosure of the information or identifiers contained in the system.

Mr. President, without these above changes, the committee bill could lead to the establishment of an expensive and redundant personal identification system which may be overly centralized at the Federal level. The system may not have adequate safeguards to prevent unauthorized access to personal information on virtually every individual in the United States as well as tens of thousands of individuals seeking admission to the United States for employment purposes.

The amendment will encourage a carefully safeguarded, economical, and efficient possible use of otherwise available Federal and State identification systems.●

Mr. SIMPSON. Mr. President, Senator DOLE is not able to be present today because of his deep involvement in conference committees and he asked me to present this amendment.

This amendment will provide additional safeguards to protect privacy and the security of personal information utilized in the more secure system to determine employment eligibility to be established under the bill. It will provide coordination and cooperation with other State and Federal agencies in using expertise developed in the area.

I have discussed this amendment with the distinguished minority floor manager. I believe he shares my view

that it is a desirable amendment, and we are prepared to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1230) was agreed to.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1955

(Purpose: To strike out provisions amending the Immigration and Nationality Act regarding the admission of nonimmigrant temporary workers)

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes a printed amendment numbered 1955.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, in the table of contents, strike out the item relating to section 211.

On page 79, in the table of contents, redesignate the items relating to sections 212 and 213 as items relating to sections 211 and 212, respectively.

On page 120, line 23, strike out "212(b)" and insert in lieu thereof "211(b)".

Beginning on page 140 with line 13, strike out all through line 21 of page 146.

On page 146, line 23, strike out "Sec. 212." and insert in lieu thereof "Sec. 211."

On page 147, line 22, strike out "Sec. 213." and insert in lieu thereof "Sec. 212."

On page 154, line 7, strike out "212(b)" and insert in lieu thereof "211(b)".

On page 165, line 10, strike out "213(a)" and insert in lieu thereof "212(a)".

Mr. KENNEDY. Mr. President, the purpose of this amendment is simply to restore existing laws and regulations governing the H-2 temporary foreign worker provisions of the Immigration and Nationality Act.

The United States has long had a limited program through which temporary workers are allowed to enter the country on an H-2 nonimmigrant visa. Petitions for these workers are reviewed by the Department of Labor, which must certify that U.S. workers are not available and that the employment of aliens will not adversely affect the wages and working conditions of other similarly employed American workers.

From 1973 through 1976, H-2 admissions averaged a little more than 30,000 workers annually, 12,000 of

whom were agricultural workers. In 1977 and 1978, the number dropped below this level to 28,000 in 1977 and 23,000 in 1978.

Although there remain some problems and bureaucratic redtape in the administration of this program, it has generally worked satisfactorily. Furthermore, we can improve the fairness of the program to both U.S. workers and employers without any change in the statute, but through simple changes in the regulations.

This is because the H-2 program is largely a function of regulations. There are only four paragraphs in the immigration law establishing the program. Otherwise, it is entirely governed through regulations prescribed by the Attorney General, after consultations with the Secretary of Labor. Also, there is nothing in the statute that bars him from consulting with the Secretary of Agriculture or anyone else.

However, because the H-2 program in the agricultural area has only been used in the East—since western agricultural growers have always been able to depend upon a continuing supply of undocumented aliens—there was strong pressure to establish a formal temporary worker program in this bill if employer sanctions are established. The western agricultural growers fear that the H-2 program will not work to meet their anticipated labor needs.

But the burden of proof must rest on the employer through the labor certification process. We must resist establishing a large-scale temporary program—of going back to the old "bracero" program—because there is absolutely no evidence that it is needed.

When the Select Commission considered this issue, we voted overwhelmingly against establishment of a massive, new temporary worker program. However, we did recommend some changes, which the President is directed in this bill to review.

Mr. President, the Commission voted against a new temporary program because the adoption of the legalization program, and the implementation of the new immigration system established in this bill, will result in the legal admission of additional immigrants and an adjustment in the status of undocumented aliens already working here. In short, all those undocumented aliens upon which western agricultural growers have become so dependent, will be legalized.

But in response to the fears of some growers, and because of their lack of experience with the H-2 program, the committee attempted to write into this bill certain reassuring provisions which are now, under existing law, simply regulations. Through a long process of negotiations, the committee

picked some of the regulations and wrote them into the bill, while ignoring others.

In the process, I believe the cumulative affect of this process has been to seriously weaken the labor certification and other labor controls on the H-2 program. This has understandably alarmed labor organizations, who see a weakening of the current high standards employers are now required to meet in seeking American workers first.

Mr. President, the need for temporary workers can be met by the existing H-2 program, as established in the Immigration and Nationality Act, and governed by regulations. If changes are needed, as suggested in this bill, then let both sides present the evidence to the Department of Labor and let the regulations be adjusted.

My amendment simply strikes the new H-2 language in the bill, leaving existing law and regulations to govern the admission of H-2 workers.

In conclusion, Mr. President, I think it is important to emphasize that the H-2 temporary worker program was designed to provide employers with temporary foreign labor only during unique and emergency circumstances. It was never intended to become a permanent, ongoing guest worker program. And it should not become one now.

We should be looking to the day when we can eliminate this program—to end America's dependence upon foreign workers—not to perpetuate it.

By returning to the H-2 program as it now is, we will be reaffirming the intention of Congress that this program should not become a formal, and continuing, guest worker program.

Mr. President, I would like to share with my colleagues a factsheet that clearly makes this point. I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the factsheet was ordered to be printed in the RECORD, as follows:

**THE GUESTWORKER PROGRAM IN S. 2222—A
FACTSHEET PREPARED BY AFL-CIO**

THE H-2 PROGRAM: WHAT DOES IT DO?

The H-2 Program was designed to provide employers with temporary foreign labor in unique and emergency circumstances. It was not designed to accommodate the hundreds of thousands of guestworkers implied by the committee bill. In order to qualify for the present program, the employer must establish that a reasonable effort has been made to attract American workers. These protections for American citizens, rather than any formal cap, define the size of the program. The simple requirement that domestic workers get first crack at jobs in this country is, however, one of the things changed by the committee bill.

**NUMBERS: HOW MANY GUESTWORKERS ARE WE
TALKING ABOUT?**

The program has admitted about 30,000 foreign nationals annually. This year it will be about 42,000. Not all of the visas are agricultural labor, of course; some 20 percent, in

fact, are in the construction industry, which certainly faces no shortage of qualified domestic labor. While proponents of this new H-2/Guestworker program for obvious reasons won't talk numbers, they clearly mean to import a lot of people. Their program has no upper limit, and few protections for Americans. We could see several hundred thousand guestworkers shipped in for American jobs. Earlier this spring, the Attorney General described the new proposal in such very massive terms during a speech before the California Chamber of Commerce in Los Angeles.

**GUESTWORKERS IN IMMIGRATION POLICY: DO
WE NEED MORE ALIEN LABOR NOW?**

The program must be taken in context. Other parts of the legislation would legalize the status of several million illegal aliens, but nobody knows exactly how many people will be involved. Nor can anyone predict their occupational or regional mobility, their skill levels, or their unemployment rates once their status is adjusted. The bill also encourages family reunification under a new system, which means even more unfamiliar variables in the labor market. No proponent of this guestworker program, for instance, is pretending to predict the labor force participation rates of the spouses and minor teenage children admitted during the first three years following enactment. These new factors are bound to have impacts on regional and national labor markets already burdened by eleven million jobless. But until we know what they are, there is no evidence to support a new "need" for more foreign workers, particularly since the current program would accommodate any special, emergency situations.

DOMESTIC IMPACT: WHO GETS HURT?

The more guestworkers admitted, the more violence done to more of our society. On the front line would be those competing (in their own country) with cheap foreign labor. Typical in low-skill, low-wage occupations are women, minorities and new entrants into the labor force, some facing unemployment rates over fifty percent.

The consumer ends up paying for production methods which are reliant on foreign labor and which discourage the upgrading of low level jobs. In fixing wages at H-2 levels, the government depresses the ordinary instincts and incentives to improve productivity. In place of efficiency, the bill promotes "labor subsidies," underwritten by the American taxpayer, the consumer and those workers least able to pay.

Most arguments pushing guestworkers also focus on a supposed shortage of qualified American labor, but their perceived shortage exists only under the terms and conditions offered by the employer, which may be well below the going rate. They conveniently do not focus on what would happen if a free labor market were really working instead of being distorted by thousands upon thousands of imported foreign workers. If Americans were allowed to ask for better conditions, for example, instead of being undercut and routinely displaced by guestworkers, those better conditions might attract more domestic workers. It does happen, of course. Not too many years ago, coal mining was the dirtiest, most dangerous job in the country, but over time conditions improved to the extent that today the mines face no labor shortages.

**NEED VERSUS DESIRE: WOULD TEMPORARY
WORKERS REALLY BE TEMPORARY?**

While chairing hearings last October 22, Senator Simpson observed "Once employers

can use foreign workers, they want to keep using them and discourage U.S. workers, thereby justifying a continued 'need' for Mexican labor." He was absolutely right.

**THE TRACK RECORD: WHAT IS THE EXPERIENCE
WITH GUESTWORKER PROGRAMS?**

Whether here or abroad, they have been a blight. The Biblical exodus from Egypt, in fact, is the first good story of a failed guestworker program. A little later (1973) West Germany stopped recruiting its Gastarbeiters, but not all left. In 1973-74 two million European guestworkers returned home, but five million stayed, with some seven million dependents. Now, with a serious unemployment problem of its own, the German government has been forced to try special bounties to persuade the guestworkers to leave.

In our own country, we stopped the brace-ro program in 1964, after a twenty-two year history of racism and abuse. To make matters even worse, that program actually increased illegal immigration, by raising Mexican expectations of the promised land through bracero recruitment efforts.

THE NATIONAL TEST: LOOKING FOR AMERICANS

Currently, the H-2 program requires employers to make sure that there are no available American workers before foreign workers are recruited. This "national test," while obviously designed to protect our citizens, has come under fire for being "excessively burdensome." Actually, it is nothing of the kind. Typically all that is required is a job order filed free of charge at a local employment service office. The government takes it from there. To remove the "national test," however, poses considerable problems for US workers who might want to apply for the job. If, for instance, the would be employer is merely required to look within his own local area or state, there is a good chance the job offer will never reach most farm workers farther up the migrant stream. Farm labor rarely remains stationary; the occupation requires mobility. All that we would require of the employer is that he let Americans know what he wants of them, before he asks our government to forget about us.

LEGAL STATUS: PROTECTING THE H-2 WORKER

This proposal has official guarantees, but the dog won't hunt. In practice, the limited tenure of guestworkers prevents enforcement of certain, often the most important labor laws. Any protracted enforcement procedure (whether legitimate due process or not) nullifies protection of the temporary worker. A company can tie the Wagner Act in knots if it wants to. The cost to the average citizen is bad enough: To someone on a month-to-month visa, it is insurmountable. Justice delayed ends up justice denied.

One of the big question marks in this bill is what Secretary Donovan would do with the relevant regulations. Currently, there are explicit guarantees that the H-2 worker shall be transported, housed and treated with some modicum of decency. Of course, should the committee bill become law, each of those provisions may be rewritten and, possibly, returned to sender. Not that the current protections afford the farm worker any special comforts; but, on the other hand, the bill provides no guarantees that minimal protections would not go out the window either.

**EMPLOYER ASSOCIATIONS: LOOPHOLES FOR
CARTELS?**

The bill authorizes an association of agricultural producers to petition for an H-2

certification on behalf of its members. If the association is the sole employer of the alien labor, then only the association can be held liable for misrepresentations to the H-2's and the government. Should the association members violate their contract with the workers—for pay, hours, or other working conditions—only the association itself would be held responsible. Moreover, if the association makes false representations to the government in order to secure H-2 workers, the association, and not its members, is to be held liable and barred from the program for one year. This would enable employers to set up association which would be dissolved and reconstituted at will to avoid liability for the misdeeds of its members. The guilty parties would be unpunished and eligible for new certifications.

The bill also allows associations to represent producers of many crops in an association. Current regulations properly limit these associations to a single crop. Crops tend to have different peak harvest periods. Under the bill's language, once one crop is harvested, the guestworkers would be moved to another, then another, and so on. This raises the very real possibility of a vast, floating labor pool of alien workers moving around the country under these associations.

THE DEPARTMENT OF AGRICULTURE: A NEW REGULATOR FOR THE LABOR MARKET?

At the present time, the Department of Labor (DOL) is responsible for regulations covering H-2 workers. Only the DOL can approve a petition for any kind of H-2 workers. This is appropriate, because of DOL's overall stewardship of the labor market. Section 211(d) of the proposed immigration bill would vest the authority to write H-2 regulations with the Attorney General, and would dilute DOL's role by imposing the Department of Agriculture (USDA) in the process of writing the regulations.

The DOL would continue to issue all regulations relating to certification for H-2 workers, but would have to work in conjunction with the USDA in advising the Attorney General on regulations governing agricultural H-2 workers. These workers would not gain at all by adding yet another step in the regulatory process. In fact, extending the process to one more federal bureaucracy is more likely to undermine the protections they currently have.

INTERNATIONAL IMPLICATIONS: A RELATIONSHIP BASED ON EXPLOITATION?

Although promoted as a near-magical "population safety valve" for Mexico, this guestworker proposal has been a diplomatic Edsel. Before we pressure that we are doing our neighbors some big favor, consider for a moment the situation were we in their place. Consider the spectacle of our exploited compatriots working jobs beneath acceptable Mexican standards. Think about being a part of a permanent, if individually rotating, subclass relegated to the least desirable jobs. Denied the basic and minimal social services, the situation could easily excite as much tension as admiration on the border.

Marginal, substandard conditions make for a highly dangerous and provocative foreign policy, which is why Mexican church, labor and other organizations have denounced guestworker programs in the past. International traffic in exploited human beings is a reckless enterprise. Only last year Senator Simpson said, "potential short-term economic benefits must be weighed against the potential long-range social dangers which might result." Amen.

Mr. KENNEDY. Mr. President, let me make clear that the purpose of my amendment is to insure that the current rules and regulations which have been tried, tested, and worked effectively will continue to work in force over the period of the future and be applied to any temporary worker program.

It seems to me, Mr. President, that these rules and regulations have worked, they have been effective and they have also protected American workers.

It has not been an easy process to develop these rules and regulations over a period of years. Many States have been affected by the workers coming in for temporary periods of time. I know in Massachusetts, which does permit some temporary workers, a limited number, at the time of picking apples and some other crops that this is a procedure which is important in terms of protecting the interests of workers and also insuring fairness to those that are going to come in as temporary workers.

It does not seem to me to be wise for us at this time to alter that process in a way which may very well jeopardize the job conditions of Americans, particularly at this time of high unemployment, and that may very well have some adverse impact on the wages of American workers in different regions of the country.

Mr. President, it is a simple amendment, but it is extremely important and I hope that the Senate is prepared to accept it.

Mr. SIMPSON. Mr. President, I wish to resist this amendment. This is a very difficult area of H-2 workers, which is the statutory form of a temporary worker program. You will note that in S. 2222 we do not embrace the concept of "temporary worker" or "guest worker."

We found that not appropriate and so, to do what we had to to provide agriculture with the necessary personnel, especially growers in the West, livestock personnel, we had to make adjustments in the H-2 program that is presently on the statute books. We did that by a streamlining process.

The problem is that some U.S. employers have become absolutely dependent upon illegal labor. The committee did not want employer sanctions, which is the most critical part of this bill, to create an abrupt negative impact on these U.S. employers, and so we provided a transitional program for admitting needed workers by means both expeditious and protective of U.S. workers in similar jobs.

The existing H-2 program which admits entertainers, professional athletes, and only really 18,000 agricultural workers, is protective of U.S. labor, and that is very critically important. But it is not sufficiently expeditious to

provide needed workers, particularly in the agricultural industry.

This new H-2 program in S. 2222 provides a clearer and more expeditious procedure for addressing temporary labor shortages, particularly in agricultural labor.

Of all the provisions considered in the last year and a half with regard to this legislation, I would say that we spent more time on these H-2 provisions in this bill. They were carefully drafted. We not only had hearings, we had extensive consultations, informal consultations with labor unions, agricultural growers, representatives of migrant groups, the Department of Agriculture, the Department of Labor, the INS and each down through the esoteric distinctions of onions, grapes, berries, sheep—it was a fascinating procedure.

All contributed in a most significant way to the new H-2 program which is contained in the bill. Of all the areas of the legislation—and certainly some perilously mounted there—this is the one that hangs by the silken thread. Without those provisions, the committee believes that U.S. employers, agricultural employers in particular, will have difficulty obtaining needed workers during the transition period.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. SIMPSON. I will yield in a moment. I have a few more remarks.

Clearly, Mr. President, there is a need for a specific program for agriculture.

In 1960, there were 400,000 U.S. migrant farmworkers. By 1970, the number declined to 200,000. In contrast, now the U.S. Department of Agriculture estimates that there are 300,000 to 600,000 illegal migrant farmworkers in the United States.

It is not likely that a great number of the labor pool will qualify for the continuous residency requirement in the legalization program. Therefore, American agriculture must have some means to convert the current illegal work force into a legal one, and we believe that we provide that in S. 2222.

I am happy to yield to my colleague from Idaho.

Mr. SYMMS. I should like the Senator to explain something for my edification. He mentioned to me yesterday something about the H-2 program. He referred to it again this morning. Can the Senator tell me how the H-2 program is going to replace what many of us thought we should have—a guest worker permit system? How is the H-2 program going to answer the demand for farm labor, particularly in the Western States, where, as the Senator from Wyoming knows, there is a guest worker program right now, but it is not legal?

Mr. SIMPSON. Mr. President, the committee rejected, as I indicated, all

proposals to have a massive, new temporary guest worker program. We felt that it had failed in Europe wherever it was used. We had interesting testimony to show that temporary workers, or guest workers, came to France and Germany, and now we find those Governments trying to pay them to return to their countries—if you can believe that. They offer Turkish persons in Germany a certain sum of money to return.

We did not want to go to that. We provided that after 80 days, when the persons involved in agriculture indicate that they need or require a flow of workers, they simply make their petition or application, within the 80-day period. Then, within 20 days, under this legislation—

Mr. SYMMS. Eighty days prior?

Mr. SIMPSON. Eighty days prior to when they need the workers.

MR. SYMMS. Let us say they need sugar beet workers in western Idaho, for example, and they make a petition 80 days before that they need 5,000 workers.

To what page is the Senator referring?

Mr. SIMPSON. I refer the Senator to the report language on H-2 workers on page 44. That is a very complete description of what we did, what we require.

We also recognize the special problems of livestock. We are indicating that under the new procedure, aliens may perform seasonal labor for not more than 8 months in any calendar year, except where there is a case of agricultural labor or services in which the Secretary of Labor recognizes, before the enactment of this, that a longer period was necessary.

As I indicate, the entire procedure is set out. The employers are not required to file for temporary agricultural workers more than 80 days before the labor or the services are required. Then the Secretary of Labor is directed to make his certification at least 20 days before the date the labor or services are required, if the employer has complied with the criteria for certification and if he has not had other qualified people referred to him as he would ordinarily.

That petition is then filed. There is an expedited procedure. If the employer, in reliance upon this approval, does not receive these employees, these temporary, seasonal workers, then he can actually demand that that take place. He can have a de novo hearing within hours, and he either receives those persons or he can go outside the labor force to do so.

Mr. SYMMS. Let us say, for example, that you are trying to bring 5,000 workers to a certain area for a very timely type of work—say, working on sugar beets or picking perishable commodities, harvesting potatoes. Does the farmer or the producer then have

to have the name of each worker, or does he go to the Department and file for 5,000 workers or 500 or 50, and they come in?

Mr. SIMPSON. If the Labor Department does not furnish the labor that has been promised, the employer can then bring them in.

Mr. SYMMS. He can bring them in himself, the employer can?

Mr. SIMPSON. That is correct.

Mr. SYMMS. Does the Senator perceive, then, that a lot of workers now coming in illegally will start coming in under the H-2 program?

Mr. SIMPSON. Many of them will be legalized under the provisions of this measure.

Mr. SYMMS. The amnesty program of this bill?

Mr. SIMPSON. That is correct.

Mr. SYMMS. In the future, when aliens are brought in, they will come under the H-2 program, so-called, as guest workers. In the Western part of the United States, we are using Mexican nationals for agricultural labor that is what I am talking about.

Mr. SIMPSON. They will be described as H-2 workers.

Mr. SYMMS. What does the amendment of the Senator from Massachusetts say?

Mr. SIMPSON. He is simply moving to strike the new H-2 temporary worker provisions of S. 2222, leaving existing law and regulations, if I state it correctly.

Mr. SYMMS. In other words, there would be no way under this bill to bring in new workers if the amendment of the Senator from Massachusetts is agreed to. Is that right?

Mr. KENNEDY. No, that is not correct at all.

Under the regulations that are in effect at the present time, which I want to continue, 28,000 were brought in during 1977 and 23,000 were brought in during 1978. But at the same time this bill has rejected the concept of returning to a bracero type of program.

What we are saying is that we have rules and regulations that have been established and are basically going to guide this program in the future. But there is no ceiling.

The law governing this program is virtually one page long. It provides enormous discretion to the Attorney General. We felt it was important that such discretion be continued. However, it has not been the position of the committee that we return to a bracero type of program.

The existing H-2 provisions provide for adequate numbers in the past, they have met the agricultural needs in the past. I would expect that there would be some increase in the future, but it will be done in a way to protect American workers, their wages and their working conditions.

Mr. SYMMS. I appreciate that. I am not trying to be argumentative. I am

trying to understand this: In the Columbia Basin—in Oregon, Washington, and Idaho, for example—in past years, 80 percent to 90 percent of the perishable crops have been harvested by what would be termed here “illegal aliens.” It is a guestworker program that works very well.

The problem with it is that because of the illegality of it, the workers are always running. I appreciate the amendment of the Senator from Colorado. I have witnessed some horrible human rights violations—but I will not burden the Senate with them—of immigration authorities chasing people who legitimately come to the United States for only one reason—to earn an honest living, to provide for their families. Yet, somehow, they run like hunted criminals if a law enforcement officer comes near.

In other words, what the Senator from Wyoming is saying is if the amendment were agreed to, then there would be no means to bring in new workers other than the 23,000 workers the Senator mentioned. I believe Senator HAYAKAWA introduced a bill earlier this year allowing for 1 million workers to come in, the guest-worker program.

I personally think that would be a reasonable figure, if we try to include what is happening in this country. But I wish to know how are these crops going to be harvested if new workers are required anywhere in the country if the Kennedy amendment should be agreed to?

Mr. SIMPSON. Mr. President, in my mind it would be indeed much more difficult if the Kennedy amendment were agreed to. The whole purpose of the H-2 provisions and the streamlining or expediting that is in S. 2222 was to expedite the flow of persons for seasonal work in the United States. We expedited this procedure particularly for the employer and particularly the agricultural grower. In addition, for the first time under S. 2222, the Secretary of Agriculture is involved.

The Secretary of Agriculture was never involved. For the first time now, under S. 2222, we have the involvement of the Secretary of Agriculture—we have him involved in the consultation process. Under the report language on page 46, we say the Secretary of Labor. We do not take away any of the powers of the Secretary of Labor. But we say:

The Secretary of Labor, in consultation with the Attorney General and the Secretary of Agriculture, is required to report annually to the Congress on the certification process, including the impact of temporary alien workers on labor conditions in the United States and on compliance with the conditions of the program.

The bill even provides appropriations of \$10 million in each fiscal year to recruit domestic workers for jobs which temporary alien workers might

otherwise perform and to monitor the conditions of employment of nonimmigrants and authorizes that type of procedure.

It makes agricultural workers more readily available to American agriculture than under the present law, at the same time protecting U.S. workers. Agricultural growers in the Northeast and in Florida have used H-2 worker programs successfully for years. Under S. 2222, we will now find that use available in other parts of the United States.

Mr. SYMMS. In other words, when people from the Caribbean, and so forth, are brought in for agricultural harvest in the Northeast and the Southeast, we would be doing a similar thing with Mexican nationals, I assume, in the Western States.

Mr. SIMPSON. That is correct.

Mr. SYMMS. And it is the opinion of the Senator there will be enough flexibility. I guess the concern the farmer will have is, will he really be able to rely on the bureaucratic maze of Government to act fast enough to realize that peaches, cherries, potatoes, and other crops like that are perishable and have to be harvested at a certain time? And it is the opinion of the Senator from Wyoming that that will be an expeditious process.

Mr. SIMPSON. Mr. President, indeed one of the critical issues we discussed was perishable crops, the seasonal nature of what was required, the immediacy—maybe even within just hours or days—of the crop to be harvested. With the procedures we have here, the promise is made and there is the commitment. If the commitment does not come through where the perishable aspects are critical, then we have a method to even overcome that in this legislation.

Mr. SYMMS. I thank the Senator very much for his enlightenment to this Senator on this question.

Mr. SIMPSON. I thank the Senator from Idaho.

Mr. KENNEDY. Mr. President, I shall only mention here some of the aspects of the current regulations which are eliminated under the provisions of this legislation.

First of all, there does have to be an active effort for recruiting workers and the recruitment provisions are weakened. It does seem to me that if the jobs are going to be available, there should be some requirements for indicating that those jobs are available, whatever those jobs are going to be, and whatever the wages are going to be. But those particular provisions are significantly weakened under this legislation.

Second, there is also a user fee requirement now, so if employers are going to need individuals to work in a particular industry, we are not going to burden the Federal Government on the costs of processing and seeking

foreign workers. Why should the Federal Government have to bear the burden for some particular grower, whether that grower happens to be in Massachusetts—and they do grow apples up there and other produce—or whether it exists in the other parts of this country?

We hear a great deal about user fees in other areas. The fact of the matter is, this weakens those particular provisions in the current regulations that require user fees. It says that if agricultural groups are going to need foreign workers, they must bear the financial responsibility in terms of trying to find out if those workers are available.

Another provision weakens the opportunity for American workers because it says that if the individual who shows up for work and is trying to bargain above the minimum wage, then the grower can say, "We do not have to pay you more; we can take a foreign worker at the minimum wage."

I believe that the impact of that can be adverse in terms of the working conditions for workers in this country.

The fact of the matter is, 70 percent of minimum wage recipients in the United States of America are heads of households, and so we are not just talking about part-time workers here. It may be part-time for a particular crop, but we are talking about men and women who are trying to provide for their families, and under this particular provision, they are able to say that if the American worker or resident alien shows up for this job or if several show up for this job and say they are prepared to do it at somewhat above the minimum wage, that the grower is able to turn them down and get a foreign worker.

And then there is the whole question of responsibility for these individuals, once they begin to work in these agricultural areas. The change in the rules and regulations on these multi-crop associations I think diffuses the responsibility of individual employers for some essential protections.

We have not established any ceiling on the H-2 program. We have not said it is 50,000, 500,000, or 1 million. We have not established any figure. But what we are asking for is that the tried and tested rules and regulations which have been established to control the temporary worker program, and also for the protection of the American workers, will continue.

This body has seen what happened when we had the bracero program. I was here in the period of the 1960's when one of the darker chapters of the employment situation in this country was the extraordinary exploitation of the braceros. I think it is essential that we do not send out a message as we consider this legislation that we are going back to that regrettable time.

As I mentioned earlier, the statutory language governing this program is effectively four paragraphs long, and that what is guiding those paragraphs are existing rules and regulations.

I say the rules and regulations which are in effect now and have applied for the admission of 28,000 temporary workers in 1977, 23,000 in 1978, should not be weakened in terms of protecting both the guest worker and protecting the American worker, particularly at this time of dramatic unemployment.

Mr. SIMPSON. Mr. President, I certainly share the views of the Senator from Massachusetts about the scope and misuses of the bracero program.

I happened to personally witness that when I was a young man in Crook County, Wyo., and it was as offensive to me then as it is now. I will leave out some of those personal recollections of that program.

But let me say that the H-2 provisions in S. 2222 actually in many ways are strengthening labor market protections under current law because we have built into the legislation what were previously some Labor Department regulations. I think that is worthy of note.

But I agree we must monitor it carefully. So in the law we have put the provision for a report annually to Congress on the certification, including the impact of temporary alien workers on labor conditions and on compliance with the program.

I thank the Chair.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. MITCHELL. Mr. President, I rise in support of the amendment to strike the H-2 provisions of S. 2222. I am deeply concerned that the changes S. 2222 would make in the H-2 program could lead to the widespread use of foreign labor in this country at a time when almost 11 million Americans are unemployed.

The H-2 program, or bonded program as it is known, is designed to allow employers to hire foreign workers on a temporary basis if: First, qualified American workers are not available and second, hiring the foreign worker will not adversely affect the prevailing wage rates in the area. Although most H-2 workers work in the agricultural sector, many work in other industries in this country including the construction industry.

S. 2222 would make several major changes in the law governing the H-2 program. Taken together, they could lead to the increased use of foreign

labor at the expense of American workers. Specifically, I am concerned about three changes.

First, S. 2222 would give the Attorney General the authority to issue the regulations governing the program, in consultation with the Secretary of Labor and the Secretary of Agriculture. Under current practice, these regulations are issued by the Secretary of Labor. In my view, this is as it should be. The H-2 program, after all, involves the supply and demand of U.S. workers which is a labor issue.

I can understand the desire of agricultural interests, primarily in the West, to bring the Secretary of Agriculture into the regulatory decision-making process. However, I am concerned that bringing the Secretary of Agriculture into the process will result in regulations being issued which make it easier to bring foreign workers into the country. I believe this would be detrimental to workers in my home State of Maine, and around the Nation.

Second, current law governing the H-2 program allows foreign workers to be brought into the country if "unemployed persons capable of performing such service or labor cannot be found in this country." In practice, what this "national test" means is that the Department of Labor makes a search for available workers only in those States or regions of the country where such workers are known to exist.

S. 2222 would delete the reference to "in this country." No one knows exactly what affect this will have on the search made for U.S. workers. I am concerned that this would lead to regulations being issued which would require an employer to search for U.S. workers only in the immediate area, or the State, or perhaps a part of a State. This could lead to foreign workers being brought into the country when able and willing U.S. workers are available in adjacent States, or other parts of the same State.

Finally, I am opposed to the changes S. 2222 would make in the enforcement provisions governing the H-2 program. Under current regulations, if an employer does not "comply with the terms" of the labor certification which allows him to bring foreign workers into the country, the Regional Administrator of the Department of Labor may deny that employer's certification for the coming year. Under S. 2222, the Secretary of Labor may not issue a certification if, during the previous 2 years, the employer has substantially violated an essential term or condition of the labor certification. What is an essential term? What constitutes a substantial violation? Neither of these phrases is defined in the bill or the committee's report. I am concerned that the vagueness of this language will render the enforcement provisions meaningless and can only

lead to increased litigation as to whether an employer violated his certification.

The regulations governing the H-2 program apply to the logging industry as well. I am particularly concerned about the potential impact changes the H-2 program will have on Maine woods workers. For many years, Maine's woods workers have been competing with Canadian woods workers for scarce jobs in the logging industry. This competition is made even more intense in today's current recession in which the demand for wood products, of all kinds, is sharply reduced.

Under current practice, a logging contractor who typically signs a contract with a paper company to supply a certain amount of wood hires woods workers to do the cutting. In January, these contractors usually apply to the Job Service to bring in Canadian woods workers for the start of the cutting season, around the first of May. Contracts may be signed for up to 11 months. However, with the economy the way it is most cutters do not cut for more than 8 months.

In 1980, the Secretary of Labor certified 642 Canadian woods workers to come into Maine. In 1982, this number dropped to 366. Compared to the number of H-2 workers certified nationwide, this is not a large number of foreign workers. In my view however, it is too large if one, just one, unemployed Maine woodsman is willing and able to do the job.

We hear a lot of talk these days about protecting American industries from unfair foreign competition. What about protecting American workers from unfair foreign competition?

I am not totally opposed to the H-2 program. I believe it can serve the useful function of allowing employers to bring in foreign workers on a temporary basis when no American workers are available to do the job. There have been some problems in the administration of the program and that process needs to be streamlined. But I do not believe these problems justify the wholesale changing of the law governing the program.

It is not absolutely certain the changes in the law governing the H-2 program by S. 2222 will result in more foreign workers coming into the country. However, it seems to me that this is a distinct possibility. No one knows for sure what impact this legalization will have on the labor market.

In Maine we have a saying: "If it ain't broke, don't fix it." The H-2 program ain't broke. Let us not try to fix it.

I urge my colleagues to support the Kennedy amendment.

Mr. SYMMS. Mr. President, before we go to the vote, I just wanted to say to my colleagues here—and I hear what they are saying about the old bracero program—let us not kid our-

selves as to what is happening today. I think it would be a real mistake if the Senator's amendment passed because we have a guest worker or a bracero program working in the western part of the United States right now but it is just not a legal one. I think we can protect the rights of those workers more if somehow they did not have to hide as if they were coyotes from law enforcement officers, so that they can live in better housing and be treated more as we would all like to treat human beings.

That is the problem we face. It is a compliment to the United States, in one way, in that people will break the law to come in here to get jobs that Americans do not want.

Twenty years ago or so we were spending about 25 percent of the Federal budget on welfare transfer payment-type programs. Today we are spending over 50 percent of it, and there is not the encouragement—there is not the American citizen wanting those jobs in the western part of the United States. These workers who are up there harvesting potatoes, changing sprinkler pipes, picking fruit crops are making very good wages, so we do not want to fool ourselves on that either. It is not that people are not making what they consider to be good wages, and in some cases American citizens would consider them good wages. I am talking about anywhere from \$50 to—it is not unusual to see fruitpickers making \$50 a day, and in some cases more than that. Some days they will make much more than that. But I think what we need to understand is that if this amendment should pass and you limit it even more to the allowance of people who come into the country, guest workers if you wish to call them that, that is what is happening now, and I do not think we should try to pass something here that is going to limit the flow of workers, an adequate supply of workers.

If the Senator from Wyoming is correct in his assumption that the farm labor market in the Western States will be able to go in and apply and get adequate supplies of workers, then he has a possibility of having that program work. If you cut this off and try to enforce some kind of a new law, then this is not going to change much of what is happening right today. There will just be more counterfeiting of identification cards and more of the same thing going on.

I hope when this is over—and I am very concerned about this legislation, I must say—I would be much happier if we had a guest worker program so that you could legitimize a temporary worker to come in and fulfill a seasonal-type employment, then I think you would have a leg to stand on to enforce some firm immigration requirements.

But this is going to be very difficult to accomplish, having what the noble goals of this legislation are, to really have the impact that people here who are promoting it think that it is going to have.

I think we should recognize the reality of what is going on right now in the Western United States. I hope the Senator from California, Senator HAYAKAWA, will come to speak to that because a great deal of the fruit crops in California, Washington, Oregon, Idaho, the entire western part of the United States is actually, in fact, harvested by illegal aliens. They are not harvested by American nationals.

I urge my colleagues to vote down this amendment because I think it will be something which will seriously weaken the ability of this legislation to be successful and to accomplish the goals the authors of the legislation hope it will accomplish.

Mr. KENNEDY. Mr. President, just to make a brief comment and then I hope we will go to a vote, the purpose under this legislation, as I understand it, is that those individuals who have been utilized in agriculture in many parts of the West, and in industry in many parts of the East, are going to be legalized and adjust their status to permanent resident aliens and come out of this subclass, and eventually move toward citizenship.

So we are not just legislating for today; we are trying to legislate down the road. We are establishing in this legislation guidelines that will guide us over the period of future years.

Existing regulations obviously can be altered and changed to deal with new realities. But I still do not believe we ought to weaken in a significant way, for the reasons I outlined earlier, the current regulations which were established to protect both agricultural workers and those who work in other aspects of our economy.

I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from California (Mr. HAYAKAWA), the Senator from Maryland (Mr. MATHIAS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Kansas (Mr. DOLE) and the Senator from Oregon (Mr. HATFIELD) would each vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

The PRESIDING OFFICER. (Mr. CHAFFEE). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 28, nays 62, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—28

Biden	Heinz	Pell
Bradley	Inouye	Percy
Chafee	Jackson	Proxmire
Cohen	Johnston	Riegle
Cranston	Kennedy	Sarbanes
Danforth	Levin	Sasser
Dixon	Long	Specter
Dodd	Metzenbaum	Tsongas
Glenn	Mitchell	
Hart	Moynihan	

NAYS—62

Abdnor	Eagleton	Mattingly
Andrews	East	McClure
Armstrong	Exon	Melcher
Baker	Ford	Nickles
Baucus	Garn	Nunn
Bentsen	Goldwater	Packwood
Boren	Gorton	Pressler
Boschwitz	Grassley	Pryor
Brady	Hawkins	Quayle
Bumpers	Heflin	Randolph
Burdick	Helms	Roth
Byrd	Hollings	Rudman
Harry F., Jr.	Huddleston	Simpson
Byrd, Robert C.	Humphrey	Stafford
Chiles	Jepson	Stennis
Cochran	Kassebaum	Stevens
D'Amato	Kasten	Symms
DeConcini	Laxalt	Thurmond
Denton	Leahy	Tower
Domenici	Lugar	Warner
Durenberger	Matsunaga	Zorinsky

NOT VOTING—10

Cannon	Hayakawa	Wallop
Dole	Mathias	Weicker
Hatch	Murkowski	
Hatfield	Schmitt	

So Mr. KENNEDY's amendment (No. 1955) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SIMPSON addressed the Chair. The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that on the amendment of the Senator from New York, there be a time agreement of 15 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UP AMENDMENT NO. 1231

(Purpose: To provide that new or replacement social security cards shall be tamper-proof)

Mr. MOYNIHAN. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an unprinted amendment numbered 1231.

Mr. MOYNIHAN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

On page 90, between lines 2 and 3, insert the following:

(d)(1) Section 205(c)(2) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

"(D) The Secretary shall issue a social security card to each individual at the time of the issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and, to the maximum extent practicable, shall be a card which cannot be counterfeited."

(2) The amendment made by paragraph (1) shall apply with respect to all new or replacement social security cards issued more than 190 days after the date of the enactment of this Act.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the amendment made by paragraph (1). Such amounts shall not be paid out of the Trust Funds established under Section 201 of the Social Security Act.

Mr. MOYNIHAN. Mr. President, the purpose of my amendment is to require the Social Security Administration to print social security cards on banknote paper. As the distinguished chairman knows, as the Senate knows, for the first time, this legislation makes it a crime of perjury for an employer to employ an illegal alien. Under penalty of perjury, he must satisfy that he has verified that the individual is eligible to be employed. In the overwhelming number of instances, the identification presented will be the social security card.

For half a century, this card has been printed on pasteboard. It is, without equal, the most easily counterfeited document issued by the Federal Government. The extent of that counterfeit use has been testified to by the General Accounting Office. An estimate of the fraud and abuse resulting—may we have order, Mr. President?

The PRESIDING OFFICER. The point of the Senator from New York is well taken. If he would suspend for one moment.

We must give the Senator from New York an opportunity to be heard.

The Senator will proceed.

Mr. MOYNIHAN. I thank the Chair. Mr. President, the Senate Permanent Subcommittee on Investigations estimates that the cost to the Federal Government of counterfeit social security cards today is \$24 billion. Can you imagine what the cost to employers will be as they find themselves accused of perjury for accepting in good faith an easily and almost foolproof counterfeited document? The only respon-

sible response would be to produce a more tamper-proof document.

How do we do it? We do it in the same way we do it with our currency: we print it on banknote paper.

Mr. President, this Chamber has voted to do exactly that. Last October 15, unanimously, in a social security measure, we agreed to a proposal I submitted to require tamper-proof banknote paper cards. Unfortunately, the House conferees would not accept that on the advice then of the administration. That has long been a position through different political areas and parties of the Social Security Administration.

Mr. President, I am informed by Mr. Paul Simmons, the Deputy Director of the Social Security Administration, that the Administration is planning to print all newly issued or replacement cards on tamperproof stock beginning about January 1983. That is the first change in half a century in the social security card. It is interesting how quickly it would take effect. At a cost of about \$1.3 million a year—an administrative cost, not from the fund—we would replace almost half the social security cards in 5 years. That is a combination of new issues and replacements.

The administration has seen the light here; they accept the argument. However, Mr. President, I have to say that, once before, I obtained such an agreement from the Carter administration and they reneged. I do not in any sense suggest bad faith to the present administration. To the contrary, they have changed their mind after vigorously arguing the opposite case. The facts have persuaded them. They do not feel they need statutory authority. However, if given a statutory mandate, they will surely do what ought to be done.

Mr. President, I ask that a series of documents on this matter supporting the case be included in the RECORD, including one recent example of someone picked up for counterfeiting social security cards because the card "wasn't messy enough"—it was too obviously new.

There being no objection, the documents were ordered to be printed in the RECORD, as follows:

STATEMENT OF NEWTON VAN DRUNEN FOR THE HEARINGS ON FEDERAL IDENTIFICATION FRAUD

Mr. Chairman and Members of the Subcommittee:

My name is Newton Van Drunen. I am 54 years old. I was born in Canada and I am a citizen of the United States. I am presently incarcerated in a federal prison in Chicago, Illinois, and I am serving a ten-year sentence for counterfeiting and conspiracy offenses.

Throughout my youth, I spent a great deal of time working with members of the Mexican community. As the years went by, I began to identify more and more with their plight in this country. I speak Spanish fluently, and today I consider myself a part of the Mexican community.

I began my career smuggling aliens in 1956 or 1957. I can't recall how I got started, but during that time I also worked as an industrial arts teacher. On the side, I exported cars from the U.S. to Mexico. I started dealing in documents—as a middle-man, not a counterfeiter—in the late 1960s. I provided documents for illegal Mexicans and arranged work for them in factories around Chicago. In order to get jobs for Mexicans, I first had to get them a social security number. I did this by simply completing the application forms as there were no specific requirements at that time to get a number. When employers became concerned about hiring illegal aliens and began requiring more documentation, I furnished aliens with baptismal certificates in addition to the social security cards. I purchased these at church supply stores and just filled them out for each of my clients.

I was arrested and convicted in 1973 for illegally smuggling aliens from Mexico. In 1975, I was sent to Sandstone Federal Prison in Minnesota.

It was at Sandstone that I had my first experience with printing. I had not counterfeited any documents before going to jail, although I was very interested and eager to learn. Unbelievably, I was placed in the prison print shop to work and learn the trade. This shop did a lot of work for the Immigration Service.

Various INS internal documents crossed my hands in the print shop. Most important to me later on would be the information about the new INS alien registration card and the fact that INS had contracted with Polaroid to manufacture the card.

I couldn't believe this information was actually coming through my hands while in prison. I thought at first the government was setting me up because my wife continued running my business by furnishing vendors from the stock of documents I had accumulated. After I got over my fears, though, I learned various tricks of the trade from other inmates who were professional printers and counterfeiters.

When I got out of prison in 1976 I continued to sell documents as a middle-man. It was at this point that I set up a print shop by purchasing commonly available equipment. I did not try to counterfeit the INS card in use at that time, as I did not choose to create an inferior document. All of the information I had learned in jail about the new INS alien registration card was stored in the back of my mind until such time as the card would be issued in 1977. However, I did some experimenting to create my version of the new card. I assumed the government would use a sophisticated magnetic strip with coded information which would be placed inside the card. I later learned I was wrong—INS did not use as sophisticated a process as I had envisioned.

Meanwhile, I began producing my own Texas birth records, Selective Service cards, and social security cards. All of the Mexicans I sold to, through a network of vendors, knew the documents and the social security numbers were phony. I was selling identification packets consisting of the social security card, Texas birth certificate, baptismal certificate, and the Selective Service card for \$75.00 per package. This price was usually doubled by the vendors when they delivered the documents to Mexicans.

A few months after my release from Sandstone, I was arrested again by INS in 1977 but fled after I was released on bail. As a fugitive, I continued to operate my business in

the Chicago area. To avoid capture, I used several fake identities which I created, and I manufactured the documents to support these identities.

One of the most successful documents I counterfeited during this fugitive period was a reproduction of the photocopied letter issued by U.S. District Court Judge Grady as a result of his decision in an important immigration case. One hundred and forty-five thousand copies of this "Silva-Levi" letter were issued to aliens who, by possession of the letter, could remain legally in the U.S. and work. I simply reproduced hundreds of copies of this letter and sold it to vendors for \$15 each. The letter was a cinch to counterfeit, it did not have a serial number which could be traced, and it did not identify the person to whom it was issued. For false identification purposes, it was an ideal identity document.

I also counterfeited the INS form I-94 and issued it with the "Silva-Levi" letter. This is another dream document to reproduce. With an unsophisticated stamp noting "work authorized", a Mexican illegal can work almost without trouble in the U.S.

For a brief period, I made out income tax forms for Mexicans if they wanted me to. Some used the phony social security numbers I gave them to file for refunds. I don't think there is much coordination between IRS and the Social Security Administration. I figured it would take a while for these agencies to find out if any of the Mexicans were sharing social security numbers or using phony ones.

On a scale of "one to ten," the social security card is a "one"; it's just extremely simple to reproduce. Also, from various sources including social security office workers, I learned generalities about the social security numbering code. As far as I was concerned, phony social security numbers were undetectable by employers. The danger, if any, was in using a number issued to another person. Anyone could use my card for at least one to three years before detection, if at all. That was sufficient for my clients' needs. By 1980, I had learned enough about "unissued" social security numbers—those to be used by a state in fifteen or twenty years—and then only gave "unissued" numbers to my clients.

By the time INS first issued its new alien registration card in July 1980, I had already developed a loyal following. At one time I had a large number of vendors working throughout the Chicago area. Some of my vendors migrated to California, Arizona, New Mexico, Texas, Florida, Georgia, Indiana, Illinois, Michigan, Minnesota and Nebraska, and continued selling my documents in these states. I set the prices for the vendor and told them how much to charge the customers. For example, social security cards, birth certificates, and drivers licenses cost the vendor \$15 and the customer \$30. Harder-to-produce Texas birth certificates and birth registration cards together cost the vendor \$45 and the customer \$90. I took special request orders, and even counterfeited government agency envelopes. Since I did not deal directly with customers, I can't say exactly how many people purchased from my vendors the tens of thousands of documents I counterfeited.

I was finally able to get my hands on a just-issued INS alien registration card in the summer of 1980. Over several days, I worked out a theory of just how the card could be fabricated. I could not destroy the card I was studying, because it was someone's valid card, so I took measurements and made a

few test cards. About two weeks after I first saw the new card I created my first acceptable copy of it.

I know that optical readers for the coded information on the back of cards would not be available to Immigration inspectors at the same time the cards were to be issued. So, I didn't worry about breaking the code but used alien registration numbers that I made up. I knew that one number stood for the country of birth, therefore I used the correct number of Mexico. I also knew that another number on the back stood for the alien's date of entry or date of legalizing status.

I gambled that the government would use phosphorescent ink on the new card. I lost. INS used fluorescent ink, which is of a lesser quality ink and requires ultra-violet light for detection. I stopped using the more difficult phosphorescent ink quickly, but I never bothered to change to fluorescent ink.

I also erred in the type of film used to photograph one layer of the card. It turns out the government uses a different type of film, which is readily available on the commercial market.

The biggest problem with the new INS card is that every part of it can be completely reconstructed once the materials are discovered. The type, style, ink, paper, and even the overlays are commercially available.

I was able to counterfeit only 300 of the new alien identification cards before my arrest in 1981. After I made a new card, I maintained a filing system for everyone who bought a card from me. I guaranteed each person that the card would be corrected, within a 30-day period, if there were any errors. As I perfected the new card, I planned to have each customer receive a new and better one. Since I did not keep in touch with my customers, I put a series of identifying numbers alongside the file card, which also had a picture of the customer. If I gave the person a social security number, I would write that down on the file card. I also had a code on the file card for the vendor who sold the document.

I sold this INS card for \$60 to the vendor, and told vendors to charge customers \$120 each. I was adamant about making sure my vendors told illegal customers these identity cards were phony. I even quizzed customers, through vendors, and had the vendor give me the customer's response so I could be certain the customer wasn't fooled into thinking the purchased documents were official.

My purpose in testifying today, Mr. Chairman, is to offer some positive suggestions about the reliability of identification documents currently in use. In general, I think the INS alien registration card (I-551) has some very attractive features to withstand tampering. The document, however, is not counterfeit proof. To improve on it, INS should consider:

Using decoders which can be carried around easily by the Border Patrol and other Immigration inspectors;

Adding original art work to the border of the card;

Using phosphorescent ink so the card can be checked with a flashlight during inspection, and would be more difficult to photograph;

Using a serrated edge on the insert;

Using a two-color plastic to make photographing more difficult; and

Imprinting "U.S.I.N.S." on the plastic laminate itself.

I want to thank you for this opportunity to testify. I am available to answer any of your questions.

STAFF STATEMENT OF SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. Chairman and Members of the Subcommittee:

Since August 1981, the staff of the Subcommittee has been studying the fraudulent uses of federal identity documents. The leadership had us undertake this inquiry as part of the Subcommittee's emphasis on fraud and waste in the government. We wanted to do two things: first, to trace the extent counterfeit, altered, or fraudulently-obtained identity documents can be used to penetrate government benefit programs; and second, to ascertain the reliability of these documents as a secure means of identification. In the past year, the reliability of federal identity documents has taken on added significance as Congress considers pending legislation to revise U.S. immigration policy and create a worker identification system.

Our investigative work indicates that the scope of the false identification problem is enormous and its impact on government and business is pervasive. In 1976, a Department of Justice study estimated that false identification cost the American public \$15 billion in program and commercial losses. During the course of our investigation we saw no indication that false identification crimes and the resulting fraud have in any way diminished. If the \$15 billion is adjusted to reflect annual inflation increases since January, 1977 the current cost of false identification is over \$24 billion.

To: Senator MOYNIHAN.

From: Elise Rabekoff.

Re: tamper-proof Social Security cards: conversation with Paul Simmons.

Date: August 12, 1982.

I spoke with Paul Simmons, deputy director of SSA, about whether the Administration would support your tamper-proof Social Security card amendment. He told me:

1. SSA feels they don't need statutory authority to print cards on tamper-proof stock.

2. SSA is planning to print all newly issued or replacement cards on tamper-proof stock beginning around January 1983. They can't guarantee a date because they haven't submitted the project to contractors yet. They estimate this will cost \$1.3 million yearly.

3. SSA will announce this three weeks from now.

4. You can announce this on the Senate floor.

[From the New Republic, July 12, 1982]

NOTEBOOK

Frank and Maria Richards had a clever forgery scheme going: by selling bogus Social Security cards and other fraudulent documents to illegal aliens in Los Angeles, they had made \$1.5 million. But after a few years, when the fake applications began to appear too neat to pass for government work, astute federal investigations caught on. "Sloppy applications are more acceptable because they're more like the normal ones," Daniel Lane of the Department of Health and Human Services told the Senate Permanent Subcommittee on Investigations on June 16. This discovery opens new avenues to those seeking to ferret out waste and fraud. In keeping with its characteristic

logic, the Administration might collect bureaucrats' handwriting samples or simply mandate messiness in government—provided that the always superior private sector doesn't catch on, of course.

Mr. MOYNIHAN. I reserve the remainder of my time.

Mr. BENTSEN. Will the Senator yield 1 minute?

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. BENTSEN. I want to congratulate the Senator on his amendment.

I noticed on one of the network news programs the other night that they apprehended two Mexican nationals crossing the border who estimated they each sold some 50,000 dollar's worth of counterfeit social security cards. They had a whole stack they were trying to sell. Those people that argue against this amendment, in effect are arguing for a card that is "counterfeitable," not one that is "noncounterfeitable." I disagree with those who try to tell me that is an invasion of privacy. Anytime I go to cash a check, I am asked to show my driver's license. I do not resent that—except for the photograph, and I cannot help that. But, frankly, I am proud to be a U.S. citizen. A social security card that will assist in that kind of identification, would be very helpful and make it easier for the employer to comply with this law.

I certainly congratulate the Senator on his amendment.

Mr. MOYNIHAN. I appreciate the support, as I have always had in the Finance Committee, of the Senator from Texas, who knows what a problem this is, and a needless problem.

Mr. President, I withhold the remainder of my time.

May I say, if I may continue, a problem we can address with a sensible solution. Not every problem admits itself of such a response.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I certainly concur with the last remark of the Senator from New York; indeed, a sensible solution sometimes does escape us in this place. I thank the Senator because he has brought an interesting issue to us. It is something we have spent a great deal of time discussing in the Select Commission on Immigration and Refugee Policy, and in the subcommittee and the full committee.

I think the Senator from New York will be very pleased at the information I can share with him. We do not want to preclude any options available to the administration in developing the more secure system. A data bank call-in has been discussed and improved State drivers' licenses and identification cards as well.

I think the Senator would be interested to know that 41 States have an

I.D. card that is voluntary, that is used for those who do not choose to carry a driver's license, and they may purchase that for \$2 or \$3. Forty-one States have those.

A tamperproof, revised social security card is one of our options. As I say, the use of the social security card has been a distinct possibility throughout, but we do not want to suggest that it is the system which the Administration must develop.

As to what the Senator from New York is telling us about identification cards in the United States, here I have an exhibit that is more graphic than anything I could express. I wish I had it portrayed in a larger form. This exhibit is a sample of what is happening in the United States of America.

This card at the top left of the exhibit is a fake green card. That is a fake green card that was obtained somewhere along the border. It may have been obtained at a bourse table in one of the cities during the county fair. They sell them openly under the trees down there. You can get them anywhere in the United States.

With this fake card, this one man obtained a valid social security card, a valid AFL-CIO card, a valid food stamp card, a valid medicare card, a valid driver's license, a valid unemployment insurance coverage card—one man.

So the issue, really, is it not, do they leave more on the table than they take off or do they do things Americans will not do? The issue is that our systems are being diminished by that type of conduct, and it is flagrant and it is real.

I advise my colleague from New York that the Social Security Administration has advised us that in the very near future, it will announce the issuance of tamperproof social security cards on banknote paper, and that those new tamperproof cards, just as the Senator from New York has expressed, will be issued on that type of medium and will be issued in approximately 6 months.

I think that will resolve perhaps the need for this amendment, and I urge that information upon the Senator.

Mr. MOYNIHAN. Will the Senator yield to me 1 minute on his time?

Mr. SIMPSON. I will yield that minute of my time.

Mr. MOYNIHAN. Mr. President, I know the care and concern with which the distinguished Senator from Wyoming has handled this legislation. If it is his judgment that this ought not to be placed in the bill, I am prepared to withdraw it. I am withdrawing it because the Social Security Administration knew I was going to put it on this bill at every opportunity that came along from the time last October when, after the Senate unanimously agreed to this, they blocked it in conference.

My understanding from Mr. Simmons is that they expect to have this begin in January. The Senator said 6 months. My understanding is closer to 3½ months. That is his direct word to us.

Certainly, regardless of its uses with respect to this legislation, 24 billion dollars' worth of fraud is enough per year—a half billion a week. It is time, after a great deal of friendly persuasion, the Social Security Administration has given in to legislative mandate, or the prospect thereof. In the interest of comity, I am prepared to withdraw the amendment, not to ask for a vote, but I hope I could hear from the chairman that he will take it as a matter of personal concern to see to it that the assurances he and I have been given by the Social Security Administration are abided by.

Mr. SIMPSON. Mr. President, I can assure the Senator from New York of that, for I indeed supported the Senator from New York in his original proposal in October and voted with him on that proposal.

Mr. MOYNIHAN. The Senator surely did.

Mr. SIMPSON. So I am very dedicated to that, and I do assure that I will assist in every way possible in doing that.

Mr. MOYNIHAN. I thank the chairman. I thank him, with the great satisfaction that after 5 years, we seem to have achieved this. Let us hope that it is actually done.

Mr. President, I ask unanimous consent to withdraw the amendment I have at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Before the Senator from New York leaves his desk, I would like to make some comments just so that there is no misimpression on the part of this body from the dialog that just went on. Somehow if we can—and obviously we can—come up with a more counterfeitproof-type of social security card and more suggestions for promoting that and get legislative intent—I agree that ought to be done—however it is important to make clear that in and of itself does not satisfy the requirements of the bill. I do not think it was implicit that the Senator tried to satisfy the requirements of the bill. I think that the Senator is using this forum as an opportunity to further accomplish his goals. I do not find any fault with that. I just want to make sure that the end result of the bill accomplishes some sort of employment verification system. It might lead to a card and we would want that card to be counterfeitproof.

But the most important goal is that that system, whatever the system might be, establish identity of the individual. In other words, is Joe Smith really Joe Smith, that he is the person he says he is. That is identity. We want that to be established. We want eligibility to be established. The person whose identity is established, is he eligible to be in this country? We want to establish who the person is. We want it to say that he is legally in this country. Then the subject of how that identity is made, whether it be through a card, and that it be counterfeitproof, is secondary to the major goal of the legislation. There is not any intent, is there, on the part of the Senator from New York that any of the statements he made would in any way satisfy the identity or the eligibility goals of our legislation?

Mr. MOYNIHAN. It was not my intent to state that one way or the other.

It is because the distinguished manager of the measure wishes that to be resolved in accordance with the legislation and because the Social Security Administration said they are going to go ahead and do what we have been trying to get them to do for 5 years now, that, rather than complicate the legislation, I withdrew the amendment.

I see the point of the Senator from Iowa. I cannot comment on it, because I do not know the intentions of the Senator from Wyoming. But the Senator certainly is correct. I did not in any way suggest that accepting my amendment would resolve all the concerns of the Senator from Wyoming. I would not be able to speak for him, and I do not do that.

Mr. GRASSLEY. Mr. President, I just wanted to make those points because the establishment of eligibility and identity are two points that are the very key to carrying out the purposes of this legislation. I wanted to make that point clear, and I think we have done so.

Mr. SIMPSON. I thank the Senator from New York for his fine cooperation and assistance.

Mr. MOYNIHAN. I am grateful.

Mr. SIMPSON. Mr. President, Senator PRESSLER, I believe, wishes to be recognized.

The PRESIDING OFFICER. The Senator from South Dakota.

UP AMENDMENT NO. 1232

(Purpose: To facilitate travel by foreign nationals to the United States)

Mr. PRESSLER. Mr. President, I send an unprinted amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER), for himself Mr. INOUE, and Mr.

SASSER, proposes an unprinted amendment numbered 1232.

Mr. PRESSLER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 149, line 15 of the Committee amendment, insert the following immediately before the period: "; except that in no event may the program be put into operation later than October 1, 1983".

On page 150, line 19 of the Committee amendment, strike "five" and insert in lieu thereof "eight".

On page 150, strike all from line 25 through line 8 on page 151 of the Committee amendment, and insert in lieu thereof the following: "unless the sum of the total number of refusals during the fiscal year ending immediately before such thirty-day period of nonimmigrant visitor visas for nationals of that country".

On page 153, line 6 of the Committee amendment, insert "and" immediately after "(1)(A)(i)".

On page 153, strike lines 7 through 12 of the Committee amendment.

On page 153, line 13 of the Committee amendment, strike "(C)" and insert in lieu thereof "(B)".

Mr. PRESSLER. Mr. President, I am offering this amendment on behalf of myself, Senator INOUYE, and Senator SASSER.

I thank the chairman and the ranking minority member and their staffs for their cooperation in working this out. I originally offered a revised version of this; and after our discussion with the Senator from Wyoming and his staff and the minority, we have concluded that the most profitable course of action at this time is to propose a series of changes in section 213 of the bill as it now exists. While I must admit that I would have preferred my original substitute for section 213, I realize that there are those who have genuine concerns about an expansion of the visa waiver program along the lines I originally suggested.

I also want to stress that I realize how much time and effort Senator SIMPSON has put into the crafting of S. 2222. It is not my desire to do anything which could be interpreted as an attempt to obstruct a full and fair discussion of S. 2222. A great deal of work has gone into the measure and Senator SIMPSON deserves an opportunity to present the fruits of his labor to the Senate.

Let me now take a few moments to describe the purpose of the visa waiver program and of my amendments to S. 2222.

It is an accepted fact that the vast majority of international travelers to the United States pose no threat to the security of our Nation. Millions of visitors arrive every year from all over the world, but primarily from nations which are major allies and trading partners. We are talking, for instance, about Western European and Japa-

nese tourists and business people. These visitors spent over \$12 billion in our country last year, thereby providing one of our largest sources of foreign trade revenue.

It is also worth noting that aside from its economic benefits, international travel promotes greater international understanding and cooperation. As chairman of the Subcommittee on Arms Control of the Foreign Relations Committee, I can assure you that international understanding is oftentimes a commodity in short supply.

In specific terms, what we are talking about when we speak of a visa waiver is a program which would permit travelers from low-risk countries, such as Western Europe, to travel to the United States without a visa. In other words, they would be permitted to travel solely on their passports as is the case in almost every other nation.

Our current visa system requires all foreign travelers to obtain a visa from the U.S. Embassy in their country before coming to the United States. Due to the explosive growth of travel to this country over the past decade, this has resulted in our embassies being flooded with visa applications. The backlog in some embassies, most notably that in Great Britain, has resulted in delays of 4 to 6 weeks for visa applications to be processed. As you can imagine, this is very disruptive to the travel plans of British tourists and business people. There is also evidence that it is sometimes such a discouraging factor that it results in a loss of foreign tourists. During hearings which I conducted on this issue we received testimony that we could be losing several hundred million dollars in foreign trade income annually because of the negative influence of the visa requirement.

In response to this problem, Senator SIMPSON has proposed, in S. 2222, that a visa waiver pilot program be conducted for 3 years in order to determine the potential benefits and problems of eliminating the visa requirement. This pilot program would be used to determine whether or not it would be feasible to expand future visa waiver eligibility to a major portion of our allies and trading partners.

As I have indicated, I strongly support the concept of the visa waiver, and I am supportive of the pilot program Senator SIMPSON is proposing. However, there are a few changes which I have suggested and which Senator SIMPSON has agreed to adopt. Let me take a moment now to outline these.

First, the current section 213 provides that five countries be included in the pilot program. I have proposed that this number be expanded to eight. This will enable us to include more nations which provide us with

the lion's share of our international travel revenues.

Second, I have proposed that a specific deadline be set for the initiation of the program. This deadline, October 1, 1983, gives the Immigration and Naturalization Service 9 months to implement and perfect their computerized system for screening and monitoring foreign visitors to the U.S. Immigration and Naturalization Service has assured me that the system will be in place by January 1, 1983. Naturally, should INS feel ready to begin the visa waiver system before October 1, then I would be very pleased to see that done.

The third of my amendments makes a slight change in the formula for calculating which nations would be eligible for the visa waiver pilot program. Under my amendment, those nations which have had less than 2 percent of their visa applications rejected during the previous year would be eligible. In the current form of section 213, this 2-percent figure would be comprised of rejections, withdrawals, and those persons refused entry at a U.S. port. As I said, this change will make only a small statistical change, but it should simplify the task of determining eligibility.

The last of my amendments strikes a current requirement of S. 2222 that the international airlines which are participating in the program provide certain data to INS. As section 213 now stands, the carriers must notify the Attorney General when a foreign visitor does not use the return portion of his airline ticket. This was originally intended to provide a measure of control over determining which foreign visitors might have overstayed the 90 days they are allotted under the pilot program. However, it appears to me that the computerized tracking system being implemented by INS would fulfill this need in a much more reliable fashion. The requirement that the airlines keep track of foreign visitors is not only inappropriate and burdensome, it is also a very unreliable measuring system.

It is my view that with the changes I have suggested the visa waiver pilot program in S. 2222 is an acceptable first step toward the goal of modernizing our system for facilitating international travel. I hope that my colleagues will agree with this view and will accept my amendments.

Last, I once again thank and congratulate my friend and colleague Senator SIMPSON as well as the Senator from Massachusetts and the minority and majority staffs for their assistance in this matter and for their able handling of this very complex piece of legislation.

Mr. SIMPSON. I thank the Senator from South Dakota.

● Mr. SASSER. Mr. President, I support the amendment offered by my distinguished colleague from South Dakota (Mr. PRESSLER). I commend him on his work on this amendment which is so important to bolstering our tourism and trade revenues.

This amendment will waive the visa requirement for certain low-risk foreign countries and should eliminate significant barriers to travel in this country by businessmen and tourists from countries like Great Britain and France which have a traditionally low visa application refusal rate, generally under 2.5 percent annually.

It is my understanding that the administration and many travel and tourism associations like the Travel Industry Association, the American Hotel and Motel Association, and the American Society of Travel Agents support this amendment. Their support indicates that this amendment could substantially help improve the opportunity for expanded foreign travel in this country.

This is very important for the country and for Tennessee which is a major tourism attraction for foreign visitors. Travel and tourism is a vital element of Tennessee's economy. It adds \$2.5 billion to Tennessee's economy, and it helps generate some \$114 million in State and local tax revenues.

More and more foreign visitors are coming to Tennessee, especially to see the 1982 World's Fair in Knoxville. It is prudent public policy to encourage foreign travel and tourism in this country, and I urge my colleagues to support the Pressler amendment.●

Mr. SIMPSON. Mr. President, this compromise does expand the visa waiver program from five countries to eight countries and provides that it will go into effect on October 1, 1983.

I do support the amendment. It is a 3-year pilot program to provide visa waivers for those countries which provide a reciprocal privilege to our citizens.

I have discussed this amendment with the distinguished minority floor manager. We believe it is a desirable amendment and are prepared to accept it.

Mr. KENNEDY. Mr. President, I welcome this amendment. Some 4 years ago, I introduced legislation on this proposal. It was passed on two occasions in the U.S. Senate. I had supported it 4 years ago and I certainly welcome the recommendation made by the Senator from South Dakota. I hope the Senate will accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1232) was agreed to.

Mr. SIMPSON. Mr. President, I ask unanimous consent that on the next amendment by Senator D'AMATO that

there be a time agreement of 30 minutes equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

UP AMENDMENT NO. 1233

(Purpose: To deny second preference status to spouses and children of aliens acquiring permanent residence under the legalization provisions until certain other aliens have entered the United States)

Mr. D'AMATO. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. D'AMATO) for himself, Mr. MOYNIHAN and Mrs. HAWKINS, proposes an unprinted amendment numbered 1233.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 125, line 6, insert after "permanent residence" the following: "(other than an alien who acquired such status under section 245A (a), until each alien from the country of such alien's birth who had received or was entitled to receive a visa before October 1, 1983, as a quota immigrant had applied for admission to the United States or had the validity of the visa terminated)".

Mr. D'AMATO. Mr. President, I wish to congratulate the distinguished Senator from Wyoming (Mr. SIMPSON) who has labored in this area that no one has dared tread for many, many years. He has done an outstanding job in a very, very difficult and sensitive area.

Today I offer an amendment that seeks basic equity and fairness. S. 2222 would place approximately 600,000 people who have followed the law, made applications for their visa and who, in addition, are related to bona fide U.S. citizens and who have as their sponsors citizens residing in this Nation. In some cases, these applications date back to 1970. These 600,000 will be, for all intents and purposes, excluded and never have an opportunity to enter this country. In essence, what we are doing is something so fundamentally in error that it is hard to conceive that we cannot find a better way to exclude those people who seek freedom, who have bona fide sponsors and who have obeyed the law. It is not justice.

Mr. ROBERT C. BYRD. Mr. President, I rise in opposition to this amendment. During consideration of S. 2222 by the Senate Committee on the Judiciary, I offered language related to section 211 of the bill—the so-called H-2 temporary workers program. The committee adopted my language by a vote of 10 to 5. Subsequent-

ly, I reached an agreement with Senator SIMPSON, the distinguished chairman of the subcommittee with jurisdiction over this legislation, and with other Senators, that resulted in a modification of my original language. This agreement represents what I consider to be a fruitful compromise on this issue.

I urge the retention of the compromise provisions relating to the H-2 program which are contained in S. 2222, as reported by the Judiciary Committee.

Under current law, a foreign worker can be admitted into the United States for temporary labor or service only if the Secretary of Labor has determined that sufficient domestic workers are not available anywhere in this country to perform such service or labor.

The requirement in existing law is vague, and it has produced extremely burdensome requirements for agricultural employers. I can personally speak of the frustration suffered by fruitgrowers in the eastern panhandle of West Virginia.

Time and time again, West Virginia growers have informed me of the unnecessarily cumbersome nature of the present H-2 system. The Labor Department has used the indefinite nature of the present requirements for participation in the H-2 program to frustrate the applications of employers for certifications of eligibility for that program.

The requirement that sufficient domestic workers must be located and hired before temporary foreign workers are hired has been warped by counting domestic workers, regardless of their qualifications, willingness, or availability to perform the work required of them at the time and the place needed.

The provision in S. 2222, as reported, would require the Secretary of Labor to find that domestic workers would not only have to be available, but would be willing, able, and qualified to do the work as well.

Adding these terms, which have well-established meanings in labor law, as interpreted by the courts and the Labor Department, will produce a far more workable and reasonable H-2 program.

Domestic workers found to be qualified, willing, and able will have to present themselves at the time and place needed for the work required of them. In the case of crops that are extremely time-sensitive, such as tree fruit, and in particular the apples and peaches grown in the eastern panhandle of West Virginia, the workers must be ready to harvest on short notice.

The predictability of the workers needed to harvest such crops is a critical element for these growers. Uncertainty about the status of the labor

force can result in a harvest rotting on the trees.

The Labor Department tries to locate workers for the harvest of tree fruit in West Virginia 2 or 3 months in advance of the date of need. If the domestic workers located by DOL do not appear at harvest time; if they appear late; or if they do not remain on the job, then the grower is placed in a situation of economic ruin.

My constituents in West Virginia have faced this situation on more than one occasion. My language, as contained in S. 2222, requires that a worker must be willing to appear at the time and place needed—and thereby improves the operation of the H-2 program.

I commend Senators KENNEDY and SIMPSON for their fine efforts in connection with this legislation. I am most pleased that the bill reported by the Judiciary Committee addresses the concern that I have raised about the H-2 program and its effects on West Virginia growers. I might also mention that the language related to the H-2 program in the bill has the strong support of the West Virginia Farm Bureau.

Once again, I urge the retention of the language of S. 2222, as reported, with respect to the H-2 program.

● Mr. D'AMATO. Mr. President, I rise in opposition to the amendment offered by the Senator from Massachusetts and in support of the H-2 provisions in S. 2222, the Immigration Reform and Control Act of 1982. The H-2 provisions of current law permit agricultural employers to hire temporary alien workers only if "unemployed workers capable of performing such service or labor cannot be found in this country."

Agricultural employers and the various State employment services are required to search for and recruit workers everywhere in this country before they can justify bringing in temporary workers. Such workers will not remain in this country, but will be here only long enough to make up a temporary labor shortage. The present situation and one which the amendment offered by the Senator from Massachusetts would perpetuate, forces agricultural employers and the Federal-State employment services to spend time and money seeking and interviewing farmworkers throughout the country—who may or may not agree to migrate to the farm or orchard in need.

The H-2 provisions of S. 2222 restrict the scope of the search for temporary workers to the time and place of need. A countrywide search would no longer be required. It makes very little sense to expect New York apple-growers to assume that qualified workers can be found in California, workers who would be willing to move to New York on a temporary basis. Restricting the scope of the search for domestic

workers will help to ease the burden that now is all too often borne by U.S. farmers. Indeed, I have received several letters from agricultural employers in New York State who are overwhelmed by the bureaucratic morass which the Federal Government has created in the administration of the H-2 program.

I would like to emphasize, Mr. President, that S. 2222 does require annual reports to the Congress regarding the potential impact of the H-2 provisions on domestic labor conditions, so that the Congress will be able to determine whether these provisions will adversely affect domestic workers. I do not believe that they will.

In conclusion, Mr. President, we must ease the regulatory burden on agricultural employers in this Nation. I urge my colleagues to support our agricultural employers and defeat the pending amendment.

Let me share with you, if I might, some of my concerns of what will take place if S. 2222 is adopted in its present form. Within 2 years we will go from a situation where we now admit relatives, brothers and sisters of U.S. citizens, bona fide citizens of this country at a rate approximately 90,000 annually to approximately 7,000 annually. That is a total worldwide figure of 7,000.

Some of these people again filed applications as long ago as 1970. They have been waiting. They have sponsors and not only do they have sponsors but those sponsors are U.S. citizens. They have followed the law.

Not only do we penalize them as a practical matter, we say to most, "You will never, never, never come or have an opportunity to come to these shores."

Yet, we confer legal status, cloak them with S. 2222, to those in many cases who have deliberately violated the law and given them an opportunity to be reunited with their families.

We reward some for breaking the law and penalize others for following the law.

My amendment would permit those who have filed applications prior to October 1, 1983, to be grandfathered in, giving them priority over those who are now without status who are here illegally and that we will give to them the right to come to these shores first.

I just believe that it is a matter of equity, of fair play. I believe that it would be very difficult to many to support this comprehensive legislation, unless this inequity is dealt with. I will find it very difficult to be able to support this bill unless there is recognition of this inequity.

It is hard to imagine if we are going to take in 7,000 people in each year, while we have in excess of 600,000 who are waiting. We know the life expectancy of people is getting older and

older. But 100 years? That is what we are talking about. What we are really saying is that most of these people will never be allowed to come in because they followed the law. Yet, if they had broken the law and come over we would let them stay here.

I believe that this amendment goes a long way toward correcting that deficiency. ●

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, this amendment by the Senator from New York would severely, and I speak in opposition to it, restrict the ability of legalized aliens to bring in their relatives. This amendment would prohibit the admission of any relatives of legalized aliens until all other aliens in the current backlogs have been admitted into the United States.

The aliens presently in the backlogs who would come in prior to that are relatives of U.S. citizens and permanent resident aliens.

On its face, I think we might believe that that amendment would seem appropriate. In other words, why should not the families of the former illegal aliens have to wait until all of those who have been patiently waiting in the backlogs, legally, have been admitted?

Also under our law they would go to the end of the lines to wait in the backlog in any event.

However, if none can come in until all previously backlogged aliens have been admitted it means this: it means that spouses and minor children of former illegal aliens would have to wait until all of the backlog brothers and sisters, including adults in the fifth preference, had been admitted. That will take years and years, since we only gave them a rather small percentage of the available visas to use for those who are in the pipeline already.

There are 700,000 persons in the fifth preference backlog, alone, just that one alone. It will be an extraordinary number of years before all of those brothers and sisters of U.S. citizens are admitted and they are in the pipeline. In the meantime spouses and children then of permanent resident aliens will not be able to reunite.

I do not think that is a good result. It does not seem appropriate.

I think this amendment would contribute to illegal flows in the future, since spouses and children would very likely simply always attempt to come to the United States illegally again rather than wait for so many, many frustrating years to join their spouses and children who are truly the description of the nuclear family.

For those reasons I do not support the D'Amato amendment and urge its defeat.

Mr. D'AMATO. Mr. President, if I might respond—

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. The fact is my amendment addresses this problem on a country-by-country basis, so indeed where there might be a preference and would be, and I think justifiably so, to those who apply first and those who have legal status and, let us say in the case of the Philippines that would not be the case but in, let us say, Venezuela, where there is no backlog or in many of the other Central American countries or indeed for most of the countries that exist, yes, that would be the case, and I think it is equity and justice for perhaps 10 cases.

I would point out something else. I think we really go to an extreme when we say we are going to create special preferences for people who are violating the law, and penalize those who have followed the law saying, "You for all time, shall be denied the right to come to this country."

I find particularly repugnant a section in this bill which would permit those with \$250,000 of capital to invest to receive preference. While if you filed in 1970 and you are poor, if you have a brother and sister in the United States, you will never come here. If you have \$250,000 to invest in this country, "Come on in," I do not think that is what has made this country great. My grandparents could not have come here if we had that kind of law or that kind of thinking or philosophy. They followed the law, and I think when we begin to depart from that because of expediency, we are in a sorry state.

Mr. KENNEDY. Mr. President, there is much wisdom in what the Senator from New York has stated here on the floor of the Senate this afternoon, and it reaches one of my very deep concerns about this whole piece of legislation.

In the effort to try to deal with what all of us have understood to be sort of an uncontrolled kind of movement of people into this country, across borders in some instances, and because of what has happened in terms of the entrance of the boat people and Cuban refugees of recent years, the concern with that, what this body has done is now pitted American families against American families.

As one who was, as I mentioned yesterday, the floor manager of the 1965 act, as we tried to eliminate aspects of discrimination in our immigration, the national origins quota system, the Asian Pacific Triangle, we put an important priority on families and family reunification.

Now yesterday for the first time we eliminated the fifth preference, the

opportunities of brothers and sisters of American citizens to be joined with their families here in the United States. The Senate even rejected a very limited program for brothers and sisters who were unmarried, part of what I consider to be a family, with all due respect, and I think the Senator from Maryland made the case very eloquently yesterday. I did not feel less of a brother or less of a brother to a sister after I was 21 than I did before. But we have eliminated the fifth preference. For the first time we have put the bringing of wives and small children under a ceiling which is going to put pressure on other family relationships in those other categories.

I think, Mr. President, with all due respect, that the Senate is really losing sight of what the problem is for this country, and in an attempt to deal with what "is the problem," in terms of being able to reach these arbitrary feelings, we are ending up with the hard and difficult choices which the Senator from New York has stated.

We are pitting the wives and children of legalized aliens against the brothers and sisters of American citizens. That is a fine how-do-you-do for this Nation. I mean, how did we get ourselves into this particular bind when the real problem has been that we have the undocumented people moving on across borders down through the Southwest as a result of 32 percent unemployment, a population in Mexico that is going to double in the next 20 years, and as the result of the gross mismanagement of the Cuban situation under the previous administration? Absolutely inexcusable.

With all of the human tragedy which has been spoken about so eloquently by both Senators from Florida, and has been—

Mr. SIMPSON. Excuse me, Mr. President, will the Senator yield? Is the Senator on my time in this debate? If so, I would like it transferred on the clock because I will be on the opposite side. I would like to make that inquiry.

Mr. KENNEDY. I think the Senator will be satisfied with my conclusion.

Mr. SIMPSON. Eventually. (Laughter.) Mr. President, I certainly hope that that conclusion will be reached very shortly. (Laughter.)

Mr. KENNEDY. Fine. I thank the Senator. I thank the Senator for yielding the time.

Mr. President, I feel that the statement has been made, I think we are in an extremely unfortunate situation as posed by the Senator from New York where we are getting the wives and children of legalized aliens versus the brothers and sisters of American citizens, and that is a part of the pitting families against families to deal with a public policy question which I think is certainly outside of this extremely important policy question where we

ought to be trying to have public policy that is bringing families together rather than immigration bills that are going to continue the separation.

Ultimately we are going to have to make a judgment, and the Senator has put the question well, as to where we are going to draw the line, because we all vote yea and nay. I will vote with those who give preference to the close family relationships, but I regret very much being placed in that position. So regrettably I will have to vote against the amendment of the Senator from New York. However, I think he raises an extremely important and compelling argument.

Mr. D'AMATO. Mr. President, I yield back any of my time that may be remaining.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I appreciate the conclusionary remarks of my colleague from Massachusetts. That was helpful. The other remarks I would have to disassociate myself from.

There have always been those hard and difficult choices, it will always be that case.

I would say to the Senator from New York, all of the persons in the present backlog are not waiting patiently in line, following the law. Nearly 85 percent of those from Mexico who are waiting in line under the legal authorization are already in this country. That may be a startling fact but that is the reality.

Mr. D'AMATO. Mr. President, will the Senator yield for an observation?

Mr. SIMPSON. I will.

Mr. D'AMATO. I would conclude that those figures could be applicable as well to those families supposedly waiting for reunification, and we would find on careful analysis that the great percentage are here, that they are not going to be great in numbers in terms of bringing in because we have now conferred a legal status upon those who are here, this great number coming forth of children and wives, so that the same thing, the same statistic, would probably be applicable.

Mr. SIMPSON. I doubt that we will ever see those types of figures for those waiting in line for other countries simply because there is no proximity like that to our border.

Let me just say that when we have to deal with this fifth preference we have 700,000, and many of those in that backlog will be legalized under this bill. This backlog will then be greatly reduced.

Let me then conclude and say we have not placed a cap on immediate relatives in this legislation. Let that be quite clearly said. We have not done that. We still allow unrestricted immediate relatives into the United States.

But we do say that then those are offset against the family reunification preference system because if there is one thing that will come out of this body, whether this bill comes out or not, we are going to set a cap on legal immigration into the United States. When you do that you squeeze, and you squeeze human beings, and that is the unfortunate thing. But the whole thrust of what we have been up to is to allow that squeeze to affect much less spouses and minor children and affect much more adult brothers and sisters. That was the hard grisly choice.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I ask unanimous consent that I may have another minute of the time I yielded back.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, the fact is that there are 171,000 filipinos waiting to come in. I doubt many of them are here. There are 96,000 Koreans; I doubt many of them are here.

The Senator points to the fact, in terms of Mexico, where there are 56,000 who have legally applied and probably many of them are here, but certainly you would not contend that in terms of the Chinese. We have a great Chinese-American community, 75,000 waiting to come in.

So, yes, in terms of Mexicans and those in Central America, those facts may be correct. Many of them are here.

Again, there is something basically, philosophically, tragically in error when this Nation deprives itself from following the law and discriminates against those who have followed the laws of this land and the procedures and who have waited patiently and who are looking to be reunited with their brothers and sisters, citizens of this country.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I thank the Senator from New York. He has brought his great interest to the body.

I would conclude by saying that I think we would all be surprised, on the Senator's side and on this side of the issue, as to how many of those that are in the backlogs of the various countries are multiple filings, persons who have filed under, perhaps, various preferences. We do not know how many those are. That backlog may be clearly distorted by that reason.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York. (Mr. D'AMATO). The yeas and nays

have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD), would vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from Montana (Mr. MELCHER), is absent on official business.

The PRESIDING OFFICER (Mr. EAST). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 38, nays 53, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—38

Abdnor	Exon	Moynihan
Armstrong	Hawkins	Nickles
Biden	Hayakawa	Pell
Boren	Heinz	Quayle
Boschwitz	Humphrey	Riegle
Bradley	Jackson	Roth
Byrd, Robert C.	Jepson	Sarbanes
Chiles	Kassebaum	Sasser
Cohen	Kasten	Specter
D'Amato	Mattingly	Stevens
Dodd	McClure	Symms
Durenberger	Metzenbaum	Zorinsky
East	Mitchell	

NAYS—53

Andrews	Eagleton	Long
Baker	Ford	Lugar
Baucus	Garn	Matsunaga
Bentsen	Glenn	Nunn
Brady	Goldwater	Packwood
Bumpers	Gorton	Percy
Burdick	Grassley	Pressler
Byrd	Hart	Proxmire
Harry F., Jr.	Heflin	Pryor
Chafee	Helms	Randolph
Cochran	Hollings	Rudman
Cranston	Huddleston	Simpson
Danforth	Inouye	Stafford
DeConcini	Johnston	Stennis
Denton	Kennedy	Thurmond
Dixon	Laxalt	Tower
Dole	Leahy	Tsongas
Domenici	Levin	Warner

NOT VOTING—9

Cannon	Mathias	Schmitt
Hatch	Melcher	Wallop
Hatfield	Murkowski	Weicker

So Mr. D'AMATO's amendment (No. 1233) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1947

(Purpose: To provide for the termination of provisions relating to the unlawful employment of aliens unless certain circumstances occur)

Mr. KENNEDY. Mr. President, I have an amendment at the desk on which I should be glad to engage in a time limitation.

Mr. SIMPSON. Mr. President, I ask unanimous consent that on the next amendment there be a time agreement of 20 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state it.

The legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an amendment numbered 1947.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, between lines 2 and 3, insert the following:

(d) The amendments made by this section shall terminate, and the provisions of the Farm Labor Contractor Registration Act of 1963 amended by subsection (c) which were in effect on the day before the date of enactment of this section shall apply, three years after the date of the enactment of this section, unless ninety days before the close of such three-year period the President prepares and transmits to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a comprehensive report certifying that the provisions contained in the amendment made by subsection (a) have been carried out satisfactorily and have not resulted in a pattern of discrimination against United States citizens or other eligible workers seeking employment.

Mr. KENNEDY. If I may have the attention of the Members of the Senate, I think this amendment is exceedingly important. I do not think it is very complicated, but I think it reaches to the heart of one of the most important aspects of the legislation before us.

Under the legislation before us, Mr. President, we are going to put in place employer sanctions. At the present time, if there is some kind of raid on a plant or a factory, the individuals who are picked up are undocumented aliens and the employers who may be exploiting them, are set free. There is no question that the current system works a hardship on the individual involved and no hardship on the employers.

Under the legislation, if there is a pattern or practice of the hiring of undocumented aliens, there is a sanction

against the employers. I shall let the chairman of the subcommittee spell it out in some detail.

However, there is, Mr. President, a legitimate and serious concern in my mind, and in the minds of many of those who have watched this issue closely over a period of years, about some of the ramifications of this proposal.

As I indicated in my opening statement on this bill, one of my principal reservations about it—and the reason I voted against reporting it out of the Judiciary Committee as drafted—is my concern that this bill must not become a vehicle for discrimination against minority groups in our country.

Unfortunately, the employer sanctions provisions in this bill poses this danger. There are deep and understandable fears about them, especially in the Hispanic Community.

I believe it would be irresponsible of Congress not to address those fears—to say clearly and unequivocally in the law we are proposing—that if those fears do prove valid, if discrimination does result in the implementation of employer sanctions, then they shall be terminated until Congress enacts Remedial Legislation. That is the objective of the Amendment I am offering today.

Mr. President, the history of immigration legislation in recent decades has been that once a law is enacted, Congress does not act again on immigration for many years. To assure that Congress will not ignore any discrimination that results from employer sanctions, I offered an amendment in committee—which I am offering now—that provides a crucial safeguard in the law; namely, that employer sanctions will end after 3 years unless the President certifies in a comprehensive report to the Judiciary Committees of Congress that employer sanctions “have been carried out satisfactorily and have not resulted in a pattern of discrimination against United States citizens or other eligible workers seeking employment.”

If the President cannot give this certification after 3 years, then employer sanctions ought to be terminated.

If, as argued by many, no pattern of discrimination develops, then the sanctions will be continued. Congress does not have to act. This is not a full-blown “sunset” provision; it is merely a safeguard built into the bill.

However, if this safeguard is accepted, and if it is coupled with the other amendments I will be offering to provide for an independent review of employer sanctions and increased funding for the enforcement of existing labor and civil rights laws, then I believe minority groups in our country will be willing to take the risks involved in an employer sanctions program. If they are adopted, minorities in our society will be given a pledge that, if a pattern

of discrimination develops, Congress will not ignore it.

Without that assurance they will not support this bill—nor can I.

Finally, Mr. President, as someone who has followed immigration legislation over a period of years, I have seen where provisions have been built into the law for the purpose of not discriminating, but nonetheless end up having a discriminatory impact. I think the best way we can try to address this in this case is to require a Presidential certification.

We require Presidential certification on the issue of human rights in El Salvador. We require Presidential certification on the movement of military aid and assistance to Argentina or to Chile. It seems to be we ought to be willing to require a Presidential certification that this particular employer sanction is not being used in a discriminatory way against American citizens.

That is the essential aspect of this amendment.

In another amendment later that I will offer, we will require the Equal Employment Opportunity Commission as well as the GAO to do a study on this particular provision to make information on this issue available to the Congress.

This amendment deals with Presidential certification. I think that is the minimum we can ask, and I think it is an essential aspect to insure that this particular provision will not be used in a discriminatory way.

I withhold the remainder of my time.

Mr. SIMPSON addressed the Chair. The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. This provision that the Senator seeks to sunset is the very key portion of the legislation. The committee bill contains provisions to prevent employment discrimination. There is a requirement that employment eligibility be checked for all employees, and the bill provides for reports to Congress on any pattern of employment discrimination that would develop.

I also will be offering an amendment which will provide for an employment discrimination report every 18 months, which will mean that three reports will be issued in the next 4½ years.

There is this concern as expressed by my colleague from Massachusetts that the employer sanctions program will be used somehow as an excuse by employers who wish to avoid hiring certain persons because of race or national origin or because they simply “look foreign.”

The committee felt that any such discrimination in hiring is an obvious violation of title VII of the Civil Rights Act of 1964. If an action were brought against such an employer, the employer might allege that his deci-

sion not to hire was motivated by fear of employer sanction. If, however, the plaintiff were to show by a preponderance of the evidence that the employer did not actually have such fear, then such allegation would not have helped the defendant's case.

I think the most likely form of such evidence would be a sworn statement that documents had been presented to the employer showing that the applicant was authorized to be so employed, along with documentary evidence itself, which of course, would be in the possession of the applicant. If the documents appeared on their face to be genuine and to belong to the applicant, if the employer were unable to present equally convincing evidence that such documents had not been presented or that despite the documents the employer had reasonable ground for believing the applicant to be an alien ineligible to be employed, then the judge or jury would likely conclude that the employer's reason for deciding against hiring the applicant was something other than a fear of employer sanctions.

This amendment also with its sunset provisions would enable a President who is opposed to sanctions to simply do nothing and thereby kill the program. Congress then, I am certain, would have to pass a bill which would focus solely on employer sanctions and did not contain other more appropriate features. I fear that employer sanctions if discussed as an individual item in itself would be a rather tough, long haul, without any kind of accompanying legislation such as verifier system, increased enforcement and the other things that S. 2222 calls for.

I again believe that if we do nothing with employer sanctions, if we do nothing with verification systems worse prejudice and discrimination will happen. For if we continue under existing law we will beef up the INS and the border patrol and say, “There, go ahead and do your duties with the new moneys we have given you.” We will see a continuing array of searches. We will see a continuing array of intrusion in the workplace, into various operations, and that cannot be good for the minorities in this country.

I urge that the amendment be defeated. I reserve the remainder of my time.

Mr. KENNEDY. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes 55 seconds.

Mr. KENNEDY. I yield myself 2 minutes.

Mr. President, I want to acknowledge at the outset that the chairman and the members of the committee that have supported this proposal have made every effort to try and assure that this legislation would be

free of any provisions that could be utilized for discriminatory purposes. I certainly recognize and respect those efforts.

But the fact remains, Mr. President, that this is an extremely modest amendment and it addresses what has been a problem in the past, and that is that individuals who are foreign looking, whose skin may be a different shade from others in society, will be discriminated against because the employer will say "Look, I cannot be certain of your standing in our society. I know if the choice is between an individual whose skin is not white, I will take the person whose skin is white because the chances are he or she isn't an undocumented alien."

This provision may not be used in a discriminatory way—may not be—but there is a chance that it will be and there is a chance that it will be in many areas of this country.

As to Presidential certification, this body has been willing to have that on a wide variety of issues, basically in the foreign policy area.

All we are saying in this amendment is that the President of the United States must certify, after 3 years and after he reviews the information, that he makes a finding that it is not being used in a discriminatory way and then it will continue. If he cannot, then it will lapse. I think it should lapse.

The PRESIDING OFFICER. The Chair advises the Senator that his 2 minutes have expired.

Mr. KENNEDY. I yield myself 1 more minute.

The fact is, as one who has served on the Immigration Subcommittee for a number of years, I know that Congress does not act on these piecemeal provisions, and I daresay I do not believe it would act on this piecemeal provision. It only deals with the issue when there are dramatic public policy questions before it, as they are with regards to the numbers now with undocumented aliens.

Mr. President, citizens in this country who fear the risk of discrimination and who have felt the whip of discrimination in the past are entitled to this kind of protection.

Mr. SARBANES. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator is advised his minute has elapsed.

Mr. SIMPSON. How much time remains, Mr. President, on my time?

The PRESIDING OFFICER. The Senator has 5 minutes and 59 seconds.

Mr. SIMPSON. I yield 2 minutes of my time to the Senator from Maryland.

Mr. SARBANES. Will the Senator yield for a question?

Under the Senator's amendment, if I understand it correctly, if the President certifies that these provisions are not being used in a discriminatory

fashion, then the provisions would remain in effect, is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. So it is only if the President sends to Congress a certification that they are being used in a discriminatory fashion that the provisions would lapse.

Mr. KENNEDY. The Senator is correct. I believe that if a President makes a finding that they are being used for discriminatory purposes or in a discriminatory way, they should lapse.

Mr. SARBANES. Is it not the premise of the provisions that they would not be used in a discriminatory fashion?

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. I do not know of anyone who has advanced the proposal that these provisions should be included in the legislation if, in fact, they are used in a discriminatory fashion. The assertion, as I have understood it, has been that the provisions will not be used in a discriminatory fashion. Is there anyone who is making the contention that if they were used in a discriminatory fashion, the provisions should remain in the law?

Mr. KENNEDY. No one has made that assertion.

Mr. SARBANES. Then, what is the difficulty with an amendment that says that if the President certifies they are not being used in a discriminatory fashion, the provisions will continue, but if the President states that they are being used in a discriminatory fashion, the provisions will lapse?

Mr. KENNEDY. I find that there is no good answer for that. Perhaps the principal sponsor of the legislation may have an answer to it.

Mr. SIMPSON. Mr. President, the dual question asked by the Senator is not a bad one at all, if we could go to that. But this amendment says that there will be a sunset on employer sanctions in 3 years unless the President certifies no pattern of employment discrimination resulting from employer sanctions.

What I am expressing is that the amendment would enable a President opposed to sanctions to simply opt out and thereby kill the program.

The employer sanctions has always been the very key to any kind of control of illegal immigration.

Representative RODINO of New Jersey, has spent years in attempting to revise the laws of the United States, and the key provision, he insists, must be employer sanctions. Without employer sanctions, there will be no control over illegal immigration.

Mr. SARBANES. I support the employer sanctions, but I understood the Senator's statement earlier to be that he did not anticipate that the exist-

ence of these provisions in the law would result in a pattern of discrimination against those seeking employment. I take it that the Senator would not want to include the provisions if, in fact, it were stipulated for matters of discussion that they would use any discrimination.

If that is the case, what is wrong with a proposal that if the President certified that they were being used in a discriminatory pattern, the provisions would then sunset? If he certified they were being used properly, without discrimination, the provisions would continue. Surely, we do not want the provisions to continue if they are being used in a discriminatory fashion.

Mr. SIMPSON. Mr. President, the issue is this: If the President does not like employer sanctions and he does not certify it, it ends. I think that is the message I am trying to convey.

There is always a danger of discrimination in employment, unfortunately, but there is nothing in this bill which is going to increase discrimination. Let me tell the Senator why.

We have new safeguards in S. 2222 which should actually reduce discrimination, and the principal one is that each employee in the United States is going to be asked the same information, regardless of what he looks like. He will have a verification system which may be a revised social security card or some other document in the 3-year period for determination. At the time of new-hire employment, that person presenting himself will have to produce that, and it will have to be produced by people who look foreign and by people who are less than hirsute and white, such as your correspondent.

Mr. SARBANES. I am not disagreeing with the distinguished chairman of the subcommittee with respect to those provisions, and I know how hard he has worked to try to develop a careful system. The only point I do not understand is that no one would assert that this system should be kept in place if, in fact, it were being used in a discriminatory pattern. I take it that we agree on that. Is that correct?

Mr. SIMPSON. I think that indeed would be correct. It would be offensive, if that were shown to be so.

Mr. SARBANES. The only question is whether requiring a Presidential certification in order to continue it is reasonable.

The Senator suggested that if you had a President who did not like employer sanctions, he could simply terminate the system. Of course, he could not do it for that reason. He could do it only if he certified that it was being used in a discriminatory pattern. One might say that he could certify that it was not the case and he did it because he did not like it. I think that is a

pretty harsh comment on any President, since the reason for making the certification is stipulated in the amendment, as I understand it, and that is to find a discriminatory pattern.

Second, if you had a President who fell so short of his responsibilities in carrying them out in a genuine fashion, Congress, of course, would be in a position, I take it, to overrule that.

So it seems to me that the amendment does not seek to go to any of the essential premises of the scheme which the chairman of the committee has included in his legislation. It does provide one additional safeguard against discriminatory treatment, and that is the requirement of a Presidential certification.

The PRESIDING OFFICER. The Chair advises the Senator from Wyoming that all the time of the opponents of the amendment has expired.

Mr. SIMPSON. I ask unanimous consent for 1 additional minute.

Mr. KENNEDY. Make it 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SIMPSON. Mr. President, we believe that in the bill we take care of the issue as to whether discrimination is resulting. I refer to page 50 of the report. Reports will be filed, and one of the issues to be included in that report is discrimination against members of minority groups. There are other things. It is at the bottom of page 50. I will not read it because of the limitation of time.

I say to the Senator from Maryland that a peculiar situation arose when we had testimony from the Civil Rights Commission on the entire issue, and they said: "We don't like employer sanctions. We are opposed to employer sanctions in whatever form they take."

Therefore, we had to exclude them sometimes from various areas of discussion, because they said already they did not favor employer sanctions. It did not have anything to do with discrimination or civil rights. It had to do with one rock-hard issue to them. That is why we are saying it could be a rock-hard issue to the President of the United States.

Mr. KENNEDY. Mr. President, the fact is that the Civil Rights Commission was divided on that issue because they thought there was the real danger that employer sanctions would be used in a discriminatory way.

All that is provided in the bill now are reports. I do not think they have the teeth necessary to deal with discrimination if, in fact, it is found to exist.

I say to the Senator from Maryland that when I initially offered this proposal in the committee, I also asked for a report to be done by the Civil Rights Commission, also by the GAO.

Later, I will ask for it to be done by the EEOC, so that Congress will have the information as well.

I do think, with respect to the danger of discrimination, that if the President cannot make a certification that this is not being used in a discriminatory way, this provision should be sunsetted.

There is no reluctance around this body to require a President to make findings and report to Congress on other matters of importance. We give the President both the authority and the responsibility.

I do not think the argument of frivolousness has been made with regard to those grants of authority. I do not think that charge should be leveled at this one.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I have two serious concerns about the employer sanctions provisions contained in section 101 of S. 2222. The first is the potential discriminatory impact the sanctions will have on American citizens who are members of minority groups, especially Hispanic citizens.

There is no doubt that the problem of illegal immigration is a crisis which we can no longer afford to ignore—with anywhere from 3 to 5 million illegal aliens currently in the United States accounting for somewhere between 30 to 50 percent of the annual population increase in the United States. Since 1971 every major immigration reform bill that has been introduced has contained some provision imposing penalties on employers for knowingly hiring illegal aliens. President Ford's Cabinet-level Domestic Council Committee on Illegal Aliens 1976 report, President Carter's 1977 Task Force Study on Immigration Reform and most recently President Reagan's Select Commission on Immigration Reform in its 1981 report, all recommended the enactment of employer sanctions. Thus, based on the research that has been done on the problem of illegal immigration over the last several years, some form of employer sanctions appears to be an essential part of any effort to achieve a solution. However, in the course of the recent Subcommittee on Immigration and Refugee Policy hearings, an objection was raised to employer sanctions on the grounds that they might result in discrimination against certain American workers.

Mr. President. While I do not believe that it is fair to only impose sanctions on undocumented aliens as we do under current law while allowing employers who may be exploiting those aliens to escape liability, I also do not believe that it is equitable to create a

system that makes employers reluctant to hire certain American citizens, particularly Hispanic Americans. It is for that reason that I support the amendments proposed by the distinguished Senator from Massachusetts (Mr. KENNEDY), which would do the following:

First, require the President to monitor implementation of employer sanctions and certify in writing to Congress within 3 years that the sanctions have not resulted in a pattern of discrimination. If he cannot make that certification, the employer sanctions would be terminated unless Congress takes remedial action and;

Second, require the General Accounting Office to undertake a review of the implementation of employer sanctions each year. The Civil Rights Commission would also be authorized to investigate allegations of discrimination under employer sanctions.

With these amendments we can insure that employer sanctions will be monitored and will be terminated if they cannot be implemented in a non-discriminatory manner.

In addition to the monitoring and certification process, I also believe that we should promote vigorous enforcement of the Fair Labor Standards Act, social security insurance laws, unemployment insurance and title VII of the Civil Rights Act to eliminate substandard wages and working conditions. If we encourage full enforcement of these laws, we will reduce the incentive for employers to hire undocumented aliens.

Mr. KENNEDY. Mr. President, I do not know what time remains, but I yield it back.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Massachusetts.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Mexico (Mr. SCHMITT), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), and the Senator from Texas (Mr. BENTSEN) are necessarily absent.

The PRESIDING OFFICER (Mr. ABDNOR). Are there any other Senators wishing to vote?

The result was announced—yeas 22, nays 69, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—22

Boren	Heinz	Riegle
Chafee	Inouye	Rudman
Cranston	Kennedy	Sarbanes
D'Amato	Matsunaga	Specter
Dixon	McClure	Symms
Exon	Mitchell	Tsongas
GleNN	Nickles	
Hart	Pell	

NAYS—69

Abdnor	Eagleton	Mattingly
Andrews	East	Melcher
Armstrong	Ford	Metzenbaum
Baker	Garn	Moynihan
Baucus	Goldwater	Nunn
Biden	Gorton	Packwood
Boschwitz	Grassley	Percy
Bradley	Hawkins	Pressler
Brady	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Helms	Quayle
Byrd	Hollings	Randolph
Harry F., Jr.	Huddleston	Roth
Byrd, Robert C.	Humphrey	Sasser
Chiles	Jackson	Simpson
Cochran	Jepson	Stafford
Cohen	Johnston	Stennis
Danforth	Kassebaum	Stevens
DeConcini	Kasten	Thurmond
Denton	Laxalt	Tower
Dodd	Leahy	Warner
Dole	Levin	Zorinski
Domenici	Long	
Durenberger	Lugar	

NOT VOTING—9

Bentsen	Hatfield	Schmitt
Cannon	Mathias	Wallop
Hatch	Murkowski	Welcker

So Mr. KENNEDY's amendment (No. 1947) was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was defeated.

Mr. KENNEDY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1234

Mr. KENNEDY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts (Mr. KENNEDY) proposes an unprinted amendment numbered 1234.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 90, between lines 2 and 3, insert the following:

(d) Nothing in this section shall be construed to restrict the authority of the Equal Employment Opportunity Commission to investigate allegations, in writing and under oath or affirmation, of unlawful employment practices, as provided in section 2000e-5 of Title 42 of the United States Code, or any other authority provided therein.

On page 166, after line 10, insert the following:

Sec. 402(a) Eighteen months after the date of the enactment of this Act, the

Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary and the Committee on Labor and Human Resources of the Senate a report describing the results of a comprehensive review of the implementation and enforcement of the provisions contained in the amendment made by section 101(a) of this Act during the preceding 18 month period, for the purpose of determining if—

(A) such provisions have been carried out satisfactorily;

(B) a pattern of unlawful discrimination has resulted against United States citizens or aliens, other than unauthorized aliens as defined in section 274A(a)(4), seeking employment; and

(C) an unnecessary regulatory burden has been created for employers hiring such workers.

Two more such reports shall be prepared and transmitted, one 36 months after the date of the enactment of this Act and one 54 months after the date of the enactment of this Act.

Mr. KENNEDY. Mr. President, I have talked this amendment over with the floor manager.

This amendment simply requires that the General Accounting Office, and the Equal Employment Opportunity Commission undertake independent reviews of the implementation of the employer sanctions program established in this bill.

The amendment authorizes the GAO to report, each year, to the Judiciary Committees of the House and Senate, to determine whether employer sanctions—Have been carried out satisfactorily; have resulted in a pattern of discrimination against U.S. citizens or eligible workers; or have created an unnecessary regulatory burden for employers hiring such workers.

In addition, it authorizes the EEOC to investigate allegations of discrimination if they develop during the implementation of the employer sanctions program.

Mr. President, I know there are some reporting requirements already in the bill requiring the President to study some of these issues. But I believe we should go beyond simply relying on the executive branch to study employer sanctions, and explicitly authorize additional funds, if they are required, to the GAO and the EEOC to carry out independent studies.

I believe that attaching this explicit authorization to this bill, will give some assurance to those in our country who are concerned over the possible impact of employer sanctions, that the Congress will receive independent assessments of the program, along with the reports from the President and related executive branch departments.

Mr. SIMPSON. The amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amend-

ment of the Senator from Massachusetts (Mr. KENNEDY).

The amendment (UP No. 1234) was agreed to.

UP AMENDMENT NO. 1235

(Purpose: To provide for congressional review of refugee admissions in excess of 75,000 in any fiscal year.)

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS) proposes an unprinted amendment numbered 1235.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 140, between lines 11 and 12, insert the following:

CONGRESSIONAL REVIEW OF REFUGEE ADMISSIONS

Sec. 206. (a) Subsection (a)(1) of section 207 (8 U.S.C. 1157) is amended to read as follows:

"Sec. 207. (a)(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section during a fiscal year may not exceed seventy-five thousand unless the President—

"(A) determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns or is otherwise in the national interest;

"(B) transmits such determination in writing to both Houses of Congress; and

"(C) the Congress fails to adopt a concurrent resolution of disapproval of the determination under the provisions of section 210."

(b) Section 207 (8 U.S.C. 1157), as amended by subsection (a) of this section, is further amended by striking out subsection (a)(2) and redesignating subsection (a)(3) as subsection (a)(2).

(c) Chapter 1 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"CONGRESSIONAL REVIEW

"Sec. 210. (a)(1) The President, after making a determination under subsection (a)(1) of section 207, shall submit such determination to the Congress for review in accordance with this section. Such determination shall be delivered to the Congress while it is in session. Such determination shall be referred to the Committees on the Judiciary of each House of Congress.

"(2) Any such determination shall become effective in accordance with its terms unless, before the end of the period of 30 calendar days of continuous session after the date such determination is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such determination.

"(b)(1) The provisions of this subsection are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2)(A) Any concurrent resolution disapproving a determination of the President shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on the Judiciary.

"(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 15 calendar days of continuous session of the Congress after the referral of such resolution to that committee it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

"(C)(i) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same determination of the President); and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same determination of the President.

"(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same determination). Debate on such motion shall be limited to not more than 1 hour, the time to be divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the concurrent resolution shall be limited to not more than 10 hours,

which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

"(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

"(5) Notwithstanding any other provision of this section, if a House has approved a concurrent resolution with respect to any determination of the President, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same determination.

"(c) If a determination by the President is disapproved by the Congress under subsection (a)(2), then the President may make a different determination and shall submit the determination to the Congress in accordance with subsection (a)(1).

"(d)(1) For purposes of this section—

"(A) continuity of session is broken only by an adjournment sine die; and

"(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

"(2) If an adjournment sine die of the Congress occurs after the President has submitted a determination under subsection (a)(1), but such adjournment occurs—

"(A) before the end of the period specified in subsection (a)(2); and

"(B) before any action necessary to disapprove the determination is completed under subsection (a)(2); then the President shall be required to resubmit the determination involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

"(e) For purposes of this title:

"(1) The term 'concurrent resolution' means a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the determination made by the President dealing with the matter of —, which determination was submitted to the Congress on —'. (The blank spaces shall be filled appropriately.)

"(2) The term 'determination' means any determination made by the President pursuant to section 207(a)(1).

"(f) The provisions of this section shall take effect on the date of the enactment of this Act.

"(d) The table of contents of the Act is amended by inserting after the item relating to section 209 the following new item: 'Sec. 210. Congressional review.'"

Mr. SIMPSON. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I ask unanimous consent that there be a time limitation on this amendment of 30 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, perhaps we can finish in less time than 30

minutes. I know Senators have planes to catch.

First of all, on a philosophical note, I think this bill presents a real dilemma for most of the Members of this body. It presents us with a conflict between our normal commitment to human rights, our humanitarian instincts, our Judeo-Christian beliefs and ethics, on the one hand, and on the other hand, our commitment to the first law of nature, which is self-preservation.

Now, I think that the bill is correct, at least to this extent: there must be a limit, there must be a cap on how many immigrants we are going to take into this country. But I also believe there must be a cap on how many refugees we are going to permit to enter. Otherwise, our work is for naught.

We are in the position of people on a lifeboat. If you have 10 people on a lifeboat and that is the capacity for the lifeboat, and you take on 5 more people, both the 10 who are in the lifeboat and the 5 who are climbing aboard are all going to be lost.

The analogy is that the United States—a great, powerful nation, a great agrarian land with tremendous resources—can absorb, in the interest of human rights, a lot of people, but not everybody. So we are in the position, and rapidly moving into an even more precarious position, of accepting more people in our lifeboat than we can sustain.

I voted for the first Kennedy amendment, which is almost a contradiction to my commitment to a cap. But I voted for it because I cannot think of anything more traumatic, more perverse, than saying that a family may not be reunified. Every parent in this body and every parent in this country can identify with not being able to live with your children or your wife, or even your brothers and sisters. We take those things for granted in this country.

Mr. President, the fact that I voted for that, on the one hand, and I voted for the Huddleston amendment, on the other, is, I think, a manifestation of the ambivalence we all feel about what the proper action ought to be here. It is almost a Sophie's choice. Somebody said a while ago that the D'Amato amendment was an amendment which forced Senators to decide which child you grab when a house is on fire. It is a Sophie's choice, similar to the situation where Sophie had to make up her mind whether she wanted to save her son or her daughter. She arrived in Auschwitz and got off the train and the guard said, "You can keep one of your children, but not both." So here is a desperate mother having to decide which one of her children is going to go to the gas chamber.

Well, this situation is not quite that dramatic, of course, but it is an illus-

tration of the terrible conflict and choices we are having to make on this bill.

Now, the amendment that I am offering here does not affect the cap of 425,000 immigrants in the bill. I want to repeat that. It does not affect the 425,000 immigrants who are allowed for family reunification and so on under the preferences. It does not disturb that cap.

What it does do is put a cap on the number of refugees that we can accept into this country, except under certain conditions.

Now, to understand what we are faced with, let me point out that the existing law of the land is that, unless the President comes over to the Congress and consults with us and issues a determination that he wants more than 50,000 refugees, then 50,000 is the limit. But it is an ineffective limit, because we have been admitting a lot more than that.

The President has submitted a determination to us before the beginning of each fiscal year saying, "We want more than 50,000." Now, I want you to bear in mind, that under existing law, before the beginning of each fiscal year the President has to come to the Congress and say, "Here is the way it looks to me, but I am going to consult with you about it." He is then bound by law to consult with the Judiciary Committees of both the House and the Senate. After that consultation, he, and he alone, makes the determination as to how many refugees will be admitted into this country in the ensuing year. If he says, "I think this coming year we need 150,000 refugees," his say is final; not ours, his.

My amendment changes that ever so slightly. We will raise the current 50,000 limit to 75,000—and I want to point out that at the end of this year there is no limit on the number of refugees that can be admitted into this country so, what I am saying is that we are going to take the committee bill of 425,000 for immigrants, add 75,000 refugees, in order to produce a total cap of 500,000 who may enter this country next year.

There could be no interchanging of numbers between categories. If we do not have 75,000 refugees, that would not raise the number of immigrants coming into the country. If we do not have 425,000 immigrants, that does not raise the number of refugees that can come into the country.

What the amendment simply says is that the President, if he wants more than 75,000 refugees to come into this country in any one year, not only must consult and make the determination that he wants more and why, but also that Congress reserves, under my amendment, the right to disapprove the President's request within 30 days under expedited procedures after he submits it.

If the President comes over and says, "I want 150,000 refugees next year," twice as many as my amendment would permit, Congress has the right to say, "Mr. President, you are helping to sink our ship. That is too many refugees." We have 30 days in both Houses to disapprove it under expedited procedures.

I think it is only fair to say at this point that I have never been a great champion of legislative vetoes. I do not much like the concept. And I assume the Supreme Court is going to rule on the constitutionality of legislative vetoes sometime, but it has not done so yet.

I want to say one thing. In this bill, if we pass this amendment, you are saying to the President when he signs it, "Mr. President, if you sign this bill, there is a provision by which Congress reserves unto itself some say-so about who and how many people are going to cross our borders next year."

Is that an unfair reservation to the Congress?

Mr. HUDDLESTON. Will the Senator yield.

Mr. BUMPERS. I am happy to yield. Mr. HUDDLESTON. I thank the Senator for yielding.

Certainly my efforts here will indicate that I am in general agreement with the direction that the Senator from Arkansas intends to take.

There are just a couple of questions I would like to ask the Senator. First, on the question of 75,000, why would the Senator increase that number from 50,000 which is in the Refugee Act of 1980?

Mr. BUMPERS. That is a very good question. Let me answer it this way: In 1980, there were 212,000 refugees that came into this country, most of them Cuban. That was during the great Mariel boat lift. In 1981, last year, we accepted 159,000. This year there is a limit of 140,000. The President sent over his message before the beginning of the fiscal year for 1981 and said, "I want 140,000." But through June of this year there have only been 53,000 who came into the country.

I reached the figure of 75,000 in two ways. You can look at it either way, and it is necessarily an arbitrary figure. With the number of refugees coming into the country right now, this would be the lowest year we have had for some time for refugees. If the flow continues at its present rate we will accept about 75,000 refugees into this country this year. The other way of looking at 75,000 is that it is a little less than half of what we accepted last year. It is admittedly an arbitrary figure, but one which I think will cause the Congress to look very carefully if the President says he want more than that.

Mr. HUDDLESTON. I have not had the chance, of course, to study this amendment in any great detail, but as

I understand it the amendment also provides an emergency provision which allows the President to act without any limit. Is that correct?

Mr. BUMPERS. This amendment does not change the emergency provisions in existing law.

Mr. HUDDLESTON. So by declaring the Cuban boat lift an emergency, that would be outside the 75,000 and Congress would have no authority? Or by declaration any other situation—the Southeast Asian situation, where we were bringing in 14,000 a month—could be determined as an emergency? Does the President have the authority to make the declaration as to what is an emergency?

Mr. BUMPERS. He does have it.

Mr. HUDDLESTON. If you look at the record of the State Department, everything is an emergency.

Mr. BUMPERS. I understand that.

Mr. HUDDLESTON. If a situation is not an emergency when it starts out, they will make it one.

Mr. BUMPERS. If I thought I had a ghost of a chance in getting this amendment passed by capping the emergency numbers, too, I would do it. This is a very pragmatic concern on my part. I voted for the amendment of the Senator from Kentucky because the emergency provision is indeed a big loophole. But I think this is a modest step in the right direction, and, based upon my conversations with other Senators, it is probably the best thing we can hope for.

Mr. HUDDLESTON. I think certainly it is in the right direction when it restores to the Congress some reasonable way to exert its own authority and its own opinion as to what the refugee level ought to be. As a practical thing, it does have loopholes, and I do not know that as an operative piece of legislation it would put us into any better situation than we are in now.

We had the Cuban boat lift, for instance. There was no consultation of that with Congress or anybody else. There was no law that covered that. The President at that time just said, "We welcome you with open arms. We will call you legal entrants."

I do not know how this would address that situation. Can the Senator give me any help as to whether or not this would, in fact, give Congress an opportunity to participate on those kinds of deliberations and decisions?

Mr. BUMPERS. My amendment does not address the emergency powers of the President, but I do want to say one thing. As I say, I would like to put it in but I do not believe we can pass it. I think there is a chance we can pass this measure and I think it is an improvement in the bill. I will also say that the President's emergency power has only been used one time in the history of this country and that

was in 1980 when the President allowed the Mariel boat lift.

Second, just from a political standpoint, I believe that was the most devastating decision of the Presidency of Jimmy Carter and I think it was one of the reasons for his defeat. I think any other President is going to look at this hole card very closely in light of that.

Mr. HUDDLESTON. As I say, I do agree with many parts of this amendment. I am concerned that it does not, in fact, put a ceiling on immigration. The only way to do that, in my judgment, is to have one overall cap. This does restore to the Congress, however, some limited authority in order to deal with the executive branch in trying to develop a rational program and rational figures. From that standpoint, I will support the Senator's amendment. I would hope that he might amend that figure back to the level which is in the present bill of 50,000, but, nevertheless, I think it is an improvement over the situation that exists at the present time.

Mr. BUMPERS. I thank the Senator very much.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMPSON. Mr. President, I was pleased with the debate between my two colleagues on the issue of refugee levels because both of them have followed it closely. Senator BUMPERS from his standpoint in the State of Arkansas and Senator HUDDLESTON who has had long experience in this issue. I understand what is being sought, but I have difficulty with it.

As I understand it, this amendment provides that the first 75,000 refugees will be free on board. In other words, without consultation, without any consultation with the Congress. May I inquire if that is correct?

Mr. BUMPERS. The Senator is not exactly correct. That is the maximum.

Mr. SIMPSON. There will be nothing affecting over 75,000 unless there is consultation with Congress, notification to Congress of the number chosen by the President, and Congress then failing to pass a concurrent resolution rejecting the numbers over 75,000.

Mr. BUMPERS. The Senator is correct, Mr. President.

Mr. SIMPSON. Mr. President, I think as we continue to use this figure of 50,000 in our refugee discussions, many may be a bit surprised that the Refugee Act, which we shall reauthorize here very shortly, in a few days, states that the number of refugees who may be admitted under this section in fiscal years 1980, 1981, and 1982 may not exceed 50,000.

Mr. BUMPERS. The Senator is correct. Incidentally, that expires at the end of this year and there is no limit after October 1 of this year.

Mr. SIMPSON. That is correct. That is what I am emphasizing because, instead of having the normal flow of 50,000 as we referred to it, the normal flow will be zero. The normal flow under the legislation in 1983 will effectively be zero, because we will no longer have the 50,000 allowed without consultation. So, in effect, here we have an amendment which actually increases the number of refugees which may be admitted without consultation. Is that not correct?

Mr. BUMPERS. The Senator is not entirely correct. Incidentally, if the committee, in reauthorizing the Refugee Act, wants to reduce it to 50,000, it certainly will get my support, or if it wants to reduce it to zero.

Would the Senator like me to amend my amendment either to cut it to zero or to 50,000?

Mr. SIMPSON. In the form of the amendment as it presently reads, we are really saying there can be 75,000 who can come into the United States of America, admitted without consultation of Congress. I think that is certainly not a good step at all.

Mr. BUMPERS. I must have misunderstood the Senator, Mr. President. The President must consult with us as he does right now. If he wants to admit 10,000 next year or 5,000, he still must consult with us. The only difference is that if he wants more than 75,000, we reserve the right to ourselves to say no.

Mr. SIMPSON. But under the Senator's amendment, Mr. President, there is no consultation process under 75,000.

Mr. BUMPERS. Yes, there is, Mr. President. We do not change the consultation process one iota. If he wants 1 or 75,000, he must consult with us, he must make a determination, he must send it over and it must be put in the CONGRESSIONAL RECORD, exactly as it is today.

Mr. SIMPSON. It says in the amendment, Mr. President, "Except as provided in subsection (b), the number of refugees who may be admitted under this section during a fiscal year may not exceed seventy-five thousand unless the President," then it goes on.

Mr. BUMPERS. Mr. President, the intent of that provision is that unless he gives us justification for more than 75,000—in which case, if we read on—we are reserving to ourselves the right to veto. But he still must make a determination. Whether it is zero or up to 75,000, he must consult and he must make a determination.

Mr. SIMPSON. Mr. President, I would not read that amendment that way. Perhaps we can adjust, but there is a time agreement.

Let me say this to the Senator from Arkansas. The present procedure works. Let me express to him how that is.

Mr. President, under the Refugee Act—let me swiftly give these figures. We had a proposed figure of 234,000. We had a ceiling then of that amount. We actually had admissions of 212,000. Then Congress became aware of where we were going with the misuse. The parole authority had gotten us into such poor condition that we just never quit. We were hooked on the old parole authority.

So in 1981, we had proposed admissions of 222,000. The ceiling was proposed at 217,000, the authorized ceiling. The actual admissions were 159,000. In 1982—this was my first consultation process—they proposed 173,000. The subcommittee and the Judiciary Committee said, no, 140,000. That was accepted.

This year, the best knowledge we have is that they will come in with about 99,000. So we are coming down very swiftly. We were headed for the historical flow of 50,000. Now that is removed. The flow can be anywhere between zero and what it is at present, which is 99,000. We believe the administration is likely to come in in 1983 with a proposed figure of about 85,000. We will go to consultation on that figure.

I submit that, Mr. President, just to show that it is working. It is, indeed, working and working well, the present law.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. SIMPSON. Yes.

Mr. HUDDLESTON. It is working simply because the State Department has not yet taken into account some of the situations that exist in the world and begun to address them. We have 400,000 illegal El Salvadorans in this country at the present time. It is only a matter of time until the State Department determines that there is an emergency there. When that happens, they will admit 200,000 or 300,000 and there is nothing in the present law, no matter what the recommendations of the subcommittee may be, that will in any way restrain them.

Mr. SIMPSON. Mr. President, the restraint has come because Congress is finally exercising its muscle in the consultation process. They can even come up with numbers in an emergency situation that we could consult on. I think that the issue is that it has taken this long for the Refugee Act to impact upon the administration's decision and I hope any administration, at least this one—and the previous one was beginning to respond to it—understands that indeed Congress is going to call the shots. That was best proven by the change of numbers last year from 173,000 down to 133,000.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to send a modification to the desk.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment (UP 1235) was modified.

The amendment, as modified, is as follows:

On page 140, between lines 11 and 12, insert the following:

CONGRESSIONAL REVIEW OF REFUGEE
ADMISSIONS

SEC. 206. (a) Subsection (a)(1) of section 207 (8 U.S.C. 1157) is amended to read as follows:

"Sec. 207. (a)(1) Except as provided in subsection (b), the number of refugees who may be admitted under this section during a fiscal year may not exceed seventy-five thousand unless the President—

"(A) determines, before the beginning of the fiscal year and after appropriate consultation (as defined in subsection (e)), that admission of a specific number of refugees in excess of such number is justified by humanitarian concerns or is otherwise in the national interest;

"(B) transmits such determination in writing to both Houses of Congress; and

"(C) the Congress fails to adopt a concurrent resolution of disapproval of the determination under the provisions of section 210." *Provided, however,* That nothing herein shall be construed to allow the President to determine that fewer than seventy-five thousand refugees should be admitted without consultation with Congress.

(b) Section 207 (8 U.S.C. 1157), as amended by subsection (a) of this section, is further amended by striking out subsection (a)(2) and redesignating subsection (a)(3) as subsection (a)(2).

(c) Chapter 1 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

"CONGRESSIONAL REVIEW

"Sec. 210. (a)(1) The President, after making a determination under subsection (a)(1) of section 207, shall submit such determination to the Congress for review in accordance with this section. Such determination shall be delivered to the Congress while it is in session. Such determination shall be referred to the committees on the Judiciary of each House of Congress.

"(2) Any such determination shall become effective in accordance with its terms unless, before the end of the period of 30 calendar days of continuous session after the date such determination is submitted to the Congress, both Houses of the Congress adopt a concurrent resolution disapproving such determination.

"(b)(1) The provisions of this subsection are enacted by the Congress—

"(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions which are subject to this section, and such provisions supersede other rules only to the extent that they are inconsistent with such other rules; and of the House. The motion is highly privileged (except that it may not be made after the committee has reported a concurrent resolution of disapproval with respect to the same determination). Debate on such motion shall be limited to not more than 1 hour, the time to be

divided equally between those favoring and those opposing the motion. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

"(3)(A) When a committee has reported, or has been discharged from further consideration of, a concurrent resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the concurrent resolution. The motion shall be privileged in the Senate and highly privileged in the House of Representatives, and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(B) Debate on the concurrent resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such concurrent resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the concurrent resolution shall not be in order and it shall not be in order to move to reconsider the vote by which such concurrent resolution was agreed to or disagreed to.

"(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution shall be decided without debate.

"(5) Notwithstanding any other provision of this section, if a House has approved a concurrent resolution with respect to any determination of the President, then it shall not be in order to consider in such House any other concurrent resolution with respect to the same determination.

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(2)(A) Any concurrent resolution disapproving a determination of the President shall, upon introduction or receipt from the other House of the Congress, be referred immediately by the presiding officer of such House to the Committee on the Judiciary.

"(B) If a committee to which a concurrent resolution is referred does not report such concurrent resolution before the end of the period of 15 calendar days of continuous session of the Congress after the referral of such resolution to that committee it shall be in order to move to discharge any such committee from further consideration of such concurrent resolution.

"(C)(1) A motion to discharge in the Senate may be made only by a Member favoring the concurrent resolution, shall be privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same determination of the President); and debate on such motion shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the motion. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same determination of the President.

"(ii) A motion to discharge in the House may be made by presentation in writing to the Clerk. The motion may be called up only if the motion has been signed by one-fifth of the Members.

"(c) If a determination by the President is disapproved by the Congress under subsection (a)(2), then the President may make a different determination and shall submit the determination to the Congress in accordance with subsection (a)(1).

"(d)(1) For purposes of this section—

"(A) continuity of session is broken only by an adjournment sine die; and

"(B) days on which either House is not in session because of an adjournment of more than 5 days to a day certain are excluded in the computation of the periods specified in subsection (a)(2) and subsection (b).

"(2) If an adjournment sine die of the Congress occurs after the President has submitted a determination under subsection (a)(1), but such adjournment occurs—

"(A) before the end of the period specified in subsection (a)(2); and

"(B) before any action necessary to disapprove the determination is completed under subsection (a)(2);

then the President shall be required to resubmit the determination involved at the beginning of the next regular session of the Congress. The period specified in subsection (a)(2) shall begin on the date of such resubmission.

"(e) For purposes of this title:

"(1) The term 'concurrent resolution' means a concurrent resolution the matter after the resolving clause of which is as follows: 'That the Congress disapproves the determination made by the President dealing with the matter of _____, which determination was submitted to the Congress on _____'. (The blank spaces shall be filled appropriately.)

"(2) The term 'determination' means any determination made by the President pursuant to section 207(a)(1).

"(f) The provisions of this section shall take effect on the date of the enactment of this Act.

(d) The table of contents of the Act is amended by inserting after the item relating to section 209 the following new item: "Sec. 210. Congressional review."

Mr. BUMPERS. Mr. President, I have only 20 seconds left. The modification is designed to clarify the point that the Senator from Wyoming raised. That is that the President must consult in any event as he does now and if he wants more than 75,000 refugees, then Congress withholds to itself the two-House veto.

The PRESIDING OFFICER. All time of the Senator from Arkansas has expired.

Mr. SIMPSON. Mr. President, may I earnestly suggest to the sponsor that I know what he is trying to accomplish with regard to refugee limitation. The amendment was unclear. I would like to have the opportunity and pledge him that I shall give him the opportunity to review this with the subcommittee and the staff. Our first knowledge of this amendment was this morning.

We have already now modified it once. I deeply feel that it has some flaws in it that we will regret if we

should accept it. I must respectfully advise the sponsor that I will move to table the amendment and the modification, whatever form it may take, and assure the Senator from Arkansas that I will hold a hearing on that if he wishes, or the staffs will meet, but with this limited time I cannot accommodate the amendment in its present form.

Mr. BUMPERS. Will the Senator yield?

Mr. SIMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 4 minutes 39 seconds.

Mr. SIMPSON. I will yield 1 minute.

Mr. BUMPERS. Mr. President, I just want to say to my colleagues that unless we adopt this amendment, there will be no limit on how many refugees will be admitted next year. My purpose here is to make that limit a fairly generous number, much higher than the Senator from Kentucky would like, higher than others would like, but at least there is a limit and there is a congressional limitation. If we do not put a limit on the number of refugees, then what we are doing on this entire bill is really for naught.

Mr. KENNEDY. Mr. President, during the course of this debate we have heard a good deal about the impact of refugees on our society. And from the discussion one would conclude that they have all been negative.

An article in this morning's Washington Post, Mr. President, tells a different story, a story of how one homeless refugee has come to our shore, built a new life for himself, and greatly contributed to our society.

Mr. President, the article speaks for itself, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 13, 1982]

ENERGETIC VIETNAMESE REFUGEE BUILDS A BUSINESS EMPIRE IN U.S.

(By Jay Mathews)

SEATTLE, Aug. 12.—On his first U.S. job as a welder, Quang Tran was laid off because he worked too hard, he said. Someone at the union had complained that this young Vietnamese refugee was so productive that his ironworker shop had stopped hiring more men.

Seven years later, the slim, boyish, hyperactive Tran is famous here for becoming a Vietnamese refugee tycoon.

In the midst of a flood of 600,000 Indochinese refugees into the United States, straining welfare rolls and raising unemployment figures, Tran's story shows how many of the earliest refugees have lifted themselves and pulled up some of their American neighbors with them.

A month shy of his 30th birthday, Tran has established his own shipbuilding and repair company on 22 acres of what was barren Seattle waterfront. He grossed about \$8 million last year.

Employees like Sonny Parker, a forklift operator from Texas, call him "a crazy man,"

devoted to working seven days a week. Workmen on the dock describe their initial shock at seeing Tran, president of his Eagle Marine Construction Co., staying on the work site every day in his overalls and reserving the most dangerous welding chores for himself.

The Seattle port authorities wish Tran would restrain his impulse to put up new buildings first and seek permission later. Some port workers wish he would relax some of his exacting hiring standards.

But Tran is setting such an example of energy and excellence, businessmen here said, that he has given many people in Seattle a different impression of the huge refugee community, which often has been criticized for its drain on the city's resources.

According to a survey in late 1981, commissioned by the U.S. office of refugee settlement, only 55 percent of refugees had entered the labor force and 13 percent of those had actually found work.

The remaining 45 percent included young adults struggling with English, women caring for children, the sick and the bewildered. Most of them were receiving some kind of public assistance.

But Linda Gordon, the office's chief data analyst, noted that many of those surveyed had only recently arrived in the United States. Her office's statistics showed that after a readjustment period, refugees like Tran who had arrived in the first wave after the communist victory in Indochina in 1975 have settled into productive jobs and are beginning to contribute to their communities.

"He doesn't party and he doesn't drink and he doesn't do any of the other things that most people do to reward themselves," said Bob Galloway, sales manager for Tran's company.

Tran displays some signs of his new prosperity; he drives a Delorean and pilots a cruiser he converted from a fishing boat. But most of his time is spent around his small dockside office, decorated with pictures of the little landing craft he has lovingly designed and built.

He keeps a sleeping bag in the office, and in busy periods prefers to sleep overnight on the floor.

Galloway calls Tran "the little general" because he is often "yelling and screaming and running around." But when he arrived in the United States in April, 1975, he was little more than a former lieutenant with seven years experience in the navy of a defeated country, some knowledge of how to repair damaged ships and little more than a high school education.

Tran was born in Haiphong, North Vietnam. In 1954 his father, a Sino-Vietnamese engineer, fled the communist takeover of the north and resettled in the Cholan district of Saigon. His father died when Tran was 7, and his elder brother supported the family by managing a toothpick factory.

Tran was drafted in 1968. Assigned to a dock facility in the southern delta, he often had to go into disputed territory and try to raise and recover river boats knocked out by Vietcong mortars. U.S. Coast Guard Chief Warrant Officer Robert L. Havner, who worked with Tran then, remembers him as "one in a thousand. Even then he was working 24 hours a day."

His energy won him a chance at further training in the United States, at Governor's Island in New York and later San Diego and San Francisco.

Tran's roommate at Governor's Island took him home to New Jersey for a brief visit, and Tran remembers the splendid

summer home of his roommate's wealthy realtor father. To him it was a monument to the American way.

When he had to return to Vietnam, Tran said, "I had the idea that I was going to come back. This was the land of opportunity. If you work for it, you get it."

On April 28, 1975, with desperate Vietnamese pounding on the gate of the American Embassy, Tran and most of his family managed to get on a C150 refugee flight because of their connections with the U.S. military and U.S. businesses.

He headed for Seattle, where a refugee employment service center found him a job teaching welding.

"I like to teach," he told himself, "but if I teach like this, I got no future."

He became a welder for a local ironworking factory, but was laid off. Disgruntled with life as an employee, he started to contract with local fishing companies to manage the conversion of surplus Navy ships into fishing boats.

His reputation for careful workmanship and meeting deadlines spread. A steel supplier, who later befriended Tran and helped him get a line of credit, heard of this unusual refugee suddenly getting into the business. Then, at a shop, "I kept hearing this guy yelling 'Give me my . . . stuff.' I had to meet him."

Having saved his money and found a bank willing to gamble on his unusual blend of talents, Tran founded the Eagle Marine Construction Co. in 1979. He soon won contracts to build 1,500 cargo flaps, design and build two special landing craft for fishing and supply work in two Alaskan towns, and refit a huge barge.

Workers applying for the projects had to take a test supervised by Tran and only about 10 percent passed. When dangerous jobs like overhead welding were required, Tran often did them.

"I feel I am more responsible than they," he said. "And if I get hurt it's okay, because I'm still single."

Faced with a recession particularly dangerous to young companies like his, Tran has added a small parts and tool-making facility and has begun to advertise and try to take advantage of government contracts which cater to minority-owned firms. Tran said he has not taken a vacation since he arrived in 1975.

He said he has no marriage prospects. "Who would want to get involved with someone who works all the time?" he said.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I can only say that at least this year there will be two figures at the parapet, Ron MAZZOLI in the House of Representatives and myself in this Chamber, with our respective chairmen, STROM THURMOND and PETER RODINO, to assure the Senator that in the conference process we will have a limit on refugees.

Mr. President, has the time been yielded back by the proponents?

The PRESIDING OFFICER. All time has expired.

Mr. SIMPSON. Then I yield back all time of the opposition to the amendment.

Mr. BUMPERS. Did the Senator move to table?

Mr. SIMPSON. I did move to table.

Mr. BUMPERS. I ask for the yeas and nays.

Mr. SIMPSON. I do move to table the amendment of the Senator from Arkansas.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

Mr. BAKER. Mr. President, I ask unanimous consent that I may proceed for 2 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. BAKER. Mr. President, I have a unanimous-consent agreement that I submitted to the minority leader and which I believe has been cleared by the managers of this measure, and I would like to present it now for the consideration of the Senate.

S. 2222

Mr. President, I ask unanimous consent that any rollcall votes ordered after the hour of 2:45 p.m. today in relation to S. 2222 be postponed, to begin on Tuesday, August 17, at 10 a.m., with the first vote to be 15 minutes in length and any remaining rollcall votes occurring back-to-back to be 10 minutes in length.

Mr. President, I further ask unanimous consent that no amendments be in order on Monday or Tuesday in relation to S. 2222 and that the bill be advanced to third reading and to final passage without any intervening action following the back-to-back rollcall votes on amendments on Tuesday.

HOUSE JOINT RESOLUTION 520

Further, I ask unanimous consent that following the period for morning business on Monday, the Senate turn to consideration of Calendar No. 752, House Joint Resolution 520, the debt limit bill.

And finally, Mr. President, I ask unanimous consent that paragraph 4 of rule XII be waived.

The PRESIDING OFFICER. Is there objection?

Mr. BUMPERS. Reserving the right to object, Mr. President, is the leader's request postponing the vote on this amendment?

Mr. BAKER. Not on this one.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AUTHORIZATION FOR CERTAIN ACTION DURING ADJOURNMENT

Mr. BAKER. Mr. President, I have a subsequent request. I ask unanimous consent that during the adjournment

of the Senate over until Monday, August 16, that messages from the President of the United States and the House of Representatives may be received by the Secretary of the Senate and appropriately referred; that the Vice President and the President pro tempore and the acting President pro tempore be authorized to sign duly enrolled bills and joint resolutions.

ORDERS FOR MONDAY

Finally, Mr. President, I ask unanimous consent that when the Senate reconvenes on Monday, the reading of the Journal be dispensed with, no resolution come over under the rule, the call of the calendar be dispensed with, and following the time allocated the two leaders under the standing order and special orders there be a period for the transaction of routine morning business not to exceed 30 minutes in length, with Senators permitted to speak therein for not more than 3 minutes each.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I will not object, I merely want to state for the record there is no way to keep the distinguished Senator from Tennessee, the majority leader, from adjourning the Senate today until Monday if he wants to do that. He prefers to do it by unanimous consent. If he does not have unanimous consent, the majority leader can move it at the end of the day. That is not debatable; he has the votes to do it, and I want the record to so show.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER FOR ADJOURNMENT UNTIL MONDAY, AUGUST 16, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 12 noon on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I yield the floor.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The Senate continued with the consideration of the bill.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I withdraw my motion to table. The amendment may be considered on an up-and-down basis.

The PRESIDING OFFICER. Without objection, the motion to table has been withdrawn. The question is on the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. BRADY),

the Senator from Maine (Mr. COHEN), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Maryland (Mr. MATHIAS), the Senator from Alaska (Mr. MURKOWSKI), the Senator from New Mexico (Mr. SCHMITT), the Senator from Vermont (Mr. STAFFORD), the Senator from Wyoming (Mr. WALLOP), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Connecticut (Mr. DODD), and the Senator from South Carolina (Mr. HOLLINGS), are necessarily absent.

The result was announced—yeas 41, nays 45, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—41

Boren	Exon	Long
Bumpers	Ford	McClure
Burdick	Glenn	Mitchell
Byrd	Grassley	Moynihan
Harry F., Jr.	Hart	Nickles
Byrd, Robert C.	Hawkins	Nunn
Chafee	Hefflin	Pryor
Chiles	Helms	Randolph
Cochran	Huddleston	Riegle
D'Amato	Inouye	Roth
DeConcini	Jackson	Rudman
Denton	Johnston	Sasser
Eagleton	Kasten	Stennis
East	Levin	Zorinsky

NAYS—45

Abdnor	Goldwater	Packwood
Andrews	Gorton	Pell
Armstrong	Hayakawa	Percy
Baker	Heinz	Pressler
Baucus	Humphrey	Proxmire
Biden	Jepsen	Quayle
Boschwitz	Kassebaum	Sarbanes
Bradley	Kennedy	Simpson
Cranston	Laxalt	Specter
Danforth	Leahy	Stevens
Dixon	Lugar	Symms
Dole	Matsunaga	Thurmond
Domenici	Mattingly	Tower
Durenberger	Melcher	Tsongas
Garn	Metzenbaum	Warner

NOT VOTING—14

Bentsen	Hatch	Schmitt
Brady	Hatfield	Stafford
Cannon	Hollings	Wallop
Cohen	Mathias	Weicker
Dodd	Murkowski	

So Mr. BUMPERS' amendment (UP No. 1235) as modified was rejected.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. KENNEDY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRANSTON. Mr. President, I will oppose S. 2222, the Immigration Reform and Control Act.

But before I explain my criticisms of the bill, I first want to say what I think is right about it—and there is much that is.

First, the bill explicitly recognizes the special relationship we have with

our next-door neighbors, Canada and Mexico. Those nations, by reason of proximity and history, deserve special treatment for immigration purposes. I have advocated such special recognition for immigration from Canada and Mexico for many years and I am very pleased to see this provision in S. 2222.

Second, the bill will promote reasonable immigration into the United States and coordinates normal immigration with our admission policies for refugees under the Refugee Act of 1980. I am disappointed, however that Senator KENNEDY's efforts to restore the fifth preference category failed on the floor yesterday.

Third, the bill accepts the existence of a valued population of undocumented workers who have contributed substantially to our national productivity, to our culture, and who have become welcome members of many communities.

Finally, this legislation is built upon an impressive foundation of study by many citizens and groups and was subject to extraordinary deliberation in the Judiciary Committee under the leadership of my colleagues Senators SIMPSON and KENNEDY.

I applaud the thoughtful and conscientious work the Senator from Wyoming has done in his usual thorough way on this measure even though I disagree with many of his conclusions. I applaud the effective leadership the Senator from Massachusetts has provided in his customary courageous way—and I agree with virtually all the stands he has taken on this measure.

Differences remain.

The bill, in my view, imposes a new and controversial legal order upon the United States for the purpose of controlling illegal immigration. I disagree deeply with the direction taken by S. 2222 to control illegal immigration.

My fundamental objection to S. 2222 is its system of verification of the requirement that no employer shall hire any individual who is not authorized to work in the United States.

The authors of the bill argue that such a work authorization system is necessary to protect employers and, in their words, minority workers. It is even suggested by one advocate that "minority workers could use the system to demonstrate that they are citizens or aliens authorized to work in this country, and to counter any possible suspicion."

I find this offensive and repugnant to the concept of individual dignity and liberty.

Apparently, many do not agree with me.

Apparently, many of my colleagues are ready to vote to require that every American be authorized by his or her Government to work.

What more is there that a "Big Brother" government can do to obtain

control over every citizen and resident of the United States?

My distinguished colleagues on the Judiciary Committee argue that the work permit system will never be used for law enforcement purposes other than enforcement of the immigration laws.

I accept those assurances at face value.

But the Senators who make them today may not be here to defend against some future effort by the Government to use ID cards for nefarious purposes. The Senators who assured the citizens of 1935 that social security cards and numbers would never be used for identification purposes are not here today to argue against the provision in S. 2222 which leads toward the use of the social security card and number as a universal identifier.

So while I accept the good faith of my colleagues, I doubt deeply their ability to keep their word into the future when they are no longer here.

Any system that leads to the requirement that citizens be identified, no matter how you do it, or what you call it, boils down to an internal passport system that will sooner or later be abused by the Government.

S. 2222 will make every individual in the United States—whether born here or not—subject to the control of immigration authorities—even if they spend every day of their lives in their own hometowns.

Such a result, in my view, infringes upon our traditional respect for individual liberty in the United States best expressed in the Revolutionary War slogan "Don't Tread On Me" and New Hampshire's State motto, "Live Free or Die."

I am told repeatedly by the bill's supporters that virtually every country in the world has such a system. Scandinavian nations are held up as prime exhibits as are other European nations. That should not be persuasive to anyone who appreciates the history and traditions of our Nation.

One of my reasons for opposing the identification card approach is based upon my personal experience and what I have witnessed in Hitler's Germany, Mussolini's Italy, and in various Communist countries. The first tool of a totalitarian system is a domestic passport, let us not have them in our beloved land.

I understand why such a provision is necessary in the scheme set forth in S. 2222.

It is basic that the key to any program of controlled immigration is the ability to limit entry to lawful means.

Obviously, any system of allocating fairly the right to immigrate to the United States from other countries depends upon assuring that persons will use only the system of lawful immigration and not be able to resort success-

fully to unlawful ways of entering and remaining in the United States.

S. 2222 seeks to obtain control over illegal immigration first by making it unlawful to hire an illegal alien or an alien unauthorized to work. Under such an approach, it is elementary that employers have an affirmative defense. The bill provides such a defense through the verification system which involves statements made under penalty of perjury plus assorted identification documents, pending the development of a so-called secure verification system.

I would approach the problem of employers hiring undocumented workers differently. I do not think employers should be made to be immigration policemen. But for the purposes of this discussion I concede that S. 2222, if passed, will contain a provision making it against the law to hire an alien unauthorized to work in the United States.

Having made that assumption, it appears adequate to me to limit the bill's requirement for verification to the system proposed in section 101(b) of the bill. Verification that an alien is authorized to work should be limited only to those provisions provided in section 101(b). Those are: First, attestation by both employer and employee that the provisions have been complied with and that the employee is authorized to work; second, examination of the individual's U.S. passport, or third, social security card or U.S. birth certificate, plus some other identity document.

I urge that we consider dropping the requirement that the President be directed to move toward the development of a secure verification system. This limitation would help guard against the growth of an I.D. card system. Frankly, I prefer that the verification be limited further to simple statements made under penalty of perjury that the individual is authorized to work plus presentation of a social security card as is now required under law.

The verification of identity provisions are in my view an overreaction to the need to assure that aliens and employers comply with the law.

I think Americans and, for that matter, most people are law-abiding.

The current situation, as the distinguished chairman of the Subcommittee on Immigration well knows, is highly ambiguous on the question of hiring illegal aliens. Hiring illegal aliens is not against the law today. In addition, our immigration policy for the most part has been based in recent years upon the tolerance of illegal aliens working and living in the United States.

Thus, I believe that if the law is changed as it is in section 101(a) of S. 2222 and elsewhere in the bill, most

American employers will comply with the law. That has been our experience with many changes in law, which seemed to be highly controversial, even inflammatory, such as the public accommodations title of the Civil Rights Act of 1964, and the Voting Rights Act of 1965. Most Americans complied with those laws when passed by Congress and signed by the President.

No evidence has been presented to me that employers will not comply and the committee report concedes that employers will comply.

Would compliance under such a scheme as I have outlined be absolute?

Probably not. But compliance would be substantial and workers and job applicants would be fairly treated.

Perfection in compliance with S. 2222, in my judgment, is not worth subjecting every American to a police card system of identity. And I think that is where the bill leads.

Much has been made of the accusation that employers unfairly exploit illegal aliens and undocumented workers. The areas of mistreatment are said to be substandard or unlawful wages and hours; dangerous, unsafe, and unhealthy working conditions; and outright cheating with respect to withholding tax payments not made and other abuses related to payroll practices.

Mr. President, every one of these abuses is a violation of some Federal law as well as of some State law.

I have urged that we act to see to it that those workplace laws are enforced.

My State of California does have such a program.

It is not a substitute for stopping the employment of undocumented workers.

But it has been effective in securing a higher degree of compliance with basic workplace laws.

In fact, recent exit interviews conducted in detention centers operated by INS show that illegal alien workers employed by California employers suffered less economic exploitation and law violation than workers from other States.

In my view, we should move toward a significant enforcement program to receive better compliance with our tax laws which require withholding of taxes on wages and prompt payment of payroll taxes for social security and unemployment insurance. In addition, I would hope to see expanded efforts to enforce minimum wage and fair hours laws as well as stepped up efforts in the health and safety fields.

But, instead of taking steps to help all workers, S. 2222 imposes substantial new regulatory burdens upon employers. All employers will be subject to the prohibition against hiring unauthorized aliens. All employers of four or more workers must retain paper-

work with respect to compliance with section 101(b) for 5 years. That is a significant requirement.

I am not persuaded that the committee has considered the cost of compliance to small businesses and large, as well as the cost to individual citizens seeking to obtain jobs.

I even have some doubt that the committee has met the requirements of paragraph 11 of rule XXVI that an evaluation of the regulatory impact of the bill be made. The rule requires the evaluation to estimate the numbers of individuals and businesses who would be regulated and a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected; a determination of the impact on personal privacy; and a determination of the amount of additional paperwork that will result from the regulations.

Since committees rarely comply in detail with rule XXVI, paragraph 11, I suppose it would be unsportsmanlike to raise a point of order against the bill on the grounds that the report of the committee does not comply with the provisions of paragraph 11 of rule XXVI.

Nevertheless, in spirit, if not literally, I do believe such a point of order could be taken against the bill.

It will suffice to say that the regulatory and paperwork impact of S. 2222 is grossly underestimated and is a sufficient ground to vote against the bill in my opinion.

UP AMENDMENT NO. 1236

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. GRASSLEY) proposes unprinted amendment numbered 1236.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, at line 13, after "ing" strike all thereafter through line 15 to the semicolon.

Mr. GRASSLEY. Mr. President, this amendment modifies a provision in the bill which both the majority and minority floor managers of the bill feel is inconsistent with the basic thrust of amendments adopted previously to this bill.

Mr. President, since the managers of the bill are aware of the amendment and since this has been cleared with the majority manager, I ask that the amendment be adopted.

Mr. SIMPSON. We have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

The amendment (UP No. 1236) was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCURE. Mr. President, I ask unanimous consent that the pending matter be laid aside temporarily for the consideration of the conference report on H.R. 6530.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

MOUNT ST. HELENS NATIONAL VOLCANIC AREA—CONFERENCE REPORT

Mr. McCURE. Mr. President, I submit a report of the committee of conference on H.R. 6530 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) to establish the Mount Saint Helens National Volcanic Area, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. McCURE. Mr. President, I rise in support of the conference report on H.R. 6530. I commend my distinguished colleagues from the State of Washington, Senators JACKSON and GORTON, for their hard work in bringing this legislation to fruition.

The House offer, recommended by Congressman SEIBERLING, on a settlement of the differences in the boundaries described in both bills was accepted by the Senate conferees after discussions with Senate conferees and sponsors. Concerns over the additions to the boundary of the Goat Creek area were difficult to reconcile. However, the boundaries were adjusted to exclude the known mining claims.

In the Kipuka area, the conferees adjusted boundaries to eliminate known active timber sale areas.

The conference committee in resolving boundary differences in relation to the extant mining claims and mineral interests agreed to exclude known mining claims to the maximum extent

possible and to acquire mineral interests only by exchange.

In the case of those mining claims remaining inside the boundary of the Mount Saint Helens National Volcanic Monument, the Secretary may acquire the claims in the Polar Star-Green River area only with the consent of the owner. Further, the Secretary has ample authority to make minor boundary adjustments to exclude those claims which are near the boundary in the Green River-Polar Star area.

Mr. President, this legislation directs the Secretary to use exchange as the primary tool of acquisition of the private lands and interests in lands in the monument. The conferees expect that the Secretary shall move expeditiously to complete these exchanges, however, since it is also the intent of the conferees to use the exchange authority to the maximum extent possible, the Secretary should allow such reasonable time as may be necessary for parties to exchanges to work out the details of any complicating factors so that the exchanges may be carried out smoothly and effectively.

Mr. President, this legislation represents a response from society to a natural phenomenon of great magnitude that occurred on May 18, 1980, and repeated a number of times up to today and will be predictably repeated in the future.

I believe this legislation strikes a balance in how Congress wishes the land to be managed. It gives the Secretary flexibility to manage and yet preserve, educate, interpret, and protect. The collection, conduct, and dissemination of scientific data by the USGS and Forest Service will be foremost in the management objectives.

Mr. President, I wish to thank Senators JACKSON, GORTON, and WALLOP and the Senate conferees for their work in this legislation. I wish to thank the Senate Energy and Natural Resources Committee staff for their work and perseverance in bringing this legislation to a successful conclusion.

Mr. JACKSON. Mr. President, I rise in strong support of the conference report on H.R. 6530—the Mount St. Helens National Volcanic Monument bill.

Mr. President, I believe that the compromise reached by the conferees in this regard is fair and equitable. I think it strikes a reasonable balance that fairly considers the various interests represented. Throughout the process, both Senator GORTON and I have tried to be responsive to the concerns expressed by the many witnesses and others who have commented on this bill.

The measure before us today creates a national volcanic monument comprising approximately 110,000 acres. The Senate-passed bill included some 105,400 acres. The conference agreement makes important additions in

Smith Creek, Kipuka, and Goat Creek. The mining claims in the Green River Polar Star area have been almost entirely excluded from the monument. The Secretary will be able to use the boundary adjustment authority provided in the bill to delete even these last remaining claims.

The conference report provides for expeditious legislated exchanges of the surface resources of the two largest non-Federal landowners in the area—Burlington Northern and Weyerhaeuser. The subsurface rights are to be exchanged as expeditiously as possible under the general exchange authority provided in the act and existing law. In an effort to insure as little fiscal impact as possible, the Conferees agreed to limit the acquisition authority of the Secretary with regard to mineral interests to exchange only. As I noted earlier, almost all the surface rights in the area will also be acquired for exchange. With regard to the exchange of mineral interests, the conferees adopted language making it clear that only an environmental assessment rather than an impact statement is required to be prepared. This should help expedite the exchange of these interests.

The conference report includes specific language regarding the management of the area which represents a good compromise between the two versions. Language has been included regarding the very narrow circumstances under which timber salvage operations can take place within the monument. Provisions are made to insure that the Secretary can take necessary actions to prevent loss of life and property. Direction is provided the Secretary with regard to the construction of roads and related developments, scientific research and study, and hunting and fishing.

Mr. President, we have an opportunity today to set aside for future generations a truly special resource. The scientific, research, recreation, and other opportunities that Mount St. Helens will provide are, in my view, of inestimable value. I am proud to have played a role in the establishment of this area, and I urge my colleagues to join with me in adopting this conference report.

I want to express my deep appreciation to the chairman of the committee, Senator McCLURE, the chairman of the subcommittee, Senator WALLOP, and, may I say, to the members of the staff of both majority and minority who worked so hard in dealing with a number of intricate details involved in the legislation. I especially want to commend Tom Williams, Mike Harvey, Gary Ellsworth, and Tony Bevinetto of the Senate Energy Committee staff as well as Dale Crane, Nick Ashmore, Bob Boar, and Bob Lowery of the House Interior and Agriculture Committee staffs. I also want to express

my appreciation to my colleague, Senator GORTON, and to his staff, especially Catherine Besteman, for working with us very closely on this bill.

Mr. President, I think it dramatizes what can be accomplished when people work together in a common effort to resolve a lot of difficult pros and cons in legislation of this kind.

Mr. GORTON. Mr. President, today we are considering the conference report on the establishment of a Mount St. Helens National Volcanic Monument. Prior to the conference, the Senate version of the bill and the House version of the bill passed their respective Houses unanimously. The differences between the two versions were slight, and the conference committee was able to conclude its work expeditiously. The conferees are to be commended for the speed with which they conducted the conference, and for producing an excellent compromise bill. I am extremely pleased with the final bill, and it is considered a fair compromise by all the competing interests which must be served by this bill. In fact, it is an improvement over both the original House and Senate bills. I give my enthusiastic support to the final bill worked out in the conference committee, and urge its immediate approval by the Senate.

Mr. President, this is one of those felicitous occasions in my view in which the product of the conference committee is superior to either the bill, which originally was passed by the House of Representatives, or that which originally passed the Senate.

It is due, as my senior colleague has said, to diligent and skillful work on the part of our staffs. It is due most particularly to the understanding and generosity of the chairman of the Energy and Natural Resources Committee, the distinguished senior Senator from Idaho, whom I wish particularly to thank for facilitating the passage of perhaps the most significant single bill dealing with public lands and with their preservation during the course of this Congress.

I recommend to my colleagues the immediate passage of the conference report.

Mr. McCLURE. Mr. President, I too, would like to especially thank my colleagues from the State of Washington, and to again express what Senator JACKSON has expressed with respect to the help of the staff on both sides of the aisle.

The professional staff of the committee, on both the majority and minority side, have been very helpful. They are very competent people, and it has been a pleasure to work with them in working out the details of this matter.

Mr. MATSUNAGA. Mr. President, I rise in strong support of the pending measure. In so doing I wish to con-

gratulate the two Senators from the State of Washington. Their persuasive powers were not to be denied. I wish we had such persuasion in other matters, such as sugar. [Laughter.]

I would ask the same support which I gave the two Senators pertaining to this matter because, as you know, the matter comes up next week possibly—we hope it will.

Again I wish to congratulate the two Senators for the most effective manner in which they represented their State with reference to this bill.

Mr. McCLURE. I, of course, agree with my distinguished colleague from Hawaii on both matters, the matter of Mount St. Helens and sugar.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the conference was agreed to.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

The Senate continued with its consideration of the bill.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, the distinguished Senator from Oklahoma has asked for me to yield him 1 minute, and I yield him 1 minute.

Mr. NICKLES. Mr. President, I thank my good friend, the Senator from Pennsylvania.

I wish to thank the chairman of the Immigration Subcommittee for the fine work he has done, and also the work of his staff and the minority staff.

UP AMENDMENT NO. 1237

(Purpose: To clarify how violations are counted when determining an employer's penalty, establishing separate and distinct units of corporate liability)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES) proposes an unprinted amendment numbered 1237.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 85 after line 25 insert the following: "In counting the number of previous determinations of violations for purposes of

determining whether clause (i) or (ii) applies, determinations of more than one violation in the course of a single proceeding or adjudication shall be considered as a single determination. In the case of a person or entity composed of distinct, physically separate subdivisions each of which provides separately for its own hiring, recruiting, or referral for employment, each such subdivision shall be considered a separate person or entity if such hiring, recruiting, or referral for employment is not under the direct control of another subdivision or any entity or office exercising final management authority over such subdivisions.

Mr. NICKLES. Mr. President, the amendment that I offer is to modify the provisions of this legislation so that the enforcement of the new responsibility which employers will have to bear recognizes the realities of the workplace. This bill lays out, in section 274, the employer penalties for a first violation, a second and subsequent violations, and for a pattern or practice of violations. These penalties are sound and justified. However, the bill does not make clear how INS is to determine if a violation is multiple or singular, whether a violation should count as one or more than one. The House bill does specify how a violation is counted, and establishes separate and distinct units of corporate liability. My amendment would adopt this concept of the House bill.

S. 2222, in its present form, would place the responsibilities for compliance on single corporate entities when in fact, hiring decisions are most often made on a local basis. This is especially true for multidivision and multiplant location corporations who do not, as a matter of practice, clear all hirings through a corporate headquarters. Thus, if not modified, this bill will focus the liability and any resulting punishment for employment of illegal aliens on the aggregated corporate level and not where the hiring decisions are made. The effect would be akin to "punishing the father for the sins of his children."

It is my belief that, by adopting this amendment to create separate and distinct units of liability, we will be placing the onus of compliance directly on those people who do the hiring. Under the provisions of this amendment, it is these people who bear the burden of implementing the effort to control illegal immigration through this act who will be held responsible for failure to comply.

Furthermore, the amendment clarifies that all violations by an employer during one adjudication proceeding against that employer be treated as a single violation. Thus, if the employer failed to check several employees' documentation and INS brought action against the employer, that action would be considered one violation. Therefore, whether a proceeding involves 1, 5, or 20 employees, that proceeding is counted as one violation.

If accepted, this amendment would serve to avoid unnecessary prosecution. More importantly, it would preserve the intent of the act and its sanctions without forcing business to put in place costly centralized systems of preemployment screening and paperwork which could be better and less expensively handled at the plant level. It would also clarify how one counts violations.

Mr. President, I want to make perfectly clear that when I refer to "final management authority" in my amendment I am referring to final "hands on," direct, operational control over the day-to-day hiring and employment practices of the separate entity. I am not referring to general management control of a corporation over its subdivisions, which would exist in other cases.

Mr. President, it is my understanding that the House bill, H.R. 6514, includes similar language to my amendment. I also understand that the administration endorses this amendment. I believe that it is important that the Senate also recognize separate units of accountability and attribute violations on a disaggregated basis.

Mr. President, to summarize, this amendment by its adoption will recognize separate and distinct units of liability. We will be placing the onus of compliance directly on those people who do the hiring.

Under the provisions of this amendment it is the people who will bear the burden of implementing the effort to control the illegal immigration through this act and who will be held responsible for the failure to comply.

This amendment, Mr. President, has been cleared on both sides, and I ask for the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 1237) was agreed to.

Mr. NICKLES. I thank the Chair and I thank the Senator from Wyoming and the Senator from Pennsylvania.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I commend my colleague, the distinguished Senator from Wyoming, Mr. SIMPSON, and Congressman MAZZOLI for their outstanding work in developing the Immigration Reform and Control Act, now being considered by the Senate.

In the life of our Nation, there has been no subject of greater importance than immigration because the immigrants have populated and created the great strength of the United States of America. In my own life, there has similarly been no subject of greater

importance than immigration because both of my parents were immigrants. My mother, Lillie Shanin Specter, emigrated to the United States at the age of 5 from Poland to St. Joseph, Mo., with her parents. My father, Harry Specter, emigrated to the United States at age 18 from a small village named Batchkurina, 170 miles south of Kiev in the Ukraine section of Russia. Last month, I had the opportunity to visit my father's birthplace and saw firsthand how much greater my opportunities were than his.

In enacting this legislation, the Congress, the courts, and the administrators of this statute should be ever mindful that the United States continues to be not only the greatest Nation on Earth but the Nation with the greatest opportunity on Earth. The essence of life is freedom, and the core of freedom is the opportunity for the individual to develop his greatest potential. Toward that end, this statute is intended to and should be interpreted to allow the maximum opportunity for as many people as possible to emigrate to the United States.

A fundamental principle for statutory construction is that remedial legislation should be liberally construed. Too often, administrators and courts lose sight of a statute's purpose behind labels such as "liberal" or "conservative" with the admonition against judicial lawmaking. This statute is designed to provide the maximum opportunity for immigrants, which is reasonably consistent with its provisions.

In case of a tie in baseball, the runner is safe. In horseshoes, points are awarded for being close. Under this statute, the immigrant prevails on less rigid standards. As my law school professor, Freiderich Kessler, used to ask: "Can you make the argument without blushing?" If the immigrant's argument can be made without blushing, the immigrant should prevail.

This interpretation benefits both the immigrant and the Nation. Our national strength lies in our diversity. The United States of America continues to be the international melting pot where the sky is the limit; and the foreign-born, as well as first or eighth generation Americans, can contribute to the Nation in lofty places such as the U.S. Senate.

Our American creed emphasizes the worth of each individual. Let the immigrant applicant become a part of our Nation if at all possible. We shall all be stronger with the implementation of that purpose which is embodied in this important legislation.

Mr. SIMPSON. Mr. President, I have learned to respect the thoughtful Senator from Pennsylvania. We serve together on two committees—Veterans' Affairs and the Judiciary. He is, indeed, correct. Our present adjudica-

tion systems do not work well. Case-loads are growing—backlogs are growing. Appeals are layered one on top of the other. Our asylum situation is absolutely out of control with 106,000 pending asylum actions. Layer upon layer, indeed.

Questions have been raised about the independence of the present adjudication, and I understand what the Senator is saying, all of those procedures being under the INS. The administration requested that the new Immigration Board and immigration judges remain within the Justice Department but independent of the Immigration Service. So we provide in S. 2222 that very independence while continuing the supervision of the Justice Department over the adjudication process.

But we have established a new system which is completely independent of, as I say, the INS. I know that the Senator has examined that carefully. We provide for the new U.S. Immigration Board with increased stature for the nine members appointed for 6 years.

Mr. SPECTER. I had made this statement available to the distinguished Senator from Wyoming earlier and I would like to seek his view as to the accuracy of my general statement of the legislative intent and his response on the general principles of statutory construction I have set forth. I think he is in general agreement that it is our intent that this statute be construed in a way to permit the administration, wherever it can be done, to favor the immigrant, consistent with the provisions of the statute.

Mr. SIMPSON. Indeed, that is the intent, and it is the intent of S. 2222.

If you would look at the entire statutory structure of the measure, you will find that the first thrust is family reunification—and immediate relatives and compassion. We would not have come this far with this measure if it lacked compassion for family reunification, as in the poignant story that you tell of your own relatives and your visit there.

In the adjudication process, it is easy for the administrators to get lost in their efforts and not consider the very human aspects that you portray. I can only tell the Senator that strict statutory construction in the immigration law field is going, I think, to be carefully monitored because of the humanitarian concerns.

Mr. SPECTER. That is precisely the point that I wish to make, and I think it would be useful, as this statute is interpreted by many in the administrative branch and also in the courts, that that expression of the statutory construction be heeded.

If I may now, I would like to proceed to the subject of Shailesh Patel. This matter has come to the attention of

the distinguished Senator from Wyoming, as well as his subcommittee, in terms of legislation which I had introduced for Mr. Patel, both as a general matter for all those who came under his category and legislation for him specifically.

Essentially, and succinctly stated, Mr. Patel came to this country from India in 1966 on a student's visa in order to study at Villanova University.

He graduated from Villanova in 1970 with a degree in mechanical engineering. Except for a short visit to India in 1971, when he married and returned to the United States with his wife Prem-lata, Shailesh Patel has lived here continuously for 16 years.

In May of 1972, Mr. Patel's student visa expired. He then placed a critical decision. He could, as millions of other immigrants have done, simply go underground, with little practical chance of being found, prosecuted, or deported. Instead, consistent with the scrupulous respect he has shown for our laws throughout his residence here, Mr. Patel sought a legal adjustment of his status. He was operating a service station in which he had invested over \$15,000, and he was understandably confident that he would gain permanent residence on the basis of the immigration law's "investor clause," which granted a preference to any immigrant who has invested \$10,000 or more in a job-creating U.S. business.

However, his application was rejected because his service station was leased rather than owned—an arbitrary interpretation of the "investor clause" that lacked precedent.

Shailesh Patel's ultimately unsuccessful appeal lasted until 1978. A reapplication for permanent residence was also rejected and a deportation order was issued in 1981. The Patels are in the United States with the status known as "extended voluntary departure."

I submit that Shailesh Patel has become a model citizen, a productive citizen, a patriotic and law-abiding citizen in every sense but a technically legal one.

Mr. Patel's stakes in this country begin with his family. He has three children—Aparna, Sheetal and Alpa. Each was born in the United States. Each is a U.S. citizen. Each attends school in the West Chester School District. Each has made good friends here. This is the only home they have known. If their parents are deported, these children—aged 9, 7, and 5—will either have to stay here without their parents or go to a country they have never seen, where they do not speak the language, where they could not possibly succeed in school, where they have no friends, and where they face serious psychological difficulties. It is a nightmarish situation in which these

children, and thousands of children of other immigrants, are the victims.

Mr. Patel has leased and operated a Sunoco service station in Berwyn since 1978. He employs three persons. He has invested about \$35,000 in a lease deposit and in new equipment. With the income from the station, he has purchased a fine home in West Goshen Township. Deportation would mean the loss of the service station and the home. Similar self-employment in India would be impossible.

The loss would not only be to the Patels, but to the entire community that has come to rely on his skill. Mr. Patel's special efforts and consideration for his customers have earned him their highest esteem, as evidenced by the approximately 300 letters, petitions, and telephone calls I have received in his behalf.

The Patels have no criminal record. They have paid all applicable local, State, and Federal taxes throughout their residence in the United States. They have neither sought nor required any State or Federal welfare assistance. They are a credit to their community and to this country.

Because of my concern for the Patels, and the uncounted immigrants who share their nightmarish battle with our immigration laws, I introduced S. 1789 to give amnesty to law-abiding immigrants who lived here for 10 years and had American-born children.

The processing of that bill is now made unnecessary by the prospective enactment of S. 2222.

What I wish to do at this time is to continue this colloquy with the distinguished Senator from Wyoming to establish the legislative history which I think is clear—but there is nothing like making it explicit in the legislative history—that the Patels do, in fact, fall within the provisions of S. 2222 and will be permitted to remain in the United States.

Mr. SIMPSON. Mr. President, I am well aware of the situation of the family referred to, the Patels. We have discussed that previously. It is a good question.

There are a number of groups of people in the United States whose members are known to the Immigration and Naturalization Service, but who do not fall into the statutory immigrant or nonimmigrant category.

The bill as drafted leaves it to the discretion of the Attorney General as to which of these groups should be considered in unlawful status and, therefore, included within the legalization program. We are informed by the General Counsel's office of the INS that persons on extended voluntary departure do fall within the scope of the legalization provisions.

Mr. SPECTER. I thank the distinguished Senator from Wyoming. In simple and direct terms, that means

that the Patels would be able to stay, does it not?

Mr. SIMPSON. That is correct, as I interpret it.

Mr. SPECTER. That interpretation is good enough for me, and I think has very considerable weight in the legislative history.

If I may now, I would like to refer to another specific case that I have heretofore discussed with the distinguished Senator from Wyoming, where the situation does fall within the provisions of the statute for preference, but, again, I think it is highly advisable to establish this legislative history.

This relates to two Venezuelan citizens about whom I have heretofore written to the Commissioner of Immigration and Naturalization, Mr. Nelson. These two Venezuelan citizens, who have two sons in the United States, have sought, so far unsuccessfully, to enter this country. But under S. 2222, they would have a preference under the provisions of section 202 (b)(1), entitled "Aliens of Exceptional Ability," which specifies that preference be given to qualified immigrants who, because of their exceptional ability in the sciences, arts, professions, or business, will substantially benefit prospectively the national economy, cultural interests, or welfare of the United States.

These two Venezuelan citizens, who are husband and wife, are approximately 58 years of age. Dr. Ela Bacalao was born in Romania on June 19, 1924, and graduated with an M.D. degree in 1947 from the Venezuelan Central University, according to the information provided to me.

She received postgraduate training in the United States through New York University Postgraduate Medical School between 1949 and 1953, including in that period a 1-year course in basic sciences, a year as assistant resident in the gynecology department of Bellevue Hospital in New York, and a 6-month course in gynecological cytology at New York Hospital, Cornell Medical Center.

She then served as a research fellow for 2 years, 1962-64, in the gynecological pathology department of Columbia Presbyterian Medical Center, and, subsequently, for 10 years, 1965-75, was in charge of an important training program in Venezuela.

Since 1975 she has devoted her time to the private practice of medicine in gynecology in Venezuela.

Her husband, Dr. Pedro Bacalao, was born in Venezuela on March 7, 1923. He graduated with an M.D. degree in 1946 from the Venezuelan Central University, and then undertook postgraduate training in the United States through New York University Postgraduate Medical School between 1949 and 1953, including in that period a 1-year course in basic sciences, a 1-year residentsip in ortho-

pedic surgery in the New Jersey Orthopedic Hospital, and 6 months residency specializing in fractures in Orange County Memorial Hospital, both in New Jersey.

He was then a fellow in orthopedics for 2 years, 1962-64, in the Hospital for Special Surgery, Cornell Medical Center, New York City, and later belonged to the staff of the Orthopedic Department of the University Hospital, Venezuelan Central University, for 17 years, 1954-71.

Since 1971, he has devoted his full time to private practice of medicine in Caracas in a private hospital.

These very distinguished physicians, I think, do fall within the preference which is established by the section that I heretofore referred to. They are typical of the many people who will be accorded this preferential status which will, I believe, work to the benefit of the national economy, the cultural interests, or welfare of the United States, as those terms are delineated in the statute.

At this time, I would ask the distinguished Senator from Wyoming for his concurrence on that by way of legislative history on the subject which we have discussed heretofore.

Mr. President, my distinguished colleague is correct. Title II of S. 2222 does provide for preferential allocation of independent immigrant visas. In order to qualify for a preference, the applicant must have exceptional ability in the sciences, the arts, the professions, or business, needed skills, or substantial investments in the United States, or businesses in which the alien would be the principal manager and which would benefit the Nation's economy and create employment opportunity for not fewer than four workers.

Mr. SIMPSON. The family that the Senator refers to could apply for the first of these three preference groups. The three preferences are persons with exceptional ability in the sciences, arts, or professions. Among other persons, this section of the bill is to admit persons who would substantially benefit the economy, cultural interests, or welfare of the United States, or persons with exceptional medical ability could fall within this category. One of the members of this family could show such exceptional ability and if each of the others is otherwise qualified, they would be eligible for admission, subject, of course, to applicable numerical restrictions.

Mr. SPECTER. I thank the distinguished Senator from Wyoming for that response.

The final matter I wish to have a very brief colloquy on relates to the subject of the U.S. Immigration Board, which, under an earlier draft, was to be selected by the President with the advice and consent of the

Senate. I know that this provision was modified after extensive deliberation by the distinguished Senator from Wyoming so that the Board would be selected by the Attorney General.

I understand the considerations which led to that selection process and I had considered the possibility of introducing an amendment to return the statute to its original status. I think, however, that the objective can be achieved in large measure through colloquy by agreeing upon an explicit statement of statutory intent that this Board to be an independent judicial board, to function independently of control by the Attorney General.

The reality is that under the original provisions for the President to make the appointments, very likely they would be on the Attorney General's recommendation, and as the case, realistically viewed, in such matters, the advice and consent of the Senate is, very frequently, pro forma. So that, as a practical matter, we can have the same quality from the Board under the current provision if there is a clear-cut determination that the Board is independent from the Attorney General. That independence, I think, is absolutely necessary because of the requirement that there be a separation for investigative, prosecutorial, and judicial functions.

I know it is the intent of the committee that there be that type of independence, but I would just like to establish that positively for the record at this time.

Mr. SIMPSON. Mr. President, the administration has requested that the new Immigration Board and immigration judges remain within the Justice Department, but independent of the Immigration Service. Provisions of S. 2222 provide that very independence while continuing the supervision of the Justice Department over the adjudication process.

Current provisions of S. 2222 provide for a new U.S. Immigration Board with increased stature for the nine members appointed for 6-year terms by the Attorney General. It also provides for new immigration judges of increased stature and specially trained asylum adjudication judges who have training in international law and international affairs. Thus, the present provisions of the bill increase both the stature and the independence of the immigration adjudication system.

Immigration pressures on the United States are increasing. Asylum applications have grown to a number which would have been unbelievable a few years ago. We need a fair immigration adjudication system within the Justice Department. We have provided that with increased training, increased stature, and increased independence.

Mr. SPECTER. Mr. President, there is one final matter which I shall not pursue at this moment, but which I

have discussed with the distinguished Senator from Wyoming. That relates to the pattern and practice which activates the possibility of criminal prosecution with respect to the consideration of such three violations. I understand it is the desire of the Senator from Wyoming that this matter be reviewed with careful attention to the precise language, so I shall defer any further reference to that provision at this time. I shall await that colloquy and will consider it at a later time.

Mr. SIMPSON. I thank the Senator from Pennsylvania. I appreciate that very much.

Mr. SPECTER. I thank the distinguished Senator from Wyoming. I compliment him for a job well done. I thank him for the attention he has given to the matter I have presented this afternoon.

I wish to commend the Senator from Wyoming on retaining an unusual degree of composure, as he has been surrounded by some 99 Senators at various times during these proceedings, each one wishing to put his measure on the top of the list.

I yield the floor.

Mr. HAYAKAWA. Mr. President, the Senate has at last begun discussion and debate on a matter of tremendous importance to the future of our Nation. I believe that every Member of this body will agree that action must be taken to modernize our immigration laws, and I hope that an acceptable solution can be engineered from the core of the Immigration Reform and Control Act of 1982. S. 2222 is the product of many hours of hearings and deliberation. Senator SIMPSON deserves our highest praise for his efforts and commitment to address the very difficult issues surrounding our immigration policies.

However, I have some specific concerns with this bill as do a number of my colleagues. We have many amendments with which to deal, but I hope that by the end of our debate we can form a consensus and pass S. 2222.

We have, by some estimates, from 3 to 12 million illegal aliens in this country. Immigration, legal and illegal, from the Third World has never been higher. The forces behind this flow of humanity to our bountiful shores will only get stronger, and our ability to deal responsibly with the issue rests largely on our ability to understand the circumstances of and impacts related to the flow of foreigners into our Nation.

It is time to come to grips with our acceptance and treatment of refugees from around the globe. We must gain some sense of control over our 2,000-mile border with Mexico. This must be done with compassion and understanding for those less privileged than ourselves.

Unlike other political problems, there is no clear ideological division on

these issues. There is no sharp conservative or liberal division. Moreover, immigration is a highly emotional issue involving ethnic and racial agendas, attitudes, and fears which are not always clear or expressed. Immigration, in addition, involves emotions which are not easily compromised. It is no wonder then, that most experienced politicians see the immigration question as dangerous territory with serious short-run costs and no clear advantages. They do so despite the fact that public opinion polls repeatedly show that the overwhelming majority of Americans are greatly dissatisfied with our immigration policy and want the Government to take action to solve the problem.

We must be absolutely certain that we do not compound our current immigration law problems as we move to change the laws. I am particularly concerned about the manner in which we deal with the flow of temporary workers into and out of our Nation. The Judiciary Committee has recognized this phenomenon and included language to modify the H-2, temporary worker program that is currently under the purview of the Department of Labor. This H-2 program is too restrictive and too burdensome to function in the West. Therefore I will be offering an amendment to include a guest worker program that will meet not only the needs of employers but will treat these temporary immigrants with respect and give them the freedom that they deserve.

I shall offer several other amendments Mr. President which I will discuss at the appropriate time. This debate on the reform of our Nation's immigration laws is long overdue. Let us proceed, but never let us lose sight of our unique place in global affairs as a nation of immigrants. Thank you.

Mr. McCLURE. Mr. President, I take the floor at this time on a Friday afternoon, with the indulgence of my friends from Wyoming and California, for just a few moments because I think this is, perhaps, one of the most important pieces of legislation we shall have in many respects for the many people who live in this country who do employ labor, as well as for those who desire to come to this country, either on a temporary permit for study or for permanent residence.

As I review this legislation, and I think the Senator from Wyoming has done a remarkable job in moving it to this point—he is a remarkable person in having been willing to undertake this thankless task in the first place. My remarks, if they sound less than enthusiastic about the work product, are in full recognition of the difficulty of addressing the question.

Mr. President, many people in my State of Idaho must depend upon seasonal work. We are an agricultural

State. But we are a State in which agriculture is, for many, not a 12-months-a-year occupation. There are crops that are planted in the spring, tended in the summer, and harvested in the fall, with varying amounts of work required at those times but with reductions in the work force required.

In a State of that character, it is very, very difficult to find enough resident workers to accomplish all the work that must be done, I had hoped that when we got to the question of the workers who would come into this country, we would have a much better and more flexible and, I believe, more workable provision than that provided for the expansion of the work certification under this bill. We at one time did have a farm workers bill known as the bracero program. I know from my conversations with employers in my State and elsewhere that that worked from their standpoint. I know, with respect to the people from the countries of their origin, mostly in Mexico, that it worked well for them. I know from my contacts with the Ambassador from Mexico as well as other officials in Mexico, they wish it could be instituted again.

They do not like this illegal immigration any better than we do. They do not like the wetback problem any more than we do. They would like to have the opportunity to have men in Mexico who cannot find work in Mexico given the opportunity to provide the labor that is necessary in our country, but to return to their wives and their families in their own country at the end of that work period. That, I believe, is good for them and it is good for us.

I do not see that being made very workable under the provisions of this bill. I would have been much better satisfied if there were a more explicit provision for that kind of temporary worker program.

Mr. President, my most fundamental question with respect to this bill lies in the question of whether or not it is workable. I look at the enforcement mechanisms that are in this legislation and it seems to me there is only one change in enforcement. That is in employer sanctions.

Employer sanctions become the very centerpiece around which any improvement in the status quo must evolve. I do not think it is going to work, Mr. President. It is not going to work for two reasons.

First of all, all the employer has to do to satisfy the requirements of the bill is to look at documents to be presented by the work applicant and make a record that those documents were there, and he is free of any criminal sanction.

Those documents are and will be readily available to tens of thousands, hundreds of thousands, perhaps millions of people, and all the employer

has to do to avoid that problem is make sure that he has gone through the paperwork. That does not seem to me to be a workable provision. If it is not workable, we are deluding ourselves.

The other side of that is the employer problem, not just the paperwork burden but the hazard of making an error in the paperwork or preserving the paperwork in the event he is charged with criminal action; he has to be able then to defend himself. I know the argument is, and I have made it with a number of people with whom I have discussed this problem over the last several years, that you can be exposed to a civil penalty in which a bureaucrat, whoever it may be, in this case the Immigration and Naturalization Service, simply makes a charge against a person and you are subject to civil penalties. You must defend yourself against those civil penalties, you have no presumption of innocence. You do not have the value that comes from a jury trial, a jury of your peers in your own community. Being charged with a criminal penalty is really safer than the imposition of a civil penalty in which there are no safeguards.

But the employer does not want to be charged with a crime. The employer does not want to be exposed to the hazard of having to hire his own attorney and go into court and defend himself and have his reputation damaged as a result of a criminal charge brought against him simply because he did not keep the paperwork well enough. I am concerned about the employer problem, as well as the employee problem, as well as the lack of any really effective enforcement mechanism.

Finally, Mr. President, I am concerned with the civil rights questions that must necessarily spin out of the application of this statute. I say that from the standpoint, Mr. President, that I know that an employer is going to keep a bunch of forms on hand and he is going to fill out those forms when somebody applies for work, or at least he is going to do that when that person has brown skin. He is going to do that only when there is reason for him to believe that that person might have been a citizen of another country and not legally present in this country. There will become a pervasive pattern of discrimination between people who appear to have a right to be here and those who appear to be alien to the United States.

Growing out of that will inevitably come the demand for equal enforcement for all people regardless of race or origin or accent. Every employer across the land will then be required as a matter of fact to follow the paperwork burden that is being imposed ostensibly for a very small portion of our population but which will become uni-

versal in its application when you look at the question of whether or not there is civil rights discrimination between races.

Mr. President, while I recognize the dilemma that is faced by this country in trying to deal with this flood of immigration across unprotected, unguarded, and open borders, every person in this country must be willing, if they wish to stem illegal immigration, to have the Federal Government ask them who they are, where they are from, what right do they have to be here, applicable to every one of us at any time. We are not at that point, Mr. President. I do not think the American public has looked at the consequences of that, nor are they ready to confront that. And this bill does not do so.

Mr. President, we will not have ended this question with the passage of this legislation. We will simply have pushed it ahead of us a little while until we find out that this has not done it either.

Mr. SIMPSON addressed the Chair. The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. I shall just take 2 minutes to respond and then defer to the Senator from California, who has been more than patient.

I am interested in the comments of Senator McCLEURE. I wish he could have been here this morning when we had a rather significant colloquy and debate with his colleague from Idaho about the seasonal worker issue. I think he was totally satisfied with what we are doing here. We finally have included the Secretary of Agriculture in the proceedings. He has never been there before.

I will be the first to say that upon passage of S. 2222, which I hope will take place Tuesday at 10 o'clock or soon thereafter, we will have made a very small step forward. It is not an end all, an all-seeing piece of legislation of any kind. It was never expected to be that. But it is the first step toward doing two things: The first and most important duty of a sovereign nation is to get control over its borders, and we start. The second message sent throughout the entire world will be, "Hey, to work in the United States of America, you have to have some kind of documentation," which every other developed country on Earth has. We seek nothing more mythical or mystical or curious than that.

When we say, however, that nothing there is workable, I would certainly challenge it. The transitional system which utilizes existing documents will only be in effect for 3 years. That pushes us to something. The President must develop that system.

Employer sanctions. Without employer sanctions, do not bother to pass S. 2222 because it will be just as

hollow as everything we have passed for the last 30 years that had anything to do with immigration reform.

I do share the views of the Senator from Idaho that indeed this is a small step, but I can assure the Senator that it is much, much better than doing absolutely nothing.

AMENDMENT NO. 1907

(Purpose: Providing for agricultural guest worker program)

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, I wish to call up amendment No. 1907.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an amendment numbered 1907.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 1907

Insert the following section after the existing section 211 and renumber the subsequent sections accordingly.

AGRICULTURAL GUEST WORKERS

SEC. 212. (a) Section 101(a)(15) (8 U.S.C. 1101(a)(15)), as amended by section 205(b) of this Act, is further amended by striking out "or" at the end of subparagraph (M), by striking out the period at the end of subparagraph (N) and inserting in lieu thereof "; or", and by adding at the end the following new subparagraph:

"(O) an alien having a residence in Mexico which he has no intention of abandoning who is a national of Mexico and is coming to the United States for a period not to exceed one hundred and eighty days in any calendar year to perform temporary services or labor."

(b) Section 214 (8 U.S.C. 1184) is amended by adding at the end the following new subsection:

"(c)(1)(A) The Attorney General, the Secretary of Agriculture, the Secretary of Labor, and the Secretary of State, shall by regulation establish a program (hereinafter in this subsection referred to as 'the program') for the admission into the United States of nonimmigrants described in section 101(a)(15)(O). The program shall include the imposition of monthly and annual numerical limitations, established under paragraph (2), on the issuance of nonimmigrant visas for such nonimmigrants. These visas shall be made available subject to such limitations to aliens described in section 101(a)(15)(O) in the chronological order in which the aliens submit applications for such visas.

"(B) Except as provided pursuant to paragraph (3)—

"(i) aliens shall not be required to obtain any petition from any prospective employer within the United States in order to obtain a nonimmigrant visa under the program, and

"(ii) such a nonimmigrant visa shall not limit the geographical area within which an alien may be employed.

"(2) The Attorney General shall establish monthly and annual numerical limitations on the issuance of nonimmigrant visas to aliens described in section 101(a)(15)(M), based on the number of seasonal or cyclical agricultural workers sought by employers in the United States. In establishing such numerical limitations, the Attorney General also shall consider historical employment needs in the United States, the availability of domestic workers, and the projected labor needs of prospective employers. The Attorney General shall consult with the Secretary of Agriculture, and the Secretary of Labor in establishing numerical limitation under this paragraph.

"(3) The Attorney General, on the request of the Secretary of Labor, and the Secretary of Agriculture, shall impose a restriction on the employment of aliens described in section 101(a)(15)(M) who are issued nonimmigrant visas under the program which prohibits the aliens from accepting employment provided by a specific employer or at a specific site if such employer, or employees of such employer or at such site, demonstrate to the Secretary of Labor, and the Secretary of Agriculture, that the aliens will displace available, qualified, and willing domestic workers. The Secretary of Labor, and the Secretary of Agriculture, shall establish a procedure for such employer and such employees to request, and the criteria for the imposition of, any restriction under this paragraph.

"(4) Any alien described in section 101(a)(15)(M) who obtains a nonimmigrant visa under the program and who violates—

"(A) any restriction with respect to the period of time for which the alien is allowed to remain in the United States, or

"(B) any restriction imposed under paragraph (3),

shall be ineligible to obtain a nonimmigrant visa under the program during the five-year period beginning on the date such violation occurs. Any alien who enters the United States unlawfully after the date the program becomes effective, is ineligible to obtain a nonimmigrant visa under the program during the ten-year period beginning on the date such entry occurred.

"(5)(A) The Secretary of State is authorized to take such steps as may be necessary in order to expend and establish consulates of the United States in Mexico in order to implement the program.

"(B) The Secretary of State shall cooperate with representatives of the Government of Mexico in order to insure that residents of Mexico are made aware of the nature and operation of the program.

"(C) The Secretary of Labor shall insure, to the extent practicable, that aliens who are nationals of Mexico and who reside in the United States are informed of the nature and operation of the program.

"(6) The Attorney General, the Secretary of Agriculture, and the Secretary of Labor shall report to Congress semi-annually regarding the program. Each such report shall include a statement of the number of nonimmigrant visas issued under the program, an evaluation of the effectiveness of the program, a description of any problems related to the enforcement of the program, and any recommendations for legislation relating to the program."

(c) Section 245(c) (8 U.S.C. 1255(c)) is amended—

(1) by striking out "or" before "(3)", and

(2) by inserting "; or (4) any alien admitted as a nonimmigrant under section 101(a)(15)(O)" before the period at the end.

(d) It is the sense of Congress that the President should negotiate with representatives of the Government of Mexico to establish an advisory commission to consult with and advise the Attorney General regarding the regulations to be promulgated, and the monthly and annual numerical limitations to be established, under the program established under section 214(e) of the Immigration and Nationality Act.

(e)(1) Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding at the end thereof the following new subsection:

"LUMP-SUM BENEFITS FOR CERTAIN NONIMMIGRANT MEXICAN WORKERS"

"(x)(1) Upon the return to Mexico of an alien described in section 101(a)(15)(O) of the Immigration and Nationality Act after the performance of temporary services or labor in the United States under the program established under section 214(e) of such Act, an amount equal to the sum of—

"(A) the taxes imposed under section 3101 of the Internal Revenue Code of 1954 on the income of such alien consisting of remuneration for the performance of such services or labor, and

"(B) the excise taxes imposed under section 3111 of such Code on the employer or employers of such alien with respect to having such alien in their employ pursuant to such program,

shall be paid in a lump sum to such alien if it is demonstrated to the satisfaction of the Attorney General either in an application for such benefit filed after his return by certification under paragraph (3), that he has not violated any restriction referred to in section 214(e)(4) of the Immigration and Nationality Act and has no intention of abandoning his residence in Mexico.

"(2) An application by an alien for a benefit under this subsection may be made only at the consulate of the United States in Mexico which is nearest the residence in Mexico of such alien, and payment of such benefit may be made to such alien only at such consulate.

"(3) The Secretary of State and the Secretary of the Treasury shall each, upon written request of the Attorney General, make certification to the Attorney General with respect to any matter, determinable for the Attorney General by the Secretary of State or the Secretary of the Treasury, as the case may be, under this subsection, which the Attorney General finds necessary in administering this subsection."

(2) Section 210(b) of such Act (42 U.S.C. 410(b)) is amended—

(A) in paragraph (19), by striking out "or,"

(B) in paragraph (20), by striking out "individuals," and inserting in lieu thereof "individuals; or"; and

(C) by adding at the end thereof the following new paragraph:

"(21) Temporary service or labor performed by an alien described in section 101(a)(15)(O) of the Immigration and Nationality Act in the United States under the program established under section 214(e) of such Act."

Mr. SIMPSON. Will the Senator yield?

Mr. HAYAKAWA. Yes, I yield.

Mr. SIMPSON. I ask unanimous consent that there be a time agreement of 30 minutes equally divided on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. HAYAKAWA. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. I would like to inform the distinguished Senator from Wyoming I do not intend to take up anything like 30 minutes on either side of this discussion. I just want to introduce the amendment and we shall vote on it in due time.

I congratulate the distinguished Senator from Wyoming, first of all, for his conscientious study of this entire problem of immigration, and despite the fact that he and I disagree on some aspects of it, I want to congratulate him on the thoroughness and the conscientiousness with which he has covered the subject, trying to cover all bases and deal with every problem that is involved.

My amendment, No. 1907, will institute a guest worker program over and above the H-2 program which is included in the legislation that the distinguished Senator from Wyoming has introduced. I do not believe that the H-2 program will provide the necessary agricultural labor that we so badly need in California and the Western States. This agriculture program I submit without hesitation because it has been discussed in depth with former President Lopez Portillo of Mexico. It has been discussed in depth with Mexican citizens in California and with California farmers. It has also been discussed with former Ambassador Hugo Margain of Mexico, here in Washington, who is now back in Mexico City.

There is an enormous transient population of agricultural workers needed to harvest the crops of America, and we need something more flexible and more numerous than the guest worker program that is provided by the H-2 program.

My amendment proposes that the Attorney General should establish numerical limits on the issuance of non-migrant visas which would allow workers in the United States for up to 180 days—roughly 6 months—per year. At the end of that time, they would return to Mexico—as the distinguished Senator from Idaho says, back to their families, back to their villages.

If they stay within the law, they will go back. Then, the following year, they will be entitled to come to the United States again, to work for another 6 months, and go back again; and they can do that year after year, as long as they wish, because we need them.

California, for example, has extremely labor-intensive crops in which the work is hard, the pay is relatively low, and in which we are unable to get American workers to work.

Let me tell a very simple story: A farmer in Fresno needed 700 harvest-

ers for his crop. He advertised for them on radio. He stood in shopping centers and handed out flyers. He put ads in newspapers, trying to get 700 workers. He did not get them. He got less than 60. As I recall, of those 60, 50 were illegal aliens, and the 10 who were not resigned after the second day.

Meanwhile, there were 25,000 people in that county on food stamps and on welfare. Confronted with the alternative of being on welfare or working in the hot sun gathering crops, doing heavy physical labor, they decided to stay on welfare.

That is why we need these transient workers that Mexico provides us so generously.

Therefore, Mr. President, this guest worker program is a supplement to and not in competition with the H-2 program that the distinguished Senator from Wyoming presents—a program which has its uses. I submit this amendment to create such a guest worker program.

Mr. President, this amendment will establish an agricultural guest worker program to meet the needs of western farmers who will have their current work force drastically reduced with the institution of employer sanctions. This amendment is designed to complement the H-2, temporary worker program which is contained in S. 2222. The Judiciary Committee approved the H-2 program with the clear recognition that a need exists in our Nation for temporary alien workers, workers who will take jobs which domestic workers refuse.

I propose this amendment for two reasons Mr. President: First, we must recognize the importance of alien workers to western agriculture. Over 50 percent of this Nation's fruit and vegetables come from one State—California. These crops are highly labor intensive, especially during the critical harvest season. If we exclude alien workers from the fields, we will be denying farmers the majority of their work force. This will drive farmers out of business, drive consumer prices up, and increase our reliance on Mexico as a supplier of fresh fruits and vegetables. Second, I feel very strongly that if we do not legalize, regularize, and direct the flow of illegal aliens, we will simply be compounding the problems we face today. We will drive the illegals further underground while the incentives which push them north, and the regional demand for their services will remain. I say let this reform of our immigration laws be successful. Let us be realistic, let us be humanitarian, let us consider and accept this guest worker proposal.

My amendment calls for the Attorney General and the Secretaries of Labor and Agriculture to establish regulations for the admission of temporary workers. The Attorney General

would establish numerical limits on the issuance of nonimmigrant visas, which would allow workers into the United States for up to 180 days per year. As opposed to the "Bracero-like" approach of the H-2 program, workers would not be bound to work for a specific employer. However, guest workers would be prohibited from specific worksites if employees or employers demonstrate that aliens will displace available, qualified, and willing domestic workers. As an inducement for the workers to return home, my amendment provides for the return to the worker of the social security taxes they have paid and the contributions their employers have made in their behalf. The money would be returned in the country of origin and only if the worker has complied with the requirements of the program.

Some may ask: Why should we consider a special program to meet the needs of western farmers, especially in these times of high unemployment? The answer is simple. Western agriculture has legitimately grown to rely on the services of illegal aliens, in fact I would estimate that in most labor-intensive crops the work force is 50 to 80 percent illegal alien. Farmers have been unable to attract and retain domestic workers to do field work. The work is hard and the pay relatively low, especially when compared to the income potential that one can realize through welfare, food stamps, and so forth. Further, the demand for workers is highly variable and seasonal in nature, the job tenure is brief, and the potential for advancement is minimal.

The Immigration Reform and Control Act of 1982 is based on the assumption that the legalization provision and the H-2 temporary worker program will satisfy those employers who currently rely on illegal aliens to make up their work force. For the most part, legalization will be of little benefit to the illegals currently in agriculture, the number of whom is less than 8 percent of the total illegal alien population in the country. Most illegal aliens in the service industries and in manufacturing live in urban residential areas. Illegal aliens in agriculture are nomadic. They come into this country for a few months when work is plentiful and return home in the fall to be with their families. They normally have no desire to stay in the United States, and they could not meet the continuous residency requirement if they wanted to.

Let us look at the H-2 program. It has been available for several years but has been of little benefit to agricultural employers. It has brought in only about 13,000 workers a year, primarily for the sugarcane fields of Florida and the apple orchards of New York; 13,000 workers a year. During these years the U.S. Department of

Agriculture has estimated that 300,000 to 500,000 of the 5.1 million workers in agriculture were illegal aliens. The only reason the H-2 program has worked on the east coast is that their crops have allowed them to provide continuous employment for 8 to 11 months. Agriculture in the West is different, with farmers demanding large numbers of workers for short periods of time. For example, the raisin harvest in Fresno County, Calif., requires about a hundred thousand workers for a 3- to 4-week period. There is no way the local labor market can supply this quantity of workers.

Farmworkers in the West must have the freedom to move from employer to employer, from crop to crop, from county to county. However, H-2 workers are contracted to work with a single employer—or association of employers—and transferring workers between employers is difficult if not impossible. This lack of freedom for the workers is not only impractical, but is abusive of their basic rights and dignity. Another complication is the difficulty in predicting the actual dates of need and the number of workers required because of weather and market variability. Given the short harvest season for many of our highly perishable fruits and vegetables, the requirements that farmers provide transportation from the country of origin and housing are virtually impossible to justify.

The push factors which compel Mexican workers northward cannot be legislated away. S. 2222 is based on the faulty assumption that by taking away the opportunity to work, the flow of illegals will be stopped. We must recognize that there are major structural problems with Mexican economy. Currently 45 to 55 percent of the Mexican work force is unemployed or underemployed and the recent 50-percent devaluation of the peso makes dollar earnings more attractive than ever. Today, the population of Mexico is over 70 million and will double by the year 2000. The working age population is growing at 600,000 to 800,000 a year; and, at best, only about 450,000 new jobs are likely to be created each year. Given this situation, Mexican nationals will have no choice but to come to the United States in search of jobs, jobs which will pay them up to 10 times the amount they would earn for the same work in Mexico.

It is often argued that alien workers deprive domestic workers of the opportunity to work. In theory this may be correct, but in practice it is far from the truth. A farmer from Arizona that has attempted for several years to utilize the H-2 program commented at a hearing here in Washington last winter:

We have tested the availability of U.S. workers over the past 3 years. Our job offer has always exceeded the considerable re-

quirements of the Department of Labor and we have attracted thousands of domestic workers to our 200 jobs. Yet, 80 percent of our openings have consistently remained to be filled by foreign workers. U.S. workers have rarely worked more than a few days out of our 9-month season (90 percent of the 1,100 U.S. workers we hired last year worked 10 days or less). We do not understand the complexities of this phenomenon. There is no simple answer. Our wages are good. Our workplace is governed by a union contract with extensive benefits. We have been monitored on a daily basis by government officials. The fact remains: we will need foreign workers, for the foreseeable future, to harvest our crops.

I am convinced that we will rely on foreign workers as long as we have such generous relief programs for those people who would most likely take the low-paying, low-status jobs that aliens most often take. The incentives to not work are simply too great and the alternative, hard work, is undesirable.

Mr. President, this amendment provides an excellent opportunity for the Senate to deal realistically with an issue of tremendous importance, not only to the farmers of the Western States, but to consumers, and the Mexican nationals who, for years, have been migrating into this country for a short period of time to earn a few American dollars to raise their standard of living. My amendment provides the necessary flexibility to employers and employees alike. It guarantees that domestic workers will not be displaced. And most significantly it is a program that will operate with a minimum amount of Government involvement. It will function in a free and simple manner thus guaranteeing that alien workers will indeed participate and not opt to remain as illegal aliens. The workers will receive the protections from employer abuses to which their illegal status now subjects them.

I urge my colleagues to consider this proposal with care.

Mr. President, I also wish to bring up amendment No. 1908.

The PRESIDING OFFICER. The Senator's next amendment will be out of order until this amendment is disposed of.

Mr. SIMPSON. Mr. President, my remarks will be 2 or 3 minutes in length, in response to each amendment. I will respond to that amendment now.

Mr. HAYAKAWA. By all means.

Mr. SIMPSON. Mr. President, the committee, after very extensive hearings and research concerning guest worker programs in this country and in other countries, came to the position that it is not in the national interest for the United States to become dependent upon foreign workers.

We were stunned at the situation that has occurred in Germany and France with regard to temporary or guest workers—the "Gastarbeiter"

program in Germany. In those two countries, they are at a position now where they are offering a financial inducement to those people to return to their home country. They are offering cash bonuses.

We found nowhere in the developed countries of the world where the guest worker program was an attractive solution.

I realize that the Senator is essentially speaking of agriculture. Nevertheless, it has not worked in other countries. Therefore, we decided to reject the guest worker program proposals, both in the Select Commission and in the subcommittee and full committee. In doing that, we realized that employers have been dependent upon an illegal flow of workers, and we understand that.

So, in this bill we provide transitional assistance to U.S. employers through the streamlining of the temporary worker program already in our laws, which is the existing H-2 program.

Besides the hearing and consultations, the Members and staff worked many, many hours—more than any other area of this, I think—with representatives of agricultural growers.

Not only did we have growers, but also, we had the definitions of produce within the growers' ranks: berries, strawberries, onions, citrus, broccoli. We got down to some pretty thin slices of the vegetable kingdom with regard to whom we heard from as agricultural growers: labor unions, including activist labor; even uncertified unions; migrant worker groups; the Department of Labor; the Department of Agriculture, and others. This was done to put together the H-2 provisions in the bill, which is a delicate balance to protect the U.S. worker and to provide sufficient workers to meet U.S. agricultural labor needs.

In our experience, the bracero programs—and Senator SYMMS and I discussed that this morning—and the European experience are bringing more problems than benefits often associated with such foreign worker programs.

The agricultural employers have indicated a preference for the H-2 approach in which the foreign workers are admitted for specific jobs because it assures them, under this bill, that they will get those workers. This would not necessarily be so if the foreign workers were allowed to go from employer to employer or from State to State, as is provided in this amendment.

The admission of workers for specific jobs and employers provides better protection for U.S. labor, assuring that foreign workers will work only in jobs where it has been certified that no American workers are available.

Furthermore, the H-2 system provides better control. The INS will

know where each worker is located and can better assure their return home when the visa has expired.

Although I have discussed those reform plans with Mexican leaders in my time in Mexico, they never indicated to me, oddly enough, that any massive guest worker program in the United States would be desirable or beneficial to the Mexican Government.

Finally, the European experience, as I say, indicates that these large programs lead eventually to nothing but increased pressures for both legal and illegal immigration.

Mr. SYMMS. Mr. President, I should like to make a point.

I hope I did not give the Senator from Wyoming the mistaken impression this morning that I prefer the H-2 program over the guest worker program. I thought I heard him say that when I was in my office, and I bolted out of my chair.

Mr. SIMPSON. No, Mr. President, that was never the intent. I talked about how I enjoyed the debate as we discussed the temporary worker, the H-2 worker program. I found that a very fruitful debate.

No, the Senator from Idaho mentioned the guest worker program.

Mr. SYMMS. I might speculate that one of the reasons why the Mexican Government has not talked about the need for the guest worker program is that they have one working now. It is not against the law for a Mexican national to go to the United States, get a job, earn money, and go back home. They do that now in California and the Pacific Northwest. That is exactly what is happening now.

I think that what Senator HAYAKAWA is trying to do is to have a control on who is coming in and who is not.

What I am fearful of in this legislation is that, with the amnesty that will be granted to everyone, people will just simply go out and start providing historical work records for people, and they will be giving amnesty to people and we will still have the same thing going on that is going on now.

We have a guest worker program that works in California, Oregon, Idaho, Washington State, Nevada, in that part where there is some intensive hand-labor agriculture. But it is being done and it is being done illegally, so, of course, the Mexican Government likes what happens now. It is the U.S. Government that is complaining about it.

Mr. President, whose time am I on? I may be taking the chairman's time.

The PRESIDING OFFICER. The time of the Senator from Wyoming.

Mr. SYMMS. If it is all right, does the Senator mind yielding further?

Mr. SIMPSON. Mr. President, how much time remains on the amendment?

The PRESIDING OFFICER. Eight minutes.

Mr. SYMMS. Maybe I could get 2 minutes from the Senator.

Mr. SIMPSON. I will be glad to yield. I only wished to check how much time was remaining.

The PRESIDING OFFICER. Seven minutes and fifty-four seconds.

Mr. SIMPSON. I beg the Chair's pardon?

The PRESIDING OFFICER. Seven minutes and forty-nine seconds.

Mr. SYMMS. I will talk rather fast.

Mr. SIMPSON. I yield 2 minutes and 49 seconds to the Senator.

Mr. SYMMS. I thank the Senator. That is very generous of him in view of the fact that I support the Hayakawa amendment. I think it shows that my friend from Wyoming certainly is a gentleman on this.

On the question that we are talking about I talked with Mr. Tom Dungan yesterday morning, of the Washington Labor Association, which is very close to where my home is. He told me that last week when they wrote their payroll checks it was somewhere around 1,100 checks, average earnings per worker \$154 per worker, and it was not a particularly good week.

He said sometimes they run up much higher than that. But this particular week it was \$154 per worker, and he said a great number of these people are on public assistance programs, food stamps, and so forth, mostly the food stamp program because he said they go in with a family of four or five or six and show the check of \$154 and then they can qualify. So the person who disburses those welfare benefits does not realize that there were five other members of the family who received \$154 checks also. So, in fact, the family may be making from \$3,000 to \$5,000 a month. Yet they go in and show that they only made \$154 a week, which would be a great deal less than that.

Under this legislation, we are going to legitimize most of the people who have been illegal in the country so then they will become eligible for these programs also.

If we can have the guest worker program where the farmer could in fact hire people who come in with a card who are guest workers, they would not be eligible for those programs and we could keep it all up above board and know where we are going and know what we have, and then we could have a legitimate case for these sanctions to get employers to handle only those.

Back to the H-2 programs, as I see it, what happens if the farmer orders, say, 200 cherry pickers in the Stockton area in the H-2 program and the day before cherry picking starts it starts raining and it ruins the cherries? Who is liable? Who has to pay the workers then if the Labor Department actually provided the workers?

Mr. SIMPSON. Mr. President, we used to have a phrase for that in the

law business called *force majeure*. It was a dazzling phrase. It meant acts of God. If the crop were ruined by something that was outside the control of the parties, then certainly there is no liability on the employer in that situation.

Mr. SYMMS. What if the cannery goes on strike?

Mr. SIMPSON. The same thing. Those are the things that are written.

Mr. SYMMS. Something beyond the control of the farmer?

Mr. SIMPSON. Beyond the control of the parties.

Mr. SYMMS. So he would not be liable.

I had a farmer friend of mine in Idaho tell me that a year ago in the summer, he put a request in at the Labor Department Employment Service for 120 workers for a Monday morning, and he got 2. Then he was able to hire a crew through different people and he came to find out some of those workers in the crew, who all filled out the forms that said their date of birth, that they are citizens of the United States, a form similar to this that they fill out, turned out when Immigration came to be illegal aliens.

The PRESIDING OFFICER. The time allotted to the Senator from Idaho has expired.

Mr. SYMMS. Mr. President, will the Senator from California yield me 2 minutes?

Mr. HAYAKAWA. I am glad to yield 2 minutes to the Senator.

Mr. SYMMS. Then he said if we had a program where the workers we were hiring had a card that they were legal then it would be easy to administer by the Government.

That is why I think the Senator's amendment is proper to this legislation because under the H-2 program I believe that the Labor Department will have a very difficult time in actually coming around and delivering these workers and actually getting them there for these perishable crops by the very nature of it. I think that it is going to be a complicated part.

The point I wish to make to my friend from Wyoming is if we are going to have the employers enforce the law then there has to be an adequate supply of labor for the farmer to hire. Otherwise, people are going to walk in and they are going to say, "Sure, I am a U.S. citizen. Here is my social security card. Here is my driver's license. Here is my ID card."

We will go right on down the road we are going down now.

I said earlier the reality of it is that in the western part of the United States a very high percentage of perishable commodities are being harvested with Mexican nationals at the present time, and I am very concerned that if we do not have some arrange-

ment in this bill—how many workers does the Senator have in this amendment?

Mr. HAYAKAWA. That has to be determined by the Attorney General.

Mr. SYMMS. I told the Attorney General earlier this year at a breakfast meeting that he should have about a million as a number that would be somewhere in the right category, and it did not go over with a great deal of enthusiasm at the Attorney General's office, but I think it is a realistic number.

When one starts looking at what is happening in the whole Columbia basin, the 100-million-bushel crop of apples picked in Yakima, I invite colleagues to go out and inspect. I also say if one happens to go to a good restaurant in Washington, D.C., tonight, go back into the kitchen where the people are washing dishes and doing the work and start yelling, "Immigration," and see what happens. People will start running through the doors to get out.

There are literally thousands upon thousands of jobs in this country that are being done by illegal immigrants into the United States, and there should be some kind of program we will be able to get where we can get it up aboveboard.

I praise the Senator for offering the amendment. I certainly intend to support it. I hope he will get a record vote on this amendment so that some of us, at least from the Western States, who are very aware of the problem, can record ourselves in favor of this program.

Mr. HAYAKAWA. I thank the distinguished Senator from Idaho.

Mr. SIMPSON. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Wyoming has 4 minutes and 8 seconds remaining, and the Senator from California has 6 minutes and 15 seconds remaining.

Mr. SIMPSON. Mr. President, I shall not expend the remainder of that time, and I will yield back after I finish these remarks.

I hope the Senator from Idaho will realize that the sponsor of this bill is a western Senator. I am right across his border, and this has been one of the most extraordinary parts of developing workable immigration reform—to meet the needs of the West and still realize this tremendous national obligation.

In fact, where I was impaled on the horns of the largest dilemma throughout the entire effort was when finally I came to this tough, rock-hard decision. That is that while I am trying to draft a bill for 230 million Americans who are already here, what am I going to do with 1,000 needed shepherders for the West? Believe it or not, we reached that accommodation in this

bill. But those are the kinds of things that we have addressed in great detail.

Mr. SYMMS. On that point I would like to compliment the Senator, and I will tell him that the sheep industry in Idaho—and I apologize for my comment, I did not mean in any way to infer that my good friend is not from a Western State. He is, he is from Wyoming—the sheep industry and the people in Idaho are happy with this portion of the bill where you have taken this under consideration, and they think it will work, and I want to compliment the Senator for that.

I also want to tell the Senator, and I said this earlier today or I believe it was yesterday, that I think the Senator has worked long and hard on this, and I certainly would not have wanted to have the job.

I come from a background in a produce industry where I have seen this literally and lived with it going on for the last 20-some years, and I have seen what actually has happened, and after you have had some experience in this, that is why I make the comment about the restaurants.

I invite any of my colleagues to just go into a good Washington restaurant, Washington, D.C., in Cleveland, St. Paul, or somewhere, and take a look in the kitchen.

You sense there are people in there who might possibly not be U.S. citizens, and you pull out your Senate badge and flash it like a law enforcement officer and say "Immigration," and people will start running for the doors.

It is incredible how many people are in the country, and that is why I think the Senator from California is talking about, we are talking about literally, thousands of farmworkers who have become a part of our society now, and I do not see why we could not just get a card out there and then we would have them under control, and they would not be eligible for food stamps and all the transfer payment programs.

There is a lot of merit in this, and I think it would make the bill more workable, get a card system or a guest workers system, because there is a guest worker system now working illegally, and it is not good the way it is. I am the first to admit that, but it is a fact, it is a reality.

Mr. SIMPSON. Mr. President, I can certainly add to what the Senator says about the restaurant personnel. The reason for the emaciated condition of the sponsor is because they know who I am downtown now. [Laughter.] If they are not fleeing from the kitchen, they are out front asking me for a change of status. So it has been a harrowing year and a half, I can assure you.

Mr. President, just one other item that needs to be said and that is in the legalization program adopted through

the Grassley amendment, it is important to note that for 3 years there will be no benefits for the new permanent residents aliens I supported fully this amendment. Also, for 3 years there will be no benefits for temporary resident aliens. The block grant will take care of emergency needs, and we think that solves that one problem as you discuss those welfare abuses which are certainly real.

For the first time, may I point out to my colleagues, we have the Secretary of Agriculture in the consultation process, and that has never happened under any program ever before.

The PRESIDING OFFICER (Mr. GRASSLEY). The Senator's time has expired. Who yields time? The Senator from California.

Mr. HAYAKAWA. Mr. President, I am ready to go to another amendment.

The PRESIDING OFFICER. The Senator from California has 6 minutes, 3 seconds left.

Mr. HAYAKAWA. I am happy to yield to the Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HAYAKAWA. I yield.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent to have printed in the RECORD an article by Senator SIMPSON that appeared in the New York Times on August 10.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Aug. 10, 1982]

ILLEGAL ALIENS

(By Alan K. Simpson)

WASHINGTON.—All objective, comprehensive studies of the problem of illegal immigration, including those by the Ford, Carter and Reagan Administrations, and by the Select Commission on Immigration and Refugee Policy, have concluded that adequate enforcement of immigration laws cannot be achieved without greatly reducing the incentive represented by the temptation of employment in the United States.

For this reason, section 101 of the proposed Immigration Reform and Control Act of 1982 is the single provision most urgently needed to assist in reducing illegal immigration. This section would make unlawful the knowing hiring of illegal aliens and would provide a system that enables employers to verify that job applicants are American citizens or legal aliens. Section 101 and the bill's other provisions are strongly supported by the Administration, by an imposing array of newspapers and special-interest groups and by the Senate Judiciary Committee.

Yet, the United States Chamber of Commerce has spiritedly lobbied against this provision. The most startling feature of its opposition is that it appears to be based solely on a selfish perception of employers' short-term, purely economic interest: profitability. That is not the right perspective.

To properly assess the economic impact of illegal immigration, we must consider long-term effects. Moreover, even a totally selfish person does not act solely to achieve economic goals; adverse noneconomic impacts can often make an economic benefit unpalatable. Thus, consideration of the effects of illegal immigration on our population, of potential social and political changes and of historical immigration objectives must be part of the decision-making process.

The Chamber argues that any secure verification system would be "too expensive." As evidence, it has published some extraordinarily high cost estimates. More objective sources present less-alarming figures: \$100 million to \$300 million per year. Certainly, these are not small numbers, but inadequate enforcement also involves major costs. The number of illegal aliens in this country in 1978 has been estimated at 3.5 million to six million. Even if those estimates are used and it is assumed that only 2 percent hold jobs that unemployed Americans would take, then the cost in public assistance and unemployment benefits to the jobless is \$490 million to \$840 million. The actual number of people displaced from jobs is probably substantially higher. The number of illegal aliens is estimated to have increased by 500,000 per year. This calculation does not even consider the other, less easily quantifiable costs of illegal immigration.

The Chamber states that the verification procedure would be "too burdensome" for employers. Actually, the procedure would be optional for those with three or fewer employees. Larger employers would be required simply to examine in good faith a United States passport or two other documents—say, a driver's license, birth certificate, Social Security card—complete and sign a short form and have that form signed by the employee. The employer would not be responsible for the authenticity of the documents, only for their reasonably appearing genuine. Without this system, the two key goals of section 101 could not both be achieved: screening illegal aliens out of the workforce and avoiding discrimination against citizens and legal aliens who look or sound "foreign" to employers.

The most disappointing part of the Chamber's argument is the assertion that individuals, including businessmen, have no obligation to assist the Government in enforcing our laws. That view is certainly not consistent with our tradition of responsible citizenship and limited government.

Does the Chamber feel that businesses' legal obligation to withhold income and Social Security taxes is also unreasonable? There is no practical alternative. Moreover, a legitimate businessman ought not knowingly hire illegal aliens and thereby provide the major incentive for violating one of the most fundamental laws of a sovereign nation—the one controlling its borders.

Fortunately, most businessmen do not share the Chamber's view. Other business groups support the bill—the National Association of Manufacturers, for example. Many local Chambers of Commerce, including those in Texas and California, where there are great numbers of illegal immigrants, have acknowledged the need for such reform.

The sponsors are attempting to protect America from uncontrolled immigration for the sake of their children and grandchildren, while keeping at bay the specter of meanness, nativism and racism. Fortunately, a sizable majority of Americans are willing to hark to an appeal to rise above any

special interest they may have in order to obtain workable immigration reform. It is puzzling why the United States Chamber of Commerce is not.

AGRICULTURAL GUEST WORKER PROGRAM

Mr. SCHMITT. Mr. President, I support the amendment offered by the Senator from California (Mr. HAYAKAWA). New Mexico shares a 180-mile border with Mexico, so naturally it has been one of my priorities to find a practical and fair solution to the problems of undocumented workers from Mexico. The pending amendment is a key to resolving those problems. It simply recognizes that a significant number of Mexicans supplement their income by working temporarily in the United States and that our Nation has a continuing need for short-term labor.

I commend the manager of the bill, Senator SIMPSON, for addressing this so-called push-pull phenomenon in those provisions of the bill that streamline the H-2 program. Unfortunately, the need for temporary labor in agriculture is so great that the agencies mandated to implement the H-2 program will be inundated with so many applications for H-2 workers that they will be hard pressed to process them before the crops rot on the vine. We can avoid this potential nightmare by adopting the Hayakawa amendment.

Mr. President, the pending amendment is very similar to a bill that I have introduced in each of the last two Congresses. During this 4-year period, I have spent considerable time thinking about this issue, as Senator HAYAKAWA has, and this amendment and my bill reflect a shared belief that the American economy is greatly benefited by the presence of temporary workers from Mexico. There is no reason to believe that our economy could not benefit in the same way if we shift the status of these workers from illegal to legal. Adopting this amendment would do just that.

We cannot forget that employing Mexican workers in the United States contributes to the Mexican economy and also diffuses political and social problems caused by widespread Mexican unemployment. In no other part of the world does a developing nation with such severe economic problems border such a technologically and economically advanced nation. The Mexican economy simply could not absorb the Mexican workers who are already in the United States if we suddenly stop the flow of labor. Given the strategic and economic importance of a strong and stable Mexico, our long-term policy toward our neighbor must be geared toward improving its economic development. Our Nation has a historical commitment to assist our neighbor. Now is the time to review that commitment.

In the short term, a temporary agricultural guest worker program would stabilize the situation and reduce the pressure which drives so many illegal aliens north to look for jobs.

Mr. President, I urge my colleagues to consider carefully the implications of not adopting this amendment. It will not encourage more illegal immigration as some have suggested, but will provide workers for an industry that has always had problems recruiting sufficient numbers of Americans.

Mr. President, I ask that an article which details my views on Mexican migration and which recently was published in the *Immigration and Nationality Law Review* be inserted in the RECORD.

The material follows:

LOS COMPANEROS: A RATIONAL MEXICAN MIGRATION POLICY

INTRODUCTION

The problem of illegal migrant labor from Mexico is a problem with an obvious solution. The proposals advanced by the previous Administration for vastly increased border restrictions are unaffordable; unworkable proposals for employer sanctions are inherently discriminatory and proposals for some vague amnesty are worse than nothing. Clearly the designers of these proposals were completely unfamiliar with the facts of Mexican worker migration.

Unfortunately, some Americans see the Mexican migrant as a threat to the American worker, the American economy and the American way of life. According to their view, Mexican aliens are entering the country in ever-increasing numbers; thus, taking jobs from American workers, draining the welfare system and disrupting American life by refusing to adopt American ways. Accordingly we should respond to this threat by sealing the border and punishing employers who hire such illegal aliens.

This view does not square with the new facts developed by modern research.¹ According to all recent factual studies, Mexican migrant workers add productivity and jobs to the American economy, work largely in low-skilled jobs only they will take and pay far more in taxes than they receive in social services. Having no real desire to become Americans, they do not adopt American ways because they think of themselves as Mexicans. The vast majority return home regularly and permanently after earning enough money to meet the economic crisis which brought them North.

It is also well-established that many American employers need low-skilled seasonal labor. They meet this need by hiring illegal aliens, most of whom are Mexican migrants. Many marginal small businesses and farms are kept from unnecessary bankruptcy by the availability of these willing workers.

We can meet the needs of both Americans and Mexicans and continue to reap the benefits of their efforts by legalizing work which is presently illegal but unenforceably so. A realistic program of temporary visas for Mexican workers is the only feasible economic answer and the only moral human answer. A program of eight months based on the number of available jobs and with responsible safeguards for American workers,

¹Footnotes at end of article.

can work to the benefit of good relationships between Mexico and the United States. By addressing the issue of economic migration in a reasonable and bilateral manner, we can strengthen our political and economic ties with Mexico and help both our neighbor and ourselves at the same time. This is the essence of "Los Compañeros." Compañero is the Spanish word for companion, friend, equal. The Los Compañeros bill, S. 1427, is entitled the "United States-Mexico Good Neighbor Act."

CURRENT U.S.-MEXICAN RELATIONS

Mexico and the United States share a 1,960 mile border including 180 miles which borders my state, New Mexico. Proximity and history have resulted in an often unrecognized, yet substantial and natural economic and cultural interdependence between our two countries and their adjoining states. The examination of the migrant Mexican labor issue must be viewed against the background of other issues affecting United States-Mexico relations.

The United States has an enormous and long-standing economic presence in Mexico. According to Richard Fagen, a Professor of Political Science at Stanford University and a former President of the Latin American Studies Association:

"The United States is the primary source of direct foreign investment (in Mexico) . . . by the end of 1976, U.S. private banks were carrying the impressive total of \$11.5 billion in outstanding loans and credits to Mexico, an increase of \$2.5 billion over the previous year's figure."

The United States currently supplies more than 60 percent of Mexico's imports which is balanced by a strong Mexican presence in the U.S. economy. Mexico is our leading trading partner in Latin America, and our fifth largest in the world.³ With the continuing exports of Mexican oil and gas, Mexico will become even more important to the United States as a trading partner. The desirability and mutual benefit of having a close-by source of imported energy for the United States and a close-by export market for Mexico is obvious to all.

This interdependence extends to many other areas with both international and domestic impact. Manufacturing, agriculture, land and water use, law enforcement and, of course, labor. For this reason, it serves our interests to preserve and strengthen Mexico as a nation and our good relations with that nation. These interests have been compared by Lucey with our interests in a strong Europe after World War II:

"We felt that it was in our long-term interest to see a Europe strong enough and united enough to negotiate on equal terms with the United States. We were, and perhaps still are, the strongest supporters of European unity. For the same reasons, the United States will benefit from a Mexican neighbor strong enough and confident enough to negotiate with us on terms that are perceived by both parties to be equal. It has not been and never will be in our interest to have a Mexico that is other than a full partner in the joint undertakings that close neighbors must constantly pursue. It will be in the distinct interest of both our countries if Mexico experiences healthy economic growth, develops jobs and opportunities for her poorest citizens, and approaches economic equality with the United States."

Our historic and even our recent dealings with Mexico show an irrational insensitivity to the importance of dealing fairly and equally with this vital neighbor. The recent natural gas negotiations epitomize our

short-sighted approach.⁵ Six U.S. natural gas distributors negotiated with PEMEX, the government-owned Mexican petroleum company, to buy natural gas. Under present law,⁶ the Secretary of Energy must approve the final terms. Then Secretary of Energy, James Schlesinger, rejected the price asked by Mexico (which was the going price in the world market) as being too high, reasoning that the gas could be piped to the U.S. more cheaply than it could be shipped from other overseas areas; thus, Mexico could afford to lower its price for the U.S. market. This argument ignored the fact that there are always competitors for scarce commodities, in this case the Japanese. Instead of pursuing this line quietly, Schlesinger publicly stated that Mexico "has to sell the gas sooner or later."⁷ Mexico finally agreed to sell the U.S. some (but not all) of the gas initially contracted for, but at a far higher price. This agreement was reached only under the pressure of a Presidential visit to Mexico.

In another energy-related incident, while asking Mexico to hold the line on oil price increases, the U.S. Government accepted a bid from Phillips Petroleum to purchase oil from the Elk Hills Naval Petroleum Reserve at a price of \$41 per barrel—above the going world price. This demonstrated a clear hypocrisy in our dealings with Mexico. Naturally, the Mexican government responded appropriately by raising the price of oil to us.⁸

Thus, to solve the vexing problems between us, we must develop a coherent policy focusing on all aspects of our relationship with Mexico, including energy, trade, labor, cultural exchange and foreign policy. Our present course, if maintained, bodes ill in this respect. Although this discussion focuses on the migrant labor issue, its resolution must be viewed in the context of all other major issues.

HISTORICAL DEVELOPMENT

The current American economic presence in Mexico results from decades of American involvement in Mexico's affairs. In the 1840's our westward expansion led to a war with Mexico (1846-1848) that resulted in the transfer to the United States most of California, Arizona and New Mexico. Prior to that, Texas had successfully revolted from Mexican rule and became an independent nation, eventually joining the Union in 1845. In 1853 we negotiated the Gadsden Purchase, which essentially established the border at its present location.

Our own Civil War kept us out of Mexico during the turbulent years of Maximilian and Juarez; but when the dust settled in 1876 under Porfirio Diaz, expanding U.S. business interests moved into the Mexican economy. During the Diaz regime (which lasted until 1911), American and other foreign companies controlled Mexico's petroleum and mining industries with the approval of the Diaz government.

This time of relative tranquility came to an end when the Mexican revolution (1910-1920) broke out over the issues of land reform and a control of their economic destiny. A decade of turmoil followed, causing untold suffering for millions of Mexicans which was graphically described by population biologist Paul Ehrlich:

"Untold thousands were killed in the fighting or simply as innocent bystanders. Toward the end of the decade, the worldwide influenza epidemic of 1918-1919 took its toll. Many thousands of additional Mexicans fled across the border to the United States, and many of them stayed there per-

manently. Although demographic records are far from complete, it appears that altogether Mexico's population (in 1910 about 15 million) declined by a million during the decade."⁹

During the revolution the U.S. first supported one side and then another, following no consistent policy. The low point of U.S.-Mexican relations in this century came in April, 1914 when the U.S. Navy occupied the port of Veracruz at the cost of 300 Mexican lives.

American employers have always welcomed Mexican labor. In the 1880's, Mexican workers took the place of excluded Chinese coolies in railroad and agricultural work. During the decade of the Revolution, Mexicans entered the U.S. as "economic refugees" fleeing the conditions which made it impossible for them to live at home.

In the 1920's the U.S. imposed restrictions on Mexican immigration for the first time, establishing the Border Patrol in 1924,¹⁰ requiring visas and enforcing the head tax and literacy requirements by 1930.¹¹ The Great Depression slowed migration to the United States as jobs north of the border became scarce. In the early years of the Depression, we sent back to Mexico many Mexicans who had entered legally before 1928 because they had no documents. Our policy towards Mexico and other Latin American nations became more important under President Roosevelt's Good Neighbor Policy.¹² This policy represented the first real effort to develop a coordinated policy for relations between our two countries. The cooperation which this policy began resulted in the development of the Bracero program in 1942.¹³

The controversial Bracero program attempted to use Mexican labor to fill wartime labor shortages in U.S. agriculture. American farmers had used Mexican workers under various contract labor programs during the first World War¹⁴ and because of several farmworker shortages in World War II, it was decided to reinstitute this approach. The Bracero program began in 1942 with an international agreement¹⁵ and continued for 22 years under various statutory provisions. The program, under both provisions, allowed American farmers to contract for the use of Mexican workers on their farms. It ostensibly required them to offer no less than the prevailing wage rate, as well as to house and feed the workers. Due to lax enforcement in practice, the workers did not always receive all of the protections envisioned.

The Bracero program did not totally eliminate illegal migration from Mexico; although, even when adjusted for population growth, the problem then was not as substantial as today's estimates indicate. Border patrol and Immigration and Naturalization Service (INS) apprehensions averaged 230,740 from 1942-1964.¹⁶ Some say the program stimulated illegal entry since more Mexicans wanted to come to the United States than the Bracero program had room for. Some growers preferred to use illegal labor to avoid the requirements of the Bracero program. By greatly expanding the program and increasing enforcement, the U.S. diverted much of the illegal flow to legal channels.¹⁷ At its peak in 1956, the Bracero program admitted 445,197 workers.¹⁸ This followed the largest enforcement effort, Operation Wetback, in 1954. This sweeping roundup of Mexican workers resulted in the expulsion of over one million people,¹⁹ including many legal

residents and even citizens of the United States.

American organized labor has consistently opposed all temporary worker programs. The Bracero program was opposed from the beginning because it secured on paper benefits for Mexican workers which American workers had not achieved:

"Not only were the Mexicans guaranteed room, board and a decent wage, they were also granted various fringe benefits that the native farmworkers had not been able to achieve in a century of struggle. Included among these benefits were medical care, social security, free transportation and subsistence en route, tools and equipment, minimum working standards and a guaranteed amount of work time."²⁰

This opposition became stronger in the 1960's and resulted in the end of the Bracero program in 1965 when the legislation authorizing the importation of labor expired. However, American farmers (as well as other employers) have continued to use Mexican workers without the legal framework of a Bracero program, defending those actions as an economic necessity.

Organized Labor's objections to foreign migrant workers stem from the belief that employment of these workers had highly adverse effects on employment opportunities, wages and working conditions for American workers. Numerous modern studies²¹ demonstrate that this is not generally true, but Labor's traditional opposition continues.²² Migrant workers do not cause widespread unemployment of American workers, instead they, for the most part, take low-skill jobs in marginal businesses which are not attractive to American workers, most of whom are protected by various unemployment benefits. The existence of this social net beneath U.S. labor is a major factor in assuring that jobs for Mexican migrants will always be available in this country. Without foreign workers, most of the businesses who employ the migrants would fail or locate in other countries with available labor.

While some Mexican workers continue to be paid less than the minimum wage in rural agricultural work, they receive the legal minimum or more in urban areas. The average hourly wage rate for illegal migrant workers is estimated to be \$2.77/hour with only about 28.6 percent of the workers receiving less than the current minimum wage.²³

The prearranged contracts of the Bracero program, unfortunately, encouraged exploitation of Mexican workers. Since the end of the program, horror stories of wage and other exploitation have been drastically reduced²⁴ as labor shortages have become more critical than labor costs in low-skill employment categories.

In the 1960's, Congress reshaped American immigration policy scrapping the discriminatory quota system of the 1920's in favor of a nondiscriminatory system favoring family reunification.²⁵ In place of quotas developed from the number of immigrants already in the U.S. from a particular country, the new law set the same quota for each country.²⁶ In 1976, we extended this quota to Mexico allowing only 20,000 visas a year,²⁷ ignoring our historical immigration patterns and failing to reflect any special relationship resulting from our proximity to Mexico and the interdependence of our economies and cultures; thus, the problem of illegal migration was exacerbated by restricting the number of Mexicans who might legally immigrate.

THE CURRENT IMMIGRATION SITUATION

Because of the difficulty of measuring a largely illegal population, we cannot know many of the facts about immigration and migration from Mexico. We do know the number of Mexicans who enter the U.S. legally as permanent residents or temporary agricultural workers ("H-2" programs). Of those who become permanent residents, some receive visas under the 20,000 quota and others enter under relative and occupational preferences. 53,400 immigrated in 1976 and 44,600 in 1977.²⁸

Some Mexicans enter the United States under the "H-2" temporary workers program. Section 101(a)(15)(h)(ii) of the Immigration and Naturalization Act²⁹ provides for the entry of temporary workers after the Department of Labor certifies that domestic workers cannot be found for particular jobs upon application of the employer. The "H-2" program resembles the Bracero program in that the workers are tied to a specific worksite; ordinarily farms. It also requires that benefits available to foreign workers also be provided to domestic workers. According to Aaron Podin, head of the Division of Labor Certification at the Department of Labor, the Department vigorously enforced its regulations, resulting in the admission of only a small number of workers which has adversely affected many employers with no other labor alternative. In fiscal year 1977, the program used only 27,760 workers, of which 977 were Mexicans. In 1978 Mexicans admitted under the "H-2" program numbered only 1,039.³⁰ The program currently is expanding somewhat, largely as a result of litigation between agricultural employers and the department.³¹

Illegal migrants make up the largest portion of Mexican nationals in the United States. We have no reliable estimates of their numbers, but the range of recent estimates of the total number of illegal aliens in this country range between 2-12 million. Most researchers agree that the actual number is closer to 2 million than to 12, of whom about two-thirds to three-quarters are Mexicans.³² Many of these estimates use the number of apprehensions by the INS as a base. The INS apprehended 792,600 Mexicans in 1977, 841,500 in 1978 and 1,069,400 in 1979.³³ These figures include many repeated apprehensions of the same persons. The widely varying estimates of the illegal population based on this data also overlook or underestimate the volume of annual return migration to Mexico, which all recent studies have found to be as high as 9 out of every 10 illegal entrants.³⁴

As a consequence of recent studies,³⁵ we know more about the characteristics of the illegal Mexican migrants than about their absolute numbers. They are mostly males between 22 and 30 years of age. They are poorly educated with three or fewer years of schooling, although probably better educated than the average of their peers. A majority of the youngest migrants have completed the sixth grade. Although more than half are married when they first migrate to the U.S., fewer than one percent bring their wives and children with them.

Most Mexican migrants come to the United States as temporary wage-laborers, not permanent settlers.³⁶ The most recent group studies by Dr. Wayne Cornelius³⁷ stayed in this country an average of only 5.5 months and came an average of less than three times in a lifetime.³⁸ This figure is consistent with the estimates of others who have studied the field,³⁹ and according to the Cornelius study, migrants come to this

country to accumulate relatively small amounts of cash to meet specific needs at home. They migrate to the United States, rather than Mexican cities, because they can more easily find jobs that pay an average of \$120 per week versus \$10 per week they might be paid in Mexico. This is an irresistible economic pressure to "go North".

During their short stay in the U.S., Mexican workers take a variety of jobs. Naturally, a large number work in agriculture—between 40 and 50 percent according to most recent authorities.⁴⁰ Other migrants take commercial, industrial, construction and service jobs. The most recent group studied by Dr. Cornelius broke down as follows: 45 percent in agriculture, 20.8 percent in industry, 14 percent in commerce, 10.6 percent in construction and 8.6 percent in service.⁴¹ In non-agricultural occupations, they take unskilled jobs such as janitors, garbage collectors, dishwashers or busboys. Less than 14 percent hold skilled or semi-skilled jobs.⁴² According to Dr. Cornelius:

"(The) jobs often held by Mexican illegal aliens have several characteristics in common. They require little or no technical skill and only a rudimentary command of English, if any at all. They involve dirty, often physically arduous tasks, wages at or slightly above the legal minimum, low social status, low job security (often due to the short term or seasonal nature of the work), and little chance of advancement. In short, they are menial, dead-end jobs which are nevertheless attractive to the migrant by comparison with the alternatives in his home community."⁴³

Needless to say, it is likely that such jobs as these would go unfilled absent these temporary workers. Consequently their presence in actuality increases our economic productivity. Approximately two-thirds of the migrants are also employed in Hispanic dominated businesses which are unlikely to hire more expensive and less available U.S. workers.

Mexicans migrate to the United States for two reasons: jobs in the U.S. "pull" them and bad conditions in Mexico "push" them. Some policymakers in the U.S. emphasize the push factors. The Interagency Task Force on Immigration Policy reported in 1979 that many Americans blame high Mexican birth rates and an unequal distribution of opportunity and wealth within Mexico as the primary causes of illegal migration.⁴⁴ Rather than use immigration as a safety valve for its internal problems, those Americans expect Mexico to make a commitment of purpose and capital to the solving of the social and economic problems underlying illegal migration.⁴⁵

Mexican policymakers emphasize the pull factors of wage differentials and continuing requirements for low-wage workers in the United States.⁴⁶ According to the Interagency Task Force, Mexico tends to see the illegal entry of their workers into the United States as a natural response to the United States' need for cheap labor. According to many Mexicans, "if their workers were not wanted and needed by American business, their workers wouldn't come to the United States in the first place."⁴⁷ Modern research tends to support the Mexican position that "pull" outweighs "push."

According to David F. Ronfeldt of the Rand Corporation and Cesar D. Sereseres of the University of California, the migrants also have a clearly beneficial economic impact on the United States:

"Recent field research indicates that the undocumented workers contribute more to

the U.S. economy than they take out. Accordingly, the undocumented workers often take the lowest paying, least skilled, dirtiest jobs—in agriculture, canneries, packing houses, restaurants, hospitals, machine shops, garment and construction industries—while Americans prefer to collect unemployment or welfare. These workers enable some industries to survive that otherwise might succumb to rising wages or cheaper imports. The undocumented workers pay far more in taxes and social security than they consume in social services. Extremely few seek welfare or unemployment benefits and the aliens are carefully law-abiding to avoid detection and deportation. The vast majority are temporary migrants who work in the United States about a half-year before returning to Mexico; very few stay longer than a year.⁴⁸

A study in San Diego County, the area of the nation most severely affected by the illegal entry of Mexican workers, estimated the total contributions of illegal aliens to unemployment insurance, workmen's compensation, social security and disability at \$48.8 million in 1976. In the same period, the total cost impact attributable to illegal migrants on the San Diego County Social Service Delivery System was estimated at \$6 million. Out of the \$260.3 million estimated earnings of the aliens, most was spent in the U.S., however, \$96.7 million was sent home to Mexico as a form of indirect foreign aid.⁴⁹ It is generally concluded that illegal aliens have an overall beneficial impact on the communities they work in.

SOLUTIONS

The solution to illegal Mexican migration in the long run lies with eliminating the push and pull factors which contribute to it. To eliminate the push factor of unemployment in Mexico, we should provide technical assistance for and encourage private investment in labor-intensive rural development in the migrants' home areas. We can hope and expect that the development of Mexico's petroleum resources will help to stimulate the economy and provide long-term expansion of job opportunities. This may help to eliminate a portion of the push factors; however, this process will take many years.

We can assist the process of job growth in Mexico by extending trade and tourism preferences to Mexico. As former Ambassador Lucey said:

"Mexico needs the U.S. market for her manufacturers if her economy is going to develop the jobs needed to absorb her population increase. The United States cannot express concern about Mexican migration and be disinterested when it comes to Mexican economic growth."⁵⁰

However, the push factors are formidable and will be around for a long time. Forty-six percent of Mexico's population (estimated at 64 million) is below the age of 15; and of the working age population, 45 to 55 percent are unemployed or underemployed.⁵¹ Even with a drastic drop in Mexican population growth, these figures would not be affected for a long time.

It will be even more difficult to eliminate the pull factors which contribute to illegal migration. Proposals by former President Carter and others for employer sanctions overlook the inherently discriminatory effect of such actions. If the law is well enforced, employers will be afraid to hire anyone who looks like he might be a Mexican national; thus, discriminating against Hispanics who are citizens or legal residents of the U.S. The alternative of identity cards

is abhorrent to American traditions of individual freedom.

Attempting to completely close the border would be the most drastic approach to eliminating illegal migration. Given our societal attitudes and budgetary limitations, such an effort is unrealistic. The expense involved in closing the border, both in money and in human rights, would be prohibitive. A "Tortilla Curtain" which forced Mexico to absorb the migrants into an already overburdened economy, would create the potential for turmoil south of the border. It would threaten not only our relations with Mexico, but would also potentially destabilize Mexico's internal situation. This is to say nothing of the human cost. Even a small increase in border enforcement leads to an increase in smuggling activity and the profits of the smugglers preying on human economic deprivation.

In the short run we must recognize the existence of the real factors which cause illegal migration. We must move to regulate the flow of migrants in a way that recognizes the human facts of the situation while still providing necessary labor for the U.S. economy.

A program which would allow the number of Mexican workers required by U.S. business to enter this country legally for seasonal work would serve to bring Mexican migration under control. Such a program would meet the legitimate unmet needs of American employers for workers, while providing temporary employment opportunities for Mexicans in economic need and recognizing that these workers will come across the border somehow.

As sensible as that seems, some⁵² have criticized guest worker programs asserting that such will either continue to encourage illegal migration or depress domestic employment opportunities.

Such arguments ignore the fact that the Mexican government simply cannot absorb the workers currently in the United States if this government were to conduct another "Operation Wetback" or erect a "Tortilla Curtain" thus sealing the border. Even these actions might not stem illegal migration unless tremendous resources were allocated to the effort, including deployment of the military. Those options are simply not realistic and are necessarily excluded from serious consideration. Given the strategic importance of a strong and stable Mexico, it is obvious that American foreign policy should not contribute to increased social upheaval in that land. Rather, our policy should be geared toward assisting Mexico as it develops economically. In short, the solution is two-fold: a temporary worker program coupled with Mexican economic development.

The argument that such a program will either encourage more illegal migration or harm domestic workers is another example of conveniently ignoring the present situation. The undocumented are here now and will undoubtedly be here tomorrow unless we begin to attempt channelizing them into a legal and realistic program.

To address this problem, I have introduced the "Compañeros" legislation which would create a temporary worker program (S. 1427, the United States-Mexico Good Neighbor Act). Identical legislation has been introduced in the House of Representatives (H.R. 5128). This legislation would provide for the legal provision of labor needs in the United States while also being a direct, people-to-people form of "foreign aid" and a means of training large numbers

of future workers for Mexico's growing economy.

Putting available facts and logic together, the essential elements of a solution to the problem of illegal aliens are as follows:

Make the workers' stays legal for the six months or so they need to be here and are, in fact, needed within our labor force.

Base the number of temporary worker visas on the number of unfilled, unskilled or semi-skilled jobs in agricultural, service and other appropriate industries.

Allow U.S. workers to protect their jobs at specific business locations if qualified and willing U.S. workers are available.

These elements are embodied in the United States-Mexico Good Neighbor Act.

Under the provisions of the bill, the Attorney General in consultation with the Secretary of State, would set up a program of temporary worker visas. Acting in consultation with the Secretaries of Agriculture, Labor and Commerce, the Attorney General would establish annual and monthly quotas for temporary worker visas based on need over-and-above available domestic labor. These visas would be issued by U.S. Consulates in Mexico on a first-come first-serve basis. The Mexican national holding such a visa would then be eligible to spend up to six months (eight months will probably be a more workable time) in the U.S. seeking or working at a job.

Clearly different from the old Bracero program, the legislation does not place any geographical and contractual restraints on where the visa holder may seek employment. Similarly, there is no prohibition on the type of work in which he or she may engage.

There is, however, a provision designed to help protect American workers at any given work location from unreasonable labor competition. The Secretary of Labor, under specific guidelines, could make a finding that at a specific business or agricultural site, there are sufficient qualified and willing domestic workers available. If so, Mexican nationals holding temporary visas would be restricted from working at that site.

Should a visa holder fail to return to Mexico after the expiration date of the visa or enter the U.S. illegally, there would be stiff prohibitions on his or her eligibility for future visas. However, it is clear that the real incentives for the worker to adhere to the provisions of the program would be that their stay in the U.S. would be legal and not subject to the uncertainties and potential abuses of an illegal status. A program that conforms to reality is always more workable than one which creates an impossibly artificial reality.

As a legal worker, the Mexican national would be clearly protected by the laws and Constitution of the United States. Decent working conditions and needed social services could be obtained without fear of deportation.

The legality of the Compañeros program would eliminate the economic incentives for smugglers. Furthermore, remaining border and immigration law enforcement efforts would be enhanced since the numbers of illegal aliens should decline to a more manageable level. American employers would find the legal workers more attractive than illegal migrants under the threat of apprehension by the Immigration and Naturalization Service.

CONCLUSION

We cannot eliminate illegal migration in the short run. However, we can manage the

flow of migrants with a *Compañeros* visa program which will conform to law and to the realities of the present situation.

By recognizing the Mexican perspective on illegal migration as well as our own economic realities and by accepting our own responsibility for the current situation, we can meet this problem in a friendly and constructive fashion. By working for good relations with our close neighbor, Mexico, we can finally turn our proximity into opportunity; our neighbors into friends. In today's world, we need all the friends we can get.

ACKNOWLEDGMENTS

This paper on Los *Compañeros* was prepared with the assistance of Douglas McCullough of my staff. His help is greatly appreciated as is the modern research by the numerous workers in this field, without which the development of real solutions to the problems of economic migration would not be possible.

FOOTNOTES

¹ See the following studies: W. Cornelius, "Mexican Migration to the United States: Causes, Consequences and U.S. Responses" (1978) [hereinafter cited as Cornelius]; Bustamante, "Undocumented Immigration from Mexico: Research Report," 11 *International Migration Review* 149-177 (1978); Dagodag, "Source Regions and Composition of Illegal Mexican Immigration to California," 9 *International Migration Review* 499-511 (1976); Dinerman, "Patterns of Adaptation Among Households of U.S.-bound Migrants From Michoacan, Mexico" (Paper presented at the Joint National Meeting of the Latin American Studies Association and the African Studies Association, Houston, Texas, November 1977); Exter, "Rural Community Structure and Migration: A Comparative Analysis of Acatic and Acatlan de Juarez in Jalisco, Mexico," *Latin American Studies Program Dissertation Series*, No. 71 (1976); Mines, "Las Animas: A Village of Migrants" (Unpublished paper, Department of Agriculture and Resource Economics, University of California, Berkeley, 1977); Mines, "The Workers of Las Animas: A Case Study of Village Migration to California" (Unpublished research essay, Department of Agriculture and Resource Economics, University of California, Berkeley, 1978); D. North and M. Houston, "The Characteristics and Role of Illegal Aliens in the U.S. Labor Market: An Exploratory Study" (1976); Orange County Task Force on Medical Care for Illegal Aliens, "The Economic Impact of Undocumented Immigrants on Public Health Services in Orange County" (Calif.) (Final Report presented to the Orange County Board of Supervisors, March 1978); M. Villalpando, et al., "A Study of the Socioeconomic Impact of Illegal Aliens on San Diego County" (1977); Zarrugh, "Gente de mi tierra: Mexican Village Migrants in a California Community" (Ph.D. dissertation, University of California, Berkeley, 1974).

² Fagen, "The Realities of U.S.-Mexican Relations," 54 *Foreign Affairs* 686 (1977) [hereinafter cited as Fagen].

³ Lucey, "The United States and Mexico," *Vital Speeches*, Feb. 1, 1979 at 235 [hereinafter cited as Lucey].

⁴ Id.
⁵ P. Ehrlich, L. Bilderback and A. Ehrlich, "The Golden Door," [hereinafter cited as Ehrlich].
⁶ 15 U.S.C. 717b.

⁷ Ehrlich, note 5 supra.
⁸ New York Times, Feb. 25, 1980 at 1.

⁹ Ehrlich at 135.
¹⁰ Act of May 26, 1924, 43 Stat. 153.

¹¹ "Illegal Aliens: Analysis and Background," Committee Print, House Judiciary Committee.
¹² Scruggs, Otey M., *Evolution of the Mexican Farm Labor Agreement of 1942*, *Agricultural History*, v. 34, July 1960, pp. 141-142.

¹³ The Bracero program stretched from 1942-1964 in three distinct phases. The "war-time phase" (1942-1947) was initially created by executive agreement and then by statute (57 Stat. 70 [1943]). The program continued in the so-called "transition" phase (1948-1951) under frequently revised agreements and finally the "Public Law 78" phase (1951-1964).

¹⁴ Congressional Research Service, Library of Congress, "Temporary Worker Programs: Background and Issues," 6-15 (1980) [hereinafter cited as Temporary Workers].

¹⁵ Agreement with Mexico respecting the temporary migration of Mexican agricultural workers, July 23, 1942, 56 Stat. 1759, E.A.S. 278.

¹⁶ Temporary workers, 37.

¹⁷ Id. at 27.

¹⁸ Id. at 36.

¹⁹ Sustamante, supra, 150.

²⁰ R. Craig, "The Elucero Program: Interest Groups and Foreign Policy," *Supp. 1 Cir.*

²¹ See, e.g., Cornelius, Bustamante and Mines, Note 1, supra.

²² See, generally, Second Report of the Select Commission on Immigration and Refugee Policy (October 1980).

²³ See Cornelius, at 64.

²⁴ See Cornelius at 52-71.

²⁵ Illegal Aliens at 40.

²⁶ Act of Oct. 3, 1965, Public Law 89-236, 79 Stat. 911.

²⁷ Act of Oct. 20, 1976, Public Law 94-571, 90 Stat. 2703.

²⁸ 1977 Immigration and Naturalization Service Annual Report. In 1978 the figure was 92,367.

²⁹ 8 U.S.C. 1101 *et seq.*

³⁰ Temporary Workers at 59.

³¹ Statement of Aaron Podin before the Select Commission on Immigration and Refugee Policy, Oct. 29, 1979.

³² See Cornelius at 10.

³³ 1977 and 1978 Immigration and Naturalization Service Annual Reports. 1979 figure provided by the INS.

³⁴ See Cornelius at 25.

³⁵ See Note 1, supra.

³⁶ The migrants enter the U.S. without inspection, crossing the border often with the aid of professional smugglers or "coyotes" who charge between \$250 and \$300 for their service.

³⁷ Dr. Cornelius interviewed adult males in nine rural communities of Jalisco, Mexico. These men were illegal migrants before 1969, illegal migrants after 1969, former Braceros, legal migrants or men who had not migrated but were potential migrants.

³⁸ See Cornelius at 26.

³⁹ See e.g., North and Houston, supra, 86; Bustamante, supra, 164-165; see also Hearing on "Undocumented Workers: Implications for U.S. Policy in the Western Hemisphere," by House Committee on International Affairs, Subcommittee on Inter-American Affairs, 95th Cong., ser. 3901, pt. 4 at 172 (statement of Alejandro Portes) [hereinafter cited as Hearings].

⁴⁰ Cornelius, supra; North and Houston, supra; and Villalpando, supra.

⁴¹ See Cornelius at 54.

⁴² Id. at 55.

⁴³ Id. at 56.

⁴⁴ Interagency Task Force on Immigration Policy, Departments of Justice, Labor and State, Staff Report, 286 (1979) [hereinafter cited as Task Force].

⁴⁵ Id.

⁴⁶ Hearings at 361.

⁴⁷ Task Force at 285.

⁴⁸ Hearings at 361.

⁴⁹ Villalpando, "Facts and Myths About the Illegal Migrant," in *The Problem of the Undocumented Worker*, 47-48 (Latin American Institute, University of New Mexico, 1979).

⁵⁰ See Lucey at 235.

⁵¹ See Cornelius at 38, 43.

⁵² Briggs, "Foreign Labor Programs as an Alternative to Illegal Immigration into the United States: A Dissenting View" (1980); D. North, "Non-Immigrant Workers in the United States: Current Trends and Future Implications" (1980).

Mr. BOSCHWITZ. Mr. President, I request unanimous consent that the attached articles be included in the RECORD following the debate on amendment No. 1907 which would require the establishment of an agricultural guest worker program. These articles detail some of the realities as seen from the perspective of the press and people of our Nation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ILLEGAL MEXICAN ALIENS: A FLOATING POPULATION

(By Senator S. I. HAYAKAWA)

Problems for the U.S. created by a continually increasing number of undocumented Mexican workers crossing a 2,000-mile border are not going to simply go away. So long as there are millions of people starving in Mexico—with little or no hope—they will risk everything to cross the border for survival for themselves and their families.

The U.S. holds out a promise to Mexicans trapped at the bottom of the ladder, as it has for immigrants throughout history. One major difference, however, is that the native Mexican immigrant only has to cross an invisible border, not the Atlantic or Pacific Ocean. In contrast to immigrants from Europe or Asia, Mexicans really don't want to stay in this country. If given a choice, most of them would prefer to stay home. However, half of Mexico's citizens are unemployed or underemployed. Social scientists estimate that malnutrition affects 60 percent of adults and 80 percent of children under five.

Roots and family concepts are strong among Mexicans. A Mexican folk song now popular north of the border expresses the loneliness of illegal aliens.

"Between hills and mountains . . . In the village where I was born . . . The memories of mornings . . . I have lived through . . ."

The undocumented brings with him solitude and loneliness. He works and saves, and sends money home. About 40 percent of what the migrants earn in the U.S. is sent home. This system has been called "the purest form of foreign aid." The money gets to the people who need it most, instead of being filtered through government agencies.

The illegal Mexican worker yearns to go home, and 90 percent of them do return—they have been called a "floating population." In order to safely get back to Mexico, they have even arranged for their own arrests. The harder we make it for them to go back and forth across the border, the greater the chances they will bring their families—one by one—and settle permanently in the United States, creating enormous social problems for local governments and communities.

Until the 1920's the border was basically "open," a stipulation of the treaty ending the Mexican-American War of 1848. Each time we have needed large numbers of laborers we have reached out to the Mexican worker. During World War I and again during World War II when we had a manpower shortage, thousands of Mexican workers were recruited. During World War II this was known as the "bracero program," under which Mexico supplied the workers, and the U.S. government was the labor contractor for America's agribusiness. The braceros were restricted to short-term agricultural work and more or less indentured to one employer. They were afforded more humane treatment than the migrants who had come before, but only slightly. The bracero program was terminated, and rightfully so, in the early 1960's, but many migrants who had worked as braceros continued to do so—as illegal aliens. In a sense of the word, the bracero program really didn't end, it simply went underground.

Thus, with a long history of short-term migration established, children grew up assuming that one day they too would go north. Most undocumented workers today are either former braceros or the sons of braceros. Although neither country wants

to admit it, the temporary worker is accepted by both the U.S. and Mexico. When workers migrate to find seasonal work, they provide the U.S. with a cheap labor force, and the Mexican government considers it a blessing. The migration provides Mexico with an escape valve for rising political and economic tension.

The time has come now for our two countries to face the problem realistically. With a 100-year history of temporary migration and our 2,000-mile border, there is no point in trying to stop starving people from coming across the border to find work. If this migration is legalized and controlled, the majority of Mexican workers will come for seasonal short-term employment, and then return to their villages. They will not be forced, out of loneliness, fear and despair, to bring their families here to settle permanently. A legal "Guest Worker Program" is the only answer for these people, for the United States and Mexico.

On April 8, 1981, I introduced the "Guest Worker Act of 1981." This bill establishes a five-year guest worker program with Mexico. Qualified Mexican nationals who post a \$500 bond with the United States Government will obtain guest worker visas good for six months. At the end of that time they must return to Mexico. After six months they are eligible for another six-month work visa. Their deposit will be refunded with interest at the prevailing rate. Each time an alien pays a "coyote" (smuggler) to bring him across the border it costs from \$200 to \$500. There is a saying in the villages in Mexico that you usually make it the fourth time you cross the border. This bill also establishes a bilateral advisory commission composed of Mexicans and Americans who will consult with the Attorney General to work out details and regulations.

It is important for us to establish a legal framework for Mexican labor in the U.S. in order to harmonize the use of such workers, to prevent abuse by "coyotes" as well as unscrupulous employers, to reduce the flow of illegal migrants, and to permit a better understanding of the opportunities and problems for Mexican workers in the United States and Mexico.

The United States and Mexico are neighbors in a shrinking world of international politics. It is important to both countries to maintain a working, open and friendly relationship between the two nations. The migration of Mexican nationals into the U.S. has been a sore spot for years. My "Guest Worker Program" will help solve the problem, ease tension in the Western Hemisphere, and improve relations with Mexico.

THE GUEST WORKER PROGRAM: A PURE FORM OF FOREIGN AID

(By Senator S. I. HAYAKAWA)

The contrast between America and Mexico is unique. Mexico is the only Third World nation that borders such an affluent, highly technological country.

It has been demonstrated over the years that when the U.S. economy is in a recessionary state, tremendous anti-alien feelings build up in the country. Mexican workers have been called lazy undesirables who clog the welfare rolls and take jobs from Americans. But there is a total inconsistency in such a statement; either they take American jobs—or they don't work and live off welfare—they can't do both.

The facts are that the majority of Mexican illegals come here to work—they have little understanding of public assistance and

would fear deportation if they applied for welfare.

Undocumented workers pay the same withholding taxes as we do, but are unable to draw social security, unemployment or receive an income tax refund because of their illegal status. For example, an alien who works 60 hours a week at minimum wage (overtime is rarely paid) will earn \$201, of which \$33.17 is withheld.

The tax contributions of undocumented aliens add up to a staggering windfall. One study estimated undocumented aliens contribute as much as \$1.5 billion a year in withholding taxes. In regard to the Social Security Trust Fund in particular, without these funds it would face depletion earlier than current financing schedules indicate.

The time has come for America and Mexico to face the problem of this floating population—realistically.

With a 100-year history of temporary migration and a 2,000-mile common border, there is no point in trying to put a unilateral stop to people crossing the border to work. If migration is legalized and controlled, the majority of Mexican workers will come here for seasonal and short-term employment and then return to their villages, as roots and family concepts are strong among Mexicans.

Typically it is the young man who goes North and he brings with him solitude and loneliness. He works and saves to send money home. About 40 percent of what the migrants earn is sent to their families in Mexico. This system has been called the "purest form of foreign aid." The money goes directly to the people who need it most, instead of being filtered through government agencies.

In World War II, with a manpower shortage in America, the U.S. and Mexican governments got together and created what came to be known as the "bracero program," under which Mexico supplied the workers and the U.S. government was the labor contractor for America's agribusiness. The injustices and inequities of the bracero program are well known, and it was rightfully terminated in the 1960's.

So it is important for us to establish a legal framework for Mexican labor to harmonize their use and to prevent abuse by "coyotes" (smugglers), as well as unscrupulous employers—and to reduce the flow of illegal migrants.

To that end I have introduced in the U.S. Senate the "Guest Worker Act of 1981," which establishes a five-year guest worker program with Mexico. Qualified Mexican nationals who post a \$500 bond with the U.S. government will obtain guest worker visas good for six months, after which time they must return to Mexico. At that time their deposit will be returned to them with interest at the prevailing rate.

Also in my bill, protection is provided for American workers by a provision which permits the Attorney General, at the request of the Secretary of Labor, to restrict the employment of guest workers at specific job sites when it has been shown that American laborers are available and willing to take the jobs.

A primary purpose of a legal guest worker program is to encourage guest workers to return to Mexico after a specified period of time. Estimates of the number of illegal aliens in the U.S. range from 1.4 million to 3 million. Therefore, my proposal provides for the participation of up to one million guest workers each year. Anything short of this figure would hardly discourage illegal traf-

fic and the program would accomplish nothing.

The United States and Mexico are neighbors in a shrinking world of international politics. It is important to both countries to maintain a working, open and friendly relationship—this is one way to accomplish this goal.

[From the PSA California Magazine, April 1982]

INTERVIEW WITH WAYNE CORNELIUS

(In 1974, Wayne Cornelius set out on the largest research project the U.S. government had yet sponsored on Mexican migration. He began at the source: the towns and villages of the state of Jalisco, where seasonal migration within Mexico itself and across the border into the United States has been a way of life since the 1880s. He lived among the migrant families, watched the arid land turn to dust and saw the young men of the villages set out for the North. Cornelius followed them and studied their destinations: the restaurants and fields of California and Illinois. Over the next several years, Cornelius, then a professor of political science at the Massachusetts Institute of Technology, became the most widely quoted U.S. expert on migration—in part because he said the unsayable: far from being a drain on the U.S. taxpayer, the migrants were, he contended, a boon to the economy. Most migrants, he said, traveled back and forth across the border without settling in the United States.)

(Cornelius also claimed that the number of illegal Mexican immigrants had been highly inflated by the Immigration and Naturalization Service (INS). In contrast to the Border Patrol's claim that eleven million Mexicans were here illegally, Cornelius estimated that the figure was probably closer to between one and three million. Studies since then have supported his figures.)

(A former Fellow at Harvard's Center for International Affairs and the Woodrow Wilson International Center for Scholars, Cornelius is now director and founder of UC San Diego's Center for U.S.-Mexican studies at UC San Diego, the nation's largest university-based program devoted exclusively to Mexico and U.S.-Mexican relations.)

(Cornelius has received a series of top awards from fellow Latin American Scholars—and an outpouring of anger from many U.S. citizens, ranging from the far-right proponents of a Berlin-style wall along the border to such Chicano activists as San Diego's Herman Baca, who favors an open border and calls him "Wayne Confuseus," to some of his colleagues, who still contend that the professor's interpretation of data favors the immigrants.)

(His most controversial statements surround a "temporary worker visa system," which he drafted for Stuart Eizenstat, President Carter's domestic policy adviser. The proposal was designed to legalize much of the back-and-forth flow, without resorting to the geographic and employer restraints that had made Mexican workers virtual slave-laborers under the "bracero program" of the 1950s and 1960s. The plan was rejected by the Carter administration, but the idea stuck. Senators S. I. Hayakawa (R-CA) and Harrison Schmitt (R-NM), the ex-astronaut, proposed legislation to create a guest worker program based in part, on Cornelius's ideas. The Reagan administration has also proposed a program with shades of Cornelius's temporary worker visa. The latest proposal is another plan devised by

historians Harry E. Cross and James A. Santos and published in January by the Institute of Governmental Studies at UC Berkeley. The plan has striking similarities to Cornelius's and is seen by some immigration experts as more realistic than the Reagan approach.

(Cornelius, though, has backed away from the temporary worker visa. He is, in short, an angry man—angry at what he considers a prostitution of his original proposal, and at what he calls a rising "new American nativism." At his UCSD office, he spoke with reporter Richard Louv. Louv is on leave from the San Diego Union to write a book about American migration.)

PSA. Most observers, regardless of their politics, believe that the United States has no cohesive immigration policy. Why not?

CORNELIUS. As one congressman told me, it's not the facts that matter, but people's perceptions of the facts. The reason we can't come up with effective major legislation is that that would be tantamount to recognizing publicly that we need this labor, that it is not just charity to poor Mexicans or a free ride for the uncaring Mexican government. In ten or fifteen years, many of the debates that we're involved in now will seem ridiculous. We're going to be confronted with significant labor shortages in certain parts of the country, for certain kinds of jobs. The baby bust is already having some effect, with American fertility rates dropping since the last 1960s.

PSA. Why do we need foreign laborers when we don't appear to need unskilled American kids? That just doesn't seem to make sense to most people.

CORNELIUS. First, while some individual youngsters may find it more difficult to get a job because of undocumented migrants, there is a lot of evidence that for the most part unemployed U.S. citizens and foreign undocumented immigrants are not competing for the same jobs. U.S. citizens are not interested, as a general rule, in the kinds of jobs filled by Mexican immigrants. In fact, in some areas of the country where Mexican migration is the heaviest, youth unemployment is lower than the national average. Second, there is simply no future for U.S. workers in the kinds of jobs filled by foreign migrants in this country. We do have an obligation to provide access to the right kind of job training, mass transit and education. That, over the longer haul, must be the goal of social policy—not deporting Mexicans.

PSA. With the economy at a standstill, isn't that question irrelevant, especially now that we've cut CETA training programs for unemployed youths?

CORNELIUS. Obviously, in a period of short-term economic contraction like this, a menial job may in fact be the most satisfactory alternative for a young U.S. citizen, but certainly not in the longer haul.

PSA. Stanford University economist Clark Reynolds has said that because of falling birth rates, the U.S. might need as many as five to fifteen million foreign workers in the next twenty years to fill low-income jobs, just to keep our economy going at its present rate. Does that sound reasonable to you?

CORNELIUS. That's one reasonable projection. Surprisingly, the number of low-skilled jobs is increasing. This is true even in agriculture, despite mechanization and despite all the acres of land that get paved over and turned into shopping centers every year. In urban areas, as long as the domestic immigration into Sunbelt cities continues to grow, there will also be an expanding need

for personal services of all types, for a very broad range of goods and services that are provided by foreign labor today. With the baby bust, we're going to be confronted with the same kind of situation that the European countries were confronted with in the late 1950s and early 1960s, when large-scale importation of foreign labor was essential to economic expansion. In advanced industrial countries, it's impossible to eliminate that class of jobs. It is a structural feature of most Western economies. Whether that is good or bad, it's a fact.

PSA. Who is the typical immigrant?

CORNELIUS. There isn't any. Of course, I know the most about the Mexican migrants, who make up about 60 percent of illegal entrants. One of the popular misconceptions is that there is one kind of Mexican migrant. The migration includes several subpopulations, including temporary, illegal long-distance migrants who come mostly from the western portion of Mexico's central plateau; temporary, legal migrants, sometimes called "greencarders" who may live just over the Mexican side of the border or deep in Mexico; long-term, long-distance illegal immigrants who enter the U.S. clandestinely or with temporary visas and then stay; and permanent legal immigrants, many of whom lived in the U.S. as illegal immigrants prior to their documented entry. These categories don't even begin to capture the full diversity in the Mexican immigrant population.

PSA. California has been called the "new Ellis Island." With so many immigrant groups, legal and illegal, in what context should we place Mexican immigration?

CORNELIUS. Most of the Asian immigrants entering California are entering legally as political refugees, and therefore are entitled to a set of government benefits, assistance in resettlement and other social services to which undocumented Mexicans have no access. And of course, they are here as legal residents and therefore are not subject to the kind of abuse some Mexicans suffer because of their illegal status. In terms of numbers, Indochinese immigrants may well outnumber Mexican legal immigrants. Between 140,000 and 150,000 Indochinese immigrants are settling in the U.S., mostly in Southern California, per year. But if you include all those Mexicans here illegally, of course, Mexicans far outnumber Indochinese.

PSA. How separated from mainstream U.S. culture are these two groups?

CORNELIUS. Culturally, there is a far greater gap for the Indochinese than for the Mexicans. Although the Indochinese do have some enclaves in Orange and San Diego counties, Mexicans have a much larger support network of friends and relatives. We're just beginning to study this, with a five-year study of San Diego's Indochinese refugees compared to Mexican immigrants.

PSA. And the other groups?

CORNELIUS. There are many countries contributing to the illegal flow of immigrants—even Japan, as has been recently demonstrated by the INS raids of Japanese neighborhoods of Los Angeles, raids that reportedly shut down about 40 percent of the small businesses in those neighborhoods for a few days. The problem there is Japanese who overstayed their visas, who have remained to work as illegal immigrants. Now, the same could be said of Canadians, Filipinos, Koreans and probably a dozen other nationalities, but what makes these groups so much less visible than the Mexicans is that most of them entered the U.S. legally on tourist or student visas, which they over-

stayed. They were not caught illegally trying to cross the border, as most Mexicans typically are. We simply don't know the relative numbers of these groups. For one reason, the INS has focused perhaps a disproportionate degree of its attention on Mexicans. The raid of the Japanese neighborhoods may reveal the tip of the iceberg of illegal, non-Mexican immigration. The East Coast, I might add, is affected primarily by refugees from the Caribbean basin and Central America. And this tends to be highly localized—for example, Colombians seem to go primarily to New York City; Haitians and Cubans to the Miami area.

PSA. What concerns you about U.S. public opinion?

CORNELIUS. Americans seem to have a need to believe that immigrants are to blame for their problems. Public opinion surveys show a growing nativism. A survey in 1979 in San Diego found that nearly half of the respondents felt that legal immigration should be reduced; what was most interesting was the specific anti-Mexican bias, even in a local area whose economic livelihood depends heavily upon Mexican labor and consumer spending by Mexican immigrants and tourists. Three times during the last sixty years, anti-immigrant sentiment among the U.S. public emboldened officials to carry out mass roundup and deportation campaigns aimed specifically at Mexicans. It could be argued that the United States is now overdue for another such nativist spasm. The stage has been set. When the spasm comes, U.S.-Mexican relations will deteriorate swiftly, regardless of other mutual interests such as trade, energy and tourism.

PSA. Say we could turn off the spigot, stop the migration. What would happen to the economy in the Southwest?

CORNELIUS. First, turning the spigot off completely would take a militarized border, gun turrets and a wall. But assuming that restrictionist policies would work, in the short term, cutting off the supply of immigrant labor would be truly disruptive. Some of the marginal operations wouldn't be able to survive. The larger establishments might shift to less labor-intensive kinds of activities, or move their businesses out of the country to nations with cheaper labor.

PSA. Would that work to decrease the total number of U.S. jobs?

CORNELIUS. It might well. It would certainly not help the hard-core unemployed. In other words, the net increase of employment opportunities to U.S. workers would be very small and in fact might be negative, because of the impact on our economy. Given the range of options of most employers, I don't think that all the good things that are supposed to happen, as the restrictionists see it, are going to happen. What will not happen, in most cases, is an increase in wages that would make these kinds of jobs attractive to U.S. citizens.

PSA. Most Americans believe that Mexican illegal immigration is draining our social services and tax base.

CORNELIUS. Yes, if they are in the United States for long periods, especially if they have children with them; the immigrants do take advantage of health services and education. I'd point out, though, that those who do use tax-supported health facilities more often than not pay cash for the services they receive. Our studies in San Diego have shown that a very large portion of health services to legal and illegal immigrants is being provided by private practitioners and health providers on the other side of the border. The reason is partly

pride, and also because the immigration service is involved with screening Medi-Cal patients—they don't want to get deported. For the same reasons, few of them are receiving any kind of income transfer payments—welfare, food stamps. On balance, they are not a drain on the U.S. taxpayer.

PSA. What tax contribution do they make?

CORNELIUS. The vast majority are undocumented taxpayers. And their overall contribution to the financing of the services they do use is quite substantial. Now, the legitimate grievance that local and state governments have is that the bulk of the money undocumented immigrants pay in to the public treasury goes off to Washington. The local governments have the greatest grievance because most of the taxes undocumented workers pay goes into federal and state income taxes and Social Security. Increasingly, less of that money comes back to the local governments.

PSA. Which creates the crises for local hospitals?

CORNELIUS. Right. Local and state governments are bearing an unfair burden for the human services for this population. The federal government shirks its responsibility, by and large, and refuses to recognize the existence of the problem.

PSA. What about Social Security?

CORNELIUS. They're subsidizing it. This is true if you consider the total population, not just the permanent settlers, but also the short-term migrants who come here to work for a few years and then go back to live in Mexico. They're paying into the Social Security Trust Fund and usually are not taking anything out. This is less true of immigrants who are staying here permanently and manage to legalize their residence. But overall, the immigrant population is younger than the U.S. population, paying in more than they consume in Social Security benefits.

PSA. What do you think of the Cross-Sandos proposal for a five-year guest worker pilot program, viewed by some as a fresh approach? [The proposal requires a \$300 deposit, to be returned, with interest, if the migrant returns to Mexico; provides the worker with the right to join U.S. labor unions and look for jobs anywhere he or she wishes; requires that the worker be paid by check, so that standard tax and benefit deductions would be made, enabling the worker to draw disability payments; features a special withholding tax on the guest worker's paychecks, which would create a fund for hospital and health-care expenses, and allows for each migrant to carry a tamper-proof identity card.]

CORNELIUS. The main problem is that there's no quick fix, and this approach would delude people into thinking that there may be one. I only wish they had come up with something fresh. Three-quarters of what they propose appears to be lifted directly from my 1977 proposal for a temporary worker visa system. Other ideas were taken from S. I. Hayakawa's bill. I can't identify a single element of Cross-Sandos that has not been proposed, debated and rejected in the U.S. political and academic domains during the past five years. It's just another hodgepodge, a Frankenstein's monster no more politically viable than ones that came before. It's likely to arouse such a vociferous nationalist reaction on the Mexican side that there would be no hope of acceptance.

PSA. Why have you backed off from your own proposal for a temporary worker visa?

CORNELIUS. Legalizing entry of Mexican immigrants is still the most humane and rational approach. But I no longer labor under the illusion that it is possible, within the context of the U.S. economy and politics of the 1980s.

PSA. What about the Reagan proposals, which include a "guest worker" program, a permanent worker ID card, employer sanctions and amnesty for some undocumented immigrants?

CORNELIUS. In some ways, it's an improvement over the Carter proposals, but still unworkable. Take employer sanctions: there are already twelve states in the nation that have legislation to this effect, including California; given the fact that there is already a federal law governing contracting in farm labor, which also specifically prohibits agricultural employers from hiring undocumented immigrants, if we look at the actual impact it has had, I think we need to ask seriously if employer sanctions can ever be enforced. We can't even enforce the minimum wage law for the general population. How can we keep track of the millions of employers? In thinking you can enforce employer sanctions, you're assuming the feasibility of a truly counterfeit-proof credential. I think there would immediately be a whole new industry springing up to produce facsimiles of whatever new kind of credential you want to create.

PSA. You seem to be saying that the problem isn't the immigrants themselves, but their illegal status; but you're also saying that it's impossible to legalize them, given the political climate. If legalizing the migration is politically unfeasible—or just plain wrong, as some of your opponents say—what are we left with?

CORNELIUS. The status quo, which I don't regard as either morally acceptable or economically rational. Or increased restrictionist pressures, fueled by economic stagnation and popular hysteria.

PSA. What about the long-term view? Is there any cause for optimism?

CORNELIUS. We have evidence from a variety of surveys, among them the United Nations World Fertility Survey, that there has been a significant and continuing drop in fertility rates that can be expected to cut future population growth in Mexico. By the year 2000, Mexico may have roughly 100 million people rather than 120 million, as had been projected in the 1970s. The problem, of course, is that this doesn't mean an immediate reduction in the growth of the labor force. There also appears to be improvement in Mexico's ability to feed itself. But the regions of Mexico that sends the most migrants are less affected by the strides in agriculture. Mexican oil will certainly make a difference. But we simply can't predict the long-range effect on the economy. As for what happens in the meantime, the migrants and their U.S. employers will continue to be the central actors determining what really happens in the labor market—not the government, whose capacity to intervene effectively at this point is dramatically diminished.

PSA. Are we at a crossroads, moving toward an enriched, culturally pluralistic Southwest—or toward a separatist movement, another Quebec?

CORNELIUS. If we are moving toward another Quebec, it certainly won't be because of a preference of the immigrants, especially those who remain here for a long time. They're mainstreamers. They want to make it in this society. They particularly want their children to make it, and they know

that to achieve that goal their children must get some kind of schooling, proficiency in English and knowledge of U.S. customs to make them competitive in the U.S. job market. The older immigrants do tend to retain their use of Spanish, don't vote and stay separate from the majority culture. This is partly because they're too busy making a living. But their children are another matter, and this is where the focus should be placed. Whether they're successfully integrated into the society will depend largely on whether they have access to the kind of education that will give them the tools to survive in American society.

PSA. If our schools are having trouble providing English-speaking children with that kind of education, how are they going to succeed with Spanish-speaking children?

CORNELIUS. That's certainly a serious problem, which is at the root of our overall social policies. But what is the alternative? The long-term price of not providing this education, and good health care, will be huge. It's unfortunate that there are so many people who associate immigration with separatism. A lot of people in the majority culture are intolerant of cultural and linguistic differences. Some of them really don't believe in cultural pluralism as a worthy goal of society. They feel threatened, choose to put up barriers, and prefer to think the worst of those who enter the country and don't divest themselves immediately of their language and culture. We have a real opportunity in the Southwest for cultural pluralism. If we fail it won't be because of the immigrants, but because of ignorance and fear and prejudice.

GETTING A HANDLE ON IMMIGRATION WILL REQUIRE STARTING FROM SCRATCH

(By Frank del Olmo)

Like so many things, the U.S. Immigration and Naturalization Service does, last week's Operation Jobs generated lots of controversy, anger and publicity, but accomplished very little.

The nationwide series of raids was targeted at illegal immigrants holding well-paying jobs, the kind that U.S. citizens might take if they were available. About 5,500 people were arrested, less than one-tenth of 1 percent of the estimated 6 million believed to be living in this country illegally.

There are no reliable figures yet on how many of those vacated jobs will be filled by Americans. Spot checks indicate that many of those arrested have already returned to work while they appeal the deportation order. So it will be awhile—if ever—before we see whether Operation Jobs proves that illegal immigrants displace U.S. workers.

But one conclusion can be drawn from Operation Jobs: Enforcement of immigration laws is beyond the abilities of the Immigration and Naturalization Service; it should be abolished.

If the United States is ever to get its immigration system in order, new laws and more money will not be enough. There has to be a drastic reorganization of the federal agencies that administer those laws, primarily the immigration service, an agency of the Justice Department.

The immigration service has been incapable of effectively doing its job for a number of years. This first became clear in 1972 when the Justice Department launched Operation Clean Sweep, a wide-ranging investigation of corruption in the INS.

Operation Clean Sweep demonstrated that the immigration service was a deeply

troubled agency—underfunded by Congress, overwhelmed by the millions of people it had to deal with, and operating largely out of sight of the general public. All this resulted in a demoralized atmosphere in which corruption could flourish.

Unfortunately, while immigration has become an issue for public debate in the last few years, things have not improved much for the immigration service.

The agency still does not get the funding that its leaders believe is necessary to control illegal entry. In 1972 the INS budget was \$130 million, enough to pay and support 2,005 Border Patrol agents, 1,346 immigration inspectors and 1,219 criminal investigators. This year, the agency has a \$400-million budget and more Border Patrol agents, 2,700. But there still are 1,350 inspectors and only 770 investigators.

And horror stories about the agency's mismanagement and ham-handed methods still abound. In Operation Jobs, we learned of agents refusing to allow the detained suspects to see lawyers or even spouses in some instances, and coercing suspected illegal aliens into waiving their rights. The sad thing is that anyone who deals with INS regularly knows how routine these kinds of allegations are.

Even those members of the general public who occasionally must deal with INS on more mundane matters tell angry stories of long lines, lost files, unanswered telephones and harried, impolite clerks.

A major reason for this is that INS has a split personality—it must service legal immigrants and resident aliens, while trying to track down illegal immigrants, doing neither job particularly well.

Since World War II, the law-enforcement function has come to dominate INS operations as civil servants who began their careers in the Border Patrol rose to the agency's highest ranks. These policy makers still tend to think of all immigrants as the Mexicans they used to chase along the Rio Grande.

The reality of this country's immigration dilemma is far more complicated than that. Mexican workers tend to come as migrants, not immigrants, hoping to earn enough money here to buy a piece of land or a small business back home. They may be the least of our problems when compared to the Haitians, Iranians, South Americans, Asians and other foreigners who would like to settle in this country permanently.

Getting a handle on this phenomenon will require more sensitivity and farsightedness than our current immigration agency is capable of. So it should be put out of its misery, and a new system built from the ground up.

The Border Patrol's functions could be absorbed into a single, comprehensive border management agency, along with the Customs Service. Law-enforcement specialists believe that illegal immigration can be controlled more efficiently, and more humanely, at the point of entry rather than searching all the scattered likely destinations in the nation's interior.

The idea of a single border agency has been bouncing around the Office of Management and Budget since Richard M. Nixon was President, but it has been effectively opposed by the agencies involved and their employee unions.

The INS's service function—helping new and prospective legal immigrants—should go to a new Bureau of Immigration. Specialists predict that most of this country's population growth in the coming years will occur

not from natural births, but from immigration. That is as good an argument as any for spending more money to build a better system of immigrant admissions and acculturation than we have now.

There are bills working their way through Congress now that would make far-reaching changes in U.S. immigration laws, making them more restrictive but also fairer and less arbitrary. I have serious doubts whether they will work, because the economic forces that cause illegal immigration may be too strong to be legislated away. But these reforms have been designed by thoughtful people who are trying to create a national consensus on a complex and emotional issue while avoiding the nativism that has tainted past debates about immigration to this country.

If these immigration reform proposals pass, it would be a tragic joke to leave their administration to one of the most heavily-handed, overworked and ill-prepared agencies in the federal bureaucracy.

MEXICAN OFFICIAL ASSAILS BILL TO CURB IMMIGRATION

CORONADO. (UPI)—Mexico's leading expert on illegal immigration into the United States Thursday called the immigration bill before the U.S. Congress a "step backward."

Dr. Jorge A. Bustamante, director of the Center for Northern Mexico Border Studies, said the Simpson-Mazzoli bill "starts from the premise that illegal immigration is an illness which must be cured by drastic measures."

"The bill is a step backward from the need to rationalize costs and benefits to the United States of what is, in effect, an international labor market with demand for cheap labor on one side and a labor pool on the other," Bustamante told a binational conference sponsored by the Center for U.S.-Mexican Studies of the University of California at San Diego.

The bill sponsored by Sen. Alan Simpson, R-Wyo., and Rep. Romero Mazzoli, D-Ky., would make it unlawful to hire illegal aliens; make it an offense for an illegal alien to use false documentation in seeking a job; set up an experimental two-year, guest-worker program for 50,000 Mexican nationals annually; and grant varying degrees of legal status to qualifying illegal aliens in the United States prior to Jan. 1, 1980.

Cutting off the flow of illegal aliens would be tantamount to "economic suicide" to sectors of the U.S. economy, Bustamante said, and not just the seasonal agricultural sector that attracts only 37 percent of illegal aliens.

Recent studies indicate that the majority obtain jobs in the hotel and restaurant trade, other service industries, light industry, and the garment and shoemaking fields.

Bustamante said the Simpson-Mazzoli bill responds to the present bad economic situation in the United States, which he said makes it temporarily impossible "to analyze the phenomenon in a fair-minded way."

He said the bill formalizes the treatment of illegal aliens as "a subclass of worker whose lack of access to the courts is perceived in Mexico as unfair, unjust, and an offense to all Mexican nationals... the closest thing to slavery, the denial of rights of human beings to this underclass of workers."

He said Mexican President Jose Lopez Portillo has not voiced disapproval of the bill so as not to intervene in U.S. internal affairs. Bustamante said this silence has been misinterpreted by the Reagan administration

as tacit approval of the proposed immigration law.

[From the Los Angeles Herald Examiner, Mar. 23, 1982]

AGENTS ON HORSEBACK SEIZE 200 ILLEGAL ALIENS

(By Lennie La Guire)

U.S. Border Patrol agents on horseback charged into Orange County strawberry fields yesterday in a raid that netted more than 200 suspected illegal aliens.

And as astonished motorists watched from a crowded freeway dozens of agents on foot also entered the fields, chasing the workers into surrounding foliage.

Assistant Chief Patrol Agent Tom Gaines of the Chula Vista Border Patrol said approximately 237 suspected illegal aliens were taken in during the two-hour sweep of five strawberry fields bordering the Santa Ana Freeway.

The workers taken into custody were put aboard buses headed for Tijuana, said Jim Grim, assistant chief patrol agent for the San Ysidro district.

"We'll do the paperwork on them on the bus on the way to the border and then dump them at the border," he said.

Sixty agents aided by a helicopter participated in the raid over 600 acres near the intersection of the Santa Ana and San Diego freeways. Two of the growers who leased portions of the land denied any of their workers were picked up.

"It was very fortunate for us we didn't have any pickers in the field," said rancher Don Wall, who said he lost about \$80,000 after a similar raid last year when he couldn't find workers to replace those rounded up.

"Even when you get legal workers from this area they get spooked by such raids and they don't like to get hassled and they don't come back," he said.

Another grower, Glenn Tanaka, said, "We were lucky. We didn't have any workers in the field."

Asked if any of the growers would admit that they did, he laughed and didn't reply.

Grim said that following the usual pattern, workers dropped off across the border would return.

A rancher said the raid could severely affect strawberry growers.

"This is a very critical time for strawberry growers," said Jerry Collins of the Irvine Co., owner of the land leased by at least five tenant farmers.

"It is very possible to lose from a half a million to a million dollars if they don't have workers in the field at this time," he said.

But Gaines warned that the raids would continue.

"For us it's a routine operation and we're going to be up there for several days," he said. He added that the raids were made "in order to free up some jobs for American workers."

Grim said that growers would not be held accountable "unless there is an indication that they are (knowingly) hiring illegal workers."

[From the Fresno (Calif.) Bee, Mar. 27, 1982]

LOCALS FIND PICKING NOT BERRY GOOD JOB

SANTA ANA.—Local residents who flocked to strawberry fields when immigration agents roused regular pickers have apparently decided berry picking isn't as lucrative

as expected: Most quit the first day, officials said.

To make a hoped-for \$12 an hour, they had to pick between 2,300 and 2,900 berries an hour. "It's very hard work down on your hands and knees, especially if you're not conditioned to it," said Bob Harkness of SF Farms. "To make the money, you'd have to stick with it."

Only four of the 20 new pickers who showed up at SF Farms on Wednesday came back to work Thursday, said Harkness, sales representative for the 160-acre Irvine strawberry spread. On Thursday about 30 newcomers—many of them victims of Orange County's 6 percent January unemployment rate—picked for a while, he said.

Rain prevented harvesting Friday, further deepening the losses of Orange County's strawberry industry, already hard-hit by this week's federal round-ups of illegal field workers, Harkness said.

The new workers were apparently dissuaded by the amount of backbreaking work required to earn the \$12 an hour that had been mentioned in a newspaper article, he said.

To make \$12 an hour, a person would have to pick 12 flats an hour, each containing 12 one-pint baskets, he said. Each basket holds between 16 and 20 berries, meaning a laborer would have to pick 2,880 berries an hour. Growers' pay scales differ, but at SF Farms, workers have the option of taking the minimum \$3.35-an-hour wage or going for \$1-a-flat incentive rate.

"During a peak harvest, a good worker could make as much as \$12 an hour," Harkness said, but generally the good pickers average about \$7 or \$8 an hour.

Acknowledging that growers "have to rely on Mexican help during the harvest," he noted that the raids coupled with the wet weather are seriously hurting the harvest this year.

Thursday's raids by the U.S. Border Patrol resulted in the round-up of 329 Mexican illegals and one Guatemalan from fields in Irvine, Orange and Fountain Valley, said Border Patrol Deputy Chief Dale Musegades.

On Monday and Tuesday, agents picked up 340 illegal immigrants and sent most back to Mexico by bus.

Wednesday's raids didn't hit SF Farms and a fairly normal picking day ensued, Harkness said; but federal agents did hit ranches in Anaheim, Fullerton, and Buena Park, netting 221 illegals, Musegades said. He said up to 40 of the county's estimated 60 farms have been raided.

State employment Development Department officials say they hadn't been posting job openings for farmhands, because they thought locals weren't interested in the manual labor.

But dozens of inquiries have come in from unemployed workers, and this week for the first time the strawberry growers placed large job orders for emergency pickers in Orange County's five EDD offices.

In Fullerton, about 30 EDD applicants were sent out to a ranch but were beaten to the fields by other workers who had heard about the raids, said employment counselor Louise Sherill.

[From the Sacramento (Calif.) Bee]
**FEAR OF IMMIGRATION RAIDS GROWS IN
 HISPANIC AREAS**
 (By Diane Alters)

Hispanic people living in Sacramento are so afraid of being swept up in a nationwide roundup of illegal aliens that priests at Our

Lady of Guadalupe Catholic Church have released them from their obligation to attend Sunday Mass.

The decision is a result of panic that has seized the Spanish-speaking community during a weeklong campaign by the U.S. Immigration and Naturalization Service to search out and arrest illegal aliens, said the Rev. Keith Kenny of the parish.

The fear even touched American citizens of Mexican descent, who say they are afraid of being arrested in the sweep because they look like Mexicans, said Don Chairez, a local lawyer who specialized in immigration law.

Despite persistent rumors of arrests, local INS chief David Johnston said Sacramento would not be part of the controversial week-long raiding operation, called "Operation Jobs" by the INS. Although the local office conducts its own raids, none has taken place this week, he said.

A Border Patrol agent who declined to give his name at the agency's Franklin Boulevard office also said no one had been arrested locally under the program.

The raids have taken place in factories, hotels, restaurants and other businesses in San Francisco; Los Angeles; Dallas; Houston; New York; Denver; Newark, N.J.; Detroit; and Chicago. About 3,500 suspected illegal aliens, many from Mexico, were arrested Monday through Wednesday, national INS officials said. The operation is to end today.

"They're in immediate danger of arrest," Kenny said of parishioners who would otherwise be obligated under church law to attend Mass but who are afraid to leave their homes. Arrest is considered a grave danger, the basis for allowing such an unusual release from obligation, he said. Nobody knows how many people in the parish are in the country illegally, he said. Another Catholic Social Services official estimated that "thousands" were in the Sacramento area illegally.

Monsignor James Poole of St. Charles Borromeo, which also has many Hispanic parishioners, said he had not heard similar fears in his parish, and had not released anyone from the obligation to attend Sunday Mass.

Kenny expressed skepticism that the raids had not been conducted here. "They're notorious liars," he said of immigration officials.

"I have done nothing but answer people's calls for two days. They're scared," said a counselor at the Catholic Social Service's immigration division. The woman, who asked not to be identified, described rumors of local raids. None of the rumors has been substantiated.

INS officials have said the raids would remove illegal aliens from jobs that could be held by unemployed Americans. But clergy, politicians and minority groups in the nine cities raided issued angry criticisms of the INS.

In the San Francisco area, operators of fish markets and chicken plants said they were having trouble finding replacements for aliens arrested this week.

"It's not the kind of work most white middle-class Americans want to do," said Nickle Becker, manager of the Petaluma Poultry Co., where INS agents arrested 18 of 125 employees.

Les Amunesen, manager of the Point St. George Fishery in Santa Rosa, disagreed with INS officials that aliens were in "high-paying" and "attractive" jobs. The 53 aliens arrested Tuesday at his plant were fish cleaners who had worked there two years.

Job applications since then were for truck drivers and fork-lift operators, which he doesn't need, Amunesen said.

In Denver, the Roman Catholic archbishop and the Episcopal bishop protested the roundups. One priest there said he would harbor illegal aliens in his church, "just as the church served as a refuge in the Middle Ages."

In Los Angeles, attorneys for an immigrant rights group won a federal court order Wednesday barring the imminent deportation of 150 of 425 Mexicans arrested there. U.S. District Judge William Mathew Byrne ordered all aboard a busload of detainees in Los Angeles to be asked whether they wanted to talk to a lawyer.

"To say INS is really interested in the rights of these people is absurd," Byrne said.

[From the Los Angeles Times, Aug. 1, 1982]
**MOST ALIENS REGAIN JOBS AFTER RAIDS—
 SURVEY CONTRADICTS INS FINDINGS THAT
 SWEEPS SUCCEEDED**

(By Larry Stammer and Victor M. Valle)

Eighty percent of the suspected illegal aliens apprehended in Los Angeles and Orange counties three months ago during nationwide immigration raids on factories are back on the job, a survey by The Times has found.

The results contrast sharply with an earlier survey by the U.S. Immigration and Naturalization Service and call into question INS success in meeting its stated objective of opening "higher-paying" jobs for unemployed Americans and legal residents by deporting illegal aliens.

Dubbed "Operation Jobs," the highly publicized sweep of 5,635 suspected illegal aliens from factories in nine cities throughout the country during the week of April 26-30 resulted in thousands of unemployed flocking to the factories to apply for the jobs vacated by those arrested.

WIDESPREAD CRITICISM

Despite widespread criticism at the time from immigrants' rights attorneys and U.S. Sen. Alan Cranston (D-Calif.), who called the raids "terroristic," Omer G. Sewell, deputy district director for the INS in Los Angeles, pronounced the sweep a success.

"I think we certainly did meet our target," he told a press conference the day the raids ended. "Our target was to open up a substantial number of jobs to American citizens and lawful residents. . . . Judging from reports about large numbers of job applicants seeking these jobs, we believe it's been successful, and we're very, very proud," Sewell said.

Responses to a Times survey of union leaders, management and employees in Los Angeles and Orange counties three months later show, however, that the INS approach failed.

The Times found that of the 801 workers arrested in the two counties during the weeklong sweep, 646—or 80%—are back on the job.

One personnel manager reported, "Some of them were here the very next day. They were deported that evening and they were back the next morning."

NUMBER UNKNOWN

It is not known precisely how many of the returning workers were deported and then crossed back into the United States illegally or were permitted to remain in the United States pending a review of their immigration status after asking for a hearing.

Based on answers from several firms, however, it appears that a sizable majority—nearly seven out of 10 returning workers—had been deported.

Those numbers approximate the INS breakdown. The agency reported that 68.7%, or 550, of the 801 workers arrested agreed to voluntary deportation, and 31.3%, or 251, asked for immigration hearings.

Employers also indicated that many of the Americans and legal residents who were hired to fill vacancies did not stay on the job, either because they believed that the pay was too low or because the working conditions were not to their liking. Wages averaged \$4.80 an hour in the Los Angeles-Orange County area and ranged from the minimum \$3.35 an hour to \$7.50 an hour, the INS has reported.

One firm, where wages ranged from \$3.35 to \$4 an hour, reported hiring 90 new workers immediately after the raids. But Rudy Pompa, employment manager of the B. P. John Furniture Co. in Santa Ana, said 75 of them quit shortly after.

"They told me they found another job, that the work was too hard, that there wasn't enough pay. One tried to provoke the foreman to fire him in order to collect unemployment. His benefits had run out and he was looking for an extension," Pompa said.

Hal Takier, personnel manager of West American Rubber Co. in Orange said, "The Americans? None of them stayed; maybe 1%. It isn't the work. It's just that they feel like they want something better, whether they have education or not." When 10 arrested workers returned, Takier said, "I was just glad to get 'em back."

Operation Jobs, executed at a cost of \$500,000 nationally, including \$160,000 to transport deportees to the border, was an experiment to determine whether the INS should concentrate enforcement efforts on illegal aliens holding supposedly "higher-paying" jobs that Americans and legal residents might take. In the past, the agency had been criticized for rounding up illegal aliens in low-paying jobs for which there was insufficient domestic labor.

The reaction from most employers to Operation Jobs was summed up recently by Walter Gibson, controller at Carolyn Shoes Inc. in Monterey Park: "I think if the announced purpose was making jobs . . . then they failed because they did not create jobs. Now, if their purpose was to harass those people who didn't take the time to document themselves, then they succeeded."

Some employers disputed the INS contention that the raids involved workers in higher-paying jobs, and several complained that production lines had to be shut down.

The immigration service is evaluating the effectiveness of the raids. No decision has been made whether to continue them.

Philip Smith, assistant district director for investigations at the agency's Los Angeles office, said one week was not enough time to adequately test the effectiveness of Operation Jobs.

The experiment would have had greater impact if 1,000 suspected illegal aliens had been picked up every week for several weeks, he said.

"But in depressed economy, it did accomplish something," he added. "It focused attention on the immigration problem. . . . It did accomplish the goal of getting people to zero in on employment opportunities in which illegal aliens were arrested. . . . but it certainly did not solve the illegal immigration problem or the unemployment problem."

Two weeks after the raids, the INS conducted an "informal survey" of factories in Los Angeles, Chicago, Dallas and Houston to determine how many U.S. citizens and legal permanent residents were hired to replace the arrested workers. Other cities included in the sweep were Detroit, Denver, Newark, New York and San Francisco.

That survey, depending on how the answers were treated statistically, indicated that between 65% and 70% of the jobs vacated by arrested workers had been filled by Americans or legal residents, based on employers' answers.

INS spokesman Bob Walsh in Washington, D.C., said the survey had no "scientific credibility" and that the government had no way of knowing whether employers answered truthfully. Thirty-one of the 39 firms contacted agreed to answer the agency's questions.

Unlike the INS survey, in which respondents were asked to volunteer information to a law enforcement agency that might act on the information obtained, The Times promised confidentiality to those companies requesting it.

The Times survey was limited to Los Angeles and Orange counties and included all of the 12 firms raided instead of using a random sample.

Eight of the 12 firms cooperated, five on the condition that their statistical answers be included only in a total figure for all 12 companies. The eight were Acme Lighting and Manufacturing Co. in the City of Industry, B. P. John Furniture Co. of Santa Ana, Carolyn Shoes of Monterey Park, El Rey Mexican Foods of the City of Industry, Kern's Foods of the City of Industry, Magdesian of California in Monterey Park, Pharmavite of Pacoima and West American Rubber Co. of Orange.

Three firms—Accurid Co. of Santa Fe Springs, Price Pfister Brass Manufacturing Co. and U.S. Sales Co., both of Pacoima—refused to cooperate. One firm, Hiebert Inc. of Carson, claimed not to know how many of its workers had returned to work. In those cases, The Times contacted workers, union officials or lower-level management personnel in an attempt to determine the situation.

Although there is no way to independently verify the answers, union officials and workers who spoke to reporters without the knowledge of their employers tended to corroborate management reports from cooperating firms that a majority of the arrested workers were back on the job.

They also provided specific numbers. A union official, for example, reported that he was informed by Price Pfister management that 67 of the 83 people arrested had returned to work, reportedly after they produced "green cards" establishing them as legal permanent residents or had asked for hearings to contest their deportation.

UNION FILED GRIEVANCES

Manuel Barbosa, business representative of Teamsters Local 389 at Price Pfister, said the union has filed grievances to get the company to rehire the remaining 16 workers.

"I'm not the INS," Barbosa said. "I just represent my members. It's not a condition of union membership that you have to be a U.S. citizen."

Price Pfister was the first company hit in the raids and was the subject of widespread publicity. The firm reported that it received 1,000 job applications the next day.

At Hiebert Inc., an office furniture manufacturer, Personnel Manager Bill Hite said

he did not know how many of the 182 arrested workers had returned to work, although he said "quite a few came back." Another company official said that 95 percent had returned.

The company reported to the INS two weeks after the raids that it had hired 200 U.S. citizens or legal permanent residents through the state Employment Development Department. An official at the state agency, when informed of the company claim, said, "Oh dear, no! That certainly wasn't the case." An Employment Development Department spokesman said records indicated that the department made only 23 referrals to the company.

In some cases, the return rate was nearly 100 percent. El Rey Mexican Foods reported 34 of the 35 arrested workers back on the job. Acme Lighting and Manufacturing Co. said 19 of the 20 arrested returned. West American Rubber Co. reported the lowest return rate, with only 10 of the 52 arrested workers back on the job.

CHANGE IN HIRING PRACTICES

The raids have resulted in several employers changing their hiring practices. They report—and the INS confirms—that more of them now ask the agency to check the names of job applicants against INS computer files of legal residents, although there is no legal requirement to do so.

Hite, personnel manager at Hiebert, said that his firm logs the time and day it attempts to verify the resident status of job applicants and the INS official contacted.

Hal Takier, personnel manager of West American Rubber Co., said, "Whether it's legal or not, I've been asking for a green card and a Social Security card. Usually we take a photo of it and put it on their application. I have no choice, and still you know you're going to have counterfeits and phonies . . . but that's what we have to do to keep our skirts clean."

Other employers, however, say privately that they are skirting the issue.

Said one, "We do require some type of identification, but we're not so naive to think it's not bought on the corner Depending on how badly we need the workers, we'll accept their identification."

Indications that employers are taking back arrested employees in large numbers, including those who were deported as well as those who sought hearings before an immigration judge, drew criticism from one immigration service official in Washington, D.C.

Informed of The Times' findings, Deputy INS Commissioner Joseph Salgado said, "It would be a disappointment to me to think that American employers, who have a vested interest in this country, would elect to hire or rehire people they know are illegal aliens before Americans. That would be a disappointment to me. That would be a major disappointment. I'm not saying I would be surprised by it."

Disappointment or not, several employers said that as long as they cannot find legal residents and Americans to fill jobs, they will hire anyone.

Several employers and INS agents said that most efforts to stem the tide of illegal aliens looking for work in the United States will be ineffective until Congress imposes sanctions against employers who hire illegal aliens.

Others, like Gibson, the controller at Carolyn Shoes, said that if illegal aliens are to be stopped, they must be stopped at the border.

But, he said, the underlying cause of illegal immigration will remain, regardless of how the U.S. government tries to slow it.

"The shoe industry has Puerto Rican workers in New York; in Florida, mostly Cubans; and here, mostly Latins (Mexicans). Whether they are documented or not, I imagine they are documented as much as the Cubans are documented.

"The only difference is the State Department says the Cuban government is communist and the Mexican government isn't. But the workers are the same. They still want to eat no matter what their government is. You can call the Cubans political refugees, but they are principally economic refugees, the same as the Mexicans are economic refugees."

[From the Los Angeles Times, Aug. 1, 1982]
COUPLE DEPORTED; CHILDREN LEFT ON OWN—
INS RAID: THE PAIN OF SEPARATION

(By Victor M. Valle)

Aurelio Norte is a part-time accordion player, and when he gets off from his factory job, he often sings in the cantinas of San Fernando about those deported by the Immigration and Naturalization Service.

In dreary cantinas where men like him gather, he sings as one who knows the pain of being separated for days from his children. In April, he and his wife, Rebecca, were apprehended for the first time at a Pacoima mail order company where they had worked more than four years.

They were among the hundreds of undocumented aliens deported in "Operation Jobs," a week of factory raids designed to remove illegals from jobs that could be held by unemployed U.S. citizens and legal residents.

Aurelio and Rebecca eventually got their jobs back, as did most workers seized at their plant. But for the Nortés, the cost was especially high. Aurelio was separated from his wife and six children for 16 days, during which time he made seven unsuccessful attempts to recross the border from Mexico. Rebecca returned home 10 days later on her fourth attempt.

"SUFFERED THE MOST"

"Of all the people arrested in the raid, we suffered the most," Aurelio said. "We suffered physically, we suffered spiritually."

Aurelio, 42, has squared, weathered features that make him appear older. His voice is coarse, restrained and proud. He brought his family to this country more than four years ago to escape poverty in his native state of Durango.

Rebecca, 40 has smooth, gentle features. In her voice you can hear the twang of northern Mexico. Her eyes reflect the sound of humiliation in her husband's voice.

"You feel bad, you feel bound, you feel very small," Aurelio said, recalling how he felt when immigration agents entered the plant. A female immigration agent, he said, questioned and then handcuffed him, which he found especially embarrassing.

"I was afraid, I was shaking, I saw the rest of the people hiding. I ran to hide," Rebecca said, recalling her thoughts as the raid began.

"They searched for us as if we were inhuman," Aurelio said of the way the agents pushed over boxes and packages to get at workers who hid. "And when they put us in the van, one of the agents said—'Boys, yell Viva La Migra! He was laughing, inflaming us, acting like a big shot.'"

"I didn't say anything when he did that, I just thought, my God, how things turn out.

I was, as they say, crying inside, because I left my children at home, alone."

Fortunately, their 18-year-old daughter Marisela was not picked up in the raid. She was on her break at a corner food stand when the agents arrived. Her friends at work told Marisela that her parents had been taken, and then took her home.

"They broke out crying all once," Marisela said, after she told her three sisters and three brothers—the youngest 6 years old—and what had happened.

"And me without money and food," she said. "It seemed pretty hard, pretty ugly. I had to stop working to stay home with sisters and brothers."

But an uncle, friends from work, and members of the Hermandad de Trabajadores Mexicanos in Pacoima (Brotherhood of Mexico Workers), a group acting as a liaison between undocumented aliens and labor unions, brought the children food and money while their parents were gone.

Although the children were safe, Rebecca and Aurelio had no way of knowing that.

They were arrested in different parts of the plant and the immigration agents did not find out that they were married. And they did not volunteer that fact, Aurelio said, since those apprehended try to withhold details about themselves to avoid being identified by immigration authorities.

Positive identification of a person deported several times can prevent that person from legally emigrating later, said an agency spokesman. It can also mean fines and a jail sentence if a person were caught and identified several times.

HELD SEPARATELY

Aurelio and Rebecca were first separated when they were led into different vans that transported them to section B-17, the temporary holding facility in the basement of the Federal Building in downtown Los Angeles. Men and Women were taken to different rooms in the building.

Before being questioned, Aurelio considered asking for a hearing to appeal deportation. But he said he began to have second thoughts when an agent threatened to detain him for three months and set his bail at \$5,000.

Seeing his wife through a darkened window as she walked into a room with those who agreed to voluntary departure helped him make up his mind.

The possibility of his being detained and of Rebecca struggling to cross the border could mean that his children would be left by themselves for weeks, he said.

Aurelio signed the voluntary departure form, as had Rebecca.

"My back was to the wall. Anyway, God willing, I'll go to Tijuana, leave and in three days I'll be back," he said to himself.

That night, he began his ride back to Mexico in a bus filled with men like himself. He arrived without sleep in San Luis Rio Colorado in the state of Sonora about 4:30 a.m. and, figuring that Rebecca had been sent to Tijuana, he boarded the next bus for there.

However, Rebecca arrived in San Luis one hour later. Luckily she decided to stick with her female workmates as they headed back to Tijuana.

Aurelio called home when he got to Tijuana. But when he tried to ask where Rebecca was and to say where he was staying, "Tears poured down my face, and the children let out crying, begging me to come home," he said in a coarse whisper.

Late that afternoon, Rebecca called home, receiving word of where Aurelio was wait-

ing. She walked into the poorly lit market and saw her husband leaning against the counter with his back facing her she said.

"We met, we talked, we lamented, and then we telephoned the family," he said. "Then we began thinking about how to get back."

He and his wife had hidden \$220 between them in the heels of their shoes, which they would use to survive if they were ever deported and to pay a coyote to smuggle them across the border.

In the week that followed, the couple and three other friends from work made several aborted attempts to cross the border. Their first try began with a pollero, a person who guides people past the border fence to a coyote waiting to take them to Los Angeles.

ARRIVED NEAR FENCE

After meeting their guide outside their hotel early one evening, they rode a bus to the border, arriving near the fence while there still was light.

"You have to get to the line early," Aurelio said, "because once it gets dark, you have to watch out for the *judiciales* (plainclothes Mexican police). They're more dangerous than immigration (border patrol)."

"They take all your money and beat you, and accuse you of trafficking in marijuana. They do this to scare people. If you try to talk . . . for your rights, God help you."

They walked under the fence through a dry canal just north of the Playas de Tijuana and hid behind a large tree waiting for the dark.

Late that night, the group began crawling through the brush and through mud. Border patrolmen in a Jeep were parked not far off.

They were almost spotted near a dirt road "when the mosquito, the helicopter, passed over," Aurelio said. "Our guide told us to take care, get under the weeds, and don't look up because they'll see your eyes shine."

"About three kilometers ahead, there were some men on these three-wheeled motorbikes," he said. "There were about eight of them and they were getting some people."

He said they were spotted but the border patrolmen were too busy to give chase as the Nortés and their party ran into a muddy area where the motorbikes could not follow.

"It was then that they (border patrolmen) called the men on horses," Aurelio said.

When mounted patrolmen caught up with them, he said, "they made their horses lunge at us, yelling, 'move, quick.' One of the horses stepped on my friend's foot. They told us to run, faster, faster. They thought my wife was a man, because of the way she was dressed. I felt bad because of the way they treated her."

Eventually, after Rebecca had run a few miles, the patrolmen noticed she was a woman and they let them walk, Aurelio said.

Their group was then picked up by a van and taken to the *corralon* (the big holding pen) in Chula Vista. They had to sleep on the detention center's cold concrete floors before being returned to Tijuana.

ANOTHER CYCLE STARTS

The ride back to the border began another cycle.

"You had bad luck today," the border patrol driver told them as they got off. "Tomorrow you'll have another chance." Aurelio said the driver said this with cold blood. "They always try to make you feel small," he said. "They tossed us across the line like throwing a soccer ball" into a field.

Three attempts later, Rebecca crossed using a local passport (good only for work in the San Diego area) brought to her by her brother. The passport could get her across the border, but not beyond the border patrol check point in San Clemente.

She made her way back by hiring a coyote who took 12 hours to drive her home, she said.

"I felt better then," after speaking to Rebecca on the telephone, "but I still was sick," Aurelio said.

In the course of another unsuccessful attempt to cross over, Aurelio was pulled out of a restaurant by plainclothes Mexican police in Tijuana and forced to pay a bribe, he said.

He also lost his 1973 Lincoln for two months and had to pay \$368 in towing charges and border patrol fines when his brother-in-law used the car to try to drive him home. On this, his sixth attempt, they were stopped at San Clemente by the border patrol, and it was back to square one again.

After yet another failed attempt, in which he was caught by the border patrol trying to walk around San Clemente by way of the beach, the bus driver taking them to Chula Vista made his passengers an offer.

"He told us if we behaved, if we were quiet, he would take us direct to Tijuana," thus avoiding a few hours of hard sleep on a concrete floor.

Two days later, while Aurelio was suffering from a fever, an elderly man walked five of them across the border near the Tijuana airport, he said. They were picked up at a K-Mart in San Ysidro by a young woman in a station wagon and driven past the San Clemente check point to Los Angeles without being stopped.

"On Saturday I got back and on Monday I started working again," he said.

"I would have kept trying until death," he said. "My kids are in school here, they are learning English, and I have four years seniority at my job. In Mexico you cannot support a family, you suffer too much. That's why we live outside our own country."

"I'm an illegal, but I'm not a criminal, a murderer," Aurelio said. "We are simply workers, and we don't take away anyone's bread. What we earn, we earn with our own effort."

[From the San Francisco Chronicle, May 6, 1982]

S.F. PROTESTERS BLAST ALIEN RAIDS, CHARGE RACISM

(By Katy Butler)

A bitter wave of protest mounted yesterday—Mexican independence day—against the federal immigration agency's week of raids on undocumented alien workers.

About 400 people chanted and marched outside the office of the Immigration and Naturalization Service in San Francisco, waving flags and signs with messages such as "Sweep up the Reagan administration" and "Who is the real alien, pilgrim?"

The raids netted 5500 permitless workers across the country, and sparked protests and denunciations from activists, politicians and employers.

"I think the raids are disgusting," said a 30-year-old San Francisco city health worker of Mexican ancestry. He would not give his name because of restrictions on political activity by government workers.

"There is selective enforcement of the laws against these people just because they're brown," he said. "This was Mexico once and there were no borders then. Traveling will continue."

He called the raids "a scapegoat plan to take attention away from Reagan's poor economic policies."

Meanwhile, several employers who lost workers in the raids said yesterday that some of those picked up, who turned out to have the residency permits called "green cards," and others who had since applied for the cards, had all returned to work. But replacement workers have been quitting the tough, dirty jobs in droves.

"They've been dropping like flies, six or seven a day," said Nickie Becker, office manager of Petaluma Poultry Processors, which has gone through about 30 replacements so far for the 18 chicken slaughterers taken by the INS last week. "It's chaos and it's been very costly."

Susie Souza, a bookkeeper for the Point St. George Fishery in Santa Rosa, said nearly a dozen of the company's 53 detained workers were back on the job or expected soon.

One family of four obtained green cards, Souza said, and another five had applications pending. One worker caught in the dragnet held residence papers and has returned to work, and another woman, who had an application pending, was shipped to Mexico by the INS and is expected back once her permit comes through.

"We've filled all the jobs, but a lot have quit already because they don't like the work," Souza said.

Mayor Dianne Feinstein yesterday strongly attacked the raids and a U.S. attorney's investigation of the residence status of people seeking bilingual voting information.

She said the immigration raids reminded her of the Japanese internments of World War II and the anti-communist McCarthy era of the 1950s.

"People have been taken from their homes and places of employment and put in facilities over things that happened years ago and 'phoom'—they're gone," Feinstein said. "This represents a day in history I thought we were long past."

In Sacramento, at a small Cinco de Mayo rally outside the federal building, Mario Obledo, the former state health secretary who is seeking the Democratic nomination for governor, called the INS actions "Nazi-type" measures undertaken by "terrorists."

The raids netted 5500 undocumented alien workers and their family members across the country last week, including 800 in California and 467 in the Bay Area. Many of those apprehended are fighting deportation.

David Ilchert, director of the U.S. Immigration and Naturalization Service in San Francisco, said yesterday that of the 435 employed undocumented aliens grabbed in the Bay Area, 37 were earning \$7.25 an hour or more, 154 were earning \$5.25 to \$7.24, 229 were making \$3.25 to \$5.24 and 15 were making \$3.25 or less.

"Five or six" people detained had green cards but were not carrying them, he said. They were released after providing the documents, which he said permanent resident aliens are required to carry. "We made no mistakes," said Ilchert.

"A lot of activist groups claim the raids were racist," he said. "My answer is, as a practical matter, 80 percent of those apprehended without documents at job sites in California are Mexican or Hispanic. It's a fact of life."

Mr. BOSCHWITZ. I wish to add my congratulations to the congratulations of others for the work the Senator has done on this bill.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. Mr. President, if we are voting on this Tuesday, I shall ask for the yeas and nays now. Shall I?

Mr. SIMPSON. The Senator may, although that is part of the unanimous-consent agreement that there will be rollcalls. You may ask for the yeas and nays.

Mr. HAYAKAWA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator wish to yield back the remainder of this time?

Mr. SIMPSON. I yield back the remainder of my time.

The PRESIDING OFFICER. The rollcall will be put off until Tuesday.

Mr. BOSCHWITZ. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BOSCHWITZ. Are all rollcalls going over until Tuesday?

The PRESIDING OFFICER. Only on S. 2222, the pending legislation.

Mr. BOSCHWITZ. I thank the Chair.

The PRESIDING OFFICER. Other legislation will be discussed Monday. There has been no deferral of rollcall votes.

Mr. BOSCHWITZ. I thank the Chair.

AMENDMENT NO. 1908

(Purpose: To require a properly executed warrant before an officer or employee of the Immigration and Naturalization Service may enter a farm or other agricultural operation)

Mr. HAYAKAWA. Mr. President, I call up amendment 1908.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an amendment numbered 1908.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in section 111, add the following:

(c) Section 287 (8 U.S.C. 1357) is amended by adding at the end thereof the following:

"(d) Notwithstanding any other provision of this section, other than paragraph (3) subsection (a), an officer or employee of the Service may not enter onto the premises of a farm or other agricultural operation without a properly executed warrant."

Mr. HAYAKAWA. Mr. President, I ask my listeners today to imagine themselves members of the Immigration and Naturalization Service patrol looking for illegal aliens in agricultural country, let us say Guadalupe,

Calif. As they go along the road, they see a farm over here with a number of brown-skinned men stooped over gathering cauliflower or strawberries or whatever the crop may be, and they look like Mexicans.

They say to themselves, "By God, they must be illegal Mexicans—they must be illegal aliens."

So they charge onto the field and grab whomever they can. They charge on there in trucks, in four-wheel drive vehicles, on horseback. In doing so, they not only frighten those workers to death but they also destroy the crops. If it is cauliflower, they destroy the cauliflower; if it is strawberries, they crush the strawberries.

Now according to the rules by which the INS works, they have to have a search warrant if they are looking for illegal aliens working in a hotel or a motel or a restaurant, but if they are looking for illegal aliens in an open field on a farm or in an orchard, they do not have to have a search warrant.

My amendment No. 1908 will require that the Immigration and Naturalization Service, in their search for illegal aliens, must have a search warrant if they are going to search or invade the premises of a farm or an orchard with no fence around it, an open field. They have to treat that as private property in the same way they treat a Holiday Inn as private property or in the same way they treat a McDonald's restaurant as private property. In the latter cases, they would have to have a search warrant to go in and look to see who is working in the kitchen.

But in farms, they do not have to do that. In so doing, they violate the civil liberties of the workers out in those fields. It is a very serious matter, Mr. President. Supposing they grab all those people and find out, first of all, that not all of them are Mexicans. Many of them may very well be American citizens of Mexican descent. Some of them are Filipinos or Japanese, but they have been out in the sun so long, they all look the same color as the Mexicans, anyway.

Others are here on green cards, legitimately, and some may very well be illegal aliens, but you do not know. You round up the whole bunch.

Whether they are illegal or not, you disrupt the operation of that farm, you scare them to death, and you cannot get the harvesting operation going again the next day, or the day after, because so many of the workers are scared to death to come back to work, including those who are citizens of the United States.

My amendment, Mr. President, will insist that, in order to raid a farm or open space or unfenced area in which there are workers, the INS will have to have a search warrant, just the same as they do in order to raid, let us say, a factory, a manufacturing plant, a hotel, a restaurant, or a walled en-

closure or building. This seems to me to be a simple matter of the application of the fourth amendment, and that is, protection from unreasonable search and seizure.

Mr. President, this amendment would require that agents of the Immigration and Naturalization Service obtain a search warrant prior to entering a farm or ranch for purposes of interrogating suspected illegal aliens. This amendment places before the Senate a simple question: Should the fourth amendment of the Constitution apply to the farms and ranches of this Nation? To me the answer is a simple Yes. The INS operates today with a glaring double standard. While required to obtain a search warrant to enter a factory or restaurant, they can enter the private property of a farmer without justification or prior discussion with the owner.

Farmers are denied the basic right which is guaranteed under the fourth amendment—protection from unreasonable search and seizure. My amendment will remedy this situation and provide farmers and farmworkers the protections inherent in the Constitution. I urge my colleagues to consider carefully the current operations of the INS and examine the merits of my proposal. Immigration Service statistics show us that 8 percent of the illegal aliens employed in the United States are working in agriculture. However, almost 50 percent of the undocumented alien workers apprehended are agriculture workers.

These statistics reflect a bias in the enforcement activities of the INS. They demonstrate that the INS is selectively enforcing the law by going to the industry where it is the simplest and most cost-effective to carry out the law. This must be changed.

The border patrol argues that because agricultural lands are "open fields," they are beyond the scope of protection of the fourth amendment. Their agents need not obtain consent, a search warrant, or show probable cause that some criminal activity is occurring prior to entering a farmer's fields. In short, border patrol agents enter agricultural land at will to search for undocumented workers.

However, unlike traditional "open field" cases where law enforcement officers see the so-called "fruit of the crime," the only thing the border patrol witnesses are human beings working in the field. It is not until the INS agents enter the field that an illegal versus legal status can be determined.

My amendment does not establish any special protection for farmers it merely guarantees them the same rights and protections enjoyed by every other employer in the Nation. Likewise, the agricultural workers will be protected from the antagonism of impulsive interrogation by the INS.

Harassment of agricultural employers and employees has gone on for years—agriculture is an easy target. Fieldworkers are easy prey. Yet I must ask: Does the fact that they are relatively easy to locate justify the violation of their constitutional rights? Does the phrase "equal protection under the law" not apply to the farmers and farmworkers of this Nation?

I am embarrassed that this legislation is needed. Our system has failed an important sector of our society; we must take action now. The guarantee of the fourth amendment is basic to the free functioning of our Nation, our economy, and our people.

Before closing, I would like to return to the existence of a double standard in INS enforcement practices. Last month, the Ninth Circuit Court of Appeals issued a decision which clearly widens the gap in fourth amendment protections between factory and fieldworkers. The court reviewed the question of whether citizenship status questioning is constitutionally valid when based upon suspicion of alienage alone. Their determination was that suspicion of alienage alone is insufficient. The court stated that: "The fourth amendment requires an individualized suspicion of illegal alienage of those subject to detentive questioning." The court went on to state: "We feel the fourth amendment rights of workers would be impermissibly diminished were we to sanction the unconstrained use of warrantless, detentive questioning * * *"

I am heartened by the Ninth Circuit Court and their belief in the rights of individuals in our society, rights we all enjoy regardless of the color of our skin.

I trust my colleagues would endorse the court's declaration that:

The apparent Hispanic ancestry of one sought for questioning, while possibly relevant, is insufficient, even if noticed in conjunction with the knowledge of the presence of a person in an area known to contain a high concentration of illegal aliens.

Mr. President, this amendment has the support of the League of United Latin American Citizens, known in California as LULAC, the Mexican-American Legal Defense Fund, and the major agricultural organizations of the country.

Mr. President, this amendment to our Nation's immigration laws, simply, is greatly needed as a matter of protection of our civil rights.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. HAYAKAWA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I compliment the Senator from California again for this amendment also. I can tell him that I have seen exactly those things happen.

I recall that I had a good friend who lived right next door, literally, to where I was living. He was arrested one day with a group of workers, of which about half of them were American citizens, were legal in this country, anyway, and half were not. He spent a good part of the day in the sheriff's office.

I asked him, "Why didn't you say something? Why didn't you speak up and tell them?" Well, he was scared, literally, as the Senator points out. When this happens, it is enormously disruptive.

In Stockton, Calif., where the Senator is well aware, they harvest a big cherry crop and they have about 10 days to harvest those cherries. When the disruption takes place it becomes enormously difficult for people to get a crew back into the field, just because of the fear of this thing.

I think it would certainly be a protection that would be helpful to the civil rights of the American people if search warrants were required to go onto the farms.

I have heard stories told of the Immigration Service driving out across the fields, damaging sprinkler pipes, running over crops, potato crops, that are growing, and so forth. It is just one example after another of abuses, I think, that take place.

Mr. President, I have to say to the people in the Immigration Service that they have a tough job. I do not envy them for it. It is very difficult for them to try to get the arrests made, and so forth.

This would be consistent, I think, with policy that is acceptable in this country and the protection of the human rights of the citizens of this country who may be Hispanic by their historic birthright that are going to be abused if this is not part of this bill. They are being abused now and I think we should correct it now.

So I am in strong support of this.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. Mr. President, I am pleased to join in cosponsoring the amendment offered by my friend and colleague from California, Senator HAYAKAWA, which will require INS to obtain search warrants before entering onto the private property of farmers, growers and other citizens.

The objective of the amendment is to stop open-field raids by INS that disrupt farming operations and harass many people.

Raids on farm fields are a form of summary punishment inflicted by INS agents on farmers and their employees. Raids can cost thousands of dollars in lost and damaged crops and in lost wages.

S. 2222 should make raids by INS an exercise of the past.

The response of Alan Nelson, Commissioner of Immigration, to Senator SIMPSON, appearing in Wednesday's RECORD seems to overlook the fact that our amendment will be part of S. 2222.

If S. 2222 becomes law, farmers and growers will be violating the law if they hire unauthorized workers. That is not now the case.

California farmers will comply with the law.

In addition, INS will have ample opportunity to check farmers' records to see to it that they are following the law.

Thus, there is no need for the element of surprise inherent in a warrantless raid on open fields.

What is necessary is to amend the bill as proposed by Senator HAYAKAWA to put an end to the spectacle of INS agents chasing workers through open fields by truck, helicopter, and on foot as if they were merely so many animals to be hunted down instead of men and women—and, sometimes, children.

I congratulate my colleague for his proposal. I express again my admiration for his sincere commitment to securing and preserving values of human dignity.

I urge my colleagues to support Senator HAYAKAWA's amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I oppose the amendment. The purpose of S. 2222 is to improve control over illegal immigration, and increased enforcement is the key element of that. This amendment would defeat that purpose by greatly diminishing the ability of the INS to enforce immigration laws in the very occupations and industries which are dominated by an illegal labor force.

The current law provides for the arrest without warrant of aliens who, in the officer's presence or view, are reasonably believed to be in violation of the immigration laws. This amendment would reverse a tremendous reservoir of case law holding that the protections of the fourth amendment—pertaining to unreasonable searches and seizures—extend to people not places and that special protection according to people is not extended to open fields.

That represents a considerable body of case law which has never been overturned.

This amendment would extend fourth amendment protections beyond

what the U.S. Supreme Court has determined the Constitution requires.

This amendment would very effectively end all Immigration and Naturalization Service farm and ranch check enforcement programs.

The INS estimates that 4 to 6 hours would be needed to process a routine warrant, including travel between the site and the U.S. Attorney's office, clerical requirements to complete the warrant and the supporting documents, and approval by the magistrate. Resources are simply not available for this type of operation.

In addition, agricultural work crews are extremely mobile, moving rapidly from field to field and farm to farm, and by the time a valid warrant is secured the crews will frequently have moved to another location rendering invalid any kind of warrant.

I cannot help but see that countless resources will be wasted by countless attempts to rewrite warrants under these continually changing conditions.

Let me ask unanimous consent to have printed in the RECORD at this point a letter from the Commissioner of Immigration and Naturalization Service dated August 10, 1982, describing this amendment and its impact upon the efforts of law enforcement by the INS.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE, IMMIGRATION AND NATURALIZATION SERVICE,

Washington, D.C., August 10, 1982.

HON. ALAN K. SIMPSON,
Chairman, Subcommittee on Immigration and Refugee Policy, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of August 4, 1982 regarding the amendment proposed by Senator Hayakawa to S. 2222, the Immigration Reform and Control Act of 1982, that would forbid an officer or employee of the Immigration and Naturalization Service to enter on the premises of a farm or other agricultural operation without "a properly executed warrant".

Set forth below are specific responses to the questions you raised concerning the anticipated impact on Service enforcement efforts should that amendment be adopted.

1. Section 287(a)(2) of the Immigration and Nationality Act grants Immigration Officers the authority, without a warrant, to arrest aliens who in the officer's presence or view are attempting to enter the United States in violation of the immigration laws, or are reasonably believed to be in the United States in violation of the immigration laws.

Farm and ranch operations normally are conducted in open areas providing unrestricted avenues of escape to individuals wishing to evade the detection of immigration officers. It was the intent of present statutes in such circumstances to enable Service officers to apprehend aliens who are in their presence or sight and who are in violation of the immigration laws before they are able to abscond.

The circumstance of violations occurring in plain view is, of course, not normally present in factory situations where employees usually are enclosed within a confined area and not observed. Moreover, in such situations, if owner consent is sought and refused, exists may be monitored by Service officers while a search warrant is sought, to prevent aliens from absconding.

2. (a) The special problems associated with obtaining a warrant to search agricultural lands arise from the practiced difficulties in obtaining a warrant in time to respond to an observed violation. Present standards require a "particularized description" of the location to be searched, as well as of the evidence or person to be sought. The probable cause necessary to support these standards, in most cases, necessitates between four and six hours to process a routine warrant. This includes travel between the site to be searched and the U.S. Attorney's office, clerical requirements to complete the warrant and supporting documents, approval by a magistrate, etc.

Agricultural work crews, who are usually in the employ of a labor contractor under contract to several farms are extremely mobile moving rapidly from field to field and farm to farm. By the time a valid warrant could be secured, these crews likely will have moved to another location, rendering the warrant invalid. Countless resources would be wasted by repeated attempts to re-write warrants under constantly changing conditions.

(b) Regarding the proposal to obtain consent of the owner or agent, it is presently Service policy for officers, whenever possible, to inform the owner of their presence when entering on private lands. However, where the owner is not available or not known, as frequently is the case when farm land is leased or sublet, it is often difficult to locate the individual with legal control over the land. By the time such notification could be sought and secured, the aliens likely will have been alerted to the presence of immigration officers and will have departed.

Furthermore, if the receipt of consent were mandated by legislation, it is unlikely that such consent would ever be granted by an owner with the knowledge that the alternative for the Service is a search warrant which probably could not be effectively executed.

3. The authority of immigration officers to enter onto open lands without a warrant or consent to enforce the immigration laws is based on Section 287(a)(2) of the Immigration and Nationality Act which provides for the arrest without warrant of aliens who, in the officer's presence or view, are reasonably believed to be in violation of the immigration laws.

Furthermore, it is a well-settled law that the Fourth Amendment does not bar entry onto so-called "open fields" by a law enforcement officer in the performance of his official duties. The term "open fields" has been interpreted to include private lands but not including dwelling or the immediately surrounding area. (See *Hester v. U.S.*, 265 U.S. 57 (1924)).

In *Katz v. U.S.*, 389 U.S. 347 (1967) the Supreme Court determined that "the Fourth Amendment protects people, not places." In *Hester*, the court decided that the special protection accorded to people by the Fourth Amendment is not extended to the open fields. Passage of the proposed amendments would extend procedural requirements well beyond what the Supreme Court has deter-

mined the Constitution requires to protect the people from unreasonable searches.

4. Consistent with outstanding case law, the dwellings and curtilage (an area of domestic use immediately surrounding a dwelling) on agricultural premises may not be entered by Service officers without consent or a valid search warrant.

5. The present proposed amendments apparently would not affect INS authority within 25 miles of the border. ("Notwithstanding any other provision of this section other than paragraph (3) subsection (4) . . .")

6. The proposed amendment, if passed, would definitely adversely affect the ability of the Immigration and Naturalization Service, particularly the Border Patrol, to enforce the immigration laws. Farm and Ranch operations presently account for the apprehension of approximately 60,000 employed illegal aliens annually. Passage of the proposed amendment would drastically reduce these apprehensions. Although it is difficult to know the precise extent to which this number would be decreased, the proposed legislation would seriously curtail Farm and Ranch Operations as an effective enforcement tool.

7. Should farm and ranch checks by Service officers be substantially curtailed, there could be serious additional ramifications on the migration of illegal aliens to the interior.

The ineffectiveness of Service Farm and Ranch enforcement resulting from passage of the proposed amendment would tend to create a type of "free zone" for illegal aliens in the agricultural areas of the interior, as it would be extremely difficult or impossible to effect their apprehension and removal. This would tend to stabilize the status of these individuals, which, in turn would encourage them to bring in other family members—spouses, children, etc., in light of the reduced risk of Service detection. Internal migration could be expected to increase resulting in added burdens to American social and educational systems within the rural areas of the interior.

8. The proposed amendment would seriously reduce the Service officers' capability to effectively track and pursue large groups or smuggled aliens or other illegal entrants who are enroute from border areas to interior locations. Presently the INS enters into long-term agreements with landowners outside the 25 mile limit in order to maintain continuity of surveillance and tracking across private lands. The Hayakawa amendment would discourage such agreements and possibly render existing agreements invalid by requiring entry only with a warrant.

Such circumstances would result in smuggling groups traveling virtually unchecked across private lands and into the interior where they would be undetected.

9. The effect of the proposed amendments on Service anti-smuggling activities is in part related to INS officers' ability to track and detect smugglers and smuggling groups across open areas into their interior. If this activity were seriously restricted by warrant or consent requirements, the overall result could be expected to be fewer smuggling groups detected, less smuggling information and intelligence gathered, and fewer smugglers apprehended and prosecuted.

Furthermore, the owners and management personnel of farms or other agricultural related businesses (e.g., labor contractors) are, in some cases, principals in felony investigations involving alien smuggling, harboring, and transporting. It would be vir-

tually impossible to effectively implicate such individuals if the consent or warrant requirements were legislated.

10. The proposed amendment could be anticipated to have a definite adverse effect on the enforcement of employer sanctions provisions in agricultural areas. Because warrants would be rendered ineffective [No. 2(a)] and consent would infrequently be granted, it would be impossible to effect the apprehension of illegal aliens employed in these areas. Cases against notorious employers of illegal aliens would be difficult, effectively placing these employers outside the range of sanctions enforcement.

11. The INS does not selectively enforce the immigration laws with regard to agricultural areas. In support of his amendment, Senator Hayakawa has cited a statistic that almost 50 percent of undocumented alien workers apprehended by INS are in agriculture. Actually, of the approximately one million Service apprehensions annually (953,475 in fiscal year 1981) only 8 percent are located in agricultural occupations.

Of the one million illegal aliens apprehended yearly by Service officers, approximately 168,000 (in fiscal year 1981) are located after they have entered the United States and secured employment. Half of these employed aliens are located in agriculture, including almost 60,000 which are apprehended as a result of Farm and Ranch checks.

It should be remembered however, that Farm and Ranch Operations are conducted by the Border Patrol which represents this Agency's greatest enforcement presence, with jurisdiction predominantly in agricultural areas along the Southern and Northern borders of the United States. It is not unreasonable to expect that of the number of employed aliens apprehended by the Border Patrol, the majority would be working in agricultural occupations.

The Immigration and Naturalization Service maintains that a more accurate reflection of Service resource allocation for enforcement in agricultural areas is the percentage of actual enforcement time devoted to such activity rather than the apprehensions which result. The overall percentage of INS field enforcement man-hours devoted solely to effect the apprehension of illegal aliens in agricultural occupations in fiscal year 1981 was 2.0 percent.

In conclusion, it is our opinion that the hyper-technical requirements mandated by the Hayakawa amendment would have a definite adverse impact on the enforcement capabilities of INS and, in essence, would be antagonistic to the basic thrust of S. 2222—which is to control illegal immigration into this country.

Please do not hesitate to contact me if I can provide further information on this matter. And congratulations on your success in bringing this important legislation to the floor of the Senate.

Sincerely,

ALAN C. NELSON,
Commissioner.

Mr. SIMPSON. Let me say in conclusion that there was commentary during the early effort of the Senator from California on this issue that the INS was selectively enforcing the laws. The Senator cited a statistic that almost 50 percent of undocumented alien workers apprehended by the INS are in agriculture.

Actually, in terms of the record, there are approximately 1 million apprehensions annually 953,475 in fiscal year 1981, and only 8 percent were located in agricultural occupations. Of the 1 million illegal aliens apprehended yearly by the Service, approximately 168,000 are located after they entered the United States and secured employment, and half of those are located in agriculture, including almost 60,000 which are apprehended as a result of farm and ranch checks.

The most significant thing, to put it in perspective, is that a more accurate reflection of the Service's resources and allocations on this issue of enforcement in agricultural areas is the percentage of actual enforcement time devoted to that kind of activity, rather than as to the apprehensions within that area. The overall percentage of INS field enforcement man-hours devoted solely to apprehensions of illegal aliens in agricultural occupations in fiscal year 1981 was 2 percent.

I think those are rather significant figures. If this amendment were to pass, what we would effectively have is a free zone for illegal aliens in the United States of America, known for the lack of any appreciable enforcement or apprehensions. In other words, this amendment would create a type of free zone for illegal aliens in the agricultural areas of the interior of our Nation, making it extremely difficult or impossible to effect their apprehension or their removal.

I think such an amendment would also perpetuate the status quo for these illegal immigrants. They are going to stay there. They will, in turn, be encouraged to bring in their family members, their spouses, their children, in light of the reduced risk of detection in these zones. I think illegal migration in the interior of the United States could be expected to increase.

Those are some of the reasons. The rest of the reasons are very clearly set out in the letter from the Commissioner of the Immigration and Naturalization Service.

Mr. President, for those reasons, I urge defeat of the amendment.

The PRESIDING OFFICER. The Senator from California.

Mr. HAYAKAWA. I am ready to yield back the remainder of my time.

The PRESIDING OFFICER. There has been no allocation of time.

Mr. SIMPSON. I believe we have a unanimous-consent request that on the next amendment we have 30 minutes equally divided as a time limitation. I ask unanimous consent that that be the limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Would the Senator from California be agreeable to laying the pending amendment aside for the consideration of another amendment?

Mr. HAYAKAWA. I have two more amendments to offer.

The PRESIDING OFFICER. The Senator will have to dispose of the pending amendment before we proceed to another amendment. The Chair would suggest that the Senator ask unanimous consent that the pending amendment be set aside.

Mr. HAYAKAWA. First of all, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, a vote on the amendment will take place after 9 a.m. on Tuesday.

Without objection, the pending amendment will be set aside. The Senator can offer another amendment.

AMENDMENT NO 2019

(Purpose: To express the sense of the Congress that English be declared the official language of the United States)

Mr. HAYAKAWA. Mr. President, I call up amendment No. 2019 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an amendment numbered 2019.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment of dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

TITLE V—SENSE OF THE CONGRESS

SEC. 501. It is the sense of the Congress that—

(1) the English language is the official language of the United States, and

(2) no language other than the English language is recognized as the official language of the United States.

Mr. HAYAKAWA. Mr. President, this amendment declares that it is the sense of the Congress that the English language is the official language of the United States and that no language other than the English language is recognized as the official language of the United States.

I would like to add as cosponsors Senator LAXALT and Senator DENTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Language is a unifying instrument which binds people together. When people speak one language they become as one, they become a society.

In the Book of Genesis, it says when the Lord saw that mankind spoke one universal language. He said, "Behold, they are one people, and they all have the same language * * * and nothing which they propose to do will be impossible for them."

If you will recall the Bible story, God destroyed this power by giving mankind many languages rather than the one. So you had the proliferation of language breaking up human pride and, therefore, human power.

But there are more recent political lessons to be drawn on the subject of language when you think that right here in this U.S. Senate and the Congress we have descendants of speakers of at least 250 to 350 languages. If you go back to the grandparents of just the Members of Congress, you have speakers of, I would say, at least 350 languages. But we meet here as speakers of one language. We may disagree when we argue, but at least we understand each other when we argue. Because we can argue with each other, we can also come to agreements and we can create societies. That is how societies work.

Take in contrast to this the situation in, for example, Belgium, where a small country is sharply divided because half of the population speaks French and the other half speak Flemish. Those who speak Flemish do not like the people who speak French and those who speak French do not want to speak Flemish.

Think of Canada, just to the north of us, where the French-speaking people feel paranoid about the fact that they are a minority and feel that they are being picked upon and abused by the English-speaking majority.

Think about Ceylon, right now, of course, known as Sri Lanka. Sri Lanka is sharply divided right to this day because the speakers of Sinhalese, which is the language of Sri Lanka, and the speakers of Tamil, which is the language of India. A number of people moved from India into Sri Lanka, and they created a language bloc thus the two are fighting each other.

Think of the recent history of India. Between 1957 and 1968, something like 1 million people were killed in what were essentially language riots. They were riots about other things as well, about cultural differences, but essentially those cultural differences could not be resolved because there were a hundred languages there dividing those people. So they could not understand each other and they could not come to the resolutions we arrive at daily in a Chamber like this or in the House of Representatives.

So, Mr. President, the fact that we have a common language, one language, is one of the most important things we have tying us together. Now we live in a time of unprecedented immigration. Not only speakers of Spanish, but speakers of Cantonese, speakers of Thai, speakers of Vietnamese, speakers of a variety of European languages, speakers of Mandarin—they are coming from all over the world and joining us in our society.

From the Philippines, we have speakers of Tagalog and other Filipino languages. Somehow or other, within a generation or two, we have to get them all together, talking to each other, electing each other to city councils, doing business with each other, buying and selling from each other, creating governments, creating societies. We can only have this unified society if we ultimately agree on a common language.

This is not to say, Mr. President, that I oppose the study of other languages. We are very backward as a nation in our study of other languages. I think more of us should study Spanish. I am very proud of the fact that two of my children speak Spanish very well. I do not. One of them speaks Japanese, too. I do not.

I have told my students for many, many years, in the coming world that they will grow up in, certain languages are going to be important in world history that they will have to know. They ought to choose, as we go into the 21st century, at least one of these languages—Spanish, Russian, Chinese, Japanese, or Arabic. There are very few of my students who ever bothered studying any one of these languages. We are very poor at languages because we are linguistically provincial. Nothing I say in this amendment encouraging the use of an official language in the United States is intended to discourage the study of all languages around the world so we, in business and diplomacy, will be better represented around the world.

Mr. President, when you think there are 20,000 Japanese businessmen in New York speaking English and about 2,000 American businessmen in Tokyo not able to speak Japanese, you can see why there is a trade imbalance between Japan and the United States. I say in all seriousness, we ought to be linguistically more sophisticated than we are. At the same time, I believe we should unite as speakers of English insofar as we have a society in common.

Mr. President, the United States, a land of immigrants from every corner of the world, has been strengthened and unified because its newcomers have historically chosen ultimately to forgo their native language for the English language. We have all benefited from the sharing of ideas, of cultures and beliefs, made possible by a common language. We have all enriched each other.

The Italians are better for having lived next door to the Jews; the Jews are better for having socialized with the Chinese; the Chinese are better for having mixed with the Italians, and so on. All around, we are better Americans because we have all melded our cultures together into this wonderful cultural symphony which is the United States of America.

There are those who want separatism, who want bilingual balance, who want bilingual education. I am all in favor of bilingual education only insofar as it accelerates the learning of English. I do not believe that the taxpayer should be taxed to promote an enclave of speakers of Yiddish, speakers of Japanese, speakers of Spanish, speakers of Bulgarian, speakers of Russian, of Tibetan, or any other language. Essentially, the taxpayers' responsibility is to see to it that we all speak English together no matter where we come from. That cultural unity which we ultimately achieve—that is the United States.

If you think of the culture that we have, you think, as I said a little earlier, of the melding of cultures right here in Congress. You look at the lineup of any American professional baseball team or football team. You see all foreign names there, all English-speaking, all managing to get along, and you see what a miracle this is. The wonderful thing about the United States is that that kind of cultural intermixing, that cultural melding, is possible.

When you go to other parts of the world, you find to your amazement that China is full of Chinese; that Russia is full of Russians and practically nobody else. Italy is full of Italians and Korea is full of Koreans, and so on around the world. But we are full of people from all parts of the world having learned one language and ultimately having learned to get along with each other to create institutions of a multiracial, multicultural democratic society.

Mr. President, that is what I want to preserve when I say I want an amendment that says the English language shall be the official language of the United States.

I thank the Chair.

Mr. President, I do not know if the distinguished Senator from Wyoming wishes to make a further comment on this subject, but I yield to him.

Mr. SIMPSON. Mr. President, I hope many are aware of the deep feelings—I am sure they are now, after hearing him—of this remarkable linguist and semanticist in our midst, who will be retiring from this body at the end of this session.

When he speaks on issues of ethnicity and racism and English, he brings a very special perspective that is heard by all of us. I share many of the views of the Senator from California on the subject of the English language in this country. I have so indicated within the committee hearings. We have always indicated the importance of English as a unifying force in creating the American identity and the key part of it in relation to our public culture. I do not refer to the private culture, for no one in this Nation should intrude upon the

private culture of the various ethnic groups in this country.

I have been asked often in the course of the debate on the immigration bill, to hold a hearing on the subject of cultural unity, to discover and review and assess the social and cultural impacts of immigration on the United States of America. I can assure the Senator that I intend to hold a hearing on that subject, the discussion of common values and customs, public customs.

One of the witnesses at that hearing will be James Michener, who has asked to testify, and I have known that remarkable gentleman for some 5 years. He was in my home in Wyoming when he was writing his book "Centennial." I visited with him at St. Michaels, and he has shared with me this comment, that "the most serious problem that could confront the United States of America in the future is the issue of biculturalism." He is married to a Nisei, Maura Michener, and to hear them both speak on that issue is a fascinating thing.

So we will have that hearing. In the discussion of immigration, any reference to immigration reform or control turns out, unfortunately, to be a code word for ethnic discrimination. This bill, if it has done nothing else, has tried to avoid that association. It truly is not nativist, not racist, not mean, and for the purpose solely of avoiding any confusion as we discuss it in relation to this, I must oppose this amendment at this time. But I pledge that the hearings will be held on the issue of social and cultural impacts of immigration. The kickoff witness will be Jim Michener, and I am looking forward to that. It should be fascinating. I am sure the country will benefit from it. I thank the Chair and yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? The Senator from California has 2 minutes 47 seconds. The Senator from Wyoming has 10 minutes 36 seconds.

Mr. HAYAKAWA. I yield to the Senator from North Carolina whatever time I have left.

Mr. HELMS. I do not desire time.

Mr. SIMPSON. Is the Senator from North Carolina requesting time on this amendment?

Mr. HELMS. No.

Mr. SIMPSON. I thought not. Therefore, I yield back the remainder of my time.

The PRESIDING OFFICER. If all time is yielded back, the question is on the amendment.

Mr. SIMPSON. The amendment under the previous order will come to a rollcall vote.

The PRESIDING OFFICER. Not unless the yeas and nays are ordered, and they have not been ordered.

Mr. HAYAKAWA. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The rollcall will take place after 10 a.m. on Tuesday. The amendment has been laid aside.

UP AMENDMENT NO. 1238

(Subsequently numbered amendment No. 2024.)

(Purpose: To set forth the policy of the Congress regarding State services to illegal aliens)

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair. I send an unprinted amendment to the desk and ask for its immediate consideration.

Mr. SIMPSON. Mr. President, I think I am correct in stating this unanimous-consent request, that there be 20 minutes on this amendment equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Not at all, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1238.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 162, line 11, strike out "REPORTS TO CONGRESS" and insert in lieu thereof "GENERAL PROVISIONS".

At the bottom of page 166, add the following:

POLICY REGARDING STATE SERVICES TO ILLEGAL ALIENS

SEC. 402. (a) Title I, as amended by section 122, is further amended by adding at the end thereof the following:

"POLICY REGARDING STATE SERVICES TO ILLEGAL ALIENS

"Sec. 108. (a) The Congress finds and declares that—

"(1) the illegal entry and residence of aliens within the United States have occurred in recent years at unprecedented rates and represent a threat to the national security of the United States and a burden on the Federal treasury;

"(2) the illegal entry and residence of aliens within the United States constitute a severe burden upon the States in all aspects of the enforcement of State laws and constitute a particular burden on State treasuries;

"(3) illegal aliens and their dependents do not contribute taxes sufficient to cover the cost of their presence to the States or to the United States;

"(4) insofar as the States provide free public services, especially public education,

to illegal aliens and their dependents, an incentive is created for illegal immigration; and

"(5) it is the policy of the United States to discourage illegal immigration, and Federal and State welfare, educational, and other social policies should accordingly be directed to this end;

"(6) consistent with national immigration policy as made by the Congress, the States should be free to provide or not to provide, in their discretion, free public services, including public education, to illegal aliens and their dependents.

"(b) No State shall be required to provide free public services, including free public education, to illegal aliens and their dependents."

(b) The table of contents for title I is amended by adding after the item relating to section 127 the following new item:

"Sec. 128. Policy regarding State services to illegal aliens."

On page 179, in the table of contents, strike out "TITLE IV—REPORTS TO CONGRESS" and insert in lieu thereof "TITLE IV—GENERAL PROVISIONS".

On page 79, in the table of contents, after the item relating to section 401, add the following new item:

"Sec. 402. Policy regarding State services to illegal aliens."

Mr. HELMS. Mr. President, this amendment seeks to establish a congressional policy to restore the right of the States to provide or not to provide, as they see fit, free public schooling and other benefits to illegal aliens. In a June 1982 case the Supreme Court ruled that in the absence of congressional policy on this matter the Constitution does not allow the States to withhold free public schooling from illegal aliens. I propose by this amendment to provide the congressional policy the Supreme Court said was lacking.

In the case of Plyer against Doe, the Court asserted that a distinction by the States between illegal aliens and legal residents in providing free public schooling was not "rational" under the Court's 14th amendment analysis. The Court, speaking through Justice Brennan said:

Faced with an equal protection challenge respecting the treatment of aliens, we agree that the courts must be attentive to congressional policy; the exercise of congressional power might well affect the State's prerogatives to afford differential treatment to a particular class of aliens. But we are unable to find in the congressional immigration scheme any statement of policy that might weigh significantly in arriving at an equal protection balance concerning the State's authority to deprive these children of an education.

Justice Brennan continued:

[I]n the area of special constitutional sensitivity presented by this case, and in the absence of any contrary indication fairly discernible in the present legislative record, we perceive no national policy that supports the state in denying these children an elementary education.

Mr. President, it is the purpose of my amendments to fill the gap in Federal policy perceived—rightly or

wrongly—by Justice Brennan. The amendment consists of two basic parts. The first part lists congressional findings and declarations to the effect that illegal immigration is a threat to national security and also burdens Federal and State treasuries. It further states that U.S. policy is to discourage illegal immigration and that the States should thus be free to provide or not provide public benefits to illegal aliens in their discretion.

The second part of my amendment reduces these principles to a provision of Federal law. It says: "No State shall be required to provide free public services, including free public education, to illegal aliens and their dependents."

The intent here is to restore the right of the States to withhold public services, if they so choose, consistent—I emphasize this—with Federal immigration law and policy.

Mr. President, I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum. I have not yet received a copy of the amendment.

The PRESIDING OFFICER (Mr. ANDREWS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HAWKINS. Mr. President, I try to take every opportunity to inform my colleagues and the Reagan administration of the immigration problems that plague my State, Florida. By now, I am sure everyone is aware that the 125,000 Cubans that arrived on Florida's shores during the 1980 Mariel boatlift have resulted in tremendous economic and social costs to my State. And that those costs continue to mount 2 years later. The people of Florida feel like they have been abandoned by the Federal Government. They are also concerned that there is nothing to prevent Florida from being overwhelmed again should the leader of a hostile foreign power instigate another emergency.

It was a great disappointment to me when I learned that the immigration bill before us, does not address this fear. As a result, I felt compelled to offer an amendment to S. 2222 that would reassure Florida and other States that could be threatened by hostile foreign leaders. My amendment was based on a simple premise. Foreign policy and defense are solely a Federal responsibility. States are not permitted to conduct their own foreign policies or maintain armies and navies. Hence, when our foreign policy fails communities held hostage by Federal action or inaction, it is the re-

sponsibility of the Federal Government to hold them harmless.

Based on this principle I intend to offer an amendment to reimburse communities devastated by undocumented aliens due to foreign policy blunders. However, I believe that this might complicate swift and final action on this very important piece of legislation. And due to the exceptional consideration of the distinguished Senator from Wyoming, I believe it is no longer necessary. Senator SIMPSON has shown extraordinary understanding and sympathy for the problems facing Florida. I believe that he is committed to addressing many of those problems before the end of this session of Congress.

I have received assurances from my friend from Wyoming that the amendment that I had intended to offer will now be considered when the Senate Immigration Subcommittee holds hearings and markup on the reauthorization of the Refugee Act of 1980. I have spoken with the distinguished chairman of the House Subcommittee on Immigration, Refugees and International Law, RON MAZZOLI. He indicated that though the issue raised by my amendment was not included in the reauthorization of the Refugee Act of 1980, as recently passed by the House, he is sympathetic to its consideration on the bill. I express my gratitude to Chairman MAZZOLI and also my colleague from Florida, Congressman BILL MCCOLLUM, with whom I have been working closely on this issue. Both of these men have dedicated themselves to the critical need to reform our immigration laws. I was particularly impressed to find Chairman MAZZOLI spending much of the day yesterday on the floor of the Senate. There could, I believe, have been no more eloquent statement of the gentleman from Kentucky's concern and commitment to this issue.

Mr. President, I offer special thanks to my friend from Wyoming. He has made every effort to accommodate my concerns regarding this issue. But not only this, Senator SIMPSON has shown great skill, leadership, and determination in bringing this vital legislation to the Senate floor. And I believe he deserves the very highest commendation for his efforts.

Mr. SIMPSON. Mr. President, I am very appreciative of the concern evidenced by the very able Republican Senator from Florida. Her concern has been a continuing one. She has testified before the Senate Subcommittee on Immigration and Refugee Policy and, in addition has made personal representations to me on a number of occasions bringing clearly home to me and my colleagues in the Congress the terrible difficulty caused by the inability of the Federal Government to respond to the Cuban-Haitian influx in Florida from April to October 1980.

She has sincerely and appropriately stated that there is a need both for new legislation and for advanced planning which will prevent such an influx from again incurring and causing such a burdensome impact on the citizens of Florida.

Refugees are a Federal responsibility and it is the Federal Government's duty to protect citizens of the various States, particularly citizens of border States, from sudden inflows of refugees and asylees that impact on the social services of a State and on the quality of life in the United States.

I do want to now assure the Senator from Florida that immediately after the disposal of S. 2222 I shall request the administration to submit to the subcommittee on Immigration its form of emergency legislation which will address all of the issues that she has raised so cogently before this body. The legislation will address Presidential powers to interdict ships coming inappropriately to our shores, prevention of U.S. citizens and permanent residents from assisting those coming to the United States without authorization.

In addition all forms of financial assistance to areas impacted by the refugee emergencies will be covered during our hearings on the Refugee Act of 1980 reauthorization.

I can assure the Senator from Florida that her amendment will be considered during our hearings on the Refugee Act of 1980 and that act will be reported out during September 1982.

Let me say again that I am very much personally aware of the problems that exist in Florida and appreciate the representations by the Senator from Florida and want to assist in her effort to assure that the Federal Government will be able to respond swiftly and fully to these situations in the future.

UP AMENDMENT NO. 1239

Mr. SIMPSON. Mr. President, I ask unanimous consent at this time that the Helms amendment be set aside so that I may propose various committee amendments to be considered en bloc as one unprinted amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Could the Senator send the committee amendments to the desk?

Mr. SIMPSON. Yes, indeed.

Mr. President, I send committee amendments as an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON) proposes committee amendments as unprinted amendment numbered 1239.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

IV. REPORTS TO CONGRESS

Sec. 401. (a) On page 163, line 15, delete all that follows "Act" and insert in lieu thereof the following:

"Reports concerning the matters described in subparagraphs (D) and (E) of paragraph (3) shall be submitted three times: the first not later than 18 months after the date of enactment of this Act, the second not later than 36 months after the date of enactment of this Act, and the third not later than 54 months after the date of enactment of this Act."

Amendment intended to permit more frequent periodic reports (every 18 months) rather than only one report after 36 months as in existing Committee bill.

H-2 WORKERS

Page 142, line 6. After the word "employed" delete the comma and insert in lieu thereof a period.

Page 142, line 7. Delete the words "and such certification has been issued."

Deletion intended to continue existing situation where Secretary of Labor's certification is advisory to AG.

TITLE II REFORM OF LEGAL IMMIGRATION

On page 126 lines 6 and 7, and lines 23 delete March 1, 1982 and substitute in lieu thereof May 27, 1982.

Amendment designed to provide additional safeguards for fifth preference persons who had petitions approved and second preference sons and daughters who had petitions approved.

Mr. SIMPSON. Mr. President, I reviewed this with the sponsors and we then will proceed with Senator HAYAKAWA's amendment momentarily.

Mr. President, these committee amendments are with relation to reports, with relation to certification, and with relation to the dates on preference categories.

Mr. President, I ask that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (UP No. 1239) was agreed to.

Mr. SIMPSON. Mr. President, is the status of business that the Helms amendment is presently set aside?

The PRESIDING OFFICER. The status of business is that the Helms amendment was set aside before the Senator from Wyoming made his proposals on these other amendments.

Mr. SIMPSON. I thank the Chair and I appreciate that clarification.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1240

(Subsequently numbered Amendment No. 2025.)

(Purpose: To add a title relating to providing educational assistance for children of illegal aliens)

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1240.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 14, strike out "This" and insert in lieu thereof "Titles I through IV of this".

At the bottom of page 79, add the following:

TITLE V—ALIEN CHILDREN EDUCATION ASSISTANCE

Sec. 501. Short title.

Sec. 502. Definitions.

Sec. 503. Reimbursement payment.

Sec. 504. Applications.

Sec. 505. Withholding.

Sec. 506. Payments.

Sec. 507. Authorization of appropriations.

At the bottom of page 166, add the following:

TITLE V—ALIEN CHILDREN EDUCATION ASSISTANCE

Sec. 501. This title may be cited as the "Alien Children Educational Services Assistance Act".

DEFINITIONS

Sec. 502. As used in this title—

(1) the term "alien children" means undocumented aliens to whom State or local educational agencies are required by order of any Federal court to provide educational services or who are permitted under any such order to receive the benefits of State funds available for educational purposes. Any person who is an alien child (as described in the preceding sentence) at any time after the date of the enactment of this title shall be considered to maintain such status for purposes of this title regardless of any subsequent change in status under any other law;

(2) the term "local educational agency" has the same meaning given the term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

(3) the term "State educational agency" has the same meaning given the term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965; and

(4) the term "State" means a State and the District of Columbia.

REIMBURSEMENT PAYMENT

Sec. 503. (a) Each State educational agency and each local educational agency in a State shall receive reimbursement for reasonable costs of providing educational services to alien children within the State, except that no reimbursement payment under this title may exceed \$450 for each such child in any fiscal year.

(b) A State educational agency may receive a payment under subsection (a) only

for directly providing educational services to alien children in the schools of such agencies.

APPLICATIONS

Sec. 504. Each State educational agency and each local educational agency which is authorized to receive assistance under this title shall submit an application at such time, in such manner, and containing or accompanied by such information as the Secretary deems reasonably necessary. Each application shall—

(1) describe the costs of providing educational services to alien children within the State by the applicant;

(2) provide such audit procedures as are necessary to verify the number of alien children eligible for assistance and receiving assistance under this title; and

(3) provide such fiscal control and such accounting procedures as may be necessary (A) to insure a proper accounting of Federal funds paid to the applicant under this title, and (B) to insure the verification of the costs of furnishing educational services to alien children by the applicant.

(b) The Secretary shall expeditiously approve any application that meets the requirements of this section.

WITHHOLDING

Sec. 505. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State or local educational agency, finds that there has been failure to comply with the provisions set forth in the application of that agency approved under section 504, the Secretary shall notify the agency that further payments will not be made under this title until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made under this title.

PAYMENTS

Sec. 506. (a) From amounts available under section 507, the Secretary shall pay, in accordance with the provisions of this title, to each State or local educational agency which has an application approved under section 504, an amount equal to the amount needed for the purposes set forth in the application.

(b)(1) Payments under this title shall be made as soon after approval of the application as practicable.

(2) Payments under this title may be made in installments, in advance or by way of reimbursement with necessary adjustments on account of overpayments and underpayments.

AUTHORIZATION OF APPROPRIATIONS

Sec. 507. There are authorized to be appropriated such sums as may be necessary for fiscal year 1984 and for each succeeding fiscal year ending prior to October 1, 1986, to carry out the provisions of this title.

Mr. HAYAKAWA. Mr. President, on June 15, 1982, the U.S. Supreme Court ruled that States may not deny a free public education to alien children illegally present in the United States.

In both the concurring and dissenting opinions, Congress was chastized and scolded by the Court for failure to set a national policy regarding illegal immigration. My fellow colleagues, I, too, feel that by not addressing this problem we have neglected our duties and responsibilities to our Nation. The States, counties, and school districts

are now faced with a tremendous problem: Now to pay for the education of those children of undocumented workers or aliens who attend their public schools.

Mr. President, I have a solution to this problem. I am submitting an amendment to this bill which gives Federal reimbursement assistance to those States and local educational agencies affected by the decision of the Supreme Court.

I decided to offer this amendment after reading and discussing the High Court's opinions, however a strong belief and philosophy in the value of education is the basis of my action. The education of a child, any child, whether a citizen of this Nation or not, is an important matter. This is exactly that the Court expressed when reviewing the case of Plyler against Doe, Texas against certain undocumented alien children. In deciding the fate of those undocumented alien children, the Court, for the first time ever, applied to illegal aliens the 14th amendment promise that no State shall "deny to any person within its jurisdiction the equal protection of the laws."

The majority opinion is a very precise statement of American truth and justice. The Court ruled that illegal aliens are persons protected by the Constitution's guarantee of equal protection and that the Texas law violated this guarantee.

It was argued that these undocumented workers were not persons within the jurisdiction of the State and thus had no right to equal protection. Fortunately, this was rejected by the majority and Justice Brennan wrote:

Whatever his status under the immigration laws, an alien is surely a "person" in any ordinary sense of that term. The equal protection clause was intended to work nothing less than the abolition of all caste- and individuals, class-based legislation.

This very law that the Court's rule pointed to is what makes our Nation so great. Why do we have hordes of people from all over the world coming to our shores, crossing over our borders—illegally—risking life and limb to gain entry into America? It is because our Constitution has been a beacon of light and shimmering hope not only to the people of this Nation, but to people of all nations for over 200 years. It sets down principles and truths to establish justice in the message that all men shall be treated equally.

I strongly agree with Justice Brennan when he wrote of the "ensuring disability" alien children would suffer if denied a public education. He said education:

Has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social cast borne by our nation when select groups are denied the

means to absorb the values and skills upon which our social order rests.

It was Justice Powell who said:

Congress—vested by the Constitution with the responsibility of protecting our borders and legislating with respect to aliens—has not provided effective leadership in dealing with this problem. It therefore is certain that illegal aliens will continue to enter the United States and, as the record makes clear, an unknown percentage of them will remain here. I agree with the Court that their children should not be left on the streets uneducated.

I am not saying, as Justice Brennan so carefully refrained from arguing, that free education is a "fundamental right" but "neither is it merely some Government benefit indistinguishable from other forms of social welfare legislation." I don't believe education should be considered a form of welfare and put into the same category as food stamps or aid to families with dependent children. It is a highly motivating vehicle which can be used to steer one's life away from such dependent vices as welfare.

It is clear to me that we as legislators have failed to provide this Nation with effective immigration policies. This amendment corrects a weakness in S. 2222 and I urge my colleagues to vote with me for a strong and more cohesive immigration bill.

Mr. SIMPSON. Mr. President, I understand fully the intent of the Senator from California, what this amendment intends to do. But I really believe that this amendment is outside of the basic scope of S. 2222 because, rather than focusing on control and reform, we are focusing on the issue of providing a service.

Further, S. 2222 provides for the control of future illegal immigration and channels the current population of undocumented aliens into legal status.

It would be counter, I think, to the intent of this legislation to begin authorizing Federal funds for services for illegal immigrants. We handled that in the Grassley amendment with regard to block grants.

We sincerely believe that future illegal immigration will be drastically curtailed through the adoption of employer sanctions and the universal verifier. As I say, we have provided these block grants to meet the basic subsistence programs provided to legalized aliens by States and counties.

We have tried to assure that this is not a bill involved with expenditures, except for those that are absolutely necessary to meet the needs of control.

Therefore, I resist the amendment, but assure the Senator from California that we will have hearings on this issue because certainly it does have to do with the issue of immigration, and the subcommittee is the Subcommittee on Immigration and Refugee Policy.

We will have hearings on this issue and address not only the issue addressed by this amendment, but also the amendment of Senator TOWER, which will be presented in several minutes, and also the amendment of Senator HELMS, which we will again address in a few moments.

All three of those amendments will be addressed in hearings of the subcommittee because they are indeed critically important.

Mr. President, I yield back the remainder of my time, if we have a time agreement. I am not certain that we have a time agreement on that amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Those in favor of the amendment will signify by saying aye; those opposed, no.

The amendment (UP No. 1240) was rejected.

Mr. SIMPSON. Mr. President, I believe the sponsor of the amendment would like to wait until he consults with Senator TOWER, who will be in the Chamber in a few moments, to determine whether or not he wants to have a voice vote.

I ask unanimous consent that the voice vote on the amendment be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. But it was fun for a moment.

Mr. President, we now await Senator TOWER. His is the last amendment that I am aware of. We will also deal with placing back on the floor the amendment of Senator HELMS.

AMENDMENT NO. 1954

(Purpose: To require that hearings on asylum applications shall be closed to the public unless the applicant requests otherwise)

UP AMENDMENT NO. 1241

Mr. SIMPSON. Mr. President, at this time, on behalf of Senator KENNEDY, I send two amendments to the desk, one unprinted, and ask for their immediate consideration.

The PRESIDING OFFICER. Does the Senator request unanimous consent that the amendment proposed by the Senator from California be temporarily set aside?

Mr. SIMPSON. I would ask unanimous consent under these circumstances that it be set aside, temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator ask that these amendments be considered en bloc?

Mr. SIMPSON. Mr. President, I am not aware at this time whether that is the case. I will have to clear that with the sponsor.

The PRESIDING OFFICER. The Senator may send them up singly.

Mr. SIMPSON. Mr. President, I thought the Chair was asking about

the amendment of the Senator from California.

The PRESIDING OFFICER. The amendment of the Senator from California has been set aside temporarily, by unanimous consent. The amendments that we are now discussing are the two amendments which were to be offered by the Senator from Massachusetts. The question of the Chair was, Did the Senator from Wyoming desire to have these two amendments considered en bloc?

Mr. SIMPSON. My response to that question on those two amendments is yes.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for Mr. KENNEDY, proposes amendment numbered 1954 and unprinted amendment numbered 1241.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 1954

On page 107, line 16, strike out "open" and insert in lieu thereof "closed".

On page 107, line 17, strike out "closed" and insert in lieu thereof "open".

UP AMENDMENT NO. 1241

Page 109, following line 18.

This amendment provides for exemption from disclosure of asylum and asylum related records and documents. This provision is necessary to safeguard asylum applicants and others who may be endangered by disclosure of asylum information. Such records or documents could be released to a court if they were needed in a case and their release served the interests of justice. This exemption from disclosure is consistent with the Freedom of Information Act.

Mr. SIMPSON. Mr. President, on behalf of Senator KENNEDY, I have sent those two amendments to the desk. These amendments protect the privacy of asylum applicants.

Mr. President, I am supportive of the amendments, I think they are an important addition.

● Mr. KENNEDY. Mr. President, I am offering this amendment at the suggestion of officials in the Department of State to allow asylum proceedings to be closed unless the asylum applicant wishes to have them open to the public.

This is necessary, Mr. President, to protect asylum applicants. They are seeking asylum precisely because they fear persecution in their native lands—many at the hands of their governments. To force them to state in public their grounds for seeking asylum may have serious consequences for their families who remain behind as well as to themselves.

There is no effort here restricting the asylum process, or to shroud it in secrecy. If an applicant desires, for any reason, to have the asylum hearing open, he can do so.

Mr. President, this small change has also been recommended by the Attorney General and is supported by the administration. I urge its adoption.●

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendment (No. 1954) was agreed to.

The amendment (UP No. 1241) was agreed to.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

UP AMENDMENT NO. 1238

Mr. SIMPSON. Mr. President, I believe we set aside the Helms amendment. I ask unanimous consent that that be the pending business.

The PRESIDING OFFICER. That would be the pending business.

Mr. SIMPSON. Mr. President, I have now had the opportunity to review the amendment of the Senator from North Carolina. I regret to say that I must reluctantly resist the amendment at this time and at the appropriate moment, I shall move to lay the amendment on the table.

The issues raised in the now famous Plyler against Doe case are very, very important, very significant. I believe that those issues deserve more consideration than we can possibly devote to them at this time. I do not feel comfortable with addressing the tremendous scope of that case at this time.

The case itself is terribly controversial. There are issues of congressional intent and policy in that case.

I really am unable at this time to assess the full implications of that case. We are going to know a lot more soon, when we see if it spreads into areas other than education.

I pledge to the Senator from North Carolina that I shall hold a hearing on this very controversial matter as soon as it is possible. I believe many Senators, including the sponsors of this bill, will be very interested in the testimony of experts and other interested parties as we pursue the true impact of this case.

Mr. President, that concludes my remarks on the amendment. On behalf of the sponsor, Mr. President, I request the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I move to table the amendment and I ask for the yeas and nays on that motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT 1242

(Subsequently Numbered Amendment 2026.)

(Purpose: To add a title relating to providing education assistance for alien children)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of the Senator from Texas and ask that it be immediately considered.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), on behalf of Mr. TOWER, proposes an unprinted amendment numbered 1242.

Mr. SIMPSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 78, line 14, strike out "This" and insert in lieu thereof "Titles I through IV of this".

At the bottom of page 79, add the following:

TITLE V—ALIEN EDUCATION ASSISTANCE

PART A—GENERAL PROVISIONS

Sec. 501. Short title.

Sec. 502. Definitions.

Sec. 503. Authorizations and allocation of appropriations.

Sec. 504. Treatment of certain jurisdictions.

Sec. 505. State administrative costs.

Sec. 506. Withholding.

Sec. 507. Application of certain rules.

PART B—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES

Sec. 511. State entitlements.

Sec. 512. Applications.

Sec. 513. Payments.

At the bottom of page 166, add the following:

TITLE V—ALIEN EDUCATION ASSISTANCE

PART A—GENERAL PROVISIONS

SHORT TITLE

Sec. 501. This title may be cited as the "Alien Education Assistance Act".

DEFINITIONS

Sec. 502. As used in this title:

(1) The term "alien children" means aliens to whom State or local educational agencies provide educational services, and includes Cuban and Haitian refugee children (as defined in section 101 of the Refugee Education Assistance Act of 1980). Any person who is an alien child (as described in the preceding sentence) at any time after the date of the enactment of this Act shall be considered to maintain such status for

purposes of this Act regardless of any subsequent change in status under any other law.

(2) The terms "average per pupil expenditure", "construction", "elementary school", "local educational agency", "secondary school", "school facilities", "State", and "State educational agency" have the meanings given such terms under section 198(a) of the Elementary and Secondary Education Act of 1965.

(3) The term "elementary or secondary nonpublic schools" means schools which comply with the compulsory education laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(4) The term "Secretary" means the Secretary of Education.

AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS

SEC. 503. (a) There are authorized to be appropriated for each of the fiscal years 1984, 1985, and 1986, to remain available until expended and subject to allocation in accordance with subsection (b), such sums, but not to exceed \$68,000,000 in any fiscal year, as may be necessary to make payments to which State educational agencies are entitled under this title and payments for administration under section 505.

(b)(1) If the sums appropriated for any fiscal year to make payments to States under this title are not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under part B for such year, the allocations to State educational agencies under each of such parts shall be ratably reduced by the same percentage to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

(2) In the event that funds become available for making payments under this title for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

TREATMENT OF CERTAIN JURISDICTIONS

SEC. 504. (a) The jurisdictions to which this section applies are Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(b)(1) Each jurisdiction to which this section applies shall be entitled to grants for the purposes set forth in section 511(a) in amounts equal to amounts determined by the Secretary in accordance with criteria established by the Secretary, except that the aggregate of the amount to which such jurisdictions are so entitled for any period for the purposes set forth in section 511(a), shall not exceed an amount equal to 1 per centum of the aggregate of the amounts to which all States are entitled under section 511 for that period.

(2) If the aggregate of the amounts determined by the Secretary pursuant to paragraph (1) to be so needed for any period exceeds an amount equal to such 1 per centum limitation, the entitlement of each such jurisdiction shall be reduced proportionately until such aggregate does not exceed such limitation.

STATE ADMINISTRATIVE COSTS

SEC. 505. The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this Act, except

that the total of such payments for any period shall not exceed 1 per centum of the amounts which that State educational agency is entitled to receive for that period under this title.

WITHHOLDING

SEC. 506. Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of part A or B of this title, the Secretary shall notify that agency that further payments will not be made to the agency under such part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under such part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under such part, or payments by the State educational agency under such part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

APPLICATION OF CERTAIN RULES

SEC. 507. Notwithstanding any other provision of law, classroom facilities obtained by a local educational agency with assistance under title I of the Elementary and Secondary Education Act of 1965 may be used in any fiscal year for educational services of alien children if the number of alien children enrolled in the elementary or secondary public schools under the jurisdiction of such agency, during that fiscal year, is equal to—

- (1) at least 500, or
- (2) at least 5 per centum of the total number of students enrolled in the public elementary or secondary schools during such fiscal year, whichever is less.

PART B—GENERAL ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES STATE ENTITLEMENTS

SEC. 511. (a) The Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for each of the fiscal years 1984, 1985, and 1986 for the purpose of assisting local educational agencies of that State in providing basic education for alien children. Payments made under this part to any State shall be used in accordance with applications approved under section 512 for public educational services for alien children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of that State, or for the construction of necessary school facilities for such children, or both.

(b)(1) Except as provided in paragraph (2) and in subsection (c), the amount of the grant to which a State educational agency is entitled under this part, for any fiscal year described in subsection (a), shall be equal to the product of—

(A) the number of alien children enrolled in elementary or secondary public schools under the jurisdiction of each local educational agency within that State during the period for which the determination is made; multiplied by—

(B) the average per pupil expenditure in the State, or \$1,000, whichever is less.

(2) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern

Mariana Islands, and the Trust Territory of the Pacific Islands. The entitlements of such jurisdictions shall be determined in the manner specified in section 504, but for purposes of this part and section 506 any payments made under section 504 for the purposes set forth in section 511(a) shall be considered to be payments under this part.

(c) Determinations by the Secretary under this part for any period with respect to the number of alien children shall be made, whenever actual satisfactory data are not available, on the basis of estimates. No such determination shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this part to which such agency would be entitled had such determination been made on the basis of accurate data.

APPLICATIONS

SEC. 512. (a) No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

(1) provide that the payments under this part will be used for the purposes set forth in section 511(a);

(2) provide assurances that such payments will be distributed among local educational agencies within that State in accordance with section 511;

(3) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting the application for such funds reasonable notice and opportunity for a hearing;

(4) provide procedures for an accounting of the number of alien children within the State; and

(5) provide for periodic audits in accordance with the provisions of sections 434(a) and 435 of the General Education Provisions Act, and for making such reports as the Secretary may reasonably require to carry out this part.

(b) The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

PAYMENTS

SEC. 513. The Secretary shall pay to each State educational agency having an application approved under section 512 the amount which that State is entitled to receive under this part.

● Mr. TOWER. Mr. President, this amendment is in keeping with the directives of the Supreme Court that the additional costs of admitting these children to public schools might fairly be shared by the Federal and State Governments.

The Texas Education Agency estimates that there will be 25,000 illegal alien students enrolled in Texas schools in the upcoming school year, at a cost of \$62.5 million to the State. The amendment provides Federal assistance for fiscal years 1984, 1985, and 1986, up to \$68 million to those districts most affected. Each district with

a level of enrollment of undocumented aliens comprising 500 or 5 percent of the total would be entitled to an amount up to \$1,000 per child for costs associated with education. Such expenses could include both construction and operating costs.

Texas will educate these children willingly, but it would be unconscionable if the Federal Government were to shirk its responsibility for a situation it has created through allowing unregulated and underregulated flows of immigrants entrance to this country.

The mere numbers of undocumented alien children in this State and the fact that other States have been able to educate their alien population with minimal adverse consequences do not tell the full story. Cultural and linguistic barriers augment to a significant degree the normal costs associated with standard State educational programs. While these additional costs would present a problem for wealthy school districts, the majority of illegal alien students are enrolled in our poorest districts, such as Brownsville, where the market value of property utilized to determine a taxable base for support of public education is typically below the statewide mean. Especially in these heavily affected districts, Federal assistance is essential in order to maintain a standard of quality education for all children.

The high number of documented Spanish-speaking aliens in these areas further exacerbates the problem of providing for the special education needs—such as bilingual education programs—of a large Spanish-speaking school age population.

Citing Brownsville as an example:

City of 85,000; 39.3 percent below age 18, as opposed to nationwide of 28.1 percent below age 18; median value of owner-owned home nationwide is \$47,200, as compared to Brownsville which is \$28,500; average household in Brownsville is 3.69 persons, compared to 2.75 nationwide.

Sitting across the Rio Grande from Brownsville is Matamoros, which has a population of 300,000 and an economy hard hit by more than 30 percent inflation and a devalued peso. In addition, Brownsville has experienced a 4,000 increase in documented and undocumented public school enrollment over the last 2-year period.

This is not merely a "Texas" problem. Recent testimony presented estimates the number of undocumented alien students in Colorado at 5,000; refugees in Florida at 19,000. Employment opportunities, mobility factors, and the opportunity for free public education exist in all 50 States. As this population increases, it will continue to spread throughout the country.

Education experts testified before the House Subcommittee on Element-

tary, Secondary, and Vocational Education that the impact of these children will also be keenly felt in New York, New Jersey, Michigan, and Illinois.

Mr. President, I ask unanimous consent to have printed in the RECORD certain material in connection with this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
Austin, Tex., July 14, 1982.

On June 15, 1982 the United States Supreme Court held in *Plyler v. Doe and Texas v. Certain Named and Unnamed Undocumented Alien Children* that Section 21.031 of the Texas Education Code, which withholds from local school districts any state funds for the education of children who were not "legally admitted" into the United States, and which authorizes local Texas school districts to deny enrollment to such children, violates the Equal Protection Clause of the Fourteenth Amendment. As you are aware, the Justices were narrowly divided in their 5-4 decision.

We, the elected leadership of the State of Texas, agree with the dissent filed by Chief Justice Burger in which Justices White, Rehnquist and O'Connor joined that:

"It does not follow, however, that a State should bear the costs of educating children whose illegal presence in this country results from the default of the political branches of the federal government. A State has no power to prevent unlawful immigration, and no power to deport illegal aliens: those powers are reserved exclusively to Congress and the Executive. If the federal government, properly chargeable with deporting illegal aliens, fails to do so, it should bear the burden of their presence here. Surely, if illegal alien children can be identified for purposes of this litigation, their parents can be identified for prompt deportation."

We have also noted that in the concurring opinion, Justice Powell expresses sympathy for the "exasperation" which the citizens and governing authorities in Texas must feel over this issue. In fact, he states that:

"Their responsibility, if any, for the influx of aliens is slight compared to that imposed by the Constitution on the federal government. So long as the ease of entry remains inviting, and the power to deport is exercised infrequently by the federal government, the additional expense of admitting these children to public schools might fairly be shared by the federal and state governments."

When one adds Justice Powell's comment to those of the dissenting Justices, it appears to us that the majority of the court has indicated that the expense of educating these children should be borne, at least in part, by the federal government.

There appear to be two courses of action open to Texas. One, Texas can pursue any available remedies through the courts. The other route, obviously more preferable, would be to proceed through the political process and work with Congress to obtain impact funding for those Texas school districts which are severely affected. The purpose of this letter is to ask your help in achieving the second alternative and to offer our assistance in any way possible to achieve that goal.

It is necessary to understand that, while Texas will abide by the majority opinion

which states that nothing is to be gained by creating a subclass of illiterate citizens and that children not in control of their residency should be afforded a public education, these students will in all likelihood be "high cost" students. It is our opinion that the majority of these students will need the benefit of bilingual education, compensatory work in academic subject areas and additional textbooks including bilingual versions thereof, and that at least the normal incidence of special education will occur. There will be additional maintenance and operation costs, increases in state equalization to those districts severely impacted, and further local enrichment funds and capital facilities required. It should be noted that these numbers do not include federal dollars, do not assume local property tax increases, and use statewide averages for local enrichment and debt service costs.

Additionally, one of our greatest concerns is that best estimates indicate that there are currently 25,000 illegal alien students in the public schools today and that many of these students became part of that system after the 1980 census counts were conducted. It is also anticipated that there will be continued growth of approximately 3000-5000 in average daily attendance per year. Therefore, few of the federal programs, with the exception of Special Education, that flow federal dollars to Texas school districts will reflect these counts. This has the practical effect of denying Texas school districts federal dollars which these students would normally earn through calculations pursuant to federal formulas.

It is our considered view that there is a precedent at the federal level for impact aid to reimburse school districts for costs incurred in providing supplemental education services to these type of children. For example, the Transition Program for Refugee Children operated under the authority of Public Law 96-212, The Refugee Act of 1980, provides for this type of financial assistance to cover services such as testing, special English language instruction, bilingual education, remedial instruction and special materials and supplies. In fact, for the 1981-82 school year Texas received \$1.2 million for these refugee children and it is estimated that Texas will again receive \$1.2 million in 1982-83.

The technical problem which the State faces in reaching a precise and accurate count of the number of these children who are present in the public schools in order to build a statistical base upon which to make future estimates is that the reasoning underlying the district court's orders appears to preclude school districts from requesting documentation, at least in the absence of Congressional imprimatur. We are able to identify their age and alleged residence through the normal method of presentation of a birth certificate. However, there is no notation on a birth certificate as to whether that child is legally or illegally present within the United States. It will be necessary at such time that the Congress appropriates federal funds to assist in the education of these children that Congress also direct the State of Texas to provide accurate enrollment data. For your information we have provided enrollment data as we currently collect it by ethnic group and a preliminary estimate by local school districts in the Valley area as to the number of illegal alien children present.

We are aware that other delegations may feel that this is a "Texas problem." It does indeed have its initial impact on Texas due

to the long, virtually open border which provides illegal aliens access to the United States. However, once these individuals enter the United States there is no guarantee that they will remain within the State of Texas. We suggest that employment opportunities, mobility factors, and the opportunity for free public education exist in all 50 states, and that as this population increases it will begin to spread throughout the country.

We consider this matter of extreme importance not just for Texas but as a matter of national policy. We will be happy to work with you in any manner that you deem beneficial in order to obtain equitable support to provide these youngsters with an education while at the same time not diluting the educational resources for those children legally present in the state. Additional specific data may be obtained from Raymon L. Bynum, Commissioner of Education (512/475-3271).

WILLIAM P. CLEMENTS, JR.,
Governor of Texas.
WILLIAM P. HOBBY,
Lieutenant Governor.
BILLY CLAYTON,
Speaker of the House.
MARK WHITE,
Attorney General.
JOE KELLY BUTLER,
Chairman, State Board of Education.

[From the Austin News Summary, June 16, 1982]

VALLEY PLEA: LET FEDS PAY FOR ALIEN TIDE

BROWNSVILLE.—Congress should help pay to educate the growing number of illegal alien children in Texas classrooms now that the Supreme Court has ruled they are entitled to free schooling, public school officials say.

"They had impact aid for the Cuban and Vietnamese children that have been brought in. We were hoping to get some type of subsidy to help us," Assistant Superintendent Tom Keller said.

Keller and others say they were not surprised at the Supreme Court's ruling on Tuesday that the children of undocumented workers are entitled to a free education.

The court struck down a Texas law that had allowed school districts to charge tuition or refuse admission to illegal aliens.

Brownsville schools began enrolling illegal aliens in November 1980 after the system lost a federal district court fight over its policy to refusing such children admission.

About 1,600 illegal aliens from Mexico and Central American countries are among the 30,000 students enrolled in Brownsville—and illegal alien enrollments are even higher in Houston and Dallas.

Dallas school officials predicted that the ruling could bring as many as 5,000 aliens into the Dallas Independent School District during the next few years.

"I would not be surprised at all to see our illegal alien enrollment double next year," Superintendent Linus Wright said.

The district had about 1,300 illegal alien students during the 1981-1982 school year, he said.

The superintendent of the Houston Independent School District, Billy Reagan, said the cost of educating the expected influx of alien children would be "phenomenal."

He said the ruling would serve as a "magnet for these people."

"I'm hoping this now will be an impetus for Congress to move and insist that present immigration laws be enforced," Reagan said.

The HISD ended the school year with an enrollment of about 5,000 aliens who cost the district at least \$7.5 million to educate, he said.

Attorney General Mark White said in Austin the decision underlines the need for either better immigration enforcement or impact aid for school districts like Brownsville.

"I have consistently stated and continue to state that the children should be educated and should not suffer because of the actions of their parents or the inaction of the federal government in enforcing the law," White said.

Gov. Bill Clements in Houston echoed local school officials in predicting an increase in illegal aliens moving to Texas.

"We have created a situation that makes illegal immigration, primarily from Mexico, attractive. I don't think anyone could possibly reach any other conclusion," Clements said at a Houston news conference.

He said Texas would comply with the ruling, but may need federal funds to do it.

The Brownsville lawyer who represented illegal alien children in the suit said it was a victory for many children who otherwise might have been expelled.

"Hopefully, it will help kids who didn't apply for admission because they didn't want to go through it and then be told to leave," said Linda Yanez.

Yanez said that one of her clients was denied admission but his brothers and sisters, who were born in the United States were enrolled. It is not uncommon along the border to have resident aliens, illegal aliens and U.S. citizens within a single family.

School officials expressed fears that the ruling will encourage families living across the Rio Grande in Matamoros, Mexico to move here and take advantage of the free schooling.

"I think that will happen especially in the border areas where Mexico is finding it hard to provide their own facilities," said Gracie de Pena, school board president.

"No one is against educating the children, per se," she said.

Officials here say a relatively low tax base, high child-adult ratio and the large number of children entering school speaking only Spanish contribute to the alien problem.

[From the Dallas Times Herald, June 16, 1982]

RULING COULD RAISE SCHOOL COSTS BY \$20 MILLION

(By Ernie Sotomayor)

The annual cost of educating illegal aliens in Texas may increase by as much as \$20 million because a new wave of undocumented students will be attracted to the state's public schools by Tuesday's U.S. Supreme Court ruling, said Texas Education Commissioner Raymon L. Bynum.

Bynum was joined by most other state officials, including those who pushed hard for allowing illegal aliens into public schools, in saying Texas must now make a strong bid for increased federal funding to pay for educating the 20,000 to 30,000 illegal alien children already enrolled in Texas schools.

The commissioner said he was unable to say precisely how many illegal aliens are now enrolled in Texas schools or how many more would come in September. But Dallas school officials predicted the current estimated enrollment of 2,500 illegal aliens could double in five years, while Brownsville educators said that an additional 800 students could register annually during the next few years.

"I think more aliens will come to this country because of the ruling," Bynum said. "We have a federal law not being adequately enforced, and that is putting an undue burden on local school districts."

"I don't know how many will come. But the cost now runs about \$55 million to \$60 million a year," said Bynum. "I think I could increase \$10 million to \$20 million after this."

Bynum said the Texas Education Agency will begin lobbying the Department of Education to increase its Title I funds, which supplement the cost of educating economically disadvantaged students. School districts have these funds to help offset the cost of educating other immigrants, such as Indochinese refugees.

Rick Arnett, general counsel for the Texas Education Agency, said it costs more to educate illegal alien children than other students.

"Generally they are behind, and they are going to require some kind of immediate remedial program, and they are going to need some special language programs too," he said.

Dallas school officials joined San Antonio Independent School District educators in saying increased illegal alien student populations will require the hiring of additional bilingual education teachers. That, the officials said, will be difficult because there is currently a shortage of hundreds of bilingual education instructors in the state.

Brownsville officials said the increased enrollment will require facilities equivalent to a new school every year.

Officials in other districts around the state, such as Lubbock, Austin and Midland-Odessa and San Antonio's 17,000-student Edgewood Independent School District, said they expect little impact because their illegal alien student populations are minimal. Houston school officials said they estimate there are now 5,000 illegal alien students enrolled in their district but they expect no major increase.

Secretary of State George Strake, the Republican nominee challenging incumbent William P. Hobby in the lieutenant governor's race, was the only political figure to attack the ruling. He said the Supreme Court justices based their decision on "strained reasoning."

"I think it is incredible that those five men could say, in effect, 'Anyone on the globe is entitled to the benefits of U.S. citizenship.' Using the logic of the Supreme Court, children in Uganda, India or Burma must be educated for free so long as their parents can successfully evade the immigration laws and get them here," he said.

State Sen. Hector Uribe, a Brownsville Democrat who represents the Rio Grande Valley, warned that the Texas Legislature will have to provide additional funds immediately for schools in his district because his area of the state cannot wait for the federal government to respond.

"The burden has been foisted upon the poorest of school districts to provide education to children of illegal aliens," Uribe said. "... The quality of education is going to suffer unless the federal or state government provides assistance."

While Uribe called the court's ruling "humane and compassionate," he complained that it would put an additional burden on school districts which already tax at higher rates than most other districts in the state and provide fewer services.

During the last legislative session, Uribe tried without success to pass a bill that

would have provided impact funds to school districts with a high percentage of illegal alien children. Tuesday's ruling should increase the chances of a similar bill passing during the next legislative session, he said.

Gov. William P. Clements Jr. was more reserved in his reaction, siding with officials in urging more federal aid and saying that he didn't believe the education issue was "the problem some believe it is."

The Texas law that was struck down by the court was sponsored originally by former Brownsville state Rep. Ruben M. Torres, who is now chairman of the Texas Board of Pardons and Paroles. Torres, who could not be reached for comment, argued at the time that the education of illegal aliens would put too much of a financial burden on school districts in his area.

WAVE OF ALIENS MAY COME

BROWNSVILLE.—The Supreme Court's ruling Tuesday that illegal aliens are entitled to a free education could trigger a new wave of undocumented immigration from Mexico, say school officials in this border city.

"I have worries about it. Maybe it will just open the door to have people immigrate in the future," said school board member Carlos Barrera. "If there's any unrest in Mexico, that's going to hurt us."

Brownsville, a city of 90,000, sits across the Rio Grande from Matamoros, which has a population of 300,000 and an economy hit hard by more than 30 percent inflation and a devalued peso.

A relatively low tax base, high child-adult ratio and the large number of children entering school speaking only Spanish contribute to the problem, school officials say.

Barrera and other officials said they expected the ruling but still feel the federal government should help school districts with large alien enrollments.

"I don't think anybody is against educating the children, per se. It's just that we have a big responsibility to our citizens and legal residents," said Gracie de Pena, school board president.

Sen. John Tower, Texas, said in Washington that the court's decision may cause severe financial hardship for many Texas school districts and added that he anticipates "some federal assistance will be required to enable them to assume this added burden."

Gov. Bill Clements said in Houston, "We have created a situation that makes illegal immigration, primarily from Mexico, attractive. I don't think anyone could possibly reach any other conclusion."

He said children of illegal aliens in public schools in Texas had risen from 12,000 to between 18,000 and 20,000 in the last two years.

"We undoubtedly will try to evolve something through the Education Department to assist us in this regard," Clements said. "There are vast sums of money going into all forms of education, and perhaps we can get some assistance from the federal government."

[From the Houston News Summary, June 23, 1982]

TOWER BLASTS EDUCATION RULING—SAYS SUPREME COURT PROVIDED INCENTIVE FOR ILLEGAL IMMIGRATION

(By Judy Wiessler)

WASHINGTON.—The Supreme Court provided an incentive for illegal immigration and a probable expansion of "all kinds of" bene-

fits in illegal aliens in its recent Texas education ruling, Sen. John G. Tower, Texas, said.

"It occurs to me that if they're eligible for (free public) education, they ought to be eligible for everything else," Tower said Monday.

He predicted that last week's decision in a Texas case that illegal alien children have a right to free public schooling "will stimulate the flow of illegal aliens" because it will "open up all kinds of other things for illegal aliens."

The primary lure may not be free education, he said, but "a vast number of other things" that aliens will assume they can get as a result of the court ruling.

He cited "the possibility that, based on this decision, illegal aliens could exert rights to other services and benefits" that could be an incentive for them to come here illegally.

"If you take the decision to its obvious conclusion, that's where it's going," he said.

The Supreme Court case dealt only with public education and did not question other benefits or services. The majority opinion did point to a "distinction" between education and other benefits, saying public education is not "merely some governmental 'benefit' indistinguishable from other forms of social welfare legislation."

Tower said he would not "second guess the Supreme Court" but added, "I'm inclined to think better legal reasoning went into the minority opinion than the majority opinion."

Tower has invited nine other senators from states along the Mexican border, including Sen. Lloyd M. Bentsen, Texas, to meet with him later this week on ways to get federal help for school districts with concentrations of illegal alien children.

He said unnamed officials at the White House were receptive to the idea of some form of "impact aid" for districts such as those along the border and in large cities like Houston and Dallas.

● **MR. BENTSEN.** Mr. President, I am pleased to join my colleague Senator Tower as an original cosponsor of the pending amendment to reimburse States and local school districts for costs they incur in educating alien children.

Mr. President, our immigration policies have been characterized as ineffective, out of control and in a state of shambles. Our failure at the National Government level has led to unprecedented immigration of illegal aliens and their families, individuals who settle in our States and cities, taxing the finite resources of many communities beyond the limits of their abilities to provide basic services.

Numerous references have been made today to the fact that Plyler against Doe is a precedent-setting decision—one which mandates that services to the general public be available to illegal aliens. While the majority opinion of the Court seeks to differentiate between educational programs and services that are traditionally considered a form of welfare, the narrow margin of the decision and the concurring opinion of Justice Powell underscore the likelihood that the parameters of the Court's opinion will be broadened. In effect, since the Court

has determined these children are entitled to educational services because they are not responsible for their parents' status as illegal immigrants, then what justification can be offered to deny health care and welfare assistance to the dependents of illegal aliens?

Mr. President, my State of Texas has a very great stake in the outcome of this amendment because we share the 2,000-mile border with the country from which the vast majority of illegal aliens are said to migrate. But I would like to stress to my colleagues that they should not be deceived into thinking the problem of illegal aliens is confined to Texas, New Mexico, Arizona, California, and Florida. This is a national problem and it is a growing problem. In the absence of a firm and enforceable immigration policy, the tide of illegal immigrants will continue and the drain of community resources will increase. In my judgment, passage of this amendment will serve two extremely important functions: first, it will relieve the inequitable burden the Federal Government has placed on local and State jurisdictions; and second, it will encourage Federal and local officials to better document the numbers and whereabouts of individuals who are entering this country illegally. A first step in stemming the tide of illegal immigration.

Mr. President, the pending amendment is just, it is necessary, and it is the most equitable way for the Federal Government to assume its fair share of responsibility.

I commend my colleague from Texas for his initiative in offering the amendment, in particular I want to thank him for his cooperation in accepting my suggestion that States and local communities be permitted to determine how funds allocated through the program will be expended. I urge my colleagues to join with us in support of the pending amendment.

Mrs. HAWKINS. Mr. President, I rise in support of the amendment offered by the Senator from Texas.

The recent decision by the Supreme Court to require local school districts to provide educational opportunities to the children of illegal aliens sent shock waves throughout communities across the country. Not only would the people in a given community have to pay taxes to support the education of children of resident aliens and others who are in this country legally, but now they must also pay to educate the children of aliens who broke American law in order to live and work in this country. This is no small number of people. As has been mentioned repeatedly on the floor, there are an estimated 3.5 to 6 million illegal aliens now in this country, and the number of children of these individuals probably numbers in the hundreds of thousands. The decision by the Supreme

Court to require the education of the children of illegal aliens will place a sudden and tremendous burden on many school districts.

The experience of my State, Florida, offers a glimpse of what may be in store for many States as a result of this Supreme Court ruling. The Mariel boatlift brought 125,000 Cubans to this country in 1980 in the span of only 5 short months. Out of this number, 15,000 Cuban children ended up in the Dade County school system that were not there the year before. This resulted in tremendous problems for affected school districts. Facilities were overcrowded. There were too few teachers. And there were problems teaching children, who at the time they entered the schools, spoke only Spanish. Though there has been some progress in the Dade County School District integrating these new children, the district continues to face serious financial problems. Local Florida officials estimate that the cost of educating the children of the Marielitos exceeds \$40 million in the 2 years they have been here. Many of these costs are expected to continue. Fortunately, the amendment offered by the Senator from Texas includes school districts that now have a large number of children of Cuban and Haitian entrants. Since immigration is a Federal responsibility, I believe that the Federal Government should be responsible for those costs forced on localities as a result of a failure of the Federal Government to enforce its laws.

I thank my friend from Texas for his leadership on this issue, and I urge my colleagues to support this amendment.

Mr. SIMPSON. Mr. President, S. 2222 provides for the control of future illegal immigration and channels the current population of undocumented aliens into legal status. It would be counter to the intent of this legislation to begin authorizing Federal funds for services for illegal immigrants. We sincerely believe that future illegal immigration will be drastically curtailed through the adoption of employer sanctions, and we have provided for block grants to meet the basic subsistence programs provided to legalized aliens by States and counties.

Mr. President, the amendment is outside the basic thrust of S. 2222 by providing services rather than focusing control.

Further, S. 2222 has tried not to be a bill involved with expenditures except for those absolutely necessary to meet its control needs.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

UP AMENDMENT NO. 1243

(Subsequently numbered amendment No. 2027.)

(Purpose: To modify provisions imposing sanctions against employers who hire, or recruit or refer, for employment certain unauthorized aliens)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Mr. TOWER and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for Mr. TOWER, proposes an unprinted amendment numbered 1243.

Mr. SIMPSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 80 with line 9, strike out all through line 14 on page 89 and insert in lieu thereof the following:

"Sec. 274A. (a)(1) It is unlawful for a person or other entity after the date of the enactment of this section willfully to hire, or for consideration knowingly to recruit or refer, for employment in the United States an alien knowing the alien is an unauthorized alien (as defined in paragraph (4)) with respect to such employment.

"(2) It is unlawful for a person or other entity who, after hiring an alien for employment subsequent to a date 180 days after the date of the enactment of this Act and in accordance with paragraph (1), continues to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment.

"(3) A person or entity that establishes that it has complied in good faith with the procedures of subsection (b) with respect to the hiring, recruiting, or referral for employment of an alien in the United States has established an affirmative defense that the person or entity has not violated paragraph (1) or (2) with respect to such hiring, recruiting, or referral, except that non-compliance with the procedures of subsection (b) shall not be admitted as evidence in a proceeding under subsection (c) for the purpose of proving that a violation of paragraph (1) or (2) was willfully or knowingly committed.

"(4) As used in this section, the term "unauthorized alien" means, with respect to the employment of an alien at a particular time, that the alien is not at that time either (A) an alien lawfully admitted for permanent residence, or (B) authorized to be so employed by this Act or by the Attorney General.

"(b) A person or other entity hiring, recruiting, or referring an individual for employment in the United States may attest, under penalty of perjury and on a form established by the Attorney General by regulation, in consultation with the Secretary of Labor, the Secretary of Agriculture, the Secretary of Commerce, and the Small Business Administration, that he has verified that the individual is eligible to be employed (or recruited or referred for employment) in accordance with subsection (a)(1) by examining the individual's—

"(1) United States passport, or

"(2)(A) social security account number card (issued by the Social Security Adminis-

tration under section 205(c)(2)(B) of the Social Security Act, or United States birth certificate, and

"(B)(i) alien documentation, identification, and telecommunication card, or similar fraud-resistant card issued by the Attorney General to aliens and designated for use for this purpose,

"(ii) driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds sufficient for purposes of this section, or

"(iii) in the case of individuals under sixteen years of age or in a State which does not provide for issuance of an identification document (other than a driver's license) referred to in clause (ii), documentation of personal identity of such other type as the Attorney General finds, by regulation, provides a reliable means of identification.

"(c)(1)(A) Whenever the Attorney General has reasonable cause to believe that a person or entity has or is engaged in a violation of paragraph (1) or (2) of subsection (a), the Attorney General shall provide such person or entity with notice and the opportunity to request a hearing respecting the violation within 30 days after receipt of such notice. Any hearing so requested shall be conducted before an immigration officer designated by the Attorney General, individually or by regulation, in accordance with section 554 of title 5, United States Code.

"(B) If an immigration judge determines by a preponderance of the evidence that a person or entity violated paragraph (1) or (2) of subsection (a), the Attorney General shall issue and cause to be served on such person or entity an order to cease and desist from such violation. Such order may require such person or entity to verify, in accordance with such procedures as the Attorney General deems necessary, the employment status of each individual sought to be hired, or for consideration recruited or referred, after the date of such order. The Attorney General shall review such order for its effectiveness two years after its date of issuance and may terminate such order at such time.

"(C)(1) If a person or entity fails to comply with an order of the Attorney General under subparagraph (B), the Attorney General may commence proceedings in any district court of the United States to insure compliance with such order. As part of such proceedings the Attorney General may ask for and the district court may grant relief, including—

"(I) in the case of the first violation of such order, a civil penalty of up to \$10,000;

"(II) in the case of a subsequent violation of such order, a fine of not more than \$10,000, or imprisonment for not more than 12 months, or both, for each violation of such order; and

"(III) a permanent or temporary injunction, restraining order, or other order against such person or entity as the Attorney General deems necessary.

"(ii) In any suit seeking to review the immigration judge's determination, the suit shall be determined solely upon the administrative record upon which the determination was made and the immigration judge's finding of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

"(d) In providing documentation or endorsement of authorization of aliens (other

than aliens lawfully admitted for permanent residence) to be employed in the United States, the Attorney General shall provide that any limitations with respect to the period or type of employment or employer shall be conspicuously stated on the documentation or endorsement.

"(e)(1) There shall be established an Interagency Immigration Reform Task Force (hereafter in this subsection referred to as the "Task Force") composed of the Attorney General, the Secretary of Labor, the Secretary of Commerce, the Chairman of the Equal Employment Opportunity Commission, and the Chairman of the United States Civil Rights Commission or their respective designees.

"(2) The Task Force shall have the responsibility for coordinating, developing, and recommending policies and practices designed to maximize effort, promote efficiency, promote compliance, and reduce any possibility of discrimination based on national origin in carrying out the provisions of this section.

"(3) On or before October 1 of each year, the Task Force shall prepare and transmit to the President and to the Congress a report setting forth its recommendations for legislative and administrative changes, including proposed guidelines for the Attorney General, as may be necessary to promote the purposes of this section.

"(f) The provisions of this section preempt any State or local law imposing civil or criminal sanctions upon those who employ, or refer or recruit for employment, unauthorized aliens."

(2) The amendment made by paragraph (1) shall take effect one hundred and eighty days after the date of the enactment of this Act.

(3) The Attorney General, in cooperation with the Secretaries of Commerce, Labor, and Agriculture and the Administrator of the Small Business Administration, shall disseminate forms and information to employers, employment agencies, and organizations representing employees and provide for public education respecting the requirements of section 274A of the Immigration and Nationality Act. For the purpose of carrying out this subparagraph, there are authorized to be appropriated \$10,000,000 for the fiscal year 1983.

(4) The Secretary of Labor is authorized, in the enforcement of section 15 of the Fair Labor Standards Act of 1938, to give priority to the enforcement of such provisions of such section as are applicable to employers who are in violation of section 274A(a)(1) of the Immigration Reform and Control Act of 1982.

On page 89, line 22, strike out "(1)(A)" and insert in lieu thereof "(1)".

Mr. TOWER. Mr. President, the employer sanctions currently included in S. 2222 are objectionable on four main grounds: First, unreasonably burdensome to the employer; second, costly for the American taxpayer; third, unlikely to curb significantly the flow of illegal immigrants; and fourth, potentially discriminatory against any job applicant of foreign origin.

The paperwork alone, which S. 2222 would generate through mandatory usage of verification forms by an employer, is staggering. With an estimated 70 million job changes annually in the private, nonagricultural sector, not

including referrals or recruiting or "casual" employment, that amounts to the Federal Government generating and ultimately monitoring 70 million transactions a year, 190,000 transactions a day, or 2.3 transactions a second. Even if the employee is later terminated voluntarily or involuntarily, the employer must retain these documents for a 1-year period of time. Not only are the bureaucratic nightmares which this provision could create obvious; but the American taxpayer is asked to foot the bill for the creation of a vague and undefined "secure system of national identification" which has been estimated to cost into the billions.

Social security officials have claimed that it is impossible to verify the legal status of every application requesting benefits or a card—yet, even in the absence of the as yet undefined, so-called secure identification system, this same impossible task would be required of employers. In addition, this procedure of verification of worker eligibility is required of all employees of an employer covered by this act, with the imposition of severe fines on an employer who does not comply with this section of the bill, even if the employer is found to have employed only American citizens in his or her place of business.

Question: I run a small store and I am covered by the provision of this bill. My next door neighbor sends his 17 year old son to work, part-time after school. I know that his son is an American citizen. I don't ask to see a driver's license or other document, but I hire him. Have I broken the law?

Under the terms of this bill, yes.

Or: I am in agricultural employer and I need several hundred workers immediately because my crop is ready for harvest. The local growers association or a crew leader sends me these workers, after running their own system of verification of the citizenship of these individuals. Do I have to follow an additional system of "checking off" eligibility of these 200 or so job applicants before I allow them to begin work which may need to be completed within two days or one week?

Again, the answer is yes under this bill.

In addition, it would be more realistic and more convenient for INS officials to neglect border enforcements in favor of detecting technical violators—the employer who does not have the time or the resources to verify every potential employee's legal status, the employer who knows absolutely that he has American citizens working for him and therefore chooses not to comply with the verification procedure, or the employer who simply does not know that he must verify his employee's eligibility and retain those documents. Employers would be found who did not comply.

These provisions are unreasonable in their demands and illogical in their requirements. There is no rational justi-

fication for shifting to the private sector the Federal Government's responsibility to uncover our Nation's illegal aliens.

The ultimate losers under this bill are the employer who, for the reasons given above, fails to comply with this section and the potential employee who, regardless of his willingness or suitability for a particular job, is denied the chance to work because he or she has an alien surname or is "foreign-looking."

Bear in mind that an employer under S. 2222 must reasonably believe that whatever documents are presented to him by the applicant are genuine in order for the employer to be safe from prosecution. The potential for discrimination is great since the employer himself has the burden to show that he did not hire an illegal. Further, few employers will feel capable to make the judgment as to the validity of the papers presented. Thus, the probability is that employers will attempt to avoid hiring individuals from Hispanic or other foreign heritage at all to preclude liability under this section.

By the same token, those unscrupulous employers who do not want to hire a certain minority group could probably also assert to a job applicant that his documents did not appear to be genuine, and that he would rather not risk breaking the employer sanctions law.

This amendment targets enforcement of employer sanction provisions against willful violators, for which a higher standard of proof must be met than that currently provided in the bill.

No employer would be required to verify worker eligibility, as the bill now provides. The burdensome paperwork requirements generated by S. 2222 are eliminated as well as the imposition of fines for noncompliance with this procedure or the failure to maintain records.

Under my amendment, the employer would be afforded an affirmative defense against a charge of willfully hiring illegals if he voluntarily chose to use a standard verification form provided by the Attorney General. The verification form, moreover, would be strictly limited in terms of the information required and would be used only for the purpose of determining eligibility to work. It could not be turned into a general information sheet on the applicant to be used for any other purpose.

These provisions protect the law-abiding citizen, while going after the business or entity who is intentionally hiring illegal aliens. For these entities, however, severe penalties could be imposed, including the ability of the Attorney General to monitor the future hiring practices of the organization. Note that after a 2-year period of

"good behavior" the entity could petition for release from future supervision by the Attorney General under the order, thus allowing an employer to bail out after a good compliance record has been established.

My amendment provides another decided benefit to Hispanics and other alien minorities by authorizing the Secretary of Labor to concentrate enforcement of existing labor laws against willful violators.

One California study relied upon by MALDEF revealed that 6,000 labor law violations were committed by employers who also employed undocumented workers—because these aliens would work without complaint under substandard conditions. Strengthened enforcement in this area will not only help ferret out the willful violators, but may improve overall standards of work conditions for all American citizens.

Realistically, there may still be some instances of discrimination against Hispanics by virtue of the fact that the use of a verification form may be selectively applied, until regulations governing use are developed by the Attorney General in conjunction with the task force. The relative potential of such discrimination is minuscule as compared to that which would occur if employers had no opportunity for an affirmative defense to the charge of hiring illegals. Hispanics or other minorities would never get a foot in the door without this protection. At the same time, the burden of proof has shifted to the Attorney General to prove a willful violation of this section, and an employer's voluntary non-compliance with the verification procedures will under no circumstances be held against him as evidence that he willfully violated the law.

The establishment of the task force to monitor any possible discriminatory effects of the bill, as well as their role in transmitting recommendations to the Attorney General for use in implementing future regulations is a positive factor which benefits significantly all ethnic minorities which would be affected by this bill.

I am confident that those regulations will reflect constitutional guarantees against discrimination on the basis of national origin and established EEOC guidelines on employment practices.

I also believe that increased border enforcement could be a more effective alternative to those promoting current section 101 employer sanction standards. There are more police officers assigned to guard the Capitol and adjacent buildings in Congress than there are INS officers patrolling our borders during any 8-hour period.

Most illegal border crossings occur within a 60-mile gap bordering parts of Texas and California. Border guards

know when and where illegal crossings occur, but lack the proper resources to enforce the law.

In addition, I would like to state for the RECORD two statements which I have received on this amendment:

As a past National President of LULAC, and as a person interested in the rights of all human beings, I am of the opinion that this amendment is the best route to take and I wholeheartedly support the amendment which is being offered by Senator Tower to the employer sanctions portion of this bill. Willie Bonilla, August 13, 1982 (1:50 p.m.), speaking from Corpus Christi, Texas.

I think that this is a positive step—a step in the right direction—and is preferable to the provisions currently in the bill. I understand the legislative process, and I know that such improvements must be done step by step. Henry Cisneros, Mayor of San Antonio, August 13, 1982 (2:00 p.m.), speaking from San Antonio, Texas.

Mr. President, I ask unanimous consent to have materials from various organizations in support of this amendment printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSINESS ORGANIZATIONS OPPOSED TO SECTION 101

American Retail Federation.
Associated Builders & Contractors.
Association of General Contractors.
National Restaurant Associates.
Association of General Merchandise Chains.
American Association of Nurserymen.
United Fresh Fruit & Vegetable Association.
National Club Association.
National Broiler Council.

LOCAL CHAMBERS OF COMMERCE OPPOSED TO SECTION 101

Arizona, State of.
Business and Industry Association of New Jersey.
New Hampshire Industry and Business Association.
El Paso, Texas.
City of Big Spring, Texas.
Lake Charles, Louisiana.
Providence, Rhode Island.
Atlanta, Georgia.
Chattanooga, Tennessee.
Yakima, Washington.

EXCERPTS FROM MALDEF POSITION PAPER ON EMPLOYER SANCTIONS

Employer sanctions will make the employer responsible for determining a job applicant's legal status through reviewing certain documents, each of which is readily available on the already thriving black market. Rather than risk hiring an individual whose documents show he is legal but who may nevertheless "appear illegal" to the employer, many employers will choose to close their doors to all "Hispanic-looking" or "foreign-looking" job applicants, whether or not their documents appear to be genuine. Still other employers who may not want to hire Hispanics for discriminatory reasons can easily assert to the job applicant that his documents do not appear genuine and he would rather not risk breaking the employer sanctions law. Employment discrimination laws, such as Title VII, will be of little value to a worker who is turned away from a

job in this manner. First of all, Title VII protections only apply to workplaces with 15 or more employees. Second, job applicants simply do not have the time and resources to become involved in costly and time consuming administrative or legal procedures: their sole interest is in finding employment.

Employer sanctions will be enforced selectively and it is uncertain how widespread "good faith" deterrence will be. It is therefore unlikely that employer sanctions will significantly decrease job opportunities for undocumented workers. It is also uncertain that American workers will want to take jobs that become available. For example, many of the Texas companies raided by the INS during Operation Jobs report they have had trouble finding U.S. citizens to fill the positions (Washington Post, July 18, 1982, p. 2.)

MALDEF proposes the enforcement of current labor laws, such as the Fair Labor Standards Act and Minimum Wage laws, in order to create disincentives for employers to hire undocumented workers. A California study revealed that 6,000 violations of these laws were committed by employers who also employed undocumented aliens—because these aliens would work without complaint under sub-standard conditions. With proper enforcement of these laws, employers who pay undocumented workers below the minimum wage will be punished for doing so and will also grow disinclined to repeat this behavior, thus creating jobs that American workers may want.

EXCERPTS FROM THE STATEMENT OF THE CHAMBER OF COMMERCE OF THE UNITED STATES ON IMMIGRATION REFORM AND CONTROL ACT

CHAMBER POLICY REEXAMINED

The Chamber submitted a rather extensive statement to Senator Simpson's Subcommittee last September during previous hearings on this topic. That statement was based on long-standing Chamber policy which opposed the concept of placing the burden of enforcing immigration laws on the business community.

I want to stress that Chamber policy is formed through strict procedures. Any Chamber policy must meet the qualification that it be "national in character, timely in importance and general in application and of significance to business and industry." Although the overwhelming majority of employers do not knowingly hire illegal aliens, it is our conclusion that an employer sanctions law would clearly meet these criteria.

Proposed policy originates in one of the Chamber's standing policy committees. These Committees are made up of members who represent a cross section of the Chamber's membership. After careful deliberation, a proposed policy is submitted to the Chamber's Board of Directors. Adoption of a policy by the Board requires a two-thirds vote.

In view of the recent Congressional and Administration attention given to immigration reform, it was decided that a reexamination of our existing policy was in order. After considering specific proposals introduced by the Administration and pending in Congress, the Labor Relations Committee, which I chair, on October 28, 1981, unanimously reaffirmed its opposition to employer sanctions. The Chamber's Board of Directors, on November 11, 1981, also affirmed unanimously this position. Then, on April 1, 1982, the Labor Relations Committee specifically considered the employer sanctions

provisions set out in Section 101 and rejected them unanimously.

SECTION 101 WOULD REGULATE HIRING PRACTICES OF ALL BUSINESSES

Section 101 makes it unlawful for "a person or other entity" to hire, recruit, or refer for employment:

An alien, knowing the alien is an unauthorized alien with respect to employment.

An individual (even U.S. citizens) without complying with the required verification procedures.

During a 3-year transitional period, a person or entity that hires recruits, or refers for employment must attest, under penalty of perjury, on a form issued by the Attorney General, that he has examined documents which establish both eligibility to work and the identity of the job applicant.

Eligibility to work would be established by a social security card or a birth certificate.

Identity would be established by an alien registration (green) card, a driver's license with a photo, a similar identification document issued by a State, or other personal identifying information which the Attorney General finds, through regulation, sufficient for this purpose. A United States passport would establish both eligibility and identity.

After examining these documents and recording the information, the person must keep on record the form provided by the Attorney General and make it available for inspection to Immigration (INS) officers. If the individual is terminated voluntarily or involuntarily, the form must be retained for at least five years from the hiring date by the persons who recruit, refer or hire.

A person has complied with the requirements of examining the documents if he concludes the documents "reasonably appear on the face to be genuine."

After expiration of the 3-year transitional period, the President must develop and implement a "secure system to determine employment eligibility to be used with respect to all applicants for employment." This secured system would be based on a verification process not otherwise specified in the bill.

Civil and criminal penalties for hiring an unauthorized alien range from \$1,000 to \$2,000, or jail sentences of not more than six months, or both. The Attorney General has injunctive power to stop a "pattern or practice" of employment of unauthorized aliens.

A person that hires, recruits, or refers, but does not follow the verification procedures or maintain the required paperwork will be subject to a civil penalty of \$500 for each individual, even if the individual is a citizen.

Since the bill divides the employer sanctions section into two parts, we will analyze them separately. First, the three year transitional period, then, the permanent program.

INEFFECTIVE ENFORCEMENT AND INCREASED CONFUSION

The requirements during the 3-year transitional period would result in an ineffective enforcement mechanism and in increased confusion. Ineffective enforcement would occur because the required documents may be obtained or forged easily. Confusion would occur because the burden on employers to detect illegal aliens and to distinguish legitimate documents from illegitimate documents is unclear.

U.S. passports

Requiring a U.S. passport would be the most secure system. But, according to the Passport Office of the State Department, only 12 million citizens hold passports. Thus, with a work force of over 100 million people, the passport would not satisfy the identity-verification requirement.

*Birth certificate**Easy to obtain*

A mailed request to most town clerks or city registrars will obtain a copy of someone else's legitimate birth certificate.

Forged birth certificates are commonly used within the illegal alien population. One birth certificate is often used by several individuals.

Confusion

Birth certificates widely vary in size, form, and information contained.

*Social security card**Easy to obtain*

A December, 1977 General Accounting Office (GAO) report¹ noted that the federal government has no control over the use of illicit cards.

A December, 1980, GAO report² noted that cards are commonly counterfeited, stolen, or are peddled by federal employees. One spot-check showed 3 million person with two cards. Cards are called "Keys to the Kingdom" which virtually all illegal aliens can easily obtain.

In a report entitled "Keeping Undocumented Workers Out of the Workforce: Costs of Alternative Work Permit Systems",³ it was noted that simple possession of a social security number should not be viewed as an indicator of legal presence in the country "because so many undocumented workers are found in possession of such cards, most of which are genuine, but secured fraudulently."

Confusion

Social Security Officials claim it is impossible for them to verify the legal status of every applicant requesting benefits or requesting a card. Yet this impossible task would be imposed on employers.

Genuine cards vary in shape, size, color, format, and age.

Many U.S. citizens have lost their cards.

*Driver's license**Easy to Obtain*

In certain states, citizenship is not required to obtain a license.⁴

Licenses can be interchanged among relatives and friends—a common practice within the illegal alien community.

Licenses can be easily duplicated.

Confusion

Many citizens do not drive and have no need for a license.

Does an employer accept a license from another state?

Certain states do not require a photograph on their driver's licenses.⁵

*Alien documentation cards (green cards)**Easy to Obtain*

Cards are sold openly in county fairs, grocery stores and other public places in this country and foreign countries.

"Coyotes" or illegal immigration smugglers provide "green cards" as part of their services.

A March 29, 1982 National Law Journal⁶ story noted that one individual, operating a stolen car ring, was apprehended with 7,000 forged "green cards."

Cards are interchanged among relatives and friends.

Confusion

Though called "green" cards, some are green, other pink, others blue. Some have photographs taken when the immigrant was young—and is old now.

UNCERTAINTY FOR EMPLOYERS AND CITIZENS

In addition to the specific problems outlined, there are additional problems. For example:

Are those U.S. citizens who are unable to produce or obtain these documents precluded from employment?

Will some employers who are shown these documents but still have doubts on the legal status of a job applicant refuse to hire a person who is a U.S. citizen?

Because most employers cannot be expected to be experts in determining the legitimacy of an identification document, how will they know whether it "appears on its face to be genuine?"

It is important to emphasize at this point that the section 101 requirements would apparently apply to virtually every U.S. employer. The section makes it unlawful for "a person or other entity" to hire, recruit, or refer to employment an unauthorized alien. The term "person or other entity" is not defined. We must presume that the intent is to cover all employers, regardless of size and capacity to comply. Even casual employment, such as baby-sitters, would appear to be covered. We question the ability of the INS, which has primary responsibility for enforcing the employer sanctions, to carry out this responsibility in any effective manner.

ENFORCEMENT BURDEN RESTS ON EMPLOYERS

If an illegal alien is discovered in the workplace, a presumption will be made by INS officers that the employer has either knowingly hired that alien or that the employer has failed to check for documents that "reasonably appear" genuine.

It will be incumbent upon the employer to show that documents offered by an employee when the hiring occurred are, or appear to be, genuine. No guidelines are given on how an employer can meet this burden.

Further, an INS officer will not be able to distinguish between an employer that followed the verification process as contrasted to an employer that did not follow the process but has nevertheless filled out the forms indicating compliance. Again, the burden will be on the employer to show good faith compliance.

⁴ According to the Driver's License Guide Company, Redwood, Calif., nine states (Maine, Mississippi, New Jersey, New York, Pennsylvania, Tennessee, Vermont, West Virginia, and Wisconsin) do not require a photograph or provide for licenses without a photograph.

⁵ National Law Journal, Mar. 29, 1982, p. 29.

Only by the employer retaining the offered documents or by the employer photocopying these documents will the burden be relaxed.

Is it fair or practical for employers to request and hold social security cards or driver's licenses from their employees? Thus, for the overwhelming number of employers—if INS discovers an illegal alien in the workforce—a presumption will be made that the employer knowingly hired that illegal alien and the employer will be at a loss to offer immediate proof to the contrary.

This problem for the employer can be increased further since, under section 101, an appeal from an INS officers' penalty assessment will be made to another INS officer. As such, INS officers play an important role of police and jury in a highly subjective and unclear procedure.

This likely presumption that an employer knowingly hired an illegal alien simply because one is discovered in his work force is unfair.

Many companies have internal policies which restrict hiring to U.S. citizens or permanent residents. Unfortunately, because of a lax border enforcement, and because there is such widespread use of illegitimate documents, illegal aliens gain entry easily into the U.S. work force. As an example, public testimony and news stories have shown that illegal aliens have been found working as:

Prison guards at state correctional institutions

Cooks at U.S. military academies

Typists at Capitol Hill offices

Stewards at U.S. military installations

Janitors at the INS.

These employers presumably did not knowingly hire illegal aliens. Thus, the presumption that an employer knowingly hires an illegal alien simply because one is discovered in the work force is both unfair and extremely difficult to overcome.

Experiences with well-intentioned laws such as the Occupational Safety and Health Act and the Equal Employment Opportunities Laws, has shown that some federal officials are more concerned with assessing civil fines than with achieving the stated objectives of the laws. These laws provide for government intervention in the workplace and for civil penalties if regulatory mandates are not followed. Section 101, with its technical penalties for failure to follow complicated verification and recordkeeping procedures, will lead to similar enforcement abuse.

POST TRANSITION PERIOD: A SECURE SYSTEM TO DETERMINE EMPLOYMENT ELIGIBILITY

Section 101 provides that, within three years after its enactment, the President "shall develop and implement a secure system to determine eligibility to be used with respect to all applicants for employment."

It provides further that such a system shall be designed to give personal information on individuals and that verification will be provided for eligibility to work. Although certain restrictions are put on the use of the verification system, no further explanation is given.

Thus, the system which Congress is asked to enact is undefined. The system with which the business community is asked to ultimately comply is unclear. The procedures which an employer will have to follow every time a person is hired in order to avoid a \$500 fine are unknown.

Congress is being asked to approve an undefined system—no matter how burdensome.

¹ "Impact of Illegal Aliens on Public Assistance Programs: Too Little Is Known," GGD-78-80, December 1, 1977.

² "Reissuing of Tamper Resistant Cards Will Not Eliminate Misuse of Social Security Numbers," HRD 81-20, December, 1980.

³ "Keeping Undocumented Workers Out of the Workforce: Evaluation of Alternative Strategies," by David North, Center for Labor and Migration Studies, May, 1978.

⁴ Most, if not all, states simply ask for identity, not citizenship. Thus, possession of a social security card will enable a person to receive a driver's license.

some, no matter how unreasonable, it might turn out to be.

For example, if the system eventually provides for a national I.D./worker authorization card, it is unknown which agency will administer it. The Social Security Administration may be the most appropriate agency (i.e. by re-issuing "foolproof" social security cards), but this agency has been reluctant to assume the extra duties of INS enforcement. Or will the President create a new independent agency? At this point, we simply don't know.

The only guidance provided as to the ultimate system is by examining existing proposals. Perhaps the most relevant example, the "Immigration and Nationality Security Act of 1981" (S. 776) provides for:

A national identification/work permit card for every citizen and permanent resident in the workforce.

A federally run, computer data bank system to determine worker eligibility.

Under S. 776, employers, before hiring a job applicant, would have to make a telephone call to a regional government office requesting verification of employment eligibility. This would be handled by a computer hook-up and an electronic voice.

Absent this instant hook-up or verification (because of computer malfunction or other reasons), an employee of the federal government would most likely handle the phone call and provide the verification. A \$500 civil fine would be imposed on any one failing to follow this procedure even if the person is a citizen.

EXPENSIVE AND UNWORKABLE

In earlier testimony before the subcommittees, the Attorney General estimated that the start-up costs for a national identification card would be between \$860 million and \$2 billion. The Chamber estimated that start up costs for the phone call-in system could be up to \$2.5 billion. Thus, the range for starting the type of verification system outlined in S. 776 ranges from \$860 million to \$4.5 billion, with unknown continuing annual costs.

But, if past government cost estimates for adopting a similar I.D. card are any indication, we can reasonably expect that their will be substantial additional costs.

For instance, in 1977, the INS adopted a program to make a fool-proof alien "green" card projecting an estimated cost of \$13 million and a 7-year implementation plan. According to a GAO report,⁷ as of November 1980, the card was behind schedule and costs had increased to \$67 million, a five-fold increase in three years.

The system proposed by S. 776 would also run counter to the dynamic job-changing practices of our national work force. It would impact severely on certain industries and on certain localities.

Many industries are "project oriented" and thus experience a significantly high turnover rate. In the construction industry, with about 6 million workers, a labor turnover rate of 500% annually is common. In agriculture, a labor turnover rate of over 100% per quarter is common.

The U.S. Bureau of Labor Statistics does not have information on the exact figure on the number of job turnovers. Based on limited information, a labor turnover rate of 70 million annually may be a minimum.

If this system were enacted, the federal government would have to handle at least:

70 million phone calls per year;
192 thousand phone calls per day;
8 thousand phone calls per hour;
2.3 phone calls per second.

The phones of the federal government would never stop ringing, and there would surely be severe impacts on our economy.

Further, the system would impact severely on businesses in remote areas or with no access to a telephone. Unless an employer wishes to violate the law, a whole project might be unnecessarily delayed because an employee's identification card number has been forged or appears twice in the computer or simply because there is a busy signal on the telephone.

We don't know if a system like the one outlined in S. 776 would be the one adopted by the President. However, given the magnitude of the problems associated with such a system, is it reasonable to ask Congress to enact, and the business community to accept the unknown system proposed by Section 101? The answer must be no.

BILL IMPOSES FINES EVEN IF EMPLOYER HIRES ONLY U.S. CITIZENS

We must point out a technical section which will impose unjust penalties. It is probable that many employers would not know about or would not be able to utilize the prescribed verification procedures. Then, even if that employer hires only U.S. citizens, civil fines for violation of the employer sanctions law would be assessed, since the section ascribes strict liability.

It is also probable and most convenient for INS officials to neglect border enforcement and to request the records of employers to detect technical violations of the law. Then, as a measure of immigration control, the amount of penalties recovered would be the measuring gauge rather than the protection of our borders. A "successful" employer sanctions law would be operating while employers would be fined for hiring U.S. citizens.

For instance, a small business with 100 employees may, over the course of a few months, hire 10 people. If that business does not follow the prescribed procedures—a \$5,000 fine can be levied even if all 10 new employees are U.S. citizens.

This section is illogical in its requirement, unreasonable in its demands, and irrelevant to the objective of controlling illegal immigration.

EFFECTIVE STEPS CAN BE TAKEN TO DEAL WITH THE PROBLEM OF ILLEGAL IMMIGRATION

Though we have concluded that an employer sanctions proposal cannot achieve its intended purpose, we nevertheless believe that certain actions can be taken that will assist the Federal government in gaining control over the illegal alien problem. We offer these recommendations now, in the spirit of a dedication to confront and solve the problem, and in addition to the recommendations which we expect to develop later this year when the National Chamber Foundation study is completed. We recommend:

Tightening the procedures for obtaining and for using border crossing passes.

Tightening the procedures for obtaining and enforcing student visas and tourist visas.

Increasing the capacity of INS to patrol the borders.

Exploring the extent to which increasing legal immigration or working visas can ease the pressures of illegal immigration.

Exploring the development of a broad program of voluntary business cooperation rather than relying on coercive sanctions.

Although shown to be successful when applied, these programs have never been tried on a coherent and broad basis.

TIGHTEN PROCEDURES FOR OBTAINING AND FOR USING BORDER CROSSING PASSES

Illegal aliens enter this country by either crossing the border illegally and escaping detection from INS officers or by crossing legally with a visa and violating the terms of the visa.

For Mexican illegal aliens, the most widely used visa for legal entry is the border crossing card (I-186 Form). This card permits entry into the United States, for business or pleasure, within 25 miles of the borders and for up to 72 hours.

Most Mexican illegal aliens who obtain the I-186, through legitimate means, enter this country, and immediately mail the cards to Mexico. Then, if they are arrested and deported, the border pass is waiting to be used again for easy entry. The border pass is also used by friends and relatives, or others wishing to gain entry to the United States.

Some Border Patrol officials believe that this method is used by a majority of Mexican illegal aliens. Another report estimates that this method is used for 70%-80% of all illegal entries.

In 1978, there were 103 million crossings from Mexico by aliens using these passes and crossing the border at key ports in the Southwest.⁸ This compares with a Mexican population of 68 million.

These passes are good for the life of the holder and do not contain a date of entry or exit. If they did, mailing them back to Mexico would make them useless since they could be seized if presented for re-entry to the United States if no exit date were recorded. Increased personnel, and an automated system for recording, would be needed to enact a program whereby border passes identify the holder and have the date of entry and exit recorded. This kind of program could significantly reduce illegal entry.

INCREASE THE CAPACITY OF THE INS TO PATROL OUR BORDERS

Most illegal aliens who are apprehended are found in a 30-mile section south of San Diego, called the Chula Vista Sector, and in a 20-mile section at El Paso, Texas. However, helicopter reconnaissance, which has been shown to deter illegal crossings, has been impeded because immigration officials have lacked funds to buy gasoline. On the East Coast some seaports are left unpatrolled at night and illegal aliens enter freely by boat.

Right now, there are more police officers assigned to guard the Capitol and adjacent buildings, then there are INS officers patrolling our borders.

The Border Patrol Supervisors Association estimated that an increase in its force, from 2,400 to about 6,000, would stop about 90 percent of illegal border crossings attempts. Border guards know when and where illegal border crossings occur, but lack proper resources to enforce the law.

This bill provides no funding for increased border enforcement. This alternative should be considered also.

⁷ "Prospects Dim for Effectively Enforcing Immigration Laws", November 5, 1980, GGD-81-4.

⁸ 1978 Statistical Year Book of the Immigration and Naturalization Service, U.S. Department of Justice, page 57, table 19.

[From the Wall Street Journal, Aug. 12, 1982]

EMPLOYERS AS COPS

Smallbusinessmen, watch out. A bill coming before the Senate floor would provide you with another regulatory nuisance, without solving the problem it is intended to solve.

The bill is Sen. Alan K. Simpson's Immigration Reform and Control Act of 1982 (a companion bill has been introduced by Rep. Romano L. Mazzoli). It is a complicated bill, with hundreds of provisions including amnesty for illegal aliens who arrived in the U.S. before 1982, as well as a long-overdue streamlining of asylum procedures. But the most important provision, in the view of the sponsors, would impose civil and criminal penalties on employers who knowingly hire illegal immigrants.

The idea is to shift onto businesses the burden of enforcing our immigration laws. The Immigration and Naturalization Service hasn't been very effective in policing U.S. borders or in making sure foreigners don't stay here after their visas expire. So, it is argued, the only way to stop illegal immigrants is to make employers responsible for denying them jobs. But, at best, employer sanctions won't work. At worst, they could be a regulatory nightmare like OSHA.

At first, under the Simpson bill, the obligations on business would only be a slight bother. Everytime someone is hired, the employer would have to fill out a form saying he'd seen at least two pieces of identification—Social Security card, driver's license, etc.—indicating legal residence. However, ID cards are easily forged: You can even buy U.S. identification in Tijuana or Santo Domingo. So this rule, while boosting paper and filing cabinet sales, would be completely useless in stopping the hiring of illegal aliens.

The real trouble would begin after three years, when the president would be authorized to introduce some kind of national identification system. The most common proposal is for something like the telephone checking system retailers use for credit cards: Before anyone could be hired, the employer would have to call up a government data bank to make sure the applicant's ID is genuine. A University of Michigan study in the mid-1970s estimated that there are about 70 million new hires a year—which translates into 7,500 calls every hour. If you've had any experience with the filing systems of the Social Security Administration or other government agencies, you can imagine how much fun it will be waiting for an answer.

Big companies would be able to adapt to sanctions. They already have personnel departments that make detailed investigations into job applicants' backgrounds. They have copying machines and hordes of bookkeepers. They have expensive lawyers to make sure the company keeps out of trouble. Perhaps for these reasons, the Labor Management Committee of the Business Roundtable has endorsed the principle of employer sanctions.

But for small companies, without personnel or legal departments, and where the boss is scurrying around so much that he has to make snap hiring and firing decisions, the measure would be a real headache. Unless there is an OSHA-style inspection force ready to barge in on everybody's files, the incentive for most small businesses will be to ignore the rules.

Even with the penalties, moreover, many businesses—particularly in construction, retailing, hotels and restaurants and light

manufacturing—will still have an economic incentive to hire illegal aliens. Often this will be because the work is menial and Americans won't take it. Sometimes it is because the illegal alien will work for lower wages. Perhaps the major reason is that these are businesses with high worker turnover where bosses must hire people instantly: A building subcontractor doesn't care where you're from when he needs concrete-pourers right away. It is no accident that the greatest number of illegal immigrants have been in the boom economies of Texas and California. Indeed, it is widely believed that both states' economies would have suffered if they hadn't been able to draw on illegal labor.

None of this is to suggest that illegal immigration isn't worrisome. A nation that prides itself on the rule of law can hardly be comfortable when millions of people are breaking the rules. But employer sanctions will not remove the incentives for illegal immigration. Even if they reduce the flow somewhat, the disruption they will cause in small businesses may make the cure worse than the disease.

EMPLOYER SANCTIONS

(The following occurred earlier:)

Mr. SYMMS. Mr. President, I ask unanimous consent that the remarks I am about to make and the article I intend to insert in the RECORD be printed in the RECORD at the proper place in the debate over the Tower amendment which deals with the subject of employer sanctions.

The PRESIDING OFFICER. Without objection so ordered.

Mr. SYMMS. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Wall Street Journal dated August 12, 1982, entitled "Employers as Cops."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Aug. 12, 1982]

EMPLOYERS AS COPS

Smallbusinessmen, watch out. A bill coming before the Senate floor would provide you with another regulatory nuisance, without solving the problem it is intended to solve.

The bill is Sen. Alan K. Simpson's Immigration Reform and Control Act of 1982 (a companion bill has been introduced by Rep. Romano L. Mazzoli). It is a complicated bill, with hundreds of provisions including amnesty for illegal aliens who arrived in the U.S. before 1982, as well as a long-overdue streamlining of asylum procedures. But the most important provision, in the view of the sponsors, would impose civil and criminal penalties on employers who knowingly hire illegal immigrants.

The idea is to shift onto businesses the burden of enforcing our immigration laws. The Immigration and Naturalization Service hasn't been very effective in policing U.S. borders or in making sure foreigners don't stay here after their visas expire. So, it is argued, the only way to stop illegal immigrants is to make employers responsible for denying them jobs. But, at best, employer sanctions won't work. At worst, they could be a regulatory nightmare like OSHA.

At first, under the Simpson bill, the obligations on business would only be a slight bother. Everytime someone is hired, the em-

ployer would have to fill out a form saying he'd seen at least two pieces of identification—Social Security card, driver's license, etc.—indicating legal residence. However, ID cards are easily forged: You can even buy U.S. identification in Tijuana or Santo Domingo. So this rule, while boosting paper and filing cabinet sales, would be completely useless in stopping the hiring of illegal aliens.

The real trouble would begin after three years, when the president would be authorized to introduce some kind of national identification system. The most common proposal is for something like the telephone checking system retailers use for credit cards: Before anyone could be hired, the employer would have to call up a government data bank to make sure the applicant's ID is genuine. A University of Michigan study in the mid-1970s estimated that there are about 70 million new hires a year—which translates into 7,500 calls every hour. If you've had any experience with the filing systems of the Social Security Administration or other government agencies, you can imagine how much fun it will be waiting for an answer.

Big companies would be able to adapt to sanctions. They already have personnel departments that make detailed investigations into job applicants' backgrounds. They have copying machines and hordes of bookkeepers. They have expensive lawyers to make sure the company keeps out of trouble. Perhaps for these reasons, the Labor Management Committee of the Business Roundtable has endorsed the principle of employer sanctions.

But for small companies, without personnel or legal departments, and where the boss is scurrying around so much that he has to make snap hiring and firing decisions, the measure would be a real headache. Unless there is an OSHA-style inspection force ready to barge in on everybody's files, the incentive for most small businesses will be to ignore the rules.

Even with the penalties, moreover, many businesses—particularly in construction, retailing, hotels and restaurants and light manufacturing—will still have an economic incentive to hire illegal aliens. Often this will be because the work is menial and Americans won't take it. Sometimes it is because the illegal alien will work for lower wages. Perhaps the major reason is that these are businesses with high worker turnover where bosses must hire people instantly: A building subcontractor doesn't care where you're from when he needs concrete-pourers right away. It is no accident that the greatest number of illegal immigrants have been in the boom economies of Texas and California. Indeed, it is widely believed that both states' economies would have suffered if they hadn't been able to draw on illegal labor.

None of this is to suggest that illegal immigration isn't worrisome. A nation that prides itself on the rule of law can hardly be comfortable when millions of people are breaking the rules. But employer sanctions will not remove the incentives for illegal immigration. Even if they reduce the flow somewhat, the disruption they will cause in small businesses may make the cure worse than the disease.

Mr. SYMMS. Mr. President, I rise in support of the amendment offered by the Senator from Texas (Mr. Tower).

One of the biggest single concerns that the people in my part of the country—and I am talking about the

Columbia Basin drainage, all the way from Yellowstone Park to the Pacific Ocean—are concerned with in this legislation is how we are going to have the employers enforcing this law without having racial or other kinds of discrimination take place.

Already it is very customary, Mr. President, in my State for agricultural employers to require application forms for people to fill out as to whether or not a person is a citizen, if not the alien registration number, and so forth. I think, after this legislation passes, we will probably find we may be doing this in our offices to protect ourselves unless an amendment would be made which deals with the criminal sanctions which will be imposed on employers.

Mr. President, I encourage my colleagues to heed very carefully the arguments made by the Senator from Texas on this. I think it would be a very beneficial program in this country to not try to have the small businessmen of America end up being the ones who have to enforce the immigration laws of the United States.

If an employee comes in, a potential employee, to a small business, farm, ranch, or small business on Main Street and applies for work, if they have some sort of identification, a social security card is primarily what they use today, but a social security card or some other acceptable form of identification and present that to the employer, and if the employer then would later be penalized or have charges brought against him, what may happen is that the small business employers, in order to protect themselves, will gradually start being less and less inclined to hire Americans with a Hispanic birthright.

I think that is a fact. It certainly is a fact of what is happening with the migration patterns in this country, people moving up from south Texas into the Snake River and the Columbia Basin area, the Yakima Valley in Washington State and the Wenatchee and Columbia drainage area where there are a great number of people working in hand labor who are Hispanic by their birthright.

I certainly encourage my colleagues to support this amendment and to read carefully the editorial of the Wall Street Journal of August 12, 1982.

(Conclusion of earlier proceedings.)

The PRESIDING OFFICER. Did the Senator request the yeas and nays on the unprinted amendment numbered 1443?

Mr. SIMPSON. Yes, Mr. President, I do request them.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that my previous statement on the previous amendment

be recognized as being in opposition to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. I ask for the yeas and nays on the second amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I recall we laid aside the last Hayakawa amendment, and I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent that that amendment be sequenced as we have previously agreed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I have a very brief comment on the Tower amendment on employer sanctions.

That amendment would gut the enforcement of the law prohibiting the knowing employment of illegal aliens. If the amendment were to pass, it would have an effect similar to having a free tax audit.

It would be as if a person were allowed to commit tax fraud without any possibility of penalty until after he was apprehended and ordered not to repeat the offense. In fact, because the amendment provides that the order can be terminated after 2 years, this cycle could be repeated. An employer could knowingly employ many illegal aliens over a long time, finally be apprehended and ordered to cease and desist, comply for 2 years, have the order terminated, then be safe to violate the section again without threat of penalty until caught again.

The substitution of a willful standard may be interpreted to mean that even if the employer knows he is hiring an illegal alien, if he can show that he does not prefer illegal aliens; that is, that he is indifferent to whether he hires an illegal alien or not, then he would not be violating the prohibition. Obviously, this would seriously weaken the law.

No improved verification system is required. Therefore, verification would be accomplished indefinitely by a showing of, first, a U.S. birth certificate or social security card, and second, a driver's license. The U.S. birth certificate and social security card are readily available in counterfeit form. Indeed a genuine birth certificate referring to another person can easily be obtained. With a birth certificate a driver's license can be obtained. This same criticism can be made of the transitional system in the bill, the difference is that the bill requires that a system without these

flaws be developed and implemented in 3 years.

The amendment would make us of the verification system optional. This could lead to discrimination. He could require documents only from those who look or sound "foreign" to him.

I urge my colleagues to consider the amendment carefully. The amendment, indeed, would lead to some conclusions that I do not think would be appropriate in connection with this bill, and it has been resisted by several organizations of national stature.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I rise to oppose the amendment by the Senator from Texas. This amendment would essentially render useless the employer sanction provision in the bill. The Wall Street Journal in its editorial yesterday called this provision a real headache, that strict employer sanctions will not remove the incentive for illegal immigration, that they will cause disruption in the workplace.

These types of arguments are real copouts.

Those who oppose employer sanctions admit that illegal immigration may be a problem but nowhere do they offer another solution.

They claim the incentives for illegal immigration will not be curbed by employer sanctions.

If those do not, what will? Do not illegal aliens come to this country to work? Our border with Mexico stretches for 2,000 miles; short of building a wall there is really no other solution to this problem.

It is important to remember that over half of the illegal population is Mexican. The rest consists mainly of student and tourist overstays and those who illegally enter through our harbors and airports. If the latter group changes residence, it is virtually impossible to track them down.

If strong workable employer sanctions are not imposed what will entice this other group to return home?

Claims are heard that employees will not comply with the law. Most Americans are law-abiding people. To say that businessmen are going to deliberately break the law is to insult them. In fact, though the chamber has come out against employer sanctions, both the Business Roundtable and the National Association of Manufacturers are supportive of these provisions. In addition, the Alliance for Immigration Reform, a group made up of large corporations such as Xerox, NCR, Ford, and Caterpillar, has been actively lobbying in favor of the bill.

That group has certain reservations about the bill in the areas of foreign students and independent immigrants,

therefore it is not a blanket endorsement.

It should be pointed out that not all chambers oppose this legislation. For example, the San Diego and Houston chambers, both of which are areas heavily dependent on illegal labor, support employer sanctions.

More importantly, according to the Wall Street Journal, this bill is going to prove most burdensome to small employees. I point out that the NFIB's most recent poll of their members shows two to one support for employer sanctions.

As far as I am concerned, these arguments do not hold water and should be dismissed.

I urge defeat of the amendment.

Mr. SIMPSON. Mr. President, I believe the Senator from Minnesota seeks recognition. With the approval of the Senator, I ask unanimous consent that on this amendment there be a time agreement of 20 minutes equally divided.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1244

(Subsequently numbered amendment No. 2028.)

(Purpose: To prevent the transfer of unused visas from one contiguous foreign state to the other contiguous foreign state)

Mr. BOSCHWITZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Minnesota (Mr. BOSCHWITZ) proposes an unprinted amendment numbered 1244.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 124, lines 9 and 10, strike out "(or the number determined under subparagraph (C))".

On page 124, line 25, insert quotation marks and a period immediately after the period.

On page 125, strike out lines 1 through 8.

Mr. BOSCHWITZ. Mr. President, I enter this amendment on behalf of myself and the distinguished Senator from Kentucky (Mr. HUDDLESTON). This amendment would conform the Senate bill to the House bill with respect to the transferability of numbers between Canada and Mexico.

I have agreed with my friend and colleague, the distinguished junior Senator from Wyoming, on most aspects of the immigration bill and have congratulated him time and again for the great work that he has done on the bill, and so it is with great reservation that I disagree with him in this particular area.

Mr. President, each country is entitled to 20,000 entrants each year as a maximum with two exceptions, and each exception is a country that borders us: One to the north, Canada, and one to the south, Mexico.

In those two instances, Mr. President, the maximum is not 20,000 but 40,000, and it is not that that we are addressing. That we understand. They are our neighbors. There is a greater interrelationship between our peoples than perhaps other countries, so a larger number is quite properly in order.

However, in the event the 40,000 is not used by one of those two countries, the numbers that remain available would be transferable to the other country. As an example, if only 10,000 Canadians choose to come south to the United States in a given year, then 70,000 Mexicans would be entitled to legally come to this country.

Mr. President, it is that that we are seeking to change by this amendment, not to make those numbers transferable. We have done a great deal in this bill for our friends from Mexico. We are making legal a very large number of people either in a permanent or temporary status in this country in allowing them to stay. I am not quite sure how many hundreds of thousands of people are involved, but certainly this bill has to be regarded as an enormous gesture of our friends from Mexico. It is, indeed, quite correct in so doing, and it is, indeed, quite correct in its effort to control the flow of people across our borders because, as the Senator from Wyoming has so correctly stated to me on a number of occasions, one of the first duties that a country owes to itself is to control its borders.

The number of immigrants in this country who have come from countries other than Mexico is very large. I am not sure whether the Senator from Wyoming is familiar with the numbers, but it seems to me that the number of immigrants who now live in this country and who have come from countries other than Canada or Mexico is certainly far larger, much larger, than the number of immigrants who have come from those countries.

To give those two countries such a large, disproportionate share of the total number of immigrants that we allow into this country, in my judgment, does not represent equity. We will allow a total of 350,000 immigrants in under the various preferences; 80,000 of those would be attributable and assigned to only two countries—Mexico and Canada. All other countries would have the remaining 270,000, and any other country would not be allowed to have immigrants to this country in excess of 20,000.

Mr. President, it is not equitable that one country have perhaps as

many as 80,000 and all other countries of the world be limited to just 20,000.

Again, this is not an effort to penalize any of our neighbors. That is not the neighborly thing to do, of course. This bill deals very fairly, very expansively, with our neighbors, particularly our Mexican neighbors.

Mr. President, that is the sum and substance of the amendment—that the 40,000 cap be maintained for both Canada and Mexico, a cap that is twice as large as the cap for any other country in the world, but the transferability between those caps be disallowed, so that in the event one of those countries does not use the entire 40,000, what they do not use will not be transferable to the others, but what they do not use will apply to every other country of the world.

I reserve the remainder of my time.

Mr. SIMPSON. Mr. President, regretfully, I will resist this amendment by my good friend from Minnesota—and that is not a hollow statement. He is a delightful fellow. His pin number is one higher than mine in this body, and he continually reminds me of that fact. He recalls that I am simply number 65 and he is number 64, something of that nature.

Mr. BOSCHWITZ. Mr. President, if the Senator will yield, I believe it is 65 and 66.

Mr. SIMPSON. Whatever, it is one below.

Mr. President, I will be very brief.

There were no per country ceilings for Mexico and Canada until 1976. The policy that we emphasize here recognizes a very special friendship, relationship, and proximity that we have with our contiguous neighbors in trade and mutual strategic interests and commitment to democratic principles.

By allowing the unused numbers of one of these contiguous neighbors to go to the quota of the other, we will be reducing the pressure for illegal immigration while recognizing this very special, sensitive relationship we have with our neighbors, and it will relieve the backlogs with those countries. These things come from my visit with Mexican officials—the President, the President-designate, and others—that they are very pleased at this special recognition of a special privilege. And that is what it is; that is what it is provided for. That is why it applies only to Canada and Mexico. But the historical flow would show that Mexico will most benefit.

I reserve the remainder of my time.

Mr. BOSCHWITZ. Mr. President, I wish to note that the distinguished Senator from Kentucky (Mr. HUDDLESTON) and I have been on opposite sides in most of this immigration bill, that on this particular amendment we are together, that we recognize the very special friendship we have with

our neighbors, both Canada and Mexico, about which my friend from Wyoming speaks.

As a member of the Foreign Relations Committee, I am aware that we have very special friendship with many countries throughout the world but have not given them attention of an extraordinary sort in this bill. Throughout this bill, we have given extraordinary attention and consideration to our friends from Mexico.

I recognize that the chairman of the Immigration Subcommittee, Mr. SIMPSON, has had conversations with the Mexican Government. Yet, I must respectfully defer. Whether or not it impacts on illegal immigration, I must also contest, because an illegal immigrant does not worry or think about quotas, anyway, and whether or not they are going to come here in large numbers will be protected, as the Senator well knows, by the employer sanction rather than by a quota of one type or another.

The distinguished chairman talks about relieving the backlog. I believe the backlogs from other countries are as high as or higher than the backlog for Mexico, and as such, they, too, need some consideration.

So I must respectfully take another view from that of my friend and join Senator HUDDLESTON in proposing this amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, just one comment. The purpose of the amendment is to reduce the backlogs, 85 percent of the Mexican people in the backlogs already reside in the United States. I know that is curious, but that is true. This would simply reduce those backlogs, and it would be of great assistance to us in reducing the pressure for illegal immigration.

I yield back the remainder of my time.

Mr. BOSCHWITZ. I yield back the remainder of my time.

Mr. GRASSLEY. Mr. President, I rise for the purpose of making a statement in regard to the fact that I was going to offer an amendment on the subject of law enforcement. I am not going to offer that amendment, and my statement gives an explanation.

My amendment, to permit cooperation between the Immigration and Naturalization Service and State and local law enforcement agencies, was accepted by the immigration subcommittee, but deleted during full committee consideration of the bill.

I have discussed this amendment with the Senator from Wyoming and other Senators, with the administration, especially the Department of Justice and the INS, and with many orga-

nizations interested in the proposal. As a result of these discussions and extensive legal research into the questions addressed by my amendment, I now believe that the activities which my amendment is intended to foster can be conducted without limitation under current law. Both administrative opinion and case law indicate that cooperation between Federal immigration officers and State and local law enforcement officials is not only permitted, but is considered useful and should be encouraged.

My intention when I offered this amendment was to clarify a confused situation in which State and local law enforcement agencies were unsure as to their liability if they cooperated with Federal immigration officers. Legal authorities in several States indicated that the situation was so unclear as to preclude any cooperation, not from fear of doing wrong, but because they did not know where the limits to their actions, if any, would lie. I sought to ameliorate this chilling effect.

I first looked at this situation to determine if there was a substantial difference of legal opinion. I was surprised to find the reverse, a substantial uniformity of legal opinion. The current case law involved in this area is fairly complete. Congress power over immigration is plenary and without substantial restriction. The case of *Carlson against Landon* (1952), provides such an analysis. Historically, State and local officers have been able to enforce criminal violations of immigration laws. See *Testa against Katt* (1947). Although Federal power preempts State and local power over immigration, as in the case of *Hines against Davidowitz* (1941), the Supreme Court, in *DeCanas against Bica* (1976), has held that a State may exercise its police powers to protect its citizens from the effects of immigration.

Perhaps more important, the Supreme Court, just a few weeks ago, in *Pyler against Doe*, the Texas school case, held that a State may protect its citizens against illegal immigration so long as its actions are consistent with Federal law. On page 22 of the opinion, Justice William Brennan, a staunch supporter of civil rights, says:

As we recognized in *De Canas v. Bica*, 424 U.S. 351 (1976), the States do have some authority to act with respect to illegal aliens, at least where such action mirrors Federal objectives and furthers a legitimate state goal.

And on page 27, Justice Brennan writes that:

Although the State has no direct interest in controlling entry into this country, that interest being one reserved by the Constitution to the Federal Government, unchecked, unlawful migration might impair the State's economy generally, or the State's ability to provide some important service. Despite the exclusive Federal control of this Nation's borders, we cannot conclude that the States

are without any power to deter the influx of persons entering the United States against Federal law, and whose numbers might have a discernible impact on traditional State concerns.

Clearly, then, the Supreme Court, the highest judicial body in the land, recognizes the value of such cooperation and holds that it is permissible.

Perhaps the only real difficulty in this area arises from a directive issued in 1978 by then-Attorney General Griffin Bell. The Bell directive established the policy of the Carter administration that Federal-State cooperation in this area was not to be encouraged, and should not be viewed as desirable by that Justice Department leadership. In my conversations with Attorney General William French Smith and his staff at the Department of Justice, I have found a much more positive impression of cooperation between State and local and Federal authorities. I have been assured that Commissioner Nelson and Attorney General Smith will immediately begin a review of the Bell directive in order to correct the misimpression it has created that cooperation of any kind between Federal, State, and local law enforcement authorities in the area of immigration is unhealthy and in order to foster legitimate efforts to better coordinate these resources.

Therefore, with these legal and administrative authorities from the highest judicial and law enforcement levels, I believe that my amendment is no longer necessary to clarify a previously cloudy area. The activity on this issue has provided sufficient guidance to State and local legal authorities to allow them to know where they stand on cooperating with the Federal Government.

Mr. President, with that understanding of this complex and heretofore obfuscated issue, I will not offer my amendment. I thank my colleagues.

UP AMENDMENT NO. 1245

Mr. SIMPSON. Mr. President, I send to the desk a final amendment and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. SIMPSON), for Mr. KENNEDY, Mr. CHAFEE, Mr. TSONGAS, Mr. BRADLEY, and Mr. BRADY, proposes an unprinted amendment numbered 1245.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows.

On page 127 beginning with the quotation marks on line 11, strike out all through "United States" on line 24 and insert in lieu thereof the following:

"(1) Aliens who are members of the professions holding Doctoral Degrees or Aliens of Exceptional Ability.—Qualified immi-

grants who are members of the professions holding doctoral degrees (or the equivalent degree) or who because of their exceptional ability in the sciences, arts or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions or business are sought by an employer in the United States, shall be allocated visas. In determining under this subparagraph whether an immigrant has exceptional ability, the possession of a degree, diploma, certificate, or similar award from a college, university, school or other institution of learning or a license to practice or certification for a particular profession or occupation shall not by itself be considered sufficient evidence of such exceptional ability.

Page 147, after line 6, insert the following new paragraph:

(4) by inserting before the period at the end the following: "And provided further, That the Attorney General may, if he determines it to be in the public interest, waive such two-year foreign residence requirement—"

(A) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, mathematics, computer science, or an engineering field from a college or university in the United States and who is applying for a visa as an immigrant described in section 202(b)(1), up to a limit of 1,500 such waivers per year, for aliens who have been offered a position on the faculty of such institution teaching in the field in which he obtained such degree, and 4,500 such waivers per year for aliens who have been offered a research or technical position by a U.S. employer in the field in which he obtained such degree, or

(B) in the case of an alien admitted under section 101(a)(15)(F) who has obtained a degree in a natural science, computer science, or in a field of engineering or business, who is applying for a visa as a nonimmigrant described in section 101(a)(15)(H)(iii), and will receive no more than four years of training by a United States firm, corporation, or other legal entity, which training will enable such alien to return to the country of his nationality or last residence and be employed there as a manager by the same firm, corporation, or other legal entity, or a branch, subsidiary, or affiliate thereof."

2. Page 147, line 3, strike out "and".

3. Page 147, line 6, strike out the period and insert in lieu thereof, "and".

Page 166, after line 10, add the following new subsection (f) to Section 401:

"(f) a report on the need for qualified immigrants under section 202(b) of the Immigration and Nationality Act:

Three years from the effective date of this Act, the Secretary of Labor, after consulting with the Attorney General, and with representatives of domestic employers and representative domestic employees, and domestic institutions of higher learning, shall submit to Congress and the President a report, to be accompanied by his recommendations for changes in current law and regulations, concerning the Nation's need for qualified immigrants identified in paragraphs 1 and 2 of subsection (b) of this section who have acquired professional or technical skills that may be in critical demand in the United States.

● Mr. KENNEDY. Mr. President, the amendment I am offering—cosponsored by Senators TSONGAS, CHAFFEE, BRADLEY, and BRADY—is designed to

correct some unfortunate limitations contained in this bill on the ability of certain highly trained foreign students to adjust their immigration status without leaving the country for 2 years. The amendment also seeks to restore the language of existing law on the terms governing the admission of professionals, managers and executives.

As drafted, this bill would require all future foreign students to leave the United States for 2 years before they can adjust their immigration status—except if they marry an American citizen. I believe this is too restrictive, especially in areas such as engineering, computer sciences, and other areas of high technology, where the United States is facing critical shortages in industry and in teaching.

It is contrary to our national interests to force students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to leave the country.

It also ignores the current reality that such qualified students do not return to their homes in the Third World or elsewhere, but simply move to Japan or to Europe and use their skills to help those nations compete against the United States. It makes no sense when our universities and businesses are starved for scientific talent, for the United States to train engineers or computer specialists at M.I.T. for jobs in Germany.

My office has been deluged by letters from American universities, research institutions, and companies, documenting in very persuasive terms that this change in student visas would be contrary to our national interests.

Mr. President, the numbers of students involved is apparently very small—although the Immigration Service does not have precise statistics. But only approximately 5,000 foreign students adjust their immigration status to other than family reunion preferences. That is hardly a "brain drain"—yet it represents an important pool of talent in the high-technology, teaching, and research fields.

I have been willing to reach a compromise on this amendment—to establish a numerical limit of 5,000—with a requirement for a study within three years to determine what changes should be made in the future. However, I have not been willing to narrow or limit the kinds of students who can adjust beyond the high professional standards contained in existing law for third preference—or the new independent categories contained in the bill. Any such limitation would be arbitrary and not based upon any thoughtful review of the needs of industry or the academic world.

The revised amendment I am offering establishes a ceiling of 5,000, re-

quires a thorough and independent review of the program, and restores the existing law on the standards contained in the first and second preferences on the admission of professionals in the new independent immigration category.●

● Mr. TSONGAS. Mr. President, I rise in support of Senator KENNEDY's amendment to the proposed Immigration Reform and Control Act. A provision of the bill would require foreign students to return to their home country for 2 years after completing their studies before they could become eligible for immigration to the United States. It is this provision that Senator KENNEDY's proposal would amend.

The provision is intended to limit the "brain drain" from developing countries into the United States. In effect, however, it is more likely merely to divert talented individuals away from United States employment and toward jobs in Europe and Japan.

By excluding these persons, we would deny American industry and academia talent that it sorely needs. With America's rate of economic growth falling behind the level prevailing in many other countries, we are gambling dangerously with our future if we deter foreign students of exceptional merit from settling here.

Further, the bill in its present form would be counterproductive to the continued health and future growth to the high-technology industry in this country. High technology companies in Massachusetts, for example, employ 250,000 persons, one-third of the State's manufacturing labor force, and had sales last year of \$19.5 billion, according to the Massachusetts High Technology Council. The high-technology business, particularly in electronics and computers, pits the United States against Japan, West Germany, and several other countries in what is a keen international competition for limited markets. Foreign-born graduates who remain in the United States help us to compete. If barriers are erected against their participation, the United States suffers in lost technological innovation and productivity.

Senator KENNEDY's amendment would amend S. 2222 to permit students of exceptional merit and ability—those who could contribute to essential academic, professional and industrial programs—to remain in the United States without leaving for 2 years. This proposal is eminently sensible.

Already in some areas of the high tech industry, there is a shortage of engineers and highly qualified workers. And the problem is likely to grow more acute. For instance, a survey conducted by the American Electronics Association projects a need for 200,000 electrical/electronic and computer science engineers by 1985. But it also

projects a shortfall of 20,000 annually in the number of U.S. graduates that will be available for these jobs.

Currently, newly graduated foreign students are an important source of faculty for American colleges and universities, particularly in engineering and computer science. With over 1,600 faculty positions in these fields now vacant, there is a critical need for qualified teachers to fill the void. The president of the American Council on Education, J. W. Peltason, puts the point this way: "If our institutions are unable to utilize these students as faculty, America's ability to educate the next generation of scientists and engineers will be severely hampered."

For these reasons, Mr. President, I urge passage of the amendment providing a waiver of the 2-year return requirement for those qualified graduates whose talents are needed by U.S. industry and academia.●

● Mr. CHAFFEE. Mr. President, many of our universities rely on foreign graduate students to fill teaching positions in areas such as engineering and computer sciences when American graduate students are not available to fill those positions. For example, Brown University in my home State of Rhode Island has been hiring foreign graduate students over the last few years to fill teaching positions in the field of computer science. Thus, Brown and other academic institutions across the country are concerned about the provision in S. 2222 which requires all foreign students to return to their countries for 2 years upon completion of their education unless they marry an American citizen.

I share the universities concern and I believe that the provisions of S. 2222 affecting foreign students of exceptional merit are too restrictive. Therefore, I support the amendment proposed by the distinguished Senator from Massachusetts, Mr. KENNEDY, which would permit students of exceptional merit and ability—who are participating in essential academic, professional and industrial programs—to remain in the country upon completion of their education. The adoption of this amendment is essential to help our universities deal with the problem of critical shortages of teachers in high technology areas and I urge the adoption of the amendment.●

● Mr. BRADY. Mr. President, I urge my colleagues to support amendment No. 1956 offered today by Senator KENNEDY to S. 2222, the Immigration Reform and Control Act. Without Senator KENNEDY's amendment, S. 2222 will impede the research, technological, and economic interests of the United States. S. 2222, as it stands, will deprive the United States of highly skilled professionals needed in industry and universities and deprive the American economy of the professional mobility and development in high

technology fields which have been its hallmark.

If unchanged, S. 2222 would reorganize the preference system to create a first preference for independent immigrants limited to persons of "exceptional ability." The INS in practice, has interpreted this phrase to mean primarily persons holding Nobel prizes and similar international honors. Obviously we wish to continue to attract and admit such persons; however, it is essential to industries and universities to be able to train and develop younger scientists of extraordinary promise. It is well-known that outstanding achievements in the mathematical and science fields, in particular, occur early in the careers of talented youth. If unchanged, the bill would necessarily deprive the the United States of the benefit of these important early achievements. Senator KENNEDY's proposals would allow the United States to continue to attract and hire these younger outstanding individuals.

A second part of the Kennedy amendment would provide flexibility in the requirement that all foreign students return to their native countries following completion of their studies. This provision is crucial to both universities and industry. According to the American Electronics Association, U.S. electronics and other high technology firms face a serious shortage of engineers. Because aerospace and defense industries may hire only U.S. citizens, foreign Ph. D. graduates represent a major pool for universities and nondefense industries.

Additionally, American-trained Ph. D's serve to supplement science and engineering faculty at U.S. colleges and universities. The United States currently is experiencing a shortage of 1,600 to 2,000 faculty members in the fields of engineering and computer science alone. Foreign students are needed to train urgently needed American engineers and computer specialists.

According to the National Science Foundation, 70 percent of foreign science and engineering doctorate recipients leave the United States at the end of their studies. However, those students who remain in this country are an important supplement to the American-born graduates.

Mr. President, I support this amendment, and urge all Senators to join me to make it possible for us to maintain the preeminence of American science and technology.●

Mr. SIMPSON. Mr. President, I have cleared this with the minority and move the adoption of the amendment. It has to do with special recognition of high-tech and professional personnel, including professors, and including the important reservoir of highly skilled persons in high-tech industries. However, I have serious reservations concerning many aspects of the amend-

ment. Senator Kennedy shares some of my concerns. We accept the amendment now, but shall examine its provisions carefully in conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming.

The amendment (UP No. 1245) was agreed to.

Mr. SIMPSON. Mr. President, I ask for the yeas and nays on the bill itself at the time set under the unanimous-consent agreement for S. 2222.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent to make conforming and technical amendments to the various amendments presented today and yesterday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, I ask unanimous consent to have printed in the RECORD the order of the voting on the amendments Tuesday.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hayakawa Amendment No. 1907.

Hayakawa Amendment No. 1908.

Hayakawa Amendment No. 2019.

Simpson motion to table Helms Amendment No. 2024.

(If tabling motion fails)—vote on Helms Amendment No. 2024.

Vote on Hayakawa Amendment No. 2025.

Vote on Tower Amendment No. 2026.

Vote on Tower Amendment No. 2027.

Vote on Boschwitz Amendment No. 2028.

Third Reading.

Vote on passage.

Mr. SIMPSON. Mr. President, I shall take 1 minute to thank very sincerely the ranking minority member of this subcommittee, Senator TED KENNEDY, for his attendance throughout; Senator THURMOND and his very capable staff, particularly Eric Hultman; Senator GRASSLEY and Ally Milder, his assistant; Jerry Tinker, who has been a most remarkable minority counsel of the subcommittee; Senator DeCONCINI, the remaining member of the subcommittee and his capable person, Ed Baxter; and on my own behalf to Dick Day, the chief counsel and staff director of this subcommittee who I took away from a nice law practice in Cody, Wyo., for this, and he will never recover; and to Chip Wood, Donna Alvarado, Arnold Liebowitz, Tina Jones, Frankie DeGooyer, Avelina Sabangan, and Ellen Hughes of the subcommittee. I offer my profound thanks.

Mr. STEVENS. Mr. President, we are all indebted to the distinguished Senator from Wyoming for his perseverance in handling this bill.

It is my understanding now that no further amendments to this bill are in order after today. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, before we conclude our debate on immigration issues, I want to note some immigration problems confronting some Americans and permanent residents at the American University of Beirut.

Within just the past 10 weeks, when AUB has faced so many other trials, it also has been confronted with a threat to its faculty by the regulations of the Immigration and Naturalization Service.

As an American university serving the Middle East, AUB places high value on a faculty which is rooted both in the American educational tradition and in the Middle Eastern cultural milieu. This balance is achieved by maintaining a significant number of faculty members who are Middle Easterners who have earned their advanced degrees in the United States and who have major employment experience here as well. Many of these individuals have strengthened their U.S. ties even further by obtaining permanent resident status or by becoming naturalized citizens.

For those Middle Eastern faculty members who are not already naturalized citizens when they leave the United States to teach and conduct research at AUB, two problems arise:

First, they are prevented, by their necessary absence from the United States, from meeting the continuous residency requirement and therefore becoming eligible for naturalization; and

Second, they risk forfeiting, through their extended absences, the very resident alien status which provides their strong cultural link to the United States and assures them the possibility of applying for citizenship at a later date.

Some 50 or 60 members of AUB's faculty, or approximately 12 percent, are confronted with these problems. This poses a serious threat to the university since these individuals' ties to the United States are sufficiently strong that they will resign their professorships to return to the States rather than abandon their U.S. residency and the prospect of citizenship.

On May 23 of this year, Dr. Khalil Abu Feisal, chief of staff of American University Hospital, was required by immigration officials at New York's John F. Kennedy Airport to forfeit his green card. Dr. Abu Feisal had come here to recruit new medical faculty. The irony, Mr. President, is immense. This man, whose dedication to service and training in Beirut is contributing immeasurably to the American image in the Middle East, finds himself undercut in the very task of trying to find others to render the same service. I might add that while awaiting an administrative hearing on his case, Dr.

Abu Feisal returned to Beirut and has been endangering his own life for the past 2 months in order to help care for wounded in the current fighting.

Yet more recently, on August 2, Dr. Bashara Faris, the head of AUB's Department of Ophthalmology, had his green card confiscated when he landed in New York. Dr. Faris is the only doctor in Beirut skilled in laser techniques for reattaching the eye's retina. He had come to the United States for 2 months of research at Boston's famed Eye Research Institute. I can assure my colleagues that his expertise is in very high demand here. He would have no difficulty staying. Yet he wants to go back to serve American medicine in the Middle East. But he will not do so if the condition for getting his green card back is that he remain.

I hope these cases make plain that pursuit of present policy by INS will cause American interests in the Middle East to suffer substantially. All the 50 or 60 faculty members in question much prefer to continue at AUB. But their American ties are also important to them, and the security situation in Lebanon over the past year—and especially over the past 2 months—has underscored for them the value of their present ability to return to the United States.

If these dedicated people are required to give up their appointments at AUB in order to preserve their permanent resident status, AUB simply will not be able to continue in anything like its present form. A 12-percent faculty reduction would be devastating. The likelihood of recruiting large numbers of new faculty is more than remote given the current situation in Lebanon. Moreover, precisely the type of faculty member desired—those of Middle Eastern heritage with American educations and cultural ties—would be impossible to obtain.

To threaten AUB's continued existence in this way is not only a shame, it is contrary to American policy interests. At this very moment, the Agency for International Development is consulting with AUB about how the expertise of its faculty can be used in the reconstruction of Lebanon, once the fighting finally ends. And this is only the latest example of the immensely important role AUB plays for us in the Middle East. For years the university has been America's best face forward in the Arab world, and this fact has long been acknowledged by the U.S. Government.

Mr. President, I do not believe the legislation before us today is the appropriate place to deal in a definitive way with AUB's problem. But I do feel a legislative solution to this situation may be required at an early date. In the meantime, I call upon the Immigration and Naturalization Service to reexamine the manner in which it is

implementing the current statute with respect to AUB faculty members. Taking into account American policy interests in the Middle East, I believe it would be fully appropriate for INS to call a moratorium on the further confiscation of green cards from AUB personnel until such time as the Congress has had the opportunity to give this matter its attention. In the absence of such a change in policy implementation, the Service threatens to cause a major faculty exodus from an institution which now more than ever is important to American interests.

THE ARMENIAN PEOPLE

Mr. LEVIN. It is important in the context of this debate on immigration reform to look back at U.S. commitments to the Armenian people, victims of the first genocide of the 20th century.

American concern and support for the Armenian people go back to our extensive missionary presence and charitable work in Armenia in the 19th century. But official American dealings with the Armenians have consisted of broken promises and nonaction. During the terrible massacres of Armenians in 1894 and 1895, President Cleveland declined to protest to the Turkish Government, although he was asked to do so by both the House and the Senate. After the massacres and deportations of Armenians in 1915 and 1916 American public support for Armenians was even greater.

In President Wilson's "14 Points" speech of January 8, 1918, he called for a "free, open-minded, and absolutely impartial adjustment of all colonial claims, based upon a strict observance of the principal that in determining all such questions of sovereignty the interests of the populations concerned must have equal weight with the equitable claims of the government whose title is to be determined." His 12th point stated, "the other nationalities which are now under Turkish rule should be assured an undoubted security of life and an absolutely unmolested opportunity of autonomous development." Justice to small nations became the American theme for a negotiated peace.

After the armistice ending the war with Turkey was signed October 31, 1918, the Armenians of Turkey declared their independence. The Armenian contribution to the allied cause had been substantial for such a small nation. There was every reason to suppose that when the Allies met in Paris, Armenian independence would be recognized.

By the end of the war, the mandate system, under which a small nation was put under the temporary guidance of a more advanced nation to prepare it for self-government, was increasingly accepted as allied policy. Armenia desperately needed protection and

guidance. Armenia's population had been decimated by massacres, the survivors relocated, and the countryside devastated. The United States was widely assumed to be the logical choice to be Armenia's "mandatory," or protector, which President Wilson favored. He wrote to the head of the Armenian Committee for the Independence of Armenia on February 14, 1919, "I beg that you will assure the committee that I shall be as watchful as possible to do my utmost on Armenia's behalf." In a speech in Boston on February 24, 1919, President Wilson asked, "Have you thought of the sufferings of Armenians? You poured out your money to help succor the Armenians after they suffered. Now set up your strength so that they will not suffer again."

The Treaty of Versailles, signed June 28, 1919, accepted most of President Wilson's "14 Points" as the basis for peace, including the principle of the independence of nations. Throughout late 1919 and early 1920, the American Government received thousands of resolutions and appeals on behalf of Armenia from citizens and organizations. The Allies, completing work on the Turkish treaty, asked the United States to accept the mandate responsibility for Armenia. On August 10, 1920, the Treaty of Sevres, making peace with Turkey, was finally signed. It was guaranteed the creation of an Armenian state. But on September 13, 1920, Turkish Nationalist armies invaded Armenia, and Armenia appealed to the League of Nations for admission to membership and defense help. The League rejected the pleas. Although President Wilson offered his personal mediation, Armenia was forced to sign an armistice which left part of Armenia under the control of the Turkish Nationalists. On December 2, 1920, the rest of Armenia was officially declared a Soviet republic.

The 1923 Treaty of Lausanne reversed the Treaty of Sevres in nearly every respect, and the status of minorities in Turkey was restored to what it was before World War I, which meant it was entirely up to the Turkish Government.

All through the drawn out peace process, the United States repeated that we would "do something" for Armenia, and yet we procrastinated and in the end did nothing. Because it was seen as our responsibility, none of the other allies did anything to help the Armenians, and the separate, independent nation of Armenia became another of history's broken promises. We had led them to believe that we would not abandon them, but in the end, we did. The dream of a free Armenian nation for the heroic survivors of the persecuted people was frustrated just at the time when it looked like it would at long last become a reality.

This history alone creates a compelling, continuing moral commitment by the United States to the Armenian people. Armenians today are scattered throughout the Middle East—in Turkey, Iran, Lebanon, Iraq, and the Soviet Republic of Armenia. In some areas, their unique culture identity is being systematically repressed by institutionalized discrimination against Armenian schools and churches. At present, the only way for most Armenians to come to the United States is through the preference system, based on family reunification. Since many do not have families here, they are unable to emigrate. Although there is an Armenia in the Soviet Union, it is not a free and independent nation. And some Armenians are trying to get out. In fiscal year 1981, 4,077 Armenians from the Soviet Union came to the United States. The numbers are down now, because of our strained relations with the Soviets, so it is unclear how many Armenians would emigrate if they could.

I am concerned that repression against Armenians could worsen in many of these countries. I would ask my friend Senator SIMPSON, as chairman of the Subcommittee on Immigration and Refugee Policy, if it is his intention that the State Department and the Immigration and Naturalization Service be specially sensitive to our unfulfilled commitments to the Armenian people when criteria are determined and applied for allowing refugees into the United States under the pending act and existing laws.

Mr. SIMPSON. I thank my fine colleague, Senator LEVIN, for raising this important issue today. I greatly appreciate Senator LEVIN's bringing to our attention the plight of the Armenian people.

I assure my colleagues that as long as I am chairman of the Immigration Subcommittee, I will do my best to make certain that this situation is not forgotten when discussions take place of which persons should be considered refugees and which refugees should be admitted to the United States.

Mr. CHILES. Mr. President, 2 years ago, my State was the point of entry of an uncontrolled influx of thousands of refugees from Cuba and Haiti. In just 5 months, 125,000 had arrived requesting political asylum in the United States. Mixed among those were hardened criminals, mentally ill people, and others, who should never have been allowed to enter the United States. American citizens, anxious to rescue Cubans from the repressive Castro regime, provided the transportation for the refugees. They left with lists of relatives provided by Cuban-Americans. But they returned with those who Castro chose to release. Today, there are still 1,227 Cubans in the Federal penitentiary in Atlanta

who are being held because of the serious crimes they committed in Cuba.

The city of Miami was quickly overwhelmed by hungry, impoverished refugees. Meanwhile, the Federal Government, uncertain of its role in such a crisis, delayed taking the decisive steps necessary to control the influx. Refugees were released into the community without sponsors, food or housing. Tent cities and temporary shelters arose to accommodate them. Jackson Memorial Hospital, the county hospital in Dade County, was overrun by refugees seeking medical care.

In the early days, it was the State and local governments, not the Federal Government, that provided for the refugees. Throughout the crisis, the Federal Government was placed in a position of reacting, rather than actively controlling the situation.

Mr. President, I am sure that no one here wants to be confronted with another crisis of this kind but, as Thomas Enders, our Assistant Secretary of State, has pointed-out, we cannot rule out the possibility of such large scale immigration emergencies in the future. And that possibility becomes more concrete when we remember that the Cuban Government has already shown itself capable of such cynical manipulation in the past.

Just prior to the Mariel crisis, Secretary Enders noted that the United States had signals which indicated that a mass migration from Cuba to Florida was about to occur. Unfortunately, because we did not have a contingency plan ready to be put into place, we were unable to take any steps to control the situation which we knew was about to occur. Had some sort of plan been in place, the United States could have determined what persons would be allowed to enter. Because we had no plan, Castro was able to control the situation. And the end result, instead of an embarrassment for Castro, was an opportunity for the Cuban Government to empty its jails and mental institutions, and to force the United States to accept the dregs of his society as the price for allowing legitimate refugees to flee from his oppressive regime.

Had a contingency plan been in place, I do not believe that Castro would have even tried to do what he did. But he recognized that the U.S. Government had no way to control the course of events. A contingency plan will help deter such events from occurring, and clearly state the U.S. determination to control its borders. Secretary Enders underscored the importance of this notion of deterrence when he testified in support of a contingency plan before the Senate Judiciary Committee. He said:

Castro, and the Cuban people, must be in no doubt or uncertainty about the nature of

our response to a new Mariel. If they believe we are unprepared to handle an illegal immigration emergency; if they believe we will waver between attempting to stop the migration and welcoming it; if they believe we will in the end welcome the arrivals and resettle them in American communities, then the temptation to deal us another blow will be very great.

Mr. President, I agree with Secretary Enders that it is absolutely essential that the U.S. Government make it clear that we have both the determination and the tools to prevent another Mariel from occurring in the future. That means that it is imperative that the U.S. Government act now to put into place a contingency plan that can be put into effect should we be confronted with the possibility of another mass immigration crisis.

In this regard, I am not alone in calling for prompt action to establish a contingency plan for immigration emergencies. Last year, when the administration unveiled its immigration reform package, it called for establishing just such a contingency plan. In April of this year, just before S. 2222 was marked up by the Senate Judiciary Committee, the administration reiterated its belief that a contingency plan must be an essential part of any meaningful immigration reform effort. In testimony before the Judiciary Committee, Attorney General Smith stated:

It is our firm judgment that there remains a serious need to provide the President with special legal authorities in the event of a declared immigration emergency. These provisions can be drawn carefully and narrowly so as to minimize the disruption of normal and legitimate activities. We need not sacrifice our liberties in the pursuit of preparedness for an immigration crisis. But neither can the Government responsibly limp along with the legal authorities that proved so painfully inadequate during the Mariel boatlift.

Mr. President, the administration submitted a specific proposal that carefully defined the way in which the executive branch could exercise its authority to deal with any future immigration crisis. The Judiciary Committee did not see fit to include that proposal when it dealt with S. 2222. I had planned to offer the administration's proposal as an amendment to S. 2222.

However, I have been persuaded not to move forward with the specific language of the amendment at this point. The amendment itself is very detailed and Senator SIMPSON has suggested that it would be more appropriate to fully consider all of its provisions before bringing the proposal to the floor. Given the time pressures we are under and the importance of acting on S. 2222 as soon as we can, I agree that a specific examination of the proposals can wait.

Mr. President, it is critical, however, to keep in mind that the fact that we are not considering the specifics of the contingency plan proposal today in no

way means that the executive branch is without power to respond to an immigration crisis. It has been my belief that the executive branch has the authority under existing law to draw up a contingency plan and to implement that plan in an immigration emergency.

The amendment which I had planned to offer simply defined in more detail the way in which these powers can be exercised. But the fact that we are not acting today in no way effects the existence of those powers.

The administration concurs with me in my belief that it has the authority to develop a contingency plan to deal with immigration emergencies.

Mr. SIMPSON. Mr. President, I am very well aware of the interest the Senator from Florida has shown in this issue and the efforts he has personally taken to assure that the people of Florida will not be severely impacted by another sudden influx of refugees or asylees. As the Senator from Florida has indicated, the administration already has taken administrative steps to prepare this country to respond quickly and effectively in the event of another mass migration.

I am advised by the Justice Department that the President has directed the Attorney General to oversee and coordinate the U.S. Government's response to mass illegal immigration. To that end, the Justice Department has now prepared a detailed contingency plan to insure that the United States will be prepared to deal promptly and effectively with any sudden illegal large-scale immigration, including one that is deliberately generated by a foreign government. A coordinated Federal effort will be made to utilize the resources of appropriate agencies to thwart and control illegal mass migrations. These efforts will be fully coordinated with State and local officials, whose involvement is critically important in any effective emergency response. The contingency plan identifies and assigns responsibilities to Federal civilian as well as military agencies for the management and implementation of the Government's planned response. The necessity of such planning was demonstrated by the mass migration by sea into the Florida area, but the contingency plan is drawn suitably to deal with similar situations elsewhere in the United States as well.

The contingency plan consists of five phases, each encompassing an area of operation that can be addressed separately and involving a different mix of agency efforts from that involved in other phases. Individual agency plans have been developed by the respective agencies consistent with their designated mission responsibilities. Particular emphasis of the plan is placed on the "ready phase" to insure early knowledge of any future mass migra-

tions and the "interdiction phase" to restrict the actual number of illegal aliens who enter the country. Illegal aliens who elude interdiction efforts will be taken into custody, identified and moved to holding centers pending exclusion or deportation proceedings. Safeguards are provided to assure that bona fide refugees would not be returned to a place where they would face persecution.

Mr. CHILES. Mr. President, I am delighted that the administration is drawing up such a plan, and I am sure that the people of Florida are delighted, too. I have just received a copy of that Justice Department memorandum. It not only describes the status of the contingency plan; it also lists the specific provisions in existing law which give the executive branch the authority to develop and, if necessary, to implement the contingency plan. I should like to submit that listing of authority for the RECORD, and make certain that it becomes a part of the legislative history of this bill.

I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUSTICE DEPARTMENT LISTING OF AUTHORITY

SEC. 212(f) of the Immigration and Nationality Act authorizes the President by proclamation to suspend the entry of all aliens or a class of aliens if he finds that their entry would be detrimental to the interests of the United States.

Under 50 U.S.C. 191, upon a Presidential proclamation a national emergency exists by reason of an actual or threatened disturbance of the international relations of the United States, the Secretary of the Treasury may make rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States; may inspect such vessels at any time and may in some cases, if necessary, take possession and control of such vessels.

8 U.S.C. 1324(b) provides for the forfeiture and seizure of any vehicle or vessel used to bring aliens illegal into the United States in violation of 8 U.S.C. 1324(a)(1) or used to transport aliens within the United States in violation of 8 U.S.C. 1324(a)(2).

50 U.S.C. App. 16 authorizes the forfeiture of any vessel used in violation of the provisions of the Trading with the Enemy Act, 50 U.S.C. App. 1 et seq. This provision was invoked in the recent Mariel boatlift and the District Court for the Southern District of Florida has held that vessels used in the Mariel boatlift are subject to forfeiture under this provision. While this provision would be available if there were another mass migration from Cuba, it would not be available if the migration were from a country other than one covered by the Trading with the Enemy Act.

19 U.S.C. 1581(e) authorizes the seizure of a vessel or vehicle which is subject to forfeiture or to secure any fine or penalty. It has been the government's position that a vessel or vehicle used to bring illegal aliens into the United States in violation of 8 U.S.C. 1323 is subject to seizure in order to secure any fines levied.

Under general non-statutory authority, land traffic check points could be set up at reasonable locations for the purpose of stopping, warning and questioning vehicles that could be involved in facilitating the migration.

8 U.S.C. 1182(f), as noted, authorizes the President to suspend the entry of aliens or classes of aliens if it finds their entry would be detrimental to the interests of the United States. Pursuant to this provision, the President could authorize the stopping of United States flag vessels, stateless vessels, or with the permission of a foreign government, a foreign flag vessel carrying illegal aliens to the United States.

8 U.S.C. 1323 provides for civil penalties for bringing to the United States aliens without valid visas.

8 U.S.C. 1324 provides for criminal penalties for bringing into the United States aliens who have not been duly admitted by an immigration officer. However, in *United States v. Anaya*, the Court held that the provision does not prevent the mere bringing of undocumented aliens to this country's borders, but only the surreptitious landing of aliens.

50 U.S.C. App. 16 provides criminal penalties for persons violating its provisions and implementing regulations. Under 31 C.F.R. 515.415, the bringing of a Cuban national who does not have a valid immigrant or non-immigrant visa into the United States is prohibited.

Sec. 235(b) of the Immigration and Nationality Act provides for the detention until further examination can be conducted, of every alien who does not appear to the examining officer to be "clearly and beyond a doubt entitled to land."

Mr. CHILES. Mr. President, by listing these authorities, I do not want to suggest that there are not other provisions in current law which could be used by the Government to respond to immigration emergencies. I believe that it is important, however, that we make it clear on the Record at this point that there is authority to respond to immigration emergencies and to make it clear that the administration is developing a contingency plan based on current law to deal with immigration emergencies. I hope that the Senator from Wyoming concurs in this analysis.

Mr. SIMPSON. Mr. President, I concur with the Senator from Florida and with the Justice Department and State Department that the Government can use existing policies to respond to immigration emergencies.

However, the administration remains convinced that additional legal authorities are requested if the country is to respond adequately to another Mariel or similar emergency. Beyond existing legal authorities, it is the firm judgment of the administration that there remains a serious need to provide the President with special legal authorities in the event of a declared immigration emergency.

The administration is now finalizing draft legislation that would provide these authorities and will soon transmit them to Congress. Thereafter, I have indicated that I will promptly

move to conduct hearings and a markup on the bill. The administration also urges the earliest possible consideration of its emergency legislation.

I am pleased that action is being taken both under existing policies and that there is a recognition by you and by the administration of new administrative policies to assure that the people of Florida are not made to again suffer unnecessarily.

Mr. CHILES. Mr. President, I agree with the Senator from Wyoming that we need to act promptly on the legislative proposal that the administration plans to submit. It is important that we make sure that the Federal Government has the ability to respond to all possible contingencies. It is also important that Congress carefully review that proposal, to make certain that the new measures provided are appropriate. I commend him for his commitment to move quickly to hold hearings on the administration's proposal, and to move the proposal through the Immigration Subcommittee. I stand prepared to do whatever I can to help him.

I thank the Senator from Wyoming for discussing this important issue. It is essential that Congress and the administration signal their determination to respond to any future mass migrations to the United States. By making clear that there is authority to respond to such crises, and by showing our determination to strengthen existing authority, we are sending a message to the people of the United States and to the people of other countries that we are determined never to allow a Mariel to occur again. We sent a signal that the United States, and not the Fidel Castros of this world, will set our immigration policies.

Mrs. HAWKINS. Mr. President, I rise in support of the comments made by the senior Senator from Florida regarding the need to grant the President of the United States special emergency powers in the event of an immigration emergency. Our Nation was caught unprepared during 1980, when Fidel Castro opened the Mariel Harbor on the north coast of Cuba to anyone who wished to leave his island paradise. As Senators know, Castro included along with bona-fide Cuban emigrants significant numbers of criminals, social outcasts, mentally handicapped, and Cuban spies. The cost of our goodwill has been high—over \$1.1 billion. Especially exasperating is the tremendous cost to such localities as Dade County in south Florida, which has had to cope with the tremendous increase in demand for social and community services as 120,000 people descended into the area in a matter of months.

Let me try to give Senators an idea of the numbers of homeless people involved in the Mariel boatlift. In a

period of about 5 months, according to the 1980 census, roughly the same number of undocumented aliens arrived on Florida's shores as populate the cities of Peoria, Ill.; South Bend, Ind.; Boise City, Idaho; Cedar Rapids, Iowa; or Topeka, Kans. The population of Wyoming's three largest cities combined is smaller than the number of Cubans who landed on Florida's shores in only 5 months. Let me say that under no circumstances will we be caught off guard and without aid again.

Do not mistake me: I continue to support the United States idealism in granting political asylum to those who flee political persecution. I believe that this country must hold out its hand in generosity to those whose love for freedom and liberty is so great that they are willing to risk their lives for it. Furthermore, most of the Cubans who came to Florida during that period are upstanding, deserving people. I am proud to count many of these Cubans as my friends.

What occurred during the Mariel emergency, however, was a clear-cut case of diplomatic terrorism. Castro manipulated for his own gain the longing for freedom felt by his people. He arranged to inundate Florida with more people than the area could possibly assimilate in such a short period of time. Thus, the Cuban regime contrived to create an entirely avoidable immigration emergency for the United States. What is especially frightening is that the elements necessary for Castro to create an even greater immigration emergency are at his disposal at this very moment. The State Department estimates conservatively that one-tenth of the Cuban population, 1 million people, would like to leave Cuba. Using this tremendous power of discontent, Fidel Castro could make the Mariel boatlift look like child's play. Clearly, the President needs extraordinary powers in order to cope with extraordinary circumstances that might again be thrust upon this Nation either by events or by design.

When fires rage, when flood waters overflow their banks, when volcanoes erupt, the emergency authority of local officials to preserve the public good and restore order is a clear-cut given. Emergency circumstances require emergency authority. We must apply the same principle in an immigration emergency. We must grant the President those powers now and not delay consideration until we are in the middle of another immigration emergency. Emergency powers is the only major provision dealing with our national immigration situation that has hitherto been ignored.

This issue should come as a surprise to no one. Over a year ago the administration submitted its immigration proposals to Congress. Included promi-

nently among its suggestions was a provision expanding Presidential powers in the event of an immigration emergency.

Perhaps some feel that the emergency powers provisions will be controversial. Amnesty itself is controversial. Employer sanctions is controversial. Elements of the H-2 program are controversial. Immigration policy best to deal with our country's immigration problem is fraught with controversy. Let us accept that, and move on.

Senator SIMPSON has assured Senator CHILES and me that he will hold hearings on the subject of emergency powers later this year. I hold the Senator from Wyoming in high regard and know him to be a man of honor. And so are we all honorable men and women. If he says he will hold hearings, then he will hold hearings. But after those hearings are held, emergency powers will never be enacted by this Congress. This would certainly be no fault of the Senator from Wyoming. We are now nearing the end of this session of Congress, and the increasing press of urgent business is felt with each passing week. The difficulty in getting this bill to the floor should indicate the impossibility of getting an addendum to this bill later this year. The time to debate, discuss, and vote on this issue is now. The people of Florida have lived in fear and without aid long enough. It is time now to offer protection to Florida and all the other States that could face a sudden and massive influx of undocumented aliens. If the President is to deal effectively with an immigration emergency, he must have expanded authority to restrict travel and close ports, harbors, and airports. He must be able to redirect vessels. In short, the President must be given all the tools by which he can assure American communities against a loss of security, stability, and safety that is sure to follow a mass immigration.

As I drove through one of the communities in south Florida not long ago, I passed a church that had on it a sign with the words, "Why has the United States Government abandoned Miami?" I reiterate the question. I urge my colleagues to answer the question and to show the people of Miami and other communities that the Government cares about them.

CLARIFYING JUDICIAL REVIEW

Mr. KENNEDY. Mr. President, as the distinguished manager of this bill is aware, I have been concerned over the limitations of judicial review contained in this bill.

During the committee's markup, I offered a number of amendments to clarify an ambiguity in the bill regarding the possible limitation of judicial review of asylum class actions. I am also concerned over the limitations on judicial review of exclusions and deportations.

However, following the discussion of my amendments in committee, I note that the committee's report has been changed in order to address some of the concerns raised in my amendment.

Therefore, I should like to ask the manager of the bill a few questions to clarify the legislative intent of the limitations on judicial review contained in this bill.

First, Mr. President, let me indicate—as I did in my opening statement—I have supported many of the important reforms of the asylum adjudication process achieved in this bill. But I am concerned over the limitations of judicial review.

Is it the understanding of the manager of the bill that the habeas corpus jurisdiction permitted in the bill is sufficient to allow persons to seek judicial review if a class of cases develop alleging discrimination?

Mr. SIMPSON. Although there appears to be disagreement among several circuit courts of appeal on the issue of whether the class action provisions of rule 23 of the Federal rules of civil procedure are available in habeas corpus proceedings, an issue which has not yet been resolved by the Supreme Court—there is no doubt that at a minimum the following statement is true—and here I would note the 1982 case of *Bertrand against Sava*:

A Federal court may permit multi-party habeas actions similar to the class actions authorized by the Rules of Civil Procedure when the nature of the claim so requires.

Mr. KENNEDY. If this bill were law some years ago, could the case that resulted in Judge King's decision on the Haitians been allowed?

Mr. SIMPSON. I cannot answer specifically concerning the case to which the Senator refers, but let me say generally that the issue of whether aliens have been denied asylum and unlawfully detained or otherwise subjected to significant restraints on liberty in violation of their constitutional right to due process may be considered by a Federal court in habeas corpus proceedings guaranteed under the Constitution.

Due process for an alien applying for asylum will include the individual adjudication of his claim through fundamentally fair procedures, procedures which could be relied on for an objective determination, on the merits, of whether or not the individual applicant satisfies the statutory definition of "refugee" in INA section 101(a)(42) and whether or not his "life or freedom" would be threatened "on account of race, religion, nationality, membership in a particular social group, or political opinion" if he were to be returned to his home country—or another country to which he might be deported—as provided in INA section 243(h).

An example of such a due process violation would be a pattern or prac-

tice of denying asylum applications of aliens from a particular country because of their national origin rather than on the basis of the merits of their individual claims. If all applicants from Haiti were denied asylum solely because they came from Haiti, or even because of the fact that in the past most applicants from Haiti had been determined not to qualify, then procedural due process would not have been provided and judicial review through habeas corpus would be available.

Mr. President, if any of my colleagues wish additional detail, including a discussion of cases, they may consult the committee report at pages 12 through 14.

Mr. KENNEDY. I know there is some dispute between lawyers on this question, and I think we need to clarify it.

Finally, Mr. President, I have submitted two other amendments relating to the limitations on judicial review of exclusion cases, to assure that persons being held for deportation under the exclusion provisions of the immigration law can seek judicial review—as they can under current law.

As everyone who follows immigration law knows, our exclusion laws are hopelessly vague and out of date. The select commission voted unanimously that we should throw them out and reform them entirely—which is the intention, I know, of the chairman of our subcommittee and the manager of the bill.

However, until those reforms are accomplished, is it the view of the manager of the bill that persons in exclusion proceedings can seek judicial review if they believe they have been the subject of discriminatory treatment?

I have already discussed asylum cases.

In nonasylum deportation cases a substantive review of the U.S. immigration board's decision would be available, including whether the findings of fact were supported by substantial evidence.

In addition, for exclusion cases, the issue of whether aliens are being excluded and unlawfully detained or otherwise subjected to significant restraints on liberty in violation of their constitutional right to due process may be considered by a federal court in the habeas corpus proceedings guaranteed under the constitution.

Due process for an excluded alien includes the individual adjudication of his case through fundamentally fair procedures, procedures which could be relied on for an objective determination, on the merits, of whether or not he is excludable. An example of such a due process violation would be a pattern or practice of adverse determinations with respect to aliens from a par-

ticular country because of their national origin rather than on the basis of the merits of their individual cases.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent now that we go on to other business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESERVATION OF THE HISTORIC CONGRESSIONAL CEMETERY IN THE DISTRICT OF COLUMBIA

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6033, preserving the congressional cemetery. This has been cleared with the minority.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6033) relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States.

There being no objection, the Senate proceeded to consider the bill, which was considered to have been read twice.

Mr. STEVENS. Mr. President, this is a very worthwhile bill. I visited that cemetery. I visited the graves of some of my friends there.

I ask that we have immediate consideration of this bill.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. SIMPSON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXTENSION OF TIME TO FILE CONFERENCE REPORT ON H.R. 4961

Mr. STEVENS. Mr. President, I ask unanimous consent that the managers on the part of the Senate to the conference on the disagreeing votes of the two Houses on H.R. 4961, the Miscellaneous Revenue Act, have until midnight on Sunday, August 15, to file a conference report. This has been cleared with the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY

Mr. STEVENS. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from a Tax Convention with New Zealand (Treaty Document

No. 97-27), transmitted to the Senate today by the President of the United States; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed, and that the President's message be printed in the RECORD. This has been cleared with the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, a Convention between the United States of America and New Zealand for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, together with a related Protocol, signed at Wellington on July 23, 1982. I also transmit the report of the Department of State on the Convention.

The Convention, based on the OECD and draft United States model income tax conventions, takes into account changes in the income tax laws and tax treaty policies of the two countries. It provides limits on the tax at source with respect to taxes on investment income and provides rules for the taxation of capital gains, business profits, personal service income and other income. It also specifies the method used to avoid double taxation and provides for administrative cooperation between the tax officials of the two countries to avoid double taxation and prevent fiscal evasion.

I recommend that the Senate give early and favorable consideration to the Convention and related Protocol and give advice and consent to their ratification.

RONALD REAGAN.

NEBRASKA AND THE UNITED STATES NEED A SUGAR INDUSTRY

Mr. ZORINSKY. Last summer I joined 63 of my Senate colleagues in approving the sugar title of the 1981 Food and Agriculture Act. I did do in the belief that a viable domestic sugar industry is in the Nation's best interest. I continue to adhere to that belief.

I was further convinced that the beet sugar industry is also important to Nebraska. It provides jobs and wages, and taxes and, yes, even purchases of soda pop and bakery products. The beet sugar industry is a good customer for Nebraska farm implement dealers, fertilizer suppliers, railroads, and other providers of goods and services.

The American sugar industry is a highly integrated operation—that is due to the nature of the crop. Unlike producers of corn, wheat, or cotton, a sugar grower cannot grow a crop without ready access to a sugar mill or processing plant.

And due to the economics of the industry, the grower cannot survive without an ongoing relationship with a processor.

If sugar mills go out of business, as is happening in Nebraska and adjoining

ing, Colorado, so do the growers who depend on that mill, unless there is a nearby competitor with adequate capacity to take on additional growers—not a likely event. High costs simply make it impossible to transport raw, unrefined sugar hundreds of miles for processing.

What may cause a mill to go out of business? One reason may be the loss of growers who supply the mill—and that can happen if prices farmers receive for their sugar fall low enough and stay low enough to induce them to switch to more profitable crops. Without adequate supplies of raw sugar, the mill cannot stay in business.

Later, if sugar prices increase, the grower does not have the alternative of returning to sugar production—the mill is gone. It is not likely that a mill can restart production if it has been closed for any length of time—the odds are that it has been sold for other purposes or torn down. Nor is it likely that a new mill or processing plant will be built—it is estimated that a new plant today would cost more than \$50 million to build.

In the last 8 years, it is estimated that 21 sugarcane mills or sugar beet processing plants have closed down in the United States.

Americans consumed 9.77 million tons of sugar, raw value, last year—enough to amount to 79.5 pounds for every man, woman, and child in the United States.

Only 55 percent come from U.S. sugar producers—the rest was imported. The sugar produced on U.S. farms amounts to only 6 percent of the sugar produced in the world last year. Where is U.S. sugar produced?

Thirty percent comes from sugar beets grown in 17 Midwestern and Western States: Arizona, California, Colorado, Idaho, Kansas, Michigan, Minnesota, Montana, Nebraska, New Mexico, North Dakota, Ohio, Oregon, Texas, Utah, Washington, and Wyoming.

Twenty-five percent comes from sugarcane in four Western and Southern States: Florida, Hawaii, Louisiana, and Texas.

More than 15,000 individual farmers and their families are involved in producing sugar in the United States—many of them dependent entirely on their sugar crop. Remarkably, these 15,000 individuals supply half of the sugar consumed by 250 million Americans.

As telling as any argument for the maintenance of a U.S. sugar production capability, however, is the fact that if this basic commodity were no longer available from nearby American farms, sugar users in Nebraska would be totally beholden to cane refiners in the Gulf States or refiners located along the Northeastern seaboard—quite a freight haul to Hast-

ings. These distant refiners would, in turn, have to depend on growers in politically unstable Central and South America for a commodity essential to all Nebraska households and one that is critical to the State's bottlers, bakers, and confectioners.

Frequently, one hears the argument that it is not necessary to support the price for a domestic sugar industry when the world price of sugar is far lower than the domestic price. Let us understand the world price a little better.

The so-called world price is based on only about 20 percent of the world's production—the other 80 percent either is consumed in the country where it is produced or sold under bilateral agreements—such as one which requires Cuba to supply the Soviet Union a fixed amount of sugar each year—at a price well in excess of the world price.

There is no world market in sugar in the traditional sense—it is a dump market for overproduction in any given year that cannot be consumed locally or sold under bilateral agreements. This oversupply, available only in years of overproduction which cannot be predicted from year to year, provides no supply assurance, no expectation of reasonable prices.

Likewise, there is no free market in sugar—almost every nation has erected one or another barrier to the free entry of sugar. The European Economic Community permits only limited imports from former colonies of its country members; Brazil, Cuba, and Australia do not permit sugar imports at all. Canada, Japan, and the EEC subsidize sugar production at a level substantially higher than any proposed for the United States.

Nebraska sugar beet farmers and processors and other segments of the U.S. sugar industry cannot remain viable in the misnamed world free market when the fact is that this country's sugar industry would be the only group that plays by free trade rules. More than 80 percent of the world's sugar production is marketed in protected home markets—Australian refiners pay 23.8 cents per pound for Aussie-produced raw sugar; sugar imports into Australia are prohibited—or sold under preferential trade agreements—Russia pays Cuba 31.5 cents per pound for raw sugar under long-term contract, which takes about two-thirds of the Cuban output.

The balance of the world's sugar production—averaging about 20 percent—is dumped at whatever price it can bring. It is against such dumped sugar that American farmers must compete and thus a loan program becomes essential to keep the industry afloat in years of world glut. The dividend for American consumers come in the years of short world supply. During those periods if there were no

U.S. industry, Americans would pay dearly for sugar, if indeed it was available at all.

The Senator from Massachusetts (Mr. TSONGAS), sponsor of legislation to eliminate the sugar support program, perhaps feels no such concern. The two cane refineries in Boston—one owned by Philippine interests—operate essentially on imported raw sugar. They remain viable by simply passing along their refining costs to consumers whether they pay 10 cents or \$10 per pound for imported raws.

The Quayle-Tsongas approach to reduce the sugar support level for the purpose of having a level that can be conveniently achieved is somewhat like the story of the freshman economics student, who proudly announced that he had, that afternoon, run home beside the bus and achieved a savings of 30 cents. His father advised that if, on the following day he would run home beside a taxi, he could achieve a savings of \$2.

Like other agricultural commodities subject to wide fluctuations in production and price, sugar has been the subject of varying efforts by government to support and stabilize prices and supply.

The old Sugar Act, which created price stability and assured adequate supplies for American consumers, expired in 1975. There was no sugar program for a brief period, and a stopgap program was enacted in omnibus farm legislation in 1977. That program and intermediate programs established by administrative authority of the U.S. Department of Agriculture continued until enactment of the Agriculture and Food Act of 1981.

The 1981 act provided an interim "purchase program" that operated for sugar produced before March 31, 1982. It provided for the U.S. Government to offer to purchase any sugar at 16.75 cents per pound. Beginning October 1, 1982, a loan program similar to those established for several other farm commodities will take effect. The price support loan rate will be 17 cents per pound for 1982 sugar, 17.5 cents per pound for 1983, 17.75 cents per pound for 1984, and 18 cents per pound for 1985.

Congress designed the sugar program to be administered in a manner that does not cost the taxpayer any money. There are existing laws and authorities—in the form of import fees, duties, and/or quotas—that can be implemented to assure there is no Government cost to support the price of sugar produced in the United States.

Here is how it works: With a purchase program this year at 16.75 cents per pound, USDA determined that it would have to maintain the actual price at 19.88 cents per pound to be certain that the Government would not actually purchase sugar. USDA

calculated its price objective by adding the purchase cost to adjusted transportation costs and an incentive of 0.2 cent per pound.

By its imposition of fees and quotas, the Government seeks to keep the price of sugar high enough to prevent taking over any domestic sugar—either under this year's purchase program or under the price support loan program in subsequent years.

Such fees and quotas are unique to sugar—in no other commodity is there such a mechanism to maintain prices high enough to prevent Government takeover. Thus, when there is chronic overproduction in some other commodities, producers often forfeit commodities and the Government has no recourse but to take possession.

The current sugar program is no bonanza to American beet and cane producers. The price support loan rate for 1982 crop sugar will cover only about 70 percent of the average cost of producing sugar as USDA calculates it. Compared with other commodities, the sugar price support level covers far less of the total production cost to the grower.

I believe the sugar support program adopted last summer achieves a fair balance among the interests of consumers, taxpayers and the producers of an essential commodity. Agriculture Secretary Block has stated that the import quotas will be removed when the glut-induced distressed price of imports advances. The mechanics of the fee arrangement similarly reduce the fees as the prices of imports achieve a more realistic level. I am convinced that for now, we should keep the sugar support program on the books at its present modest level. I will, therefore, work to defeat the Quayle-Tsongas amendment.

LONG-TERM FIXED-RATE SBA LOANS: "THE MINNESOTA PLAN"

Mr. BOSCHWITZ. Mr. President, small businesses are the most credit-sensitive segment of our economy. Low interest rates are vital to the survival and growth of small businesses. While interest rates have declined substantially over the past year or so, small businesses need stable, long-term financing to grow and prosper.

Today I take pride in announcing an innovative approach that will lower interest rates on SBA loans and provide much-needed long-term, fixed-rate financing to small businesses in Minnesota. My State of Minnesota has long been recognized for its innovative and progressive business community. Once again, recognition is due for the Small Business Administration's guaranteed loan pilot program in Minnesota.

This pilot program is generally referred to as the Minnesota plan—and for good reason. Last October, the

Minnesota Small Business Finance Agency (MSBFA) presented the SBA with a plan to lower interest rates on SBA guaranteed loans and allow SBA to guarantee long-term, fixed-rate loans—without cost to the Treasury or changing SBA eligibility requirements.

MSBFA's Chairman Robert Anderson and Executive Director Jean Laubach deserve much credit for developing the plan with Minnesota's banking and investment community, and their perseverance in refining the plan to accommodate the concerns of SBA. Minnesota Bankers Association President John Ingebrand and Executive Vice President Truman Jeffers are to be commended for their support, which is extremely important for the plan's success. In addition, SBA Administrator Jim Sanders and Region V Director Dick Durkin played a crucial role in making the plan a reality. As a member of the Small Business Committee, I am pleased to have been involved in the process for what could become a national program. Clearly, the Minnesota plan is the result of a team effort to make the best use of SBA loans on the best terms possible for small businesses in Minnesota.

Under the Minnesota plan, the MSBFA, a State agency, acts as a conduit for packaging the guaranteed portion of SBA loans for sale in the secondary market. MSBFA sells taxable, long-term fixed-rate bonds to investors in lots of \$5 to \$10 million. The proceeds from these bonds can only be invested in SBA guaranteed loans—giving the bonds a high rating and making them extremely safe for investors. The proceeds of the bonds are used to purchase the guaranteed portion of SBA fixed asset loans from banks, providing banks an additional marketing tool for their customers and a liquid secondary market. In return, the banks agree to make SBA guaranteed loans on terms comparable to the bonds. The small business borrower agrees to a prepayment penalty, declining over the term of the loan, in exchange for the long-term fixed-rate loan. The small business makes its loan payments to the bank; the bank pays MSBFA and MSBFA uses the loan payments to retire the bonds. In effect, the small business gets the benefits of issuing long-term bonds.

MSBFA and investment bankers estimate the Minnesota plan will reduce interest rates on SBA loans for plant and equipment by 1 to 3 percent, depending on market conditions. Equally important, small businesses will have an alternative to variable rate financing that provides the certainty and stability necessary to plan and expand.

The dedication and determination of MSBFA, SBA and Minnesota's banking community to the needs of small business cannot be overstated. I applaud their efforts and pledge my efforts to make the Minnesota plan the

standard against which guaranteed loans are judged.

Mr. President, I ask unanimous consent that a letter from the Minnesota Bankers Association and a fact sheet describing the Minnesota plan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MINNESOTA BANKERS ASSOCIATION,
Minneapolis, Minn., August 10, 1982.

Hon. RUDY BOSCHWITZ,
U.S. Senate, Dirksen Senate Office Building,
Washington, D.C.

DEAR RUDY: We are pleased to learn of the favorable action by the Small Business Administration in approving the proposal for a Minnesota program to develop long-range capital for the expansion of small businesses, and that you will announce this new development this week. We certainly appreciate your assistance in the development and approval of this project.

I also want to let you know that the Minnesota Bankers Association Board of Directors has approved our support for the new Minnesota program, and we will be encouraging our members to actively participate in the plan.

Please extend our congratulations to everyone involved in this significant announcement.

Sincerely

TRUMAN L. JEFFERS,
Executive Vice President.

"MINNESOTA PLAN" FACT SHEET

Description

Pilot program in Minnesota to provide long-term fixed rate SBA guaranteed loans to small businesses.

Current SBA loans activity

Term of under 7 years.

Variable rate of up to prime plus 2% percent, adjusted quarterly over the term.

Minnesota plan

Term of 15-20 years.

Fixed rate determined by rate of bonds issued by Minnesota Small Business Finance Agency (MSBFA), a state agency authorized to issue bonds.

Interest rate 1 to 3 percent below current SBA rate, depending on market conditions.

How it works

MSBFA sells long-term, fixed-rate taxable bonds in lots of \$5-10 million in the bond market.

Proceeds from the bonds are placed with a Trustee.

The Trustee can use the proceeds to invest only in the guaranteed portion of SBA loans.

Banks sell their guaranteed SBA loans to the Trustee, agreeing to "pass-through" the interest rate on the bonds to a small business borrower.

Small business borrower agrees to a prepayment penalty in exchange for a long-term, fixed rate loan.

Small businesses make loan repayments to the bank, which turns over the proceeds to the Trustee.

The Trustee uses the loan repayments to retire the bonds.

Benefits to small businesses

Long-term financing 1 to 3 percent below current rates depending on market conditions.

Fixed rate financing comparable to large "blue chip" businesses.

Benefits to banks

Additional marketing tool to service small business customers.

Liquid secondary market for SBA guaranteed loans.

Benefits to investor

Low-risk investment.

Effect on SBA programs

Management tool to reduce interest rates on SBA loans.

No change in eligibility requirements (credit test, size standards, amount of loan).

No increase in guaranteed loan authority or budget authority.

SALE OF SOME NATIONAL FOREST LANDS

Mr. JACKSON. Mr. President, I want to bring to the attention of my colleagues a recent press release from the Forest Service regarding the administration's program to sell off the Nation's public lands to reduce the national debt.

It appears, Mr. President, that the reservations that many of us expressed last year when the administration proposed this program are indeed well founded. According to the Forest Service, only some 51 million acres are included at this point in the "retention" category; 60,133 acres have been identified for sale without additional legislative authority. The remaining 140 million acres are being reviewed to determine which should be sold and which should be retained. I should note here, Mr. President, that the Forest Service is now indicating that some of the acreage in the "retain" category may have been double counted and that the amount actually designated for retention at this point is only about 48.5 million acres.

I am frankly astounded that the Forest Service is only willing to identify less than 27 percent of the entire forest system off limits for sale at this time. Even to suggest that over 70 percent of our Nation's national forest system is potentially available for sale to the highest bidder is shocking to me. And I am sure it is equally shocking to the millions and millions of Americans who use these forests for hunting, fishing, camping, hiking, and other forms of recreation.

Of course, I understand full well that the administration will not sell off 140 million acres of national forest system—the Congress and the American people would not stand for it even if they wanted to. I understand that, according to the Forest Service, "substantial" acreage will be added to the "retained" category. And, Mr. President, I understand that additional legislative authority will be necessary to liquidate the Nation's national forest holdings.

Nevertheless, this announcement regarding this proposed sale greatly concerns me. In my State of Washington, for example, out of almost 9 million

acres of national forest lands only about 2 million acres currently fall into the retain category as a result of their wilderness or wilderness-study status. The remaining lands in Washington State are being studied to determine if they qualify for sale. I can assure my friends in the Forest Service that they will be hearing from the citizens of my State regarding the disposition of these lands.

Mr. President, I and a number of my colleagues sounded the alarm months ago regarding privatization and asset management. I said then that I thought the idea was shortsighted, ill-conceived, and definitely not in the best interest of the citizens of this Nation who use the public lands. Actions such as this on the part of the Forest Service only serve to underscore how misguided and potentially devastating this program can be. I can only hope that President Reagan, John Crowell, Jim Watt, David Stockman, and the other proponents of this scheme to sell the public's lands will reconsider their position.

I ask unanimous consent that a copy of the press release appear in the RECORD at this point.

There being no objection, the news release was ordered to be printed in the RECORD, as follows:

[News Release]

LEGISLATION TO BE SOUGHT FOR SALE OF SOME NATIONAL FOREST LANDS

WASHINGTON, August 10.—A legislative proposal will be developed to give the U.S. Department of Agriculture's Forest Service new authority to sell excess lands carefully selected from the 191 million acres the agency administers.

Under existing authorities, only about 60,000 acres of national forest lands qualify for sale, Secretary of Agriculture John R. Block said today.

The proposal for new legislation will be part of the USDA legislative program for the 98th Congress, Block said.

As part of the president's federal assets management program, national forest system lands are to be placed in one of three categories. These categories consist of lands to be retained, lands meeting criteria for sale and lands requiring further study before deciding whether to retain or sell them.

The first category initially consists of some 51 million acres that are to be retained. It includes all Congressionally-designated areas such as wilderness, wild and scenic rivers, national recreation areas and national monuments. After further review of other national forest system lands, substantial acreage will be added to this "retained" category.

The second category consists of lands which can be offered for immediate sale without additional legislative authority. Totalling 60,133 acres in 26 states, these lands have initially been identified as excessive to the needs and objectives of the Forest Service. Tracts convenient to urban and suburban areas where private or local government ownership would provide greater benefits than federal ownership are included in this category. Additions will be made to the category of lands meeting criteria for disposal

after needed legislation is passed, Block said.

The remaining 140 million acres of national forest system lands have been placed in a category for further study. An initial review of the acreage in this category will quickly identify those lands which need more intensive study to determine whether they might qualify for sale once the needed legislation is enacted.

After the initial review, lands in this third category not identified for intensive study would be placed in the retention category.

Block said 15 to 18 million acres of national forest system lands are likely to receive this intensive study; they would include lands in scattered and checkerboard ownership patterns; portions of the national grasslands; other national forest areas with a low percentage of federal ownership; and certain other lands already under paid special use permit.

Block said opportunities exist to improve the use of certain lands and to reduce administrative costs. Block also indicated that development of the legislation will require close coordination between the executive branch and Congress.

National forest system acreage initially identified as qualifying for sale under existing authority

Alabama	40
Arizona	3,923
Arkansas	1
California	22,701
Colorado	4,209
Georgia	9,340
Hawaii	2
Idaho	510
Indiana	324
Kansas	1
Maine	260
Michigan	999
Minnesota	2
Montana	172
Nebraska	3
Nevada	2
New Hampshire	1
New Mexico	40
New York	13,232
North Carolina	2
Oregon	1,227
South Dakota	1,628
Utah	503
Washington	745
Wisconsin	160
Wyoming	106
Total acres	60,133

LET US SET A BETTER EXAMPLE

Mr. PRESSLER. Mr. President, I have not always agreed with the Washington Post's editorial positions. However, I strongly concur with a recent Post editorial on the recent Senate vote concerning the Hart Building gym. I ask unanimous consent that this editorial be printed in the RECORD immediately following my remarks.

I voted in favor of the amendment to delete additional funding for this project included in H.R. 6863, the supplemental appropriations bill. Unfortunately, the amendment failed. I voted for this deletion because I believe that Congress must set an example by reducing frivolous Government expenses

during this time of massive Federal deficits and high interest rates.

In the past months, the Senate has had to make difficult budgetary decisions concerning programs for the elderly, the handicapped, the unemployed, this country's students, and veterans. I do not understand how we can ask the American people to make sacrifices and tighten their belts if Congress is not willing and able to cut funding for something so unnecessary as a third Senate gym. If we want the respect and cooperation of the American people, we must earn it. Yesterday's vote to retain funding for the Hart gym is a sad comment on congressional priorities.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Aug. 12, 1982]

GYMDOGGLE

It wasn't really a third gymnasium that the austere Senate was about to create for itself, Louisiana's Bennett Johnston protested before the vote the other day, because basically the Senate only has one full gymnasium with swimming pool and so forth now—poor things. The Senate's second so-called gymnasium, Mr. Johnston explained, is merely an exercise room (with equipment, of course, plus separate locker and shower rooms). So why not go ahead and appropriate the mere \$736,400 needed to finish up its third gymnasium, which is only, as he tells it, the Senate's second-and-a-half or maybe its second-and-a-quarter gym?

Make sense to you? No? Well, try this: and besides, since the thing has now been begun, not to finish it as a gym would be wasteful and anyhow some day someone would finish it and the cost by then would be higher. What's that you say? You still aren't persuaded? What are you, anyway—some kind of Communist? The Senate, in its infinite, selfless wisdom, did buy the argument by a vote of 50 to 48 on Tuesday. So there will be yet another gym for the 100 legislators. No staff, no family, no friends. Just 100 senators availing themselves of these luxurious facilities. What a joy—makes you feel physically fit all over just to think of it.

Or, do we mean physically ill? Sen. Proxmire, with whose words we don't always agree, had it absolutely right. As you might imagine, he led the opposition to this boondoggle, and in the course of doing so, he said this: "For the past year and a half, this Congress, and especially this Senate has been trying to hold down spending. Think of the sacrifices we have imposed. We have cut federal assistance for disadvantaged schoolchildren. We have hammered down appropriations for the handicapped—men, women and children. We have cut food stamps. We have reduced Medicaid. We have forced elderly people to make higher payments for their Medicare. . . . almost all Americans have been asked one way or another to make a sacrifice. And yet, now we will provide over \$700,000 for a third Senate gymnasium and over \$1 million for a new especially fancy and super-equipped media hearing room [yet another legislative self-indulgence scheduled for this glitzy new Senate office building]. Why do we need still another gym?"

There was no good answer, but that will not surprise you. And it probably will not

surprise you either that many of those who voted for this latest gift to themselves are among the world-class "economizers" on the Hill—when it comes to economizing on other people's medical benefits or food stamps. Nor we suppose will you exactly faint from shock to learn that there are others on the list (which we print for your edification) from the party that has made such a big thing of Mrs. Reagan's life style—of which we hope to hear nothing further from these gym-builders.

You hear it said a lot about this town—we sometimes say it ourselves—that it is really too bad that the people who work so hard in government, whether in Congress or the executive branch, are so dismally misunderstood by the public, so suspect, so vulnerable to bum raps. Then, just when you're full of sympathy, they go and do something stupid and insensitive like this. Three quarters of a million dollars to finish up a third gym for the same 100 senators who already have two gyms. How come the new gym won't also have an espresso machine and a wine bar? Or did we miss something?

A COMPREHENSIVE TEST BAN TREATY IS VITAL TO SURVIVAL

Mr. PROXMIRE. Mr. President, recently the Milwaukee Journal carried a letter from me on the critical importance of the administration's resuming negotiations with the Soviet Union for the resumption of a comprehensive nuclear test ban treaty. Frankly, I cannot think of an issue more important than the survival of mankind on this planet and negotiations for a test ban treaty are designed to achieve exactly that.

The President deserves credit for pushing the START negotiations. We should go beyond SALT II and ratify it. But those measures will still leave us short of the most fundamental action we can take to stop the nuclear arms race. It will continue and escalate even as we reduce and eliminate weapons systems as long as testing enables both massive nuclear powers to refine and improve the deadly destructive capability of their weapons.

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IT STARTED AT HIROSHIMA: WHERE WILL IT ALL END?

The administration has decided not to continue negotiations with the Soviet Union for a comprehensive test ban treaty. For 20 years we have had a test ban treaty honored by both the US and the Soviet Union. What's wrong with it? To answer that question, we must ask: What is the purpose of a test ban treaty? Answer: To stop the testing of newer, more devastating nuclear weapons which speed up the arms race.

Not only do these tests permit the development of ever more devastating weapons, but they permit Third World countries to develop their own arsenals of weapons, join the nuclear club and, in the process, enhance the likelihood of nuclear war. No action by the USSR or the US could more surely protect this old Earth from a nuclear war than the agreement—first, by the two

superpowers and then, by other countries—to cease testing of nuclear arms at any level.

The present test ban treaty only prevents tests above a certain level of power, which is 10 times greater than that of the bomb dropped at Hiroshima. Almost any weapon or concept can be thoroughly refined and improved with testing at that power.

The present treaty does protect the environment to a considerable extent. Tests of greater power would pollute the environment and cause radioactive-induced illness throughout the world, even if carried out underground. But the fundamental purpose of slowing the arms race has not been seriously affected by the current treaty.

Neither the START negotiations nor a revival of SALT II will accomplish this. Although both would serve a useful arms-control purpose in limiting the nuclear arsenals of the two superpowers, neither would stop testing. Even with severely limited nuclear arsenals, two very dangerous problems will continue:

1. Both the US and USSR can vastly increase the deadliness of their nuclear weapons while sharply reducing their number and, at the same time, comply with any conceivable nuclear arms limitation treaty. Both countries can increase their ability to strike first and hardest, as long as testing continues. They can do this while abiding fully by any arms reduction treaty. Both nations can rush down the road to final nuclear power, while the world is lulled into a happy assumption that nuclear arms limitations are guiding us to safety.

2. Non-nuclear countries see the superpowers racing ahead developing know-how and infinite nuclear power. That know-how, developed through testing and for which testing is absolutely essential, becomes worth its weight in the most precious of values to other countries. They test to learn it themselves or they beg, buy, borrow or steal it from one superpower or the other.

The Russians have indicated a willingness to discuss and perhaps agree to a comprehensive test ban treaty. In 1978 they even indicated agreement to on-site inspection. We have far better verification procedures than ever before. I do not say we should agree to such a treaty until we are fully satisfied that we can enforce it. I do say we should negotiate with all our heart and soul to develop a comprehensive test ban treaty that we can verify and count on. What could be more important?

SEN. WILLIAM PROXMIRE

WASHINGTON, D.C.

CAMBODIAN CHILDREN'S ART: EXPRESSING THE MEMORY OF DEATH

Mr. PROXMIRE. Mr. President, many Cambodian refugee children who have found a haven in the United States are learning to take a new interest in life through art classes in their schools.

These are children who have seen their loved ones killed and their homes destroyed; children who have miraculously survived bomb explosions within feet of their hiding places; children who have been forced to work in labor gangs, building roads and dams and hauling heavy rocks; children who have grown into fearful and defensive adolescents through long years of tragedy and horror.

Now that they are in the United States, these children and young people are learning to breathe more easily. Slowly, they are learning to smile, to laugh, to speak without fear, and to trust other people.

Evidence of this slow adjustment to a free and peaceful society can be found in these children's artwork. Newly arrived refugee children paint and sculpt the instruments of death and destruction: tanks, guns, airplanes, hand grenades. A refugee child in Boston, Mass., recently presented his teacher with a precisely sculpted hand grenade, complete with a removable pin. The teacher tried to explain to the child that if he did not hollow out the inside of the clay grenade, it would explode when it was fired in the kiln. She did not understand why the class of refugee children burst into laughter.

As the Cambodian children become more accustomed to peace and safety, they begin to paint and model dragons, oxen, snakes, frogs, and other mythical and real animals from Asia. They reach a point at which they can move beyond the memories of death and begin to draw upon what memories they have of a coherent and ordered world. Some children, who have difficulty making the transition, create strange animals that are half dragon and half tank.

The memories of death and destruction expressed by these children in their art are memories which no child should have. These children have experienced the horror of mass killing as no child should ever experience it. At an age at which most children are learning to make sense of the world in an atmosphere of love and stability, these children have learned that the world is filled with senseless hatred and cruelty. We who enjoy the benefits of peace and freedom must take action to minimize the number of children who learn these tragic lessons and grow up with these terrifying memories.

To achieve this goal, we must prevent the recurrence of programs of mass slaughter similar to the one that took place in Cambodia. And we cannot take an effective stand against such atrocities if we do not ratify the International Genocide Convention. As a party to this important treaty, we would lend the weight of the world's most powerful and influential nation to international efforts to stop such programs of systematic killing. We could bring the weight of world condemnation to bear on the perpetrators. Efforts could be made to halt such senseless murder and, in the case of actual genocide, to punish those who are responsible. Our support of this treaty would, in addition, create a strong deterrent that might prevent

the initiation of systematic death campaigns.

In their artwork, children reflect their experience of the world and attempt to give it meaning. Let us hope that the children of the future will reflect an experience that is peaceful and safe. Let us do what we can to insure that they draw pictures of flowers and animals, not of tanks and guns. Let us therefore affirm our commitment to these children by ratifying the Genocide Convention.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

INTERNATIONAL FISHERY AGREEMENT BETWEEN THE UNITED STATES AND SPAIN—MESSAGE FROM THE PRESIDENT PM 164

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to Public Law 94-265, was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (Public Law 94-265; 16 USC 1801), I transmit herewith a governing international fishery agreement between the United States and Spain, signed at Washington on July 29, 1982.

This agreement is one of a series to be renegotiated in accordance with that legislation to replace existing bilateral fishery agreements scheduled to expire this year. I urge that the Congress give favorable consideration to this agreement at an early date.

RONALD REAGAN.

THE WHITE HOUSE, August 13, 1982.

MESSAGE FROM THE HOUSE

At 1:14 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed

the following bills, in which it requests the concurrence of the Senate:

H.R. 5203. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act; and

H.R. 6892. An act to provide changes in legislation to meet reconciliation requirements in the first congressional budget resolution—fiscal year 1983—for the House Committee on Agriculture.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE BILL REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 5203. An act to amend the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 6892. An act to provide changes in legislation to meet reconciliation requirements in the first congressional budget resolution, fiscal year 1983, for the House Committee on Agriculture.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, August 13, 1982, he had presented to the President of the United States the following enrolled bill:

S. 2073. An act to repeal outdated size and weight limitations now imposed on the U.S. Postal Service.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance, without amendment:

S. Res. 445. An original resolution to express the sense of the Senate concerning consultations with the Government of the Socialist Republic of Romania with respect to facilitation of increased emigration and the encouragement of religious and cultural freedom (Rept. No. 97-522).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlevkov to emigrate.

By Mr. MCCLURE, from the committee of conference:

Report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6530) to establish the Mount St.

Helens National Volcanic Area, and for other purposes (Rept. No. 97-523).

By Mr. MCCLURE, from the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, jointly, with an amendment in the nature of a substitute and an amendment to the title:

S. 1606. A bill to establish a supplemental insurance fund administered by the Secretary of Energy to pay the costs of necessary remedial action following damage to nuclear powerplants, including certain remedial action at the Three Mile Island facilities in Pennsylvania, to require participation in such fund by the licensees of nuclear powerplants as a condition for the licensing and continued operation of such plants, and for other purposes (with minority and supplemental views) (Rept. No. 97-524).

By Mr. MCCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. Res. 447. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1606; referred to the Committee on the Budget.

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

S. Res. 448. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409.

By Mr. PERCY, from the Committee on Foreign Relations, with an amendment:

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, La., and for other purposes (Rept. No. 97-525).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

Ralph D. DeNunzio, of Connecticut, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1982;

David F. Goldberg, of Illinois, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984; and

Roger A. Yurchuck, of Ohio, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1984.

By Mr. MCCLURE, from the Committee on Energy and Natural Resources:

Milton M. Masson, Jr., of Arizona, to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 1 year;

John B. Carter, Jr., of Texas, to be a member of the Board of Directors of the U.S. Synthetic Fuels Corporation for a term of 2 years; and

Oliver G. Richard III, of Louisiana, to be a member of the Federal Energy Regulatory Commission for a term expiring October 20, 1985.

(The above nominations were reported from the Committee on Energy and Natural Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PERCY, from the Committee on Foreign Relations, with an understanding:

Ex. N. 92-2. International Convention on Tonnage Measurements of Ships, 1969, which was signed for the United States at London, June 23, 1969 (Ex. Rept. 97-57).

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

Treaty Doc. 97-25. Convention for the Conservation of Salmon in the North Atlantic Ocean, signed in March 1982 by the United States, Canada, the European Community, Iceland, and Norway (Ex. Rept. 97-58).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HUMPHREY (for himself, Mr. RUDMAN, Mr. STAFFORD, Mr. WEICKER, Mr. TSONGAS, Mr. KENNEDY, Mr. DODD, and Mr. LEAHY):

S. 2835. A bill to grant the consent and approval of the Congress to an interstate agreement or compact relating to the restoration of Atlantic salmon in the Connecticut River Basin, and to allow the Secretary of Commerce and the Secretary of the Interior to participate as members in a Connecticut River Atlantic Salmon Commission; to the Committee on the Judiciary.

By Mr. TSONGAS (for himself and Mr. PELL):

S. 2836. A bill to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN (for himself, Mr. COHEN, Mr. NUNN, Mr. ARMSTRONG, Mr. EAST, Mr. HATCH, Mr. SYMMS, Mr. THURMOND, and Mr. MOYNIHAN):

S. 2837. A bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to improve the efficiency and strategic effectiveness of export regulation while minimizing interference with the ability to engage in commerce, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs, by unanimous consent with instructions that when reported, the bill be referred to the Committee on Governmental Affairs for not to exceed 60 days.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE, from the Committee on Finance:

S. Res. 445. To express the sense of the Senate concerning consultations with the Government of the Socialist Republic of Romania with respect to facilitation of increased emigration and the encouragement of religious and cultural freedom; placed on the calendar.

By Mr. D'AMATO:

S. Res. 446. Resolution to honor Michael R. Masone; to the Committee on the Judiciary.

By Mr. MCCLURE, from the Committee on Energy and Natural Resources:

S. Res. 447. An original resolution waiving section 402(a) of the Congressional Budget

Act of 1974 with respect to the considerations of S. 1606; to the Committee on the Budget.

By Mr. PERCY, from the Committee on Foreign Relations:

S. Res. 448. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6409; to the Committee on the Budget.

STATEMENTS OF INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HUMPHREY (for himself, Mr. RUDMAN, Mr. STAFFORD, Mr. WEICKER, Mr. TSONGAS, Mr. KENNEDY, Mr. DODD, and Mr. LEAHY):

S. 2835. A bill to grant the consent and approval of the Congress to an interstate agreement or compact relating to the restoration of Atlantic salmon in the Connecticut River Basin, and to allow the Secretary of Commerce and the Secretary of the Interior to participate as members in a Connecticut River Atlantic Salmon Commission; to the Committee on the Judiciary.

CONNECTICUT RIVER ATLANTIC SALMON COMMISSION

● Mr. HUMPHREY. Mr. President, today Senators RUDMAN, STAFFORD, LEAHY, WEICKER, TSONGAS, DODD, KENNEDY, and I are introducing legislation which would authorize the formation of the Connecticut River Atlantic Salmon Commission whose objective is to restore the sea-run Atlantic salmon to the Connecticut River Basin. The decline in numbers of the Atlantic salmon is a matter of historical record, and efforts to restore this valuable game fish have been ongoing for many years. Recognizing that this problem of mutual concern could be solved only through cooperative action, the Governors of New Hampshire, Vermont, Connecticut, and Massachusetts, on January 4, 1982, signed into law, legislation which authorizes a compact to restore the Atlantic salmon. The compact calls for the formation of the Connecticut River Atlantic Salmon Commission with membership including the four compact States, the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.

The Constitution grants States the right to establish such a compact subject to the consent of Congress. Also, when it is desired, as it is in this case, to make the Federal Government a partner in the compact, affirmative action by the Congress is required.

By historical accounts, efforts to restore the Atlantic salmon to the Connecticut River Basin began as early as 1867. These efforts continued over time but achieved only limited success due to lack of a formal compact among the States whose cooperation was essential to the restoration program. The affected States view their Connecticut River compact proposal as the

necessary step toward achieving their goal of restoration.

Because the proposed Commission involves participation by the U.S. Fish and Wildlife Service and the National Fisheries Service, these two agencies were consulted. Both agencies have reviewed the proposed legislation and have indicated their concurrence.

On the House side, an identical bill is being submitted today.

This bill requires no Federal appropriations; it merely authorizes the formation of a four-State compact. It represents a cooperative effort to solve a problem of mutual concern involving four separate entities; it would provide the mechanism by which the Atlantic salmon could be restored to its former abundance to the benefit of the entire four-State region. I ask unanimous consent that the text of the bill together with a relevant letter from Charles E. Barry, executive director, New Hampshire Fish and Game Department be printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD follows:

S. 2835

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to and approves the entering into by the States of Connecticut, Massachusetts, New Hampshire, and Vermont of an agreement or compact relating to the restoration of Atlantic salmon in the Connecticut River Basin and to the creation of a Connecticut River Atlantic Salmon Commission.

SEC. 2. The Secretary of Commerce, or the designee of the Secretary of Commerce, and the Secretary of the Interior, or the designee of the Secretary of the Interior, may participate as members in a Connecticut River Atlantic Salmon Commission created under any agreement or compact consented to and approved by the Congress in the first section of this Act, and may cooperate with any such Commission and any committee of any such Commission.

STATE OF NEW HAMPSHIRE,
FISH AND GAME DEPARTMENT,
Concord, N.H., June 1, 1982.

HON. GORDON J. HUMPHREY,
U.S. Senate, Washington, D.C.

DEAR SENATOR: As of January 4, 1982, the governors of Vermont, New Hampshire, Massachusetts and Connecticut have signed into law legislation which authorizes a compact to restore sea-run Atlantic salmon to the Connecticut River Basin. The Compact calls for the formation of the Connecticut River Atlantic Salmon Commission with membership including the four Compact states, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.

In 1981, a major milestone was achieved in the restoration program when a record 530 Atlantic salmon returned to the Connecticut compared with 175 in 1980 and one in 1974. Our goal is to restore an annual run of 6,000 by 1997. Those of us who joined to form the Compact believe it to be a critical step toward assuring continuing cooperation and the establishment of equitable regula-

tions once the salmon begin to return regularly in large numbers.

As you know, the U.S. Constitution grants the right to states to establish a compact subject to the consent of the Congress. Also, when it is the desire, as in this case, to make the Federal Government a partner, Congress must take affirmative action.

Therefore, we would like to know your feelings about sponsoring a bill in the current session of Congress. I have enclosed a briefing paper prepared by the U.S. Fish and Wildlife Service, Northeast Regional Office which provides background information and a "draft bill". Please call if you have any questions or wish to call a meeting. I can be reached at (603) 271-3511.

Sincerely,

CHARLES E. BARRY,
Executive Director.

By Mr. TSONGAS (for himself and Mr. PELL):

S. 2836. A bill to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982; to the Committee on Banking, Housing, and Urban Affairs.

TERMINATING SOVIET GAS PIPELINE SANCTIONS

● Mr. TSONGAS. Mr. President, today I am introducing a bill to terminate U.S. economic sanctions regarding the Soviet gas pipeline. I invite co-sponsors of this important bill.

It is clear now that the gas pipeline from the Soviet Union to Western Europe will go forward whether or not U.S. sanctions are applied. Sanctions may cause some delay in construction and will probably reduce the initial capacity of the pipeline, but our European allies are nonetheless determined to proceed and indeed are proceeding with the project.

In the United States, a number of firms have already been excluded from the pipeline project with a significant impact on export earnings and jobs for segments of the U.S. economy.

The NATO alliance is under serious strain as dramatically evidenced by the announcement of the European Community denouncing the pipeline sanction decision. The sanctions policy is driving a wedge between the United States and Western Europe, to what must be the obvious delight of the Kremlin.

The effectiveness of these sanctions on Soviet policy toward Poland is considered nil or minimal by a wide spectrum of experts, several of which recently testified before the Senate Foreign Relations Committee. Unilateral economic sanctions against the Soviet Union are easily circumvented and exert very little economic political leverage.

There remains the question of Soviet hard currency earnings generated by the pipeline. There is no doubt that such earnings will be high, but the sanctions will not have a substantial impact on the flow of currency to the Soviet Union.

The pipeline built without U.S. supplied equipment will operate at or

near the capacity of the Soviet gas fields to supply the line.

Opponents of the pipeline have argued that it will deepen European economic dependence on the Soviet Union. This may well be the outcome but it is worth noting that our European allies are united in their support for the pipeline in spite of such dependence. In any case, Europe will pay cash for Soviet natural gas, and it is fair to say that the Soviets need hard currency as much as or more than the Europeans need natural gas. Dependence in this case will be mutual.

The U.S. pipeline sanctions are damaging our relations with Europe, and inflicting harm on the U.S. economy while the intended victim, the Soviet Union, escapes almost unscathed.

Sanctions are a ponderous and costly foreign policy lever, and must be used only when the policy impact is assured and the cost to the U.S. economy is minimal. The pipeline sanctions satisfy neither requirement.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2836

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Export Administration Act of 1979 (50 U.S.C. App. 2405) is amended by adding at the end thereof the following new subsection:

"(1) TERMINATION OF CERTAIN CONTROLS.—Those export controls imposed under this section on December 30, 1981, and June 22, 1982, on goods or technology shall not be effective on or after the date of enactment of this subsection."●

By Mr. GARN (for himself, Mr. COHEN, Mr. NUNN, Mr. ARMSTRONG, Mr. EAST, Mr. HATCH, Mr. SYMMS, Mr. THURMOND, and Mr. MOYNIHAN):

S. 2837. A bill to unify the export administration functions of the U.S. Government within the Office of Strategic Trade, to improve the efficiency and strategic effectiveness of export regulation while minimizing interference with the ability to engage in commerce, and for other purposes; by unanimous consent, referred to the Committee on Banking, Housing, and Urban Affairs, and then sequentially to the Committee on Governmental Affairs for a period of not to exceed 60 days.

OFFICE OF STRATEGIC TRADE ACT OF 1982

Mr. GARN. Mr. President, today I am introducing, along with several of my colleagues, the Office of Strategic Trade Act of 1982. This legislation, made necessary by the failure of our current export control system to meet our commercial, strategic, foreign policy, and other related needs, would focus and centralize export adminis-

tration within an independent Federal agency designated the Office of Strategic Trade.

This coordinating and policymaking agency would be the hub of a control system relying upon the expertise of appropriate other agencies and departments. The Department of State, for example, would be the primary consultative body with respect to foreign policy controls, the Department of Defense with respect to national security controls, and the Department of Commerce, and to a certain degree the Department of Agriculture, with regard to short supply controls. Nevertheless, Mr. President, while relying upon the expertise of various agencies, the Office of Strategic Trade would be captive of none.

This bill is a rewrite of the Export Administration Act of 1979 and would replace that act when it expires in 1983. Hearings this Congress in both the Banking Committee and the Governmental Affairs Committee, as well as the past experience of many involved with export controls, have revealed the need for basic structural changes in our administration of export controls.

The measure that I am introducing today is a modified version of a bill that I introduced in 1980. In hearings held at that time on the bill and similar issues Lawrence Brady, having served as Acting Director of the Office of Export Administration, and today the Assistant Secretary of Commerce for Trade Administration, testified:

I feel there are certain areas in which the Commerce Department, no matter what personalities are in authority, will always be deficient in its implementation of long-term export control policies as mandated by the Export Administration Act.

Mr. Brady would be hard pressed to make an argument that conditions have changed sufficiently to make such views invalid today.

Recent press accounts have drawn attention to the great extent to which the Soviet military buildup has been supported by Western exports. This has been going on for some time despite our export control system. The advanced accuracy of the guidance systems of Soviet ICBM's, for example, was made possible by the sale to the Soviets of American ball-bearing grinders, which sale was approved by the Office of Export Administration. The Soviets obtained their shaped charge technology used in warheads for antitank guided missiles from the U.S. oil tool industry. Similarly, a recent CIA study reported that "since the early 1970's the Soviets and East Europeans have legally purchased more than 3,000 minicomputers, some of which are now being used in military-related organizations." The fact that Soviet troops rolled into Afghanistan on trucks manufactured at the

Kama River plant built by American and Western European companies has been well reported.

Furthermore, Mr. President, the problems are not limited to a few glamorous cases. Rather, the problems are basic and structural in nature. The spectacular, well-publicized incidents are representative of many more, similar, small-scale failures of the system. The aggregate effect on our national security of these may be as great or greater than the few cases that find their way into the news.

There is an important point that I wish to stress, Mr. President. For although Under Secretary Lionel Olmer and Assistant Secretary Lawrence Brady have done an excellent job in trying to improve export administration—their efforts, I know, have been strenuous—after nearly 2 years, progress has been slow and material results precious few. Report after report tells us that plans are being formulated and reform is on the way, but it has yet to arrive. My own personal experience and the experience of others has been, and the record itself shows, that the inherent contradiction in assignments within the Commerce Department between export promotion, on one hand, and export controls, on another, make it improbable that there can be any long lasting reconciliation that will provide the adequate emphasis and resources necessary for the Commerce Department to carry out the purposes of the law.

Mr. President, the Office of the Inspector General, within the Department of Commerce, recently conducted an investigation that further demonstrated the need for an Office of Strategic Trade. The report of that investigation, submitted on June 11 of this year, states, in part, that the failure of the Commerce Department to rectify inadequacies in its export administration operations "raised serious questions about the Department's commitment to, and ability to, enforce the Export Administration Act of 1979." I do not know what better evidence one could ask for demonstrating the need for this legislation. The Commerce Department itself, in its own analysis, has shown the failure to enforce adequately the export control statutes, despite the fact, as the report notes, that these inadequacies have been identified in earlier reviews, and "despite strong public statements by the present and past administrations in support of tight controls."

Again, Mr. President, I think that it would be a mistake to pin the blame for this failure on the well-meaning and hard-working officials who have been assigned this task within the Department of Commerce. The fact is, Mr. President, that there is an almost irresistible bias for Federal agencies to serve the interests of their constituency. No one applauds a Commerce

Department official when exports are controlled, but that same official is likely to be praised for his wisdom when export licenses are granted. The pressure at the Commerce Department, because of its very nature, is toward export promotion.

The report of the Inspector General referred again and again to the conflict in the Department presented by its conflicting duties of trade promotion and export control. Allow me to read again from this report:

The inspection team repeatedly was advised that the problems it noted reflect the Department's dual and possibly conflicting missions of trade promotion and export control. The team was not able to reach this conclusion unequivocally. It is clear, however, that the Department's failure to provide adequate resources, policy guidance and management direction has impeded the compliance effort and produced at very least the perception of a de facto supremacy of the trade promotion mission over the Department's export control function.

Let me emphasize, Mr. President, that this was not just the impression of the inspection team. This view is one that is widespread within the Commerce Department. The very officials charged with enforcing the export control statutes recognize and admit the existence of this conflict. Reading again from the report:

Virtually without exception, each of the staff interviewed in OEA (the Office of Export Administration), OEA/CD (OEA's Compliance Division), the Office of the General Counsel and the U.S. Customs Service referred to this conflict and acknowledged its impact—real or perceived.

Moreover, the Inspector General's report goes on to state:

We found no evidence that the "delicate balance" referred to, or the Department's dual commitment to trade promotion and export control, have yet been translated into adequate staffing resources and management priorities for enforcement of the Export Administration Act. We did find ample evidence that those involved in implementing the Act, both inside and outside the Commerce Department, perceive the long history of inadequate enforcement as a manifestation of a lower priority vis-a-vis export promotion.

Therefore, Mr. President, it is not just this Senator's impression that Commerce does not, and over the long run has not and will not, devote adequate priority and resources to export controls. This is the impression of the people within the Department itself, within the Office of Export Administration. Most people know where their bread is buttered. An employee at OEA knows what the priority of his Department is and which decision on an export license is going to receive praise. That is why we need an agency that is captive of no other agency, and that includes, I might add, being free from the excessive influence of the Department of Defense as well. We need an agency with the stature and bureaucratic insulation to carry out

fully all of the purposes of the export control statutes.

The impression within the Commerce Department that export control receives a low priority is not unjustified. The Inspector General's report points out nine major problems with Commerce's performance, "which severely hamper its ability to enforce controls on U.S. exports." The problems listed in the report include:

No comprehensive appraisal of or effective overall strategy to address the Nation's technology leakage problem;

Insufficient trained personnel;

Inadequate management direction and oversight;

Failure to use modern, state-of-the-art intelligence, investigative, and enforcement techniques and systems;

Lack of strong leadership and clear lines of organizational responsibility;

Unwarranted interference in the detailed conduct of investigative operations;

Inadequate cooperation and coordination with the U.S. Customs Service and vital information sources in the U.S. intelligence community;

Inadequate travel funds, law enforcement equipment, and other support resources; and

Use of antiquated or inefficient internal administrative and management systems and procedures.

Mr. President, these are not a few, insignificant problems that can be cleared up with a change in personnel. This is representative of widespread neglect over the course of years with the enforcement of laws vital to our national security.

Needless to say, our defense budget would be many billions of dollars less were it not for the cost of developing countermeasures to the weapons that we helped the Soviets develop and deploy.

Western goods, services, and technology have aided the Soviet military in three broad ways:

First, by transferring know-how for weapons systems that the Soviets did not possess, saving them billions of dollars in R. & D., as well as making up for gaps in Soviet technology;

Second, by giving the Soviets knowledge about Western weapons systems, allowing them to develop countermeasures, thereby undermining the Western qualitative edge in armaments that has been our defense against Soviet bloc quantitative superiority.

Third, by facilitating overall Soviet economic growth, allowing them to have both guns and butter. This has allowed growth in consumer-oriented production as well as increased infrastructure necessary for the financing and manufacture of armaments. The Kama River truck plant is one example of this.

Mr. President, ambivalence at the Commerce Department over export controls has also damaged our commercial interests. As I have argued, officials at the OEA are never quite sure what the priorities are. That leads to indecision and delay, even in the case of licenses for nonsensitive exports. According to the latest report by the Commerce Department; on September 30, 1981, 2,811 export license applications were in processing, 793 of which had been in processing for over 90 days.

In spite of herculean efforts, the administration of export controls remains inadequate. Controls are confusing, incoherently administered, shortsighted, and ineffective. At times Commerce spends inordinate resources examining inconsequential exports while truly sensitive items receive little more than cursory review. For 2 years a Soviet cover organization purchased 10.5 million dollars' worth of controlled U.S. high technology while the Commerce Department, informed of these Soviet efforts, failed to take any steps to stop this illegal transfer of technology. Presumably, the Department's resources were involved in trying to reduce the backlog of thousands of routine export applications. Both American export performance and American security are damaged.

For these reasons, I consider it appropriate at this time to reintroduce the proposal to remove export administration from the Commerce Department, where it conflicts with that Department's mandate to promote exports and has often been forced to take a back seat to commercial concerns. Coordinating export administration activities in an independent agency will give the priority necessary and the bureaucratic insulation essential to balance appropriately the input received from the various Departments of the Government involved in the export control process.

I am reluctant to be advocating the establishment of a new agency. But, in this case we are moving an operation from one department and giving it the independence and authority necessary to do its job, a job that is vital to our national security. It should not, therefore, result in any significant new expense for the Government, since personnel and facilities would simply be transferred from the Commerce Department to the new Office of Strategic Trade. Certainly, the billions of defense dollars alone that can be saved from effective export controls justifies this step. It is critical to our Nation's security that a dialog start between Congress and the administration on this vital issue. This bill should act as the catalyst to this dialog. Most of all, we must insure that the attention is given to enforcing export controls that the Soviets devote to circumventing them.

As the Inspector General's report concludes:

The problems arising from past inadequacies cannot be corrected by rhetoric.

Mr. President, I ask unanimous consent that the bill be included in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2837

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Office of Strategic Trade Act of 1982".

TABLE OF CONTENTS

- Sec. 1. Short title.
- Sec. 2. Findings.
- Sec. 3. Declaration of policy.
- Sec. 4. Definitions.
- Sec. 5. Establishment of Office of Strategic Trade.
- Sec. 6. General provisions.
- Sec. 7. National security controls.
- Sec. 8. Foreign policy controls.
- Sec. 9. Short supply controls.
- Sec. 10. Foreign boycotts.
- Sec. 11. Procedures for hardship relief from export controls.
- Sec. 12. Procedures for processing export license applications.
- Sec. 13. Violations.
- Sec. 14. Enforcement.
- Sec. 15. Exemption from certain provisions relating to administrative procedure and judicial review.
- Sec. 16. Annual report.
- Sec. 17. Regulatory authority.
- Sec. 18. Transfer of functions.
- Sec. 19. Effect on other Acts.
- Sec. 20. Authorization of appropriations.
- Sec. 21. Effective date.
- Sec. 22. Termination date.
- Sec. 23. Savings provisions.
- Sec. 24. Technical amendments.
- Sec. 25. Amendments to the National Security Act of 1947.

FINDINGS

Sec. 2. The Congress makes the following findings:

- (1) The ability of United States citizens to engage in international commerce is a fundamental concern of United States policy.
- (2) It is important for the national interest of the United States that both the private sector and the Federal Government place a high priority on exports, which would strengthen the Nation's economy.
- (3) Uncertainty of export control policy can inhibit the efforts of American business and work to the detriment of the overall attempt to improve the trade balance of the United States.
- (4) The failure to restrict the transfer of national security sensitive technology and goods to the Soviet Union and other countries where actions or policies are adverse to the national security interests of the United States, has led to the significant enhancement of Soviet bloc military-industrial capabilities, thereby creating a greater threat to the security of the United States, its allies, and other friendly nations, and increasing the defense budget of the United States.
- (5) The failure to restrict the export of national security sensitive technology and goods is attributable in large part to the diffusion of decisionmaking responsibilities regarding strategic trade matters among sev-

eral Federal agencies, and the lack of adequately trained and disciplined personnel.

(6) Because of the overlapping and frequently confusing responsibilities of the many Federal agencies that administer controls over strategic trade, the United States export control system has not served national security, foreign policy, or export interests effectively.

(7) It is important that the administration of export controls imposed for national security purposes give special emphasis to the need to control exports of goods and technology (and goods which contribute significantly to the transfer of such technology) that could make a significant contribution to the military potential of any country or combination of countries which would be detrimental to the national security of the United States.

(8) Further, the availability of certain materials at home and abroad varies so that the quantity and composition of United States exports and their distribution among importing countries may affect the welfare of the domestic economy and may have an important bearing upon fulfillment of the foreign policy of the United States.

(9) Minimization of restrictions for reasons of national security and/or foreign policy on exports of agricultural commodities and products is of critical importance to the maintenance of a positive balance of payments, to reducing the level of Federal expenditures for agricultural support programs, and to United States cooperation in efforts to eliminate malnutrition and world hunger.

DECLARATION OF POLICY

Sec. 3. The Congress makes the following declarations:

(1) It is the policy of the United States to minimize uncertainties in export control policy and to encourage trade with all countries with which the United States has diplomatic or trading relations, except those countries with which such trade has been determined by the President to be against the national interest.

(2) It is the policy of the United States to use export controls only after full consideration of the impact on the economy of the United States—

(A) to restrict the export or re-export of goods and technology which could make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States;

(B) to restrict the export of goods and technology where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations; and

(C) to restrict the export of goods where necessary to protect the domestic economy from the excessive drain of scarce materials.

(3) It is the policy of the United States (A) to apply any necessary controls to the maximum extent possible in cooperation with all nations, and (B) to encourage observance of a uniform export control policy by all nations with which the United States has defense treaty commitments or common strategic objectives.

(4) It is the policy of the United States to use its economic resources and trade potential to further the sound growth and stability of its economy as well as to further its national security and foreign policy objectives.

(5) It is the policy of the United States—

(A) to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any United States person.

(B) to encourage and, in specified cases, require United States persons engaged in the export of goods or technology or other information to refuse to take actions, including furnishing information or entering into or implementing agreements, which have the effect of furthering or supporting the restrictive trade practices or boycotts fostered or imposed by any foreign country against a country friendly to the United States or against any United States person; and

(C) to foster international cooperation and the development of international rules and institutions to assure reasonable access to world supplies.

(6) It is the policy of the United States that the desirability of subjecting, or continuing to subject, particular goods or technology or other information to United States export controls should be subjected to review by and consultation with representatives of appropriate United States Government agencies.

(7) It is the policy of the United States to use export controls, including license fees, to secure the removal by foreign countries of restrictions on access to supplies where such restrictions have or may have a serious domestic inflationary impact, have caused or may cause a serious domestic shortage, or have been imposed for purposes of influencing the foreign policy of the United States. In effecting this policy, the President shall make reasonable prompt efforts to secure the removal or reduction of such restrictions, policies, or actions through international cooperation and agreement before imposing controls on exports from the United States. No action taken in fulfillment of the policy set forth in this paragraph shall apply to the export of medicine or medical supplies.

(8) It is the policy of the United States to use export controls to encourage other countries to take immediate steps to prevent the use of their territories or resources to aid, encourage, or give sanctuary to those persons involved in directing, supporting, or participating in acts of international terrorism. To achieve this objective, the President shall make reasonable and prompt efforts to secure the removal or reduction of such assistance to international terrorists through international cooperation and agreement before imposing export controls.

(9) It is the policy of the United States to cooperate with other countries with which the United States has defense treaty commitments or common strategic objectives in restricting the export of goods and technology which could make a significant contribution to the military potential of any country or combination of countries which would prove detrimental to the security of the United States and of those countries with which the United States has defense treaty commitments or common strategic objectives.

(10) It is the policy of the United States to minimize restrictions on the export of agricultural commodities and products.

(11) It is the policy of the United States to encourage other friendly countries to cooperate in restricting the sale of goods and technology that can harm the security of the United States.

DEFINITIONS

SEC. 4. As used in this Act—

(1) the term "person" includes the singular and the plural and any individual, partnership, corporation, or other form of association, including any government or agency thereof;

(2) the term "United States person" means any United States resident or national (other than an individual resident outside the United States and employed by other than a United States person), any domestic concern (including any permanent domestic establishment of any foreign concern) and any foreign subsidiary or affiliate (including any permanent foreign establishment) of any domestic concern which is controlled in fact by such domestic concern, as determined under regulations of the President;

(3) the term "good" means any article, natural or manmade substance, material, supply or manufactured product, including inspection and test equipment, but excluding technical data;

(4) the term "technology" means technological or technical data, and shall include information or know-how of any kind that can be used or adapted for use in the design, production, manufacture, repair, overhaul, processing, engineering, development, operation, maintenance, or restoration of goods of commodities, including computer software. Information or know-how may take tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or take an intangible form, such as training or technical services. Technological data shall also include all goods or commodities that will be used in the industrial application of the technological information, regardless of the end-use classification of the goods or commodities;

(5) the term "export of goods" means—

(A) an actual shipment or transmission of goods out of the United States; or

(B) an actual shipment or transmission of goods, or portions thereof, originally exported from the United States to any destination other than that indicated to the appropriate United States authority as the initial destination of the goods at the time of original export from the United States.

(6) The term "export of technology" means—

(A) an actual shipment or transmission of technology out of the United States; or

(B) any release of technology of United States origin in a foreign country;

(7) the term "Director" means the Director of the Office of Strategic Trade;

(8) the term "Office" means the Office of Strategic Trade; and

(9) the term "United States" means the States of the United States, its commonwealths, territories (leased or owned), its dependencies, and the District of Columbia.

ESTABLISHMENT OF OFFICERS, FUNCTIONS, AND STRUCTURE OF OFFICE OF STRATEGIC TRADE

SEC. 5. (a) ESTABLISHMENT AND PRINCIPAL OFFICERS.—(1) There is established as an independent executive agency an Office of Strategic Trade. The Office shall be headed by a Director of Strategic Trade, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall serve for a term of four years, and who shall be assisted in the fulfilling of his responsibilities by a Deputy Director of Strategic Trade. The Office of Strategic Trade shall be administered, in accordance with the provisions of this Act, under the supervision and direction of the Director. The Director shall exercise all of the executive and administrative functions and authorities conferred in or transferred to the Office of Strategic Trade by this Act. The

Director or his designee shall act as Chairman of the Interagency Advisory Committee for Export Policy (ACEP), which shall consist of representatives from the Department of Commerce, the Department of State, the Department of Defense, the Department of Energy, the Department of the Treasury, the Central Intelligence Agency, and the National Aeronautics and Space Administration.

(2) There shall be in the Office of the Director of the Office of Strategic Trade an Exporter Services Facility which shall act as liaison with the business community and shall receive and respond to inquiries from the public or interested persons.

(b) OTHER PRINCIPAL OFFICERS.—(1) There shall be in the Office an Operations Division which shall be headed by an Assistant Director for Operations. It shall be the function of the Assistant Director for Operations to process incoming applications for export licenses, to disseminate such applications to the licensing division for evaluation, and to forward approved licenses to the applicant. In addition, the Operations Division shall monitor conformity of export applications and licenses with the terms and conditions applicable to them. The Operations Division shall perform such other functions as the Director may determine to be appropriate which were carried out prior to the effective date of this Act by the Office of Export Administration's Operating Division.

(2) There shall be in the Office a Compliance Division which shall be headed by an Assistant Director for Compliance and which shall carry out functions performed prior to the effective date of this Act by the Deputy Assistant Secretary of Commerce for Export Enforcement. The Compliance Division may also conduct physical inspections for controlled items, and shall monitor overseas compliance with the Export Administration Act of 1979.

(3) There shall be in the Office a CoCom Division which shall be headed by an Assistant Director for CoCom Affairs and which shall carry out functions relating to the representation of technical positions (including those of military and strategic significance) in connection with the Coordinating Committee for Multilateral Export Controls (CoCom). The CoCom Division shall also provide representatives to the Department of State to assist in negotiations with other members of the Coordinating Committee.

(4) There shall be in the Office a Licensing Division which shall be headed by an Assistant Director for Licensing and which shall be responsible to the Director for the evaluation of criteria and establishment of policy relating to the commodity control list, munitions control list, foreign policy controls, and short supply controls. The Licensing Division shall prepare draft documents and license criteria for license applications and submit such documents to the Advisory Committee for Export Policy for review. In addition, there shall be within the Licensing Division—

(A) an office of the Operating Committee, which shall disseminate license documents from the licensing officers to the interagency committee members, specify deadlines, collect responses and recommendations from the respective agencies, summarize each agency position for the Office of the Director, and prepare cases for review by the Export Administration Review Board;

(B) an Office of Computer Licensing, which shall prepare draft documents analyzing criteria for licensing with respect to

computers in accordance with the commodity control list;

(C) an Office of Capital Goods Licensing which shall prepare draft documents analyzing criteria for licensing with respect to capital goods in accordance with the commodity control list;

(D) an Office of Electronics, which shall prepare draft documents analyzing criteria for licensing with respect to the field of electronics in accordance with the commodity control list;

(E) an Office of Short Supply Licensing which shall prepare draft documents analyzing criteria for licensing with respect to the field of short supplies;

(F) an Office of Munitions Control which shall carry out the functions formerly carried out by the Department of State's Office of Munitions Control in maintaining the munitions control list;

(G) an Office of Technological Data which shall monitor and review the transfer of unembodied technology and knowledge through cultural exchange, educational, or other programs or means;

(H) an Office of Evaluation which shall monitor and review exports under general and validated licenses to determine whether items should be added to or deleted from commodity control lists, to assess foreign availability and comparability, and to make periodic (not less often than quarterly) specific recommendations, regarding additions to or deletions from the commodity control list to the Assistant Director for Licensing; and

(I) an Office of Foreign Policy Controls which shall formulate and maintain the list of foreign policy controls, in consultation with the Export Administration Review Board.

(5) There shall be in the Office a General Counsel.

GENERAL PROVISIONS

SEC. 6. (a) TYPES OF LICENSES.—Under such conditions as may be imposed by the Director which are consistent with the provisions of this Act, the Director may require any of the following types of export licenses:

(1) A validated license, authorizing a specific export, issued pursuant to an application by the exporter.

(2) A qualified general license, authorizing multiple exports, issued pursuant to an application by the exporter.

(3) A general license, authorizing exports without application by the exporter.

(4) Such other licenses as may assist in the effective and efficient implementation of this Act.

(b) COMMODITY CONTROL LIST.—The Director shall establish and maintain a list (hereinafter in this Act referred to as the "commodity control list") consisting of any goods or technology subject to export controls under this Act.

(c) FOREIGN AVAILABILITY.—In accordance with the provisions of this Act, the President shall not impose export controls for foreign policy or national security purposes on the export from the United States of goods or technology where he determines adequate evidence has been presented to him that the goods or technology are available without restriction from sources outside the United States in comparable quantities and comparable in quality to those produced in the United States, and that adequate evidence has been presented to him demonstrating that the absence of such controls would not prove detrimental to the foreign policy or national security of the United States.

(d) RIGHT OF EXPORT.—No authority or permission to export may be required under this Act, or under regulations issued under this Act, except to carry out the policies set forth in section 3 of this Act.

(e) DELEGATION OF AUTHORITY.—The President may delegate the power, authority, and discretion conferred upon him by this Act to such departments, agencies, or officials of the Government as he may consider appropriate, except that no authority under this Act may be delegated to, or exercised by, any official of any department or agency the head of which is not appointed by the President, by and with the advice and consent of the Senate. The President may not delegate or transfer his power, authority, and discretion to overrule or modify any recommendation or decision made by the Director, the Secretary of Defense, or the Secretary of State pursuant to the provisions of this Act.

(f) NOTIFICATION OF THE PUBLIC CONSULTATION WITH BUSINESS.—The Director shall keep the public fully apprised of changes in export control policy and procedures instituted in conformity with this Act with a view to encouraging trade. The Director shall establish suitable procedures for obtaining the views of a broad spectrum of enterprises, labor organizations, and citizens interested in or impacted by export controls on the United States export control policy and the foreign availability of goods and technology.

NATIONAL SECURITY CONTROLS

SEC. 7. (a) AUTHORITY.—(1) In order to carry out the policy set forth in section 3(2)(A) of this Act, the President may, in accordance with the provisions of this section, prohibit or curtail the export of any goods or technology subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. The authorities and duties contained in this subsection shall be exercised by the Director, in consultation with the Secretary of Defense, and such other departments and agencies as the Director considers appropriate, and shall be implemented by means of export licenses described in section 6(a) of this Act. In accordance with the provisions of section 12 of this Act, the Secretary of Defense shall have the right to review any export application under this section which the Secretary of Defense requests to review.

(2)(A) Whenever the Director makes any revision with respect to any goods or technology, or with respect to the countries or destinations, affected by export controls imposed under this section, the Director shall publish in the Federal Register a notice of such revision and shall specify in such notice that the revision relates to controls imposed under the authority contained in this section.

(B) Whenever the Director denies any export license under this section, the Director shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this section. The Director shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls imposed under this section, or the Director shall indicate in such notice which officers and employees of the Office who are familiar with the application will be made reasonably available to the applicant for consultation with regard to such modifications or restriction, if appropriate.

(3) In issuing regulations to carry out this section, the Director shall give particular attention to the devising of effective safeguards to prevent a country that poses a threat to the security of the United States from diverting covered goods and technologies to military use and to the need to take effective measures to prevent the reexport of covered goods and technologies from other countries to countries that pose a threat to the security of the United States.

(b) POLICY TOWARD INDIVIDUAL COUNTRIES.—In administering export controls for national security purposes under this section, United States policy toward individual countries shall not be determined exclusively on the basis of a country's Communist or non-Communist status but shall take into account such factors as whether its policies are adverse to the national security interests of the United States, the country's present and potential relationship to the United States, its present and potential relationship to countries friendly or hostile to the United States, its ability and willingness to control retransfers of United States exports in accordance with United States policy, and such other factors as the President considers appropriate. The President shall review not less frequently than every three years in the case of controls maintained cooperatively with other nations, and annually in the case of all other controls, United States policy toward individual countries to determine whether such policy is appropriate in light of the factors specified in the preceding sentence.

(c) NATIONAL SECURITY CONTROL LIST.—(1) the Director shall establish and maintain, as part of the commodity control list, a list of all goods and technology subject to export controls under this section. Such goods and technology shall be clearly identified as being subject to controls under this section.

(2) The Secretary of Defense and other appropriate departments and agencies shall identify goods and technology for inclusion on the national security control portion of the commodity control list. Those items on which the Director and the Secretary of Defense concur shall be subject to export controls under this section shall comprise such list. If the Director and the Secretary of Defense are unable to concur on such items, the matter shall be referred by the Director to the President for resolution.

(3) The Director shall issue regulations providing for review of the list established pursuant to this subsection not less frequently than every 3 years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, in order to carry out the policy set forth in section 3(2)(A) and the provisions of this section, and for the prompt issuance of such revisions of the list as may be necessary. Such regulations shall provide interested Government agencies and other affected or potentially affected parties with an opportunity, during such review, to submit written data, views, or arguments, with or without oral presentation. Such regulations shall further provide that, as part of such review, an assessment be made of the availability from sources outside the United States of goods and technology comparable to those controlled under this section. The Director and any agency rendering advice with respect to export controls shall keep adequate records of all decisions made with respect to revision of the list of controlled goods and technology, including the factual and analytical basis for the decision, and, in the case of the Direc-

tor, any dissenting recommendations received from any agency.

(d) **MILITARILY CRITICAL TECHNOLOGIES.**—(1) The Secretary of Defense, in consultation with the Director, shall review and revise the national security control list established pursuant to subsection (c), as prescribed in paragraph (3) of such subsection, for the purpose of insuring that export controls imposed under this section cover and (to the maximum extent consistent with the purposes of this Act) are limited to militarily critical goods and technologies and the mechanisms through which such goods and technologies may be effectively transferred.

(2) The Secretary of Defense shall bear primary responsibility for inclusion in the national security control list, the militarily critical technologies as described below. In developing such items for inclusion, primary emphasis shall be given to—

(A) arrays of design and manufacturing know-how,

(B) keystone manufacturing, inspection, and test equipment,

(C) goods accompanied by sophisticated operation, application, or maintenance know-how, and

(D) goods (i) which would extend, complete, maintain, or modernize a process line employed in the application of a militarily critical technology, or (ii) the analysis of which would reveal or give insight into a United States military system and would thereby facilitate either the design and manufacture of that system or the development of countermeasures against that system.

which, as determined by the Secretary of Defense, are not possessed and able to be utilized by countries to which exports are controlled under this section and which, if exported, would permit a significant advance in a military system of any such country.

(3) The description of the military critical technologies referred to in paragraph (2) shall be sufficiently specific to guide the determinations of any official exercising export licensing responsibilities under this Act.

(e) **NATIONAL SECURITY CONTROL AGENCY.**—To assist in carrying out the policy and other authorities and responsibilities of the Secretary of Defense under this section, there shall be established within the Office of the Under Secretary of Defense for Policy a National Security Control Agency. The Secretary of Defense may delegate such of those authorities and responsibilities, together with such ancillary functions, as he may deem appropriate to the Agency.

(f) **ANNUAL REPORT.**—The Secretary of Defense shall report annually to the Congress on actions taken to carry out this section.

(g) **EXPORT LICENSES.**—(1) The Congress finds that the effectiveness and efficiency of the process of making export licensing determinations under this section is severely hampered by the large volume of validated export license applications required to be submitted under this Act. Accordingly, it is the intent of Congress in this subsection to encourage the use of a qualified general license in lieu of a validated license.

(2) To the maximum extent practicable, consistent with the national security of the United States, the Director may require a qualified general license in lieu of a validated license under this section for the export of goods or technology, except where—

(A) the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the

United States is a party and, under the terms of such multilateral agreement, such export requires the specific approval of the parties to such multilateral agreement; or

(B) the United States is seeking the agreement of other suppliers to apply comparable controls to such goods or technology and, in the judgment of the Director, United States export controls on such goods or technology, by means of such validated license, are necessary prior to the conclusion of such agreement.

(3) To the maximum extent practicable, consistent with the national security of the United States, the Director may require a qualified general license, in lieu of a validated license, under this section for the export of goods or technology if the export of such goods or technology is restricted pursuant to a multilateral agreement, formal or informal, to which the United States is a party, but such export does not require the specific approval of the parties to such multilateral agreement.

(h) **FOREIGN AVAILABILITY.**—(1) The Director, in consultation with the Secretary of Defense and such other Government agencies as may be appropriate in the circumstances as well as with such technical advisory committees established pursuant to subsection (i) as the Director may deem appropriate, shall review, on a continuing basis, the availability, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Director determines, in accordance with procedures and criteria which the Director shall by regulation establish, that any such goods or technologies are available in fact to such destinations from such sources in comparable quantity and of comparable quality so that the requirement of a validated license for the export of such goods or technology would have no effect in achieving the purpose set forth in subsection (a) of this section, the Director may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Director shall publish that determination together with a concise statement of its basis, and the estimated economic impact of the decision.

(2) Subject to paragraph (4), the Director shall approve any application for a validated license which is required under this section for the export of any goods or technology to a particular country and which meets all other requirements for such an application, if the Director determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in comparable quantity and of comparable quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, subject to the exception set forth in paragraph (1) of this subsection. In any case in which the Director makes a determina-

tion of foreign availability under this paragraph with respect to any goods or technology, the Director shall determine whether a determination of foreign availability under paragraph (1) with respect to such goods or technology is warranted.

(3) With respect to export controls imposed under this section, any determination of foreign availability which is the basis of a decision to grant a license for, or to remove a control on, the export of a good or technology, shall be made in writing and shall be supported by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In assessing foreign availability with respect to license applications, uncorroborated representations by applicants shall not be deemed sufficient evidence of foreign availability.

(4) A technology or good proposed for, or subject to, export control for national security purposes, which is not possessed in comparable quantity of quality by a nation or combination of nations threatening to the national security of the United States, shall not be deemed to be available to that nation or combination of nations from foreign sources until the Secretary of State verifies that negotiations with the appropriate foreign governments have been undertaken. For purposes of this Act, assessment of comparable quantity of quality shall include but not be limited to the following factors: cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, technological data packages, back-up packages, long-term durability, scale of production, ease with which machinery will be integrated in the mode of production, and spoilages and tolerance factors for end products produced by the machinery. In any case in which, in accordance with this subsection, export controls are imposed under this section notwithstanding foreign availability, the President shall take steps to initiate negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. Whenever the President has reason to believe goods or technology subject to export control for national security purposes by the United States may become available from other countries to countries to which exports are controlled under this section and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability.

(5) In order to further carry out the policies set forth in this Act, the director shall establish within the Office a capability to monitor and gather information with respect to the foreign availability of any goods or technology subject to export controls under this Act.

(6) Each department or agency of the United States with responsibilities with respect to export controls, including intelligence agencies, shall, consistent with the protection of intelligence sources and methods, furnish information to the Office concerning foreign availability of goods and technology subject to export controls under this Act, and the Office, upon request or where appropriate, shall furnish to such departments and agencies the information it gathers and receives concerning foreign availability.

(i) **TECHNICAL ADVISORY COMMITTEES.**—(1) Upon written request by representatives of

a substantial segment of any industry which produces any goods or technology subject to export controls under this section or being considered for such controls because of their significance to the national security of the United States, the Director shall appoint a technical advisory committee for any such goods or technology which the Director determines are difficult to evaluate because of questions concerning technical matters, worldwide availability, and actual utilization of production and technology, or licensing procedures. Each such committee shall consist of representatives of United States industry and Government, including the Departments of Defense, State, Commerce, the intelligence community, and, in the discretion of the Director, other Government departments and agencies. No person serving on any such committee who is a representative of industry shall serve on such committee for more than four consecutive years.

(2) Technical advisory committees established under paragraph (1) shall advise and assist the Director, the Secretary of Defense, and any other department, agency, or official of the Government of the United States to which the President delegates authority under this Act, with respect to actions designed to carry out the policy set forth in section 3(2)(A) of this Act. Nothing in this subsection shall prevent the Director or the Secretary of Defense from consulting, at any time, with any person representing industry or the general public, regardless of whether such person is a member of a technical advisory committee. Members of the public shall be given a reasonable opportunity, pursuant to regulations prescribed by the Director, to present relevant material to such committees.

(3) Upon request of any member of any such committee, the Director may, if the Director determines it appropriate, reimburse such member for travel, subsistence, and other necessary expenses incurred by such member in connection with the duties of such member.

(4) Each such committee shall elect a chairman, and shall meet at least every three months at the call of the chairman, unless the chairman determines, in consultation with the other members of the committee, that such a meeting is not necessary to achieve the purposes of this subsection. Each such committee shall be terminated after a period of 2 years, unless extended by the Director for additional periods of 2 years. The Director shall consult each such committee with respect to such termination or extension of that committee.

(5) To facilitate the work of the technical advisory committees, the Director, in conjunction with other departments and agencies participating in the administration of this Act, shall disclose to each such committee adequate information, consistent with national security, pertaining to the reasons for the export controls which are in effect or contemplated for the goods or technology with respect to which that committee furnishes advice.

(6) Subject to subsection (h) (4) of this section, whenever a technical advisory committee certifies to the Director that goods or technology with respect to which such committee was appointed have become available in fact, to countries to which exports are controlled under this section, from sources outside the United States, including countries which participate with the United States in multilateral export controls, in comparable quantity and of comparable

quality so that requiring a validated license for the export of such goods or technology would be ineffective in achieving the purpose set forth in subsection (a) of this section, and provides adequate documentation for such certification, in accordance with the procedures established pursuant to subsection (h)(1) of this section, the Director shall investigate such availability, and if such availability is verified, the Director shall remove the requirement of a validated license for the export of the goods or technology, unless the President determines that the absence of export controls under this section would prove detrimental to the national security of the United States. In any case in which the President determines that export controls under this section must be maintained notwithstanding foreign availability, the Director shall publish that determination together with a concise statement of its basis and the estimated economic impact of the decision.

(j) **MULTILATERAL EXPORT CONTROLS.**—The President shall enter into negotiations with the governments participating in the group known as the Coordinating Committee (hereinafter in this subsection referred to as the "Committee") with the view toward accomplishing the following objectives:

(1) Agreement to publish the list of items controlled for export by agreement of the Committee.

(2) Agreement to hold periodic meetings with high-level representatives of such governments, for the purpose of discussing export control policy issues and issuing policy guidance to the Committee.

(3) Agreement on more effective procedures for enforcing the export controls referred to in paragraph (1).

(k) **COMMERCIAL AGREEMENTS WITH CERTAIN COUNTRIES.**—(1) Any United States firm, enterprise, or other nongovernmental entity which enters into any agreement with any agency of the government of a country to which exports are restricted for national security purposes, which calls for the encouragement of technical cooperation and is intended to result in the export from the United States to the other party of unpublished technical data of United States origin, shall report the agreement with such agency with sufficient detail to the Director.

(2) The provisions of paragraph (1) shall not apply to colleges, universities, or other educational institutions, except where the unpublished technical data involve a technology identified by the Secretary of Defense as a militarily critical technology.

(l) **NEGOTIATIONS WITH OTHER COUNTRIES.**—The Secretary of State, in consultation with the Secretary of Defense, the Director, and the heads of other appropriate departments and agencies, shall be responsible for conducting negotiations with other countries regarding their cooperation in restricting the export of goods and technology in order to carry out the policy set forth in section 3(9) of this Act, as authorized by subsection (a) of this section, including negotiations with respect to which goods and technology should be subject to multilaterally agreed export restrictions and what conditions should apply for exceptions from those restrictions.

(m) **DIVERSION TO MILITARY USE OF CONTROLLED GOODS OR TECHNOLOGY.**—(1) Whenever there is reliable evidence that goods or technology which were exported subject to national security controls under this section to a country to which exports are controlled for national security purposes have been di-

verted to an unauthorized use or consignee in violation of the conditions of an export license, the Director for as long as that diversion continues—

(A) shall deny all further exports to or by the party or parties responsible for that diversion of any goods or technology subject to national security controls under this section to an unauthorized use or consignee regardless of whether such goods or technology are available to that country from sources outside the United States; and

(B) may take such additional steps under this Act with respect to the party or parties referred to in subparagraph (A) as he determines are appropriate in the circumstances to deter the further unauthorized use of the previously exported goods or technology.

(2) As used in this subsection, the term "diversion to an unauthorized use or consignee" means the use of United States goods or technology to design or produce or maintain or contribute to the design, production, or maintenance of any item on the United States Munitions List, or the transfer of United States goods or technology to any consignee or and user engaged in or contributing to such design, production, or maintenance.

(n) **RECORDKEEPING.**—The Director, the Secretary of Defense, and any other department or agency consulted in connection with a license application or revision of a list of controlled commodities, goods, or technologies, shall make and keep records of their respective advice, recommendations, or decisions, including the factual and analytical basis of the advice, recommendations, or decisions.

FOREIGN POLICY CONTROLS

SEC. 8. (a) AUTHORITY.—(1) In order to carry out the policy set forth in paragraph (2)(B), (7), or (8) of section 3 of this Act, the President may prohibit or curtail the exportation of any goods, technology, or other information subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, to the extent necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations. The authority granted by this subsection shall be exercised by the Director, in consultation with the Secretary of State and such other departments and agencies as the Director considers appropriate, and shall be implemented by means of export licenses issued by the Director.

(2) Export controls maintained for foreign policy purposes shall expire one year after imposition unless extended by the President in accordance with subsections (b) and (e). Any such extension and any subsequent extension shall not be for a period of more than one year.

(3) Whenever the Director denies any export license under this subsection, the Director shall specify in the notice to the applicant of the denial of such license that the license was denied under the authority contained in this subsection, and the reasons for such denial, with reference to the criteria set forth in subsection (b) of this section. The Director shall also include in such notice what, if any, modifications in or restrictions on the goods or technology for which the license was sought would allow such export to be compatible with controls implemented under this section, or the Director shall indicate in such notice which officers and employees of the Office who are familiar with the application will be made reasonably available to the applicant for

consultation with regard to such modifications or restrictions, if appropriate.

(4) In accordance with the provisions of section 12 of this Act, the Secretary of State shall have the right to review any export license application under this section which the Secretary of State requests to review.

(b) **CRITERIA.**—When imposing, expanding, or extending export controls under this section, the President shall consider—

(1) the probability that such controls will achieve the intended foreign policy purpose, in light of other factors, including the availability from other countries of the goods or technology proposed for such controls;

(2) the compatibility of the proposed controls with the foreign policy objectives of the United States, including the effort to counter international terrorism, and with overall United States policy toward the country which is the proposed target of the controls;

(3) the reaction of other countries to the imposition or expansion of such export controls by the United States;

(4) the likely effects of the proposed controls on the export performance of the United States, on the competitive position of the United States in the international economy, on the international reputation of the United States as a supplier of goods and technology, and on individual United States companies and their employees and communities, including the effects of the controls on existing contracts;

(5) the ability of the United States to enforce the proposed controls effectively; and

(6) the foreign policy consequences of not imposing controls.

(c) **CONSULTATION WITH INDUSTRY.**—The Director, before imposing export controls under this section, shall consult with such affected United States industries as the Director considers appropriate, with respect to the criteria set forth in paragraphs (1) and (4) of subsection (b) and such other matters as the Director considers appropriate.

(d) **ALTERNATIVE MEANS.**—Before resorting to the imposition of export controls under this section, the President shall determine that reasonable efforts have been made to achieve the purposes of the controls through negotiations or other alternative means.

(e) **NOTIFICATION TO CONGRESS.**—The President in every possible instance shall consult with the Congress before imposing any export control under this section. Except as provided in section 9(g)(3) of this Act, whenever the President imposes, expands, or extends export controls under this section, the President shall immediately notify the Congress of such action and shall submit with such notification a report specifying—

(1) the conclusions of the President with respect to each of the criteria set forth in subsection (b); and

(2) the nature and results of any alternative means attempted under subsection (d), or the reasons for imposing, extending, or expanding the control without attempting any such alternative means.

Such report shall also indicate how such controls will further significantly the foreign policy of the United States or will further its declared international obligations. To the extent necessary to further the effectiveness of such export control, portions of such report may be submitted on a classified basis, and shall be subject to the provisions of section 14(c) of this Act.

(f) **EXCLUSION FOR MEDICINE AND MEDICAL SUPPLIES AND FOR CERTAIN FOOD EXPORTS.**—This section does not authorize export con-

trols on medicine, or medical supplies. Before export controls on food are imposed, expanded, or extended under this section, the director shall notify the Secretary of State in the case of export controls applicable with respect to any developed country and shall notify the Director of the United States International Development Cooperation Agency (IDCA) in the case of export controls applicable with respect to any developing country. The Secretary of State with respect to developed countries, and the Director of the IDCA with respect to developing countries, shall determine whether the proposed export controls on food would cause measurable malnutrition and shall inform the Director of that determination. If the Director is informed that the proposed export controls on food would cause measurable malnutrition, then those controls may not be imposed, expanded, or extended, as the case may be, unless the President determines that those controls are necessary to protect the national security interests of the United States, or unless the President determines that arrangements are insufficient to ensure that the food will reach those most in need. Each such determination by the Secretary of State or the Director of the United States International Development Cooperation Agency, and any such determination by the President, shall be reported to the Congress, together with a statement of the reasons for that determination. It is the intent of Congress that the President not impose export controls under this section on any goods or technology if he determines that the principal effect of the export of such goods or technology would be to help meet basic human needs. This subsection shall not be construed to prohibit the President from imposing restrictions on the export of medicine or medical supplies or of food under the International Emergency Economic Powers Act. This subsection does not apply to any export control on medicine or medical supplies which is in effect on the effective date of the Export Administration Act of 1979 or to any export control on food which is in effect on the date of the enactment of the Export Administration Amendments Act of 1981.

(g) **FOREIGN AVAILABILITY.**—In applying export controls under this section, the President shall take all feasible steps to initiate and conclude negotiations with appropriate foreign governments for the purpose of securing the cooperation of such foreign governments in controlling the export to countries and consignees to which the United States export controls apply of any goods or technology comparable to goods or technology controlled under this section.

(h) **INTERNATIONAL OBLIGATIONS.**—The provisions of subsections (b), (c), (d), (f), and (g) shall not apply in any case in which the President exercises the authority contained in this section to impose export controls, or to approve or deny export license applications, in order to fulfill obligations of the United States pursuant to treaties to which the United States is a party or pursuant to other international agreements.

(i) **COUNTRIES SUPPORTING INTERNATIONAL TERRORISM.**—The Director and the Secretary of State shall notify the committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate before any license is approved for the export of goods or technology valued at more than \$7,000,000 to any country concerning which the Secretary of State has made the following determinations:

(1) Such country has repeatedly provided support for acts of international terrorism.

(2) Such exports would make a significant contribution to the military potential of such country, including its military logistics capability, or would enhance the ability of such country to support acts of international terrorism.

(j) **CRIME CONTROL INSTRUMENTS.**—(1) Crime control and detection instruments and equipment shall be approved for export by the Director only pursuant to a validated export license.

(2) The provisions of this subsection shall not apply with respect to exports to countries which are members of the North Atlantic Treaty Organization or to Japan, Australia, or New Zealand, or to such other countries as the President shall designate consistent with the purposes of this subsection and section 502B of the Foreign Assistance Act of 1961.

(k) **CONTROL LIST.**—The Director shall establish and maintain, as part of the commodity control list, a list of any goods or technology subject to export controls under this section, and the countries to which such controls apply. Such goods or technology shall be clearly identified as subject to controls under this section. Such list shall consist of goods and technology identified by the Secretary of State, with the concurrence of the Director. If the Director and the Secretary of State are unable to agree on the list, the matter shall be referred by the Director to the President. Such list shall be reviewed not less frequently than every three years in the case of controls maintained cooperatively with other countries, and annually in the case of all other controls, for the purpose of making such revisions as are necessary in order to carry out this section. During the course of such review, an assessment shall be made periodically of the availability from sources outside the United States, or any of its territories or possessions, of goods and technology comparable to those controlled for export from the United States under this section.

SHORT SUPPLY CONTROLS

SEC. 9. (a) **AUTHORITY.**—(1) In order to carry out the policy set forth in section 3(2)(C) of this Act, the President may prohibit or curtail the export of any goods subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States. In curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President shall allocate a portion of export licenses on the basis of factors other than a prior history of exportation. Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy set forth in section 3(2)(C) of this Act, the Director shall include in a notice published in the Federal Register with respect to such restrictions an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(3) In imposing export controls under this section, the President's authority shall include, but not be limited to, the imposition of export license fees.

(b) **MONITORING.**—In order to carry out the policy set forth in section 3(2)(C) of this

Act, the Secretary of Commerce shall monitor exports, and contracts for exports, of any good (other than a commodity which is subject to the reporting requirements of section 812 of the Agricultural Act of 1970) when the volume of such exports in relation to domestic supply contributes, or may contribute, to an increase in domestic prices or a domestic shortage, and such price increase or shortage has, or may have, a serious adverse impact on the economy or any sector thereof. Any such monitoring shall commence at a time adequate to assure that the monitoring will result in a data base sufficient to enable policies to be developed, in accordance with section 3(2)(C) of this Act, to mitigate a short supply situation or serious inflationary price rise or, if export controls are needed, to permit imposition of such controls in a timely manner. Information which the Secretary of Commerce requires to be furnished in effecting such monitoring shall be confidential, except as provided in paragraph (2) of this subsection.

(2) The results of such monitoring shall, to the extent practicable, be aggregated and included in weekly reports setting forth, with respect to each item monitored, actual and anticipated exports, the destination by country, and the domestic and worldwide price, supply, and demand. Such reports may be made monthly if the Secretary of Commerce determines that there is insufficient information to justify weekly reports.

(3) The Director shall consult with the Secretary of Energy to determine whether monitoring or export controls under this section are warranted with respect to exports of facilities, machinery, or equipment normally and principally used, or intended to be used, in the production, conversion, or transportation of fuels and energy (except nuclear energy), including, but not limited to, drilling rigs, platforms, and equipment; petroleum refineries, natural gas processing, liquefaction, and gasification plants; facilities for production of synthetic natural gas or synthetic crude oil; oil and gas pipelines, pumping stations, and associated equipment; and vessels for transporting oil, gas, coal, and other fuels.

(c) PETITIONS FOR MONITORING OR CONTROLS.—(1)(A) Any entity, including a trade association, firm, or certified or recognized union or group of workers, which is representative of an industry or a substantial segment of an industry which processes metallic materials capable of being recycled with respect to which an increase in domestic prices or a domestic shortage, either of which results from increased exports, has or may have a significant adverse effect on the national economy or any sector thereof, may transmit a written petition to the Director requesting the monitoring of exports, or the imposition of export controls, or both, with respect to such material, in order to carry out the policy set forth in section 3(2)(C) of this Act.

(B) Each petition shall be in such form as the Director shall prescribe and shall contain information in support of the action requested. The petition shall include any information reasonably available to the petitioner indicating (i) that there has been a significant increase, in relation to a specific period of time, in exports of such material in relation to domestic supply, and (ii) that there has been a significant increase in the price of such material or a domestic shortage of such material under circumstances indicating the price increase or domestic shortage may be related to exports.

(2) Within 15 days after receipt of any petition described in paragraph (1), the Direc-

tor shall publish a notice in the Federal Register. The notice shall (A) include the name of the material which is the subject of the petition, (B) include the Schedule B number of the material as set forth in the Statistical Classification of Domestic and Foreign Commodities Exported from the United States, (C) indicate whether the petitioner is requesting that controls or monitoring, or both, be imposed with respect to the exportation of such material, and (D) provide that interested persons shall have a period of 30 days commencing with the date of publication of such notice to submit to the Director written data, views, or arguments, with or without opportunity for oral presentation, with respect to the matter involved. At the request of the petitioner or any other entity described in paragraph (1)(A) with respect to the material which is the subject of the petition, or at the request of any entity representative of producers or exporters of such material, the Director shall conduct public hearings with respect to the subject of the petition, in which case the 30-day period may be extended to 45 days.

(3) Within 45 days after the end of the 30- or 45-day period described in paragraph (2), as the case may be, the Director, in consultation with the Secretary of Commerce, shall—

(A) determine to impose monitoring or controls, or both, on the export of such material, in order to carry out the policy set forth in section 3(2)(C) of this Act; and

(B) publish in the Federal Register a detailed statement of the reasons for such determination.

(4) Within 15 days after making a determination under paragraph (3) to impose monitoring or controls on the export of a material, the Director shall publish in the Federal Register proposed regulations with respect to such monitoring or controls. Within 30 days following the publication of such proposed regulations, and after considering any public comments thereon, the Director shall publish and implement final regulations with respect to such monitoring or controls.

(5) For purposes of publishing notices in the Federal Register and scheduling public hearings pursuant to this subsection, the Director may consolidate petitions, and responses thereto, which involve the same or related materials.

(6) If a petition with respect to a particular material or group of materials has been considered in accordance with all the procedures prescribed in this subsection, the Director may determine, in the absence of significantly changed circumstances, that any other petition with respect to the same material or group of materials which is filed within 6 months after consideration of the prior petition has been completed does not merit complete consideration under this subsection.

(7) The procedures and time limits set forth in this subsection with respect to a petition filed under this subsection shall take precedence over any review undertaken at the initiative of the Director with respect to the same subject as that of the petition.

(8) The Director may impose monitoring or controls on a temporary basis after a petition is filed under paragraph (1)(A) but before the Director makes a determination under paragraph (3) if the Director considers such action to be necessary to carry out the policy set forth in section 3(2)(C) of this Act.

(9) The authority under this subsection shall not be construed to affect the author-

ity of the Director under any other provision of this Act.

(10) Nothing contained in this subsection shall be construed to preclude submission on a confidential basis to the Director of information relevant to a decision to impose or remove monitoring or controls under the authority of this Act, or to preclude consideration of such information by the Director in reaching decisions required under this subsection. The provisions of this paragraph shall not be construed to affect the applicability of section 552(b) of title 5, United States Code.

(d) DOMESTICALLY PRODUCED CRUDE OIL.—(1) Notwithstanding any other provision of this Act and notwithstanding subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), no domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) (except any such crude oil which (A) is exported to an adjacent foreign country to be refined and consumed therein in exchange for the same quantity of crude oil being exported from that country to the United States; such exchange must result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States as described in paragraph (2)(A)(ii) of this subsection, or (B) is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign country and re-enters the United States) may be exported from the United States, or any of its territories and possessions, unless the requirements of paragraph (2) of this subsection are met.

(2) Crude oil subject to the prohibition contained in paragraph (1) may be exported only if—

(A) the President makes and publishes express findings that exports of such crude oil, including exchanges—

(i) will not diminish the total quantity or quality of petroleum refined within, stored within, or legally committed to be transported to and sold within the United States;

(ii) will within 3 months following the initiation of such exports or exchanges, result in (I) acquisition costs to the refiners which purchase the imported crude oil being lower than the acquisition costs such refiners would have to pay for the domestically produced oil in the absence of such an export or exchange, and (II) not less than 75 percent of such savings in costs being reflected in wholesale and retail prices of products refined from such imported crude oil;

(iii) will be made only pursuant to contracts which may be terminated if the crude oil supplies of the United States are interrupted, threatened, or diminished;

(iv) are clearly necessary to protect the national interest; and

(v) are in accordance with the provisions of this Act; and

(B) the President reports such findings to the Congress and the Congress, within 60 days thereafter, agrees to a concurrent resolution approving such exports on the basis of the findings.

(3) Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920, the President may export oil to any country pursuant to a bilateral international oil supply agreement entered into by the United States with such nation before June 25, 1979, or to any country pursuant to the International Emergen-

cy Oil Sharing Plan of the International Energy Agency.

(c) **REFINED PETROLEUM PRODUCTS.**—(1) No refined petroleum product may be exported except pursuant to an export license specifically authorizing such export. Not later than 5 days after an application for a license to export any refined petroleum product or residual fuel oil is received, the Director shall notify the Congress of such application, together with the name of the exporter, the destination of the proposed export, and the amount and price of the proposed export. Such notification shall be made to the chairman of the Committee on Foreign Affairs of the House of Representatives and the chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) The Director may not grant such license during the 30-day period beginning on the date on which notification to the Congress under paragraph (1) is received, unless the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that the proposed export is vital to the national interest and that a delay in issuing the license would adversely affect that interest.

(3) This subsection shall not apply to (A) any export license application for exports to a country with respect to which historical export quotas established on the basis of past trading relationships apply, or (B) any license application for exports to a country if exports under the license would not result in more than 250,000 barrels of refined petroleum products being exported from the United States to such country in any fiscal year.

(4) For purposes of this subsection, "refined petroleum product" means gasoline, kerosene, distillates, propane or butane gas, diesel fuel, and residual fuel oil refined within the United States or entered for consumption within the United States.

(5) The Director may extend any time period prescribed in section 12 of this Act to the extent necessary to take into account delays in action by the Director on a license application on account of the provisions of this subsection.

(f) **CERTAIN PETROLEUM PRODUCTS.**—Petroleum products refined in United States Foreign Trade Zones, or in the United States Territory of Guam, from foreign crude oil shall be excluded from any quantitative restrictions imposed under this section except that, if the Director finds that a product is in short supply, the Director may issue such regulations as may be necessary to limit exports.

(g) **AGRICULTURAL COMMODITIES.**—(1) The authority conferred by this section shall not be exercised with respect to any agricultural commodity, including fats and oils or animal hides or skins, without the approval of the Secretary of Agriculture. The Secretary of Agriculture shall not approve the exercise of such authority with respect to any such commodity during any period for which the supply of such commodity is determined by the Secretary of Agriculture to be in excess of the requirements of the domestic economy except to the extent the President determines that such exercise of authority is required to carry out the policies set forth in subparagraph (A) or (B) of paragraph (2) of section 3 of this Act. The Secretary of Agriculture shall, by exercising the authorities which the Secretary of Agriculture has under other applicable provisions of law, collect data with respect to export sales of animal hides and skins.

(2) Upon approval of the Director, in consultation with the Secretary of Agriculture, agricultural commodities purchased by or for use in a foreign country may remain in the United States for export at a later date free from any quantitative limitations on export which may be imposed to carry out the policy set forth in section 3(2)(C) of this Act subsequent to such approval. The Director may not grant such approval unless the Director receives adequate assurance and, in conjunction with the Secretary of Agriculture, finds, (A) that such commodities will eventually be exported, (B) that neither the sale nor export thereof will result in an excessive drain of scarce materials and have a serious domestic inflationary impact, (C) that storage of such commodities in the United States will not unduly limit the space available for storage of domestically owned commodities, and (D) that the purpose of such storage is to establish a reserve of such commodities for later use, not including resale to or use by another country. The Director may issue such regulations as may be necessary to implement this paragraph.

(3) If the authority conferred by this section or section 8 is exercised to prohibit or curtail the export of any agricultural commodity in order to carry out the policies set forth in subparagraph (B) or (C) of paragraph (2) of section 3 of this Act, the President shall immediately report such prohibition or curtailment to the Congress, setting forth the reasons therefor in detail. If the Congress, within 30 days after the date of its receipt of such report, adopts a concurrent resolution disapproving such prohibition or curtailment, then such prohibition or curtailment shall cease to be effective with the adoption of such resolution. In the computation of such 30-day period, there shall be excluded the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or because of an adjournment of the Congress sine die.

(h) **BARTER AGREEMENTS.**—(1) The exportation pursuant to a barter agreement of any goods which may lawfully be exported from the United States, for any goods which may lawfully be imported into the United States, may be exempted, in accordance with paragraph (2) of this subsection, from any quantitative limitation on exports (other than any reporting requirement) imposed to carry out the policy set forth in section 3(2)(C) of this Act.

(2) The Director shall grant an exemption under paragraph (1) if the Director finds, after consultation with the appropriate department or agency of the United States, that—

(A) for the period during which the barter agreement is to be performed—

(i) the average annual quantity of the goods to be exported pursuant to the barter agreement will not be required to satisfy the average amount of such goods estimated to be required annually by the domestic economy and will be surplus thereto; and

(ii) the average annual quantity of the goods to be imported will be less than the average amount of such goods estimated to be required annually to supplement domestic production; and

(B) the parties to such barter agreement have demonstrated adequately that they intend, and have the capacity, to perform such barter agreement.

(3) For purposes of this subsection, the term "barter agreement" means any agreement which is made for the exchange with-

out monetary consideration, of any goods produced in the United States for any goods produced outside of the United States.

(4) This subsection shall apply only with respect to barter agreements entered into after the effective date of the Export Administration Act of 1979.

(i) **UNPROCESSED RED CEDAR.**—(1) The Director shall require a validated license, under the authority contained in subsection (a) of this section, for the export of unprocessed western red cedar (*Thuja plicata*) logs, harvested from State or Federal lands. The Director shall impose quantitative restrictions upon the export of unprocessed western red cedar logs during the 3-year period beginning on the effective date of the Export Administration Act of 1979 as follows:

(A) Not more than thirty million board feet scribner of such logs may be exported during the first year of such 3-year period.

(B) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(C) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such 3-year period, no unprocessed western red cedar logs may be exported from the United States.

(2) The Director shall allocate export licenses to exporters pursuant to this subsection on the basis of a prior history of exportation by such exporters and such other factors as the Director considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(3) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (g) of this section.

(4) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which has not been processed into—

(A) lumber without wane;
(B) chips, pulp, and pulp products;
(C) veneer and plywood;
(D) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or
(E) shakes and shingles.

(j) **EXPORT OF HORSES.**—(1) Notwithstanding any other provision of this Act, no horse may be exported by sea from the United States, or any of its territories and possessions, unless such horse is part of a consignment of horses with respect to which a waiver has been granted under paragraph (2) of this subsection.

(2) The Director, in consultation with the Secretary of Agriculture, may issue regulations providing for the granting of waivers permitting the export by sea of a specified consignment of horses, if the Director, in consultation with the Secretary of Agriculture, determines that no horse in that consignment is being exported for purposes of slaughter.

FOREIGN BOYCOTTS

SEC. 10. (a) PROHIBITIONS AND EXCEPTIONS.—(1) For the purpose of implementing the policies set forth in subparagraph (A) or (B) of paragraph (5) of section 3 of this Act, the President shall issue regulations prohibiting any United States person, with respect to his activities in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take any of the following actions with intent to comply

with, further, or support any boycott fostered or imposed by a foreign country against a country which is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation:

(A) Refusing, or requiring any other person to refuse, to do business with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, pursuant to an agreement with, a requirement of, or a request from or on behalf of the boycotting country. The mere absence of a business relationship with or in the boycotted country with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person, does not indicate the existence of the intent required to establish a violation of regulations issued to carry out this subparagraph.

(B) Refusing, or requiring any other person to refuse, to employ or otherwise discriminating against any United States person on the basis of race, religion, sex, or national origin of that person or of any owner, officer, director, or employee of such persons.

(C) Furnishing information with respect to the race, religion, sex, or national origin of any United States person or of any owner, officer, director, or employee of such person.

(D) Furnishing information about whether any person has, has had, or proposes to have any business relationship (including a relationship by way of sale, purchase, legal or commercial representation, shipping or other transport, insurance, investment, or supply) with or in the boycotted country, with any business concern organized under the laws of the boycotted country, with any national or resident of the boycotted country, or with any other person which is known or believed to be restricted from having any business relationship with or in the boycotting country. Nothing in this paragraph shall prohibit the furnishing of normal business information in a commercial context as defined by the Director.

(E) Furnishing information about whether any person is a member of, has made contributions to, or is otherwise associated with or involved in the activities of any charitable or fraternal organization which supports the boycotted country.

(F) Paying, honoring, confirming, or otherwise implementing a letter of credit which contains any condition or requirement compliance with which is prohibited by regulations issued pursuant to this paragraph, and no United States person shall, as a result of the application of this paragraph, be obligated to pay or otherwise honor or implement such letter of credit.

(2) Regulations issued pursuant to paragraph (1) shall provide exceptions for—

(A) complying or agreeing to comply with requirements (i) prohibiting the import of goods or services from the boycotted country or goods produced or services provided by any business concern organized under the laws of the boycotted country or by nationals or residents of the boycotted country, or (ii) prohibiting the shipment of goods to the boycotting country on a carrier of the boycotted country, or by a route other than that prescribed by the boycotting country or the recipient of the shipment;

(B) complying or agreeing to comply with import and shipping document require-

ments with respect to the country of origin, the name of the carrier and route of shipment, the name of the supplier of the shipment or the name of the provider of other services, except that no information knowingly furnished or conveyed in response to such requirements may be stated in negative, blacklisting, or similar exclusionary terms, other than with respect to carriers or route of shipment as may be permitted by such regulations in order to comply with precautionary requirements protecting against war risks and confiscation;

(C) complying or agreeing to comply in the normal course of business with the unilateral and specific selection by a boycotting country, or national or resident thereof, of carriers, insurers, suppliers of services to be performed within the boycotting country or specific goods which, in the normal course of business, are identifiable by source when imported into the boycotting country;

(D) complying or agreeing to comply with export requirements of the boycotting country relating to shipments or transshipments of exports to the boycotted country, to any business concern of or organized under the laws of the boycotted country, or to any national or resident of the boycotted country;

(E) compliance by an individual or agreement by an individual to comply with the immigration or passport requirements of any country with respect to such individual or any member of such individual's family or with requests for information regarding requirements of employment of such individual within the boycotting country; and

(F) compliance by a United States person resident in a foreign country or agreement by such person to comply with the laws of that country with respect to his activities exclusively therein, and such regulations may contain exceptions for such resident complying with the laws or regulations of that foreign country governing imports into such country of trademarked, trade named, or similarly specifically identifiable products, or components of products for his own use, including the performance of contractual services within that country, as may be defined by such regulations.

(3) Regulations issued pursuant to paragraphs (2)(C) and (2)(F) shall not provide exceptions from paragraphs (1)(B) and (1)(C).

(4) Nothing in this subsection may be construed to supersede or limit the operation of the antitrust or civil rights laws of the United States.

(5) This section shall apply to any transaction or activity undertaken, by or through a United States person or any other person, with intent to evade the provisions of this section as implemented by the regulations issued pursuant to this subsection, and such regulations shall expressly provide that the exceptions set forth in paragraph (2) shall not permit activities or agreements (expressed or implied by a course of conduct, including a pattern of responses) otherwise prohibited, which are not within the intent of such exceptions.

(b) FOREIGN POLICY CONTROLS.—(1) In addition to the regulations issued pursuant to subsection (a) of this section, regulations issued under section 8 of this Act shall implement the policies set forth in section 3(5).

(2) Such regulations shall require that any United States person receiving a request for the furnishing of information, the entering into or implementing of agreements, or the taking of any other action referred to in section 3(5) shall report that

fact to the Director, together with such other information concerning such request as the Director may require for such action as the Director considers appropriate for carrying out the policies of that section. Such person shall also report to the Director whether such person intends to comply and whether such person has complied with such request. Any report filed pursuant to this paragraph shall be made available promptly for public inspection and copying, except that information regarding the quantity, description, and value of any goods or technology to which such report relates may be kept confidential if the Director determines that disclosure thereof would place the United States person involved at a competitive disadvantage. The Director shall periodically transmit summaries of the information contained in such reports to the Secretary of State for such action as the Secretary of State, in consultation with the Director, considers appropriate for carrying out the policies set forth in section 3(5) of this Act.

(c) PREEMPTION.—The provisions of this section and the regulations issued pursuant thereto shall preempt any law, rule, or regulation of any of the several States or the District of Columbia, or any of the territories or possessions of the United States, or of any governmental subdivision thereof, which law, rule, or regulation pertains to participation in, compliance with, implementation of, or the furnishing of information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries.

PROCEDURES FOR HARDSHIP RELIEF FROM EXPORT CONTROLS

SEC. 11. (a) FILING OF PETITIONS.—Any person who, in such person's domestic manufacturing process or other domestic business operation, utilizes a product produced abroad in whole or in part from a good historically obtained from the United States but which has been made subject to export controls, or any person who historically has exported such a good, may transmit a petition of hardship to the Director requesting an exemption from such controls in order to alleviate any unique hardship resulting from the imposition of such controls. A petition under this section shall be in such form as the Director shall prescribe and shall contain information demonstrating the need for the relief requested.

(b) DECISION OF THE DIRECTOR.—Not later than 30 days after receipt of any petition under subsection (a), the Director shall transmit a written decision to the petitioner granting or denying the requested relief. Such decision shall contain a statement setting forth the Director's basis for the grant or denial. Any exemption granted may be subject to such conditions as the Director considers appropriate.

(c) FACTORS TO BE CONSIDERED.—For purposes of this section, the Director's decision with respect to the grant or denial of relief from unique hardship resulting directly or indirectly from the imposition of export controls shall reflect the Director's consideration of factors such as the following:

(1) Whether denial would cause a unique hardship to the petitioner which can be alleviated only by granting an exception to the applicable regulations. In determining whether relief shall be granted, the Director shall take into account—

(A) ownership of material for which there is no practicable domestic market by virtue of the location or nature of the material;

(B) potential serious financial loss to the applicant if not granted an exception;

(C) inability to obtain, except through import, an item essential for domestic use which is produced abroad from the good under control;

(D) the extent to which denial would conflict, to the particular detriment of the applicant, with other national policies including those reflected in any international agreement to which the United States is a party;

(E) possible adverse effects on the economy (including unemployment) in any locality or region of the United States; and

(F) other relevant factors, including the applicant's lack of an exporting history during any base period that may be established with respect to export quotas for the particular good.

(2) The effect a finding in favor of the applicant would have on attainment of the basic objectives of the short supply control program.

In all cases, the desire to sell at higher prices and thereby obtain greater profits shall not be considered as evidence of a unique hardship, nor will circumstances where the hardship is due to imprudent acts or failure to act on the part of the petitioner.

PROCEDURES FOR PROCESSING EXPORT LICENSE APPLICATIONS

SEC. 12. (a) PRIMARY RESPONSIBILITY OF THE DIRECTOR.—(1) All export license applications required under this Act shall be submitted by the applicant to the Director. All determinations with respect to any such application shall be made by the Director, subject to the procedures provided in this section.

(2) It is the intent of the Congress that a determination with respect to any export license application be made to the maximum extent possible by the Director without referral of such application to any other department or agency of the Government.

(3) To the extent necessary, the Director shall seek information and recommendations from the Government departments and agencies concerned with aspects of United States domestic and foreign policies and operations having an important bearing on exports. Such departments and agencies shall cooperate fully in rendering such information and recommendations.

(b) INITIAL SCREENING.—Within 10 days after the date on which any export license application is submitted pursuant to subsection (a)(1), the Director shall—

(1) send the applicant an acknowledgment of the receipt of the application and the date of the receipt;

(2) submit to the applicant a written description of the procedures required by this section, the responsibilities of the Director and of other departments and agencies with respect to the application, and the rights of the applicant;

(3) return the application without action if the application is improperly completed or if additional information is required, with sufficient information to permit the application to be properly resubmitted, in which case if such application is resubmitted, it shall be treated as a new application for the purpose of calculating the time periods prescribed in this section;

(4) determine whether it is necessary to refer the application to any other department or agency and, if such referral is determined to be necessary, inform the applicant of any such department or agency to which the application will be referred; and

(5) determine whether it is necessary to submit the application to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party and, if so, inform the applicant of this requirement.

(c) ACTION ON CERTAIN APPLICATIONS.—In each case in which the Director determines that it is not necessary to refer an application to any other department or agency for its information and recommendations, a license shall be formally issued or denied within 90 days after a properly completed application has been submitted pursuant to this section.

(d) REFERRAL TO OTHER DEPARTMENTS AND AGENCIES.—In each case in which the Director determines that it is necessary to refer an application to any other department or agency for its information and recommendations, the Director shall, within 30 days after the submission of a properly completed application—

(1) refer the application, together with all necessary analysis and recommendations of the Office, concurrently to all such departments or agencies; and

(2) if the applicant so requests, provide the applicant with an opportunity to review for accuracy any documentation to be referred to any such department or agency with respect to such application for the purpose of describing the export in question in order to determine whether such documentation accurately describes the proposed export.

(e) ACTION BY OTHER DEPARTMENTS AND AGENCIES.—(1) Any department or agency to which an application is referred pursuant to subsection (d) shall submit to the Director, within 30 days after its receipt of the application, the information or recommendations requests with respect to such application. Except as provided in paragraph (2), any such department or agency which does not submit its recommendations within the time period prescribed in the preceding sentence shall be deemed by the Director to have no objection to the approval of such application.

(2) If the head of any such department or agency notifies the Director before the expiration of the time period provided in paragraph (1) for submission of its recommendations that more time is required for review by such department or agency, such department or agency shall have an additional 30-day period to submit its recommendations to the Director. If such department or agency does not submit its recommendations within the time period prescribed by the preceding sentence, it shall be deemed by the Director to have no objection to the approval of such application.

(f) ACTION BY THE DIRECTOR.—(1) Within 90 days after receipt of the recommendations of other departments and agencies with respect to a license application, as provided in subsection (e), the Director shall formally issue or deny the license. In deciding whether to issue or deny a license, the Director shall take into account any recommendation of a department or agency with respect to the application in question. In cases where the Director receives conflicting recommendations, the Director shall, within the 90-day period provided for in this subsection, take such action as may be necessary to resolve such conflicting recommendations.

(2) In cases where the Director receives questions or negative considerations or recommendations from any other department or agency with respect to an application, the

Director shall, to the maximum extent consistent with the national security and foreign policy of the United States, inform the applicant of the specific questions raised and any such negative considerations or recommendations, and shall accord the applicant an opportunity, before the final determination with respect to the application is made, to respond in writing to such questions, considerations, or recommendations.

(3) In cases where the Director has determined that an application should be denied, the applicant shall be informed in writing, within 5 days after such determination is made, of the determination, of the statutory basis for denial, the policies set forth in section 3 of the Act which would be furthered by denial, and, to the extent consistent with the national security and foreign policy of the United States, the specific considerations which led to the denial, and of the availability of appeal procedures. In the event decisions on license applications are deferred inconsistent with the provisions of this section, the applicant shall be so informed in writing within 5 days after such deferral.

(4) If the Director determines that a particular application or set of applications is of exceptional importance and complexity, and that additional time is required for negotiations to modify the application or applications, the Director may extend any time period prescribed in this section. The Director shall notify the Congress and the applicant of such extension and the reasons therefor.

(g) SPECIAL PROCEDURES FOR SECRETARY OF DEFENSE.—(1) Notwithstanding any other provision of this section, the Secretary of Defense is authorized to review any proposed export of any goods or technology to any country to which exports are controlled for national security purposes and, whenever the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to the military potential of any such country, to recommend to the President that such export be disapproved.

(2) Notwithstanding any other provision of law, the Secretary of Defense shall determine, in consultation with the Director, and confirm in writing the types and categories of transactions which should be reviewed by the Secretary of Defense in order to make a determination referred to in paragraph (1). Whenever a license or other authority is requested for the export to any country to which exports are controlled for national security purposes of goods or technology within any such type or category, the Director shall notify the Secretary of Defense of such request, and the Director may not issue any license or other authority pursuant to such request before the expiration of the period within which the President may disapprove such export. The Secretary of Defense shall carefully consider any notification submitted by the Director pursuant to this paragraph and, not later than 30 days after notification of the request, shall—

(A) recommend to the President that he disapprove any request for the export of the goods or technology involved to the particular country if the Secretary of Defense determines that the export of such goods or technology will make a significant contribution, which would prove detrimental to the national security of the United States, to

the military potential of such country or any other country;

(B) notify the Director that he would recommend approval subject to specified conditions; or

(C) recommend to the Director that the export of goods or technology be approved. If the President notifies the Director, within 30 days after receiving a recommendation from the Secretary of Defense, that he disapproves such export, no license or other authority may be issued for the export of such goods or technology to such country.

(3) The Director shall approve or disapprove a license application, and issue or deny a license, in accordance with the provisions of this subsection, and, to the extent applicable, in accordance with the time periods and procedures otherwise set forth in this section.

(4) Whenever the President exercises his authority under this subsection to modify or overrule a recommendation made by the Secretary of Defense or exercises his authority to modify or overrule any recommendation made by the Secretary of Defense under subsection (c) or (d) of section 7 of this Act with respect to the list of goods and technologies controlled for national security purposes, the President shall promptly transmit to the Congress a statement indicating his decision, together with the recommendation of the Secretary of Defense.

(h) MULTILATERAL CONTROLS.—In any case in which an application, which has been finally approved under subsection (c), (f), or (g) of this section, is required to be submitted to a multilateral review process, pursuant to a multilateral agreement, formal or informal, to which the United States is a party, the license shall not be issued as prescribed in such subsections, but the Director shall notify the applicant of the approval of the application (and the date of such approval) by the Director subject to such multilateral review. The license shall be issued upon approval of the application under such multilateral review. If such multilateral review has not resulted in a determination with respect to the application within 60 days after such date, the Director's approval of the license shall be final and the license shall be issued, unless the Director determines that issuance of the license would prove detrimental to the national security of the United States. At the time at which the Director makes such a determination, the Director shall notify the applicant of the determination and shall notify the Congress of the determination, the reasons for the determination, the reasons for which the multilateral review could not be concluded within such 60-day period, and the actions planned or being taken by the United States Government to secure conclusion of the multilateral review. At the end of every 60-day period after such notification to Congress, the Director shall advise the applicant and the Congress of the status of the application, and shall report to the Congress in detail on the reasons for the further delay and any further actions being taken by the United States Government to secure conclusion of the multilateral review. In addition, at the time at which the Director issues or denies the license upon conclusion of the multilateral review, the Director shall notify the Congress of such issuance or denial and of the total time required for the multilateral review.

(i) RECORDS.—The Director and any department or agency to which any application is referred under this section shall keep

accurate records with respect to all applications considered by the Director or by any such department or agency, including, in the case of the Director, any dissenting recommendations received from any such department or agency.

(j) APPEAL AND COURT ACTION.—(1) The Director shall establish appropriate procedures for any applicant to appeal to the Director the denial of an export license application of the applicant.

(2) In any case in which any action prescribed in this section is not taken on a license application within the time periods established by this section (except in the case of a time period extended under subsection (f)(4) of which the applicant is notified), the applicant may file a petition with the Director requesting compliance with the requirements of this section. When such petition is filed, the Director shall take immediate steps to correct the situation giving rise to the petition and shall immediately notify the applicant of such steps.

(3) If, within 30 days after a petition is filed under paragraph (2), the processing of the application has not been brought into conformity with the requirements of this section, or the application has been brought into conformity with such requirements but the Director has not so notified the applicant, the applicant may bring an action in an appropriate United States district court for a restraining order, a temporary or permanent injunction, or other appropriate relief, to require compliance with the requirements of this section. The United States district courts shall have jurisdiction to provide such relief, as appropriate.

VIOLATIONS

SEC. 13. (a) IN GENERAL.—Except as provided in subsection (b) of this section, whoever knowingly violates any provision of this Act or any regulation, order, or license issued thereunder shall be fined not more than five times the value of the exports involved or \$50,000, whichever is greater, or imprisoned not more than 5 years, or both.

(b) WILLFUL VIOLATIONS.—(1) Whoever willfully exports anything contrary to any provision of this Act or any regulation, order, or license issued thereunder, with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes—

(A) except in the case of an individual, shall be fined not more than five times the value of the exports involved or \$1,000,000, whichever is greater; and

(B) in the case of an individual, shall be fined not more than \$250,000, or imprisoned not more than 10 years, or both.

(2) Any person who is issued a validated license under this Act for the export of any good or technology to a controlled country and who, with knowledge that such a good or technology is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense—

(A) except in the case of an individual, shall be fined not more than five times the value of the exports involved or \$1,000,000, whichever is greater; and

(B) in the case of an individual, shall be fined not more than \$250,000, or imprisoned not more than 5 years, or both.

For the purpose of this paragraph, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

(c) CIVIL PENALTIES; ADMINISTRATIVE SANCTIONS.—(1) The head of any department or agency exercising any functions under this Act, or any officer or employee of such department or agency specifically designated by the head thereof, may impose a civil penalty not to exceed \$10,000 for each violation of this Act or any regulation, order, or license issued under this Act, either in addition to or in lieu of any other liability or penalty which may be imposed, except that the civil penalty for each such violation involving national security controls imposed under section 7 of this Act or controls imposed on the export of defense articles and defense services under section 38 of the Arms Export Control Act may not exceed \$100,000.

(2)(A) The Authority under this Act to suspend or revoke the authority of any United States person to export goods or technology may be used with respect to any violation of the regulations issued pursuant to section 10(a) of this Act.

(B) Any administrative sanction (including any civil penalty or any suspension or revocation of authority to export) imposed under this Act for a violation of the regulations issued pursuant to section 10(a) of this Act may be imposed only after notice and opportunity for an agency hearing on the record in accordance with sections 554 through 557 of title 5, United States Code.

(C) Any charging letter or other document initiating administrative proceedings for the imposition of sanctions for violations of the regulations issued pursuant to section 10(a) of this Act shall be made available for public inspection and copying.

(d) PAYMENT OF PENALTIES.—The payment of any penalty imposed pursuant to subsection (c) may be made a condition, for a period not exceeding one year after the imposition of such penalty, to the granting, restoration, or continuing validity of any export license, permission, or privilege granted or to be granted to the person upon whom such penalty is imposed. In addition, the payment of any penalty imposed under subsection (c) may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such a deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral, or probation are not fulfilled.

(e) REFUNDS.—Any amount paid in satisfaction of any penalty imposed pursuant to subsection (a) shall be covered into the Treasury as a miscellaneous receipt. The head of the department or agency concerned may, in his discretion, refund any such penalty, within 2 years after payment, on the ground of a material error of fact or law in the imposition of the penalty. Notwithstanding section 1346(a) of title 28, United States Code, no action for the refund of any such penalty may be maintained in any court.

(f) ACTIONS FOR RECOVERY OF PENALTIES.—In the event of the failure of any person to pay a penalty imposed pursuant to subsection (c), a civil action for the recovery thereof may, in the discretion of the head of the department or agency concerned, be brought in the name of the United States. Except as provided in this subsection and in subsection (d), no such liability shall be asserted, claimed, or recovered upon by the United States in any way unless it has previously been reduced to judgment.

(g) OTHER AUTHORITIES.—Nothing in subsection (c), (d), or (f) limits—

(1) the availability of other administrative or judicial remedies with respect to violations of this Act, or any regulation, order, or license issued under this Act;

(2) the authority to compromise and settle administrative proceedings brought with respect to violations of this Act, or any regulation, order, or license issued under this Act; or

(3) the authority to compromise, remit or mitigate seizures and forfeitures pursuant to section 1(b) of title VI of the Act of June 15, 1917 (22 U.S.C. 401(b)).

ENFORCEMENT

SEC. 14. (a) GENERAL AUTHORITY.—To the extent necessary or appropriate to the enforcement of this Act or to the imposition of any penalty, forfeiture, or liability arising under the Export Control Act of 1949, the Export Administration Act of 1969, or the Export Administration Act of 1979, the head of any department or agency exercising any function thereunder (and officers or employees of such department or agency specifically designated by the head thereof) may make such investigations and obtain such information from, require such reports or the keeping of such records by, make such inspection of the books, records, and other writings, premises, or property of, and take the sworn testimony of, any person. In addition, such officers or employees may administer oaths or affirmations, and may by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both, and in the case of contumacy by, or refusal to obey a subpoena issued to, any such person, a district court of the United States, after notice to any such person and hearing, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce books, records, and other writings, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) IMMUNITY.—No person shall be excused from complying with any requirements under this section because of his privilege against self-incrimination, but the immunity provisions of section 5002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(c) CONFIDENTIALITY.—Except as otherwise provided by the third sentence of section 10(b)(2) and by section 13(c)(2)(C) of this Act, information obtained under this Act on or before the date of enactment of this Act, which is deemed confidential, including Shipper's Export Declarations, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall be exempt from disclosure under section 552 of title 5, United States Code, and such information shall not be published or disclosed unless the Director in his sole discretion determines that the withholding thereof is contrary to the national interest. Information obtained under this Act or the Export Administration Act of 1979 after June 30, 1980, may be withheld only to the extent permitted by statute, except that information obtained for the purpose of consideration of, or concerning, license applications under this Act or the Export Administration Act of 1979 shall be withheld from public disclosure unless the release of such information is determined by the Director in his sole discretion to be in the national interest. This subsection shall not affect any judicial proceed-

ing commenced under section 552 of title 5, United States Code, to obtain access to boycott reports submitted prior to October 31, 1976, which was pending on May 15, 1979; but such proceeding shall be continued as if this Act had not been enacted.

(2) Nothing in this Act shall be construed as authorizing the withholding of information from the Congress or from the General Accounting Office. All information obtained at any time under this Act or previous Acts regarding the control of exports, including any report or license application required under this Act, shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon request of the chairman or ranking minority member of such committee or subcommittee. No such committee or subcommittee, or member thereof, shall disclose any information obtained under this Act or previous Acts regarding the control of exports which is submitted on a confidential basis unless the full committee determines that the withholding of that information is contrary to the national interest. Notwithstanding paragraph (1) of this subsection, information referred to in the second sentence of this paragraph shall, consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, as determined by the agency that originally obtained the information, and consistent with the provisions of section 313 of the Budget and Accounting Act, 1921, be made available only by that agency, upon request, to the Comptroller General of the United States or to any officer or employee of the General Accounting Office who is authorized by the Comptroller General to have access to such information. No officer or employee of the General Accounting Office shall disclose, except to the Congress in accordance with this paragraph, any such information which is submitted on a confidential basis and from which any individual can be identified.

(3) Departments or agencies which obtain information which is relevant to the enforcement of this Act shall furnish such information to the department or agency with enforcement responsibilities under this Act to the extent consistent with the protection of intelligence, counterintelligence, and law enforcement sources, methods, and activities, except that—

(A) the provisions of this paragraph shall not apply to information subject to the restrictions set forth in section 9 of title 13, United States Code; and

(B) return information, as defined in subsection (b) of section 6103 of the Internal Revenue Code of 1954, may be disclosed only as authorized by such section.

(d) REPORTING REQUIREMENTS. In the administration of this Act, reporting requirements shall be so designed as to reduce the cost of reporting, recordkeeping, and export documentation required under this Act to the extent feasible consistent with effective enforcement and compilation of useful trade statistics. Reporting, recordkeeping, and export documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(e) SIMPLIFICATION OF REGULATIONS.—The Director, in consultation with appropriate United States Government departments and agencies and with appropriate technical advisory committees established under section 7(g), shall review the regulations issued under this Act and the commodity control list in order to determine how compliance

with the provisions of this Act can be facilitated by simplifying such regulations, by simplifying or clarifying such list, or by any other means.

EXEMPTION FROM CERTAIN PROVISIONS RELATING TO ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

SEC. 15. (a) EXEMPTION.—Except as provided in section 13(c)(2), the functions exercised under this Act are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

(b) PUBLIC PARTICIPATION.—It is the intent of the Congress that, to the extent practicable, all regulations imposing controls on exports under this Act be issued in proposed form with meaningful opportunity for public comment before taking effect. In cases where a regulation imposing controls under this Act is issued with immediate effect, it is the intent of the Congress that meaningful opportunity for public comment also be provided and that the regulation be reissued in final form after public comments have been fully considered.

ANNUAL REPORT

SEC. 16. (a) CONTENTS.—Not later than December 31 of each year, the Director shall submit to the Congress a report on the administration of this Act during the preceding fiscal year. All agencies shall cooperate fully with the Director in providing information for such report. Such report shall include detailed information with respect to—

(1) the implementation of the policies set forth in section 3;

(2) general licensing activities under sections 7, 8, and 9, and any changes in the exercise of the authorities contained in sections 7(a), 8(a), and 9(a);

(3) the results of the review of United States policy toward individual countries pursuant to section 7(b);

(4) the results, in as much detail as may be included consistent with the national security and the need to maintain the confidentiality of proprietary information, of the actions, including reviews and revisions of export controls maintained for national security purposes, required by section 7(c)(3);

(5) actions taken to carry out section 7(d);

(6) changes in categories of items under export control referred to in section 7(e);

(7) determinations of foreign availability made under section 7(f), the criteria used to make such determinations, the removal of any export controls under such section, and any evidence demonstrating a need to impose export controls for national security purposes notwithstanding foreign availability;

(8) actions taken in compliance with section 7(f)(5);

(9) consultations with the technical advisory committees established pursuant to section 7(g), the use made of the advice rendered by such committees, and the contributions of such committees toward implementing the policies set forth in this Act;

(10) the effectiveness of export controls imposed under section 8 in furthering the foreign policy of the United States;

(11) export controls and monitoring under section 9;

(12) the information contained in the reports required by section 9(b)(2), together with an analysis of—

(A) the impact on the economy and world trade of shortages or increased prices for commodities subject to monitoring under

this Act or section 812 of the Agricultural Act of 1970;

(B) the worldwide supply of such commodities; and

(C) actions being taken by other countries in response to such shortages or increased prices;

(13) actions taken by the President and the Director to carry out the antiboycott policies set forth in section 3(5) of this Act;

(14) organizational and procedural changes undertaken in furtherance of the policies set forth in this Act, including changes to increase the efficiency of the export licensing process and to fulfill the requirements of section 12, including an analysis of the time required to process license applications, the number and disposition of export license applications taking more than 90 days to process, and an accounting of appeals received, court orders issued, and actions taken pursuant thereto under subsection (j) of such section;

(15) delegations of authority by the President as provided in section 6(e) of this Act;

(16) efforts to keep the business sector of the Nation informed with respect to policies and procedures adopted under this Act;

(17) any reviews undertaken in furtherance of the policies of this Act, including the results of the review required by section 14(d), and any action taken, on the basis of the review required by section 14(e), to simplify regulations issued under this Act;

(18) violations under section 13 and enforcement activities under section 14; and

(19) the issuance of regulations under the authority of this Act, including an explanation of each case in which regulations were not issued in accordance with the first sentence of section 15(b).

(b) **REPORT ON CERTAIN EXPORT CONTROLS.**—To the extent that the President determines that the policies set forth in section 3 of this Act require the control of the export of goods and technology other than those subject to multilateral controls, or require more stringent controls than the multilateral controls, the President shall include in each annual report the reasons for the need to impose, or to continue to impose, such controls and the estimated domestic economic impact on the various industries affected by such controls.

(c) **REPORT ON NEGOTIATIONS.**—The President shall include in each annual report a detailed report on the progress of the negotiations required by section 7(j), until such negotiations are concluded.

REGULATORY AUTHORITY

SEC. 17. The President and the Director may issue such regulations as are necessary to carry out the provisions of this Act. Any such regulations issued to carry out the provisions of section 7(a), 8(a), 9(a), or 10(b) may apply to the financing, transporting, or other servicing of exports and the participation therein by any person.

TRANSFER OF FUNCTIONS

SEC. 18. (a) **TRANSFERS TO DIRECTOR.**—In addition to authorities and responsibilities elsewhere provided for in this Act, there are transferred to the Office of Strategic Trade the following functions and authorities:

(1) those of the Offices of East-West Trade and Munitions Control of the Department of State with respect to the munitions list pursuant to the Arms Export Control Act; and

(2) such other functions and authorities, not specifically or otherwise vested or delegated by statute, as the Director, in consultation with the Director of the Office of

Management and Budget, determine to be appropriate.

(b) **INCIDENTAL TRANSFERS.**—The Director of the Office of Management and Budget, in consultation with the Director, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as he may deem necessary to accomplish the purposes of this Act.

EFFECT ON OTHER ACTS

SEC. 19. (a) **IN GENERAL.**—Nothing contained in this Act shall be construed to modify, repeal, supersede, or otherwise affect the provisions of any other laws authorizing control over exports of any commodity.

(b) **COORDINATION OF CONTROLS.**—The authority granted to the President under this Act shall be exercised in such manner as to achieve effective coordination with the authority exercised under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(c) **CIVIL AIRCRAFT EQUIPMENT.**—Notwithstanding any other provision of law, any product (1) which is standard equipment, certified by the Federal Aviation Administration, in civil aircraft and is an integral part of such aircraft, and (2) which is to be exported to a country other than a controlled country, shall be subject to export controls exclusively under this Act. Any such product shall not be subject to controls under section 38(b)(2) of the Arms Export Control Act. For purposes of this subsection, the term "controlled country" means any country described in section 620(f) of the Foreign Assistance Act of 1961.

(d) **NONPROLIFERATION CONTROLS.**—(1) Nothing in section 7 or 8 of this Act shall be construed to supersede the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(2) With respect to any export license application which, under the procedures published by the President pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978, is referred to the Subgroup on Nuclear Export Coordination or other interagency group, the provisions of section 12 of this Act shall apply with respect to such license application only to the extent that they are consistent with such published procedures, except that if the processing of any such application under such procedures is not completed within 180 days after the receipt of the application by the Director, the applicant shall have the rights of appeal and court action provided in section 12(j) of this Act.

(e) **TERMINATION OF OTHER AUTHORITY.**—On October 1, 1979, the Mutual Defense Assistance Control Act of 1951 (22 U.S.C. 1611-1613d), is superseded.

AUTHORIZATION OF APPROPRIATIONS

SEC. 20. (a) **REQUIREMENT OF AUTHORIZING LEGISLATION.**—Notwithstanding any other provision of law, no appropriation shall be made under any law to the Department of Commerce for expenses to carry out the purposes of this Act unless previously and specifically authorized by law.

(b) **AUTHORIZATION.**—There are authorized to be appropriated to carry out the purposes of this Act—

(1) \$9,659,000 for each of the fiscal years 1982 and 1983; and

(2) such additional amounts, for each such fiscal year, as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.

EFFECTIVE DATE

SEC. 21. This Act shall take effect upon the expiration of the Export Administration Act of 1979.

TERMINATION DATE

SEC. 22. This authority granted by this Act terminates on September 30, 1984, or upon any prior date which the President by proclamation may designate.

SAVINGS PROVISIONS

SEC. 23. (a) **IN GENERAL.**—All delegations, rules, regulations, orders, determinations, licenses, or other forms of administrative action which have been made, issued, conducted, or allowed to become effective under the Export Control Act of 1949, the Export Administration Act of 1969, or the Export Administration Act of 1979 and which are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, superseded, set aside, or revoked under this Act.

(b) **ADMINISTRATIVE PROCEEDINGS.**—This Act shall not apply to any administrative proceedings commenced or any application for a license made, under the Export Administration Act of 1979, which is pending at the time this Act takes effect.

TECHNICAL AMENDMENTS

SEC. 24. (a) Section 38(e) of the Arms Export Control Act (22 U.S.C. 2778(e)) is amended by striking out "section 11 of the Export Administration Act of 1979, and by subsections (a) and (c) of section 12 of such Act" and inserting in lieu thereof "section 13 of the Office of Strategic Trade Act of 1982 and by subsections (a) and (c) of section 14 of such Act".

(b)(1) Section 103(c) of the Energy Policy and Conservation Act (42 U.S.C. 6212(c)) is amended by striking out "Export Administration Act of 1979" and inserting in lieu thereof "Office of Strategic Trade Act of 1982".

(2) Section 254(e)(3) of such Act (42 U.S.C. 6274(e)(3)) is amended by striking out "section 12 of the Export Administration Act of 1979" and inserting in lieu thereof "section 14 of the Office of Strategic Trade Act of 1982".

(c) Section 993(c)(2)(D) of the Internal Revenue Code of 1954 (26 U.S.C. 993(c)(2)(D)) is amended—

(1) by striking out "7(a) of the Export Administration Act of 1979" and inserting in lieu thereof "9(a) of the Office of Strategic Trade Act of 1982"; and

(2) by striking out "(A)" and inserting in lieu thereof "(C)".

(d) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following item:

"Director of Strategic Trade."

(e) Section 5315 of such title is amended by adding at the end thereof the following:

"Assistant Directors, Office of Strategic Trade (4)."

AMENDMENTS TO THE NATIONAL SECURITY ACT
OF 1947

SEC. 25. The fourth paragraph of section 101(a) of the National Security Act of 1947 (50 U.S.C. 402(a)) is amended—

(1) by redesignating clauses (5), (6), and (7) as clauses (6), (7), and (8), respectively; and

(2) by inserting after clause (4) the following new clause:

"(5) the Director of Strategic Trade;"

Mr. COHEN. Mr. President, I am pleased to join as a cosponsor of the Office of Strategic Trade Act of 1982. Senator GARN and I actively pursued similar legislation in the last Congress, and I congratulate him on his continued commitment to this concept.

I have long been concerned about the degree to which the Soviet Union uses U.S. technology in weapons development. Acquiring U.S. technology is given a very high priority and directed by the highest levels of the Soviet Government. The Soviets employ all means available to them to obtain American know-how, including exploitation of existing scientific exchanges, intelligence services, and industrial espionage.

Our country has an agreement with the Soviet Union regarding the international research and exchange program (IREX) which provides students the opportunity to study abroad. While most U.S. students in the Soviet Union are studying history and fine arts, Soviet students come to this country to study computers and the hard sciences at our leading universities. In the past 2 years, more than a third of the 50 proposals offered under one part of the IREX program had to be rejected or modified in order to minimize the technology loss.

An even more common technology drain is that found through scientific visits to academic conferences and attendance at commercial trade fairs. Soviets need only a visa approved by the State Department to enter the United States for this purpose. A Soviet scientist, for example, was able to study fuel-air explosives in this country and to return to the Soviet Union to work on related weapons development.

The vast majority of militarily significant technology obtained by the Soviet Union is acquired through intelligence agencies of the Soviets and other Eastern European countries. The legal acquisitions are also important, since many times the combination of the knowledge of both sources is critical for developing the complete capability. The Soviets, for example, purchased, illegally and legally, high-technology microelectronics equipment that enabled them to enhance the sophistication of a wide range of military systems.

A recent hearing by the Permanent Subcommittee on Investigations pointed out the extent to which industrial espionage is used as a vehicle for Sovi-

ets to obtain U.S. technology. I heard testimony from William H. Bell, a former executive from Hughes Aircraft, who is now serving time in Federal prison for selling classified material to a Polish spy. The story of Mr. Bell is a classic case of industrial espionage where the Polish agent was able to appeal to Mr. Bell after learning of his vulnerable personal situation. A recent divorce and remarriage had strained Mr. Bell's personal finances, and over a period of time, he disclosed to the Polish agent, and most likely to the Soviets, radar systems for some of our most sophisticated weapons, including the B-1 and Stealth bombers, all-weather radar for tanks, and a NATO air-defense system.

I congratulate this administration for being the first to recognize the seriousness of the technology drain problem. But many practical obstacles remain. How do we balance the need for effective restraint in controlling exports with the basic rights of the citizens of our free society? How can we best utilize and organize the resources to enforce a strong export control policy? And how can we encourage the cooperation of our allies in curbing their own exports of high technology to the Soviet bloc countries?

I feel that the Office of Strategic Trade Act of 1982, by establishing an independent office to oversee export control policy, is an important first step in improving this process. The organizational structure would signal the importance of these functions, both to the Soviets and to our allies. The Commerce Department, which now has the responsibility of determining export policies, has an inherent conflict of interest in being responsible both for export promotion and for controlling exports that have strategic significance.

I expressed my frustration at recent PSI hearings that voluminous hearing records exist documenting the extent of the problem, but no action has been taken. I commend Senator GARN for taking action by introducing this bill, and I am pleased to lend my support to this effort.

● Mr. MOYNIHAN. Mr. President, for several years I have been concerned about serious flaws in our policies on trade with the Soviet Union and other Warsaw Pact nations. During the past decade, we observed a major military buildup by the Soviets, in which they outspent us by \$100 billion for strategic forces alone, while the United States relaxed restrictions on transfer of its high technology and equipment.

The consequences of improvident export licensing practices and inadequate enforcement of controls were brought home in a study by the Director of Central Intelligence, which was conducted at the request of the Select Committee on Intelligence, of which I am vice chairman. I shall submit a

copy of the unclassified version of this report, released in April 1982, for the Record at the end of my remarks.

The DCI's study confirmed what many of us had previously warned was the case. It stated that the technological superiority of the United States and its allies, which is critical to the preservation of a credible counterforce to the quantitative edge of the Warsaw Pact, is "eroding as the Soviet Union and its allies introduce more sophisticated weaponry—weapons that all too often are manufactured with the direct help of Western technology."

The study goes on to point out that the Soviets have been very successful in acquiring both classified and unclassified Western technology obtained through the KGB and other organizations using both clandestine and overt collection methods. Stemming the flow of technology to the Soviets, the DCI concluded, is one of the "most complex and urgent issues facing the free world today."

While the intelligence community can identify and analyze the nature of the problem, it is not its responsibility to formulate and execute strategic trade policies. Since the adoption of the Export Control Act of 1949 these functions have been the primary responsibility of the Department of Commerce in so far as they concern commercial technologies and goods which have military applications. In addition, Commerce has been responsible for promoting foreign trade. Over the years, the Department has vigorously advanced the interests of exporters seeking to expand their markets in the Communist world. Unhappily, and perhaps understandably, it has not given anywhere near comparable emphasis to its export control duties, much to the detriment of national security.

Because of the Commerce Department's failure to carry out the congressional mandate to protect national security, I joined several of my colleagues in 1979 in offering several amendments to the Export Administration Act, which were designed to enhance the authorities of the Secretary of Defense and tighten the criteria for approval of export licenses. These amendments were adopted, but they left the Commerce Department primarily responsible for administering the control machinery.

Evidence has recently come to light indicating that the Congress should take the next logical step, which is to remove the export control function from the Commerce Department and thereby eliminate the institutional conflict of interest. In May, the Senate Permanent Subcommittee on Investigations received extended testimony that indicated significant weaknesses persist in the Department's

compliance program. In June, no less an authority than the Inspector General of the Commerce Department issued a report of investigation which found similar problems including:

No comprehensive approval of an effective overall strategy to address the Nation's technology leakage problem;

Insufficient trained personnel, travel funds, and support services;

Failure to use modern intelligence and investigative techniques;

Inadequate management direction and leadership.

The Inspector General pointed out that many of the problems highlighted in his report had been identified previously and that the Commerce Department had failed to correct them "despite strong public statements by present and past administrations in support of tight controls over the export of high and dual-use technologies."

The report concluded that: "This failure raises serious questions about the Department's commitment to, and ability to enforce the Export Administration Act of 1979."

I am therefore today joining my colleague on the Select Committee on Intelligence, the Senator from Utah, in introducing the Office of Strategic Trade Act of 1982. The bill would establish an Office of Strategic Trade (OST) as a new independent agency, with a Director who would be appointed by the President with the advice and consent of the Senate and would be made a member of the National Security Council. The Office would be given the authorities now carried out by Commerce under the Export Administration Act. In order to assure close coordination, the commercial licensing functions relating to defense articles, now exercised by the State Department under the Arms Export Control Act, would also be transferred to the OST.

Mr. President, this bill should not be viewed as the final edifice, but only as a potential first step in developing a clear, coherent, and consistent strategic trade policy. It is possible that this legislation could be strengthened by appropriate amendments. In addition, it is important to keep in mind that, whatever legislation we may enact, the primary responsibility for formulating export control policy and seeing that it is properly implemented will remain with the President. The West European reaction to the administration's sanctions to prevent the supply of parts for the Trans-Siberian Gas Pipeline is a consequence of the administration's earlier failure to make its opposition to that project clear and unequivocal. My colleagues will recall that the President proposed at Ottawa in July 1981 that the West not provide credits and technology to build the pipeline. A few days later, the credibility of that position was undermined

when the administration approved the sale of pipelaying equipment to Moscow.

Similarly, the administration asserts that its grain sales policy takes advantage of Soviet dependency on imports and serves Western interests by depleting Moscow's hard currency reserves. However, it conveniently overlooks the fact that, when the Carter grain embargo was terminated, controls were also removed on exports of phosphates which will increase Soviet crop yields.

The foregoing are problems that are well within the existing statutory authorities to remedy. What has been lacking has been clear policy direction and implementation. There are limits to what legislation can accomplish, but Congress will and must make the effort if the executive branch fails to do so. We offer this bill in a constructive and bipartisan spirit and in the hope that it will contribute to much needed and long overdue improvements in our export control system.

The report follows:

SOVIET ACQUISITION OF WESTERN TECHNOLOGY INTRODUCTION

The United States and its Allies traditionally have relied on the technological superiority of their weapons to preserve a credible counterforce to the quantitative superiority of the Warsaw Pact. But that technical superiority is eroding as the Soviet Union and its Allies introduce more and more sophisticated weaponry—weapons that all too often are manufactured with the direct help of Western technology.¹ Stopping the Soviets' extensive acquisition of military-related Western technology—in ways that are both effective and appropriate in our open society—is one of the most complex and urgent issues facing the Free World today.

This report describes the Soviet program to acquire US and Western technology, the acquisition mechanisms used, the spectrum of Western acquisitions that have contributed to Soviet military might, the projected Soviet priority needs for Western technology, and the problems of effectively stemming the transfer of Western technology that could someday find application in weapons used to threaten the West.

SOVIET ACQUISITION OF WESTERN TECHNOLOGY: A NATIONAL-LEVEL PROGRAM

Since at least the 1930's the Soviet Union has devoted vast amounts of its financial and manpower resources to the acquisition of Western technology that would enhance its military power and improve the efficiency of its military manufacturing technology. Today this Soviet effort is massive, well planned, and well managed—a national-level program approved at the highest party and governmental levels.

This program accords top priority to the military and military-related industry, and

major attention is also given to the civilian sectors of Soviet industry that support military production.

The Soviets and their Warsaw Pact allies have obtained vast amounts of militarily significant Western technology and equipment through legal and illegal means. They have succeeded in acquiring the most advanced Western technology by using, in part, their scientific and technological agreements with the West to facilitate access to the new technologies that are emerging from the Free World's applied scientific research efforts; by spending their scarce hard currency to illegally purchase controlled equipment, as well as to legally purchase uncontrolled advanced Western technologies having military-industrial applications; and by tasking their intelligence services to acquire illegally those U.S. and Western technologies that are classified and export controlled.

The Soviets have been very successful in acquiring Western technology by blending acquisitions legally and illegally acquired by different government organizations. The Soviet intelligence services—the Soviet Committee for State Security (KGB) and the Chief Intelligence Directorate of the Soviet General Staff (GRU)—have the primary responsibility for collecting Western classified, export-controlled, and proprietary technology, using both clandestine and overt collection methods. They in turn make extensive use of many of the East European Intelligence Services; for their efforts in acquiring Western technology, these countries are paid in part with Soviet military equipment and weapons.

Clandestine acquisition of the West's most advanced military-related equipment and know-how by the KGB and GRU is a major and growing problem.

These intelligence organizations have been so successful at acquiring Western technology that the manpower levels they allocate to this effort have increased significantly since the 1970s to the point where there are now several thousand technology collection officers at work. These personnel, under various covers ranging from diplomats to journalists to trade officials, are assigned throughout the world.

Soviet foreign trade organizations, or enterprises, although quasi-independent entities, are partially subordinated to the Ministry of Foreign Trade, and their activities are closely coordinated by this Ministry.

They have major responsibilities for both legal and illegal acquisitions and purchases; they work closely with the KGB and GRU in arranging trade diversions. East European trade companies assist them in clandestine and illegal acquisition operations.

Official Soviet and East European science and technology (S&T) organizations also play a major role in both open and clandestine acquisition of Western technology. The Soviet State Committee for Science and Technology (GKNT) is the key player in arranging government-to-government science and technology agreements to facilitate access to and the acquisition of established as well as new technologies, including those just emerging from Western universities, laboratories, and high-technology firms. It is the GKNT that oversees the allocation of scarce Soviet hard currency for the legal purchase by various Soviet organizations of selected Western technology for Soviet military purposes. If the GKNT is unable to acquire the necessary technology by open or legal means, it tasks Soviet intelligence to clandestinely acquire the technology.

¹ While there are numerous interpretations of "technology" for weapons, it is defined in this report as the application of scientific knowledge, technical information, know-how, critical materials, keystone manufacturing and test equipment, and end products which are essential to the research and development as well as the series manufacture of modern high-quality weapons and military equipment. Western technology is defined as that technology developed by the Free World.

It is the well-organized and well-coordinated use of all these organizations that has made the Soviet program to acquire Western technology so successful. As a result, the Soviets have acquired militarily significant technologies and critically important industrial Western technologies that have benefited every major Soviet industry engaged in the research, development, and production of weapon systems.

SOVIET MECHANISMS FOR ACQUIRING WESTERN TECHNOLOGY

Soviet acquisition mechanisms include: *legal means* through open literature, through legal trade channels, and through student scientific and technological exchanges and conferences; *illegal means* through trade channels that evade US and Western (i.e. CoCom)² export controls, including acquisitions by their intelligence services through recruited agents and industrial espionage. While a large volume of technology is acquired by nonintelligence personnel, the overwhelming majority of what the United States considers to be militarily significant technology acquired by and for the Soviets was obtained by the Soviet intelligence services and their surrogates among the East European intelligence services. However, legal acquisitions by other Soviet organizations are important since it is often the combination of legally and illegally acquired technologies that gives the Soviets the complete military or industrial capability they need.

Because of the priority accorded to the military over the civilian sectors of the Soviet economy, Western dual-use technology—i.e., technology with both military and civilian applications—almost always finds its way first into military industries, and subsequently into the civilian sectors of industries that support military production. Thus, Soviet assurances that legally purchased dual-use technology will be used solely for civilian applications can seldom be accepted at face value.

Legal acquisitions generally have their greatest impact on the Soviets' broad industrial base, and thus affect military technology on a relatively long-term basis. The Soviet Kama Truck Plant, for example, was built over some seven years with massive imports of more than \$1.5 billion worth of US and West European automotive production equipment and technology. Large numbers of military-specification trucks produced there in 1981 are now being used by Soviet forces in Afghanistan and by Soviet military units in Eastern Europe opposite NATO forces. Similarly, large Soviet purchases of printed circuit board technology and numerically controlled machine tools from the West already have benefited military manufacturing sectors.

The Soviets give priority to those purchases that meet the direct needs of the Soviet military-industrial complex by paying for them in hard currency. Over the past 10 years, the Soviet legally and illegally purchased large quantities of Western high-technology microelectronics equipment that has enabled them to build their own military microelectronics industry in a short time. This acquired capability in microelec-

tronics is the critical basis for the present wide-ranging enhancements of Soviet military systems and for their continuing sophistication.

Acquisitions through illegal trade channels often have both industrial and military applications, and thus are important in the near term. Illegal acquisitions of technology fall into two general categories, both of which are extremely difficult to detect and monitor. One is the diversion of controlled technology from legitimate trade channels to prescribed destinations. This is done through US and foreign firms that are willing to engage in profitable impropriety; through agents-in-place in US or foreign firms or foreign subsidiaries of US firms; through Soviet and East Europe-owned firms locally chartered in the West; and through foreign purchasing agents (including arms dealers). For instance, to evade the US embargo on microelectronic technology exports to the Soviet Union, the Soviets and their surrogates have set up dummy corporations in the West that purchase sophisticated microelectronics manufacturing equipment. This equipment is then shipped and reshipped, sometimes with the knowledge of individuals in the companies, to disguise its ultimate destination—the Soviet Union or Eastern Europe. Both the Soviet and Warsaw Pact intelligence services are in the mainstream of this illegal technology trade flow. The other type of diversion is an in-place diversion, in which legally acquired technology and equipment—in the computer area, for example—are put to military end uses not authorized in export license applications.

The acquisitions that most directly affect Soviet military development have come from intelligence collection and related illegal trade diversions. Soviet Bloc intelligence services have concentrated their effort in the United States, Western Europe, and Japan. These services target defense contractors and high-technology firms working on advanced technology (both classified and unclassified), foreign firms and subsidiaries of US firms abroad, and international organizations with access to advanced and/or proprietary technology, including access to computer data base networks throughout the world.

Both legal and illegal acquisitions of U.S. and Western technology and equipment are coordinated with information obtained through the complex network of international governmental scientific and technical agreements and exchanges that the USSR maintains with the advanced industrial nations. These include know-how, equipment, and computer data base collection activities of Soviet scientists and engineers who participate in academic, commercial, and official S&T exchanges. Visiting Soviet and East European technical and student delegations to the United States generally consist of expert scientists, many of whom are connected with classified work in their home countries. Such was the case with the Soviet scientist who managed to get assigned to fuel-air explosives work. When he finished his U.S. study programs, he almost certainly returned to the USSR to work on related weapons. Other Soviet and East European scientists have come to the United States to work in the aerohydrodynamic, cryogenic, optic, laser, computer, magnetic bubble computer memory, nuclear, microelectronic, and structural and electronic material areas. Given the military importance of these fields to the Soviet Union, it appears likely that a high percentage of these

scientists will work on military-related programs in these areas after they return home.

From the beginning, Soviet candidates in various academic and scientific exchange programs have nearly always proposed research activities involving technologies in areas that have direct military applications and in which the Soviets are technologically deficient. Table 1 provides a list of the key high-technology fields that Soviets and East European visitors come to the United States to study, research, or discuss, many of which are on the U.S. Militarily Critical Technology List today. In each of the past two years, more than a third of the 50 program proposals offered under the Graduate Student/Young Faculty Program of the International Research and Exchanges Board (IREX) has been completely unacceptable in terms of prospective technology loss, and many other programs needed to be modified or have access constrained before the exchanges could be allowed.

TABLE 1.—Major fields of technology of interest to Soviet and East European visitors to the United States

Computers:	
Architecture	Memories.
Automatic control ...	N/C (numerically controlled) units.
CAD (computer-aided design).	Networks.
Cybernetics/artificial intelligence.	Pattern recognition.
Data bases.....	Programming.
Image processing design.	Robots.
Image processing/retrieval.	Software.
Materials:	
Amorphous	Metallurgy.
CAD	N/C machine tools.
Composites.....	Powder metals.
Cryogenics	Superconductors.
Deformation	Testing/NDT (nondestructive).
Semiconductors:	
CAD	Design.
Circuits	Ion implantation.
Defects.....	Production technology.
Devices.....	SAW (surface acoustic wave) devices.
Communications, navigation, and control:	
Antennas	Satellite communications.
Microwave/millimeter waves.	Signal processing.
Radio wave propagation.	Telecommunications.
Vehicular/transportation:	
Marine systems	Shipbuilding.
Laser and optics:	
Fiber optics.....	Optics.
Gas lasers.....	Tunable lasers.
Nuclear physics:	
Cryogenics	Reactors.
Fusion	Structural designs.
Materials	Superconductors.
MHD (magnetohydrodynamics)	
Microbiology:	
Genetic engineering.	

² The Coordinating Committee (CoCom) was established in 1949 to serve as the forum for Western efforts to develop a system of strategic export controls. It is composed of the United States, the United Kingdom, Turkey, Portugal, Norway, the Netherlands, Luxembourg, Japan, Italy, Greece, France, the Federal Republic of Germany, Denmark, Canada, and Belgium.

The Soviets correctly view the United States and several other Western countries as a continuing source of important and openly available scientific and technical information, which they take every opportunity to obtain access to. Some of the unclassified documents so acquired are previously classified materials which had been downgraded to unclassified through U.S. procedures providing for automatic declassification after a stipulated period. When collected on a massive scale and centrally processed by the Soviets, this information becomes significant because it is collectively used by Soviet weapons designers and weapons countermeasure experts.

The Soviets also regularly attend high-technology trade shows, and attempt to visit commercial firms in the West, particularly small and medium-sized firms that are active in developing new technologies. These apparent trade promotion efforts often mask Soviet attempts to acquire emerging Western technological know-how before its military uses have been identified and government security controls have been applied. Emerging technologies are particularly vulnerable to foreign collection efforts of this type.

Soviet intelligence continues to place a high priority on the collection of S&T information on genetic engineering and futuristic weapons such as lasers and particle beam weapons. The Soviets have been stepping up their efforts to acquire new and emerging technologies such as very-high-speed integrated-circuit (VHSIC) and very-large-scale integration (VLSI) technology from Western universities and commercial laboratories for both military and commercial applications.

Over the past few years there has been an increased use of Soviet- and East European-owned firms locally chartered in the United States and abroad to exploit Western-controlled and military-related technology. There are more than twenty Soviet- and East European-owned firms in the United States, and near the end of the 1970s there were more than 300 similar firms in Western Europe. In addition to the United States, heavy concentrations are in the United Kingdom, Sweden, the Netherlands, Italy, the Federal Republic of Germany, France, Canada, Belgium, and Austria. These firms are avenues for Soviet acquisition of advanced Western technologies, as was shown when the US engineer arrested in late 1981 was charged with selling US secret documents to an East European intelligence officer employed by a Polish-owned firm chartered in Illinois. Furthermore, firms chartered in the United States can legally purchase controlled US technology and study it without actually violating US export controls unless they attempt to export the equipment or related technical data from the United States without a license.

SOVIET ACQUISITIONS AND BENEFITS

Today's recognition of the crucial role of Western technology in the development and production of Soviet weapon systems and related military equipment is not unique. Soviet dependence on Western technology was visible and clear-cut in the years immediately after World War II, when the Soviets stole Western nuclear secrets leading to their development of a nuclear weapon capability, and copied a US bomber in its entirety leading to production of their TU-4. To achieve major improvements in their military capability quickly, they exploited captured scientists and industrial plants and

resorted to a combination of espionage, stealing, and copying Western systems.

Since that early period of near-complete reliance in the 1950s, the Soviets' dependence on Western technology to develop their weapons has decreased. Nevertheless, despite several decades of Soviet priorities focused on science, technology, and weapon systems, the Soviets, because of their inability to be innovative and effectively apply new technology to weapons developments, still depend on Western technology and equipment to develop and manufacture some of their advanced weapon systems more quickly.

Today, Soviet military designers carefully choose the Western designs, engineering approaches, and equipment most appropriate to their deficiencies and needs. These needs are still substantial and pervade almost every area of weapons technology and related manufacturing equipment. Table 2 lists classes of Western technology acquired by the Soviets and East Europeans and illustrates the wide range of Soviet military technology needs. In the following paragraphs of this section, Soviet Bloc acquisitions have been grouped according to their likely applications: strategic systems, aircraft systems, naval systems, and tactical systems. Also cited are acquisitions in the microelectronic and computer areas that have broad application to military and industrial programs. In certain of these areas, notably the development of microelectronics, the Soviets would have been incapable of achieving their present technical level without the acquisition of Western technology. In other areas, acquisitions have allowed the Soviets to reduce the indigenous effort they would otherwise have had to expend.

TABLE 2.—SELECTED SOVIET AND EAST EUROPEAN LEGAL AND ILLEGAL ACQUISITIONS FROM THE WEST AFFECTING KEY AREAS OF SOVIET MILITARY TECHNOLOGY

Key technology area	Notable success
Computers.....	Purchases and acquisitions of complete systems designs, concepts, hardware and software, including a wide variety of Western general purpose computers and minicomputers, for military applications.
Microelectronics.....	Complete industrial processes and semiconductor manufacturing equipment capable of meeting all Soviet military requirements, if acquisitions were combined.
Signal processing.....	Acquisitions of processing equipment and know-how.
Manufacturing.....	Acquisitions of automated and precision manufacturing equipment for electronics, materials, and optical and future laser weapons technology; acquisition of information on manufacturing technology related to weapons, ammunition, and aircraft parts including turbine blades, computers, and electronic components; acquisition of machine tools for cutting large gears for ship propulsion systems.
Communications.....	Acquisitions of low-power, low-noise, high-sensitivity receivers.
Lasers.....	Acquisitions of optical, pulsed power source, and other laser-related components, including special optical mirrors and mirror technology suitable for future laser weapons.
Guidance and navigation.....	Acquisitions of marine and other navigation receivers, advanced inertial-guidance components, including miniature and laser gyros; acquisitions of missile guidance subsystems; acquisitions of precision machinery for ball bearing production for missile and other applications; acquisition of missile test range instrumentation systems and documentation and precision cinetheodolites for collecting data critical to postflight ballistic missile analysis.
Structural materials.....	Purchases and acquisitions of Western titanium alloys, welding equipment, and furnaces for producing titanium plate of large size applicable to submarine construction.
Propulsion.....	Missile technology, some ground propulsion technology (diesels, turbines, and rotaries); purchases and acquisitions of advanced jet engine fabrication technology and jet engine design information.
Acoustical sensors.....	Acquisitions of underwater navigation and direction-finding equipment.
Electro-optical sensors.....	Acquisition of information on satellite technology, laser rangefinders, and underwater low-light-level television cameras and systems for remote operation.

TABLE 2.—SELECTED SOVIET AND EAST EUROPEAN LEGAL AND ILLEGAL ACQUISITIONS FROM THE WEST AFFECTING KEY AREAS OF SOVIET MILITARY TECHNOLOGY—Continued

Key technology area	Notable success
Radars.....	Acquisitions and exploitations of air defense radars and antenna designs for missile systems.

The Soviet strategic weapons programs has benefited substantially from the acquisition of Western technology. The striking similarities between the US Minuteman silo and the Soviet SS-13 silo very likely resulted from acquisition of US documents and expedited deployment of this, the first Soviet solid-propellant ICBM. The Soviets' ballistic missile systems in particular have, over the past decade, demonstrated qualitative improvements that probably would not have been achieved without Western acquisitions of ballistic missile guidance and control technology. The most striking example of this is the marked improvement in accuracy of the latest generation of Soviet ICBMs—an improvement which, given the level of relevant Soviet technologies a decade ago, appears almost certainly to have been speeded by the acquisition of Western technology. Their improved accuracy has been achieved through the exploitation and development of good-quality guidance components—such as gyroscopes and accelerometers. The quality of these instruments, in turn, depends to a considerable degree on the quality of the small, precision, high-speed bearings used.

Through the 1950s and into the 1960s, the Soviet precision bearing industry lagged significantly behind that of the West. However, through legal trade purchases in the 1970s, the Soviet Union acquired US precision grinding machines for the production of small, high-precision bearings. Similar grinding machines, having lower production-rate capabilities, were available from several foreign countries. Only a few of these machines, either US or foreign, would have been sufficient to supply Soviet missile designers with all the quality bearings they needed. These purchases provided the Soviets with the capability to manufacture precision bearings in large volume sooner than would have been likely through indigenous development. The Soviets probably could have used indigenous grinding machines and produced the required quality of bearings over a long period by having an abnormally high rejection rate.

While some of the Soviet acquisition in the aircraft area appears directed toward the development of countermeasures against Western systems, the Soviets appear to target data on Western aircraft primarily to acquire the technology. Furthermore, while the Soviets have acquired a large amount of hardware and data from planes downed or captured in Vietnam and elsewhere, they continue to attempt to acquire the most advanced technologies through both legal and illegal transactions with the West. Assimilation of Western technology has been of great benefit to both their military and commercial aircraft development programs—to the extent that aircraft from certain Soviet military design bureaus are to a significant degree copies of aircraft of Western design. Soviet military aircraft designers have "ordered" documents on Western aircraft and gotten them within a few months, including plans and drawings for

the US C-5A giant transport aircraft early in its development cycle; these plans, although dated now, have contributed to current Soviet development of a new strategic military cargo plane. Designers were in particular need of data on US technological advances, but more importantly, they needed information on aerospace manufacturing techniques.

Soviet aircraft designers have been interested in US military transports and wide-body jets and probably have managed to accelerate the development programs for their IL-76 Candid and IL-86 transports. The IL-86 looks much like the Boeing 747 and the IL-76 resembles the C-141. Neither system is an identical copy.

The IL-76 also is used by the Soviets as the platform for their new AWACS (Airborne Warning and Control System), which is expected to be operational in the mid-1980s. This system will provide the Soviets with a major improvement in attacking low-flying missiles and bombers. The Soviet AWACS is strikingly similar in many ways to the US AWACS, and is a major improvement over their old AWACS.

The Soviets' acquisition effort in the naval systems area reflects well the two major factors that motivate their requirements: the acquisition of technology not readily available to them—yet critical to their programs—and the acquisition of equipment which, while producible in the Soviet Union, allows them to divert resources to more pressing naval programs. The Soviets appear to have concentrated their acquisitions in areas related to aircraft carriers, deep sea diving capabilities, sensor systems for antisubmarine warfare and navigation, and ship maintenance facilities. In the maintenance area, two huge floating drydocks purchased from the West for civilian use by the Soviets have been diverted to military use. Drydocks are critical for both routine and fast repair of ships damaged in warfare. In 1978, when the Soviets took possession of one of the drydocks, they diverted it to the Pacific Naval Fleet. The other was sent to the Northern Fleet in 1981.

These drydocks are so large that they can carry several naval ships. More importantly, they are the only drydock facilities in either of the two major Soviet fleet areas—Northern or Pacific—capable of servicing the new Kiev-class V/STOL aircraft carriers. Soviet advanced submarines carrying ballistic missiles, Soviet Kiev aircraft carriers, and Soviet destroyers were among the first ships repaired in these drydocks. It is important to note that the drydocks themselves are so large that no Soviet shipyard would have been capable of accommodating their construction without major facility modifications, associated capital expenditures, and interruptions in present weapons programs. Their importance will be even more pronounced when the Soviets construct the still-larger carriers (for high-performance aircraft) projected for the 1990s. The Soviets even have acquired Western aircraft carrier catapult equipment and documentation for this larger carrier; catapult technology, though relatively common in the West, is outside the Soviet experience.

Within the past few years, the USSR also has contracted for or purchased foreign-built oceanographic survey ships equipped with some of the most modern Western-manufactured equipment. In place of US equipment that was embargoed, other Western equipment has been installed on the ships. This modernization of what is the world's largest oceanographic fleet with

Western technology will help support the development of Soviet weapon system programs and antisubmarine systems against the West.

Although the Soviets have a strong indigenous technology base that could support the development of much of their tactical weapons systems, this does not prevent them from maintaining an ambitious program for acquiring and benefiting from Western technology in this area. In some cases, their acquisitions satisfy deficiencies in Soviet technology; smart weapons technology and electro-optical technology are examples of this. Signal and information-processing technology, particularly for Soviet air defense systems, is another. More often, however, technology is exploited to speed up a developmental program or to improve upon original Western designs in an expeditious manner. The Soviets appear to have concentrated their tactical systems acquisitions on Western tank, antitank, and air defense-related technology and equipment in order to derive concepts and know-how to benefit their weapons programs and to design countermeasures to the Western systems. The Soviet SA-7 heat-seeking, shoulder-fired antiaircraft missile contains many features of the US Redeye missile. Such acquisitions have enabled the Soviets to obtain advanced tactical weapon capabilities sooner than otherwise would have been possible.

Western equipment and technology have played a very important, if not crucial, role in the advancement of Soviet microelectronic production capabilities. This advancement comes as a result of over 10 years of successful acquisitions—through illegal, including clandestine, means—of hundreds of pieces of Western microelectronic equipment worth hundreds of millions of dollars to equip their military-related manufacturing facilities. These acquisitions have permitted the Soviets to systematically build a modern microelectronics industry which will be the critical basis for enhancing the sophistication of future Soviet military systems for decades. The acquired equipment and know-how, if combined, could meet 100 percent of the Soviets' high-quality microelectronic needs for military purposes, or 50 percent of all their microelectronic needs.

Table 3 identifies the microelectronic production-related equipment that has been acquired by the Soviet Bloc. These acquisitions have been grouped into areas related to the four steps required to produce a microchip: wafer preparation, circuit-mask making, device fabrication, and assembly and testing.

TABLE 3.—MICROELECTRONIC EQUIPMENT AND TECHNOLOGY LEGALLY AND ILLEGALLY ACQUIRED BY THE SOVIET BLOC

Equipment or technology	Comments
Process technology for microelectronic wafer preparation.	The Soviets have acquired hundreds of specific pieces of equipment related to wafer preparation, including epitaxial growth furnaces, crystal pullers, rinsers/dryers, slicers, and lapping and polishing units.
Process technology for producing circuit masks.	Many acquisitions in this area include computer-aided design software, pattern generators and compilers, digital plotters, photoreplacers, contact printers, mask comparators, electron-beam generators, and ion milling equipment.
Equipment for device fabrication.	Many hundreds of acquisitions in this area have provided the Soviets with mask aligners, diffusion furnaces, ion implanters, coaters, etchers, and photochemical processing lines.

TABLE 3.—MICROELECTRONIC EQUIPMENT AND TECHNOLOGY LEGALLY AND ILLEGALLY ACQUIRED BY THE SOVIET BLOC—Continued

Equipment or technology	Comments
Assembly and test equipment	Hundreds of items of Western equipment, including scribes, bonders, probe testers, and final test equipment have been acquired by the Soviets.

Soviet computer technology has long been limited by fabrication and production technology problems and by difficulties in software development. Since 1969 the USSR and East European countries have been developing a family of general purpose computers known as the Ryad series. These computers, which make up virtually the total Soviet and East European effort in large general purpose computers, have been and will continue to be used in a wide variety of civil and military applications. Western technology has been important to development of the Ryad series by providing proven design directions both at the system and component levels. The architectural designs of the Ryad computers, for example, are patterned after those of the highly successful mass produced IBM 360 and 370 series, computers that are used in a wide range of applications and are highly serviceable in the field.

With this approach, the Soviets and East Europeans eliminated many of the risks involved in undertaking the development and production of a new series of general purpose computers, and saved considerable amounts of manpower and time. Since the early 1970s the Soviets and East Europeans have legally purchased more than 3,000 minicomputers, some of which are now being used in military-related organizations. Furthermore, they are also developing minicomputers that are direct copies of Western models. Soviet and East European development of computer systems has been aided by all available means—legal and illegal, including clandestine—for acquiring the needed technical know-how.

Thus, the Soviets and their Warsaw Pact allies have derived significant military gains from their acquisitions of Western technology, particularly in the strategic, aircraft, naval, tactical, microelectronics, and computer areas. This multifaceted Soviet acquisitions program has allowed the Soviets to:

Save hundreds of millions of dollars in R&D costs, and years in R&D development lead time.

Modernize critical sectors of their military industry and reduce engineering risks by following or copying proven Western designs, thereby limiting the rise in their military production costs.

Achieve greater weapons performance than if they had to rely solely on their own technology.

Incorporate countermeasures to Western weapons early in the development of their own weapon programs.

These gains are evident in all areas of military weapons systems. While difficult to quantify, it is clear that the Western military expenditures needed to overcome or defend against the military capabilities derived by the acquisition of Western technology far outweigh the West's earnings from the legal sales to the Soviets of its equipment and technology.

OUTLOOK FOR THE 1980's

The Soviet's military R&D and weapon test-and-evaluation efforts are continuing at

a rapid pace. Several hundred development projects for weapons systems and major system elements are now under way, and it is expected that through the 1980s the number of new or modified advanced Soviet weapon systems emerging from these projects into production and deployment will remain at the high levels of the last two decades—some 200 weapon systems per decade.

Soviet military manufacturing capacity increased by a significant 80 percent during the 1960s and 1970s, and new plant expansion now under way at one-fourth of their key weapons manufacturing facilities will add considerably to their capabilities. These new facilities will be ready to produce weapons in the next four to 10 years. Plant expansion is in the following areas: ground warfare vehicles, including new tanks; aviation, including facilities for a new B-1-type bomber and a new long-range military transport aircraft having strategic airlift capabilities; naval shipbuilding, including submarines for ballistic missiles and cruise missiles, as well as full-size aircraft carriers for high-performance aircraft capable of competing with the United States in global operations; and electronic and microelectronic manufacturing facilities throughout the U.S.S.R. The development and production of new Soviet weapons at these facilities is sure to be more complex and costly than during the 1970s.

All of this military development and plant expansion activity, however, is taking place at a time when the Soviet economy has reached its lowest level of growth since World War II. Soviet annual GNP growth may well be limited to an average of 1 to 2 percent by the mid-1980s. Stagnation in industrial sectors that are key to both the civilian and the military sectors will make it increasingly difficult for the Soviets to satisfy the needs of both. Thus, Soviet leaders will have to make tough choices among defense, investment, and consumption; the competition among rival claimants for resources will become intense. Under these conditions, it may be impossible for the Soviets to maintain current growth in military production without hurting the civilian economy.

Despite these economic difficulties, there are no signs that the Soviets are shifting resources away from the military sector or slowing down development of weapon systems that will be entering the production stage by mid-decade. New generations of Warsaw Pact weapons will require selected critical component and modern manufacturing technologies. It is in these areas that Soviet illegal acquisitions of Western technology, complemented by legal acquisitions, are most likely to be concentrated over the next five to 10 years.

Among the more important technologies are microelectronics, computers, and signal processing. Microelectronics will play a very significant role in advances in computers and signal processing, and all of these technologies will be important in developing advanced Soviet missile, aircraft, naval, and tactical weapon systems, and associated detection systems. Additional projected Soviet technological needs related to such systems are presented in the appendix.

As the result of both tactical and strategic force modernizations, Soviet and Warsaw Pact military manufacturers are increasingly pressed by large-scale production requirements and the related need to control manufacturing and materials costs. Thus, particularly critical for the 1980s are Soviet

needs to improve their manufacturing capability. To a large extent, the level of manufacturing technology in Soviet plants determines the Soviets' capability to move new technology from R&D into military applications. Manufacturing technologies play a significant role not only in the development of advanced component technologies, such as microelectronics and computers, but also in the actual production of modern military systems.

Future Soviet and Warsaw Pact acquisition efforts—including acquisitions by their intelligence services—are likely to concentrate on the sources of such component and manufacturing technologies, including:

Defense contractors in the United States, Western Europe, and Japan who are the repositories of military development and manufacturing technologies.

General producers of military-related auxiliary manufacturing equipment in the United States, Western Europe, and Japan.

Small and medium-size firms and research centers that develop advanced component technology and designs, including advanced civil technologies with future military applications.

The combination of past Soviet acquisition practices and projected Soviet military needs indicates that the United States and its Allies are likely to experience serious counterintelligence and related industrial security and export control problems over the next five to 10 years.

The task of stopping Soviet Bloc intelligence operations aimed at Western military and industrial technologies already poses a formidable counterintelligence problem, both in the United States and abroad. But that task is likely to become even more difficult in the future as several trends identified in the 1970s continue into the 1980s:

First, since the early 1970s, the Soviets and their surrogates among the East Europeans have been increasingly using their national intelligence services to acquire Western civilian technologies—for example, automobile, energy, chemicals, and even consumer electronics.

Second, since the mid-1970s, Soviet and East European intelligence services have been emphasizing the collection of manufacturing-related technology, in addition to weapons technology.

Third, since the late 1970s, there has been increased emphasis by these intelligence services on the acquisition of new Western technologies emerging from universities and research centers.

The combined effect of these trends is a heavy focus by Soviet Bloc intelligence on the commercial sectors in the West—sectors that are not normally protected from hostile intelligence services. In addition, the security provided by commercial firms is no match for the human penetration operations of such foreign intelligence services. But the most alarming aspect of this commercial focus by Soviet Bloc intelligence services is that as a result of these operations the Soviets have gained, and continue to gain, access to those advanced technologies that are likely to be used by the West in its own future weapons systems.

The Soviet intelligence effort against Western defense contractor firms poses a serious problem in itself. With more than 11,000 such firms in the United States and hundreds of subsidiaries abroad, US counterintelligence efforts are stretched thin. Protection of US firms abroad from hostile intelligence threats is the responsibility of host governments, but they too are feeling

the burden of well-orchestrated Soviet Bloc efforts. The Soviet intelligence threat and the illegal trade problem appear to be severe in Japan. It appears that Western industrial security—both defense and commercial—will be severely tested by the Soviet intelligence services and their surrogates among the East European intelligence services during the 1980s.

Western industrial nations also can expect increased Soviet Bloc intelligence activities directed at the acquisition of their key industrial technologies. Western export controls are presently being updated and broadened; the CoCom allies have recently agreed to strengthen controls and to enhance their enforcement. Moreover, serious hard currency shortages, along with generally increased restrictions on Soviet S&T visitors to the United States, will make the Soviets even more dependent on intelligence and other illegal efforts to acquire the goods and equipment they will need.

The massive, well-planned, and well-coordinated Soviet program to acquire Western technology through combined legal and illegal means poses a serious and growing threat to the mutual security interests of the United States and its Allies. In response, the West will need to organize more effectively than it has in the past to protect its military, industrial, commercial, and scientific communities.

APPENDIX: PROJECTED SOVIET TECHNOLOGICAL NEEDS AND ACQUISITION TARGETS THROUGH THE 1980'S

Given the dynamic nature of their collection program, it is expected that the Soviets will continue their attempts to acquire a broad range of Western technologies. Certain areas, however, represent priority collection targets for them; these areas are critical to the Soviets' enhancement of their weapons capability.

Over the past decade, the Soviets' most pronounced improvements in strategic weaponry have been in the development of a MIRV ballistic missile capability and a significant improvement in the accuracy of their ICBMs. The former capability was made possible largely through the introduction of onboard digital computers and the latter through the improvement in the quality of the missile guidance systems and the procedures used to calibrate them. Technology acquisitions from the West contributed significantly to these improved capabilities.

The Soviets probably will continue to make their highest priority the acquisition of Western microelectronics and computer technology for in-flight guidance computers. This acquisition effort will be motivated by a desire to overcome reliability problems and also to provide the on-board processing capability required for the development of new guidance options with the potential for extremely high accuracies.

The Soviets will also give top priority to acquiring information on the latest generation of US inertial components upon which the MX ICBM and the Trident SLBM guidance systems are based. Despite the past accuracy improvements of Soviet ICBMs, these two US systems incorporate technologies beyond present Soviet technological capabilities. Moreover, their SLBM accuracies are significantly behind those of US systems. In addition to information on hardware, the Soviets are expected to seek calibration software algorithms which, as the guidance instruments themselves reach their practical performance limit, would

allow for continued improvement in weapon system accuracy.

Western solid rocket propulsion technology also will be a high-priority Soviet acquisition target in the 1980s. While the Soviets have vast experience with the liquid-propellant systems which represent the bulk of their ballistic missile force, they are shifting the emphasis to solid propulsion systems, which have practical advantages over liquid systems in a variety of applications. At the same time, the Soviets have had only limited success with the progress of their solid-propulsion program. They probably will pursue the acquisition of information on solid-propellant production procedures, and propellant grain design, motor case, and rocket nozzle technologies.

The Soviets' ABM R&D effort has continued apace since the 1960s. As a result, they have gained considerable expertise in the development of large fixed-site radars for early warning, tracking, and engagement, and their interceptor technology has also improved substantially over the years. Areas remain, however, in which the Soviets will still seek and would benefit from sophisticated Western ABM technology. These include signal processing for detection, discrimination, target assignment, and sensor technology, particularly in the long-wave infrared portion of the electromagnetic spectrum applicable toward improving their launch detection capability.

Priority Soviet targets in the aircraft area will include Western materials technology, particularly composite materials to allow weight-efficient designs. The Soviets would also benefit from the acquisition of certain engine technologies, in particular those critical to the development of high-bypass turbofans for large strategic airlift type of aircraft. While, in general, Soviet avionics technology appear adequate, the Soviets have yet to demonstrate a capability to deploy reliable, accurate airborne inertial navigation systems for long-range navigation and weapons delivery. Thus, while long used in the West, these systems are still prime candidates for acquisition.

Very high priority probably will be given to the acquisition of computer-aided aircraft design technology, an area in which the Soviets are clearly impressed by US progress. In general, they also will continue to benefit from the acquisition of efficient aircraft production technology from the West to reduce costs.

While the Soviets have a strong indigenous air defense radar and missile technology, their general lag in microelectronics and microprocessing will direct them to attempt wherever possible in the West the acquisition of advanced signal-processing hardware and software.

The Soviets will continue to emphasize the acquisition of naval-related technologies applicable to improving their antisubmarine warfare capabilities, an area in which much Western technology is superior to theirs. Thus, a significant effort to acquire acoustic sensor technology can be expected, in particular that technology applicable to the development of large towed acoustic arrays that would assist the localization of Western submarines in open waters. They probably will also target the acquisition of Western signal-processing hardware and software required to fully exploit the detection capabilities of these sensors.

Another critical problem area to which the Soviets will direct acquisition is that of submarine quieting. Here also the Soviets lag the West significantly. As a result, not

only are their submarines more vulnerable to detection, but the self-generated noise reduces the effectiveness of their own acoustic sensors.

An area in which the Soviets have historically lagged behind the West is precision submarine navigation—in particular, in the development of submarine inertial navigation systems. The need for improvements here will become more pressing as the Soviets develop long-range cruise missiles for land attack which require precise knowledge of launch location.

The Soviets also will continue to target technologies related to the design and construction of large aircraft carriers (for high-performance aircraft) to reduce the likelihood of poor design choices that would arise in what is for them an entirely new type of construction program.

Much of the Soviet acquisition effort in the area of tactical weapons is likely to be targeted against seeker and sensor technology for tactical missiles and precision-guided munitions. The Soviets will apply considerable effort in particular to acquiring advanced Western electro-optical technology including that related to antitank weapons. As in other weapons areas, the signal processing and microelectronics technologies supporting tactical weapon systems will also be priority acquisition targets. Technical documentation on entire weapon systems, if obtained, will be used to develop countermeasures.

In the microelectronics area the USSR is now at the stage of implementing its LSI (large-scale integration) technology to high-volume production. Despite the large acquisitions of Western technology and production equipment over the past 10 years which have brought them to the LSI level, additional acquisitions from the West are needed for the more sophisticated weapons projects of the future. Ever-increasing needs for higher precision Western equipment will extend at least through the 1980s.

In addition, the Soviets will require considerable expansion of their microelectronic material base to support continued expansion of integrated-circuit production. In this regard, the USSR is seeking Western help to build two or three poly-silicon plants that will more than double current Soviet capacity for military applications. Also, with increasing advances in the technology, the USSR already will be seeking additional Western assistance in key complementary technologies such as packaging and printed circuit board production.

The USSR is expected to focus its future acquisitions efforts on the emerging technologies related to very-high-speed integrated circuits (VHSIC) and very-large-scale integration (VLSI). It is important to note that, while VHSIC is thought of as a military development program, and VLSI as a civilian technology, there is little difference between the two as far as Soviet production needs are concerned. The same materials, production, and test equipment will be used to produce both. In both of these technological areas, the USSR has developed effective means for illegally acquiring Western advanced products.

Prime Soviet collection efforts in computer technology through the 1980s are likely to include large-scale scientific computers such as the US-built CRAY-1 Computer. Computers of this class offer significant improvements over Soviet models in weapons systems design and simulation and in the processing of numerical data for many military applications. Other hardware targets

will include: very dense random-access memory chips; high-capacity disk drives and packs; the so-called "superminicomputer" class of machines; and the latest in general purpose computer technology. All of the above targets offer opportunities for significant performance improvements and represent technologies of substantial Soviet lag.

In computer software, the Soviets will continue to attempt to collect IBM programs and programs of other vendors written for these machines because of past Soviet decisions related to copying IBM computers. The large and growing number of IBM-compatible computers in the USSR means that collection activity in this area can be expected to increase. The compelling attraction of computer networks also should spur great Soviet interest in acquiring network-control software and other programs related to networking.●

ADDITIONAL COSPONSORS

S. 1018

At the request of Mr. CHAFEE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1018, a bill to protect and conserve fish and wildlife resources, and for other purposes.

S. 1606

At the request of Mr. HEINZ, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 1606, a bill to establish a supplemental insurance fund administered by the Secretary of Energy to pay the costs of necessary remedial action following damage to nuclear powerplants, including certain remedial action at the Three Mile Island facilities in Pennsylvania, to require participation in such fund by the licensees of nuclear powerplants as a condition for the licensing and continued operation of such powerplants, and for other purposes.

S. 1698

At the request of Mr. DENTON, the names of the Senator from Idaho (Mr. McCURE), and the Senator from Indiana (Mr. QUAYLE) were added as cosponsors of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of United States Armed Forces personnel.

S. 2127

At the request of Mr. COHEN, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 2127, a bill to revise the procedures for soliciting and evaluating bids for Government contracts and awarding such contracts, and for other purposes.

S. 2357

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2357, a bill to prohibit export restrictions that interfere with existing contracts for the exportation of such commodities.

S. 2411

At the request of Mr. SPECTER, the name of the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2411, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968.

S. 2634

At the request of Mr. NICKLES, the name of the Senator from Florida (Mrs. HAWKINS) was added as a cosponsor of S. 2634, a bill to amend section 14(c)(3) of the Fair Labor Standards Act of 1938, to permit the employment of handicapped and severely handicapped individuals in common areas, to permit the employment of handicapped individuals in demonstration projects, and for other purposes.

S. 2734

At the request of Mr. HUMPHREY, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2734, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide the Food and Drug Administration with power to enjoin the distribution of forged or counterfeit drugs.

S. 2735

At the request of Mr. HUMPHREY, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2735, a bill to amend title 39 of the United States Code to provide that drug abuse oriented advertisements and shipments of drugs in response to drug abuse oriented advertisements shall be nonmailable matter.

S. 2736

At the request of Mr. HUMPHREY, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2736, a bill to make it unlawful to manufacture, distribute, or possess with intent to distribute, a drug which is an imitation of a controlled substance or a drug which purports to act like a controlled substance.

S. 2780

At the request of Mr. COCHRAN, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 2780, a bill to limit the insanity defense and to provide a procedure for commitment of defendants found guilty who are mentally ill.

S. 2784

At the request of Mr. DeCONCINI, the name of the Senator from North Dakota (Mr. BURDICK) was added as a cosponsor of S. 2784, a bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes.

SENATE JOINT RESOLUTION 225

At the request of Mr. EAGLETON, the names of the Senator from Ohio (Mr. GLENN), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from New Mexico (Mr. SCHMITT), the

Senator from Florida (Mrs. HAWKINS), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Joint Resolution 225, a joint resolution to provide for the designation of the week beginning on November 21, 1982, as "National Alzheimer's Disease Week."

SENATE JOINT RESOLUTION 227

At the request of Mr. D'AMATO, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of Senate Joint Resolution 227, a joint resolution to establish National Firefighters Week.

SENATE JOINT RESOLUTION 228

At the request of Mr. NUNN, the names of the Senator from New York (Mr. MOYNIHAN), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Joint Resolution 228, a joint resolution to provide for the designation of the week beginning on October 24, 1982 as "National Tourette Syndrome Awareness Week."

AMENDMENT NO. 2016

At the request of Mr. QUAYLE, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of amendment No. 2016 intended to be proposed to House Joint Resolution 520, a joint resolution to provide for a temporary increase in the public debt limit.

AMENDMENT NO. 2019

At the request of Mr. HAYAKAWA, the names of the Senator from Nevada (Mr. LAXALT), and the Senator from Alabama (Mr. DENTON) were added as cosponsors of amendment No. 2019 proposed to S. 2222, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

SENATE RESOLUTION 445—ORIGINAL RESOLUTION RELATING TO CONSULTATIONS WITH ROMANIA ON EMIGRATION AND INCREASED PERSONAL FREEDOMS

Mr. DOLE, from the Committee on Finance, reported the following original resolution; which was placed on the calendar:

S. RES. 445

Whereas by bilateral trade agreement the Socialist Republic of Romania is entitled to most-favored-nation status in its trade and commercial relations with the United States;

Whereas under the Trade Act of 1974 the continued extension of most-favored-nation status is conditioned on the freedom of Romanian citizens to emigrate to the country of their choice, unless this condition is waived by the President;

Whereas the President may waive this condition only if he determines that it will substantially promote the objective of greater freedom of emigration;

Whereas there are numerous reports of continuing serious difficulties concerning freedom of emigration from the Socialist Republic of Romania and of repression of religious and cultural freedom;

Whereas both the United States and the Socialist Republic of Romania are signatories to the Final Act of the Conference on Security and Cooperation in Europe, (commonly known as, and hereinafter in this resolution referred to as, the "Helsinki Final Act");

Whereas the signatories to the Helsinki Final Act pledged to respect human rights and fundamental freedoms, including emigration for the purpose of family reunification and to "deal in a positive and humanitarian spirit" with requests to emigrate for this purpose;

Whereas the signatories under Principle VII of the Helsinki Final Act pledged to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience", to respect the right of persons belonging to national minorities to equality before the law, to afford them "the full opportunity for the actual enjoyment of human rights and fundamental freedoms", and to "protect their legitimate interests in this sphere" and confirmed "the right of the individual to know and act upon his rights";

Whereas the Government of the United States will soon enter into consultations with the Socialist Republic of Romania concerning problems of emigration procedures: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States in such consultations should seek creditable assurances that the Socialist Republic of Romania will review its emigration procedures with a view toward—

- (1) clarifying and simplifying them;
- (2) maintaining a steady consideration of emigration applications;
- (3) eliminating unreasonable preapplication reviews and waiting periods; and
- (4) reducing the emigration application backlog, with special consideration for those awaiting departure for 1 year or more: And be it

Further resolved, That continued harassment and persecution of religious groups and ethnic minorities in Romania contravenes the provisions of the Helsinki Final Act as well as fundamental human rights and freedoms, and that the Government of the United States should pursue these matters with the Romanian Government and in appropriate international fora, including the Conference on Security and Cooperation in Europe.

SENATE RESOLUTION 446—RESOLUTION TO HONOR MICHAEL R. MASONE

Mr. D'AMATO submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 446

Whereas Michael R. Masone is celebrating his 50th anniversary as a member of the Island Park Fire Department; and

Whereas he was one of the earliest members of this Fire Department, and remains the oldest living member of the Department; and

Whereas he also served the people of Island Park for forty years as the Superintendent of Public Works; and

Whereas his distinguished service to the community, both as a public servant and as

a volunteer, have endeared him to the people of Island Park, New York; and

Whereas it is fitting for the Senate of the United States to recognize the unselfish service of such Americans as Michael Masone to their communities: Now therefore be it

Resolved That the Senate hereby honors Mr. Masone at the request of another member of the Island Park Fire Department, Senator Alfonse D'Amato.

SENATE RESOLUTION 447— ORIGINAL RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. McCLURE, from the Committee on Energy and Natural Resources, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 447

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1606. Such waiver is necessary because S. 1606, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983. Such bill was ordered reported by the Committee on Energy and Natural Resources on March 31, 1982, and by the Committee on Environment and Public Works on July 22, 1982, after being jointly referred to such committees pursuant to the order of September 9, 1981. Such waiver is necessary because both committees did not complete action and report on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such fiscal year 1983 authorizations.

The waiver of section 402(a) is necessary to permit Congressional consideration of S. 1606, which is not expected to result in any significant fiscal year 1983 budgetary impact. The bill would provide new direct spending authority not subject to either authorization or appropriations action. The source of budget authority would be a fee paid by certain electric utilities.

Although the bill was ordered reported by the Committee on Energy and Natural Resources on March 31, 1982, the Committee on Environment and Public Works did not complete action until after May 15, 1982, nevertheless the Senate has had adequate notice of this bill and its enactment is not expected to interfere with or delay the legislative process of the Senate.

SENATE RESOLUTION 448— BUDGET WAIVER WITH RE- SPECT TO CONSIDERATION OF H.R. 6409

Mr. PERCY, from the Committee on Foreign Relations, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 448

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6409, a bill to authorize appropriations for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana,

and for other purposes. Such waiver is necessary to allow the authorization of an appropriation of \$10 million for the costs of the design and fabrication of exhibits, and the appointment by the President of a Commissioner General for the exposition. The need for the expeditious passage of authorizing legislation is great. There are less than two years remaining to put together a presentation of which the American people can be proud.

Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible by the May 28, 1982 deadline because the Committee was unaware of the time constraints on the planners of the exposition and the Administration had failed to formally request authorizing legislation prior to the deadline.

The effect of defeating consideration of this authorization will severely impede the preparations for the Louisiana World Exposition.

The desired authorization will not delay the appropriations process and is being accommodated in the supplemental appropriation.

AMENDMENTS SUBMITTED FOR PRINTING

TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

AMENDMENT NO. 2023

(Ordered to be printed and to lie on the table.)

Mr. COHEN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the joint resolution (H.J. Res. 520) to provide for a temporary increase in the public debt limit.

IMMIGRATION REVISION AND REFORM

AMENDMENT NO. 2024

(Ordered to be printed.)

Mr. HELMS proposed an amendment to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

AMENDMENT NO. 2025

(Ordered to be printed.)

Mr. HAYAKAWA proposed an amendment to the bill S. 2222, supra.

AMENDMENT NOS. 2026 AND 2027

(Ordered to be printed.)

Mr. SIMPSON (for Mr. Tower) proposed two amendments to the bill S. 2222, supra.

AMENDMENT NO. 2028

(Ordered to be printed.)

Mr. BOSCHWITZ (for himself and Mr. HUDDLESTON) proposed an amendment to the bill S. 2222, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER AND POWER

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Subcommittee on Water and Power to examine the Bonneville

Power Administration's transmission line siting practices in the State of Montana.

The hearing will be held on Thursday, August 26, beginning at 9 a.m. in the Federal Building conference rooms located at 200 East Broadway, Missoula, Mont.

Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Water and Power, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510, attention: Mr. Russ Brown (telephone: 202-224-2366); or office of Senator MELCHER, P.O. Box 8568, Missoula, Mont. 59807, attention: Mr. Earl Hiatt (telephone: 406-329-3528). Witnesses are requested to provide the subcommittee with 25 copies of their written statements 24 hours in advance of the hearing, as required by the rules of the committee.

For further information regarding this hearing you may wish to contact Ms. Susan Littleton at 202-224-2366, or Mr. Brown or Mr. Hiatt at the numbers listed above.

ADDITIONAL STATEMENTS

THE WALL

● Mr. HEINZ. Mr. President, I call the attention of my distinguished colleagues and, indeed, of the whole country to a very important fact. Twenty-one years ago today the Berlin Wall was thrown up to staunch the flow of freedom-loving people from East Germany to the West.

The wall sits gray and defiant astride a city that ought to be free, united, and prosperous. But for the last 21 years it has been only half free.

To Americans, to West Berliners, to free people everywhere, the wall symbolizes utter disregard for the natural rights of men and women to think for themselves, to express themselves openly, to worship as they choose, and to earn a living as they please.

The wall severs families and friends from each other. For over two decades, it has denied Germans who are captives of an oppressive regime the hope of a better life in the West. It is an ugly gash across the soul of humanity—put there by a Communist regime that thinks men are nothing more than what they eat.

The wall was built on August 13, 1961, 12 years after the founding of the German Democratic Republic. In those dozen years, over 3 million people, or about one-sixth of the total population of the GDR, had streamed to the West. With the mass exodus of factory workers, farmers, professionals, intellectuals, housewives, and people from every other walk of life, East Germany was beginning, as Willi

Brandt put it, to "bleed to death economically and intellectually."

To stop the hemorrhaging, the East German police state—prodded by the Soviets—erected the wall without warning—under cover of night. It went up a meter thick and 3 meters high. Since then, brave and desperate men and women have continued to vote with their feet by fleeing the gigantic prison of East Germany. Between 80 and 90 people have been killed attempting to escape over the wall. One such martyr was Peter Fechter, an 18-year-old construction worker who on August 17, 1962 was shot by border guards. He fell at the foot of the wall, where he was left for 50 minutes until he bled to death—as a warning to other would-be escapees.

Mr. President, I call this to the attention of my colleagues and all my countrymen because this blight continues. Just because the wall has stood for 21 years, we must not allow ourselves to become complacent. The wall is still there—a grim and truculent symbol of denial and negativism. It still comes between people who have a natural right to life and liberty, and the life and liberty they seek.

The wall is as relevant as ever because the crimes it stands for continue to be perpetrated. Just 8 months ago, martial law was declared in Poland. Can there be any doubt that the perpetrators of this heinous act were the builders of the wall?

Today in Philadelphia, some of my constituents are laying a wreath on the Liberty Bell to remember the victims of the Berlin Wall and of martial law in Poland. There could be no better symbol of the contrast between democracy and dictatorship. The architects of the Declaration of Independence and the U.S. Constitution believed that the political system they built must guarantee individual freedoms if it was to survive. The architects of the wall and of martial law know their system must deny those freedoms if it is to survive.

I take this opportunity to salute and congratulate the Pastorious Unit of the Steuben Society of America, the German Society of Pennsylvania, the Polish-American Congress, the Archdiocese of Philadelphia, and the consulate of the Federal Republic of Germany for remembering this day and the millions of Poles and Germans who have refused to give up their struggle for freedom.●

A GAMBLE WITH NATURE—NEED FOR COASTAL BARRIER LEGISLATION

● Mr. EAGLETON. Mr. President, I hope the Senate will soon consider S. 1017, the Coastal Barrier Resources Act. I am a cosponsor of this bill which would establish a system of undeveloped coastal barrier structures.

The bill protects and conserves fish and wildlife resources for approximately 13 percent of the 1.4 million acres of coastal barriers along the Atlantic and gulf coasts. Coastal barriers create and maintain wetlands and estuaries vital to our fish stocks. The barriers are a home for more than 20 endangered species, including the bald eagle and peregrine falcon.

It could also be called a Protection Act for our own Federal tax dollars and, more important, human lives. The Department of the Interior has estimated that over the past 6 years, the Federal Government has spent \$800 million in aid for development and redevelopment on barrier islands. Residents of barrier islands are particularly vulnerable to the "storm surge" that accounts for 9 out of 10 hurricane-related deaths.

On May 21, 1982, the St. Louis Post Dispatch published an editorial, entitled, "Ending a Gamble With Nature." It is worthwhile reading.

Mr. President, I ask that the text of this editorial be printed in the RECORD. The editorial follows:

ENDING A GAMBLE WITH NATURE

In a system that has been called "Russian roulette with lives and property," the federal government has for years been subsidizing the development of coastal barrier islands that are subject to periodic, unavoidable destruction by hurricanes. Last year Congress took a step toward ending this foolish and costly form of gambling with nature. In its Budget Reconciliation Act of 1981, Congress rescinded federally financed flood insurance for developers of barrier islands. Now the Senate Environment and Public Works Committee has approved the Coastal Barrier Resources Act (S. 1018), which would end all other federal subsidies for commercial and residential growth on undeveloped, storm-prone islands and beaches.

Secretary of Interior Watt, who on this issue sides with environmentalists but for different reasons than theirs, sees the bill as a way to save the federal government between \$200 million and \$500 million a year. The Interior Department has issued a map showing 159 coastal barrier sites in 16 states, from Maine to Texas, that would be affected by the act. Not only would passage of the act eliminate wasteful federal expenditures but it would also help to preserve places that would still serve as recreation areas for humans, as habitat for a wide range of fish and wildlife species and as storm buffers for the mainland.

The full Senate is expected to act on S. 1018 in late June or July. And a House subcommittee on the environment is due to hold hearings about the same time. Given its administration and bipartisan congressional backing, this legislation should encounter no problems except possibly the calendar. Delay in scheduling should not be allowed to jeopardize final passage this year.●

PROPOSED RESTRICTION OF POWERBOATERS IN HELLS CANYON NATIONAL RECREATION AREA

● Mr. SYMMS. Mr. President, I am pleased to submit to the CONGRESSION-

AL RECORD the correspondence of Shirley Sanchotena of Boise, Idaho, who for the past 6 months has fought the proposed restriction of powerboaters in the Hells Canyon National Recreation Area. The management plan proposed by the U.S. Forest Service is clearly a disservice to the people of Idaho—to the recreationalists, and to those employed in the mining, timber, and grazing industries. Shirley Sanchotena has argued with great tenacity the case of the powerboaters, and I am pleased to make her comments a part of today's RECORD.

The material follows:

BOISE, IDAHO,
December 22, 1981.

Re Hells Canyon National Recreation Area.
Sen. STEVE SYMMS,
Lewis-Clark Hotel,
Lewiston, Idaho.

DEAR SENATOR SYMMS: I am writing on behalf of the Western Whitewater Association to protest and object to the Hells Canyon National Recreation Area Plan which was recently signed into effect by the Forest Service Chief.

The plan is not the original "Alternative C" which was proposed during the public hearings on this matter. The new "Alternative C" was never brought before the public until after it had been signed into effect, therefore its legality is questionable.

We feel that there is no reason for power boat restrictions in Hells Canyon from Lewiston to Hells Canyon Dam. The controversial part of the river, Rush Creek to Wild Sheep, pretty much controls itself. For those of us who do enjoy boating in Hells Canyon, this 10 mile stretch between Rush Creek and Wild Sheep rapids is the most challenging part of the river.3

We feel that we have been totally discriminated against in this particular regulation. The Forest Service is limiting the use of this river to a very few "special" people who have no more right to use the river than the powerboaters do. The Forest Service had proposed this plan as a National Recreation Area, not a wilderness. The floaters have already been granted the sole use of approximately seven rivers in which powerboats are totally restricted—if they want a truly wilderness experience, they should use these rivers and allow the powerboaters to enjoy Hells Canyon. The Forest Service in their proposed management plan on the Salmon River have stated in the environmental impact statement that Hells Canyon is primarily a power-boat river and the Salmon is primarily floaters. If this is true, why are they restricting us in Hells Canyon?

We feel that the Forest Service has no reason to impose these restrictions in Hells Canyon and are being totally arbitrary in even considering these restrictions. They have let the interests of a few environmentalists totally distort their reason on this plan.

The NRA Plan will have a very detrimental effect on the economy of the counties and cities who depend on the money brought in from power boats and tourism in this area to support their schools and businesses. It seems that at a time when the Administration of our country is advocating less federal assistance and more self sufficiency in local government the Forest Service has totally disregarded the efforts of our

President. The boating industry in the effected area is a million dollar industry, not counting the gas, groceries, supplies and other income the people of these communities derive from power boats and their guests in the effected area.

Power boats are a much more feasible way for the people to see this area and enjoy its benefits. We are able to take our small children as well as our elderly parents into an area which they would never be able to see if it were not for being able to boat in. The physically handicapped can also enjoy the beauty of the area from a power boat which is something they could never dream of doing any other way. Why should floaters and environmentalists be so much more privileged than the average citizen?

In our discussions with the floaters of this area, they are not opposed to powerboats in Hells Canyon and in fact enjoy the security of knowing the powerboats are there should they get in trouble and need assistance. From personal experience, I know of two floaters who would not be alive today if we had not been nearby when they flipped their raft running Granite Rapids. I do not know of a power boater who spends any time at all in Hells Canyon who has not rescued floaters, their food and clothing after they have had problems in a rapid. No one objects to us then.

There are many other reasons which I could go into as to why we should not be restricted from Hells Canyon and in particular the stretch from Rush Creek to Wild Sheep, but basically it all goes back to the interests of the Forest Service Chief who has not taken into consideration the interests of anyone except a few of "select" people. He has not taken into consideration the people of the effected areas, the economic impact on the communities, nor the desires of the majority of the people when he took it upon himself to sign this into effect.

As a very concerned citizen, please use all the powers and processes available to you to have this plan rescinded and revised to be made a fair plan and in the best interests of the majority of the people of this area and this State.

Thank you.

Very truly yours,

SHIRLEY SANCHOTENA.

WESTERN WHITEWATER ASSOCIATION,
Boise, Idaho, February 18, 1982.

JOHN CROWELL, JR.,
Assistant Secretary of Agriculture, Department of Agriculture, U.S. Forest Service, Washington, D.C.

DEAR MR. CROWELL: We are writing in regard to the Hells Canyon National Recreation Area Management Plan recently signed into effect by Max Peterson.

On behalf of the power-boaters of the area as well as all those who will be economically affected by this final plan, we urge you to reconsider the plan and implement a plan more favorable, both to the economy of the area and to those who use this area for recreation, preferably Plan A.

The impact of the Final Hells Canyon National Recreation Area Management Plan as signed into effect by the Chief, will be devastating to the economy of the State of Idaho as well as unjust, biased and totally without merit as to prohibiting power boats from using selected portions of Hells Canyon.

The Western Whitewater Association respectfully requests that you revise the final

HCNRA plan to provide equality for power boaters in Hells Canyon.

Very truly yours,

SHIRLEY SANCHOTENA,
Secretary.

BOISE, IDAHO,
May 4, 1982.

RE HELLS CANYON NATIONAL RECREATION AREA.

JOHN B. CROWELL,
Assistant Secretary of Agriculture for Natural Resources and Environment, Department of Agriculture, Washington, D.C.

DEAR MR. CROWELL: I am writing in regard to the Management Plan for the Hells Canyon National Recreation Area signed into effect on April 30, 1982 by Max Peterson.

It is apparent to me that Mr. Peterson has no concern for people other than environmentalists. I am very displeased with Mr. Peterson's revised management plan. The revised plan does not ease any restrictions regarding power boats.

The Hells Canyon National Recreation Area is designated as a recreation area, not a wilderness area. It seems to me that the Forest Service is attempting to make a wilderness for one group at the expense and detriment of another group. The Forest Service itself, in its reports, states that there is no environmental impact on the river by powerboats. The Forest Service can state no concrete reason why powerboats should be restricted other than that there is the possibility of over-crowding of campsites in the future. If this is so, why are powerboats being restricted and floaters are maintained at the present level or a very slight decrease. Lets be fair about this whole thing, if you are going to restrict one group, all others should be restricted at the same level.

I have never seen in any of the Forest Service reports where the present level of powerboats in the portion of the Canyon between Rush Creek and Hells Canyon Dam is creating any problems other than the complaint of floaters that powerboats disturb their "wilderness experience". If they want a wilderness experience they should have gone to one of the approximately 20 rivers in Idaho that are already closed to powerboats. Powerboaters also enjoy having a "wilderness experience" experience and the Forest Service is preventing us from doing that by preventing us from using the most interesting portion of the river.

It seems to me that the Forest Service is making a mockery of President Reagan's administration. The President is advocating cutting back on needless government spending and regulations. What is the Forest Service doing but spending millions of dollars of tax payer's money to implement and regulate a needless, arbitrary and senseless plan.

President Reagan is attempting to stimulate economic growth in a period of very depressed economies. This plan will destroy the economy of several of the surrounding communities by preventing powerboat use at the present level. The President of this country must be very proud of Mr. Peterson and the Forest Service.

The Forest Service is attempting to prevent the people of the Northwest from enjoying the areas in which they live so that outsiders may use this area. This is a typical inequity of government regulation and I urge you on behalf of the powerboaters of the Northwest to have this plan rescinded and have someone who is more equitable

and fair review the plan. Better yet, save everyone a lot of money and just leave Hells Canyon at the present level.

I urge you, please do not allow this unfair, unreasonable, costly and purely arbitrary plan to be put into effect.

Very truly yours,

SHIRLEY SANCHOTENA.

BOISE, IDAHO,
June 2, 1982.

R. MAX PETERSON,
U.S. Department of Agriculture, Forest Service, Washington, D.C.

DEAR MR. PETERSON: Thank you for your letter dated May 28, 1982. I, however, do not feel that you understand the problem of which I am writing.

In your letter, you state that Public Law 94-199 calls for a broad range of recreational uses. With that I do not disagree. What I am disagreeing with is your statement that the "management plan now provides for increased powerboat access and share of the river." How can you say that powerboats have increased access and share of the river when you have arbitrarily and drastically restricted the number of powerboats above Rush Creek rapids to the point of being almost nonexistent. If you think you have increased powerboaters share, maybe you should study more carefully the figures on usage of the river.

I do not see how you can continuously state in the HCNRA Management Plan study that powerboats cause no environmental impact, there is not a problem of overuse and yet you see fit to restrict powerboats to such an unreasonable limitation as stated in the most recent plan finalized on April 30th.

I feel that powerboaters are being unfairly and indiscriminately restricted from using a portion of the river in which we have as much right as the floaters. If you feel it necessary to cut down usage on the river, why only cut back powerboaters? It seems much more equitable to increase the powerboat usage from what it is in the April 30th plan and cut back floaters so that you still have the same amount of usage on the river, but it will be an equal usage basis.

You state in your letter that this is not a Wilderness area but rather a recreational area. If so, why is it necessary to exclude and restrict powerboats but leave the floaters at their present level.

I do feel that the Forest Service is spending an exorbitant amount of money to draft and manage a portion of the plan which is totally unnecessary and arbitrary.

I do not believe Public Law 94-199 was intended to be used to discriminate against certain user groups. The Comprehensive study on the area states that there is not a problem of overuse at this time. If there is not a problem of overuse at this time, why do powerboats have to be so severely restricted? If present use does not create a problem, why can the limitations and restrictions not be set at the present use level, instead of being cut to an almost non-existent number?

You state that you are trying to minimize conflicts between user groups. Do you feel that these restrictions are going to curb any conflicts? Having used the Canyon a number of times, I have never had any conflicts with floaters. In fact, there have been several times that had not a powerboat been present, floaters would have drowned. Apparently powerboats create a conflict unless the floater is drowning—then they appreciate seeing a powerboat on the river. Your

arbitrary restrictions are not going to curb any conflicts between user groups!

I strongly urge you to take a second look at the present management plan and reconsider your decision. The United States is supposed to be the epitome of fairness and equality, please make your plan conform to these standards.

I would appreciate a response to my questions.

Very truly yours,

SHIRLEY SANCHOTENA.

BOISE, IDAHO,
July 6, 1982.

R. MAX PETERSON,
Chief, Forest Service,
Washington, D.C.

DEAR MR. PETERSON: Thank you for your June 29, 1982 letter. Again, I feel that it is necessary that I reply.

Even though you have clarified your statement as to the increased use and share of the river for powerboats in your Comprehensive Plan of April, 1982, I feel that you have not studied the Forest Service reports and plans for the HCNRA. I am aware that there have been no regulations for powerboats in previous years, yet, is that a reason mandating that powerboats be arbitrarily and almost totally eliminated from a certain stretch of the river. Powerboats are not objecting to regulations, only to total elimination. I feel it is totally unreasonable to say that just because one segment has been regulated and the other has not, the unregulated segment should have more stringent and unreasonable restrictions placed on them.

The Forest Service in its study and Final Management Plan for the Salmon River has stated in writing that Hells Canyon has been and always will be a powerboat river and that the Salmon lends itself well as a floatboat river. Please give me a good reason why powerboats should be, for all intents and purposes, excluded from a certain stretch of Hells Canyon so floatboaters can enjoy "the relative solitude of floatboating to see and experience vestiges of primitive America as provided for by the Wild and Scenic Rivers Act." If they desire "relative solitude", they have approximately 26 other whitewater rivers in Idaho that powerboats have already been totally excluded from running, either by regulation or the physical makeup of the river, where they can enjoy this "relative solitude." Powerboaters would also like to enjoy "the relative solitude" of Hells Canyon, but we are not so narrow minded as to request that floaters be arbitrarily excluded strictly because of our preferences. We are aware that they are entitled to equal use and enjoyment of Idaho's rivers.

I would also like to reply to your statement that the 1981 level of powerboat use did not exceed the regulated level of use provided for in your new plan. Using your own Forest Service figures, 227% more powerboaters used Hells Canyon in 1981 than your new plan will allow when implemented.

The following are the Forest Service figures I used in my computation.

Powerboats will have only 6,600 allowable maximum user days above Rush Creek, down from the 1981 figure of 15,014. This is a cutback of nearly 8,500 user days. Thus, the number of user days you eliminate is 128% of the number of days you will allow. Even before the implementation of your new plan, estimated user days for powerboats is 15,014 compared to 23,451 user days

for floaters. With your new plan, 60,000 floatboaters may travel the same stretch of river that only 6,600 jetboaters may use for the same time period. I ask you, how can you justify these figures and call this plan a fair and equal plan. Is this arbitrary or not? These figures are from your own Forest Service publications and unless the Forest Service has implemented a new form of math, are totally outrageous, unfair, arbitrary and discriminatory. Do you call this equal use?

Your reports also state that there is no environmental impact from use at this time. Why then do you feel it necessary to restrict the great numbers of people to accommodate a selected few.

According to Forest Service publications, floaters presently are using only 63% of the launches available to them. Your plan calls for review when 80% usage is reached. Powerboaters on the contrary have no such excess allotments, only a 127% reduction in present use. How can you honestly call this fair and justified?

It appears to me that you have a personal vendetta against the powerboaters. I can see no justifiable reason for the restrictions you have imposed upon powerboaters. The facts compiled by the Forest Service in all of the studies give nothing to support the restrictions you have felt it necessary to impose. There are no facts to support your arbitrary restrictions, let alone to support the amount of taxpayer's money you are planning to use to enforce these restrictions.

Again, I urge you to reconsider your final management plan. I do not see how you can justify your actions in imposing these restrictions nor do I see how you can get away with the total discrimination you are imposing on powerboats and call this a democracy. I wonder if the present administration would approve of your decision if they were aware of the facts.

Again, I await your reply.

Very truly yours,

SHIRLEY SANCHOTENA.

Boise, Idaho, July 7, 1982.

JERRY ALLEN,
Forest Supervisor, Wallowa-Whitman National Forest, Baker, Oreg.

DEAR MR. ALLEN: I am writing in regard to your recent news release regarding the Hells Canyon National Recreation Area Comprehensive Management Plan, in particular the portion regarding power boats.

I feel your statement was misleading and did not state the correct facts regarding power boats, perhaps the confusion regarding the plan is in your office.

To begin with, you state in your news release that the powerboat allocation places a limit "which substantially exceeds the historical level, on powered boats in the Wild section of the river." Using the figures provided by the Forest Service, 227% more powerboaters used the river from Rush Creek to the Dam in 1981 than your new plan will allow when implemented. How can you possibly state that there is a 40% increase in the number from previous levels? Powerboats will have only 6,600 allowable maximum user days above Rush Creek, down from the 1981 figure of 15,014. It is beyond me to figure out how you can honestly say that powerboat use above Rush Creek will double the 1981 level. Also, I have not seen anywhere in the plan where it provides for room for growth.

It appears to me that the Forest Service is arbitrarily imposing restrictions against powerboats that are totally discriminatory.

For the section above Rush Creek, using your figures, powerboats will be allowed 36 people (6 boats, 6 people per boat average) while floaters will be allowed to send 125 people through the same stretch in the same time period. Do you call this fair and equal? Where is your stated 40% increase?

Also, you state in the news release that in the past powerboats have not been allowed above Granite Rapids. This is a restriction that no one but you seems to have been aware of.

If the need for restriction is because of increased use as you state in the news release, why is it that powerboats are being almost totally eliminated while floaters are maintained at approximately the same level? This portion of the river is supposed to be a recreational area for all, not just a select segment.

I feel it was extremely inappropriate for you to release the misleading information. If there are conflicts between floaters and powerboats, perhaps they are instigated by misleading statements from the Forest Service itself. In all of our boat trips in Hells Canyon, there has never been a conflict between our powerboat and floaters. In fact, there have been several times when floaters could possibly have drowned had we not been there in our powerboat to retrieve them from the water after their trade rafts capsized or they were thrown out of the raft.

Contrary to your apparent impression, powerboats do not feel that it is not necessary for any restrictions, we are only requesting that we be allowed a portionately equal amount of use, which is not the imaginary 40% increase you state.

I feel that the integrity of the Forest Service is put into question when statements such as contained in the June 16 news release are made. You should check your facts before making other statements. Rather than clarifying any controversy, you are instigating more. It is becoming more apparent that the plan finalized by Max Peterson is totally arbitrary and unreasonable.

Very truly yours,

SHIRLEY SANCHOTENA.●

FORBES COLUMNIST BACKS MILITARY REFORM

● Mr. HART. Mr. President, the military reform movement continues to attract support from a very broad range of the political spectrum. The August 16 issue of Forbes magazine contains a column by Mr. Ashby Bladen which supports the reform effort. In fact, Mr. Bladen states he has been interested in military reform for nearly 30 years.

As the column says:

'Maintaining a hugely expensive but basically ineffective military establishment is not a smart thing to do.' When the expense is translated into massive deficits, it hurts the Nation two ways: It hurts the economy, and it hurts our security.

Some of Mr. Bladen's criticism of the Army may be a bit dated; General Meyer's initiatives to create a regimental system may do much to improve our soldiers' motivation, and if the Army continues to move toward maneuver warfare, its battlefield capability could rise dramatically.

But the column's central point could not be more true: The basic problems of the American military establishment cannot be solved by throwing money at them. Mr. Bladen offers this as advice to the President; but it is equally good advice for Congress.

Mr. President, I submit for the RECORD the Forbes column, "A Glimmer of Hope."

The column follows:

[From Forbes magazine, Aug. 16, 1982]

A GLIMMER OF HOPE

(By Ashby Bladen)

Ever since President Reagan's election I have been saying that there is no hope. He has embraced California economist Arthur Laffer's painless solution to our financial problems, and I have told you several times in this column why I believe that it cannot work. But now I think I see a glimmer of hope.

The situation is roughly analogous to the summer of 1970, when President Nixon and the Fed had painted themselves into a corner from which there also appeared to be no escape. Nixon was supporting the Fed's anti-inflationary tight money policy, but after the failure of the Penn Central Railroad, it was obvious that that policy was about to drive large companies into bankruptcy by platoons. However, at the beginning of June a knowledgeable friend, Wesley Stanger, picked up a rumor that President Nixon was going to recommend an incomes policy—that is, price and wage controls, "jawboning" or some variant thereof. I said to myself, "That is the only possible escape."

I knew that an incomes policy would fail ultimately, but in the short run it would serve as an excuse for relaxing the Fed's ruinously tight monetary policy. And that is just about the way things actually worked out. Nixon promised to issue a series of "inflation alerts"—a mild form of jawboning against excessive wage and price boosts. That allowed the Fed to relax its policy, and the incipient panic subsided. The stock market staged a powerful rally, and the following year Nixon actually brought in wage and price controls.

Coming back to the present, if the Fed ever did control long-term interest rates, it certainly doesn't any longer. I have said over and over again in the pages of this magazine that as long as we are looking at a federal financing requirement of a couple of hundred billion dollars a year, interest rates will remain so high as to destroy the viability of much of the economy. President Reagan desperately needs a plausible excuse for cutting the projected budget deficits. But he has already committed himself to not going further in cutting transfer payments, so there remains only one possible solution to the deficit problem—cutting future military expenditures.

Just recently another very knowledgeable friend, Dick Francis, told me that President Reagan has recruited a committee of leading businessmen, under the chairmanship of J. Peter Grace, to study and make recommendations about cost effectiveness in the Army. Of course, there is no such thing as cost effectiveness, in the ordinary business sense, in the military. The test of an army is whether it wins or loses; and, in my opinion, the American Army, as presently organized, is a loser. That is why I have been interested in military reform for nearly 30 years.

In 1954 my job was to hang a microphone on the briefing officers at Operation Flash-

burn, the first big maneuver involving nuclear weapons. At the wrap-up briefing the Army Chief of Staff concluded that those weapons dictated more massive formations and closer control from the top. I differed, but, wisely for a private first class, silently. Never again will it be possible to mass a division on a one-mile front because somebody is likely to come along and drop an atom bomb on it. From now on war will be a small unit affair, and that calls both for highly trained units that consider themselves to be elite and for competent noncoms and junior officers who are not afraid to make decisions.

By and large, the American Army has neither of those things. Moreover, the basic system of motivation and discipline is an 18th-century one that was compatible with the technology of the Tower musket, and that depends on being willing to shoot somebody once in a while—something that, mercifully, we are no longer willing to do. The American Army is very good at destroying every other motivation, except fear that might cause people to work effectively together.

Maintaining a hugely expensive but basically ineffective military establishment is not a smart thing to do. Bill Marquard, president of American Standard, is on President Reagan's military cost-effectiveness committee, and Dick Francis, American Standard's treasurer, is head of the task force that reports to it. I know them well, and they are both absolutely first-class businessmen. They take an appropriately broad view of their mandate, and if anybody can do the job, they can. But it is a Herculean task, and at this point I am no more sanguine about the ultimate outcome than I was about Nixon's incomes policy. However, in the short run, President Reagan can escape from the budget impasse by announcing that the committee has convinced him that the basic problems of the American military establishment cannot be solved by throwing money at them. Instead, a rethinking of the principles on which it is organized and motivated is in order. That is the only way I now see for him to retreat gracefully from the projected deficits that are causing the current ruinously high level of interest rates. ●

LOS ANGELES COUNTY SUPPORTS EXIMBANK

● Mr. GARN. Mr. President, for 8 years now, I have advocated in this body strong support and adequate program authority for the Export-Import Bank. The Eximbank is our primary weapon on our efforts to restore market conditions to the area of international trade financing. Our major trade competitors have progressively sought to undermine the international marketplace by underwriting the products of their nationals with highly subsidized official export credit.

Virtually the only defense that we have had for American exporters and for the principles of free trade based on quality, price, and product reliability, has been the Export-Import Bank.

In order to reevaluate current policies regarding the Bank, along with several of my colleagues, I cosponsored S. 2600, a bill to restructure the Bank, giving it increased authority

and funding. Not only in my position as chairman of the Banking Committee, but also through my membership in the Appropriations Committee, I have worked strenuously to achieve adequate funding for the Bank.

It is well known that the Bank is currently undergoing difficult challenges, both at home and from abroad, and so I mention my own efforts in support of the Bank in order to report how gratifying it is to see that this support is shared by individuals and groups from all across the country.

Just recently, Mr. President, I received a letter from Mr. James S. Mize, executive officer of the Board of Supervisors of Los Angeles County, reporting the unanimous adoption by the board of supervisors of a resolution urging action to support the Export-Import Bank. This Bank is vital to our national economic health, for it protects our exporters against unfair credit practices and thereby defends the free market, upon which the strength of our Nation is based. I am pleased to see that there is growing national recognition of the importance of the Export-Import Bank. I urge my colleagues to give thought to the importance of the Bank, as expressed in the letter announcing the action taken by the Los Angeles County Board of Supervisors, and I ask that the text of the letter be included in the RECORD at this point.

The article follows:

BOARD OF SUPERVISORS,
COUNTY OF LOS ANGELES,
Los Angeles, Calif., July 30, 1982.

HON. EDWIN GARN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR GARN: At its meeting held July 27, 1982, on motion of Supervisor Michael D. Antonovich, unanimously carried, the Los Angeles County Board of Supervisors went on record as urging action to develop an Import-Export Bank, that is strong in funding and strong in policy, and whose public posture is one of willingness to match, or better, foreign subsidized financing. Further, the Board urged the Congress of the United States to establish a comprehensive, long-term export policy which will accomplish these goals.

In making his motion, Supervisor Antonovich cited that export items which are manufactured in the greater Los Angeles area represent more than 250,000 local jobs. The Import-Export Bank is the defensive financing tool available to large capital goods exporters and for thousands of suppliers. Import-Export Banks have been a profit making agency which have returned more than one billion dollars to the Federal treasury and retained two billion dollars more in earnings since it was capitalized in 1945. Finance and export is an appropriate investment for this country, in which returns from tax receipts and reduction in unemployment benefits far outweigh the risk of lending money below market rates.

Further, Supervisor Antonovich stressed that it is important for the United States to have an aggressive export policy. Since this country can no longer rely on production quality and productivity to sell their prod-

ucts abroad, it is extremely important that we be able to compete on the world market in terms of finance.

Very truly yours,

JAMES S. MIZE.●

MOST-FAVORED-NATION STATUS

● Mr. DOLE. Mr. President, on August 10, the Subcommittee on International Trade of the Finance Committee, chaired by Senator DANFORTH, engaged in one of the most important tasks of the committee: the annual review of the President's determination regarding extension of most-favored-nation (MFN) status to Hungary, Romania, and the People's Republic of China. Trade with these nations certainly has attained an important share of overall U.S. imports and exports in recent years, reaching a 1981 volume of over \$5.7 billion, with a substantial U.S. surplus. But increasing trade does not obscure the more fundamental issue for review: to determine whether the essential basis for that trade—the emigration policies of these nations—satisfies the congressional purpose of conditioning the granting of MFN on such a basic human right. As cochairman of the Helsinki Commission, which monitors compliance by signatory nations with the broad recognition of human rights set forth in the Helsinki Final Act, I maintain an especially strong interest in these matters.

"IT IS FORBIDDEN"

On page 1 of the August 9 Washington Post, Michael Dobbs commented in an article concerning Moscow and Warsaw about the most ubiquitous expression in the Russian language: "It is forbidden." He mentioned the horror of one British mother upon hearing these words from her 18-month-old child—his first words. Such stories are a useful reminder that oppression remains the standard by which the Soviet bloc countries deal with their citizenry. They have engrained in their language the currency of fear, the cynical denial of liberty.

Until 1975, "It is forbidden" was the first response most citizens of Soviet bloc countries received when they asked for permission to emigrate from their homelands to seek a fresh beginning elsewhere. The next responses often included job loss, arrest, harassment, and denial of schooling for children. There are few tools available to the United States that will persuade another country not to brutalize its citizens when it is intent on doing so. But the privilege of tapping the great U.S. market is one of them.

Led by Senator JACKSON, who testified before the subcommittee yesterday, the Congress constructed in the Trade Act of 1974 a mechanism by which this country could lend a hand to those abroad who share our values and who wish to live their lives free

from fear. Since 1975, 1978, and 1979, when the first MFN agreements were signed with Romania, Hungary, and China, respectively, emigration has improved markedly. There are few issues concerning China. With the notable exception of a few family reunification cases, emigration issues are handled calmly by and large with respect to Hungary these days. And I am pleased that emigration from Romania continued to increase in 1981, and apparently is being allowed at unprecedented levels at the present time. For the thousands of fortunate ones who were allowed to leave these past few years, "It is forbidden" became an injunction of the past.

THE NEED FOR IMPROVEMENT IN ROMANIA

But I am not satisfied about the situation in Romania. In recommending renewal of MFN for that country the President himself acknowledged "grave concern" about the "repressive emigration procedures" that clearly inhibit many people from applying or successfully realizing their desire to emigrate. I share this concern. While emigration is up, as usual it appears that no effort was made to process applications until the Romanian Government became concerned that MFN might not be renewed. Further, suppression of religious rights and continued reports of discrimination directed toward the Hungarian minority, are dismaying evidence that the spirit, if not the letter, of the 1974 Trade Act is not being satisfied.

Mr. Jack Spitzer, president of B'Nai B'rith, testified before the subcommittee on behalf of the presidents of the major Jewish organizations. He strongly urged that MFN should be extended. He, Senator JACKSON, and other witnesses noted that the Romanian Government has agreed to meet this fall both with the Jewish organizations' representatives and U.S. Government representatives to discuss ways of eliminating the current problems in processing emigration applications. Because of recent improvements and this forthcoming attitude on the part of the Romanians, they strongly support the President's decision to renew MFN for Romania. I agree that it would not be beneficial to deny that extension and, in fact, it could be counterproductive.

Nevertheless, because of the wide seasonal fluctuations in the immigration process—approvals seem to be tied to the Romanian Government's estimate of congressional attitudes about MFN—and the evidence presented by several witnesses to the subcommittee of severe repression of the rights of religious groups and ethnic minorities, I believe it is important for the Senate to go on record voicing its concern about these matters. The resolution adopted by the Finance Committee today would express the sense of the Senate that the administration should

undertake to achieve certain improvements in the emigration process, and that it further should pursue the matter of human rights violations. I am happy to say that Senators HELMS and SYMMS have agreed to cosponsor the resolution, along with Senators DANFORTH, MOYNIHAN, DURENBERGER, BENTSEN, HEINZ, CHAFEE, BAUCUS, and WALLOP.

These matters are properly the subject of discussions between our two governments, as we are both parties to various international agreements recognizing basic human rights, and our commercial agreement that extends MFN to Romania is conditioned on their emigration practices. I therefore hope that the Government of Romania will view this resolution as a serious expression of congressional concern directed to a fundamental plank in our bilateral relationship.

Finally, Mr. President, I wish to recognize the continued leadership in this area of Senator DANFORTH, who, as chairman of the Trade Subcommittee, has maintained a particularly strong effort to facilitate the release of hundreds of applicants for emigration from both Romania and Hungary. His efforts throughout the year, together with those of Senators MOYNIHAN, HELMS, HEINZ, and many others of us, are an essential tool to humanize a frustrating process and to obtain relief for many U.S. citizens with ties to persons in those countries. Those individual petitions, together with the annual review conducted by the Trade Subcommittee, provide an unparalleled legislative opportunity to keep these serious human rights issues in the public eye. I can assure the Members that the committee will keep a close eye on the emigration process this year in anticipation of next year's determination.●

S. 2781. EXPORT-IMPORT SMALL BUSINESS ASSISTANCE ACT OF 1982

● Mr. COHEN. Mr. President, I am pleased to cosponsor the Export-Import Small Business Assistance Act of 1982.

Small businesses are at a great disadvantage in our international trading system. Ambiguous antitrust laws, complex and costly trade relief statutes, and a lack of expertise and export capital all contribute to the general inability of small businesses to vigorously participate in world trade.

In contrast, large corporations dominate international business transactions. Only 10 percent of the nearly 250,000 manufacturing entities in the United States are engaged in exporting. Fourteen companies in this country account for 50 percent of our non-military capital goods exports.

Large businesses have further advantages in the accessibility they have to export financing. The Export-Import Bank, which provides financing for U.S. exports, grants one-half of its benefits to three American companies. Two-thirds of the export credits are granted to seven companies producing nuclear plants, aircraft, and high-technology products. The reluctance of Eximbank to grant loans of less than \$5 million has continually frustrated small business concerns who have sought export assistance.

The bill I am cosponsoring would require that the Export-Import Bank set aside 12 percent of its annual direct loan authority for loans of less than \$5 million. This would result in small businesses having more access to export assistance loans.

Mr. President, our present economic problems have been particularly hard on our small businesses. We cannot continue to overlook the importance of exports as a means of strengthening small businesses during this difficult period. There is potential for small businesses as exporters.

Last year, the Senate-passed legislation, the Export Trading Company Act, which would clarify the antitrust laws to encourage the formation of export trading companies by small companies. S. 2781 would provide an important complement to that effort by increasing the availability of export credits to small businesses.

In our increasingly interdependent world, the services of the Eximbank are becoming even more necessary. Since other major trading partners offer more attractive export financing rates through Government programs, we must retain an export promotion program to protect our competitiveness. I believe, however, that there should be more equality in the distribution of benefits from Eximbank financing and that this legislation would introduce more equity into this system.

Our national defense and our economic strength depend on protecting our technological lead through the innovative efforts of private industry. We need to encourage small businesses to contribute more to this effort, and I commend Senator DeConcini for introducing legislation which supports this objective. ●

JUST WHEN NEEDED, EXIMBANK JEOPARDIZED

● Mr. GARN. Mr. President, one of the ironies of the debate over the Export-Import Bank is that pressure has mounted to restrict the Bank's activities just when it is needed most. The past year of negotiations within the Organization for Economic Cooperation and Development to limit official export credits has shown significant and important progress. Our ne-

gotiating team has been aggressive and tireless in its efforts to rein in the profligate credit subsidy programs of the governments of our trading competitors. As I say, the result has been significant and praiseworthy.

Much of that progress has been made possible, however, because the Congress has shown a strong determination to support the Eximbank. I am pleased that our efforts to raise program authorizations for the Bank above the fiscal year 1982 recommendations were successful last year. That sent the important signal to our competitors that the United States was not going to unilaterally disarm itself in the ever-smoldering export credit war. The other countries in the OECD credit talks responded with concessions.

In addition, I am also pleased that the Banking Committee last summer, by a vote of 11 to 1, reported the Competitive Export Financing Act of 1981. That sent another signal to our competitors, who again became more conciliatory in the export credit negotiations. Just a few weeks ago, further significant concessions were obtained, as I have mentioned.

There is still much to be accomplished. Our goal is to eliminate financing as a factor in international competition. The dictates of a free market require products to be bought and sold on the basis of quality, reliability, and price. Financing should be a neutral factor. It currently is not. The progress is in that direction. Credit terms for industrial countries are not far from market rates, but the point is that they are still not at market rates, nor are they automatically tied to the movements of the market. This is our goal, and it is not yet achieved, so it would be foolhardy to undermine what has been our most powerful tool for obtaining concessions in the export credit negotiations, namely the Export-Import Bank, before our goals are fully achieved.

Mr. President, failure to give strong support to the Eximbank at this time will result in the loss of billions of dollars of export sales that we otherwise would have fairly won, and the continuation of a costly export credit war for many years. Granting the Bank sufficient authority now, which need not cost a dollar in appropriations, will save billions in the future. That sounds to me like true fiscal conservatism.

Recently, I received a letter from a manufacturer in Salt Lake City, urging me to support the Export-Import Bank. That manufacturer, which is by no means the size of Boeing, or Westinghouse, or General Electric, was urging me to support what some would call Boeing's bank. My constituent did not seem to think that Boeing was the only beneficiary of the Eximbank's services. I do not

think so either, for thousands of companies have received Eximbank support for their exports directly, and many thousands more have received them indirectly by producing components of other products that find their way into international trade, made possible through Eximbank programs.

Mr. President, I ask that the letter from Mr. Don S. Wiest, director of exports for Beehive International, together with a study that accompanied his letter, be inserted in the RECORD at this point.

The material follows:

BEEHIVE INTERNATIONAL,
Salt Lake City, Utah, August 3, 1982.

HON. JAKE GARN,
U.S. Senator,
Salt Lake City, Utah.

DEAR SENATOR GARN: As Director of Exports for Beehive International, a fourteen year old Salt Lake City manufacturer of video data terminals and desk top computers. I would appreciate your consideration of the message contained in the attached brochure. It is self explanatory.

In summary it urges those of us involved in international trade to champion the cause of the Export-Import Bank. Since our company (\$40 million in sales during FY81) exports approximately 38% of our manufactured goods to 41 countries abroad, we are concerned that all possible be done to maintain a healthy level of U.S. exported products. It appears that the purpose of NET, the sponsoring organization of this brochure, is concerned in this direction; I am too.

Sincerely,

DON S. WIEST,
Director of Exports.

JUST WHEN WE NEED IT MOST, AMERICA'S EXPORT-IMPORT BANK IS IN JEOPARDY—HERE IS HOW YOU CAN HELP

Last year, the Export-Import Bank provided partial financing for the export sale of more than \$2 billion worth of American-built commercial jet airplanes—airplanes that would not have been built or sold without the Bank's participation.

Some members of Congress and the administration are attempting to cut the Bank's effectiveness, giving a false impression that it will reduce the federal budget. However, no tax revenues are involved. We think they are promoting false economy.

The Bank provides partial funding for many other U.S. industries. Export sales by those industries bring needed capital into our nation's economy, help steady our balance of payments, and most importantly create jobs for tens of thousands of American men and women.

Cutting the Bank now, when we need it most, makes no sense.

HOW THE EXPORT-IMPORT BANK WORKS

Simply put, the Export-Import Bank is an agency of the United States Government that helps arrange export financing for the sale of American-made products. The Bank makes direct loans to overseas businesses for a portion of the total purchase price (in the case of airplanes, 42.5%). The Bank also helps overseas companies find loans in the commercial financial market by providing guarantees that those loans will be repaid. In some cases, the Bank does both, providing loans directly to the buyer and making a guarantee for some portion of the balance.

In most ways, the Export-Import Bank behaves like any other bank. It borrows money from commercial sources (through the Federal Finance Bank, a coordinating body for government agencies), then loans the money out. The Bank's income is the interest and principal payments on those loans, along with fees paid by borrowers and the beneficiaries of the guarantees. That income is used to repay the commercial borrowings.

The Bank was established in 1934, and since 1948 it has devoted its efforts exclusively toward promoting exports. During that time it has generated more than \$100 billion in export sales. It has also turned a handsome profit; to date, the Bank has returned more than \$1 billion in dividends to the United States Treasury, and it has a reserve fund of "retained earnings" of more than \$2 billion.

The Bank uses no tax money, and is not a drain on the federal treasury. Each year, Congress grants the Bank authority to borrow money to be used for loans. By raising or lowering its capacity to borrow, Congress determines how active—and how effective—the Bank will be.

THE EXPORT-IMPORT BANK IS NECESSARY TO MANY U.S. SALES

It is argued that America's overseas customers ought to be able to arrange financing of their airplane purchases solely through commercial sources. More than half do. However, such financing is difficult at best, and sometimes impossible for others. Without partial Bank financing and/or guarantees, commercial sources are wary of airlines from lesser developed nations. And during the past three years, lending rates from traditional credit sources have been well beyond the reach of some airlines.

America's chief competitor in airplane manufacturing is Airbus Industrie, a consortium formed by European private capital and the governments of France, Germany, and the United Kingdom. In the past three years, Airbus airplane sales have increased dramatically, while U.S. manufacturers' sales have sagged. In some measure, this is due to financing and other inducements offered by the European governments. Until a one-year agreement reached last September, Airbus financing was available for as little as 7.5%. Such financing simply overshadowed other competitive advantages held by U.S. airplanes, and many sales went to Airbus because the financing deal was just too sweet to pass up.

September's agreement, called the Commonline Agreement, now stipulates that sales of European- and U.S.-manufactured airplanes be financed at approximately the same rates, effectively 12% over a 10-year period. But even 12% is below the world credit market at this time. The governments behind Airbus can finance airplane sales out of their treasuries; private industries simply do not have the resources to respond.

Thus, the Export-Import Bank is virtually the only resource that can put an American firm on an equal footing with its foreign competition. In fact, it was the Export-Import Bank's participation in overseas financing that brought the European governments to the bargaining table and made the Commonline Agreement possible in the first place. And only a strong Export-Import Bank can make other such trade agreements possible in the future.

WHAT THE BANK'S CRITICS WANT, AND WHY

Some members of Congress and some members of the Reagan administration

have proposed that the Bank's authority to borrow be reduced by nearly \$1.8 billion. There are several reasons given. We do not believe any of them are convincing.

"The Export-Import Bank is a federal subsidy for industry."

It is not. No tax dollars are spent, and virtually every loan and guarantee made by the Bank is repaid in full, with interest.

"Bank borrowing pushes up interest rates."

The Bank's pressure on interest rates is negligible. Its use of credit amounts to less than 2% of the federal borrowing.

"Cutting the Bank will trim the federal budget."

Technically that is true, although in reality it is not accurate. The Bank is carried as a line item on the Unified Federal Budget. But since no tax money goes toward the Bank—which is self-sustaining—it does not cause any increase in the federal budget deficit.

"The Bank is losing money. In the long run, it will become a drain on the federal treasury."

That's 1/48th right. In 1982, for the first time in its 48 years, the Bank will probably lose money. This is because it had to borrow money from commercial sources at interest rates higher than the 12% rate at which it was making loans. When interest rates come down—as the administration assures us they will—the Bank will return to profitability. Until then, the Bank's temporary losses will be easily covered by its \$2 billion reserve fund of "retained earnings," exactly the kind of situation for which that reserve fund was created.

CUTS IN THE BANK THREATEN FUTURE OF U.S. MANUFACTURERS

Under pressure from the Reagan administration, and in an effort to keep the 1982 losses as low as possible, the Export-Import Bank has already restricted its activities in making loans to the overseas purchasers of U.S. airplanes. The Bank's actions—and the result on U.S. sales—give some indication of what the administration's proposed cuts might mean to the U.S. economy.

Thus far, the Bank has discouraged loans to airlines from developed countries, turned down loans on established airplanes such as the 747 and the 737, discouraged financing of "follow-on" orders of additional airplanes to a fleet, and established a 2% set-up fee for all loans, effectively adding 0.5% to the interest cost of a 10-year loan. These actions work to the disadvantage of American manufacturers. During the past year alone, restrictions have cost U.S. manufacturers several key sales. For Boeing, as an example, this is a particularly crucial period, since introduction of the 767 and 757 models requires a competitive sales stance if the new models are to gain a solid position for the coming decade's market share.

WHAT THIS MEANS TO YOU

You have a vital interest in America's export policies. Export sales bring money into this country's economy, help stabilize our balance of payments, and bring jobs to hundreds of thousands of American men and women in every state.

WHAT IS NEEDED FROM CONGRESS

Congress and Congress alone can determine the Export-Import Bank's authorization for 1983. Some elected representatives have urged that the Bank's role be severely cut back. Others have asked that the Bank's authority be increased and its role strengthened. One Senator, John Heinz, a Republican from Pennsylvania, has proposed that a

\$1 billion "war chest" be established in the Bank to respond quickly and surely to financing deals offered by foreign governments. Beyond that, we want the U.S. government to recognize the importance of exports and we want the Export-Import Bank to have a policy of not just saving exports, but stimulating American exports now and for the long term.

Last year, Congress was asked by the administration to cut the Bank's authorization. Instead, Congress chose to give the Bank greater loan authority. We believe Congress should act in a similar fashion this year. ●

MEDICARE PROGRAMS: MANAGERIAL PROBLEMS AND OPPORTUNITIES

● Mr. DURENBERGER. Mr. President, we are all familiar with the problem of high health care costs. Nowhere is this more evident than in the Medicare program, where actual costs in 1980 exceeded initial projections by \$30 billion.

Part of the problem is reimbursement policy. Part of it is inflation. And part of it is program management. The management of public programs differs from that of the private sector. The inefficiencies we pin on the bureaucracy are often a result of structural constraints imposed by the politics of public programs.

John C. Anderson, Ph.D., an associate professor of management sciences at the University of Minnesota, has recently published a study with Kathleen Sullivan entitled, "Publicly Financed Health Programs: Managerial Problems and Opportunities." It is part of a series of health issues supported by Hoffman-LaRoche, and it is a much needed examination of the management of public programs.

I encourage my colleagues to read the study's summary and conclusion, which I have included as part of the Record. The complete study is also well worth reading.

The summary and conclusions follow:

SUMMARY AND CONCLUSIONS

The several decades of public debate on a variety of proposals for expanding the role of government in the financing and administration of health care for the American public is evidence of a lack of broad public consensus on such health-related social goals as assurance of access, quality and equity in the distribution of health services, and containment of rising health care costs. We have not yet resolved a basic issue concerning whether health care is a right or a privilege. In addition, there is not yet a U.S. health policy with clearly specified priorities, nor is there consensus on an optimal approach to organizing an administrative and financing structure to attain those goals. Partially as a result of these factors, the job of the public program manager is exceedingly difficult. A fragmented health care system with dissimilar organization, philosophy, structure and mission currently exists with managers trying to contain costs, improve quality and extend access all at the

same time. As health care expenditures absorb an increasing proportion of the Gross National Product and as public resources become scarcer, a formula for the optimum expenditure of health care dollars becomes more essential. In the development of such a formula or policy it is undoubtedly useful to draw upon the lessons learned in the past 15 years experience of the largest public health care programs, Medicare and Medicaid.

It is the objective of this report to examine the areas wherein sound management theory has positively impacted publicly financed health programs. Using a well-defined framework for analysis, this report identifies the types of internal, external, and environmental management opportunities and constraints that have characterized the two largest publicly financed health care programs, Medicare and Medicaid and makes some observations concerning the development of additional programs and/or national policy.

Key to any analysis of the performance of the Medicare and Medicaid programs is the fact that "good" government management is not synonymous with "good" business management. Administrators in the public sector, particularly in Medicaid and Medicare, must frequently accept goals that are set by legislation. They are required to run organizations that are designed by individuals and agencies beyond their domain, work with people whose careers are outside their control, and attempt to accomplish massive objectives with the application of severely limited resources in insufficient time. Business managers limit their objectives to a set of tasks consistent with their resources. These public sector conditions, radically different from the conditions in which private managers operate, must be carefully considered in evaluating management performance in the public sector, not to protect the sensibilities of government managers but to more clearly identify the real sources of constraints in public program management.

The political environment in which Medicare and Medicaid function constrain the process of long-term resource utilization planning. The Congress, or a particular State legislature, is totally isolated from the day-to-day operations of the programs. Moreover, unlike management committees in the private sector, legislative bodies are charged with oversight responsibilities for a myriad of programs, projects and activities which limits their ability to spend too much time on any individual area. Also, some States' legislatures are only in session for several months during a year. This lack of continuity constrains any ongoing development of long-range goals and priorities. Because things are so dynamic and conflicting, management frequently operates in a responsive mode rather than with a predictive, anticipatory problem-solving approach.

In the face of multiple political power centers impinging on the authorities and resources of program management, strategic planning is often given a lower and optional priority. Instead, crisis management frequently substitutes for strategic planning, and services or eligibility are cut in an effort to immediately impact the bottom line. The results of these actions in terms of program effectiveness and capacity can be disastrous and compromising in terms of the intent of both programs.

Evaluations of Medicare and Medicaid Management performance are necessarily imprecise and problematic due to the lack of

data and clear-cut criteria against which to measure the attainment of objectives. Performance standards for many aspects of program operation are hard to come by. Specific characteristics of public program experience that hamper not only management performance but the development of performance standards for purposes of evaluation and planning include the following:

Program objectives and relative priorities are subject to constant reshaping by political forces with the result that substantial program changes occur so frequently there is never sufficient stability to observe and evaluate the impact of management decisions over time, and those decisions are frequently made in a crisis environment as a result of political pressures.

The distribution of decision-making authorities within and among public agencies, legislative bodies, and program constituent organizations seriously compromises the adequacy of management's authority and resources to implement its decisions.

The budget constraints imposed upon funding bodies or their unwillingness to invest adequate resources in the staffing and technology of administering organizations hampers the collection and analysis of data critical to the decision-making process.

In addition, Medicare and Medicaid performance is often hampered by legislation and regulation at the state or federal level which is sometimes contradictory and compromising to optimally efficient and effective program management. It has been recognized that the stability of the program administering agency impacts its relationship with other organizations in the system. Another significant obstacle with respect to managing publicly financed health programs is the apparent organizational flux that so often characterizes these programs. It is not uncommon for there to be frequent change in the designated administering agency and/or fiscal intermediary. These changes make it difficult to maintain beneficial relationships with the legislature and provider communities. Lack of program managers autonomy and authority over external entities such as county agencies or state treasury department staff whose contributions impact the bottom line of both programs is another noteworthy constraint.

Finally, the complexity of the Medicaid eligibility process requires enormous staff time and funds that could otherwise be applied to beneficiary services. The elimination of this kind of burden should be a high priority in future U.S. health policy.

The above mentioned constraints limit management capabilities within Medicare and Medicaid. The obstacles are, however, virtually inherent in the current publicly financed program environment. As a result, future U.S. health policy development must be cognizant of the limitations of public administration in a health system characterized by instability, distance from oversight committees, and lack of managerial autonomy and performance standards.

Viewing existing performance of Medicare and Medicaid in terms of criteria such as efficiency, effectiveness, capacity and flexibility, raise some provoking questions. Enough data exist to strongly speculate that current programs do not provide for the most efficient use of resources. Some effectiveness in the operation of specific programs has been achieved, yet we may be failing to achieve maximum effectiveness toward the broader goals of assurance of access, quality and equity in the distribution of health care services. Serious capacity issues are apparent

in terms of organizational and economic resources. Finally, existing programs have exhibited flexibility to meet evolving needs yet have done so without evidence of a blueprint for the future.

There are, however, some managerial initiatives that can be and in selective instances have been pursued within the current context of publicly financed health programs. These initiatives, described more fully in the body of the report, represent opportunities for management. They include:

The application of advanced claims processing technology to provide managers with key program data and information in a timely manner to facilitate informed decision-making;

The careful use of edits in the claims processing system to protect the fiscal integrity of the program and insure the appropriateness of vendor payments;

Timely claims processing, communication with, and payment of providers to ensure maximum provider participation and consequent beneficiary access to care;

The implementation and operation of program controls and the tracing and analysis of program performance to design and implement corrective action strategies in a timely, cost-effective manner;

The closing of policy loopholes and deletion of unneeded and contradictory program policy; an ongoing effort to evaluate and assess the program from this perspective will enhance overall program operation;

Quality performance in audit functions and settlement of cost reports will lead to tighter control within the program;

Working to amend legislation that is unfavorable to the efficiency and effectiveness of public programs is a continuing and necessary activity as the dynamic health care environment continues to evolve;

The proper allocation of administrative resources including spending one dollar to save two or more where such action is cost justified; in certain cases increases in administrative costs will yield substantial returns leading to greater operational efficiency;

The design of the internal Medicaid agency hierarchy to ensure that units key to better program performance are at a level high enough to carry out their corrective action strategies. Proper authority must be vested in those individuals responsible for performance if successful implementation is to be achieved.

To date these initiatives have often occurred sporadically, with too little consistency across individual state and federal agencies. Recent experience has evidenced management improvement of program operations in both Medicare and Medicaid, yet little effort has been concentrated on longer range planning and analysis.

To alleviate some of the obstacles that are seemingly part and parcel of the public sector, it is important that program managers and committees try to inject as much stability in the process as possible. Furthermore, it is imperative that sufficient information for planning and control is generated so that budgets can be justified and policy changes can be affected. In addition, development of and adherence to performance standards would go a long way in convincing decision makers of the validity of certain management initiatives. Allocating staff to perform third party liability recovery functions and quality control functions contributes to programwide cost effectiveness. Finally, a problem anticipation mechanism must be developed and truly oper-

ational so that harmonious program objectives are pursued and the crisis problem solving mode gives way to a well-reasoned managerial approach.

In turn we need to press hard for the utilization of performance standards in current programs. We need comparable dimensions across programs to map out the future direction of U.S. policy. Information on program operations must flow up to the decision makers, and policy must flow down. The lines of communication are broken in the current system. The solution is not to develop a new arm of government, but rather to recognize the limitations of publicly financed health programs and aggressively seek consistent indicators of performance and program accountability. What seems essential to significantly improve the performance of publicly financed health program management is to reduce the impact of political conflict and instability on program operations, either by reducing the levels of conflict and instability in the environment or by shielding the administrative organizations from them. Until a system can be designed that addresses these deficiencies in the variety of organizational structures that characterize publicly financed programs, the public sector should not be further burdened with additional administrative responsibilities by the extension of coverage to new segments of the population or new areas of service.●

AWARD TO DEPUTY SECRETARY KENNETH DAVIS

● Mr. McCURE. Mr. President, I take this opportunity to congratulate someone whom I have come to know and respect over the past 2 years, Mr. W. Kenneth Davis, the Deputy Secretary of Energy, for an award he received. The American Association of Engineering Societies has announced that it is making its National Engineering Award to Ken Davis for his contributions to mankind as an engineer.

Ken Davis has served his country in public service, first as Director of Reactor Development in the former AEC, and currently as Deputy Secretary of Energy. He has been instrumental in the construction of many projects around the world whose objective is energy production—the production of energy to improve the quality of life for the citizens of many countries.

As an engineer, he has contributed his time to serve as an adviser to his country in many capacities. He has been elected to be vice president of the National Academy of Engineering. As a professor, he has impressed upon students the proud tradition that engineers have had in building this country. As a scholar, he has written many articles and papers on energy applications and engineering challenges.

As the Deputy Secretary of Energy, Mr. Davis has utilized his vast experience and knowledge to help shape energy policies that are designed to make this country less dependent on foreign sources and take advantage of the fact that this country has the capability of using its abundant natural

resources, especially coal and nuclear energy.

Mr. President, I join my many friends in congratulating W. Kenneth Davis for being honored with the AAES' National Engineering Award.●

BROAD SUPPORT FOR EXPORT TRADING COMPANY LEGISLATION

● Mr. HEINZ. Mr. President, an important commentary appeared recently in the August 15 issue of *Business Week*. The article, written by former Secretary of Commerce Peter G. Peterson, makes a compelling case for approval of export trading company legislation because of the favorable impact it will have on exports.

That bill, S. 734, is now moving toward enactment. Thanks to the leadership of Congressman St GERMAIN on the House side, we now have a House-passed version with both bodies having agreed to go to conference. While it is unlikely we can complete all action on the bill prior to the August recess, I hope that I will be able to finish it soon after our return in September.

Mr. President, I ask that Mr. Peterson's thoughtful article be printed at this point in the RECORD.

The article follows:

[From *Business Week*, Aug. 16, 1982]

CURING THE AMERICAN EXPORT MALADY

(By Peter G. Peterson)

Recent declines in U.S. exports have contributed substantially to our current recession. In 1981 our net exports in the crucial manufacturing sector—historically a strong part of U.S. trade—fell a full \$7 billion. In the first half of 1982 they dropped still further, showing an actual deficit of more than \$4 billion. Over the past six quarters such declines translate into the loss of more than a quarter of a million job opportunities. Clearly, our flaccid performance in selling abroad has profound consequences for the quality of our lives at home.

Fortunately, the chances are good that Congress will soon approve a vehicle that could play a useful part in reversing our dolorous export decline. The House of Representatives and the Senate have both passed, in slightly different forms, legislation that would promote the formation of export trading companies. Such companies could increase markedly the exporting capacity of America's businesses. Export trading companies could find buyers for U.S. goods, package and warehouse merchandise, arrange transportation and insurance, prepare documents for customs, distribute the goods, and serve foreign customers on behalf of the sellers after the sales are made. By reducing the costs and risks of international trade and by providing economies of scale in the services they provide, export trading companies could offer our small and medium-sized businesses the opportunity to go after their logical share of the global market.

LACK OF FAMILIARITY

Smaller businesses offer genuine growth potential for American exports. At the moment, our smaller companies—those employing fewer than 250 people—contribute about 6 percent of exports in manufacturing, even though they account for around 17

percent of manufacturing production. Thousands of small and medium-sized businesses produce goods and services that are competitive overseas. This is particularly true of innovative companies that make such salable products as environmental controls and medical equipment.

Yet many of these companies are inhibited from exporting by their lack of familiarity with foreign markets, customs, and laws. Individually they cannot afford the costs and risks necessary to penetrate markets abroad. Collectively they share the attitude that exporting is, figuratively as well as literally, foreign territory.

There is ample evidence that the export trading companies of foreign countries work well. More than half of Japan's exporting is handled by such companies, and Japan's trade surplus in manufacturing reflects their contribution. Japan's surplus has risen from \$12.5 billion in 1970 to an astonishing \$115.6 billion in 1981. This works out to some 2.5 million additional jobs in the Japanese economy. (Another reason for Japan's large surplus, in my view, is a significantly undervalued yen.) West Germany, France, and Hong Kong are also major users of specialized export entities.

Unfortunately, export trading companies based in the U.S. have not been a dominant force in American exports. The entities most resembling trading companies in this country—export management companies and so-called Webb-Pomeroy companies—account for less than 12 percent of total U.S. exports. American export trading companies have been slow to grow primarily because they lack adequate financing and because businessmen who would otherwise start them fear the uncertainties of the antitrust laws.

The legislation now before Congress promotes the formation of export trading companies by dealing with these problems. First, the legislation would enable a number of businesses to join together to form an export trading company whose proposed operations could then be certified, in advance, as not violating the antitrust laws. Second, the legislation would amend current banking regulations to allow banks to participate in the ownership of export trading companies. The House bill would open this opportunity to bank holding companies and bankers' banks—financial organizations that provide services solely to other banks—with the approval of the Federal Reserve Board. The Senate bill would permit all banks to participate in export trading companies, under prescribed limitations. In either case, the participation of banks is crucial because it would give exporters new opportunities to obtain export financing, a form of credit to which smaller companies have only limited access.

Perhaps more important, banks could use their domestic retail branches to reach out to smaller companies, particularly those in smaller metropolitan areas where foreign trade is not emphasized. The same banks could use their international branches to identify potential foreign customers.

DEVELOPING A NETWORK

We would be mistaken to think that this new legislation will cause export trading companies to proliferate in short order. It will take time for trading companies to develop the necessary staff of sales agents and to utilize fully the international network of buyers and sellers that participating banks will provide. It will take even more time than some people expect because newly

formed trading companies will be in competition with foreign companies that have both critical mass and many years of successful experience. The new legislation will promote export trading companies over the next several years, rather than the next several months.

By the same token we would be mistaken to think that the decline in our dollar share of world exports—a long-term disease of complex etiology—can be cured quickly with a single technique. The causes of this decline are manifold: our decreasing productivity, our overvalued dollar, the diminution in the competitive quality of our products, and the slowing of our relative rates of technical progress, as well as a chronic shortage of U.S. enterprises with a truly global view of their markets.

POOR VISION

Still, if I could prescribe but one cure for the American export malady, it would be to trim the seriously overvalued dollar. A major cause of this overvaluing is our high interest rates, and they are due, in my judgment, to our enormous prospective budgetary deficits. Increasing exports linked closely to reducing deficits. (It would also help if the yen were to evolve into a truly international, "senior" currency.)

If I then could propose a second cure for our export disease, it would be to attack our MEGO (My Eyes Glaze Over) attitude toward exports. West German Chancellor Helmut Schmidt clearly does not consider it trivial or demeaning to be aware of the major export orders his country is trying to get. But when did you last hear any U.S. President speak authoritatively on exports? Or consider the vast resources devoted to selling savings bonds compared with those selling American products abroad. It is not even close. Again, by contrast, think of the Japanese Export Trading Organization, a remarkable organization of nearly 1,300 people scanning the world for potential Japanese export orders.

In 1980, Reginald Jones, then head of the President's Export Council, wrote of the need for an "export imperative." Two years later, our actions still make that sound like a contradiction in terms. We are now in an unprecedented situation, not only in our troubled domestic economy but also in our equally troubled global economy, which is in its third year of stagnant world production and its second year of stagnant world trade. Everyone is trying to increase exports while reducing imports, to get a bigger share of a fixed export pie. Moreover, ballooning subsidies—for investment, research, production, marketing, financing—threaten to distort world trade as they encourage imitation or retaliation. That is not likely to make a bigger pie. Indeed, if the U.S. does not negotiate some new rules to deal with these sources of distortion, we will find ourselves in fresh conflicts with our trading partners. We are facing too many such conflicts already. ●

THE NEW FEDERALISM

● Mr. DURENBERGER. Mr. President, the National Governors' Association this week held its annual meeting in Afton, Okla. A major topic on the agenda was the development of a New Federalism plan, and some of the specifics of sorting out governmental responsibilities among the partners in our federal system.

I am a strong supporter of President Reagan's New Federalism initiative. It is a bold, historic step that will restore the necessary balance in American Government.

The NGA has spent several months in sincere negotiations with the White House to develop that initiative into a specific plan that is equitable and effective. At the closing session of the NGA meeting, the Governors voted to continue this cooperative effort, in an attempt to resolve some basic differences that remain.

The major points that continue to be of concern include medicaid eligibility, the link between food stamp payments and welfare benefits, and the question of a special fund to help States that suffer extreme economic hardship.

Two documents from the NGA conference are especially illustrative of the work of the Nation's Governors on the New Federalism initiative. First, an "action plan" proposed by outgoing NGA Chairman Richard Snelling of Vermont, which passed the NGA executive committee on Sunday. And second, the action plan that was finally adopted by the NGA membership, expressing a continued willingness to negotiate with the White House. I ask that these two documents be printed into the RECORD.

The material follows:

THE GOVERNORS' FEDERALISM INITIATIVE

Governors are the elected spokesmen of the states, and the federal system is formed of and from states.

In this light it was to be expected that the first voices to be raised on behalf of a new federalism, of a thoughtful reappraisal of the relationship between federal and state governments, would be those of Governors.

To a considerable degree, moderate constructive discussion concerning decentralization of government, decongestion of federal bureaucratic apparatus and the need to escape the narrow, badly targeted confines of categorical grants, has been led by the National Governors' Association.

Thus, the Governors were quick to respond positively to the initiative of President Ronald Reagan when he told the Congress he would be asking for enactment of legislation to establish an improved assignment of responsibilities between states and the federal government—which included a pledge that the process would not increase the fiscal burdens of the states.

At our winter meeting, the Governors acted to encourage the President's initiative by providing a process for reconciling our own long and carefully established goals of a new federalism with the outline plan offered by the President. NGA adopted a negotiating policy statement and delegated authority to the Chairman to appoint and head a team of six Governors to attempt to define a mutually acceptable plan for "new federalism."

For the past five months, the NGA team has carried on these negotiations with the Administration in an effort to agree on a federalism proposal. Our goal was agreement on specific legislation which would have the full support of the President and of the states, and our belief was that such

mutual support was essential to favorable action by the Congress, in view of the long history of Congressional reluctance to surrender responsibilities it has preempted from state, county and municipal legislative bodies over the years.

Initially the Governors and the White House set late April as a reasonable deadline for reconciliation, and we agreed that federalism legislation should be presented to this session of the Congress if the vital public policy area described as "federalism" were to be recognized as a high priority matter of national debate.

When we were unable to obtain the White House focus necessary to achieve the initial goal, it was agreed we would strive for an agreement—or a determination we could not agree—by July 1st. That date came and past.

In early July, the negotiating representatives for the Governors urged the President and his advisors to recognize the urgency of reaching agreement in time to present any accord to the Governors for their action at this summer meeting.

I must report to the Executive Committee that it no longer seems prudent to pin our hopes for a new federalism on the outcome of any negotiations with the White House which proceed from the assumption that the public policy convictions of the President and the Governors regarding the substance and design of a proper federal-state relationship can or must be reconciled.

Although there is great diversity of opinion among the Governors, there also is a strong central consensus that the federal system must ensure the capacity of government at every level to meet an aggregate responsibility for assuring a standard of decency for every citizen of this nation, while placing authority for program design and management accountability close to the people.

It is fair to say that there may be broader agreement among the Governors concerning the appropriate specifics of a new federalism than there is among a dozen or so key advisors to the President of the United States. In good part, the failure of the negotiations must be laid to confusion and disagreement in the White House on such important areas as how to implement the President's own "offer" to have the federal government fully assume responsibility for Medicaid.

The Governors have repeatedly agreed that the foundation for a revised federalism is recognition of the federal primacy of responsibility for income maintenance and assurance of minimum health standards. The Governors have responsibly coupled that position with an express understanding that the states should assume both increased burdens for funding and full responsibility for service delivery in dozens of areas now subject to federal categorical grant programs.

The states have not sought and do not seek higher federal outlays. The states seek a better use of federal funds as a guarantor of equity and justice for the citizens of all the states.

Our negotiations with the White House seem to have foundered on the question of whether, in the end, the federal government would maintain any responsibility for assuring minimum levels of essential services or for dealing positively with the problems which the disparity of fiscal capacity among the states pose for state and local officials who honestly seek reasonable levels of serv-

ice for the needy in areas which have sub-average fiscal resources.

Parallel to our efforts to reform the federal system, the NGA has been intensely active before the Congress and the nation on budget and tax issues which were essential to the preservation of state capacity.

The President's Budget Proposal for 1983 sought to reduce federal outlays to state and local governments to \$81.4 billion, which would have represented a 26 percent cut in constant dollars from 1981 outlays.

The firmness and the resolve of the Governors to separate their willingness to discuss the shape of "new Federalism" from any acquiescence on Administration fiscal proposals, deserves considerable credit for the fact that first budget resolution for 1983 provide for outlays of \$88 billion which almost preserve state capacity afforded by the \$86.6 billion authorized for 1982.

NGA is stronger and better informed as the result of both its fight to preserve its fiscal capacity and its negotiations on behalf of a sensible federalism. We know now that federal appropriations in assistance to state and local governments will continue to be under heavy pressure from both Congress and the Administration. We do not ask for increases, but we must continue to fight for maintenance. The lesson clearly is that there will almost certainly be continuing erosion of constant dollar purchasing power. State and local governments will be left more and more on their own, with or without any revision of the federal system.

And we know also that the present Administration is the strongest advocate of a revised federal system to occupy the White House in many decades. But we also must face the fact that the Administration's federalism is, in many particulars, not a state's view.

The experience and knowledge gained in 1982 should be directed to promoting the NGA policies across a broad front, with the primary thrust directed toward the Congress.

The association of the spokesmen of the states must assume the principal responsibility for articulating and detailing the elements of a thoughtful new federalism. Our plan should be consistent with historic NGA policies. Our plan should address the issues of fairness among states with varying capacities and the obligation of the federal government to ensure a minimum decent level of assistance to those genuinely in need.

The Governors plan should adopt the premise of President Reagan's proposal that no fiscal advantage shall be sought as between the federal government and the states. Federalism does not deal with how much taxes the federal government extracts from the private or corporate citizens of the states, or how much it spends in those states. Federalism addresses the questions of the purposes of federal intrusion and the responsibilities of governments at every level.

GOVERNORS' FEDERALISM ACTION PLAN

The National Governors' Association accepts the report of Governor Snelling presented to the Executive Committee on August 8, 1982 regarding the status of federalism negotiations. The NGA extends its sincere thanks and appreciation to the members of the negotiating team, Governors Alexander, Babbitt, Busbee, Matheson, Snelling, and Thompson.

The Governors recognize the substantial amount of progress made by the NGA federalism negotiating team, and officials of the Reagan Administration, in establishing an improved assignment of responsibilities between the states and the federal government. We applaud the President for following the Governors' lead and elevating federalism to a position of national priority and for the flexibility he has shown in many of the issues under negotiation. The Governors recognize the overall spirit of compromise shown by both the Governors and the Administration through the past five months.

The Governors recognize that a greater level of participation by members of the NGA Executive Committee and the President is required to move the federalism dialogue ahead. To that end, the National Governors' Association directs its Executive Committee to implement the following federalism action plan:

1. Continue discussions with the President regarding his federalism initiative.
2. Reconstitute the NGA federalism negotiating team.

In line with the direction taken in the Report of the Task Force on the Agenda for the Eighties, the NGA Executive Committee shall serve as the federalism negotiating team, together with the chairmen of appropriate NGA standing committees, a lead governor on federalism, and such other Governors as the Executive Committee deems appropriate.

3. Develop NGA federalism reform proposal.

The National Governors' Association assumes responsibility for developing our own NGA federalism reform proposal as a high priority which shall incorporate the historic principles of the National Governors' Association respecting federalism.

4. Secure Executive Committee approval of the federalism reform proposal.

At its December meeting, the NGA Executive Committee should have, for review, the proposal in draft, for presentation to the Governors at the 1983 winter meeting. When a draft proposal has been approved by the Executive Committee it shall be presented to the President to seek his approval.

5. Present the proposal at the 1983 National Governors' Association winter meeting.

The federalism initiative should be brought before the Governors for debate and action at the 1983 winter meeting. The Executive Committee will ensure that each Governor is fully briefed well in advance of the February meeting and that as many concerns as possible are resolved before the plenary vote.

6. Ensure the early and continuing communication between the Executive Committee and others interested in federalism reform.

The Executive Committee should take such steps as necessary to ensure that the views of the National Governors' Association and those of other interested parties are freely and constructively interchanged. The process must include continuing consultation between the Chairman of NGA, the federalism lead Governor, Standing Committee Chairmen and:

The National Conference of State Legislatures.

Congressional leaders.

Administration officials.

Local officials.●

PUBLIC LANDS CONSERVATION, REHABILITATION, AND IMPROVEMENT

● Mr. HEINZ. Mr. President, today I am pleased to join my colleagues, Senators MOYNIHAN and MATHIAS, as a co-sponsors of S. 2061, the Public Lands Conservation, Rehabilitation, and Improvement Act. This legislation is a cost-effective approach to solving two intractable problems facing this Nation: High youth unemployment and the deterioration of our State and municipal parks as well as our national park and wilderness infrastructure.

My home State of Pennsylvania has 113 State-run parks, most or all of which are in need of rehabilitation and improvement. In addition, the city of Philadelphia has 89 parks maintained by the city's department of recreation, and my hometown of Pittsburgh has 15 major parks and over 200 facilities cared for by the city. These are the areas which would be aided by the formation of a National Conservation Corps. These public lands will be rehabilitated by unemployed, disadvantaged, and minority youth in the cities; we will be saving the facilities, while giving the young people of our inner cities meaningful employment and hope.

Mr. President, the unemployment figures for our country are alarming. An incredible 52.6 percent of black teenagers nationally are out of work. In Philadelphia, the 1981 average unemployment rate for blacks aged 16 to 19 was 48.2 percent. Statewide, the minority unemployment rate is 17½ percent. Over 20 percent of those Pennsylvanians between the ages of 16 and 19 are out of work. Simply put, too many youths are without work, and we have work to be done.

This bill establishes a National Conservation Corps to enhance and rehabilitate our Nation's public lands. The Corps will include unemployed young men and women between the ages of 16 and 25. While addressing the deteriorating condition of our public lands, this conservation work would also provide employment opportunities and training for our young people.

Public lands and resources, including parks, rangelands, wildlife refuges, forests, water resources, fishery facilities, and historic and cultural sites, have become subject to increasing public uses and demands, the condition of many of these lands and resources have deteriorated. Additionally, the Government agencies have been unable to adequately staff and fund the maintenance necessary to arrest this deterioration.

Youth conservation programs have proven to be a highly successful and cost-effective means to assist land management agencies at all levels of government. Both the Youth Conservation Corps (YCC) and the Young

Adult Conservation Corps (YACC) have had excellent past records in the improvement and rehabilitation of public lands. Of course, the grandfather, so to the speak, of the conservation movement, the role model of this proposed conservation corps, the Civilian Conservation Corps (CCC), employed over 3 million young people—performing work valued at over \$1.5 billion during its 9-year life, terminating in 1943.

The returns on investment of both the YCC and the YACC were excellent. For example, YACC returned \$1.25 on appraised conservation work for each \$1 expended in fiscal year 1980. In Pennsylvania, the Young Adult Conservation Corps averaged a return of \$1.33 for each \$1 expended during its 3-year life. Of course, no dollar amount can be placed on the enjoyment of our Nation's natural resources which is furthered by sound conservation. Nor do these figures include the benefits realized by putting previously unemployed young people to work.

This legislation is targeted toward those who are economically, socially, physically, or educationally disadvantaged, and who may not otherwise be productively employed. Preference is to be given to those youths residing in areas which have substantial unemployment both urban and rural.

Mr. President, it is important that we give these young people a chance; this is an opportunity for them to prove themselves to be worthy contributors to our Nation's well-being. In the past they have proved themselves. For example, members of the Pennsylvania Young Adult Conservation Corps had a 61-percent positive termination record. This means that before their 1-year enlistment was due to expire, most had found other work. The YACC only took in kids that were already out of school or out of work. Targeted conservation work is a proven method of providing disadvantaged youth in a meaningful job—and a steppingstone toward other employment.

Let me stress that the work being performed is not contrived and unnecessary. We are faced with a backlog of needed conservation work on our public lands. The work that will be done by this Conservation Corps is work that is necessary and that, in absence of such a Corps, simply would not be accomplished. This is work in the parks, forests, and local communities: Rehabilitation and improvement of facilities, picnic areas, hiking trails, access, and even historical regions. In the cities, there will be a timber management program. Youths in the big cities will assist in the rehabilitation of decaying infrastructures. Preference in work will be given to those projects which provide long-term ben-

efits to the public and are labor intensive.

As you can see, Mr. President, this program is beneficial to all of us. It puts economically disadvantaged teens to work and improves those public lands which are in need of rehabilitation. It is a cost-effective means of performing work that otherwise would not get done. There is a need for conservation work in this country. There is also a need to put our unemployed youth to work—a chance for them to prove themselves as worthy contributions to this country's welfare. Considering these needs, and the excellent past record of conservation groups in this country, I consider the Public Lands Conservation, Rehabilitation, and Improvement Act to be a superb way to solve the problems of high youth unemployment and the deterioration of our Nation's park and wilderness infrastructure.●

DON LOESLIE, VICE PRESIDENT, MINNESOTA WHEAT GROWERS AND VICE PRESIDENT NATIONAL WHEAT GROWERS

● Mr. DURENBERGER. Mr. President, recently, Don Loeslie, vice president of the Minnesota Wheat Growers and vice president of the National Wheat Growers, delivered some remarks that I believe put into clearer perspective the essential role agriculture plays in the economy of the urban areas, as well as the rural areas, of our Nation.

The remarks were delivered to a meeting of county commissioners from Hennepin, Ramsey, Washington, Carver, Scott, Dakota, and Anoka Counties. These commissioners—from the most populous areas of Minnesota—realize the importance of a sound agricultural economy and the positive impact it can have on jobs, industrial development, and a strengthened tax base. We need to improve public understanding of the positive role agriculture can play in a truly national economy. Don Loeslie makes this point factually and openly, and I think that every Member of this body will profit by reviewing his remarks. I ask that they be inserted at this point in the RECORD.

The remarks follow:

"Burn down your cities and leave your farms and your cities will spring up again as if by magic. But destroy our farms, and the grass will grow in the streets of every city in the country." William Jennings Bryan said this back in 1896, and it is just as true today. Agriculture is important not just to farmers, but to each of you in the room today. And the depressed state of the agricultural economy is being felt far beyond the farm gate to the auto dealers, hardware stores, to the schools, to our state government, to America itself? We are farmers and you are the urban businessman and worker, therefore, have a common problem and that is why we are here today. We need your help but we have something to offer in

return and if we work together we can achieve our common goals. We want to express our sincere appreciation to John Derus, the Chairman of the Hennepin County Board of Commissioners, for providing the opportunity for us to meet. When Mr. Derus met with the Wheat Growers some months ago and talked about the vital role that agriculture plays in his county, in the middle of the most metropolitan area of our state, it was both refreshing and encouraging. So many people, even in rural communities, do not consider, or appreciate that food, clothing, and many other goods do not, in fact, come from stores. They are produced in raw form on farms; and the people who process and market these goods and those who manufacture the supplies and equipment necessary in the farming operation are themselves a part of American agriculture and their living is directly dependent on a viable agricultural economy.

Twenty-five years ago, we didn't export agriculture. We ate what we grew and we exported the things that labor and management made, such as cars, radios and refrigerators. Twenty-five years later, we export agricultural products and U.S. labor no longer has the world share of the things that labor makes. Farmers, however, are not the only beneficiary of this transition. For every one dollar in agricultural products exported, the United States received \$2.05 in benefits back to this country, of which 75 percent is a direct asset to non-agricultural America. For every one billion dollar increase in agricultural exports, we create 35,000 new jobs to service agriculture and to fulfill demand for consumer goods as this money multiplies itself through every sector of the U.S. economy.

Minnesota agriculture's problems started in 1979. First, we had a trucker's strike that prohibited us from moving our products to market. Then we had a prolonged strike by the grain millers in the twin ports of Duluth and Superior that prohibited our farmers from again moving their grain into the marketing channel. President Carter invoked the now famous and proven ineffective grain embargo against the Soviet Union in January, 1980 and prices tumbled. We have been facing the same high interest rates that the rest of the country has, except that with farm prices so low, farmers have not had a choice of curtailing expansion or reducing inventories, he has been forced to borrow at these high interest rates in order just to survive. President Reagan lifted the embargo to the Soviets but held out the threat of future embargoes and banned other U.S./Soviet commercial transactions to the point that it served as a defacto embargo, encouraging the Soviets to maximize their grain and oilseed needs as well as industrial requirements from other nations.

Let's focus on the Soviet embargo for a moment. The Russians got all of the grain they needed during the embargo from other supplying countries. It is estimated to have cost them about one billion dollars more than if there had not been an embargo, but it cost our country about \$3.4 billion to keep them from buying from us and that doesn't include the \$7 billion that we lost at the producer level which was not allowed to multiply through the economy. We effectively gave away all but 20 percent of our share of the Soviet market to our competitors and these competitors are gearing up their production to meet this demand and are negotiating long-term agreements to lock in this demand for years to come. The

farmers lost \$7 billion, but the nation lost \$11.5 billion in national output, 310,000 jobs, and \$3.1 billion in personal income earned and up to \$1.9 billion in foreign exchange revenues as marketing and transportation services were stymied, and this money was also not allowed to multiply itself through the economy. And these losses continue to build as importing countries continue shifting and diversifying their sources of supply to other exporting countries so they will not be left high and dry if the U.S. finds some reason to impose export restrictions against them. Is it any wonder our state and our nation are having the economic problems that they are?

Let's put things in perspective. Last year in Minnesota, we produced 140 million bushels of wheat. A simple 25 cent downward swing in the market results in a \$35 million dollar loss to the State's economy. But prices have dropped \$1.00. In my county alone there is a loss of 12 million dollars. This is a 140 million dollar loss in revenue to our state. And this does not include the corn or soybeans or other crops that are produced in the State. Donald Wilkinson, the Governor of the Farm Credit Administration, reports that total debt in agriculture is \$200 billion. The annual interest payment of this debt is \$21 billion, but net farm income is projected to be between \$15 and \$18 billion, substantially less than the 23.3 billion dollars that it costs to run the U.S. Department of Agriculture. If we were like any other business, we would be bankrupt. In Minnesota, close to 50 percent of the gross revenue is generated by agriculture. Seventy percent of the wealth is in agriculture, but this sector is not even paying income tax. It is time to acknowledge that while twenty-five years ago, the national economy led agriculture's recovery, now with the dominant role that agriculture and agricultural exports play in the overall economy, it will be up to agriculture to lead the Nation out of its economic doldrums.

It is easy to see that a healthy non-agriculture needs a healthy agriculture. Agriculture is the Nation's number 1 industry with assets of \$1.1 trillion which is equal to 88 percent of capital assets of all manufacturing corporations in the United States. It is the Nation's number 1 employer, with one job out of every five employed in the food and fiber system. Farming alone has approximately 4.4 million workers—as many as the combined payrolls of transportation, the steel industry, and the automotive industry. The agriculture sector supports the livelihood of 8 to 9 million people involved in storing, transporting, processing and merchandizing the output of the nation's farms and around 3 million in the farm supply sector. It is the Nation's number 1 inflation fighter because American farmers are the most efficient in the world. And it is the number 1 exporter with over \$45 billion in exports in 1981, offsetting, to a large degree, the cost of oil and other imported goods.

Farmers are consumers. We spend \$13.2 billion for farm tractors, motor vehicles and machinery and equipment and it requires 150,000 workers to produce the equipment alone. This is 6.5 million tons of steel, pro-

viding jobs for 40,000 workers in the steel industry and the list goes on and on.

With so much of the U.S. economy dependent in the first instance on a viable agricultural economy, and with so much of our agricultural products exported, bringing hard currency back into the country and reducing inflation, the United States can no longer afford a "cheap food policy" as we once knew it. In a recent study for the National Association of Wheat Growers, Chase Econometrics concludes that even if the U.S. economy does recover from the current recession, a major portion of the work force which is now unemployed in the largest segment of the economy, which is the agricultural-related industries, will remain jobless unless a concerted effort is made to improve farm income and the farm support industries.

All of us . . . farmers, businessmen, factory workers, shop clerks, school teachers. . . have a common goal in seeking a strong agriculture. Farmers may have less than three percent of the population, but if you include agriculturally related business you have 25 percent of the population. If we include everyone that is directly or indirectly affected by agriculture, we should have 100 percent of the population. As the Minnesota Women for Agriculture state, "If you eat, you are involved with agriculture."

It is a myth then, that agricultural exports are harmful to the economy, that they are inflationary and cost the consumers money. It is also a myth that a profit in agriculture at the producer level is a cost or is inflationary, as compared to the benefit received by the entire economy. It is a myth that businesses and agriculture should be adversaries or that they have nothing in common. And it is a myth that we do not have the votes to achieve our goals, but to do so, everyone directly and indirectly involved in agriculture has to pull together.

We are asking your help then, in any way that you can, to educate the urban population that they too have a vested interest in seeing a viable U.S. and Minnesota agricultural economy. We ask your help in explaining to other elected officials that a strong and viable agriculture is one of the best economic recovery programs that this state and nation can ever ask for. That investments in agriculture should be considered as investments that bear returns to all segments of the economy, not just as expenses. That programs and regulations that suppress agriculture and limit its growth and well being suppress and limit the growth of the entire economy, farm and non-farm alike. As agriculture goes, so goes America and so goes each of you in this room. ●

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, do I understand correctly that if the Senate stands in adjournment this evening there will be no matters come over under the rule on Monday?

The PRESIDING OFFICER. The Senator is correct.

ADJOURNMENT UNTIL MONDAY,
AUGUST 16, 1982

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in adjournment until 12 noon Monday.

There being no objection, at 7:35 p.m., the Senate adjourned until Monday, August 16, 1982, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate August 13, 1982:

DEPARTMENT OF STATE

James L. Buckley, of Connecticut, to be Counselor of the Department of State, vice Robert Carl McFarlane.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

William Arthur Webb, of Pennsylvania, to be Member of the Equal Employment Opportunity Commission for the term expiring July 1, 1987, vice J. Clay Smith, Jr., term expired.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Philip C. Gast, xxx-xx-xxxx FR, U.S. Air Force.

IN THE ARMY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Alexander M. Weyand, xxx-xx-x... U.S. Army.

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. LaVern E. Weber, xxx-xx-xxxx Army of the United States.

IN THE NAVY

The following-named officer under the provisions of title 10, United States Code, section 601, to be reassigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be admiral

Vice Adm. Wesley L. McDonald, xxx-xx-x... -1310, U.S. Navy.

EXTENSIONS OF REMARKS

ALFRED M. LENTO, "CITIZEN OF MERIT"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. GAYDOS. Mr. Speaker, in every society there are those who see where a crowd is going and follow it. There are others who step in front of it.

Those are the leaders. The movers, the shakers, the people who make things happen for other people.

Nationally and internationally, such individuals receive widespread recognition for their efforts and accomplishments. Locally, such contributions often go unnoticed.

That is not the case, however, in Bethel Park, Pa., where on August 9, 1982, borough officials formally commended a man—Alfred M. Lento—for his work in promoting the future industrial development and economic growth of the community. He was duly recognized as a "Citizen of Merit" by Mayor Reno Virgili during a ceremony in the municipal building.

Specifically, Mr. Lento was cited for his record of civic service and for convincing county, State, and Federal authorities of the viability for industrial progress in the borough. His efforts, the borough council noted, opened the door for business expansion and stimulated job opportunities in a variety of fields.

His success in the endeavor can be traced to the interest and activity of the Bethel Park Industrial Association, an organization of 94 firms which Mr. Lento welded together in a common bond and which he now serves as chairman.

Mr. Lento was highly qualified to lead the association. He is a man who believes success comes in "cans," failures in "can'ts." He is a businessman in his own right, heading a steel fabricating company employing 40 people and the spearhead of an effort to develop a multi-million-dollar shopping center project that ultimately will provide another 200 jobs in the borough.

His ability to perceive future possibilities has long been recognized by his peers. Mr. Lento has been a member of the borough's zoning and planning board for 5 years and currently fills the position of chairman. He also is secretary-treasurer of the Allegheny County Redevelopment Authority and twice has been honored by that organization for his achievements. The Bethel Park School District has cited

Mr. Lento for his support of its vocational-educational work-study program for students.

Mr. Lento is more than just a credit to the businessmen of Bethel Park and Allegheny County, Pa. He typifies the dedicated small businessmen of America, who believe that only in the dictionary does success come before work.

Mr. Speaker, on behalf of my colleagues in the Congress of the United States, I congratulate Mr. Lento on his meritorious award and the Bethel Park Borough Council for its recognition of his contribution to the community—and the country.●

AN ALTERNATIVE TO THE CONVENTIONAL CONSTRUCTION OF MILITARY FAMILY HOUSING

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. ST GERMAIN. Mr. Speaker, I am today introducing legislation aimed at correcting a major deficiency in our current housing policy regarding our military departments. The domestic leasing authority of these departments, for every purpose including family housing, limits the term of any lease to 12 months. Moreover, existing law narrows the leasing of such housing to a small number of situations covered by very selective specific criteria.

The overall effect of these limitations has been to deny the military departments the option of long-term housing leases as an alternative to construction, even if such leasing were the most economic choice, or as it is in a number of cases, the sole practical choice.

In a number of communities, such as Norfolk, Va., and Newport, R.I., adequate suitable housing to satisfy military department needs is lacking, and cannot be overcome either through individual leasing, the various housing allowances permitted, or otherwise. Moreover, Government land for the construction of such housing is either limited or unavailable. These problems are compounded by the fact that acquisition of land for new construction is often opposed locally because such steps would have the effect of removing property from the tax rolls while increasing the local costs of necessary services such as schools, police, and fire protection.

All these problems considered, it is becoming clear that conventional con-

struction of family housing is not a practical answer in a number of cases—for either the departments or the local communities involved.

In light of this growing problem, community leaders and others in these towns and cities have been exploring the idea of legislation authorizing 25-year leases for housing as a means of overcoming the problem. Bankers, builders, the mortgage lending institutions, and others involved are of the general opinion that a 25-year lease could induce private industry to build such housing, and that a 25-year lease would be the minimum necessary for construction financing. From the viewpoint of economic understanding, study of this type of option will show that a 25-year lease can be as cost effective as conventional construction, thus offering a cost savings to both the military departments and the taxpayer.

Mr. Speaker, the legislation I introduce today has the special benefit of providing these impacted communities with a lease-form that would be "bankable" and by which the developer, along with the community could secure financing on the merit of financial commitments the military departments would be able to make.

I insert the bill in the RECORD at this point:

H.R. 6991

A bill to amend title 10, United States Code, to authorize an alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Chapter 169 of title 10, United States Code, is amended by adding at the end thereof the following new section: "§ 2833. Leases: alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam

(a) Notwithstanding 31 USC 665, 41 USC 11, and 10 USC 2828 family housing projects within the United States, Puerto Rico, and Guam specifically authorized by law in an annual military construction authorization act, or otherwise required, may, if the Secretary of Defense determines it to be in the best interest of the government, be acquired by lease for any period not in excess of 25 years, and the costs of such leasing for any year may be paid out of annual appropriations for operation and maintenance for that year.

(b) No lease shall be made under this section for which the average estimated annual rental during the term of the lease exceeds \$250,000 until after the expiration of thirty days from the date upon which a report of the facts concerning the proposed lease is submitted to the Committees on Armed Ser-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

vices of the Senate and House of Representatives."

(2) The table of sections at the beginning of Subchapter II of Chapter 169 of title 10, United States Code, is amended by adding at the end thereof the following new item: "2833. Leases: alternative to the conventional construction of military family housing within the United States, Puerto Rico, and Guam."

SEC. 2. The amendment made by the first section of this Act shall apply only with respect to housing units first authorized to be constructed or acquired for a fiscal year beginning after September 30, 1982.

EXPLANATION OF THE NEW PROVISION

Section 2833 adds a new provision to title 10, United States Code, to allow the Secretary of Defense to acquire family housing projects in the United States, Puerto Rico, and Guam, by lease where the cost will be covered by periodic payments over a term not to exceed 25 years. The Committee recognizes that conventional construction will be the choice in most domestic projects for the acquisition of family housing, but that from time to time it will be more economic to buy over a term, or that this will be the only available option. The legislation gives the Secretary of Defense a useful additional acquisition tool for use in those circumstances. To insure its judicious use, reporting requirements like those for overseas leases are included in the new provision. Thus family housing projects at any location within or without the United States may now be acquired through leases up to 25 years, provided the Secretary of Defense determines that it is in the government's interest to do so, and the Committees have the opportunity to review the terms of the transaction and the circumstances under which the alternative is to be applied. The Committee wishes to emphasize that, as noted above, this is an option to conventional construction of projects, and that this new provision is independent of and not intended to bear on or be encumbered by the domestic leasing program for individual or groups of units already in being that may be leased under 10 USC 2828.

THE LAST BEST CHANCE FOR HOUSING

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. WYDEN. Mr. Speaker, less than a month ago, my colleagues DICK GERHARDT, BARBER CONABLE, and I made a joint statement introducing H.R. 6781, the Residential Mortgage Investment Act of 1982.

This bill represents a marketplace solution to the most pressing problem facing the beleaguered housing industry today: a severe shortage of affordable mortgage capital.

It is designed to eliminate the unnecessary regulatory impediments that have discouraged private pension fund managers—who control a vast \$300 billion pool of capital—from investing in housing and mortgage-backed securities.

By removing these regulatory obstacles, which apply exclusively to investments in housing, H.R. 6781 will open up billions of dollars of new capital for the capital-starved housing market. This in turn is bound to create downward pressure on mortgage interest rates.

Our bill has quickly attracted a tremendous amount of support on both sides of the aisle. More than 220 of our colleagues have agreed to cosponsor H.R. 6781.

It is heartening to those who fought a valiant but ultimately unsuccessful battle for emergency housing stimulus legislation to know that a majority of the House agrees with us that there is still time to pass a major housing bill in this Congress.

We have been calling our bill the "no-cost," "no-subsidy housing" bill because it contains no hidden subsidies and will not cost the taxpayers 1 cent.

All our bill does is implement a key recommendation of the President's Commission on Housing by allowing mortgages and mortgage-backed securities to compete for the attention of pension fund managers on an equal footing with other prudent investment options.

We believe that mortgages are not second-class investments and that there is no sound economic reason for treating them as second-class investments. Real estate investments are sound, safe, and fully collateralized.

Because of unprecedented financing costs, less than 5 percent of American families can afford to buy a new home and unemployment in the construction industry is twice the national average.

We must not shrug our shoulders and say that there is nothing we can do to come to the rescue of home buyers and homebuilders.

We cannot turn our backs on the millions of Americans who have been denied the American dream of homeownership.

We cannot turn our backs on the thousands of carpenters and builders who have been thrown out of work in the wake of the worst housing slump in more than 40 years.

More than 220 of our colleagues do not want to go home this year until we have done something for the beleaguered housing industry.

I urge my colleagues who have not yet signed on to H.R. 6781 to join us immediately and I urge all Members to enthusiastically support quick action and passage of this vital piece of legislation. ●

YEAREND SPENDING SPREES

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. COELHO. Mr. Speaker, yesterday I introduced H.R. 6970, legislation designed to prevent yearend spending sprees of Government agencies. The language is identical to that approved as part of H.R. 4717 in the 96th Congress by the Committee on Government Operations. Regrettably, H.R. 4717 did not see action on the House floor despite committee approval.

In its June 28, 1982, issue, U.S. News & World Report reported that key bureaucrats were being warned to stay on the job in August and September to "make sure they spend all their allotted money before the Government's fiscal year ends on September 30."

It appears we in Congress have been so caught up in the budget debate for the past 2 years that this issue just has not received the attention it deserves.

Mr. Speaker, for the convenience of my colleagues who may wish to cosponsor the bill with me, I include at this point in the RECORD the text of H.R. 6970.

H.R. 6970

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) no department or independent agency of the executive branch shall obligate, during the last two calendar months of fiscal year 1983, 1984, or 1985, more than 20 percent of its total controllable budgetary resources (determined in accordance with subsection (e)(2)) for such fiscal year.

(b)(1) The Director may authorize a waiver for any agency from the requirements of subsection (a)—

(A) if and to the extent the Director determines necessary to assure that a serious disruption in the execution of any of the agency's programs or operations would occur in the absence of such waiver, and

(B) if the Director has submitted a written report on such waiver to the Congress as early as practicable and before the agency involved has obligated an amount which exceeds the 20-percent requirement in subsection (a).

(2) Nothing in this subsection shall be construed to authorize the Director to authorize a waiver of any requirement of any provision of law which is similar or comparable to subsection (a).

(c) The head of each department and independent agency of the executive branch shall submit a report to the President and the Congress not later than 90 days after the close of each of the fiscal years 1983, 1984, and 1985 describing such department's or agency's compliance with subsection (a)(2). Each such report shall specify the total controllable budgetary resources for such fiscal year (determined in accordance with subsection (e)(2)) and the amount of such resources obligated in the last two calendar months of such fiscal year. In the event that the resources so obligated in such months exceeds 20 percent of such

total resources, such report shall contain an explanation of the reasons for the failure to comply with the requirements of subsection (a)(2) and identify any authorization for a departure from such requirements obtained from the Director of the Office of Management and Budget.

(d)(1) In exercising the apportionment authority under section 3679 of the Revised Statutes (31 U.S.C. 665) for the fiscal years ending on September 30 of 1983, 1984, and 1985, the Director of the Office and Management and Budget may apportion annual appropriations and set aside reserves in a manner consistent with the purposes and requirements of this section.

(2) Any reserves established or other actions taken in connection with the apportionment process for the purpose of satisfying the requirements of paragraph (1) of this subsection shall be exempt from the last sentence of section 3679(c)(2) of the Revised Statutes (31 U.S.C. 665(c)(2)) and from section 1012(a) and 1013(a) of the Impoundment Control Act of 1974 (31 U.S.C. 1402(a), 1403(a)). Nothing in this section affects the authority of the Comptroller General under section 1015 of such Act (31 U.S.C. 1405) to report a reserve or deferral to the Congress if he concludes that the reserve or deferral is not exempt under this paragraph.

(e) For the purposes of this section—

(1) the term "independent agency of the executive branch" includes any establishment in the executive branch which is not a component of an executive department and includes the Executive Office of the President; and

(2) the total controllable budgetary resources for a fiscal year of a department or independent agency is the sum of the amounts contained in annual appropriations for that department or independent agency for that fiscal year excluding—

(A) any amount contained in an appropriation Act enacted after the end of the third calendar month of that fiscal year;

(B) any amount appropriated for the purpose of making payments to any person or government if, under the provision of law governing such payment, the United States is obligated to make such payment to persons or governments who meet the requirements established by such law;

(C) any amount appropriated for the purpose of any grant, subsidy, or contribution; and

(D) any amount appropriated for emergency expenditures affecting the protection of human safety or property.

SEC. 2. The provisions of the first section shall apply to any fiscal year beginning after the date of the enactment of this Act.●

PERSONAL EXPLANATION

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. CLINGER. Mr. Speaker, on August 12, 1982, I was absent from the floor of the House for a vote. Had I been present, I would have voted in the following fashion:

Rollcall No. 272: H.R. 5595, Federal Payment to the District of Columbia, the House agreed to an amendment that requires at least \$14.3 million of the funds provided by the bill be used to eliminate any deficits in

EXTENSIONS OF REMARKS

the D.C. Teachers' and Police Officers' and Firefighters' Retirement Funds, "no."●

**BLOOMFIELD HILLS, MICH.,
MARKS 50TH ANNIVERSARY**

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. BROOMFIELD. Mr. Speaker, this Sunday, August 15, marks the 50th anniversary of the beautiful city of Bloomfield Hills, Mich. As the Representative of the people of that city, I am honored to recognize this grand occasion.

In 1927, Bloomfield Hills separated from Bloomfield Township to incorporate into the Village of Bloomfield Hills. At that time there were about 1,100 people living in Bloomfield Hills. Then, in 1932, the village became the city. Gov. Wilber M. Brucker approved the charter of August 15.

The city of Bloomfield Hills is not large, just under 5 square miles. It is a comfortable, charming community of about 4,000 people. There are no industrial properties and only a relatively few commercial establishments and small businesses.

Stately Woodward Avenue runs through the center of Bloomfield Hills. Most of the city, however, is transected by shaded, residential streets and lanes.

Bloomfield is known for its beautiful homes, large, wooded lots, and lovely neighborhoods. The Honorable George Romney, former Governor of the State of Michigan, could capably attest to the city's ideal setting, since he is himself a resident.

Bloomfield Hills is known as the home for the very highly regarded preparatory school of Cranbrook. Cranbrook is a private educational institution made up of six facilities occupying 300 acres of impressively landscaped property that includes a small lake. The site was donated by the late George G. Booth and his wife, Ellen Scripps Booth. Since its founding, Cranbrook had developed a well-earned reputation for academic excellence.

The 50th anniversary of this small but prominent city is truly a great event. I am very proud to represent the city of Bloomfield Hills and its citizens, and it is a great honor to rise in recognition of this important occasion.●

August 13, 1982

**GAO ASKED TO STUDY
FISHERIES QUOTAS**

HON. LES AU COIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. AU COIN. Mr. Speaker, fishermen along the coast of Oregon have been engaged this summer in a controversy centering on the salmon seasons set by the Pacific Fisheries Management Council and the Oregon Fish and Wildlife Commission. As anyone who is familiar with the fishing industry knows, these management agencies have the authority under the Magnuson Fishery Conservation and Management Act to regulate fishing.

The Pacific Fisheries Management Council establishes quotas, the maximum number of fish which can be harvested without depleting the resource. Quotas for salmon are based on the Oregon production index, which is developed by the Oregon Department of Fish and Wildlife to indicate the availability of the resource in the Oregon production area. For years, fishermen have contended that this index is faulty.

This year, the use of the Oregon production index has produced the shortest commercial fishing seasons for coho on record: Fishing between Leadbetter Point, Wash., and Cape Falcon, Oreg., lasted 8 days and fishing between Cape Falcon and Cape Blanco was stopped after 12 days. On top of that, confidence was strained further by three announcements within 1½ weeks that changed various seasons. One of which by the Department of Commerce was a complete flip-flop which closed and reopened the season within a span of 3 hours.

Recent flip-flops in Government decisions in setting Northwest ocean salmon seasons raise questions about the way those decisions are made. Along with my colleague from Iowa Mr. SMITH, the chairman of the Appropriations subcommittee with jurisdiction over the issue, I am asking the General Accounting Office, the watchdog arm of the Congress, to do a program audit to get the answers.

Angry fishermen are saying one thing and Government fish managers another about how many fish can be caught every season. No one knows if the Government is right or if it's wrong. That is why a respected third party needs to come in, sort out the confusion, and produce some answers. This controversy boils up every year; it is getting worse and this latest series of on-again, off-again seasons is the last straw.

I want the General Accounting Office to study the current method of establishing fisheries quotas and de-

termine if these methods are sound scientifically.

Insert my letter to the GAO at this point in the RECORD.

The letter follows:

HOUSE OF REPRESENTATIVES,

Washington, D.C., July 30, 1982.

HON. CHARLES BOWSER,
General Accounting Office,
Washington, D.C.

DEAR MR. BOWSER: Since the Magnuson Fishery Conservation and Management Act became law in 1976, fishing has been under the close scrutiny of the federal government. The MFCMA established the Fishery Conservation Zone and set up Fishery Management Councils which have the responsibility of writing a management plan governing the Fishery Conservation Zone.

The goals of a fishery management plan include preventing overfishing and allowing a certain amount of salmon to survive the ocean season. The Councils not only assess the availability of the resource but they also determine the number of fish which can be harvested without depleting the resource. Almost from the beginning, however, there has been raging controversy over the reliability of government estimates which lead to the management of seasons and fish harvests.

This controversy reached new heights in the Pacific Fisheries Management Council area this year when the National Marine Fisheries Service, at the direction of the Secretary of Commerce, announced the closure of all commercial and sports salmon fishing in federal waters and hours later reversed that decision. Such rapid alternation of policy do nothing to enhance the credibility of the management process.

Meanwhile, the economic stakes for both commercial and recreational fishing are enormous. The commercial and sports fishing seasons have been drastically cut-back on a yearly basis. In the last year, a cut of approximately fifty percent occurred, leading more fishermen to give up the only livelihood they know. Their families' futures are being determined by government estimates which may, or may not be accurate. No one knows for sure.

Such economic stakes put a premium on the accuracy of the data base and estimates which management agencies use to govern the fish harvests. It is necessary, therefore, to get to the bottom of the controversy so that Congress can be confident that management of the Fishery Conservation Zone is scientifically and biologically sound.

In the Pacific Fisheries Management Council region, the component of the management plan which seems to cause the most serious difficulty is the method of determining the quota of fish to be harvested by both commercial and recreational fishermen. The quotas are based on the "Oregon Production Index," an indicator of the number of fish available in the Oregon production area. The quotas have come under great criticism this year for being too low.

There is real doubt among the fishermen as to the accuracy of the OPI. A major factor in the OPI is the rate of fish escape. Placing the greatest importance on the number of immature fish, as the OPI does, disregards many other important impacts upon fish runs. Fishermen strongly believe that many other variables are involved. They often report actual sightings of fish which are larger than the OPI indicates.

A third factor is that not all of the fish are tagged. A tag indicates where the fish comes from, be it Oregon, Washington or Canada. Fishermen simply do not know whose fish they're catching.

Something needs to be done now to determine if there is a more accurate way of determining the Oregon Production Index and the quota. Fishermen just can't survive much longer if their seasons will be cut short every year and the fishermen and the management people need to stop arguing with each other and start working together.

There has absolutely been enough controversy questioning the accuracy of the methods used in determining the OPI. It is time for a solution. I am sure that no one would object to a shortened fishing season, if indeed, the resource would be as seriously depleted as the OPI indicates.

Commercial fishermen are rapidly going out of business. Last year, over 8,400 fishermen held a commercial license in Oregon. This year, 400 of those gave up.

A charterboat businessman in my district is losing over 45% of his total gross income because of the uncertainty in not knowing exactly how long the season will last. This particular business will probably lose 600 bookings in the month of August alone. Last year, he grossed \$65,000 during that month. I'm sure his income won't be as high this year.

Because answers must be found now, we are requesting that the General Accounting Office study the current method of establishing fishing quotas and determine if there are any alternative ways to determine a quota more accurately.

A review by an independent agency is needed to assess the entire problem. Fishermen, management people, and policymakers need to rely on an impartial study to make their decisions.

Thank you for your cooperation. I look forward to hearing from you.

With warm regards.

Sincerely,

LES AU COIN,
Member of Congress.

TRIBUTE TO JACK BINGHAM

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, I was saddened and disheartened when I heard of the retirement of my dear friend and ally, JACK BINGHAM. I have served with JACK for many, many years. He has been an invaluable member of the Interior Committee during our many fights to preserve this Nation's environment. The significance of his leadership role in specific successful efforts to preserve our Nation's heritage are highlighted by his contributions as:

First, a key leader in the successful effort to establish a \$725 million addition to our Nation's urban park and recreation areas.

Second, a key collaborator with our former colleague William Fitz Ryan in the establishment and strengthening of the Gateway National Recreation Area.

Third, a key leader in the establishment of the Women's Rights National Historic Site in Seneca Falls.

These are but a few of his innumerable achievements in preserving our environment for now and the generations to come.

I have often turned to JACK in his capacity as a senior member of the Foreign Affairs Committee for insight on our Nation's foreign policy and most recently he has been in the forefront of the nuclear freeze movement.

But he is no newcomer to the major policy fights in this institution. JACK and I were part of a small group of Members who began the long struggle to end this Nation's involvement in Vietnam. I will always remember JACK's dedication and courage in what was, at first, a lonely fight.

I am dismayed that he leaves because of the vagaries of reapportionment. My wife, Sala, and I will miss JACK and June BINGHAM and we wish them well in the future.●

A TRIBUTE TO MRS. CECILIA DUMKE

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. RUSSO. Mr. Speaker, today, I would like to pay special tribute to a truly outstanding and beloved woman from my district on the occasion of her 90th birthday. Mrs. Cecilia Dumke, of Oak Lawn, has been a source of inspiration to all those whose lives she has touched through her examples of strength, determination, and accomplishments.

This beautiful lady, weighing less than 90 pounds, possesses the boundless energy of a teenager, the relentless drive of a bulldozer, the indomitable courage and optimism of a missionary. She has lived her life as a prime exponent of "positive mental attitude" long before that phrase became a popular slogan. If a successful life is measured in terms of achievement, love, and respect then Cell Dumke must be acknowledged as a resounding success.

Cell, as she is known to her countless friends, was born in Chicago, August 19, 1892. She married, making her home on the South Side where she gave birth to two children, Fred and Lucille. Though only of modest means, she still managed to open her heart and her home to encompass another daughter, Marie, into her family circle.

When her son was not quite 1 year old, he contacted polio, which resulted in the loss of the use of his legs. With uncompromising pride, guidance, and abundant love, she was determined Fred would not surrender to his handicap. She prodded him, encouraged

him, and imbued in him a spirit that would not accept defeat or give in to a mere physical impairment. Her favorite rallying cry was, "You can do it—of course you can." One day, returning from work, she noticed Fred on his crutches watching on the sidelines as the neighborhood kids played sandlot ball. She scolded him, "Why aren't you playing?" She ordered him up to the plate with the words, "You hit the ball, your sister will run for you"—and hit it, he did.

She never let Fred ever think he could not do everything he wanted to. Fred left his special school as a teen and enrolled as a regular student at Parker High School with Cell adamantly insisting to school officials he could do it. He did. Fred Dumke went on to a successful career in business and then achieved an outstanding record in municipal government as a trustee and, finally, as mayor of Oak Lawn the second largest village in Illinois.

During the devastating tornado that ripped Oak Lawn in 1967, Mayor Dumke's dynamic leadership was acknowledged by the media as being a primary factor in the village's swift recovery. Reporters following the ubiquitous mayor around the stricken village were amazed at his energy and command of the situation. One reporter commented, "He's everywhere—you forget he is on crutches". Cell had done her job well.

Even though she had three children to raise, alone, and held a full-time job as a clerk. She still devoted time and energy to many projects which benefited handicapped children. For many years, Kiwanis, Lions, and the Veterans of Foreign Wars recognized Cell as one of their most dedicated and tireless volunteers.

For the past 25 years, she has been the leading volunteer for the Kiwanis Club's Peanut Day. Dubbed for the "Peanut Queen", she takes her post at 95th and Cicero—the busiest intersection in the village—at 5:30 a.m. and works till dusk and no one dare move into Cell's territory. Needless to say, she has been No. 1 in sales since she began. Her efforts have been instrumental in helping fund the Kiwanis camp in Plymouth, Ind., Garden School, Park Lawn, and Arrow School.

She has adopted Park Lawn School in Oak Lawn as her very special project. Through her efforts, she has succeeded in raising over \$125,000 for the benefit of this school for special children. She has supplied the energy and the driving force behind many endeavors—her annual birthday party, fireman's concert, and raffles all for the benefit of her kids at Park Lawn. She is at present undertaking a new goal to raise funds for Park Lawn's new residence which will open in October.

This valiant lady has had her share of setbacks and sorrows, but she pos-

sesses the resiliency and inner strength of a willow tree bending temporarily to the wind, but always coming back strong and upright again.

This spirited lady has given so much to her family, her friends, and her community. She has set a standard of excellence in every task she has undertaken which will be difficult for anyone to equal. I know my colleagues join me in sending most sincere wishes to Cell Dumke to have the best birthday ever and keep having many more.

You can do it—of course you can.●

A TRIBUTE TO CONGRESSMAN JONATHAN BINGHAM

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, August 10, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, I am proud to join my colleagues in saluting Representative JONATHAN BINGHAM, who will be retiring at the coming election. Congressman BINGHAM has served in this House since 1964 and his dedication to various committee assignments and unending constituent services has resulted in overwhelming endorsement term after term.

Congressman BINGHAM's impressive record of service has prevailed during his tenure as chairman of the House Foreign Affairs Committee's Subcommittee on International Economic Policy and Trade. At the same time Mr. BINGHAM has served on the International Security Subcommittee.

These priorities notwithstanding, JONATHAN BINGHAM continues as a member of the Interior and Insular Affairs Committee, with assignments on the Subcommittees on Energy and the Environment, and National Parks and Insular Affairs. Lastly, this Congressman remains a member of the Commission on Security and Cooperation in Europe, which monitors the Helsinki accords, and serves on the steering committee of the Northeast-Midwest Congressional Coalition.

While we can always review the litany of activities in which such esteemed Representatives as JACK BINGHAM are involved, we must also remember that after so many years of these strenuous pursuits, our colleagues may wish to devote time to other personal or professional projects. I am confident that we will continue to hear from Representative BINGHAM through community involvement, literary pursuits, and lectures. Knowing this helps us all to accept this loss of our dear colleague.

Again, I am proud to join my colleagues in wishing JONATHAN BINGHAM the very best.●

TRIBUTE TO JACK GRIFFIS

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. DYMALLY. Mr. Speaker, with a mixture of pride and sadness, I rise to pay tribute to a fine man and a good friend. Jack Griffis, who passed away last month, was a model citizen whose dedication and spirit we would all do well to emulate.

For 25 years, Jack made his home in Gardena, Calif., and for 25 years, he served his community actively, faithfully, and responsibly. Affiliated with a legion of organizations, many of them charitable, Jack was especially well-known throughout his community for his many benevolent works.

Not a man to sit idly by, content with the status quo, Jack was always willing to speak up for what he felt was right. This determination and this loyalty to cause were readily visible during Jack's tenure as president of the Gardena Valley Democratic Club and through his work on the Gardena Citizens Advisory Committee.

Perhaps the greatest testament to Jack Griffis' unswerving integrity is the fact that he was able to secure the respect and admiration of even his political opponents.

The community that presented Jack Griffis with a "Resolution of Commendation" for "invaluable and devoted service" in January of 1982 will miss this man very much.

I, to, will miss this man who so well embodied the classically American values of leadership, integrity, good will, and perseverance.

Because strong communities ultimately add up to a strong nation, Jack Griffis' achievements serve as a meaningful legacy not only for members of his own community, but for all Americans who desire to actively participate in sustaining and improving upon the greatness of their country.●

BUSINESS—LABOR-BACKED PROGRAM SUCCEEDS IN WAUKESHA

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. ZABLOCKI. Mr. Speaker, in these difficult economic times, our unemployed workers are facing enormous problems in making ends meet. Meeting simple household expenses and food bills are difficulties that must be confronted on a daily basis. I am pleased to say that one project in my own area of Waukesha, soon to become part of the Fourth District of

Wisconsin which I have the honor of representing, is successfully offering discounts to unemployed workers while helping Waukesha merchants attract business.

Mr. Speaker, the Waukesha people for unemployed people-unemployed discount program, is one of a kind. The program allows workers who can show verification of unemployment to shop at discount prices in businesses ranging from food stores to barber shops to auto repair shops. I understand that well over 60 Waukesha merchants are presently participating in this program.

The support this program has received from the Waukesha business community and the local labor unions in commendable and indicative of the fact that business and labor can work together to meet the people's needs.

I am heartened to hear that the Waukesha Chamber of Commerce, under the leadership of President Robert Heckel, and the Waukesha County Labor Council, under the leadership of President George Urban, have both endorsed this program. The help of Mr. Abel Garcia, president of the IAMAW Local 1377, has been invaluable. Without a doubt, the hard work and firm commitment of the president of the people for unemployed people-unemployed discount program, Mr. Doug Stone, has led to success on a daily basis with a firm potential for future expansion.

Mr. Speaker, I hope other communities can learn from the Waukesha experience. I am inserting in the RECORD an excellent article which appeared in the August 4, 1982, issue of the Milwaukee Journal, entitled "Waukesha Initiates Discount Program for Unemployed," by Mr. Sam Martino.

WAUKESHA INITIATES DISCOUNT PROGRAM FOR UNEMPLOYED

WAUKESHA.—Esther Johnson, a laid-off factory worker at the Waukesha Engine Division of Dresser Industries, stood at a grocery store checkout counter and displayed a small, yellow card.

The card identified Johnson to Michael La Rossa of La Rossa's Marketplace, 1800 W. St. Paul Ave., as a participant in Waukesha's unemployed discount program.

La Rossa is one of about 60 Waukesha-area merchants who have joined in offering discounts to unemployed workers like Johnson.

"Every little bit helps," said Johnson as she paid her bill of \$2.69 for a box of corn flakes, some onions and a bag of noodles. She received a 10% discount on her purchase.

"I think the program is a good idea. It gives the unemployed a break at a time when we are out of work."

La Rossa said, "They are struggling. It doesn't seem like any of the major food chains are participating. We are doing our part."

La Rossa spoke of a spirit of community involvement in wanting to help the unemployed.

John Schmitt, president of the Wisconsin AFL-CIO, said he knew of no other similar program in Wisconsin.

"I suppose if it works out in Waukesha, other cities may look at it," Schmitt said. He said the program also would help area merchants attract business.

The unemployed discount program received its start in June after laid-off workers from Waukesha Engine asked the Waukesha County Labor Council to endorse the program. The council did and enlisted support from a number of separate unions.

Laid-off union workers canvassed the city asking merchants to provide discounts to unemployed workers.

Since then the movement has slowly gained momentum.

The Common Council Tuesday night approved giving the unemployed workers a discount of 15 cents off the regular 50-cent bus fare.

The YWCA has provided unemployed workers with opportunities to sign up for recreational or craft programs without charge.

The United Way in Waukesha County has included the discount program in its recent literature on the unemployed.

"For assistance in making your dollar go further while you are unemployed, you should call or stop by the Waukesha Unemployed Discount Program," the United Way said. "You don't have to be a union member, all you need to do is provide verification of your unemployment."

Unemployed workers who provide identification from the Wisconsin Job Service or an employer that they are laid off can obtain an unemployed discount program card from the Waukesha Labor Temple at 1726 S. West Ave.

NOT JUST UNION MEMBERS

Doug Stone, coordinator of the program said about 20% of the 600 people who had registered for the unemployment discount program cards were not union members.

"The non-union people have the same circumstances that the union people do. They are unemployed," Stone said.

Despite a post-World War II record unemployment rate in Waukesha County, there has not been a rush to get into the unemployed discount programs, according to Stone.

Stone said many people were embarrassed to seek help.

However, Stone said, "this is not charity. In good times we will do business at these businesses."

Paul Bower, recording secretary of Local 3740 of the Steelworkers Union at International Harvester, said many laidoff workers from Waukesha industries did not live in Waukesha.

He said many of the workers were from Milwaukee and other suburbs and were unable to take advantage of the discount program unless they drove miles into Waukesha.

Stone said he was hoping that the program would expand to merchants throughout Waukesha County.

SMALL SAVINGS HELP

At an automotive parts store, John Dietz, manager of Automotive Specialists of Wisconsin Inc., 910 W. Sunset Dr., has entered a 20 percent discount account code into his computer.

The computer automatically figures the discount on merchandise sold to people with the unemployed discount program card.

Merchants who participate in the program have placed signs in their store windows. Some of the signs note the amount of discount provided by the merchant.

In an attempt to minimize any potential abuse in the program, laid-off workers must reapply for a discount card every two months.

The new cards will be issued Aug. 9.

Laid-off workers receive a list of merchants and professionals who offer discounts.

The list of participants includes food stores, doctors and pharmacies, hardware and lumber outlets, barber shops and beauty salons, clothing stores, shoe stores, auto repair and part stores, television repair outlets and fast-food restaurants.●

WELCOME TO NEWEST MEMBER OF AGING COMMITTEE

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. RINALDO. Mr. Speaker, since I entered Congress in 1973, I have worked closely with the gentle lady from Massachusetts, Mrs. HECKLER, whom I admire and respect, both as a colleague and a friend. Therefore, as ranking minority member of the Select Committee on Aging, I take particular pride and pleasure today in welcoming her to the committee.

I am very familiar with Mrs. HECKLER's commitment to the elderly during her 16 years in Congress, and I know that she will continue to serve older Americans with competence and vigor as a committee member.

The Congresswoman's initial activity as a member of the committee occurred this very day, when she testified at a committee hearing in Fall River, Mass. Following is the text of her testimony:

STATEMENT OF HON. MARGARET M. HECKLER BEFORE THE SELECT COMMITTEE ON AGING

As the Representative of this congressional district, I sought the opportunity to testify here today, to bear witness to my commitment to the social security system and to the retired persons who receive its OASI benefits.

Having represented this district since 1967, I have worked on behalf of scores of programs—including social security—that affect the elderly. To express my concern for those retirees subject to the "notch problem," I am a cosponsor of H. Con. Res. 222, directing the Secretary of Health and Human Services to conduct a study immediately on steps needed to correct the "notch problem," and to report such steps to Congress. Moreover, I have written to the National Commission on Social Security Reform, urging that the commission develop solutions to the problem and include them in its report—due in a few months—to Congress.

The "notch problem" is a result of H.R. 9346, the Social Security Amendments of 1977. On December 15, 1977, when this measure received final consideration from the House, the chairman of this committee, the Hon. Claude Pepper, said: "I need not remind my colleagues that this is one of the most important measures which has ever been before this House because it sustains

and insures the hope of millions of Americans, who have no other source of income in their later years except what they derive from social security."¹

Mr. Pepper voted for the final version of H.R. 9436 on December 15, 1977. So did I, because the very structure and solvency of social security was threatened. Speaker of the House "Tip" O'Neill, urging approval of the measure, described the situation in this way: "There are those of us who may happen to talk to a senior citizen. He or she is going to come up to you and say, 'What about my social security? Is it going down the drain? If you voted against this, you are going to say, 'Well, we are going to do something about this along the line.' But what a miserable Christmas that senior citizen is going to have."²

The Speaker also asserted: "I say to the Members on the Democratic side of the aisle that if I have ever seen an issue that is a Democratic issue, it is this issue."³ In my view, in terms of my vote, saving social security was a bipartisan priority.

Almost every member of the Massachusetts congressional delegation agreed that H.R. 9436 should become public law. Rep. Edward Boland agreed. Rep. Joseph Early agreed. Rep. Robert Drinan agreed. Rep. Michael Harrington agreed. Rep. Edward Markey agreed. Rep. Joe Moakley agreed. Rep. James Burke, chairman of the House Ways and Means Committee Social Security Subcommittee that developed the bill, agreed.

We agreed that social security should not go down the drain. The situation was the following, in the words of then Ways and Means Committee Chairman Al Ullman: "Unfortunately, in the last few years this huge system has developed financing problems which require the most serious and careful attention of the Congress. Starting in 1975, the system began to run annual trust fund deficits with outgo exceeding income. In 1977, the cumulative deficit in the three funds financed from the payroll tax is expected to reach \$5.6 billion. These trends have caused a loss of confidence in the system both on the part of current beneficiaries and of workers paying social security taxes who expect to receive benefits in the future. I am sure that Members of the House are aware through communications from their constituents of the fears that have been aroused."⁴

I want to state, however, that we did not all agree on inclusion of the so-called "decoupling" provision, which led to the "notch problem." For instance, in a statement I made on the House floor on October 26, 1977, on the House version of the bill, I said: "There are short-term and long-range financial problems this legislation attempts to address. I agree with some provisions; I disagree with others."⁵

¹ Pepper, Representative Claude. Statement on conference report to H.R. 9436, CONGRESSIONAL RECORD, Dec. 15, 1977, p. 38999.

² O'Neill, Representative Thomas. Statement on conference report to H.R. 9436, CONGRESSIONAL RECORD, Dec. 15, 1977, p. 39035.

³ Ibid.

⁴ Ullman, Representative Al. Statement on H.R. 9436, CONGRESSIONAL RECORD, Oct. 26, 1977, p. 35239.

⁵ Heckler, Representative Margaret. Statement on H.R. 9436, CONGRESSIONAL RECORD, Oct. 26, 1977, p. 35262.

And I want to state that there was no separate vote on the "decoupling" provision. It was included in the original Ways and Means Committee version of the bill, and members had no opportunity to indicate their approval or disapproval, except by floor statements.

Mr. Pepper, whose dedication to the elderly was and is unquestioned, was one of those members who did make a floor statement of approval on the provision. Addressing it during the December 15, 1977, debate, he said: "The 'decoupling issue' is addressed in a way that greatly reduces the projected long-range deficit in the trust funds and at the same time provides a wage-indexed formula which allows retirees to share in productivity increases in the economy over their working years and which protects those scheduled to retire in the near future from being disadvantaged because of the formula change."⁶

Those who voted for the measure—including myself—did so with the belief that the social security system had to be shored up, in order to protect the benefits of the 33 million persons—one of seven Americans—who were receiving benefit checks each month.

This measure, which became Public Law 95-216, provided short-term funding and made some structural changes by—

Raising the wage base for employers and employees in each of the years 1979 to 1982; Increasing payroll tax rates, beginning in 1979;

Shifting revenues from the retiree and survivor fund to the disability insurance fund, beginning in 1978;

Easing restrictions on outside earnings by social security recipients over age 65;

Guaranteeing pre-existing levels of benefits to persons over age 60 who marry or remarry, effective January 1979; and

Permitting persons to qualify for social security benefits based on their spouses' earnings after 10, rather than 20 years of marriage.

On the "decoupling" issue, the problem has been the transition period, under which persons born January 1, 1917, through December 31, 1921, have been discriminated against in benefit payments. This is unfair, unjust, and cruel, and I am pledged—through the Department of Health and Human Services, the National Commission on Social Security Reform, and Congress—to work to correct it.

In bearing witness to my commitment to the stability of the social security system and the continuation of its benefits to those who have worked so hard to earn them, I believe that this hearing should be a forum for the truth. The truth is that those who voted for H.R. 9436 were dedicated to saving the system. As Mr. Pepper said, "If the word goes out at the end of this day that, notwithstanding the Senate passing the bill by an overwhelming majority, the House of Representatives defeated it, a wave of fear will sweep through the hearts of every one of those Americans wondering about the future solvency and soundness of our social security funds which are the sole source of livelihood for very many of those people."⁷

⁶ Pepper, Representative Claude. Statement on conference report to H.R. 9436, CONGRESSIONAL RECORD, Dec. 15, 1977, p. 39026.

⁷ Pepper, Representative Claude. Statement on conference report to H.R. 9436, CONGRESSIONAL RECORD, Dec. 15, 1977, p. 39015.

He also said, and this hearing highlights his words: "The bill does not do everything the elderly would like to have it do. It is not perfect in terms of the taxes that it provides. But we have the future ahead of us, if we keep the funds sound, to improve it from the tax point of view and from the viewpoint of the recipients."⁸

It is unfair to him, to me, and to the other members who voted for the measure, to brand us as anti-social security, as anti-elderly, when in fact we were the champions of older Americans. As champions, we must move forward, to keep the funds sound and to improve them, particularly in terms of equity for those who suffer from the "notch."⁹

PERSONAL EXPLANATION

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. DAVIS. Mr. Speaker, yesterday I voted against H.R. 6846, The Wilderness Protection Act of 1982. This is not a change of heart, but an admission of error.

I inadvertently voted no on the bill to ban oil and gas leasing in our wilderness areas. Although I am opposed to additional wilderness designations, especially in my district in Michigan where over 40 percent of the land area is Government owned, I am not in favor of oil and gas drilling in those wilderness areas already designated.●

COAL SLURRY PIPELINE BREAKS: AN UNADDRESSED PROBLEM

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. WILLIAMS of Montana. Mr. Speaker, recently, much attention has been given to the hazards and destruction caused by broken pipelines, both offshore and inland. Most of this attention has focused on oil pipeline breaks, because of the cleanup problems and their commonplace occurrence. A major rupture in a Wyoming oil line is the latest in hundreds of such breaks, this one being one of the most serious spills. There were 115 such breaks, reported in 1981 alone. I have included the Washington Post front page article of August 3, 1982, describing the break in Wyoming.

I raise this discussion today only for one reason: In all of the debate about pipeline breaks, no one has raised the question with regard to potential breaks in coal slurry pipelines. This should be a pertinent discussion, because of the recent considerations of

⁸ Ibid.

bills supporting the building of coal slurry pipelines. Any consideration of H.R. 4320, which proposed Federal eminent domain to provide the right-of-way for pipelines to carry coal slurry, must also address this recurring problem with its dangerous impact on the environment and property. Also, the contamination caused by coal slurry presents special difficulties in cleaning up, with severe damage to animal and plant life. The danger of a break, caused by heavy vehicles traversing the pipeline, is only one common source of disruption; there are land slides, earthquakes, construction activity that will necessarily occur along the hundreds of miles of projected slurry lines.

Another problem that is not addressed is responsibility for any possible pipeline breaks. It is often difficult to fix responsibility. Therefore, any legislation must address these specific hazards in advance.

The breaks usually take place in remote areas, such as the recent northern Wyoming spill. Who should investigate, who must respond to the immediate emergency, and who is responsible for the cleanup and repair of the surrounding environment? Also, if there is damage to private and public property, who is financially liable?

It is the duty of any committees drafting legislation to explore the possibility of any problems legislation might create. We must anticipate these problems and be ready in advance. These questions must be addressed well in advance. No legislation for coal slurry that overlooks the problem of a broken pipeline and the dumping of slurry should be considered. Slurry breaks are not discussed because there are not as many slurry lines as there are oil pipelines. If H.R. 4320 is enacted, I can assure you that it will become a commonplace subject, and we might someday read about just such a break on the front page of the Post. Oil in flow is not coarse and does not do damage to the pipe; slurry is just the opposite. Pipe erosion is a problem with current existing slurry lines. Spills of oil are serious, but are they any more damaging and noxious than the impact that would be caused by a spillage of coal slurry? This is a good question. I feel it is still unanswered.

**PIPELINE BREAK DUMPS CRUDE INTO
WATERWAYS**
(By Jay Mathews)

LOS ANGELES, Aug. 3—A ruptured oil pipeline has contaminated part of a reservoir, a river and a creek and threatened fish and other wildlife in northern Wyoming in one of the largest inland oil spills on record, state and federal officials said today.

Environmentalists, fighting what they see as a major threat to wilderness areas, immediately called the spill a sign of what could happen if Interior Secretary James G. Watt allowed more oil drilling in such remote areas.

"If this kind of thing can occur in such relatively flat and open land, we feel it has ominous implications for wilderness areas," said Bill Cunningham, northern Rockies representative of the Wilderness Society.

Wyoming officials said they had not yet determined the cause of the break in the 12-inch crude oil pipeline which spilled what they estimated to be more than 6,000 barrels, or about 250,000 gallons, of oil 10 miles south of Byron, Wyo.

The rupture apparently occurred during the weekend but was not discovered until yesterday morning, a common problem in remote areas. A passerby saw oil on the surface of Yellowtail Reservoir, about 20 miles east of Byron, and valves feeding the pipe were shut off, a Coast Guard official said.

A Coast Guard official sent to investigate the leak said it had not yet been determined what impact the spill had had on local wildlife but said the volume of oil lost approached the state's last major spill in 1980 into the Platte River.

The 1980 spill, apparently caused by underground telephone cable construction, killed 1,752 muskrats, 19 geese, 19 ducks and destroyed 183 goose eggs, according to the state's game and fish department.

Pete Petera of the game and fish department said the area affected by this week's spill served as a home for mink, muskrats and other fur-bearing animals who could be harmed by the oil. He said the lower Shoshone River, which received the oil spill from Whistle Creek and transported it to the reservoir, did not have many game fish.

The reservoir, however, is full of trout and walleyed pike, Petera said. Although the spill is reported to have extended only 200 yards into the flood prevention reservoir, "I don't think it's going to do the fish a danged bit of good," he said.

David Jossi, a private contractor working with the Department of Transportation in Washington, said there were 115 crude oil pipeline breaks in 1981 which spilled 578,169 barrels of the heavy oil onto American soil. Ninety-nine of the breaks were caused by construction equipment such as backhoes.

A spokesman for the state department of environmental quality said an initial report on this week's spill mentioned construction work in the area of the break. But officials from Wyoming state departments, as well as Coast Guard and Environmental Protection Agency officials, had reported no definite cause for the rupture late today as they continued to drive and fly by helicopter over the area.

A Coast Guard official said a containment boom floated across the mouth of the Shoshone River was keeping oil from spreading further into the reservoir. Another containment device was holding oil at the surface where Whistle Creek and the river meet so that the oil could be easily removed.

Officials of the Marathon Pipeline Co., which operated the pipe system, could not be reached for comment. Cunningham said pipelines laid in remote areas were dangerous not only because spills were difficult to detect but because rocky terrain made them susceptible to landslides and, in some areas, earthquakes. Jossi said transportation department figures show damage from pipeline failures in 1981 totaled about \$5.2 million.

A suit brought by Wyoming against the pipeline company involved in the 1980 spill is pending in court. A suit by the pipeline company against the telephone company on whom it blames the rupture has also not been settled. ●

**THE IDEOLOGY OF THE PEACE
MOVEMENT**

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. McDONALD. Mr. Speaker, the peace movement in the West has continuously and persistently attacked the defense policies of the Western world while playing down the imperialist nature of the Soviet system. They take time to condemn U.S. policy in Central America, yet fail to say anything of Afghanistan. Furthermore, they promote their ideas with cliches masquerading as scientific theories of Soviet behavior—theories which can only lead to more Afghanistans. Mr. Burkovsky writes:

One of the most serious mistakes of the Western peace movement and of its ideologists, is the obdurate refusal to understand the nature of the Soviet regime, and the concomitant effort to lift the question of peace out of the context of the broader problem of East-West relations.

Vladimir Bukovsky knows the Soviet system well; he suffered under their definition of peace for 12 years. In the following continuation of his penetrating article, which originally appeared in the May 1982 Commentary magazine, Mr. Bukovsky examines the propaganda versus reality of the ideologists of the peace movement.

Part II of the continuing article follows:

[From Commentary Magazine, May 1982]

**THE IDEOLOGY OF THE PEACE MOVEMENT—
PART II**

One of the most serious mistakes of the Western peace movement and of its ideologists is the obdurate refusal to understand the nature of the Soviet regime, and the concomitant effort to lift the question of peace out of the context of the broader problem of East-West relations. After several decades of listening to what they believe to be "anti-Communist propaganda," they have simply got "fed-up with it." They ascribe everything they hear about the East to a "cold-war-type brainwashing," and make no attempt to distinguish what is true from what is not. This attitude, which I can only describe as a combination of ignorance and arrogance, makes them an easy target for any pseudo-theory (or outright Soviet propaganda) that happens to be fashionable at any given moment. Besides, baffled by endless and contradictory arguments among the "specialists" about the nature of the Soviet system, the leaders of the peace movement believe they have found a "new approach" which makes the entire problem irrelevant.

A few months ago in England, I attended a public debate on the problem of unilateral disarmament. The leader of a big peace group opened his speech by saying that from his standpoint, it is irrelevant who is the aggressor and who the victim. He said: "It is like when two boys have a fight in the churchyard. It is impossible to find out who started the fight, nor is there any need to do so. What we should do is to stop them."

This metaphor reflects very well the prevailing attitude among peace-movement members. They believe they have gotten around a baffling problem, whereas they have in fact inadvertently adopted the concept of the "normal opponent." From the "churchyard" standpoint, the present conflict seems very ordinary: two bullies have become so embittered by their prolonged quarrel—in which anyway the essence of the disagreement has been lost or forgotten—that they are quite prepared to kill each other and everybody else around. They are temporarily insane, mad, but are basically normal human beings. Pride and fury will not permit them to come to their senses, unless we, the sane people around them, are prepared to intervene. Let us make them talk to one another, let us pin down their hands, let us distract them from their quarrel. We cannot, to be sure, pin down the hands of one of them. Then, in the best Christian tradition, let us make the other repent, in all good Christian humility. Let us disarm him to convince his adversary of his peaceful intentions. Let us turn the other cheek. Sooner or later the other will come to feel ashamed.

This view sums up exactly what I mean by a combination of ignorance and arrogance. Indeed, if we look upon the world from the "churchyard" standpoint, there probably is no need to find out who is the aggressor and who the victim. There is no need for police or armed forces. All we can see is a row of graves with the dead lying orderly in them and a couple of children quarreling with each other. Unfortunately, outside the church walls there is a bigger and far more dangerous world with gangsters, murderers, rapists, and other perverse characters.

Needless to say, this churchyard model simply does not merit serious consideration. Unfortunately, it is a widespread belief (and not only within the peace movement) that the Soviet government, like any other government, is preoccupied with the well-being of its people, and will therefore be eager to reduce military expenditures. This notion comes so naturally to our peace-makers that they just do not notice they have taken on a view of the Soviet system which is both very old and unquestionably wrong. If they only took the trouble to study a little Soviet history, they would know immediately how misleading this seemingly natural view is. Not only are the Soviet rulers indifferent to the living condition of their populace, they deliberately keep it low; on the other hand, disarmament (irrespective of the problem of well-being) would lead very rapidly to the collapse of the Soviet empire.

Normally we try to understand an opponent by taking his place, getting into his shoes, so to speak. That is why most people try to explain Soviet behavior in terms of "normal human motives," that is, by motives familiar to them. And that is exactly why they constantly pile one mistake upon another. For it is extremely difficult for a "normal" human being to put himself inside the skin of a mentally ill one. It is almost as in nature itself: when we test natural phenomena under extreme conditions, we suddenly find some unpredictable anomaly that is baffling to us. Logic itself becomes abnormal in certain extreme cases. If we add up two numbers, say, or multiply or divide them, we invariably obtain a new number. But if we use zero or infinity our whole rule suddenly goes wrong.

But let us take an example relevant to the present discussion. Let us take the key question: why is the Soviet Union so aggressive,

so eager to expand? We see how many schools of thought there are among those studying the problem (and we see, too, how all of them are wrong).

There are some people who believe that the present Soviet expansionism is just a continuation of the Russian pre-revolutionary colonial policy. In other words, it is a bad legacy. Indeed, this notion about Soviet expansionism was the dominant one for a very long time—and still is in some quarters. In line with it, there have been repeated attempts to offer the Soviets a division of the world into spheres of influence. We owe to it the Yalta agreement, the Potsdam agreement, and assorted other disasters. Each time the Soviets have accepted the division into spheres of influence, and each time they have violated it. Is this because they need more mineral resources, more territory, a wider market for their goods? No. Their own territory is undeveloped, their own mineral resources are in the earth, they do not have enough goods for their own internal market. There are no useful mineral deposits in Cuba or Afghanistan. There is no Russian national interest in Angola or Vietnam. In fact, these new "colonies" cost the Soviet people many millions of dollars a day apiece. So, Soviet policy is no classical case of colonialism.

Then there is another theory, far more pernicious because much more widely accepted and because to reject it one needs a real knowledge of Soviet life. I mean the theory according to which Soviet aggressiveness is the result of the fear of hostile encirclement. The proponents of this theory argue that Russian history, particularly the history of repeated invasions of Russian territory within the last century, has made the Russian people almost paranoid about an external threat.

This theory sounds very scientific because many facts may be cited to back it up. Still, it is no more than a shrewd combination of obvious lies, wrong interpretations, and very perfunctory knowledge. It is mainly based on an overestimation of the importance of history for any given nation and on an oversimplification of the Soviet system.

To begin with, there is an obvious lie in this theory—that is, a deliberate confusion between the people and the government in the USSR. Those who know the Soviet system only moderately well may still need to be reminded that the people have no privilege of representation in the government—that is, have no free elections. Thus, the government does not reflect the feelings of the population. So if we are to believe that the population is frightened by the long history of invasions, the government has no reason to share these fears. The Soviet government, with its vast and omnipresent intelligence system, is extremely well-informed about every move and every smallest intention of the West (anyway not very difficult to achieve in view of the remarkable openness of Western societies). By 1978-79, when their arms build-up was at a high pitch, whom were they supposed to be so afraid of? Their great friend, the French President Giscard? Or their even better friend in West Germany, Willy Brandt? Britain, with its puny armed forces (and on-going discussion on unilateral disarmament), or perhaps Nixon and Carter, who between them shelved all the major armament programs? Japan, which has no army at all?

Clearly the Soviet government had no reason to be frightened. In fact, the theory of Soviet paranoia does not imply a fright-

ened government, but rather a frightened nation. In a "normal" country this might drive the government to become aggressive. But in the Soviet Union the people mean nothing and have no way of pressuring their government to do anything. They would not be allowed to voice any fears. So, who is so frightened in the Soviet Union? Besides, as far as the rules are concerned, their own experience of war, World War II, could not frighten them for a very simple reason: they won the war. Can you show me any victorious general who is so afraid of war as to become paranoid? The psychology of Soviet rulers is in any case totally different.

One need only look at a map of the world to see how ridiculous this theory is. Can we honestly believe that the poor Communists in the Kremlin are so frightened that they must protect themselves by sending their troops to Cuba and Cuban troops to Angola? By sending military equipment and advisers to Ethiopia and Vietnam and then by sending Vietnamese troops to Kampuchea? Take another look at that map: it is not at all obvious that the U.S.S.R. is encircled by hostile powers. Rather the other way around: it is the Western world that is encircled by the hostile hordes of the Communists. Well, if their paranoia can be satisfied only by surrendering the whole world to their control, what difference can it make to us whether they act out of fear or out of endemic aggressiveness?

Finally, and most importantly for an understanding of this pernicious theory, is the fact that it was invented by the Kremlin propaganda experts. It was very successfully exploited in the years of détente, when Western governments, acting under its influence, deliberately permitted the Soviets to achieve military superiority. They would probably deny it now, but I remember very well the discussions of that period. The argument of the ideologists of détente was that once the Soviets caught up, they would relax; this would in turn lead to the internal as well as external relaxation of the Communist regime, i.e., to liberalization. The results of this brilliant experiment we can see now.

The Soviet population, too, has been subjected, day after day for sixty-five years, to an intense propaganda campaign about this putative "hostile encirclement." The Communist rulers unscrupulously exploit the tragedy of the Soviet people in World War II for the purpose of justifying both their oppressive regime and their monstrous military spending. They try their best to instill into the people a pathological fear of the "capitalist world." Fortunately, the people are sane enough to laugh at the very idea. Thus, contrary to this theory, there is no paranoid population demanding to be protected in the Soviet Union, despite the best efforts of a perfectly sober and cruel government.

No, it is not the fear of invasion or a World War II hangover that has driven the Soviet rulers to wage an undeclared war against the whole world for half a century now. It is their commitment—repeated quite openly every five years at each Party Congress since the beginning of this century—to support the "forces of progress and socialism," to support "liberation movements," everywhere on the globe.●

THE WILDERNESS PROTECTION
ACT OF 1982

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. SYNAR. Mr. Speaker, yesterday the House of Representatives voted 340 to 58 to pass H.R. 6542, the Wilderness Protection Act of 1982. I opposed several provisions of this legislation, and I wanted to take this opportunity to outline my reasons for voting "no" on final passage of the bill.

DESIGNATED WILDERNESS AREAS

I first want to emphasize that I strongly support the goal of permanently withdrawing designated wilderness areas from resource development and commercial activities. Moreover, the American public clearly supports this action as well.

When Congress enacted the Wilderness Act in 1964, its purpose was to set aside for the enjoyment of our citizens and future generations certain pristine areas of our Nation. While the goal was to maintain areas "untrammeled by man," in fact, the same legislation provided for some mineral leasing in the wilderness areas through 1983. Needless to say, these conflicting goals have given rise to repeated controversy since 1964. Most pointedly, the current administration has acted in a manner which was disturbed many and I am certain that yesterday's overwhelming vote was, in large part, a reaction to those excesses.

Mr. Speaker, I believe that reaction, though understandable, was itself excessive.

If Congress is serious about protecting the pristine nature of these areas, then we should and must close designated wilderness areas to commercial activities and resource development of all kinds. But, our approach should be to study carefully, move cautiously and choose wisely.

Once chosen, designated wilderness areas should be withdrawn from development in perpetuity for the benefit of the American people. To do otherwise is to make a mockery of our stated intention to preserve lands "untrammeled by man."

H.R. 6542 withdraws designated wilderness areas from oil, gas, shale oil, coal, phosphate, potassium, sulphur, gilsonite, and geothermal leasing. However, it permits mining of so-called strategic minerals in those same wilderness areas.

The assumption seems to be that these minerals are somehow more strategic to the United States than is petroleum, and that mining activities related to strategic mineral development is somehow less disruptive in wilderness areas than is the production of oil and gas. In my opinion, neither assumption is valid.

EXTENSIONS OF REMARKS

I believe the Interior Committee has erred in allowing mineral development activities of one sort—but not others—to proceed. If it is the will of the American people and the Congress to close wilderness areas, then they should be closed to development activities of all kinds.

My belief that disruptive activities in designated wilderness areas should be prohibited also compelled me to oppose the amendment offered by Mr. YOUNG of Alaska to allow seismic blasting in designated wilderness areas.

STUDY AND FURTHER PLANNING AREAS

There may be certain areas of the country considered or proposed for wilderness which so clearly belong in that category that Congress may well determine that their pristine nature and environmental qualities warrant immediate—if only temporary—protection from development activities. In such cases, Congress must determine that, even without significant mineral resource evaluation, the wilderness value outweighs whatever mineral resource value the area might possess. In unique cases such as this, it would be appropriate for Congress to provide temporary or permanent protection for the area without further study or exploration.

However, with the exception of this limited number of cases, I cannot support the provisions of the legislation which would withdraw other study areas or further planning areas from any leasing activities in a blanket manner. I believe these areas should have, for the most part, been excluded from coverage under the bill. While the committee report notes that these study and further planning areas are withdrawn only temporarily, in fact, many areas may be withdrawn indefinitely. We should maintain the status quo for most, if not all, of these areas until and unless Congress has determined that their unique natural qualities warrant permanent protection from development and so designates them as wilderness. In line with this view, I supported the amendment offered by Mr. YOUNG of Alaska which would have excluded such study and planning areas from coverage under the bill.

URGENT NATIONAL NEED

I also have questions as to the appropriateness and practicality of the committee's inclusion of a provision to allow the President—with the concurrence of the Congress—to open wilderness areas to development in the event of urgent national need. From a practical standpoint, the provision is of little benefit. An example of an urgent national need would certainly be a serious oil import disruption which threatened the Nation's economic well-being. At such a time, there may well be proposals to open designated wilderness areas to petroleum exploration

and production. Petroleum resources from these lands, however, would take years to develop and produce—by which time, of course, the Nation would long be past its crisis. I also question the appropriateness of the provision from a policy standpoint. As columnist George Will stated in a recent article about wilderness protection:

There are 80 million acres of designated wilderness, 56 million of them in Alaska. Only 1.2 percent of the lower 48 States is wilderness; only 4 percent could ever be so designated. Surely the Nation's vitality and security are not so marginal as to depend on that 4 percent.

Moreover, there are several hundred million acres of publicly owned lands outside our wilderness system which are available for mineral leasing, exploration and development. These lands are in addition to the one billion-plus acres of Outer Continental Shelf lands which ultimately may be available for exploration and production.

If we truly believe in the maintenance of a wilderness system in our Nation, "untrammeled by man," we cannot afford to compromise our commitment. And I submit that it makes even less sense to contemplate compromising that commitment under the illusion that wilderness system development would provide any immediate or significant help in time of a national crisis.

In conclusion, I support the goal of the Interior Committee in providing for the permanent protection of designated wilderness areas. However, my personal view is that the committee has missed the mark on several points, and I felt compelled to oppose the legislation on final passage.

If Congress does not take final action this year on H.R. 6542, I look forward to working with Interior Committee Chairman UDALL and other Members next year. ●

EXPLANATION OF MISSED
VOTES

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Ms. FERRARO. Mr. Speaker, due to personal family business, I was not present for consideration of legislative business in the House on Thursday, August 12, 1982. Had I been present, I would have voted as follows on the recorded votes taken that day.

Rollcall 269: Motion to approve the Journal of the previous day's proceedings, "yea."

Rollcall 270: Amendment to H.R. 6542 to allow the use of explosives during seismic exploration in wilderness areas, "no."

Rollcall 271: Passage of H.R. 6542, a bill to withdraw certain lands from mineral leasing, "yea."

Rollcall 272: Amendment to H.R. 5595 to require at least \$14.3 million of the funds provided by the bill be used to eliminate any deficits in the District of Columbia Teachers' and Police Officers' and Fire Fighters' Retirement Funds, "nay."

Rollcall 273: Passage of H.R. 5595, a bill to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia, "aye."

Rollcall 274: Amendment to H.R. 6100, the National Development Investment Act, to exempt projects funded with EDA grants from wage requirements of the Davis-Bacon Act if the bid of the contractor awarded the grants is 10 percent less than the next lowest bid, "no."

Rollcall 275: Passage of H.R. 6100, a bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, "yea."●

NURSING HOME RESIDENTS DESERVE RESPECT

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. OTTINGER. Mr. Speaker, I rise today to express further my opposition to proposals made by the Department of Health and Human Services to alter current health and safety requirements for skilled nursing facilities participating in the Medicare and Medicaid programs. As a recent editorial in the New York Times stated, these changes will weaken seriously the protection that 1.3 million nursing home residents enjoy.

I believe the proposed changes will hinder the effectiveness of many States' health care provider surveillance programs without introducing the flexibility which has long been needed in the conduct of survey and certification programs. New York State has a carefully developed and effective surveillance program which could be enhanced if increased flexibility were allowed by the Federal Government. However, the State is opposed to the proposed changes which would reduce the frequency of surveys and allow accreditation by the Joint Commission on Accreditation of Hospitals to replace State surveillance requirements. Such changes could jeopardize New York's ability to assure the delivery of a continuously high quality of care in skilled nursing homes, intermediate care facilities, and certified home health agencies.

For the benefit of my colleagues, I am inserting in the RECORD two editorials from local Westchester County, N.Y. newspapers, the Daily Argus and the Citizen Register, respectively, which express the detriment the proposed nursing home regulations would create. I call them to the attention of all Members because it is important that we convince the administration not to relax the health and safety standards currently governing the Nation's nursing home industry. Eliminating excessive paperwork is one thing, but endangering patients who depend on the Government for protection is another.

The text of the editorials follow:

[From the Daily Argus, May 24, 1982]

NURSING HOME RESIDENTS DESERVE RESPECT (By Vic Rosenthal)

On April 28, 1.3 million people of this country were honored for the contributions they have made and continue to make to society. These people are too easily forgotten and rarely discussed except in the most negative or stereotypic terms.

Institutionalized as they are, they may suffer from neglect, mistreatment or outright abuse. Though they make up a diverse cross-section of American society, they are usually treated as one minority group.

They are nursing home residents.

Nursing homes have been in existence for decades, but it wasn't until the 1960s, after Medicaid and Medicare, that the industry boomed. It was during the late 1960s and early '70s that we learned of the tremendous profits being reaped by nursing home owners. We also learned that many residents of these homes were receiving grossly substandard care and treatment, and were having their life savings and minute incomes expropriated.

It was at this time, when scandals were being publicized, that residents, family members, advocate groups and government officials began to make noise about the inadequate care being provided, and the use of public money. Government hearings were held across the country, books and studies were written, and the government started to look closely at the system. Through the mid and late 1970s the federal and state governments promulgated regulations, passed nursing home reform legislation and a Patients Bill of Rights.

As these laws and regulations were adopted, many of the worst nursing homes were finally forced to close because they could not meet the new standards. Unfortunately, however, because of inadequate surveillance and enforcement, substandard conditions persisted. Many facilities remained in a large middle-ground, providing minimal custodial care.

When Ronald Reagan was elected, his administration declared that the nursing home industry was over-regulated. Secretary of Health and Human Services Richard Schweiker appointed a task force to study the federal regulations, which resulted in a proposal to delete many of the regulations protecting the rights of nursing home residents. This proposal was warmly greeted by many segments of the nursing home industry, and the administration claimed that money would be saved.

However, an unexpected problem confronted the administration. Nursing home residents and advocate groups bombarded the president, Secretary Schweiker and Congress with letters opposing the proposed

changes. Secretary Schweiker then retracted the task force proposals, claiming he always has been an ardent supporter of residents' rights.

What has become clear recently is that the administration and the industry are still looking to cut the regulations governing nursing homes. The latest proposal is to reduce the surveillance and enforcement of the nursing home regulations. The administration is aware that it is too unpopular to cut services and the rights of nursing home residents, but why not reduce surveillance activities that are apparently ineffective? As in other areas of government, the administration has made it clear that business should be left alone to regulate itself.

The proposals to reduce surveillance and enforcement is taking two forms. First, the administration is proposing to significantly cut the matching funds granted to states for inspection teams. States rely heavily on these funds and will be forced to curtail their surveillance activities. In some states, due to last year's cuts, inspection teams have already reduced the frequency of surveys from annual to bi-annual.

Secondly, the administration is considering transferring the responsibility and authority to conduct surveys from state regulatory bodies to the Joint Commission of Accrediting Hospitals. The commission is a private, voluntary body whose charter indicates that its main purpose is to provide consultation to hospitals and long-term facilities. How can the administration realistically expect a private, consultative body to effectively regulate an industry that receives more than \$5 billion annually in public money? Could it be the administration doesn't want enforcement to occur?

Another proposal would change the survey cycle to only one inspection every 36 months. Additionally, the administration would allow the inspection team to check whether corrections of nursing home deficiencies have been made without visiting the facility. Simply a phone call or mail reply might be considered sufficient.

This proposal seems utterly preposterous in view of how many nursing home operators have been unwilling or incapable of correcting problems. Why is it that an administration so concerned with fraud and waste would be so casual and haphazard in its surveillance of a \$5 billion program? It's time for the government to take a firm stand and develop a rational, effective program to assure residents of a dignified, quality life. Secretary Schweiker indicated he was a strong supporter of protecting the rights of residents; yet these protections will be meaningless if the enforcement procedures are relaxed.

At this time of the year when nursing home residents are being recognized and senior citizens are being honored, shouldn't the government respond with support and protection? Enforcement and surveillance activities are already inadequate. Any further cutbacks and reductions will virtually strip the government of its ability to monitor the care in nursing homes.

On April 28, the nation saluted nursing home residents. One now hopes the administration would rethink its proposals and reformulate them so as to pay honor and respect to our citizens who have contributed so much.

If it doesn't, Nursing Home Residents Day will have been an empty gesture. Vic Rosenthal is executive director of the Coalition of Institutionalized Aged and Disabled, Inc., an

organization of nursing home residents' councils.

[From the Citizen Register, July 24, 1982]

CASUAL GAMBLE ON HEALTH CARE

"This is just tearing out federal protection of helpless people."

Those are the words of Sen. Lawton Chiles, D-Fla., and the sentiment of many others in and out of Congress, regarding Reagan administration proposals for changing inspection rules for nursing homes.

Presumably in the name of regulatory relief or economizing, or both, the administration purposes, for instance, that accrediting by a private body, the Joint Commission on accreditation of Hospitals, be accepted as "sufficient evidence" of compliance with federal standards. A California health official said her state has learned by experience that this is an unreliable yardstick.

As for inspections, these would focus on nursing homes with histories of violations, while replacing annual inspections of the rest with inspections every two years. Another proposal would drop the requirement that nursing homes with problems be reinspected within 90 days; administration officials said that purpose can often be served by telephone or letter.

That sounds like a joke, but it's just typical of this whole rationale of trusting to luck that nursing homes that now pass muster will somehow stay that way and that the others will shape up. This seems rather a casual gamble at the expense of patients' welfare and at the risk of corner-cutting that could result in profiteering at government expense.

What this approach overlooks is the preventive disciplinary value of directly imposed federal standards and reasonably frequent inspections in keeping nursing-home operators on their toes. It is ironic that the very success of those procedures should make the administration imagine that they can be eroded. The administration is basing policy not on the record but on a myopic misreading of the record.●

H.R. 6124

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. EVANS of Delaware. Mr. Speaker, implementation of the credit control legislation (H.R. 6124) reported by the Banking Committee, August 11, would be a pure unmitigated disaster. As we have already seen, the use of credit controls to provide real relief from high interest rates—or, for that matter, any other real economic benefits—is a proven failure.

It is difficult to believe that we could have learned so little from the 1980 experiment as to want to risk another round of economic disaster that is so clearly associated with the imposition of credit controls. This type of legislation does nothing to address the root causes of our economic problems, but simply concentrates on the symptoms. Mr. Speaker, it is said that the proof of the pudding is in the eating. In this instance, the pudding contains a large element of economic cyanide.

I was opposed to the use of credit controls by the Carter administration, and I strongly endorsed the sunset of the unnecessary Credit Control Act of 1969. To reimpose any form of Government-related credit controls now would be spectacularly ill timed, with the chief result being a further dampening of an already slow economy. The 1980 experience with credit controls resulted in a real GNP decline of almost 10 percent, the loss of over 1.5 million jobs, and a precipitous decline in auto sales, farm income, and housing starts—with autos, agriculture, and housing the "favored" sectors under the Carter credit allocation plan. The financial markets were placed in serious difficulty, and the whole process had no lasting effect on either inflation or interest rates.

It is certainly tempting, especially in an election year, to try to avoid the often painful measures of fiscal and monetary restraint needed to restore a prosperous economy. Ignoring the present real problems, and reaching instead for a tool whose efficacy is purely illusory will, however, serve no real purpose, but will be paid for dearly in the years to come.●

SUPPORT FOR NEW DAIRY PRICE SUPPORT SYSTEM

HON. JAMES L. NELLIGAN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. NELLIGAN. Mr. Speaker, I rise in support of the dairy provisions of H.R. 6892, the Food and Agriculture Reconciliation Act, which passed the House on Tuesday, August 10.

We all agree that the problem of increasing dairy surpluses in Federal reserves is getting out of hand. Last year, the Government purchased 21 percent of our cheese production, 29 percent of our butter, and 65 percent of our dry milk. These purchases cost the American taxpayers about \$2 billion. Most of the purchases are still being held in the Federal reserves, and much of the surplus is being lost to spoilage.

We all know that farmers are not to blame for this sad state of affairs. Farmers are simply responding to pricing signals which are established by price-support levels. We need to change those signals so they more adequately reflect consumer needs and market conditions.

The dairy provisions of H.R. 6892, which establish the National Dairy Board and the "two-tier" price-support mechanism, are a step in the right direction.

Composed of representatives from the dairy farming community, the Board would determine how much production would be needed each year

to meet consumer needs. That amount would be converted into a percentage of the previous year's production.

A dairy farmer would be eligible to receive the full support price only for that percentage of his production which is certified as needed to meet production goals. Any additional production would receive a lower support price.

Other important features of the legislation would allow dairy farmers to conduct a referendum to create a National Milk Promotion Board, and would allow for wider distribution of surplus dairy products to needy Americans.

During debate on H.R. 6892, opponents pointed out that there are potential pitfalls in the new price support mechanism. They noted that the Dairy Board could become a nonresponsive bureaucracy. They said that there were insufficient disincentives to overproduction.

Mr. Speaker, I have conducted an informal poll among dairy farmers in my district. I have found that these farmers, who operate some of the most efficient dairy farms in the Nation, favor the new price support mechanism of H.R. 6892 by roughly a 3-to-2 margin. I feel that this figure, unscientific though it may be, indicates the strong sense which exists in the dairy community that something must be done to solve overproduction problems. It was in large part because of this sense that I voted in favor of H.R. 6892 on Tuesday.

I think we should all be aware, however, that a significant minority of dairy farmers are concerned about the potential for the Dairy Board to degenerate into yet another nonresponsive Federal bureaucracy. Should reforms in the dairy program along the lines of those contained in H.R. 6892 be enacted, as I sincerely hope they will be, we must be alert to this potential danger.

Simply stated, I believe that the reformed dairy price support system affords us both an opportunity and a challenge. The opportunity is to slow the flow of dairy products into the Federal reserves; to reduce the costs of the program to taxpayers by up to \$1.3 billion next year; and to create a better economic climate for dairy farmers. The challenge is to insure that the new mechanism is used properly, and is responsive to the interests of those it is designed to serve.

I share the view of 60 percent of the dairy farmers in Pennsylvania's 11th Congressional District that the dairy provisions of H.R. 6892 are needed. I urge my colleagues to continue to support their enactment.●

HAPPY 20TH BIRTHDAY TO SEAL BEACH LEISURE WORLD

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. LUNGREN. Mr. Speaker, 2 weeks ago, on July 31, I had the distinct pleasure of celebrating the 20th anniversary of the Seal Beach Leisure World.

This Leisure World is of course the very first senior citizen retirement community in the Nation. It was on June 8, 1962, when residents first began moving into Leisure World. Since then the 6,482 apartments in the community have long been sold out.

Except for commercial stores, the approximately 9,000 residents of the Seal Beach Leisure World live in a virtually self-sufficient community. This includes their own security as well as a medical clinic. A truism which Life magazine picked up in 1963 is that in "Leisure World there is no leisure." This remains true today as residents have many recreational and community facilities to become involved with. These include: A 9-hole, par-3, golf course with putting green; swimming pool; therapy pool; lapidary shop; 2 woodworking shops; 2 art and ceramic studios; 2 sewing rooms; 4 pool and billiard rooms; 2 horseshoe courts; 2 roque courts; 16 shuffleboard courts; 5 lawn bowling lanes; amphitheater, 2,500 seating capacity with complete stage; 4 clubhouses complete with 12 kitchens; and 17 meeting rooms.

It has often been stated that one is always as young as he or she is in their heart. Well, I know that the average age of the residents is 76 years young and every time I visit Seal Beach Leisure World I am reminded that the senior years of one's life really can be among the very best.

Mr. Speaker, in celebration of Seal Beach Leisure World's 20th anniversary, I would like to share with my colleagues in the U.S. House of Representatives an excellent article written by Margaret Newhouse, editor of the Golden Rain Leisure World News. I think my colleagues will find of particular interest many of the successes which that Leisure World has had in its 20 young years. The article follows: [From the Golden Rain News, July 29, 1982]

COMMUNITY CELEBRATES ITS 20TH ANNIVERSARY

(By MARGARET NEWHOUSE)

The community will pause for a fond look backward, residents will take time out from their manifold activities Saturday, July 31 to observe the 20th anniversary of Seal Beach Leisure World.

The Golden Rain Foundation has put together a day-long schedule of commemorative events from 10 a.m. to 3 p.m. in St. Andrews Clubhouse No. 4.

Area dignitaries have been invited.

EXTENSIONS OF REMARKS

A film of the early days will be shown and local musical groups will perform. The celebration will be topped off with the appearance of two popular stars from the Lawrence Welk Show for an evening performance in the Amphitheater.

Everyone is invited, of course, and a large crowd is anticipated by the refreshment committee as well as by the organizers of this historic celebration.

Unless, of course, people are too busy pursuing the fabled life of retirement to attend the event. From the beginning of this cooperative design-for-living the community has worn the tag-line, "In Leisure World there is no leisure."

This was a standard saying among early residents, according to an article about retirement towns including Leisure World, in the Nov. 8, 1963 issue of Life magazine.

The article pointed out the tangible attractions that had drawn 8,000 residents to the area: three clubhouses, a golf course, a swimming pool, 2,500 seat Amphitheater, buses for free transportation and extensive medical facilities. It noted the many clubs and free lessons in bridge, ceramics, and dancing.

GETTING A BARGAIN

The price of an apartment was running between \$11,320 and \$14,000. Life's comment was: "Most residents feel they are getting a bargain, and most can well afford it. The average income is \$6,000..."

Obviously, the financial facts of life have changed since the early days. In other ways the living is not so different today.

Some of the clubs that contribute to community life now were being launched. The Life article pictured the Men's Chorus giving forth with a song advising ladies to "tint your hair and keep it curled, and stalk your prey at Leisure World."

One lady may have taken their advice: Genevieve Daugherty was the first bride to be married on the premises, Sept. 15, 1963 in Northwood Clubhouse No. 3. Conversely, the stalking may have been on the other foot, so to speak. The bridegroom Henry McKinley "made himself so indispensable" the lady acquiesced. "We need each other so much," she said.

In 1963 "retirement towns" were relatively new and were reported to be the biggest private housing projects being built in the United States.

Some mental health experts spoke out against the segregated communities. "Senility is a contagious disease," one said.

But Life interviewed a 77-year-old Leisure Worlder who dismissed the gloomy prognosis with an airy remark, "We have many old people here, who are very young."

Some of the youngsters were kicking up their heels on stage as members of a 58½ year-old average age chorus line of flappers in "The Scandals," a production which packed the Amphitheater for two evenings. Ask Mary Plaskett or Dorrie Walthery about the fun. They were there.

HOMEMADE FUN

A lot of the entertainment was of the homemade variety. Residents doings were reported spottily in the local press that was the forerunner of The News. Some were busy practicing for the second annual Christmas pageant. The Little Theater Group was rehearsing "A Night at the Inn."

The Leisure World Orchestra was playing for dances every first and third Friday and planned to play for a New Year's Eve dance. Gardening was a universal occupation for the new householders. Pictured digging in

August 13, 1982

front of their apartment were Mr. and Mrs. Joseph Sweetnam, 13610 Burning Tree Lane 2-L, who it was reported, received the first key to any Leisure World apartment on June 8, 1962.

More than 100 residents were attending weekly Monday night rehearsals of the Community Singing Club. Officers were Robert Titus, president; Edward Sheehan, vice president; Nita Gilliat, secretary/treasurer and Ruth Wallace, musical director.

The golf course was slated to open Saturday, Nov. 30 and there had been so much interest expressed in playing on opening day that a drawing was set up to establish reservations for starting times.

Only approximately 100 apartments were still for sale as of Nov. 20.

The Leisure World Republican Women's Club had just been chartered, the week of Dec. 18.

Church congregations were forming. The Leisure World Mission Catholic Church announced its first service the last Sunday in November. The Rev. W. J. Mullane made the announcement as the workmen were putting together the last pew.

Thanksgiving services were scheduled that year, 1963, by the (newly named) St. Theodore of Canterbury Episcopal Church and the Lutheran, Community and Catholic churches.

Toward the end of December the dart ball team members helped the Lutheran pastor Dr. Clifford B. Holland and his wife move in.

And if all went as planned the Leisure World Orchestra played for residents to dance out the year and dance in the new, a happy social occasion carried on in later years with a hired band.

In January of 1964 the new Lions Club completed its organization with the election of officers and was to receive its charter from the district governor in March. C. K. Close was named president.

The Christian Church, the Rev. Robert Graham, minister, was drafting its bylaws.

The first organization meeting of the Garden Club took place and the Coin Club was reported as being "one of the most active groups."

Leisure World continued to attract national publicity. Mabel Menke was chosen to appear on the "Queen For A Day" TV show.

Groups forming included Kiwanis and Golden Rain Toastmasters. The president of Leisure World Toastmasters, Sewell Van Wormer, turned out to welcome the Golden Rain group.

An item Feb. 26 was "The Rev. Maury Whipple Bishop has arrived from the Unity School of Christianity, Lee's Summit, Mo. to be full-time minister of the Leisure World Unity Church."

Bertha C. Bruce, president pro tem, announced in March that the California Retired Teachers group was organizing.

Of wide interest was the news that a new addition to the Medical Center would open April 12 housing a physio-therapy clinic, eye-ear-nose and throat clinic and four medical suites for the use of eight doctors.

Delegate Mrs. Naomi Kettler reported April 17 that the LW Richard Baylden chapter, DAR was welcomed as the newest in the state at the recent State Convention in Coronado.

That spring the Sweet and Low chorus of approximately 50 members practiced to present a concert. The ensemble chorus would sing three compositions by Elthea Turner.

In May the LW Church of Religious Science went "over the top in the required number of members to have a full fledged church" reported the Rev. Dorothea Dyrenforth, minister.

The groundbreaking ceremony for the Community Church May 31 was announced by the Rev. Harold E. Baker, minister.

The Larks, a bird watching group was to meet.

And the homemade fun was still brewing. VWWI Barracks 2860 announced it would sponsor a contest "I Love Leisure World Because . . ." The first three lucky writers would win a four-day all expense trip to the New York World's Fair.

KEO planned a similar contest.

The Leisure Worlders, a square dance group celebrated its first anniversary. Al Colcough was president and caller.

The second baking contest for residents, a repeat of a successful event held in February, was announced in May. Rules were strict: "No packaged items will be eligible."

A headline May 29 proclaimed "Sale of New Design Manors Begun In Last Unit—No. 15."

New officers of the Senior Rotarians were chosen. Harry Schaffer was president.

THE SCANDALS

Bigger and better, the "Leisure World Scandals" played the Amphitheater July 18 and 19 with a cast and crew of more than 200. The show presented "an amusing if not truthful, view of the 'Seven Ages of Leisure World' from 'infancy' through 'the gracious years.'"

"The skits, mainly pantomimes, poke fun at those who take themselves and life too seriously, and provide Leisure Worlders the opportunity to a laugh at their own follies and problems."

A comic character Jerry Atrics was portrayed by George Reish; a song and dance routine was performed by Bob Titus and Jessie Jenkins; skits included "This Is the World That Is," based on the popular TV show "That Was the Week That Was," and a "Dear Abby" skit by Dora Walthery and Gordon Hayward.

"It is hoped that the ridiculous antics of our Leisure World 'teenyears' will be somewhat balanced by the harmony of our Barbership Quartet and the Beauty of the square and round dancers," Hap Hazard, stage veteran and producer of the show, commented.

Beautification projects were blossoming. A headline Aug. 21 stated "7 Trees Planted In/Trail Blazer Project" (at the intersection of El Dorado and Oakmont), according to a plan outlined by the Garden Club Tree Planting Committee and the Grounds Committee.

In September a Men's Republican Club was formed with Deane Davis presiding at the first meeting.

A Home Talent night show was planned in the Amphitheater Sept. 19.

ACTING THEIR AGE

More than 100 clubs were listed in Sept. 1984. A member of the Leisure World Square Dancers summed up the spirit of conviviality that encouraged the newly retired to heightened enjoyment of life. She said, "I wouldn't dream of doing this back in Nebraska—but here it's different. There's no youngsters around to watch us whoopee it up, we can act our age."

Not all the creative energy was expended on the Amphitheater stage. That fall the second annual Festival of Arts and Crafts was scheduled. It would present creations of 64 organizations and individuals.

Resident's access to the surrounding area attractions was enhanced in October with the opening of "A nearly 100-mile strip of San Diego Freeway connecting Leisure World with the entire freeway complex of Southern California."

In November plans were shaping up for what was to become a colorful event that would stand out in memory as one of the annual community undertakings.

"A mile long Armistice Day parade with more than 200 gayly decorated vehicles is expected when the 'Leisure World on Wheels' parade of trikes, bikes and electric carts rolls down St. Andrews Drive Nov. 11."

"At latest count, 112 trikes, 40 bikes and 31 electric carts will participate in the parade."

The parade was followed by an Armistice Day program which would include visiting dignitaries, clergymen, bands (the Star Club Kitchen Band plus the Marina High School Band of Huntington Beach). Prizes were offered for the best costumed riders. Clowns and trick rides enlivened the procession.

"Historical themes found pilgrims marching side by side with pioneers and their covered wagons. Indians danced as their squaws waived fresh 'scalps' . . . electric carts, some so minutely decorated they resembled miniature floats in the Rose Bowl parade," took part.

A color guard of veterans of World War I led off in what was termed "the biggest most colorful Armistice Day parade in Orange County."

"It was observed with the dignity of an appropriate program but undeniably, with a touch of festivity during the preceding parade," the writer reported.

Progress was noted on another front: "The business office has recently moved into a mobile trailer in back of the United California Bank."

The religious life of the community, which from the outset had not been neglected, grew in scope.

"The first step toward unification of religious life at Leisure World was taken Tuesday, Nov. 12 when leaders of 14 denominations met and formally organized the first Religious Council of Leisure World," according to the Rev. H. Carl Roessler, Religious Director.

The roster of clubs now numbered 52.

January 14 it was reported, "The Rev. Mr. Frank V. D. Fortune assumed duties last Sunday as minister of the St. Theodore of Canterbury Episcopal Church."

Meantime, residents were avidly seeking new friends to fill the void of friends and family left behind in the move to new surroundings.

HOMETOWN REGISTRATION

"More than 7,000 replies to a recent Hometown Registration Survey have been returned (Feb. 11, 1985) by residents to the LW Resales, Inc."

The Women's Club, celebrating its second anniversary, was said to be the second largest club in the Orange District.

As might have been predicted, "An overflow crowd attended the first World Day of Prayer service to be observed in Leisure World."

Theatricals flourished. "With four members of the Leisure World Little Theater Group in the cast, the Play 'Suds In Your Eye' got off to a flying start last Friday night at the Peppermint Playhouse, 124 Main St., Seal Beach."

The little city by the sea was erecting its own milestones. An item in April 1 read "Leisure World will join with the City of

Seal Beach in the celebration of the city's 50th anniversary which officially got underway with the issuance of a mail cancellation die this week commemorating the Golden Jubilee."

Leisure World was still attracting the attention of a world curious to see this "Eden-like" place sprouting on the California coast.

Which reminds one of the old saying "The more the change the more it is the same thing." Consider this comment quoted in the March 11, 1965 newspaper "Maybe some day we will see a Leisure World in Tokyo."

These were the parting words of Japanese visitor Katsuyoshi Uyama to community relations director, James H. Gormsen, following a tour of Leisure World Friday.

Sound familiar?

They say the first years are the hardest and they are probably right. At any rate, a brief glimpse at some of the highlights of the early years here reveals that the road may have been rocky, but the travelers had a lot of fun along the way.

The new experiment in retirement living was watched by outsiders with many a doubt expressed as to its future.

It is to the credit of the pioneer move-ins and all community-minded people who have followed that Leisure World, contrary to some predictions, established itself as an eminently desirable place to live and remains so.

The community has grown up. Some of the homemade fun has been supplanted by professional entertainment. Lawrence Welk is packing them in in the Amphitheater as once did the "Leisure World Scandals."

The world is still knocking at our door, notebook and camera poised. How many touring groups from how many countries have stopped by lately to have a look at how our community runs?

Within recent memory are a group of doctors, executives and educators from Japan, a Japanese construction company, an Australian television documentary filming crew, an Australian real estate conglomerate and retirement housing builders from Israel.

And, a heartwarming circumstance, other visitors came not primarily to admire the obvious—the fine physical plant and spacious well-tended grounds.

They asked probing questions about the efficient government. A research team came from the University of Florida to study the longevity and quality of life of the residents.

Perhaps the nicest compliment of all, a television station came to interview some of our Leisure World couples who have stayed happily married for 60 years.

That all says a lot for the first 20 years of Leisure World Seal Beach. Residents may be pardoned a glow of pride as they look back over the years Saturday.●

SENDING TAX BILL TO CONFERENCE TRAMPLES CONSTITUTION

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. PORTER. Mr. Speaker, the constitution was badly trampled last week in Washington when the House totally abdicated to the Senate its responsibility to initiate the tax bill. Article 1,

section 7 of the Constitution provides that "All bills for raising revenue shall originate in the House of Representatives..."

Instead, the Senate held hearings, drafted a tax bill in Senator DOLE's Finance Committee, debated and considered amendments to it on the Senate floor, adopted it and sent it over to the House of Representatives.

The House Ways and Means Committee held no hearings and drafted no legislation, and the House itself had no debate on raising revenue and considered no amendments, but merely, by motion, sent the Senate bill—with a House bill number on it—directly to conference committee.

The conferees, a few from the House, a few from the Senate, will determine what this bill will contain, and there will be one vote, up or down, on its adoption. If it comes out anything like what went in, it will be a bill raising taxes over 3 years by \$100 billion—the largest tax increase in U.S. history—affecting Americans across the entire economic spectrum in essential and important ways—their livelihoods, their abilities to produce and consume, and their proclivities to save and invest.

So what that the House did not initiate or even consider this vital matter? So what that there were no hearings or debates or amendments?

Well, the Founding Fathers did not just throw that provision giving the House exclusive power to initiate revenue matters in there to even up with the Senate's exclusive power to advise and consent to treaties. No, they had something far more fundamental in mind. You will recall that England had levied tax after tax on its colonies without consulting them or their people for a moment. The Boston Tea Party dramatized it; the Declaration of Independence articulated it. If there was one grievance more on their minds in 1776 than any other, it was taxation without representation.

So, when they sat down 11 years later to write a constitution, they wanted the taxing power to be most under control of and responsive to the people. And they put it—very intentionally—squarely where the people would have the greatest say-so: in the House of Representatives, whose Members have to face judgment of the people every 2 years, unlike the Senators, who have the long and insulated tenure of 6 years without fear of rejection.

No, I do not want the Senators—God love the wonderful gentlemen—writing tax laws for me. I want someone having that responsibility who has got to come back to me very soon for my approval. That is what the Founding Fathers wanted and exactly what they constructed to protect us.

Two hundred years later there are some—far too many—in the Congress

who do not care, do not think you will notice or care, and who walk upon our basic law with apparent impunity. Perhaps those who trample the genius of our system so readily ought to be the first to receive its recall notice.●

WATER THE COAL SLURRY BILL

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. WILLIAMS of Montana. Mr. Speaker, in the current debate regarding the granting of eminent domain to coal slurry pipeline companies, there are some misconceptions regarding the question of water. I have assembled this factsheet to dispel any misconceptions on the important aspect of State water rights protection.

First myth: Current language in both the House bill, H.R. 4230, and the Senate bill, S. 1844, adequately protects the State's right to control its water.

Fact: This assumption is simply not true. Traditionally, the only mechanism that States have had for the reservation of water has been so-called water export bans. On July 2, 1982, the Supreme Court struck down the Nebraska water export ban. The case, *Sporhase and Moss against the State of Nebraska*, is a far-reaching and complicated case; but one thing is certain: No State law that bans the export of water on totally arbitrary grounds can withstand a constitutional court test. Some 19 Western States rely on these bans to protect water.

Both bills contain language deferring to State water laws, but there is no language in either bill even purporting to delegate to the States legislative authority over the use of water in interstate coal slurry pipelines. In the Nebraska water case, the State of Nebraska relied on language in 37 Federal statutes and a number of interstate compacts as being congressional authorization for and approval of the Nebraska statute involved in the case. The language, practically the same in each of the 37 Federal statutes, was quoted by the Court in the opinion, as follows:

Nothing in this Act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or territory relating to the control, appropriation, use, or distribution of water used in irrigation.

The Supreme Court held that the quoted Federal statutory language only "demonstrate[s] Congress' deference to State water law." That language did not protect the Nebraska law. The Supreme Court held the provision of the Nebraska law invalid.

The State water law in H.R. 4230 is practically identical to the quoted language which the Supreme Court held

to be merely a "deference" to State water law. By no stretch of the imagination could that language in H.R. 4230 be called a "delegation" of legislative authority to the States.

There is no basis in the bill for the assertion that, "If any State doesn't want its water used for a coal slurry pipeline, the pipeline won't be built." No language in the bill can be construed to have that meaning. If coal slurry promoters are sincere, why do their bills not provide specifically that: "If any State doesn't want its water used for a coal slurry pipeline, the pipeline won't be built."?

Second myth: Both H.R. 4230 and S. 1844 meet the Supreme Court decision in the Nebraska water case.

Fact: Neither bill even purports to overturn the Nebraska water case and neither bill even attempts to deal with the issues raised by the case. Neither bill attempts to give State law the protection which the Supreme Court says Congress can give to State law. If this legislation were to become law and the Nebraska law involved in the *Sporhase* case were challenged as a basis for refusing to allow Nebraska water to be transported to Colorado for use in a coal slurry pipeline originating in Colorado, that Nebraska law would be held invalid. This legislation would provide no protection for that Nebraska law in that situation.

Third myth: Amendments have been offered in the Senate to correct the Nebraska water decision.

Fact: The fact simply is those amendments to S. 1844 do not correct the problems produced under *Sporhase*. Nowhere in these amendments is there a delegation of the Federal right to appropriate water. Nowhere in the bill do the words "delegate" or "delegation" appear. Language in the amendments is so vague that it is not at all clear that it would extend to protect State export statutes. The Supreme Court was clear: Congress must speak specifically to delegate its right to adjudicate water. Anyone reading the Senate language can see that it is not specific enough to be an outright delegation of the congressional right.

Fourth myth: Water is no problem because the committees have adequately discussed this issue.

Fact: In spite of urging by myself and others in Congress, there have been no water hearings in any of the three committees that have heard this bill. No experts on the question of water, no Governors, no concerned citizens have testified in the House during this session. The Senate has had 1 day of water hearings, and testimony was limited.

Fifth myth: The coal slurry bill is the vehicle by which to solve problems raised by the *Sporhase* case.

Fact: This is the most shortsighted of all statements. There are funda-

mental problems with attempts to correct the Sporhase in the context of a coal slurry bill. There is no assurance whatsoever in the political process surrounding coal slurry that effective language will eventually emerge after conference protecting the interests of the Western and Midwestern States. The Congress would be better advised, if it intends to protect the States' interests, to proceed with a bill dealing with the Sporhase issue first, rather than placing these fundamental State interests into the political turmoil of a coal slurry bill. Any legislation dealing with State water rights is an issue of vital importance to the people of this Nation. Some say that water will be the most important issue in the 1980's. This type of issue deserves extensive hearings that call upon Governors, water experts, and State attorneys general.

Should the Congress proceed with a coal slurry bill first, without resolving the Sporhase issues, it would jeopardize the ability of the States to control the availability of their water to coal slurry pipelines, since legislation dealing with Sporhase would not be in place at the time of enactment of a coal slurry bill, and therefore could not be construed to be legislation within the contemplation of any coal slurry legislative protections for water.

Sixth myth: The water problems of States that share a water source are addressed in legislation currently under consideration.

Fact: One of the most serious omissions in either bill is the absence of language dealing with the situation where States share water sources. Inevitably, the grant of Federal eminent domain powers will encourage substantial water sales and diversions to slurry pipelines from existing aquifers and river beds. As demonstrated by the recent \$1.4 billion sale of water by South Dakota to the ETSI coal slurry pipeline, there will be strong temptations for States to make major water sales at the expense of their neighbors' shared water rights. Since virtually every State is downstream from some other State, this is likely to be a growing problem. Second, particularly in the West, most of the significant underground water formations are shared with other States. Because groundwater is replenished so slowly, a significant diversion from one State may have a major impact on the availability of groundwater in neighboring States sharing the water formation.

Both bills fail to take cognizance of this emerging problem over the allocation of shared water sources. Because of its silence on this issue, it will encourage unilateral action by States to the serious detriment of their neighbors. The problem is exacerbated by the fact that coal slurry pipelines will tend to set off a water pricing war, particularly in the West and Midwest.

Amendments were offered in the Interior Committee as well as Public Works attempting to deal with this question; neither passed. This interest, however, shows how important this question is.

CONCLUSION

These are only six of the problems I see with the current round of legislation. The problems of private land condemnation, no common carrier obligation, no true consumer protection against construction cost overruns, and the tremendous loss of long-term rail jobs in exchange for some short-term construction jobs are not addressed in this fact sheet, but remain major stumbling blocks in the granting of eminent domain to coal slurry pipeline companies. I attempt only to address the water issue.

One important point should be made, however: H.R. 4230 and S. 1844 are not coal slurry bills—they are eminent domain bills. Coal slurry pipelines are being built without these pieces of legislation, and the only thing being granted is the awesome Federal power to condemn land for corporate gain.

I hope this discussion is helpful.●

THE PLO IS A CANCER

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, August 13, 1982

● Mr. BINGHAM. Mr. Speaker, I do not always agree with the columnist James J. Kilpatrick, but in today's Washington Post, he has eloquently called a spade a spade in his analysis of the PLO. He correctly places the blame for the destruction and the bloodshed in Lebanon on the PLO and its leader, Yasser Arafat. Mr. Kilpatrick's column follows:

THE PLO IS A CANCER

For the past two months, night after night on the evening TV news, all of us have gazed in dismay upon the suffering in Lebanon, and night after night the same implicit message has flashed subliminally across the

screen: the Israelis are responsible for this. It is high time. It seems to me, to put the lie to this insidious nonsense. Let us place the blame for the destruction and bloodshed squarely where it belongs, on the shoulders of that smirking monster with the maniac grin on his face, Yasser Arafat, leader of the PLO.

From the moment of its creation as a modern state in 1948, Israel has asked but one thing of its Arab neighbors—to live in peace. It is irrelevant to the current situation that in times past Prime Minister Menachem Begin and Defense Minister Ariel Sharon engaged in their own terrorism; we might with equal acuity review the history of Babylonians, Greeks, Persians, Romans, Mamelukes and Ottomans. The issue at hand has to do with Lebanon today. Why are the Israelis there? And who is responsible for the suffering inflicted upon innocent civilians?

The Israelis attacked the PLO for one reason only—because the provocations of the PLO at last had become unbearable. In this regard, we may recall the story of another long-suffering people who resorted to arms when their repeated petitions were answered only by repeated injury. Is that line familiar? It should be familiar. This was the justification advanced by our own forefathers for the American Revolution. Israel has no quarrel with the Palestinian Arabs as a people. Israel's rage is directed at that formless, shapeless nonentity of an entity, the Palestine Liberation Organization. The PLO has none of the trappings of sovereignty or statehood, but it is treated as sovereign state. The PLO's chieftain swaggers to the United Nations to address the nations of the world; the PLO maintains an army supplied and equipped by the Soviet Union; here in the United States we talk constantly of "recognizing" the PLO.

What a fiction! The PLO is not a state. It is a cancer. Like other cancerous lesions, it must be cut out, roots and all, before the malignancy spreads. Left alone, whether through fear of surgery or hope or remission, cancer only gets worse. Who is to blame for the suffering in Beirut? Who prolongs the agony? The PLO moved into that beautiful and inoffensive city like a gangster mob, terrorizing the inhabitants. Aided and abetted by the Soviet Union, the PLO made Beirut a headquarters for international terrorism. With its stunning defeat at the hands of Israeli troops, the PLO reacted in the most cowardly and contemptible fashion: it took the civilians of Lebanon as hostages, and hid behind them while it stalled for time.

It would take a heart of stone not to be moved by the pictures we have seen from Lebanon—the old women weeping, the infant whose arms were blown off. Every humanitarian instinct cries out for cessation. But the smoke from the burning buildings of Beirut should not blind us to this fact—that the PLO could have ended the carnage at any time by laying down its arms and walking out. Arafat chose to fight. The blood is on his hands.●

